

June 6, 2025

VIA E-FILING

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

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

**Re: In the Matter of the Application of Otter Tail Power Company for a Site Permit for the up to 66 MW Solway Solar Project in Beltrami County, Minnesota
OAH Docket No. 23-2500-40576
MPUC Docket No. E017/GS-24-309**

Dear Mr. Seuffert and Judge Todnem:

Otter Tail Power Company (Otter Tail) respectfully submits these reply comments in response to public comments filed on Otter Tail's application for the up to 66 megawatt (MW) Solway Solar Project in Beltrami County, Minnesota (the Project) in the above-captioned docket.

During the comment period, written comments were submitted by Minnesota Department of Commerce Energy Environmental Review and Analysis Unit (EERA),¹ Minnesota Department of Natural Resources (MDNR),² Minnesota Interagency Vegetation Management Plan Working Group (VMPWG),³ IUOE Local 49 (Local 49) and North Central States Regional Council of Carpenters (NCSRCC),⁴ and LIUNA Minnesota & North Dakota (LIUNA).⁵ Otter Tail appreciates the agency and public participation in this docket and the opportunity to offer this response. Otter Tail responds to EERA's comments in Section 1 below; MDNR's comments in Section 2; and VMPWG's comments in Section 3. In Section 4, Otter Tail responds to other comments submitted during the comment period. Questions and comments readily addressed by the Project Application or Environmental Assessment (EA) will not be addressed in detail in this response.

As an initial matter, the record demonstrates that the Project has been designed and sited to avoid and/or minimize human and environmental impacts to the greatest extent practicable. The Project makes efficient use of available land, existing transmission interconnection, and solar resources while minimizing adverse human and environmental impacts, and, overall, the Project complies with the Minnesota Public Utilities Commission's (Commission) siting criteria.

¹ EERA Hearing Comments (May 27, 2025) (eDocket No. [20255-219263-01](#)).

² MDNR Hearing Comments (May 30, 2025) (eDocket No. [20255-219435-01](#)).

³ VMPWG Hearing Comments (May 30, 2025) (eDocket No. [20255-219404-01](#)).

⁴ Local 49 and NCSRCC Hearing Comments (May 30, 2025) (eDocket No. [20255-219446-01](#)).

⁵ LIUNA Hearing Comments (June 2, 2025) (eDocket No. [20255-219459-01](#)).

1. Response to EERA Comments

a. Decommissioning Plan

EERA recommends updates to the Decommissioning Plan prior to Project construction, including updates to the schedule, the Project description, and to clarify responsibilities.⁶ Otter Tail appreciates the recommendations and will make these updates and provide them as required in advance of a pre-construction meeting.

b. Special Conditions

In the comments, EERA summarizes the changes between the sample permit and EERA's proposed Draft Site Permit (DSP), included as Appendix C in the EA. Otter Tail maintains its comments filed on May 6, 2025, regarding conditions proposed in the DSP.⁷

1. Noise

Otter Tail noted in testimony that the DSP standard condition 4.3.7 sufficiently addresses Project noise, and that EERA's proposed Special Condition 5.1 is not warranted here.⁸ EERA's written comments continue to recommend Special Condition 5.1, which requires Otter Tail to complete a noise impact assessment at least 14 days prior to the pre-construction meeting.⁹ EERA further stated that the modeling should assess how noise from all energy infrastructure – the proposed solar facility, the existing Solway Combustion Turbine Generating Station, and the associated substation – impacts receptors in the Project Area. EERA suggested that, based on the record to date, it is not clear to EERA staff if the addition of the proposed solar facility will result in compliance with state noise standards or if mitigation will be required.

Otter Tail provides the following additional information to demonstrate that further modeling is not required to demonstrate compliance with the noise standards and that solar noise modeling requirement is not necessary here.

Operational noise for the Solway Generating Plant was assessed as part of an Environmental Assessment Worksheet completed for the Generating Plant prior to construction.¹⁰ This assessment concluded that overall L50 noise levels (background plus generator) would be 47 A-

⁶ EERA Hearing Comments at 1 (May 27, 2025) (eDocket No. [20255-219263-01](#)).

⁷ Ex. OTPC-7 (Direct Testimony of Preston Riewer with Schedules A-F).

⁸ Ex. OTPC-7 at 7:23-8:8 (Direct Testimony of Preston Riewer with Schedules A-F).

⁹ EERA Hearing Comments at 5 (May 27, 2025) (eDocket No. [20255-219263-01](#)).

¹⁰ Environmental Assessment Worksheet for Solway Plant, Minnesota Environmental Quality Board (Nov. 8, 2001), at 19-20.

weighted decibels (dBA) at the nearest receptor, well in compliance with the daytime and nighttime noise standards at the nearest receptor.¹¹

For the Project, Appendix M identifies that the Project-related noise levels will fall below 50 dBA at a much shorter distance than 900 feet, the distance of the closest Project source to the nearest residence.¹²

Operation of the Project alone will comply with the nighttime noise standard of 50 dBA L50. By its nature as a surplus interconnection, operation of the quieter solar Project would offset generation from the louder combustion turbine. Given the minimal operational noise levels of the Project and its offsetting interconnection relationship with the combustion turbine, further noise modeling is not needed to confirm compliance with the noise standards.

c. Project Life

As discussed in the Application, Otter Tail has planned for an expected service life of 35 years for the Project.¹³ EERA noted that the Commission typically issues site permits with 30-year terms.¹⁴ While Otter Tail recognizes that the Commission typically issues site permits for solar facilities with a 30-year term, this has been largely a matter of practice, as it is not a statutory or rule requirement. Otter Tail is an investor-owned utility, and the Commission has evaluated Otter Tail's long-term need for solar resources in selecting this Project as a reasonable means of meeting Otter Tail's obligations under the Carbon-free and Renewable Energy Standards. It is reasonable, here, that the site permit reflect the full 35-year expected life of the solar equipment such that Otter Tail and its ratepayers can rely on the full benefits of the Project.¹⁵ Otter Tail appreciates that it could seek a 5-year extension at the end of the 30-year term, but it seems administratively more efficient to simply grant a 35-year term to the initial site permit. Accordingly, Otter Tail respectfully requests that the site permit be issued with a 35-year term.

d. Good Neighbor Agreements

EERA also summarized Otter Tail's comments on the EA, including notes to clarify the EA for consistency with the Application. After further review, Otter Tail identified an additional inconsistency between the Application and the EA. The EA states that impacts to farmland will be

¹¹ *Id.*

¹² Ex. OTPC-4 at Appendix M (Operating Equipment Noise Levels).

¹³ Ex. OTPC-4 at 33, 42 (Application).

¹⁴ EERA Hearing Comments at 2 (May 27, 2025) (eDocket No. [20255-219263-01](#)).

¹⁵ A 35-year term is also consistent with prior Commission approvals. For example, the Commission approved the Hoot Lake Solar project for a 35.5-year life as part of the depreciation certification. *See In the Matter of Otter Tail Power Company's Petition for Approval of its 2022 Annual Review of Depreciation Certification*, Docket No. E-017/D-22-483, Order (Dec. 7, 2022).

offset by easement agreements with landowners.¹⁶ Otter Tail owns the entire Project Area, so Otter Tail will not be making easement payments to landowners. However, Otter Tail did extend offers for good neighbor agreements to the community.

2. Response to MDNR Comments

MDNR submitted written comments on May 30, 2025, recommending special permit conditions for facility lighting, dust control, wildlife friendly erosion control, Northern Long-eared Bat protections, and a Vegetation Management Plan (VMP).¹⁷ MDNR requested that the Project's security fence reach a minimum height of 10 feet around each grouping of solar arrays to prevent large wildlife from entering the solar facility and supported section 4.3.32 of the DSP requiring the permittee to coordinate the final security fencing design with the MDNR and the Department of Commerce.¹⁸ MDNR also requested a special permit condition requiring compliance with Minnesota state-listed endangered and threatened species laws.¹⁹

a. Security Fencing

MDNR provided comments on the Solar Project's perimeter fence.²⁰ Otter Tail appreciates MDNR's comments and will continue to coordinate with MDNR and EERA regarding the Project's security fence. But Otter Tail respectfully disagrees with MDNR's recommendations as to fence heights.

MDNR recommended at least ten-foot-tall security fencing to prevent large wildlife from entering the solar facility.²¹ The EA and Application describe Project fencing as seven-foot-high agricultural woven wire fence topped with three strands of high-tensile smooth wire, for a total height of eight-feet.²² This type of fencing is designed to exclude deer. As noted in the EA, "deer can jump many fences, [and] they can become tangled in both smooth and barbed-wire fences." Otter Tail appreciates the goal of preventing deer from entering the facility. However, a ten-foot-high security fence creates several other issues. For example, as reflected in Section 4.3.32 (Security Fencing) of the DSP, the security fence should be designed to "minimize the visual impact of the Project." Ten-foot-tall security fencing around the arrays would result in a greater visual impact, with no evidence that it would better exclude deer than Otter Tail's current design.

¹⁶ Ex. EERA-7 at 7, 13, & 41 (EA).

¹⁷ MDNR Hearing Comments (May 30, 2025) (eDocket No. [20255-219435-01](#)).

¹⁸ MDNR Hearing Comments at 1 (May 30, 2025) (eDocket No. [20255-219435-01](#)).

¹⁹ MDNR Hearing Comments at 2 (May 30, 2025) (eDocket No. [20255-219435-01](#)).

²⁰ MDNR Hearing Comments at 1 (May 30, 2025) (eDocket No. [20255-219435-01](#)).

²¹ MDNR Hearing Comments at 1 (May 30, 2025) (eDocket No. [20255-219435-01](#)).

²² Ex. OTPC-4 at 22 (Application); Ex. EERA-7 at 83 (EA).

Additionally, Otter Tail has designed its security fencing to comply with applicable National Electric Safety Code (NESC) requirements.²³ Otter Tail has demonstrated that the perimeter fencing currently contemplated for the Project is reasonable and Section 4.3.32 of the DSP adequately addresses the security fencing. The fencing proposed for the Solar Project is consistent with other site permits issued by the Commission,²⁴ and it is similar to the fence height Otter Tail utilized at its Hoot Lake Solar Project, which has not experienced any significant operational issues due to deer present inside the facility.

b. Lighting

MDNR recommended adding a special condition to the DSP related to lighting of the Project operations and maintenance facility, gates, and perimeter fence. MDNR provided an example for a recent docket.²⁵ Otter Tail does not object to a special condition using the language provided by MDNR:

The Permittee must use shielded and downward facing lighting and LED lighting that minimizes blue hue at the project substation and operations and maintenance facility. Downward facing lighting must be clearly visible on the site plan submitted for the project.

²³ Ex. OTPC-4 at 22 (Application); Ex. EERA-7 at 19 (EA).

²⁴ See, e.g., *In the Matter of the Application of Northern States Power Co. d/b/a Xcel Energy for a Site Permit for the up to 250 MW Sherco 3 Solar Energy Generating System in Sherburne County, Minnesota*, Order Issuing Site Permit, Site Permit at Section 4.3.32 (July 31, 2024) (PUC Docket No. E-002/GS-23-217) (eDocket No. 20247-209139-01); *In the Matter of the Application of Lake Wilson Solar Energy LLC for a Certificate of Need and a Site Permit for the up to 150 MW Lake Wilson Solar and Associated Battery Storage Project in Murray County, Minnesota*, Order Granting Certificate of Need and Issuing Site Permit, Site Permit at Section 4.3.31 (April 23, 2024) (PUC Docket No. IP-7070/GS-21-792) (eDocket No. 20244-205861-01); *In the Matter of the Application of Byron Solar, LLC for a Certificate of Need, Site Permit, and Route Permit for the up to 200 MW Byron Solar Project and 345 kV Transmission Line in Dodge and Olmsted Counties, Minnesota*, Order Granting Certificate of Need and Issuing Site and Route Permits, Site Permit at Section 4.3.31 (May 1, 2023) (PUC Docket No. IP-7041/GS-20-763) (eDocket No. 20235-195471-02).

²⁵ MDNR Hearing Comments at 1-2 (May 30, 2025) (eDocket No. [20255-219435-01](#)).

c. Wildlife-Friendly Erosion Control

MDNR also recommended adding a special condition to the DSP related to the use of wildlife-friendly erosion control measures and the use of mulch products without green dye.²⁶ Otter Tail does not object to a special condition using the language provided by MDNR:

The permittee shall use erosion control materials that do not contain plastic or synthetic fibers or malachite green dye.

d. Dust Control

MDNR also recommended adding a special condition to the DSP related to the use of non-chloride products for dust control. MDNR provided an example of a recent docket.²⁷ Otter Tail does not object to a special condition using the language provided by MDNR:

The Permittee shall utilize non-chloride products for onsite dust control during construction.

e. State-listed endangered and threatened species

In its public hearing comments, MDNR requested the following special permit condition be included in the Site Permit requiring the permittee to comply with Minnesota state-listed endangered and threatened species laws:

The Permittee will comply with applicable Minnesota Department of Natural Resources requirements related to state-listed endangered and threatened species in accordance with Minnesota's Endangered Species Statute (Minnesota Statutes, section 84.0895) and associated Rules (Minnesota Rules, part 6212.1800 to 6212.2300 and 6134). The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.²⁸

Otter Tail finds MDNR's recommended permit condition reasonable and supports its inclusion in the DSP.

²⁶ MDNR Hearing Comments at 2 (May 30, 2025) (eDocket No. [20255-219435-01](#)).

²⁷ MDNR Hearing Comments at 2 (May 30, 2025) (eDocket No. [20255-219435-01](#)).

²⁸ MDNR Hearing Comments at 2 (May 30, 2025) (eDocket No. [20255-219435-01](#)).

f. Vegetation Management Plan (VMP)

MDNR further recommended continued coordination with the VMPWG to refine the VMP, and noted its support for section 4.3.16 of the DSP encouraging the Applicant to meet the standards of the Minnesota Habitat Friendly Solar Program and requiring native perennial vegetation to create habitat and improve soil quality, and section 4.3.17 of the DSP to require the Applicant to develop a VMP in coordination with the VMPWG.²⁹ As discussed next, Otter Tail is committed to coordination with the VMPWG to refine the VMP.

3. Response to VMPWG Comments

Otter Tail appreciates the comments of the VMPWG, including the VMPWG's recognition that the plan is achievable. The VMPWG suggested the VMP be revised to add additional specificity regarding the Project, including management objectives, site preparation details, and a schedule/sequence of seed installation including a description of when construction, planting, and management activities will occur and a description of what the step entails.³⁰ Otter Tail appreciates the recommendations and will make these updates and provide them as required in advance of a pre-construction meeting.

4. Response to Other Comments

a. Impacts on Trees

At the public hearing, an area landowner expressed concern about the removal of trees around the Project.³¹ Otter Tail has removed the southwestern array from the Project, which will decrease the tree clearing area from 115 acres to 72 acres.³²

b. Local Consultation and Tax Revenue

At the in-person public hearing, several commenters asked about expected tax revenue to local governments and the production tax credit.³³ As discussed in the EA, once the Project is operational, Otter Tail will pay property tax and production taxes on the land and energy production to local governments. Minnesota has adopted a production tax of \$1.20/MWh paid 80 percent to counties and 20 percent to the cities and townships.³⁴

²⁹ MDNR Hearing Comments at 3 (May 30, 2025) (eDocket No. [20255-219435-01](#)).

³⁰ VMPWG Hearing Comments (May 30, 2025) (eDocket No. [20255-219404-01](#)).

³¹ In-Person Public Hearing Tr. at 39 (May 14, 2025).

³² Ex. OTPC-7 at 4:9-14 (Direct Testimony of Preston Riewer with Schedules A-F).

³³ In-Person Public Hearing Tr. at 20-21 & 30-31 (May 14, 2025).

³⁴ Ex. EERA-7 at 56 (EA).

Further, Beth Hendricks, the Eckles Township Supervisor, shared that Eckles Township abuts Lammers Township and asked what roadway materials would be arriving from.³⁵ She asked if any Eckles Township roads would be impacted. While Otter Tail has not identified final haul routes, Section 4.3.22 of the DSP would require Otter Tail to inform road authorities of roads that will be used during construction and acquire necessary permits and approvals for oversize and overweight loads. Otter Tail will coordinate with local road authorities as required to address use of area roads.

c. Recycling Solar Panels

Beltrami County Commissioner John Carlson also asked about the process for recycling solar panels.³⁶ Solar Panel recycling is rapidly developing as the solar industry grows, and it is expected to further grow as early facilities reach the end of their operational life in the next decade.³⁷ The solar industry, research organizations, government agencies, and other stakeholder groups are taking steps to increase solar panel recycling and apply technological advances for alternative uses for the decommissioned panels and materials. Otter Tail is monitoring developments in solar panel recycling. It has developed a decommissioning plan for the Project, and the decommissioning plan will be updated every five years.³⁸

d. Soil & Water Quality

One commenter expressed concern about the impact of solar panels on the environment, especially downstream water quality.³⁹ Solar panel materials are enclosed, and do not mix with water or vaporize into the air, so there is little, if any, risk of chemical releases to the environment during normal use. Moreover, most solar panels, including all of the models under consideration for the Project, are made of strong tempered glass that passes hail testing and is regularly installed in cold climates. All solar panel materials are contained in a solid matrix, which is insoluble and non-volatile at ambient conditions, and further enclosed, so releases to the ground from leaching or

³⁵ In-Person Public Hearing Tr. at 29-30 (May 14, 2025).

³⁶ In-Person Public Hearing Tr. at 24 (May 14, 2025).

³⁷ *Solar Panel Recycling and Disposal*, American Clean Power (Nov. 2024) (available at https://cleanpower.org/wp-content/uploads/gateway/gateway/2024/10/SolarRecycling_241104.pdf).

³⁸ Ex. OTPC-4 at Appendix F (Decommissioning Plan).

³⁹ In-Person Public Hearing Tr. at 40 (May 14, 2025).

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from panel breakage are not a concern.⁴⁰ Because of their design, solar panels present minimal risks to the environment or human health, even in the event of a breakage.⁴¹

5. Conclusion

Otter Tail respectfully requests that the ALJ recommend, and the Commission issue, a site permit for the Project consistent with the conditions contained in the DSP as modified by these reply comments.

These reply comments have been e-filed through www.edocket.state.mn.us. A copy of this filing is also being served upon the persons on the Official Service List of record.

Please let me know if you have any questions regarding this filing.

Sincerely,

FREDRIKSON & BYRON, P.A.



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⁴⁰ *Ground-Mounted Solar Photovoltaic Systems*, Massachusetts Department of Energy Resources, Massachusetts Department of Environmental Protection & Massachusetts Clean Energy Center (June 2015) (available at <https://www.mass.gov/doc/ground-mounted-pv-guide/download>).

⁴¹ *Solar Panel Recycling and Disposal*, American Clean Power (Nov. 2024) (available at https://cleanpower.org/wp-content/uploads/gateway/gateway/2024/10/SolarRecycling_241104.pdf).

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MPUC Docket No. E017/GS-24-309**

CERTIFICATE OF SERVICE

Maia Martinez certifies that on the 6th day of June, 2025, she e-filed a true and correct copy of the reply comments on behalf of Otter Tail Power Company via eDockets

Said documents were also served as designated on the Official Service Lists on file with the Minnesota Public Utilities Commission and as attached hereto.

Executed on: June 6, 2025

Signed: /s/ Maia Martinez

Fredrikson & Byron, P.A.
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3	Sharon	Ferguson	sharon.ferguson@state.mn.us		Department of Commerce	85 7th Place E Ste 280 Saint Paul MN, 55101-2198 United States	Electronic Service		No	24-309Official CC Service List
4	Logan	Hicks	logan.m.hicks@state.mn.us		Department of Commerce	85 7th Place East Suite 280 Saint Paul MN, 55101 United States	Electronic Service		No	24-309Official CC Service List
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8	Matthew	Olsen	molsen@otpc.com	Otter Tail Power Company		215 South Cascade Street Fergus Falls MN, 56537 United States	Electronic Service		No	24-309Official CC Service List
9	Cezar	Panait	cezar.panait@state.mn.us		Public Utilities Commission	121 7th Place East Suite 350 St. Paul MN, 55101 United States	Electronic Service		No	24-309Official CC Service List
10	Kevin	Pranis	kpranis@liunagroc.com	Laborers' District Council of MN and ND		81 E Little Canada Road St. Paul MN, 55117 United States	Electronic Service		No	24-309Official CC Service List
11	Generic Notice	Regulatory	regulatory_filing_coordinators@otpc.com	Otter Tail Power Company		215 S. Cascade Street Fergus Falls MN, 56537 United States	Electronic Service		No	24-309Official CC Service List

#	First Name	Last Name	Email	Organization	Agency	Address	Delivery Method	Alternate Delivery Method	View Trade Secret	Service List Name
12	Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us		Office of the Attorney General - Residential Utilities Division	1400 BRM Tower 445 Minnesota St St. Paul MN, 55101-2131 United States	Electronic Service		No	24-309Official CC Service List
13	Michael	Riewer	mriewer@otpc.com		Otter Tail Power Company	PO Box 4496 Fergus Falls MN, 56538-0496 United States	Electronic Service		No	24-309Official CC Service List
14	Preston	Riewer	priewer@otpc.com		Otter Tail Power Company	215 South Cascade St. Fergus Falls MN, 56537 United States	Electronic Service		No	24-309Official CC Service List
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17	Janet	Shaddix Elling	jshaddix@janetshaddix.com		Shaddix And Associates	7400 Lyndale Ave S Ste 190 Richfield MN, 55423 United States	Electronic Service		Yes	24-309Official CC Service List
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19	Kim	Ward	kaward@otpc.com		Otter Tail Power Company	215 South Cascade Fergus Falls MN, 56537 United States	Electronic Service		No	24-309Official CC Service List