



June 6, 2025

The Honorable Kimberly Middendorf  
Office of Administrative Hearings  
600 North Robert Street  
P.O. Box 64620  
Saint Paul, MN 55164-0620

RE: EERA Reply Comments and Response to Proposed Findings of Fact  
Snowshoe BESS Project  
OAH Docket No. 21-2500-40522  
PUC Docket Nos. IP-7138/ESS-24-279

Dear Judge Middendorf,

Department of Commerce, Energy Environmental Review and Analysis (EERA) staff offers the following comments on the proposed Snowshoe BESS Project (Project) proposed by Snowshoe BESS, LLC (Snowshoe or applicant).

Snowshoe submitted reply comments on May 23, 2025.<sup>1</sup> Snowshoe's comments summarized the hearing record and responded to hearing comments (including EERA's May 8, 2025, comments<sup>2</sup>), proposed Findings of Fact, Conclusions of Law, and Recommendations (Snowshoe FOF),<sup>3</sup> and provided a Master Exhibit List.

In these reply comments, EERA responds to hearing comments provided by the Minnesota Department of Natural Resources (DNR); Minnesota Department of Agriculture (MDA); Matt Grant, Fire Chief, City of Byron Fire Department; and EERA staff. EERA also provides its proposed modifications to Snowshoe's FOF in Attachment A.

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<sup>1</sup> Snowshoe, *Response to Public Comments*, May 23, 2025, eDocket No. [20255-219232-01](#) (Herein after Snowshoe Comments, May 23, 2025).

<sup>2</sup> EERA, *Hearing Comments*, May 8, 2025, eDocket No.. [20255-218706-01](#) (Herein after EERA Comments, May 8, 2025)

<sup>3</sup> Snowshoe, *Proposed Findings of Fact, Conclusions of Law, and Recommendation*, May 23, 2025, eDocket No. [20255-219234-01](#)

## I. Response to Hearing Comments

In its comments, Snowshoe responded to comments from MDA; DNR; Matt Grant, Fire Chief, City of Byron Fire Department; and EERA. Snowshoe accepted most of EERA's proposed draft site permit conditions and proposed eliminating one condition and modifying three conditions. None of the comments received addressed the adequacy of the environmental assessment (EA). EERA provides responses to comments organized by permit conditions.

### A. Agricultural Impact Mitigation Plan

The draft site permit contained a special condition requiring the permittee to prepare an Agricultural Impact Mitigation Plan. In comments filed May 8, 2025, the MDA indicated that it supported removing this condition for the Project.<sup>4</sup> In its May 23, 2025, Comments, Snowshoe also supported removing the condition.<sup>5</sup> EERA recommends removing the permit condition.

### B. Fencing Plan

The draft site permit contained a special condition requiring the permittee to prepare a Fencing Plan for the Project in coordination with DNR. While there appears to be some disagreement between Snowshoe and DNR about the details of the plan, particularly as relates to barbed wire, both DNR<sup>6</sup> and Snowshoe<sup>7</sup> support the condition. EERA recommends that the special condition remain in the permit.

### C. Battery Augmentation

In its May 8, 2025, hearing comments, EERA proposed a special condition requiring Snowshoe to notify the Commission of any scheduled battery augmentation prior to commencing the activity.<sup>8</sup> Snowshoe did not object to the condition but recommended that Snowshoe demonstrate compliance with the noise impact assessment filed prior to construction rather than developing a new noise impact assessment for each augmentation event.<sup>9</sup> EERA does not object to Snowshoe's proposed modifications and recommends that Snowshoe's proposed changes be included in the site permit.

### D. Hazardous Mitigation Analysis

In its May 8, 2025, hearing comments, EERA proposed amending a special condition to require Snowshoe to demonstrate it provided the Hazard Mitigation Analysis to local emergency responders. Snowshoe did not object to the requirement. EERA recommends the condition be included in the site permit.

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<sup>4</sup> MDA, Comments, May 8, 2025, eDocket No. [20255-218709-01](#)

<sup>5</sup> Snowshoe Comments, May 23, 2025, at 6-7

<sup>6</sup> DNR, Comments, May 8, 2025, eDocket No. [20255-218718-01](#)

<sup>7</sup> Snowshoe Comments, May 23, 2025, at 7

<sup>8</sup> EERA Comments, May 8, 2025, at 8

<sup>9</sup> Snowshoe Comments, May 23, 2025, at 5

### E. Designated Site

Snowshoe requests that the standard permit condition on the designated site (Section 3 of the DSP) be amended to specifically provide for battery augmentation.<sup>10</sup> While EERA is not convinced this amendment is necessary with the addition of a special permit condition on augmentation, EERA does not object to Snowshoe's proposed modifications and recommends that Snowshoe's proposed modifications be included in the site permit.

### F. Annual Report

In its May 8, 2025, comments, EERA proposed a special condition, based on standard permit conditions for other generating facilities, requiring Snowshoe to file an annual report on the availability of the Project.<sup>11</sup> Snowshoe did not object to the requirement but proposed technical corrections to the permit condition.<sup>12</sup> EERA does not object to Snowshoe's proposed modifications and recommends that Snowshoe's proposed changes be included in the site permit.

### G. Offtake Agreement

In its May 8, 2025, hearing comments, EERA proposed a special condition requiring Snowshoe to obtain some type of offtake agreement for the Project.<sup>13</sup> The condition requires the permittee (in this case Snowshoe) to provide notice to the Commission when it obtains a commitment for the services or value provided by the Project and clarifies that construction of the project is not authorized until the Permittees has obtained an offtake agreement or some other enforceable mechanism for the utility of the Project.

Snowshoe did not object to EERA's proposed special condition but proposed modifying the condition to better fit the nature of an energy storage project:<sup>14</sup>

In the event the Permittee does not have an offtake agreement, or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project at the time this site permit is issued, the Permittee shall provide notice to the Commission when it obtains a commitment mechanism for the sale of energy, capacity, or ancillary services, and/or other products. This site permit does not authorize construction of the Project until the Permittee has obtained an offtake agreement, or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project, including as an example, registration as a

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<sup>10</sup> Snowshoe Comments, May 23, 2025, at 3-4

<sup>11</sup> EERA Comments, May 8, 2025, at 13-14

<sup>12</sup> Snowshoe Comments, May 23, 2025, at 8-9-

<sup>13</sup> EERA Comments, May 8, 2025, at 12-13

<sup>14</sup> Snowshoe Comments, May 23, 2025, at 7-8

market participant with MISO In the event the Permittee does not obtain an offtake agreement or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project within two years of the issuance of this site permit, the Permittee must advise the Commission of the reason for not having such commitment. In such event, the Commission may determine whether this site permit should be amended or revoked. No amendment or revocation of this site permit may be undertaken except in accordance with Minn. Stat. § 216I.09 or Minn. Stat. § 216I.14.

EERA understands that the nature of an energy storage facility, such as the Project, differs from generation facilities and therefore the types of offtake agreements are likely to differ from generation facilities. Snowshoe's response indicates that a variety of offtake agreements are contemplated.

EERA staff reviews the filings required prior to construction of each facility and makes a recommendation to the Commission on whether the filings are consistent with the conditions of the permit issued in the matter. For generation facilities, permittees typically meet the offtake permit condition by providing high level information on the offtaker and the length of the contract for a power sales agreement or, for facilities owned by a regulated utility, confirmation that the utility will use the generation. Information on the length of the offtake agreement is useful in setting a timeframe by which the financial assurance for decommissioning should be fully funded.

While some of potential offtake agreements (e.g., "ancillary services, and/or other products") listed in Snowshoe's proposal may be appropriate for an energy storage facility, EERA staff is somewhat unclear on how compliance with the terms of the permit can be assured. EERA staff notes that if staff are unable to determine whether the type of offtake agreement meets the terms of the permit, staff may recommend the matter be brought to the Commission for adjudication.

While EERA does not object in concept to Snowshoe's proposed modifications, EERA recommends two modifications to Snowshoe's recommended language – restoring commitment rather than mechanism and removing the reference to registration as a market participant in MISO as an example of an enforceable mechanism:

In the event the Permittee does not have an offtake agreement, or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project at the time this site permit is issued, the Permittee shall provide notice to the Commission when it obtains a commitment mechanism for the sale of energy, capacity, or ancillary services, and/or other products. This site permit does not authorize

construction of the Project until the Permittee has obtained an offtake agreement, or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project, ~~including as an example, registration as a market participant with MISO~~ In the event the Permittee does not obtain an offtake agreement or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project within two years of the issuance of this site permit, the Permittee must advise the Commission of the reason for not having such commitment. In such event, the Commission may determine whether this site permit should be amended or revoked. No amendment or revocation of this site permit may be undertaken except in accordance with Minn. Stat. § 216I.09 or Minn. Stat. § 216I.14.

#### H. Water Main Feasibility Report

Matt Grant, Fire Chief, City of Byron Fire Department submitted a comment regarding available water resources for the Project and suggested that Snowshoe consider extending a water line from a nearby residential development and installing a city water main at the site. Snowshoe committed to investigating the feasibility of extending the water line to the Project but noted several potential hurdles to such an endeavor. Snowshoe also committed to ongoing coordination with the fire department to address concerns about water availability at the site.

EERA recommends the permit include a new special condition requiring Snowshoe to file a report on the feasibility of installing a water main to the site within 90 days of the site permit issuance.

#### Water Main Feasibility Report

Within 90 days of the issuance of this site permit, the Permittee shall file with the Commission a report on the feasibility of extending a water main to the site.

## II. EERA Modifications to Snowshoe's Proposed Findings

EERA proposes several technical corrections to Snowshoe's FOF. The corrections are shown in red in EERA's markup to Snowshoe's findings provided in Attachment A.

Snowshoe's proposed findings use "Project Area" to refer to both the site proposed for the Project and general vicinity of the Project. "Site" is defined in statute as the location of a large electric power generating plant<sup>15</sup> and the constraints on developing that site are identified in

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<sup>15</sup> Minn. Stat. 216E.01, subd. 9

any permit issued for the project. To provide specificity and consistency within the findings, EERA replaces “Project Area” with “site” in Findings 45, 47, 74, 79, 92, 98, 134, 137, 138, 139, 161, 164, 168, 173, 180, 181, 182, 183, 185, 186, and 197, and with “Project” in Findings 85, 98, 182, and 185. Although not defined in statute, or in site permits issued by the Commission, “Project area” is appropriate when describing the general vicinity of the Project, and EERA used that term in Findings 132 and 203.

For purposes of this discussion, Snowshoe’s FOF are shown in plain black text, while EERA’s recommended revision are shown in red strikeout and underline. In the section on site permit conditions, Snowshoe’s changes are shown in blue. For clarity and length, footnotes included in Snowshoe’s Findings are not included in EERA’s comments. Footnotes are included in EERA’s markup of Snowshoe’s FOF included as Attachment A.

The special conditions in Section 5 of the permit will need to be renumbered to account for the removal of two special conditions (the agricultural impact mitigation plan and recommendations from the Minnesota State Historic Preservation Office) and the addition of a new special condition requiring a report on the feasibility of extending a water main to the site. For ease of use, EERA maintains the numbering schema proposed by Snowshoe and does not include a condition number for the proposed water main feasibility report.

#### A. Site Permit - Application of Siting Criteria

##### 1. Human Settlement

a. EERA edits Findings 79 and 87 to remove redundancy and include information about other residences located within 3,200 feet of the Project.

79. The primary noise receptors are the local residences. The nearest residence is associated with the farmstead and is located approximately 1,200 feet from the ~~Project area site~~ boundary. ~~One residence is located within a quarter-mile of the Project.~~<sup>124</sup> The property owner for the residence is the same as the owner from which Snowshoe BESS has leased land for the Project. An additional 14 residences are located between 1,600 and 3,200 feet of the site boundary.

87. Minimizing aesthetic impacts from energy storage facilities is primarily accomplished by locating the facilities so that they are not immediately adjacent to homes, ensuring that damage to natural landscapes during construction is minimized, and shielding the facilities from view by terrain or vegetation. Impacts from facility lighting can be minimized by using shielded and downward facing light fixtures and using lights that minimize blue hue.<sup>16</sup> One residence is located within a quarter-mile of the Project; this residence is screened from the Project by topography. An additional 14 residences are located between 1,600 and 3,200 feet

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<sup>16</sup> Ex. EERA-11 at 38 (EA).

of the site boundary.

b. EERA edits Finding 86 to reflect the conclusion in the EA that people who live in the Project vicinity are likely to be more sensitive to aesthetic impact than those that are passing through the area on occasion and that the topography of the site and existing topography and vegetation will tend to screen the Project.

86. Aesthetic impacts of the Project are anticipated to be minimal for residents outside the Project vicinity and for others with low viewer sensitivity, such as travelers along U.S. Highway 14. For these viewers, BESS enclosures would be relatively difficult to see due to the rolling topography and existing vegetation along the highway, and the substation and transmission structures would be indiscernible from those of the adjoining Maple Leaf Substation. Residents in the project vicinity and areas residents traveling local roads are likely to be more sensitive to aesthetic impacts, but the topography of the site and existing screening around nearby residences will tend to screen the 10-foot enclosures and surrounding fence.

c. EERA edits Finding 119 to clarify Snowshoe's intent to use Lithium Iron Phosphate battery technology, in part due to the safety profile of the technology relative to other battery technologies.

119. Snowshoe BESS has incorporated safety precautions into the preliminary design protocols of the proposed Project. Snowshoe BESS indicates that it has designed the Project to use Lithium Iron Phosphate (LFP) battery technology. The selection of the LFP technology, is partially due to the safety profile of LFP batteries compared to other battery technologies. Snowshoe BESS's layout and installation of the equipment will incorporate appropriate spacing to minimize risk of fire propagation between equipment, and between the equipment and surrounding landscape. Transformers and other electrical equipment on site will comply with industry standards to reduce the chance of fire and spill events.

## 2. Natural Environment

a. EERA edits finding 146 to focus the finding on criteria pollutants and carbon dioxide emissions under Air Quality. Greenhouse gases are addressed in Finding 178.

146. Following construction, the facility will not generate ~~pollutant criteria pollutants or carbon dioxide~~ emissions during normal operation ~~as batteries do not emit GHG.~~

b. EERA edits Finding 153 to clarify the requirements for new wells.

153. Impacts to groundwater resources (including aquifers) are not anticipated during operation of the Project as water supply needs will be quite

limited. If the Project requires potable water for facility personnel and O&M uses, this need would be satisfied with a single domestic-sized water well. Installation of any new wells require notification to the Minnesota Department of Health, and construction by a well borer licensed by the Minnesota Department of Health. A domestic water well license would be acquired by an approved well drilling contractor prior to installation, construction, and use of the water well

### 3. Cost of Constructing, Operating, and Maintaining a Facility

EERA edits Finding 206 to reflect updated capital cost information provided by Snowshoe in Appendix D of the EA.

206. Snowshoe BESS estimates the total installed capital cost for the entire Project will be approximately \$~~214~~ 255 million. Actual capital costs depend on various factors, such as construction labor, Project equipment and materials, electrical and communication systems, taxes/tariffs, and final design considerations (e.g., Project substation, etc.).

### B. Site Permit Conditions

#### 1. Battery Augmentation.

EERA edits Finding 224 to include the text of a special condition on battery augmentation, proposed in EERA's May 8, 2025, comments, to provide context for Snowshoe's proposed changes

224. EERA proposed a new Special Permit Condition 5.12 to govern the battery augmentation process.

#### 5.12 Augmentation

The Permittee shall notify the Commission of scheduled augmentation at least 30 days prior to commencing augmentation activities. In its filing, the Permittee shall describe the number and types of batteries included in the augmentation. The Permittee shall indicate the location of the augmentation on the project Site Plan. In its filing the Permittee shall include a noise impact assessment as required in Section 5.2 of this permit.

Snowshoe BESS proposes the following revisions to EERA's proposed condition 5.12:

#### **5.12 Augmentation**



The Permittee shall notify the Commission of scheduled augmentation at least 30 days prior to commencing augmentation activities. In its filing, the Permittee shall describe the number and types of batteries included in the augmentation. The Permittee shall indicate the location of the augmentation on the project Site Plan. In its filing the Permittee shall demonstrate compliance with the ~~include a~~ noise impact assessment submitted to the Commission as required in Section 5.2 of this permit.

## 2. Offtake Agreement

EERA edits Finding 225 to include the text of EERA's proposed special condition 5.13, proposed in EERA's May 8, 2025, comments to provide context for Snowshoe's proposed changes, and include EERA's recommended changes proposed in this letter.

225. EERA proposed a new Special Condition 5.13 requiring Snowshoe BESS to inform the Commission of any offtake agreement for the Project.

### 5.13 Offtake Agreement:

In the event the Permittee does not have an offtake agreement, or some other enforceable mechanism for sale of energy capacity provided by the Project at the time this site permit is issued, the Permittee shall provide notice to the Commission when it obtains a commitment for the energy capacity. This site permit does not authorize construction of the Project until the Permittee has obtained an offtake agreement, or some other enforceable mechanism for energy capacity provided by the Project. In the event the Permittee does not obtain an offtake agreement or some other enforceable mechanism for the energy capacity provided by the Project within two years of the issuance of this site permit, the Permittee must advise the Commission of the reason for not having such commitment. In such event, the Commission may determine whether this site permit should be amended or revoked. No amendment or revocation of this site permit may be undertaken except in accordance with Minn. Stat. § 216I.09 or Minn. Stat. § 216I.14.

Snowshoe BESS ~~also~~ proposed revisions to Special Condition 5.13 ~~to~~ that it asserted better reflect the nature of the Project. The proposed revisions to Condition 5.13 are as follows:

### 5.13 Offtake Agreement

In the event the Permittee does not have an offtake agreement, or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project at the time this site permit is issued, the Permittee shall provide notice to the Commission when it obtains a ~~commitment~~-mechanism for the sale of energy, capacity, or ancillary services, and/or other products. This site permit does not authorize construction of the Project until the Permittee has obtained an offtake agreement, or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project, including as an example, registration as a market participant with MISO. In the event the Permittee does not obtain an offtake agreement or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project within two years of the issuance of this site permit, the Permittee must advise the Commission of the reason for not having such commitment. In such event, the Commission may determine whether this site permit should be amended or revoked. No amendment or revocation of this site permit may be undertaken except in accordance with Minn. Stat. § 216I.09 or Minn. Stat. § 216I.14.

In its reply comments, EERA proposed modifications to Snowshoes BESS's proposed amendment to the condition:

In the event the Permittee does not have an offtake agreement, or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project at the time this site permit is issued, the Permittee shall provide notice to the Commission when it obtains a ~~commitment~~-mechanism for the sale of energy, capacity, or ancillary services, and/or other products. This site permit does not authorize construction of the Project until the Permittee has obtained an offtake agreement, or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project, ~~including as an example, registration as a market participant with MISO~~. In the event the Permittee does not obtain an offtake agreement or some other enforceable

mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project within two years of the issuance of this site permit, the Permittee must advise the Commission of the reason for not having such commitment. In such event, the Commission may determine whether this site permit should be amended or revoked. No amendment or revocation of this site permit may be undertaken except in accordance with Minn. Stat. § 216I.09 or Minn. Stat. § 216I.14.

### 3. Annual Report

EERA edits Finding 226 to correct the intent of Special Condition 5.14 (requiring annual reporting rather than offtake agreement) and include the text of EERA's proposed special condition to provide context for Snowshoe's proposed changes.

226. EERA proposed a new Special Condition 5.14 requiring Snowshoe BESS to ~~inform the Commission of any offtake agreement~~ file annual reports on the availability of ~~for~~ the Project.

#### **5.14 Annual Report**

The Permittee shall, by February 1st following each complete or partial year of Project operation, file a report with the Commission on the monthly energy production of the facility including:

(a) the installed nameplate capacity of the permitted facility;

(b) the monthly and annual capacity factor of the facility;

(c) the operational status of the facility and any major outages, major repairs, battery augmentation, or performance improvements occurring in the previous year; and

(d) any other information reasonably requested by the Commission.

The Permittee shall file this information in a format recommended by the Commission. This information shall be considered public and must be filed electronically.

Snowshoe BESS also proposed revisions to Special Condition 5.14 to better reflect the nature of the Project. The proposed revisions to Condition 5.14 are as follows:

#### **5.14 Annual Report**

The Permittee shall, by February 1st following each complete or partial year of Project operation, file a report with the Commission on the monthly ~~energy production~~ availability of the facility including:

- (a) the installed nameplate capacity of the permitted facility;
- (b) the monthly and annual ~~capacity factor~~ availability of the facility;
- (c) the operational status of the facility and any major outages, major repairs, battery augmentation, or performance improvements occurring in the previous year; and
- (d) any other information reasonably requested by the Commission.

The Permittee shall file this information in a format recommended by the Commission. This information shall be considered public and must be filed electronically.

#### **4. Water Main Feasibility Report**

EERA recommends a new finding requiring Snowshoe to file a report on the feasibility of installing a water main to the site.

228. EERA proposed a special condition requiring Snowshoe to file a report on the feasibility of installing a water main to the site within 90 days of the site permit issuance.

#### **Water Main Feasibility Report**

Within 90 days of the issuance of this site permit, the Permittee shall file with the Commission a report on the feasibility of extending a water main to the site.

#### **5. Summary of Permit Revisions**

EERA edits Finding 229 (renumbered from 228 following the introduction of the new finding on the water main report) to remove Section 5.7 as well and 5.5 from the Draft Site Permit, reference and recommend EERA's proposed modification to Permit Condition 5.13, and include a new permit condition requiring a water main feasibility report.

~~228~~ 229. The record supports the inclusion of the Applicant's revisions to Sections 3 and proposed addition of Sections 5.12, ~~5.13~~ and 5.14 to the Draft Site Permit as revised by Snowshoe BESS. The record supports the inclusion of Section 5.13 as proposed by EERA to the Draft Site Permit and a new permit condition proposed by EERA requiring Snowshoe BESS to file a report on the feasibility of extending an existing water main to the site. The record also supports the removal of Sections 5.5 and 5.7 from the Draft Site Permit.

EERA staff appreciates the opportunity to submit these reply comments.

Sincerely,

A handwritten signature in cursive script, reading "Suzanne Steinhauer". The signature is written in black ink and is positioned above the printed name and title.

Suzanne Steinhauer  
Environmental Review Manager

## Attachment A

Proposed Findings of Fact, Conclusions of Law, and Recommendations

EERA Markup

**STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE PUBLIC UTILITIES COMMISSION**

**In the Matter of the Application of  
Snowshoe BESS, LLC for a Site Permit  
for the up to 150 MW Snowshoe Energy  
Storage Project in Olmsted County,  
Minnesota**

OAH Docket No. 21-2500-40522  
MPUC Docket No. IP-7138/ESS-24-279

**SNOWSHOE BESS, LLC'S  
PROPOSED FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
RECOMMENDATIONS**

**STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
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Snowshoe BESS, LLC for a Site Permit  
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**STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE PUBLIC UTILITIES COMMISSION**

**In the Matter of the Application of  
Snowshoe BESS, LLC for a Site Permit  
and a Battery Energy Storage System Site  
Permit for the up to 150 MW Snowshoe  
Energy Storage Project in Olmsted  
County, Minnesota**

OAH Docket No. 21-2500-40522  
MPUC Docket No. IP-7138/ESS-24-279

**SNOWSHOE BESS, LLC'S  
PROPOSED FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
RECOMMENDATIONS**

This matter was assigned to Administrative Law Judge (ALJ) Kimberly Middendorf to conduct a public hearing on the Site Permit Application (MPUC Docket No. ESS-24-279) (Application) of Snowshoe BESS, LLC (Applicant or Snowshoe BESS) to construct and operate the Snowshoe Energy Storage Project (Project), a battery energy storage system (BESS) with a nominal power rating of up to 150 megawatt (MW) alternating current (AC) with approximately 600 megawatt-hours (MWh) of energy capacity on a site of approximately 28 acres in Kalmar Township, Olmsted County, Minnesota. The Minnesota Public Utilities Commission (Commission) also requested that the ALJ provide a full report with findings of fact, conclusions of law, and recommendations regarding the Project following public hearings.

Public hearings on the Application were held on April 23, 2025 (in-person), and April 24, 2025 (remote-access). The factual record remained open until May 9, 2025, for the receipt of written public comments.

Jeremy P. Duehr, Fredrikson & Byron P.A., 60 South Sixth Street, Suite 1500, Minneapolis, Minnesota 55402, and Mary Matze, Manager of Development for Spearmint Renewable Development Company, LLC (Spearmint Energy), appeared on behalf of Snowshoe BESS.

Suzanne Steinhauer, 85 7th Place East, Suite 280, St. Paul, MN 55101 appeared on behalf of the Department of Commerce, Energy Environmental Analysis Review unit (EERA).

Jacques Harvieux, 121 Seventh Place East, Suite 350, St. Paul, MN 55101 appeared on behalf of Commission Staff at the in-person and remote access hearings.

**STATEMENT OF ISSUES**

Has Snowshoe BESS satisfied the criteria established in Minn. Stat. § 216E.03, subd. 7 and Minn. R. 7850.4100 for a site permit for the Project?

## **SUMMARY OF RECOMMENDATIONS**

The ALJ concludes that Snowshoe BESS has satisfied the applicable legal requirements, and, accordingly, recommends that the Commission should GRANT a site permit for the Project, subject to the recommendations discussed below.

Based on the Application, proceedings, and other evidence in the record, the ALJ makes the following:

### **FINDINGS OF FACT**

#### **I. APPLICANT**

1. Snowshoe BESS is a wholly owned indirect subsidiary of Spearmint Energy.<sup>1</sup>

2. Spearmint Energy is a leading energy company focused on developing, owning, operating, and optimizing BESS infrastructure to reduce grid volatility and increase system resiliency. Spearmint Energy currently has more than 20 projects, totaling over 13 gigawatt hours of capacity, under development in ten states across the U.S.<sup>2</sup>

#### **II. PROCEDURAL HISTORY**

3. The Minnesota Power Plant Siting Act (PPSA) provides that no person may construct an energy storage system without a site permit from the Commission.<sup>3</sup> Under the PPSA, “energy storage system” means “equipment and associated facilities designed with a nameplate capacity of 10,000 kilowatts or more that is capable of storing generated electricity for a period of time and delivering the electricity for use after storage.”<sup>4</sup> The proposed Project is a BESS with a nominal power rating of up to 150 MWac with approximately 600 MWh of energy capacity and, therefore, a site permit is required from the Commission prior to construction.<sup>5</sup>

4. Under the PPSA, a site permit application for an energy storage system is eligible for the alternative permitting process authorized by Minn. Stat. § 216E.04(2)(9). On August 19, 2024, Snowshoe BESS filed a Notice of Intent to Submit a Site Permit Application (Application) for the Project under the alternative permitting procedures of Minn. R. 7850.2800 to 7850.3900.<sup>6</sup>

5. On October 7, 2024, Snowshoe BESS submitted the Application for the Project.<sup>7</sup>

6. On October 11, 2024, the Commission issued a Notice of Comment Period regarding the completeness of the Application, requesting initial comments by October 25, 2024, reply comments by November 1, 2024, and supplemental comments by November 6, 2024.<sup>8</sup> The

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<sup>1</sup> Ex. SNOW-3 at 1 (Site Permit Application, Figures, and Appendices A-K) (Application).

<sup>2</sup> Ex. SNOW-8 at 2:30–3:4 (Direct Testimony of M. Matze with Schedules A–C) (Matze Direct).

<sup>3</sup> Minn. Stat. § 216E.03, subd. 1.

<sup>4</sup> Minn. Stat. § 216E.01, subd. 3a.

<sup>5</sup> Ex. SNOW-3 at 8 (Application).

<sup>6</sup> Ex. SNOW-1 (Notice of Intent to Submit a Site Permit Application Under the Alternative Permitting Process).

<sup>7</sup> See Ex. SNOW-3 (Application).

<sup>8</sup> Ex. PUC-1 (Notice of Comment Period on Application Completeness).

notice requested comments on whether the Application was complete within the meaning of the Commission's rules; whether there were contested issues of fact with respect to the representations made in the Application; whether the Commission should appoint an advisory task force; whether any additional procedural requirements that should be considered; and whether the Commission should direct the Executive Secretary to issue an authorization to Snowshoe BESS to initiate consultation with the State Historic Preservation Office (SHPO).<sup>9</sup>

7. On October 14, 2024, Snowshoe BESS submitted the Notice of Filing of the Application to persons interested in the Project, the Commission's Energy Facilities General List, Local Officials, Tribes, and Property Owners in accordance with Minn. R. 7850.2100.<sup>10</sup>

8. On October 24, 2025, International Union of Operating Engineers (IUOE) Local 49 and North Central States Regional Council (NCSRC) of Carpenters submitted comments on the Project.<sup>11</sup> Also on October 24, 2025, the Minnesota Department of Agriculture (MDA) submitted comments regarding coordination with the Applicant to develop appropriate agricultural impact minimization and mitigation measures.<sup>12</sup>

9. On October 25, 2024, EERA filed its Comments and Recommendations on Application Completeness. EERA recommended that the Commission accept the Application as complete, take no action on an advisory task force, and request a full ALJ report with findings, conclusions, and recommendations for the Project's public hearing.<sup>13</sup>

10. On October 28, 2024, Snowshoe BESS submitted the Confirmation of Notice Compliance Filing for the Application.<sup>14</sup>

11. On October 29, 2024, Snowshoe BESS met with MDA to discuss the Project and its potential impacts to agricultural land that may need to be addressed by mitigation or management measures.<sup>15</sup>

12. On October 31, 2024, Snowshoe BESS submitted reply comments concerning Application completeness and addressing MDA's initial comments.<sup>16</sup> Snowshoe BESS indicated that during the Applicant's meeting with MDA on October 29, 2024, MDA indicated that its initial comments were intended to convey that appropriate agricultural mitigation measures should be developed by Snowshoe BESS and MDA during the permitting process.<sup>17</sup>

13. On November 1, 2024, MDA submitted supplemental comments confirming that MDA and the Applicant have had initial discussions regarding the Project and have agreed to

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<sup>9</sup> Ex. PUC-1 (Notice of Comment Period on Application Completeness).

<sup>10</sup> Ex. SNOW-4 (Notice of Application).

<sup>11</sup> Ex. EERA-1 (IUOE Local 49 and NCSRC of Carpenters Comments).

<sup>12</sup> Ex. EERA-2 (MDA Comments).

<sup>13</sup> Ex. EERA-3 at 6 (EERA Comments and Recommendations on Application Completeness).

<sup>14</sup> Ex. SNOW-5 (Confirmation of Notice Compliance Filing).

<sup>15</sup> See Ex. SNOW-6 (Completeness Reply Comments); Ex. EERA-4 (MDA Reply Comments).

<sup>16</sup> Ex. SNOW-6 (Completeness Reply Comments).

<sup>17</sup> Ex. SNOW-6 at 2 (Completeness Reply Comments).

coordinate development of an appropriate mitigation plan that addresses potential impacts to agricultural land.<sup>18</sup>

14. On November 14, 2024, the Commission issued proposed consent items.<sup>19</sup>

15. On November 19, 2024, the Commission issued an order finding the Application complete, declining to appoint an advisory task force, and requesting a full ALJ report with findings, conclusions, and recommendations for the Project's public hearing.<sup>20</sup> The Commission also issued minutes from the November 19, 2024 consent calendar subcommittee meeting.<sup>21</sup>

16. On November 26, 2024, the Commission issued a Notice of Public Information and Environmental Assessment Scoping Meetings to provide the public with information about the Project and the state's permitting process and an opportunity to participate in developing the scope of the environmental assessment (EA).<sup>22</sup> An in-person meeting was noticed for December 9, 2024, and a remote-access meeting was noticed for December 12, 2024; a written comment period was also open through December 30, 2024. The notice requested comments on two questions regarding the Project: (1) What potential human and environmental impacts or unique characteristics of the proposed Project should be considered in the EA?; and (2) Are there any methods to minimize, mitigate, or avoid potential impacts of the proposed Project that should be considered in the EA?<sup>23</sup>

17. On November 27, 2024, the Commission filed a sample energy storage system site permit.<sup>24</sup>

18. On December 9, 2024, Commission Staff and EERA held an in-person public meeting in Byron, Minnesota. Two members of the public provided oral comments during the December 9, 2024, public meeting; no members of the public submitted oral comments or questions during the remote-access public meeting held on December 12, 2024.<sup>25</sup>

19. On December 23, 2024, the Minnesota Department of Natural Resources (MDNR) submitted comments regarding potential environmental impacts that should be considered in the EA for the Project. MDNR requested that EERA address fugitive dust levels and dust suppression measures and wildlife friendly erosion control measures in the EA.<sup>26</sup> MDNR also recommended that the Project utilize downward facing lighting that minimizes blue hue, biodegradable erosion control materials, and advised against the use of chloride products to control dust.<sup>27</sup>

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<sup>18</sup> Ex. EERA-4 (MDA Reply Comments).

<sup>19</sup> Proposed Consent Items (Nov. 14, 2024) (eDocket No. [202411-211904-01](#)).

<sup>20</sup> Ex. PUC-2 (Order on Application Completeness).

<sup>21</sup> Minutes – November 19, 2024 Consent (Nov. 19, 2024) (eDocket No. [202411-212107-01](#)).

<sup>22</sup> Ex. PUC-3 (Notice of Public Information and Environmental Assessment Scoping Meetings).

<sup>23</sup> Ex. PUC-3 (Notice of Public Information and Environmental Assessment Scoping Meetings); PUC-8 (Environmental Quality Board (EQB) Monitor Submission – Scoping Meeting); Ex. EERA-17 (EQB Monitor Submission – Scoping Meeting).

<sup>24</sup> Ex. PUC-4 (Energy Storage System Sample Permit).

<sup>25</sup> Ex. EERA-7 (Oral Comments – Virtual Public and Scoping Meeting 12-12-24); Ex. EERA-8 (Oral Comments – Public Information and Scoping Meeting Byron MN 12-09-24).

<sup>26</sup> Ex. EERA-5 (MDNR Scoping Comments).

<sup>27</sup> Ex. EERA-5 (MDNR Scoping Comments).

20. On December 31, 2024, IUOE Local 49 and NCSRC of Carpenters submitted comments requesting that the Project's local economic impacts be studied in the EA.<sup>28</sup>

21. On January 6, 2025, the ALJ issued a Notice of and Order for Prehearing Conference.<sup>29</sup>

22. On January 7, 2025, EERA filed transcripts from the public meetings held on December 9, 2024 (in-person) and December 12, 2024 (remote-access).<sup>30</sup>

23. On January 13, 2025, EERA issued its Environmental Assessment Scoping Decision.<sup>31</sup>

24. On January 14, 2025, EERA filed its Notice of Environmental Assessment Scoping Decision.<sup>32</sup>

25. On February 3, 2025, the ALJ issued a Prehearing Order establishing a schedule for the proceedings.<sup>33</sup>

26. On March 20, 2025, the Commission authorized Snowshoe BESS to initiate consultation with SHPO in accordance with Minn. Stat. § 138.655.<sup>34</sup>

27. On April 9, 2025, EERA issued the EA for the Project.<sup>35</sup> Also, the Commission filed Notice of Public Hearings and Availability of Environmental Assessment,<sup>36</sup> as well as a correction,<sup>37</sup> providing for an in-person public hearing on April 23, 2025, in Byron, Minnesota, and a remote-access public hearing on April 24, 2025. The Commission also requested comments from the public on (1) whether the Commission should grant a site permit for the Project, and (2) if granted, what additional conditions or requirements, if any, should be included in the site permit. The Commission stated that it would accept written comments through May 8, 2025.<sup>38</sup>

28. On April 11, 2025, Snowshoe BESS submitted a compliance filing confirming that the Applicant consulted with SHPO regarding the Project, in accordance with Minn. Stat. § 138.665, and the associated Phase I Archaeological Reconnaissance Survey was filed with the Application.<sup>39</sup> The compliance filing also included a comment letter from SHPO, dated September 26, 2024, confirming that SHPO reviewed the Phase I Archaeological Reconnaissance Survey and

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<sup>28</sup> Ex. EERA-6 (IUOE Local 49 and NCSRC of Carpenters Comments).

<sup>29</sup> Notice and Order for Prehearing Conference (Jan 6, 2025) (eDocket No. [20251-213580-01](#)).

<sup>30</sup> Ex. EERA-7 (Oral Comments – Virtual Public and Scoping Meeting 12-12-24); Ex. EERA-8 (Oral Comments – Public Information and Scoping Meeting Byron MN 12-09-24).

<sup>31</sup> Ex. EERA-9 (Environmental Assessment Scoping Decision).

<sup>32</sup> Ex. EERA-10 (Notice of Environmental Assessment Scoping Decision).

<sup>33</sup> First Prehearing Order (Feb. 3, 2025) (eDockets ID No. [20252-214874-01](#)).

<sup>34</sup> Ex. PUC-5 (Authorization to Initiate SHPO Consultation).

<sup>35</sup> Ex. EERA-11 (EA).

<sup>36</sup> Ex. PUC-6 (Notice of Public Hearings and Availability of Environmental Assessment).

<sup>37</sup> Ex. PUC-7 (Notice of Public Hearings and Availability of Environmental Assessment – Corrected for Typo).

<sup>38</sup> Ex. PUC-6 (Notice of Public Hearings and Availability of Environmental Assessment).

<sup>39</sup> Ex. SNOW-7 (Confirmation of SHPO Consultation); *see* Ex. SNOW-3 at Appendix F (Application; Phase 1 Archaeological Reconnaissance Survey).

agreed that there are no properties listed in the National or State Registers of Historic Places and no known or suspected archaeological properties in the area that will be affected by the Project.<sup>40</sup>

29. On April 14, 2025, EERA filed Notification of Environmental Assessment availability to Tribal Historic Preservation Officers;<sup>41</sup> Tribal Governments;<sup>42</sup> and Agencies.<sup>43</sup>

30. On April 15, 2025, the Commission filed Notice of Public Hearings and Availability of Environmental Assessment in the EQB Monitor.<sup>44</sup>

31. On April 15, 2025, Snowshoe BESS filed the Direct Testimony of Mary Matze.<sup>45</sup> Among other topics, the Direct Testimony of Mary Matze addressed the Applicant's coordination with SHPO and other interested stakeholders, discussed key Industry Safety Standards applicable to the Project; and provided limited comments on several special permit conditions proposed by EERA.<sup>46</sup> No other pre-filed testimony was submitted.

32. On April 23, 2025, Judge Middendorf presided over a public hearing at Somerby Golf Club in Byron, Minnesota. The transcript from that hearing was filed on May 19, 2025.<sup>47</sup> Two persons provided oral comments at this public hearing.

33. A remote-access public hearing was held via Webex on April 24, 2025. The transcript from that hearing was filed on May 19, 2025.<sup>48</sup> No members of the public submitted oral comments or questions during that hearing. Snowshoe BESS responded to questions at the public hearings, as applicable. The written public comment period remained open through May 8, 2025.

34. On April 28, 2025, the Commission filed the handout of the public hearing presentation.<sup>49</sup>

35. On May 5, 2025, Matt Grant, Fire Chief, City of Byron Fire Department, submitted a public hearing comment.<sup>50</sup>

36. On May 8, 2025, EERA,<sup>51</sup> MDA,<sup>52</sup> MDNR,<sup>53</sup> and the Minnesota Interagency Vegetation Management Plan Working Group (VMPWG)<sup>54</sup> filed public hearing comments.

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<sup>40</sup> Ex. SNOW-7 at Attachment 1 (Confirmation SHPO Consultation).

<sup>41</sup> Ex. EERA-13 (Notification of Environmental Assessment Availability to Tribal Historic Preservation Officers).

<sup>42</sup> Ex. EERA-14 (Notification of Environmental Assessment Availability to Tribal Governments).

<sup>43</sup> Ex. EERA-15 (Notification of Environmental Assessment Availability to Agencies).

<sup>44</sup> Ex. PUC-9 (EQB – Notice of Public Hearing and Availability of Environmental Assessment).

<sup>45</sup> Ex. SNOW-8 (Matze Direct).

<sup>46</sup> Ex. SNOW-8 (Matze Direct); *see* Ex. EERA-11 at Appendix C (EA; Draft Site Permit).

<sup>47</sup> Byron Public Hearing Transcript (Byron Tr.) (Apr. 23, 2025).

<sup>48</sup> WebEx Public Hearing Transcript (WebEx Tr.) (Apr. 24, 2025).

<sup>49</sup> Public Hearing Presentation (Apr. 28, 2025) (eDocket No. [20254-218212-01](#)).

<sup>50</sup> Comment by Matt Grant (May 5, 2025) (eDocket No. [20255-218603-01](#)).

<sup>51</sup> Comment by EERA (May 8, 2025) (eDocket No. [20255-218706-01](#));

<sup>52</sup> Comment by MDA (May 8, 2025) (eDocket No. [20255-218709-01](#)).

<sup>53</sup> Comment by MDNR (May 8, 2025) (eDocket No. [20255-218718-01](#)).

<sup>54</sup> Comment by the VMPWG (May 8, 2025) (eDocket No. [20255-218729-01](#)).

37. On May 23, 2025, Snowshoe BESS filed comments in response to public comments submitted during the public hearing comment period.<sup>55</sup>

### III. PROJECT DESCRIPTION

38. The proposed Project is a BESS with a nominal power rating of up to 150 MWac and approximately 600 MWh of energy capacity on a site of approximately 28 acres in Kalmar Township, Olmsted County, Minnesota.<sup>56</sup> In addition to battery energy storage enclosures, the Project will consist of inverters and transformers, electrical feeder lines, a tap line, a substation, storage and parking areas, access roads, fencing, and other minor equipment and subcomponents as are typical of a BESS project.<sup>57</sup> The Project will utilize lithium-ion or similar battery technology to provide up to 150 MW of charging (consuming power from the grid) and discharging (generating power onto the grid) capacity for up to four hours of reliable, deliverable on-peak energy.<sup>58</sup>

39. The Project is designed to connect to the electric grid via a new overhead, bi-directional 161 kilovolt (kV) tap line of approximately 300 feet between the Project substation and the adjacent Southern Minnesota Municipal Power Agency (SMMPA)-Maple Leaf Substation.<sup>59</sup> Approval from Midcontinent Independent System Operator through a Generator Interconnection Agreement (GIA) is required to connect the Project to the electrical transmission system.<sup>60</sup>

40. The Project layout and preliminary design take into account applicable energy loss (approximately 8–10 percent losses) and would allow for a maximum of 150 MWac of energy storage and transmission onto the grid.<sup>61</sup> Snowshoe BESS submitted an interconnection request for the Project in 2020 and expects to sign a GIA in the first quarter of 2026.<sup>62</sup>

41. The proposed Project is expected to contribute to Minnesota's transition to a carbon-free electricity supply by allowing wind and solar projects to continue to produce clean energy when they would otherwise be curtailed due to low demand.<sup>63</sup> In addition to the Project's energy shifting capabilities the Project will provide valuable ancillary and reliability services required to safely and reliably operate the grid. The Project will use state-of-the-art battery, inverter, and other technologies, which will allow it to provide critical services to assist the grid operator with maintaining the voltage and frequency of the transmission system.<sup>64</sup>

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<sup>55</sup> Ex. SNOW-10 (Response to Comments).

<sup>56</sup> Ex. SNOW-3 at 1 (Application).

<sup>57</sup> Ex. SNOW-3 at 1 (Application).

<sup>58</sup> Ex. SNOW-3 at 3 and 16 (Application).

<sup>59</sup> Ex. SNOW-3 at 3 and 24 (Application).

<sup>59</sup> Ex. SNOW-3 at 1 (Application).

<sup>60</sup> Ex. SNOW-3 at 15 (Application).

<sup>61</sup> Ex. SNOW-3 at 16 (Application).

<sup>62</sup> Ex. SNOW-3 at 15 (Application).

<sup>63</sup> Ex. SNOW-3 at 3 (Application).

<sup>64</sup> Ex. SNOW-3 at 3 (Application).



42. The Project will provide cost-effective energy storage to Minnesota and regional ratepayers by providing specific energy, capacity, and ancillary services on the wholesale power market on merchant basis.<sup>65</sup>

43. Unlike many renewable projects, which typically sell all generated energy to one or more offtaker(s) in the form of a long-term Power Purchase Agreement (PPA), the complex and dispatchable nature of a BESS project is often better suited for the merchant market and other contracting structures. Snowshoe BESS anticipates entering into a Tolling Agreement with its affiliated merchant energy business or similar third-party market participant. Under a toll structure, the power stored by the Project and its other services, will be offered to wholesale customers, including Minnesota utilities and cooperatives that have identified a need for additional energy and capacity, and corporate and industrial customers that have set clean energy goals.<sup>66</sup> It is also possible the Project could operate under a different revenue structure including fully or partially contracting with a utility for capacity, energy, and/or ancillary services. For example, the Project or Snowshoe BESS could be sold to a utility, in which event the utility could use the Project to manage its own electrical load, and an enforceable mechanism for the sale of the power stored by the facility may not be applicable for the Project to operate or sell its stored power.<sup>67</sup>

#### IV. SITE LOCATION AND CHARACTERISTICS

44. The Project is located in Kalmar Township, Olmsted County, Minnesota approximately one mile east of the city of Byron, 2.1 miles west of the city of Rochester, and just north of U.S. Highway 14 in Olmsted County.<sup>68</sup>

45. The **Project-area site** encompasses 27.2 acres of predominantly agricultural land together with an existing access road owned by SMMPA and a 6.9-acre area encompassing an easement area Snowshoe BESS could utilize for Project access if the existing access is unavailable for Project use.<sup>69</sup> Snowshoe BESS has, through voluntary agreements, secured 100 percent of the private real estate rights necessary to construct the Project. All land required for the Project, except for the access road, will be leased, with all equipment being owned by the Snowshoe BESS.<sup>70</sup>

46. Snowshoe BESS has coordinated with SMMPA, the owner of the SMMPA-Maple Leaf Substation and existing access road, regarding Snowshoe BESS's use of the existing access road to access the Project.<sup>71</sup> The Applicant also has a separate access easement that could be utilized if SMMPA and Snowshoe BESS are unable to reach a mutual agreement regarding shared use of the existing access road.<sup>72</sup>

47. Snowshoe BESS estimates that approximately 23 acres of the **Project-area site** are necessary to accommodate the final design and engineering of the proposed Project (i.e., the preliminary development area), but the full 27.2 acres may be utilized in the final design for a

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<sup>65</sup> Ex. SNOW-3 at 4 (Application).

<sup>66</sup> Ex. SNOW-3 at 4 (Application).

<sup>67</sup> Ex. SNOW-3 at 4 (Application).

<sup>68</sup> Ex. SNOW-3 at 12 (Application).

<sup>69</sup> Ex. SNOW-3 at 2 (Application).

<sup>70</sup> Ex. SNOW-3 at 1 (Application); see Ex. SNOW-4 at 1 (Notice of Application).

<sup>71</sup> Ex. SNOW-3 at 2 (Application).

<sup>72</sup> Ex. SNOW-3 at 2 (Application).

combination of permanent and temporary construction facilities, with a portion of these temporary areas being returned to natural condition or agricultural use following the completion of construction. If a new access road must be constructed for Project access, an additional 0.7 acres of land will be necessary for the new access road. The preliminary development area includes the gravel pad containing Project infrastructure in addition to two stormwater management ponds, proposed grading areas, access road connection to the existing SMMPA access road, and parking and storage areas external to the fence line.<sup>73</sup>

## **V. PROJECT SCHEDULE**

48. Snowshoe BESS plans to construct the Project with testing and commissioning anticipated to occur in the fourth quarter of 2027, and an anticipated in-service date in late 2027.<sup>74</sup>

## **VI. SUMMARY OF PUBLIC COMMENTS**

49. During the completeness comment period ending November 6, 2024, written comments were filed by IUOE Local 49 and NCSRC of Carpenters;<sup>75</sup> MDA;<sup>76</sup> and EERA.<sup>77</sup> Snowshoe BESS responded to written comments concerning Application completeness on October 31, 2024.<sup>78</sup>

50. Two members of the public provided verbal comments during the Public Information and Environmental Assessment Scoping Meeting held on December 9, 2024 (in-person). Both commenters expressed support for the Project and recommended that the EA examine local economic impacts.<sup>79</sup>

51. No members of the public spoke during the Public Information and Environmental Assessment Scoping Meeting held on December 12, 2024 (remote-access).<sup>80</sup>

52. During the scoping comment period ending December 30, 2024, written comments were filed by MDNR<sup>81</sup> and IUOE Local 49 and NCSRC of Carpenters.<sup>82</sup>

53. MDNR filed submitted comments regarding potential environmental impacts that should be considered in the EA for the Project. MDNR requested that EERA address fugitive dust levels and dust suppression measures and wildlife friendly erosion control measures in the EA. MDNR also recommended that the Project utilize downward facing lighting that minimizes blue

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<sup>73</sup> Ex. SNOW-3 at 15–16 (Application).

<sup>74</sup> Ex. SNOW-3 at 6–8 (Application).

<sup>75</sup> Ex. EERA-1 (IUOE Local 49 and NCSRC of Carpenters Comments).

<sup>76</sup> Ex. EERA-2 (MDA Comments); Ex. EERA-4 (MDA Reply Comments).

<sup>77</sup> Ex. EERA-3 at 6 (EERA Comments and Recommendations on Application Completeness).

<sup>78</sup> Ex. SNOW-6 (Completeness Reply Comments).

<sup>79</sup> Ex. EERA-8 at 15–17 (Oral Comments – Public Information and Scoping Meeting Byron MN 12-09-24); *see also* Ex. EERA-11 at 28 (EA).

<sup>80</sup> Ex. EERA-7 (Oral Comments – Virtual Public and Scoping Meeting 12-12-24).

<sup>81</sup> Ex. EERA-5 (MDNR Scoping Comments)

<sup>82</sup> Ex. EERA-6 (IUOE Local 49 and NCSRC of Carpenters Scoping Comments).

hue, biodegradable erosion control materials, and advised against the use of chloride products to control dust.<sup>83</sup>

54. IUOE Local 49 and NCSRC of Carpenters filed comments recognizing that the Project is the first stand-alone BESS in the state recommended that EERA include the study of local economic impacts in the EA.<sup>84</sup>

55. On April 23 and 24, 2025, Judge Middendorf presided over public hearings on the Application for the Project via in-person and remote means, respectively.<sup>85</sup> Two individuals provided comments during the in-person hearing, and no individuals commented during the remote-access hearing. Nate Runke, a representative of IUOE Local 49, offered comments in support of the Project.<sup>86</sup> Byron Fire Department Chief, Matt Grant, submitted comments concerning fire management and suppression strategies and potential impacts to air quality.<sup>87</sup> Snowshoe BESS responded to questions at the public hearings, as applicable, and committed to coordinating with emergency responders to develop an emergency response plan.<sup>88</sup>

56. The written public comment period remained open through May 8, 2025. Five written comments were submitted.<sup>89</sup>

57. EERA filed comments on the draft decommissioning plan, the draft vegetation management plan (VMP), and the changes between the sample site permit and the proposed Draft Site Permit. Regarding the decommissioning plan, EERA recommended a number of revisions related to the cover of the plan, decommissioning objective, scheduled updates, Project description, use of capacity, permits and notification, tasks and timing, cost estimate, and financial assurance.<sup>90</sup> EERA also provided comments on Project's draft VMP on behalf of the VMPWG. EERA noted that the Applicant's plan for site restoration and implementation appears to be achievable and includes a range of potential seed mixes that can meet the Applicant's objectives of establishing perennial vegetation that stabilizes soils and reduces run-off, does not impede facility components or obstruct maintenance and access, and increases biodiversity through the use of native species.<sup>91</sup> EERA recommended that the Applicant continue to coordinate with the VMPWG as it finalizes the vegetation management plan, including the development of diverse, native seed mixes, refinement of the installation, management, and monitoring plans, and a list of species substitutions for each seed mix.<sup>92</sup> Regarding the Draft Site Permit special conditions, EERA summarized the changes it made from the Commission's sample site permit, reflected in

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<sup>83</sup> Ex. EERA-5 (MDNR Scoping Comments).

<sup>84</sup> Ex. EERA-6 (IUOE Local 49 and NCSRC of Carpenters Scoping Comments).

<sup>85</sup> See generally Byron Tr. (Apr. 23, 2025); WebEx Tr. (Apr. 24, 2025).

<sup>86</sup> Byron Tr. at 21:9–21 (Apr. 23, 2025).

<sup>87</sup> Byron Tr. at 22–23 and 25 (Apr. 23, 2025).

<sup>88</sup> Byron Tr. at 23:18–24:11, 28:25–29:12 (Apr. 23, 2025).

<sup>89</sup> Comment by EERA (May 8, 2025) (eDocket No. [20255-218706-01](#)); Comment by MDA (May 8, 2025) (eDocket No. [20255-218709-01](#)); Comment by MDNR (May 8, 2025) (eDocket No. [20255-218718-01](#)); Comment by the VMPWG (May 8, 2025) (eDocket No. [20255-218729-01](#)); and Comment by Matt Grant (May 8, 2025) (eDocket No. [20255-218603-01](#)).

<sup>90</sup> See Comment by EERA (May 8, 2025) (eDocket No. [20255-218706-01](#)).

<sup>91</sup> Comment by the VMPWG at 1 (May 8, 2025) (eDocket No. [20255-218729-01](#)).

<sup>92</sup> Comment by the VMPWG at 4 (May 8, 2025) (eDocket No. [20255-218729-01](#)).

the Draft Site Permit included with the EA.<sup>93</sup> EERA also acknowledged Snowshoe BESS's suggested revisions to the Draft Site Permit and made additional recommendations on a few permit conditions.<sup>94</sup>

58. MDA submitted comments recommending removal of Special Condition 5.5 (Agricultural Impact Mitigation Plan) from the Draft Site Permit as requested by the Applicant.<sup>95</sup> MDA's comments confirm that the Draft Site Permit includes appropriate measures to protect agricultural lands, soil, and infrastructure from impacts from the Project. Specifically, MDA found that Sections 4.3.9 through 4.3.11 of the Draft Site Permit are adequate for protecting neighboring agricultural lands and soils from impacts, and Sections 4.3.19, 4.3.22, 4.3.26, and 4.4 of the Draft Site Permit are adequate for protecting local and regional drainage networks.<sup>96</sup>

59. MDNR submitted comments addressing fencing, lighting, wildlife friendly erosion control, dust control, and the VMP.<sup>97</sup> MDNR's comments generally restate the recommendations provided in its scoping comments submitted on December 23, 2024.<sup>98</sup> MDNR stated it supports Special Conditions 5.1, 5.6, 5.9, 5.10, and 5.11 of the Draft Site Permit.<sup>99</sup> MDNR noted that its review of the VMP identified a high percentage of non-native grasses and advised against planting non-native seed mixes.<sup>100</sup>

60. Matt Grant, Fire Chief, City of Byron Fire Department submitted a comment regarding available water resources for the Project. Mr. Grant suggested extending a water line from a nearby residential development and installing a city water main at the site.<sup>101</sup>

## **VII. PERMITTEE**

61. The permittee for the Project is Snowshoe BESS.<sup>102</sup>

## **VIII. CERTIFICATE OF NEED**

62. The Project is exempt from certificate of need requirements pursuant to Minn. Stat. § 216B.243, subd. 8(9) because the Project is an energy storage system.<sup>103</sup>

## **IX. TRANSMISSION ROUTE PERMIT**

63. The PPSA provides that no person may construct a high-voltage transmission line without a route permit from the Commission.<sup>104</sup> The PPSA defines a high-voltage transmission

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<sup>93</sup> Comment by EERA (May 8, 2025) (eDocket No. [20255-218706-01](#)).

<sup>94</sup> See Ex. SNOW-8 at 13:22–14:15 (Matze Direct).

<sup>95</sup> Comment by MDA (May 8, 2025) (eDocket No. [20255-218709-01](#)).

<sup>96</sup> Comment by MDA (May 8, 2025) (eDocket No. [20255-218709-01](#)).

<sup>97</sup> Comment by MDNR (May 8, 2025) (eDocket No. [20255-218718-01](#)).

<sup>98</sup> See Ex. EERA-5 (MDNR Scoping Comments).

<sup>99</sup> Comment by MDNR (May 8, 2025) (eDocket No. [20255-218718-01](#)).

<sup>100</sup> Comment by MDNR at 2 (May 8, 2025) (eDocket No. [20255-218718-01](#)).

<sup>101</sup> Comment by Matt Grant (May 8, 2025) (eDocket No. [20255-218603-01](#)).

<sup>102</sup> Ex. SNOW-3 at 5 (Application).

<sup>103</sup> Ex. SNOW-3 at 5 (Application).

<sup>104</sup> Minn. Stat. § 216E.03, subd. 1.

line as “a conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of 100 kilovolts or more and is greater than 1,500 feet in length.”<sup>105</sup>

64. Snowshoe BESS proposes to connect the Project to the grid via a new 161 kV tap line approximately 300 feet in length.<sup>106</sup> The tap line is not a high-voltage transmission line under the PPSA and, therefore, a route permit from the Commission is not required for the Project.<sup>107</sup>

## **X. SITE PERMIT CRITERIA**

65. Energy storage systems are governed by Minn. Stat. ch. 216E and Minn. R. ch. 7850.<sup>108</sup> Minn. Stat. § 216E.01, subd. 3a, defines “energy storage system” as “equipment and associated facilities designed with a nameplate capacity of 10,000 kilowatts or more that is capable of storing generated electricity for a period of time and delivering the electricity for use after storage.”

66. The proposed Project is a BESS with a nominal power rating of up to 150 MWac with approximately 600 MWh of energy capacity and, therefore, a site permit is required from the Commission prior to construction of the Project.<sup>109</sup>

67. An energy storage system is eligible for the alternative permitting process authorized by Minn. Stat. § 216E.04.<sup>110</sup> Snowshoe BESS filed its Application under the process established by the Commission in Minn. R. 7850.2800 to 7850.3900.<sup>111</sup>

68. Under Minn. Stat. § 216E.04, for an energy storage system permitted under the alternative permitting process, EERA prepares an EA containing information on the human and environmental impacts of the proposed Project and addresses mitigating measures. The EA is the only state environmental review document required to be prepared on the Project.<sup>112</sup>

69. The PPSA requires that site permit determinations “be guided by the state’s goals to conserve resources, minimize environmental impacts, minimize human settlement and other land use conflicts, and ensure the state’s electric energy security through efficient, cost-effective power supply and electric transmission infrastructure.”<sup>113</sup>

70. Under the PPSA, the Commission must be guided by the following responsibilities, procedures, and considerations:

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<sup>105</sup> Ex. SNOW-3 at 5 (Application).

<sup>105</sup> Minn. Stat. § 216E.01, subd. 4.

<sup>106</sup> Ex. SNOW-3 at 23 (Application).

<sup>107</sup> Ex. SNOW-3 at 11 (Application).

<sup>108</sup> See Laws of Minnesota 2023, chapter 60, article 12, section 67 (directing the Commission to utilize applicable provisions of Minn. R. ch. 7850 to site energy storage systems and exempting energy storage systems from the requirements of Minn. R. 7850.4400); *see also* Ex. SNOW-3 at 1 (Application).

<sup>109</sup> Ex. SNOW-3 at 8 (Application).

<sup>110</sup> Minn. Stat. § 216E.04, subd. 2(9).

<sup>111</sup> See Ex. SNOW-1 (Notice of Intent to Submit a Site Permit Application Under the Alternative Permitting Process).

<sup>112</sup> Minn. Stat. § 216E.04, subd. 5.

<sup>113</sup> Minn. Stat. § 216E.03, subd. 7.

- (1) evaluation of research and investigations relating to the effects on land, water and air resources of large electric power facilities and the effects of water and air discharges and electric and magnetic fields resulting from such facilities on public health and welfare, vegetation, animals, materials and aesthetic values, including baseline studies, predictive modeling, and evaluation of new or improved methods for minimizing adverse impacts of water and air discharges and other matters pertaining to the effects of power plants on the water and air environment;
- (2) environmental evaluation of sites and routes proposed for future development and expansion and their relationship to the land, water, air and human resources of the state;
- (3) evaluation of the effects of new electric power generation and transmission technologies and systems related to power plants designed to minimize adverse environmental effects;
- (4) evaluation of the potential for beneficial uses of waste energy from proposed large electric power generating plants;
- (5) analysis of the direct and indirect economic impact of proposed sites and routes including, but not limited to, productive agricultural land lost or impaired;
- (6) evaluation of adverse direct and indirect environmental effects that cannot be avoided should the proposed site and route be accepted;
- (7) evaluation of alternatives to the applicant's proposed site or route proposed pursuant to subdivisions 1 and 2;
- (8) evaluation of potential routes that would use or parallel existing railroad and highway rights-of-way;
- (9) evaluation of governmental survey lines and other natural division lines of agricultural land so as to minimize interference with agricultural operations;
- (10) evaluation of the future needs for additional high-voltage transmission lines in the same general area as any proposed route, and the advisability of ordering the construction of structures capable of expansion in transmission capacity through multiple circuiting or design modifications;
- (11) evaluation of irreversible and irretrievable commitments of resources should the proposed site or route be approved;

- (12) when appropriate, consideration of problems raised by other state and federal agencies and local entities;
- (13) evaluation of the benefits of the proposed facility with respect to (i) the protection and enhancement of environmental quality, and (ii) the reliability of state and regional energy supplies;
- (14) evaluation of the proposed facility's impact on socioeconomic factors; and
- (15) evaluation of the proposed facility's employment and economic impacts in the vicinity of the facility site and throughout Minnesota, including the quantity and quality of construction and permanent jobs and their compensation levels. The commission must consider a facility's local employment and economic impacts, and may reject or place conditions on a site or route permit based on the local employment and economic impacts.<sup>114</sup>

71. In addition to the PPSA, the Commission is governed by Minn. R. 7850.4100, which mandates consideration of the following factors when determining whether to issue a permit for a large electric power generating plant:

- A. effects on human settlement, including, but not limited to, displacement, noise, aesthetics, cultural values, recreation, and public services;
- B. effects on public health and safety;
- C. effects on land-based economies, including, but not limited to, agriculture, forestry, tourism, and mining;
- D. effects on archaeological and historic resources;
- E. effects on the natural environment, including effects on air and water quality resources and flora and fauna;
- F. effects on rare and unique natural resources;
- G. application of design options that maximize energy efficiencies, mitigate adverse environmental effects, and could accommodate expansion of transmission or generating capacity;
- H. use or paralleling of existing rights-of-way, survey lines, natural division lines, and agricultural field boundaries;
- I. use of existing large electric power generating plant sites;

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<sup>114</sup> Minn. Stat. § 216E.03, subd. 7.

- J. use of existing transportation, pipeline, and electrical transmission systems or rights-of-way;
- K. electrical system reliability;
- L. costs of constructing, operating, and maintaining the facility which are dependent on design and route;
- M. adverse human and natural environmental effects which cannot be avoided; and
- N. irreversible and irretrievable commitments of resources.<sup>115</sup>

72. There is sufficient evidence on the record for the Commission to assess the Project on the record using the criteria and factors set out above.

## **XI. APPLICATION OF THE SITING CRITERIA TO THE PROPOSED PROJECT**

### **A. Human Settlement.**

73. Minnesota law requires consideration of the Project's effects on human settlement, including displacement of residences and businesses, noise created by construction and operation of the Project, and impacts to aesthetics, cultural values, recreation, and public services.<sup>116</sup>

#### *1. Displacement.*

74. Displacement can occur when residences or other buildings are located within a proposed site.<sup>117</sup> The Project is located in a predominantly agricultural area, adjacent to the existing SMMPA-Maple Leaf Substation, with relatively few residences and widely dispersed farmsteads among row crop farm fields. The nearest structures are outbuildings and grain bins associated with a farmstead approximately 960 feet north of the ~~Project-area~~ site.<sup>118</sup>

75. No residences will be displaced and none of the structures associated with the farmstead will be removed as a result of the Project.<sup>119</sup> As such, no mitigation is proposed.

#### *2. Noise.*

76. Noise is defined as any undesired sound. It is measured in units of decibels on a logarithmic scale. The A-weighted scale (dBA) is used to duplicate the sensitivity of the human ear. A three dBA change in sound is barely detectable to average human hearing, whereas a five

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<sup>115</sup> Minn. R. 7850.4100.

<sup>116</sup> Minn. R. 7850.4100, subp. A.

<sup>117</sup> Ex. EERA-11 at 85 (EA).

<sup>118</sup> Ex. SNOW-3 at 46 (Application).

<sup>119</sup> Ex. SNOW-3 at 47 (Application); Ex. EERA-11 at 85 (EA).



dBA change is clearly noticeable. A ten dBA change is perceived as a sound doubling in loudness.<sup>120</sup>

77. In Minnesota, noise standards are based on noise area classifications (NAC) corresponding to the location of the listener, referred to as a receptor. NACs are assigned to areas based on the type of land use activity occurring at that location. Household units, designated camping and picnicking areas, resorts and group camps are assigned to NAC 1; recreational activities (except designated camping and picnicking areas) and parks are assigned to NAC 2; agricultural and related activities are assigned to NAC 3.<sup>121</sup>

78. Noise standards are expressed as a range of permissible dBA over a one-hour period. L<sub>10</sub> may be exceeded ten percent of the time, or six minutes per hour, while L<sub>50</sub> may be exceeded 50 percent of the time, or 30 minutes per hour. Standards vary between daytime and nighttime hours. There is no limit to the maximum loudness of a noise.<sup>122</sup>

79. The primary noise receptors are the local residences. The nearest residence is associated with the farmstead and is located approximately 1,200 feet from the Project area site boundary.<sup>123</sup> ~~One residence is located within a quarter-mile of the Project.~~<sup>124</sup> The property owner for the residence is the same as the owner from which Snowshoe BESS has leased land for the Project. An additional 14 residences are located between 1,600 and 3,200 feet of the site boundary.<sup>125</sup>

80. Noise receptors could also include individuals working outside in the Project vicinity. Potential noise impacts from the Project are associated with construction noise and operational noise.<sup>126</sup>

81. Noise from construction will be temporary in duration, limited to daytime hours and potentially moderate to significant depending on location, the phase of construction, and the equipment being used.<sup>127</sup> Sound levels from grading equipment are not dissimilar from the typical tractors and larger trucks used in agricultural communities during harvest. Noise from construction activities would dissipate with distance and be audible at varying decibels, depending on the locations of the equipment and receptor.<sup>128</sup> Snowshoe BESS will mitigate noise impacts by limiting construction to daytime hours to the extent practicable and ensuring that equipment/vehicles are operated with properly functioning mufflers and noise-control devices.<sup>129</sup>

82. Unlike solar facilities, which do not operate during the night, BESS facilities can be expected to operate throughout the day, resulting in noise levels may vary throughout the day.<sup>130</sup> The primary noise sources during facility operation are BESS containers, substation

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<sup>120</sup> Ex. EERA-11 at 39 (EA).

<sup>121</sup> Ex. EERA-11 at 39 (EA).

<sup>122</sup> Ex. EERA-11 at 39 (EA).

<sup>123</sup> Ex. SNOW-3 at 46 (Application).

~~<sup>124</sup> Ex. SNOW-3 at 43-44 (Application).~~

<sup>125</sup> Ex. SNOW-3 at 44, 46, 59, and Appendix E (Application).

<sup>126</sup> Ex. SNOW-3 at 40 (Application).

<sup>127</sup> Ex. EERA-11 at 40 (EA).

<sup>128</sup> Ex. EERA-11 at 40 (EA).

<sup>129</sup> Ex. SNOW-3 at 60 (Application).

<sup>130</sup> Ex. EERA-11 at 41 (EA).

transformer(s), heating ventilation and air conditioning (HVAC) equipment at the O&M building and within BESS containers, and auxiliary transformers.<sup>131</sup> Noise from routine maintenance activities is anticipated to be negligible to minimal. Noise from the electrical collection system is not expected to be perceptible.<sup>132</sup> Additional mitigation measures to minimize noise during operation include selecting individual BESS units with lower noise levels, installing equipment silencers on BESS enclosures, installation of noise barriers (such as fences or berms), and operational limits.<sup>133</sup>

83. The record demonstrates that Snowshoe BESS has taken steps to avoid and minimize noise impacts. Further, Sections 4.3.7, 5.2, and 5.5 of the Draft Site Permit address noise impacts from the Project.<sup>134</sup> No additional mitigation is proposed.

### 3. *Aesthetics.*

84. The visible elements of the facility will consist of approximately 192 new BESS enclosures, a fenced area of approximately 7.6 acres, a Project substation, up to four new transmission structures, a new ten-foot chain link fence topped by barbed wire surrounding the facility, new stormwater ponds, and potentially a new O&M building.<sup>135</sup> Exterior security lighting will be installed at the Project substation and switch activated lights will be located at each BESS enclosure for repair and maintenance purposes.<sup>136</sup> Cameras will be installed at gate locations and along the fence line.<sup>137</sup>

85. The Project ~~area~~ is located in a rural, rolling, agricultural setting and is generally naturally screened from 14th Street Northwest to the north, east, and west by the existing topography.<sup>138</sup>

86. Aesthetic impacts of the Project are anticipated to be minimal for residents outside the Project vicinity and for others with low viewer sensitivity, such as travelers along U.S. Highway 14.<sup>139</sup> For these viewers, BESS enclosures would be relatively difficult to see due to the rolling topography and existing vegetation along the highway, and the substation and transmission structures would be indiscernible from those of the adjoining Maple Leaf Substation.<sup>140</sup> Residents in the project vicinity and areas residents traveling local roads are likely to be more sensitive to aesthetic impacts, but the topography of the site and existing screening around nearby residences will tend to screen the 10-foot enclosures and surrounding fence.<sup>141</sup>

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<sup>131</sup> Ex. EERA-11 at 41 (EA).

<sup>132</sup> Ex. EERA-11 at 41 (EA).

<sup>133</sup> Ex. EERA-11 at 41 (EA).

<sup>134</sup> Ex. EERA-11, Appendix C at 5 and 13 (Draft Site Permit).

<sup>135</sup> Ex. PUC-5 (Authorization to Initiate SHPO Consultation).

<sup>136</sup> Ex. EERA-11 at 38 (EA).

<sup>137</sup> Ex. EERA-11 at 37 (EA).

<sup>138</sup> Ex. SNOW-3 at 42 (Application).

<sup>139</sup> Ex. EERA-11 at 37 (EA).

<sup>140</sup> Ex. SNOW-3 at 4 (5Application).

<sup>141</sup> Ex. EERA-11 at 37 (EA)

87. Minimizing aesthetic impacts from energy storage facilities is primarily accomplished by locating the facilities so that they are not immediately adjacent to homes, ensuring that damage to natural landscapes during construction is minimized, and shielding the facilities from view by terrain or vegetation. Impacts from facility lighting can be minimized by using shielded and downward facing light fixtures and using lights that minimize blue hue.<sup>142</sup> One residence is located within a quarter-mile of the Project; this residence is screened from the Project by topography. An additional 14 residences are located between 1,600 and 3,200 feet of the site boundary.<sup>143</sup>

88. The record demonstrates that the Applicant has taken steps to avoid and minimize impacts to aesthetics. Further, Sections 4.3.8 and 5.1 of the Draft Site Permit address potential visual impacts from the Project.<sup>144</sup>

#### *4. Cultural Values.*

89. Construction and operation of the Project is not anticipated to impact or alter the work life and leisure pursuits of residents or visitors in the Project area or affect land use in such a way as to impact the underlying culture or community unity of the area.<sup>145</sup> Because of the relatively small size of the Project and distance from homes, businesses and recreational resource, impacts to cultural resources from the Project are anticipated to be minimal.<sup>146</sup>

90. There are no conditions included in the Draft Site Permit that directly address mitigation for impacts to cultural values. Section 4.3.20 addresses impacts to cultural properties.<sup>147</sup>

#### *5. Land Use and Zoning.*

91. The Project is sited within Kalmar Township in Olmsted County.<sup>148</sup> Snowshoe BESS designed the Project to comply with the standards outlined in the Kalmar Township and Olmsted County Zoning Ordinances.<sup>149</sup>

92. The Project is located within a rural area approximately one mile east of the city of Byron and approximately two miles west of Rochester. The current land use of the Project Area site is agricultural.<sup>150</sup>

93. The Project's impacts to agricultural lands in Olmsted County are minimal and will have limited impact on the rural nature of the region.<sup>151</sup> Although energy storage systems are not

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<sup>142</sup> Ex. EERA-11 at 38 (EA).

<sup>143</sup> Ex. EERA-11 at 44–45 (EA).

<sup>144</sup> Ex. EERA-11, Appendix C at 5 and 12 (Draft Site Permit).

<sup>145</sup> Ex. EERA-11 at 43 (EA).

<sup>146</sup> Ex. EERA-11 at 43 (EA).

<sup>147</sup> Ex. EERA-11 at 43 (EA) and Appendix C at 9 (Draft Site Permit).

<sup>148</sup> Ex. SNOW-3 at 66 (Application).

<sup>149</sup> Ex. SNOW-3 at 68 (Application).

<sup>150</sup> Ex. SNOW-3 at 66 (Application).

<sup>151</sup> Ex. SNOW-3 at 69 (Application).

specifically addressed in local planning documents or zoning codes, the Project is generally consistent with local land use ordinances and the Olmsted County's Comprehensive Plan.<sup>152</sup>

94. The Project will change land use at the site from agricultural to energy storage production for the expected 30-year life of the Project. After the Project's useful life, the site could be restored to agricultural or other planned land uses by implementing appropriate restoration measures.<sup>153</sup>

95. The Draft Site Permit addresses preservation and restoration of agricultural land in Sections 4.3.22, 5.5, 5.6, and 9.2.

## *6. Property Values.*

96. Electrical generating facilities can impact property values.<sup>154</sup> EERA staff was unable to locate peer reviewed literature that addressed potential impacts to property values from stand-alone BESS.<sup>155</sup>

97. Impacts to the value of specific properties within the Project vicinity are difficult to determine but could occur. Considerations such as setbacks, benefits to the community, economic impact, noise, and screening could have an unpredictable range of influence over property value. To the extent that negative impacts do occur they are expected to decrease with distance from the Project. Aesthetic and noise impacts that might affect property values would be limited to residences and parcels in the Project vicinity where the facility may be visible and where noise impacts from operation may occur.<sup>156</sup> Impacts to property values can be mitigated by reducing aesthetic impacts and encumbrances to future land use. Sections 4.3.8 and 5.1 of the Draft Site Permit address potential visual impacts from the Project.<sup>157</sup> Impacts can also be mitigated through individual agreements with neighboring landowners.<sup>158</sup>

## *7. Recreational Resources*

98. Regional outdoor recreation includes hiking, snowmobiling, biking, and hunting. These activities predominantly occur on public roadways, private lands, or informal private trails.<sup>159</sup> No public recreational lands or opportunities are located within or adjacent to the **Project area site** or within a quarter mile of the Project **area**.<sup>160</sup>

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<sup>152</sup> Ex. EERA-11 at 43 (EA).

<sup>153</sup> Ex. EERA-11 at 43 (EA).

<sup>154</sup> Ex. EERA-11 at 46 (EA).

<sup>155</sup> Ex. EERA-11 at 46 (EA).

<sup>156</sup> Ex. EERA-11 at 46–47 (EA).

<sup>157</sup> Ex. EERA-11, Appendix C at 5 and 12 (Draft Site Permit).

<sup>158</sup> Ex. EERA-11 at 47 (EA).

<sup>159</sup> Ex. SNOW-3 at 69 (Application).

<sup>160</sup> Ex. SNOW-3 at 69 (Application).

99. Impacts to recreation are anticipated to be nominal; construction and operation of the Project is not anticipated to impact recreation or tourism in the Project area.<sup>161</sup> Because no impacts are anticipated, no mitigation is proposed.<sup>162</sup>

#### 8. *Public Service and Infrastructure*

100. Large energy projects can impact public services, such as buried utilities or roads.<sup>163</sup>

101. If an O&M facility is constructed, Snowshoe BESS may install a well for drinking water or onsite-septic system for sanitary services.<sup>164</sup>

102. No impacts to railroads are anticipated. The Project will avoid railroad property and railroad right-of-way (ROW).<sup>165</sup>

103. The Project's southern boundary is adjacent to U.S. Highway 14, though no access to the site is available from U.S. Highway 14.<sup>166</sup> The anticipated access point to the Project will be off the existing SMMPA access road to the SMMPA-Maple Leaf Substation. One alternate access route is under consideration and would be constructed off 14th Street Northwest to the north.<sup>167</sup> Although final design for the Project is not complete, with the possible exception of minor field access or driveway changes, no changes to existing roadways is anticipated.<sup>168</sup>

104. During construction workers and trucks delivering construction material and equipment will use the existing state, county, and township road system to access the Project. Traffic during construction is estimated to be approximately 20 to 40 pickup trucks, cars, and/or other types of employee vehicles onsite during construction. Truck traffic to the site will vary by construction phase. Snowshoe anticipates up to 15 semi-trucks per day will be used for delivery of facility components. Construction traffic will be perceptible to area residents, but because the average daily traffic in the area is well below design capacity, this increased traffic is not expected to affect traffic function.<sup>169</sup> Overweight or oversized loads are unlikely. If they are required, Snowshoe BESS will obtain appropriate approvals from state and local agencies prior to construction.<sup>170</sup>

105. No impacts to roads are anticipated during the operation; negligible traffic increases would occur for maintenance.<sup>171</sup>

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<sup>161</sup> Ex. EERA-11 at 64 (EA).

<sup>162</sup> Ex. EERA-11 at 64 (EA).

<sup>163</sup> Ex. EERA-11 at 48 (EA).

<sup>164</sup> Ex. EERA-11 at 48 (EA).

<sup>165</sup> Ex. EERA-11 at 48 (EA).

<sup>166</sup> Ex. SNOW-3 at 61 (Application).

<sup>167</sup> Ex. SNOW-3 at 61 (Application).

<sup>168</sup> Ex. SNOW-3 at 64 (Application).

<sup>169</sup> Ex. EERA-11 at 48–49 (EA).

<sup>170</sup> Ex. SNOW-3 at 64 (Application).

<sup>171</sup> Ex. EERA-11 at 49 (EA).

106. No long-term impacts to electric utilities will occur because of the Project. The Project will not impact existing transmission lines, and Snowshoe BESS indicates it does not anticipate any customer outages during construction of the Project and connection to the Maple Leaf Substation.<sup>172</sup> Section 4.3.5 of the Draft Site Permit is a standard permit condition that requires the permittee to minimize disruptions to public utilities.<sup>173</sup> Snowshoe BESS will coordinate with Gopher State One Call before and during construction to fully understand infrastructure locations and safety concerns and to avoid possible structural conflicts.<sup>174</sup> Snowshoe BESS will also conduct an American Land Title Association survey to identify the locations of underground utilities.<sup>175</sup> Final Project design will minimize and avoid impacts to underground utilities; if conflicts are unavoidable, Snowshoe BESS will coordinate with the utility to develop an approach to reroute or otherwise protect the utilities.<sup>176</sup>

107. Construction and operation of the Project will have minimal impacts on the security and safety of the local populace.<sup>177</sup> In general, BESS facilities are comprised of equipment that pose limited dangers under normal conditions of use by trained personnel. Industry best practices for safety will be implemented during the construction and operation of the Project.<sup>178</sup> Snowshoe BESS will work with local emergency responders including the Olmsted County Sheriff's office and Byron and Rochester fire departments to make sure they know how to respond to emergencies at the Project. An Emergency Response Plan will be prepared, in coordination with local emergency responders, prior to construction.<sup>179</sup>

108. Electronic interference from the proposed Project is not anticipated. There are no radio, microwave, or television towers located within the site. Because the BESS facilities are relatively low (less than 20 feet), they are well below the line of sight used in many communication system signals. Electronic interference associated with communications infrastructure and devices including agricultural navigation systems is related to a phenomenon known as corona. Impacts are not expected, because anticipated electric fields are below levels expected to produce significant levels of corona.<sup>180</sup>

## **B. Public Health and Safety**

109. Minnesota law requires consideration of the Project's potential effect on health and safety.<sup>181</sup>

110. Construction and operation of the Project will have minimal impacts on the health and safety of the general public.<sup>182</sup>

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<sup>172</sup> Ex. EERA-11 at 49 (EA).

<sup>173</sup> Ex. EERA-11, Appendix C at 5 (Draft Site Permit).

<sup>174</sup> Ex. SNOW-3 at 65 (Application).

<sup>175</sup> Ex. SNOW-3 at 65 (Application).

<sup>176</sup> Ex. SNOW-3 at 65 (Application).

<sup>177</sup> Ex. SNOW-3 at 65 (Application).

<sup>178</sup> Ex. SNOW-3 at 65 (Application).

<sup>179</sup> Ex. SNOW-3 at 65 (Application).

<sup>180</sup> Ex. EERA-11 at 85 (EA).

<sup>181</sup> Minn. Stat. § 216E.03, subd. 7(b)(1); Minn. R. 7850.4100, subp. B.

<sup>182</sup> Ex. SNOW-3 at 50 (Application).

111. Health and safety concerns during construction of a BESS project are similar to any electrical substation and include injuries due to falls, equipment malfunction and/or misuse, and electrocution.<sup>183</sup> To prevent health and safety incidents, Snowshoe BESS requires all parties involved with the Project to create comprehensive health and safety plans and protocols.<sup>184</sup>

112. During operations, the Project will not require the use or storage of large quantities of hazardous materials that might otherwise have the potential to spill or leak into area groundwater. To avoid potential impacts to water and soil resources, all hazardous materials stored outdoors will be stored within secondary containment. Secondary containment will contain leaks in the event that they occur.<sup>185</sup>

### *1. Electric and Magnetic Fields.*

113. Any electrical device will have electric and magnetic fields (EMF) present. Electric fields arise from the voltage or electrical charges, while magnetic fields arise from the flow of electricity or current that travels along transmission lines, power feeder lines, substation transformers, house wiring, and electrical appliances.<sup>186</sup>

114. Currently, there are no federal regulations regarding allowable extremely low frequency EMF (ELF-EMF) produced by power lines in the United States; however, state governments have developed state-specific regulations.<sup>187</sup> In Minnesota, the Commission has imposed a maximum electric field limit of 8 kV per meter measured at one meter (3.28 feet) above the ground; it has not adopted a standard for magnetic fields.<sup>188</sup>

115. The primary sources of EMF from the Project will be from the buried electrical collection lines, the transformers installed at each inverter, and the Project tap line between the Project substation and the Maple Leaf substation. The batteries create a magnetic field that rapidly degrades with distance; the batteries do not produce electric fields.<sup>189</sup>

116. No health impacts from EMF are anticipated. EMF diminishes with distance from a conductor or inverter. The nearest home is approximately 1,200 feet from site boundary. At this distance both electric and magnetic fields will dissipate to background levels. No additional mitigation is proposed.<sup>190</sup>

### *2. Public Safety and Emergency Services.*

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<sup>183</sup> Ex. SNOW-3 at 51 (Application).

<sup>184</sup> Ex. SNOW-3 at 51 (Application).

<sup>185</sup> Ex. SNOW-3 at 51 (Application).

<sup>186</sup> Ex. SNOW-3 at 52 (Application).

<sup>187</sup> Ex. EERA-11 at 57 (EA).

<sup>188</sup> Ex. SNOW-3 at 52 (Application).

<sup>189</sup> Ex. EERA-11 at 58 (EA).

<sup>190</sup> Ex. EERA-11 at 58 (EA).

117. The Project will be designed and constructed in compliance with applicable electric codes. Electrical work will be completed by trained technicians. Electrical inspections will ensure proper installation of all components, and the Project will undergo routine inspection.<sup>191</sup>

118. Snowshoe BESS has designed the Project in compliance with safety codes, regulations, and industry recommendations. Snowshoe BESS will adhere to advances in technology, applicable codes/standards, and developing emergency response procedures to further reduce the likelihood and impacts associated with fire and battery thermal runaway induced events.<sup>192</sup>

119. Snowshoe BESS has incorporated safety precautions into the preliminary design protocols of the proposed Project. Snowshoe BESS indicates that it has designed the Project to use Lithium Iron Phosphate (LFP) battery technology. The selection of the LFP technology, is partially due to the safety profile of LFP batteries compared to other battery technologies.<sup>193</sup> Snowshoe BESS's layout and installation of the equipment will incorporate appropriate spacing to minimize risk of fire propagation between equipment, and between the equipment and surrounding landscape. Transformers and other electrical equipment on site will comply with industry standards to reduce the chance of fire and spill events.<sup>194</sup>

120. The battery management system and site controller ensure that BESS components of the Project are operating within the original equipment manufacturer's operating parameters and warranty requirements. If any operating limit is exceeded or an alarm is triggered, either a fault signal is sent to the whole battery string to disconnect from the inverter, or the rack contacts will open to disconnect individual racks. This real-time, automated system is designed to identify operational malfunctions or other safety hazards immediately and prevent incidents. Detected faults, abnormal conditions, and gas detection will also be transmitted to remote operators and/or on-site status indicators.<sup>195</sup>

121. Health and safety concerns during construction of a BESS project are typical to any electrical substation and include injuries due to falls, equipment malfunction and/or misuse, and electrocution. To prevent health and safety incidents, Snowshoe BESS requires all parties involved with the Project to create comprehensive health and safety plans and protocols.<sup>196</sup>

122. During operations, the Project will not require the use or storage of large quantities of hazardous materials that might otherwise have the potential to spill or leak into area groundwater. To avoid potential impacts to water and soil resources, all hazardous materials stored outdoors will be stored within secondary containment. Secondary containment will contain leaks in the event that they occur.<sup>197</sup> In addition to the typical operational risks associated with an electric facility (falls, electrical accidents, etc..) battery storage facilities include a heightened risk of

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<sup>191</sup> Ex. EERA-11 at 60 (EA).

<sup>192</sup> Ex. SNOW-8 at 8:1-6 (Matze Direct).

<sup>193</sup> Ex. SNOW-8 at 8:9 (Matze Direct)

<sup>194</sup> Ex. SNOW-3 at 54 (Application).

<sup>195</sup> Ex. SNOW-3 at 55 (Application).

<sup>196</sup> Ex. SNOW-3 at 51 (Application).

<sup>197</sup> Ex. SNOW-3 at 51 (Application).



thermal runaway events and fires. During operation there are occupational risks similar to those associated with construction. Public risks would result from unauthorized entry into the facility.<sup>198</sup>

123. The main safety hazard of a BESS is battery failure leading to thermal runaway which has the potential to spread to nearby batteries and containers, quickly presenting an emergency. The movement of electrons and lithium ions within the battery cell produces electricity as well as heat. Lithium-ion batteries are designed to allow heat to dissipate from the cell to maintain a controlled reaction. Thermal runaway is a phenomenon when a battery cell generates heat at a greater rate than the heat can dissipate from the cell, resulting in a cascading chemical reaction which produces additional heat. Thermal runaway events can result in extremely high temperatures, smoke, fire, and potentially ejection of gas, shrapnel, and particulates. Although BESS are a relatively new technology, there is a growing body of research that informs industry standards minimize the potential for these types of incidents and mitigate potential safety concerns in the event of such incidents.<sup>199</sup>

124. In addition, the Draft Site Permit includes several requirements to ensure adequate public safety protections, including requiring Snowshoe BESS to: (1) provide landowner educational materials and appropriate signage; (2) prepare hazard mitigation analysis (HMA) detailing the testing results for the selected equipment and the risks associated with the technology at least 30 days prior to the pre-construction meeting; (3) file an Emergency Response Plan with the Commission and local first responders prior to operation; (4) disclose any extraordinary events, such as fires; and (5) prepare a decommissioning plan prior to construction to be updated every five years.<sup>200</sup>

125. EERA proposed modifying Section 5.4 (Hazard Mitigation Analysis) of the DSP to require Snowshoe BESS to file with the Commission an affidavit of the distribution of the Hazard Mitigation Analysis to emergency responders with jurisdiction over the Project.<sup>201</sup> Snowshoe BESS did not object to EERA's suggested modification.<sup>202</sup>

126. The record supports the inclusion of the following special condition as modified by EERA, and agreed to by Snowshoe BESS:

#### 5.4 Hazard Mitigation Analysis

The Permittee shall file a Hazard Mitigation Analysis detailing the results of the equipment testing, and the risks associated with the technology, [along with an affidavit of distribution of the Hazard Mitigation analysis to emergency responders with jurisdiction over the project](#), at least 30 days prior to the pre-construction meeting.

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<sup>198</sup> Ex. EERA-11 at 58 (EA).

<sup>199</sup> Ex. EERA-11 at 59 (EA).

<sup>200</sup> Ex. EERA-11 at 61 and Appendix C at Sections 4.3.27, 5.4, 8.11, 8.12, 9.1 (EA; Draft Site Permit).

<sup>201</sup> Comment by EERA at 9 (May 8, 2025) (eDocket No. [20255-218706-01](#)).

<sup>202</sup> Ex. SNOW-10 (Response to Comments).

127. The record demonstrates that Snowshoe BESS has taken steps to avoid and minimize potential impacts to public safety and emergency services. Further, public safety is addressed in Sections 4.3.27, 5.4, 8.11, 8.12, and 9.1 of the Draft Site Permit.<sup>203</sup>

### **C. Land-based Economies**

128. Minnesota law requires consideration of the Project's potential effect on land-based economies – specifically, agriculture, forestry, tourism, and mining.<sup>204</sup>

129. Of the economies listed in Minn. R. 7850.4100(C), agriculture, tourism, and recreation are present in the area around the Project. Because forestry and mining do not occur within the area, impacts will not occur.<sup>205</sup>

#### *1. Agriculture*

130. The Project will impact approximately 23 acres of agricultural land during its operating life and will not result in a significant impact to land-based economies in the Project vicinity as this acreage constitutes less than 0.01 percent of the cropland in Olmsted County.<sup>206</sup> Additionally, the Project will mitigate the loss of crop-related revenue to affected landowners by providing payments as provided in the applicable lease and easement agreements.<sup>207</sup> Consequently, the Project is not expected to have a significant impact on agricultural production in the County.<sup>208</sup>

131. The Draft Site Permit includes a number of measures to mitigate agricultural and soil impacts, including, for example, the protection of topsoil, minimization of soil compaction, implementation of a VMP and erosion prevention and sediment control practices; development of an Invasive Species Management Plan, and restoration or compensation for damages to crops and agricultural infrastructure.<sup>209</sup>

#### *2. Tourism and Recreation*

132. In 2023, the leisure and hospitality industry in Olmsted County accounted for about \$627.7 million in gross sales and employed an estimated 9,412 people.<sup>210</sup> Downtown Rochester, which includes the Mayo Medical Center and the Rochester Arts District, is the top destination point for visitors to southern Minnesota. Additional tourism destinations in the Project ~~Area-area~~ are related to recreational activities including bird watching, fishing, hunting, boating, golfing, and snowmobiling.<sup>211</sup>

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<sup>203</sup> Ex. EERA-11, Appendix C at 11, 13, 19 (Draft Site Permit); *see* Comment by EERA at 9 (May 8, 2025) (eDocket No. [20255-218706-01](#)).

<sup>204</sup> Minn. Stat. § 216E.03, subd. 7(b); Minn. R. 7850.4100, subp. C.

<sup>205</sup> Ex. EERA-11 at 86 (EA).

<sup>206</sup> Ex. SNOW-3 at 72 (Application).

<sup>207</sup> Ex. SNOW-3 at 73 (Application).

<sup>208</sup> Ex. EERA-11 at 62 (EA).

<sup>209</sup> Ex. EERA-11 at 62–63 (EA) and Appendix C (Draft Site Permit).

<sup>210</sup> Ex. EERA-11 at 63 (EA).

<sup>211</sup> Ex. EERA-11 at 63 (EA).

133. There are no wildlife management areas, Scientific and Natural Areas or state parks within one mile of the site. The closest Wildlife Management Area is the Moon Valley Wildlife Management Area, located approximately 4.4 miles northwest of the site. Although there are a number of parks in and near the cities of Byron and Rochester, the nearest park is approximately two miles from the site. The nearest recreational trail is the Tiger Bear Trail snowmobile trail one mile west of the site.<sup>212</sup>

134. Impacts to recreation are anticipated to be nominal and the construction and operation of the Project are not anticipated to impact recreation or tourism in the Project [Area site](#). Because no impacts are anticipated, no mitigation is proposed.<sup>213</sup>

#### **D. Archaeological and Historic Resources**

135. Minnesota Rule 7850.4100, subparagraph D, requires consideration of the effects of the Project on historic and archaeological resources.

136. Archaeological resources are locations where objects or other evidence of archaeological interest exist, and can include aboriginal mounds and earthworks, ancient burial grounds, prehistoric ruins, or historical remains. Historic resources are sites, buildings, structures, or other antiquities of state or national significance.<sup>214</sup>

137. Snowshoe BESS contracted with Westwood Professional Services, Inc., (Westwood) to conduct a Phase Ia literature review and perform archaeological field surveys to identify archaeological, cultural, and historic resources within the [Project-area site](#) or the one-mile buffer.<sup>215</sup> Applicant also contacted 11 federally recognized Tribal Nations in Minnesota and the Minnesota Indian Affairs Council regarding the Project.<sup>216</sup>

138. The Phase Ia review examined records from SHPO and Minnesota Office of the State Archeologist.<sup>217</sup> The literature review did not identify any previously recorded archaeological resources or National Register of Historic Places properties within one mile of the site.<sup>218</sup> Additionally, archaeological field surveys were performed across the entire [Project-area site](#).<sup>219</sup> No new or previously recorded archaeological, architectural, or historic sites were identified/reviewed during the survey.<sup>220</sup>

139. Prudent siting to avoid archaeological and historic resources is the preferred mitigation.<sup>221</sup> Snowshoe BESS identified no previously recorded archaeological sites or historic resources in the [Project-Area site](#). Further, SHPO confirmed it reviewed the Phase I Archaeological Reconnaissance Survey that was prepared for the Project and concluded that “there are no

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<sup>212</sup> Ex. EERA-11 at 63–64 (EA).

<sup>213</sup> Ex. EERA-11 at 64 (EA).

<sup>214</sup> Ex. EERA-11 at 64 (EA).

<sup>215</sup> See Ex. SNOW-3 at Appendix F (Application; Phase 1 Archaeological Reconnaissance Survey).

<sup>216</sup> Ex. EERA-11 at 64 (EA).

<sup>217</sup> Ex. EERA-11 at 64 (EA).

<sup>218</sup> Ex. EERA-11 at 64 (EA).

<sup>219</sup> Ex. SNOW-7 (Confirmation of SHPO Consultation).

<sup>220</sup> Ex. SNOW-7 (Confirmation of SHPO Consultation).

<sup>221</sup> Ex. EERA-11 at 65 (EA).

properties listed in the National or State Registers of Historic Places and no known or suspected archaeological properties in the area that will be affected by” the Project.<sup>222</sup>

140. Before construction of the Project begins, the Applicant will prepare an Unanticipated Discoveries Plan that will outline the steps to be taken if previously unrecorded cultural resources or human remains are encountered during construction. Should previously unknown archaeological resources be inadvertently encountered during Project construction and/or operation, work will stop, and the discovery will be examined by an archaeologist.<sup>223</sup> If the discovery is determined to be a significant cultural resource, SHPO and OSA will be notified. Should human remains be inadvertently discovered, Snowshoe BESS will cease all work, law enforcement will be immediately contacted, and the OSA will be notified.<sup>224</sup>

141. The record demonstrates that the Project will not cause adverse impacts to archaeological and historic resources. Further, Sections 4.3.20, 5.7, and 5.8 of the Draft Site Permit address archaeological and historic resources.

## **E. Natural Environment**

142. Minnesota Rules Section 7850.4100(E) requires that the Commission consider the effects of the Project on the natural environment, including effects on air and water quality resources and flora and fauna.<sup>225</sup>

### *1. Air Quality*

143. Minimal intermittent air emissions are expected during construction of the Project. Air emissions associated with construction are highly dependent upon weather conditions and the specific activity occurring. For example, traveling to a construction site on a dry gravel road will result in more fugitive dust than traveling the same road when wet. Once operational, neither the generating facility nor the transmission line will generate criteria pollutants or carbon dioxide.<sup>226</sup>

144. Motorized equipment will emit exhaust. This includes construction equipment and vehicles travelling to and from the Project. Exhaust emissions, primarily from diesel equipment, would vary according to the phase of construction. Exhaust emissions can be minimized by keeping vehicles and equipment in good working order, and not running equipment unless necessary.<sup>227</sup>

145. All projects that involve movement of soil, or exposure of erodible surfaces, generate some type of fugitive dust emissions. The Project will generate fugitive dust from travel on unpaved roads, grading, and excavation. Over the life of the Project, fugitive dust emissions will be reduced by the elimination of farming and establishment of permanent vegetative cover.<sup>228</sup> Snowshoe BESS will implement best management practices during construction and operation of

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<sup>222</sup> Ex. SNOW-7 at Attachment 1 (Confirmation of SHPO Consultation).

<sup>223</sup> Ex. SNOW-3 at 76 (Application).

<sup>224</sup> Ex. SNOW-3 at 76–77 (Application).

<sup>225</sup> Minn. Stat. § 216E.03, subd. 7(b); Minn. R. 7850.4100, subp. E.

<sup>226</sup> Ex. EERA-11 at 66–67 (EA).

<sup>227</sup> Ex. EERA-11 at 67 (EA).

<sup>228</sup> Ex. EERA-11 at 67 (EA).

the Project to minimize dust emissions.<sup>229</sup> Additional practices may include watering or treating haul and access roads and other exposed dust producing areas, containment of excavated material, protection of exposed soil, soil stabilization, and treatment stockpiles to control fugitive dust.<sup>230</sup>

146. Following construction, the facility will not generate ~~pollutant criteria pollutants or carbon dioxide~~ emissions during normal operation ~~as batteries do not emit GHG.~~<sup>231</sup>

147. The record demonstrates that Snowshoe BESS has taken steps to avoid and minimize impacts to air quality. Further, Section 5.11 of the Draft Site Permit requires the Applicant to “minimize and avoid, if possible, the use of chloride-based dust control chemicals (i.e., calcium chloride, magnesium chloride).”<sup>232</sup>

## *2. Geology and Groundwater*

148. Minnesota is divided into six groundwater provinces based on bedrock and glacial geology. The Project site is within Province 3, the Karst province, which can be characterized as having thin glacial sediments overlying thick and extensive bedrock prone to karst features such as sinkholes, and caves. In this province, groundwater is typically derived from bedrock aquifers below the glacial sediment cover. Groundwater is generally readily available, but water quality is susceptible to pollution from surface activity because fractures and sinkholes can form passageways that funnel water and contaminants quickly from the surface to groundwater.<sup>233</sup>

149. Potential impacts to geology and groundwater can occur directly or indirectly. Impacts to geological resources are likely to be minimal, due to the thickness of surficial materials (76 to 150 feet) and the absence of karst features. Direct impacts to groundwater are anticipated to be limited to a single well for domestic use. Other direct impacts to groundwater associated with construction, for example, structure foundations that could penetrate shallow water tables or groundwater usage are not anticipated. Indirect impacts could occur through spills or leaks of petroleum fluids or other contaminants that contaminate surface waters which could ultimately contaminate groundwater. The disturbance of soil and vegetative cover could affect water quality in groundwater resources. Once constructed the impervious surface area will be approximately eight acres including the access road, the fenced area, and an additional five-foot graveled area along the perimeter of the fence line.<sup>234</sup>

150. The Project is not located within any Wellhead Protection Areas or Drinking Water Supply Management Areas.<sup>235</sup>

151. Construction of Project facilities is not likely to require subsurface blasting; therefore, disturbances to groundwater flow from newly fractured bedrock are not anticipated. Any dewatering required during construction will be managed in accordance with the SWPPP and discharged to the surrounding surface, thereby allowing it to infiltrate back into the ground to

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<sup>229</sup> Ex. SNOW-3 at 79 (Application).

<sup>230</sup> Ex. SNOW-3 at 79 (Application).

<sup>231</sup> ~~Ex. SNOW-3 at 79 (Application). EERA-11 at p. 67 (EA)~~

<sup>232</sup> Ex. EERA-11, Appendix C at 15 (EA; Draft Site Permit).

<sup>233</sup> Ex. EERA-11 at 67–68 (EA).

<sup>234</sup> Ex. EERA-11 at 69 (EA).

<sup>235</sup> Ex. SNOW-3 at 86 (Application).

minimize potential impacts. If, during construction, dewatering exceeds withdrawal of more than 10,000 gallons of water per day or one million gallons per year, Snowshoe BESS will obtain a Water Appropriation Permit from MDNR.<sup>236</sup>

152. Project facilities are not likely to affect the use of existing water wells. Preliminary design indicates that Project facilities will be located at about 1,000 feet from the nearest identified drinking well. No impacts to this well are expected. If an unknown well is discovered that was not mapped on available mapping resources, Snowshoe BESS will assess whether the well is open, coordinate with the underlying landowner, and facilitate capping, if necessary and approved by the underlying landowner, in accordance with MDH requirements.<sup>237</sup>

153. Impacts to groundwater resources (including aquifers) are not anticipated during operation of the Project as water supply needs will be quite limited. If the Project requires potable water for facility personnel and O&M uses, this need would be satisfied with a single domestic-sized water well. Installation of any new wells require notification to the Minnesota Department of Health, and construction by a well borer licensed by the Minnesota Department of Health.<sup>238</sup> A domestic water well license would be acquired by an approved well drilling contractor prior to installation, construction, and use of the water well.<sup>239</sup>

154. The BESS system will require concrete foundations. The depth that the foundations will be installed at is an estimated range of one to three feet below ground surface (depending on soil conditions) and would, therefore, not impact aquifer resources.<sup>240</sup>

155. Disturbance to groundwater flow from construction activities are not anticipated. Any dewatering required during construction will be discharged to the surrounding upland vegetation, thereby allowing it to infiltrate back into the ground to minimize potential impacts. If dewatering of more than 10,000 gallons per day or 1,000,000 gallons per year, a Water Appropriations Permit from MDNR is required.<sup>241</sup> Impacts to groundwater can also be minimized by mitigating impacts to and soils and surface waters as addressed in Sections 4.3.9, 4.3.11, 5.5, and 5.6 of the Draft Site Permit.<sup>242</sup>

### 3. Soils

156. Impacts to soils will occur during both the construction and, to a much lesser degree, operational stages of the Project. Grading impacts will primarily be from construction of foundations for the Project substation, BESS, O&M facility, laydown yard, basin areas, and access roads.<sup>243</sup>

157. Because the Project is located on slightly rolling topography within existing agricultural fields, grading will also be necessary to create a level surface for the Project. Some

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<sup>236</sup> Ex. SNOW-3 at 90 (Application).

<sup>237</sup> Ex. SNOW-3 at 90 (Application).

<sup>238</sup> Ex. EERA-11, at 70 (EA)

<sup>239</sup> Ex. SNOW-3 at 90 (Application).

<sup>240</sup> Ex. SNOW-3 at 90 (Application).

<sup>241</sup> Ex. EERA-11 at 70 (EA).

<sup>242</sup> Ex. EERA-11, Appendix C at 5–6, 13–14 (Draft Site Permit).

<sup>243</sup> Ex. SNOW-3 at 92 (Application).

soil compaction may result from the installation of the foundations for the BESS modules. Soil compaction will be mitigated by use of low-impact equipment and methods, regrading, and tilling these areas following construction.<sup>244</sup>

158. During operation of the Project, ongoing soil compaction could occur from the use of access roads. This impact is expected to be negligible, confined to the roadbed, and mainly from relatively light duty maintenance vehicles. Overall, the Project is expected to reduce the potential for erosion by establishing permanent vegetation, in contrast to the current amount of exposed soils common to row cropping in the existing agriculture fields. Potential erosion will be further minimized by dressing access roads with gravel and installing culverts under access roads where necessary to redirect concentrated surface water runoff.<sup>245</sup>

159. The Project will disturb over one acre and will therefore require coverage under the MPCA's Construction Stormwater General Permit. Snowshoe BESS will obtain coverage under the MPCA's Construction Stormwater General Permit and prepare the required SWPPP prior to construction. The SWPPP will be implemented during construction activities and will include best management practices (BMPs), such as silt fencing (or other erosion control devices), revegetation plans, and management of exposed soils to prevent erosion. BMPs will be used during construction and operation of the Project to protect topsoil and adjacent resources and to minimize soil erosion from water or wind. Practices may include containment of excavated material, protection of exposed soil, stabilization of restored material, and treatment of stockpiles to control fugitive dust. Finally, the Project design will include installation of stormwater ponds in accordance with MPCA regulations to collect and treat runoff from the Project during its operation.<sup>246</sup>

160. Sections 4.3.9, 4.3.11, 5.5, and 5.6 of the Draft Site Permit address soil-related impacts.<sup>247</sup>

#### *4. Surface Water and Floodplains*

161. The Project is designed to avoid direct impacts to surface waters by avoiding siting away from surface waters.<sup>248</sup> The Project is located in the Zumbro River watershed.<sup>249</sup> No mapped rivers, streams, lakes, or MDNR Public Waters are within the ~~Project Area site~~. The nearest Public Waters Inventory (PWI) waterbodies include: Cascade Creek located approximately 1.6 miles south of the ~~Project Area site~~; and an unnamed tributary of Cascade Creek located approximately 0.6 mile northeast of the ~~Project Area site~~.<sup>250</sup> There are no mapped floodplains within the site; the nearest mapped 100-year floodplain is along Cascade Creek, located approximately 1.6 mile southeast of the site.<sup>251</sup> There are no waters listed by the MPCA as impaired waters within one

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<sup>244</sup> Ex. SNOW-3 at 92 (Application).

<sup>245</sup> Ex. SNOW-3 at 92 (Application).

<sup>246</sup> Ex. SNOW-3 at 92 (Application).

<sup>247</sup> Ex. EERA-11, Appendix C at 5–6, 13–14 (Draft Site Permit).

<sup>248</sup> Ex. EERA-11 at 73 (EA).

<sup>249</sup> Ex. SNOW-3 at 92 (Application).

<sup>250</sup> Ex. SNOW-3 at 92 (Application).

<sup>251</sup> Ex. EERA-11 at 73 (EA).



mile of the Project. The nearest impaired water to the site is Cascade Creek, listed as impaired for fish bioassessment and turbidity, is approximately 1.6 miles southeast of the site.<sup>252</sup>

162. Construction of the Project creates a potential for indirect impacts if sediment or fugitive dust created by excavation, grading, vegetation removal, and construction traffic reaching nearby surface waters.<sup>253</sup>

163. Best management practices to minimize the impact on surface waters will be utilized as a part of the SWPPP, including but not limited to sediment control, revegetation plans, and management of exposed soils to prevent sediment from entering waterbodies. Preliminary design for the Project also anticipates two stormwater basins to control runoff from the Project.<sup>254</sup>

## 5. Wetlands

164. The potential for wetlands within the ~~Project-Area site~~ was initially determined by reviewing desktop resources (i.e., National Wetlands Inventory (NWI), National Hydrography Dataset (NHD), Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map, MDNR Public Waters Inventory (PWI), and the Natural Resource Conservation Service (NRCS) Soil Survey Geographic database (SSURGO2) for Olmsted County).<sup>255</sup> Following review of desktop resources, Snowshoe BESS contracted with Westwood to completed wetland delineation fieldwork within the ~~Project-area site~~ in April 2024.<sup>256</sup> The field delineation determined there were no wetlands or waterways within the site.<sup>257</sup>

165. Because there are no wetlands within the site, construction and operation of the facility will not create direct impacts to wetlands. There may be potential for temporary, short-term impacts to wetlands outside the site if there is erosion resulting from construction.<sup>258</sup> BMPs identified in the SWWP will minimize potential for sediment to reach offsite wetlands during construction.

166. There are no wetlands, waterways, or drain tile on-site, so no direct effects on water resources are expected as a result of the Project. However, the Project is being designed and engineered to avoid and minimize impacts to any potential surrounding wetlands and water resources to the greatest extent practicable. During construction, appropriate BMPs will be implemented and maintained in accordance with an NPDES Permit and SWPPP that will be in place for the Project. Two stormwater basins will be used to collect and treat/discharge runoff following MPCA regulations. Additionally, the establishment of perennial vegetation around the facility and the installation of two stormwater ponds are expected to increase the residence time of water on-site by slowing the runoff rate and increasing the uptake of water on-site when compared to the current, cropped conditions. This will also lower the amount of nutrients leaving the site compared to row crop agriculture from both the reduction in fertilizer and pesticide application

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<sup>252</sup> Ex. EERA-11 at 73 (EA).

<sup>253</sup> Ex. EERA-11 at 73 (EA).

<sup>254</sup> Ex. EERA-11 at 73 (EA).

<sup>255</sup> Ex. SNOW-3 at 93 and Appendix I (Application); Ex. EERA-11 at 74 (EA).

<sup>256</sup> Ex. SNOW-3 at 93 and Appendix I (Application); Ex. EERA-11 at 74 (EA).

<sup>257</sup> Ex. EERA-11 at 74 (EA).

<sup>258</sup> Ex. EERA-11 at 75 (EA).



and the slowing of runoff brought about by the perennial vegetation. This slowing of runoff and reduction in the amount of nutrients leaving the site is expected to have a direct, positive effect on the water quality of any surface waters receiving runoff from the site and is also expected to positively benefit on-site wildlife and plant communities.<sup>259</sup>

## 6. *Vegetation*

167. The Project is located in the Rochester Plateau Subsection. Historically, tallgrass prairie and bur oak savanna covered this area with some lakes and headwaters of several rivers, including the Root River, Whitewater River, Zumbro River, and Canon River. Agriculture is the most prominent land use in this subsection, with few remnants of pre-settlement oak openings and barrens remaining.<sup>260</sup>

168. The Project is in the Rochester Plateau (222 Lf) subsection of the Eastern Broadleaf Forest Province. Prior to European settlement vegetation in the Project area was primarily tallgrass prairie and bur oak savanna. Most of this subsection is heavily farmed, although some small areas of oak openings and barrens are still present. Current land-use in the ~~Project area site~~ is predominately agricultural. The site is dominated by cultivated crops (25.4 acres or 93 percent), with smaller areas of grassland (1.4 acres, five percent) and pasture or hay (0.4 acres, two percent).<sup>261</sup>

169. Construction of the facility will eliminate vegetative cover and create impermeable surfaces the access road and the developed area of the facility. Snowshoe estimates that approximately 23 acres (including both facility components and a re-vegetated area outside the fence line) will be converted from cropland for the life of the facility. Removal of vegetative cover exposes soils and could result in soil erosion. Temporary or permanent removal of vegetation also has the potential to affect wildlife habitat.<sup>262</sup>

170. Following construction, Snowshoe BESS plans to establish native vegetation over the remainder of the site outside the fenced area using seed mixes that include both native grasses and wildflowers. Once established, vegetation would be maintained using best practice guidance for establishing and maintaining the re-vegetated areas. Construction activities could introduce or spread invasive species and noxious weeds and the early phases of site restoration and seeding of native species can result in populations of non-native and invasive species on site.<sup>263</sup>

## 7. *Wildlife and Habitat*

171. The Project landscape is dominated by agriculture and developed areas (roads, railroads, homes, and farmsteads). Other landscape types and vegetation communities in the Project area provide more varied habitats (e.g., woodlots and small grassland pockets) for wildlife.<sup>264</sup>

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<sup>259</sup> Ex. SNOW-3 at 94 (Application).

<sup>260</sup> Ex. SNOW-3 at 96–97 (Application).

<sup>261</sup> Ex. EERA-11 at 75 (EA).

<sup>262</sup> Ex. EERA-11 at 75 (EA).

<sup>263</sup> Ex. EERA-11 at 76 (EA).

<sup>264</sup> Ex. EERA-11 at 76 (EA).

172. Wildlife utilizing the land control area are common species associated with disturbed habitats and are accustomed to human activities (e.g., agricultural activities and road traffic) occurring in the area. Mammals, reptiles, amphibians, and insects are present. These species include white-tailed deer, red fox, striped skunk, raccoon, coyote, American toad, garter snake, and a variety of insects including native bees, butterflies, and moths.<sup>265</sup> Avian species common to the site include red-tailed Hawk, wild turkey, American crow, eastern bluebird, mourning dove, ring-necked pheasant. Common waterfowl like Canada geese and mallards may use the site for short-term foraging after harvest.<sup>266</sup>

173. Non-avian wildlife individuals will be displaced to adjacent habitats during construction. Because the ~~Project-area site~~ does not provide critical habitat, this should not impact life cycle functions, for example, nesting. Direct significant impacts to individuals might occur, that is, small species might be crushed or otherwise killed during construction.<sup>267</sup>

174. The Project is located within the Mississippi Flyway, which is a major north-south migration route and within Eastern Tallgrass Prairie Bird Conservation Region. Field investigations conducted in April 2024 identified minimal nesting habitat within the site, consistent with the site's current use as a cultivated field. There are no waterfowl feeding and resting areas within one mile of the site, and the nearest Important Bird Areas designated by the National Audubon Society is the Blufflands-Root River Important Bird Area, over 10 miles southeast of the site.<sup>268</sup>

175. Snowshoe plans to re-vegetate a portion of the site outside of the fenced area with grassland species. Revegetating a portion of the site with pollinator friendly species and reduced pesticide use in these areas will benefit smaller wildlife such as rodents, birds, insects, and reptiles

176. Wildlife habitat in the area is currently highly fragmented. The row crop habitat at the site is not crucial to wildlife populations, although the land control area may be used as a travel corridor or, occasionally, as a food source (for example, standing corn). Following construction and restoration, a portion of the site will provide native grassland habitat for the life of the Project. Overall, the Project does not contribute to significant habitat loss or degradation or create new habitat edge effects.<sup>269</sup>

177. The Draft Site Permit includes measures to minimize and mitigate impacts to wildlife, including coordination with the MDNR to minimize impacts from fencing (Section 5.9), using wildlife-friendly erosion control materials (Section 5.10), and quarterly reporting of any wildlife injuries or fatalities (Section 8.13).<sup>270</sup> Additional mitigation measures include removing wildlife caught in open trenches before backfilling and restricting mowing of established vegetation to avoid impacts to ground-nesting birds.<sup>271</sup>

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<sup>265</sup> Ex. EERA-11 at 77 (EA).

<sup>266</sup> Ex. EERA-11 at 77 (EA).

<sup>267</sup> Ex. EERA-11 at 77 (EA).

<sup>268</sup> Ex. EERA-11 at 77 (EA).

<sup>269</sup> Ex. EERA-11 at 77 (EA).

<sup>270</sup> Ex. EERA-11 at Appendix C at 15 and 19 (Draft Site Permit).

<sup>271</sup> Ex. EERA-11 at 78 (EA).

## 8. Climate Change

178. The Project has the potential to shift energy production in Minnesota and the upper Midwest toward carbon-free sources. Construction emissions will have a short-term negligible increase in greenhouse gases that contribute to climate change. The Project's design incorporates design elements that minimize impacts from the increase in extreme weather events such as increase flooding, storms, and heat wave events that are expected to accompany a warming climate.<sup>272</sup>

### F. Rare and Unique Natural Resources.

179. Minnesota law requires consideration of the Project's potential effects on rare and unique natural resources.<sup>273</sup>

180. No impacts to any federally listed species are anticipated throughout construction and operation of the Project.<sup>274</sup> Snowshoe BESS reviewed the USFWS IPaC database for the potential occurrence of federally-listed species, candidate species, or designated critical habitat that may occur within or near the ~~Project-Area site~~.<sup>275</sup> Snowshoe BESS conducted a site reconnaissance on April 30, 2024, to identify and evaluate the available habitat in the ~~Project-area site~~ and vicinity that may be used by threatened or endangered species listed in the Information for Planning and Consultation (IPaC) or MDNR Minnesota Conservation Explorer tool. The site reconnaissance revealed minimal nesting habitat within the ~~Project-Area site~~ for listed avian species.<sup>276</sup>

181. The IPaC results identified one federally endangered species, the northern long-eared bat (NLEB) (*Myotis septentrionalis*); one federally proposed endangered species, the tricolored bat (*Perimyotis subflavus*); one federally threatened species, the prairie bush-clover (*Lespedeza leptostachya*); and one federally designated as non-essential experimental population, the whooping crane (*Grus americana*), that may occur within or near the ~~Project-area site~~.<sup>277</sup> The IPaC report also identified the candidate species for listing, monarch butterfly (*Danaus plexippus*).

182. Suitable NLEB and tri-colored bat habitat consists of a variety of forested habitat near water sources.<sup>278</sup> According to MDNR and USFWS, there are no known NLEB or tri-colored bat maternity roost trees or hibernaculum in Olmsted County; however, the species may still occur within or near the Project ~~area~~.<sup>279</sup> Because the Project will not require tree clearing, impacts to NLEB and tri-colored bats are anticipated.<sup>280</sup>

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<sup>272</sup> Ex. EERA-11 at 82 (EA).

<sup>273</sup> Minn. Stat. § 216E.03, subd. 7(b); Minn. R. 7850.4100, subp. F.

<sup>274</sup> Ex. SNOW-3 at 105 (Application).

<sup>275</sup> See Ex. SNOW-3, Appendix J at Exhibit 1 (USFWS IPaC).

<sup>276</sup> Ex. SNOW-3 at 100 (Application).

<sup>277</sup> Ex. SNOW-3 at 102 (Application).

<sup>278</sup> Ex. SNOW-3 at 102 (Application).

<sup>279</sup> Ex. SNOW-3 at 102 (Application).

<sup>280</sup> Ex. EERA-11 at 80 (EA).

183. There are no records of prairie bush clover or the required habitat within the ~~Project area site~~ and the probability of species occurrence within the ~~Project area site~~ is low due to the heavy agricultural use. The Project will have no effect on the prairie bush clover.<sup>281</sup>

184. The Whooping crane is designated as a non-essential experimental population in Wisconsin and consultation under Section 7(a)(2) of the Endangered Species Act is only required if Project activities will occur within a National Wildlife Refuge or National Park.<sup>282</sup> No Project will have no effect on the whooping crane.<sup>283</sup>

185. No impacts to any Minnesota State endangered, threatened, or special concern species are anticipated throughout construction or operation of the Project.<sup>284</sup> Snowshoe BESS submitted a formal MDNR Natural Heritage Information System data request for the Project ~~area~~.<sup>285</sup> MDNR identified the Rattlesnake Master (*Eryngium yuccifolium*) as a state-listed species of special concern in the vicinity of the Project.<sup>286</sup> Because no viable habitat exists in the ~~Project area site~~, no impacts are anticipated and mitigation measures for the Rattlesnake Master are identified or proposed.<sup>287</sup>

186. The Minnesota Biological Survey (MBS) systematically collects, interprets, and provides baseline data on the distribution and ecology of rare plants, rare animals and native plant communities.<sup>288</sup> No MBS sites or native plant communities were identified in the ~~Project area site~~ or one-mile buffer.<sup>289</sup> The Native Prairie Assessment prepared by Snowshoe BESS did not identify any native prairies within the ~~Project area site~~; one Railroad ROW Prairie is located south of the ~~Project area site~~ surrounding the existing railroad.<sup>290</sup>

187. Avoiding identified areas of species occurrence or preferred habitat is the preferred mitigation measure. The Project avoids identified areas of species occurrence and preferred habitat. No additional mitigation measures are proposed.<sup>291</sup>

188. The record shows that the Draft Site Permit and Project development plans will effectively mitigate the effects of the Project on rare and unique natural resources.

#### **G. Application of Various Design Considerations.**

189. Minnesota law requires consideration of the application of design options that maximize energy efficiencies, mitigate adverse environmental effects, and could accommodate expansion of transmission or generating capacity.<sup>292</sup>

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<sup>281</sup> Ex. EERA-11 at 81 (EA).

<sup>282</sup> Ex. EERA-11 at 80 (EA); Ex. SNOW-3, Appendix J at Exhibit 1 (USFWS IPaC).

<sup>283</sup> Ex. EERA-11 at 80 (EA).

<sup>284</sup> Ex. SNOW-3 at 106 (Application).

<sup>285</sup> See Ex. SNOW-3, Appendix J at Exhibit 3 (Application; MDNR Natural Heritage Review).

<sup>286</sup> Ex. EERA-11 at 81 (EA).

<sup>287</sup> Ex. EERA-11 at 81 (EA).

<sup>288</sup> Ex. EERA-11 at 79 (EA).

<sup>289</sup> Ex. SNOW-3 at 104 (Application).

<sup>290</sup> See Ex. SNOW-3, Appendix K at 3 (Application; Native Prairie Assessment).

<sup>291</sup> Ex. EERA-11 at 81 (EA).

<sup>292</sup> Ex. SNOW-3 at 1 (Application).

190. Snowshoe BESS is not required to analyze alternative sites pursuant to Minn. R. 7850.3100 unless it rejected alternative sites.<sup>293</sup> Snowshoe BESS selected the proposed Project are based on a variety of factors, including minimal environmental impacts, proximity to the electrical grid and existing transmission infrastructure, willing landowner participation, and available capacity on the grid to which the Project will interconnect.<sup>294</sup>

191. The design assumptions included in the Application accommodate a variety of battery technologies to allow flexibility during equipment selection at the time of construction.<sup>295</sup> Specific equipment and technology selection will be dependent upon market conditions, equipment availability, battery efficiency, and site impacts at the time of construction.<sup>296</sup>

192. Snowshoe BESS recognizes that some components may lose efficiency over the Project's life cycle. To maintain the facility's rated capacity, the BESS will undergo augmentation either through the addition of battery modules within the existing enclosures or the addition of supplemental battery enclosures. The augmentation schedule to maintain overall Project functionality will be determined during the design process after final equipment selection and will be based on the projected degradation of the batteries.<sup>297</sup>

193. The record reflects that Snowshoe BESS will maximize energy efficiency while mitigating adverse environmental effects. The Project's final layout will optimize electrical storage and efficiency of the proposed Project while avoiding and minimizing human settlement, environmental, cultural resources, and infrastructure impacts.<sup>298</sup>

#### **H. Use of Existing Large Electric Power Generations.**

194. Minnesota law requires consideration of whether the Project uses existing large electric power generating plant sites.<sup>299</sup>

195. Snowshoe BESS does not propose to use an existing large electric power generating plant site for the Project.<sup>300</sup>

#### **I. Use of Existing Rights-of-Way.**

196. Minnesota law requires the Commission to consider whether the Project uses or parallels existing ROWs, survey lines, natural division lines, and agricultural field boundaries.<sup>301</sup>

197. Existing transmission interconnection feasibility was a factor in determining the Project's location. Four existing transmission lines ranging from 69 kV to 161 kV are located in the Project vicinity—all of which are associated with the SMMPA-Maple Leaf Substation

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<sup>293</sup> Minn. R. 7850.3100; Ex. SNOW-3 at 20 (Application).

<sup>294</sup> Ex. SNOW-3 at 20 (Application).

<sup>295</sup> Ex. SNOW-3 at 23 (Application).

<sup>296</sup> Ex. SNOW-3 at 23 (Application).

<sup>297</sup> Ex. SNOW-3 at 23 (Application).

<sup>298</sup> Ex. SNOW-3 at 26 (Application).

<sup>299</sup> Minn. R. 7850.4100(I).

<sup>300</sup> Ex. EERA-11 at 2 (EA).

<sup>301</sup> Minn. R. 7850.4100(H) and (J).

adjoining the western boundary of the ~~Project-area site~~.<sup>302</sup> Snowshoe BESS identified the SMMPA-Maple Leaf Substation as having available capacity and low interconnection costs.<sup>303</sup>

198. Snowshoe BESS anticipates that the site will be accessed through a gate off SMMPA's access road to the Maple Leaf Substation.<sup>304</sup> Snowshoe BESS has coordinated with SMMPA regarding the Applicant's use of the existing access road to access the Project. SMMPA has indicated its willingness to allow use of the existing access road but would like to wait until the Project is closer to construction prior to execution of any agreement between SMMPA and Snowshoe BESS regarding use of the existing access road.<sup>305</sup>

199. The Applicant also has a separate access easement that could be utilized if SMMPA and Snowshoe BESS are unable to reach a mutual agreement regarding shared use of the existing access road.<sup>306</sup>

## **J. Electrical System Reliability.**

200. Minnesota law requires consideration of electrical system reliability.<sup>307</sup>

201. The Project is expected to contribute to Minnesota's transition to a carbon-free electricity supply by allowing wind and solar projects to continue to produce clean energy when they would otherwise be curtailed due to low demand. For example, often in the overnight hours high winds allow for significant generation from wind turbines across Minnesota and, at times, this generation potential exceeds the load and some wind generation is curtailed by the grid operator to maintain the stability of the grid; the Project could, by charging its BESS, reduce the need for curtailment by storing this energy when it is available to be generated and then, during the daytime or evening hours when demand is higher discharge this stored energy back to the grid supplementing existing generation and, potentially, reducing the need for the use of traditional thermal (e.g. natural gas) generation.<sup>308</sup>

202. In addition to the Project's energy shifting capabilities the Project will provide valuable ancillary and reliability services required to safely and reliably operate the grid. The Project will use state-of-the-art battery, inverter, and other technologies which will allow it to provide critical services to assist the grid operator with maintaining the voltage and frequency of the transmission system.<sup>309</sup>

203. BESS systems can help offset power loss during extreme weather by dispersing stored power while energy producing facilities are down.<sup>310</sup> The preliminary design of the Project has accounted for current and expected future climate conditions in the Project ~~Area-area~~. Snowshoe BESS will purchase equipment designed to ensure the highest level of operable

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<sup>302</sup> Ex. SNOW-3 at 19 (Application).

<sup>303</sup> Ex. SNOW-3 at 18 (Application).

<sup>304</sup> Ex. SNOW-3 at 17 (Application).

<sup>305</sup> Ex. SNOW-3 at 17 (Application).

<sup>306</sup> Ex. SNOW-3 at 2 (Application).

<sup>307</sup> Minn. R. 7850.4100(K).

<sup>308</sup> Ex. SNOW-3 at 3 (Application).

<sup>309</sup> Ex. SNOW-3 at 3 (Application).

<sup>310</sup> Ex. SNOW-3 at 81 (Application).

reliability across the range of anticipated environmental conditions for the lifetime of the Project such as temperature, precipitation, wind, mechanical loading, etc.<sup>311</sup>

204. The record shows that the Project will improve the reliability of the electrical system by providing an additional, low-cost source of capacity that is consistent with Minnesota's state-level energy goals.

**K. Costs of Constructing, Operating, and Maintaining the Facility.**

205. Minnesota law requires consideration of the costs of constructing, operating, and maintaining a facility which are dependent on design and route.<sup>312</sup>

206. Snowshoe BESS estimates the total installed capital cost for the entire Project will be approximately \$~~214~~ 255 million.<sup>313</sup> Actual capital costs depend on various factors, such as construction labor, Project equipment and materials, electrical and communication systems, taxes/tariffs, and final design considerations (e.g., Project substation, etc.).<sup>314</sup>

207. Operating costs are estimated at approximately \$8.2 million per year, which includes labor, materials, and lease payments for the entire Project.<sup>315</sup>

208. Snowshoe BESS will be responsible for all costs to decommission the Project and associated facilities. Decommissioning of the Project is expected to cost approximately \$902,415 with an estimated scrap/salvage value of \$400,830. Snowshoe BESS anticipates establishing a financial assurance in the form of an escrow account or surety bond equal to 125 percent of the costs to ensure proper decommissioning, less the estimated scrap/salvage value, with Olmsted County listed as the beneficiary.<sup>316</sup>

209. The record reflects that the Applicant selected the most cost-effective option for siting the Project, including by selecting a location that is proximate to existing electricity and transportation infrastructure, and has outlined estimated costs for construction, operation, and maintenance for the Project that are reasonable.<sup>317</sup>

**L. Adverse Human and Natural Environmental Effects that Cannot be Avoided.**

210. Minnesota law requires consideration of the adverse human and natural environmental effects that cannot be avoided.<sup>318</sup>

211. The primary unavoidable impacts that will result following construction include the following:

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<sup>311</sup> Ex. SNOW-3 at 82 (Application).

<sup>312</sup> R. 7850.4100, subp. L.

<sup>313</sup> Ex. SNOW-3 at 16 (Application).

<sup>314</sup> Ex. SNOW-3 at 16 (Application).

<sup>315</sup> ~~Ex. SNOW-3 at 16 (Application)~~; EERA-11 at 24 and Appendix D, Response to Question 1 (EA).

<sup>316</sup> Ex. SNOW-3 at 36 (Application).

<sup>317</sup> See Ex. SNOW-3 at 16, 18–19 (Application).

<sup>318</sup> Minn. Stat. § 216E.03, subd. 7(b)(6); Minn. R. 7850.4100, subp. M.

- Fugitive dust.
- Noise disturbance to nearby residents and recreationalists.
- Visual disturbance to nearby residents and recreationalists.
- Soil compaction and erosion.
- Vegetative clearing.
- Disturbance and temporary displacement of wildlife, as well as direct impacts to wildlife inadvertently struck or crushed.
- Minor amounts of marginal habitat loss.
- Possible traffic delays.<sup>319</sup>

212. Unavoidable adverse impacts associated with the operation would last as long as the life of the Project, and include:

- Visual impacts of the Project.
- Noise disturbance to nearby residents.
- Cultural impacts due to a change in the sense of place for local residents.
- Loss of land for agricultural purposes.
- Injury or death of birds and mammals from fencing.<sup>320</sup>

213. The Applicant will mitigate these impacts to the extent possible. To the extent complete mitigation is not possible, the unavoidable impacts are consistent with other projects like the Project, and the Project will include permit conditions typical for similar projects.

#### **M. Irreversible and Irretrievable Commitments of Resources.**

214. Minnesota law requires consideration of the irreversible and irretrievable commitments of resources that are necessary for the Project.<sup>321</sup>

215. The term “irreversible” describes the loss of future options. It applies primarily to the impacts of use of nonrenewable resources, such as minerals or cultural resources, or to those factors, such as soil productivity, which are renewable only over long periods of time.<sup>322</sup>

216. The term “irretrievable” describes the loss of production, harvest, or use of natural resources. For example, if farmland is used for a non-agricultural development, some or all of the agricultural production from an area of farmland is lost irretrievably while the area is temporarily used for another purpose. The production lost is irretrievable, but the action is not irreversible.<sup>323</sup>

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<sup>319</sup> Ex. EERA-11 at 84 (EA).

<sup>320</sup> Ex. EERA-11 at 84 (EA).

<sup>321</sup> Minn. Stat. § 216E.03, subd. 7(b)(11); Minn. R. 7850.4100, subp. N.

<sup>322</sup> Ex. SNOW-3 at 107 (Application).

<sup>323</sup> Ex. SNOW-3 at 107 (Application).



217. The 22.9 acres of land within the preliminary development area will be developed for Project infrastructure. This land would be unavailable for other uses during that time. However, after the Project reaches the end of its operational life, and if the decision is made to decommission it and restore the site, the land would again be available for other uses.<sup>324</sup>

218. The commitment of labor and fiscal resources to develop, construct, and operate the Project is considered irretrievable.<sup>325</sup>

219. No wetland or other sensitive land conversion or alteration will be made during any stage of the Project; therefore, no foreseen irreversible impacts are addressed.<sup>326</sup>

## **XII. SITE PERMIT CONDITIONS**

220. The Commission's Energy Storage System Sample Site Permit (Sample Site Permit) includes a number of proposed permit conditions, many of which have been discussed above. The conditions apply to site preparation, construction, cleanup, restoration, operation, maintenance, abandonment, decommissioning, and other aspects of the Project.<sup>327</sup>

221. The EA and Draft Site Permit prepared by EERA included various recommendations and potential site permit conditions related to the Project,<sup>328</sup> to which Snowshoe BESS responded in the Direct Testimony of Mary Matze,<sup>329</sup> and in its written comments.<sup>330</sup>

222. With the above-referenced response to the Draft Site Permit, the record in this matter supports the inclusion of the conditions identified in Snowshoe BESS's written comments, as detailed in the paragraphs that follow.

223. Snowshoe BESS proposes revisions to Section 3 of the Draft Site Permit to expressly allow the addition of augmentation units, as depicted in the final site plan, without a need for a site permit amendment or minor alteration approval from the Commission. EERA proposed further revisions to Section 3 to require Snowshoe BESS to provide notice to the Commission, pursuant to a new Section 5.12 prior to commencing augmentation activities:

### **3 Designated Site**

The site designated by the Commission for the Project is depicted on the site maps attached to this site permit (Designated Site). The site maps show the approximate location of the energy storage system, including future augmentation units, and associated facilities within the Designated Site and identify a layout that seeks

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<sup>324</sup> Ex. SNOW-3 at 107 (Application).

<sup>325</sup> Ex. EERA-11 at 85 (EA).

<sup>326</sup> Ex. SNOW-3 at 108 (Application).

<sup>327</sup> See Ex. PUC-4 (Energy Storage System Sample Site Permit).

<sup>328</sup> Ex. EERA-11 at Appendix C (Draft Site Permit).

<sup>329</sup> See Ex. SNOW-8 (Matze Direct).

<sup>330</sup> See Ex. SNOW-10 (Response to Comments).

to minimize the overall potential human and environmental impacts of the Project, as they were evaluated in the permitting process.

The Designated Site serves to provide the Permittee with the flexibility to augment the Project in the future to maintain Project capacity, make minor adjustments to the layout to accommodate requests by landowners, local government units, federal and state agency requirements, and unforeseen conditions encountered during the detailed engineering and design process. The Permittee shall provide notice to the Commission, pursuant to Section 5.12, prior to commencing augmentation activities. Any modification to the location of ~~a photovoltaic tracker row~~ an energy storage system or associated facility shall be done in such a manner as to have human and environmental impacts that are comparable to those associated with the layouts on the maps attached to this site permit. The Permittee shall identify any modifications in the Site Plan pursuant to Section 8.3.<sup>331</sup>

224. EERA proposed a new Special Permit Condition 5.12 to govern the battery augmentation process.<sup>332</sup>

#### 5.12 Augmentation

The Permittee shall notify the Commission of scheduled augmentation at least 30 days prior to commencing augmentation activities. In its filing, the Permittee shall describe the number and types of batteries included in the augmentation. The Permittee shall indicate the location of the augmentation on the project Site Plan. In its filing the Permittee shall include a noise impact assessment as required in Section 5.2 of this permit.

Snowshoe BESS proposes the following revisions to EERA's proposed condition 5.12:

#### 5.12 Augmentation:

The Permittee shall notify the Commission of scheduled augmentation at least 30 days prior to commencing augmentation activities. In its filing, the Permittee shall describe the number and types of batteries included in the augmentation. The Permittee shall indicate the location of the augmentation on the project Site Plan. In its filing the Permittee shall demonstrate compliance with the ~~include a~~ noise impact assessment submitted to the Commission as required in Section 5.2 of this permit.

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<sup>331</sup> Ex. SNOW-10 (Response to Comments).

<sup>332</sup> Comment by EERA (May 8, 2025) (eDocket No. 20255-218706-01), pp. 7-8.-

225. EERA proposed a new Special Condition 5.13 requiring Snowshoe BESS to inform the Commission of any offtake agreement for the Project.<sup>333</sup>

5.13 Offtake Agreement:

In the event the Permittee does not have an offtake agreement, or some other enforceable mechanism for sale of energy capacity provided by the Project at the time this site permit is issued, the Permittee shall provide notice to the Commission when it obtains a commitment for the energy capacity. This site permit does not authorize construction of the Project until the Permittee has obtained an offtake agreement, or some other enforceable mechanism for energy capacity provided by the Project. In the event the Permittee does not obtain an offtake agreement or some other enforceable mechanism for the energy capacity provided by the Project within two years of the issuance of this site permit, the Permittee must advise the Commission of the reason for not having such commitment. In such event, the Commission may determine whether this site permit should be amended or revoked. No amendment or revocation of this site permit may be undertaken except in accordance with Minn. Stat. § 216I.09 or Minn. Stat. § 216I.14.

Snowshoe BESS ~~also~~ proposed revisions to Special Condition 5.13 ~~to that it asserted~~ better reflect the nature of the Project.<sup>334</sup> The proposed revisions to Condition 5.13 are as follows:

5.13 Offtake Agreement

In the event the Permittee does not have an offtake agreement, or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project at the time this site permit is issued, the Permittee shall provide notice to the Commission when it obtains a ~~commitment~~ mechanism for the sale of energy, capacity, or ancillary services, and/or other products. This site permit does not authorize construction of the Project until the Permittee has obtained an offtake agreement, or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project, including as an example, registration as a market participant with MISO In the event the Permittee does not obtain an offtake agreement or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project within two years of the issuance of this site

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<sup>333</sup> Comment by EERA (May 8, 2025) (eDocket No. 20255-218706-01), pp. 12-13

<sup>334</sup> Ex. SNOW-10 (Response to Comments).

permit, the Permittee must advise the Commission of the reason for not having such commitment. In such event, the Commission may determine whether this site permit should be amended or revoked. No amendment or revocation of this site permit may be undertaken except in accordance with Minn. Stat. § 216I.09 or Minn. Stat. § 216I.14.

In its reply comments, EERA proposed modifications to Snowshoes BESS's proposed amendment to the condition:

In the event the Permittee does not have an offtake agreement, or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project at the time this site permit is issued, the Permittee shall provide notice to the Commission when it obtains a ~~commitment mechanism~~ for the sale of energy, capacity, or ancillary services, and/or other products. This site permit does not authorize construction of the Project until the Permittee has obtained an offtake agreement, or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project, ~~including as an example, registration as a market participant with MISO~~ In the event the Permittee does not obtain an offtake agreement or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project within two years of the issuance of this site permit, the Permittee must advise the Commission of the reason for not having such commitment. In such event, the Commission may determine whether this site permit should be amended or revoked. No amendment or revocation of this site permit may be undertaken except in accordance with Minn. Stat. § 216I.09 or Minn. Stat. § 216I.14.

226. EERA proposed a new Special Condition 5.14 requiring Snowshoe BESS to ~~inform the Commission of any offtake agreement~~ file annual reports on the availability of for the Project.<sup>335</sup>

#### 5.14 Annual Report

The Permittee shall, by February 1st following each complete or partial year of Project operation, file a report with the Commission on the monthly energy production of the facility including:

(a) the installed nameplate capacity of the permitted facility;

(b) the monthly and annual capacity factor of the facility;

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<sup>335</sup> Comment by EERA (May 8, 2025) (eDocket No. 20255-218706-01), pp. 13-14.-

(c) the operational status of the facility and any major outages, major repairs, battery augmentation, or performance improvements occurring in the previous year; and

(d) any other information reasonably requested by the Commission.

The Permittee shall file this information in a format recommended by the Commission. This information shall be considered public and must be filed electronically.

Snowshoe BESS also proposed revisions to Special Condition 5.14 to better reflect the nature of the Project.<sup>336</sup> The proposed revisions to Condition 5.14 are as follows:

#### **5.14 Annual Report**

The Permittee shall, by February 1st following each complete or partial year of Project operation, file a report with the Commission on the monthly ~~energy production~~ availability of the facility including:

- (a) the installed nameplate capacity of the permitted facility;
- (b) the monthly and annual ~~capacity factor~~ availability of the facility;
- (c) the operational status of the facility and any major outages, major repairs, battery augmentation, or performance improvements occurring in the previous year; and
- (d) any other information reasonably requested by the Commission.

The Permittee shall file this information in a format recommended by the Commission. This information shall be considered public and must be filed electronically.

227. Snowshoe BESS also recommended the removal of Section 5.5 from the Draft Site Permit, requiring Snowshoe BESS to develop an agricultural impact mitigation plan (AIMP). MDA concurred that Section 5.5 is not necessary for this Project.<sup>337</sup>

#### **~~5.5 Agricultural Impact Mitigation Plan~~**

~~The Permittee shall develop an agricultural impact mitigation plan (AIMP) in coordination with the Minnesota Department of Agriculture (MDA). The Permittee shall provide landowners within~~

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<sup>336</sup> Ex. SNOW-10 (Response to Comments).

<sup>337</sup> Ex. SNOW-10 (Response to Comments); *see* Ex. EERA-11 at Appendix C at 13 (Draft Site Permit).

~~the Designated Site a copy of the AIMP. The Permittee shall file with the Commission the AIMP and an affidavit of the AIMP distribution to landowners at least 14 days prior to the preconstruction meeting.~~

228. EERA recommends the permit include a new special condition requiring Snowshoe to file a report on the feasibility of installing a water main to the site within 90 days of the site permit issuance

#### Water Main Feasibility Report

Within 90 days of the issuance of this site permit, the Permittee shall file with the Commission a report on the feasibility of extending a water main to the site.

229. The record supports the inclusion of the Applicant's revisions to Sections 3 and proposed addition of Sections 5.12, ~~5.13~~ and 5.14 to the Draft Site Permit as revised by Snowshoe BESS.<sup>338</sup> The record supports the inclusion of Section 5.13 as proposed by EERA to the Draft Site Permit and a new permit condition proposed by EERA requiring Snowshoe BESS to file a report on the feasibility of extending an existing water main to the site.<sup>339</sup> The record also supports the removal of Sections ~~5.5 and 5.7~~ from the Draft Site Permit.<sup>340</sup>

### **XIII. NOTICE**

230. Minnesota statutes and rules require an applicant to provide certain notice to the public and local governments before and during the site application process.<sup>341</sup> Snowshoe BESS provided notice to the public and local governments in satisfaction of Minnesota statutory and rule requirements.<sup>342</sup>

231. Minnesota statutes and rules also require the Commission and EERA to provide certain notice to the public throughout the site permit processes.<sup>343</sup> The Commission and EERA provided the notice in satisfaction of Minnesota statutes and rules.<sup>344</sup>

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<sup>338</sup> Ex. SNOW-10 (Response to Comments).

<sup>339</sup> Comment by EERA (May 8, 2025) (eDocket No. 20255-218706-01), pp. 12-13

<sup>340</sup> Ex. SNOW-10 (Response to Comments); *see also* Comment by MDA at 3 (May 8, 2025) (eDocket No. [20255-218709-01](#)).

<sup>341</sup> Minn. Stat. § 216E.03, subd. 3a and 4; Minn. R. 7850.2100, subp. 2 and 4.

<sup>342</sup> *See* Ex. SNOW-1 (Notice of Intent to Submit a Site Permit Application Under the Alternative Permitting Process); Ex. SNOW-4 (Notice of Application); *see also* Ex. SNOW-5 (Confirmation of Notice).

<sup>343</sup> Minn. Stat. § 216E.03, subd. 6; Minn. R. 7850.2300, subp. 2; Minn. R. 7850.3700, subp. 2, 3, and 6.

<sup>344</sup> *See* Ex. PUC-3 (Notice of Public Information and Environmental Assessment Scoping Meetings); Ex. PUC-6 (Notice of Public Hearings and Availability of Environmental Assessment); Ex. PUC-7 (Notice of Public Hearings and Availability of Environmental Assessment – Corrected for Typo); Ex. EERA-10 (Notice of Environmental Assessment Scoping Decision); Ex. EERA-13 (Notification of Environmental Assessment Availability to Tribal Historic Preservation Officers); Ex. EERA-14 (Notification of Environmental Assessment Availability to Tribal Governments); Ex. EERA-15 (Notification of Environmental Assessment Availability to Agencies); Ex. EERA-16 (EQB Monitor Submission – Scoping Meeting); and Ex. EERA-17 (EQB Monitor Submission – Notice of Public Hearings and Environmental Assessment Availability).

#### **XIV. COMPLETENESS OF EA**

232. The EA process is the alternative environmental review approved by the EQB for large electric power generating plants.<sup>345</sup> The Commission is required to determine the completeness of the EA. An EA is complete if it and the record address the issues identified in the scoping decision.<sup>346</sup>

233. The Minnesota Legislature requires that the Commission utilize applicable provisions of Minn. R. ch. 7850 when considering whether to issue a site permit for energy storage systems until energy storage system specific rules are promulgated.<sup>347</sup> Further, Minnesota statutes provide that the commissioner of the Department of Commerce “shall prepare for the [C]ommission an [EA],” and such EA “shall be the only state environmental review document required to be prepared” on a project identified in Minn. Stat. § 216E.04 subd. 2 and submitted under the alternative review process under Minn. R. 7850.2800 to 7850.3900.<sup>348</sup>

234. The evidence in the record demonstrates that the EA is adequate because the EA and the record created at the public hearing and during the subsequent comment period address the issues raised in the scoping decision.

235. Any of the foregoing Findings more properly designated Conclusions of Law are hereby adopted as such.

Based on the foregoing Findings of Fact and the record in this proceeding, the ALJ recommends that the Commission make the following:

#### **CONCLUSIONS OF LAW**

1. Any of the foregoing findings of fact more properly designated as conclusions of law are hereby adopted as such. Any of the conclusions of law which are more properly designated findings of fact are hereby adopted as such.

2. The Commission has jurisdiction over the Application pursuant to Minn. Stat. § 216B.243.

3. Snowshoe BESS, EERA, and the Commission provided all required notices for the Site Permits proceedings.

4. The Commission has the authority under Minn. Stat. § 216E.03 to place conditions on Site Permits.

5. The Draft Site Permit, with the permit conditions revised as set forth above, contains a number of important mitigation measures, other reasonable conditions, and sample special conditions, permissible under Minn. R. 7850.4000 and related laws.

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<sup>345</sup> Minn. R. 4410.4400, subp. 3; Minn. R. 7850.3900, subp. 2.

<sup>346</sup> Minn. R. 7850.3900, subp. 2.

<sup>347</sup> Minnesota Session Law 2023, chapter 60, article 12, section 67(b).

<sup>348</sup> Minn. Stat. § 216E.04 subd. 5.

6. The record in this proceeding demonstrates that Snowshoe BESS has satisfied the criteria for the issuance of a Site Permit for a BESS facility, as set forth in Minn. Stat. § 216E.03 and Minn. R. 7850.4000 and all other applicable legal requirements.

7. The Project does not present a potential for significant adverse environmental effects pursuant to the Minnesota Environmental Rights Act or the Minnesota Environmental Policy Act.

Based on the findings of fact and conclusions of law contained herein and the entire record of this proceeding, the ALJ hereby makes the following

### **RECOMMENDATIONS**

Based upon these Conclusions, the Administrative Law Judge recommends that the Commission issue a Site Permit to Snowshoe BESS to construct and operate the Project and associated facilities in Olmsted County, Minnesota and that the permit include the draft permit conditions amended as set forth in the Conclusions above.

THIS REPORT IS NOT AN ORDER AND NO AUTHORITY IS GRANTED HEREIN. THE MINNESOTA PUBLIC UTILITIES COMMISSION WILL ISSUE THE ORDER THAT MAY ADOPT OR DIFFER FROM THE PRECEDING RECOMMENDATION.

Dated on \_\_\_\_\_

\_\_\_\_\_  
Kimberly Middendorf  
Administrative Law Judge



### **NOTICE REGARDING EXCEPTIONS**

Notice is hereby given that exceptions to this Report, if any, by any party adversely affected must be filed under the time frames established in the First Prehearing Order of February 3, 2025, unless otherwise directed by the Commission. Exceptions should be specific and stated and numbered separately. Oral argument before a majority of the Commission will be permitted pursuant to Minn. R. 7829.2700, subp. 3. The Commission will make the final determination of the matter after the expiration of the period for filing exceptions, or after oral argument, if an oral argument is held.

The Commission may, at its own discretion, accept, modify, or reject the ALJ's recommendations. The recommendations of the ALJ have no legal effect unless expressly adopted by the Commission as its final order