

SERVICE DATE
Mar 15, 2016

PSC REF#: 283217

Public Service Commission of Wisconsin
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PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of Highland Wind Farm, LLC, for a Certificate of Public Convenience and Necessity to Construct a 102.5 Megawatt Wind Electric Generation Facility and Associated Electric Facilities, to be Located in the Towns of Forest and Cylon, St. Croix County, Wisconsin

2535-CE-100

**ORDER TO REOPEN, NOTICE
AND REQUEST FOR COMMENTS**

Comments Due: Friday, April 15, 2016 – 12:00 noon	Address Comments To: Sandra J. Paske, Secretary to The Commission Public Service Commission P.O. Box 7854 Madison, Wisconsin 53707-7854
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This is the Order to Reopen and Notice, pursuant to Wis. Stat. §§ 196.39 and 227.45, of the Commission's Final Decision on Reopening granting Highland Wind Farm, LLC (Highland), a Certificate of Public Convenience and Necessity to construct a 102.5 megawatt wind electric generation facility and associated electric facilities, to be located in the Town of Forest, St. Croix County, Wisconsin. ([PSC REF#: 192339](#)). This reopener is for the limited purpose of addressing the issues remanded by the Decision and Order in *Town of Forest v. Pub. Serv. Comm'n of Wis.*, No. 14-CV-18 (Wis. Cir. Ct. St. Croix Cnty. Aug. 27, 2015).

The two specific issues remanded to the Commission for further action involved: (1) the adoption of a percentage compliance standard; and (2) the acceptance of a curtailment plan by Highland to achieve a 40 dBA nighttime noise standard at six residences identified as occupied

by potentially sensitive individuals.¹ The Commission considered this matter at its open meeting of March 11, 2016.

Pursuant to Wis. Stat. § 196.39(1), the Commission “at any time, upon notice to the public utility and after opportunity to be heard, may rescind, alter or amend any order fixing rates, tolls, charges or schedules, or any other order made by the commission, and may reopen any case following the issuance of an order in the case, for any reason.” The Commission concludes that reopening this case for the limited purpose of addressing the issues remanded by the St. Croix County Circuit Court is necessary.

NOTICE OF REOPENING

The Commission hereby reopens its Final Decision on Reopening, provides notice to the parties and other interested persons of this limited reopening, and provides an opportunity to be heard on the following:

1. The Commission’s intention to modify its Final Decision on Reopening to remove the pre-established 95 percent compliance standard² and address any complaints concerning alleged noncompliance with the noise standards, based on the specific factual situation, at the time any noncompliance is alleged.

¹ Additional challenged issues included the Commission’s determination, pursuant to Wis. Stat. § 196.491(3)(d)6., that the project would not unreasonably interfere with the orderly land use and development plans in the project area, and the Commission’s determination that the curtailment plan proposed by Highland in the reopened proceeding demonstrated compliance with the noise standards. The court affirmed the Commission’s decision on both of these issues. The court also found that the Commission’s decision to modify the Commission’s noise protocols to include a 95 percent compliance standard amounted to unauthorized rulemaking. However, pending the outcome of the litigation, the Commission did not modify its noise protocols. Considering the finding by the court, the Commission does not intend to modify its noise protocols at this point so no further action is necessary on this issue.

² Specifically, the section of the Final Decision on Reopening entitled “Compliance Showing,” commencing on page 34 and ending on page 35, would be removed and Order Point 16 would be deleted. As the Final Decision on Reopening already contains language obligating the applicant to comply with the complaint process in Wis. Admin. Code § PSC 128.40, no further revisions are presently contemplated to address this issue.

The Commission also reopens the record for the following purposes:

1. To allow the parties to state why the six identified potentially sensitive residences, and other potentially sensitive residences already identified in Ex.-Forest-Junker-20, should be considered for lower noise requirements than is provided for in Wis. Admin. Code § PSC 128.14(3), so that the Commission can decide whether to include lower noise requirements for either these six or any additional residences.
2. To take official notice under Wis. Stat. § 227.45 of the following governmental reports of peer-reviewed studies, relating to whether any identified health concerns are affected by wind electric generation facilities, and provide the parties an opportunity, as required by Wis. Stat. § 227.45, to rebut or present countervailing evidence:
 - a. The Wisconsin Wind Siting Council Wind Turbine Siting-Health Review and Wind Siting Policy Update.³
 - b. Review of Studies and Literature Relating to Wind Turbines and Human Health.⁴

DOCUMENTS. All documents in this docket are filed on the Commission's Electronic Regulatory Filing (ERF) system. To view these documents: (1) go to the Commission's web site at <http://psc.wi.gov>, (2) enter "2535-CE-100" in the box labeled "Link Directly to a Case," and (3) select "GO."

COMMENTS. The Commission requests comments on the above issues. Comments are due no later than Friday, April 15, 2016, at 12:00 noon. Any parties, utilities, organizations,

³ Available at: <http://psc.wi.gov/renewables/documents/windSitingReport2014.pdf>.

⁴ Available at: <https://psc.wi.gov/reports/documents/2015WindReport.pdf>.

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or interest groups shall file one comment using the Commission's Electronic Regulatory Filing (ERF) system.

To file such a comment, go to the Commission's web site at <http://psc.wi.gov>, and click on the "ERF - Electronic Regulatory Filing" graphic on the side menu bar. On the next page, click on "Need Help?" in the side menu bar for instructions on how to upload a document.

Any members of the general public shall file only one comment either through the Commission's web site or by mail as follows:

- **Web Comment.** Go to the Commission's web site at <http://psc.wi.gov>, click on the "Public Comments" button on the side menu bar. On the next page select the "File a comment" link that appears for docket number 2535-CE-100.
- **Mail Comment.** All comments submitted by U.S. Mail shall include the phrase "Docket 2535-CE-100 Comments" in the heading, and shall be addressed to:

Docket 2535-CE-100 Comments
Public Service Commission
P.O. Box 7854
Madison WI 53707-7854

The Commission will not accept comments submitted via e-mail or facsimile (fax).

Any material submitted to the Commission is a public record and may appear on the Commission web site.

AMERICANS WITH DISABILITIES ACT. The Commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this docket or who needs to obtain this document in a different format should contact the docket coordinator listed below. Any hearing location is accessible to people in wheelchairs. The Public Service Commission

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Building is accessible to people in wheelchairs through the Whitney Way first floor (lobby) entrance. Parking for people with disabilities is available on the south side of the building.

CONTACT. Please direct questions about this docket or requests for additional accommodations for the disabled to the Commission's docket coordinator, James Lepinski, at (608) 266-0478 or jim.lepinski@wisconsin.gov.

Dated at Madison, Wisconsin, this 15th day of March, 2016.

By the Commission:

A handwritten signature in black ink, reading "Sandra J. Paske". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Sandra J. Paske
Secretary to the Commission

SJP:ev:DL:01300971