



May 8, 2025

Via eDockets

Consumer Affairs Office  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, MN 55101

RE: EERA Hearing Comments  
Snowshoe BESS Project  
PUC Docket No. IP-7138/ESS-24-279  
OAH Docket No. 21-2500-40522

Dear Consumer Affairs Office:

Minnesota Department of Commerce, Energy Environmental Review and Analysis (EERA) offers the following comments on the Snowshoe BESS Project (Project) proposed by Snowshoe BESS, LLC (Snowshoe or applicant).

In these comments EERA recommends modifications to the draft decommissioning plan and summarizes proposed changes to the sample site permit filed by the Minnesota Public Utilities Commission (Commission). Changes have been proposed by EERA in the draft site permit (DSP) included as Appendix C of the Environmental Assessment (EA) prepared for the project and by Snowshoe in its pre-filed testimony. These changes address:

- Technical corrections included in the DSP and proposed by Snowshoe.
- More substantive modifications proposed in the DSP as well as EERA's response to modifications to the DSP proposed by Snowshoe.
- Two new proposed conditions to the DSP proposed by EERA following a closer review of the record to date.

## Decommissioning Plan

EERA staff has reviewed the draft decommissioning plan (draft plan) for the proposed Snowshoe BESS energy storage system included as Appendix D of the Site Permit Application filed October 7, 2024 (eDocket ID: [202410-210785-07](#)).

EERA staff's review is guided by the recommendation of the Solar and Wind Decommissioning Working Group (SWDWG). As discussed in EERA staff's recommendations on decommissioning plans in Docket 17-123, the decommissioning plan should serve as a stand-alone document to orient the reader to the project as it is on the ground.

EERA staff recommends that Snowshoe revise the draft plan to incorporate several clarifications and additions before filing the plan required prior to construction. Although some of this information is located elsewhere in the record, it should be included in the decommissioning plan for ease of use.

- **General Comments:**

- The cover of the pre-construction version of the decommissioning plan should be updated to include the project docket number and the revised date.
- In general, replace references to “project area” with “site.” The decommissioning plan is linked to the permitted site, defined in Minn. Stat. 216E.01, subd. 9<sup>1</sup> as the location of a large electric power generating plant and identified in the site permit for the project. The term “project area” is useful when referring to the general project vicinity.
- Should the Commission issue a site permit for the project, Snowshoe will then be the permittee, no longer the applicant, so replacing “applicant” with “permittee” is appropriate for the pre-construction version of the decommissioning plan.
- **Independent Preparer:** Meets EERA expectations. The plan and cost estimate have been prepared by Westwood Professional Services.
- **Decommissioning Objective:** Partially meets EERA expectations. EERA recommends the pre-construction version of the plan link the objective back to the permit language (Section 9.2 of the DSP) requiring the site be restored to pre-project conditions to the extent feasible. As the project matures, the objective may evolve in anticipation of a different use (e.g., commercial, industrial, or residential). Although the anticipated life of the project may be 35 years for Snowshoe’s planning purposes, the timeframe of the decommissioning plan should be consistent with the anticipated permit term of 30 years. As noted in sections 4 and 9, Snowshoe anticipates it may continue to operate the project by applying to extend the permit.
- **Scheduled Updates:** Does not meet EERA expectations. Although Section 8 indicates Snowshoe’s plan to update the decommissioning plan every five years, and Section 9 references EERA’s recommendation to revise the plan if there are changes in ownership, EERA recommends that the pre-construction version of the plan include this information under a new separate “Plan Update” heading to provide more transparency. In addition to regular five-year updates, the plan should also be updated in the event of ownership changes, permit amendments, or repowering. EERA also recommends the updates section of the plan include the revision history, including the date of the last plan and a link to the plan.
- **Project Description:** Does not meet EERA expectations. EERA recommends the pre-construction version of the plan describe the project that is constructed under a new “Project Description” heading. EERA recommends that the pre-construction version of the plan include:

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<sup>1</sup> Beginning July 1, 2025, this definition is in Minn. Stat. 216I. 02subd. 16.

- A description of major project components (e.g. containers, substation, gen-tie line, operations and maintenance (O&M) facility, inverter location, stormwater retention areas, etc.).
- A description of the location of the project, Section 35 of Kalmar Township (Township 170N, Range 15W) in Olmsted County.
- A site map showing the location of project components.
- Anticipated date of commercial operation (updated to the actual date in future updates).
- The date and eDocket location of the site permit when issued. Future updates should also reference past decommissioning plans and provide a link to those plans.
- A short statement on landownership at the time of construction. Clarify whether Snowshoe owns or leases the entire site or portions of the site.
- The pre-construction update should clarify the project that Snowshoe is constructing; at that point it will no longer be a proposal.
- The number and total acreage of any stormwater ponds and swales in the final design.
- **Use of Capacity.** Does not meet EERA expectations. EERA understands that the offtaker of the energy capacity provided by the project is currently unknown. The pre-construction version of the plan should include a general statement of where the generation will be used. Examples include, but are not limited to:
  - Offtake Agreement. Describe the offtaker and the expiration date of any offtake agreement.
  - Utility-ownership and dispatch.

**Permits and Notifications:** Does not meet EERA expectations. EERA recommends that the pre-construction version of the plan include a list of permits required for decommissioning and identify the specific local governments that will be notified. EERA anticipates that the required permits may change over time, but the periodic reviews provide an opportunity for the list to be identified.

Section 9.1 of the DSP requires the permittee provide the decommissioning plan to local governments, so plan to document compliance with that provision once the plan is filed as a pre-construction document.

- **Tasks and Timing:** The information in Section 5 “Decommissioning Activities” generally meets EERA expectations. EERA recommends the pre-construction version of the plan be revised to clarify several elements prior to filing as a pre-construction filing:
  - Clarify the type and manufacturer of batteries used in the facility and cite the manufacturers recommendations on decommissioning.

- Discuss removal of stormwater ponds and engineered drainage swales.
- Discuss decommissioning of the O&M facility. If the O&M facility is located offsite, the plan should mention that and whether decommissioning of the facility will be required or whether, if the facility is in an existing warehouse, Snowshoe will simply move out.
- Add a short section in the text that generally discusses assumptions for disposal and identifies recycling and landfill facilities in place at this time (see, for example, Section 2.5 of 2021 the [decommissioning plan](#) for Sherco Solar. The Kalmar landfill and the Rochester Iron and Metal recycling facility are identified in the cost assumptions, but please pull that information into the text. EERA staff assumes these will change over time and can be updated during periodic updates.
- Provide some additional detail on the timeframe/schedule for decommissioning. A Gantt chart is not necessary at this time, but please provide some sense of sequencing and timing more detailed than a general statement of 12 weeks.” (see, for example, section 2.3 of the 2021 [decommissioning plan](#) for Sherco Solar.
- **Cost Estimate:** The cost information in Section 8 and Attachment A meets EERA expectations at this time. EERA recommend that both gross and net costs be updated at five year intervals.
- **Financial Assurance:** Partially meets EERA expectations. Consistent with the SWDWG’s recommendations, EERA recommends that the revised decommissioning plan filed prior to construction clarify the anticipated beneficiary of the financial assurance, the types of financial assurance mechanism under consideration by Snowshoe, and a schedule for funding the financial assurance.

The text in Section 9 anticipates that “Snowshoe BESS will enter into a surety bond agreement, create an escrow account, create a reserve fund, or provide another form of security that will ultimately fund decommissioning and site restoration costs after Project operations cease, to the extent that the salvage value does not cover decommissioning costs.” EERA recommends that the pre-construction filing clarify the intended beneficiary of the financial assurance and what other forms of financial assurance are under consideration by Snowshoe and recommends that Snowshoe narrow down the financial assurance mechanism to the two or three most likely scenarios.

The SWDWG recommends that permittees begin funding the financial assurance instrument no later than 10 years after facility begins operation and that the instrument be fully funded prior to the end of any power purchase agreement. Snowshoe commits to establishing a financial assurance mechanism no later than year 10 of operations and fully funding decommissioning costs prior to the end of the site’s lease agreement. Based on the site permit, it appears that the term of the lease may exceed the term of the site permit.

EERA anticipates bringing the matter to the Commission at the time to surety is established to allow the Commission to weigh in on the amount (gross or net costs), mechanism, date by which it should be fully funded, and the beneficiary.

## Site Permit Modifications

The Commission issued a sample site permit on November 27, 2024.<sup>2</sup> EERA included a DSP as Appendix C of the Environmental Assessment (EA).<sup>3</sup> EERA's DSP indicated changes from the Commission-issued sample permit by underline and strikeout.

In these comments, EERA summarizes the changes between the sample permit and EERA's DSP, responds to Snowshoe's comments on permit conditions, and proposes two new permit conditions.

EERA's comments are organized into three areas:

- Technical corrections. Many of these changes reflect implementation of the new Energy Infrastructure Permitting Act, which takes effect on July 1, 2025
- EERA comments on proposed changes to the sample permit. EERA's comments address both changes to the sample permit proposed by EERA in the DSP included in the EA and comments on Snowshoe's proposed modifications to the DSP as of April 15, 2025.
- Two new permit conditions proposed by EERA.

## Technical Corrections

The Energy Infrastructure Permitting Act, Minnesota Statutes, Chapter 216I, is a new legislative framework designed to streamline and enhance the permitting process for energy infrastructure projects in Minnesota. The Energy Infrastructure Permitting Act will take effect on July 1, 2025. The new law repeals Minnesota Stat., Chapter 216E and largely repeals Minn. Rules, Section 7850, replacing both with the new Minn. Stat., Chapter 216I.

Consistent with the change in law and anticipating that the Commission will not issue a site permit prior to July 1, 2025, the DSP replaces references to Minn. Statutes, Chapter 216E with 216I on the permit cover and in sections 1 and 1.1.

Also consistent with the statutory changes, the EERA function will transfer to the Commission on July 1. Consistent with the change in law, EERA removed reference to Department of Commerce staff in

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<sup>2</sup> Commission, Sample Site Permit, November 27, 2024, eDocket No. [202411-212496-01](#)

<sup>3</sup> DOC EERA, *Environmental Assessment: Snowshoe Energy Storage Project. Appendix C, Proposed Draft Site Permit*. April 22, 2024, eDocket No. [20254-217407-04](#)

sections 4.2, 4.3.4, 4.3.16, 4.3.18, 4.3.19, 4.3.20, 4.3.21, 4.3.22, 4.3.26, 4.5.1, 4.5.2, 7, 8.13.2, 8.3, and 8.6. The applicant has not proposed any modifications to EERA's proposed changes.

In direct testimony, Snowshoe replaced inadvertent references to photovoltaic equipment with energy storage equipment in sections 3 and 4.3.12.<sup>4</sup> EERA believes these corrections are appropriate and supports these modifications.

After reviewing the DSP, EERA identified two other portions of the DSP that reference either Chapter 216E or Minn. R. 7850.

### *Native Prairie*

EERA recommends that Section 4.2.14 be revised to include the reference to the appropriate section of Minnesota Statutes, Chapter 216I.

#### **4.3.14 Native Prairie**

*The Permittee shall not place the energy storage system or associated facilities in native prairie, as defined in Minn. Stat. § 84.02, subd. 5, unless addressed in a prairie protection and management plan and not located in areas enrolled in the Native Prairie Bank Program. The Permittee shall not impact native prairie during construction activities, as defined in Minn. Stat. § ~~216E-01~~ 216I.02, unless addressed in a prairie protection and management plan.*

*The Permittee shall prepare a prairie protection and management plan in consultation with the DNR if native prairie, as defined in Minn. Stat. § 84.02, subd. 5, is identified within the Project Boundary. The Permittee shall file the prairie protection and management plan with the Commission at least 30 days prior to submitting the Site Plan required by Section 8.3 of this site permit. The prairie protection and management plan shall address steps that will be taken to avoid impacts to native prairie and mitigation to unavoidable impacts to native prairie by restoration or management of other native prairie areas that are in degraded condition, by conveyance of conservation easements, or by other means agreed to by the Permittee, the DNR, and the Commission.*

### *Delay in Construction*

EERA recommends that Section 6 be revised to replace reference to the repealed rule with the appropriate section of Minnesota Statutes, Chapter 216I.

#### **6 DELAY IN CONSTRUCTION**

*If the Permittee has not commenced construction or improvement of the site within four years after the date of issuance of this site permit the Permittee shall file a Failure to Construct Report*

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<sup>4</sup> Direct Testimony of M. Matze and Schedules A-C, eDocket ID: [20254-217717-02](#), (herein after M. Matze Direct Testimony, pp. 11 and 13

*and the Commission shall consider revocation or suspension of this site permit in accordance with Minn. R. 7850.4700-Minn. Stat., §216I.14.*

## EERA Comments on Proposed Changes from the Sample Permit

### *Cover, Sections 1 and 2*

EERA's proposed DSP updates the sample permit to include project-specific information in the cover and in sections 1 and 2 and reference to Snowshoe's draft decommissioning plan in section 9.1.

The applicant has not proposed any modifications to EERA's proposed changes.

### *Designated Site (Section 3)*

Section 3 of the DSP is a standard condition that identifies the site (shown in the map attached to the site permit) and provides the permittee with flexibility to make minor adjustments to the layout to accommodate issues that come up (e.g., landowner and local government requests, engineering constraints) as the site design is finalized.

Snowshoe proposes modifying this condition to correct technical issues (replacing photovoltaic tracker row, which was inadvertently included, with energy storage system) and allow for the future augmentation of batteries over the project's lifetime without a permit amendment or minor alteration from the Commission.<sup>5</sup> Snowshoe's proposed modifications are shown here:

### 3. DESIGNATED SITE

The site designated by the Commission for the Project is depicted on the site maps attached to this site permit (Designated Site). The site maps show the approximate location of the energy storage system including future augmentation units and associated facilities within the Designated Site and identify a layout that seeks to minimize the overall potential human and environmental impacts of the Project, as they were evaluated in the permitting process.

The Designated Site serves to provide the Permittee with the flexibility augment the Project in the future to maintain Project capacity, to make minor adjustments to the layout to accommodate requests by landowners, local government units, federal and state agency requirements, and unforeseen conditions encountered during the detailed engineering and design process. Any modification to the location of a ~~photovoltaic tracker row~~ energy storage system or associated facility shall be done in such a manner as to have human and environmental impacts that are comparable to those associated with the layouts on the maps

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<sup>5</sup> Although a minor alteration is an option for changes to existing facilities under Minn. R. 7850.4800, that part of the rule will be repealed as of July 1, 2025. The Energy Infrastructure Permitting Act, Minn. Stat. 216I.09 does provide for permit amendments.

attached to this site permit. The Permittee shall identify any modifications in the Site Plan pursuant to Section 8.3.<sup>6</sup>

As noted previously, EERA agrees with Snowshoe's replacement of photovoltaic tracking system with energy storage system and supports that change.

While EERA understands that the facility will require augmentation of the project's batteries over the course of its operating life, it is unclear to EERA staff whether this augmentation is more appropriately a permit amendment per Minn. Stat. 216I.09 or a special permit condition.

Minn. Stat. 216I.09 provides a process for permit amendments for request to repower or refurbish existing energy infrastructure facilities that increase the efficiency of the system, provided that the project does not increase the developed area within the site and does not increase the nameplate capacity of the facility's most recent interconnection agreement. While the statute defines an increase in efficiency for large electric power generating plants, it does not define an increase in efficiency for an energy storage system.

If the Commission determines that augmentation is a process best regulated through a special permit condition, EERA proposes the following language:

**5.12 Augmentation:**

The Permittee shall notify the Commission of scheduled augmentation at least 30 days prior to commencing augmentation activities. In its filing, the Permittee shall describe the number and types of batteries included in the augmentation. The Permittee shall indicate the location of the augmentation on the project Site Plan. In its filing the Permittee shall include a noise impact assessment as required in Section 5.2 of this permit.

*Lighting (Section 5.1)*

The DSP includes a special condition requiring Snowshoe to use shielded and downward facing and LED lighting that minimizes blue hues for the project. This condition is not a standard permit condition but is frequently recommended by the Minnesota Department of Natural Resources (DNR) and has been included in recently issued site and route permits for large energy facilities:

The applicant has not proposed any modifications to EERA's proposed changes.

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<sup>6</sup> M. Matze Direct Testimony, pp. 10-11



### *Pre-construction Noise Modeling and Impact Assessment (Section 5.2)*

The DSP includes a special condition a special condition requiring Snowshoe to file a noise impact assessment summarizing the results from noise propagation modeling prior to construction and prior to any modifications of the facility over its operating life.

The applicant has not proposed any modifications to EERA's proposed condition.

### *Noise Studies and Noise Mitigation (Section 5.3)*

The DSP includes a special condition requiring the permittee to file a proposed methodology for conduct of a post-construction noise study prior to construction of the project and to file the noise study within 18 months of operation. This section also clarifies that the project must be operated to comply with the Minnesota Pollution Control Agency's noise standards at all times and that the permittee may be required to modify design or operation of the facility to comply with the noise standards.

The applicant has not proposed any modifications to EERA's proposed condition.

### *Hazard Mitigation Analysis (Section 5.4)*

The DSP includes a special condition requiring the permittee to file a Hazard Mitigation Analysis (HMA) with the Commission. Industry standards require energy storage facilities to prepare a Hazard Mitigation Analysis (HMA) detailing the results of the equipment testing, and the risks associated with the technology.

The applicant has not proposed any modifications to EERA's proposed condition. Upon further consideration of the role played by local first responders in responding to any public safety issues at the facility, EERA proposes modifying this condition to require the permittee to provide copies of the HMA to first responders serving the area as well as to the Commission:

#### 5.4 Hazard Mitigation Analysis

The Permittee shall file a Hazard Mitigation Analysis detailing the results of the equipment testing, and the risks associated with the technology, along with an affidavit of distribution of the Hazard Mitigation analysis to emergency responders with jurisdiction over the project, at least 30 days prior to the pre-construction meeting.

### *Agricultural Impact Mitigation Plan (Section 5.5)*

The DSP includes a special condition requiring Snowshoe to prepare an agricultural impact mitigation plan (AIMP) in coordination with the Minnesota Department of Agriculture. (MDA) prior to construction.

In its direct testimony, Snowshoe indicated that it has been coordinating with MDA on appropriate mitigation to avoid and minimize the project's impact on agricultural land and that MDA has indicted

that a standalone AIMP is not necessary.<sup>7</sup> Snowshoe proposed modifications to the condition to replace an AIMP with “appropriate agricultural impact minimization and mitigation measures.”

In its testimony Snowshoe included a strikeout and underline version of select pages of its October 2024 site permit application.<sup>8</sup> The markup appears to outline mitigation and management measures that Snowshoe will undertake to minimize impacts to agricultural land. EERA notes that many of these measures are incorporated in standard permit conditions and is unclear on how to incorporate the markup of the application.

Absent further comment from MDA, EERA does not support modifying the condition.

#### *Vegetation Management Plan (Section 5.6)*

The DSP contains a special condition requiring Snowshoe to prepare a vegetation management plan in coordination with Commerce and the Vegetation Management Planning Working Group prior to construction. The applicant has not proposed any modifications to EERA’s proposed condition.

Consistent with edits in other areas of the permit, EERA proposes to remove reference to the Department of Commerce and correct the title of the working group in the first paragraph of this condition.

The Permittee shall develop a vegetation management plan (VMP), in coordination with ~~the Department of Commerce, and~~ the Vegetation Management Planning Working Group (~~VMWG~~), using best management practices established by the DNR and BWSR. The Permittee shall file the VMP and documentation of the coordination efforts between the Permittee and the coordinating agencies with the Commission at least 14 days prior to the pre-construction meeting. Landowner-specific vegetation requests resulting from individual consultation between the Company and a landowner need not be included in the VMP. The Permittee shall provide all landowners within the Designated Site copies of the VMP. The Permittee shall file with the Commission an affidavit of its distribution of the VMP to landowners at least 14 days prior to the pre-construction meeting.

#### *Unanticipated Discoveries Plan (Section 5.7)*

The DSP contains a special condition requiring Snowshoe to prepare an Unanticipated Discoveries Plan outlining steps to be taken if previously unrecorded cultural resources or human remains are encountered during construction.

The applicant has not proposed any modifications to EERA’s proposed condition.

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<sup>7</sup> M. Matze Direct Testimony, p. 12

<sup>8</sup> M. Matze Direct Testimony, Exhibit C

### *State Historic Preservation Office Recommendations (Section 5.8)*

The DSP contains a special condition requiring Snowshoe to file correspondence from the Minnesota State Historic Preservation Office (SHPO) containing recommendations for surveys or other mitigation measures.

On April 11, 2025, Snowshoe filed documentation of its coordination with SHPO.<sup>9</sup> The letter from SHPO attached to the filing did not recommend further survey or mitigation measures beyond the survey completed in October 2024 and provided to SHPO for its review.

In direct testimony filed April 15, 2025, Snowshoe requested that the special condition section 5.8 be removed.<sup>10</sup> EERA agrees with this request and recommends that the special condition be removed.

### *Security Fencing (Section 5.9)*

The DSP contains a special condition requiring Snowshoe to design a security fence that minimizes visual impacts while maintaining compliance with the National Electric Safety Code. The proposed condition also requires Snowshoe to develop a final site plan in coordination with the Minnesota Department of Natural Resources (DNR).

In its direct testimony, Snowshoe accepted DNR's recommendation to have a minimum fence height of 10 feet but stated its intent to use barbed wire atop the fence to ensure safety and prevent unauthorized entrance. Snowshoe proposes modifying the DSP condition to clarify its intent to use a chain link fence topped by barbed wire but removed the requirement to develop a fence plan with DNR and to include the fence plan in the Site Plan required by Section 8.3 of the permit.

EERA requests clarification from Snowshoe on whether the total height of the fence (including barbed wire) is 10-feet, or whether the chain link portion of the fence is 10 feet.

EERA would like to hear from DNR to see if the agency has further comments or concerns.

Regardless of whether the requirement to develop a fence plan in coordination with DNR remains part of the condition, EERA believes it is appropriate to require fence design to be included in the Site Plan.

Pending further clarification from Snowshoe and DNR, EERA does not recommend modifying Section 5.9 of the DSP at this time.

### *Wildlife-Friendly Erosion Control (Section 5.10)*

The DSP includes a special condition requiring the permittee to use wildlife-friendly erosion control to minimize impacts to small animals. This condition is not a standard permit condition but is frequently

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<sup>9</sup> Snowshoe, *Letter Confirming SHPO Consultation*, April 11, 2025, eDocket ID: [20254-217530-01](#)

<sup>10</sup> M. Matze Direct Testimony, p. 13

recommended by DNR and has been included in many permits issued for solar, wind, and transmission lines.

The applicant has not proposed any modifications to EERA's proposed changes.

#### *Dust Control (Section 5.11)*

The DSP includes a special condition requiring the permittee to minimize and avoid, if possible, chloride-based dust control chemicals. This condition is not a standard permit condition but is frequently recommended by DNR and has been included in recently issued site and route permits for large energy facilities:

The applicant has not proposed any modifications to EERA's proposed changes.

### **Proposed Modifications to Draft Site Permit**

After reviewing the DSP and the record to date, EERA proposes two additional permit modifications.

#### *Offtake Agreement*

EERA notes that Snowshoe does not yet have a commitment for the facility's storage capacity and anticipates a variety of potential scenarios.<sup>11</sup> Minnesota Statute. 216I.05, subd. 1 (c) require permittees seeking to build a large electric power generating plant to have a commitment to purchase the power as a condition of the permit:

(c) A site permit does not authorize construction of a large electric power generating plant until the permittee has obtained a power purchase agreement or some other enforceable mechanism to sell the power generated by the project. If the permittee does not have a power purchase agreement or other enforceable mechanism at the time the permit is issued, the commission must provide in the permit that the permittee must advise the commission when the permittee obtains a commitment to purchase the power. The commission may establish as a condition in the permit a date by which the permittee must obtain a power purchase agreement or other enforceable mechanism. If the permittee does not obtain a power purchase agreement or other enforceable mechanism by the date required by the permit condition, the site permit is null and void.

Energy storage systems are not included in the statutory definition of large electric power generating plants in Minn. Stat. 216I.02 and this portion of the statute does not specifically include energy storage systems as the types of large energy infrastructure that require Commission notification of some sort of offtake agreement.

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<sup>11</sup> Snowshoe, *Site Permit Application*, at pp. 4-5

If the Commission determines that Snowshoe should notify the Commission of any offtake agreement, EERA proposes the following language, modified from Commission-issued site permits for large wind facilities:

**5.12 Offtake Agreement:**

In the event the Permittee does not have an offtake agreement, or some other enforceable mechanism for sale of energy capacity provided by the Project at the time this site permit is issued, the Permittee shall provide notice to the Commission when it obtains a commitment for the energy capacity. This site permit does not authorize construction of the Project until the Permittee has obtained an offtake agreement, or some other enforceable mechanism for energy capacity provided by the Project. In the event the Permittee does not obtain an offtake agreement or some other enforceable mechanism for the energy capacity provided by the Project within two years of the issuance of this site permit, the Permittee must advise the Commission of the reason for not having such commitment. In such event, the Commission may determine whether this site permit should be amended or revoked. No amendment or revocation of this site permit may be undertaken except in accordance with Minn. Stat. § 216I.09 or Minn. Stat. § 216I.14.

*Annual Report*

Site permits for wind and solar facilities have a standard permit condition that requires permittees to file annual reports on the project's power production throughout the life of the permit. As energy storage facilities do not generate power, no such condition is included in the Commission's sample site permit.

Given the relative novelty of a stand-alone energy storage facility and the anticipated augmentation and maintenance activities throughout the anticipated 30 year length of the permit, EERA staff believes it is reasonable to require some type of annual filing from the permittee throughout the operating life of the permitted facility. EERA staff proposes the following condition, adapted from a recent solar permit:

**5.13 Annual Report**

The Permittee shall, by February 1st following each complete or partial year of Project operation, file a report with the Commission on the monthly energy production of the facility including:

- (a) the installed nameplate capacity of the permitted facility;
- (b) the monthly and annual capacity factor of the facility;
- (c) the operational status of the facility and any major outages, major repairs, battery augmentation, or performance improvements occurring in the previous year; and
- (d) any other information reasonably requested by the Commission.

The Permittee shall file this information in a format recommended by the Commission. This information shall be considered public and must be filed electronically.

EERA appreciates the opportunity to comment on the proposed project.

Sincerely,

A handwritten signature in black ink, reading "Suzanne Steinhauer". The signature is written in a cursive, flowing style.

Suzanne Lamb Steinhauer  
EERA Environmental Review Manager