

March 13, 2019

VIA ELECTRONIC FILING

Mr. Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
Saint Paul, MN 55101-2147

Re: In the Matter of the Application of Regal Solar, LLC for a Certificate of Need for the up to 100 MW Regal Solar Project in Benton County, Minnesota

Dear Mr. Wolf:

Enclosed please find Request for Exemption from Certain Certificate of Need Application Content Requirements which has been e-filed today on behalf of Regal Solar, LLC through www.edockets.state.mn.us.

In addition, please add the following individuals to the Official Service List of Record:

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A copy of this filing is also being served upon the persons on the attached Affidavit of Service. Please let me know if you have any questions regarding this filing.

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Sincerely,

/s/ Jeremy P. Duehr

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**STATE OF MINNESOTA
BEFORE THE
PUBLIC UTILITIES COMMISSION**

Dan Lipschultz
Matthew Schuerger
Katie J. Sieben
John A. Tuma

Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Regal Solar, LLC for a Certificate of Need for the up to 100 MW Regal Solar Project in Benton County, Minnesota

Docket No. IP-_____/CN-19-____

**REQUEST FOR EXEMPTION FROM
CERTAIN CERTIFICATE OF NEED
APPLICATION CONTENT
REQUIREMENTS**

I. INTRODUCTION.

Regal Solar, LLC (“Regal”) plans to file an Application for a Certificate of Need (“CN”) pursuant to Minn. Stat. § 216B.243, subd. 4, and Minn. R. 7849.0200 to construct and operate the Regal Solar Project, an up to 100 megawatt (“MW”) photovoltaic (“PV”) solar-energy generating system at a single-site in Benton County, Minnesota (the “Project”). The Project is a “large energy facility”(“LEF”) as defined in Minn. Stat. § 216B.2421, subd. 2(1) and a “large electric generating facility” (“LEGF”) as defined in Minn. R. 7849.0010, Subp. 13.¹

Regal respectfully requests that the Minnesota Public Utilities Commission (the “Commission”) grant it exemptions from certain CN data requirements that are inapplicable and unnecessary to determine need for the Project.

¹ Regal also plans to file a large electric power generating plant site permit application for the Project in a separate docket.

II. PROJECT DESCRIPTION.

Regal is an independent power producer that proposes to construct and operate the Project at a site within Benton County in central Minnesota. The power generated by the Project will be offered for sale to wholesale customers, including in-state and out-of-state utilities and cooperatives that have identified a need for additional renewable energy as well as corporate customers that desire renewable power to meet their power demand.

The Project will be located in Benton County, and the Project's footprint spans approximately 800 acres in Langola Township. Regal is proposing to utilize panels affixed to tracking mechanisms that would allow the panels to "track" the sun from East to West on a daily basis. In addition to PV panels, the Project will consist of an electrical collection system, inverters, racking, fencing, access roads, up to two weather stations, substation and interconnection facilities, an operation and maintenance facility, and other infrastructure typical of a PV solar-energy generating system. The Project proposes to interconnect to Great River Energy's existing Langola 115-kV substation within the project area.

Regal plans to construct the Project on a schedule that facilitates an in-service date in 2021.

III. EXEMPTION REQUESTS.

Minnesota Rule Chapter 7849 sets forth the data an applicant must provide in an application for a CN for an LEF. An applicant may be exempted from providing certain information if the applicant requests an exemption in writing that shows that the data requirement is either unnecessary to determine the need for the proposed facility or may be satisfied by submitting another document. Minn. R. 7849.0200, subp. 6.

Regal seeks exemptions from certain data requirements that are specific to the operation and regulation of facilities proposed by utilities. For example, Regal seeks exemptions from data

requirements that pertain to a utility’s “system,” i.e., “the service area where the utility’s ultimate consumers are located” and the facilities used to generate, transmit, and distribute electricity to that service area. *See* Minn. R. 7849.0010, subp. 29. Given that independent power producers, such as Regal, do not have an assigned service area or “system,” the Commission has held that data requirements seeking system-related information are unnecessary to determine need in such cases.²

The Project will produce renewable energy that will be purchased by electric utilities or other entities to satisfy renewable energy standards, policies, or goals. Given this purpose, Regal requests partial exemptions for data requirements seeking information on alternatives to the Project that would not satisfy a renewable energy standard or similar standard, policy, or goal.

As detailed below, where applicable, Regal will provide alternative information relevant to the determination of need for the Project. The exemptions Regal requests are consistent with the relief the Commission has previously granted to other independent power producers.³

² *See e.g., In the Matter of the Application of Rapids Power LLC for a Certificate of Need for its Grand Rapids Cogeneration Project*, Docket No. IP-4/CN-01/1306, Order Granting Exemptions from Filing Requirements, at 4 (Oct. 9, 2001) (the “Rapids Power Exemption Order”).

³ *See, e.g., In the Matter of the Application of Flying Cow Wind, LLC for a Certificate of Need for the up to 150 MW Bitter Root Wind Project in Yellow Medicine County, Minnesota*, Docket No. IP6984/CN-17-676, Order (Nov. 1, 2017) (“Flying Cow Exemption Order”); *In the Matter of the Application of Dodge County Wind, LLC for a Certificate of Need for the 200 MW Large Wind Energy Conversion System and an Associated 345 kV Transmission Line in Dodge County, Minnesota*, Docket No. IP-6981/CN-17-306, Order (July 7, 2017) (“Dodge County Wind Exemption Order”); *In the Matter of the Application of Nobles 2 Power Partners, LLC for a Certificate of Need for the up to 300 MW Nobles 2 Wind Project in Nobles and Murray Counties, Minnesota*, Docket No. IP6964/CN-16-289, Order (May 25, 2016); *In the Matter of the Application of Blazing Star Wind Farm, LLC for a Certificate of Need for the 200 MW Blazing Star Wind Project in Lincoln County, Minnesota*, Docket No. IP-6961/CN-16-215, Order (Apr. 28, 2016) (“Blazing Star Exemption Order”); *In the Matter of the Application of Red Pine Wind Project, LLC for a Certificate of Need for the 200 MW Red Pine Wind Project and Associated Facilities in Lincoln and Lyon Counties*, Docket No. IP-6959/CN-16-140, Order (Mar. 25, 2016) (“Red Pine Exemption Order”); *In the Matter of the Application of EDF Renewable Energy for a Certificate of Need for the 100 MW Stoneray Wind Project in Pipestone and Murray Counties, Minnesota*, Docket No. IP6646/CN-13-193, Order (Apr. 29, 2013) (the “Stoneray Wind Exemption Order”); *In the Matter of the Application of a Joint Request of Black Oak Wind, LLC and Getty Wind, LLC for a Determination Regarding Whether a Certificate of Need is Required for Two Large Wind Conversion Systems in Stearns County, Minnesota*, Docket No. IP6853, 6866/CN-11-471, Order (Aug. 22, 2011) (the “Black Oak Wind/Getty Wind Exemption Order”); *In the Matter of Ellerth Wind LLC’s Request for a Variance*

Regal requests exemptions from the following data requirements:

A. Minnesota Rule 7849.0240, subp. 2(B): Promotional Activities.

This rule requires each LEGF CN application to contain “an explanation of the relationship of the proposed facility to . . . promotional activities that may have given rise to the demand for the facility.” Regal has not engaged in promotional activities that could have given rise to the need for the electricity to be generated by the Project. Regal has also not secured a purchase for the output of the Project, so equivalent data is not available from the purchaser.⁴ Thus, such information is non-existent, and, as the Commission has previously determined, an exemption is appropriate.⁵

and Exemption from Certain Certificate of Need Application Content Requirements, Docket No. IP6855/CN-11-112, Order (Apr. 4, 2011) (the “Ellerth Wind Exemption Order”); *In the Matter of a Petition for a Certificate of Need for a 101 MW Wind Farm and Related 115 kV Transmission Line in Rock County, MN*, Docket No. ET6838/CN-10-80, Order (May 14, 2010) (the “Prairie Rose Exemption Order”); *In the Matter of Prairie Wind Energy, LLC’s Exemption and Waiver Request*, Docket No. IP6844/CN-10-429, Order (June 18, 2010) (the “Prairie Wind Energy Exemption Order”); *In the Matter of the Application of Pleasant Valley Wind, LLC for a Certificate of Need for the 299.5 MW Pleasant Valley Project in Dodge, Olmsted, and Mower Counties*, Docket No. IP6828/CN-09-937, Order approving exemption requests as recommended by the Office of Energy Security in comments dated September 8, 2009 (Oct. 8, 2009) (the “Pleasant Valley Exemption Order”); *In the Matter of the Application of Goodhue Wind, LLC for a Certificate of Need for a 78 MW Wind Project and Associated Facilities in Goodhue County*, Docket No. IP6701/CN-09-1186, Order Finding Application Complete and Initiating Informal Review Process (Dec. 30, 2009) (the “Goodhue Exemption Order”); *In the Matter of the Application of Paynesville Wind, LLC for a Certificate of Need for a 95 MW Large Wind Energy Conversion System in Stearns County*, Docket No. IP6830/CN-09-1110, Order approving Paynesville’s request for exemption from the required data as identified in the Petition (Nov. 30, 2009) (the “Paynesville Exemption Order”); *In the Matter of the Request of Heartland Wind, LLC for a Certificate of Need for the 150 MW Elm Creek II Wind Project in Jackson and Martin Counties*, Docket No. IP6728/CN-09471, Order approving the Company’s request for exemption from the required data as identified in the Petition (June 26, 2009) (the “Heartland Exemption Order”); *In the Matter of the Application of EcoHarmony West Wind, LLC for a Certificate of Need for a 200 MW Wind Farm Project in Fillmore County in Southeastern Minnesota*, Docket No. IP6688/CN-08-961, Order Granting Exemption Requests (Oct. 10, 2008) (the “EcoHarmony Exemption Order”); *In the Matter of the Application of Wapsipinicon Wind for a Certificate of Need for a Large Energy Facility, a 105 MW Large Wind Energy Conversion System in Mower County, Minnesota*, Docket No. IP6670/CN-08-334, Order Granting Exemptions, Requiring Additional Filings and Establishing Procedures for Expedited Proceedings (May 12, 2008) (the “Wapsipinicon Exemption Order”); *In the Matter of the Application of Elm Creek Wind, LLC, for a Certificate of Need for a Large Energy Facility, the Elm Creek Wind Project in Jackson and Martin Counties*, Docket No. IP6631/CN-07-789, Order Granting Exemptions (Aug. 1, 2007) (the “Elm Creek Exemption Order”).

⁴ See Dodge County Wind Exemption Order at 1.

⁵ See, e.g., Blazing Star Exemption Order at 1; EcoHarmony Exemption Order at 4; Wapsipinicon Exemption Order at 6; Elm Creek Exemption Order at 3.

B. Minnesota Rule 7849.0250(B): Description of Certain Alternatives.

Minnesota Rule 7849.0250(B) requires an applicant to discuss the availability of alternatives to the facility, including: (1) purchased power; (2) increased efficiency of existing facilities, including transmission lines; (3) new transmission lines; (4) new generating facilities of a different size or using a different energy source; and (5) any reasonable combination of alternatives listed in subparts (1) to (4).

Regal requests an exemption from data requirements (1), (2), (3), and (5) because they are not applicable to Regal or the Project. Regarding the alternative of purchased power (1), Regal, as an independent power producer, does not purchase power; instead, Regal intends to sell power to utilities or other potential off-takers. With respect to the alternative of increased efficiency (2), Regal has no existing facilities in Minnesota for which it might seek improved operating efficiency. Regarding the alternative of new transmission lines (3), Regal has no plans to become involved in owning or operating transmission lines beyond what could be needed for interconnection of the Project. The development, construction, and operation of transmission and distribution lines designed to deliver power to end use customers will be left to utilities with defined service area obligations to retail customers. Regal has no plans to own or operate such transmission and distribution lines and, therefore, requests an exemption from this requirement.

With respect to data requirement (4), Regal requests a partial exemption. The Project is specifically designed to offer for purchase on the wholesale market electricity generated by a resource that will count toward satisfying the purchasing entity's renewable or clean energy standards, policies, or goals. Given this purpose, only renewable energy sources are alternatives to the Project.⁶ For this reason, Regal requests that it be exempted from discussing any

⁶ See, e.g., Blazing Star Exemption Order at 1; Elm Creek Exemption Order at 4.

alternative generating facilities of a different size or using an energy source other than renewable alternatives.⁷

C. Minnesota Rule 7849.0250(C)(1)-(9): Details Regarding Alternatives.

Regal requests a partial exemption from this Rule, which requires a discussion of various details regarding both the Project and each of the alternatives discussed in response to Minn. R. 7849.0250(B). Because Regal is requesting a partial exemption from the data requirements in Minn. R. 7849.0250(B), *i.e.*, limiting its discussion to only renewable alternatives, Regal also proposes to limit its response to this data requirement to only those renewable alternatives discussed in response to Minn. R. 7849.0250(B)(4) and requests an exemption from evaluating non-renewable alternatives.⁸

D. Minnesota Rule 7849.0250(C)(7): Effect of Project on Rates Systemwide.

Minn. R. 7849.0250(C)(7) requires an applicant to estimate its proposed project's "effect on rates systemwide and in Minnesota, assuming a test year beginning with the proposed in-service date." Regal does not have a system because it is an IPP. Additionally, Regal has not secured a purchaser, so no equivalent data is available from the purchaser's system. As such, the data are neither available to Regal. Thus, Regal requests that the Commission grant a partial exemption from this requirement, consistent with past Commission decisions.⁹

E. Minnesota Rule 7849.0250(D): Map of Applicant's System.

Minn. R. 7849.0250(D) requires the applicant to include a map showing the applicant's system. This information does not exist and is not relevant to the determination of need for the

⁷ *See, e.g.*, Dodge County Wind Exemption Order at 1; Blazing Star Exemption Order at 1.

⁸ *See id.*

⁹ Dodge County Wind Exemption Order at 1.

Project. Instead, Regal proposes to submit a map showing the proposed site of the Project and its location relative to the power grid, consistent with prior Commission decisions.¹⁰

F. Minnesota Rule 7849.0270: Peak Demand and Annual Consumption Forecast.

Minn. R. 7849.0270 requires the applicant to provide “data concerning peak demand and annual electrical consumption within the applicant’s service area and system.” Regal does not have a “service area” or “system” and, as such, the requested data are inapplicable. Moreover, Regal has not yet secured a purchaser for the output from the Project and cannot provide equivalent information regarding the service area and system of the purchaser. Thus, Regal requests an exemption from this requirement. As an alternative and consistent with prior Commission decisions, Regal proposes to submit regional demand, consumption, and capacity data from credible sources to demonstrate the need for the independently produced renewable energy that will be generated by the Project.¹¹

G. Minnesota Rule 7849.0280: System Capacity.

Minn. R. 7849.0280 requires the applicant to “describe the ability of its existing system to meet the demand for electrical energy forecasted in response to part 7849.0270, and the extent to which the proposed facility will increase this capability.” As stated previously, Regal does not have a “system” and has not yet secured a purchaser for the Project’s output. Regal proposes to submit regional demand, consumption, and capacity data from credible sources to demonstrate the need for the independently produced renewable energy that will be generated by the Project.

¹⁰ See Dodge County Wind Exemption Order at 1; Blazing Star Exemption Order at 1.

¹¹ Blazing Star Exemption Order at 1.

H. Minnesota Rule 7849.0290: Conservation Programs.

Minn. R. 7849.0290 requires an applicant to describe its energy and conservation plans, including load management, and the effect of conservation in reducing the applicant's need for new generation and transmission facilities.

The Commission has previously determined that this Rule "is designed to ensure that regulated utilities, providing essential services to captive customers, give conservation the same careful consideration they have given to new generation in planning to meet the future needs of their service areas."¹² Different considerations apply in the wholesale context and thus the requirements of Minn. R. 7849.0290 are "onerous and essentially unhelpful" to the Commission's determination.¹³ Because Regal is not a regulated utility, has no retail customers, and plans to sell the Project's output on the wholesale market, it requests an exemption from this requirement in its entirety.

I. Minnesota Rule 7849.0300: Consequences of Delay.

Minn. R. 7849.0300 requires the applicant to discuss the "anticipated consequences to its system, neighboring systems, and the power pool should the proposed facility be delayed one, two and three years, or postponed indefinitely." Regal is not a utility and has no system. Thus, this data requirement is inapplicable to Regal and is unnecessary to determine the need for the Project. Instead, Regal proposes to submit data on the consequences of delay to its potential customers and the region.

¹² Rapids Power Exemption Order at 6.

¹³ *Id.*

J. Minnesota Rule 7849.0330: Transmission Facilities.

Minn. R. 7849.0330 requires the applicant to provide certain data for each alternative that would involve construction of large high voltage transmission lines (“LHVTL”). Transmission facilities are not true alternatives to the Project, since the purpose of the Project is to increase the supply of available renewable energy. The Project plans to interconnect to Great River Energy’s existing Langola 115-kV substation within the project area. The project is in the MISO West April 2018 study cycle. Any transmission line for the Project will be short and limited in use to connecting the Project to the broader transmission system. Regal does not currently plan on installing any facilities that would be defined as an LHVTL. Access to transmission facilities beyond the point of interconnection will be arranged by the utility or utilities purchasing the Project’s energy output and will depend on the buyer and the ultimate destination for the energy output. Thus, it is anticipated that the electricity generated will be transmitted via facilities owned or operated by others. For these reasons, Minn. R. 7849.0330 is not applicable, and Regal respectfully requests an exemption.

K. Minnesota Rule 7849.0340: The Alternative of No Facility.

Minn. R. 7849.0340 requires an applicant to submit data for the alternative of “no facility,” including a discussion of the impact of this alternative on the applicant’s generation and transmission facilities, system, and operations. The Rule also requires an analysis “of equipment and measures that may be used to reduce the environmental impact of the alternative of no facility.”

Regal does not have a “system,” nor does it have other generation and transmission facilities in Minnesota. As such, the requirements of this rule are not applicable to the Project and are not necessary to determine need for the facility. Instead, Regal proposes to submit data

reasonably available to it regarding the impact on the wholesale market of the “no facility” alternative.

IV. CONCLUSION.

Regal has requested exemptions from certain data requirements on the grounds that, as an independent power producer, such data are not reasonably available to Regal, are inapplicable to Regal and the Project, and are not necessary to determine need for the Project. In lieu of certain specified data, Regal will submit regional or state data that are relevant to the Commission’s determination on the need for the Project. The Commission has granted similar exemption requests to independent power producers in the past, and Regal respectfully asks the Commission to grant its requests for exemptions from the CN data requirements discussed above.

Dated: March 13, 2019

Respectfully submitted,

/s/ Jeremy P. Duehr
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AFFIDAVIT OF SERVICE

**In the Matter of the Application of Regal Solar,
LLC for a Certificate of Need for the up to 100
MW Regal Solar Project in Benton County,
Minnesota**

Docket No. IP-_____ /CN-19 _____

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

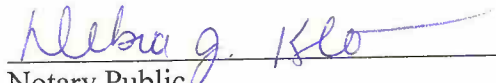
Breann Jurek, of the City of Minneapolis, the County of Hennepin, State of Minnesota, being duly sworn on oath, deposes and states that on the 13th day of March, 2019, she e-filed with the Minnesota Public Utilities Commission the following:

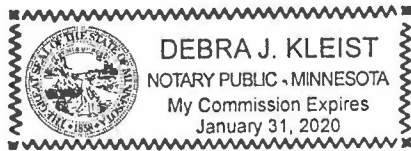
1. Request for Exemption from Certain Certificate of Need Application Content Requirements; and,
2. Affidavit of Service.

A copy has also been served on the individuals listed on the attached service list.


Breann Jurek

Subscribed and sworn to before me
this 13th day of March, 2019


Notary Public



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