

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: PIONEER PRAIRIE WIND FARM I, LLC	DOCKET NO. WRU-07-43
--	----------------------

ORDER GRANTING WAIVER WITH CONDITIONS

(Issued February 27, 2008)

On December 31, 2007, Pioneer Prairie Wind Farm I, LLC (Pioneer), filed with the Utilities Board (Board) a request for waiver of the generating certificate requirements of Iowa Code chapter 476A and 199 IAC 24 and the notice requirements in 199 IAC 24.15. The State Historical Society of Iowa filed a response dated January 7, 2008, indicating its review of the project site was not complete. No other objections or responses to the waiver request were filed.

Pioneer seeks to construct a wind energy project that will have a total nameplate capacity of 300.3 MW in Mitchell and Howard counties. The wind project will be spread over 60 square miles and will consist of 182 Vestas V82 turbines with a nameplate capacity of 1.65 MW each. The project will be completed in two phases, the first in 2008 and the second in 2009. The output will be collected through a network of 12 gathering lines; ten lines will have 15 turbines or 24.75 MW nameplate capacity and two lines will have 16 turbines or 26.4 MW nameplate capacity.

Pioneer's project falls within the parameters of Board review under chapter 476A. Pursuant to the statute, a certificate must be obtained for any "facility" with a

total capacity of 25 MW or more at a single site. Iowa Code § 476A.1(5). However, Iowa Code § 476A.15 grants the Board the authority to waive the requirements of chapter 476A for any size generation unit if it determines that "the public interest would not be adversely affected."

Pioneer's project is subject to Board review only because the capacity of wind turbines connected to two of the twelve gathering lines is 26.4 MW each. If the capacity of wind turbines connected to a single gathering or feeder line was less than 25 MW (like it is for ten of the twelve lines), the project would fall within the parameters of various declaratory rulings issued by the Board, which have held that if the capacity of turbines connected to a single gathering or feeder line is less than 25 MW, there is no "facility" as defined in Iowa Code § 476A.1(5). See, MidAmerican Energy Company, "Declaratory Order," Docket No. DRU-03-3 (6/6/03); Flying Cloud Power Partners, LLC, "Declaratory Order," Docket No. DRU-03-2 (2/10/03).

In analyzing whether a waiver should be granted, the decision criteria for issuing a generating certificate must be examined. The three criteria in Iowa Code § 476A.6 are (1) whether the facility is consistent with legislative intent, the economic development policy of the state, and will not be detrimental to provision of adequate and reliable electric service, (2) whether the applicant will construct, maintain, and operate the facility pursuant to the provisions of a certificate, and (3) whether the construction, maintenance, and operation of the facility are consistent with reasonable land use and environmental policies. The waiver request contains

sufficient information with respect to the first criterion because of Iowa's stated legislative policy in Iowa Code § 476.41 to "encourage the development of alternate energy production facilities ... in order to conserve our finite and expensive energy resources and to provide for their most efficient use." In addition, Iowa Code § 476.53 states that it is the intent of the General Assembly to attract electric power generating facilities to the state. The proposed project also supports economic development policies by creating jobs and improving the state's energy infrastructure.

The first criterion also requires consideration of the effect of the proposed project on the electric transmission system. Pioneer has completed the Large Generator Interconnection Agreement process with the Midwest Independent Transmission System Operator, Inc. (MISO), and all necessary system upgrades to ensure system reliability are planned for construction in 2008, including a new substation. Pioneer will be required to comply with the terms and conditions of all current and future transmission authorization given by each entity having authority over interconnection and utilization of the transmission system by the proposed facility. Also, Pioneer will be required to file with the Board copies of all studies that it conducts to comply with MISO or other appropriate entities' requirements, including all studies completed to evaluate the impacts of interconnecting an additional 300.3 MW of wind generation in Iowa. Finally, every six months Pioneer will be required to provide a project status update for each site, including what work has been done, status of on-site and off-site transmission upgrades, interconnection

status, and timelines for various projects, as well as additional information that Pioneer deems appropriate. This reporting requirement will end when all the sites become operational.

The second criterion is of little significance in this case. A certificate, if required, would merely state that Pioneer must comply with applicable law. Pioneer is subject to statutory requirements regardless of whether an actual certificate is issued. For example, Iowa Code § 476A.2(2) provides that Board approval must be obtained for a significant alteration to a facility. Granting this waiver will not exempt Pioneer from this or any other statutory requirement with respect to its future activities.

The final decision criterion relates to environmental and land use factors. Environmental permits are within the purview of the Iowa Department of Natural Resources (IDNR) and the Board has relied on IDNR's expertise in these areas and has found this criterion satisfied if IDNR (and other agencies with jurisdiction over the project) issues the appropriate permits for a wind project. Pioneer states that it has been in contact with IDNR regarding necessary permits. In addition, Pioneer has been in contact with the State Historical Society of Iowa regarding archeological studies that will be completed this year and has also contacted the Army Corps of Engineers, county zoning officials, and others about appropriate permits.

The Board finds that the waiver request adequately addresses the decision criteria for a generating certificate and will therefore waive the requirements of

chapter 476A. The Board issued an identical waiver for another recent wind power project. Endeavor Power Partners, LLC, "Order Granting Waiver With Conditions," Docket No. WRU-06-10-3887 (3/17/2006). The waiver will not detrimentally affect the public interest. However, the Board reminds Pioneer that it must obtain any other applicable environmental permits and comply with any other state and local regulations, such as applicable zoning or land use restrictions.

Pioneer also asked for a waiver of the notice requirements. Rule 199 IAC 24.15 requires that generation siting waiver requests be served on "all owners of record of real property that adjoins the proposed facility site." Pioneer said that with a project covering 60 square miles, compliance with this requirement would pose an undue regulatory burden.

The rule in question was enacted in 2004 in response to a waiver request in late 2003 involving Western Minnesota Municipal Power Agency, which proposed to erect two gas turbines near Exira. The adjoining landowner appeared and was heard in the proceeding, but after the proceedings were concluded the Board determined that other adjoining landowners should receive notice of the waiver filing because of the potential effect on their properties. See, Western Minnesota Municipal Power Agency, "Order Affirming Proposed Decision and Order," Docket No. WRU-03-19 (9/17/03). However, the rule was not intended to apply to wind projects because up to the time the rule was adopted in 2004, all Iowa wind projects had been configured

to fall within the Board's numerous declaratory rulings that the siting statutes do not apply if less than 25 MW of capacity are connected to a single gathering line.

Pioneer, in its request, said it has obtained or will obtain all necessary private easements for its project. In addition, Pioneer said it will hold at least one open house in or near the project area to provide the public with information about the project. Pioneer has also performed or is in the process of arranging for various studies. Finally, Pioneer points out that its project barely exceeds the 25 MW threshold for two of the twelve gathering lines; if the two gathering lines were the same capacity as the other ten, there would be no Board action required.

The Board will grant the waiver. Wind projects do not present the same noise and environmental issues that gas or coal projects present. In addition, the expense of performing the abstract work to obtain names and addresses of property owners in a 60-square mile area would be unduly burdensome. While published notice is an option the Board could order, there does not appear to be any value in requiring additional notice, particularly because private easements will have to be obtained before the project can go forward and Pioneer could easily reconfigure the project to avoid the requirement altogether (although this may adversely affect the economics of the project.) Iowa's public policy is to encourage renewable generation. One way to do this is to reduce the regulatory burden on such projects when the regulations in question do not advance the public interest, as the Board has done in prior declaratory rulings. The Board previously granted a waiver of the notice

requirements in a similar situation. Endeavor Power Partners, LLC, "Order Granting Waiver With Conditions," Docket No. WRU-06-10-3837 (3/17/2006). The standards for a waiver found in 199 IAC 1.3 have been satisfied.

The Board notes that Pioneer also requested a waiver of 199 IAC 24.6(2), which provides that notice of a generation siting proceeding is to be given to adjacent landowners. Because the Board will waive the siting requirements contained in chapter 476 and 199 IAC 24, no specific waiver of this rule is required.

IT IS THEREFORE ORDERED:

1. The request for waiver of the generating certificate requirements of Iowa Code chapter 476A and 199 IAC 24 filed by Pioneer Prairie Wind Farm I, LLC, on December 31, 2007, is granted, conditioned upon Pioneer receiving all appropriate interconnection and transmission request approvals from appropriate reliability authorities as set forth in the body of this order.
2. Pioneer shall promptly file with the Board copies of all studies that it conducts to comply with MISO or other appropriate entities' requirements, including all studies completed to evaluate the impacts of interconnecting an additional 300.3 MW of wind generation in Iowa.
3. On or before September 2, 2008, and every six months thereafter until all sites become operational, Pioneer shall file a project status update for each site, including what work has been done, status of on-site and off-site transmission

upgrades, interconnection status, and time-lines for various projects, as well as additional information that Pioneer deems appropriate.

4. The notice requirements contained in 199 IAC 24.15 are waived.

UTILITIES BOARD

/s/ John R. Norris

/s/ Krista K. Tanner

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Darrell Hanson

Dated at Des Moines, Iowa, this 27th day of February, 2008.