

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

In the Matter of the Applications of Louise Solar Project, LLC for a Certificate of Need for the 50 MW Louise Solar Project in Mower County, Minnesota

ISSUE DATE: May 7, 2021
DOCKET NO. IP-7039/CN-20-646

In the Matter of the Applications of Louise Solar Project, LLC for a Site Permit for the 50 MW Louise Solar Project in Mower County, Minnesota

DOCKET NO. IP-7039/GS-20-647
ORDER ACCEPTING APPLICATIONS AS COMPLETE, AUTHORIZING JOINT REVIEW, AND TAKING OTHER ACTIONS

PROCEDURAL HISTORY

On February 11, 2021, Louise Solar Project, LLC (Louise Solar) filed both a certificate of need application and a site permit application to construct and operate a solar energy conversion facility of up to 50-megawatts (MW) in Lodi and Adams Townships in Mower County that would provide energy and capacity to wholesale customers, including utilities in Minnesota and the region with a need for additional renewable energy.

On March 8, 2021, the Department of Commerce (the Department) filed comments recommending that the Commission find the certificate of need application complete upon the filing of additional information by the applicant.

On March 8, 2021, the Department of Commerce, Energy Environmental Review and Analysis (EERA) filed comments recommending that the Commission find the site permit application complete upon the filing of additional information by the applicant.

On March 15, 2021, the applicant filed additional information in response to the Department’s and the EERA’s comments.

On April 8, 2021, the applications came before the Commission.

FINDINGS AND CONCLUSIONS

I. The Proposed Project

Louise Solar proposed to construct and operate a solar energy conversion facility of up to 50 MW in Lodi and Adams Townships in Mower County. The proposed project footprint spans approximately 613 acres, of which approximately 325 acres is anticipated for final project use. The Project would include solar panels and racking; inverters; security fencing; a substation; an operations and maintenance building; electrical collection and communication lines; stormwater basins; laydown areas; access roads; and up to four weather stations.

The applicant is an independent power producer intending to sell the facility's output to a utility company or other commercial customer under a power purchase agreement, and is in the process of marketing the project.

II. Jurisdiction and Application Completeness

A. Certificate of Need

Under Minn. Stat. § 216B.243, subd. 2, “no large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the commission.” A large energy facility is “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.”¹ Because the proposed projects meets the definition of a large energy facility, the applicant is required to obtain a certificate of need from the Commission.

Under Minn. R. 7849.0200, subp. 5, the Commission must determine whether a certificate of need application is substantially complete and notify the applicant within 30 days of the filing if the application is not substantially complete. The Commission has reviewed the application and concurs with the Department that the certificate of need application, as supplemented by the applicant, is substantially complete.

Under Minn. R. 7829.3200, the Commission must vary its rules upon making the following findings:

- (1) enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- (2) granting the variance would not adversely affect the public interest; and
- (3) granting the variance would not conflict with standards imposed by law.

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

The Commission finds that the requirements for a variance to Minn. R. 7849.0200, subp. 5, the rule governing the Commission's completeness determination, are met.²

B. Site Permit

Under Minn. Stat. § 216E.03, a large electric power generating plant may not be constructed without a site permit from the Commission. A large electric power generating plant includes electric power generating equipment and associated facilities designed for, or capable of, operation at a capacity of 50,000 kilowatts or more.³ Because the proposed project is a large electric power generating plant, a site permit is required. The Commission concurs with the EERA that the application, as supplemented by the applicant, is complete.

III. Record Development

To develop the record in the certificate of need proceeding, the Commission will authorize use of the informal review process under Minn. R. 7829.1200. To develop the record in the site permit proceeding, the Commission will authorize review under Minn. Sta. § 216E.04, subd. 2 (8) and Minn. R. 7850.2800, which authorizes certain projects, including a large electric power generating plant powered by solar energy, to be reviewed under the alternative review process.

To facilitate the simultaneous review of both applications, the Commission may combine the environmental review of the proposed project under Minn. R. 7849.1900, which authorizes the development of an environmental assessment (EA) for both applications under Minn. R. 7859.3700, in lieu of preparing a separate environmental report (ER) for the certificate of need application.

To further joint record development, the Commission will also approve joint public meetings and joint public hearings, along with combined environmental review of the certificate of need and site permit applications to the extent practical and in doing so requests that the EERA prepare an EA in lieu of an ER. As part of the joint review process, the Commission will request appointment of an administrative law judge (ALJ) to serve as the hearing examiner and to prepare a summary report in general adherence to the timelines suggested by the EERA, as shown in Table 1 of its March 8, 2021, comments.

Finally, the Commission will take additional administrative steps, as set forth in the ordering paragraphs below, to facilitate timely and orderly record development as the case proceeds.

² Enforcement of the 30-day completeness determination would impose an excessive burden on those affected by the rule by unreasonably limiting the time period for comments on the completeness of the application. Further, granting the variance would not adversely affect the public interest and would, in fact, further the public interest by ensuring sufficient time for interested persons to comment on completeness. Further, granting a variance would not conflict with standards imposed by law.

³ Minn. R. 7850.1000, subp. 11.

ORDER

1. The Commission accepts the certificate of need application as substantially complete and authorizes review of the application using the informal review process under Minn. Rule 7829.1200.
2. The Commission accepts the site permit application as complete and authorizes review of the application under the alternative permitting process under Minn. Stat. § 216E.04 and Minn. R. 7850.2800 to 7850.3900.
3. The Commission approves joint public meetings, joint public hearings, and combined environmental review of the certificate of need and site permit applications to the extent practical and requests that the EERA prepare an EA in lieu of an ER under Minn. R. 7849.1900.
4. The Commission requests appointment of an ALJ to serve as the hearing examiner and to prepare a summary report in general adherence to the timelines suggested by the EERA, as shown in Table 1 of its March 8, 2021 comments.
5. The Commission also takes the following additional steps:
 - Delegate administrative authority, including timing issues, to the Executive Secretary.
 - Designate Michael Kaluzniak as the Commission's public advisor who will facilitate citizen participation in the process.
 - Request that the Department and the EERA continue to study the issues and indicate during the hearing process through testimony or comment its position on the reasonableness of granting certificate of need and issuing a site permit.
 - Require the Applicant to facilitate in every reasonable way the continued examination of the issues requested by the Department, the EERA, and Commission staff.
 - Require the Applicant to place a copy of the certificate of need and site permit applications in the government center or public library located closest to the proposed project site.
 - Direct the Applicant to work with Commission staff and Department staff to arrange for publication of the notices related to public information meetings and public hearings in newspapers of general circulation under the timelines prescribed in rule and statute, that such notice be in the form of visible display ads, and that proof of publication be obtained and provided to Commission staff.
 - Authorize Commission staff to file a sample site permit in this case.
6. The Commission grants a variance to Minn. R. 7849.0200, subp. 5, and extends the 30-day timeline.

7. This order shall become effective immediately.

BY ORDER OF THE COMMISSION



Will Seuffert
Executive Secretary



This document can be made available in alternative formats (e.g., large print or audio) by calling 651.296.0406 (voice). Persons with hearing or speech impairment may call using their preferred Telecommunications Relay Service or email consumer.puc@state.mn.us for assistance.

CERTIFICATE OF SERVICE

I, Chrishna Beard, 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 ACCEPTING APPLICATIONS AS COMPLETE, AUTHORIZING
JOINT REVIEW, AND TAKINE OTHER ACTIONS

Docket Number **IP-7039/CN-20-646, IP-7039/GS-20-647**

Dated this 7th day of May, 2021

/s/ Chrishna Beard

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Christina	Brusven	cbrusven@fredlaw.com	Fredrikson Byron	200 S 6th St Ste 4000 Minneapolis, MN 554021425	Electronic Service	No	OFF_SL_20-646_Official Service List 20-646
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_20-646_Official Service List 20-646
Bridget	Duffus	bduffus@fredlaw.com	Fredrikson & Byron, P.A.	200 South Sixth Street Suite 4000 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_20-646_Official Service List 20-646
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_20-646_Official Service List 20-646
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_20-646_Official Service List 20-646
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_20-646_Official Service List 20-646
Lucas	Franco	lfranco@liunagro.com	LIUNA	81 Little Canada Rd E Little Canada, MN 55117	Electronic Service	No	OFF_SL_20-646_Official Service List 20-646
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_20-646_Official Service List 20-646
Karen	Kromar	karen.kromar@state.mn.us	MN Pollution Control Agency	520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	No	OFF_SL_20-646_Official Service List 20-646
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_20-646_Official Service List 20-646

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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_20-646_Official Service List 20-646
Jacob	Salisbury	Jacob.Salisbury@edf-re.com	EDF Renewables	10 NE 2nd St Ste 400 Minneapolis, MN 55413	Electronic Service	No	OFF_SL_20-646_Official Service List 20-646
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th PI E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_20-646_Official Service List 20-646
Adam	Sokolski	adam.sokolski@edf-re.com	EDF Renewable Energy	10 Second Street NE Ste 400 Minneapolis, MN 55410	Electronic Service	No	OFF_SL_20-646_Official Service List 20-646
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_20-646_Official Service List 20-646
David	Weetman	david.weetman@westwoodps.com	Westwood Professional Services	12701 Whitewater Dr Ste 300 Minnetonka, MN 55343	Electronic Service	No	OFF_SL_20-646_Official Service List 20-646
Scott	Wentzell	scott.wentzell@edf-re.com	EDF Renewables	10 NE 2nd St Ste 400 Minneapolis, MN 55413	Electronic Service	No	OFF_SL_20-646_Official Service List 20-646

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Christina	Brusven	cbrusven@fredlaw.com	Fredrikson Byron	200 S 6th St Ste 4000 Minneapolis, MN 554021425	Electronic Service	No	OFF_SL_20-647_Official Service List 20-647
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_20-647_Official Service List 20-647
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_20-647_Official Service List 20-647
Lucas	Franco	lfranco@liunagroc.com	LIUNA	81 Little Canada Rd E Little Canada, MN 55117	Electronic Service	No	OFF_SL_20-647_Official Service List 20-647
Breann	Jurek	bjurek@fredlaw.com	Fredrikson & Byron PA	200 South Sixth St Ste 400 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_20-647_Official Service List 20-647
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_20-647_Official Service List 20-647
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_20-647_Official Service List 20-647