



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

ENERGY ENVIRONMENTAL REVIEW AND ANALYSIS COMMENTS AND RECOMMENDATIONS

GOPHER STATE SOLAR PROJECT DOCKET NO. IP-7119/GS-24-106

Date: September 4, 2024

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**In the Matter of the Application of Gopher State Solar, LLC for a Site Permit for the up to 200 MW
Gopher State Solar Project in Renville County, MN**

Issues Addressed: These comments and recommendations address the completeness of the site permit application, the need for an advisory task force, and the presence of contested issues of fact.

Documents Attached:

- (1) Table 1. Application Completeness Requirements
- (2) Table 2. Draft Permitting and Environmental Review Schedule
- (3) Project Overview Map

Additional documents and information can be found on:

- eDockets via <https://www.edockets.state.mn.us/EFiling/search.jsp> (24-106) and;
- The Department of Commerce's website via <http://mn.gov/commerce/energyfacilities>.

This document can be made available in alternative formats (i.e., large print or audio) by calling 651-539-1529 (voice).

Introduction and Background

On August 19, 2024, Gopher State Solar LLC filed a site permit application to construct and operate the Gopher State Solar project, an up to 200 megawatt (MW) alternating current photovoltaic solar energy generating facility in Kingman, Osceola, and Bird Island townships in Renville County, Minnesota. On August 21, 2024, the Minnesota Public Utilities Commission (Commission) issued a notice soliciting comments on the completeness of the site permit application, the need for an advisory task force, additional procedural requirements to be considered, and the presence of contested issues of fact.¹

¹ Notice of Comment Period on Application Completeness, August 21, 2024, [eDockets Number 20248-209670](#).

Project Purpose

Gopher State Solar indicates that the project will assist the State of Minnesota in meeting its renewable energy objectives², diversify electricity sources, meet anticipated growth in electricity demand, and meet consumers' growing demand for renewable energy.³ Gopher State Solar is working to secure a power purchase agreement with wholesale customers (e.g., Minnesota utilities and cooperatives) or commercial and industrial customers to sell the electric power generated by the project.

Project Description

Gopher State Solar proposes to construct and operate an up to 200 MW solar energy generating facility in Kingman, Osceola, and Bird Island townships in Renville County, Minnesota. The project will occupy approximately 1,665 acres, 977 acres of which will be occupied by the solar panels and associated infrastructure (see Project Overview Map). The project will use photovoltaic solar panels mounted on single axis tracking systems. Underground collection cables will gather and send the electric power generated by the solar panels to a project substation. The project substation will interconnect with the electrical grid through an existing substation near the project site via a new, short (<1,500 ft) overhead generation intertie transmission line.⁴

Gopher State Solar expects to sign a generator interconnection agreement (GIA) for the project with the Midcontinent Independent System Operator (MISO) for 200 MW.⁵ Gopher State Solar will notify the Commission when the GIA has been executed.

Regulatory Process and Procedures

In Minnesota, no person may construct a large electric power generating plant without a site permit from the Commission.⁶ A large electric power generating plant is defined as a facility capable of operating at a capacity of 50 MW or more.⁷ The Gopher State Solar project will be capable of producing up to 200 MW and therefore requires a site permit from the Commission. Because the project is powered by solar energy, the site permit application qualifies for Commission review under the alternative permitting process described in Minnesota Statute 216E.04, Subd. 2.

As Gopher State Solar is an independent power producer, a CN is not required for the project. The project is exempt under Minnesota Statute 216B.243, subd. 8(a)(8), which provides that a CN is not required for a "solar energy generating system, as defined in section 216E.01, subdivision 9a, for which a site permit application is submitted by an independent power producer under chapter 216E."⁸

Site Permit Application Acceptance

Site permit applications for large electric power generating plants must provide information about the applicant, a description of the project, and discussion of potential human and environmental impacts and mitigation measures.⁹ Review under the alternative permitting process does not require an

² Minnesota Statute 216B.1691.

³ Site Permit Application, Section 1.1.

⁴ Site Permit Application, Section 2.2.

⁵ Site Permit Application, Section 1.0.

⁶ Minnesota Statute 216E.03.

⁷ Minnesota Statute 216E.01.

⁸ Minnesota Statute 216B.243, Subd. 8(a)(8)

⁹ Minnesota Rules 7850.1900 and 7850.3100.

applicant to propose alternative sites in their permit application; however, if alternative sites were evaluated and rejected, the application must describe these sites and reasons for rejecting them.¹⁰

With an application, the Commission may accept it as complete, reject it and advise the applicant of the deficiencies, or accept it as complete upon filing of supplemental information.¹¹ The environmental review and permitting process begins when the Commission determines that a permit application is complete; the Commission has six months (or nine months, with just cause) from the date of this determination to reach a permit decision.¹²

Public Advisor

Upon acceptance of a route permit application, the Commission must designate a public advisor.¹³ The public advisor answers questions about the permitting process but cannot provide legal advice or act as an advocate for any person.

Environmental Review

Site permit applications are subject to environmental review conducted by Department of Commerce, Energy Environmental Review and Analysis (EERA) staff. Projects proceeding under the alternative permitting process require the preparation of an environmental assessment (EA).¹⁴ An EA is a document which contains an overview of the resources affected by a proposed project and describes the potential human and environmental impacts and possible mitigation measures. An EA is the only state environmental review document required for site permit applications reviewed under the alternative permitting process.

EERA conducts public information and scoping meetings to inform the content of the EA.¹⁵ The Commissioner of the Department of Commerce determines the scope of the EA,¹⁶ and may include alternative sites suggested during the scoping process if they would aid the Commission in making a permit decision.

Public Hearing

Site permit applications under the alternative permitting process require that a public hearing be held in the project area after completion and release of the EA.¹⁷ The hearing is typically presided over by an administrative law judge (ALJ) from the Office of Administrative Hearings.

The Commission may request that the ALJ solely provide a summary of public testimony. Alternately, the Commission may request that the ALJ provide a full report with findings of fact, conclusions of law, and recommendations regarding the project.

¹⁰ Minnesota Rule 7850.3100.

¹¹ Minnesota Rule 7850.3200.

¹² Minnesota Statute 216E.04, Subd. 7.

¹³ Minnesota Rule 7850.3400.

¹⁴ Minnesota Rule 7850.3700.

¹⁵ Minnesota Rule 7850.3700, subp. 2.

¹⁶ Id. at subp. 3.

¹⁷ Minnesota Rule 7850.3800.

Advisory Task Force

The Commission may appoint an advisory task force to aid the environmental review process.¹⁸ An advisory task force must include representatives of local governmental units in the project area.¹⁹ A task force would assist EERA staff with identifying additional sites or impacts and mitigation measures to be evaluated in the EA. A task force expires upon issuance of the EA scoping decision.²⁰

The Commission is not required to appoint an advisory task force for every project. If the Commission does not appoint a task force, citizens may request that one be appointed.²¹ If such a request is made, the Commission must make this determination at its next regularly scheduled meeting. The decision whether to appoint an advisory task force does not need to be made at the time of application acceptance; however, it should be made as soon as practicable to ensure it can complete its charge prior to issuance of the EA scoping decision.

EERA Staff Analysis and Comments

EERA staff provide the following analysis and comments in response to the Commission's notice requesting comments on completeness and other issues related to Gopher State Solar's site permit application.

Application Completeness

EERA staff conferred with Gopher State Solar about the proposed project and reviewed a draft site permit application. EERA staff believes that staff comments on the draft application have largely been addressed in the site permit application submitted to the Commission. Staff evaluated the site permit application against the application completeness requirements of Minnesota Rule 7850.3100, which refers to 7850.1900, with the exception of proposing alternative sites (see Table 1). Staff find that the application is substantially complete with respect to these requirements. Staff notes a few sections of the application that warrant additional mention here, including vegetation (addressing native prairie and conservation easements), and impaired waters.

In the site permit application, Gopher State Solar indicates that the project area contains land designated as potentially native prairie, and two Reinvest in Minnesota (RIM) conservation easements.²² The Minnesota Department of Natural Resources' Commercial Solar Siting Guidance prohibits solar projects on both of these land types.²³ Because of this, Gopher State Solar states that areas under RIM easements and areas containing native prairie will be avoided. Gopher State Solar also indicated that the project's underground collection system will be partially bored under a ditch that is considered an impaired water. To mitigate impacts, best management practices will be employed during construction and in compliance with local permits.²⁴

¹⁸ Minnesota Statute 216E.08.

¹⁹ Id.

²⁰ Minnesota Rule 7850.3600.

²¹ Id.

²² Site Permit Application, Section 4.5.4.

²³ MNDNR, Commercial Solar Siting Guidance (2023), retrieved from https://files.dnr.state.mn.us/publications/ewr/commercial_solar_siting_guidance.pdf.

²⁴ Site Permit Application, Section 4.5.3

EERA staff recommends that the Commission accept Gopher State Solar’s application as substantially complete and require Gopher State Solar to continue coordination with the Minnesota Department of Natural Resources (DNR) to avoid impacts to native prairie and conservation easements, such as the RIM easement. Potential impacts to native prairie may require a native prairie protection plan for the project. Gopher State Solar stated in their application that required permits and approvals will be obtained prior to initiating construction.²⁵

Vegetation and Management Plan

Gopher State Solar has provided a Vegetation Management Plan (VMP) submitted with the application (Appendix E). The VMP provides measurable and clearly defined long-term and short-term management objectives for the site and is consistent with the VMPWG’s Guidance for Developing a Vegetation Establishment and Management Plan for Solar Facilities (March 2021). Gopher State Solar intends to establish perennial vegetation throughout the project utilizing diverse native prairie species to the greatest extent practical. Native plantings will follow the Vegetation Management Guidance from the DNR.

Because a portion of the project area potentially contains native prairie, vegetation management will be important. Gopher State Solar indicates that the objectives of their vegetation management plan include providing short, non-native perennial vegetation directly under and between the solar arrays and establishing high-quality native prairie habitat in areas outside of the solar arrays and outside of the fence. Higher diversity seed mixes in these areas would enhance the existing native prairie and provide additional ecological benefits.²⁶

Advisory Task Force

EERA staff analyzed the merits of establishing an advisory task force for the Gopher State Solar project and concludes that a task force is not warranted.

In analyzing the need for an advisory task force for the project, EERA staff considered four characteristics: project size, project complexity, known or anticipated controversy, and sensitive resources.

- **Project Size.** The project will utilize a relatively large area of land – approximately 1665 acres. However, the concerns associated with such a large acreage are muted, to a great extent, by the fact that land for the project is privately-owned and has been assembled through voluntary leases or easements. Gopher State Solar has secured all necessary land rights for construction and operation of the project. On whole, this project-size factor weighs against a task force.
- **Project Complexity.** With respect to energy production and land use, the project is not complex. Though large solar electric projects are fairly new in Minnesota, they are relatively straightforward – solar panels are arranged to gather sunlight and create electric energy, which is then transferred to the electric transmission grid. Land use in the project area is agricultural and the topography is relatively flat. There are no special construction techniques or operational features that make the project complex. This project-complexity factor weighs against a task force.

²⁵ Site Permit Application, Section 1.4.

²⁶ Appendix E – Vegetation Management Plan

- **Known or Anticipated Controversy.** To date, EERA staff have received no comments concerning the project, and there are currently no public comments in the record. Gopher State Solar has conducted outreach with state and federal agencies as well as Minnesota tribal nations and local governments in the project area.²⁷ Gopher State Solar has secured 100 percent land control within the project area through a lease or easement. The project area is comprised entirely of private land. On whole, EERA staff does not anticipate controversy with the project.
- **Sensitive Natural Resources.** There are few sensitive natural resources in the project area. The project area is located on agricultural land.²⁸ The DNR recommends avoidance of MBS Sites of Biodiversity Significance ranked High or Outstanding, none of which are present in the project area. The DNR also recommends avoidance of rare native plant communities. There may be such communities in the project area (see discussion, above, regarding native prairie).

There is one federally endangered species, the northern long-eared bat, and one federal candidate species, the monarch butterfly, as potentially being present within the project area.²⁹ Species of special concern are not protected by Minnesota's endangered species regulations, and the DNR has indicated that it does not believe the proposed project will negatively affect any known occurrences of rare features. Gopher State Solar will use best practices during construction and operation to avoid or minimize the potential for impacts. On whole, potential impacts to sensitive natural resources weigh against a task force.

Based on the assessment of the above factors, EERA staff believe that an advisory task force is not warranted for the project at this time.

Contested Issue of Fact

Based on its review of Gopher State Solar's application and the record to date, EERA staff has not identified any contested issues of fact. Staff is unaware of any issues or concerns associated with the application or project that require a contested case hearing.

EERA staff recommends that the Commission request a full ALJ report for the project's public hearing. EERA staff believe that a full ALJ report with recommendations provides an unbiased, efficient, and transparent method to voice and resolve any issues that may emerge as the record is developed. Requiring a full ALJ report reduces the burden on staff and helps to ensure that the Commission has a robust record on which to base its decision. Additionally, a full ALJ report does not significantly lengthen the site permitting process. EERA staff has provided a draft schedule for the Gopher State Solar permitting process, which includes a comparison of potential hearing work products and schedules – i.e., a summary of public testimony versus a full ALJ report with findings, conclusions, and recommendations (see Table 2).

²⁷ Site Permit Application, Section 5.0.

²⁸ Site Permit Application, Section 4.5.

²⁹ Site Permit Application, Section 4.5.6.

EERA Staff Recommendations

EERA staff recommends that:

- The Commission accept Gopher State Solar's application as substantially complete and require Gopher State Solar to continue coordination with the DNR to avoid impacts to native prairie and conservation easements.
- The Commission not appoint an advisory task force for the project at this time.
- The Commission request a full ALJ report with findings, conclusions, and recommendations for the project's public hearing.

Table 1. Application Completeness Requirements

Minnesota Rule 7850.1900, Subpart 1	Location in Site Permit Application	EERA Staff Comments
A. a statement of proposed ownership of the facility at the time of filing the application and after commercial operation;	1.2.1 and 1.2.2	Satisfactory. Gopher State Solar, LLC is the owner of the project.
B. the precise name of any person or organization to be initially named as permittee or permittees and the name of any other person to whom the permit may be transferred if transfer of the permit is contemplated;	1.2	Satisfactory. Gopher State Solar, LLC will be the permittee.
C. at least two proposed sites for the proposed large electric power generating plant and identification of the applicant's preferred site and the reasons for the preference;	Not applicable.	The project can use the alternative permitting process of Minnesota Statute 216E.04, which does not require providing this information via Minnesota Rule 7850.3100.
D. a description of the proposed large electric power generating plant and all associated facilities, including the size and type of the facility;	2.0	Satisfactory.
E. the environmental information required under subpart 3;	See Minnesota Rule 7850.1900, subpart 3 below.	
F. the names of the owners of the property for each proposed site;	Appendix L	Satisfactory.
G. the engineering and operational design for the large electric power generating plant at each of the proposed sites;	3.0	Satisfactory.

Minnesota Rule 7850.1900, Subpart 1	Location in Site Permit Application	EERA Staff Comments
H. a cost analysis of the large electric power generating plant at each proposed site, including the costs of constructing and operating the facility that are dependent on design and site;	Appendix M	Satisfactory.
I. an engineering analysis of each of the proposed sites, including how each site could accommodate expansion of generating capacity in the future;	2.5, 2.7 and Appendix B	Satisfactory.
J. identification of transportation, pipeline, and electrical transmission systems that will be required to construct, maintain, and operate the facility;	3.1.2, 3.1.6, and 3.1.7	Satisfactory.
K. a listing and brief description of federal, state, and local permits that may be required for the project at each proposed site; and	1.4	Satisfactory.
L. a copy of the certificate of need for the project from the Commission or documentation that an application for a certificate of need has been submitted or is not required;	1.4.2	Satisfactory. A certificate of need is not required for the project.
Minnesota Rule 7850.1900, Subpart 3	Location in Site Permit Application	EERA Staff Comments
A. a description of the environmental setting for each site or route;	4.1	Satisfactory.
B. a description of the effects of construction and operation of the facility on human settlement, including, but not limited to, public health and safety, displacement, noise, aesthetics, socioeconomic impacts, cultural values, recreation, and public services;	4.2	Satisfactory.

Minnesota Rule 7850.1900, Subpart 1	Location in Site Permit Application	EERA Staff Comments
C. a description of the effects of the facility on land-based economies, including, but not limited to, agriculture, forestry, tourism, and mining;	4.3	Satisfactory.
D. a description of the effects of the facility on archaeological and historic resources;	4.4	Satisfactory.
E. a description of the effects of the facility on the natural environment, including effects on air and water quality resources and flora and fauna;	4.5	Satisfactory. Impaired water, native prairie and conservation easements have been identified and addressed in this section. However, these areas may require additional attention throughout the environmental review and permitting process.
F. a description of the effects of the facility on rare and unique natural resources;	4.5.6	Satisfactory.
G. identification of human and natural environmental effects that cannot be avoided if the facility is approved at a specific site or route; and	4.8	Satisfactory.
H. a description of measures that might be implemented to mitigate the potential human and environmental impacts identified in items A to G and the estimated costs of such mitigative measures.	4.0	Satisfactory. Generally discussed throughout the section by resource.

Table 2. Draft Permitting and Environmental Review Schedule

Permitting Day	Process Step (Summary of Public Testimony)	Process Step (Full ALJ Report)
0	Site Permit Application Filed	
	Comment Period on Application Completeness	
	Reply Comment Period	
	Commission Considers Application Completeness	
1	Application Acceptance Order	
5	Public Information and Scoping Meeting Notice	
30	Public Information and Scoping Meeting	
60	Scoping Decision Issued	
170	EA Issued Notice of EA Availability and Public Hearing	
190	Public Hearing	
200	Public Hearing Comment Period Closes	
210	Applicant Responses to Hearing Comments	
220	Applicant Proposes Findings	
230	EERA Responses to Comments on EA; Technical Analysis; Replies to Applicant Proposed Findings	
230	ALJ Submits Summary of Public Testimony	NA
260	Commission Prepares Findings and Proposed Site Permit	ALJ Submits Full Report
275	NA	Exceptions to ALJ Report
280	Commission Considers Site Permit Issuance	NA
290	NA	Commission Prepares Proposed Site Permit
310	NA	Commission Considers Site Permit Issuance

Project Overview Map

