

November 1, 2024

Will Seuffert  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, MN 55101-2147

RE: EERA Comments and Recommendations on Application Completeness  
Solway Solar Project – Site Permit Application  
Docket No. E017/GS-24-309

Dear Mr. Seuffert,

Attached are comments and recommendations of Department of Commerce, Energy Environmental Review and Analysis (EERA) staff in the following matter:

In the Matter of the Application of Otter Tail Power Company for a Site Permit for the up to 66 MW Solway Solar Project in Beltrami County, Minnesota

The site permit application was filed on October 11, 2024, by:

Preston Riewer  
Otter Tail Power  
215 S. Cascade St.  
Fergus Falls, MN 56537

EERA staff recommends that the site permit application be accepted as substantially complete. EERA staff is available to answer any questions the Commission may have.

Sincerely,



Ray Kirsch  
Environmental Review Manager



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## BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

### ENERGY ENVIRONMENTAL REVIEW AND ANALYSIS COMMENTS AND RECOMMENDATIONS

#### SOLWAY SOLAR PROJECT DOCKET No. E017/GS-24-309

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**Date:** November 1, 2024

**EERA Staff:** Ray Kirsch | 651-539-1841 | raymond.kirsch@state.mn.us

**In the Matter of the Application of Otter Tail Power Company for a Site Permit for the up to 66 MW Solway Solar Project in Beltrami County, Minnesota**

**Issues Addressed:** These comments and recommendations address the completeness of the site permit application, the need for an advisory task force, and other issues related to this matter.

**Documents Attached:**

(1) Project Overview Map

Additional documents and information can be found on eDockets:

<https://www.edockets.state.mn.us/EFiling/search.jsp> (24-309) and on the Department of Commerce's website: <http://mn.gov/commerce/energyfacilities>.

To request this document in another format, such as large print or audio, call 651-539-1529. Persons with a hearing or speech impairment may call using their preferred telecommunications relay service.

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## Introduction and Background

On October 11, 2024, Otter Tail Power Company (Otter Tail) filed a site permit application to construct and operate the Solway Solar Project, an up to 66 megawatt (MW) photovoltaic solar energy generating facility in Lammers Township, Beltrami County, Minnesota.<sup>1</sup> On October 18, 2024, the Commission issued a notice soliciting comments on the completeness of the application, the need for an advisory task force, and other issues related to this matter.<sup>2</sup>

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<sup>1</sup> Application to the Minnesota Public Utilities Commission for a Site Permit for the 66 MW Solway Solar Project in Beltrami County, Minnesota, Otter Tail Power Company, October 11, 2024 eDockets Numbers [202410-210888-01](#) (through -10), [202410-210889-01](#) (through -10), [202410-210890-01](#) (through -03) [hereinafter Application].

<sup>2</sup> Notice of Comment Period on Application Completeness, October 18, 2024, eDockets Number [202410-211120-01](#).



## Project Purpose

Otter Tail indicates that the proposed project will aid Minnesota in meeting its renewable energy objectives and solar energy standards.<sup>3</sup> The project will fulfill, in part, commitments made in Otter Tail's 2023 – 2037 integrated resource plan for solar energy production.<sup>4</sup> Energy produced by the project will meet the needs of Otter Tail's customers.<sup>5</sup>

## Project Description

Otter Tail proposes to construct and operate an up to 66 MW photovoltaic solar electric generating facility in Lammers Township, Beltrami County, Minnesota. The project will be located adjacent to Otter Tail's Solway Combustion Turbine Generating Station; the project will connect with the electric transmission grid at the Solway Station.<sup>6</sup> The project would be sited on approximately 487 acres; of this total, approximately 267 acres would be required for solar facilities.<sup>7</sup> Otter Tail owns the land required for the project.<sup>8</sup>

The project will use bifacial photovoltaic solar panels mounted on a linear axis tracking system.<sup>9</sup> Approximately 100,000 panels will be required for the project.<sup>10</sup> Underground collection cables will gather and send the electric power generated by the solar panels to a project substation.<sup>11</sup> The project will connect to the transmission grid through a 115 kV gen-tie line from the project substation to the Solway Station.<sup>12</sup> The project will also include inverters, security fencing, up to three weather stations, access roads, and an operations and maintenance building.<sup>13</sup>

The project is anticipated to be in service by the end of 2026.<sup>14</sup>

## Regulatory Process and Procedures

In Minnesota, no person may construct a large electric power generating plant without a site permit from the Commission.<sup>15</sup> A large electric power generating plant is defined as a facility capable of operating at a capacity of 50 MW or more.<sup>16</sup> The Solway Solar project will be capable of producing up to 66 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.

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<sup>3</sup> Application, Section 1.3.

<sup>4</sup> Id.

<sup>5</sup> Application, Section 1.2.

<sup>6</sup> Application, Section 1.2.

<sup>7</sup> Application, Section 4.2.2.

<sup>8</sup> Application, Section 2.2.

<sup>9</sup> Application, Section 4.1.

<sup>10</sup> Application, Section 1.2.

<sup>11</sup> Application, Section 4.1.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Minnesota Statute 216E.03.

<sup>16</sup> Minnesota Statute 216E.01.



Otter Tail indicates that a certificate of need (CN) is not required for the project. Though the project is a large energy facility per Minnesota Statute 216B.2421, Otter Tail indicates that the project is exempt from a CN because it was selected through a Commission-approved bidding process and because the project is intended to meet Minnesota's renewable energy objectives.<sup>17</sup>

### 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.<sup>18</sup> Review under the alternative permitting process does not require an 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.<sup>19</sup>

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.<sup>20</sup> 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.<sup>21</sup>

### Public Advisor

Upon acceptance of a site permit application, the Commission must designate a public advisor.<sup>22</sup> 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).<sup>23</sup> 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 during a public comment period to inform the content of the EA.<sup>24</sup> The Department of Commerce determines the scope of the EA, and may

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<sup>17</sup> Application, Section 1.5.2.

<sup>18</sup> Minnesota Rules 7850.1900 and 7850.3100.

<sup>19</sup> Minnesota Rule 7850.3100.

<sup>20</sup> Minnesota Rule 7850.3200.

<sup>21</sup> Minnesota Statute 216E.04, Subd. 7.

<sup>22</sup> Minnesota Rule 7850.3400.

<sup>23</sup> Minnesota Rule 7850.3700.

<sup>24</sup> Minnesota Rule 7850.3700, subp. 2.



include alternative sites suggested during the scoping process if they would aid the Commission in making a permit decision.<sup>25</sup>

### 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.<sup>26</sup> 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.

### Advisory Task Force

The Commission may appoint an advisory task force to aid the environmental review process.<sup>27</sup> An advisory task force must include representatives of local governmental units in the project area.<sup>28</sup> 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.<sup>29</sup>

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.<sup>30</sup> 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 provides the following analysis and comments in response to the Commission's notice requesting comments on completeness and other issues related to the Otter Tail's site permit application.

### Application Completeness

EERA staff has conferred with Otter Tail regarding the proposed project and has reviewed a draft application. EERA staff believes that staff comments on the draft application have been addressed in the application submitted to the Commission. Staff has evaluated the site permit application against the application completeness requirements of Minnesota Rule 7850.1900 (see Table 1). Staff finds that the application contains appropriate and complete information with respect to these requirements.

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<sup>25</sup> Minnesota Rule 7850.3700, subp. 3.

<sup>26</sup> Minnesota Rule 7850.3800.

<sup>27</sup> Minnesota Statute 216E.08.

<sup>28</sup> Minnesota Statute 216E.08.

<sup>29</sup> Minnesota Rule 7850.3600.

<sup>30</sup> Minnesota Rule 7850.3600



## Advisory Task Force

EERA staff has analyzed the merits of establishing an advisory task force for the project. Staff concludes that a task force is not warranted for the project at this time.

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 487 acres (267 acres to be developed). However, the concerns associated with such a large acreage are muted, to a great extent, by the fact that land for the project is owned by Otter Tail. Thus, 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. There are no special construction techniques or operational features that make the project complex. This project-complexity factor weighs against a task force.
- **Known or Anticipated Controversy.** To date, EERA staff has received no comments concerning the project, and there are currently no public comments in the record. The project will be constructed on land owned by Otter Tail. On whole, EERA staff does not anticipate controversy with the project.
- **Sensitive Natural Resources.** There are rare and unique natural resources in the project area.<sup>31</sup> Federal-listed rare species include the gray wolf, northern long-eared bat, and monarch butterfly.<sup>32</sup> The Minnesota Department of Natural Resources has indicated that negative impacts on rare natural resources are not anticipated.<sup>33</sup> On whole, potential impacts to sensitive natural resources weigh against a task force.

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

## Other Issues Related to this Matter

EERA staff recommends that the Commission request a full ALJ report for the project's public hearing. EERA staff believes that a full ALJ report with recommendations provides an unbiased, efficient, and transparent method to air and resolve any issues that may emerge as the record is developed. Requiring a full ALJ report reduces the burden on Commission 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

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<sup>31</sup> Application, Section 5.5.8.

<sup>32</sup> Id. The monarch butterfly is currently a candidate for federal listing.

<sup>33</sup> Application, Appendix Q.



for the environmental review and permitting process, which includes a comparison of potential hearing work products and schedules – i.e., a summary of public testimony vs. a full ALJ report with findings, conclusions, and recommendations (see Table 2).

## **EERA Staff Recommendations**

EERA staff recommends that:

- The Commission accept Otter Tail’s site permit application as substantially complete.
- The Commission not appoint an advisory task force 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 Application	EERA Staff Comments
A. a statement of proposed ownership of the facility at the time of filing the application and after commercial operation;	1.1.1	Information is provided to satisfy this requirement. Otter Tail Power Company will own and operate 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;	1.1.2	Information is provided to satisfy this requirement. Otter Tail Power Company will be the permittee for the project.
C. a proposed site for the project and any rejected alternative sites and an explanation of the reasons for rejecting them; <sup>34</sup>	3.4	Information is provided to satisfy this requirement. No alternative sites were considered for the project.
D. a description of the proposed large electric power generating plant and all associated facilities;	1.2	Information is provided to satisfy this requirement.
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;	2.2	Information is provided to satisfy this requirement. Otter Tail Power Company owns the property required for the project.
G. the engineering and operational design for the large electric power generating plant at each of the proposed sites;	4.0	Information is provided to satisfy this requirement.

<sup>34</sup> Minnesota Rule 7850.3100.



Minnesota Rule 7850.1900, Subpart 1	Location in 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;	2.3	Information is provided to satisfy this requirement.
I. an engineering analysis of each of the proposed sites, including how each site could accommodate expansion of generating capacity in the future;	3.5, 4.0	Information is provided to satisfy this requirement.
J. identification of transportation, pipeline, and electrical transmission systems that will be required to construct, maintain, and operate the facility;	4.1	Information is provided to satisfy this requirement.
K. a listing and brief description of federal, state, and local permits that may be required for the project at each proposed site;	1.5	Information is provided to satisfy this requirement.
O. a copy of the Certificate of Need for the project from the Public Utilities Commission or documentation that an application for a Certificate of Need has been submitted or is not required	1.5.2	Otter Tail Power Company indicates that the project is exempt from a Certificate of Need because it was selected through a Commission-approved bidding process and because the project is intended to meet Minnesota's renewable energy objectives.

Minnesota Rule 7850.1900, Subpart 3	Location in Application	EERA Staff Comments
A. a description of the environmental setting for each site or route;	5.1	Information is provided to satisfy this requirement.



Minnesota Rule 7850.1900, Subpart 3	Location in Application	EERA Staff Comments
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;	5.2	Information is provided to satisfy this requirement.
C. a description of the effects of the facility on land-based economies, including, but not limited to, agriculture, forestry, tourism, and mining;	5.3	Information is provided to satisfy this requirement.
D. a description of the effects of the facility on archaeological and historic resources;	5.4	Information is provided to satisfy this requirement.
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;	5.5	Information is provided to satisfy this requirement.
F. a description of the effects of the facility on rare and unique natural resources;	5.5	Information is provided to satisfy this requirement.
G. identification of human and natural environmental effects that cannot be avoided if the facility is approved at a specific site or route; and	5.6	Information is provided to satisfy this requirement.
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.	Throughout Chapter 5	Information is provided to satisfy this requirement.



**Table 2. Draft Permitting Process Schedule**

Approximate Date	Permitting Day	Permitting Process Step
August 2023	--	Application Submitted
August 2023	--	Comment Period on Application Completeness
September 2023	--	Commission Considers Application Acceptance
October 2023	0	Application Acceptance Order
October 2023	5	Notice of Public Information and Scoping Meetings
November 2023	30	Public Information and Scoping Meetings
December 2023	60	Scoping Decision Issued
May 2024	210	EA Issued   Notice of EA Availability and Public Hearing
June 2024	240	Public Hearing
July 2024	270	Public Hearing Comment Period Closes
July 2024	270	Applicant Responses to Hearing Comments
Summary of Public Testimony		
	280	Applicant Proposed Findings
	290	EERA Responses to Comments on EA; Technical Analysis; Replies to Applicant Proposed Findings
	290	ALJ Submits Summary of Public Testimony
	320	Commission Staff Prepares Findings and Proposed Site Permit
	340	Commission Considers Site Permit Issuance
Full ALJ Report with Findings, Conclusions, and Recommendations		
	280	Applicant Proposed Findings
	290	EERA Responses to Comments on EA; Technical Analysis; Replies to Applicant Proposed Findings
	320	ALJ Submits Full Report
	335	Exceptions to ALJ Report
	350	Commission Staff Prepares Proposed Site Permit
	370	Commission Considers Site Permit Issuance



**Solway Solar Project**  
Beltrami County, Minnesota

