

Public Service Commission
Public Utilities
Rulemaking

Case No. PU-16-775

Public Service Commission
Public Utilities - Wind Decommissioning
Rulemaking

Case No. PU-17-23

Summary of Written Comments Received

March 10, 2017

PU-17-23: Decommissioning

General Comments

Note: Some comments were received that have been excluded from this summary because they address issues not addressed in this docket such as property values, setbacks, etc.

David and Vicki Carpenter: Supports decommissioning rules and suggests bonding also to ensure future improvements as technology improves.

Tricia Fossum: Supports proposed decommissioning rules.

Mark Naaden: Supports proposed decommissioning rules

Jayce & Jerry Doan: Supports proposed decommissioning rules

69-09-09-01:

Red Butte Wind, LLC (Tenaska, Inc.) Construction should be defined in rule to exclude activities incident to preliminary engineering or environmental studies.

MDU: Requests existing facility be defined as a facility for which a site certificate was issued prior to July 1, 2017. Existing certificate conditions should not be modified.

69-09-09-03 10% Minimum capacity factor:

NextEra: Minimum level not needed because owner will likely lose money and not receive any benefit from delaying decommissioning. Concerned with potential for being forced into premature decommissioning.

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Red Butte: Retain current language “generates no electricity for a continuing period of 24 months. Rebuttable 10% creates uncertainty. Should at least include express exception for catastrophic or force majeure events.

69-09-09-05 Decommissioning requirements:

MDU: Rebuttable assumption of end of life when capacity factor below 10% could delay restoration of facility if Commission approval to restore is required. Also, consideration should be given to landowner preference and specifics of lease agreement regarding restoration and reclamation to approximate original topography.

Mills Family: Subsection 2 should not require removal of cables to any depth – not required for other utilities.

David and Vicki Carpenter: Supports removing all concrete, not just to 4 feet.

Allison Grotberg: Supports removing concrete to 8 or 9 feet. 3 feet not enough.

Jayce, Jay & Jerry Doan: Supports removing all concrete. 3 feet not enough.

Jim Melchior: Removal of all waste to depth of at least 8 feet and file of record against the land with a map showing surveyed location and depth of all remaining buried waste after decommissioning. Also replace top soil and subsoil with similar soil.

69-09-09-06 and 08: Decommissioning plan and financial assurance:

Enel/Tradewinds: Filing decommissioning plan concurrently with application does not provide accurate cost estimate. Worst case results in excessive financial assurance. Proposes to instead require initial financial assurance for 10% of construction costs then after construction set incrementally (25%, 25% after 5 years, remaining 50% after 10 years) on actual decommissioning cost estimate. Comments that existing requirement for financial assurance at year ten is more than sufficient assurance that funds will be available at end of useful life and coincides with financial “flip” where cash flow to owner increases. The equity owner and third-party institutional financiers have such a significant amount of capital at risk that walking away from a project would be a disastrous financial decision.

MDU: MDU develops decommissioning cost estimates in house and requiring a professional engineer could increase costs. Suggests instead qualifications of engineer be provided for Commission to accept or reject the estimate provided by the company..

Red Butte: Supports Enel/Tradewinds proposal but suggests alternative increment 10% per year. Suggests language changes for 69-09-09-08(2) to add incremental basis and removal of “at least” from subsection 08(4)(b).

NextEra: Bond requirement should account or credit for bonds required at a local level to avoid double bonding.

Capital Power: Opposes assurance requirement before construction as unnecessary economic burden that will hinder development and runs counter to industry norm as most do not require assurance until 10 to 15 years. Unnecessary because no instance known of wind facility being prematurely abandoned.

Wind on the Wires (WOW): Provided summary of decommissioning plan and financial assurance requirements in SD, MN, IA, NE, which are in region, have similar wind resources and are ND’s primary competition for projects. WOW observes proposed rules are out of step with requirements in these other states. WOW suggests changes to help ensure ND maintains its reputation as being friendly to energy development.

Mills Family: Bonding should be incremental rather than required up front.

Jayce, Jay & Jerry Doan: Supports Bonding before construction.

69-09-09-08(b)1) “A” bond rating:

NextEra: Requiring anything more than “investment grade” for self bonding unnecessarily increases costs. (BBB1 for S&P/Fitch and Baa3 for Moody’s) Should also consider credit rating agency issuer ratings. Also, if A rating then should specify to allow A-.

Mills Family: Supports an investment grade requirement. Rating of A not obtainable for wind developers, which are different than coal mines. “...rule changes are just blatant attempt to stop future wind development.”

Capitol Power: “A” rating is arbitrary and unnecessary and will hinder development. Investment grade consistent with requirements for posting security in most electric power markets, including MISO for posting credit through parent guarantees.

PU-16-775 Siting Criteria

69-06-08-01: ADLS Lighting:

Drake Lighting: : Should be technology neutral to allow Light Intensity Diming Solutions (LIDS).

Enel/Tradewinds: Add language “to use commercially reasonable efforts” Also consider other technologies.

MDU: Supports proposed rules with modification to be technology neutral and include commercially reasonable means of addressing lighting pollution. Should apply only on a prospective basis in future sighting cases.

Mills Family: Light Intensity Dimming Solutions (LIDS) should be preferred over radar. Radar too expensive and not good for existing wind farms.

Tricia Fossum: Supports proposed lighting system rules

David and Vicki Carpenter: Supports proposed lighting system rules

Mark Naaden: Supports proposed lighting system rules

Jim Melchior: Red blinking lights need to be replaced with something less obtrusive.

Durant Schiermeister: Supports proposed lighting system rules

JRL