

December 21, 1995
EQB APPROVED

INTERIM SITE PERMIT PROCEDURES FOR LARGE WIND ENERGY CONVERSION SYSTEMS

- **PURPOSE.**

These interim procedures are to be used to process applications for site permits for Large Wind Energy Conversion Systems (LWECS) until the Environmental Quality Board (EQB) adopts rules. These interim procedures are intended to provide for the siting of LWECS in an orderly manner compatible with environmental preservation, sustainable development, and the efficient use of resources. These procedures accommodate the existing regulatory framework, including the authorities of the Public Utilities Commission, and promote existing legislative mandates for wind power development.

- **PUBLIC UTILITY SITE RESERVATION AND PERMIT PROCEDURE.**

- **PRIORITY.** A site identified in an application, to the Public Utilities Commission for a certificate of need, by a public utility, as defined in Minn. Stat. 216B.02, subd. 4 and directed by law to construct and operate, or contract to construct and operate a LWECS, is reserved for that public utility for a period of two years from the date the certificate of need application is accepted by the PUC or until a final decision on a site permit for the LWECS is made, whichever occurs first. The EQB may extend the reservation period upon a showing of good cause.
- **PRELIMINARY APPLICATION.** Anytime after its application to the PUC for a certificate of need is accepted, the public utility may submit a preliminary application to the EQB for a site permit for the LWECS. The public utility shall provide as much of the information required in Section X that is known at the time. Filing and filing notice shall be as required in Section III A and B. Within thirty days after receipt of the preliminary application, the chair of the EQB shall accept, conditionally accept or reject the preliminary application. If the chair conditionally accepts or rejects a preliminary application, the chair shall advise the applicant in writing of the deficiencies in the application and the manner in which the deficiencies can be corrected. Upon refiling of a corrected preliminary application, the chair shall again act on the application within thirty days of receipt.
- **ACCEPTED PRELIMINARY APPLICATION, PUBLIC NOTICE AND DISTRIBUTION REQUIREMENTS.** As required in Section IV.
- **PRELIMINARY DRAFT SITE PERMIT.** Within 45 days of the acceptance or conditional acceptance of the application, the chair shall prepare a preliminary draft site permit. The chair shall provide public notice of the preliminary draft site permit in a newspaper in each county in which the proposed LWECS is to be located. The chair shall also mail the

public notice to those persons known to the chair to be interested in the proposed LWECS project, including governmental officials in the county in which the LWECS is proposed to be located. The chair shall also publish notice in the EQB Monitor.

- **PUBLIC COMMENT.** The public must be afforded a minimum of thirty (30) days from publication of the notice in the EQB Monitor to submit written comments to the EQB. The chair may extend the public comment period if necessary to afford the public adequate time to review the preliminary application and other pertinent information. The chair shall appoint a public advisor per Section VII A and may hold a public information meeting per Section VII D and may establish a citizen advisory task force per Section VII A.
- **ACTION ON PRELIMINARY DRAFT PERMIT.** After the close of the public comment period, the chair may revise the preliminary draft site permit and shall provide it to the public utility to be used in the PUC bidding procedure.
- **EFFECT OF PRELIMINARY DRAFT SITE PERMIT.** The preliminary draft site permit does not authorize the applicant to commence construction.
- **COMPLETION OF APPLICATION.** Upon selection of the vendor(s), the public utility shall complete its application by providing the remaining information required in Sections VIII and X. Within 14 days after submission of the additional information, the chair shall accept or reject the application in accordance with Section III C. The public utility shall distribute the additional information to all receiving the preliminary application.
- **DRAFT SITE PERMIT AND PUBLIC COMMENT.** Within 30 days of acceptance of a completed application, the chair shall prepare a draft site permit. The chair shall provide public notice and opportunity for public comment in accordance with Sections V B and C and VII C and D. After the conclusion of the comment period, the chair shall determine whether to hold a contested case hearing as provided in Section VII E.
- **FINAL PERMIT DECISION.** As required in Section VI.
- **OTHER REQUIREMENTS.** As required in Sections XI and XII.
- **APPLICATION FILING AND ACCEPTANCE**
 0. **FILING.** A person seeking a site permit for a LWECS shall file five copies of an application for the permit with the EQB chair.
 1. **FILING NOTICE.** The applicant shall, simultaneously with submission of the application to the EQB chair, provide notice to EQB members, the county board and each township board in each county where the LWECS is proposed to be located and shall provide published notice in each county.
 2. **ACTION BY THE CHAIR.** Within thirty days after receipt of the application, the chair of the Board shall accept, conditionally accept or reject the application. No site permit application will be accepted that includes part or all of a site reserved in II A, except an application from

the utility for which the site is reserved. If the chair conditionally accepts or rejects an application, the chair shall advise the applicant in writing of the deficiencies in the application and the manner in which the deficiencies can be corrected. Upon refile of a corrected application, the chair shall again act on the application within thirty days of receipt.

- **ACCEPTED APPLICATION, PUBLIC NOTICE AND DISTRIBUTION REQUIREMENTS**

- 0. **NOTICE OF APPLICATION ACCEPTANCE.** Within 15 days of chair acceptance of a site permit application, the applicant shall provide published notice of acceptance of the application in each county in which the LWECS is proposed to be located, including a description of the proposed project and a map of the proposed site.

- 1. **APPLICATION DISTRIBUTION.** The applicant shall provide copies of the application accepted by the chair to EQB members, the Public Utilities Commission and the Minnesota Historical Society. The applicant shall provide a copy of the application accepted by the chair to the office of each regional development commission of a development region, the auditor of each county, the clerk of each township, and city and each affected landowner within the proposed LWECS site. Each county auditor, city clerk or township clerk shall retain and file the application in a manner making it accessible to the public. The applicant shall also provide one copy of the application to any person upon written request. The applicant shall maintain a list of persons to whom copies are sent.

- **DRAFT SITE PERMIT AND PUBLIC NOTICE**

- 0. **DRAFT SITE PERMIT.** Within forty-five (45) days of acceptance of the application by the chair, the chair shall prepare a draft site permit for the project. The draft permit shall identify the person or persons who will be the permittee(s), shall describe the proposed LWECS, and shall include proposed permit conditions.

- 1. **PUBLIC NOTICE OF DRAFT PERMIT.** Upon preparation of a draft site permit, the chair shall provide public notice of the draft permit. The public notice shall include the following:

- The name and address of the applicant for the site permit.
 - A concise description of the proposed LWECS project.
 - A statement of the availability of the draft site permit.
 - The name of the public advisor and how the public advisor may be contacted to obtain more information.
 - The time and place of a public information meeting.
 - The existence of a citizen advisory task force if one has been established.
 - The location of a place where a copy of the site permit application may be reviewed and how a copy of the application may be obtained.
 - A statement that during the comment period any person may submit comments to the EQB on the draft permit, a statement of the dates on which the comment period commences and

terminates, and a statement that any person may request a contested case hearing on the permit.

- A brief description of the anticipated procedures for reaching a final decision on the permit application
- 2. **DISTRIBUTION OF PUBLIC NOTICE.** The public notice prepared in accordance with paragraph B must be published in a newspaper in each county in which the proposed LWECS is to be located. The chair shall also mail the public notice to those persons known to the chair to be interested in the proposed LWECS project, including governmental officials in the county in which the LWECS is proposed to be located. The chair shall also publish notice in the *EQB Monitor*.
- **FINAL PERMIT DECISION**
 - 0. **BOARD ACTION.** Upon completion of the procedures and requirements of these interim procedures, the chair shall bring the matter to the Board for a final decision. If a contested case hearing has been held, the matter shall be brought to the Board for action in accordance with applicable requirements for action in a contested case proceeding. If no contested case hearing has been held, the chair shall determine the record that has been created and shall bring the matter to the Board for action on the basis of that record.
 - 1. **TIMING.** The Board shall take final action on the application for a site permit for a LWECS within 180 days after acceptance of an application by the chair, unless the matter is proceeding under Section II or the Board extends this deadline for cause.
- **PUBLIC PARTICIPATION**
 - 0. **PUBLIC ADVISOR.** Upon acceptance of an application, the chair shall appoint a member of the EQB staff as the public advisor for the project. The public advisor shall be available to any person to answer questions about the process to be followed in reaching a final decision on the permit application and to provide information about the project being proposed. The public advisor is not a lawyer and is not authorized to give legal advice or other advice that may affect the legal rights of the person being advised. The public advisor shall not participate as an advocate on behalf of any person in any proceeding on the application.
 - 1. **CITIZEN ADVISORY TASK FORCE**
 - 0. Upon acceptance of an application, the chair or the Board may establish a citizen advisory task force to aid and advise the Board in evaluating the proposed LWECS project.
 - 1. Whether the chair or the Board decides to establish a citizen advisory task force, the chair shall appoint the members of the task force and determine the task force. The citizen advisory task force shall be comprised of no more than fourteen (14) members, and the members shall be representative of the various interests involved in the project. No member of a citizen advisory task force shall be an employee or agent of the applicant.

2. If the citizen advisory task force is established before the notice of a draft site permit is given, the chair shall include in the notice a statement of the creation of the task force and the names of the members. If the task force is established after the notice of a draft site permit is given, the chair shall notify all interested persons by mail of the charge to the task force and the names of the members.
2. **PUBLIC COMMENTS.** The public must be afforded a minimum of thirty (30) days from publication of the draft site permit notice in the EQB Monitor to submit written comments to the EQB. The chair may extend the public comment period if necessary to afford the public adequate time to review the application and other pertinent information in order to formulate complete comments on the draft site permit and the project.
3. **PUBLIC INFORMATION MEETING.** The chair shall schedule at least one public information meeting to be held in a convenient location in the vicinity of the proposed LWECS project. The public information meeting shall be held at least ten (10) days prior to the end of the public comment period on the draft permit.
4. **CONTESTED CASE HEARING.**

1. Any person may request in writing that a contested case hearing be held on an application for a site permit for a proposed LWECS project. The contested case hearing request must be filed within the time period established for submitting comments on the draft site permit. The person requesting the public hearing shall include as part of the request the issues to be addressed in the hearing and the reasons why a hearing is required to resolve those issues.
 2. The chair shall order a contested case hearing if the chair finds that the person requesting the contested case hearing has raised a material issue of fact and that the holding of the hearing would aid the EQB in making a final determination on the permit application. The chair may refer the request for a contested case hearing to the Board for determination.
 3. The hearing shall be conducted in accordance with the rules of the Office of Administrative Hearings.
 4. For a contested case hearing, the chair shall identify the issues to be resolved and limit the scope and conduct of the hearing in accordance with applicable law, due process, and fundamental fairness. Alternatively, the chair may request the administrative law judge to identify the issues and determine the appropriate scope and conduct of the hearing in accordance with applicable law, due process and fundamental fairness.
- **ENVIRONMENTAL REVIEW**
 0. **EIA/EIS.** The preparation of a separate Environmental Impact Assessment or an Environmental Impact Statement is not required as part of the action on an application for a site permit for a LWECS. The purpose

of these interim procedures is to provide sufficient information as part of the application itself to evaluate the environmental impacts of the proposed project and to provide the public with opportunities to examine the project and to participate in the decision making.

1. **ALTERNATIVE REVIEW.** These procedures establishing opportunities for public input and the requirements for the content of the permit application shall be considered an alternative form of environmental review.
2. **CON/ER.** In the event a certificate of need for the proposed project is required from the public utilities commission, and an environmental report is prepared in accordance with Minn. Rules parts 4410.7000 and 4410.7100, the environmental report shall be included as part of the permit application.

- **APPLICATION FORMAT**

0. **FORMAT.** Applications must be filed on 8.5-inch by 11-inch paper except for drawings, illustrations, maps and similar materials. The date of preparation and the applicant's name must appear on each document filed with the application.
1. **REVISIONS.** Any revision made to the application after filing must comply with the format and distribution requirements. In addition, each revised page must be marked with the word REVISED and with the date the revision was made. The applicant shall send copies of changed or corrected pages to all persons on the project distribution list.

- **APPLICATION CONTENTS**

0. **BACKGROUND INFORMATION.** Each application shall contain the following background information:
 0. A letter of transmittal signed by an authorized representative or agent of the applicant.
 1. A title page and table of contents.
 2. The complete name, address, and telephone number of the applicant and its authorized representative.
 3. The signature of the preparer of the application if prepared by an agent or consultant of the applicant.
 4. The role of the permit applicant in the construction and operation of the LWECS.
 5. The operator of the LWECS if different from the applicant.
 6. Each applicant shall provide a certificate of need or other comparable authorization from the Public Utilities Commission, or, if PUC approval is not required, one of the following:
 1. A power purchase contract for the power to be generated for the first five years of operation of the LWECS.
 2. Other enforceable mechanism for sale of the power to be generated for

the first five years of operation of the
LWECS.

7. A brief description of the proposed project which includes:
 0. general location
 1. estimated planned in-service date
 2. general design and operation specifications for the LWECS and associated facilities.

1. **POLICY FOR LWECS DEVELOPMENT.** Each applicant must provide a discussion/analysis of the LWECS project, its design and installation, demonstrating its relationships to the state policy of siting LWECS in an orderly manner compatible with environmental preservation, sustainable development, and the efficient use of resources.
2. **PROPOSED SITE.** The applicant shall include the following information about the site proposed for the LWECS and associated facilities:
 0. The boundaries of the site proposed for the LWECS. Boundaries to be delineated on United States Geological Survey Map or other map as appropriate.
 1. Wind Resource Considerations.
 2. Wind Characteristics of Site.
 1. Inter-annual Variation
 2. Seasonal
 3. Diurnal Wind
 4. Atmospheric Stability to the extent available
 5. Turbulence to the extent available
 6. Extreme Winds
 7. Wind Speed Frequency Distribution
 8. Wind Variation with Height
 9. Spatial Wind Variations
 10. Wind Rose, Eight or More Directions
 3. Other Meteorological Conditions.
 0. Temperature
 1. Extreme Weather
 4. LWECS Energy Projections.
 0. Proposed Array Spacing for Wind Turbines
 1. Base energy calculation
 2. LWECS Output Variability
 5. A discussion of the proposed project layout and how it was developed to make efficient use of resources.
 6. The location of other wind turbines in the general area of the proposed LWECS.
 7. The location of sensitive features, human and natural, within the site and outside of the site that may be impacted by the proposed LWECS and associated facilities.
 8. Other significant factors.

3. COSTS ANALYSIS

- 0. Windplant Energy Output.
 - 1. Capital and Operation.
 - 2. Site and Design Dependent Costs.
- 4. **ENGINEERING AND OPERATIONAL DESIGN ANALYSIS.** The applicant shall include a description of the following information about the proposed LWECS and associated facilities that includes:
 - 0. LWECS and Associated Facilities Description.
 - 1. Turbine Assemblies and Components.
 - 2. Manufacturing Quality.
 - 3. Hazardous Materials. The types and quantities of wastes, fluids, or pollutants that are proposed to be handled, processed, treated, stored, disposed of, emitted, or discharged at each vessel containing fluid and for the entire project.
 - 4. LWECS Electrical System.
 - 0. Low Voltage System & Transformers
 - 1. Medium Voltage
 - 2. Transformer to Substation Wiring, Design & Routing
 - 5. LWECS Transmission Line and Interconnection.
 - 0. Description
 - 1. Design Standards
 - 2. Map showing location of proposed facilities
 - 6. LWECS Substation.
 - 0. Grounding
 - 1. Communication
 - 2. kW Rating
 - 7. LWECS Operation.
 - 8. Turbine Operation.
 - 9. LWECS Construction.
 - 0. Construction Management
 - 1. Foundation Design
 - 2. Civil Works
 - 10. LWECS Operation and Maintenance.
 - 0. LWECS Control, Management and Service
 - 1. Maintenance Schedule
 - 2. General Maintenance Duties
 - 11. Operations/Maintenance.
 - 0. Location
 - 1. Size
 - 2. Functions
 - 12. Project Schedule.

- 0. Land Acquisition, Installation, Operation, Decommissioning and Restoration
 - 1. Permits
 - 1. Equipment Procurement, Manufacture and Delivery
 - 2. Construction
 - 3. Construction Financing
 - 4. Permanent Financing
 - 5. Expected Commercial Operations Date
 - 13. Decommissioning and Restoration.
 - 0. Estimated decommissioning costs in current dollars
 - 1. List of decommissioning activities
 - 2. Method for ensuring that funds are available for decommissioning
 - 3. Method for updating that funds are available and updating decommissioning costs
- 5. **ENVIRONMENTAL ANALYSIS.** The applicant shall include the following information about the potential environmental impacts of the proposed LWECS and associated facilities:
 - 0. Demographics/Homes.
 - 0. Site Description of Resources
 - 1. Impact
 - 2. Mitigative Measures
 - 3. Occupancy Status of Structures
 - 1. Noise.
 - 0. Site Conditions
 - 1. Impact
 - 2. Mitigative Measures
 - 2. Visual.
 - 0. Site Description
 - 1. Impact
 - 2. Mitigative Measures
 - 3. Public Services/Infrastructure.
 - 0. Description of Resources
 - 1. Impacts
 - 2. Mitigative Measures
 - 4. Cultural/Archaeological.
 - 0. Description of Resources
 - 1. Impacts
 - 2. Mitigative Measures
 - 5. Recreation Resources.
 - 0. Description of Resources
 - 1. Impacts
 - 2. Mitigative Measures

6. Public Health and Safety.
 0. Air Traffic, Electromagnetic Fields, Security & Traffic
 1. Impacts
 2. Mitigative Measures
7. Land-Based Economies.
 0. Agriculture/Farming/Forestry/Mining
 1. Impacts
 2. Mitigative Measures
8. Tourism and Community Benefits.
 0. Description of Resources
 1. Impacts
 2. Mitigative Measures
9. Topography.
 0. Description of Resources
 1. Impacts
 2. Mitigative Measures
10. Soils.
 0. Description of Resources
 1. Impacts
 2. Mitigative Measures
11. Geologic and Groundwater Resources.
 0. Description of Resources
 1. Impacts
 2. Mitigative Measures
12. Surface Water and Floodplain Resources.
 0. Description of Resources
 1. Impacts
 2. Mitigative Measures
13. Wetlands.
 0. Description of Resources
 1. Impacts
 2. Mitigative Measures
14. Vegetation.
 0. Description of Resources
 1. Impacts
 2. Mitigative Measures
15. Wildlife.
 0. Description of Resources
 1. Impacts
 2. Mitigative Measures
16. Rare and Unique Natural Resources.
 0. Description of Resources
 1. Impacts
 2. Mitigative Measures
17. Adverse Human and Environmental Effects Which Cannot Be Avoided.

6. **IDENTIFICATION OF REQUIRED PERMITS/APPROVALS.** Each application must contain a list of all the known federal, state, and local agencies or authorities and titles of the permits they issue that are required for the proposed LWECS.
- **FEES**
 0. **FEE REQUIREMENT.** Every applicant for a site permit under Minnesota Statutes section 116C.694 shall pay to the EQB an application fee. The purpose of the application fee is to cover actual costs necessarily and reasonably incurred in processing an application for a site permit.
 1. **DETERMINATION OF EQB BUDGET.** Upon receipt of an application for a site permit, the chair shall estimate the costs expected to be incurred by the EQB in processing the application and establish a proposed budget. If the applicant shall disagree with the amount of the estimated budget determined by the chair, the applicant may request that the Board determine the appropriate estimated budget.
 2. **PARTIAL PAYMENT WITH APPLICATION.** Upon determination of the estimated budget, the applicant shall remit 25 percent of the estimated budget to the EQB. The chair shall not proceed to determine whether the application is complete until payment of the requisite amount is made by the applicant.
 3. **PERIODIC PAYMENTS.** The remaining costs incurred by the EQB shall be paid in periodic payments upon receipt of an invoice from the agency. The EQB will not make a final decision on a site permit application until all fees have been paid.
 4. **TOTAL FEE.** Expenses in excess of the approved budget must be certified by the board and upon certification constitute prima facie evidence that the expenses are reasonable and necessary and shall be charged to the applicant. The applicant may review all actual costs associated with processing an application and present objections to the Board. The application fees paid by the applicant shall not exceed the sum of the costs incurred to process the application, permit compliance activities, administrative overhead, and legal expenses.
 - **PROPRIETARY INFORMATION.**

An applicant for a LWECS site permit may certify in accordance with the Data Practices Act or other applicable law that certain information submitted as part of a site permit application is trade secret information or other protected data or information that is not available to the public. The EQB shall ensure that such properly certified data and information is used and disclosed only in accordance with applicable law.