

October 25, 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 Department of Commerce, Division of Energy Resources**
Docket No. IP-7039/CN-20-646

Dear Mr. Seuffert:

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

Application of Louise Solar Project, LLC, for a Certificate of Need for the up to 50 MW Louise Solar Project in Mower County, Minnesota.

The petition was filed on behalf of Louise Solar Project, LLC on February 11, 2021 by:

Christina K. Brusven
Fredrickson and Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, Minnesota, 55402-1425

The Department recommends that the Minnesota Public Utilities Commission (Commission) issue a Certificate of Need to Louise Solar Project, LLC and is available to answer any questions the Commission may have.

Sincerely,

/s/ MICHAEL N. ZAJICEK
Rates Analyst

MNZ/ar
Attachment

Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. IP-7039/CN-20-646

I. INTRODUCTION

A. EXEMPTION

On August 5, 2020, Louise Solar Project, LLC (Louise or the Applicant) filed a *Request for Exemption from Certain Certificate of Need Application Content Requirements* (Petition).

On August 18, 2020, the Minnesota Public Utilities Commission (Commission) issued its *Notice of Comment Period on Certificate of Need Exemption Requests* (Notice).

On August 26, 2020, the Department of Commerce, Division of Energy Resources (Department) filed its Comments on the Exemption Petition, recommending approval of Louise's data exemption requests with conditions.

On August 27, 2020, Louise filed its Reply Comments, agreeing with the Department's recommendations.

On September 21, 2020 the Commission issued its Order (September 21 Order) adopting the Department's recommendations with respect to the Exemption Petition and granting the following exemptions:

1. The following exemptions are approved as proposed:

- 7849.0240, subp. 2(B): Promotional Activities;
- 7849.0250(B)(1), (2), (3) and (5): Description of Certain Alternatives;
- 7849.0250(C)(1) to (6), (8), and (9): Availability of Alternatives to the Facility;
- 7849.0250(C)(7): Effect of Project on Rates System-wide;
- 7849.0290: Conservation Programs; and
- 7849.0330: Alternatives Involving a LHVTL.

2. The following exemptions are approved conditioned upon [Louise] providing alternative data:

- 7849.0250(B)(4): Description of Certain Alternatives;
- 7849.0250(D): Map of the Applicant's System;
- 7849.0270: Peak Demand and Annual Consumption Forecast;
- 7849.0280: System Capacity;
- 7849.0300: Consequences of Delay – System; and
- 7849.0340: The Alternative of No Facility.

B. CERTIFICATE OF NEED APPLICATION

On February 11, 2021 Louise filed its *Application for Certificate of Need* (Application) for the proposed Louise Solar Project generating facility (Project). The Project is proposed to be a 50-MW solar energy conversion facility in Lodi and Adams Townships. The Project will interconnect to ITC Midwest's Adams Substation via a 700 to 1000 foot long 161 kV transmission line. Louise does not currently have a Power Agreement (PPA) for the output of the Project.

On February 22, 2021, the Commission issued a *Notice of Comment Period on Certificate of Need Application Completeness* requesting comments on completeness by March 8, 2021.

On March 8, 2021 the Department filed comments on the completeness of the Certificate of Need Application recommending that the Commission find Louise's Application complete pending submittal of additional information.

On March 15, 2021 the Applicant filed a reply to the Department's comments on completeness providing the requested additional information.

On May 7, 2021, the Commission issued its *Order Accepting Application as Complete, Authorizing Joint Review, and Taking Other Actions*, which directed the Certificate of Need Application to proceed using the informal review process (Completeness Order).

On September 27, 2021 the Commission issued a *Notice of Environmental Assessment Availability, Public Hearings, and Comment Period*(Notice) that established a comment deadlines of October 27, 2021 on the merits of the CN Application. According to the Notice, the topics open for comments include:

- Should the Commission issue a certificate of need and site permit for the proposed project?
- Is the proposed project needed and in the public interest?
- What are the human and environmental impacts of the project, and how can these impacts be addressed in the site permit?
- If the site permit is granted for the facility, what additional conditions or requirements should be included?
- Are there other issues or concerns related to this matter?

In response to the Notice, below are the Department's comments.

II. DEPARTMENT ANALYSIS

Minnesota Statutes, section 216B.2421, subd. 2 (1) defines a large energy facility (LEF) 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.

Since the proposed Project would have a design capacity of 50 MW (50,000 kilowatts), it qualifies as an LEF. Minnesota Statutes, section 216B.243, subd. 2 states that “no large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the Commission . . .” Therefore, a CN application must be approved by the Commission before the proposed facility can be sited or constructed.

There are several factors to be considered by the Commission in making a determination in CN proceedings. In general, these factors are located in different sections of Minnesota Statutes. Some of the general statutory criteria are reflected in a more specific way in Minnesota Rules, part 7849.0120. However, some statutory criteria do not appear to be reflected in rules. To clarify the analysis, the Department groups all of the statutory and rule criteria into one of five factor categories.¹ The Department addresses each of the statutory and rule criteria below.

The Department notes that we rely on the Environmental Report (ER) for an analysis of the effects of the proposed Project and the alternatives upon the natural and socioeconomic environments. At the time these comments are being submitted, the ER has not been completed and is being conducted simultaneously in the instant docket. The Department recommends that the Commission consider the ER when it is filed.

A. NEED ANALYSIS

Overall, the need analysis is governed by Minnesota Rules, part 7849.0120 (A) which states that a CN must be granted upon determining that:

... the probable result of denial would be an adverse effect upon the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant’s customers, or to the people of Minnesota and neighboring states.

¹ Need Analysis, Link to Planning Process, Alternatives Analysis, Socioeconomic Analysis, and Policy Analysis.

The rule lists five distinct criteria. The Department presents the analysis of the need for the proposed Project in two parts. The first part is designed to address the accuracy of the forecast underlying the claimed need. The second is designed to address any broader reliability needs. Each is addressed separately below.

1. Forecast Analysis

a. Accuracy of the Forecast

In the Exemption Petition Order, the Commission granted Louise an exemption to Minnesota Rules, part 7849.0270, which requires an applicant to provide information regarding its system peak demand and annual energy consumption. Instead, to fulfill this requirement, Louise was required to provide information about regional demand, consumption, and capacity. Louise has not yet secured a purchaser for the output of the Project.

Louise provided a discussion showing that the amount of solar in use in Minnesota has been growing rapidly and stated that in general there is a shift from aging fossil fuel generators to wind and solar resources. Louise noted that many Minnesota utilities have aggressive internal renewable energy goals, such as Xcel Energy which has a goal of reducing carbon emissions by 80 percent by 2030, and 100 percent by 2050. This plan would require Xcel Energy to add approximately 3,500 MW of solar by 2030, according to Xcel's Upper Midwest Integrated Resource Plan Supplement from June 30, 2020. The Department notes that Xcel's current IRP is under review and the Commission has not made any decisions on it at this time. Louise listed a number of other utilities with aggressive internal renewable energy goals, including:

- Otter Tail Power's goal of 30 percent renewable power by 2022;
- Minnesota Power's goal of 50 percent renewables by the end of 2021²;
- Southern Minnesota Municipal Power Agency's goal of 90 reduction in CO2 emissions from 2005 levels and 80 percent carbon-free energy on an annual basis by 2030;
- Great River Energy's goal of 50 percent renewable power by 2030;
- Minnesota Municipal Power Agency's goal to have 100 percent renewable generation "when economical"; and
- Rochester Public Utilities' goal to transition to 100 percent renewable energy by 2030.

Louise also stated that Thirty-Seven U.S. states currently have either mandated or voluntary renewable portfolio standards or policies, including the Minnesota Renewable Energy Standard (RES) which require 25 percent of electric sales by utilities be generated by renewable resources by 2025. In addition, Minnesota Stat. §216B.1691 requires that Minnesota utilities generate 1.5 percent of total retail electrical sales using solar energy by 2020, with a further goal that and 10 percent of retail electric sales be for energy generated by solar facilities by 2030.

² It is the Departments understanding that Minnesota Power has already achieved this goal.

Louise also discussed the growing demand from corporations for renewable energy both to save money and to meet sustainability goals. Louise quoted a report from Wood Mackenzie stating that, as of 2019, the United States was at the beginning of a corporate renewable procurement boom and they projected 85 gigawatts of renewable energy demand by 2030. Louise further quoted another report by Wood Mackenzie that stated that 22 percent of all 2018 power purchase agreements for renewable energy in the US was with corporations.

In Docket No. IP-6997/CN-18-699 the Commission indicated that the demonstration of corporate demand and internal utility goals was sufficient evidence to demonstrate need under Minnesota Rules, part 7849.0120. While it is difficult for the Department to track the current progress toward internal utility renewable goals, the Department concludes that Louise has provided sufficient evidence demonstrating corporate demand for renewables to meet the Commission's acceptable level of evidence. Additionally, the Department reviewed the most recent Biennial Transmission report in Docket No. E999/M-19-205 and notes that while Minnesota utilities have obtained more than enough renewable energy to meet their RES requirements, utilities will in general need to acquire additional solar energy to meet the 10 percent solar energy goal for the state of Minnesota by 2030. Additionally, there is a regional trend towards retirements of coal units, indicating a market exists for new renewable energy. For these reasons the Department concludes that Louise has met the requirements of 7849.0120 A considering the exemption granted by the Commission.

b. Overall State Energy Needs

Also related to the forecast analysis is Minnesota Rules, part 7849.0120 C (1) which states that the Commission is to consider "the relationship of the proposed facility, or a suitable modification thereof, to overall state energy needs."

A review of the most recently filed IRPs indicates that Minnesotans are expected to have little change in their electricity requirements:

- Xcel's IRP includes a 0.2 percent annual average energy growth rate for 2020 to 2034;³
- MP's IRP includes a -0.4 percent annual average energy decline for 2019 to 2034;⁴ and
- OTP's IRP includes a 0.46 percent annual average energy growth rate, prior to conservation programs.⁵

However, all three utilities are proposing retirements of large baseload coal units:

- Xcel is proposing to retire the Allen S. King and Sherburne County Generating Station unit 3;
- MP is proposing to retire Boswell Energy Center unit 3; and
- OTP is proposing to withdraw from OTP's 35 percent ownership interest in Coyote Station.

³ See Xcel's June 30, 2020 Supplement: 2020-2034 Upper Midwest Integrated Resource Plan at Attachment A, Table II-1 in Docket No. E002/RP-19-368.

⁴ See MP's 2021 Integrated Resource Plan at page 21, filed February 1, 2021 in Docket No. E015/RP-21-33.

⁵ See OTP's Application for Resource Plan Approval at page 15, filed September 1, 2021 in Docket No. E017/RP-21-339.

As a result, over time these and other utilities are planning on adding solar generating capacity. The proposed Project could help Minnesota meet its energy needs while supporting the state's renewable energy and GHG reduction goals (see Minnesota Statutes §§ 216B.1691 and 216H.02).

The proposed Project could help Minnesota meet its energy needs while supporting the state's renewable energy and greenhouse gas emissions-reduction goals (see Minnesota Statutes, sections §216B.1691 and §216H.02). Additionally, while the electricity sector is generally on pace to meet Minnesota goals, other sectors are not,⁶ and thus overachievement by the electricity sector could help the state meet its overall greenhouse gas emissions-reduction goals. Additionally, Governor Walz issued Executive Order 19-37 which is intended to help get Minnesota back on track to meet or exceed the State's renewable energy goals and move Minnesota toward 100 clean energy by 2040. Therefore, the Department concludes that the proposed Project fits the state's overall energy needs.

2. Reliability Analysis

Minnesota Statutes, section 216B.243, subd. 3 (5) states that, in assessing need, the Commission shall evaluate the "benefits of this facility, including its uses to . . . increase reliability of energy supply in Minnesota and the region." Louise will need to apply to the Midcontinent Independent System Operator (MISO) in order to interconnect to the transmission grid. MISO engineers study the impact on the reliability of the electrical system of each addition to the grid, and the Department relies upon MISO's analysis. Therefore, the Department concludes that this criterion has been met.

B. LINK TO PLANNING PROCESS

This section discusses the following aspects of this proposal: size, type and timing; Minnesota's renewable preference; and demand-side management (DSM) as an alternative to the proposed Project.

1. Size, Type, and Timing

Minnesota Rules, part 7849.0120 B (1) states that the Commission is to consider "the appropriateness of the size, the type, and the timing of the proposed facility compared to those of reasonable alternatives."

a. Size

Louise states that the Commission has concluded that with respect to renewable projects the analysis of the size of the project should focus on the appropriateness of the size of the project to the overall state and regional energy needs. As discussed above the Applicant has demonstrated a general need for solar energy in coming decade both for corporations and to meet the state's energy goals.

⁶ *Greenhouse Gas Emissions in Minnesota: 1990-2016* published January 2018 by the Minnesota Pollution Control Agency and the Minnesota Department of Commerce. <https://www.pca.state.mn.us/sites/default/files/Iraq-2sy19.pdf>.

Furthermore, the Petition stated that the Project is sized to take advantage of economies of scale while also making efficient use of existing transmission capacity.⁷ Based on the discussion above regarding forecasted solar energy needs and the Applicant's economic incentives, the Department concludes that the proposed Project's size is not excessive and therefore is reasonable.

b. Type

The Commission's Exemption Order granted Louise a full exemption to Minnesota Rules, part 7849.0250 (B) (1) – (3), and (5). The Applicant was granted a partial exemption to data requirement (4) to the extent that the Rule requires discussion of non-renewable alternatives. Louise stated that since the goal of the project is to provide renewable energy that will help utilities satisfy renewable energy and other clean energy goals, information regarding non-renewable alternatives would not be relevant.

Minn. R. 7849.0250 (B) (4) and the Commission's Exemption Order, require Louise to evaluate new renewable generating facilities as alternatives to the proposed Project, and reasonable combinations thereof. Louise evaluated the ability of wind, hydropower, biomass, various storage technologies, and emerging technologies to serve as reasonable alternatives to the proposed Project. Louise noted that while wind energy is generally more cost effective, it is more variable and thus Solar is a better capacity resource, and thus the state requires a mix of these complementing technologies. Additionally, Louise notes that the Project area was originally examined to be used for a small wind project, however study results from the MISO interconnection queue indicated that it would cost more for transmission network upgrades for wind than solar. Louise also notes that the Compact nature of solar facilities allows it to limit the additional transmission facilities necessary for the project.

On a cost basis, none of the alternatives evaluated were as cost-effective as the proposed Project. Given these factors, along with the preference for renewable, non-carbon-emitting energy resources in Minnesota Statutes, the Department concludes that the proposed Project's type is reasonable.

c. Timing

Louise stated that the Project is expected to be operational by the end of 2022 or 2023 depending on the timing of the MISO interconnection process. Louise states that this timing allows the project to be online in time to assist Minnesota with meeting its renewable energy goals. In addition, as discussed above, while the energy sector is generally on pace to meet Minnesota goals, other sectors are not, and thus additional renewable production by the energy sector could help the state meet its overall greenhouse gas emissions-reduction goals.

The project also could help an individual utility meet Minnesota's solar goals, but it is important to note that there is unlikely to be a one-to-one relationship between CN applications and Minnesota solar obligations. More specifically, the Department notes that:

⁷ Application, page 30.

- There will not likely be a one-to-one match between CN applications based on the regional need for renewable generation and Minnesota utilities' solar compliance level;
- Additional renewable resources will be needed for certain to meet the state's 2030 solar goal;
- Capacity additions are typically added in "chunks" due to the benefits of economies of scale;
- The investment tax credit is generally phasing down, with Solar projects that begin in 2020, 2021, and 2022 receiving a 26 percent tax credit, while future projects would only receive a 22 percent tax credit. Additionally, the Project has safe harbored equipment that allows the Applicant to receive a 30 percent investment tax credit if it is online by the end of 2023; and
- There are uncertainties involved in accomplishing the associated transmission additions or upgrades needed for integrating the output of previously approved and variously located renewable generation projects.

Finally, the Department notes that Minnesota Rules, part 7849.0400 requires the recipient of a CN to notify the Commission if the proposed in-service date is delayed by more than one year. In summary, the Department concludes that the timing of the proposed Project is reasonable.

2. Renewable Preference

There are two sections of Minnesota Statutes that provide a preference for renewable resources in resource planning decisions. First, Minnesota Statutes, section 216B.243, subd. 3a states that:

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.

Second, Minnesota Statutes, section 216B.2422, subd. 4 states that:

The commission shall not approve a new or refurbished nonrenewable energy facility in an integrated resource plan or a certificate of need, pursuant to section 216B.243, nor shall the commission allow rate recovery pursuant to section 216B.16 for such a nonrenewable energy facility, unless the utility has demonstrated that a renewable energy facility is not in the public interest.

Minnesota Statutes indicate a clear preference for renewable facilities in resource acquisition decisions. The proposed Project meets that preference.

3. *DSM Analysis*

The Commission's Exemption Order exempted the Applicant from providing information on conservation programs, as required by Minnesota Rules, part 7849.0290, and the potential for reducing the need for this generation facility because Louise does not have retail customers and does not operate any conservation programs. However, it is unlikely that the regional needs for solar energy at the scale indicated by Louise could be met through conservation programs.

C. *ANALYSIS OF ALTERNATIVES*

Overall, the analysis of alternatives is governed by Minnesota Rules, part 7849.0120 B which states that a CN must be granted upon determining that “. . . a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record.” The rule then proceeds to list four distinct criteria. The Department breaks down its analysis of the alternatives to the proposed facility into four broad areas:

- alternatives analysis;
- reliability analysis;
- distributed generation (DG); and
- preference for an innovative energy project (IEP) as defined in Minnesota Statutes.

Each area is addressed separately below.

1. *Alternatives Analysis*

a. *Non-CN Facilities Analysis*

Minnesota Rules, part 7849.0120 A (4) states that the Commission is to consider “the ability of current facilities and planned facilities not requiring certificates of need to meet the future demand.” The primary alternatives to the proposed facilities are purchases from renewable facilities outside Minnesota or construction of renewable Minnesota facilities that are small enough not to require certificates of need (less than 50 MW).

As an independent power producer (IPP), Louise is a producer or seller, rather than purchaser, of electric generation. A renewable facility of less than 50 MW would not benefit as much from economies of scale as the proposed Project. Also, the Applicant has the incentive to site generation in an economically efficient manner inside or outside Minnesota. Further, the Department notes that any party wishing to do so may propose an alternative to the proposed facility; at this time, no party filed such a proposal in this proceeding. Therefore, the Department concludes that current and planned facilities not requiring a CN have not been demonstrated to be more reasonable than the proposed Project.

b. Cost Analysis

Minnesota Rules, part 7849.0120 B (2) states that the Commission is to consider “the cost of the proposed facility and the cost of energy to be supplied by the proposed facility compared to the costs of reasonable alternatives and the cost of energy that would be supplied by reasonable alternatives.” In its Exemption Order, the Commission granted Louise an exemption to Minnesota Rules, part 7849.0250 (C), which requires an applicant to provide a description of alternatives that could provide electric power at the asserted level of need. Only details regarding renewable alternatives need be provided, including an estimate of the proposed Project’s effect on wholesale rates in Minnesota or the region.

Louise notes that it has not secured a purchaser at this time, but as an independent power producer it assumes the risk of not securing a PPA, rather than the state or the ratepayer. The Department agrees with this analysis, however, notes that in the event the project fails there could be potential negative impacts on any landowners the project contracted with. The Application also included a discussion of alternatives to the proposed Project, including, but not limited to hydropower, biomass, solar, and emerging technologies. Louise relied on cost information from the U.S. Department of Energy’s Energy Information Administration. Louise concluded that the project is generally more cost effective than other technologies, and that while wind is cost competitive with the project, the Project site is generally more suited to a solar facility.

Additionally, the Department reviewed Louise’s cost projections from Appendix A and general concludes that the projections are reasonable and similar to other projects approved by the Commission. The Department also notes that the proposed Project’s energy production will be modest in comparison to the annual energy consumption of Minnesota and the region. However, because the proposed Project would not be subject to fluctuations in fuel costs, the Project could help stabilize or lower electricity prices in the state and region. Overall, the Project is not likely to have a significant effect on MISO wholesale prices.

In aggregate, wind and solar facilities are the “first” resources accepted under the production protocols of MISO. Therefore, since pricing in the MISO market is based on the last (marginal) resource (typically natural gas or inefficient coal), electricity produced by solar facilities in aggregate can decrease the amount of natural gas, or whatever fuel type is associated with the generation facility that is the highest priced option at a given time, that is used for generating electricity.

Based on the above, the Department concludes that the cost of the Project and the cost of energy to be supplied by the Project is reasonable compared to the costs of reasonable alternatives.

c. Natural and Socioeconomic Environments Analysis

Minnesota Rules, part 7849.0120 B (3) states that the Commission is to consider “the effects of the proposed facility upon the natural and socioeconomic environments compared to the effects of reasonable alternatives.” The applicant also notes that recent studies indicate that there could be net benefits to soil resources over the lifecycle of solar projects. The proposed facility would have relatively

minor pollution impacts. The Applicant stated that only approximately 325 acres of agricultural land would be removed from production, over the lifetime of the Project. Therefore, consideration of the effects on the natural and socioeconomic environments using the Commission's approved externality values would not significantly impact the overall cost analysis. Further, as no reasonable alternatives to the proposed Project have been identified, comparing the effects of the proposed Project with another solar project of this size is not likely to result in significant differences.

The Applicant also discussed the impacts on the local economy through the hiring of temporary construction workers, permanent facility workers, payments to land owners, and long-term benefits to the county's tax base.

Based on the above the Department concludes that this sub-criterion has been met.

2. *Reliability Analysis*

Minnesota Rules, part 7849.0120 B (4) states that the Commission is to consider "the expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives." Louise estimates that the proposed Project will have an availability of at least 99 percent, which it states is consistent with industry standards.⁸ The Applicant also estimates a capacity factor of approximately 25 to 28 percent.⁹ The Department confirmed that the proposed expected capacity factor is within, but on the high end of the National Renewable Energy Laboratory's *Utility-Scale Energy Technology Capacity Factors* range.¹⁰ Louise stated that the Project would consist of a linear axis tracking system that allows the panels to chase the sun's position throughout the day. Therefore, the Department concludes that this subcriterion has been met.

3. *Distributed Generation Analysis*

Minnesota Statutes, section 216B.2426 states that:

The Commission shall ensure that opportunities for the installation of distributed generation, as that term is defined in section 216B.169, subdivision 1, paragraph (c), are considered in any proceeding under section 216B.2422, 216B.2425, or 216B.243.

Minnesota Statutes, section 216B.169 states:

For the purposes of this section, the following terms have the meanings given them . . . (c) "High-efficiency, low-emission, distributed generation" means a distributed generation facility of no more than ten megawatts of interconnected capacity that is certified by the commissioner under subdivision 3 as a high efficiency, low-emission facility.

⁸ Petition, pg. 37.

⁹ Petition, pg. 21.

¹⁰ <https://www.nrel.gov/analysis/tech-cap-factor.html> accessed October 20, 2021.

The Department notes, first, that no proposals for distributed generation as an alternative to the proposed Project have been filed in this proceeding. Second, the Department notes that potential buyers of the proposed Project's output should have an incentive to use the lowest cost resource available. Therefore, the Department concludes that a potential buyer of the proposed Project's output has the incentive to consider all resources available, including distributed generation. The Department concludes that the requirement to consider distributed generation has been met.

4. Innovative Energy Project (IEP) Preference

Minnesota Statutes, section 216B.1694, subd. 2 (a) (4) states that an IEP:

... shall, prior to the approval by the commission of any arrangement to build or expand a fossil-fuel-fired generation facility, or to enter into an agreement to purchase capacity or energy from such a facility for a term exceeding five years, be considered as a supply option for the generation facility, and the commission shall ensure such consideration and take any action with respect to such supply proposal that it deems to be in the best interest of ratepayers.

This statute does not apply since the proposed facility is not a fossil-fuel-fired generation facility.

D. SOCIOECONOMIC ANALYSIS

Overall, the socioeconomic analysis is governed by Minnesota Rules, part 7849.0120 C which states that a CN must be granted upon determining that:

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

Louise stated that the proposed Project would provide a large amount of renewable energy with minimal environmental impact, which would help meet the solar energy goals and other needs for renewable energy resources. Further, the Applicant stated that the Project would benefit the local economies through lease payments, energy production taxes, jobs (both temporary construction and permanent operations and maintenance jobs), and other local spending. Louise also stated that recent studies have shown that during the lifetime of solar projects the land used generally sees benefits in soil quality by being removed from production for an extended period of time.

As noted above, the Department relies on its Environmental Report (ER) for its socioeconomic analysis in a CN proceeding. As of the date of the submission of these comments, the ER is not yet complete. The Department recommends that the Commission consider the ER that will be filed by the Department's Energy Environmental Review and Analysis staff in this matter in the instant docket.

E. POLICY ANALYSIS

There are several remaining criteria in statutes and rules that are applicable to a CN but do not closely fit into the need, planning, alternatives, and socioeconomic categories discussed above. Therefore, these criteria are grouped into a final category of policy consideration. In this policy section, the Department addresses criteria related to:

- policies of other state and federal agencies;
- promotional practices;
- RES compliance;
- environmental cost planning;
- transmission planning compliance; and
- carbon dioxide emissions.

1. Other State and Federal Agencies

Minnesota Rules, part 7849.0120 D states that a CN must be granted on determining that:

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

Again, Louise indicated that the proposed Project serves overall state and regional energy needs and addresses federal and state renewable energy policies. The Applicant further stated that the proposed Project will meet or exceed the requirements of all federal, state, and local environmental laws and regulations.¹¹ Louise provided a table listing the potential permits and approvals needed for the proposed Project (see Table 12 in section 12.3 of the CN Application). This table appears to be comprehensive. The Department has no reason to believe that the Applicant will fail to comply with the requirements of the listed federal and state agencies and local and tribal governments.

Further, the Department notes that state agencies authorized to issue permits for the proposed Project are required to present their position and participate in the public hearing process (see Minnesota Statutes, section 216B.243, subd. 7). The Department observes that the Commission has consistently considered state agency input in its final CN decisions. Therefore, the Department concludes that the record at this time does not demonstrate that the design, construction, or operation of the proposed Project, or a suitable modification of the facilities, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.

¹¹ Petition, pg. 27.

2. *Promotional Practices*

Minnesota Rules, part 7849.0120 A (3) states that the Commission is to consider “the effects of promotional practices of the applicant that may have given rise to the increase in the energy demand, particularly promotional practices which have occurred since 1974.” In its Exemption Order, the Commission granted Louise an exemption to Minnesota Rules, part 7849.0240, subp. 2 (B) which calls for the Applicant to provide a summary of the promotional practices that may have given rise to the demand for the facility. The exemption was granted because Louise does not have captive retail customers and there is no authorized rate of return to consider. Nonetheless, the Applicant stated that it has not engaged in promotional activities that could have given rise to the need for the electricity to be generated by the Project.¹² Therefore, the Department concludes that this subcriterion has been met.

3. *RES Compliance*

a. *Compliance with Minnesota Statutes, section 216B.1691*

Minnesota Statutes, section 216B.243, subd. 3 (10) states that the Commission shall evaluate “whether the applicant or applicants are in compliance with applicable provisions of sections 216B.1691” Minnesota Statutes, section 216B.1691 relates to Minnesota’s requirements regarding the provision of renewable energy to Minnesota’s retail customers. Given that Louise has no retail customers in Minnesota, the Department concludes that this statutory criterion is not applicable.

4. *Environmental Cost Planning*

Minnesota Statutes, section 216B.243, subd. 3 (12) states that the Commission shall evaluate “if the applicant is proposing a nonrenewable generating plant, the Applicant’s assessment of the risk of environmental costs and regulation on that proposed facility over the expected useful life of the plant, including a proposed means of allocating costs associated with that risk.” In this case, Louise is proposing a renewable generation facility. Therefore, this statute does not apply.

5. *Transmission Planning Compliance*

Minnesota Statutes, section 216B.243, subd. 3 (10) states that the Commission shall evaluate:

... whether the applicant or applicants are in compliance with applicable provisions of section 216B.1691 and 216B.2425, subdivision 7, and have filed or will file by a date certain an application for certificate of need under this section or for certification as a priority electric transmission project under section 216B.2425 for any transmission facilities, or upgrades identified under section 216B.2425, subdivision 7.

¹² Petition, pg. 16.

Louise stated that the proposed Project would interconnect to an existing ITC Midwest’s Adams Substation, located immediately adjacent to the Project, which would be connected via a 700 to 1000 foot 161 KV transmission line. This line spans less than the 1,500 feet then the length requirements to trigger a route permit. Otherwise, Louise does not own any transmission lines. Since Minnesota Statutes, section 216B.2425 is applicable only to entities that own or operate electric transmission lines in Minnesota, and Louise only intends to own its feeder line, it appears that this statute does not apply in this case.

6. Carbon Dioxide Emissions

Minnesota Statutes, section 216H.03, subd. 3 states that:

... on and after August 1, 2009, no person shall: (1) construct within the state a new large energy facility that would contribute to statewide power sector carbon dioxide emissions; ...

The Department notes that the proposed Project will not contribute to statewide power sector carbon dioxide emissions.

III. SUMMARY OF DEPARTMENT ANALYSIS

In these comments, the Department addresses the following statutory criteria:

Statutory Criteria: Minn. Stat. §216B.243	Where Addressed in these Comments	Department’s Statement
Minn. Stat. § 216B.243, subd. 3 (9)	N/A	The proposed Project is not a transmission line.
Minn. Stat. §§ 216B.243, subd. 3a and 216B.2422, subd. 4	Section II, B, 2 Page 9	Minnesota Statutes indicate a clear preference for renewable facilities. The proposed facility meets that preference.
Minn. Stat. § 216B.2426	Section II, C, 3 Page 12	No proposals for distributed generation as an alternative to the proposed Project have been filed in this proceeding. Any potential buyer of the proposed Project’s output has the incentive to consider all resources available, including distributed generation. The Department concludes that the requirement to consider distributed generation has been met.
Minn. Stat. § 216B.1694, subd. 2 (a) (5)	Section II, C, 4 Page 13	This statute does not apply since the proposed facility is not a fossil-fuel-fired generation facility.

Minn. Stat. §§ 216B.243, subd. 3 (10) and 216B.1691	Section II, E, 3 Page 15	Given that the Applicant has no retail customers Minnesota, the Department concludes that this statute does not apply.
Minn. Stat. § 216B.243 subd. 3 (12)	Section II, E, 4 Page 15	In this case, the applicant is proposing a renewable generation facility. Therefore, this statute does not apply.
Minn. Stat. §§ 216B.243, subd. 3 (10) and 216B.2425, subd. 7	Section II, E, 5 Page 15	Since Minnesota Statutes, section 216B.2425 is applicable only to entities that own or operate electric transmission lines in Minnesota, this statute does not apply in this proceeding.
Minn. Stat. §§ 216B.243, subd. 3 and 216B.243, subd. 3 (8)	Section II, B, 3 Page 9	The Applicant does not have retail customers and does not operate any conservation programs. It is unlikely that the regional needs for solar energy could be met through conservation programs.
Minn. Stat. § 216H.03	Section II, E, 6 Page 14	Since solar energy projects do not produce carbon dioxide emissions the Department concludes that the proposed Project does not violate this statute.

In addition, the Department addressed the criteria established in Minnesota Rules, part 7849.0120, which reiterate the criteria established in Minnesota Statutes, section 216B.243, subd. 3 (1) – (8).

Regulatory Criteria: Minn. Rules, Part 7849.0120	Where Addressed in These Comments	The Department's Statement
Subpart A (1)	Section II, A, 1, a Pages 5-6	Considering the need for renewable energy in the region, the Department concludes that the Applicant's forecast of the need for the renewable energy expected to be produced by the proposed Project is reasonable.
Subpart A (2)	Section II, B, 3 Page 9	The Applicant does not have retail customers and does not operate any conservation programs. It is unlikely that the regional needs for solar energy could be met through conservation programs.
Subpart A (3)	Section II, E, 2 Page 15	The Applicant states that it has not engaged in any promotional activities directed toward increasing demand. Therefore, the Department concludes that this subcriterion has been met.

Subpart A (4)	Section II, C, 1, a Pages 10	Current and planned facilities not requiring a CN have not been demonstrated to be more reasonable than the proposed Project.
Subpart A (5)	Section II, D Pages 13	The general would provide a large amount of renewable energy with minimal environmental impact, and improve long-term soil quality.
Subpart B (1)	Section II, B, 1 Page 7-9	The Department concludes that the proposed Project's size is not excessive and the type and timing are reasonable.
Subpart B (2)	Section II, C, 1, b Page 10-11	Solar energy resources are cost effective when compared with other renewable resources and the project site is idea for a solar facility.
Subpart B (3)	Section II, C, 1, c Page 11-12	Comparing the effects of the proposed Project with another solar project of this size is not likely to result in significant differences.
Subpart B (4)	Section II, C, 2 Page 12	The proposed Project is expected to be available 99 percent of the time and have a capacity factor of approx. 25 to 28 percent. The Department concludes that this subcriterion has been met.
Subpart C (1)	Section II, A, 1, b Page 6	The proposed Project could help MN meet its energy needs while supporting the state's renewable energy and greenhouse gas emissions-reduction goals.
Subpart C (2)	Section II, C, 3 and Section II, D Pages 12-13	The Department relies on its Environmental Report for its socioeconomic analysis.
Subpart C (3)	Section II, D Pages 13	The Department relies on its Environmental Report for its socioeconomic analysis.
Subpart C (4)	Section II, D Pages 13	The Department relies on its Environmental Report for its socioeconomic analysis.
Subpart D	Section II, E, 1 Page 14	The Department has no reason to believe that the Applicant will fail to comply with the requirements of the listed federal and state agencies and local and tribal governments.

IV. DEPARTMENT RECOMMENDATION

Based upon the above analysis, the Department recommends that the Commission make the following findings:

- Louise has met each of the five criteria listed under Minnesota Rules, part 7849.0120 A and thus shown that “the probable result of denial would be an adverse effect upon the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant’s customers, or to the people of Minnesota and neighboring states;”
- Louise has met each of the four criteria listed under Minnesota Rules, part 7849.0120 B and thus shown that “a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record;” and
- Louise has shown that “the record does not demonstrate that the design, construction, or operation of the proposed facility, or a suitable modification of the facility, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.”

Should the Commission find, after consideration of the Environmental Report, that the proposed facility “will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health,” the Department recommends that the Commission issue a Certificate of Need to Louise Solar Project, LLC.

/ar

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Comments**

Docket No. IP7039/CN-20-646

Dated this 25th day of October 2021

/s/Sharon Ferguson

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