

December 28, 2020

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

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**  
Docket No. IP-7045/CN-20-856

Dear Mr. Seuffert:

Attached are the Comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

Request for Exemption from Certain Application Content Requirements for the Application of Andyville Solar Project, LLC for a Certificate of Need for an up to 100 MW Andyville Solar Project in Mower County, Minnesota.

The petition was filed on behalf of Andyville Solar Project, LLC on December 3, 2020 by:

Christina K. Brusven  
Fredrickson and Byron, P.A.  
200 South Sixth Street, Suite 4000  
Minneapolis, Minnesota, 55402-1425

The Department recommends that the Minnesota Public Utilities Commission (Commission) **approve the data exemption requests with conditions**. The Department is available to answer any questions the Commission may have.

Sincerely,

/s/ MICHAEL N. ZAJICEK  
Rates Analyst

MNZ/ja  
Attachment



**Before the Minnesota Public Utilities Commission**  
**Comments of the Minnesota Department of Commerce**  
**Division of Energy Resources**

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Docket No. IP-7045/CN-20-856

**I. SUMMARY OF FILING**

On December 3, 2020 Andyville Solar Project, LLC (Andyville or the Applicant) filed the Company's *Request for Exemption from Certain Application Content Requirements* (Petition).

**A. PROJECT BACKGROUND**

Andyville is an independent power producer (IPP) that plans to construct an up to 100 MW photovoltaic solar-energy generating system, and associated facilities, at a single site in Mower County, Minnesota (Project). The Company intends to sell power produced by this solar project into the market. The project is proposed to interconnect at the existing Austin North substation in Mower County, Minnesota via an approximately 4.9 mile 161 kV transmission line.

**B. EXEMPTION REQUESTS**

In the Petition, Andyville requests exemption from providing data relevant to the Minnesota Rules listed below, or in some cases the rules are not applicable:

- i. 7849.0240, subp. 2 (B);
- ii. 7849.0250 (B) 1-5;
- iii. 7849.0250 (C) 1 to 6, 8 and 9;
- iv. 7849.0250 (C) 7;
- v. 7849.0250 (D);
- vi. 7849.0260 (A) 3 and (C) 6;
- vii. 7849.0269 (B) 1;
- viii. 7849.0260 (C) 5;
- ix. 7849.0260 (D);
- x. 7849.0270;
- xi. 7849.0280;
- xii. 7849.0290;
- xiii. 7849.0300;
- xiv. 7849.0330; and
- xv. 7849.0340.

Andyville that the Commission has previously granted exemption requests for these items for IPP projects.

Below are the Comments of the Department regarding the Petition.

## II. DEPARTMENT ANALYSIS

### A. GOVERNING STATUTE

Minnesota Statutes § 216B.243, subd. 2 states that no large energy facility (LEF) shall be constructed without a certificate of need (CN). At 100 MW, the proposed Project qualifies as an LEF. Andyville's Petition requests exemption from several of the filing requirements related to a future CN application for the proposed Project.

Minnesota Rules, part 7849.0200, subp. 6 states that an exemption is appropriate if the data requirement is not necessary in order to determine the need, or can be obtained via another document:

Before submitting an application, a person is exempted from any data requirement of parts 7849.0010 to 7849.0400 if the person (1) requests an exemption from specified rules, in writing to the Commission, and (2) shows that the data requirement is unnecessary to determine the need for the proposed facility or may be satisfied by submitting another document. A request for exemption must be filed at least 45 days before submitting an application.

The Department examines each specific exemption request separately. The criterion to be considered is whether Andyville has shown that "the data requirement is unnecessary to determine the need for the proposed facility or may be satisfied by submitting another document."

### B. EXEMPTION ANALYSIS

#### 1. 7849.0240, subp. 2 (B): Promotional Activities

This rule requires an applicant to provide an explanation of the relationship of the proposed facility to promotional activities that may have given rise to the demand for the facility. Andyville states that the Company "has not engaged in any promotional activities." The Department notes that the Commission has granted this exemption to IPPs because these companies do not have captive retail customers. Therefore, the Department recommends that the exemption be granted. However, if a power purchase agreement (PPA) is executed prior to application submittal or during the pendency of the CN proceeding, the exemption should be conditioned upon Andyville providing equivalent data from any purchaser(s) of the output.

*2. 7849.0250 (B) 1-5: Description of Certain Alternatives*

This rule requires an applicant to provide a discussion of the availability of alternatives to the facility, including but not limited to:

- 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 combinations of the alternatives listed in sub items (1) to (4).

Andyville requests an exemption from information requirements 1, 2, 3 and 5 as they are not applicable and a partial exemption of requirement 4 such that Andyville not address non-renewable alternatives or projects of different size. The Department agrees with the Applicant that an exemption to the extent an alternative cannot address the need for renewable power is reasonable since the Applicants intent is to “offer for purchase on the wholesale market electricity generated by a resource that will count toward satisfying the purchasing utilities’ or other entities’ renewable or clean energy standards, policies, or goals.” However, the Department notes that providing an analysis of an alternatively sized renewable project is reasonable and has been the practice of other IPPs in the state.<sup>1</sup> Therefore, the Department recommends that the Commission grant the partial exemption but require the Applicant to provide an analysis of alternatively sized renewable energy projects.

Regarding Minnesota Rules 7849.0250 (B) 1, Andyville is proposing to produce power to sell to utilities in the market, and thus purchased power is not an alternative. Thus, an exemption is appropriate.

The requirements of Minnesota Rules 7849.0250 (B) 2, 3 and 5 are not applicable to Andyville as the Applicant is not a vertically integrated regulated utility and therefore has no existing facilities in Minnesota for which efficiency could be improved in order to mitigate the need for the project, and does not own or plan to own transmission lines other than those needed for the interconnection of the project. Therefore, the Department recommends that the exemption be granted. However, if a PPA is executed prior to application submittal or during the pendency of the CN proceeding, the exemption should be conditioned upon Andyville providing equivalent data from any purchaser(s) of the output.

*3. 7849.0250 (C) 1 to 6, 8 and 9: Availability of Alternatives to the Facility*

This rule requires an applicant to provide the following information for the proposed facility and each of the alternatives provided in response to Minnesota Rules 7849.0250 (C):

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<sup>1</sup> Docket. Nos. IP6961/CN-16-215 and IP6981/CN-17-306 are two examples. In both cases the IPPs provided analyses of alternative renewable projects of varying energy source and size.

- 1) capacity costs in current dollars per kilowatt;
- 2) service life;
- 3) estimated average annual availability;
- 4) fuel costs in current dollars per kilowatt hour;
- 5) variable operating and maintenance costs in current dollars per kilowatt hour;
- 6) total cost in current dollars of a kilowatt hour provided by it;
- 7) estimate of its effect on rates system wide and in Minnesota;
- 8) efficiency, expressed as the estimated heat rate; and
- 9) major assumptions made in providing the above information (e.g., escalation rates used, projected capacity factors).

Andyville requests a partial exemption from this Rule to limit its discussion to only renewable alternatives similar to their request for exemption from Minnesota Rules 7849.0250 (B). Specifically, since the intent of the project is to provide renewable energy to sell to the market, examination of non-renewable alternatives would be irrelevant.

The Department agrees that the required information—regarding non-renewable alternatives—is not relevant to analysis of alternatives to Andyville’s proposed Project and that limiting the requirement to renewable alternative data will better address the proposed need. Therefore, the Department recommends that the Commission grant the proposed exemption.

#### *4. 7849.0250 (C) 7: Effect of Project on Rates System-wide*

This rule requires an applicant to provide an estimate of the project’s effect on rates system-wide and in Minnesota, assuming a test year beginning with the proposed in-service date. Andyville requests an exemption because Andyville does not operate a system and is not a utility with retail rates. The Commission has granted a similar exemption to IPPs because IPPs do not have a system. However, the Department recommends that the Commission grant the proposed exemption conditioned upon Andyville providing data on the impact on wholesale prices of the project.

#### *5. 7849.0250 (D): Map of Applicant’s System*

This rule requires an applicant to provide a map of the applicant’s system. Andyville requests an exemption because Andyville does not operate a system and thus the information does not exist. As an alternative, Andyville proposes to file a map showing the site of Andyville’s project, including the generation-tie line and its proposed interconnection to the transmission grid. The Department agrees that the proposed alternative map would contain more relevant data. Therefore, the Department recommends that the Commission approve the requested exemption with the provision of Andyville’s proposed alternative data. However, if a PPA is executed prior to application submittal or during the pendency of the CN proceeding, the exemption should be conditioned upon Andyville providing equivalent data from any purchaser(s) of the output if the purchaser has a system as defined by Minnesota Rules part 7849.0010, subp. 29.

*6. 7849.0260 (A) 3 and (C) 6: Line Loss Data*

Minnesota Rules 7849.0010 subpart 13 defines a large electric generating facility (LEGF) as an “electric power generating unit or combination of units as defined by Minnesota Statutes, section 216B.2421, subdivision 2, clause (1).” In turn, Minnesota Statutes 216B.2421 subd. 2 (1) defines a large energy facility as “any electric power generating plant or combination of plants at a single site with a combined capacity of 50,000 kilowatts or more and transmission lines directly associated with the plant that are necessary to interconnect the plant to the transmission system.” Therefore, under Minnesota Rules the transmission line is not considered to be a facility separate from the generating unit and does not qualify as a large high voltage transmission line (LHVTL).<sup>2</sup>

Minnesota Rules 7849.0260 requires data be provided regarding applications for an LHVTL. Since Andyville is not proposing a LHVTL (the transmission line is considered part of the LEGF), none of the data requirements are applicable and an exemption is not needed.

*7. 7849.0260 (B) 1: Alternatives to the Transmission Line*

Although the Applicant requests an exemption to this rule, as discussed above, Minnesota Rules 7849.0260 requires data be provided regarding applications for an LHVTL. Since Andyville is not proposing a LHVTL, none of the data requirements are applicable and an exemption is not needed.

*8. 7849.0260 (C) 5: Details Regarding Alternatives*

Although the Applicant requests an exemption to this rule, as discussed above, Minnesota Rules 7849.0260 requires data be provided regarding applications for an LHVTL. Since Andyville is not proposing a LHVTL, none of the data requirements are applicable and an exemption is not needed.

*9. 7849.0260 (D): Map of Applicant’s System*

Although the Applicant requests an exemption to this rule, as discussed above, Minnesota Rules 7849.0260 requires data be provided regarding applications for an LHVTL. Since Andyville is not proposing a LHVTL, none of the data requirements are applicable and an exemption is not needed.

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<sup>2</sup> This is consistent with the Commission’s October 16, 2008 *Order Granting Exemption, Approving Notice Plan as Modified and Granting Variance* in Docket No. IP6687/CN-08-951 which determined that a notice plan was required for an 11-mile, 230-kV transmission line proposed to interconnect a 201 MW generation project. However, no exemptions regarding Minnesota Rules 7849.0260 were granted and the subsequent CN proceeding did not require information regarding alternatives to the transmission facility.

*10. 7849.0270: Peak Demand and Annual Consumption Forecast*

This rule requires an applicant to provide system forecast data. Andyville requests an exemption because it does not have a service area or a system. Because the Applicant also has not identified a buyer yet, Andyville cannot reasonably forecast peak demand for the buyer's service area. Andyville proposes to submit regional demand, consumption, and capacity data to demonstrate the need for independently produced renewable energy. The Department agrees that Andyville's proposed alternative data is relevant. Therefore, the Department recommends that the Commission approve the requested exemption and require Andyville to provide data regarding regional demand, consumption, and capacity. However, if a PPA is executed prior to application submittal or during the pendency of the CN proceeding, the exemption should be conditioned upon Andyville providing equivalent data from any purchaser(s) of the output.

*11. 7849.0280: System Capacity*

This rule requires an applicant to provide information regarding the ability of its existing system to meet the demand for electrical energy forecast in response to part 7849.0270. Again, Andyville does not have a system but proposes to submit regional demand, consumption and capacity data. The Department recommends that the Commission approve the requested exemption and require Andyville to provide data regarding regional demand, consumption and capacity. However, if a PPA is executed prior to application submittal or during the pendency of the CN proceeding, the exemption should be conditioned upon Andyville providing equivalent data from any purchaser(s) of the output.

*12. 7849.0290: Conservation Programs*

This rule requires an applicant to provide information related to conservation programs. Andyville requests an exemption to this rule because Andyville is not a regulated utility, has no retail customers, and plans to sell the project's output into the wholesale market. For these reasons and the fact that the project is a renewable energy project, conservation programs could not serve as an alternative to the project.

The Department agrees that conservation cannot meet a need for renewable energy and recommends that the Commission approve the requested exemption.

*13. 7849.0300: Consequences of Delay—System*

This rule requires an applicant to provide information regarding 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. Andyville requests an exemption because the Applicant does not have a system and requests to instead provide data on the consequences of delay to its potential customers and the region. The Department recommends that the Commission approve the requested exemption and require Andyville to provide data regarding the consequences of delay on its potential customers and the region.

*14. 7849.0330: Alternative Involving an LHVTL*

This rule requires an applicant to provide data for each alternative that would involve construction of an LHVTL. Regarding this requirement Andyville states that “other transmission facilities are not true alternatives to the proposed Andyville generation-tie line, since the purpose of the generation-tie line is to deliver the output from the facility to increase the supply of renewable energy to the purchaser to meet its renewable, clean energy, or sustainability obligations.” The Department agrees with Andyville’s analysis and recommends that the Commission grant the proposed exemption.

*15. 7849.0340: The Alternative of No Facility*

This rule requires an applicant to provide information regarding the impact of the alternative of no facility on the existing system. Andyville requests an exemption because it does not have a system. The Department recommends that the Commission approve the requested exemption and allow Andyville to provide data regarding the impact on the wholesale market of the “no facility” alternative as the Applicant proposes. However, if a PPA is executed prior to application submittal or during the pendency of the CN proceeding, the exemption should be conditioned upon Andyville providing equivalent data from any purchaser(s) of the output.

### **III. DEPARTMENT RECOMMENDATION**

The Department recommends that the Commission determine that the following data requirements are not applicable:

- 7849.0260 (A) 3 and (C) 6: Line Loss Data;
- 7849.0260 (B) 1: Alternatives to the Transmission Line;
- 7849.0260 (C) 5: Details Regarding Alternatives; and
- 7849.0260 (D): Map of Applicant’s System.

The Department recommends that the Commission approve the following exemptions conditioned upon Andyville providing alternative data:

- 7849.0250 (D): Map of Applicant’s System;
- 7849.0270: Peak Demand and Annual Consumption Forecast;
- 7849.0280: System Capacity;
- 7849.0300: Consequences of Delay—System; and
- 7849.0340: The Alternative of No Facility.

The Department also recommended that the Commission approve the requested exemption for 7849.0250 (C) 7: Effect of Project on Rates System-wide, but require the Company to provide alternative data regarding the impact of the project on wholesale prices.



The Department recommends that the Commission grant the partial exemption to 7849.0250 (B) 4: Description of Certain Alternatives requirement, but require the Applicant to provide an analysis of alternatively sized renewable energy projects.

The Department recommends that the Commission approve the following exemptions as proposed. However if a PPA is executed prior to application submittal or during the pendency of the CN proceeding, the Department recommends that the exemption be conditioned upon Byron providing equivalent data from any purchaser(s) and/or any alternative data proposed by Andyville (where applicable)::

- 7849.0240, subp. 2 (B): Promotional Activities;
- 7849.0250 (B) 1, 2, 3, and 5: Description of Certain Alternatives;
- 7849.0250 (C) 1 to 6, 8 and 9: Availability of Alternatives to the Facility;
- 7849.0290: Conservation Programs; and
- 7849.0330: Alternatives Involving an LHVTL.

/ja

**CERTIFICATE OF SERVICE**

I, Linda Chavez, hereby certify that I have this day served copies of the following document on the attached list of persons by electronic filing, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**MINNESOTA DEPARTMENT OF COMMERCE – COMMENTS**

Docket Nos. **IP-7045/CN-20-856**

Dated this **28th** day of **December, 2020**.

/s/Linda Chavez

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First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Christina	Brusven	cbrusven@fredlaw.com	Fredrikson Byron	200 S 6th St Ste 4000  Minneapolis, MN 554021425	Electronic Service	Yes	OFF_SL_20-856_CN-20-856
Linda	Chavez	linda.chavez@state.mn.us	Department of Commerce	85 7th Place E Ste 280  Saint Paul, MN 55101-2198	Electronic Service	No	OFF_SL_20-856_CN-20-856
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400  St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_20-856_CN-20-856
Kate	Fairman	kate.frantz@state.mn.us	Department of Natural Resources	Box 32 500 Lafayette Rd St. Paul, MN 551554032	Electronic Service	No	OFF_SL_20-856_CN-20-856
Annie	Felix Gerth	annie.felix-gerth@state.mn.us		Board of Water & Soil Resources 520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	No	OFF_SL_20-856_CN-20-856
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_20-856_CN-20-856
Kari	Howe	kari.howe@state.mn.us	DEED	332 Minnesota St, #E200 1ST National Bank Bldg St. Paul, MN 55101	Electronic Service	No	OFF_SL_20-856_CN-20-856
Ray	Kirsch	Raymond.Kirsch@state.mn.us	Department of Commerce	85 7th Place E Ste 500  St. Paul, MN 55101	Electronic Service	No	OFF_SL_20-856_CN-20-856
Karen	Kromar	karen.kromar@state.mn.us	MN Pollution Control Agency	520 Lafayette Rd  Saint Paul, MN 55155	Electronic Service	No	OFF_SL_20-856_CN-20-856
Susan	Medhaug	Susan.medhaug@state.mn.us	Department of Commerce	Suite 280, 85 Seventh Place East  St. Paul, MN 551012198	Electronic Service	No	OFF_SL_20-856_CN-20-856

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_20-856_CN-20-856
Stephan	Roos	stephan.roos@state.mn.us	MN Department of Agriculture	625 Robert St N  Saint Paul, MN 55155-2538	Electronic Service	No	OFF_SL_20-856_CN-20-856
Jacob	Salisbury	Jacob.Salisbury@edf-re.com	EDF Renewables	10 NE 2nd St Ste 400  Minneapolis, MN 55413	Electronic Service	Yes	OFF_SL_20-856_CN-20-856
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_20-856_CN-20-856
Adam	Sokolski	adam.sokolski@edf-re.com	EDF Renewable Energy	10 Second Street NE Ste 400  Minneapolis, MN 55410	Electronic Service	Yes	OFF_SL_20-856_CN-20-856
Charles J	Urena	curena@fredlaw.com	Fredrikson & Byron, P.A.	200 S 6th St Ste 4000  Minneapolis, MN 55402	Electronic Service	Yes	OFF_SL_20-856_CN-20-856
Cynthia	Warzecha	cynthia.warzecha@state.mn.us	Minnesota Department of Natural Resources	500 Lafayette Road Box 25 St. Paul, Minnesota 55155-4040	Electronic Service	No	OFF_SL_20-856_CN-20-856
David	Weetman	david.weetman@westwoodps.com	Westwood Professional Services	12701 Whitewater Dr Ste 300  Minnetonka, MN 55343	Electronic Service	No	OFF_SL_20-856_CN-20-856
Scott	Wentzell	scott.wentzell@edf-re.com	EDF Renewables	10 NE 2nd St Ste 400  Minneapolis, MN 55413	Electronic Service	Yes	OFF_SL_20-856_CN-20-856