

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben
Valerie Means
Matthew Schuerger
Joseph K. Sullivan
John A. Tuma

Chair
Commissioner
Commissioner
Commissioner
Commissioner

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

SERVICE DATE: June 29, 2021

DOCKET NO. IP-7053/CN-21-112

In the Matter of the Application of Hayward Solar LLC for a Certificate of Need for the up to 150 MW Hayward Solar Project in Freeborn County, Minnesota

The above entitled matter has been considered by the Commission and the following disposition made:

- 1. Determined that Hayward's Petition is substantially complete.**
- 2. Evaluated Hayward's Petition using the Commission's informal comment process.**

This decision is issued by the Commission's consent calendar subcommittee, under a delegation of authority granted under Minn. Stat. § 216A.03, subd. 8 (a). Unless a party, a participant, or a Commissioner files an objection to this decision within ten days of receiving it, it will become the Order of the full Commission under Minn. Stat. § 216A.03, subd. 8 (b).

The Commission agrees with and adopts the recommendations of the Department of Commerce, which are attached and hereby incorporated into the Order. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION



Will Seuffert
Executive Secretary



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May 28, 2021

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
Saint Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Commerce Department, Division of Energy Resources**
Docket No. IP7053/CN-21-112

Dear Mr. Seuffert:

Attached are the Comments of the Minnesota Commerce Department, Division of Energy Resources (Department), in the following matter:

Application of Hayward Solar LLC for a Certificate of Need for the up to 150 MW
Hayward Solar Project in Freeborn County, Minnesota

The Petition was filed on May 5, 2021 by:

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

The Department recommends that the Minnesota Public Utilities Commission (Commission) **determine that the petition is substantially complete**. The Department is available to answer any questions that the Commission may have in this matter.

Sincerely,

/s/ STEVE RAKOW
Analyst Coordinator

SR/ar
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Commerce Department Division of Energy Resources

Docket No. IP7053/CN-21-112

I. PROCEDURAL HISTORY

On February 5, 2021 Hayward Solar LLC, a wholly owned indirect subsidiary of CD Clean Energy and Infrastructure VII JV, LLC (Hayward or the Company) filed the Company's *Request for Exemption from Certain Certificate of Need Application Content Requirements* (Exemption Petition).¹ The Exemption Petition requested that the Minnesota Public Utilities Commission (Commission) approve the Company's proposed exemptions to filing requirements for an up to 150-MW solar generating plant in Freeborn County (Project).

On February 18, 2021 the Minnesota Commerce Department, Division of Energy Resources (Department) filed comments on the Exemption Petition.

On March 24, 2021 the Commission issued an order approving the Exemption Petition with modifications.

On May 5, 2021 Hayward filed the Company's *Application to the Minnesota Public Utilities Commission for a Certificate of Need for the up to 150 MW Hayward Solar Large Electric Generating Facility* (Petition).

On May 6, 2021 Hayward filed a letter with replacements for the figures provided with the Petition.

On May 7, 2021 the Commission issued its *Notice of Comment Periods on Application Completeness* (Notice). The Notice indicated that the following topics are open for comment:

- Does the certificate of need application contain the information required under Minn. R. 7849.0220, Subp. 1?
- Does the site permit application contain the information required under Minn. R. 7850.3100?
- Should the application be evaluated using the Commission's informal process or referred to the Office of Administrative Hearings for contested case proceedings?
- Should an advisory task force be appointed for the site permit application?

¹ CD Clean Energy and Infrastructure VII JV LLC is a private equity fund established by Capital Dynamics. Capital Dynamics is an independent global asset management firm focusing on private assets including private equity, private credit, clean energy infrastructure and energy infrastructure credit. Since the establishment of Capital Dynamics' CEI business the CEI team has acquired, built, and now manages (as of 2018) 3.1 net GW of power generation capacity in North America and Europe.

- Should the site permit application be processed jointly with the certificate of need application (i.e., public meetings, environmental review, and public hearings)?
- Are there any contested issues of fact with respect to the representations made in the applications?

Below are the comments of the Department regarding the issues in the Notice.

II. BACKGROUND

A. CN REVIEW PROCESS

Minnesota Statutes § 216B.2421, Subd. 2 (1) defines a large energy facility as “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.” Further, Minnesota Statutes, section 216B.243, Subd. 2 states that, “[n]o large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the commission.”

The Petition indicates that Hayward plans to construct an up to 150-megawatt (MW) alternating current (AC) nameplate capacity facility, planned to be located in Hayward Township, Freeborn County, Minnesota. The Project will be connected to Southern Minnesota Municipal Power Agency’s (SMMPA) new switchyard using a 161 kV overhead electrical transmission line that will be 200 to 300 feet long. Since the capacity of the proposed project is greater than 50 MW a CN is required.

The Commission’s review of CN applications primarily consists of two steps:

1. determine whether the application meets certain content requirements; and
2. based on a complete application, determine whether the facility is needed, and if so, grant the CN.

At this stage in Hayward’s CN proceeding, the Commission is in the first step.

B. CONTENT REQUIREMENTS

Minnesota Rules 7849.0220, Subp. 1, states that each CN application “shall include all of the information required by parts 7849.0240, 7849.0250, and 7849.0270 to 7849.0340.” However, Minnesota Rules 7849.0200, Subp. 6, allows for exemptions from any of the content requirements of CN applications if the applicant demonstrates that the requirement is not necessary for determining whether the facility is needed.

The Commission's March 24, 2021 order approved a variety of exemptions. First, Hayward is exempt from providing data relevant to the Minnesota Rule parts listed below conditioned upon Hayward providing equivalent data from any purchaser(s) and/or any alternative data proposed by Hayward:

- 7949.0240, Subp. 2 (B): Promotional Activities;
- 7849.0250 (B) (2), (3), and (5): Description of Certain Alternatives;
- 7849.0250 (C) (7): Effect of Project on Rates Systemwide;
- 7849.0250 (D): Map of Applicant's System;
- 7849.0270: Peak Demand and Annual Consumption Forecast;
- 7849.0280: System Capacity; and
- 7849.0340: No-Facility Alternative.

Second, Hayward was partially exempted from the following Minnesota Rule parts such that the information to be provided is limited to renewable alternatives:

- 7849.0250 (B) (4): Description of Certain Alternatives (New Generating Facilities of a Different Size or Source); and
- 7849.0250 (C) (1) to (6), (8), and (9): Details Regarding Alternatives.

Third, Hayward was partially exempted from Minnesota Rules 7849.0300 such that the information to be provided is limited to the consequences of delay to Hayward's potential customers and the region.

Fourth, Hayward was fully exempted from the following Minnesota Rule parts:

- 7849.0250 (B) (1): Description of Certain Alternatives (Purchased Power);
- 7849.0290: Conservation Programs; and
- 7849.0330: Transmission Alternatives.

III. DEPARTMENT ANALYSIS

A. COMPLETENESS REVIEW

The Department reviewed the Petition for completeness considering the rule requirements and exemptions granted by the Commission in the March 24, 2021 order. Below is a table that summarizes the Department's completeness review of the Petition, indicating what data and information is required by Minnesota Rules, the location of that data and information in the Petition, whether Hayward was granted an exemption to the applicable Minnesota Rule, and whether the Petition contained the relevant data and information.

Table 1: Filing Requirements Completeness Review

Minnesota Rule	Short Description	Exemption?	Location	Complete?
7849.0240 (1)	Need Summary	No	3.1	Yes
7849.0240(2)(A)	Additional Considerations: Socially Beneficial Uses	No	3.2.1	Yes
7849.0240(2)(B)	Additional Considerations: Promotional Activities	Conditional, if PPA	3.2.2	Exempt
7849.0240(2)(C)	Additional Considerations: Future Development	No	3.2.3	Yes
7849.0250(A)(1)-(5)	Description of Project	No	5.1.1 to 5.1.5 ¹²	Yes
7849.0250(B)(1)	Description of Alternatives: Purchased Power	Full	5.2.1.1	Exempt
7849.0250(B)(2)	Description of Alternatives: Existing Facility Efficiencies	Conditional, if PPA	5.2.1.2	Exempt
7849.0250(B)(3)	Description of Alternatives: New Transmission	Conditional, if PPA	5.2.1.3	Exempt
7849.0250(B)(4)	Description of Alternatives: New Generating Facilities	Partial, Renewables	5.2.1.4 to 5.2.1.7	Yes
7849.0250(B)(5)	Description of Alternatives: Combinations	Conditional, if PPA	5.2.1.10	Exempt
7849.0250(C)(1)-(6)	Alternatives Details	Partial, Renewables	5.3.1 to 5.3.6	Yes
7849.0250(C)(7)	Alternatives Details: Effect on Rates	Partial, Region Price	5.3.7	Yes
7849.0250(C)(8)-(9)	Alternatives Details	Partial, Renewables	5.3.8 & 5.3.1 to 5.3.6	Yes
7849.0250(D)	System Map	Partial, Area Map	5.4	Yes
7849.0270	Peak Demand and Annual Consumption Forecast	Partial, Region Data	6.0	Yes
7849.0280	System Capacity	Partial, Region Data	7.0 & 3.1	Yes
7849.0290	Conservation Programs	Full	8.0	Exempt
7849.0300	Consequences of Delay	Partial, Region Data	9.0	Yes
7849.0310	Environmental Information	No	10-11	Yes
7849.0320	Generating Facility Information	No	11.1 to 11.11	Yes
7849.0330	Transmission Facilities Information	Full	5.2.1.9	Exempt
7849.0340	No-Facility Alternative	Conditional, if PPA	5.2.1.8	Exempt

² Additional information is provided throughout the Petition.

As indicated by Table 1 above, the Department concludes that Hayward's Petition is complete. The Department notes that this assessment of the completeness of the filing does not affect its analysis regarding the merits of the Project, nor does it relieve Hayward from providing any additional information requested by the Department.

B. PROCESS REVIEW

The Department does not anticipate significant disputes in this proceeding as it relates to the Department's need analysis. Therefore, reliance on the Commission's normal process of informal comments and reply comments will be sufficient to develop the issues in this proceeding. If parties claim significant contested material facts and/or raise controversial issues, the Department has no objection to a Commission-ordered contested case.

The Department is not aware of any other issues or concerns related to this matter at this time.

C. ISSUES IN THE NOTICE

The Department's response to the issues listed in the notice is as follows:

- Does the certificate of need application contain the information required under Minn. R. 7849.0220, Subp. 1?
 - The Department recommends the Commission determine the Petition to be substantially complete.
- Does the site permit application contain the information required under Minn. R. 7850.3100?
 - The Department is not addressing the site permit application.
- Should the application be evaluated using the Commission's informal process or referred to the Office of Administrative Hearings for contested case proceedings?
 - The Department recommends the Commission use the informal process.
- Should an advisory task force be appointed for the site permit application?
 - The Department is not addressing the site permit process.
- Should the site permit application be processed jointly with the certificate of need application (i.e., public meetings, environmental review, and public hearings)?
 - The Department is not addressing the site permit process.
- Are there any contested issues of fact with respect to the representations made in the applications?
 - The Department does not have contested issues of fact at this time.

IV. CONCLUSION AND RECOMMENDATIONS

The Department recommends that the Commission determine that Hayward's Petition is substantially complete.

The Department also recommends that the Commission evaluate Hayward's Petition using the Commission's informal comment process.

/ar

CERTIFICATE OF SERVICE

I, Robin Benson, hereby certify that I have this day, served a true and correct copy of the following document to all persons at the addresses indicated below or on the attached list by electronic filing, electronic mail, courier, interoffice mail or by depositing the same enveloped with postage paid in the United States mail at St. Paul, Minnesota.

Minnesota Public Utilities Commission ORDER

Docket Number: **IP-7053/CN-21-112**

Dated this **29th** day of **June, 2021**

/s/ Robin Benson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
A	Branam	abranam@arevonenergy.com	Arevon	8800 N Gainey Center Dr Ste 250 Scottsdale, AZ 85258	Electronic Service	No	OFF_SL_21-112_CN-21-112
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-112_CN-21-112
Jeremy	Duehr	jduehr@fredlaw.com	Fredrikson & Byron, P.A.	200 South Sixth Street Suite 4000 Minneapolis, Minnesota 55402-1125	Electronic Service	No	OFF_SL_21-112_CN-21-112
Kate	Fairman	kate.frantz@state.mn.us	Department of Natural Resources	Box 32 500 Lafayette Rd St. Paul, MN 551554032	Electronic Service	No	OFF_SL_21-112_CN-21-112
Annie	Felix Gerth	annie.felix-gerth@state.mn.us		Board of Water & Soil Resources 520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	No	OFF_SL_21-112_CN-21-112
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_21-112_CN-21-112
Kyle	Gerking	kgerking@tenaska.com	Tenaska, Inc.	14302 Fnb Pkwy Omaha, NE 68154	Electronic Service	No	OFF_SL_21-112_CN-21-112
Kari	Howe	kari.howe@state.mn.us	DEED	332 Minnesota St, #E200 1ST National Bank Bldg St. Paul, MN 55101	Electronic Service	No	OFF_SL_21-112_CN-21-112
Breann	Jurek	bjurek@fredlaw.com	Fredrikson & Byron PA	200 South Sixth St Ste 400 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_21-112_CN-21-112
Ray	Kirsch	Raymond.Kirsch@state.mn.us	Department of Commerce	85 7th Place E Ste 500 St. Paul, MN 55101	Electronic Service	No	OFF_SL_21-112_CN-21-112

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Karen	Kromar	karen.kromar@state.mn.us	MN Pollution Control Agency	520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	No	OFF_SL_21-112_CN-21-112
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_21-112_CN-21-112
Stephan	Roos	stephan.roos@state.mn.us	MN Department of Agriculture	625 Robert St N Saint Paul, MN 55155-2538	Electronic Service	No	OFF_SL_21-112_CN-21-112
Michael	Roth	MRoth@tenaska.com	Tenaska, Inc.	14302 Fnb Pkwy Omaha, NE 68154	Electronic Service	No	OFF_SL_21-112_CN-21-112
Joe	Sedarski	joe.sedarski@westwoodps.com	Westwood	12701 Whiewater Dr Ste 300 Minnetonka, MN 55343	Electronic Service	No	OFF_SL_21-112_CN-21-112
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th Pl E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-112_CN-21-112
Sean	Sosa	ssosa@arevonenergy.com	Arevon	8800 N Gainey Center Dr Ste 250 Scottsdale, AZ 85258	Electronic Service	No	OFF_SL_21-112_CN-21-112
Cynthia	Warzecha	cynthia.warzecha@state.mn.us	Minnesota Department of Natural Resources	500 Lafayette Road Box 25 St. Paul, Minnesota 55155-4040	Electronic Service	No	OFF_SL_21-112_CN-21-112