

In the Matter of the Applications of
Louise Solar, LLC, for a
Certificate of Need and Site Permit for the
50 MW Louise Solar Project in
Mower County, Minnesota

Environmental Assessment
Scoping Decision

Docket No. IP7039/CN-20-646
Docket No. IP7039/WS-20-647

The above matter is before the assistant commissioner of the Department of Commerce (Department) for a decision on the scope of the environmental assessment (EA) to be prepared for the Louise Solar Project (Project) proposed by Louise Solar, LLC (Applicant) in Mower County.

This scoping decision identifies topics for analysis in the EA.

On February 11, 2021 Louise Solar, LLC submitted a request for a certificate of need (CN) and a site permit application (SPA) to the Minnesota Public Utilities Commission (Commission) for the Louise Solar project. Louise Solar, LLC, is a wholly owned subsidiary of EDF Renewable, LLC.

The CN and SPA applications were accepted as complete by the Commission on May 7, 2021.¹ The Applicant expects the project to be operational by in Q4 2022 or Q4 2023 depending on construction timing.

Project Purpose and Description

The Applicant proposes to construct up to 50 MW solar facility in Mower County, Minnesota. Its primary components include photovoltaic panels affixed to a linear ground-mounted single-axis tracking system, inverters and transformers housed in electrical cabinets, electrical collection system, project substation, and SCADA systems and metering equipment. The project also requires fencing, access roads, laydown areas, weather stations, and an operation and maintenance facility. The project will interconnect to the electrical grid at the existing ITC Midwest Adams Substation through a new, 700-1,000 feet of 161 kV gen-tie transmission line.

The proposed project is located approximately one mile east of Adams and 1.3 miles west of Taopi, Minnesota in Lodi and Adams townships (**Figure 1**). The Applicant has secured site control for 613 acres of agricultural land for the proposed project. Final project design is expected to occupy approximately 325 acres or less. The soils in the project area are classified as prime farmland.²

The Applicant states the Project will “provide approximately 50 MW Alternating Current (AC) of capacity and roughly 112,593 megawatt hours (MWh) annually of reliable, deliverable on-peak energy. The power generated by the Project will be offered for sale to wholesale customers, including Minnesota utilities and cooperatives that have identified a need for additional renewable energy and capacity, and commercial and industrial customers that have set clean energy goals. According to the Environmental

¹ Minnesota Public Utilities Commission *Order Accepting Applications as Complete Authorizing Joint Review and Taking Other Actions* (May 7, 2021). eDockets No. [20215-173981-01](#).

² Application at page 11.

Protection Agency's (EPA's) Greenhouse Gas Equivalencies Calculator, Louise Solar will offset approximately 79,618 metric tons of CO₂, the equivalent of 9,187 homes' energy consumption for one year."³

The applicant has executed a Generator Interconnection Agreement (GIA) with MISO dated February 22, 2019. This interconnection will provide sufficient outlet to accommodate all the solar energy generation from the project.⁴

Regulatory Background

The project requires a site permit from the commission.⁵ Because the project is powered by solar energy it qualifies for the alternative permitting process.⁶ Applicants must provide the commission with written notice of their intent to file an application under the alternative permitting process,⁷ which was provided December 10, 2020.⁸

A certificate of need (CN or certificate) is also required.⁹ The applicant applied to the commission for a certificate on February 11, 2021.¹⁰ The CN application is considered under the process outlined in Minnesota Statute 216B.243, and Minnesota Rules 7849.

Site Permit Application and Acceptance

Site permit applications must provide specific information.¹¹ This includes, but is not limited to, information about the applicant, descriptions of the project and site, and discussion of potential human and environmental impacts and possible mitigation measures.¹² Under the alternative permitting process an applicant is not required to propose alternative sites; however, if alternative sites were evaluated and rejected, the application must describe these sites and reasons for rejecting them.¹³

Upon receiving a site permit application, the commission may accept it as complete, reject it and advise the applicant of its deficiencies, or accept it as complete but require the applicant submit additional information.¹⁴ If the commission determines the application is complete, environmental review begins.

³ Application at Page 3.

⁴ Ibid.

⁵ Minn. Stat. 216E.03, subd. 1 (no person may construct a large electric generating plant without a site permit from the commission); Minn. Stat. 216E.01, Subd. 5 ("large electric power generating plant" shall mean electric power generating equipment and associated facilities designed for or capable of operation at a capacity of 50,000 kilowatts or more).

⁶ Under the Alternative Review Process (Minnesota Statute 216E.04; Minnesota Rule 7850.2800-3900.

⁷ Minn. R. 7850.2800, subp. 2.

⁸ Louise Solar, LLC, Notice of Intent to File a Site Permit Under the Alternative Process, December 10, 2020. eDocket No. [202012-168926-01](#).

⁹ Minn. Stat. 216B.243, subd. 2 (no "large energy facility" shall be constructed without issuance of a certificate of need); Minn. Stat. 216B.2421, subd. 2(1) ("large energy facility" means any electric power generating plant or combination of plants at a single site with a combined capacity of 50,000 kilowatts or more).

¹⁰ Louise Solar, LLC (February 11, 2021) *Application for a Certificate of Need*, eDockets No. [20212-170897-02](#), -02, -03, -04 (trade secret), -05, -06, -07; see generally eDockets No. IP-7039/[CN-20-646](#).

¹¹ Minn. Stat. 216E.04, subd. 3; Minn. R. 7850.3100.

¹² Ibid.

¹³ Ibid.

¹⁴ Minn. R. 7850.3200.

The commission is required to make a permit decision within six months from the date an application is accepted.¹⁵ This time limit may be extended up to three months for just cause or upon agreement of the applicant.¹⁶

Public Advisor

Upon acceptance of a site permit application the Commission must designate a public advisor.¹⁷ The public advisor answers questions about the permitting process but cannot provide legal advice or act as an advocate for any person.

Advisory Task Force

The commission may appoint an advisory task force to aid in the environmental review process.¹⁸ An advisory task force would assist Energy Environmental Review and Analysis (EERA) staff in identifying additional sites or particular impacts to evaluate in the EA.¹⁹ If appointed, an advisory task force must include certain local government representatives.²⁰ The advisory task force expires upon completion of its charge or issuance of the scoping decision.²¹

Appointment of an advisory task force is not required. In the event no advisory task force is appointed, citizens may request one be created.²² If such a request is made, the commission must make this determination at its next scheduled agenda meeting.²³

Environmental Review

The alternative permitting process requires completion of an EA, which is prepared by EERA staff.²⁴ An EA contains an overview of the resources affected by the project, and discusses potential human and environmental impacts (*Factors Considered*)²⁵ and mitigation measures.²⁶ Under the alternative permitting process an EA is the only required state environmental review document.

EERA conducts public scoping meetings in conjunction with a public comment period to inform the content of the EA.²⁷ The commissioner of the Department of Commerce or designee (Assistant Commissioner) determines the scope of the EA,²⁸ and may include alternative sites suggested during the scoping process.²⁹

¹⁵ Minn. R. 7850.3900, subp. 1.

¹⁶ *Ibid.*

¹⁷ Minn. R. 7850.3400.

¹⁸ Minn. Stat. 216E.08, subd. 1; Minn. R. 7850.3600, subp. 1.

¹⁹ Minn. R. 7850.2400, subp. 3.

²⁰ Minn. Stat. 216E.08, subd. 1.

²¹ Minn. R. 7850.2400, subp. 4.

²² Minn. R. 7850.2400, at subp. 2.

²³ *Ibid.*

²⁴ Minn. Stat. 216E.04, subd. 5; Minn. R. 7850.3700, subp. 1.

²⁵ Minn. R. 7850.4100.

²⁶ Minn. Stat. 216E.04, subd. 5; Minn. R. 7850.3700, subp. 4.

²⁷ Minn. R. 7850.3700, subp. 2.

²⁸ *Id.* at subp. 3.

²⁹ *Id.* at subp. 2.

Certificate of Need and Joint Environmental Review

CN applications are subject to environmental review. EERA staff must prepare an environmental report for the project.³⁰ The report contains “*information on the human and environmental impacts of the [project] associated with the size, type, and timing of the project, system configurations, and voltage.*”³¹ It also contains information on alternatives to the project, as well as mitigation measures. The commission has 12 months to approve or deny a certificate of need from the date the application is filed.³²

If an applicant applies for a site permit prior to completion of the environmental report, EERA may elect to prepare an EA in lieu of an environmental report. If so, the EA must include the content required by Minnesota Rule 7849.1500.

Public Hearing

The alternative permitting process requires a public hearing be held in the project area upon completion of the EA³³ in accordance with the procedures outlined in Minnesota Rule 7850.3800, subpart 3. If the site permitting process and CN determination are proceeding concurrently, the commission may order that a joint hearing be held to consider both siting and need.³⁴

The hearing is presided over by an administrative law judge (ALJ) from the Office of Administrative Hearings (OAH). The commission may request the ALJ provide a summary of the hearing (summary report), or request the ALJ provide findings of fact, conclusions of law, and recommendations regarding the site permit application (summary proceeding). This hearing is not a contested case hearing and is not conducted under OAH Rule 1405.

Scoping Process Summary

Scoping is the first step in the environmental review process. Staff use the information gathered during scoping, in addition to the siting factors,³⁵ to focus the EA on the most relevant information needed to make informed decisions. Scoping includes a public meeting and comment period that provide opportunities for interested persons to help develop the scope of the EA.³⁶

On May 10, 2021, the commission and Department issued a joint *Notice of Public Information and Environmental Assessment Scoping Meeting* and associated public comment period.³⁷ Notice was sent to those individuals on the project contact list and to potentially affected landowners. Minnesota Rule 7850.3700, subpart 3, requires commerce to determine the scope of the EA within 10 days after the close of the public comment period.

³⁰ Minn. R. 7849.1200.

³¹ Ibid.

³² Minn. Stat. 216B.243, subd. 5; Application at page 4 (the applicant anticipates the site permit decision to be made in summer 2020).

³³ Minn. R. 7850.3800, subp. 1.

³⁴ Minn. Stat. 216B.243, subd. 4 (stating that unless a joint hearing is not feasible or more efficient, or otherwise not in the public interest, a joint hearing shall be held).

³⁵ Minn. R. 7850.4100.

³⁶ Minn. R. 7850.3700, subp. 2.

³⁷ Public Utilities Commission (May 10, 2020) *Notice of Public Information and Environmental Assessment Scoping Meeting*, eDockets No. [20215-173997-01](#).

Public Meeting and Comment Period

Commission and EERA staff jointly held the public information and scoping meeting as noticed. The purpose of the meeting was to provide information and answer questions about the project and permitting process, and gather input regarding potential impacts and mitigative measures that should be studied in the EA. The meeting also provided an opportunity to solicit potential site or system alternatives. A court reporter was present to document verbal statements.

Due to Covid-19 procedures, the scoping meeting was held virtually, with web and phone access for participating. No members of the public or other interested parties participated in the on-line meeting.

A public comment period, ending June 9, 2021 provided an opportunity for interested persons to identify issues, mitigation measures, and site or system alternatives for study in the EA. Written comments were received from two state agencies and the applicant.

Agency Comments

Minnesota Department of Transportation (MnDOT) provided comments regarding site access from TH 56, the agency's Utility Accommodation Policy, and verifying stormwater run-off calculations for the project. MnDOT's comments are summarized below.³⁸ MnDOT notes that "any MnDOT permits applied for as a part of these projects will not be issued until the PUC has issued an approved site permit for this project."

- For any areas where the project intersects state highway rights of way, Louise Solar should adhere to MnDOT's Utility Accommodation Policy - [MnDOT Accommodation Policy](#).
- Appendix A Maps 1-4 do not seem to illustrate new, direct site access from TH 56. New access to the proposed site via TH 56 is considered unnecessary given the availability of existing county and township roads currently accessible via TH 56 within/adjacent to the project area.
- MnDOT's District 6 Water Resources Engineer would like to see *and verify* storm water runoff calculations, including a summary table, showing that the Louise Solar Project will not be increasing peak runoff rate to MnDOT right of way.
- Any MnDOT land that Louise Solar may wish to occupy would need to be leased (in the areas where a lease is feasible) and any associated electrical collection systems *along* a trunk highway right of way would need to be permitted through a municipal, cooperative or investor owned electric service provider. MnDOT allows private parties to place connecting lines across trunk highway rights of way but does not allow private parties to place such facilities longitudinally along trunk highways.

Minnesota Department of Natural Resources (MDNR) commented on fencing of the site as relates to deer and the applicant's Vegetation Management Plan (VMP). MDNR's comments are summarized below.³⁹

- To ensure complete deer exclusion from the solar facility, the *DNR's Fencing Handbook For 10 ft Woven Wire Deer Exclusion Fence* recommends 10-foot fencing and deer egress areas.

³⁸ MnDOT *Scoping Comments* (June 9, 2021). eDockets No. [20216-174922-01](#).

³⁹ MDNR *Scoping Comments* (June 8, 2021). eDockets No. [20216-174868-01](#).

- DNR, along with other relevant state agencies, expects to review the revised Vegetation Management Plan for the project prior to finalization.

The Applicant submitted comments to further develop the record on prime farmland, decommissioning, and the vegetation management plan.⁴⁰ Specifically, the applicant supplements the record with additional information on the prime farmland analysis and decommissioning as requested during application acceptance.⁴¹ The revised VMP will be available for review and comment prior to the hearing.⁴²

No site or system alternatives were recommended for study.

⁴⁰ Applicant *Scoping Comments* (June 9, 2021). eDockets No. [20216-174914-01](#).

⁴¹ See *Order Accepting Applications as Complete Authorizing Joint Review and Taking Other Actions* (May 7, 2021). eDockets No. [20215-173981-01](#).

⁴² *Ibid.*

Having reviewed the matter and consulted with department staff, I hereby make the following scoping decision in accordance with Minnesota Rule 7850.3700:

MATTERS TO BE ADDRESSED

The EA will describe the project and the human and environmental resources of the project area. It will provide information about potential impacts—both positive and negative—concerning the resources outlined in this scoping decision. The EA will describe mitigation measures that could reasonably be implemented to reduce or eliminate identified negative impacts. The EA will identify impacts that cannot be avoided and irreversible and irretrievable commitments of resources.

The EA will include the information that would have otherwise been required in an ER for a certificate of need by Minnesota Rule 7849.1500. This includes evaluating matters of size, type, and timing that would normally be excluded in an EA for a site permit application. The EA will describe and analyze the availability and feasibility of system alternatives, including a no-build alternative.

Data and analyses in the EA will be commensurate with the importance of potential impacts and the relevance of the information to consider mitigation measures. EERA staff will consider the relationship between the cost of data and analyses and the relevance and importance of the information in determining the level of detail to provide in the EA. Less important material may be summarized, consolidated, or simply referenced.

The EA will list information sources. If relevant information cannot be obtained within timelines prescribed by statute and rule, the costs of obtaining such information is excessive, or the means to obtain it is unknown, EERA staff will include in the EA a statement that such information is incomplete or unavailable and the relevance of the information in evaluating potential impacts or alternatives.

Staff will abbreviate analysis in the EA for resource topics determined to be of minor importance to the commission's decision in these dockets. *Abbreviated analysis* means that the resource topic will not be discussed in as much detail as the standard analysis. The decision whether to abbreviate analysis for certain resource topics will be made by EERA staff, and will be based on information from the site permit application, field visit(s), comments received, preliminary environmental analysis, and staff experience with similar projects.

The issues outlined below will be analyzed in the EA for the project. This outline is not intended to serve as a table of contents for the document itself.

Project Information

Purpose

Description (including perimeter fencing)

Location

Site Requirements Engineering and Design

Construction

Operation and Maintenance

Decommissioning

Cost

Regulatory Framework

Certificate of Need
Site Permit
Other Permits or Approvals
Environmental Review Process

Affected Environment, Potential Impacts, and Mitigative Measures

Human Settlement

Aesthetics
Cultural Values
Displacement
Electronic Interference
Land Use and Zoning
Noise
Public Health and Safety (including electric and magnetic fields, stray voltage)
Public Services and Infrastructure
Recreation
Socioeconomics (including property values)
Environmental Justice

Land Based Economies

Agriculture (including drainage infrastructure)
Forestry
Mining
Tourism

Archaeological and Historic Resources

Natural Environment

Air
Geology
Groundwater
Surface water, including storm water runoff and associated calculations
Rare and unique resources (including T&E species)
Soils, including prime farmland
Vegetation (including pollinator plants and vegetation management plan)
Wetlands (including stormwater control/designs)
Wildlife, including fencing
Wildlife habitat
Climate change and greenhouse gases

Alternatives to the Proposed Solar Project

The EA, in accordance with Minnesota Rule 7849.1500, will describe and analyze the feasibility of the following system alternatives, and the human and environmental impacts and potential mitigation measures associated with each.

- No-build Alternative

- 50 MW Solar Facility in a different location
- 50 MW Wind Facility

Unavoidable Impacts

The EA will discuss ways to mitigate potential impacts; however, even with mitigation strategies, certain impacts cannot be avoided. These unavoidable impacts will be listed.

Irreversible and Irretrievable Commitments of Resources

Resource commitments are irreversible when it is impossible or very difficult to redirect that resource to a different future use. An irretrievable commitment of resources means the resource is not recoverable for use by future generations. Irreversible and irretrievable commitments of resources will be listed.

ISSUES OUTSIDE THE SCOPE OF THE ENVIRONMENTAL ASSESSMENT

The EA will not consider the following:

- Any site alternative other than the site location proposed by the applicant.
- Any system alternative not specifically identified in this scoping decision, including demand side management; purchased power; facilities using a non-renewable energy source; upgrading existing facilities; and transmission rather than generation.
- Landowner compensation.

SCHEDULE

The EA is anticipated to be complete by the end of September 2021. Upon completion, it will be noticed and made available for review. A public hearing will be held in the project area after the EA has been issued. This hearing will be noticed. Comments on the EA may be submitted into the hearing record.

Signed this 21st day of June, 2021

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE



Katherine Blauvelt, Assistant Commissioner

Figure 1 Project Location

