

Staff Briefing Papers

Meeting Date December 16, 2021 Agenda Item 4**

Company All Electric, Electric Transmission and Independent
Power Producers

Docket No. **E,ET,IPP-999/R-12-1246**

In the Matter of Possible Amendments to Rules Governing Certificates of Need and Site and Route Permits for Large Electric Power Plants and High-Voltage Transmission Lines, Minnesota Rules, Chapters 7849 and 7850; and to Rules Governing Notice Plan Filing Requirements for High-Voltage Transmission Lines, Minnesota Rules, part 7829.2550

Issues Should the Commission Authorize Modifications to the Proposed Rules Published in the October 11, 2021 *State Register*

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Relevant Documents

Date

Notice of Intent to Adopt, <i>State Register</i>	October 11, 2021
Proposed Rules, <i>State Register</i>	October 11, 2021
Statement Of Need And Reasonableness	October 11, 2021
Hearing Request, Russell Delaney	November 11, 2021
Hearing Request, Maggie Shanahan	November 11, 2021
Hearing Request, Amy Waananen	November 11, 2021
Hearing Request, Julia Brokaw	November 11, 2021
Hearing Request, Christine Dolph	November 11, 2021
Hearing Request, Jami Gaither	November 11, 2021

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.



Relevant Documents

Date

Hearing Request, North American Water Office	November 12, 2021
Hearing Request, David W Hunter	November 14, 2021
Hearing Request, Vishnu Laalitha Surapaneni	November 14, 2021
Hearing Request, Leslie Duling McCollam	November 15, 2021
Hearing Request, Mike Menzel	November 15, 2021
Hearing Request, Kathryn J. Iverson	November 15, 2021
Hearing Request, Barbara Jones	November 15, 2021
Hearing Request, Natalie Cook	November 15, 2021
Hearing Request, Peter Stebinger	November 15, 2021
Hearing Request, Jenna Yeakle	November 15, 2021
Hearing Request, Nic Baker	November 15, 2021
Hearing Request, Joshua Houdek	November 15, 2021
Hearing Request, Lois Norrgard	November 15, 2021
Hearing Request, John Krenn	November 15, 2021
Hearing Request, Michael Westerhaus	November 15, 2021
Hearing Request, Allan Campbell	November 15, 2021
Hearing Request, Karen Hulstrand	November 15, 2021
Hearing Request, Bruce D Snyder	November 15, 2021
Hearing Request, Erik Hillesheim	November 15, 2021
Hearing Request, Anna Hing	November 15, 2021
Hearing Request, Katherine M. Slama	November 15, 2021
Hearing Request, Marcy Leussler	November 15, 2021
Hearing Request, Linda Herron	November 15, 2021
Hearing Request, Michelle Thelen	November 15, 2021
Hearing Request, Norman Herron	November 15, 2021
Hearing Request, Zabelle Stodola	November 15, 2021
Hearing Request, Maggie Schuppert	November 15, 2021
Hearing Request, Veda Bellamkonda	November 15, 2021
Hearing Request, Ron Wetzell	November 15, 2021
Hearing Request, Robert Kean	November 15, 2021
Hearing Request, Jaci Christenson	November 15, 2021
Hearing Request, Satish Desai	November 15, 2021
Hearing Request, Kathryn Milun	November 15, 2021
Hearing Request, Scott Russell	November 15, 2021
Hearing Request, Lora Wedge	November 15, 2021
Hearing Request, Nasreen Quadri	November 16, 2021
Hearing Request, Clayton Dumcum	November 16, 2021
Hearing Request, Alex Kim	November 16, 2021
Hearing Request, Andrew Nisbet	November 16, 2021
Hearing Request, Kathleen Schuler	November 16, 2021
Hearing Request, Kristina Boerger	November 16, 2021
Hearing Request, Gretchen Karstens	November 16, 2021
Hearing Request, Jean Ross	November 16, 2021
Hearing Request, Nyasha Spears	November 16, 2021

 **Relevant Documents**

	Date
Hearing Request, Susan Dragsten	November 16, 2021
Hearing Request, Bonnie Beckel	November 16, 2021
Hearing Request, Jennifer Adams	November 16, 2021
Hearing Request, Shannon Laing	November 16, 2021
Hearing Request, Craig S. Roth	November 16, 2021
Hearing Request, Andrew Butts	November 16, 2021
Hearing Request, Toya Lopez	November 16, 2021
Hearing Request, Meghan Kutz	November 16, 2021
Hearing Request, Douglas Gurian-Sherman	November 16, 2021
Hearing Request, Mollie Stapleton Clark	November 16, 2021
Hearing Request, Kevin Miller	November 16, 2021
Hearing Request, Kristi E. White	November 17, 2021
Hearing Request, Union of Concerned Scientists	November 17, 2021
Hearing Request, Office of Sustainability Initiatives	November 17, 2021
Hearing Request, Catherine Knaeble	November 17, 2021
Hearing Request, Laura Triplett	November 17, 2021
Hearing Request, Mel Case	November 17, 2021
Hearing Request, Murilo Alves Zacareli	November 17, 2021
Hearing Request, Susan Roedl	November 17, 2021
Hearing Request, Tess Amel	November 17, 2021
Hearing Request, Prasanna Vankina	November 17, 2021
Hearing Request, PEER	November 17, 2021
Hearing Request, Legalectric; No CapX 2020; United Citizens Action Network; North Route Group	November 17, 2021
Comments, Department of Commerce, Division of Energy Resources	November 17, 2021
Hearing Request, Cooperative Energy Futures	November 17, 2021
Hearing Request, Marie McNamara	November 17, 2021
Hearing Request, Department of Commerce, Energy, Environmental Review and Analysis	November 17, 2021
Hearing Request, Tess Dornfeld	November 17, 2021
Hearing Request, Richard Graham	November 17, 2021
Hearing Request, Genna Mastellone	November 17, 2021
Hearing Request, Clean Grid Alliance	November 17, 2021
Hearing Request, Jerry Striegel	November 17, 2021
Hearing Request, Hibbing Public Utilities Commission	November 17, 2021
Hearing Request, Aurelia Wills	November 17, 2021
Hearing Request, EDF Renewables, Inc.	November 17, 2021
Comments, Xcel Energy, ITC Midwest LLC, And Minnesota Power	November 17, 2021
Hearing Request, Dagmar Romano	November 17, 2021
Hearing Request, Mary Dylkowski	November 17, 2021
Hearing Request, Christie Manning	November 17, 2021
Hearing Request, Amiela Canin	November 17, 2021
Hearing Request, LIUNA MN/ND, North Central States Regional Council of Carpenters, Operating Engineers Local 49	November 17, 2021

 **Relevant Documents**

Date

Updated Proposed Rules Draft, Attached

December 1, 2021

I. Introduction

At the outset, staff thanks the many commenters and stakeholders who have been engaged in this rulemaking process. The engagement that led to the proposed rules, and recommended modifications, has identified many ways to improve upon existing process. Staff recognizes the significant time and effort of commenters and stakeholders in this rulemaking and appreciates their participation.

The Commission initiated this rulemaking in response to the transfer of authority over site and route permits for large electric power plants and high voltage transmission lines from the Environmental Quality Board (EQB) to the Commission. After experience with facilities permitting cases, the Commission determined that it was necessary to update its existing rules to better reflect Commission practices, as well as to incorporate statutory changes.

On October 11, 2021, the Commission published proposed rule amendments in *the State Register* to amend Chapters 7849 and 7850 governing Certificates of Need and Site and Route Permits for Large Electric Power Plants and High-Voltage Transmission Lines and to rule part 7829.2550 governing Notice Plan Filing Requirements for High-Voltage Transmission Lines. On the same date, the Commission also issued its Statement of Need and Reasonableness (SONAR), which provides justification for the proposed rules by explaining why they are needed and reasonable.

The proposed rules incorporate statutory changes, repeal the rule requiring certificate of need notice plan filings, as well as update, improve, clarify, and reorganize Commission procedures governing the review of applications for certificates of need and site and route permits. Most recently, these permits have been for the construction of renewable energy facilities, including solar and wind, and associated transmission lines.

For certificate of need applications, the proposed rules incorporate statutory amendments; update notice requirements; shorten the timeframe for the Commission's administrative determination on application completeness; establish updated application content requirements, including for independent power producers; and update the process governing the Environmental Report, which is required in certificate of need cases. The proposed rules also require use of a process schedule that is designed to establish procedural review timelines on a case-by-case basis in a manner that is both project-responsive and consistent with applicable statutory deadlines.

For site or route permit applications, the proposed rules update existing notice requirements; establish pre-application procedures for transmission line projects; clarify and update environmental review requirements; and establish and update post-permitting requirements. The proposed rules also require use of a process schedule, as described above, that is designed to establish procedural review timelines on a case-by-case basis in a manner that is both project-responsive and consistent with applicable statutory deadlines.

Staff recognizes that Minnesota's certificate of need and permitting processes are complex, and that implementing changes to an already-complex process will be challenging. But staff believes

that the proposed rules will improve the process, allow the agency to respond more quickly to applications and better balance the need for timely decision-making with the opportunity for robust public participation.

In response to the proposed rules, the Commission received 92 comments, and approximately 90 hearing requests. Under Minn. Stat. § 14.25, if an agency receives at least 25 hearing requests, the agency must proceed with a rulemaking hearing held by an administrative law judge (ALJ) with the Office of Administrative Hearings before adopting the rules. Because the Commission received the requisite number of hearing requests, a public hearing will be held on the proposed rules via WebEx on December 6.

Staff has attached to this briefing paper an updated draft rule that incorporates changes staff recommends in response to written comments received. Recommended changes are highlighted in yellow in the attached draft. After the public hearing on December 6, staff intends to file a supplemental briefing paper including additional recommendations and information gained from the hearing.

II. Statutory Deadlines Applicable to Rulemaking

Due to statutory deadlines in the rulemaking process, the Commission must file its response to comments received no later than December 27, 2021. Minn. Stat. § 14.15, subd. 1, establishes a comment period of five working-days after the public hearing, during which the agency may respond to comments and to modify the proposed rules; this five-day comment period may be extended to 20 days, which staff will request at the hearing. After the close of the initial comment period, there is a five-working-day period during which interested persons may file rebuttal comments.

The Administrative Law Judge (ALJ) will then issue her report on the proposed rules and whether the Commission may adopt them as proposed. Staff will then bring the rules back to the Commission for consideration of whether to adopt the rules with any additional changes.

III. Overview of Comments Received

Staff appreciates the perspectives of the many stakeholders who filed comments on the proposed rules. Minnesota's rulemaking process provides valuable opportunity to provide input, and this input is an important step for identifying ways to improve the proposed rules.

As an initial matter, some comments took issue with the passage of time since the Commission initiated this rulemaking, stating that the proposed rule amendments are no longer timely. But simultaneously overhauling two rule chapters is an unusually complex and resource-intensive process. The agency began the rulemaking in 2012 and began working with an advisory committee in 2013. This timeline reflects available agency resources throughout the development of the rule, the need for extensive stakeholder work, and the interaction with other agencies, including the Office of the Revisor of Statutes (the Revisor). The development of these proposed rules was informed by experience that continues to be relevant, and there are no statutory changes affecting these rule chapters that are not incorporated into the proposed rules.

Commission staff worked extensively with a Commission-appointed advisory committee, a process that identified potential issues and possible solutions, and ultimately, led to the publication of proposed rule changes. Of the comments received on the proposed rules, many offer reasonable modifications for Commission consideration.

This briefing paper advises the Commission on the proposed rules so that a determination can be made on which, if any, recommended modifications should be made to the proposed rules as published. Staff has carefully reviewed the comments and identified many recommendations that staff agrees are reasonable updates or which would codify existing practices. There are also changes that staff does not recommend making at this time. In addition, some of the comments seek changes that are beyond the scope of this rulemaking, and while many of those changes may have merit, at this stage of the rulemaking process, an agency may not make changes that result in substantially different rules than those proposed.

When considering modifications to proposed rules, Minn. Stat. § 14.05, subd. 2, states:

(b) A modification does not make a proposed rule substantially different if:

1) the differences are within the scope of the matter announced in the notice of intent to adopt or notice of hearing and are in character with the issues raised in that notice;

(2) the differences are a logical outgrowth of the contents of the notice of intent to adopt or notice of hearing and the comments submitted in response to the notice; and

(3) the notice of intent to adopt or notice of hearing provided fair warning that the outcome of that rulemaking proceeding could be the rule in question.

(c) In determining whether the notice of intent to adopt or notice of hearing provided fair warning that the outcome of that rulemaking proceeding could be the rule in question the following factors must be considered:

(1) the extent to which persons who will be affected by the rule should have understood that the rulemaking proceeding on which it is based could affect their interests;

(2) the extent to which the subject matter of the rule or issues determined by the rule are different from the subject matter or issues contained in the notice of intent to adopt or notice of hearing; and

(3) the extent to which the effects of the rule differ from the effects of the proposed rule contained in the notice of intent to adopt or notice of hearing.

Staff appreciates the wide range of comments received. Below is an initial discussion of threshold issues, many of which the Department, Energy, Environmental Review and Analysis staff (EERA) raised, and many of which staff believes are also responsive to recommendations from other commenters, including members of the public.

IV. Threshold Issues

A. Minnesota's Statutory Preference for Renewable Energy

As a threshold matter, staff believes it is helpful to clarify the types of proposed projects that fall within the scope of these two rule chapters because there may be some misunderstanding from public commenters that these rules apply to "any large energy facility." These rules, however, affect the following:¹

- (1) any electric power generating plant or combination of plants at a single site with a combined capacity of 50,000 kilowatts or more and transmission lines directly associated with the plant that are necessary to interconnect the plant to the transmission system;
- (2) any high-voltage transmission line with a capacity of 200 kilovolts or more and greater than 1,500 feet in length;
- (3) any high-voltage transmission line with a capacity of 100 kilovolts or more with more than ten miles of its length in Minnesota or that crosses a state line;²

In evaluating these kinds of proposed projects, the Commission is required to follow the Legislature's preference for the construction of renewable energy resources as follows:

216B.243 CERTIFICATE OF NEED FOR LARGE ENERGY FACILITY.

Subd. 3a. Use of renewable resource.

The commission may not issue a certificate of need under this section for a large energy facility that generates electric power by means of a nonrenewable energy source, or that transmits electric power generated by means of a nonrenewable energy source, unless the applicant for the certificate has demonstrated to the commission's satisfaction that it has explored the possibility of generating power by means of renewable energy sources and has demonstrated that the alternative selected is less expensive (including environmental costs) than power generated by a renewable energy source. For purposes of this subdivision, "renewable energy source" includes hydro, wind, solar, and geothermal energy and the use of trees or other vegetation as fuel.

¹ Smaller transmission lines that are 100 kilovolts or more and are greater than 1,500 feet in length do not require a certificate of need but do require a route permit.

² Minn. Stat. § 216B.2421, subd. 2 (1), (2), and (3).

Since 2019, the only power plant applications filed under these rules were for the construction of renewable energy facilities powered by either solar or wind energy.

In 2019, the Commission received:

- three applications for construction of wind-powered plants and three for solar-powered plants.
- two applications for construction of high voltage transmission lines. One of these was associated with one of the three solar project applications. The other was a reliability project to upgrade existing facilities and was less than one mile in length.

In 2020, the Commission received:

- three applications for construction of solar-powered plants and two for wind-powered plants.
- four applications for construction of high voltage transmission lines. Three of these were associated with the applications for the solar and wind projects. The fourth was a proposed reliability project.

In 2021, the Commission has received:

- three applications for construction of solar-powered plants and one for a wind-powered plant.
- four applications for construction of high voltage transmission lines. Two of these are associated with one of the solar projects. One of these is associated with the wind project. One is a proposed reliability project.

In light of some of the comments received, it is helpful to recognize that while these rules are applicable to a broad set of resource types, most recently, they have been applied to renewable energy projects and the transmission lines needed to connect those renewable energy facilities to the electric grid and to ensure ongoing system reliability.

B. Impacts to Tribal Governments

Proposed rule part 7850.1610 establishes notice lists, including a Tribal and local government contact list that the applicant is required to maintain. The EERA recommended that the Commission modify this proposed rule part by establishing a separate contact list for Tribal governments that includes all 11 federally recognized Tribes and by requiring the Commission to maintain the list using Tribal contact information based on information from the Commission's ongoing Tribal consultation.³ The EERA also recommended that the Commission be required to notify each Tribal government of each project.

³ See the EERA's November 17, 2021 comments, p. 3.

Staff agrees that it is reasonable to maintain a separate list of the 11 federally recognized Tribal governments and for the Commission to maintain the list but recommends that notification be made under the rules as proposed. In other words, where an applicant is required to send notice of its application, it continues to be reasonable to require an applicant to give that notice. Requiring the Commission to provide copies of an applicant's notice could cause confusion or inadvertently signal agency support for a project. In addition, it is reasonable to amend the rule to require the Commission to engage with Tribes in accordance with its Tribal Consultation Policy.⁴ Staff therefore recommends the following modification:

Subp. 6a. Tribal government contact list; tribal engagement. The commission must maintain a list of all federally recognized tribes. The commission will engage with tribal governments in accordance with its tribal engagement/consultation policy.

In the interest of expanding consultation with Tribal governments, the Commission could also consider requiring EERA, which conducts environmental review, to separately engage in Tribal consultation at each step of the process where notice to a Tribal government is required by either the Commission or the applicant. The benefit of this step is that the Commission is unable to consult once the docket is opened, due to *ex parte* restrictions. The Department, however, may perform this function. As a party in each proceeding, it is appropriate for the EERA to engage with Tribes during record development. The proposed rule would read as follows:

The Department shall engage with each tribal government identified under subpart 6a at each point in the process where notice to tribal governments is required and report to the Commission on the results of that engagement at the time it files its EIS or EA.

Staff recommends applying these same changes to Chapter 7849 as well and recommends requiring the EERA to file its results with the Commission at the time it files its Environmental Report, as long as the EERA agrees. If the EERA opposes this requirement, staff continues to recommend that the Commission separately maintain the Tribal government contact list.

Many public comments also raised issues around Tribal engagement and protection of Tribal lands, and while staff's proposed modifications above may be responsive to these concerns, staff welcomes additional feedback at the public hearing on this topic and will work to file a supplemental briefing paper after the public hearing to address additional discussion or recommended changes to specific rule parts.

⁴ https://mn.gov/puc/assets/Tribal%20Consultation_2021_Final%20%28signed%29_tcm14-510056.pdf

C. Greenhouse Gas Emissions, Climate Change, Environmental Justice

Most public comments requested changes related to climate change, greenhouse gas emissions, and environmental justice. The EERA also recommended that the Commission include language on these issues in the following rule parts:

- 7849.0320 Generating Facilities.
- 7849.0330 Transmission Facilities.
- 7849.0340 No-Facility Alternative.
- 7849.1500 Environmental Report Content.
- 7850.1640 Draft Permit Application Required.
- 7850.3750 Environmental Assessment.
- 7850.4100 Factors Considered.

Staff supports these recommended clarifications and notes the following.

First, the proposed rules include new consideration of greenhouse gas emissions. At the recommendation of Just Change Law, an advisory committee member, proposed rule part 7849.0320 already incorporates an updated list of pollutants, including greenhouse gas emissions.

Second, as a practical matter, these issues are frequently addressed on a case-by-case basis as the Commission applies the Legislature's preference for renewable energy facilities. Concepts such as environmental justice are also considered and analyzed on a case-by-case basis.⁵ As a party to Commission proceedings, the EERA may also raise these issues for record development in any case and has often done so. The environmental review documents that EERA prepares also routinely include the examination of potential cumulative human and environmental impacts or effects of proposed projects. Further, any commenter may raise these issues during public comment periods.

The ongoing study of these issues is initially facilitated in each case by consideration of criteria that the Commission must consider when evaluating applications for electric generating facilities or high voltage transmission lines under Minn. Stat. § 216B.243, subd. 3 (2), (5), and (12); Minn. Stat. 216E.03, subd. 7 (1)-(11); and Minn. R. 7850.4100.

These criteria already include many concepts related to climate change, greenhouse gas emissions, and environmental justice. Modifying them to provide certainty that the Commission considers these issues would largely codify existing practice.

⁵ *In the Matter of the Application of Great River Energy and Otter Tail Power Company for a Route Permit for the Frazee to Erie 115 kV Transmission Line Project in Becker and Otter Tail Counties*, ET-2/TL-20-423, Administrative Law Judge's report (September 1, 2021), pp. 29, 32, and 52).

The EERA also recommended adding language to require the Commission to consider impacts on organized labor but did not recommend a specific rule change. Staff asks that the EERA further clarify its recommendation.

Based on public comments, the Commission may also wish to consider requiring that notices be made available in other languages, but it would be helpful to ensure that these determinations can be made on a case-by-case basis considering the geographic area potentially affected.

Many public comments also recommended that the proposed rules address these, and similar concerns, related to greenhouse gas emissions, climate change, and environmental justice but generally did so without identifying changes to specific rule parts. The EERA's recommendations may largely address these issues, but staff welcomes feedback at the public hearing on these topics and will work to supplement this briefing paper after the public hearing to address recommended changes to specific rule parts not addressed in this briefing paper.

D. Decommissioning Plans

Because the Commission has begun adding permit conditions to address decommissioning plans of large power plants and power lines, the EERA recommended that the Commission require applicants to include a decommissioning plan in their applications. Public Employees for Environmental Responsibility (PEER) echoed this recommendation.

Staff agrees that it is reasonable to modify the proposed rule to require that the applicant file this information, consistent with the Commission's examination of this issue on a case-by-case basis through permit conditions. This change would, in turn, further inform the continued development of permit conditions.

E. Prime Farmland

EDF Renewables, Clean Grid Alliance, Apex Clean Energy, American Clean Power Association, National Grid Renewables, and Avangrid Renewables recommended that the Commission modify part 7850.4400, subp. 4, which prohibits construction of large electric power plants on more than 0.5 acres of prime farmland per megawatt of net generating capacity, unless there is no feasible and prudent alternative.

These entities stated that the existing rule was in place before solar development was contemplated and was aimed at largely irreversible damage from conventional power plants, such as soil compaction. They stated that these issues do not arise with solar powered facilities, which do not involve the installation of permanent structures and facilities.

They stated that the lack of a clear regulatory framework in the rules creates uncertainty for developers. Changing the rule language to address this issue, they stated, would create an orderly process for evaluating utility-scale solar development. They encouraged the Commission to take this opportunity to amend this rule during the course of this rulemaking proceeding.

The last time the Commission met to authorize publication of the proposed rules, the Commission considered a modification to this rule part to exempt large solar-powered facilities from the prime farmland rule if they had a Commission-approved agricultural plan developed in consultation with the Department of Agriculture but declined to take action to include that modification in the proposed rules as published.

If the Commission decides to proceed with a prime-farmland exemption for solar facilities at this time, however, such a change would likely result in a substantially different rule because there are no proposed changes to the existing rule. If the Commission wishes to proceed with changes to this rule part, staff recommends that the Commission either pause this rulemaking to expand the scope, which would require additional rulemaking steps and republication of the proposed rules in the *State Register*, or in the alternative, proceed with the remaining steps of this rulemaking without changes to the Prime Farmland rule but open a separate and targeted rulemaking to develop rule language exempting solar facilities from the restriction on the use of prime farmland.

F. Public Participation and Proposed Rules' Process Schedule

Some public comments also identified the difficulty or lack of clarity around public involvement in Commission proceedings as an item to address through this rulemaking process. They cited the Office of the Legislative Auditor's recent *Public Utilities Commission's Public Participation Processes 2020 EVALUATION REPORT* (Report) as critical of the Commission's public engagement. Much of that Report focused on internal practices, which the Commission has modified but continues to address in response to the Report. In particular, the Commission has been engaged since the release of the Report in making website upgrades, improving Commission communication materials, and working with the Department of Commerce and the Office of Administrative Hearings to improve multi-agency communications and coordination processes. Staff welcomes feedback at the public hearing on this topic and will work to supplement this briefing paper after the public hearing to address any recommended changes to specific rule parts.

To further this effort and aid public understanding of the Commission's review process and major steps, the SONAR includes flowcharts on pp. 71-73. Although these flowcharts are illustrative and not binding, they provide a roadmap that identifies the sequence of steps through the review process. The Commission and its public advisor also use other public documents to aid the public's understanding of the Commission's process, and the Commission is continuing to develop additional guidance materials on public participation.

Some commenters also had concern regarding the concept of a process schedule established on a case-by-case basis for reviewing applications and specifically said it would "allow[s] project proposers to control the timeline, and therefore the ultimate quality of agency review, of their permit process."⁶ Staff notes that creating a process schedule is a decision that would be made by the Commission's staff, consistent with existing informal practice. Staff considers statutory

⁶ PEER, pg. 10

timeliness, necessary process steps and creates a standardized process that seeks to maximize review quality.

V. Other Recommended Modifications to Proposed Rules

A. Department of Commerce, Energy Regulation and Planning (DOC-ERP)

The DOC-ERP recommended that the Commission adopt the proposed rule amendments to parts 7849.0010 through 7849.1150 in their entirety without further modification, stating that the proposed rules increase efficiency by eliminating the requirement for independent power producers to provide the same information as rate-regulated utilities, which will reduce the number of petitions requesting exemptions; by removing the requirement to prefile a notice petition; and by removing the process whereby the DOC-ERP and other interested parties must file comments on completeness, instead making that a streamlined internal process at the Commission.

B. Department of Commerce, EERA

The EERA opposed the proposed rule amendments due to concerns over meeting timelines and recommended a wide range of changes. Many issues raised by EERA are addressed above, and as stated above, staff supports changes to Tribal notice provisions, climate change, greenhouse gas emissions, and environmental justice.

In its request for a hearing, EERA also cited difficulty with implementing a shortened application completeness determination and raised concerns about process and timing, including the establishment of a process schedule on a case-by-case basis. The EERA also recommended against certain pre-application requirements. Because of the volume of recommended changes by the EERA, this briefing paper addresses as many as possible given the compressed statutory timeframes of the rulemaking process.

Staff has carefully reviewed EERA's recommendations and agrees that many would lead to improvements in the proposed rules; those that staff supports are incorporated into the updated proposed rules draft, as attached, and are also listed below in Section VI. Staff has identified other recommendations from EERA that may not be necessary, and those are also discussed in Section VI below.

1. Part 7850.1620. Preapplication Meetings; Transmission Lines

The EERA opposed the codification of preapplication meetings in transmission line cases to engage the public in advance of an application filing, stating that the proposed rule "assigns regulatory responsibility at a point in the process where the agencies have little, if any, ability to oversee the potential future applicant." The proposed rule does not, however, assign regulatory responsibility. It requires the applicant to notify Commission and Department staff of preapplication meetings, a practice that is common among applicants. In lieu of removing this requirement, the EERA stated that it would be reasonable to apply preapplication meeting requirements to all projects, both transmission and generation projects, and staff agrees with this recommended modification.

This step ensures that the public will have had the time to learn about a proposed project before an application is filed. This, in turn, facilitates timely decision-making consistent with applicable statutory deadlines.

2. Part 7850.1640. Draft Permit Applications

The proposed rule requires applicants to file a draft application no sooner than 45 days before filing its application. Staff believes this is a codification of existing practice. EERA opposes this rule part for a variety of reasons, including over concerns that the draft application may make a complicated process more confusing to the public and puts additional burden on the public.⁷

As an initial point of clarification, the EERA and the Utilities correctly noted that the proposed rules inadvertently left in place a requirement that the applicant include a statement in its draft application notice that the Commission will request comments on draft applications (part 7850.1680, subp. 2, item C). This statement should have been removed before publication of the draft, and staff recommends clarifying the proposed rule to remove the statement at issue. The proposed rule does not, and is not intended to, require the Commission to solicit comments on the draft application. When the Commission last met to authorize publication of the draft rules, the Commission decided that in lieu of a comment period, it would be reasonable to require the EERA to inform the Commission of any deficiencies in the draft application.

Codifying the draft application process engages the public and the Commission in the process sooner, which in turn, facilitates a more efficient review process once the application is filed, particularly considering that the Commission is required, by statute, to make a determination on the completeness of an application within 10 days of its filing. Staff recognizes that including a draft application in the record could potentially be confusing to the public, but the proposed rule improves efficiency and transparency. Staff also concurs with the EERA, however, that it may be reasonable to modify this requirement and will work to supplement this briefing paper after the public hearing to address specific modifications for consideration.

3. Part 7850.1680, subp. 1. Notice to Commission.

The EERA recommended against being required to notify the Commission of any deficiencies in the draft permit application within 10 days and instead recommended a time period of 21 days. Staff agrees that it would be reasonable to extend this review period to 21 days. Staff will work to supplement this briefing paper with any additional recommended modifications to the draft permit requirement.

4. Part 7849.1000, subp. 4 and 7850.1680, subp. 3. Process Schedule.

The proposed rule requires Commission staff to set a process schedule consistent with statutory deadlines on a case-by-case basis, but the EERA recommended against this approach,

⁷ EERA, Attachment 1, p. 8

stating that the sample flowcharts on pp. 71-73 of the SONAR do not account for every step. The EERA also stated, however, that the process schedule leaves the order of events undefined.

In practice, establishing a process schedule at the outset of each case facilitates an orderly and timely process but allows sufficient flexibility to set deadlines based on unique facts. The sample schedules included in the flowcharts on pp. 71-73 of the SONAR were developed after extensive work with the advisory committee. But since the flowcharts are examples, they do not account for all scenarios, which is why their timelines were not incorporated into the proposed rules.

The EERA suggests that the proposed rules add new steps to the process, but staff is not aware of any new steps in the proposed rules (beginning with the application filing) that are not part of existing process. If there are specific steps that EERA identifies as new and unnecessary steps in the process, staff would appreciate additional information for further discussion in a supplemental briefing paper.

The EERA also raises concerns about the lack of specific timelines in the proposed rules. The proposed rules establish applicable regulatory steps and leave flexibility to establish the specific timelines for those steps in the process schedule. Requiring more specific timelines in the rules would provide more certainty, but less flexibility to adjust to cases that can be very different. Staff believes that the process schedule approach, which requires Commission staff to establish schedules at the outset of each case, reflects a reasonable balance between competing interests.

More controversial cases potentially affecting more people will likely take longer, but a process for reviewing less controversial projects affecting fewer people could likely move more quickly. Setting deadlines on a case-by-case basis ensures needed flexibility to set a schedule that is project-responsive with deadlines that are more likely to be met.

If Commissioners are comfortable with the flexibility of the process schedule approach, the proposed rules can remain in their current form. If Commissioners would prefer more specific deadlines, the proposed rules could be adjusted to remove the process schedule and potentially include more specific deadlines throughout the rules.

5. Part 7850.1710, subp. 4. Process schedule update.

The EERA recommended that the process schedule be electronically filed and staff agrees that it would be reasonable to require the schedule to be electronically filed to increase transparency.

6. Part 7850.2110, subp. 1. Notice.

This rule part requires the Commission to take comments on the application (similar to how the Commission takes comments on all filings under Minn. R. 7829.1400). The EERA recommended clarifying the timing of this comment period in relation to the timing of the comment period on environmental scoping; the EERA also recommended clarifying the purpose of this comment period.

In practice, the Commission takes comments on filings to determine whether there are contested issues of material fact, i.e., procedural treatment of the filing. The Commission may also identify specific issues for record development based on the comments received. As to the timing of the comment period in relation to other comment periods, the proposed rule leaves flexibility to decide how to proceed based on the issues that arise in unique situations. While staff agrees that overlapping or unclear comment periods could become confusing, the most effective way to limit confusion is by allowing Commission staff to establish the process schedule on a case-by-case basis after consulting with the EERA.

EERA's specific concern is that the initial comments on the application required by this rule, may overlap with comments on scoping that are directed to EERA. In the example flowchart in the SONAR, these comment periods overlap by five days. When the process schedule is established, however, Commission staff could consult with EERA and determine that the two comment periods should be combined; or that they should be sequential, depending on the specifics of the project.

If the Commission believes that flexibility about the timing of these two comment periods cannot be resolved sufficiently through the process schedule, the proposed rules could be modified to be more specific by, for example, directing that the initial comments and the scoping comments should be included in the same comment period. Staff has not provided decision option language regarding this potential option but is available to assist Commissioners if it is to be pursued.

7. Language Usage

The EERA's comments frequently address issues of language usage and request that the Commission justify distinctions in various places, such as notice content requirements. Staff agrees with many of these recommendations, but in some instances, changes may not be necessary or can be more fully considered by the Commission after the ALJ issues her report. Staff's recommended modifications are set forth below in a separate section on housekeeping changes and minor modifications.

C. Xcel Energy, ITC Midwest LLC, and Minnesota Power (the Utilities)

The Utilities recommended the following modifications to the proposed rules.

The first recommended modification would clarify that no public comments will be taken on draft permits applications; proposed rule part 7850.1650, subp 2, requires applicants to include a statement in their draft application notice that the Commission will solicit public comments. As explained above, this statement was inadvertently left in the proposed rule before publication, and staff recommends removing it because there is no proposed rule that requires a public comment period on the draft application.

1. 7849.0010, subp. 6a. Associated facilities.

The Utilities recommended modifying the definition of "associated facilities" to include the word "substation" and as a corollary recommended that the subsequent definition of "high

voltage transmission line” in subpart 12a be modified to use the phrase “associated facilities” in place of the list of facilities. The Commission previously considered modifications to these definitions but decided not to make any changes. As a point of clarification, the definition of “high voltage transmission line” is not new; it is simply relocated. Language that is relocated must be underlined by the Revisor for drafting purposes even where the language is not modified. Staff does not recommend any further clarification to this definition.

The Utilities also recommended defining the term “transmission company,” but that term would be used in only one rule part, which the Utilities seek to modify (as discussed below), and for this reason, staff recommends against including this definition.

2. 7849.0110. Alternatives considered.

The Utilities recommended adding the word “only” to clarify that only those alternatives for which there is substantial record evidence should be evaluated by the Commission. Because the Commission will not authorize permits for routes or sites for which there is not substantial evidence, this proposed modification does not appear to be necessary.

3. 7849.0120. Certificate of Need Criteria.

The Utilities recommended making no changes to part C of the existing rule, or in the alternative, clarifying that any comparison to alternatives is to only alternatives for which there is substantial evidence in the record. At the time the Commission makes its decision, the only alternatives that will be offered for serious consideration will be those for which there is substantial evidence on the record, and for this reason, staff does not recommend further clarification to this proposed rule.

4. 7849.0125. Notice Lists.

The Utilities recommended substituting “certificate of need” for “proposed site or route permit,” but the proposed rule is intended to require notice to those persons who are *also* on a project-contact list established under Chapter 7850 to ensure that those notified of certificate of need applications include the same persons interested in being notified of permit applications. Staff requests further input on this issue if this clarification does not address the concern raised.

The Utilities also recommended clarifying that notice is required to landowners whose property is located within “shaded-in areas” on an applicant’s map. They also recommended applying this change to rule part 7849.1400, subp. 3a(A)(3).

The proposed rule requires that the landowner list include persons whose property is along a proposed high voltage transmission line route or those who “are reasonably likely to be affected,” which is existing language that is relocated from a rule part in a different rule chapter (7829.2550). Staff does not recommend any further clarification of the proposed rule.

5. 7849.0130. Project Notice.

In subpart 3 (C) (4), the Utilities recommended clarifying that a utility or transmission company is subject to a biennial transmissions project report. Staff agrees on clarifying the language to remove direct reference to either a utility or transmission company.

In subpart 3 (C)(9), the Utilities recommended modifying the requirement that the applicant include a statement in its project notice that it “may use eminent domain proceedings” and instead state that the applicant should notify people “whether it may use eminent domain proceedings.” They recommended applying this requirement to other proposed rules as well, including part 7850.1640, subp. 2 (S) and subp. 3(W); 7850.2300, subp. 2(N); and 7850.2570, subp. 2(B). They stated that this change would account for the fact that some projects do not require use of eminent domain. Staff agrees that this is a helpful clarification and recommends making this modification. Staff also believes this change is responsive to concerns raised by the EERA.

They also recommended removing the last sentence of subpart 7 to eliminate redundancy, and staff agrees on this recommended clarification.

6. 7849.0200. Application Form and Manner of Filing.

The Utilities recommended clarifying that only those who have elected to receive paper copies of an application should be required to receive paper copies of subsequent changes or corrected copies. But the proposed rule does not require an applicant to file paper copies of subsequent changes or corrections to its application unless the applicant did not electronically file the application itself. Further input on the proposed change would be helpful if this explanation does not resolve the issue.

7. 7849.0220. Application Contents.

The Utilities recommended clarifying under subpart 2 that an applicant will file regional planning information if it is available. Staff suggests that the Utilities further explain what types of projects would require an exemption to better understand how frequently they expect compliance to be problematic, particularly to clarify whether this is aimed at the concern that few Minnesota-projects are supported by regional plans *that support need* as noted in part A (i.e., MISO Multi-Value Projects or Market Efficiency Projects).

The proposed rules are not intended to create new categories of exemption requests, and it would be helpful to better understand this issue. However, staff also notes that the proposed rule states that the required filing contents include the word ‘*applicable* regional planning information’ and therefore, projects would only file applicable information (and may include only a subset of the filing requirements listed in part A-D). Most projects in Minnesota will be listed in some level of planning documentation, whether in a Minnesota Biennial Transmission Project Report, a MISO Transmission Expansion Plan, MISO Generator Interconnection Studies, or other Regional Transmission Operator-related plans or filings.

8. 7849.1150. Record Development.

The Utilities recommended streamlining the record development process by adding language stating that the Commission will determine whether to hold joint proceedings after the close of comments on the certificate of need application. The timing of the Commission's determination on joint proceedings is made under parts 7849.1900 and 7850.2140, which establish a clear process, and staff therefore does not recommend further clarification.

The Utilities also recommended requiring the Commission to simultaneously determine whether to hold joint applications and whether to appoint an advisory task force. While the Commission may consider these questions simultaneously, the timing of these steps will be set according to the process schedule, and staff therefore does not recommend any further change to this rule part.

9. 7849.1400 Process for Environmental Report.

The Utilities recommended that the requirement for two newspaper notices (at 30 days and again at 14 days prior to the scoping meeting) be reduced to one notice that must be sent at least 10 days before the meeting.

The requirement for two newspaper notices was made at the recommendation of advisory committee members who advocated for a method of notice that would more effectively engage members of the public, particularly in certificate of need cases, which do not include environmental review meetings (as required by part 7850.2550, subp. 4) before the Environmental Report is due. For this reason, staff does not recommend further changes to this rule part.

10. 7849.1900. Joint Proceeding.

The Utilities recommended clarifying that the proposed rule does not designate to the Department the authority to determine whether to hold joint proceedings on multiple applications. The changes made to this rule part are non-substantive to clarify language usage and do not authorize the Department to make that determination, although the Commission considers input from the Department when making this decision.

11. 7850.1500. Exceptions to Permitting Requirement for Certain Existing Facilities.

The Utilities recommended striking the word "substation," stating that a substation would not come under the Commission's review unless it is an associated facility. This is existing language, which the proposed rules do not address, but staff agrees that this is a reasonable clarification and recommends modifying the existing rule to include this change.

12. 7850.1610, subp. 5. Landowner list.

The utilities recommended replacing “along” with “on” or “adjacent to.” The proposed rule incorporates the statute’s use of “along.”⁸ Staff recommends against modifying the proposed rule because broader notice is more likely with the word “along.” Further, the proposed rules relocate existing language that requires notice to landowners “reasonably likely to be affected.” This ensures broader notice, rather than only to landowners within a proposed route or immediately adjacent to it. It is possible that landowners in a proposed project area could be potentially affected by, for example, roads an applicant must construct or other features of a proposed project, and it is therefore reasonable to require broader notice.

13. 7850.1620. Preapplication Meetings; Transmission Lines.

The Utilities recommended against requiring a summary of the comments received. Because the comments received are relevant to an applicant’s proposed project, those comments are relevant to understanding public input, and staff does not recommend further clarification to the proposed rule.

14. 7850.1640, subp. 4 (H). Environmental information.

The Utilities recommended against requiring the filing, and notice of, a draft permit and recommended extending the time period for the Department’s review of the draft application, consistent with the EERA’s recommendations discussed above. Staff will work to provide further discussion of this issue after the public hearing.

They also recommended requiring applicants to file “the estimated costs and feasibility of implementing the identified mitigative measures.” Staff agrees that this is a reasonable clarification and recommends making this modification.

15. 7850.2120. Commission Referral.

The Utilities recommended delegating this decision to the Executive Secretary.

The rule requires that the Commission determine how the case will proceed (either a contested case hearing before an ALJ, as required under Minn. Stat. § 216E.03, subd. 6, or the alternative review process under Minn. Stat. §216E.04); the primary input from Commissioners at this point is what issues should be addressed by the ALJ. If Commissioners want to delegate this decision to the Executive Secretary, then delegation may be a reasonable change. Staff notes that the Commission may need to make a decision on other matters in this timeframe even if the referral decision is delegated, because the Commission may also need to provide input on scoping to EERA (as required by Minn. Stat. 216E.03, Subd. 5 and Rule 7850.2520). Delegating only one of these decisions to the Executive Secretary may have limited impacts on the timing of a case.

⁸ Minn. Stat. § 216E.03, subd. 4.

If Commissioners would prefer to have the opportunity to review the initial record and provide input on what issues should be referred to the Office of Administrative Hearings, the proposed rule would accomplish that without further modification.

16. 7850.2530. Scoping Decision.

The Utilities recommended requiring the EERA to file a map along with its scoping decision, and staff agrees that this is a reasonable requirement that will clarify for newly affected persons who are receiving the notice that their properties may be affected. For this reason, staff recommends making this modification.

17. 7850.2550, subp. 4. Environmental review meeting.

The Utilities recommended against holding an environmental review meeting close in time to the public hearing and instead allow the meeting and hearing to be held jointly. The proposed rules authorize Commission staff to decide whether the meeting and public hearing should be held jointly at the time the process schedule is established and allow flexibility in cases where that is not feasible. The proposed rule could be modified to make this a requirement but allowing that decision to be made on a case-by-case basis when the process schedule is established would maximize flexibility and staff therefore recommends against this change.

18. 7850.2675. Procedure after Administrative Law Judge Report.

The Utilities recommended adding the same language allowing participating agencies to file comments after a report of an ALJ in Chapter 7849. Participating agencies typically participate in permitting cases more frequently than in certificate of need cases, but staff concurs that adding this language is a reasonable addition and recommends including it.

19. 7850.3800. Public Hearing.

The Utilities recommended requiring this process to include a full ALJ's report with findings, conclusions, and a recommendation, rather than a summary report of only the comments received at a public hearing. The EERA agreed with this approach. Staff also agrees that this is a reasonable clarification and recommends making this modification.

20. 7850.4800. Minor Alteration in Generating Plant or Transmission Line.

The Utilities recommended a housekeeping change to clarify that the rule could apply to either a permittee, or a facility owner who is operating a facility that did not previously require a permit. Staff concurs with this recommended clarification.

21. 7850.4950. Reports.

The Utilities recommended a housekeeping clarification that would state that reports must be filed until "construction" is complete, rather than "project" is complete. Staff supports this recommended clarification.

D. PEER

PEER recommended that the Commission withdraw these rules because the advisory committee did not include all of the organizations preferred by PEER. Staff does not agree. Minnesota's Administrative Procedure Act provides a robust opportunity for PEER, and the organizations it suggests, to provide input on the proposed rules. That input is essential to a well-functioning rulemaking process and offers the opportunity for material improvements to the proposed rules from stakeholders such as PEER and members of the public without the need to restart the process from the beginning.

PEER also recommended that the Commission include factors related to climate change and environmental justice, and that decommissioning plans should be required. As noted above, staff agrees that these factors should be included and notes that the specific rule changes recommended by the EERA are responsive to PEER's request.

PEER also recommended that the rules be modified to address new issues related to prohibited sites on treaty lands and environmental justice communities. Staff also notes that while treaty lands and environmental justice communities are currently not listed as prohibited sites, parties and stakeholders can make recommendations at the outset of a project to prohibit placement of projects in these locations; additionally, the factors that PEER lists as reasons to require rules prohibiting projects on these locations, are largely criteria the Commission can consider on a case-by-case basis, under the current rules and criteria. Staff also believes that codifying additional prohibited sites would likely result in a substantially different rule, although the Commission could undertake these efforts in a separate rulemaking proceeding.

PEER also recommended against proposed rule language requiring Commission staff to set a process schedule because PEER believes that it would allow the applicant to set the schedule. Staff clarifies that the process schedule will be set by Commission staff, not applicants. Applications filed under these rules can vary widely and there is benefit in maintaining flexibility to establish a process schedule that best fits an individual project. As noted above, staff agrees that publicly filing the process schedule is an improvement and should be included in the rules.

E. Hibbing Public Utilities Commission

Hibbing Public Utilities Commission recommended that the Commission consider modifying part 7849.0115 to require applicants to demonstrate that municipal-owned facilities or resources are not available as an alternative to building a new facility. Hibbing recommended that, at a minimum, the Commission require applicants to consider the use of municipal energy facility resources when evaluating a certificate of need application.

Changing the rule's standard for demonstrating that a project is needed by requiring utilities to demonstrate that municipal-owned facilities are not an available resource would, at this juncture in the rulemaking process, likely result in a substantially different rule. Considering the availability of local resources as an alternative to a proposed facility on a case-by-case basis would likely better inform the Commission's understanding of this issue before undertaking

substantive rule changes, and staff therefore recommends against modifying the rule at this time.

F. Union of Concerned Scientists

The Union of Concerned Scientists recommended that the rules include additional considerations for greenhouse gas emissions, climate change, and environmental justice. As noted above, staff believes that these issues are addressed by other state requirements but that they can also be included in the proposed rules.

The Union of Concerned Scientists also recommended that the Commission include requirements for notice in other languages. As noted above, staff believes this could be beneficial but recommends that the rules preserve flexibility to determine on a case-by-case basis which languages are needed.

Union of Concerned Scientists also recommended requiring applicants to file risk mitigation and recovery plans to address the potential impacts of climate change. Staff believes this information could be useful in permitting and recommends modifying the proposed rules to require it. Even if the rules are not modified to include this requirement, however, stakeholders may raise this issue in cases where relevant issues arise.

G. Laborers International Union of North America (LIUNA)

LIUNA requested a public hearing based on concerns about whether the proposed rules reflect efforts in recent years to include the voice of workers in the decision-making process, input that leads to better projects and enhances economic benefits to local communities. LIUNA did not recommend changes to specific rule parts. If LIUNA provides specific recommendations during the public hearing, staff will work to address them in a supplement to this briefing paper.

H. Legalectric; No Capx 2020; United Citizens Action Network; North Route Group (Public Intervenors)

These entities, who were members of the Commission's advisory committee, identified many recommendations in their comments that the Commission has previously and thoughtfully considered, many of which are reflected in the proposed rules and discussed above.

VI. Housekeeping Changes and Other Minor Modifications

A. Recommended Changes

7849.0010, subp. 24a. Region. The EERA recommended clarifying use of the proposed definition of "region" in part 7850.0330, item G, stating that use of the term does not correlate to its definition, and staff agrees that "region" should be changed to "location" in part 7850.0330, item G.

7849.1400. Process for Environmental Report Preparation. The EERA recommended requiring publishing notice of the public scoping meeting in the EQB Monitor. Staff concurs on this

proposed addition and in the following rule parts: 7849.1425 Scoping Decision; 7849.1550 Public Hearing; 7850.2530 Scoping Decision; 7850.2570 Public Hearing; 7850.2650 Final EIS; 7850.2700 Final Decision; 7850.3730 Scoping Decision; 7850.3800 Public Hearing.

7849.1400, subp. 4. Conduct of Public Information and Scoping Meeting. The EERA recommended requiring a transcript of the meeting because it is standard practice to do so, and staff agrees that this modification is reasonable but recommends retaining the requirement for an audio recording to assist with the transcription, which is current practice. The EERA also recommended applying this requirement to 7850.2300 Public information and Scoping Meetings, and staff concurs.

7850.1400. Exempt Projects. The EERA recommended a grammatical clarification to the language used, and staff agrees that it would be clearer to rephrase by stating “and must comply with applicable environmental review requirements.”

7850.1620, subp. 3. Preapplication Meetings; Transmission Lines. The EERA recommended that applicants not be required to give information for how to reach the Commission’s public advisor because although the Commission has an official public advisor, the Commission may assign a different staff member to be the public advisor for a specific project. Staff agrees that this is a reasonable modification.

7850.1900, subp. 1, item A. Application Contents. The EERA recommended removing redundant language requiring the application to list each proposed site because the applicant is required to include this information in its draft application filing. Staff agrees on this clarification.

7850.1900, subp. 2, item B. Application Contents. The EERA recommended removing redundant language that is required in the draft permit application, and staff agrees that this is a reasonable modification.

7850.1900, subp. 3. Application Contents. The EERA recommended adding “material” in front of the word “change” consistent with the use of this term in similar rule parts, and staff agrees on this modification. The EERA also recommended adding “or route” to the proposed rule, and staff agrees on this modification as well.

7850.2300. Alternative Sites or Routes. The EERA recommended that this, and other rule parts, require publication of the notice in the Environmental Quality Board Monitor. Staff agrees on this recommended modification.

7850.2300, subp. 3. Alternative Sites or Routes. The EERA recommended that a transcript be required at the scoping meeting, and staff agrees that this is a reasonable modification.

7850.2300, subp. 4. Public Information and Scoping Meeting. The EERA recommended removing language that authorizes an applicant to provide an electronic link. Staff agrees that it would be reasonable to modify the proposed rule but instead recommends requiring the

applicant to provide an electronic device for viewing the electronic version of its application, in lieu of making a printed copy available.

7850.2540 and 7850.3740. Supplemental Filing by Applicant. The EERA recommended removing this requirement, stating that the EERA would supplement any data filed by the applicant. Staff agrees on removing this requirement.

7850.2650, subp. 2. Filing and Public Access. The EERA recommended removing the statement: “At the time the final EIS is filed with the commission, the department must certify to the commission that the final EIS complies with the adequacy factors in part 7850.2700, subpart 2a.” Staff agrees on removing this sentence because it is not consistent with current practice and is not necessary for the Commission’s determination on adequacy.

7850.2650, subp. 3. Filing and Public Access. The EERA recommended that the public comment period on the final EIS be limited to questions of adequacy and that the proposed rule define “public.” The proposed rule was developed with the public in mind, but staff recommends rephrasing the rule to state that “anyone wishing to comment on the adequacy of the final EIS must do so within 25 days of the filing.”

7850.3800, subp. 3. Public Hearing. The EERA recommended requiring a full ALJ’s report in these instances, in lieu of only a summary of the public hearing, and the Utilities also made this recommendation. Staff agrees that this a reasonable modification that aligns the rule with current practice.

7850.4650. Compliance Filing. The EERA recommended that the proposed rule use “permittee” in place of applicant. Staff agrees that this is a reasonable clarification.

Finally, the EERA also recommended technical corrections to the Revisor’s draft in parts 7850.5000 and .5300, changes staff supports.

Staff also recommends a modification to part 7850.1650, subp. 2, to require that the applicant include its contact information, including physical address, phone number, and email address. This was language the Commission previously approved that was inadvertently excluded from the Revisor’s draft.⁹

Staff also recommends a housekeeping clarification that would add “alternative review” to part 7850.2800, subp. 1, as underlined below:

“An applicant for a site permit or a route permit for one of the following projects may elect to follow the alternative review procedures of parts...” In practice, these procedures are commonly

⁹ Staff will also ask the Revisor to correct a typographical error in part 7849.0200, subp. 6, which should include a citation to part 7849.0220.

described as “alternative review” procedures and adding this language will help clarify that this rule part governs the alternative review process.

B. Changes Not Recommended

The EERA recommended many changes that would require phrases or definitions to match word-for-word and that would require notice content and compliance requirements to be exactly the same across notices. Staff recommends against these changes at this point in the rulemaking process.

Although symmetry is often useful, there are circumstances that warrant variations. The advisory committee spent an enormous amount of time on notice content issues to identify the level of detail that would be most useful and effective for engaging the public at various points in the process. Some notices require more information, while others are more targeted to be clearer and shorter. For these reasons, staff recommends against making such changes at this juncture. The Commission can more fully consider such changes after the ALJ’s report is filed. Further, many of the proposed rules include underlined language that relocates existing language that has not been problematic in practice. The scope of this rulemaking was to improve and clarify the process in places where it was most useful to do so.

For example, two separate rule parts governing definitions in Chapter 7849 were combined to increase clarity by locating all definitions in the same rule part. The existing definitions were therefore re-located and underlined by the Revisor’s Office. During that process, the Revisor made a slight grammatical change to the definition of “associated facilities.” That edit makes the definition of “associated facilities” slightly different in the two rule chapters (which both define the term). The EERA recommended changing the Revisor’s edit to make the two definitions word-for-word the same in both rule chapters. The Revisor’s edit does not, however, alter the meaning, effect, or sense of the rule or otherwise create confusion. For this reason, staff recommends against these types of changes at this time and recommends that the Commission instead consider such changes after the ALJ’s report is filed.

Further, the EERA’s comments often raise issues with existing language, which the Revisor automatically underlines when it is relocated, even though it is not being modified. Staff does not recommend full-scale overhauls to existing language, except where the SONAR supports such changes. In many instances, the proposed rules do not modify existing language that has not been problematic to understand, comply with, or enforce, but staff welcomes the EERA’s list of specific rule parts where existing language that is relocated has become problematic in practice.

VII. List of All Recommended Modifications as Shown in the Attached Draft

Staff recommends the following modifications to the proposed rules, which are highlighted in yellow in the attached draft.

7849.0010, subp. 9d. Environmental report. The EERA recommended removing “large,” consistent with other rule changes that incorporate this update.

7849.0125 and 7850.1610. Notice Lists. The EERA recommended keeping a separate Tribal government contact list, and that proposed rule applies this modification to additional rule parts: 7849 - .0200, .1000, .1400, .1425, .1525, .1550, and 7850 – .1650, .1680, .2100, .2300, .2530, .2550, .2570, .3730, .3800, .4700, .4800, .4900.

7849.0129. Tribal consultation. Staff recommends requiring the EERA to engage in Tribal consultation, unless the EERA opposes this approach. This change is also applied to Chapter 7850.

7849.0130, subp. 3 (C) (4). Notice content. The Utilities recommended clarifying that a utility or transmission company is subject to a biennial transmissions project report. Staff agrees on clarifying the language to remove direct reference to either a utility or transmission company.

7849.0130, subp. 3, item C (9). Notice content. The Utilities recommended clarifying “whether” an applicant may use eminent domain. This modification is also applied to parts 7850.1640, subp. 2 (S) and subp. 3(W); 7850.2300, subp. 2(N); and 7850.2570, subp. 2(B).

7849.0130, subp. 7. The Utilities recommended removing the last sentence to avoid redundancy.

7849.0320 Generating Facilities. The EERA recommended adding “greenhouse gas emissions, climate change, and environmental justice” to this and the following rule parts: 7849.0330; .0340. and .1500, and 7850.1640, .3750, .4100.

7850.0330, item G. The EERA recommended clarifying use of the proposed definition of “region” in part 7850.0330, item G, stating that use of the term does not correlate to its definition. The attached draft replaces “region” with “location.”

7849.1000, subp. 4. Process schedule. The EERA recommended requiring the process schedule to be electronically filed, and this is also applied to part 7850.1710, subp. 4.

7849.1400, subp. 4. Process schedule. The EERA recommended requiring publishing notice of the public scoping meeting in the EQB Monitor. Staff concurs on this proposed addition and in the following rule parts: This also applies to parts 7850.2530, subp. 3, .2570, subp. 3, .2650, subp. 3, .3700, subp. 2, and .3800, subp. 1b. It also applies to parts 7849.1400, subp. 3a, .1425, subp. 2, and .1550., subp. 2.

7849.1400, subp. 4. Conduct of Public Information and Scoping Meeting. The EERA recommended requiring a transcript of the meeting because it is standard practice to do so, and the attached draft also retains the requirement for an audio recording to assist with the transcription, which is current practice. The EERA also recommended applying this requirement to 7850.2300.

7850.1400. Exempt Projects. The EERA recommended a grammatical clarification to the language used, and staff agrees that it would be clearer to rephrase by stating “and must comply with applicable environmental review requirements.”

7850.1500, sub. 2. Minor alternation. The Utilities recommended removing the word “substation.”

7850.1620, subp. 3. Preapplication Meetings; Transmission Lines. The EERA recommended that applicants not be required to give information for how to reach the Commission’s public advisor because although the Commission has an official public advisor, the Commission may assign a different staff member to be the public advisor for a specific project.

7850.1640. Draft Permit Application Required. The EERA recommended adding a requirement that applicants include decommissioning plans in their applications. The Union of Concerned Scientists recommended requiring applicants to include risk mitigation and recovery plans in anticipation of extreme weather in their applications.

7850.1640, subp. 4 (H). Environmental information. The Utilities recommended clarifying the following sentence: “the estimated costs and feasibility of implementing the identified mitigative measures.”

7850.1650, subp. 2, item A. Notice content. Staff recommends a modification to require that the applicant include its contact information, including physical address, phone number, and email address. This was language the Commission previously approved that was inadvertently excluded from the Revisor’s draft.

7850.1650, subp. 2, item C. Notice content. The EERA and Utilities recommended removing the phrase that the Commission is soliciting comments on the draft application from interested persons.

7850.1680, subp. 1. Notice to Commission. The EERA requested that notice to the Commission be given 21 days after the filing, rather than 10, and the proposed rules include this modification.

Part 7850.1710, subp. 4. Process schedule update. The EERA recommend e-filing the process schedule.

7850.1900, subp. 1, item A. Application Contents. The EERA recommended removing redundant language requiring the application to list each proposed site because the applicant is required to include this information in its draft application filing.

7850.1900, subp. 2, item B. Application Contents. The EERA recommended removing redundant language that is required in the draft permit application.

7850.1900, subp. 3. Application Contents. The EERA recommended adding “material” in front of the word “change” consistent with the use of this term in similar rule parts, and staff agrees on this modification. The EERA also recommended adding “or route” to the proposed rule.

7850.2300, subp. 3. Alternative Sites or Routes. The EERA recommended that a transcript be required at the scoping meeting.

7850.2300, subp. 4. Public Information and Scoping Meeting. The EERA recommended removing language that authorizes an applicant to provide an electronic link. Staff agrees that it would be reasonable to modify the proposed rule but instead recommends requiring the applicant to provide an electronic device for viewing the electronic version of its application, in lieu of making a printed copy available.

7850.2530, subp. 3. Notice of decision. The Utilities recommended requiring the EERA to file a map along with its scoping decision, and staff agrees that this is a reasonable requirement that will clarify for persons who are receiving the notice whether their properties are likely to be affected.

7850.2540 and 7850.3740. Supplemental Filing by Applicant. The EERA recommended removing this requirement, stating that the EERA would supplement any data filed by the applicant.

7850.2650, subp. 2. Filing and Public Access. The EERA recommended removing the statement: “At the time the final EIS is filed with the commission, the department must certify to the commission that the final EIS complies with the adequacy factors in part 7850.2700, subpart 2a.”

7850.2650, subp. 3. Filing and Public Access. The EERA recommended that the public comment period on the final EIS be limited to questions of accuracy and that the proposed rule define “public.” The modification to the proposed rule states that “anyone wishing to comment on the adequacy of the final EIS must do so within 25 days of the filing.”

7850.2800, subp. 1. Staff recommends a housekeeping clarification that would add “alternative review” to part 7850.2800, subp. 1 to describe this process.

7850.3800, subp. 3. Public Hearing. The EERA and the Utilities recommended requiring a full ALJ’s report in these instances, in lieu of only a summary of the public hearing, and the Utilities also made this recommendation.

7850.4650. Compliance Filing. The EERA recommended that the proposed rule use “permittee” in place of applicant.

7850.4800, subp. 2. Application for minor alteration of a site or route. The Utilities recommended a housekeeping change to clarify that the rule could apply to either a permittee, or a facility owner who is operating a facility that did not previously require a permit.

7850.4950. Reports. The Utilities recommended a housekeeping clarification that would state that reports must be filed until “construction” is complete, rather than “project” is complete. Staff support this recommended clarification.

7850.5000 and .5300. The EERA recommended technical corrections to correct grammar in the Revisor’s draft.¹⁰

VIII. Hearing Requests

The requests for a public hearing on the proposed rules from members of the public largely raise many of the issues discussed above but generally without identifying modifications to specific rule parts. Staff will work to file an addendum to this briefing paper after the public hearing in response to recommended changes to specific rule parts.

IX. Next Steps

A public hearing will be held before the ALJ on December 6 to take comments on the draft rules. The Commission will hold a hearing, likely on or around December 16, to consider changes and will issue an order by December 27 authorizing modifications approved at this stage.

The ALJ will issue her Report in early 2022. Following the ALJ’s Report, the Commission will hold a hearing to consider adopting the rules with any additional modifications, including necessary changes identified by the ALJ. Staff anticipates bringing the rules back to the Commission in the early spring of 2022.

Alternatively, the Commission could pause the rulemaking to consider making more substantial changes that would likely not otherwise be allowed at this stage in the rulemaking process such as changes to the prime farmland rule, part 7850.4400, subp. 4. As stated above, PEER also recommended modifying this rule part to prohibit siting of power plants on certain protected lands and in environmental justice communities.

Pausing the rulemaking would enable the Commission to make changes that would otherwise likely be considered a substantially different rule but would also require the subsequent draft rules to be re-published and effectively restart the rulemaking process. Notably, the Commission could also specify that all public comments will be carried over for consideration and review, so that the public does not need to refile comments to have their existing concerns considered.

Alternatively, the Commission could move forward with the rulemaking and also, in a tangential process, request comments on issues that could be pursued in a separate rulemaking.

¹⁰ Staff will also ask the Revisor to correct a typographical error in part 7849.0200, subp. 6, which should include a citation to part 7849.0220.

X. Decision Options

The Commission should select Option A, B, or C. If the Commission selects B or C, it should provide additional direction on what changes should be made.

- A. Approve modifications to the proposed rules as set forth in the attached rules draft, as recommended by staff, and authorize staff to take the necessary steps to continue the rulemaking process; or
- B. Revise the attached draft rule modifications and authorize staff to take the necessary steps to continue the rulemaking process; or
- C. Withdraw the proposed rules and direct staff to issue comments on possible changes to part 7850.4400, to amend the prime farmland rule, and to expand the list of prohibited sites as recommended by PEER. Delegate to the Executive Secretary administrative authority to set timelines for republishing.

General Housekeeping Decisions

- D. If the rulemaking continues, delegate to the Executive Secretary the authority to execute documents necessary to proceed with rulemaking under the Administrative Procedure Act up to, but not including, rule adoption; and
- E. If the rulemaking continues, delegate authority to Commissioner Tuma to make any non-substantive edits to the attached proposed rules draft.

1.1 **Public Utilities Commission – DECEMBER 1, 2021 DRAFT**

1.2 **Proposed Permanent Rules Relating to Power Plants or Lines; Revising the Certificate**
1.3 **of Need and Site or Route Permit Requirements**

1.4 **7849.0010 DEFINITIONS.**

1.5 Subpart 1. **Scope.** For purposes of parts 7849.0010 to 7849.0400, the following
1.6 ~~definitions shall apply.~~ The terms used in this chapter have the meanings given them in this
1.7 part.

1.8 Subp. 2. [See repealer.]

1.9 Subp. 3. [See repealer.]

1.10 Subp. 4. [See repealer.]

1.11 Subp. 5. [See repealer.]

1.12 Subp. 6. [See repealer.]

1.13 Subp. 6a. **Associated facilities.** "Associated facilities" means buildings, equipment,
1.14 and other physical structures that are necessary to operate a large electric generating facility
1.15 or a large high voltage transmission line.

1.16 Subp. 7. **Capacity factor.** "Capacity factor" means the ratio of the actual amount of
1.17 electrical energy generated during a designated period by a particular generating facility to
1.18 the maximum amount of electrical energy that could have been generated during the period
1.19 by the facility had it been operated continuously at its rated capacity.

1.20 Subp. 8. **Commission.** "Commission" means the ~~Minnesota~~ Minnesota Public Utilities
1.21 Commission.

1.22 Subp. 9. **Construction.** "Construction" means significant physical alteration of a site
1.23 an area to install or enlarge a large energy facility, but not including an activity incident to
1.24 preliminary engineering or environmental studies.

2.1 Subp. 9a. **Department.** "Department" means the Department of Commerce.

2.2 Subp. 9b. **Environmental assessment or EA.** "Environmental assessment" or "EA"
2.3 has the meaning given in part 7850.1000, subpart 7.

2.4 Subp. 9c. **Environmental impact statement or EIS.** "Environmental impact
2.5 statement" or "EIS" has the meaning given in part 7850.1000, subpart 8.

2.6 Subp. 9d. **Environmental report.** "Environmental report" means a written document
2.7 that describes the human and environmental impacts of a proposed large electric generating
2.8 facility or **large** high voltage transmission line and alternatives to the project and methods
2.9 to mitigate anticipated adverse impacts.

2.10 Subp. 10. [See repealer.]

2.11 Subp. 11. [See repealer.]

2.12 Subp. 12. **Heat rate.** "Heat rate" means a measure of average thermal efficiency of
2.13 an electric generating facility expressed as the ratio of input energy per net kilowatt hour
2.14 produced, computed by dividing the total energy content of fuel burned for electricity
2.15 generation by the resulting net kilowatt hour generation.

2.16 Subp. 12a. **High voltage transmission line; HVTL.** "High voltage transmission line"
2.17 or "HVTL" means a conductor of electrical energy as defined by Minnesota Statutes, section
2.18 216B.2421, subdivision 2, clauses (2) and (3), and associated facilities necessary for normal
2.19 operation of the conductor, such as insulators, towers, substations, and terminals.

2.20 Subp. 12b. **Independent power producer.** "Independent power producer" means any
2.21 person engaged in the business of owning, operating, maintaining, or controlling equipment
2.22 or facilities to furnish electric generation. Independent power producer does not include a
2.23 public utility, municipal electric utility, municipal power agency, cooperative electric
2.24 association, generation and transmission cooperative power association, or any other entity
2.25 providing retail electric service to ultimate consumers.

3.1 Subp. 13. **Large electric generating facility; or LEGF.** "Large electric generating
3.2 facility" or "LEGF" means an electric power generating unit or combination of units as
3.3 defined by Minnesota Statutes, section 216B.2421, subdivision 2, clause (1).

3.4 Subp. 14. [See repealer.]

3.5 Subp. 15. **Load center.** "Load center" means that portion or those portions of a utility's
3.6 system where electrical energy demand is concentrated.

3.7 Subp. 16. [See repealer.]

3.8 Subp. 16a. **Mail.** "Mail" has the meaning given in part 7850.1000, subpart 12.

3.9 Subp. 17. [See repealer.]

3.10 Subp. 18. [See repealer.]

3.11 Subp. 19. [See repealer.]

3.12 Subp. 20. **Nominal generating capability.** "Nominal generating capability" means
3.13 the average output power level, net of in-plant use, that a proposed LEGF is expected to be
3.14 capable of maintaining over a period of four continuous hours of operation.

3.15 Subp. 21. [See repealer.]

3.16 Subp. 22. [See repealer.]

3.17 Subp. 23. **Peak demand.** "Peak demand" means the highest system demand occurring
3.18 within any designated period of time.

3.19 Subp. 24. [See repealer.]

3.20 Subp. 24a. **Region.** "Region" means the state of Minnesota, neighboring states, and
3.21 states or Canadian provinces with utilities that are members of the same regional transmission
3.22 organization as Minnesota's utilities.

4.1 Subp. 25. ~~Seasonal adjusted net demand~~ **Regional transmission organization or**
4.2 **RTO.** ~~"Seasonal adjusted net demand" means seasonal system demand, minus firm~~
4.3 ~~purchases, plus firm sales. "Regional transmission organization" or "RTO" means a regional~~
4.4 ~~transmission organization regulated by the Federal Energy Regulatory Commission that~~
4.5 ~~includes Minnesota utilities and that has sufficient regional scope to exercise operational~~
4.6 ~~or functional control of facilities used for electric energy transmission in interstate commerce~~
4.7 ~~and to ensure nondiscriminatory access to the facilities.~~

4.8 Subp. 26. [See repealer.]

4.9 Subp. 27. [See repealer.]

4.10 Subp. 28. [See repealer.]

4.11 Subp. 29. **System.** "System" means the service area where the utility's ultimate
4.12 consumers are located and that combination of generating, transmission, and distribution
4.13 facilities that makes up the operating physical plant of the utility, whether owned or
4.14 nonowned, for the delivery of electrical energy to ultimate consumers.

4.15 Subp. 30. [See repealer.]

4.16 Subp. 31. **Ultimate consumers.** "Ultimate consumers" means consumers purchasing
4.17 electricity for their own use and not for resale.

4.18 Subp. 32. **Utility.** "Utility" means any entity engaged in the generation, transmission,
4.19 or distribution of electrical energy, including but not limited to a private investor-owned
4.20 utility or a public or municipally owned utility.

4.21 Subp. 33. [See repealer.]

4.22 **7849.0030 SCOPE.**

4.23 Subpart 1. **Facilities covered.** ~~A person applying for a certificate of need for an LEGF~~
4.24 ~~or an LHVTL shall provide the information required by parts 7849.0010 to 7849.0400. A~~

5.1 certificate of need is required for a new LEGF, a new ~~LHVTL~~ HVTL, and for expansion
5.2 of either facility when the expansion is itself of sufficient size to come within the definition
5.3 of "large electric generating facility" or "large high voltage transmission line" in part
5.4 7849.0010. The nominal generating capability of an LEGF is considered its size. If the
5.5 nominal generating capability of an LEGF varies by season, the higher of the two seasonal
5.6 figures is considered its size.

5.7 Subp. 2. **Exemption.** Notwithstanding subpart 1, a certificate of need is not required
5.8 under this chapter for a facility exempted by Minnesota Statutes, ~~section~~ sections 216B.2422,
5.9 subdivision 6; 216B.2425, subdivision 3; and 216B.243, ~~subdivision~~ subdivisions 8 and 9.

5.10 **7849.0100 PURPOSE OF CRITERIA.**

5.11 The criteria for assessment of need must be used by the commission to determine the
5.12 need for a proposed large energy facility under Minnesota Statutes, sections 216B.2421,
5.13 subdivision 2, and 216B.243. ~~The factors listed under each of the criteria set forth in part~~
5.14 7849.0120 must be evaluated to the extent that the commission considers them applicable
5.15 and pertinent to a facility proposed under ~~parts 7849.0010 to 7849.0400. The commission~~
5.16 ~~shall make a specific written finding with respect to each of the criteria~~ this chapter.

5.17 **7849.0110 ALTERNATIVES CONSIDERATION.**

5.18 The commission ~~shall~~ must consider ~~only those~~ alternatives proposed before the close
5.19 of the public hearing ~~and~~ for which there exists substantial evidence on the record with
5.20 respect to ~~each of the criteria listed~~ in part 7849.0120.

5.21 **7849.0115 CERTIFICATE OF NEED REQUIREMENTS.**

5.22 Subpart 1. **Need demonstration.** An applicant for a certificate of need must
5.23 demonstrate that the projected demand for electricity cannot be met using existing resources,
5.24 or more cost-effectively through energy conservation and load-management measures,
5.25 unless the applicant otherwise justifies its need, considering the criteria in part 7849.0120.

6.1 Subp. 2. **Renewable resource preferred.** An applicant proposing a large energy
6.2 facility that generates or transmits electric power by means of a nonrenewable energy source
6.3 must demonstrate that it has considered the use of renewable energy sources, as required
6.4 under Minnesota Statutes, section 216B.243, subdivision 3a.

6.5 **7849.0120 CERTIFICATE OF NEED CRITERIA.**

6.6 ~~A certificate of need must be granted to the applicant on determining that:~~ In evaluating
6.7 a certificate of need application, the commission must consider the criteria under Minnesota
6.8 Statutes, section 216B.243, subdivision 3, as well as:

6.9 A. whether the probable result of denial would be an adverse effect upon the future
6.10 adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's
6.11 customers, or to the people of Minnesota and ~~neighboring states, considering:~~ the region;

6.12 ~~(1) the accuracy of the applicant's forecast of demand for the type of energy~~
6.13 ~~that would be supplied by the proposed facility;~~

6.14 ~~(2) the effects of the applicant's existing or expected conservation programs~~
6.15 ~~and state and federal conservation programs;~~

6.16 ~~(3) the effects of promotional practices of the applicant that may have given~~
6.17 ~~rise to the increase in the energy demand, particularly promotional practices which have~~
6.18 ~~occurred since 1974;~~

6.19 B. (4) the ability of current facilities and planned facilities not requiring certificates
6.20 of need to meet the future demand; ~~and~~

6.21 ~~(5) the effect of the proposed facility, or a suitable modification thereof, in~~
6.22 ~~making efficient use of resources;~~

7.1 ~~B. C. a whether the proposed project is more reasonable and prudent than any~~
7.2 ~~proposed alternative to the proposed facility has not been,~~ demonstrated by a preponderance
7.3 of the evidence on the record, ~~considering:~~

7.4 D. (1) the appropriateness of the size, the type, and the timing of the proposed
7.5 facility compared to those of reasonable alternatives;

7.6 E. (2) the cost of the proposed facility and the cost of energy to be supplied by
7.7 the proposed facility compared to the costs of reasonable alternatives and the cost of energy
7.8 that would be supplied by reasonable alternatives;

7.9 F. (3) the effects of the proposed facility upon the natural and socioeconomic
7.10 environments, including human health, compared to the effects of reasonable alternatives;
7.11 and

7.12 G. (4) the expected reliability of the proposed facility compared to the expected
7.13 reliability of reasonable alternatives;

7.14 ~~C. by a preponderance of the evidence on the record, the proposed facility, or a~~
7.15 ~~suitable modification of the facility, will provide benefits to society in a manner compatible~~
7.16 ~~with protecting the natural and socioeconomic environments, including human health,~~
7.17 ~~considering:~~

7.18 ~~(1) the relationship of the proposed facility, or a suitable modification thereof,~~
7.19 ~~to overall state energy needs;~~

7.20 ~~(2) the effects of the proposed facility, or a suitable modification thereof,~~
7.21 ~~upon the natural and socioeconomic environments compared to the effects of not building~~
7.22 ~~the facility;~~

7.23 ~~(3) the effects of the proposed facility, or a suitable modification thereof, in~~
7.24 ~~inducing future development; and~~

8.1 ~~(4) the socially beneficial uses of the output of the proposed facility, or a~~
8.2 ~~suitable modification thereof, including its uses to protect or enhance environmental quality;~~
8.3 ~~and~~

8.4 ~~D. the record does not demonstrate that the design, construction, or operation of~~
8.5 ~~the proposed facility, or a suitable modification of the facility, will fail to comply with~~
8.6 ~~relevant policies, rules, and regulations of other state and federal agencies and local~~
8.7 ~~governments.~~

8.8 **7849.0125 NOTICE LISTS.**

8.9 Subpart 1. **Notice lists required.** Notice lists must be established and maintained as
8.10 described in this part.

8.11 Subp. 2. **General list.** The commission must maintain a general list of persons who
8.12 want to be notified of an application for a proposed site or route permit. The general list
8.13 must include the names on the list the commission maintains under part 7850.1610, subpart
8.14 2.

8.15 Subp. 3. **Project contact list.** The commission must maintain a project contact list
8.16 for each proposed project. The project contact list must include the names of persons who
8.17 have requested to receive notice of a proposed project. The commission must add a person's
8.18 name to the list if the commission has reason to believe that the person would like to receive
8.19 notices of a particular project.

8.20 Subp. 4. **Public agency contact list.** The commission must maintain a public agency
8.21 contact list that includes public agencies likely to be interested in the proposed project. The
8.22 list must include:

8.23 A. the department;

8.24 B. the Office of the Attorney General;

- 9.1 C. the United States Army Corps of Engineers;
- 9.2 D. the United States Fish and Wildlife Service;
- 9.3 E. the Federal Aviation Administration; and
- 9.4 F. other state agencies, including:
- 9.5 (1) the Department of Natural Resources;
- 9.6 (2) the Pollution Control Agency;
- 9.7 (3) the Department of Transportation;
- 9.8 (4) the Department of Agriculture;
- 9.9 (5) the Department of Health;
- 9.10 (6) the Office of Pipeline Safety;
- 9.11 (7) the Board of Water and Soil Resources;
- 9.12 (8) the State Historic Preservation Office;
- 9.13 (9) the Department of Employment and Economic Development; and
- 9.14 (10) the Department of Labor and Industry.

9.15 Subp. 5. **Landowner list.** An applicant must maintain and make available to the

9.16 commission, the department, or the public upon request a landowner list for its proposed

9.17 project. For purposes of the landowner list, a landowner is the person listed on the property

9.18 record of the county auditor. In a county where tax statements are mailed by the county

9.19 treasurer, the landowner is the person listed on the property record of the county treasurer.

9.20 The list must include:

- 9.21 A. for an HVTL, landowners whose property is along a transmission line;

10.1 B. for an LEGF, landowners whose property is within the proposed project
10.2 footprint or within one-half mile of the project footprint, as shown in the applicant's certificate
10.3 of need application; and

10.4 C. for all projects, landowners who are reasonably likely to be affected by the
10.5 proposed project.

10.6 Subp. 6. **Local and tribal government contact list.** An applicant must maintain and
10.7 make available to the commission and department upon request a list of local units of
10.8 government, including each local unit of government's chief executive, located in the
10.9 proposed project footprint. The list must include each:

10.10 A. regional development commission;

10.11 B. county;

10.12 C. incorporated municipality;

10.13 D. town;

10.14 E. township;

10.15 F. statutory city;

10.16 G. home rule charter city;

10.17 H. tribal government;

10.18 I. watershed district; and

10.19 J. soil and water conservation district.

10.20 Subp. 7. **List maintenance.**

10.21 A. Lists must be maintained as provided in this subpart.

10.22 B. A name must not be removed from a list unless:

11.1 (1) an individual requests to be removed from the list; or

11.2 (2) the commission or applicant sends written notice to an individual on the
11.3 list asking whether that person's name should remain on the list and no response is received
11.4 within 30 days of the request.

11.5 C. A list must be updated as follows:

11.6 (1) the commission or applicant must add the name of a person or entity to
11.7 a list upon the person's or entity's request;

11.8 (2) the applicant must update the landowner list to include each landowner
11.9 whose property is on or adjacent to the proposed footprint of a project alternative considered
11.10 in the scope of the environmental report under part 7849.1425; and

11.11 (3) the applicant must update the local and tribal government contact list to
11.12 include each governmental entity located in the area of a project alternative considered in
11.13 the scope of the environmental report under part 7849.1425.

11.14 D. The entity maintaining the list must file the list in the commission's electronic
11.15 filing system.

11.16 7849.0129. Tribal consultation. The commission must maintain a contact list for all
eleven federally recognized tribes that share geography with Minnesota. The Commission
must follow its tribal Consultation Policy for consultation with tribal governments in any
pending proceeding under this Chapter. The Department must engage in tribal consultation
at each point in this rule chapter where notice is required to be sent to the tribal
government contact list. The Department must report the results of its tribal consultation at
the time it files either its EA or EIS with a subsequent update after all notices under this
chapter have been sent to the tribal government contact list.

11.17 **7849.0130 PROJECT NOTICE.**

11.18 Subpart 1. Notice required. At least 45 days but not more than 60 days before filing
11.19 a certificate of need application for an HVTL or an LEGF under this chapter, an applicant
11.20 must provide notice of a proposed project in the form and manner described in subparts 2
11.21 to 7.

11.22 Subp. 2. **Notice recipients; all projects.** An applicant must file notice of a proposed
11.23 project with the commission and mail notice of the proposed project to:

11.24 A. the general list;

11.25 B. the public agency contact list;

12.1 C. the landowner list;

12.2

12.3 D. the tribal government contact list;

12.4 and

12.5 E. the local ~~and tribal~~ government contact list.

12.6 Subp. 3. **Notice content.** The notice must include:

12.7 A. for an HVTL:

12.8 (1) a map showing:

12.9 (a) the end points of the line and existing transmission facilities in the
12.10 area, including transmission facilities 69 kilovolts or greater; and

12.11 (b) shaded-in areas showing possible routes; and

12.12 (2) a description of general right-of-way requirements for a line of the size
12.13 and voltage proposed and a statement that the applicant intends to acquire property rights
12.14 for the right-of-way that the proposed line will require;

12.15 B. for an LEGF:

12.16 (1) a map showing the location and project footprint of the proposed facility;

12.17 and

12.18 (2) a description of the proposed project that identifies the proposed fuel
12.19 source and includes the approximate size of the proposed facility; and

12.20 C. for all projects:

- 12.21 (1) a description of the proposed project;
- 12.22 (2) a notice that the line or facility cannot be constructed unless the
12.23 commission certifies it is needed;
- 12.24 (3) the commission's mailing address, telephone number, and website address,
12.25 and a brief explanation detailing how to get on the mailing list for the commission's
13.1 proceeding;
- 13.2 (4) if the applicant is a utility subject to Minnesota Statutes, section
13.3 216B.2425, the address of the website on which the applicant has posted its most recent
13.4 biennial transmission projects report;
- 13.5 (5) a statement that the department will prepare an environmental report on
13.6 each HVTL or LEGF for which certification is requested;
- 13.7 (6) a statement that a request seeking certification of high voltage transmission
13.8 lines and large electric generating facilities is governed by Minnesota law, including this
13.9 chapter and Minnesota Statutes, section 216B.243;
- 13.10 (7) a statement that public meetings will be held by the department and the
13.11 commission, and that the public will have an opportunity to ask questions about the project,
13.12 suggest alternatives, and identify impacts for evaluation in the environmental report;
- 13.13 (8) a statement informing the public of where copies of filings in the case are
13.14 available for review and how copies can be obtained; and
- 13.15 (9) a statement that the proposed project may affect landowners and residents
13.16 in the area and whether that the applicant may use eminent domain proceedings to obtain
13.17 land for
the project.

13.18 Subp. 4. **Newspaper notice.** An applicant must publish in newspapers of general
13.19 circulation notice to members of the public in each county where a project is proposed. The
13.20 notice must include a description of the proposed project's location, the proposed project's

13.21 infrastructure, and specify a location where the public may obtain additional project
13.22 information.

13.23 Subp. 5. **Press release.** An applicant must mail notice of the proposed project to at
13.24 least one radio station in each county where the proposed project will be located. If a county
13.25 does not have a radio station, the applicant must issue a press release to at least one radio
14.1 station that broadcasts in the county. The notice must be in the form of a press release and
14.2 must include:

14.3 A. the intended application filing date;

14.4 B. a description of the location of the proposed project and the project's
14.5 infrastructure;

14.6 C. a statement that the proposed project may affect landowners and residents in
14.7 the project area and **that whether** the applicant may use eminent domain proceedings to
14.8 obtain land
for the project;

14.9 D. a description specifying where the public may obtain the application, including
14.10 an electronic link to the application; and

14.11 E. information regarding how to contact the commission for information on public
14.12 participation in the commission's proceeding.

14.13 The press release under this subpart for an LEGF must include the proposed fuel source
14.14 type for the project.

14.15 Subp. 6. **Compliance filing.** Within 30 days of the date the notice was mailed, the
14.16 applicant must file a compliance filing that includes:

14.17 A. a copy of the notice sent under subparts 2 to 5 and an affidavit of service that
14.18 includes the names and addresses of the notice recipients;

14.19 B. each affidavit of publication by newspaper;

14.20 C. a copy of the press release sent and a list of the stations the press release was
 14.21 sent to; and

14.22 D. a map or other graphical representation of the area where the applicant mailed
 15.1 notice of the proposed project under subparts 2 to 5.

15.2 Subp. 7. **Good faith sufficient.** The commission is prohibited from denying a request
 15.3 to certify an HVTL or an LEGF on the grounds the notice was defective if the applicant
 15.4 acted in good faith, in substantial compliance with the notice requirements of this part, and
 15.5 in substantial compliance with any commission orders issued under this part. If notice was
 15.6 defective, the commission must consider whether to reject an application as incomplete,
 15.7 suspend or extend the certificate of need proceedings, or direct the applicant to provide
 15.8 proper notice. The commission must modify the process schedule, including notice to
 15.9 affected parties, to allow reasonable time and opportunity to participate.

15.10 **7849.0200 APPLICATION PROCEDURES AND TIMING FORM AND MANNER**
 15.11 **OF FILING.**

15.12 Subpart 1. **Form and manner Electronic filing.** An applicant for a certificate of need
 15.13 shall apply in a form and manner prescribed by parts 7849.0010 to 7849.0400 subject to
 15.14 the electronic filing requirements under Minnesota Statutes, section 216.17, subdivision 3,
 15.15 must follow the filing procedures under Minnesota Statutes, section 216.17, subdivision 3,
 15.16 when filing a certificate of need application.

15.17 Subp. 2. **Copies, title, table of contents Nonelectronic filing.** An applicant who does
 15.18 not file an application electronically must file the original and ~~13~~ three copies of the
 15.19 application must be filed with the commission. The applicant shall provide copies of the
 15.20 application to other state agencies with regulatory responsibilities in connection with the
 15.21 proposed facility and to other interested persons who request copies. The applicant shall
 15.22 maintain a distribution list of the copies. Documents, forms, and schedules filed with the
 15.23 application must be typed printed on 8-1/2 inch by 11 inch paper except for drawings, maps,
 15.24 and similar materials.

15.25 Subp. 2a. Form. An application must contain a title page and a complete table of
15.26 contents that includes the applicable rule by the titles and numbers given in parts 7849.0010
16.1 to 7849.0400. The date of preparation and the applicant's name must appear on the title
16.2 page, as well as on each document filed with the application.

16.3 Subp. 3. Changes to application. After an application is filed, any supplemental
16.4 filings, changes, or corrections to the application must comply with subpart 2 as to the
16.5 number of copies and size of documents this part. In addition, Each page of containing a
16.6 change or correction to a previously filed page must be marked with the word "REVISED"
16.7 and with the date the revision was made. The original copy of the changes or corrections
16.8 must be filed with the administrative law judge, ~~and the remaining copies must be submitted~~
16.9 ~~to the commission.~~ If there is no proceeding pending before an administrative law judge,
16.10 the filing must be made with the commission. The applicant ~~shall~~ must send to persons
16.11 receiving copies of the application a like number of copies of changed or corrected pages.

16.12 Subp. 4. Cover letter and summary. An application for a certificate of need must
16.13 be accompanied by a cover letter signed by an authorized officer or agent of the applicant.
16.14 The cover letter must specify the type of facility for which a certificate of need is requested.
16.15 The application must also include on a separate page a brief summary of the filing sufficient
16.16 to apprise potentially interested parties of the nature of the application and its general content.

16.17 Subp. 5. [See repealer.]

16.18 Subp. 6. Exemptions. Before submitting an application, a person is exempted from
16.19 any data requirement of parts ~~7849.0010~~ 7849.0020 to 7849.0400 if the person (1) requests
16.20 an exemption from specified rules, in writing to the commission, and (2) shows that the
16.21 data requirement is unnecessary to determine the need for the proposed facility or may be
16.22 satisfied by submitting another document. A request for exemption must be filed at least
16.23 45 days before submitting an application. ~~The commission shall respond in writing to a~~
16.24 ~~request for exemption within 30 days of receipt and include the reasons for the decision.~~
16.25 The commission shall file a statement of exemptions granted and reasons for granting them

16.26 before beginning the hearing.

17.1 Subp. 7. **Service.** The applicant must serve a copy of the application on the department
17.2 and the Office of the Attorney General and must mail notice of the application to:

17.3 A. the general list;

17.4 B. the public agency contact list;

17.5 C. the landowner list;

17.6 D. the tribal government contact list; and

17.7 E. the local ~~and tribal~~ government contact list.

17.8 Subp. 8. **Docket number.** The applicant must obtain a docket number from the
17.9 department for the case prior to filing its application. The applicant must display the docket
17.10 number on the title page of the application and in a prominent location on all other documents
17.11 filed as part of the application.

17.12 Subp. 9. **Joint applications.** If an applicant intends to file a certificate of need
17.13 application simultaneously with a permit application under chapter 7850, the applicant must
17.14 first file a draft permit application as required under part 7850.1640. The certificate of need
17.15 application must be filed at the time the applicant files a permit application under part
17.16 7850.1700. The commission must determine, under part 7850.2140, whether to hold joint
17.17 proceedings on both applications. Joint environmental review by the department on multiple
17.18 applications is governed by part 7849.1900.

17.19 **7849.0208 COMPLETENESS DETERMINATION.**

17.20 Subpart 1. **Written notice required.** Within ten days of receiving an application for
17.21 a certificate of need, the commission's executive secretary must determine whether the
17.22 application is complete and notify the applicant in writing of the decision. The executive
17.23 secretary must designate a commission staff person as public advisor for the proceeding
17.24 and must include the staff person's name and contact information in the notice provided to

17.25 the applicant. The executive secretary must file notice of the completeness determination
17.26 in the commission's electronic filing system.

18.1 Subp. 2. **Incomplete application.** If the application is incomplete, the executive
18.2 secretary must set the matter for review by the commission at the earliest possible commission
18.3 agenda meeting, considering the applicant's availability and request for additional time. If
18.4 the applicant files the missing information prior to the commission meeting, the executive
18.5 secretary must remove the item from the agenda and notify the applicant in writing that the
18.6 application is complete.

18.7 **7849.0220 APPLICATION CONTENTS.**

18.8 Subpart 1. ~~Large electric generating facilities (LEGF)~~ **All applicants.** Each
18.9 application for a certificate of need for an LEGF shall include all of the information required
18.10 by parts 7849.0240, 7849.0250, and 7849.0270 to 7849.0340. must contain:

18.11 A. a statement that the applicant has complied with the notice requirements under
18.12 part 7849.0130;

18.13 B. a summary of the major factors that justify the need for the proposed project;

18.14 C. a description of how the proposed project meets the requirements under part
18.15 7849.0115; and

18.16 D. an analysis of the proposed project using the criteria under part 7849.0120,
18.17 including how the proposed project compares to reasonable alternatives.

18.18 Subp. 2. ~~Large high voltage Regional transmission lines (LHVTL)~~ **planning.** Each
18.19 application for a certificate of need for an LHVTL shall include all of the information
18.20 required by parts 7849.0240 and 7849.0260 to 7849.0340. If, however, a proposed LHVTL
18.21 is designed to deliver electric power to a particular load center within the applicant's system,
18.22 the application shall contain the information required by part 7849.0270 for that load center
18.23 rather than for the system as a whole. must contain a description of applicable regional
18.24 planning information, including:

- 18.25 A. regional planning processes that identified the need for the proposed project;
19.1 B. a statement on whether the facility is part of an approved RTO regional or
19.2 interregional plan, and if so, a copy of the plan or an electronic link to the plan;
19.3 C. data from the RTO on planned additions or retirements that are relevant to the
19.4 need for the proposed project; and
19.5 D. a physical copy of, or an electronic link to, each study the applicant relied on
19.6 to demonstrate the project is needed under Minnesota Statutes, section 216B.243, subdivision
19.7 1.

19.8 Subp. 2a. **Joint proceedings.** The application must include a statement explaining
19.9 whether the applicant intends to file a site or a route permit application for the proposed
19.10 project, and if so, include the date the applicant intends to make the filing and whether the
19.11 applicant intends to request that joint proceedings be held under part 7850.2140.

19.12 Subp. 3. **Joint ownership and multiparty use.** If the proposed LEGF or ~~LHVTL~~
19.13 HVTL is to be owned jointly by two or more utilities or by a pool, the information required
19.14 by parts 7849.0010 to 7849.0400 must be provided by each joint owner for its system. If
19.15 the facility is designed to meet the long term needs, in excess of 80 megawatts, of a particular
19.16 utility that is not to be an owner, that utility must also provide the information required by
19.17 parts 7849.0010 to 7849.0400. Joint applicants may use a common submission to satisfy
19.18 the requirements of any part for which the appropriate response does not vary by utility.

19.19 **7849.0250 PROPOSED LEGF AND ALTERNATIVES APPLICATION.**

19.20 An application for a proposed LEGF must include:

19.21 A. a description of the facility, including:

- 19.22 (1) the nominal generating capability of the facility, as well as a discussion
19.23 of the effect of the economies of scale on the facility size and timing;

20.1 (2) a description of the anticipated operating cycle, including the expected
20.2 annual capacity factor;

20.3 (3) the type of fuel used, including the reason for the choice of fuel, projection
20.4 of the availability of this fuel type over the projected life of the facility, and alternate fuels,
20.5 if any;

20.6 (4) for fossil fuel facilities, the anticipated heat rate of the facility; ~~and~~

20.7 (5) to the fullest extent known to the applicant, the anticipated areas where
20.8 the proposed facility could be located;

20.9 (6) a map scale showing the applicant's system or, when providing a group
20.10 of maps, one set of maps in scale to the others and labeled "combination scale map". If the
20.11 applicant does not own or operate an electric system, the applicant must provide a map of
20.12 the area including the proposed facility; and

20.13 (7) a list of any state or federal energy mandate the facility is designed to
20.14 satisfy and an explanation describing how the proposed project satisfies the mandate;

20.15 B. a discussion of the availability of alternatives to the facility, including ~~but not~~
20.16 ~~limited to:~~

20.17 (1) purchased power;

20.18 (2) increased efficiency of existing facilities, including transmission lines;

20.19 (3) new transmission lines;

20.20 (4) new generating facilities of a different size or ~~using~~ that use a different
20.21 energy source (fuel oil, natural gas, coal, nuclear fission, and the emergent technologies,
20.22 and renewable resources); and

20.23 (5) demand-response programs;

- 21.1 (6) distributed generation;
- 21.2 (7) energy storage;
- 21.3 (8) a no-build alternative;
- 21.4 ~~(5)~~ (9) any reasonable combinations of the alternatives listed in subitems (1)
- 21.5 to ~~(4)~~ (7); and
- 21.6 (10) energy conservation in combination with other alternatives;
- 21.7 C. for a renewable LEGF designed to meet state or federal renewable energy
- 21.8 standards, the applicant is only required to discuss the alternatives under item B that are
- 21.9 eligible to meet state or federal renewable energy standards; and
- 21.10 E. D. for the proposed facility and for each of the alternatives provided in response
- 21.11 to item B that could provide electric power at the asserted level of need, a discussion of:
- 21.12 (1) its capacity cost in current dollars per kilowatt;
- 21.13 (2) its service life;
- 21.14 (3) its estimated average annual availability and capacity factor;
- 21.15 (4) its fuel costs in current dollars per kilowatt-hour;
- 21.16 (5) its variable operating and maintenance costs in current dollars per
- 21.17 kilowatt-hour;
- 21.18 (6) the total cost in current dollars of a kilowatt-hour provided by it;
- 21.19 (7) ~~an estimate of its effect on rates systemwide and in Minnesota, assuming~~
- 21.20 ~~a test year beginning with the proposed in-service date~~ the estimate of the present value of
- 21.21 the revenue requirement of the proposed facility;
- 21.22 (8) for a fossil fuel facility or a transmission facility, its efficiency, expressed
- 21.23 for a generating facility as the estimated heat rate, or expressed for a transmission facility

22.1 as the estimated system losses under projected maximum loading and under projected
22.2 average loading in the length of the transmission line and at the terminals or substations;
22.3 ~~and~~

22.4 (9) the major assumptions made in providing the information in subitems (1)
22.5 to (8), including projected escalation rates for fuel costs and operating and maintenance
22.6 costs, as well as projected capacity factors; and

22.7 (10) the expected effects on the natural and socioeconomic environments,
22.8 including human health.

22.9 ~~D. a map (of appropriate scale) showing the applicant's system; and~~

22.10 ~~E. such other information about the proposed facility and each alternative as may~~
22.11 ~~be relevant to determination of need.~~

22.12 **7849.0255 INDEPENDENT POWER PRODUCER LEGF APPLICATION.**

22.13 Subpart 1. **Required data.** An independent power producer proposing an LEGF must
22.14 provide data as provided under subparts 2 to 5.

22.15 Subp. 2. **Utility data.** If the applicant has entered into a power purchase agreement
22.16 with a utility serving end user customers, the applicant must provide the data required under
22.17 parts 7849.0250 and 7849.0270 to 7849.0300 from the utility for the proposed facility. The
22.18 application must also include the docket number for the commission proceeding under
22.19 which the power purchase agreement was approved.

22.20 Subp. 3. **Ownership information.** An independent power producer proposing an
22.21 LEGF must provide information about the applicant, including:

22.22 A. the legal name of the applicant;

22.23 B. the state of organization or incorporation;

22.24 C. the principal place of business; and

23.1 D. the name of the person or entity that owns and controls, either directly or
23.2 indirectly, a majority of the applicant's outstanding voting securities, or, if no one individual
23.3 or entity owns and controls a majority of the applicant's voting securities, the name of each
23.4 individual and each entity that collectively owns and controls, whether directly or indirectly,
23.5 a majority of the applicant's outstanding voting securities.

23.6 E. The applicant must notify the commission of any changes in items A to D that
23.7 occur after the commission grants a certificate of need and prior to the facility's in-service
23.8 date. The applicant must notify the commission no later than 30 days following the change.

23.9 Subp. 4. **Relevant available data.** If the applicant has not entered into a power
23.10 purchase agreement with a utility serving ultimate consumers and does not have access to
23.11 the data required under parts 7849.0250 and 7849.0270 to 7849.0300, the applicant must
23.12 provide:

23.13 A. data on regional capacity, including a description of the data source relied upon
23.14 and the time period covered by the data;

23.15 B. the regional availability of renewable resources and the source relied upon for
23.16 the data;

23.17 C. for a proposed renewable LEGF intended to satisfy renewable energy standards,
23.18 the planning studies the applicant relied upon to demonstrate the need for renewable
23.19 generation to meet the standards;

23.20 D. alternative approaches to supply the energy;

23.21 E. the expected costs of the proposed project to Minnesota ratepayers; and

23.22 F. evidence of the facility's ability to maintain electric system reliability.

23.23 Subp. 5. **Subsequent power purchase agreement.** If an applicant enters into a power
23.24 purchase agreement after filing a certificate of need application, the applicant must notify

24.1 the commission. The notice must be filed within three business days of the date the applicant
24.2 entered into the agreement.

24.3 **7849.0260 PROPOSED ~~LHVTL~~ HVTL AND ALTERNATIVES APPLICATION.**

24.4 Each application for a proposed ~~LHVTL~~ HVTL must include:

24.5 A. a description of the type and general location of the proposed line, including:

24.6 (1) the design voltage;

24.7 (2) the number, the sizes, and the types of conductors;

24.8 (3) the expected system losses under projected maximum loading and under
24.9 projected average loading ~~in the length of the transmission line and at the terminals or~~
24.10 ~~substations~~ and a description of the system or portion of the system affected;

24.11 (4) the approximate length of the proposed transmission line and the portion
24.12 of that length in Minnesota;

24.13 (5) the approximate location of DC terminals or AC substations, which
24.14 information shall be on a map of appropriate scale; and

24.15 (6) a list of all counties reasonably likely to be affected by construction and
24.16 operation of the proposed line;

24.17 B. a discussion of reliability risks the proposed line is intended to address,
24.18 including:

24.19 (1) a link to the website address of the most recent reliability report from the
24.20 North American Electric Reliability Corporation; and

24.21 (2) the most recent electric stability study approved by the RTO;

24.22 ~~B. C.~~ a discussion of the availability of alternatives to the facility, including ~~but~~
24.23 ~~not limited to:~~

- 25.1 (1) new generation of various technologies, sizes, and fuel types;
- 25.2 (2) upgrading of existing transmission lines or existing generating facilities;
- 25.3 (3) transmission lines with different design voltages or with different numbers,
- 25.4 sizes, and types of conductors, and capacity expressed in megavolt amps;
- 25.5 (4) transmission lines with different terminals or substations;
- 25.6 (5) double circuiting of existing transmission lines;
- 25.7 (6) if the proposed facility is for DC (AC) transmission, an AC (DC)
- 25.8 transmission line;
- 25.9 (7) if the proposed facility is for overhead (underground) transmission, an
- 25.10 underground (overhead) transmission line; ~~and~~
- 25.11 (8) energy storage;
- 25.12 (9) a no-build alternative;
- 25.13 ~~(8)~~ (10) any reasonable combinations of the alternatives listed in subitems
- 25.14 (1) to ~~(7)~~ (8); and
- 25.15 (11) energy conservation in combination with other alternatives;
- 25.16 ~~C, D.~~ for the proposed facility and for each of the alternatives provided in response
- 25.17 to item ~~B, C~~ that could provide electric power at the asserted level of need, a discussion of:
- 25.18 (1) its total cost in current dollars;
- 25.19 (2) its service life;
- 25.20 (3) its estimated average annual availability;
- 25.21 (4) its estimated annual operating and maintenance costs in current dollars;

26.1 (5) the estimate of the present value of the proposed project's revenue
26.2 requirement and an estimate of its effect on rates systemwide and in Minnesota, assuming
26.3 a test year beginning with the proposed in-service date;

26.4 (6) ~~its efficiency, expressed for a transmission facility as the estimated losses~~
26.5 ~~under projected maximum loading and under projected average loading in the length of the~~
26.6 ~~transmission line and at the terminals or substations, or expressed for a generating facility~~
26.7 ~~as the estimated heat rate~~ the expected effects on the natural and socioeconomic
26.8 environments, including human health; and

26.9 (7) the major assumptions made in providing the information in subitems (1)
26.10 to (6); and

26.11 ~~D. E.~~ a map (of appropriate scale) showing the applicant's system or load center
26.12 to be served by the proposed ~~LHVTL; and~~ HVTL.

26.13 ~~E. such other information about the proposed facility and each alternative as may~~
26.14 ~~be relevant to determination of need.~~

26.15 **7849.0270 PEAK DEMAND AND ANNUAL CONSUMPTION FORECAST**
26.16 **ENGINEERING DATA.**

26.17 Subpart 1. **Scope.** Each application shall contain pertinent data concerning peak
26.18 demand and annual electrical consumption within the applicant's service area and system,
26.19 as provided in part 7849.0220, including but not limited to the data requested in subpart 2,
26.20 item B. ~~When recorded data is not available, or when the applicant does not use the required~~
26.21 ~~data in preparing its own forecast, the applicant shall use an estimate and indicate in the~~
26.22 ~~forecast justification section in subparts 3 to 6 the procedures used in deriving the estimate.~~
26.23 ~~The application shall clearly indicate which data are historical and which are projected. It~~
26.24 ~~is expected that data provided by the applicant should be reasonable and internally consistent~~
26.25 must include pertinent data necessary to demonstrate the need for the project, including the

27.1 methodology, data, and assumptions required under this part, and a forecast with supporting
27.2 data, as required under part 7849.0275.

27.3 Subp. 2. [See repealer.]

27.4 Subp. 2a. **Engineering analysis required.** An application must contain an engineering
27.5 analysis supporting the identified need. The engineering analysis must describe the overall
27.6 methodological framework used and must include:

27.7 A. the base case model, including a power-flow study in the case of a proposed
27.8 HVTL or a capacity expansion model in the case of an LEGF;

27.9 B. the name of the model used, the model's source, and the year or years modeled;

27.10 C. a list of all modifications made to the base case models, including lines added,
27.11 generators removed, or load changed;

27.12 D. a list of performance criteria and planning standards used;

27.13 E. a list of contingencies modeled and facilities monitored relevant to the projected
27.14 need;

27.15 F. if applicable, the method of power transfer simulated, including generation to
27.16 generation;

27.17 G. the conditions modeled, including summer peak, shoulder peak, and winter
27.18 peak;

27.19 H. data for an HVTL, in the form of an electronic spreadsheet that documents:

27.20 (1) the software input data, including load bus data and generator bus data;

27.21 and

27.22 (2) the software output data, including voltage magnitude and angle;

28.1 I. data for an LEGF, in the form of an electronic spreadsheet that documents the
28.2 software input and output data; and

28.3 J. the study report for each type of analysis performed, including results, key
28.4 findings, and conclusions.

28.5 Subp. 2b. **Extended forecast filing.** An applicant must explain the correlation between
28.6 the proposed project and the applicant's extended forecast filing required under chapter
28.7 7610. This subpart does not apply to an applicant that is not required to file an extended
28.8 forecast under chapter 7610.

28.9 Subp. 3. [See repealer.]

28.10 Subp. 4. [See repealer.]

28.11 Subp. 5. [See repealer.]

28.12 Subp. 6. [See repealer.]

28.13 **7849.0275 FORECAST METHODOLOGY, DATABASE, AND ASSUMPTIONS.**

28.14 Subpart 1. **Forecast; methodology.** An applicant must prepare and file a forecast
28.15 with the commission. An applicant must select and use a forecast methodology, with due
28.16 consideration given to cost, staffing requirements, and data availability. Forecast data
28.17 provided by the applicant is subject to tests of accuracy, reasonableness, and consistency.
28.18 The applicant must detail the forecast methodology employed to obtain the forecast and the
28.19 output data, as provided in subparts 2 and 3.

28.20 Subp. 2. **Data base for forecasts.** The applicant must file copies of the data sets used
28.21 in making the forecast, including raw and adjusted input data, and raw and adjusted output
28.22 data. The submitted data set copies must be in the form of an electronic spreadsheet that
28.23 can be used to replicate the results of the forecast. The applicant must discuss the data base
28.24 used in arriving at the forecast presented in its application, including:

29.1 A. a complete list of all data sets used to make the forecast, including a brief
29.2 description of each data set and an explanation of how each was obtained, (monthly
29.3 observations, billing data, consumer survey) or a citation to the data source (population
29.4 projection from the state demographer);

29.5 B. a clear list of any adjustments made to raw data in order to adapt the data for
29.6 use in forecasts, including:

29.7 (1) the nature of the adjustment;

29.8 (2) the reason for the adjustment; and

29.9 (3) the magnitude of the adjustment;

29.10 C. the specific analytical techniques used to produce the forecast, the purpose of
29.11 each technique used, and the components of the forecast to which the techniques have been
29.12 applied;

29.13 D. the relationship between the specific analytical techniques used to produce the
29.14 forecast; and

29.15 E. for statistical techniques that were used:

29.16 (1) the software used in forecasting;

29.17 (2) the statistical model used; and

29.18 (3) the results of statistical tests.

29.19 Subp. 3. **Assumptions and special information.** The applicant must discuss each
29.20 essential assumption made in preparing the forecast, including the need for the assumption,
29.21 the nature of the assumption, and the sensitivity of forecast results to variations in the
29.22 essential assumptions.

29.23 The applicant must discuss the assumptions made regarding:

- 30.1 A. the availability of alternate sources of energy;
- 30.2 B. the sources, sinks, and dispatch assumptions (economic dispatch assumptions);
- 30.3 C. the data the applicant relied upon that is not historically available or is not
- 30.4 generated by the applicant when preparing the applicant's internal forecast; and
- 30.5 D. any other factor considered by the applicant in preparing the forecast.

30.6 **7849.0280 SYSTEM CAPACITY.**

30.7 The applicant ~~shall~~ must describe the ability of its existing system to meet the demand

30.8 for electrical energy forecast in response to ~~part parts~~ 7849.0270 and 7849.0275, and the

30.9 extent to which the proposed facility ~~will increase this capability~~ increases the system's

30.10 ability to meet demand. ~~In~~ When preparing this description, the applicant ~~shall~~ must present

30.11 the following information:

30.12 ~~A. a brief discussion of power planning programs, including criteria, applied to~~

30.13 ~~the applicant's system and to the power pool or area within which the applicant's planning~~

30.14 ~~studies are based~~ the applicant's reserve margins, including the method to determine the

30.15 reserve margins; and

30.16 ~~B. the applicant's seasonal firm purchases and seasonal firm sales for each utility~~

30.17 ~~involved in each transaction for each of the forecast years; total system capacity, including:~~

- 30.18 (1) generation owned by the applicant;
- 30.19 (2) generation purchased by the applicant; and
- 30.20 (3) the applicant's existing exchange agreements.

30.21 ~~C. the applicant's seasonal participation purchases and seasonal participation sales~~

30.22 ~~for each utility involved in each transaction for each of the forecast years;~~

31.1 ~~D. for the summer season and for the winter season corresponding to each forecast~~
31.2 ~~year, the load and generation capacity data requested in subitems (1) to (13), including the~~
31.3 ~~anticipated purchases, sales, capacity retirements, and capacity additions, except those that~~
31.4 ~~depend on certificates of need not yet issued by the commission:~~

31.5 ~~(1) seasonal system demand;~~

31.6 ~~(2) annual system demand;~~

31.7 ~~(3) total seasonal firm purchases;~~

31.8 ~~(4) total seasonal firm sales;~~

31.9 ~~(5) seasonal adjusted net demand (subitem (1) minus subitem (3) plus subitem~~

31.10 ~~(4));~~

31.11 ~~(6) annual adjusted net demand (subitem (2) minus subitem (3) plus subitem~~

31.12 ~~(4));~~

31.13 ~~(7) net generating capacity;~~

31.14 ~~(8) total participation purchases;~~

31.15 ~~(9) total participation sales;~~

31.16 ~~(10) adjusted net capability (subitem (7) plus subitem (8) minus subitem (9));~~

31.17 ~~(11) net reserve capacity obligation;~~

31.18 ~~(12) total firm capacity obligation (subitem (5) plus subitem (11)); and~~

31.19 ~~(13) surplus or deficit (—) capacity (subitem (10) minus subitem (12));~~

31.20 ~~E. for the summer season and for the winter season corresponding to each forecast~~
31.21 ~~year subsequent to the year of application, the load and generation capacity data requested~~
31.22 ~~in item D, subitems (1) to (13), including purchases, sales, and generating capability~~
31.23 ~~contingent on the proposed facility;~~

32.1 ~~F. for the summer season and for the winter season corresponding to each forecast~~
32.2 ~~year subsequent to the year of application, the load and generation capacity data requested~~
32.3 ~~in item D, subitems (1) to (13), including all projected purchases, sales, and generating~~
32.4 ~~capability;~~

32.5 ~~G. for each of the forecast years subsequent to the year of application, a list of~~
32.6 ~~proposed additions and retirements in net generating capability, including the probable date~~
32.7 ~~of application for any addition that is expected to require a certificate of need;~~

32.8 ~~H. for the previous calendar year, the current year, the first full calendar year~~
32.9 ~~before the proposed facility is expected to be in operation and the first full calendar year of~~
32.10 ~~operation of the proposed facility, a graph of monthly adjusted net demand and monthly~~
32.11 ~~adjusted net capability, as well as a plot on the same graph of the difference between the~~
32.12 ~~adjusted net capability and actual, planned, or estimated maintenance outages of generation~~
32.13 ~~and transmission facilities; and~~

32.14 ~~I. a discussion of the appropriateness of and the method of determining system~~
32.15 ~~reserve margins, considering the probability of forced outages of generating units, deviation~~
32.16 ~~from load forecasts, scheduled maintenance outages of generation and transmission facilities,~~
32.17 ~~power exchange arrangements as they affect reserve requirements, and transfer capabilities.~~

32.18 **7849.0290 CONSERVATION PROGRAMS, APPLICATION.**

32.19 An application filed by an applicant subject to Minnesota Statutes, sections 216B.241
32.20 and 216B.2422, must include:

32.21 ~~A. the name of the committee, department, or individual responsible for the~~
32.22 ~~applicant's energy conservation and efficiency programs, including load management;~~

32.23 ~~B. a list of the applicant's energy conservation and efficiency goals and objectives;~~

32.24 ~~C. A. a description of describe the specific energy conservation and efficiency~~
32.25 ~~programs the applicant has considered under Minnesota Statutes, section 216B.243,~~

33.1 subdivision 3, clauses (6) and (8), as alternatives to the project, a list of these the programs
 33.2 that have been implemented, and the reasons why the other programs have not been
 33.3 implemented;

33.4 ~~D. a description of the major accomplishments that have been made by the~~
 33.5 ~~applicant with respect to energy conservation and efficiency;~~

33.6 ~~E. a description of the applicant's future plans through the forecast years with~~
 33.7 ~~respect to energy conservation and efficiency; and~~

33.8 ~~F. B. a quantification of quantify the manner by which these energy conservation~~
 33.9 ~~and efficiency programs affect or help determine the forecast provided in response to part~~
 33.10 ~~7849.0270, subpart 2 7849.0275, a list of their the total costs by program, and a discussion~~
 33.11 ~~of their the expected effects in with respect to reducing the need for new generation and~~
 33.12 ~~transmission facilities.; and~~

33.13 C. describe the correlation between the proposed project and:

33.14 (1) the applicant's integrated resource plan filing under chapter 7843; and

33.15 (2) the applicant's conservation improvement plan filing under Minnesota
 33.16 Statutes, section 216B.241, subdivision 1b, paragraph (g).

33.17 **7849.0300 CONSEQUENCES OF DELAY.**

33.18 The applicant ~~shall~~ must present a discussion of anticipated consequences to its system,
 33.19 neighboring systems, and the ~~power pool should RTO if~~ the proposed facility ~~be~~ is delayed
 33.20 one, two, and three years, or postponed indefinitely. ~~This information must be provided for~~
 33.21 ~~the following three levels of demand: the expected demand provided in response to part~~
 33.22 ~~7849.0270, subpart 2, and the upper and lower confidence levels provided in response to~~
 33.23 ~~part 7849.0270, subpart 3, item E.~~

34.1 **7849.0310 ENVIRONMENTAL INFORMATION REQUIRED.**

34.2 Each applicant ~~shall~~ must provide environmental data for the proposed facility and for
34.3 each alternative considered in detail in response to part 7849.0250, ~~item C~~; 7849.0255,
34.4 subpart 4, item D; or 7849.0260, ~~item C~~. Information relating to construction and operation
34.5 of each ~~of these alternatives shall~~ alternative must be provided as indicated in parts 7849.0320
34.6 to 7849.0340, to the extent ~~that such~~ the information is reasonably available to the applicant
34.7 and ~~applicable~~ applies to the particular alternative. Where appropriate, the applicant ~~shall~~
34.8 must submit data for a range of possible facility designs. Major assumptions should be
34.9 stated; and references should be cited where appropriate.

34.10 **7849.0320 GENERATING FACILITIES.**

34.11 The applicant ~~shall~~ must provide the following information for each alternative that
34.12 would involve construction of an LEGF:

34.13 A. the estimated range of land requirements for the facility with a discussion of
34.14 assumptions on land requirements for water storage, cooling systems, and solid waste
34.15 storage;

34.16 B. the estimated amount of vehicular, rail, and barge traffic generated by
34.17 construction and operation of the facility;

34.18 C. for fossil-fueled and other combustion facilities:

34.19 (1) the expected regional sources of fuel for the facility;

34.20 (2) the typical fuel requirement (expressed in tons per hour, gallons per
34.21 hour, or thousands of cubic feet per hour), ₂ during operation at rated capacity and the expected
34.22 annual fuel requirement at the expected capacity factor;

34.23 (3) the expected rate of heat input for the facility in Btu per hour during
34.24 operation at rated capacity;

35.1 (4) the typical range of the heat value of the fuel (~~€, expressed~~ in Btu per pound,
35.2 Btu per gallon, or Btu per 1,000 cubic feet),~~2~~ and the typical average heat value of the fuel;
35.3 ~~and~~

35.4 (5) the typical ranges of sulfur, ~~ash, mercury, lead,~~ and moisture content of
35.5 the fuel;

35.6 (6) the estimated greenhouse gas air emissions; and

35.7 (7) the estimated maximum and range of criteria pollutants, hazardous air
35.8 pollutants, volatile organic compounds, and any other air emissions regulated under state
35.9 or federal law, including information on operation at rated capacity and assuming worst-case
35.10 meteorological conditions;

35.11 ~~D.~~ for fossil-fueled facilities:

35.12 ~~(1) the estimated range of trace element emissions and the maximum emissions~~
35.13 ~~of sulfur dioxide, nitrogen oxides, and particulates in pounds per hour during operation at~~
35.14 ~~rated capacity; and~~

35.15 ~~(2) the estimated range of maximum contributions to 24-hour average ground~~
35.16 ~~level concentrations at specified distances from the stack of sulfur dioxide, nitrogen oxides,~~
35.17 ~~and particulates in micrograms per cubic meter during operation at rated capacity and~~
35.18 ~~assuming generalized worst-case meteorological conditions;~~

35.19 ~~E.~~ D. water use by the facility for alternate cooling systems and expected
35.20 evaporative losses, including:

35.21 (1) the type of water and the water source that will be used for cooling;

35.22 (2) the withdrawal intensity, expressed as the gallons of water withdrawn per
35.23 kilowatt-hour;

36.1 (3) the consumption intensity, expressed as the gallons of water consumed
36.2 per kilowatt-hour;

36.3 (4) the method used to determine withdrawal and consumption intensity
36.4 levels;

36.5 (5) maximum and average monthly temperatures of water discharged;

36.6 (6) planned modifications to reduce the temperatures of water discharged;

36.7 (4)(7) the estimated maximum use, including the groundwater pumping rate
36.8 in gallons per minute and surface water appropriation in cubic feet per second;

36.9 (2)(8) the estimated groundwater appropriation in million gallons per year;

36.10 and

36.11 (3)(9) the annual consumption in acre-feet;

36.12 F. E. the potential water sources, water quantities, and types of use and discharges
36.13 attributable to construction and types of discharges to water attributable to operation of the
36.14 facility, including storm water discharges and discharges to surface and groundwater;

36.15 G. F. radioactive releases, including:

36.16 (1) for nuclear facilities, the typical types and amounts of radionuclides
36.17 released by the facility in curies per year for alternate facility designs and levels of waste
36.18 treatment; and

36.19 (2) for fossil-fueled facilities, the estimated range of radioactivity released
36.20 by the facility in curies per year;

36.21 H. G. the potential types and quantities of solid wastes produced by the facility
36.22 in tons per year at the expected capacity factor;

37.1 ~~F.H.~~ the potential sources and types of audible noise attributable to operation of
37.2 the facility;

37.3 ~~F.I.~~ the estimated work force required for construction and operation of the facility;
37.4 ~~and~~

37.5 ~~K.J.~~ the minimum number and size of transmission facilities required to provide
37.6 a reliable outlet for the generating facility;

37.7 K. the potential impacts of the proposed facility on the natural and socioeconomic
37.8 environment, including:

37.9 (1) effects on human health and safety;

37.10 (2) effects on hydrological resources, including lakes, rivers, streams,
37.11 wetlands, floodplains, watersheds, aquifers, and drinking water;

37.12 (3) effects on ecological resources, including endangered and protected
37.13 species, species of special concern, wildlife, natural vegetation, biological diversity, and
37.14 protected areas; and

37.15 (4) effects on land use, including human settlement, historical and cultural
37.16 resources, recreation, conventional and organic agricultural production, and forestry; and

37.17 L. a list of other agency permits required for the project.

39.1 M. the potential impact of the project on climate change.

39.2 N. the potential impact of the project on environmental justice.

37.18 **7849.0330 TRANSMISSION FACILITIES.**

37.19 The applicant ~~shall~~ must provide data for each alternative that would involve
37.20 construction of an ~~LHVTL~~ HVTL. The following information must be included:

37.21 A. for overhead transmission facilities:

37.22 (1) schematic diagrams that show the dimensions of the support structures
37.23 and conductor configurations for each type of support structure that may be used;

38.1 (2) a discussion of the strength and distribution of the electric ~~field~~ and
38.2 magnetic fields attributable to the transmission facility, ~~including the contribution of air~~
38.3 ~~ions if appropriate;~~

38.4 (3) a discussion of ozone and nitrogen oxide emissions attributable to the
38.5 transmission facility;

38.6 (4) a discussion of radio and television interference attributable to the
38.7 transmission facility; and

38.8 (5) a discussion of the characteristics and estimated maximum and typical
38.9 levels of audible noise attributable to the transmission facilities;

38.10 B. for underground transmission facilities:

38.11 (1) the types and dimensions of the cable systems and associated facilities
38.12 that would be used;

38.13 (2) the types and quantities of materials required for the cable system,
38.14 including materials required for insulation and cooling of the cable; and

38.15 (3) the amount of heat released by the cable system in kilowatts per foot of
38.16 cable length;

38.17 C. the estimated width of the right-of-way required for the transmission facility;

38.18 D. a description of construction practices for the transmission facility;

38.19 E. a description of operation and maintenance practices for the transmission
38.20 facility;

38.21 F. the estimated work force required for construction and for operation and
38.22 maintenance of the transmission facility; ~~and~~

- 39.3 G. a narrative description of the major features of the region location between the
 endpoints
- 39.4 of the transmission facility. The region location ~~shall~~ must encompass the likely area for
 routes
- 39.5 between the endpoints. The description should emphasize the area within three miles of the
 39.6 endpoints. The following information ~~shall~~ must be ~~described where applicable~~ provided:
- 39.7 (1) ~~hydrologic features including lakes, rivers, streams, and wetlands~~ effects
 39.8 on human health and safety;
- 39.9 (2) ~~natural vegetation and associated wildlife~~ effects on hydrological resources,
 39.10 including lakes, rivers, streams, wetlands, floodplains, watersheds, aquifers, and drinking
 39.11 water;
- 39.12 (3) ~~physiographic regions~~ effects on ecological resources, including
 39.13 endangered and protected species, species of special concern, wildlife, natural vegetation,
 39.14 biological diversity, and protected areas; and
- 39.15 (4) land-use types, including human settlement, recreation, agricultural
 39.16 production, forestry production, and mineral extraction-; and
- 39.17 H. a list of other agency permits required for the project.

39.18 I. the potential impact of the project on greenhouse gas emissions

39.19 J. the potential impact of the project on climate change.

39.20 K. the potential impact of the project on environmental justice.

39.21

39.22 **7849.0340 NO-FACILITY ALTERNATIVE.**

39.23 ~~For each of the three levels of demand specified in part 7849.0300,~~ The applicant ~~shall~~
 39.24 must provide the following information for the alternative of no facility:

39.25 A. a description of the expected operation of existing and committed generating

39.26 and transmission facilities;

39.27 B. a description of the changes in resource requirements and wastes produced by
39.28 facilities discussed in response to item A, including:

39.29 (1) the amount of land required;

39.30 (2) induced traffic;

40.1 (3) fuel requirements;

40.2 (4) airborne emissions;

40.3 (5) water appropriation and consumption;

40.4 (6) discharges to water;

40.5 (7) reject heat;

40.6 (8) radioactive releases;

40.7 (9) solid waste production;

40.8 (10) audible noise; and

40.9 (11) labor requirements; and

40.10 C. a description of equipment and measures that may be used to reduce the
40.11 environmental impact of the alternative of no facility.

40.12 D. the effect on the no-build alternative on greenhouse gas emissions, climate
change, and environmental justice.

40.13 **7849.0400 CERTIFICATE OF NEED CONDITIONS AND CHANGES.**

40.14 Subpart 1. **Authority of commission.** Issuance of a certificate of need may be made
40.15 contingent upon modifications required by the commission. When an application is denied,
40.16 the commission shall state the reasons for the denial.

40.17 Subp. 2. **Proposed changes in size, type, and timing, and ownership.** Changes
40.18 ~~proposed by~~ The changes to a proposed facility not yet placed into service described in

40.19 ~~items A to E are not subject to recertification by the commission.~~ An applicant ~~to the certified~~
 40.20 ~~size, type, or timing of a proposed facility before the facility is placed in service must~~
 40.21 ~~conform to the following provisions~~ must promptly report any one of the following changes
 40.22 to the commission:

41.1 A. a delay of one year or less in the in-service date of a large generation or
 41.2 transmission facility previously certified by the commission ~~is not subject to review by the~~
 41.3 ~~commission;~~

41.4 B. a power plant capacity addition or subtraction smaller than the lesser of 80
 41.5 megawatts or 20 percent of the capacity approved in a certificate of need issued by the
 41.6 commission ~~does not require recertification;~~

41.7 C. a change in power plant ownership smaller than the lesser of 80 megawatts or
 41.8 20 percent of the capacity approved in a certificate of need issued by the commission ~~does~~
 41.9 ~~not require recertification;~~

41.10 ~~D. The applicant shall notify the commission as soon as it determines that a change~~
 41.11 ~~described in item A, B, or C is imminent, detailing the reasons for the change.~~

41.12 ~~E. D.~~ a large transmission line length addition or subtraction made as a result of
 41.13 the route length approved by the ~~Minnesota Environmental Quality Board for projects~~
 41.14 ~~previously certified does not require recertification.~~ commission; or

41.15 ~~F. E.~~ a design change required by another state agency in its permitting process
 41.16 for certified facilities ~~is not subject to review by the commission,~~ unless the change
 41.17 contradicts the basic type determination specified by the certificate of need.

41.18 Subp. 3. **Change requiring application.** ~~G.~~ If a utility applies to the ~~Minnesota~~
 41.19 ~~Environmental Quality Board~~ commission for a transmission line route that is not expected
 41.20 to meet the definition of ~~LHVTL~~ an HVTL in part 7849.0010, but at some time in the routing
 41.21 process it becomes apparent that the ~~board~~ commission may approve a route that meets the
 41.22 definition, the utility may apply for a certificate of need as soon as possible after that time.
 41.23 The length of a route is determined by measuring the length of its center line.

41.24 Subp. 4. **Commission decision.** ~~H.~~ If an applicant determines that a change in size,
 41.25 type, timing, or ownership other than specified in ~~this~~ subpart 2 is necessary for a large
 42.1 generation or transmission facility previously certified by the commission, the applicant
 42.2 must inform the commission of the desired change and detail the reasons for the change. A
 42.3 copy of the applicant's submission to the commission must be sent to each ~~intervenor in~~
 42.4 person on the commission's official service list under part 7829.0700 for the certificate of
 42.5 need hearing proceeding on the facility. ~~Intervenors~~ A person may comment on the proposed
 42.6 change within 15 days of being notified of the change. The commission ~~shall~~ must evaluate
 42.7 the reasons for and against the proposed change and, ~~within 45 days of receipt of the request,~~
 42.8 promptly notify the applicant whether the change is acceptable without recertification. The
 42.9 commission ~~shall~~ must order further hearings ~~if and~~ only if it determines that the change,
 42.10 if known at the time of the need decision on the facility, could reasonably have resulted in
 42.11 a different decision under the criteria ~~specified~~ in part 7849.0120.

42.12 **7849.1000 APPLICABILITY AND SCOPE NOTICE AND COMMENTS; PETITION**
 42.13 **TO INTERVENE.**

42.14 Subpart 1. **Applicability Publication in State Register.** ~~Parts 7849.1000 to 7849.2100~~
 42.15 ~~apply to any high voltage transmission line project or large electric power generating plant~~
 42.16 ~~project for which a certificate of need or other need determination is required by the Public~~
 42.17 ~~Utilities Commission under Minnesota Statutes, section 216B.243 or 216B.2425, and~~
 42.18 ~~applicable rules.~~ The commission must publish notice of the certificate of need filing in the
 42.19 State Register.

42.20 Subp. 2. **Scope Comment period.** ~~Parts 7849.1000 to 7849.2100 establish the~~
 42.21 ~~requirements for the conduct of environmental review of proposed projects before the Public~~
 42.22 ~~Utilities Commission for consideration of need pursuant to Minnesota Statutes, section~~
 42.23 ~~216B.243 or 216B.2425, and applicable rules. Additional review at the permitting stage is~~
 42.24 ~~required under parts 7850.1000 to 7850.5600.~~ The commission must request comments on
 42.25 the procedural treatment of the filing. Initial comments must be filed within 21 days of the

42.26 date the notice under subpart 1 is published. Reply comments must be filed within 14 days
43.1 of the date the initial comment period expires. Notice of the comment period must be sent
43.2 to:

43.3 A. the project contact list;

43.4 B. the public agency contact list;

43.5 C. the tribal government contact list; and

43.6 D. the local ~~and tribal~~ government contact list.

43.7 Subp. 3. **Petition to intervene.** A petition to intervene under this chapter is governed
43.8 by part 7829.2500, subpart 8.

43.9 Subp. 4. **Process schedule.** Upon receipt of a certificate of need application,
43.10 commission staff must consult with the department and the applicant to set a proposed
43.11 schedule to complete the certificate of need process within applicable statutory deadlines
43.12 and must make the schedule available in the commission's electronic filing system. If an
43.13 application includes a request by the applicant that joint proceedings be held on multiple
43.14 applications filed under this chapter and chapter 7850, the commission must set a process
43.15 schedule at the time the commission determines whether to hold joint proceedings under
43.16 part 7850.2140. If the applicant or the department objects to the proposed process schedule,
43.17 the applicant or the department may file a request seeking commission review of the schedule.
43.18 The process schedule must be made available in the commission's electronic filing system.

43.18 **7849.1150 RECORD DEVELOPMENT.**

43.19 After the comment reply period under part 7849.1000, subpart 2, closes, the commission
43.20 must determine whether to:

43.21 A. refer the case to the Office of Administrative Hearings for contested case
43.22 proceedings under part 7829.1000; or

43.23 B. develop the record using the commission's informal comment and reply process

43.23 under part 7829.1200.

44.1 **7849.1200 ENVIRONMENTAL REPORT.**

44.2 The ~~commissioner of the department of Commerce shall~~ must prepare an environmental
 44.3 report on a proposed ~~high voltage transmission line HVTL~~ or a proposed ~~large electric~~
 44.4 ~~power generating plant LEGF~~ at the need stage. The environmental report must contain
 44.5 information on the human and environmental impacts of the proposed project associated
 44.6 with the size, type, and timing of the project, system configurations, and voltage. The
 44.7 environmental report must also contain information on alternatives to the proposed project
 44.8 and ~~shall~~ must address mitigating measures for anticipated adverse impacts. The
 44.9 ~~commissioner shall be~~ department is responsible for the completeness and accuracy of all
 44.10 information in the environmental report.

44.11 **7849.1400 PROCESS FOR ENVIRONMENTAL REPORT PREPARATION.**

44.12 Subpart 1. [See repealer.]

44.13 Subp. 1a. **Public meeting.** The commission and the department must hold a public
 44.14 information and scoping meeting in accordance with the process schedule. The commission
 44.15 must provide notice of the public information and scoping meeting.

44.16 Subp. 2. **Content of notice.** The meeting notice required by subpart ~~1~~ 1a must contain
 44.17 the following information:

44.18 A. a description of the proposed project, including possible sites or routes if known;

44.19 B. a statement that authorization from the ~~Public Utilities~~ commission to construct
 44.20 the facility has been applied for and a description of the PUC commission process, including
 44.21 a statement that the PUC commission proceeding is the only proceeding in which the no-build
 44.22 alternative and the size, type, timing, system configuration, and voltage will be considered;

44.23 C. a statement that the ~~commissioner of the department of Commerce~~ will prepare
 44.24 an environmental report on the project and a description of the process for preparation of
 44.25 the report;

45.1 D. a statement that a public meeting will be held by the ~~commissioner~~ department
45.2 and the date and place of the meeting, a statement that the public will have an opportunity
45.3 to ask questions about the project and to suggest alternatives and impacts to address in the
45.4 environmental report, and a statement explaining the purpose of the public meeting;

45.5 E. a statement informing the public of where copies of the pertinent information
45.6 may be reviewed and copies obtained;

45.7 F. a statement indicating whether the ~~project proposer~~ applicant may exercise the
45.8 power of eminent domain to acquire the land necessary for the project and the basis for such
45.9 authority; ~~and~~

45.10 G. a statement describing the manner in which an interested person can add the
45.11 person's name to the mailing list for future notices; and

45.12 H. the name and contact information for the commission's public advisor and a
45.13 description of the public advisor's role.

45.14 Subp. 3. [See repealer.]

45.15 Subp. 3a. **Meeting notice; recipients.** Notice of the public information and scoping
45.16 meeting must be given as provided in this subpart.

45.17 A. At least 15 days prior to the meeting, the commission must mail notice of the
45.18 public information and scoping meeting to:

45.19 (1) the project contact list;

45.20 (2) the public agency contact list;

45.21 (3) the landowner list;

45.22 (4) the tribal government contact list; and

45.23 (5) the local ~~and tribal~~ government contact list.

46.1 B. The applicant must publish notice of the public information and scoping meeting
46.2 in a newspaper of local circulation or in a newspaper used to publish legal notices in an
46.3 affected township. The notice must be published 30 days prior to the meeting and again 14
46.4 days prior to the meeting. The department must publish notice of the meeting in the EQB
46.5 Monitor and must post the notice on the department's website. The commission must post
46.6 notice of the meeting on the commission's website.

46.7 Subp. 4. **Conduct of public information and scoping meeting.** The public meeting
46.8 must be held in a location that is convenient for persons who live near a proposed project.
46.9 The ~~commissioner shall~~ commission must make available at the public meeting a copy of
46.10 the certificate of need application or transmission projects report. The ~~commissioner's~~
46.11 department's staff shall must explain the process for preparation of used to prepare the
46.12 environmental report. At the public meeting, the public must be afforded an opportunity to
46.13 ask questions and present comments and to suggest alternatives and possible impacts to be
46.14 evaluated in the environmental report. The ~~commissioner shall~~ commission must keep an
46.15 audio recording of the meeting and a transcript. The ~~commissioner shall~~ provide at least 20
46.16 days from the
46.17 day of the public meeting for the public to submit written comments regarding the proposed
46.18 project.

46.18 Subp. 5. **Applicant role.** The applicant shall must provide representatives at the public
46.19 meeting who can respond to questions about the proposed project.

46.20 Subp. 6. **~~Alternatives and impacts~~ Scoping process.** The department must provide
46.21 the public with an opportunity to participate in the development of the environmental report's
46.22 scope. A person desiring that a particular alternative to the proposed project or a possible
46.23 adverse impact of the project be considered in the environmental report shall must identify
46.24 the alternative or impact to be included, provide an explanation of why the alternative or
46.25 impact should be included in the environmental report, and submit all supporting information
46.26 the person wants the ~~commissioner~~ department to consider. The ~~commissioner shall~~

47.1 department must provide the applicant with an opportunity to respond to each request that
47.2 is filed. ~~The commissioner shall include in the environmental report any alternative or impact~~
47.3 ~~identified by the PUC for inclusion. The commissioner may exclude from analysis any~~
47.4 ~~alternative that does not meet the underlying need for or purpose of the project or that is~~
47.5 ~~not likely to have any significant environmental benefit compared to the project as proposed,~~
47.6 ~~or if another alternative that will be analyzed is likely to have similar environmental benefits~~
47.7 ~~with substantially less adverse economic, employment, or sociological impacts than the~~
47.8 ~~suggested alternative.~~

47.9 Subp. 7. [See repealer.]

47.10 Subp. 8. [See repealer.]

47.11 Subp. 9. [See repealer.]

47.12 Subp. 10. [See repealer.]

47.13 Subp. 11. **Comment period.** The department must provide the public at least 20 days
47.14 from the date of the public meeting to submit written comments regarding the proposed
47.15 project.

47.16 Subp. 12. **Department analysis.** The department may exclude from its analysis any
47.17 alternative that does not meet the underlying need for or purpose of the project, is not likely
47.18 to have any significant environmental benefit compared to the project as proposed, or is
47.19 likely to have similar environmental benefits with substantially fewer adverse economic,
47.20 employment, or sociological impacts than another alternative being analyzed. The
47.21 department's analysis must state the reasons for excluding an alternative.

47.22 **7849.1410 NOTICE TO COMMISSION.**

47.23 Prior to filing its scoping decision under part 7849.1425, the department must notify
47.24 the commission of the alternatives the department intends to include in the scope of the
47.25 environmental report. The commission must complete its consideration of the department's

48.1 proposed alternatives no later than the date the commission makes its decision on record
48.2 development under part 7849.1150. The department must include any alternative identified
48.3 by the commission in the scope of the environmental report.

48.4 **7849.1425 SCOPING DECISION.**

48.5 Subpart 1. **Scoping decision.** In accordance with the process schedule, the department
48.6 must issue the scoping decision determining:

48.7 A. the alternatives to be addressed in the environmental report, including the
48.8 alternatives required by part 7849.1500, subpart 1, item B;

48.9 B. the specific potential impacts to be addressed;

48.10 C. the schedule to complete the environmental report; and

48.11 D. other issues to be addressed in the environmental report.

48.12 Once the department has issued a scoping decision establishing the matters to be evaluated
48.13 in the environmental report, the decision must not be changed unless the department
48.14 determines that substantial changes have been made in the project or substantial new
48.15 information has arisen that significantly affects the potential environmental effects of the
48.16 project or the availability of reasonable alternatives.

48.17 Subp. 2. **Notice of decision.** The department must file a copy of the scoping decision
48.18 with the commission and must mail a copy to the project contact list, the public agency
46.27 contact list, the tribal government contact list, and the local and tribal government contact
list, and the landowner list. The department must publish notice of the decision in the EQB
Monitor.

48.19 **7849.1500 ENVIRONMENTAL REPORT CONTENT.**

48.20 Subpart 1. **Content of environmental report.** The environmental report must include
48.21 the ~~items~~ content described in items A to H.

48.22 A. A ~~general~~ description of the proposed project and associated facilities.

49.1 B. A ~~general~~ description of the alternatives to the proposed project that are
49.2 addressed. Alternatives ~~shall~~ must include each of the following and may include any
49.3 combination of the following: the no-build alternative; demand side management; purchased
49.4 power; facilities of a different size ~~or~~, type, or configuration; using a different energy source
49.5 than the source proposed by the applicant; upgrading ~~of~~ existing facilities; generation
49.6 rather than transmission if a ~~high-voltage transmission line~~ an HVTL is proposed; ~~generation~~
49.7 ~~rather than transmission if a large electric power generating plant~~ an LEGF is
49.8 proposed; use of renewable energy sources; distributed generation; and ~~those~~ the alternatives
49.9 identified ~~by the commissioner of the department of Commerce~~ in the scoping decision.

49.10 C. An analysis of the human and environmental impacts of a project of the type
49.11 proposed and of the alternatives identified.

49.12 D. An analysis of the potential impacts that are project specific.

49.13 E. An analysis of mitigative measures that could reasonably be implemented to
49.14 eliminate or minimize any adverse impacts identified for the proposed project and each
49.15 alternative analyzed.

49.16 F. An analysis of the feasibility and availability of each alternative considered.

49.17 G. A list of permits required for the project.

49.18 H. A discussion of other matters identified by the ~~commissioner~~ department.

49.19 I. the potential impact of the project on climate change.

49.20 J. the potential impact of the project on environmental justice.

49.21

49.22 Subp. 2. **Impacts of power plants.** At a minimum, the ~~commissioner shall~~ department
49.23 must address in the environmental report the following impacts for any ~~large electric power~~
49.24 ~~generating plant~~ LEGF and associated facilities:

49.25 A. the anticipated emissions of ~~the following pollutants~~ all criteria pollutants,

49.26 hazardous air pollutants, volatile organic compounds, and any other air emissions regulated
49.27 under state or federal law, expressed as an annual amount at the maximum rated capacity
49.28 of the project and as an amount produced per ~~kilowatt hour~~ kilowatt-hour, and the calculations
50.1 performed to determine the emissions: ~~sulfur dioxide, nitrogen oxides, carbon dioxide,~~
50.2 ~~mercury, and particulate matter, including particulate matter under 2.5 microns in diameter;~~

50.3 B. the anticipated emissions of ~~any hazardous air pollutants and volatile organic~~
50.4 ~~compounds~~ greenhouse gas emissions;

50.5 C. the anticipated contribution of the project to the impairment of visibility within
50.6 ~~a 50-mile radius of the plant~~, including regional haze, as governed by state and federal law;

50.7 D. the anticipated contribution of the project to the formation of ozone expressed
50.8 as reactive organic gases. Reactive organic gases are chemicals that are precursors necessary
50.9 to the formation of ground-level ozone;

50.10 E. the availability of the source of fuel for the project, the amount required
50.11 annually, and the method of transportation to get the fuel to the plant;

50.12 F. associated facilities required to transmit the electricity to customers;

50.13 G. the anticipated amount of water that will be appropriated to operate the plant
50.14 ~~and~~, the source of the water if known, and measurements or estimates of evaporative losses;

50.15 H. the potential wastewater streams and the types of discharges associated with
50.16 ~~such~~ a project, including storm water discharges, discharges to surface water and
50.17 groundwater, and potential impacts of a thermal discharge;

50.18 I. the types and amounts of solid and hazardous wastes generated by such a project,
50.19 including an analysis of what contaminants may be found in the ash and where the ash might
50.20 be sent for disposal or reuse; ~~and~~

50.21 J. the anticipated noise impacts of a project, including the distance to the closest
50.22 receptor where state noise standards can still be met.; and

50.23 K. the potential impacts of the proposed facility on the natural and socioeconomic
 50.24 environment, including:

51.1 (1) effects on human health and safety;

51.2 (2) effects on hydrological resources, including lakes, rivers, streams,
 51.3 wetlands, floodplains, watersheds, aquifers, and drinking water;

51.4 (3) effects on ecological resources, including endangered and protected
 51.5 species, species of special concern, wildlife, natural vegetation, biological diversity, and
 51.6 protected areas; and

51.7 (4) effects on land use, including human settlement, historical and cultural
 51.8 resources, recreation, conventional and organic agricultural production, and forestry.

51.9 **Subp. 3. Impacts of high voltage transmission lines.** At a minimum, the ~~commissioner~~
 51.10 ~~shall~~ department must address in the environmental report the following impacts for any
 51.11 high voltage transmission line and associated facilities:

51.12 A. the typical right-of-way required for construction of a transmission line;

51.13 B. the anticipated size and type of structures required for a line;

51.14 C. the electric and magnetic fields usually associated with a line;

51.15 D. the anticipated noise impacts of the transmission line; ~~and~~

51.16 E. the anticipated visual impacts of the transmission line-; and

51.17 F. the potential impacts of the proposed facility on the natural and socioeconomic
 51.18 environment, including:

51.19 (1) on human health and safety;

51.20 (2) on hydrological resources, including lakes, rivers, streams, wetlands,
 51.21 floodplains, watersheds, aquifers, and drinking water;

52.1 (3) on ecological resources, including endangered and protected species,
 52.2 species of special concern, wildlife, natural vegetation, biological diversity, and protected

52.3 areas; and

52.4 (4) on land use, including human settlement, historical and cultural resources,
52.5 recreation, conventional and organic agricultural production, and forestry.

52.6 Subp. 4. **Incorporation of information.** In preparing an environmental report, the
52.7 ~~commissioner~~ department may incorporate information and data from other documents in
52.8 accordance with part 4410.2400.

52.9 **7849.1525 ENVIRONMENTAL REPORT; FILING.**

52.10 Subpart 1. **Time frame for completion of environmental report.** The department
52.11 must complete the environmental report in accordance with the process schedule. When
52.12 establishing the schedule for completion of the environmental report, the department must
52.13 consider any applicable statutory deadlines, the number and complexity of the alternatives
52.14 and impacts to be addressed, and the interests of the public, the applicant, the commission,
52.15 the department, and other state agencies.

52.16 Subp. 2. **Notification of availability of environmental report.** After the environmental
52.17 report is complete, the department must publish notice in the EQB Monitor, file the
52.18 environmental report with the commission, and mail notice of the availability of the
52.19 environmental report to the project contact list, the public agency contact list, the landowner
52.20 list, and the tribal government contact list, and the local and tribal government contact list.
52.21 The department must provide a copy of the
52.22 environmental report to any other public agency with authority to permit or approve the
52.23 proposed project. The department must post the environmental report on the agency's website.

52.23 **7849.1550 PUBLIC HEARING.**

52.24 Subpart 1. **Public hearing.** After the department files the environmental report, the
52.25 commission must hold a public hearing designed to encourage members of the public to

53.1 express opinions and comment on the application, as required under Minnesota Statutes,
53.2 section 216B.243, subdivision 4.

53.3 Subp. 2. **Public hearing notice.** The commission must send notice of a public hearing
53.4 required under this part. Notice of the hearing must be coordinated with the administrative
46.28 law judge. The notice must include the time, date, and location of each hearing. The
department must publish notice of the hearing in the EQB Monitor.

53.5 Subp. 3. **Notice recipients.** The notice must be sent to the project contact list, the
53.6 public agency contact list, the landowner list, the tribal government contact list, and the
53.7 local and tribal government contact
list.

53.8 Subp. 4. **Newspaper notice.** The applicant must publish notice of the public hearing
53.9 in a legal newspaper of general circulation in the county where the public hearing is being
53.10 held. The notice must be published at least ten days before the date of the public hearing.
53.11 The applicant must file a copy of the affidavit of publication with the commission within
53.12 five days of receiving the affidavit.

53.13 Subp. 5. **Press release.** An applicant must mail notice of the public hearing to at least
53.14 one radio station in each county where the proposed project is located. The notice must be
53.15 in the form of a press release. If a county does not have a radio station, an applicant must
53.16 issue a press release to at least one radio station that broadcasts into the county where the
53.17 project is located.

53.18 Subp. 6. **Comment period.** Interested persons may file comments on the environmental
53.19 report and on the certificate of need application. Comments must be filed with the
53.20 administrative law judge within 30 days of the date of the public hearing.

53.21 **7849.1600 AGENCY ASSISTANCE AND FILING OF AGENCY COMMENTS.**

53.22 The ~~commissioner of the department of Commerce~~ may request assistance from another
53.23 state agency ~~to assist in the preparation of~~ preparing an environmental report. Upon request,
53.24 another state agency ~~shall~~ must provide in a timely manner any unprivileged data or

54.1 information ~~to which~~ it has reasonable access to concerning the matters to be addressed in
 54.2 the environmental report and ~~shall~~ must assist in ~~the preparation of~~ preparing the
 54.3 environmental report when the agency has special expertise or access to information.

54.4 Comments filed by the department or the commission into the commission's electronic filing
 54.5 system on behalf of another state agency or a federal agency must appear as "on behalf of"
 54.6 the agency that authored the comments.

54.7 **7849.1700 APPLICANT ASSISTANCE.**

54.8 The ~~commissioner of the~~ department of ~~Commerce~~ may request that the applicant for
 54.9 a certificate of need or for certification of a an HVTL ~~to~~ assist in the preparation of an
 54.10 environmental report. Upon request, the applicant ~~shall~~ must provide in a timely manner
 54.11 any unprivileged data or information ~~to which~~ it has reasonable access to and which will
 54.12 aid in the expeditious completion of the environmental report.

54.13 **7849.1800 ENVIRONMENTAL REPORT TO ACCOMPANY PROJECT.**

54.14 Subpart 1. **PUC Commission decision.** The environmental report, or environmental
 54.15 assessment or EIS prepared pursuant to part 7849.1900, must be completed and copies
 54.16 provided to the ~~Public Utilities~~ commission before the PUC commission can hold any public
 54.17 hearing or render a final decision on an application for a certificate of need or for certification
 54.18 of a an HVTL. ~~However,~~ The ~~PUC~~ commission may commence the public hearing
 54.19 process by conducting prehearing matters. The ~~commissioner's department's~~ staff ~~shall~~ must
 54.20 participate in the PUC commission proceeding or the contested case proceeding, and must
 54.21 be available to answer questions about the environmental report ~~or,~~ environmental
 54.22 assessment, or EIS and to respond to comments about the document. The environmental
 54.23 report ~~or,~~ environmental assessment, or EIS must be considered by the PUC commission
 54.24 in making a final decision on a certificate of need or HVTL certification request.

54.25 Subp. 2. **Completeness of environmental report.** At the time the PUC commission
 54.26 makes a final decision on a certificate of need application or a request for certification of a

55.1 HVTL, the ~~PUC shall~~ commission must determine whether the environmental report and
 55.2 the record created in the matter address the issues identified by the ~~commissioner~~ department
 55.3 in the scoping decision made pursuant to part ~~7849.1400, subpart 7~~ 7849.1425, subpart 1.
 55.4 The ~~PUC~~ commission may direct the ~~commissioner~~ department to prepare a supplement to
 55.5 the environmental report, ~~or~~ the environmental assessment, or EIS if one is prepared pursuant
 55.6 to part 7849.1900, if the ~~PUC~~ commission determines that an additional alternative or impact
 55.7 should be addressed, or if supplemental information should be provided.

55.8
 98.2 **7849.1850 PROCEDURE AFTER ADMINISTRATIVE LAW JUDGE REPORT.**

98.3 Subpart 1. **Parties.** A party must file any exception to the administrative law judge's
 98.4 report under part 7829.2700.

99.1 Subp. 2. **Participating agencies.** A state or federal agency participating in a route or
 99.2 site permit process under this chapter must file final comments regarding the case during
 99.3 the same time period exceptions are due for parties under part 7829.2700.

55.9

55.10 **7849.1900 JOINT PROCEEDING.**

55.11 Subpart 1. **Environmental assessment or EA.** In the event an applicant for a certificate
 55.12 of need for a ~~LEPGP~~ an LEGF or a ~~an~~ HVTL applies to the ~~commissioner~~ of the Department
 55.13 of ~~Commerce~~ commission for a site permit or route permit ~~prior to the time before~~ the
 55.14 ~~commissioner~~ department completes the environmental report, and the project qualifies for
 55.15 alternative review by the ~~commissioner~~ commission under part 7850.2800, the ~~commissioner~~
 55.16 department may elect to prepare an ~~environmental assessment in accordance with~~ EA under
 55.17 part 7850.3700 in lieu of the environmental report required under part 7849.1200. If
 55.18 combining the processes would delay completion of environmental review under parts
 55.19 7849.1000 to 7849.2100, the ~~commissioner~~ can ~~department may~~ combine the processes
 55.20 only if the applicant and the ~~Public Utilities~~ commission agree ~~to the combination~~. If the
 55.21 processes are combined, the ~~commissioner~~ shall ~~department must~~ include in the
 55.22 ~~environmental assessment~~ EA the analysis of alternatives required by part 7849.1500, but

55.23 is not required to prepare an environmental report under parts 7849.1000 to 7849.2100.

55.24 Subp. 2. **Environmental impact statement or EIS.** In the event an applicant for a
 55.25 certificate of need for a ~~LEPGP~~ an LEGF or a an HVTL applies to the ~~commissioner~~
 55.26 commission for a site permit or route permit ~~prior to the time before the commissioner~~
 55.27 department completes the environmental report, and the project does not qualify for
 55.28 alternative review ~~by the commissioner~~ under part 7850.2800, the ~~commissioner~~ department
 56.1 may elect to prepare an ~~environmental impact statement~~ EIS in lieu of the environmental
 56.2 report required under part 7849.1200 if the applicant and the ~~Public Utilities~~ commission
 56.3 agree to the additional time ~~that will be~~ required to prepare the ~~environmental impact~~
 56.4 ~~statement~~ EIS. ~~In this event~~ If the applicant and the commission agree, the ~~commissioner~~
 56.5 ~~shall~~ department must include in the EIS the analysis ~~of alternatives~~ required by part
 56.6 7849.1500, but is not required to prepare an environmental report under part 7849.1200.

56.7 Subp. 3. **Procedures.** In the event the ~~commissioner~~ department combines the two
 56.8 processes pursuant to subpart 1 or 2, the procedures of parts 7850.1000 to 7850.5600 ~~shall~~
 56.9 must be followed in conducting the environmental review.

56.10 Subp. 4. **Joint hearing.** If the ~~commissioner~~ department determines that a joint hearing
 56.11 ~~with the Public Utilities Commission~~ to consider both permitting and need issues is feasible,
 56.12 more efficient, and may further the public interest, the ~~commissioner~~ department may ~~decide~~
 56.13 ~~to recommend that the commission~~ hold a joint hearing ~~with the approval of the commission~~
 56.14 under part 7850.2140.

56.15 **7849.2000 ALTERNATIVE FORM OF REVIEW.**

56.16 The requirements under parts 7849.1000 to 7849.2100 for ~~preparation of~~ preparing an
 56.17 environmental report on a ~~LEPGP~~ an LEGF or an HVTL for which a determination of need
 56.18 by the ~~Public Utilities~~ commission has been requested is approved as an alternative form
 56.19 of review.

56.20 **7849.2100 COSTS TO PREPARE ENVIRONMENTAL REPORT.**

56.21 Subpart 1. **Applicant required to pay costs.** The applicant for a certificate of need
56.22 for a large electric power generating plant an LEGF or a high voltage transmission line or
56.23 for a certification of a high voltage transmission line as part of a transmission projects report
56.24 shall an HVTL must pay the ~~commissioner of the~~ department of ~~Commerce~~ for the reasonable
56.25 costs incurred by the ~~commissioner~~ department in preparing the environmental report.

57.1 Subp. 2. **Payment schedule.** The applicant shall must submit a minimum payment
57.2 of \$5,000 to the ~~commissioner~~ department at the time the application or request is filed with
57.3 the ~~Public Utilities~~ commission. Additional payments shall must be made within 30 days
57.4 of notification by the agency that additional fees are necessary ~~for completion of~~ to complete
57.5 the environmental review. After preparation of the environmental report, the ~~commissioner~~
57.6 shall department must provide the applicant with a final accounting. The applicant shall
57.7 must make the final payment within 30 days of notification, ~~or~~. The agency shall must
57.8 refund any excess payments within 30 days of the final accounting.

57.9 **7850.1000 DEFINITIONS.**

57.10 Subpart 1. **Scope.** As used in ~~parts 7850.1000 to 7850.5600~~ this chapter, the following
57.11 terms have the meanings given them.

57.12 Subp. 2. **Act.** "Act" means the Power Plant Siting Act of 1973, as amended, Minnesota
57.13 Statutes, chapter 216E.

57.14 Subp. 3. **Associated facilities.** "Associated facilities" means buildings, equipment,
57.15 and other physical structures that are necessary to the operation of a large electric power
57.16 generating plant or a high voltage transmission line.

57.17 Subp. 4. **Commission.** "Commission" means the Public Utilities Commission.

57.18 Subp. 5. **Certified HVTL list.** "Certified HVTL list" means the transmission projects
57.19 certified by the Public Utilities Commission as priority projects under Minnesota Statutes,
57.20 section 216B.2425.

57.21 Subp. 5a. **Department.** "Department" means the Department of Commerce.

57.22 Subp. 6. **Developed portion of the plant site.** "Developed portion of the plant site"
57.23 means the portion of the LEPGP site that is required for the physical plant and associated
57.24 facilities.

58.1 Subp. 7. **Environmental assessment or EA.** "Environmental assessment" or "EA"
58.2 means a written document that describes the human and environmental impacts of a proposed
58.3 large electric power generating plant or high voltage transmission line and alternative routes
58.4 or sites and methods to mitigate such impacts.

58.5 Subp. 8. **Environmental impact statement or EIS.** "Environmental impact statement"
58.6 or "EIS" means a detailed written statement that describes proposed high voltage transmission
58.7 lines and large electric power generating plants and satisfies the requirements of Minnesota
58.8 Statutes, section 116D.04.

58.9 Subp. 9. **High voltage transmission line or HVTL.** "High voltage transmission line"
58.10 or "HVTL" means a conductor of electric energy and associated facilities that is: (1) designed
58.11 for and capable of operating at a nominal voltage of 100 kilovolts or more either immediately
58.12 or without significant modification; and (2) greater than 1,500 feet in length. Associated
58.13 facilities shall include, but not be limited to, insulators, towers, substations, and terminals.

58.14 Subp. 10. **Large electric power facilities.** "Large electric power facilities" means
58.15 high voltage transmission lines and large electric power generating plants.

58.16 Subp. 11. **Large electric power generating plant or LEPGP.** "Large electric power
58.17 generating plant" or "LEPGP" means electric power generating equipment and associated
58.18 facilities designed for or capable of operation at a capacity of 50,000 kilowatts or more.
58.19 Associated facilities include, but are not limited to, coal piles, cooling towers, ash
58.20 containment, fuel tanks, water and wastewater treatment systems, and roads.

58.21 Subp. 12. **Mail.** "Mail" means either the United States mail or electronic mail by
58.22 e-mail, unless another law requires a specific form of mailing.

58.23 Subp. 13. **Person.** "Person" means any individual, partnership, joint venture, private
58.24 or public corporation, association, firm, public service company, cooperative, political

59.1 subdivision, municipal corporation, government agency, public utility district, or any other
59.2 entity, public or private, however organized.

59.3 Subp. 14. [See repealer.]

59.4 Subp. 15. **Right-of-way.** "Right-of-way" means the land interest required within a
59.5 route for the construction, maintenance, and operation of a high voltage transmission line.

59.6 Subp. 16. **Route.** "Route" means the location of a high voltage transmission line
59.7 between two end points. A route may have a variable width of up to 1.25 miles within which
59.8 a right-of-way for a high voltage transmission line can be located.

59.9 Subp. 17. **Route segment.** "Route segment" means a portion of a route.

59.10 Subp. 18. **Site.** "Site" means an area of land required for the construction, maintenance,
59.11 and operation of a large electric power generating plant.

59.12 Subp. 19. **Utility.** "Utility" means any entity engaged or intending to engage in this
59.13 state in the generation, transmission, or distribution of electric energy including, but not
59.14 limited to, a private investor owned utility, a cooperatively owned utility, a public or
59.15 municipally owned utility, a limited liability company, or a private corporation.

59.16 **7850.1100 PURPOSE AND AUTHORITY.**

59.17 ~~Parts 7850.1000 to 7850.5600 are~~ This chapter is prescribed by the Minnesota Public
59.18 Utilities Commission pursuant to the authority granted to the commission in the Power Plant
59.19 Siting Act, as amended, Minnesota Statutes, chapter 216E, to give effect to the purposes of
59.20 the act.

59.21 It is the purpose of the act and the policy of the state to locate large electric power
59.22 generating plants and high voltage transmission lines in an orderly manner compatible with
59.23 environmental preservation and the efficient use of resources. In accordance with this policy,
59.24 the commission ~~shall~~ must choose locations that minimize adverse human and environmental

60.1 impact while ensuring continuing electric power system reliability and integrity and ensuring
60.2 that electric energy needs are met and fulfilled in an orderly and timely fashion. The
60.3 commission ~~shall~~ must provide for broad spectrum citizen participation as a principle of
60.4 operation. To ensure effective citizen participation, the commission ~~shall~~ must maintain a
60.5 public education program on, but not limited to, the considerations identified in Minnesota
60.6 Statutes, section 216E.03, subdivision 7.

60.7 **7850.1200 APPLICABILITY.**

60.8 ~~Parts 7850.1000 to 7850.5600 establish~~ This chapter establishes the requirements for
60.9 the processing of permit applications by the ~~Public Utilities~~ commission for large electric
60.10 power generating plants and high voltage transmission lines, including the environmental
60.11 review of such projects. ~~Requirements for environmental review of such projects before the~~
60.12 ~~commission are established in the applicable requirements of chapter 4410 and parts~~
60.13 ~~7849.1000 to 7849.2100.~~

60.14 **7850.1300 PERMIT REQUIREMENT.**

60.15 Subpart 1. **Site permit.** ~~No~~ A person may construct is prohibited from constructing
60.16 ~~a large electric power generating plant~~ an LEPGP without a site permit from the commission.
60.17 ~~A large electric power generating plant~~ An LEPGP may be constructed only on a site
60.18 approved by the commission.

60.19 Subp. 2. **Route permit.** ~~No~~ A person may construct is prohibited from constructing
60.20 ~~a high voltage transmission line~~ an HVTL without a route permit from the commission. ~~A~~
60.21 ~~high voltage transmission line~~ An HVTL may be constructed only within a route approved
60.22 by the commission.

61.1 Subp. 3. **Expansion of existing facility.**

61.2 A. ~~No~~ A person shall increase is prohibited from increasing the voltage of a ~~high~~
 61.3 ~~voltage transmission line~~ an HVTL without a route permit or other approval from the ~~PUC~~
 61.4 commission.

61.5 B. ~~No~~ A person shall increase is prohibited from increasing the voltage of a
 61.6 transmission line under 100 kilovolts to over 100 kilovolts without a route permit from the
 61.7 ~~PUC~~ commission.

61.8 C. Except as provided in part 7850.1500 or 7850.4800, ~~no~~ a person shall increase
 61.9 is prohibited from increasing the generating capacity or output of an existing ~~large electric~~
 61.10 ~~power generating plant~~ LEPGP without a permit from the commission.

61.11 D. ~~No~~ A person shall increase is prohibited from increasing the generating capacity
 61.12 or output of an electric power plant from under 50 megawatts to more than 50 megawatts
 61.13 without a site permit from the ~~PUC~~ commission.

61.14 Subp. 4. **Local authority.** A site permit from the commission is not required for a
 61.15 ~~large electric power generating plant~~ an LEPGP that is permitted by local units of government
 61.16 under Minnesota Statutes, section 216E.05. A route permit from the commission is not
 61.17 required for a ~~high voltage transmission line~~ an HVTL that is permitted by local ~~governmental~~
 61.18 ~~authorities~~ units of government under Minnesota Statutes, section 216E.05.

61.19 Subp. 5. **Commence construction.** ~~No~~ A person may commence is prohibited from
 61.20 commencing construction of a large electric power generating plant or a high voltage
 61.21 transmission line until a permit has been issued by the commission or by the appropriate
 61.22 local units of government if local review is sought. "~~Commence~~ Commencing construction"
 61.23 means to begin or cause to begin as part of a continuous program the placement, assembly,
 61.24 or installation of facilities or equipment, or to conduct significant physical site preparation
 61.25 or right-of-way preparation work for installation of facilities or equipment. Conducting

62.1 survey work or collecting geological data or contacting landowners to discuss possible
62.2 construction of a power plant or transmission line is not commencement of construction.

62.3 **7850.1400 ~~SMALL EXEMPT PROJECTS.~~**

62.4 Subpart 1. **No PUC commission permit required.** A permit from the PUC commission
62.5 is not required to construct a power plant of less than 50 megawatts or a transmission line
62.6 ~~of that is either less than 100 kilovolts or 1,500 feet in length or less.~~ Proposers of ~~such~~
62.7 ~~projects~~ an exempt project must obtain ~~whatever~~ all approvals ~~may be~~ required by local,
62.8 state, or federal units of government with jurisdiction over the project, including and must
comply with applicable environmental review provisions requirements.

62.9 Subp. 2. [See repealer.]

62.10 **7850.1500 EXCEPTIONS TO PERMITTING REQUIREMENT FOR CERTAIN**
62.11 **EXISTING FACILITIES.**

62.12 Subpart 1. **No permit required.** The following projects are not considered construction
62.13 ~~of a large electric power generating plant~~ an LEPGP or ~~high voltage transmission line~~ an
62.14 HVTL and may be constructed without a permit from the commission:

62.15 A. equipment additions at an existing substation that do not require expansion of
62.16 the land needed for the substation and do not involve an increase in the voltage or changes
62.17 in the location of existing transmission lines, except that up to the first five transmission
62.18 line structures outside the substation may be moved to accommodate the equipment additions
62.19 provided the structures are not moved more than 500 feet from the existing right-of-way;

62.20 B. high voltage transmission lines:

62.21 (1) maintenance or repair of ~~a high voltage transmission line~~ an HVTL within
62.22 an existing right-of-way;

62.23 (2) reconductoring or reconstruction of ~~a high voltage transmission line~~ an
62.24 HVTL with no change in voltage and no change in right-of-way, provided that any new

63.1 structures that are installed are not designed for and capable of operation at higher voltage;

63.2 or

63.3 (3) relocation of a ~~high-voltage transmission line~~ an HVTL that is required

63.4 by a local or state agency as part of road, street, or highway construction; or

63.5 C. large electric power generating plants:

63.6 (1) maintenance or repair of a ~~large electric power generating plant~~ an LEPGP;

63.7 (2) modification of a ~~large electric power generating plant~~ an LEPGP to

63.8 increase efficiency as long as the capacity of the plant is not increased more than ten percent

63.9 or more than 100 megawatts, whichever is greater, and the modification does not require

63.10 expansion of the plant beyond the developed portion of the plant site. If a subsequent

63.11 modification results in a total of more than 100 megawatts of additional capacity, this

63.12 provision does not apply. An increase in efficiency is a reduction in the amount of Btu's

63.13 (British thermal units) required to produce a kilowatt-hour of electricity at the facility;

63.14 (3) refurbishment of a ~~large electric power generating plant~~ an LEPGP that

63.15 does not expand the capacity of the plant or expand the plant beyond the developed portion

63.16 of the plant site and the refurbishment does not require a certificate of need from the ~~public~~

63.17 ~~utilities~~ commission;

63.18 (4) modification of an LEPGP powered by solar energy that is exempt from

63.19 a certificate of need under Minnesota Statutes, section 216B.243, subdivision 8, clause (7),

63.20 provided the plant is not expanded beyond the developed portion of the plant site;

63.21 (4) (5) conversion of the fuel source of a large electric power generating plant

63.22 an LEPGP to natural gas, as long as the plant is not expanded beyond the developed portion

63.23 of the plant site; or

63.24 (5) (6) start-up of an existing large electric power generating plant LEPGP

63.25 that has been closed for any period of time at no more than its previous capacity rating and

64.1 in a manner that does not involve a change in the fuel or an expansion of the developed
64.2 portion of the plant site.

64.3 Subp. 2. **Minor alteration.** In the event a modification or other change in an existing
64.4 **substation**, ~~high voltage transmission line~~ HVTL, or ~~large electric power generating plant~~
64.5 LEPGP does not qualify for an exception under this part, the modification or change may
64.6 qualify for a minor alteration under part 7850.4800.

64.7 Subp. 3. **Notice.** Any person proposing to move transmission line structures under
64.8 subpart 1, item A, or to reconductor or reconstruct a ~~high voltage transmission line~~ an HVTL
64.9 under subpart 1, item B, subitem (2), or to implement changes to a ~~large electric power~~
64.10 ~~generating plant~~ an LEPGP under subpart 1, item C, subitem (2), (3), (4), ~~or (5), or (6)~~, must
64.11 notify the commission in writing at least 30 days before commencing construction on the
64.12 modification or change.

64.13 **7850.1610 NOTICE LISTS.**

64.14 Subpart 1. **Notice lists required.** Notice lists must be established and maintained as
64.15 described in this part.

64.16 Subp. 2. **General list.** The commission must maintain a list of persons who want to
64.17 be notified of an application for a proposed site or route permit. A person may request to
64.18 have the person's name or an organization's name included on the list.

64.19 Subp. 3. **Project contact list.** The commission must maintain a project contact list
64.20 for each proposed project. The project contact list must include the names of persons who
64.21 have requested to receive notice of a proposed project. The commission must add a person's
64.22 name to the list if the commission has reason to believe that the person would like to receive
64.23 notices of a particular project.

65.1 Subp. 4. **Public agency contact list.** The commission must maintain a public agency
65.2 contact list that includes public agencies likely to be interested in the proposed project. The
65.3 list must include:

65.4 A. the department;

65.5 B. the Office of the Attorney General;

65.6 C. the United States Army Corps of Engineers;

65.7 D. the United States Fish and Wildlife Service;

65.8 E. the Federal Aviation Administration; and

65.9 F. other state agencies, including:

65.10 (1) the Department of Natural Resources;

65.11 (2) the Pollution Control Agency;

65.12 (3) the Department of Transportation;

65.13 (4) the Department of Agriculture;

65.14 (5) the Department of Health;

65.15 (6) the Office of Pipeline Safety;

65.16 (7) the Board of Water and Soil Resources;

65.17 (8) the State Historic Preservation Office;

65.18 (9) the Department of Employment and Economic Development; and

65.19 (10) the Department of Labor and Industry.

65.20 Subp. 5. **Landowner list.** An applicant must maintain and make available to the
65.21 commission, the department, or the public upon request a landowner list for its proposed
65.22 project. For purposes of the landowner list, a landowner is the person listed on the property

66.1 record of the county auditor. In a county where tax statements are mailed by the county
66.2 treasurer, the landowner is the person listed on the property record of the county treasurer.
66.3 The list must be in a format that makes the list capable of being sorted both alphabetically
66.4 by last name and by zip code. The list must include:

66.5 A. for a route permit application, landowners whose property is along any route
66.6 the applicant proposes in its route permit application, including a draft route permit
66.7 application; and

66.8 B. for a site permit application, landowners whose property is on or adjacent to
66.9 any site the applicant proposes in its site permit application, including a draft site permit
66.10 application.

66.11 Subp. 6. **Local and tribal government contact list.** An applicant must maintain and
66.12 make available to the commission and department upon request a list of local units of
66.13 government, including each local unit of government's chief executive, located in the
66.14 proposed project area. The list must include each:

66.15 A. regional development commission;

66.16 B. county;

66.17 C. incorporated municipality;

66.18 D. town;

66.19 E. township;

66.20 F. statutory city;

66.21 G. home rule charter city;

66.22 H. tribal government;

66.23 I. watershed district; and

67.1 J. soil and water conservation district.

67.2 Subp. 7. List maintenance.

67.3 A. Lists must be maintained as provided in this subpart.

67.4 B. A name must not be removed from a list unless:

67.5 (1) a person requests that the commission remove the person's name from a
67.6 list maintained by the commission;

67.7 (2) a person requests that the applicant remove the person's name from a list
67.8 maintained by the applicant;

67.9 (3) the commission sends written notice to an individual on a list asking
67.10 whether the person's name should remain on the list and no response is received within 30
67.11 days of the date the request is made; or

67.12 (4) an applicant sends written notice to a person on a list asking whether the
67.13 person's name should remain on the list and no response is received within 30 days of the
67.14 date the request is made.

67.15 C. Lists must be updated as follows:

67.16 (1) the commission or applicant must add the name of a person or entity to
67.17 a list upon the person's or entity's request;

67.18 (2) the applicant must update the landowner list to include each landowner
67.19 whose property is on or adjacent to the proposed footprint of a project alternative considered
67.20 in the scope of the environmental impact statement under part 7850.2500 or the environmental
67.21 assessment under part 7850.3700; and

67.22 (3) the applicant must update the local and tribal government contact list to
67.23 include each governmental entity located in the area of a project alternative considered in
67.24 the scope of the EIS under part 7850.2500 or the EA under part 7850.3700.

68.1 D. The entity maintaining a list must file the list and any updated list in the
7850.1800

68.2 commission's electronic filing system.

7850.1615. Tribal Consultation. The commission must maintain a contact list for all eleven federally recognized Tribes that share geography with Minnesota. The Commission must follow its tribal Consultation Policy for consultation with tribal governments in any pending proceeding under this Chapter. The Department must engage in tribal consultation at each point in this rule chapter where notice is required to be sent to the tribal government contact list. The Department must report the results of its tribal consultation at the time it files either its EA or EIS. The Department must subsequently update its filing after all required notices under this chapter have been sent.

68.3 **7850.1620 PREAPPLICATION MEETINGS; TRANSMISSION LINES.**

68.4 Subpart 1. **Meetings required.** Prior to filing a draft route or site permit application under

68.5 part 7850.1640, an applicant must hold a public outreach meeting concerning routes or sites that

68.6 are under active consideration by the applicant, including routes or sites the applicant intends to

68.7 propose in its route or site permit application. The applicant must hold at least two public outreach

68.8 meetings. Each meeting must be held in a county where a portion of the HVTL route or site is

68.9 under active consideration by the applicant. The meeting must be held as close as practicable

68.10 to the location of the proposed route or site. If members of the public request additional meetings,

68.11 the applicant must make good faith efforts to accommodate the requests.

68.12 Subp. 2. **Notice.** At least ten days prior to the date each meeting is held, the applicant must notify the commission and the department of the date, time, and location of the meeting.

68.13 The applicant must also mail notice of the meeting to landowners whose property is along a route identified under subpart 1, or to landowners whose property is on or adjacent to any site at least ten days prior to each meeting. Notice to landowners must include the date, time, and location of each meeting.

68.16 Subp. 3. **Public input.** At each public outreach meeting held, an applicant must provide:

68.18 A. maps or other written materials that identify and describe each route or site;

68.19 B. contact information for the commission, including the mailing address and the
68.20 e-mail address, and information describing how to contact the commission's public adviser;

68.21 C. information regarding how to sign up to receive commission notices; and

68.22 D. an opportunity for members of the public to offer oral or written comments on
68.23 the proposed project.

69.1 Subp. 4. **Meeting summary.** An applicant must prepare a summary of each public
69.2 outreach meeting held and comments received. An applicant must consider the comments
69.3 received when deciding which routes or sites to include in its draft application filed under
69.4 part

69.5 7850.1640.

69.6 **7850.1640 DRAFT PERMIT APPLICATION REQUIRED.**

69.7 Subpart 1. **Draft permit application.** At least 45 days prior to filing a site or route
69.8 permit application with the commission, an applicant must file a draft permit application
69.9 with the commission. At the time of filing, the applicant must request a docket number for
69.10 the proposed project. The applicant must use the word "draft" on each page of the permit
69.11 application and must label the application as a draft when filing it in the commission's
69.12 electronic filing system.

69.13 Subp. 2. **Draft site permit application; LEPGP.** A draft site permit application for
69.14 an LEPGP must include at least two proposed sites. If the applicant intends to propose a
69.15 project that is eligible for alternative review under Minnesota Statutes, section 216E.04, the
69.16 applicant is not required to propose more than one site. A draft site permit application must
69.17 contain:

69.18 A. for all projects, including projects eligible for alternative review under part
69.19 7850.2800, each site the applicant has considered and rejected, including the reasons for
69.20 rejecting the site;

69.21 B. a statement of proposed ownership of the proposed LEPGP;

69.21 C. the name of any permittee and the name of any other person the permit would
69.22 be transferred to if transfer of the permit is contemplated;

69.23 D. each proposed site for the proposed LEPGP;

69.24 E. a description of the proposed LEPGP and all associated facilities, including
69.25 the size and type of the facility;

70.1 F. the environmental information required under subpart 4;

70.2 G. the name of each person who owns property within each proposed site;

70.3 H. the engineering and operational design of the LEPGP at each proposed site;

70.4 I. a cost analysis of the LEPGP at each proposed site, including the costs to
70.5 construct and operate the facility given the facility's design;

70.6 J. an engineering analysis of each proposed site, including how each site could
70.7 accommodate future expansion of generating capacity;

70.8 K. a list of the transportation, pipeline, and electrical transmission systems required
70.9 to construct, maintain, and operate the facility;

70.10 L. a list and brief description of federal, state, and local permits that may be
70.11 required for the project at each proposed site;

70.12 M. United States Geological Survey topographical maps or other maps showing
70.13 the entire proposed project area;

70.14 N. a proposed application notice that includes the notice content requirements
70.15 under part 7850.2100, subpart 2;

70.16 O. for a solar-powered LEPGP, a copy of the applicant's project size determination
70.17 form and a copy of the department's size determination required under Minnesota Statutes,
70.18 section 216E.021;

70.19 P. if the project is eligible for alternative review under part 7850.2800, a statement

70.20 whether the applicant elects to follow the alternative review process, and if so whether the
70.21 applicant recommends that an administrative law judge be assigned to the case to prepare
70.22 a report with findings, conclusions, and a recommendation;

70.23 Q. a statement whether the applicant intends to file both a certificate of need
70.24 application and a site permit application, or intends to file multiple applications, and if so
71.1 whether the applicant intends to request that joint proceedings be held on the applications
71.2 under part 7850.2140;

71.3 R. the name of each zoning authority with responsibility over each property within
71.4 each proposed site and the present zoning classification of the property; and

71.5 S. a statement that on whether the applicant may exercise the power of eminent
domain under
71.6 Minnesota Statutes, section 216E.12, to acquire land necessary for the project, including
71.7 the phrase "your property may be included in the final site selected."

73.1 T. a decommissioning plan that plans for restoration of the site at the end of the energy
facility's useful life.

73.2 U. a risk mitigation and recovery plan in anticipation of extreme weather.

71.8
71.9 **Subp. 3. Draft route permit application; HVTL. A draft route permit for an HVTL**
71.10 must include at least two routes. If the applicant intends to propose a project that is eligible
71.11 for alternative review under Minnesota Statutes, section 216E.04, the applicant is not required
71.12 to propose more than one route. A draft route permit application must contain:

71.13 A. a statement of proposed ownership of the facility as of the day of filing and
71.14 after commercial operation begins;

71.15 B. the name of each permittee and the name of any other person the permit would
71.16 be transferred to if transfer of the permit is contemplated;

71.17 C. each proposed route for the proposed HVTL listed alphabetically in texts and
71.18 in maps;

71.19 D. each route the applicant considered and rejected, including the reasons for

71.20 rejecting the route;

71.21 E. a description of the proposed HVTL and all associated facilities, including the
71.22 size and type of the HVTL;

71.23 F. a statement whether or not the project is eligible for alternative review under^{71.23}
part 7850.2800;

71.24 G. the environmental information required under subpart 4;

72.1 H. a list identifying land uses and environmental conditions along each proposed
72.2 route;

72.3 I. the name of each person who owns property within any of the proposed routes;

72.4 J. United States Geological Survey topographical maps or other maps showing
72.5 the entire length of the HVTL on all proposed routes;

72.6 K. a list identifying existing utility and public rights-of-way along or parallel to
72.7 the proposed routes that have the potential to share the right-of-way with the proposed line;

72.8 L. the engineering and operational design concepts for the proposed HVTL,
72.9 including information on the electric and magnetic fields of the transmission line;

72.10 M. a cost analysis for each route, including the costs to construct, operate, and
72.11 maintain the HVTL given the line's design;

72.12 N. a description of possible design options to accommodate future expansion of
72.13 the HVTL;

72.14 O. the procedures and practices proposed to acquire and restore the right-of-way,
72.15 and to construct and maintain the HVTL;

72.16 P. a list and brief description of federal, state, and local permits that may be
72.17 required for the proposed HVTL;

72.18 Q. a summary of the transmission planning that concluded the project is necessary,
72.19 including its history of presentation in the Minnesota Biennial Transmission Plans and
7850.1800

72.20 Midcontinent Independent System Operator Transmission Expansion Plans;

72.21 R. a list of the date, time, and location of each public preapplication meeting
 72.22 schedule to be held by the applicant, or for each public preapplication meeting held, a
 72.23 summary of comments received;

73.3 S. a proposed application notice that includes the notice content requirements
 73.4 under part 7850.2100, subpart 2;

73.5 T. a list of any differences between the list of landowners who received notice of
 73.6 the applicant's certificate of need application under part 7849.0130 and the list of landowners
 73.7 the applicant is mailing notice of the draft route permit application to under this part;

73.8 U. if the project is eligible for alternative review under part 7850.2800, a statement
 73.9 whether the applicant elects to follow the alternative review process, and if so whether the
 73.10 applicant recommends that an administrative law judge be assigned to the case to prepare
 73.11 a report with findings, conclusions, and a recommendation;

73.12 V. a statement whether the applicant intends to file both a certificate of need and
 73.13 a route permit application, or multiple permit applications, and if so whether the applicant
 73.14 intends to request that joint proceedings be held on the applications under part 7850.2140;
 73.15 and

73.16 W. a statement ~~that~~ on whether the applicant may exercise the power of eminent
domain under

73.17 Minnesota Statutes, section 216E.12, to acquire land necessary for the project, including
 73.18 the phrase "your property may be included in the final route selected."

73.19 X. a decommissioning plan that plans for restoration of the land affected by the route at the
end of the energy facility's useful life.

73.20 Y. a risk mitigation and recovery plan in anticipation of extreme weather.

73.21

73.22 Subp. 4. **Environmental information.** Each draft site or draft route permit application
 73.23 must contain:

- 73.24 A. a description of the environmental setting for each site or route;
- 73.25 B. a description of the effects of the facility's construction and operation on human
- 73.26 settlement, including but not limited to public health and safety, displacement, noise,
- 73.27 aesthetics, socioeconomic impacts, cultural values, recreation, and public services, as well
- 73.28 as information on electric and magnetic fields;
- 73.29 C. a description of the facility's effects on land-based economies, including
- 73.30 agriculture, forestry, tourism, and mining;
- 74.1 D. a description of the facility's effects on archaeological and historic resources;
- 74.2 E. a description of the facility's effects on the natural environment, including
- 74.3 effects on air quality, water quality, and flora and fauna;
- 74.4 F. a description of the facility's effects on rare and unique natural resources;
- 74.5 G. a list identifying human and natural environmental effects that cannot be
- 74.6 avoided if a specific site or route is approved; and
- 74.7 H. a description of measures that might be implemented to mitigate the potential
- 74.8 human and environmental impacts identified in items A to G, and the estimated costs and
- 74.9 feasibility of implementing the identified mitigative measures.
- 74.9 I. a description of the facility on greenhouse gas emissions; climate change; and
- 74.10 environmental justice.

74.11 **7850.1650 NOTICE OF DRAFT PERMIT APPLICATION.**

74.12 Subpart 1. **Notice recipients.** At the time the applicant files a draft permit application

74.13 with the commission, the applicant must mail written notice of the draft permit application

74.14 to:

- 74.15 A. the general list;
- 74.16 B. the public agency contact list;
- 74.17 C. the landowner list;

74.18 D. the tribal government contact list; and

74.19 ~~D~~E. the local ~~and tribal~~ government contact list.

74.20 Subp. 2. **Notice content.** The notice sent under subpart 1 must contain:

74.21 A. the applicant's name and contact information; including physical address, phone number, and email address

74.22 B. a statement that a draft permit application has been filed with the commission;

74.23 C. a statement that the applicant is required by the commission to mail the notice

74.24 and that the commission is soliciting comments on the draft application from interested

74.25 persons;

75.1 D. a statement explaining how to obtain a copy of the draft permit application;

75.2 E. the commission's contact information, including physical address, phone number,

75.3 and e-mail address;

75.4 F. a statement that on whether the applicant may exercise the power of eminent domain under

75.5 Minnesota Statutes, section 216E.12, to acquire land necessary for the project, including

75.6 the phrase "your property may be included in the final site or route selected";

75.7 G. a statement that the commission is responsible for making the final decision

75.8 regarding the location of a site or route; and

75.9 H. the date the applicant intends to file its completed application with the

75.10 commission, if the date is known.

75.11 Subp. 3. **Filing with commission.** The applicant must file a copy of the notice with

75.12 the commission at the time the applicant mails the notice to the recipients under subpart 1.

75.13 **7850.1680 COMMENTS AND PROCESS.**

75.14 Subpart 1. **Notice to commission.** The department must notify the commission of any

75.15 deficiencies in the draft application within ~~ten~~ 21 days of the date the complete draft

application

75.16 is filed.

75.17 Subp. 2. **Notice of comment period.** The commission must request comments

75.18 regarding whether to appoint an advisory task force under part 7850.2400 for the proceeding.

75.19 Notice of the comment period must be sent to the general list, the project contact list, the

75.20 public agency contact list, the landowner list, **the tribal government contact list**, and the local
 75.21 and tribal government list. Initial

75.21 comments must be filed within 21 days of the date the notice was made. Reply comments

75.22 must be filed within seven days of the date the initial comment period expires. If the

75.23 commission appoints an advisory task force, the commission must determine the charge of

75.24 the task force under part 7850.2400.

76.1 Subp. 3. **Process schedule.** Upon receipt of a draft permit application, commission

76.2 staff must consult with the department and the applicant to set a proposed schedule to

76.3 complete the permitting process within applicable statutory deadlines. The commission

76.4 must make the schedule available in the commission's electronic filing system. If an

76.5 application includes a request by the applicant that joint proceedings be held on multiple

76.6 permit applications or on both a certificate of need and a permit application, the commission

76.7 must set a schedule at the time the commission determines whether to hold joint proceedings

76.8 under part 7850.2140.

76.9 Subp. 4. **Application process.** After complying with the draft application requirements,

76.10 an applicant that intends to proceed with the permitting process must follow the procedures

76.11 for filing an application under parts 7850.1700 to 7850.1900.

76.12 **7850.1700 PERMIT APPLICATION UNDER FULL PERMITTING PROCESS AND**
 76.13 **MANNER OF FILING.**

76.14 Subpart 1. **Filing of application for permit.** A person seeking a site permit or route

76.15 permit for a large electric power generating facility under this chapter must file three copies

76.16 of the application for the permit with the PUC commission. Upon acceptance of the

76.17 application, the commission will advise the applicant of how many copies of the application

76.18 ~~must be submitted to the PUC.~~ The applicant must serve copies of the application on the
76.19 department and the Office of the Attorney General. The applicant must send notice of its
76.20 filing to the public agency contact list and the general list. An applicant subject to the
76.21 electronic filing requirements contained in Minnesota Statutes, section 216.17, subdivision
76.22 3, must follow the filing procedures under Minnesota Statutes, section 216.17, subdivision
76.23 3.

76.24 Subp. 2. [See repealer.]

76.25 Subp. 3. **Cover letter and summary.** An application for a site or route permit must
76.26 be accompanied by a cover letter signed by an authorized officer or agent of the applicant.
77.1 The cover letter must specify the type of facility for which a permit is requested. The letter
77.2 must also include on a separate page a summary of the filing sufficient to apprise potentially
77.3 interested parties of the application's nature and its general content.

77.4 **7850.1710 APPLICATION COMPLETENESS; SCHEDULE.**

77.5 Subpart 1. **Completeness determination.** Within ten days of the date an application
77.6 for a site or a route permit is received, the commission's executive secretary must determine
77.7 whether the application is complete and notify the applicant of the decision in writing. The
77.8 executive secretary must designate a commission staff person as public advisor for the
77.9 proceeding and include the staff person's name and contact information in the notice provided
77.10 to the applicant. The executive secretary must file notice of the completeness determination
77.11 in the commission's electronic filing system.

77.12 Subp. 2. **Incomplete application.** An application is not incomplete if the missing
77.13 information can be obtained from the applicant within 20 days of the date the application
77.14 is deemed incomplete and the missing information does not interfere with the public's ability
77.15 to review the proposed project. If the application is incomplete, the executive secretary must
77.16 set the matter for further review by the commission at the earliest possible commission
77.17 agenda meeting, considering the applicant's availability and request for additional time. If
77.18 the applicant files the missing information prior to the commission meeting, the executive

77.19 secretary must remove the item from the agenda and notify the applicant in writing that the
77.20 application is complete.

77.21 Subp. 3. **Joint application.** If the commission receives a request from an applicant
77.22 that joint proceedings be held on multiple permit applications or on applications filed under
77.23 this chapter and chapter 7849, joint proceedings must not begin until after the executive
77.24 secretary determines that all applications are complete.

77.25 Subp. 4. **Process schedule update.** At the time the executive secretary makes a
77.26 determination on completeness and after consulting the department and the applicant,
78.1 commission staff must update the process schedule with any changes, considering the
78.2 applicable statutory deadlines for completing the permitting process. The updated schedule
78.3 must be sent to the department and the applicant, and be made available to the public upon
78.4 request, made available in the commission's electronic filing system.

78.5 Subp. 5. **Statutory deadline; extension.** If during the proceedings the commission
78.6 determines the commission is unable to meet the deadline to make a final decision on a
78.7 permit application, the commission may extend the deadline under Minnesota Statutes,
78.8 section 216E.03, subdivision 9, or 216E.04, subdivision 7.

78.9 **7850.1800 PERMIT FEES.**

78.10 Subpart 1. **Requirement.** An applicant for a site permit or route permit ~~shall~~ must
78.11 pay a fee to the department in accordance with Minnesota Statutes, section 216E.18. The
78.12 estimated fee for processing the permit application must be determined at the time an
78.13 application is filed and in accordance with Minnesota Statutes, section 216E.18.

78.14 Subp. 2. **Initial payment.** The applicant ~~shall~~ must submit with the application 25
78.15 percent of the total estimated fee, or up to 50 percent of the total estimated fee if the
78.16 commission determines that the additional percentage is reasonably necessary to complete
78.17 the site evaluation and design process. The commission ~~shall not process~~ is prohibited from
78.18 processing a permit application until the first portion of the fee is submitted. The ~~PUC shall~~
78.19 department must deposit all money received from the applicant for permit fees in a special
7850.1800

78.20 account and notify the commission if payment has not been made at the time the application
 78.21 is received.

78.22 **Subp. 3. Additional payments.** The applicant ~~shall~~ must pay an additional 25 percent
 78.23 of the fee within 90 days after the application has been accepted by the commission.
 78.24 Additional payments must be made within 30 days of notification by the commission that
 78.25 additional fees are necessary for completion of the permitting process. The department must
 78.26 notify the commission if any assessed fees have not been paid at the time the final decision
 79.1 on a permit is made. The commission ~~shall not make~~ is prohibited from making a final
 79.2 decision on a permit application if any assessed fees have not been paid.

79.3 **Subp. 4. Final accounting.** At the end of the permitting process, including any judicial
 79.4 review of the commission's final decision, the ~~PUC shall~~ department must provide a final
 79.5 accounting to the commission and the applicant of the total cost of processing the permit
 79.6 application. The applicant may review all actual costs associated with processing an
 79.7 application and present objections to the commission. The application fees paid by the
 79.8 applicant ~~shall~~ must include the necessary and reasonable expenses incurred ~~in processing~~
 79.9 to process the application, including, but not limited to, staff time, expenses for public notice
 79.10 and meetings and hearings, environmental review, administrative overhead, and legal
 79.11 expenses. The applicant ~~shall~~ must make the final payment within 30 days of notification
 79.12 ~~of.~~ The ~~PUC shall~~ department must refund any excess payments ~~with~~ within 30 days of the
 79.13 final accounting.

79.14 **7850.1900 APPLICATION CONTENTS.**

79.15 **Subpart 1. Site permit application for; LEPGP.** ~~An application for a site permit for~~
 79.16 ~~a large electric power generating plant must contain the following information:~~ An application
 79.17 for an LEPGP site permit must include at least two proposed sites. If the applicant intends
 79.18 to propose a project that is eligible for alternative review under Minnesota Statutes, section
 79.19 216E.04, the applicant is not required to propose more than one site. An application for a
 79.20 site permit must include the information required for a draft site permit application under

79.21 part 7850.1640, as well as:

79.22 ~~A. a statement of proposed ownership of the facility as of the day of filing and~~
79.23 ~~after commercial operation;~~

79.24 ~~B. the precise name of any person or organization to be initially named as permittee~~
79.25 ~~or permittees and the name of any other person to whom the permit may be transferred if~~
79.26 ~~transfer of the permit is contemplated;~~

80.1 ~~C. at least two proposed sites for the proposed large electric power generating~~
80.2 ~~plant and identification of the applicant's preferred site and the reasons for preferring the~~
80.3 ~~site;~~

80.4 ~~D. a description of the proposed large electric power generating plant and all~~
80.5 ~~associated facilities, including the size and type of the facility;~~

80.6 ~~E. the environmental information required under subpart 3;~~

80.7 ~~F. the names of the owners of the property for each proposed site;~~

80.8 ~~G. the engineering and operational design for the large electric power generating~~
80.9 ~~plant at each of the proposed sites;~~

80.10 ~~H. a cost analysis of the large electric power generating plant at each proposed~~
80.11 ~~site, including the costs of constructing and operating the facility that are dependent on~~
80.12 ~~design and site;~~

80.13 ~~I. an engineering analysis of each of the proposed sites, including how each site~~
80.14 ~~could accommodate expansion of generating capacity in the future;~~

80.15 ~~J. identification of transportation, pipeline, and electrical transmission systems~~
80.16 ~~that will be required to construct, maintain, and operate the facility;~~

80.17 ~~K. a listing and brief description of federal, state, and local permits that may be~~
80.18 ~~required for the project at each proposed site; and~~

80.19 ~~L. a copy of the Certificate of Need for the project from the Public Utilities~~

80.20 ~~Commission or documentation that an application for a Certificate of Need has been~~
80.21 ~~submitted or is not required.~~

~~80.22 A. for all proposed projects, including those eligible for alternative review under~~
~~80.23 part 7850.2800, a list of each site the applicant has considered and rejected, including the~~
~~80.24 reasons for rejecting the site;~~

81.1 B. a description of any change to a project that affects whether the project is
81.2 eligible for alternative review under part 7850.2800;

81.3 C. a description of any material change made to the information filed in the draft
81.4 application, including the reason for the change; and

81.5 D. the location of each public library or government center where the application
81.6 is available to the public.

81.7 **Subp. 2. Route permit application for; HVTL.** ~~An application for a route permit~~
81.8 ~~for a high voltage transmission line shall contain the following information: An application~~
81.9 ~~for an HVTL route permit must include at least two proposed routes. If the applicant intends~~
81.10 ~~to propose a project that is eligible for alternative review under Minnesota Statutes, section~~
81.11 ~~216E.04, the applicant is not required to propose more than one route. A route permit~~
81.12 ~~application must include the information required for a draft route permit application under~~
81.13 ~~part 7850.1640, as well as:~~

81.14 ~~A. a statement of proposed ownership of the facility at the time of filing the~~
81.15 ~~application and after commercial operation;~~

81.16 ~~B. the precise name of any person or organization to be initially named as permittee~~
81.17 ~~or permittees and the name of any other person to whom the permit may be transferred if~~
81.18 ~~transfer of the permit is contemplated;~~

81.19 ~~C. at least two proposed routes for the proposed high voltage transmission line~~
81.20 ~~and identification of the applicant's preferred route and the reasons for the preference;~~

81.21 ~~D. a description of the proposed high voltage transmission line and all associated~~

- 81.22 ~~facilities including the size and type of the high voltage transmission line;~~
- 81.23 ~~E. the environmental information required under subpart 3;~~
- 82.1 ~~F. identification of land uses and environmental conditions along the proposed~~
- 82.2 ~~routes;~~
- 82.3 ~~G. the names of each owner whose property is within any of the proposed routes~~
- 82.4 ~~for the high voltage transmission line;~~
- 82.5 ~~H. United States Geological Survey topographical maps or other maps acceptable~~
- 82.6 ~~to the commission showing the entire length of the high voltage transmission line on all~~
- 82.7 ~~proposed routes;~~
- 82.8 ~~I. identification of existing utility and public rights of way along or parallel to~~
- 82.9 ~~the proposed routes that have the potential to share the right of way with the proposed line;~~
- 82.10 ~~J. the engineering and operational design concepts for the proposed high voltage~~
- 82.11 ~~transmission line, including information on the electric and magnetic fields of the~~
- 82.12 ~~transmission line;~~
- 82.13 ~~K. cost analysis of each route, including the costs of constructing, operating, and~~
- 82.14 ~~maintaining the high voltage transmission line that are dependent on design and route;~~
- 82.15 ~~L. a description of possible design options to accommodate expansion of the high~~
- 82.16 ~~voltage transmission line in the future;~~
- 82.17 ~~M. the procedures and practices proposed for the acquisition and restoration of~~
- 82.18 ~~the right of way, construction, and maintenance of the high voltage transmission line;~~
- 82.19 ~~N. a listing and brief description of federal, state, and local permits that may be~~
- 82.20 ~~required for the proposed high voltage transmission line; and~~
- 82.21 ~~O. a copy of the Certificate of Need or the certified HVTL list containing the~~
- 82.22 ~~proposed high voltage transmission line or documentation that an application for a Certificate~~
- 82.23 ~~of Need has been submitted or is not required.~~

~~82.24 A. a list of each proposed route, labeled alphabetically in text and maps;~~

~~83.1 B. whether or not the project is eligible for alternative review under part 7850.2800;~~

~~83.2 a list of each route the applicant has considered and rejected, including the reasons for~~

~~83.3 rejecting the route;~~

83.4 C. a description of any change to a project that affects whether the project is

83.5 eligible for alternative review under part 7850.2800;

83.6 D. a description of any material change made to the information filed in the draft

83.7 application, including the reason for the change; and

83.8 E. the location of each library or government center where the application is

83.9 available to the public.

83.10 Subp. 3. **Environmental information.** An applicant for a site permit or a route permit

83.11 shall include in the application the following environmental information for each proposed

83.12 site or route to aid in the preparation of an environmental impact statement: An application

83.13 must include the information required for a draft **site** application under part 7850.1640 and

83.14 must identify any **material** change made to the information filed in the draft application.

83.15 A. ~~a description of the environmental setting for each site or route;~~

83.16 B. ~~a description of the effects of construction and operation of the facility on~~

83.17 ~~human settlement, including, but not limited to, public health and safety, displacement,~~

83.18 ~~noise, aesthetics, socioeconomic impacts, cultural values, recreation, and public services;~~

83.19 C. ~~a description of the effects of the facility on land-based economies, including,~~

83.20 ~~but not limited to, agriculture, forestry, tourism, and mining;~~

83.21 D. ~~a description of the effects of the facility on archaeological and historic~~

83.22 ~~resources;~~

83.23 E. ~~a description of the effects of the facility on the natural environment, including~~

83.24 ~~effects on air and water quality resources and flora and fauna;~~

- 84.1 ~~F. a description of the effects of the facility on rare and unique natural resources;~~
84.2 ~~G. identification of human and natural environmental effects that cannot be avoided~~
84.3 ~~if the facility is approved at a specific site or route; and~~
84.4 ~~H. a description of measures that might be implemented to mitigate the potential~~
84.5 ~~human and environmental impacts identified in items A to G and the estimated costs of~~
84.6 ~~such mitigative measures.~~

84.7 **7850.2100 PROJECT NOTICE OF APPLICATION.**

84.8 Subpart 1. [See repealer.]

84.9 Subp. 2. **Notification to persons on general list, to local officials, and to property**
84.10 **owners.** Within 15 days after submission of an application, the applicant ~~shall~~ must mail
84.11 written notice of the submission to ~~the following people:~~

84.12 ~~A. those persons whose names are on the general list maintained by the PUC for~~
84.13 ~~this purpose;~~

84.14 ~~B. each regional development commission, county, incorporated municipality,~~
84.15 ~~and township in which any part of the site or route or any alternative is proposed to be~~
84.16 ~~located; and~~

84.17 ~~C. each owner whose property is adjacent to any of the proposed sites for a large~~
84.18 ~~electric power generating plant or within any of the proposed routes for a high voltage~~
84.19 ~~transmission line. For purposes of giving notice under this item, owners are those persons~~
84.20 ~~shown on the records of the county auditor or, in any county where tax statements are mailed~~
84.21 ~~by the county treasurer, on the records of the county treasurer, or any other list of owners~~
84.22 ~~approved by the commission.~~

84.23 A. the general list;

84.24 B. the project contact list;

- 85.1 C. the public agency contact list;
- 85.2 D. the landowner list;
- 85.3 E. the tribal government contact list;
- 85.4 F. the tribal and local government contact list, by certified mail; and
- 85.5 G. for a utility, the general service list maintained under part 7829.0600.

85.6 Subp. 3. **Content of notice.** The notice mailed under subpart 2 ~~shall~~ must contain ~~the~~
85.7 ~~following information:~~

85.8 A. a description of the proposed project, including a map showing the general
85.9 area of the proposed site or proposed route and each alternative;

85.10 B. a statement that a permit application has been submitted to the PUC commission,
85.11 including the name of the permit applicant; and information regarding how a copy of the
85.12 application may be obtained;

85.13 C. a statement that the permit application ~~will be~~ is considered by the PUC
85.14 commission under ~~the provisions of parts 7850.1000 to 7850.5600~~ this chapter and the
85.15 Power Plant Siting Act and ~~describing a description of~~ the time periods for the PUC
85.16 commission to act;

85.17 ~~D. a statement that the PUC will hold a public meeting within 60 days and the~~
85.18 ~~date of the meeting if it is known at the time of the mailing;~~

85.19 ~~E. the manner in which the PUC will conduct environmental review of the proposed~~
85.20 ~~project, including the holding of a scoping meeting at which additional alternatives to the~~
85.21 ~~project may be proposed;~~

85.22 ~~F. the name of the PUC staff member who has been appointed by the commission~~
85.23 ~~to serve as the public advisor, if known, or otherwise, a general contact at the PUC;~~

86.1 ~~G. D.~~ a statement describing the manner in which persons may register their names
 86.2 with the PUC commission on the project contact list and how persons may subscribe to the
 86.3 docket using the commission's electronic filing system;

86.4 ~~H. a statement that a public hearing will be conducted after the EIS is prepared;~~

86.5 ~~I. E.~~ a statement indicating whether a certificate of need or other authorization
 86.6 from the Public Utilities commission is required for the project, and the status of the matter
 86.7 if such authorization is required;

86.8 ~~J. F.~~ a statement indicating whether ~~that~~ **on whether** the applicant may exercise
 86.9 the power of eminent domain under Minnesota Statutes, section 216E.12, to acquire the land necessary
 86.10 for the project and the basis for such authority; and, including the phrase "your property
 86.11 may be included in the final site or route selected"; and

86.12 ~~K. any other information requested by the commission to be included in the notice.~~

86.13 G. a statement that the commission is responsible for making the final
 86.14 determination regarding the location of the site or route.

86.15 Subp. 4. **Publication of Newspaper notice.** Within 15 days after ~~submission of the~~
 86.16 date an application is filed, the applicant ~~shall~~ must publish notice in a legal newspaper of
 86.17 general circulation in each county in which a site, route, or any alternative is proposed to
 86.18 be located that an application has been submitted and a description of the proposed project.
 86.19 The notice must also state where a copy of the application may be reviewed.

86.20 Subp. 5. ~~Confirmation of notice~~ **Compliance filing.** Within 30 days after providing
 86.21 the requisite notice, the applicant ~~shall submit to the PUC documentation that all notices~~
 86.22 ~~required under this part have been given~~ must make a filing with the commission that
 86.23 demonstrates compliance with the notice requirements. The applicant ~~shall document the~~
 86.24 ~~giving of the notice by providing the PUC with~~ filing must include affidavits of publication
 86.25 or mailing and copies of the notice provided.

87.1 Subp. 6. **Failure to give notice.** The failure of the applicant to give the requisite notice
87.2 does not invalidate any ongoing permit proceedings provided the applicant has made a bona
87.3 fide attempt to comply, although the commission may extend the time for the public to
87.4 participate if the failure has interfered with the public's right to be informed about the project.

87.5 **7850.2110 COMMENTS ON APPLICATION.**

87.6 Subpart 1. **Notice.** The commission must issue a notice requesting comments on the
87.7 application and whether any changes from the draft permit application exist that are relevant
87.8 to record development. The notice must be sent to all of the notice lists under part 7850.1610.
87.9 Initial comments must be filed within 21 days of the date the notice was issued. Reply
87.10 comments must be filed within 14 days of the date the initial comment period expires.

87.11 Subp. 2. **Agency participation.** Comments filed by the department or the commission
87.12 in the commission's electronic filing system on behalf of another state agency or a federal
87.13 agency participating in the process must appear as "on behalf of" the agency that authored
87.14 the comments.

87.15 **7850.2120 COMMISSION REFERRAL.**

87.16 After the reply comment period closes, the commission must issue a notice of and order
87.17 for hearing referring the case to the Office of Administrative Hearings for contested case
87.18 proceedings, unless the project is an eligible project under part 7850.2800.

87.19 **7850.2140 JOINT PROCEEDINGS.**

87.20 If the commission receives an application requesting the commission to conduct
87.21 concurrent review of multiple permit applications or applications filed under this chapter
87.22 and chapter 7849, the commission must determine whether to hold joint proceedings and
87.23 set a process schedule, considering whether to hold:

87.24 A. joint public information and scoping meetings;

87.25 B. joint public hearings; and

88.1 C. joint proceedings to develop the record.

88.2 **7850.2200 PUBLIC ADVISOR.**

88.3 Upon acceptance of an application for a site or route permit, the commission ~~shall~~ must
88.4 designate a staff person to act as the public advisor on the project. The public advisor must
88.5 be available to answer questions from the public about the permitting process. The public
88.6 advisor ~~shall not give~~ is prohibited from giving legal advice or other advice that may affect
88.7 the legal rights of the person being advised, and the public advisor ~~shall not act~~ is prohibited
88.8 from acting as an advocate on behalf of any person.

88.9 **7850.2300 PUBLIC INFORMATION AND SCOPING MEETING.**

88.10 Subpart 1. **Scheduling public information and scoping meeting.** ~~Upon acceptance~~
88.11 ~~of an~~ For each site or route permit application for a site or route permit filed under this
88.12 chapter, the commission shall and the department must schedule a public information and
88.13 scoping meeting to provide information to the public about the proposed project and, to
88.14 answer questions, and to scope the environmental impact statement or the environmental
88.15 assessment. ~~The public meeting must be held no later than 60 days after acceptance of the~~
88.16 ~~application~~ in accordance with the process schedule. The public meeting must be held in a
88.17 location that is convenient for persons who live near the proposed project.

88.18 Subp. 2. **Notice of public meeting.** ~~The PUC shall give at least ten days' notice of~~
88.19 ~~the public meeting by mailing notice to persons whose names are on the project contact list~~
88.20 ~~maintained pursuant to part 7850.2100, subpart 1. The PUC shall also~~ At least 14 days
88.21 before the public information and scoping meeting, the applicant must publish notice of the
88.22 public meeting in a at least one legal newspaper of general circulation in the area where the
88.23 proposed project is proposed to be located. Within ten days of the date all affidavits of
88.24 publication are received, the applicant must file a copy of each affidavit with the commission.
88.25 If appropriate, the PUC commission may request the applicant to include notice of the public

89.1 meeting in the notice to be provided by the applicant pursuant to part 7850.2100. At least
89.2 ten days before the meeting, the commission must mail notice of the meeting to:

89.3 A. the project contact list;

89.4 B. the public agency contact list;

89.5 C. the landowner list;

89.6 D. the tribal government contact list; and

89.7 DE. the local and tribal government contact list.

89.8 The department must publish notice of the meeting in the EQB Monitor and must post the notice on the department's website.

89.9 Subp. 2a. **Notice content.** The notice sent under subpart 2 must include:

89.10 A. a statement that a permit application has been submitted to the commission,
89.11 including the name of the permit applicant and information on how to access a copy of the
89.12 application;

89.13 B. a statement that the commission and the department intend to hold a public
89.14 information and scoping meeting;

89.15 C. the date, time, and location of each scheduled meeting;

89.16 D. a description of the proposed project, including a map showing the general
89.17 area of the proposed site or proposed route and each alternative;

89.18 E. a statement that the commission evaluates the permit application under
89.19 Minnesota Statutes, chapter 216E and this chapter;

89.20 F. a statement describing the time periods for the commission to act;

89.21 G. a statement that the department directs the portion of the meeting that includes
89.22 scoping;

89.23 H. a description of the process the department uses to conduct environmental
89.24 review of the proposed project;

90.1 I. the name of and contact information for the commission's public adviser,
90.2 including a description of the public adviser's role;

90.3 J. a description how a person may register the person's name with the commission
90.4 on the project contact list or with the commission's electronic filing system;

90.5 K. a statement that a public hearing is conducted after the draft EIS or the EA is
90.6 completed, and that notice of the hearing is mailed separately;

90.7 L. a statement explaining whether a certificate of need or other commission
90.8 authorization is required for the project and the status of the matter if authorization is
90.9 required;

90.10 M. a description how a person can access or receive a copy of the commission's
90.11 referral of the case to the Office of Administrative Hearings;

90.12 N. a statement notifying landowners ~~that on whether~~ the applicant may exercise
90.13 the power of
90.14 eminent domain under Minnesota Statutes, section 216E.12, to acquire land necessary for
90.15 the project, including the phrase "your property may be included in the final route selected";
90.16 and

90.17 O. a statement that the commission is responsible for making the final decision
90.18 regarding the location of the site or route.

90.19 Subp. 3. **Conduct of public meeting.** ~~The commission shall appoint a person, who~~
90.20 ~~may be a PUC staff person, to conduct the public meeting.~~ The public meeting must be
90.21 conducted in an informal manner designed to encourage public participation. The public
90.22 must be afforded an opportunity to present comments and ask questions. ~~The PUC shall~~
90.23 ~~make available at the public meeting a copy of the application and other pertinent documents~~
~~in the PUC files regarding the application.~~ The staff shall must explain the permitting process

90.24 to the persons in attendance. A transcript of the meeting ~~need~~ does not need to ~~must~~ be maintained, and

90.25 ~~although the PUC commission may elect to~~ must also keep an audio recording of the meeting. The

91.1 scoping portion of the meeting must be conducted by the department as described in parts

91.2 7850.2500 to 7850.3700.

91.3 Subp. 4. **Applicant role.** The applicant ~~shall~~ must provide representatives at the public
91.4 meeting who are capable of answering general questions about the proposed project. The
91.5 applicant must make the application available at the meeting or provide, in writing, an
91.6 electronic link to the application and an electronic device for viewing the application.

91.7 Subp. 5. [See repealer.]

91.8 **7850.2400 CITIZEN ADVISORY TASK FORCE.**

91.9 Subpart 1. **Authority.** The commission has the authority to appoint a citizen advisory
91.10 task force. The commission ~~shall~~ must determine whether to appoint such a task force as
91.11 early in the process as possible. The commission ~~shall~~ must establish the size of the task
91.12 force and appoint its members in accordance with Minnesota Statutes, section 216E.08. ~~The~~
91.13 ~~commission shall advise of the appointment of the task force at the next monthly commission~~
91.14 ~~meeting.~~

91.15 Subp. 2. **Commission decision.** If the commission decides not to appoint a citizen
91.16 advisory task force and a person would like such a task force appointed, the person may
91.17 request that the commission create a citizen advisory task force and appoint its members.
91.18 Upon receipt of such a request, the commission ~~shall~~ must place the matter on the agenda
91.19 for the next regular ~~monthly~~ commission meeting.

91.20 Subp. 3. **Task force responsibilities.** Upon appointment of a citizen advisory task
91.21 force, the commission ~~shall~~ must specify in writing the charge to the task force. The charge
91.22 ~~shall include the identification of~~ must identify additional sites ~~or,~~ routes, or particular
91.23 impacts ~~to be evaluated~~ recommended for evaluation in the scope of the environmental

91.24 ~~impact statement review~~. The commission may establish additional charges, including a
 91.25 request that the task force express a preference for a specific site or route if it has one. The
 92.1 department must file a report with the commission summarizing the task force's work. The
 92.2 report must include all routes, sites, and impacts identified, including the sites or routes the
 92.3 task force recommends be included in the scope of the environmental review.

92.4 Subp. 4. **Termination of task force.** The task force expires upon completion of its
 92.5 charge, designation by the commission of alternative sites or routes ~~to be included for~~
 92.6 inclusion in the environmental ~~impact statement review~~, or on the specific date identified
 92.7 by the commission in the charge, whichever occurs first.

92.8 **7850.2450 FULL PERMITTING PROCESS.**

92.9 Parts 7850.2500 to 7850.2700 apply to all proposed projects that are not eligible for
 92.10 alternative review under part 7850.2800.

92.11 **7850.2500 EIS PREPARATION.**

92.12 Subpart 1. **EIS required.** ~~The commissioner of the department of Commerce shall~~
 92.13 must prepare an environmental impact statement EIS on each proposed large electric power
 92.14 ~~generating plant~~ LEPGP and high voltage transmission line HVTL for which a permit
 92.15 application has been accepted ~~by the commissioner.~~

92.16 Subp. 2. **Scoping process.** ~~The commissioner of the Department of Commerce shall~~
 92.17 ~~provide the public with an opportunity to participate in the development of the scope of the~~
 92.18 ~~environmental impact statement by holding a public meeting and by soliciting public~~
 92.19 ~~comments. The public meeting required under part 7850.2300 satisfies the requirement to~~
 92.20 ~~hold a scoping meeting. The commissioner shall provide a period of at least seven days~~
 92.21 ~~from the day of the public meeting for the public to submit comments on the scope of the~~
 92.22 ~~EIS. The commissioner shall determine the scope of the environmental impact statement~~
 92.23 ~~as soon after holding the public meeting as possible. Within five days after the decision,~~
 92.24 ~~the commissioner shall mail notice of the scoping decision to those persons whose names~~
 92.25 ~~are on either the general list or the project contact list. Once the commissioner has determined~~

93.1 ~~the scope of the environmental impact statement, the scope must not be changed except~~
93.2 ~~upon decision by the commissioner that substantial changes have been made in the project~~
93.3 ~~or substantial new information has arisen significantly affecting the potential environmental~~
93.4 ~~effects of the project or the availability of reasonable alternatives. At the public information~~
93.5 ~~and scoping meeting held under part 7850.2300, the department must conduct the scoping~~
93.6 ~~portion of the meeting. At the meeting, the department must provide the public with an~~
93.7 ~~opportunity to participate in the development of the scope of the EIS by soliciting public~~
93.8 ~~comments. Members of the public must be provided the opportunity to comment on the~~
93.9 ~~scope of the EIS, including on potential human and environmental impacts and possible~~
93.10 ~~mitigation measures, and to submit supporting documentation. The applicant must be~~
93.11 ~~provided an opportunity to respond to public input.~~

93.12 Subp. 3. **Alternative sites or routes.** During the public information and scoping
93.13 ~~process~~ meeting, a person may suggest alternative sites or routes to evaluate in the
93.14 environmental impact statement. A person ~~desiring~~ advocating that a particular site or route
93.15 be evaluated ~~shall submit~~ must explain to the ~~commissioner of the department of Commerce,~~
93.16 ~~during the scoping process, an explanation of~~ orally or in writing why the site or route should
93.17 be included in the ~~environmental impact statement~~ EIS and provide any other supporting
93.18 information the person wants the ~~commissioner~~ department to consider. The ~~commissioner~~
93.19 ~~shall~~ department must provide the applicant with an opportunity to respond to each request
93.20 that an alternative be included in the ~~environmental impact statement~~ EIS and must ask the
93.21 applicant to address the feasibility of each recommended alternative. The ~~commissioner~~
93.22 ~~shall include the suggested site or route in the scope of the environmental impact statement~~
93.23 ~~only if the commissioner determines that evaluation of the proposed site or route will assist~~
93.24 ~~in the commissioner's decision on the permit application.~~

93.25 Subp. 3a. **Comment period.** The department must provide a ten day comment period
93.26 after the meeting concludes to allow interested persons an opportunity to submit written
93.27 comments on the scope of the EIS.

94.1 Subp. 4. [See repealer.]

94.2 Subp. 5. [See repealer.]

94.3 Subp. 6. [See repealer.]

94.4 Subp. 7. [See repealer.]

94.5 Subp. 8. [See repealer.]

94.6 Subp. 9. [See repealer.]

94.7 Subp. 10. [See repealer.]

94.8 Subp. 11. [See repealer.]

94.9 Subp. 12. [See repealer.]

94.10 **7850.2520 NOTICE TO COMMISSION.**

94.11 Prior to filing its scoping decision under part 7850.2530, the department must notify
94.12 the commission of the alternatives the department intends to include in the scope of the EIS.
94.13 The commission must complete its consideration of the department's proposed alternatives
94.14 by the time the commission issues its decision on record development under part 7850.2120.
94.15 The department must include in the scope of the EIS any alternative identified by the
94.16 commission or the applicant.

94.17 **7850.2530 SCOPING DECISION.**

94.18 Subpart 1. **Scope of EIS.** The scoping process must be used to reduce the scope and
94.19 bulk of an EIS by identifying potentially significant issues and alternatives requiring analysis
94.20 and establishing the level of detail with which the issues must be analyzed. The department
94.21 must include the suggested site or route in the scope of the EIS only if the department
94.22 determines an evaluation of the proposed site or route assists the commission's decision on
94.23 the permit application. At a minimum, the scoping decision by the department must address:

- 95.1 A. the issues to be addressed in the EIS;
- 95.2 B. the alternative sites and routes to be evaluated in the EIS; and
- 95.3 C. the schedule to complete the EIS.

95.4 Subp. 2. **Filing with commission.** In accordance with the process schedule, the
 95.5 department must complete and file with the commission its scoping decision. Prior to the
 95.6 issuance of the scoping decision, the applicant must coordinate with the department to
 95.7 update the landowner list to include any landowner omitted from the previous list whose
 95.8 property is adjacent to a site or along a route being considered in the scope of the EIS.

95.9 Subp. 3. **Notice of decision.** Within five days after filing the scoping decision with
 95.10 the commission, the department must provide notice of the scoping decision to the project
 95.11 contact list, the public agency contact list, the landowner list, the tribal government contact
 95.12 list, and the local ~~and tribal~~

46.29 government list. The department must publish notice of the decision in the EQB

95.12 Monitor. The department must also file an updated map in the commission's electronic
 95.13 filing system showing the location of areas that will be studied in the scope of the EIS.

95.13 Subp. 4. **Changes to scoping decision.** Once the department has determined the scope
 95.14 of the EIS, the scope must not be changed unless the department determines substantial
 95.15 changes have been made to the project or substantial new information that significantly
 95.16 affects the potential environmental effects of the project or the availability of reasonable
 95.17 alternatives has been identified.

95.18 ~~**7850.2540 SUPPLEMENTAL FILING BY APPLICANT.**~~

95.19 ~~If the commission determines that a site or route not proposed by the applicant must~~
 95.20 ~~be examined in addition to the applicant's proposed sites or routes, the applicant must file~~
 95.21 ~~additional information for each alternative site or route to support equivalent comparison~~
 95.22 ~~of the applicable permitting criteria for all sites or routes evaluated in the EIS. The filing~~
 95.23 ~~must be made in accordance with the process schedule.~~

96.1 **7850.2550 DRAFT EIS.**

96.2 Subpart 1. **Matters excluded.** If the commission has issued a certificate of need for
96.3 an LEPGP or HVTL, or has placed an HVTL on the certified HVTL list maintained by the
96.4 commission, the EIS must not address questions of need, including size, type, and timing;
96.5 questions of alternative system configurations; or questions of voltage.

96.6 Subp. 2. **Draft EIS.** The draft EIS must be written in plain and objective language.
96.7 The draft EIS must follow the standard format for an EIS under part 4410.2300 to the extent
96.8 the requirements of part 4410.2300 are appropriate. The draft EIS must be completed and
96.9 filed with the commission in accordance with the process schedule.

96.10 Subp. 3. **Public review.** Upon completion of the draft EIS, the department must make
96.11 the draft EIS available for public review by placing a copy of the draft EIS in a public library
96.12 or other governmental office in every county where each proposed site or route is located.
96.13 The department must mail notice of the availability of the draft EIS to each person on the
96.14 landowner list and the project contact list. The department must also place a notice of the
96.15 availability of the draft EIS in the EQB Monitor. The department must post the draft EIS
96.16 on the agency's website.

96.17 Subp. 4. **Environmental review meeting.** The department must schedule an
96.18 environmental review meeting to provide an opportunity for the public to comment on the
96.19 draft EIS. The meeting must be held no sooner than 20 days after the draft EIS becomes
96.20 available. The meeting must be held in a location convenient to persons who live near the
96.21 proposed project. The department must mail notice of the environmental review meeting
96.22 to each person on the project contact list, the general list, the government agency contact
96.23 list, the landowner list, the tribal government contact list, and the local ~~and tribal~~
96.24 government contact list. The department
96.25 must also place a notice of the environmental review meeting in the EQB Monitor. The
environmental review meeting may be held just prior to holding a contested case hearing

97.1 on the permit application. The department must hold the record on the EIS open to receive
97.2 written comments for not less than ten days after the environmental review meeting closes.

97.3 **7850.2570 PUBLIC HEARING.**

97.4 Subpart 1. **Hearing.** After the department files a draft EIS, the commission must hold
97.5 a public hearing on a site or route permit application, as required under Minnesota Statutes,
97.6 section 216E.03, subdivision 6.

97.7 Subp. 2. **Public hearing notice.** Notice of the hearing must be given by the commission
97.8 and must be coordinated with the administrative law judge. The notice must include:

97.9 A. the time, date, and location of each hearing;

97.10 B. a statement notifying landowners ~~that whether~~ the applicant may exercise the
97.11 power of

97.11 eminent domain under Minnesota Statutes, section 216E.12, to acquire land necessary for
97.12 the project, including the phrase "your property may be included in the final site or route
97.13 selected"; and

97.14 C. a statement explaining that the commission is responsible for making the final
97.15 decision regarding the location of the site or route.

97.16 Subp. 3. **Notice recipients.** The commission must send notice of the hearing to the
97.17 project contact list, the public agency contact list, the landowner list, and by certified mail
46.30 to the ~~tribal government contact list and the local and tribal~~ government ~~contact~~ list. ~~The~~
97.18 department must publish notice of the hearing in the EQB

97.18 Monitor and must post the notice on the department's website.

97.19 Subp. 4. **Newspaper notice.** The applicant must publish notice of the public hearing
97.20 in a legal newspaper of general circulation in the county where the public hearing is to be
97.21 held. The notice must be published at least ten days before the date of the public hearing.
97.22 The applicant must file a copy of the affidavit of publication with the commission within
97.23 five days of receiving the affidavit.

98.1 **7850.2650 FINAL EIS.**

98.5 Subpart 1. **Contents.** The department must respond to the timely, substantive comments
 98.6 received on the draft EIS consistent with the scoping decision and prepare the final EIS.
 98.7 The department may attach to the draft EIS the comments received and its response to
 98.8 comments without preparing a separate document.

98.9 Subp. 2. **Filing and public access.** The final EIS must be completed and filed with
 98.10 the commission in accordance with the process schedule. The department must publish
 98.11 notice of the availability of the final EIS in the EQB Monitor and must supply a press release,
 98.12 containing an electronic link to the final EIS, to at least one newspaper of general circulation
 98.13 in the areas where the proposed sites or routes are located. At the time the final EIS is filed
 98.14 with the commission, the department must certify to the commission that the final EIS
 98.15 complies with the adequacy factors in part 7850.2700, subpart 2a.

98.16 Subp. 3. **Public comment.** The public has Anyone wishing to comment on the final
EIS must do so within 25 days of the filing to comment on the adequacy of the final
EIS.

98.17 Commission staff must establish the timing of the comment period in consultation with the
 46.31 administrative law judge. The department must publish notice of the comment period in
the EQB Monitor and must post the notice on the department's website.

98.18 Subp. 4. **Cost.** The applicant for a site permit or route permit must pay the department's
 98.19 reasonable costs to prepare and distribute an EIS. The costs must not be assessed separately
 98.20 from the assessment under part 7850.1800 unless the assessment under part 7850.1800 is
 98.21 inadequate to cover the department's reasonable costs to consider the permit application.

98.22 Subp. 5. **Environmental review requirements.** Except as provided in this chapter,
 98.23 parts 7849.1000 to 7849.2100 and chapter 4410 do not apply to the preparation or
 98.24 consideration of an EIS for an LEPGP or an HVTL.

98.25 **7850.2675 PROCEDURE AFTER ADMINISTRATIVE LAW JUDGE REPORT.**

98.26 Subpart 1. **Parties.** A party must file any exception to the administrative law judge's

98.27 report under part 7829.2700.

99.4 Subp. 2. **Participating agencies.** A state or federal agency participating in a route or
99.5 site permit process under this chapter must file final comments regarding the case during
99.6 the same time period exceptions are due for parties under part 7829.2700.

99.7 **7850.2700 FINAL DECISION.**

99.8 Subpart 1. **Timing.** The commission ~~shall~~ must make a final decision on a site permit
99.9 or a route permit application within 60 days after receipt of the report of the administrative
99.10 law judge. A final decision must be made within one year after the commission's
99.11 determination that an application is complete. The commission may extend this time limit
99.12 for up to three months for just cause or upon agreement of the applicant.

99.13 Subp. 2. **EIS adequacy.** The commission ~~shall~~ must not make a final decision on a
99.14 permit until the commission has ~~found~~ determined the ~~environmental impact statement to~~
99.15 ~~be~~ EIS is adequate.

99.16 Subp. 2a. **Adequacy determination.** The commission must determine the adequacy
99.17 of the final EIS. The commission is prohibited from deciding the adequacy until at least ten
99.18 days after the date of availability of the final EIS is announced in the EQB Monitor. The
99.19 final EIS is adequate if the final EIS:

99.20 A. addresses the issues and alternatives raised in scoping to a reasonable extent
99.21 considering the availability of information and the time limitations to consider the permit
99.22 application;

99.23 B. provides responses to the timely, substantive comments received during the
99.24 draft EIS review process; and

99.25 C. was prepared in compliance with the procedures in this chapter.

99.26 If the commission finds that the EIS is not adequate, the commission must direct the
99.27 department to respond to the deficiencies and resubmit the revised EIS to the commission
99.28 as soon as possible.

100.1 Subp. 3. **Certificate of need decision.** The ~~PUC shall not make~~ commission is
 100.2 prohibited from making a final decision on a permit for a project that requires a certificate
 100.3 of need from the ~~Public Utilities~~ commission until the applicant has obtained the necessary
 100.4 approval.

100.5 Subp. 4. **Notice.** The ~~PUC shall~~ commission must publish notice of its final permit
 100.6 decision in the State Register within 30 days of the date the commission makes the decision.
 100.7 The ~~PUC shall~~ commission must also publish notice in the EQB Monitor. The ~~PUC shall~~
 100.8 commission must mail notice of its final permit decision to those persons whose names are
 100.9 on the project contact list. The ~~PUC shall~~ commission must post notice of the final decision
 100.10 on the agency's ~~Web page, if possible~~ website.

100.11 **7850.2800 ELIGIBLE PROJECTS; ALTERNATIVE REVIEW PROCESS.**

100.12 Subpart 1. **Eligible projects.** An applicant for a site permit or a route permit for one
 100.13 of the following projects may elect to follow the alternative review procedures of parts
 100.14 ~~7850.2800~~ 7850.3700
 100.15 to 7850.3900 instead of the full permitting procedures in parts ~~7850.1700~~ 7850.2500 to
 100.16 7850.2700:

100.16 A. ~~large electric power generating plants~~ an LEPGP with a capacity of less than
 100.17 80 megawatts;

100.18 B. ~~large electric power generating plants that are~~ an LEPGP fueled by natural gas;

100.19 C. ~~high voltage transmission lines~~ an HVTL of between 100 and 200 kilovolts;

100.20 D. ~~high voltage transmission lines~~ an HVTL in excess of 200 kilovolts and less
 100.21 than five miles in length in Minnesota;

100.22 E. ~~high voltage transmission lines~~ an HVTL in excess of 200 kilovolts if at least
 100.23 80 percent of the distance of the line in Minnesota will be located along existing ~~high voltage~~
 100.24 ~~transmission line~~ HVTL rights-of-way;

101.1 F. ~~a high voltage transmission line~~ an HVTL service extension to a single customer
101.2 between 200 and 300 kilovolts and less than ten miles in length; ~~and~~

101.3 G. ~~a high voltage transmission line~~ an HVTL rerouting to serve the demand of a
101.4 single customer when the rerouted line will be located at least 80 percent on property owned
101.5 or controlled by the customer or the owner of the transmission line.; and

101.6 H. an LEPGP powered by solar energy.

101.7 Subp. 2. **Notice to PUC commission.** ~~An A permit applicant for a permit~~ for one of
101.8 the qualifying projects in subpart 1, who intends to follow ~~the~~ alternative review procedures
101.9 ~~of parts 7850.2800 to 7850.3700, shall~~ must notify the PUC commission in writing of ~~such~~
101.10 the intent, in writing, at least ten days before submitting an application for the project to
101.11 use alternative review procedures at the time the applicant files a draft permit application
101.12 under part 7850.1640.

101.13 **7850.3700 ENVIRONMENTAL ASSESSMENT PREPARATION.**

101.14 Subpart 1. **Environmental assessment required.** Subject to the alternative review
101.15 process, the commissioner of the department of Commerce shall must prepare an
101.16 ~~environmental assessment on~~ EA for each proposed large electric power generating plant
101.17 LEPGP and each proposed high voltage transmission line being reviewed under the
101.18 ~~alternative permitting process in parts 7850.2800 to 7850.3900~~ HVTL. The ~~environmental~~
101.19 ~~assessment~~ EA must contain information on the human and environmental impacts of
101.20 resulting from the proposed project and of alternative sites or routes identified by the
101.21 ~~commissioner~~ commission and the department, and shall must address mitigating measures
101.22 for all sites or routes considered.

101.23 Subp. 2. **Scoping process.**

101.24 A. ~~The commissioner of the Department of Commerce shall provide the public~~
101.25 ~~with an opportunity to participate in the development of the scope of the environmental~~

102.1 ~~assessment by holding a public meeting and by soliciting public comments. The public~~
102.2 ~~meeting required under part 7850.3500 satisfies the requirement to hold a scoping meeting.~~
102.3 ~~The commissioner shall mail notice of the meeting to those persons on either the general~~
102.4 ~~list or the project contact list at least ten days before the meeting. The commissioner shall~~
102.5 ~~provide at least seven days from the day of the public meeting for the public to submit~~
102.6 ~~comments regarding the scope of the environmental assessment. At the public information~~
102.7 ~~and scoping meeting held under part 7850.2300, the department must conduct the scoping~~
102.8 ~~portion of the meeting. At the meeting, the department must provide the public with an~~
102.9 ~~opportunity to participate in the development of the scope of the EA by soliciting public~~
102.10 ~~comments. Members of the public must be provided the opportunity to comment on the~~
102.11 ~~scope of the EA, including on potential human and environmental impacts and possible~~
102.12 ~~mitigation measures, and to submit supporting documentation. The applicant must be~~
102.13 ~~provided an opportunity to respond to public input.~~

102.14 Subp. 2a. **Alternative sites or routes.** B. ~~The commissioner shall~~ department must
102.15 include in the scope of the environmental assessment EA any alternative sites or routes
102.16 proposed by the citizen advisory task force or by any member agency of the Environmental
102.17 Quality Board ~~the commissioner~~ prior to the close of the scoping period. During the scoping
102.18 process, any person may suggest an alternative site or route to evaluate in the environmental
102.19 assessment. A person desiring advocating that a particular site or route be evaluated shall
102.20 must submit to the commissioner, department during the scoping process; an explanation
102.21 of detailing why the site or route should be included in the environmental assessment EA
102.22 and all supporting information the person wants the commissioner department to consider.
102.23 ~~The commissioner shall~~ department must provide the applicant with an opportunity to
102.24 respond to each request that an alternative be included in the environmental assessment EA.
102.25 ~~The commissioner shall~~ department must include the suggested site or route in the scope
102.26 of the environmental assessment EA only if the commissioner department determines that
102.27 evaluation of the proposed site or route will assist ~~in the commissioner's~~ commission's

103.1 ultimate decision on the permit application. Any person may also suggest specific human
103.2 or environmental impacts that should be included in the ~~environmental assessment~~ EA.

103.3 Subp. 2b. **Public comment.** The department must provide a ten day comment period
103.4 after the meeting concludes to allow interested persons an opportunity to submit written
103.5 comments.

103.6 Subp. 3. [See repealer.]

103.7 Subp. 4. [See repealer.]

103.8 Subp. 5. [See repealer.]

103.9 Subp. 6. [See repealer.]

103.10 Subp. 7. [See repealer.]

103.11 Subp. 8. [See repealer.]

103.12 Subp. 9. [See repealer.]

103.13 **7850.3720 NOTICE TO COMMISSION.**

103.14 Prior to filing its scoping decision under part 7850.3730, the department must notify
103.15 the commission of the alternatives the department intends to include in the scope of the EA.
103.16 The commission must complete its consideration of the department's proposed alternatives
103.17 by the time the commission issues its decision on record development under part 7850.2120.
103.18 The department must include any alternative identified by the commission in the scope of
103.19 the EA.

103.20 **7850.3730 SCOPING DECISION.**

103.21 Subpart 1. **Scoping decision.** The department must determine the scope of the EA in
103.22 accordance with the process schedule. Once the department has determined the scope of
103.23 the EA, the scope must not be changed unless the department determines substantial changes
103.24 have been made to the project or substantial new information that significantly affects the

104.1 potential environmental effects of the project or the availability of reasonable alternatives
 104.2 has been identified. The department must also determine a reasonable schedule for completing
 104.3 the EA as part of the scoping process. The scoping decision by the department must identify:

104.4 A. the alternative sites or routes, if any, that must be addressed in the EA

104.5 B. any specific potential impacts that must be addressed in the EA;

104.6 C. the schedule to complete the EA; and

104.7 D. other matters to be included in the EA.

104.8 Subp. 2. **Notice of decision.** Within five days of the date the scoping decision is filed
 104.9 with the commission, the department must provide notice of the scoping decision to the
 104.10 project contact list, the public agency contact list, the landowner list, the tribal government
 104.11 contact list, and the local and tribal

104.12 government contact list. Prior to the issuance of the scoping decision, the applicant must
 104.13 coordinate with the department to update the landowner list to include any landowner omitted
 104.14 from the previous list whose property is adjacent to a site or along a route being considered
 46.32 in the scope of the EA. The department must publish notice of the decision in the EQB

104.15 Monitor.

104.16 Subp. 3. **Alternatives to be included in EA.** Any alternative identified by either the
 104.17 commission or the applicant must be included and considered in the EA.

104.18 ~~**7850.3740 SUPPLEMENTAL FILING BY APPLICANT.**~~

104.19 ~~If the commission determines that a site or route not proposed by the applicant must~~
 104.20 ~~be examined in addition to the applicant's proposed sites or routes, the applicant must file~~
 104.21 ~~additional information for each site or route alternative to support equivalent comparison~~
 104.22 ~~of the applicable permitting criteria for all sites or routes evaluated in the EA. The filing~~
 104.23 ~~must be made in accordance with the process schedule.~~

104.24 ~~**7850.3750 ENVIRONMENTAL ASSESSMENT.**~~

- 104.24 **Subpart 1. Content of EA.** The EA must include:
- 105.1 **A. a general description of the proposed facility;**
- 105.2 **B. a list of any alternative sites or routes that are addressed;**
- 105.3 **C. a discussion of the potential impacts of the proposed project and each alternative**
- 105.4 **site or route on the human natural environment;**
- 105.5 **D. a discussion of mitigative measures that could reasonably be implemented to**
- 105.6 **eliminate or minimize any adverse impacts identified for the proposed project and each**
- 105.7 **alternative site or route analyzed;**
- 105.8 **E. an analysis of the feasibility of each alternative site or route considered;**
- 105.9 **F. a list of permits required for the project; and**
- 105.10 **G. a discussion of other matters identified in the scoping process.**
- 105.11 **H. a discussion of the facility's potential impact on greenhouse gas emissions;**
- 105.12 **climate change; and environmental justice.**
- 105.13 **Subp. 2. Time frame for completion of EA.** The EA must be filed with the
- 105.14 **commission in accordance with the process schedule.**
- 105.15 **Subp. 3. Notification of availability of EA.** Upon completion of the EA, the
- 105.16 **department must file the EA with the commission and publish notice of the availability of**
- 105.17 **the EA in the EQB Monitor. The department must also mail notice of the availability of the**
- 105.18 **EA to the persons on the landowner list and on the project contact list. The department must**
- 105.19 **provide a copy of the EA to any public agency with authority to permit or approve the**
- 105.20 **proposed project. The department must post the EA on the agency's website.**
- 105.21 **Subp. 4. Matters excluded.** If the commission has issued a certificate of need for an
- 105.22 **LEPGP or an HVTL, or has placed an HVTL on the certified HVTL list maintained by the**
- 105.23 **commission, the EA must not address questions of need, including size, type, and timing;**
- 105.24 **questions of alternative system configurations; or questions of voltage.**

106.1 Subp. 5. **No additional environmental review.** An EA is the only state environmental
106.2 review document the department is required to prepare on a project qualifying for review
106.3 under the alternative review process.

106.4 Subp. 6. **Cost.** The department's cost to prepare an EA must be assessed to the applicant
106.5 as part of the application fee under part 7850.1800.

106.6 **7850.3800 PUBLIC HEARING.**

106.7 Subpart 1. **Public hearing.** The PUC shall hold a public hearing once the environmental
106.8 assessment has been completed. Notice of the hearing shall be given in accordance with
106.9 Minnesota Statutes, section 216E.03, subdivision 6. The commission must hold a public
106.10 hearing on a site or route permit application as required under Minnesota Statutes, section
106.11 216E.04. The public hearing must be conducted by an administrative law judge. At least a
106.12 portion of the hearing shall be held in a county where the proposed large electric power
106.13 generating plant or high voltage transmission line would be located.

106.14 Subp. 1a. **Public hearing notice.** The commission must give notice of the hearing at
106.15 least ten days, but not more than 45 days, before the hearing. The notice must include:

106.16 A. the time, date, and location of each hearing; and

106.17 B. a statement notifying landowners **that whether** the applicant may exercise the
106.18 power of

106.19 eminent domain under Minnesota Statutes, section 216E.12, to acquire land necessary for
106.20 the project, including the phrase "your property may be included in the final site or route
106.21 selected."

106.22 Subp. 1b. **Notice recipients.** The notice must be sent to:

106.23 A. the project contact list;

106.24 B. the public agency contact list;

106.25 C. the landowner list; and

107.1 D. the tribal government contact list; and

107.2 E. the local and tribal government contact list, by certified mail.

107.3 The department must publish notice of the meeting in the EQB Monitor.

107.4 Subp. 2. **Hearing examiner.** ~~The commission shall appoint a person to act as the~~
107.5 ~~hearing examiner at the public hearing. The hearing examiner may be an employee of the~~
107.6 ~~PUC. The hearing examiner shall set the date and place for the hearing and provide notice~~
107.7 ~~to the public. The hearing examiner may make such rulings as are required to conduct the~~
107.8 ~~hearing in a fair, impartial, and expeditious manner, including the authority to maintain~~
107.9 ~~decorum at the hearing, to exclude repetitious or irrelevant testimony, to limit the amount~~
107.10 ~~of time for oral testimony, and to continue the hearing from time to time as needed. Persons~~
107.11 ~~may testify at the hearing without being first sworn under oath. The hearing examiner shall~~
107.12 ~~ensure that the record created at the hearing is preserved and transmitted to the commission.~~
107.13 ~~An audio recording of the hearing must be made, unless the commission determines that a~~
107.14 ~~court reporter is appropriate. The hearing examiner shall not prepare must be conducted by~~
107.15 ~~an administrative law judge. The Commission must request a full report from the~~
~~administrative law judge is prohibited from preparing a report or make making with any~~
107.15 ~~recommendation to the commission unless the commission requests the hearing examiner~~
~~administrative law judge to do so.~~

107.16 Subp. 3. **Hearing procedure.**

107.17 A. ~~The hearing must be conducted as provided in the following manner, although~~
107.18 ~~this part. The hearing examiner administrative law judge may vary the order in which the~~
107.19 ~~hearing proceeds;.~~

107.20 ~~A. B. The Commission staff shall must make a brief presentation to describe the~~
107.21 ~~project, explain the process to be followed, and introduce documents to be included in the~~
107.22 ~~record, including the application, the environmental assessment EA, and various procedural~~
107.23 ~~documents;.~~

107.24 ~~B. C. The applicant shall must introduce its evidence by way of testimony and~~
107.25 ~~exhibits;.~~

108.1 D. The department must introduce information for developing the record and offer
108.2 the project's EA for inclusion in the record;

108.3 ~~E. E.~~ The public must be afforded an opportunity to make an oral presentation,
108.4 present documentary evidence, and ask questions of the applicant and staff;_

108.5 ~~D. F.~~ The ~~hearing examiner shall~~ administrative law judge must provide a period
108.6 of not less than ten days for ~~the submission of~~ written comments to be filed into the record
108.7 after the close of the hearing; ~~and.~~

108.8 ~~E. G.~~ The ~~hearing examiner shall~~ administrative law judge must transmit the
108.9 complete record created at the hearing, including all written comments, to the commission
108.10 within five days of the ~~close of~~ date the record is closed, unless the ~~hearing examiner has~~
108.11 ~~been requested by the commission to~~ commission requests that the administrative law judge
108.12 prepare a report.

108.13 Subp. 4. **Issues.** Once the ~~Public Utilities~~ commission has determined questions of
108.14 need, including size, type, and timing; questions of system configurations; and questions
108.15 of voltage, ~~those~~ the issues must not be addressed in the public hearing.

108.16 Subp. 5. **Environmental assessment.** Interested persons may comment ~~upon~~ on the
108.17 ~~environmental assessment EA~~ EA at the public hearing. Comments on the ~~environmental~~
108.18 ~~assessment EA shall~~ must become part of the record in the proceeding but the commission
108.19 ~~shall~~ is not be required to revise or supplement the ~~environmental assessment EA~~ EA document.

108.20 **7850.3900 FINAL DECISION.**

108.21 Subpart 1. **Timing.** The commission ~~shall~~ must make a final decision on a site permit
108.22 or a route permit application within 60 days after ~~receipt of~~ the date the record is received
108.23 from the ~~hearing examiner~~ administrative law judge. A final decision must be made within
108.24 six months after the commission's determination that an application is complete. The

109.1 commission may extend this time limit for up to three months for just cause or upon
109.2 agreement of the applicant.

109.3 Subp. 2. **Completeness of environmental assessment EA.** ~~At the time the commission~~
109.4 ~~makes~~ Before making a final decision on the permit application, the commission ~~shall~~ must
109.5 determine whether the ~~environmental assessment EA~~ and the record created at the public
109.6 hearing address the issues identified in the scoping decision.

109.7 Subp. 3. **Certificate of need decision.** ~~The PUC shall not make~~ commission is
109.8 prohibited from making a final decision on a permit for a project that requires a certificate
109.9 of need from the ~~Public Utilities~~ commission until the applicant has obtained the necessary
109.10 approval from the ~~Public Utilities~~ commission.

109.11 Subp. 4. **Notice.** ~~The PUC shall~~ commission must publish notice of its final permit
109.12 decision in the State Register within 30 days of the ~~day~~ date the commission makes the
109.13 decision. ~~The PUC shall~~ commission must also publish notice in the EQB Monitor. The
109.14 ~~PUC shall~~ commission must mail notice of its final permit decision to those persons whose
109.15 names are on the project contact list. ~~The PUC shall~~ commission must post notice of the
109.16 final decision on the agency's ~~Web page, if possible~~ website.

109.17 **7850.4100 FACTORS CONSIDERED.**

109.18 ~~In~~ When determining whether to issue a ~~permit for a large electric power generating~~
109.19 ~~plant or a high voltage transmission line, the commission shall consider the following site~~
109.20 ~~or route permit under this chapter, the commission must consider the factors under Minnesota~~
109.21 Statutes, section 216E.03, subdivision 7, as well as:

109.22 A. effects on human settlement, including, but not limited to, displacement, noise,
109.23 aesthetics, cultural values, recreation, and public services, as well as information on electric
109.24 and magnetic fields;

109.25 B. effects on public health and safety;

- 110.1 C. effects on land-based economies, including, but not limited to, agriculture,
110.2 forestry, tourism, and mining;
- 110.3 D. effects on archaeological and historic resources;
- 110.4 E. effects on the natural environment, including effects on air and water quality
110.5 resources and flora and fauna;
- 110.6 F. effects on rare and unique natural resources;
- 110.7 G. application of design options that maximize energy efficiencies, mitigate
110.8 adverse environmental effects, and could accommodate expansion of transmission or
110.9 generating capacity;
- 110.10 H. use or paralleling of existing rights-of-way, survey lines, natural division lines,
110.11 and agricultural field boundaries;
- 110.12 I. use of existing large electric power generating plant sites;
- 110.13 J. use of existing transportation, pipeline, and electrical transmission systems or
110.14 rights-of-way;
- 110.15 K. electrical system reliability;
- 110.16 L. costs of constructing, operating, and maintaining the facility which are
110.17 dependent on design and route;
- 110.18 M. adverse human and natural environmental effects which cannot be avoided;
110.19 and
- 110.20 N. irreversible and irretrievable commitments of resources.
- 110.21 O. the potential impact of the project on greenhouse gas emissions
- 110.22 P. the potential impact of the project on climate change.
- 110.23 Q. the potential impact of the project on environmental justice.

110.24

110.25 **7850.4400 PROHIBITED SITES.**110.26 Subpart 1. **Prohibited sites.** ~~No large electric power generating plant may be~~ An110.27 LEPGP is prohibited from being located in any of the following areas:

111.1 A. national parks;

111.2 B. national historic sites and landmarks;

111.3 C. national historic districts;

111.4 D. national wildlife refuges;

111.5 E. national monuments;

111.6 F. national wild, scenic, and recreational riverways;

111.7 G. state wild, scenic, and recreational rivers and their land use districts;

111.8 H. state parks;

111.9 I. nature conservancy preserves;

111.10 J. state scientific and natural areas; and

111.11 K. state and national wilderness areas.

111.12 Subp. 2. **Water use.** The areas identified in subpart 1 must not be permitted as a site111.13 ~~for a large electric power generating plant~~ an LEPCP except for use for water intake or

111.14 discharge facilities. If the commission includes any of these areas within a site for use for

111.15 water intake or discharge facilities, it may impose appropriate conditions in the site permit

111.16 to protect these areas for the purposes for which they were designated. The commission

111.17 ~~shall~~ must also consider the adverse effects of proposed sites on these areas which are located

111.18 wholly outside of the boundaries of these areas.

111.19 Subp. 3. **Site exclusions when alternative sites exist.** ~~No large electric power~~111.20 ~~generating plant may be~~ An LEPCP is prohibited from being located in any of the following

111.21 areas unless there is no feasible and prudent alternative. Economic considerations alone do
 111.22 not justify approval of these areas. These areas are:

111.23 A. state registered historic sites;

112.1 B. state historic districts;

112.2 C. state wildlife management areas, except in cases where the plant cooling water
 112.3 is to be used for wildlife management purposes;

112.4 D. county parks;

112.5 E. metropolitan parks;

112.6 F. designated state and federal recreational trails;

112.7 G. designated trout streams; and

112.8 H. the rivers identified in Minnesota Statutes, section 85.32, subdivision 1.

112.9 Subp. 4. **Prime farmland exclusion.** No large electric power generating plant site
 112.10 may be permitted where the developed portion of the plant site, excluding water storage
 112.11 reservoirs and cooling ponds, includes more than 0.5 acres of prime farmland per megawatt
 112.12 of net generating capacity, or where makeup water storage reservoir or cooling pond facilities
 112.13 include more than 0.5 acres of prime farmland per megawatt of net generating capacity,
 112.14 unless there is no feasible and prudent alternative. Economic considerations alone do not
 112.15 justify the use of more prime farmland. "Prime farmland" means those soils that meet the
 112.16 specifications of Code of Federal Regulations 1980, title 7, section 657.5, paragraph (a).
 112.17 These provisions do not apply to areas located within home rule charter or statutory cities;
 112.18 areas located within two miles of home rule charter or statutory cities of the first, second,
 112.19 and third class; or areas designated for orderly annexation under Minnesota Statutes, section
 112.20 414.0325.

112.21 Subp. 5. **Sufficient water supply required.** ~~No~~ A site may must not be designated
 112.22 ~~that if the site~~ does not have reasonable access to a proven water supply sufficient for plant
 112.23 operation. ~~No~~ Use of groundwater ~~may be permitted where~~ is prohibited if removal of
 7850.4650

112.24 groundwater results in material adverse effects on groundwater, groundwater dependent
 112.25 natural resources, or higher priority users in and adjacent to the area, as determined in each
 113.1 case. The use of groundwater for high consumption purposes, such as cooling, must be
 113.2 avoided if a feasible and prudent alternative exists.

113.3 **7850.4500 PERMIT APPLICATION REJECTION.**

113.4 The commission ~~shall~~ must reject a permit application at the time it is submitted if the
 113.5 application is for a facility ~~to be~~ located on a prohibited site ~~or~~, within a prohibited route,
 113.6 or if the applicant fails to address in the application why no feasible and prudent alternative
 113.7 exists for sites or routes that may be authorized in such a situation.

113.8 **7850.4600 PERMIT CONDITIONS.**

113.9 Subpart 1. **Generally.** The commission ~~shall~~ must impose in any site permit for a
 113.10 ~~large electric power generating plant~~ an LEPGP or route permit for a ~~high voltage~~
 113.11 ~~transmission line~~ an HVTL such conditions as the commission deems appropriate and are
 113.12 supported by the record.

113.13 Subp. 2. **HVTL permits.** When the commission issues a permit for a route for a ~~high~~
 113.14 ~~voltage transmission line~~ an HVTL, the commission ~~shall~~ must specify the design, route,
 113.15 right-of-way preparation, and facility construction and operation it deems necessary. The
 113.16 commission may impose a condition in the permit requiring the permittee to construct a
 113.17 ~~high voltage transmission line~~ an HVTL that is capable of expansion in transmission capacity
 113.18 through multiple circuiting or design modifications.

113.19 **7850.4650 COMPLIANCE FILING.**

113.20 Subpart 1. **Plan and profile.** At least 30 days prior to construction, the ~~applicant~~
~~permittee~~ must file a preliminary design plan for the project. The plan, whether filed
in segments or its
 113.21 entirety, must include a project profile, including details on the project's location, the location
 113.22 of the right-of-way demonstrating the applicant's compliance with the route permit, and
 113.23 schemata and drawings detailing the right-of-way preparation, construction, cleanup, and

113.24 restoration for the project.

114.1 Subp. 2. **Commission decision.** The executive secretary must determine whether the
114.2 plan and profile is consistent with the project's permit conditions and must notify the
114.3 permittee of the determination in writing. Any subsequent changes to the plan and profile
114.4 made by the permittee must be filed with the commission.

114.5 **7850.4700 DELAY IN ROUTE OR SITE CONSTRUCTION.**

114.6 If construction and improvement of a route or site have not commenced four years after
114.7 the permit has been issued by the commission, the commission ~~shall~~ must suspend the
114.8 permit. If at that time, or at a time subsequent, time the permittee decides to construct the
114.9 proposed ~~large electric power generating facility LEPGP or high voltage transmission line~~
114.10 HVTL, the permittee ~~shall~~ must certify to the commission that there ~~have been~~ are no
114.11 significant changes in any material aspects of the conditions or circumstances existing when
114.12 the permit was issued. The commission ~~shall~~ must mail notice of receipt of the certification
114.13 request and notice of the commission meeting date to those persons on the general list at
114.14 ~~least seven days before the commission's consideration of the matter, and the same notice~~
114.15 ~~to those persons on~~, the project contact list if such a list exists, the public agency contact
114.16 list, the tribal government contact list, and the local and tribal government contact list. The
114.17 applicant must mail notice of its
114.18 request to the landowner list. If the commission determines that there are no significant
114.19 changes, it ~~shall~~ must reinstate the permit. If the commission determines that there is a
114.20 significant change, it may order a new hearing and consider the matter further, or it may
require the permittee to file a new application.

114.21 **7850.4800 MINOR ALTERATION IN GENERATING PLANT OR TRANSMISSION**
114.22 **LINE.**

114.23 **Subpart 1. Applicability.** ~~No person may make~~ A minor alteration ~~in a large electric~~
114.24 ~~power generating plant or high voltage transmission line without approval from the~~
114.25 ~~commission, to an existing or permitted LEPGP or HVTL facility must be approved by the~~
114.26 commission, unless the action is exempt from review under part 7850.1500. A minor

115.1 alteration is a change in ~~a large electric power generating plant~~ the design or location of an
115.2 LEPGP or high voltage transmission line an HVTL that would place the facility outside the
115.3 site or route approved by the commission and that does not result in significant changes in
115.4 the human or environmental impact of the facility. The requirements of this part apply to
115.5 those facilities that have been permitted by the PUC commission and to those facilities that
115.6 were not permitted by the PUC commission but meet the definition of ~~a large electric power~~
115.7 ~~generating plant~~ an LEPGP or high voltage transmission line an HVTL under applicable
115.8 law. A minor alteration to a permit issued by the commission for facilities not yet constructed
115.9 is also subject to review under this part. For those large electric power generating plants or
115.10 high voltage transmission lines for which no permit has been issued by the PUC commission,
115.11 this part applies to minor alterations in the facility as it exists on February 18, 2003.

115.12 **Subp. 2. Application for minor alteration of a site or route.** A ~~person~~ permittee or
115.13 facility owner seeking authorization to make a minor alteration in ~~a large electric~~
115.14 ~~power generating plant~~ an LEPGP or high voltage transmission line an HVTL must apply to the commission.
115.15 The application ~~shall~~ must be in writing and ~~shall~~ must describe the alteration in the ~~large~~
115.16 ~~electric power generating plant~~ LEPGP or high voltage transmission line HVTL to be made
115.17 and the explanation why the alteration is minor. The applicant must mail its proposal to
115.18 landowners reasonably likely to be affected by the alteration, to the project contact list, to
115.19 the public agency contact list, to the tribal government contact list, and to the local and tribal
115.20 units of government with jurisdiction
115.21 over the area where the minor alteration is proposed. The commission ~~shall~~ must mail notice
115.22 of receipt of the application to ~~those persons on the general list and to those persons on the~~
115.23 ~~project contact list if such a list exists~~ landowners reasonably likely to be affected by the
115.24 proposed alteration, to the public agency contact list, to the tribal government contact list,
115.25 and to the local and tribal units of
115.26 government with jurisdiction over the area where the minor alteration is proposed. The
115.27 commission ~~shall~~ must provide at least a ten-day period for interested persons to submit
115.28 comments on the application ~~or to request that the matter be brought to the commission for~~

115.26 ~~consideration.~~

116.1 Subp. 3. [See repealer.]

116.2 Subp. 4. **Local review.** For those large electric power generating plants or high voltage
116.3 transmission lines for which no permit has been issued by the PUC commission, the owner
116.4 or operator of ~~such~~ the unpermitted facilities may elect to seek approval of a minor alteration
116.5 from the local unit of government if the facility qualifies for local review under Minnesota
116.6 Statutes, section 216E.05.

116.7 **7850.4900 AMENDMENT OF PERMIT CONDITIONS.**

116.8 Subpart 1. **Authority.** The commission may amend any of the conditions in a site
116.9 permit for ~~a large electric power generating plant~~ an LEPGP or in a route permit for ~~a high~~
116.10 ~~voltage transmission line~~ an HVTL issued by the PUC commission upon request of any
116.11 person who claims to be affected by a permit condition.

116.12 Subp. 2. **Process.** The person requesting an amendment of a condition in a site permit
116.13 or a route permit ~~shall submit an application to the commission in writing describing~~ must
116.14 file with the commission a description of the amendment sought and the reasons for the
116.15 amendment. The commission ~~shall~~ must mail notice of receipt of the application to ~~those~~
116.16 ~~persons on~~ landowners reasonably likely to be affected by the proposed change in the permit
116.17 condition, to the general list and to those persons on, to the project contact list if such a list
116.18 exists, to the public agency contact list, the tribal government contact list, and to the local
116.19 and tribal units of government with
116.20 jurisdiction over the affected area. The commission ~~shall~~ must provide at least a ten-day
116.21 period for interested persons to submit comments on the application or to request that the
116.22 matter be brought to the commission for consideration.

116.22 Subp. 3. [See repealer.]

116.23 **7850.4950 REPORTS.**

116.24 By the 15th day of each month, a permittee must file with the commission a report of
116.25 all complaints received during the preceding calendar month. The permittee must file monthly

117.1 reports from the date the permit is issued until ~~the project~~ **construction** is complete and
 117.2 notice of the

117.2 project's completion has been filed with the commission. The report filed must include:

117.3 A. a description of the basis or subject of the complaint;

117.4 B. whether the complaint has been resolved and, if the complaint has been resolved,
 117.5 the outcome and whether the complainant is satisfied with the outcome; and

117.6 C. if no complaints were received, a statement notifying the commission that no
 117.7 complaints were received during the preceding month.

117.8 **7850.5000 PERMIT TRANSFER.**

117.9 Subpart 1. **Application.** A permittee holding a ~~large electric power generating plant~~
 117.10 ~~an LEPGP site permit or a high voltage transmission line~~ an HVTL route permit may request
 117.11 ~~that the PUC to commission~~ transfer its permit. The permittee ~~shall~~ must provide the name
 117.12 of the existing permittee, the name and description of the entity ~~to which~~ the permit is ~~to~~
 117.13 ~~be being~~ transferred to, the reasons for the transfer, a description of the facilities affected,
 117.14 and the proposed effective date of the transfer. The person ~~to whom~~ the permit is ~~to be being~~
 117.15 transferred ~~shall~~ to must provide the PUC commission with ~~such the~~ information as the
 117.16 ~~PUC shall require~~ commission requires to determine whether the new permittee can comply
 117.17 with the conditions of the permit. The commission ~~shall~~ must mail notice of receipt of the
 117.18 application to those persons on the general list at least seven days in advance of the
 117.19 commission's consideration of the matter. The commission ~~shall~~ must provide the same
 117.20 notice to persons on the project contact list if such a list exists.

117.21 Subp. 2. **Approval of transfer.** The commission ~~shall~~ must approve the transfer if
 117.22 the commission determines that the new permittee **will comply** ~~complies~~ with the conditions
 117.23 of the permit. ~~The commission,~~ In approving the transfer of a permit, the commission may
 117.24 impose reasonable additional conditions in the permit as part of the approval. ~~The commission~~
 117.25 ~~may decide to hold a public meeting to provide the public with an opportunity to comment~~

118.1 ~~on the request for the transfer prior to making a decision.~~ A permittee must inform the
118.2 commission of any ownership changes within ten days of the date the ownership change is
118.3 made.

118.4 **7850.5100 PERMIT REVOCATION OR SUSPENSION.**

118.5 Subpart 1. **Initiation of action to revoke or suspend.** The commission may initiate
118.6 action to consider revocation or suspension of a permit on its own motion or upon the request
118.7 of any person who has made a prima facie showing by affidavit and documentation that a
118.8 violation of ~~the act, parts 7850.1000 to 7850.5600~~ Minnesota Statutes, chapter 216E, this
118.9 chapter, or the permit has occurred.

118.10 Subp. 2. **Hearing.** If the commission initiates action to consider revocation or
118.11 suspension of a permit, the commission ~~shall~~ must provide the permittee with an opportunity
118.12 ~~for a contested case hearing conducted by an administrative law judge from the Office of~~
118.13 ~~Administrative Hearings.~~ to provide written comment and to appear at a commission meeting.
118.14 At the meeting, the commission must consider the comments received and consider whether
118.15 any other steps, in accordance with the commission's rules of practice and procedure under
118.16 chapter 7829, are necessary to decide the matter.

118.17 Subp. 3. **Finding of violation.** If the commission finds that a violation of ~~the act, parts~~
118.18 ~~7850.1000 to 7850.5600~~ Minnesota Statutes, chapter 216E, this chapter, or the permit has
118.19 occurred, it may revoke or suspend the permit, require the utility to undertake corrective or
118.20 ameliorative measures as a condition to avoid revocation or suspension, or require corrective
118.21 measures and suspend the permit. In determining the appropriate sanction, the commission
118.22 ~~shall~~ must consider ~~the following~~ whether:

118.23 A. ~~whether~~ the violation will result in any significant additional adverse
118.24 environmental effects;

118.25 B. ~~whether~~ the results of the violation can be corrected or ameliorated; and

119.1 C. ~~whether~~ a suspension or revocation of a permit or certificate will impair the
119.2 utility's electrical power system reliability.

119.3 **7850.5200 EMERGENCY PERMIT.**

119.4 Subpart 1. **Application for emergency permit.** ~~Any~~ A utility whose electric power
119.5 system requires the immediate construction of ~~a large electric power generating plant an~~
119.6 LEPGP or ~~high voltage transmission line an HVTL~~ due to a major unforeseen event may
119.7 apply to the commission for an emergency permit. The application must contain ~~the following~~
119.8 ~~information:~~

119.9 A. a description of the proposed ~~large electric power generating plant~~ LEPGP or
119.10 ~~high voltage transmission line~~ HVTL;

119.11 B. an explanation of the major unforeseen event causing the emergency situation;

119.12 C. a discussion of the anticipated impacts on the electric system if the proposed
119.13 facility is not approved within 195 days;

119.14 D. a copy of the written notification to the ~~Public Utilities~~ commission of
119.15 identifying the major unforeseen event and the need for immediate construction; and

119.16 E. as much of the information required under part 7850.1900 as the utility has
119.17 available.

119.18 Subp. 2. **Public hearing.** The ~~PUC shall~~ commission must hold a public hearing on
119.19 the application for an emergency permit. The hearing must be held within 90 days after the
119.20 application is submitted. The hearing must be held in accordance with part 7850.3800.

119.21 Subp. 3. **Final decision.** The commission ~~shall~~ must make a final decision on an
119.22 emergency permit within 195 days after the ~~commission's acceptance of~~ date the commission
119.23 accepts the application. The ~~board shall~~ commission must grant the emergency permit if it
119.24 finds ~~the following:~~

- 120.1 A. a demonstrable emergency exists;
- 120.2 B. the emergency requires immediate construction;
- 120.3 C. adherence to the procedures and time schedules ~~specified in~~ under Minnesota
- 120.4 Statutes, section 216E.03, ~~would jeopardize~~ jeopardizes the utility's electric power system
- 120.5 or the utility's ability to meet the electric needs of its customers in an orderly and timely
- 120.6 manner;
- 120.7 D. the utility will implement mitigating measures to minimize the human and
- 120.8 environmental impacts of the facility; and
- 120.9 E. the utility will carry out the project in an expeditious manner consistent with
- 120.10 the emergency.

120.11 Subp. 4. **Permit conditions.** The commission may impose reasonable conditions in

120.12 an emergency permit.

120.13 Subp. 5. **Permit fee.** The applicant for an emergency permit ~~shall~~ must pay the same

120.14 fee ~~as would be~~ required for a regular permit for the same project.

120.15 **7850.5300 LOCAL REVIEW OF PROPOSED FACILITIES.**

120.16 Subpart 1. **Local review.** An applicant who seeks a site or route permit for one of the

120.17 projects identified in subpart 2 has the option of applying to those local units of government

120.18 that have jurisdiction over the site or route for approval to build the project. If local approval

120.19 is granted, a site or route permit is not required from the commission. If the applicant files

120.20 an application with the PUC commission, the applicant ~~shall~~ must be deemed to have waived

120.21 its right to seek local approval of the project.

120.22 Subp. 2. **Eligible projects.** An applicant may seek approval from a local unit of

120.23 government to construct ~~the following projects:~~

121.1 A. ~~a large electric power generating plant~~ an LEPGP with a capacity of less than
121.2 80 megawatts;

121.3 B. ~~a large electric power generating plant~~ an LEPGP of any size that burns natural
121.4 gas and is intended to be a peaking plant;

121.5 C. ~~a high voltage transmission line~~ an HVTL of between 100 and 200 kilovolts;

121.6 ~~D. a substation with a voltage designed for and capable of operation at a nominal~~
121.7 ~~voltage of 100 kilovolts or more;~~

121.8 ~~E. D.~~ a high voltage transmission line an HVTL service extension to a single
121.9 customer between 200 and 300 kilovolts and less than ten miles in length; and

121.10 ~~F. E.~~ a high voltage transmission line an HVTL rerouting to serve the demand of
121.11 a single customer when at least 80 percent of the rerouted line will be located on property
121.12 owned or controlled by the customer or the owner of the transmission line.

121.13 Subp. 3. **Notice to PUC commission.** Within ten days of submission of an application
121.14 to a local unit of government for approval of an eligible project, the applicant ~~shall~~ must
121.15 notify the commission in writing that the applicant has elected to seek local approval of the
121.16 proposed project. Within the same ten-day period, the applicant ~~shall~~ must mail notice to
121.17 those persons on the general notification list that a permit has been applied for from the
121.18 local unit of government for the project and ~~shall~~ must provide a description of the project
121.19 and the name of a person with the local unit of government to contact for more information.

121.20 Subp. 4. **Referral to PUC commission.** A local unit of government with jurisdiction
121.21 over a project identified in this ~~section~~ part to whom an applicant has applied for approval
121.22 to build the project may request the PUC commission to assume jurisdiction and make a
121.23 decision on a site or route permit. A local unit of government ~~shall~~ must file the request
121.24 with the commission within 60 days after the date an application for the project has been
121.25 filed with any one local unit of government. If one of the local units of government with

122.1 jurisdiction over the project requests the commission to assume jurisdiction, jurisdiction
 122.2 over the project transfers to the commission and the applicant ~~shall~~ must file for a permit
 122.3 under the applicable provisions of ~~parts 7850.1000 to 7850.5600 for a permit from the~~
 122.4 ~~commission~~ this chapter.

122.5 Subp. 5. **Environmental review.** A local unit of government that maintains jurisdiction
 122.6 over a qualifying project ~~shall~~ must prepare an ~~environmental assessment~~ EA on the project.
 122.7 The local unit of government ~~shall~~ must afford the public an opportunity to participate in
 122.8 the development of the scope of the ~~environmental assessment~~ EA before it is prepared.
 122.9 Upon completion of the ~~environmental assessment~~ EA, the local unit of government ~~shall~~
 122.10 must publish notice in the EQB Monitor that the ~~environmental assessment~~ EA is available
 122.11 for review, and how a copy of the ~~document~~ EA may be reviewed, that the public may
 122.12 comment on the ~~document~~ EA, and the procedure for submitting comments to the local unit
 122.13 of government. The local unit of government ~~shall~~ must provide a copy of the ~~environmental~~
 122.14 ~~assessment~~ EA to the PUC commission upon completion of the ~~document~~ EA. The local
 122.15 unit of government ~~shall not make is~~ prohibiting prohibited from making a final decision on
 122.16 the permit
 122.17 until at least ten days after the date the notice appears in the EQB Monitor. If more than
 122.18 one local unit of government has jurisdiction over a project, ~~and the local units of government~~
 122.19 ~~cannot agree on which unit will prepare~~ is responsible for preparing the ~~environmental~~
 122.20 ~~assessment~~ EA, any local unit of government or the applicant may request the commission
 122.21 to select the appropriate local unit of government to be the responsible governmental unit
 122.22 to conduct an environmental review of the project.

122.22 Subp. 6. **No local authority.** In the event a local unit of government that might
 122.23 otherwise have jurisdiction over a proposed ~~large electric power generating plant~~ LEPGP
 122.24 or ~~high voltage transmission line~~ HVTL determines that it has no ordinances or other
 122.25 provisions for reviewing and authorizing the construction of such project or has no capability
 122.26 ~~of preparing to prepare~~ an environmental assessment EA on the project, the local unit of
 122.27 government ~~shall~~ must refer the matter to the PUC commission for review.

123.1 Subp. 7. **Matters excluded.** When the ~~Public Utilities~~ commission has issued a
 123.2 certificate of need for a ~~large electric power generating plant~~ an LEPGP or ~~high voltage~~
 123.3 ~~transmission line~~ an HVTL or placed a ~~high voltage transmission line~~ an HVTL on the
 123.4 certified HVTL list maintained by the commission, the local unit of government ~~shall~~ must
 123.5 not address questions of need, including size, type, and timing; questions of alternative
 123.6 system configurations; or questions of voltage.

123.7 **7850.5400 ANNUAL PUBLIC HEARING.**

123.8 Subpart 1. **Annual public hearing.** The commission ~~shall~~ must hold an annual public
 123.9 hearing in November or December in St. Paul in order to advise the public of matters relating
 123.10 to the siting of large electric power generating plants and routing of high voltage transmission
 123.11 lines. The meeting must be conducted by the PUC commission staff. At the meeting, the
 123.12 ~~PUC shall~~ commission must advise the public of the permits issued by the PUC commission
 123.13 in the past year. The ~~PUC shall~~ commission must invite representatives of other state agencies
 123.14 to attend the meeting and be available to answer questions by the public. An audio recording
 123.15 of the hearing must be maintained.

123.16 Subp. 2. **Notice.** The ~~PUC shall~~ commission must provide at least ten days but no
 123.17 more than 45 days notice of the annual hearing by mailing notice to those persons who have
 123.18 requested notice and by publication in the EQB Monitor. The notice must ~~be accompanied~~
 123.19 ~~by~~ include a tentative agenda for the hearing.

123.20 Subp. 3. **Report.** The staff ~~shall~~ must prepare a report of the annual hearing within
 123.21 60 days after the hearing and submit it to the commission. No action on the report is required.

123.22 **7850.5500 ANNUAL ASSESSMENT ON UTILITIES.**

123.23 For purposes of determining the annual assessment on a utility pursuant to ~~the act~~, ~~each~~
 123.24 ~~utility shall~~ Minnesota Statutes, chapter 216E, on or before July 1 of each year, each utility
 123.25 must submit to the commission a report of its retail kilowatt-hour sales in the state and its

124.1 gross revenue from kilowatt-hour sales in the state for the preceding calendar or utility
 124.2 reporting year. Upon receipt of these reports, the commission ~~shall~~ must bill each utility as
 124.3 specified in ~~the act~~ Minnesota Statutes, chapter 216E.

124.4 **7850.5600 PROGRAM ADVISORY TASK FORCE.**

124.5 The commission may appoint a program advisory task force to provide advice and
 124.6 recommendations concerning development, revision, and enforcement of any rule or program
 124.7 initiated under ~~the act~~ Minnesota Statutes, chapter 216E or ~~parts 7850.1000 to 7850.5600~~
 124.8 this chapter. The commission ~~shall~~ must provide guidance to the program advisory task
 124.9 force in the form of a charge and through specific requests. The program advisory task force
 124.10 must be composed of as many members as may be designated by the commission and its
 124.11 membership must be solicited on a statewide basis. The program advisory task force and
 124.12 its chair must be appointed for a one-year term.

124.13 **REPEALER.** Minnesota Rules, parts 7829.2550; 7849.0010, subparts 2, 3, 4, 5, 6, 10, 11,
 124.14 14, 16, 17, 18, 19, 21, 22, 24, 26, 27, 28, 30, and 33; 7849.0200, subpart 5; 7849.0230;
 124.15 7849.0240; 7849.0270, subparts 2, 3, 4, 5, and 6; 7849.1100; 7849.1300; 7849.1400, subparts
 124.16 1, 3, 7, 8, 9, and 10; 7850.1000, subpart 14; 7850.1400, subpart 2; 7850.1600; 7850.1700,
 124.17 subpart 2; 7850.2000; 7850.2100, subpart 1; 7850.2300, subpart 5; 7850.2500, subparts 4,
 124.18 5, 6, 7, 8, 9, 10, 11, and 12; 7850.2600; 7850.2900; 7850.3000; 7850.3100; 7850.3200;
 124.19 7850.3300; 7850.3400; 7850.3500; 7850.3600; 7850.3700, subparts 3, 4, 5, 6, 7, 8, and 9;
 124.20 7850.4000; 7850.4200; 7850.4800, subpart 3; and 7850.4900, subpart 3, are repealed.