

June 2, 2023

Mr. Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
Saint Paul, MN 55101-2147

Re: In the Matter of the Application of Elk Creek Solar, LLC for a Site Permit
for the up to 80 MW Elk Creek Solar Project in Rock County, Minnesota
Docket No. IP-7009/GS-19-495

Dear Mr. Seuffert:

Elk Creek Solar, LLC (Elk Creek), a wholly owned subsidiary of National Grid Renewables Development, LLC (NG Renewables) respectfully submits this Application for a Site Permit Amendment (Application) to the Minnesota Public Utilities Commission (Commission) requesting amendments to the December 2020 Site Permit, issued for Elk Creek's 80-megawatt (MW) alternating current (AC) solar project (Project), to increase the nameplate capacity of the Project from 80 MW AC to 160 MW AC. Under Minnesota Rules 7850.4900 and Site Permit condition 11, the Commission may amend the Site Permit at any time upon a request by any person together with an application to the Commission describing the amendments sought and the reasons for the amendments. This letter, together with the enclosed Application, describes the Site Permit amendments sought by Elk Creek and the reasons for the requested amendments. The Project is exempt from certificate of need requirements because it is a solar energy generating system, as defined in section 216E.01, subdivision 9a and the Project is developed and permitted by an independent power producer, Elk Creek, under chapter 216E.¹

As the Commission is aware, there have been significant delays and uncertainties for renewable energy projects due to the Midcontinent Independent System Operator (MISO) interconnection queue process. Elk Creek's interconnection applications to MISO are no exception. When the interconnection study began for Elk Creek's application in 2018, the MISO study cycle was scheduled to be completed in May 2020. The study cycle concluded in December 2022, significantly behind schedule. The significant delays reshaped the commercial circumstances of the Project with Elk Creek no longer having the original power purchase agreement for the 80-MW Project. However, Elk Creek now has interconnection certainty for the Project with two

¹ On May 24, 2023, Governor Walz signed H.F. 2310 into law. H.F. 2310 amends Minn. Stat. 216B.243, subd. 8 to exempt projects permitted by independent power producers, such as Elk Creek, from certificate of need requirements. See H.F. 2310 lines 353.25- 355.14, inclusive.

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executed, 80-MW Generation Interconnection Agreements (GIAs) with MISO and transmission owner. With the signed GIAs, Elk Creek has determined it is more cost-effective to construct and interconnect 160 MW by allocating the required system upgrades across 160 MW instead of 80 MW.

This preliminary Project layout included in this Application reflects Elk Creek's effort to maximize the energy production of the Project while minimizing impacts to the land, environment, and surrounding community. Although this request entails a doubling of the nameplate capacity of the Project, Elk Creek has optimized the design of the Project to utilize previously permitted 976-acre Project area together with the addition of approximately 546 acres of adjacent row crop agricultural land. The optimization efforts include reduced row spacing and more efficient (i.e., higher nameplate capacity) solar panels than that considered in the 2020 Site Permit, which has led to a reduction in the area required for the original 80 MW Project. The result is a more efficient design that requires less land than two standalone 80 MW projects. For example, the 2020 Site Permit design required approximately 8.5 acres per MW for Project facilities. The revised layout included in this Application requires approximately 7.3 acres per MW.

Amendments to the Site Permit are prudent and appropriate in this circumstance. The Project was recently reviewed and approved by the Commission, including a rigorous environmental review and public comment process. Of note, the Commission found the Project, with the permit conditions included in the Site Permit, will not present a potential for significant adverse environmental effects pursuant to the Minnesota Environmental Rights Act and/or the Minnesota Environmental Policy Act. The Application has been formatted to provide all information required under applicable Minnesota Rules and Statutes to allow a comparison of the impacts associated with the original 80-MW Project area and the revised 160-MW Project Area. The Application demonstrates, in all respects, that the environmental impacts from the revised Project are comparable to those previously considered by the Commission and the revised Project will not result in significant environmental impacts. For example, the additional area added to the Project is similar to the monotypic row-crop agricultural land occupying the original Project area with both the original Project area and the updated 160-MW Project area comprised of approximately 96 percent (%) agricultural land uses. Accordingly, Site Permit amendments, rather than a new site permit is appropriate in this circumstance.²

² Minnesota Rules 7850.4900 does not require or otherwise specify a need or process for the preparation of a new Environmental Assessment for proposed site permit amendments. Similarly, both Minnesota Rules 7850.4800 and Minnesota Rules 4410.1000 specify that no environmental review is required if the revised project will not result in significant adverse environmental impacts that were not addressed in the initial environmental assessment.

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Elk Creek respectfully requests the Commission issue a comment period, as required by Minnesota Rules to ask for public and agency comment on the Application for a Site Permit Amendment. The public, local and state agencies, and other interested parties will have the opportunity to review the Application and comment on its contents and assertions that the requested amendments will not result in significant adverse environmental impacts that were not otherwise addressed in the environmental assessment completed for the Project.

If the Commission considers it appropriate, however, Elk Creek is amenable to the completion of an addendum or supplement to the environmental assessment that considers the environmental impacts of the additional Project area for consideration by the Commission. Such a process could entail an initial comment period asking for initial comments on what, if any, additional environmental issues should be considered by the Minnesota Department of Commerce Energy Environmental Analysis (EERA) staff in its supplemental environmental review. Upon expiration of the comment period, EERA staff could decide to issue a revised scoping decision outlining the new issues being assessed by EERA staff at which point EERA staff can prepare an abbreviated supplement to the environmental assessment. Upon completion of the supplement to the environmental assessment, an additional comment period can be issued to ensure all applicable comments and potential impacts are considered and evaluated by the Commission. Such a process could follow the following timetable:

Table 1. Draft Amendment Process Schedule

Approximate Date	Permitting Day	Amendment Process Step
JUNE 2023	0	SITE PERMIT AMENDMENT APPLICATION SUBMITTED
JULY 2023	10	NOTICE OF COMMENT PERIOD
SEPTEMBER 2023	60	REVISED SCOPING DECISION ISSUED
NOVEMBER 2023	120	EA SUPPLEMENT ISSUED; NOTICE OF COMMENT PERIOD
DECEMBER 2023	150	PUBLIC COMMENT PERIOD CLOSURES
DECEMBER 2023	157	APPLICANT RESPONSES TO COMMENTS
JANUARY 2024	177	EERA RESPONSES TO COMMENTS ON EA; TECHNICAL ANALYSIS; REPLIES
FEBRUARY 2024	200	COMMISSION STAFF PREPARED PROPOSED AMENDED SITE PERMIT
MARCH 2024	230	COMMISSION CONSIDERS SITE PERMIT AMENDMENTS

Elk Creek believes such a modified process would be more than adequate, under these circumstances, to properly consider and evaluate the proposed amendments to the Site Permit as well as its potential for environmental impacts. However, should the Commission determine an entirely new site permit is necessary, the Application provides all information required by Minnesota Rules and Statutes to have a complete application, including all information provided

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with the original 80-MW Site Permit Application deemed to be complete by the Commission together with information on Environmental Justice and Climate change to address issues that were not required to be included in the original application.

A copy of this filing is also being served on the Official Service List. Please let me know if you have any questions regarding this filing.

Respectfully Submitted,

FREDRIKSON & BYRON, P.A.

/s/ Jeremy P. Duehr

Jeremy P. Duehr

Direct Dial: 612.492.7413

Email: jduehr@fredlaw.com

**In the Matter of the Application of Elk Creek
Solar, LLC for a Site Permit for the up to 80
MW Elk Creek Solar Project in Rock County,
Minnesota
Docket No. IP-7009/GS-19-495**

CERTIFICATE OF SERVICE

Breann L. Jurek certifies that on the 2nd day of June 2023, she e-filed on behalf of Elk Creek Solar, LLC a true and correct copy of the following documents:

1. Elk Creek Solar, LLC's Site Permit Amendment Application;
2. Site Permit Amendment Application Appendices A – F;
3. Site Permit Amendment Application Figures; and
4. Certificate of Service

to the Minnesota Public Utilities Commission, via edockets (www.edockets.state.mn.us). Said document was also served on the Official Service List on file with the Minnesota Public Utilities Commission and as attached hereto.

Executed on: June 2, 2023

Signed: /s/ Breann L. Jurek

Fredrikson & Byron, P.A.
200 South Sixth Street
Suite 4000
Minneapolis, MN 55402

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Michael	Allen	michael.allen@allenergysolar.com	All Energy Solar	721 W 26th st Suite 211 Minneapolis, Minnesota 55405	Electronic Service	No	OFF_SL_19-495_Official Service List 19-495
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_19-495_Official Service List 19-495
Jeremy	Duehr	jduehr@fredlaw.com	Fredrikson & Byron, P.A.	200 South Sixth Street Suite 4000 Minneapolis, Minnesota 55402-1125	Electronic Service	No	OFF_SL_19-495_Official Service List 19-495
Bret	Eknes	bret.eknes@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	No	OFF_SL_19-495_Official Service List 19-495
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_19-495_Official Service List 19-495
Lucas	Franco	lfranco@liunagroc.com	LIUNA	81 Little Canada Rd E Little Canada, MN 55117	Electronic Service	No	OFF_SL_19-495_Official Service List 19-495
Michael	Kaluzniak	mike.kaluzniak@state.mn.us	Public Utilities Commission	Suite 350 121 Seventh Place East St. Paul, MN 55101	Electronic Service	No	OFF_SL_19-495_Official Service List 19-495
Jessica	Palmer Denig	jessica.palmer-Denig@state.mn.us	Office of Administrative Hearings	600 Robert St N PO Box 64620 St. Paul, MN 55164	Electronic Service	No	OFF_SL_19-495_Official Service List 19-495
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_19-495_Official Service List 19-495
Stephan	Roos	stephan.roos@state.mn.us	MN Department of Agriculture	625 Robert St N Saint Paul, MN 55155-2538	Electronic Service	No	OFF_SL_19-495_Official Service List 19-495

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Melissa	Schmit	melissa@nationalgridrenewables.com	National Grid Renewables	8400 Normandale Lake Blvd Ste 1200 Bloomington, MN 55437	Electronic Service	No	OFF_SL_19-495_Official Service List 19-495
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th Pl E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_19-495_Official Service List 19-495
Janet	Shaddix Elling	jshaddix@janetshaddix.com	Shaddix And Associates	7400 Lyndale Ave S Ste 190 Richfield, MN 55423	Electronic Service	Yes	OFF_SL_19-495_Official Service List 19-495
William	Storm	bill.storm@state.mn.us	Department of Commerce	Room 500 85 7th Place East St. Paul, MN 551012198	Electronic Service	No	OFF_SL_19-495_Official Service List 19-495
Cynthia	Warzecha	cynthia.warzecha@state.mn.us	Minnesota Department of Natural Resources	500 Lafayette Road Box 25 St. Paul, Minnesota 55155-4040	Electronic Service	No	OFF_SL_19-495_Official Service List 19-495