

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of Xcel Energy's Application for a Site Permit for the up to 250 MW Sherco 3 Solar Energy Generating System in Sherburne County, Minnesota

SERVICE DATE: October 23, 2023

DOCKET NO. ET-002/GS-23-217

The above-entitled matter was considered by the Commission on October 5, 2023, and the following disposition made:

- 1. Accepted the site permit application as substantially complete.**
- 2. Directed the Executive Secretary to issue the attached Authorization to Initiate SHPO Consultation to the Applicant.**
- 3. Requested that an ALJ from the OAH preside over a public hearing in accordance with Minn. R. 7850.3800, subp. 2 to 4, and prepare a summary report of public comments.**
- 4. Delegated administrative authority, including timing issues, to the Executive Secretary.**
- 5. Identified Jacques Harvieux as the Commission's Public Advisor who will facilitate citizen participation in the process.**
- 6. Requested that the Department and the EERA continue to study the issues and indicate during the hearing process through testimony or comment its position on the reasonableness of granting a site permit.**
- 7. Required the Applicant to facilitate in every reasonable way the continued examination of the issues requested by the Department, the EERA, and Commission staff.**
- 8. Required the Applicant to place a copy of the site permit application in the government center or public library located closest to the proposed project site.**
- 9. Directed the Applicant to work with Commission staff and DOC staff to arrange for publication of the notices related to public information meetings and public hearings in newspapers of general circulation under the timelines prescribed in rule**

and statute, that such notice be in the form of visible display ads, and that proof of publication be obtained and provided to Commission staff.

The Commission agrees with and adopts the recommendations of the Department of Commerce, which are attached and hereby incorporated into the Order. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION



Will Seuffert
Executive Secretary



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August 22, 2023

Mr. Will Seuffert
Executive Secretary
Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, MN 55101-2147

RE: **Comments and Recommendations on Application Acceptance**
Sherco 3 Solar Project
Docket No. E002/GS-23-217

Dear Mr. Seuffert:

Attached are the comments and recommendations of the Minnesota Department of Commerce Energy Environmental Review and Analysis (EERA) staff on application acceptance in the following matter:

**In the Matter of the Application of Xcel Energy for a Site Permit for the up to 250 MW
Sherco 3 Solar Energy Generating System in Sherburne County, Minnesota.**

On August 8, 2023, Xcel Energy submitted a site permit application to the Minnesota Public Utilities Commission under the alternative review process (Minnesota Statute 216E.04; Minnesota Rule 7850.2800-3900) for the Sherco 3 Solar Project.

The application was filed by:

Ellen Heine
Xcel Energy
414 Nicollet Mall
Minneapolis, MN 55401
Direct: 612-330-6073
Ellen.L.Heine@xcelenergy.com

EERA staff recommends the Minnesota Public Utilities Commission accept the site permit application for the proposed project as complete and take no action on an advisory task force. Staff also recommends the Commission request the ALJ provide findings of fact, conclusions of law, and recommendations regarding the site permit application (summary proceeding).

Sincerely,

William Cole Storm
Environmental Review Manager



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

ENERGY ENVIRONMENTAL REVIEW AND ANALYSIS
COMMENTS AND RECOMMENDATIONS

IN THE MATTER OF THE APPLICATION OF XCEL ENERGY FOR A SITE PERMIT FOR THE UP TO 250 MW SHERCO 3
SOLAR ENERGY GENERATING SYSTEM IN SHERBURNE COUNTY, MINNESOTA

DOCKET No. E002/GS-23-217

Date: September 22, 2023

Staff: William Cole Storm | bill.storm@state.mn.us | 651-539-1844

Issues Addressed:

These comments and recommendations address the completeness of the Site Permit Application submitted for the Sherco 3 Solar Project, whether there is a need for an advisory task force, if there are any potential disputed issues, and a recommendation on the review process.

Figures and Tables:

Figure 1: Project Overview Map

Table 1: Process Timing and Milestones

Table 2: Application Completeness Checklist

Additional documents and information can be found on eDockets <https://www.edockets.state.mn.us/EFiling/search.jsp> (year "23" and number "217")

This document can be made available in alternative formats, i.e., large print or audio tape by calling 651-539-1530.

Introduction and Background

On August 8, 2023, Xcel Energy (Applicant) submitted a site permit application to the Minnesota Public Utilities Commission (Commission) under the alternative review process (Minnesota Statute 216E.04; Minnesota Rule 7850.2800-3900) for the Sherco 3 Solar Project.¹

¹ Xcel Energy Initial Filing Site Permit Application Sherco 3 Solar Project, August 8, 2023. eDocket No. 20238-198095-01 to 10.

Project Description and Purpose

Xcel Energy is proposing to construct an up to 250-megawatt (MW) alternating current (AC) photovoltaic (PV) solar energy generating system located on approximately 1,780 acres in Sherburne County, Minnesota (**Figure 1 – Project Overview Map**). The Project will consist of PV panels, trackers, inverters, transformers, access roads, security fencing, above-ground and below-ground electric collection and communication lines, weather stations, and collection-line corridor facilities. The Solar Facilities will be constructed in nine portions or units within the Project Area, on which Xcel Energy has lease options. The facilities will be connected to the Sherco Solar West Block Collector Substation via below-ground 34.5 kilovolts (kV) electric collection and communication lines routed from the Solar Facilities to the substation.

The Project will partially replace energy production of the 710 MW Sherco Generating Plant Unit 2, an existing coal-powered facility, the retiring of which in 2023 was approved by the Commission in October 2016. The Project has an anticipated service life of 35 years.

Regulatory Process and Procedures (Certificate of Need)

A certificate of need (CON) is required for "large energy facilities," as defined in Minn. Stat. § 216B.2421 subd. 2(1), unless the facility falls within a statutory exemption from the CON requirements. The Sherco 3 Solar Project is exempt from CON requirements pursuant to Minn. Stat. § 216B.243 subd. 5, which provides an exemption from the CON statute (Minn. Stat. § 216B.243) for resources selected through a competitive bidding acquisition process approved or established by the Commission. The Sherco 3 Solar Project was selected through such a process.

Regulatory Process and Procedures (Site Permit)

Because the project is a large electric power generating plant, it requires a site permit from the Commission.² As the project is powered by solar energy it qualifies for the alternative permitting process.³ Applicants must provide the commission with written notice of their intent to file an application under the alternative permitting process,⁴ which was provided on June 16, 2021.⁵

Application and Acceptance

Site permit applications must provide specific information.⁶ This includes, but is not limited to, information about the applicant, descriptions of the project and site, and discussion of potential human and environmental impacts and possible mitigation measures.⁷ Under the alternative

² Minn. Stat. 216E.03, subd. 1 and 2.

³ Minn. Stat. 216E.04, subd. 2(8).

⁴ Minn. R. 7850.2800, subp. 2.

⁵ Xcel Energy, Notice of Intent to File Site and Route Permits Under the Alternative Process, June 16, 2023. eDocket No. 20236-196620-01.

⁶ Minn. Stat. 216E.04, subd. 3; Minn. R. 7850.3100.

⁷ Ibid.

permitting process an applicant is not required to propose alternative sites; however, if alternatives were evaluated and rejected, the application must describe these and the reasons for rejecting them.⁸

Upon receiving a site permit application, the Commission may accept it as complete, reject it and advise the applicant of its deficiencies, or accept it as complete but require the applicant submit additional information.⁹

Once the Commission determines an application is complete, the formal environmental review process can begin.

Public Advisor

Upon acceptance of a site permit application the commission must designate a public advisor.¹⁰ The public advisor answers questions about the permitting process but cannot provide legal advice or act as an advocate for any person.

Advisory Task Force

The commission may appoint an advisory task force to aid in the environmental review process.¹¹ An advisory task force would assist Energy Environmental Review and Analysis (EERA) staff in identifying additional sites or particular impacts to evaluate in the environmental assessment (EA) prepared for the project.¹² If appointed, an advisory task force must include certain local government representatives.¹³ The advisory task force expires upon completion of its charge or issuance of the scoping decision.¹⁴

Appointment of an advisory task force is not required. In the event no advisory task force is appointed citizens may request one be created.¹⁵ If such a request is made, the commission must make this determination at its next scheduled agenda meeting.¹⁶

The decision whether to appoint an advisory task force does not need to be made at this time; however, a decision should be made as soon as practicable to ensure an advisory task force could complete its charge prior to issuance of the scoping decision.

⁸ Ibid.

⁹ Minn. R. 7850.3200.

¹⁰ Minn. R. 7850.3400.

¹¹ Minn. Stat. 216E.08, subd. 1; Minn. R. 7850.3600, subp. 1.

¹² Minn. R. 7850.2400, subp 3.

¹³ Minn. Stat. 216E.08, subd. 1.

¹⁴ Minn. R. 7850.2400, subp. 4.

¹⁵ Minn. R. 7850.2400, at subp. 2.

¹⁶ Ibid.

Environmental Review

The alternative permitting process requires completion of an EA, which is prepared by EERA staff.¹⁷ An EA contains an overview of the resources affected by the project and discusses potential human and environmental impacts and mitigation measures.¹⁸ Under the alternative permitting process an EA is the only required state environmental review document.

EERA conducts necessary public scoping meetings in conjunction with a public comment period to inform the content of the EA.¹⁹ The commissioner of the Department of Commerce determines the scope of the EA,²⁰ and may include alternative sites suggested during the scoping process if they would aid the commission in making a permit decision.²¹

Public Hearing

The alternative permitting process requires a public hearing be held in the project area upon completion of the EA²² in accordance with the procedures outlined in Minnesota Rule 7850.3800, subpart 3.

The hearing is typically presided over by an administrative law judge (ALJ) from the Office of Administrative Hearings (OAH). The commission may request the ALJ provide a summary of the hearing (summary report), or request the ALJ provide findings of fact, conclusions of law, and recommendations regarding the site permit application (summary proceeding).

Requesting the ALJ to prepare findings, conclusions of law, and recommendations will slightly extend the length of the permitting process. **Table 1** provides a hypothetical comparison of schedules between the two processes.²³

Final Decision

The Commission is required to make a permit decision within six months from the date an application is accepted.²⁴ This time limit may be extended up to three months for just cause or upon agreement of the applicant.²⁵

¹⁷ Minn. Stat. 216E.04, subd. 5; Minn. R. 7850.3700, subp. 1.

¹⁸ Minn. Stat. 216E.04, subd. 5; Minn. R. 7850.3700, subp. 4.

¹⁹ Minn. R. 7850.3700, subp. 2.

²⁰ *Id.* at subp. 3.

²¹ *Id.* at subp. 2.

²² Minn. R. 7850.3800, subp. 1.

²³ This schedule is provided for comparison purposes only. Selecting one process over the other does not mean the corresponding schedule applies.

²⁴ Minn. R. 7850.3900, subp. 1.

²⁵ *Ibid.*

EERA Staff Comments

Application Completeness

EERA staff reviewed and provided comments to the Applicant on a draft Site Permit Application prior to the Applicant's August 8, 2023, filing. Staff has subsequently fully evaluated the submitted Site Permit Application against the application completeness requirements of Minnesota Rule 7850.3100 (see **Table 2. Application Completeness Checklist**).

Staff finds that the application contains appropriate and complete information with respect to these requirements, including descriptions of the proposed Project, potential environmental impacts and mitigation measures, and any federal, state, and local approvals that might be required for the Project.

EERA concludes that the Application meets the content requirements of Minnesota Rule 7850.3100 and is substantially complete. Application acceptance allows initiation of the public participation and environmental review processes. EERA requests that the Applicant continue to supply further information as necessary during preparation of the Environmental Assessment.

Contested Issues of Fact

At this time, EERA staff is unaware of any contested issues of fact with respect to the site permit application.

EERA believes that the Commission should request a full ALJ report with findings, conclusions, and recommendations for the project's public hearing. EERA staff believes that a full ALJ report with recommendations provides an unbiased, efficient, and transparent method to air and resolve any issues that may emerge as the record is developed. Requiring a full ALJ report reduces the burden on Commission staff and helps to ensure that the Commission has a robust record on which to base its decision. Additionally, a full ALJ report does not significantly lengthen the site permitting process.

Advisory Task Force

EERA staff has analyzed the merits of establishing an advisory task force for the Sherco 3 Solar Project. EERA staff believes that an advisory task force is not warranted for the project at this time. In analyzing the need for an advisory task force, EERA staff considered four characteristics: project size, project complexity, known or anticipated controversy, and sensitive resources.

- **Project Size.** The Sherco 3 Solar Project is similar in size (acreage), at approximately 1,780 acres, to the permitted Sherco Solar West (1,653 acres) and Sherco Solar East (1,826 acres) sites; resulting in approximately eight acres per MW for the Project. The Project site land requirement per MW installed capacity is comparable to other Minnesota utility

scale solar energy generating projects, including North Star Solar (eight acres per MW) and Aurora Distributed Solar (nine acres per MW).²⁶

Due to the land requirements of these solar Projects, there are inherent difficulties in suggesting or soliciting suggestions of alternative site locations, that is, an alternative site would need to be of similar size (acreage) to reach the nameplate capacity (in this case 250 MW). Given this, staff is reluctant to recommend evaluating alternative site locations as a task force charge, however, there may be other items for which input from a task force could aid the Commission.

- **Project Complexity.** With the approval and construction of North Star Solar (IP6943/GS-15-33), Aurora Distributed Solar (E6928/GS-14-515), Marshall Solar (IP6941/GS-14-1052), Sherco Solar West, and Sherco Solar East, large scale utility solar projects are no longer novel in Minnesota.

Site preparation and construction of photovoltaic facilities is relatively straightforward. Construction would not entail large-scale excavation or deep foundations. The required interconnect is with the existing Sherburne County Substation via the Sherco Solar West collector lines and site substation. The sheer size of the project may pose some challenges associated with stormwater control, vegetation management, and agricultural impact, but management plans (NPDES/SWPP, VMP, and AIMP, respectively) can be further developed in the permitting process to mitigate potential problem areas.

- **Known or Anticipated Controversy.** To date, staff has not been contacted about the project, nor received comments on this docket highlighting conflicts or controversy among stakeholders to date. The public will have opportunities to raise concerns and issues during scoping and the public hearing. As it has previously, EERA will assist citizens and governmental units in understanding the environmental review process and how to best identify issues to be addressed and considered in the EA.
- **Sensitive Resources.** The Project is located within a rural landscape in Sherburne County to the northwest of the Sherco Generating Plant and the West of the Sherco Solar West Project and south and east of the city of Clear Lake. The predominant land cover type within the Project Area is cultivated cropland (92.9 percent), followed by hay/pasture (2.4 percent), low intensity developed land (1.9 percent), and developed open space (1.6 percent). The remainder of the Project Area consists of developed medium intensity (0.5 percent), emergent herbaceous wetlands (0.3 percent), and less than 0.1 percent each of deciduous forest, open water, mixed forest, shrub/scrub, developed high intensity, woody wetland, and barren land cover.

²⁶ Department of Commerce (March 4, 2015) *EERA Staff Comments on Application Completeness—North Star Solar*, eDockets No. 20153-107931-01.

Cultivated cropland within the Project Area is row crop agriculture, such as corn and soybeans. Most of the row crops in the Project Area are irrigated by center pivot irrigation. Developed land within the Project Area generally consists of public roads, such as U.S. Highway 10 and County Road 8. Forested land within the Project Area consists of shelterbelts between agricultural fields, near farmsteads, along roadways, and clumps of trees along the margins of small waterbodies.

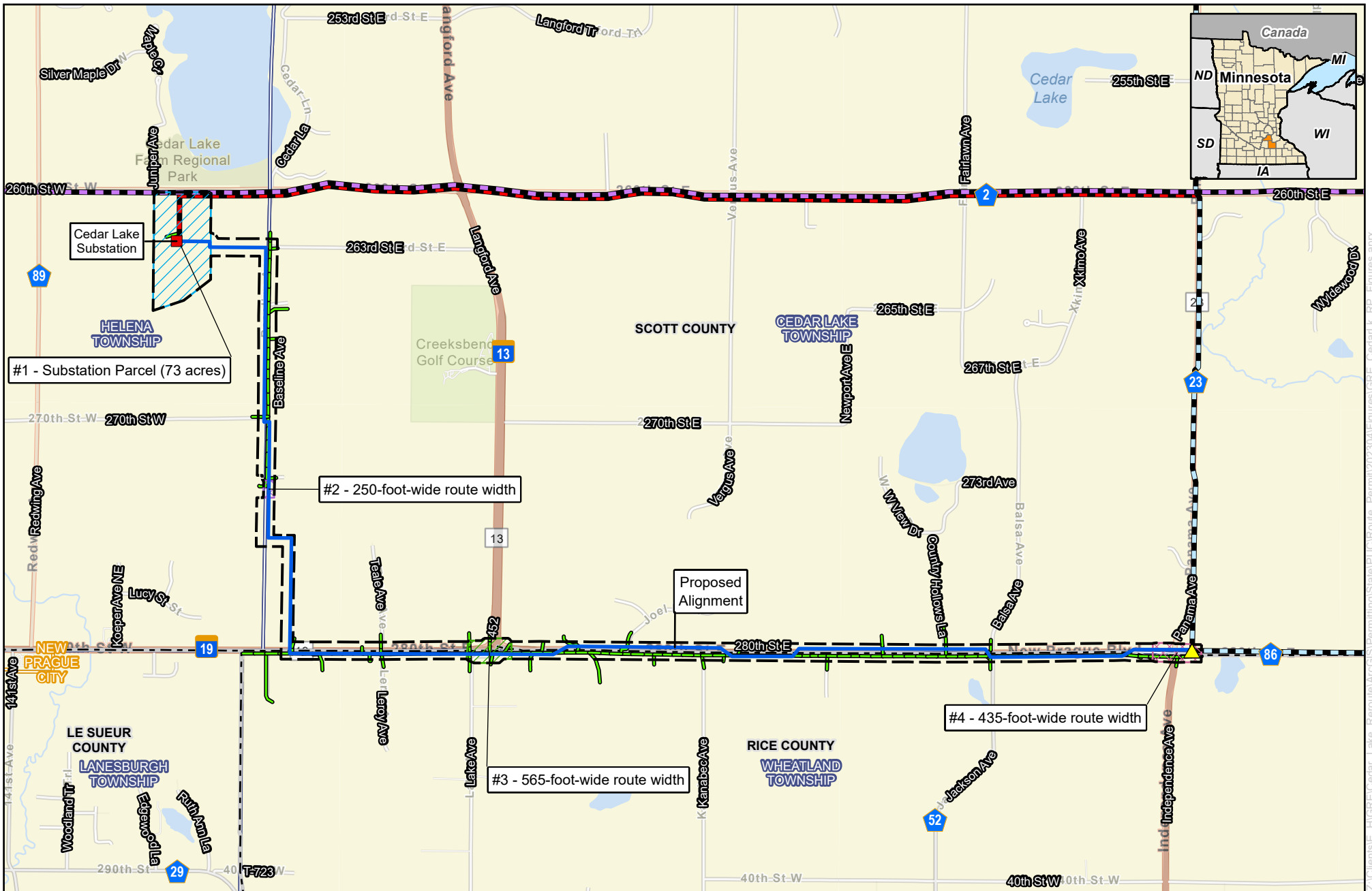
Given the land cover and uses in the project area, potential impacts to sensitive ecological resources are anticipated to be minimal.

Based on the above factors, EERA staff believes that an advisory task force is not warranted for the project at this time.

EERA Staff Recommendation

EERA staff recommends that the Commission accept the Site Permit Application for the Sherco 3 Solar Project as substantially complete. EERA staff also recommends that the Commission take no action on an advisory task force at this time. Lastly, EERA recommends a full ALJ report that provides findings of fact, conclusions of law, and recommendations regarding the site permit application (summary proceeding).

Figure 1. Project Overview Map



0 1,500 3,000 Feet

1 inch = 3,000 feet

For Environmental Review Purposes Only

Figure 3-1
Cedar Lake Reroute Project
Route Widths
Rice and Scott Counties, Minnesota

<p>Great River Energy</p> <ul style="list-style-type: none"> Proposed Alignment MV-CDT 115-kV Transmission Line MV-EVX 115-kV Transmission Line Existing Substation Tap Location 	<p>Non-GRE Transmission</p> <ul style="list-style-type: none"> CapX2020 Minnesota Valley Distribution Line City Boundary Township Boundary County Boundary 	<p>Proposed Route Width</p> <p>Project Route Width (see also narrative text)</p> <ul style="list-style-type: none"> 1 2 3 4
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Table 1. Process Timing and Tentative Schedule

Approximate Date	Project Day	Alternative Review Process Step	Responsible Party
June 16, 2023		10-day Notice	Applicant
August 8, 2023		Application Filed	Applicant
August 24, 2023		Application Completeness Comments	Agencies/Public
August 31, 2023		Reply Comments	Applicant/Public
TBD		Consideration of Application Acceptance	Commission
Acceptance through Environmental Assessment			
	0	Application Acceptance Order	Commission
		Public/Scoping Meeting Notice	EERA/Commission
	30	Public Information/Scoping Meeting	EERA/Commission
	45	Scoping Comment Period Closes	EERA
	60	Scoping Summary to Commission	EERA
	85	Commission Review of Alternatives	Commission
	95	Scoping Decision Issued	Commerce
	185	Environmental Assessment Issued	EERA
		Public Hearing Notice	Commission
Summary Report*			
	200	Public Hearing	OAH
	215	Comment Period Closes	OAH
	220	ALJ Submits Transcript and Comments	OAH
	225	Draft Findings of Fact (FOF)	Applicant
	240	Comments on Draft FOF/Technical Analysis	EERA
		Response to Hearing Comments	Applicant
		ALJ Submits Summary Report	OAH
	270	Consideration of Route Permit Issuance	Commission
Summary Proceeding**			
	200	Public Hearing	OAH
	215	Comment Period Closes	OAH
	220	ALJ Submits Transcript and Comments	OAH
	225	Draft FOF	Applicant
	240	Comments on Draft FOF/Technical Analysis	EERA

		Response to Hearing Comments	Applicant
	270	ALJ Issues FOF and Recommendation	OAH
	285	Exceptions to ALJ Report	EERA/Applicant
	315	Consideration of Route Permit Issuance	Commission

*** A summary report includes:**

- The hearing process consists of a public hearing (or multiple hearings depending on the project) and one comment period (closing at least 10 days after the last public hearing).
- An ALJ presides over the public hearing.
- ALJ provides a summary of the public hearing and comments only.
- Applicant provides proposed findings of fact, conclusions and a recommendation.
- EERA responds to comments on the EA; provide technical analysis; and responds to the applicant proposed findings.
- No exception period is provided.

****A summary proceeding includes:**

- The hearing process is identical to the summary report process.
- An ALJ presides over the public hearing.
- Applicant provides proposed findings of fact, conclusions and a recommendation.
- EERA responds to comments on the EA; provide technical analysis; and responds to the applicant proposed findings.
- The ALJ provides a summary and findings of fact, conclusions and recommendations on alternatives and permit conditions
- An exception period pursuant to Minnesota Rule 7829.2700 is provided.

Table 2. Application Completeness Checklist

Authority	Site Permit Application Requirements	Location in Application
Minn. Rules 7850.1900, Subp. 1		
A.	A statement of proposed ownership of the facility as of the day of filing and after commercial operation;	§ 2.1.1
B.	The precise name of any person or organization to be initially named as permittee or permittees and the name of any other person to whom the permit may be transferred if transfer of the permit is contemplated;	§ 1.3.1
C.	At least two proposed sites for the proposed large electric power generating plant and identification of the applicant's preferred site and the reasons for preferring the site;	§ 2.1.4
D.	A description of the proposed large electric power generating plant and all associated facilities, including the size and type of the facility;	§ 2.1 and § 2.2
E.	The environmental information required under subpart 3;	See Environmental Information below
F.	The names of the owners of the property for each proposed site;	Appendix D
G.	The engineering and operational design for the large electric power generating plant at each of the proposed sites;	§ 2.2
H.	A cost analysis of the large electric power generating plant at each proposed site, including the costs of constructing and operating the facility that are dependent on design and site;	§ 2.1.5 and Appendix B
I.	An engineering analysis of each of the proposed sites, including how each site could accommodate expansion of generating capacity in the future;	§ 2.2 and § 2.1.6
J.	Identification of transportation, pipeline, and electrical transmission systems that will be required to construct, maintain, and operate the facility;	§ 2.2.1.3, § 2.2.1.8, § 2.2.1.2, and § 2.2.1.7
K.	A listing and brief description of federal, state, and local permits that may be required for the project at each proposed site; and	§ 5.0

Authority	Site Permit Application Requirements	Location in Application
L.	A copy of the Certificate of Need for the project from the Public Utilities Commission or documentation that an application for a Certificate of Need has been submitted or is not required.	§ 1.2.1
Minn. Rules 7850.1900, Subp. 3		
Environmental Information: An applicant for a site permit or a route permit shall include in the application the following environmental information for each proposed site or route to aid in the preparation of an environmental impact statement:		
A.	A description of the environmental setting for each site or route;	§ 3.1
B.	A description of the effects of construction and operation of the facility on human settlement, including, but not limited to, public health and safety, displacement, noise, aesthetics, socioeconomic impacts, cultural values, recreation, and public services;	§ 3.2
C.	A description of the effects of the facility on land- based economies, including, but not limited to, agriculture, forestry, tourism, and mining;	§ 3.3 and Appendix F
D.	A description of the effects of the facility on archaeological and historic resources;	§ 3.4 and Appendix I
E.	A description of the effects of the facility on the natural environment, including effects on air and water quality resources and flora and fauna;	§ 3.5 and Appendix J
F.	A description of the effects of the facility on rare and unique natural resources;	§ 3.6 and Appendix J
G.	Identification of human and natural environmental effects that cannot be avoided if the facility is approved at a specific site or route; and	§ 3.7
H.	A description of measures that might be implemented to mitigate the potential human and environmental impacts identified in items A to G and the estimated costs of such mitigative measures.	§ 3.1 – § 3.6 Appendices F, G, I, J



September 6, 2023

Mr. Will Seuffert
Executive Secretary
Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, MN 55101-2147

RE: In the matter of the application of Xcel Energy for a site permit for the up to 250 MW Sherco 3 solar energy generating system in Sherburne County, Minnesota
Docket No. E-002/GS-23-217

Dear Mr. Seuffert:

On August 31, 2023, Xcel Energy filed reply comments in response to the August 22, 2023, comments from Minnesota Department of Commerce, Energy Environmental Review and Analysis (EERA) staff pursuant to the Minnesota Public Utilities Commission's Notice of Comment Period issued on August 17, 2023, in the above-noted docket.

In our *Comments and Recommendations on Application Acceptance*, EERA recommended that the Commission request a full ALJ report with findings, conclusions, and recommendations for the project's public hearing (a summary proceeding). EERA noted that a full ALJ report with recommendations provides an unbiased, efficient, and transparent method to air and resolve any issues that may emerge as the record is developed. Further, EERA indicated that a full ALJ report reduces the burden on Commission staff and helps to ensure that the Commission has a robust record on which to base its decision.

Xcel Energy notes in its reply comments that if EERA's procedural schedule for a process that includes a summary proceeding is adopted, Xcel Energy does not believe that they will be able to meet the project's scheduled 2025 in-service date.

While EERA believes that a full ALJ report, as a general proposition, has the benefits noted above, EERA does not oppose Xcel Energy's request that the ALJ provide solely a summary of public testimony (a summary report). EERA agrees with Xcel Energy that a summary report is workable for the Sherco 3 project.

Staff is available for any questions.

Sincerely,

William Cole Storm
Environmental Review Manager

TO: Ellen Heine
Xcel Energy
414 Nicollet Mall
Minneapolis, MN 55401

Attachment A

Aaron Brixius
Xcel Energy
414 Nicollet Mall
Minneapolis, MN 55401

Ian Dobson
Xcel Energy
414 Nicollet Mall
Minneapolis, MN 55401

Sarah Beimers
Environmental Review Program Manager
State Historic Preservation Office – MN Dept. of Administration
50 Sherburne Avenue, Suite 203
Saint Paul, Minnesota 55155

FROM: Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission

Re: Authorization to Initiate Consultation under Minn. Stat. § 138.665; In the Matter of the Application of Xcel Energy for a Site Permit for the up to 250 MW Sherco 3 Solar Energy Generating System in Sherburne County, Minnesota; MPUC Docket E002/GS-23-217

Through this authorization, the Minnesota Public Utilities Commission (“Commission”) intends to formalize the role of the Commission, the Department of Commerce—Energy Environmental Review and Analysis (“DOC-EERA”), and the above listed Applicant for a large electric power facility (as defined in Minn. Stat. § 216E.01, subd. 6) relative to the Commission’s statutory responsibilities under Minn. Stat. § 138.665 to consult with the State Historic Preservation Office (SHPO).

In order to streamline the Commission's compliance with Minn. Stat. § 138.665, the Commission hereby authorizes the Applicant to initiate consultation with SHPO pursuant to Minn. Stat. § 138.665. Effective immediately, the Applicant and its authorized representatives may consult with SHPO to initiate review and consultation. Specifically, the Applicant is authorized to gather information to identify, and reevaluate if warranted, designated historic properties, and to work in coordination with other interested

entities, including Tribal Nations and DOC-EERA, to assess the effects of proposed projects on designated historic properties as described in Minn. Stat. § 138.665. As appropriate, as part of its environmental review, DOC-EERA will coordinate with SHPO in evaluating the potential effect of alternative sites and routes on historic properties as described in Minn. Stat. § 138.665.

The Commission sits in a quasi-judicial capacity and makes siting and routing decisions based solely on the administrative record developed and the comments and information submitted by the parties and participants to Commission proceedings. The Commission is also subject to Minnesota's Open Meeting Law, Minn. Stat. Ch. 13D, which requires that Commission meetings be open to the public and the record be publicly available. Ex parte communications with Commissioners are prohibited, and Commissioners hear from interested entities and people on-the-record, either through written filings or at agenda meetings that are open to the public.

Accordingly, at the time the Applicant submits its prehearing testimony prior to the public hearing on the project, the Applicant shall file a compliance filing informing the Commission of the status of consultation with SHPO. This compliance filing should demonstrate that consultation has occurred, whether the proposed project will affect designated properties, and if so, identify any permit terms and conditions agreed upon by the applicant and SHPO to avoid or mitigate any adverse effects on the designated or listed properties. The Applicant should attach to its compliance filing a letter obtained from SHPO confirming that consultation has occurred and detailing any comments, concerns, and/or recommendations regarding the project from SHPO. If SHPO objects to the proposed project, this letter should detail SHPO's objection and any proposed permit terms and conditions that, if adopted, would resolve its objection. If SHPO's objection cannot be addressed through appropriate permit terms and conditions, the SHPO may request mediation as provided for in Minn. Stat. § 138.665.

Notwithstanding this authorization, the Commission retains ultimate responsibility for consultation under Minn. Stat. § 138.665 and for determining whether to permit a large electric power facility.

If you have any questions, please contact Jacques Harvieux at jacques.harvieux@state.mn.us or 651-201-2233.

CERTIFICATE OF SERVICE

I, Robin Benson, hereby certify that I have this day, served a true and correct copy of the following document to all persons at the addresses indicated below or on the attached list by electronic filing, electronic mail, courier, interoffice mail or by depositing the same enveloped with postage paid in the United States mail at St. Paul, Minnesota.

Minnesota Public Utilities Commission ORDER

Docket Numbers: **ET-002/GS-23-217**

Dated this **23rd** day of **October, 2023**

/s/ Robin Benson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_23-217_Official
Ian M.	Dobson	ian.m.dobson@xcelenergy.com	Xcel Energy	414 Nicollet Mall, 401-8 Minneapolis, MN 55401	Electronic Service	No	OFF_SL_23-217_Official
Adam	Duininck	aduininck@ncsrcc.org	North Central States Regional Council of Carpenters	700 Olive Street St. Paul, MN 55130	Electronic Service	No	OFF_SL_23-217_Official
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_23-217_Official
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_23-217_Official
Nathaniel	Runke	nrunke@local49.org	International Union of Operating Engineers Local 49	611 28th St. NW Rochester, MN 55901	Electronic Service	No	OFF_SL_23-217_Official
Christine	Schwartz	Regulatory.records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7 Minneapolis, MN 554011993	Electronic Service	No	OFF_SL_23-217_Official
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th PI E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_23-217_Official