



In the Matter of the Joint Application of Midwater BESS, LLC for a Site Permit and Route Permit for the up to 150 MW Midwater Energy Storage Project and Associated 161 kV Transmission Line in Freeborn County, Minnesota

PUC Docket Numbers: IP7138/ESS-24-294, TL-24-295

With apologies for the late filing, LIUNA Minnesota and North Dakota (“LIUNA”) submits the enclosed exceptions to the report filed by Administrative Law Judge Megan McKenzie concerning the application for a Site Permit and Route Permit for a 150 MW megawatt (“MW”) battery storage project and associated transmission line in Freeborn County (“Midwater BESS”) by Midwater BESS, LLC, an affiliate of Spearmint Energy (“Spearmint”). LIUNA only recently became aware of Judge McKenzie’s recommendation that the Minnesota Public Utilities Commission (“Commission”) deny permits for a project that we view as both critical to efforts to keep electricity reliable and affordable, and presenting minimal risks or impacts to humans and the environment. We urge the Commission to reject Judge McKenzie’s conclusions of law and issue the proposed site and route permits.

In our view, the information provided by Spearmint and the Commission’s Energy Infrastructure Permitting staff in the Environmental Assessment (“EA”) is comprehensive and meets the appropriate legal standard. In contrast, Judge McKenzie grounds her recommendations in wild speculation, assuming not only that the project will be hit by a Black Swan event not supported by the record, but also that Spearmint and the agencies charged with enforcing environmental regulations (including the Commission and the Minnesota Pollution Control Agency) will be unable or unwilling to do their jobs.

It is true that utility-scale battery energy storage systems can present fire hazards as a result of thermal runaway events, which underscores the importance of proper installation and maintenance along with a robust emergency response plan. On the other hand, such batteries do not present meaningful spill risks to either surface water or groundwater. Spearmint has provided a plume model showing that the contamination from a thermal runaway event would be highly localized, and pose no risk to the Shell Rock River Watershed, much less to the Mississippi River. Further, the site will include a stormwater retention basin designed to capture runoff and ensure that any contamination resulting from an event would be contained and remediated. Judge McKenzie also fails to acknowledge that the proposed permit contains numerous provisions designed to mitigate any risks.

Judge McKenzie also argues that the status of Midwater BESS, LLC as a stand-alone subsidiary raises concerns that the parent company (Spearmint) might refuse to fund remediation of any damages resulting from an incident, and that Midwater Bess, LLC might be unable to do so. However, the Commission has decades of experience working with independent energy companies that use project-specific LLCs, and has never failed to hold a parent company accountable for addressing compliance issues. For example, Mower Wind was also owned by a standalone subsidiary prior to the project's acquisition by Xcel Energy, but this did not prevent the Commission from enforcing a requirement to remove and properly dispose of old wind turbine blades on the project's former third-party owner.

In her recommendations, Judge McKenzie attempts to set a bar that no utility-scale battery storage project could meet at a cost that utility customers – who will ultimately rely on this infrastructure – can afford to pay. After all, there is nothing especially unique about the location of Midwater BESS compared to others, since every piece of ground in the state of Minnesota is part of a watershed for a body of water that deserves protection from pollution. If the Commission were to adopt Judge McKenzie's conclusions, the likely result would be a chill on the development not only of utility-scale batteries but also new solar projects which are becoming uneconomic when not paired with battery projects.

We thank Commissioners for their thoughtful consideration and look forward to the upcoming agenda meeting.

Dated: July 12, 2026

Respectfully Submitted,

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