

NEW AND PREFERRED DECISION OPTIONS

Proposed by Commissioner Tuma

July 16, 2026

DOCKET NUMBER IP-7138/ESS-24-294, TL-24-295

ANALYST Jacques Harvieux

DATE/TIME SUBMITTED July 13, 2026

TITLE Tuma Paths A & B, including Revised 1, 10-11, New 11.b-e, Alternative 12 & 15, New 16

ATTACHMENT No

SUBJECT In the Matter of the Joint Application of Midwater BESS, LLC for a Site Permit and Route Permit for the up to 150 MW Midwater Energy Storage Project and Associated 161 kV Transmission Line in Freeborn County, Minnesota

As a starting point for discussion, Commissioner Tuma offers two potential, alternative sets of preferred decision options: **Tuma Path A** and **Tuma Path B**, outlined below.

Support for Tuma New 11.b, c, d, and e, and Tuma New 16, can be found at the following record cites:

Filing	eFiled Date	Doc. ID
Advisory Task Force – Report at pp. A-11 to A-12	11/25/2025	202511-224951-01
Shell Rock Watershed District – Comments	04/24/2025	20254-218094-01
Advisory Task Force – Report, Appendix I, Draft ESS Ordinance for Freeborn County, section 26-92	11/25/2025	202511-224951-01
Midwater BESS, LLC – Response to IR No. 1.1	07/07/2026	20267-233835-01
Freeborn County Board of Commissioners Resolution 25-139	04/17/2026	20254-217825-01
Midwater Bess, LLC – Application Appendix D, Decommissioning Plan		202411-212161-06
Advisory Task Force – Report, Doc. ID, at pp. A-8 to A-11, A-15	11/25/2025	202511-224951-01

TUMA PATH A

ALJ Report

1. Adopt the ALJ's Findings of Fact, Conclusions of Law, and Recommendation to the extent they are consistent with the Commission's decision.
2. Adopt the following modifications to the ALJ Report (See Table 1 attached to staff briefing paper):
 - b. PUC EIP's proposed modifications to the ALJ's findings (E25–E58).

Environmental Assessment

7. Determine that the Environmental Assessment and the record created at the public hearings and subsequent comment period address the issues identified in the Scoping Decision.

Site Permit

Tuma Alternative 12. Do not issue a site permit, but allow the Applicant to submit additional information as outlined below for further review under the same application.

Route Permit

Tuma Alternative ~~12-15~~.¹ Do not issue a route permit, but allow the Applicant to submit additional information as outlined below for further review under the same application.

Additional Information

Tuma New 16. If the Applicant continues to pursue site and route permits for the Project, require the Applicant to file additional information and proposed permit condition language related to the following to mitigate concerns raised in the record:

- a. Stormwater basin requirements and maintenance plan.
- b. Insurance requirements.
- c. A parental guaranty.
- d. Decommissioning and environmental remediation fund requirements and financial assurance.

Authorize the Executive Secretary to issue a notice of comment period and set timelines for comments before scheduling the matter for further review at a future Commission meeting.

OR

¹ In the briefing papers, the decision option after 14 inadvertently was numbered 12, but it should be 15.

TUMA PATH B

ALJ Report

- Tuma Revised 1.** Adopt the ALJ's Findings of Fact, and Conclusions of Law ~~and Recommendation~~ to the extent they are consistent with the Commission's decision.
2. Adopt the following modifications to the ALJ Report (See Table 1 attached to the briefing papers):
- b. PUC EIP's proposed modifications to the ALJ's findings (E25–E58).
3. Reject the ALJ's conclusion of law ¶ 4, and conclude that the record demonstrates that Midwater has satisfied the criteria and legal requirements for issuance of a Site Permit for the BESS Facility and Route Permit for the HVTL.
4. Reject the ALJ's conclusion of law ¶ 5, and conclude that the Project, with the permit conditions adopted herein, does not present the potential for pollution, impairment, or destruction of the environment as defined in the Minnesota Environmental Rights Act and will not significantly affect the quality of the environment under the Minnesota Environmental Policy Act.

Environmental Assessment

7. Determine that the Environmental Assessment and the record created at the public hearings and subsequent comment period address the issues identified in the Scoping Decision.

Site Permit

Tuma Revised 10. Issue the Proposed Site Permit attached to ~~these staff briefing papers~~ for the proposed 150 MW Midwater Energy Storage Project, with the modifications set forth below.

Tuma Revised 11. Adopt the following site permit conditions (see Table 2 attached to staff briefing papers):

a. P1–~~P22–P20~~

Tuma New 11.b. Modify special condition 5.24 as follows:

The ~~Applicant–Permittee~~ shall construct ~~their–its~~ stormwater basins to accommodate a 1.5" design rainfall depth ~~inline and be consistent~~ with the specifications and recommendations made by the ~~Citizen~~ Advisory Task Force. The Permittee must develop a stormwater basin maintenance plan consistent with the Advisory Task Force recommendations and must allow the Shell Rock River Watershed District access to the stormwater facilities for inspection and approval.

Tuma New 11.c. Adopt the following site permit condition:

The Permittee must acquire and maintain general liability insurance, including sudden and accidental pollution coverage; umbrella liability coverage; and environmental impairment liability insurance from the commencement of construction through operation and decommissioning of the battery energy storage system facility. Additionally, Midwater BESS's contractor must carry

contractor's pollution liability insurance throughout construction. The insurance must meet or exceed the coverage described in Midwater BESS's July 7, 2026 response to Information Request 1.1. Coverage limits shall be determined by a qualified professional's risk assessment and are subject to approval by the Commission's Executive Secretary.

At least 30 days before the preconstruction meeting, the Permittee must file proof of insurance meeting the above requirements along with an explanation of why these amounts are sufficient.

The Commission's Executive Secretary is authorized to solicit comments and approve if the insurance coverage is adequate.

Additionally, the Permittee shall provide Freeborn County a certificate of insurance annually throughout construction, operation, and decommissioning.

Tuma New 11.d. Replace special condition 5.23 with the following:

Midwater BESS, LLC's (Midwater) parent company, Spearmint Energy, LLC (Guarantor), must execute a Parental Guaranty, approved by the Commission's Executive Secretary, obligating the Guarantor to perform or pay for remediation of any environmental or other damage arising out of the construction, operation, or decommissioning of the Project if Midwater fails or is unable to pay or perform, including but not limited to pollution into the Shell Rock River watershed or a fire or thermal runaway event. The guaranty shall also include Guarantor responsibility for any failure by Midwater to perform any obligations under the site or route permit for the Project, including but not limited to decommissioning the BESS and restoring the site at the end of its service life. The State of Minnesota, including all agencies and political subdivisions thereof, and any others damaged by the construction of or operation of the Project shall be designated beneficiaries.

At least 30 days before the preconstruction meeting, Midwater must file the fully executed guaranty. Midwater must include with this filing an explanation of how the parental guaranty addresses the liability of successors and assigns of Spearmint Energy, the ability of the guaranty to be enforced against Spearmint Energy in Minnesota courts, and, at the time of the filing, a discussion of Spearmint Energy's financial resources and insurance coverage available to Midwater and Spearmint Energy to respond to and remediate impacts of a fire, thermal runaway event, or other pollution into the Shell Rock River watershed.

The Commission's Executive Secretary is authorized to solicit comments and to approve the parental guaranty.

Additionally, the Permittee must make annual compliance filings demonstrating that Spearmint Energy, LLC, has sufficient financial resources and insurance to cover a worst-case-scenario event.

Tuma New 11.e. Adopt the following site permit condition:

At least 30 days before the preconstruction meeting, the Permittee shall file a proposal for a decommissioning and environmental remediation fund, with funding beginning at the commencement of construction. Financial assurance shall be in the form of a security bond agreement, escrow account, reserve fund, or other form of security that will ultimately fund any environmental damage caused by the Project and fund decommissioning and site restoration after Project operations cease. The proposal shall address the form of financial assurance, amount, and schedule for funding, with an explanation demonstrating that the proposal is sufficient to cover decommissioning and restoration at the end of the Project's service life as well as responding to and remediating any potential environmental damage caused by the Project's construction, operation, or decommissioning, including but not limited to pollution into the Shell Rock River watershed or a fire or thermal runaway event.

The Commission's Executive Secretary is authorized to solicit comments and approve the decommissioning and environmental remediation fund proposal.

Route Permit

13. Issue the Proposed Route Permit attached these briefing papers for the Midwater Energy Storage Project.
14. Adopt the following route permit conditions (see Table 3 attached to staff briefing papers):
 - a. P23–P25