

November 2, 2021

**VIA ELECTRONIC FILING**

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

Honorable Barbara J. Case  
Minnesota Office of Administrative Hearings  
P.O. Box 64620  
Saint Paul, MN 55164-0620

**RE: Reply Comments**

**In the Matter of the Applications of Louise Solar Project, LLC for a Certificate of Need and a Site Permit for the 50 MW Louise Solar Project in Mower County, Minnesota  
OAH Docket No. 82-2500-37579  
MPUC Docket Nos. IP-7039/CN-20-646 and IP-7039/GS-20-647**

Dear Mr. Seuffert and Judge Case:

Louise Solar Project, LLC (“Louise Solar”) submits these reply comments in response to the written comments submitted by the Minnesota Department of Commerce, Division of Energy Resources (“DER”) on October 25, 2021, the Minnesota Department of Natural Resources (“MDNR”) on October 28, 2021, the Minnesota Pollution Control Agency (“MPCA”) on October 28, 2021, and the oral public comments raised at the in-person and virtual public hearings held on October 12 and 13, 2021, respectively, on Louise Solar’s Site Permit Application and Certificate of Need Application for a 50 megawatt alternating current solar energy generating system in Mower County, Minnesota (the “Project”). Louise Solar appreciates the agency and public participation in these dockets and the opportunity to offer this response.

**Response to DER Comments**

On October 25, 2021, DER filed comments recommending that the Commission issue a Certificate of Need for the Project.<sup>1</sup> Louise Solar appreciates DER’s comprehensive analysis and concurs with its recommendation that the Commission issue a Certificate of Need to Louise Solar for the Project.

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<sup>1</sup> DER Comments (October 25, 2021) (eDocket No. 202110-179134-01).

## **Response to MDNR Comments**

MDNR's October 28, 2021 comments addressed several provisions in the revised Vegetation Establishment and Management Plan ("VMP") filed by Louise Solar, as well as potential indirect impacts to native prairie, fencing, and potential impacts to the Shooting Star State Trail.<sup>2</sup>

### VMP

Louise Solar will consider MDNR's comments in the final design of the Project and the final VMP to be filed prior to commencement of construction. Louise Solar provides the following specific responses to each of MDNR's bullet points:

1. Louise Solar intends to review the Minnesota Board of Water & Soil Resources ("BWSR") Solar Pollinator Scorecard again prior to construction but does not plan to meet what is currently considered the "gold standard" under the Scorecard.
2. Soils listed as predominantly hydric or all hydric are scattered throughout the Project location. 91.3 percent of the soils in Mower County are hydric soils. The engineering and design of the Project contemplated the existing soil types, and construction and operation of a solar facility are feasible within hydric soils. Additionally, Louise Solar will work with participating landowners to identify and, to the extent practicable, avoid existing drain tile currently functioning to drain hydric soil areas. Drainage will be augmented by additional drain tile, as needed, in areas of known hydric soils to ensure proper drainage is maintained in the post-construction condition.
3. Louise Solar will continue to review seed mixes in coordination with the agency working group.
4. Final site plans will be reviewed and verified by a civil engineer.
5. Louise Solar will follow all applicable state rules, standards, and guidelines in the Project's Stormwater Pollution Prevention Plan. Louise Solar will also follow the best management practices set forth in the Project's Agricultural Impact Mitigation Plan related to avoiding and minimizing the impacts related to soil compaction.
6. The exact timing of construction seeding is not currently known; however, Louise Solar intends to use winter seed stratification techniques when construction schedules allow. If winter stratification is not possible, Louise Solar will work with seed providers to stratify seeds using industry-standard techniques to ensure proper germination.

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<sup>2</sup> MDNR Comments (October 28, 2021) (eDocket No. [202110-179230-01](#)).

7. Louise Solar will take into consideration MDNR's recommendation regarding staggering mowing in the fall to allow some vegetation to provide overwintering habitat for insects and incorporate it when practical, considering weather and other factors.

### Native Prairie

MDNR commented that a strip of native prairie, with an associated state endangered plant species, exists along State Highway 56. MDNR noted that while none of the planned work is expected to occur in this strip, the strip could be adversely affected if construction equipment, supplies, or personal vehicles are stored or move across this area, or if the collection line proposes to cut across the area. MDNR also commented that either possible impact can be avoided by clearly marking off the prairie strip to prevent inadvertent movement or placement of materials or equipment in it, and by directionally boring under the prairie to install the collection line.

As MDNR notes, Louise Solar intends to avoid this strip of native prairie. The collection line will be bored under it, and Louise Solar will mark the area during construction.

### Security Fencing

MDNR commented on potential impacts to deer mortality and movement due to fencing. MDNR recommended installation of a 10-foot fence. MDNR noted that 10-foot fencing would nearly eliminate the possibility of deer getting in and would not require egresses. MDNR noted that Louise Solar's current proposal includes fencing that is six feet high, and that this design still entails a significant risk that deer could get inside the facility, not be able to get out, and cause damage both to themselves and the solar panels. MDNR also noted that the proposed top guard is not wildlife friendly because it does not provide a sufficient deterrent to deer attempting to jump the fence but could cause damage to the deer and the fencing if they tried and failed. MDNR states that this height can present a hazard for birds as well.

Louise Solar appreciates MDNR's comment but believes Louise Solar's fencing proposal to install either a 6-foot chain-link fence with top guard angled out and upward at 45 degrees with 3-4 strands of smooth wire (no barbs), or 8-foot chain link fence is appropriately protective of the deer population and supported by the record. Louise Solar's proposed fencing was designed in accordance with MDNR's 2016 *Guidance for Commercial Solar Projects*.<sup>3</sup> While the MDNR noted that it is in the process of updating its fencing guidance, such updated guidance has not been finalized or issued, and the Project was designed to comply with the MDNR guidance currently in effect. Louise Solar also believes that MDNR's 2016 *Guidance for Commercial Solar Projects* appropriately balances visual impacts to neighboring properties with wildlife impacts. A 10-foot fence would increase visual impacts to adjacent residences and would likely require larger/deeper

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<sup>3</sup> See Ex. 101 at 82 and 88 (SP Application); October 12, 2021 Public Hearing Transcript at 24.

November 2, 2021

Page 4

foundations, thereby increasing soil disturbance. Additionally, a 10-foot fence would cost at least 25 percent more than the fencing currently proposed by Louise Solar.

When considering the risk that deer may be trapped within the fencing, it is also important to recognize that operations and maintenance personnel will be onsite weekly and will be able to identify any wildlife within the fenced area. If deer are present, operations and maintenance personnel will take appropriate action to safely remove any deer from the fenced area. EDF Renewables, Inc., Louise Solar's parent company, has developed over 9.7 gigawatts of solar in the U.S., and Louise Solar is unaware of circumstances where deer have caused issues with equipment inside the fenced area.

Given the balance between addressing concerns related to deer mortality and movement with the potential visual impacts of higher fencing, Louise Solar believes the current fencing proposal is most appropriate at this site.

#### Recreational Trail Crossings

MDNR commented regarding recreational trail crossings. MDNR noted that the Environmental Assessment ("EA") states that the Project is within 108 feet of the Shooting Star State Trail, but MDNR's inspection of the shapefiles provided for this review indicate that the Project fence is approximately 35 feet from the trail, and that a collector line is proposed to run across the trail. MDNR requested that Louise Solar provide a discussion of the practices to be followed to minimize or mitigate construction-related impacts to trail use and condition, as well as an evaluation of continued impacts to trail use and safety due to the presence of the collection line.

The collection line will be bored under the Shooting Star State Trail. Accordingly, no construction-related impacts or operational impacts to trail use are anticipated.

#### Natural Resources

MDNR commented that the presence of native prairie with wild quinine adjacent to the Project area should be clearly designated, and Project workers should be clearly informed that this is a designated avoidance area. In addition, MDNR recommended that the collector line that crosses the prairie be directionally bored to avoid impacts to the prairie, or, alternatively, that surveys be completed to avoid harm to the prairie and the wild quinine.

As noted above, this strip of native prairie is located on the western side of the Project and will be avoided.

#### Comments on the EA

MDNR also commented regarding a number of potential impacts and mitigation measures discussed in Chapter 5 of the Environmental Assessment. Louise Solar defers to the Minnesota

November 2, 2021  
Page 5

Department of Commerce, Energy Environmental Review & Analysis (“EERA”) to address comments regarding the EA.

### **Response to MPCA Comments**

On October 28, 2021, the MPCA filed comments on the EA.<sup>4</sup> Louise Solar again defers to EERA to address comments on the EA.

### **Response to Public Comments**

One member of the public spoke during the October 12, 2021 public hearing (in person).<sup>5</sup> He asked questions regarding fencing at the Project and how the solar arrays operate, and also commented regarding the Project’s potential impact on property taxes and property values. The questions were addressed by either EERA Staff or Louise Solar during the public hearing.

During the remote-access public hearing held on October 13, 2021, Brian Brunette, a marketing representative with the Minnesota Laborers Union, and Nathan Runke, International Union of Operating Engineers, Local 49, expressed support for the Project because it would result in construction jobs in the region.<sup>6</sup> Louise Solar appreciates the support of Mr. Brunette and Mr. Runke and their respective organizations.

These comments have been e-filed today through [www.edockets.state.mn.us](http://www.edockets.state.mn.us). A copy of this filing is also being served upon the persons on the Official Service Lists of record. Please let me know if you have any questions regarding this filing.

Sincerely,

*/s/ Christina K. Brusven*

Christina K. Brusven  
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**Email:** [cbrusven@fredlaw.com](mailto:cbrusven@fredlaw.com)

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<sup>4</sup> MPCA Comments (October 28, 2021) (eDocket Nos. [202110-179265-01](#); [202110-179265-02](#)).

<sup>5</sup> See October 12, 2021 Public Hearing Transcript.

<sup>6</sup> See October 13, 2021 Public Hearing Transcript.

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

**CERTIFICATE OF SERVICE**

**OAH Docket No. 82-2500-37579  
MPUC Docket Nos. IP-7039/CN-20-646 and  
IP-7039/GS-20-647**

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Breann L. Jurek certifies that on the 2<sup>nd</sup> day of November 2021, she served true and correct copies of the following documents by electronic filing or by depositing the same enveloped with postage paid in the United States mail at Minneapolis, Minnesota:

1. Cover Letter;
2. Reply Comments; and
3. Certificate of Service

to the parties on the attached Official Service Lists as attached hereto.

Executed on: November 2, 2021

*Signed: /s/ Breann L. Jurek*  
\_\_\_\_\_  
*Fredrikson & Byron, P.A.*  
*200 South Sixth Street*  
*Suite 4000*  
*Minneapolis, MN 55402*

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 CC Service List
Barbara	Case	barbara.case@state.mn.us	Office of Administrative Hearings	600 N. Robert St.  St. Paul, Mn. 55101	Electronic Service	Yes	OFF_SL_20-646_Official CC Service List
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 CC Service List
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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 CC Service List
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 CC Service List
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 CC Service List
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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 CC Service List
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