

January 28, 2022

Will Seuffert  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**  
Docket No. IP7014/CN-19-486

Dear Mr. Seuffert:

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

In the Matter of the Application of Red Rock Solar, LLC for a Certificate of Need for the up to 60-MW Red Rock Solar Project in Cottonwood County.

The Petition was filed on November 9, 2020 by:

Christina K. Brusven  
Fredrikson & Byron, P.A.  
200 South Sixth Street, Suite 4000  
Minneapolis, MN 55402

The Department recommends that the Minnesota Public Utilities Commission (Commission) consider the impacts detailed in the Environmental Report, and, if the impacts are acceptable, **grant the Certificate of Need**. The Department is available to answer any questions the Commission may have.

Sincerely,

/s/ Steve Rakow  
Analyst Coordinator

SR/ar  
Attachment



## Before the Minnesota Public Utilities Commission

### Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. IP7014/CN-19-486

#### I. INTRODUCTION

##### A. EXEMPTION REQUEST

On June 19, 2019, Big Bend Wind, LLC and Red Rock Solar, LLC, (RRS or the Company), both subsidiary project companies of Apex Clean Energy Holdings, Inc., submitted the *Request for Exemption from Certain Application Content Requirements and Rule 7829.2550 HVTL Notice Plan* (Exemption and Notice Petition) to the Minnesota Public Utilities Commission (Commission).

RRS is an independent power producer (IPP) that proposes to construct and operate an up to 60 megawatt (MW) alternating current (AC) solar energy conversion facility (Project).<sup>1</sup> The proposed Project would be located at a site within Midway Township, Cottonwood County, Minnesota. The proposed Project will interconnect via an 18-mile 161 kilovolt (kV) generation tie-line located within Midway, Mountain Lake, Odin, and Cedar townships in Cottonwood, Watonwan, and Martin Counties, Minnesota. The generation tie-line will interconnect with the Blue Lake—Wilmarth—Interstate Junction 345 kV transmission line in Martin County. The power generated by the proposed Project will be offered for sale to Minnesota utilities and corporate purchasers that have identified a need for additional renewable energy.

On July 8, 2019, the Commission issued its *Notice of Comment Period on Request for Exemptions from Certain Filing Requirements*.

On July 22, 2019, the Department of Commerce, Division of Energy Resources, Energy Regulation and Planning (Department, or DOC-ERP) filed comments on the Exemption and Notice Petition, recommending approval of the data exemption requests with conditions.

On July 29, 2019, the Company filed reply comments.

On August 13, 2019, the Commission bifurcated the Big Bend Wind and Red Rock Solar projects into two separate dockets: Docket No. IP7013/CN-19-408 and Docket No. IP7014/CN-19-486, respectively.

On August 14, 2019, DOC-ERP's initial comments in response to the Commission's July 8, 2019 Notice were published in this proceeding, Docket No. IP7014/CN-19-486. Additionally, the Company's reply comments were published in this proceeding.

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<sup>1</sup> Note that the proposed Project is part of a hybrid wind/solar renewable project with the Big Bend Wind Project; See Docket No. IP7013/CN-19-408.

On September 24, 2019, the Commission issued its *Order Approving Exemptions to Certain Filing Requirements* (Exemption Order) approving the following full exemptions, conditional exemptions, and partial exemptions, respectively:

1. The Commission grants exemptions to the following rules as requested by Applicants:
  - a. 7849.0250 (B) (1)
  - b. 7849.0250 (D)
  - c. 7849.0290
  - d. 7849.0330
2. The Commission grants exemptions to the following rules on the condition that if a power purchase agreement is executed prior to application submittal or during the pendency of the certificate of need proceeding, the Applicants must provide equivalent data from any purchaser or any alternative data proposed by the Applicant:
  - a. 7949.0240, subp. 2 (B)
  - b. 7849.0250 (B) (2), (3), and (5)
  - c. 7849.0250 (C) (7)
  - d. 7849.0270
  - e. 7849.0280
  - f. 7849.0300
  - g. 7849.0340
3. The Commission grants exemptions to the following rules, such that the information to be provided is limited to renewable, sustainable, or clean energy alternatives:
  - a. 7849.0250 (B) (4)
  - b. 7849.0250 (C) (1) to (6), (8), and (9)

**B. CERTIFICATE OF NEED PETITION**

On November 9, 2020, RRS filed its *Certificate of Need Application for a Solar Energy Conversion System* (Petition) for the proposed Project.

On November 23, 2020, the Commission issued its *Notice of Comment Period* (Notice) requesting comments on the completeness of the Petition.

On December 15, 2020 DOC-ERP, Minnesota Department of Commerce, Energy Environmental Review and Analysis (DOC-EERA), and LIUNA Minnesota & North Dakota all filed comments regarding the completeness of the Petition.

On December 23, 2020 RRS and DOC-EERA filed rely comments on completeness.

On March 11, 2021 the Commission issued its *Order Accepting Applications as Complete, Establishing Review Procedures, Granting Variances, and Notice of and Order for Hearing* (Completeness Order) which stated:

2. The Commission accepts the Red Rock Solar Certificate of Need and Site Permit Applications as substantially complete.
3. The Commission directs that the Big Bend Wind and Red Rock Solar Certificate of Need Applications be reviewed using the informal review process under Minn. Rule 7829.1200 and requests preparation of findings of fact, conclusions of law, and recommendations.

Below are the comments of DOC-ERP regarding the merits of the Petition.

## **II. DEPARTMENT ANALYSIS**

Minnesota Statutes § 216B.2421, subd. 2 (1) defines a large energy facility (LEF) 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.

As the proposed Project would have a capacity of up to 60 MW (60,000 kilowatts), it qualifies as an LEF. Minnesota Statutes, § 216B.243, subd. 2 states that “no large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the Commission...” Therefore, a certificate of need (CN) application must be approved by the Commission before the proposed Project can be sited or constructed.

There are several factors to be considered by the Commission in making a determination in CN proceedings. In general, these factors are located in different sections of Minnesota Statutes. Some of the general statutory criteria are reflected in a more specific way in Minnesota Rules, part 7849.0120. However, some statutory criteria do not appear to be reflected in rules. To clarify the analysis, DOC-ERP groups all of the statutory and rule criteria into one of five factor categories.<sup>2</sup> DOC-ERP addresses each of the statutory and rule criteria below. A cross-index matching the statutory and rule criteria to the section where each is addressed along with a summary of the Department’s analysis is provided as Attachment 1.

DOC-ERP notes that we rely on DOC-EERA’s Environmental Report (ER) for an analysis of the effects of the proposed Project and the alternatives upon the natural and socioeconomic environments. DOC-ERP recommends that the Commission consider the ER in making its determination.<sup>3</sup>

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<sup>2</sup> Need Analysis, Link to Planning Process, Alternative Analysis, Socioeconomic Analysis, and Policy Analysis.

<sup>3</sup> The Commission’s Completeness Order required that that environmental review be conducted jointly (in the siting, routing, and need proceedings), to the extent practicable.

A. *NEED ANALYSIS*

Overall, the need analysis is governed by Minnesota Rules, part 7849.0120 (A), which states that a CN must be granted upon determining that:

The probable result of denial would be an adverse effect upon the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states.

The rule lists five distinct criteria. The Department presents the analysis of the need for the proposed Project in two parts. The first part is designed to address the accuracy of the forecast underlying the claimed need. The second is designed to address any broader reliability needs. Each is addressed separately below.

1. *Forecast Analysis*

i. *Accuracy of the Forecast*

- Minnesota Rules, part 7849.0120 A (1) states that, in assessing need, the Commission shall evaluate "the accuracy of the applicant's forecast of demand for the type of energy that would be supplied by the proposed facility." The Commission's September 23, 2021 *Order Granting Certificate of Need and Issuing Site Permit and Route Permit* (Plum Creek Order) in Docket Nos. IP6697/CN-18-699, IP6697/WS-18-700, and IP6697/TL-18-701 stated that:
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  - Plum Creek did not use data from a PPA, IRP, or biennial transmission project report to demonstrate demand for the Project. However, under Minnesota statute and rules, there is no requirement that Plum Creek present a PPA, IRP, biennial transmission project report, or any other specific data to demonstrate demand. The Legislature contemplated that independent power producers would construct such projects and did not require them to enter into power purchase agreements before obtaining a certificate of need. Rather, the Commission may evaluate demand using any data it finds persuasive, on a case-by-case basis. Furthermore, because Plum Creek is an independent power producer and not a utility, the Commission granted it certain variances to provide alternative data when more appropriate, and the data provided is sufficient to demonstrate demand.
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- In this case, Plum Creek showed that utilities and commercial and industrial customers have reported strong clean energy goals above and beyond RES requirements, and additional renewable energy sources will

be needed to meet that demand. Furthermore, utilities plan to retire coal-based generating units across the region in the coming years, and renewable energy sources are expected to fill some of the resulting capacity needs. These established goals and plans are strong evidence of a utility's intention for future energy development and can be used to demonstrate demand, especially when consistent with stated public policy goals. Citation omitted.

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As in the Plum Creek Order, RRS was granted an exemption to Minnesota Rules, part 7849.0270, which requires an applicant to provide information regarding its system peak demand and annual energy consumption.<sup>4</sup> RRS was instead required to provide information about regional demand, consumption, and capacity.

In the Petition, RRS cited several sources that create a need for the Project. First, RRS cited the integrated resource plans, renewable energy goals, and carbon dioxide (CO<sub>2</sub>) emissions reduction goals of Northern States Power Company d/b/a Xcel Energy (Xcel), Otter Tail Power Company (OTP), Minnesota Power, a public utility operating division of ALLETE, Inc. (MP), and Southern Minnesota Municipal Power Agency (SMMPA). Second, RRS cited to Minnesota Statutes §§ 216C.05<sup>5</sup> and 216H.02<sup>6</sup> as supporting the need for renewable energy. Third, RRS cited corporations turning to renewable energy to save money and meet sustainability goals.<sup>7</sup> Commercial and industrial customers either purchase renewable energy directly or obtain renewable benefits and cost savings through financially settled contracts [also known as virtual power purchase agreements (PPA)].<sup>8</sup> Fourth, RRS stated that retirements of coal-based generating units are expected across the Midcontinent Independent System Operator, Inc. (MISO) region, and renewable generation resources are expected to fill the resulting capacity needs.<sup>9</sup>

In summary, as in the Plum Creek Order, the proposed plans of OTP, MP, Xcel, and SMMPA the regional trend towards retirement of coal units, the existence of a market for projects being sold directly to C&I consumers, and the stated goals of regional utilities all indicate a market exists for new renewable energy. Therefore, the Department concludes that RRS's forecast of the need for the renewable energy expected to be produced by the proposed Project is reasonable.

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<sup>4</sup> Order Point 2 of the Exemption Order.

<sup>5</sup> This statute identifies energy planning and policy goals that include "the development and use of renewable energy resources wherever possible."

<sup>6</sup> This statute establishes a goal of reducing statewide GHG emissions across all sectors producing those emissions to a level at least 15 percent below 2005 levels by 2015, at least 30 percent below 2005 levels by 2025, and at least 80 percent below 2005 levels by 2050.

<sup>7</sup> Specific examples provided are Apple, Google, and Facebook setting goals to obtain 100 percent of their energy from renewables.

<sup>8</sup> RRS stated that Corporate PPA volumes in Midcontinent Independent System Operator (MISO) have increased each of the past five years, and Minnesota has seen an increase in cumulative operational and in-development C&I capacity, which highlights the broader trend of increased demand for renewables across the United States.

<sup>9</sup> Petition at page 29.

*ii. Overall State Energy Needs*

Minnesota Rules, part 7849.0120 (1) states that the Commission is to consider “the relationship of the proposed facility, or a suitable modification thereof, to overall state energy needs.” A review of the most recently filed IRPs indicates that Minnesotans are expected to have little change in their electricity requirements:

- Xcel’s IRP includes a 0.2 percent annual average energy growth rate for 2020 to 2034;<sup>10</sup>
- MP’s IRP includes a -0.4 percent annual average energy decline for 2019 to 2034;<sup>11</sup> and
- OTP’s IRP includes a 0.46 percent annual average energy growth rate, prior to conservation programs.<sup>12</sup>

However, all three utilities are proposing retirements of large baseload coal units:

- Xcel is proposing to retire the Allen S. King and Sherburne County Generating Station unit 3;
- MP is proposing to retire Boswell Energy Center unit 3; and
- OTP is proposing to withdraw from OTP’s 35 percent ownership interest in Coyote Station.

As a result, over time these and other utilities are planning on adding solar generating capacity. The proposed Project could help Minnesota meet its energy needs while supporting the state’s renewable energy and GHG reduction goals (see Minnesota Statutes §§ 216B.1691 and 216H.02).

The Department notes that Minnesota Statutes § 216B.1691, Subd. 2f requires Xcel, MP and OTP to generate or procure sufficient solar energy to serve at least 1.5% of total retail sales to Minnesota customers by the end of 2020 (the solar energy standard, or SES). Further, subdivision 2f(e) states “It is an energy goal of the state of Minnesota that, by 2030, ten percent of retail electric sales in Minnesota be generated by solar energy.” Further, Minnesota Statutes § 216B.1691, Subd. 2a (Minnesota’s renewable energy standard, or RES) requires Xcel generate or procure 30% of retail sales from renewable energy by 2020. Other utilities must generate or procure 25% of retail sales from renewable energy by 2025. Solar energy qualifies for both the SES and RES. However, resources procured to meet the SES cannot be used to meet the RES<sup>13</sup> and vice versa. The proposed Project could help Minnesota meet its energy needs while supporting the state’s renewable energy and greenhouse gas emissions-reductions goals (see Minnesota Statutes §§ 216B.1691 and 216H.02).

In summary, the Department concludes that the proposed Project fits the state’s overall energy needs.

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<sup>10</sup> See Xcel’s June 30, 2020 *Supplement: 2020-2034 Upper Midwest Integrated Resource Plan* at Attachment A, Table II-1 in Docket No. E002/RP-19-368.

<sup>11</sup> See MP’s *2021 Integrated Resource Plan* at page 21, filed February 1, 2021 in Docket No. E015/RP-21-33.

<sup>12</sup> See OTP’s *Application for Resource Plan Approval* at page 15, filed September 1, 2021 in Docket No. E017/RP-21-339.

<sup>13</sup> Minnesota Statutes § 216b.1691, Subd. 2a.

## *2. Reliability Analysis*

Minnesota Statutes § 216B.243, subd. 3 (5) states that, in assessing need, the Commission shall evaluate the “benefits of this facility, including its uses to . . . increase reliability of energy supply in Minnesota and the region.” RRS will need to apply to the MISO in order to interconnect to the transmission grid. MISO engineers study the impact on the reliability of the electrical system of each addition to the grid and the Department relies upon MISO’s analysis. Therefore, the Department concludes that this criterion has been met.

### *B. LINK TO PLANNING PROCESS*

- This section discusses the following aspects of this proposal:
- size, type and timing;
- renewable preference; and
- demand-side management (DSM) as an alternative to the proposed Project.

#### *1. Size, Type, and Timing*

Minnesota Rules, part 7849.0120 B (1) states that the Commission is to consider “the appropriateness of the size, the type, and the timing of the proposed facility compared to those of reasonable alternatives.”

##### *i. Size*

Regarding size, the Department notes that, although collective information submitted by the utilities subject to the Minnesota RES indicates that there is sufficient energy in aggregate to meet the RES<sup>14</sup> and SES<sup>15</sup>, this does not consider the potential need for additional renewable resources from individual utilities with insufficient energy to meet RES. Additional for renewable energy may also be required as power purchase agreements involving renewable resources expire. Additionally, utilities in neighboring states may have a need for renewable energy. If the proposed Project is granted a CN and is implemented, it will have to compete with the other renewable energy projects in the solar energy market to fulfill any needs.

Furthermore, the Petition stated that the proposed Project is sized to take advantage of economies of scale while also making efficient use of existing transmission capacity. Based on the discussion above regarding the forecasted solar energy needs for the region, and the Company’s economic incentives, the Department concludes that the proposed Project’s size is not excessive and therefore is reasonable.

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<sup>14</sup> See Docket Nos. E999/M-20-283 and E999/PR-20-12 .

<sup>15</sup> See Docket No. E999/M-20-283.



*ii. Type*

The Commission's Exemption Order granted RRS an exemption to Minnesota Rules, part 7849.0250 (B) (1) – (3), and (5) and a partial exemption to data requirement (4), to the extent that the Rule requires discussion of non-renewable alternatives. RRS stated that as the goal of the project is to provide renewable energy that will help utilities satisfy Minnesota's RES or SES, information regarding non-renewable alternatives would be irrelevant. Given these factors, along with the preference for renewable resources in Minnesota Statutes, the Department concludes that the proposed Project's type is reasonable. The Department notes that the Commission's assessment of the reasonableness of the proposed Project's type will be further informed by the information to be contained in the ER, which will assess the environmental impacts of alternatives.

*iii. Timing*

RRS stated that the proposed Project is expected to be in-service and operational during 2022. The timing of the proposed Project generally coincides or precedes the anticipated need for solar additions of multiple utilities in their IRPs as discussed in the forecast section above. Thus, the proposed Project is timed so as to be available to meet the IRP needs.

It is important to note that there is unlikely to be a one-to-one relationship between CN applications and Minnesota RES and SES obligations. More specifically, the Department notes that:

- there will likely not be a one-to-one match between CN applications based on the regional need for renewable generation and Minnesota utilities' RES and SES compliance level;
- additional renewable resources may be needed for certain Minnesota utilities to meet future RES requirements due to capacity expirations;
- capacity additions are typically added in "chunks" due to the benefits of economies of scale;
- the solar investment tax credit is reduced from 26 percent in 2021 to 22 percent in 2023, which could lead to earlier solar additions than might otherwise be the case; and
- there are uncertainties involved in accomplishing the associated transmission additions or upgrades needed for integrating the output of previously approved and variously located renewable generation projects.

Finally, the Department notes that Minnesota Rules, part 7849.0400 requires the recipient of a CN to notify the Commission if the proposed in-service date is delayed by more than one year. In summary, the Department concludes that the timing of the proposed Project is reasonable.

## *2. Renewable Preference*

There are two sections of Minnesota Statutes that provide a preference for renewable resources in resource planning and acquisition decisions. First, Minnesota Statutes § 216B.243, subd. 3a states that:

The Commission may not issue a certificate of need under this section for a large energy facility that generates electric power by means of a nonrenewable energy source, or that transmits electric power generated by means of a nonrenewable energy source, unless the applicant for the certificate has demonstrated to the Commission's satisfaction that it has explored the possibility of generating power by means of renewable energy sources and has demonstrated that the alternative selected is less expensive (including environmental costs) than power generated by a renewable energy source. For purposes of this subdivision, "renewable energy source" includes hydro, wind, solar, and geothermal energy and the use of trees or other vegetation as fuel.

Second, Minnesota Statutes § 216B.2422, subd. 4 states that:

The Commission shall not approve a new or refurbished nonrenewable energy facility in an integrated resource plan or a certificate of need, pursuant to section 216B.243, nor shall the Commission allow rate recovery pursuant to section 216B.16 for such a nonrenewable energy facility, unless the utility has demonstrated that a renewable energy facility is no in the public interest.

Minnesota Statutes indicate a clear preference for renewable facilities; the proposed Project meets a renewable preference.

## *3. DSM Analysis*

The Commission's Exemption Order exempted RRS from providing information on DSM programs, as required by Minnesota Rules, part 7849.0290, and the potential for reducing the need for this generation project because RRS does not have retail customers and does not operate any DSM programs. However, it is unlikely that the regional needs for solar energy at the scale indicated by RRS could be met through DSM programs. In fact, some of the needs, such as the RES or SES cannot be met by DSM.

### *C. ANALYSIS OF ALTERNATIVES*

Overall, the analysis of alternatives is governed by Minnesota Rules, part 7849.0120 B which states that a CN must be granted upon determining that “. . . a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record.” The rule then proceeds to list four distinct criteria. The Department breaks down its analysis of the alternatives to the proposed facility into four broad areas:

- alternatives analysis;
- reliability analysis;
- distributed generation (DG); and
- preference for an innovative energy project (IEP) as defined in Minnesota Statutes.

Each area is addressed separately below.

#### *1. Alternatives Analysis*

##### *i. Non-CN Facilities Analysis*

Minnesota Rules, part 7849.0120 A (4) states that the Commission is to consider “the ability of current facilities and planned facilities not requiring certificates of need to meet the future demand.” The primary alternatives to the proposed facilities are purchases from renewable facilities outside Minnesota or construction of renewable Minnesota facilities that are small enough not to require certificates of need (less than 50 MW).

As an IPP, RRS is a producer or seller, rather than purchaser, of electric generation. A renewable facility of less than 50 MW would not contribute as substantial an amount of renewable energy towards the Minnesota RES or towards a utility’s need for additional solar resources and would not benefit as much from economies of scale as the proposed Project. In addition, as an IPP RRS has the incentive to site generation in an economically efficient manner inside or outside Minnesota. Further, the Department notes that any party wishing to do so may propose an alternative to the proposed Project; at this time, no party filed such a proposal in this proceeding. Therefore, the Department concludes that current and planned facilities not requiring a CN have not been demonstrated to be more reasonable than the proposed Project.

##### *ii. Cost Analysis*

Minnesota Rules, part 7849.0120 B (2) states that the Commission is to consider “the cost of the proposed facility and the cost of energy to be supplied by the proposed facility compared to the costs of reasonable alternatives and the cost of energy that would be supplied by reasonable alternatives.” In the Exemption Order the Commission granted RRS an exemption to Minnesota Rules, part 7849.0250 (C), which requires an applicant to provide a description of alternatives that could provide electric power at the asserted level of need. Only details regarding renewable alternatives need be provided, including an estimate of the proposed Project’s effect on wholesale rates in Minnesota or the region.

The Department notes that RRS intends to sell the power produced from the proposed Project to a potential buyer, one possibly being an investor-owned utility (IOU) within Minnesota. In the event a PPA is reached with a Minnesota IOU, the Commission will have the opportunity to review the terms and costs associated with the PPA in its own proceeding. Additionally, a cost analysis from the Department would take place in that proceeding.

The Petition included a discussion of alternatives to the proposed Project, including, but not limited to hydropower, biomass, solar, and emerging technologies. RRS relied on cost information from the U.S. Department of Energy's Energy Information Administration. RRS concluded that solar energy resources are cost effective when compared with other renewable resources. The Department concludes that the data provided by RRS is reasonable and demonstrates solar energy's cost advantages and disadvantages relative to other new, renewable sources.

RRS stated that the proposed Project's energy production would be modest in comparison to the annual energy consumption of Minnesota and the region. However, because the proposed Project would not be subject to fluctuations in fuel costs, the Project could help stabilize or lower electricity prices in the state and region. The Department agrees that a solar facility the size of the proposed Project is not likely to have a significant effect on MISO wholesale prices. In aggregate, renewable resources such as wind and solar are dispatched "first" under MISO protocols. Since pricing in the MISO market is based on the last (marginal) resource (typically natural gas or coal), electricity produced by solar facilities in aggregate can decrease the amount of natural gas, coal, or whatever resource is on the margin (the highest priced option) at a given time, that is used for generating electricity.

Based on the above, the Department concludes that the cost of the proposed Project and the cost of energy to be supplied by the proposed Project is reasonable compared to the costs of reasonable alternatives and the cost of energy that would be supplied by reasonable alternatives.

### *iii. Natural and Socioeconomic Environments Analysis*

Minnesota Rules, part 7849.0120 B (3) states that the Commission is to consider "the effects of the proposed facility upon the natural and socioeconomic environments compared to the effects of reasonable alternatives." The proposed Project will have relatively minor pollution impacts. In addition, the Petition states that approximately 451.8 acres of predominately agricultural land would be permanently impacted by construction and installation of the proposed Project.

As an emission-free fuel, solar does not result in releases of CO<sub>2</sub>, NO<sub>x</sub>, etc. Therefore, consideration of the effects on the natural and socioeconomic environments using the Commission-approved externality values would not impact the overall cost analysis against the proposed Project. Therefore, the Department concludes that this sub-criterion has been met; however, and as noted above, the ER, being conducted concurrently in this proceeding and in the related siting proceeding, will include a full analysis of the effects of the proposed Project and the alternatives upon the natural and socioeconomic environments.

## *2. Reliability Analysis*

Minnesota Rules, part 7849.0120 B (4) states that the Commission is to consider “the expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives.” RRS estimated that the proposed Project will have an availability of about 99 percent, which it stated is consistent with industry standards.<sup>16</sup> Given such a high availability and MISO’s generation accreditation process, the Department concludes that the proposed Project will have a reliability similar to that of reasonable alternatives.

In addition, RRS estimated a net capacity factor of between approximately 24 and 27 percent.<sup>17</sup> The Department confirmed that the proposed expected capacity factor is within the National Renewable Energy Laboratory’s Utility-Scale Energy Technology Capacity Factors range.<sup>18</sup> RRS stated that the proposed Project would consist of a linear axis tracking system that allows the panels to track the sun’s position throughout the day.

- In summary, the Department concludes that this sub-criterion has been met.

## *3. Distributed Generation Analysis*

Minnesota Statutes § 216B.2426 states that:

The Commission shall ensure that opportunities for the installation of distributed generation, as that term is defined in section 216B.169, subdivision 1, paragraph (c), are considered in any proceeding under section 216B.2422, 216B.2425, or 216B.243.

Minnesota Statutes § 216B.169 states:

For the purposes of this section, the following terms have the meanings given them...(c) “High-efficiency, low-emission, distributed generation” means a distributed generation facility of no more than ten megawatts of interconnected capacity that is certified by the commissioner under subdivision 3 as a high efficiency, low- emission facility.

The Department notes that no proposals for distributed generation as an alternative to the proposed Project have been filed in this proceeding. As previously stated, if a buyer is an IOU in the state, the Commission will have the opportunity to review the resulting PPA or facility purchase to ensure that the price and terms are reasonable. Other potential, non-IOU buyers of the proposed Project’s output should have an incentive to use the lowest cost resource available. Non-IOU generation and transmission

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<sup>16</sup> See the Petition at page 27.

<sup>17</sup> See the Petition at page 21.

<sup>18</sup> See <https://openei.org/apps/TCDB/#blank>.

utilities are non-profit, compete for distribution utility clients, and therefore have an incentive to reduce costs. Therefore, the Department concludes that a potential buyer of the proposed Project's output has the incentive to consider all resources available, including distributed generation. The Department concludes that the requirement to consider distributed generation has been met.

#### *4. Innovative Energy Project (IEP) Preference*

Minnesota Statutes § 216B.1694, subd. 2 (a) (4) states that an IEP:

... shall, prior to the approval by the commission of any arrangement to build or expand a fossil-fuel-fired generation facility, or to enter into an agreement to purchase capacity or energy from such a facility for a term exceeding five years, be considered as a supply option for the generation facility, and the commission shall ensure such consideration and take any action with respect to such supply proposal that it deems to be in the best interest of ratepayers.

As the proposed Project is not a fossil-fuel-fired generation facility, this statute does not apply.

#### *D. ANALYSIS OF ALTERNATIVES*

Overall, the socioeconomic analysis is governed by Minnesota Rules, part 7849.0120 C, which states that a CN must be granted upon determining that:

... by a preponderance of the evidence on the record, the proposed facility, or a suitable modification of the facility, will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health.

RRS stated that the proposed Project would provide renewable energy with minimal environmental impact, which will help meet the RES, SES, and other needs for solar energy resources. Further, RRS stated that the proposed Project would benefit the local economies through landowner lease and purchase payments, production taxes, jobs (both temporary construction and permanent operations and maintenance jobs), and other local spending. Finally, RRS noted that the amount of agricultural land expected to be used by the proposed Project would equal less than one percent of the total agricultural land in Cottonwood County.<sup>19</sup>

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<sup>19</sup> See the Petition at page 40.

As noted above, the Department relies on its ER for its socioeconomic analysis in a CN proceeding. The ER provides information related to:

- Minnesota Rules 7849.0120 A (5) – the effect of the proposed facility, or a suitable modification thereof, in making efficient use of resources;
- Minnesota Rules 7849.0120 C (2) – the effects of the proposed facility, or a suitable modification thereof, upon the natural and socioeconomic environments compared to the effects of not building the facility;
- Minnesota Rules 7849.0120 C (3) – the effects of the proposed facility, or a suitable modification thereof, in inducing future development; and
- Minnesota Rules 7849.0120 C (4) – the socially beneficial uses of the output of the proposed facility, or a suitable modification thereof, including its uses to protect or enhance environmental quality.

The Department recommends that the Commission consider the ER filed by the Department's Energy Environmental Review and Analysis staff in the Commission's decision in this matter.

#### *E. POLICY ANALYSIS*

There are several remaining criteria in statutes and rules that are applicable to a CN but do not closely fit into the need, planning, alternatives, and socioeconomic categories discussed above. Therefore, these criteria are grouped into a final category of policy consideration. In this policy section, the Department addresses criteria related to:

- Policies of other states and federal agencies;
- Promotional practices;
- RES compliance;
- Environmental cost planning;
- Transmission planning compliance; and
- CO<sub>2</sub>.

##### *1. Other State and Federal Agencies*

Minnesota Rules, part 7849.0120 D states that a CN must be granted on determining that:

the record does not demonstrate that the design, construction, or operation of the proposed facility, or a suitable modification of the facility, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.

RRS indicated that the proposed Project serves overall state and regional energy needs and addresses federal and state renewable energy policies. RRS further stated that the proposed Project would meet or exceed the requirements of all federal, state, and local environmental laws and regulations.<sup>20</sup> RRS provided a table listing the potential permits and approvals needed for the proposed Project (see Table 10 in the Petition). The Department has no reason to believe that RRS will fail to comply with the requirements of the listed federal, state, and local governmental agencies.

Further, the Department notes that state agencies authorized to issue permits for the proposed Project are required to present their position and participate in the public hearing process.<sup>21</sup> The Department observes that the Commission has consistently considered state agency input in its final CN decisions. Therefore, the Department concludes that the record at this time does not demonstrate that the design, construction, or operation of the proposed Project, or a suitable modification of the facilities, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.

## *2. Promotional Practices*

Minnesota Rules, part 7849.0120 A (3) states that the Commission is to consider “the effects of promotional practices of the applicant that may have given rise to the increase in the energy demand, particularly promotional practices which have occurred since 1974.” In the Exemption Order, the Commission granted RRS an exemption to Minnesota Rules, part 7849.0240, subp. 2 (B), which calls for the applicant to provide a summary of the promotional practices that may have given rise to the demand for the facility. The exemption was granted because RRS does not have captive retail customers to consider. Nonetheless, RRS stated that it has not engaged in promotional activities that could have given rise to the need for the electricity to be generated by the proposed Project.<sup>22</sup> The Department concludes that this sub-criterion has been met.

## *3. RES Compliance*

Minnesota Statutes § 216B.243, subd. 3 (10) states that the Commission shall evaluate “whether the applicant or applicants are in compliance with applicable provisions of sections 216B.1691 ...” Minnesota Statutes § 216B.1691 relates to Minnesota’s RES. Given that RRS has no retail customers in Minnesota, the Department concludes that this statute does not apply.

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<sup>20</sup> See the Petition at page 18.

<sup>21</sup> See Minnesota Statutes, § 216B.243, subd. 7

<sup>22</sup> See the Petition at page 8.



#### *4. Environmental Cost Planning*

Minnesota Statutes § 216B.243, subd. 3 (12) states that the Commission shall evaluate “if the applicant is proposing a nonrenewable generating plant, the applicant’s assessment of the risk of environmental costs and regulation on that proposed facility over the expected useful life of the plant, including a proposed means of allocating costs associated with that risk.” In this case, RRS is proposing a renewable generation facility. Therefore, this statute does not apply.

#### *5. Transmission Planning Compliance*

Minnesota Statutes § 216B.243, subd. 3 (10) states that the Commission shall evaluate:

whether the applicant or applicants are in compliance with applicable provisions of section 216B.1691 and 216B.2425, subdivision 7, and have filed or will file by a date certain an application for certificate of need under this section or for certification as a priority electric transmission project under section 216B.2425 for any transmission facilities, or upgrades identified under section 216B.2425, subdivision 7.

Regarding transmission for the proposed Project, RRS stated that as an IPP, this statute does not apply to RRS.<sup>23</sup> Regarding interconnection, RRS stated that the proposed Project is proposed to interconnect to the grid via a proposed 18-mile, 161 kV transmission tie line that will connect with the Blue Lake-Wilmarth-Interstate Junction 345 kV transmission line at Xcel’s Crandall switching station.<sup>24</sup>

Regarding new transmission, RRS “has no plans to become involved in owning or operating transmission lines beyond what would be needed for interconnection of the Project.”<sup>25</sup> Since Minnesota Statutes § 216B.2425 is applicable only to entities that own or operate electric transmission lines in Minnesota, the Department concludes that this statute does not apply.

#### *6. Carbon Dioxide Emissions*

Minnesota Statutes § 216H.03, subd. 3 states that “on and after August 1, 2009, no person shall: (1) construct within the state a new large energy facility that would contribute to statewide power sector carbon dioxide emissions.” The Department notes that the proposed Project will not contribute to statewide power sector CO<sub>2</sub> emissions.

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<sup>23</sup> See the Petition at page 17.

<sup>24</sup> See the Petition at page 18.

<sup>25</sup> See the Petition at page 22.

### **III. DEPARTMENT RECOMMENDATION**

Based upon the above analysis, the Department recommends that the Commission determine that RRS has shown that:

- the probable result of denial would be an adverse effect upon the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states;
- a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence in the record; and
- the record does not demonstrate that the design, construction, or operation of the proposed facility, or a suitable modification of the facility, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.

Should the Commission find, after consideration of the ER, that the proposed facility "will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health," the Department recommends that the Commission issue a CN to RRS.

/ar

## Rules and Statutes Addressed in the Comments

Statute or Rule Citation	Department Comment	Location
<b>7849.0120 CRITERIA.</b> A certificate of need must be granted to the applicant on determining that:		
A. the probable result of denial would be an adverse effect upon the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states, considering:		
(1) the accuracy of the applicant's forecast of demand for the type of energy that would be supplied by the proposed facility;	RRS' forecast of the need for the renewable energy expected to be produced by the proposed Project is reasonable.	II.A.1.i
(2) the effects of the applicant's existing or expected conservation programs and state and federal conservation programs;	it is unlikely that the regional needs for solar energy at the scale indicated by RRS could be met through conservation programs	II.B.3
(3) the effects of promotional practices of the applicant that may have given rise to the increase in the energy demand, particularly promotional practices which have occurred since 1974;	RRS does not have captive retail customers	II.E.2
(4) the ability of current facilities and planned facilities not requiring certificates of need to meet the future demand; and	current and planned facilities not requiring a CN have not been demonstrated to be more reasonable	II.C.1.i
(5) the effect of the proposed facility, or a suitable modification thereof, in making efficient use of resources;	addressed in environmental report	II.D
B. a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record, considering:		
(1) the appropriateness of the size, the type, and the timing of the proposed facility compared to those of reasonable alternatives;	<ul style="list-style-type: none"> <li>the proposed Project's size is not excessive and therefore is reasonable;</li> <li>the proposed Project's type is reasonable;</li> <li>that the timing of the proposed Project is reasonable.</li> </ul>	<ul style="list-style-type: none"> <li>II.B.1.i;</li> <li>II.B.1.ii;</li> <li>II.B.1.iii.</li> </ul>
(2) the cost of the proposed facility and the cost of energy to be supplied by the proposed facility compared to the costs of reasonable alternatives and the cost of energy that would be supplied by reasonable alternatives;	the data provided by RRS is reasonable and demonstrates solar energy's cost advantages and disadvantages relative to other new, renewable sources	II.C.1.ii
(3) the effects of the proposed facility upon the natural and socioeconomic environments compared to the effects of reasonable alternatives; and	using the Commission-approved externality values would not impact the overall cost analysis against the proposed Project	II.C.1.iii

## Rules and Statutes Addressed in the Comments

Statute or Rule Citation	Department Comment	Location
(4) the expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives;	the proposed Project will have a reliability similar to that of reasonable alternatives	II.C.2
C. by a preponderance of the evidence on the record, the proposed facility, or a suitable modification of the facility, will provide benefits to society in a manner ompatible with protecting the natural and socioeconomic environments, including human health, considering:		
(1) the relationship of the proposed facility, or a suitable modification thereof, to overall state energy needs;	the proposed Project fits the state's overall energy needs	II.A.1.ii
(2) the effects of the proposed facility, or a suitable modification thereof, upon the natural and socioeconomic environments compared to the effects of not building the facility;	addressed in environmental report	II.D
(3) the effects of the proposed facility, or a suitable modification thereof, in inducing future development; and	addressed in environmental report	II.D
(4) the socially beneficial uses of the output of the proposed facility, or a suitable modification thereof, including its uses to protect or enhance environmental quality; and	addressed in environmental report	II.D
D. the record does not demonstrate that the design construction, or operation of the proposed facility, or a suitable modification of the facility, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.	the record at this time does not demonstrate that ... the proposed Project ... will fail to comply	II.E.1
<b>Minnesota Statutes § 216B.243 subd. 3 (9)</b> with respect to a high-voltage transmission line, the benefits of enhanced regional reliability, access, or deliverability to the extent these factors improve the robustness of the transmission system or lower costs for electric consumers in Minnesota	this statute does not apply	N/A
<b>Minnesota Statutes §§ 216B.243 subd. 3a &amp; 216B.2422, subd. 4</b> The Commission may not issue a certificate of need under this section for a large energy facility that generates electric power by means of a nonrenewable energy source, or that transmits electric power generated by means of a nonrenewable energy source, unless the applicant for the certificate has demonstrated to the Commission's satisfaction that it has explored the possibility of generating power by means of renewable energy sources and has demonstrated that the alternative selected is less expensive (including environmental costs) than power generated by a renewable energy source	the proposed Project meets a renewable preference	II.B.2

## Rules and Statutes Addressed in the Comments

Statute or Rule Citation	Department Comment	Location
<b>Minnesota Statutes § 216B.2426</b> The Commission shall ensure that opportunities for the installation of distributed generation, as that term is defined in section 216B.169, subdivision 1, paragraph (c), are considered	the requirement to consider distributed generation has been met	<b>II.C.3</b>
<b>Minnesota Statutes § 216B.1694, subd. 2 (a) (4)</b> An innovative energy project...shall, prior to the approval by the commission of any arrangement to build or expand a fossil fueled generation facility, or to enter into an agreement to purchase capacity or energy from such a facility for a term exceeding five years, be considered as a supply option for the generation facility, and the commission shall ensure such consideration and take any action with respect to such supply proposal that it deems to be in the best interest of ratepayers;	this statute does not apply	<b>II.C.4</b>
<b>Minnesota Statutes § 216B.243 subd. 3 (10)</b> <b>Compliance with § 216B.1691</b> whether the applicant or applicants are in compliance with applicable provisions of sections 216B.1691 and 216B.2425, subdivision 7...	this statute does not apply	<b>II.E.3</b>
<b>Minnesota Statutes § 216B.243, subd. 3 (12)</b> if the applicant is proposing a nonrenewable generating plant, the applicant's assessment of the risk of environmental costs and regulation on that proposed facility over the expected useful life of the plant, including a proposed means of allocating costs associated with that risk	this statute does not apply	<b>II.E.4</b>
<b>Minnesota Statutes § 216B.243, subd. 3 (10)</b> <b>Compliance with § 216B.2425, subd. 7</b> whether the applicant or applicants are in compliance with applicable provisions of sections 216B.1691 and 216B.2425, subdivision 7...	this statute does not apply	<b>II.E.5</b>
<b>Minnesota Statutes § 216H.03</b> on and after August 1, 2009, no person shall construct within the state a new large energy facility that would contribute to statewide power sector carbon dioxide emissions	the proposed Project will not contribute to statewide power sector CO <sub>2</sub> emissions	<b>II.E.6</b>

## **CERTIFICATE OF SERVICE**

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, 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 No. IP7014/CN-19-486**

**Dated this 28<sup>th</sup> day of January 2022**

**/s/Sharon Ferguson**

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_19-486_Official CC Service List
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_19-486_Official CC Service List
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_19-486_Official CC Service List
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_19-486_Official CC Service List
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_19-486_Official CC Service List
Lucas	Franco	lfranco@liunagroc.com	LIUNA	81 Little Canada Rd E  Little Canada, MN 55117	Electronic Service	No	OFF_SL_19-486_Official CC Service List
Brenna	Gunderson	Brenna.gunderson@apexcleanenergy.com	Apex Clean Eenergy	8665 Hudson Blvd N Ste 110  Lake Elmo, MN 55042	Electronic Service	Yes	OFF_SL_19-486_Official CC Service List
Kate M	Heins	kate.heins@apexcleanenergy.com	Apex Clean Energy	310 4th St NE Ste 200  Charlottesville, VA 22902	Electronic Service	Yes	OFF_SL_19-486_Official CC Service List
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_19-486_Official CC Service List
Dylan	Ikkala	dylan.ikkala@apexcleanenergy.com	Apex Clean Energy	8665 Hudson Blvd N Ste 110  Lake Elmo, MN 55042	Electronic Service	Yes	OFF_SL_19-486_Official CC Service List

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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_19-486_Official CC Service List
Karen	Kromar	karen.kromar@state.mn.us	MN Pollution Control Agency	520 Lafayette Rd  Saint Paul, MN 55155	Electronic Service	No	OFF_SL_19-486_Official CC Service List
Chris	Kunkle	chris.kunkle@apexcleanenergy.com	Apex Clean Energy	8665 Hudson Blvd North, Suite 110  Lake Elmo, MN 55042	Electronic Service	No	OFF_SL_19-486_Official CC Service List
James	LaFave	james.lafave@state.mn.us	Office of Administrative Hearings	600 N Robert Street  St. Paul, MN 55164-0620	Electronic Service	Yes	OFF_SL_19-486_Official CC Service List
Samantha J	Odegard	samanthao@uppersiouxcommunity-nsn.gov	Upper Sioux Tribal Community	PO Box 147  Granite Falls, MN 56241	Electronic Service	No	OFF_SL_19-486_Official CC Service List
Peter	Rademacher	prademacher@hogenadams.com		1935 County Road B2 West Suite 460 St. Paul, Minnesota 55113	Electronic Service	No	OFF_SL_19-486_Official CC Service List
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_19-486_Official CC Service List
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_19-486_Official CC Service List
Ronald C	Schirmer	ronald.schirmer@mnsu.edu	Department of Anthropology	359 Trafton Science Center N  Mankato, MN 56001	Electronic Service	No	OFF_SL_19-486_Official CC Service List



First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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_19-486_Official CC Service List
Janet	Shaddix Elling	jshaddix@janetshaddix.com	Shaddix And Associates	7400 Lyndale Ave S Ste 190  Richfield, MN 55423	Electronic Service	Yes	OFF_SL_19-486_Official CC Service List
Cheyenne	St. John	cheyenne.stjohn@lowersio ux.com	Lower Sioux Tribal Community	39527 Reservation Hwy 1  Morton, MN 56270	Electronic Service	No	OFF_SL_19-486_Official CC Service List
Haley	Waller Pitts	hwallerpitts@fredlaw.com	Fredrikson & Byron, P.A.	200 S 6th St Ste 4000  Minneapolis, MN 55402	Electronic Service	Yes	OFF_SL_19-486_Official CC Service List
Cynthia	Warzecha	cynthia.warzecha@state.m n.us	Minnesota Department of Natural Resources	500 Lafayette Road Box 25 St. Paul, Minnesota 55155-4040	Electronic Service	No	OFF_SL_19-486_Official CC Service List

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Sarah	Beimers	sarah.beimers@state.mn.us	Department of Administration - State Historic Preservation Office	50 Sherburne Avenue Suite 203 St. Paul, MN 55155	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
David	Bell	david.bell@state.mn.us	Department of Health	POB 64975  St. Paul, MN 55164	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
Randall	Doneen	randall.doneen@state.mn.us	Department of Natural Resources	500 Lafayette Rd, PO Box 25  Saint Paul, MN 55155	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
Kate	Fairman	kate.frantz@state.mn.us	Department of Natural Resources	Box 32 500 Lafayette Rd St. Paul, MN 551554032	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
Annie	Felix Gerth	annie.felix-gerth@state.mn.us		Board of Water & Soil Resources 520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
Todd	Green	Todd.A.Green@state.mn.us	Minnesota Department of Labor & Industry	443 Lafayette Rd N  St. Paul, MN 55155-4341	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
Kari	Howe	kari.howe@state.mn.us	DEED	332 Minnesota St, #E200 1ST National Bank Bldg St. Paul, MN 55101	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
Ray	Kirsch	Raymond.Kirsch@state.mn.us	Department of Commerce	85 7th Place E Ste 500  St. Paul, MN 55101	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
Chad	Konickson	chad.konickson@usace.army.mil	U.S.Army Corps of Engineers	180 5th St # 700  Saint Paul, MN 55101	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
Stacy	Kotch Egstad	Stacy.Kotch@state.mn.us	MINNESOTA DEPARTMENT OF TRANSPORTATION	395 John Ireland Blvd.  St. Paul, MN 55155	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Karen	Kromar	karen.kromar@state.mn.us	MN Pollution Control Agency	520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
Dawn S	Marsh	dawn_marsh@fws.gov	U.S. Fish & Wildlife Service	Minnesota-Wisconsin Field Offices 4101 American Blvd E Bloomington, MN 55425	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
Stephan	Roos	stephan.roos@state.mn.us	MN Department of Agriculture	625 Robert St N  Saint Paul, MN 55155-2538	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
Jayne	Trusty	execdir@swrdc.org	SWRDC	2401 Broadway Ave #1  Slayton, MN 56172	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
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	SPL_SL__CN - CERTIFICATE OF NEEDS
Kenneth	Westlake	westlake.kenneth@epa.gov	US Environmental Protection Agency	Environmental Planning & Evaluation Unit 77 W Jackson Blvd. Mailstop B-19J Chicago, IL 60604-3590	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
Alan	Whipple	sa.property@state.mn.us	Minnesota Department Of Revenue	Property Tax Division 600 N. Robert Street St. Paul, MN 551463340	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
Jonathan	Wolfgram	Jonathan.Wolfgram@state.mn.us	Office of Pipeline Safety	Minnesota Department of Public Safety 445 Minnesota Street Suite 147 St. Paul, MN 55101-1547	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS