

November 9, 2023

**PUBLIC DOCUMENT**

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

RE: **PUBLIC Comments and Recommendation of the Minnesota Department of Commerce,  
Division of Energy Resources on the Merits of a Certificate of Need Filing**  
Lake Wilson Solar Energy, LLC  
Docket No. IP-7070/CN-21-791

Dear Mr. Seuffert:

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

*Application of Lake Wilson Solar Energy, LLC, for a Certificate of Need for the up to 150 MW Lake Wilson Solar Energy Center and associated 95 MW energy storage systems in Murray County, Minnesota.*

The petition was filed by Christina K. Brusven on behalf of Lake Wilson Solar Energy, LLC on February 9, 2023.

The Department recommends that the Minnesota Public Utilities Commission (Commission) **issue a Certificate of Need** to Lake Wilson Solar Energy, LLC and is available to answer any questions the Commission may have.

Sincerely,

/s/ Louise Miltich  
Assistant Commissioner of Regulatory Analysis

/s/ MICHAEL N. ZAJICEK  
Rates Analyst

MNZ/ad  
Attachment



## Before the Minnesota Public Utilities Commission

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

Docket No. IP-7070/CN-21-791

#### **I. INTRODUCTION**

The Lake Wilson Solar Energy Center (Project) proposed by Lake Wilson Solar Energy LLC (Lake Wilson or the Applicant) is a 150 MW solar energy generating system and associated battery storage at a single 2,621-acre site within Chanarambie and Leeds Townships in Murray County, Minnesota. The Applicant submitted a petition requesting exemptions from certain Certificate of Need (CN) content requirements on November 16, 2021, and an Application for a Certificate of need on February 9, 2023. The Department of Commerce, Division of Energy Resources (Department) summarizes the procedural history of each of these filings below.

#### **A. EXEMPTION**

On November 16, 2021, Lake Wilson filed the Company's *Request for Exemption from Certain Application Content Requirements* (Exemption Petition).

On December 8, 2021, the Department filed its Comments on the Exemption Petition, recommending approval of Lake Wilson's data exemption requests with conditions.

On December 15, 2021, Lake Wilson filed its Reply Comments, agreeing with the Department's recommendations.

On January 4, 2022, the Commission issued its Order (January 4 Order),<sup>1</sup> granting Lake Wilson the following exemptions from Certificate of Need criteria:

1. The following exemptions were approved conditioned upon Lake Wilson providing alternative data instead of the specific data required by the following rules:
  - 7849.0250 (C) 7: Effect of Project on Rates System-wide;
  - 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.
2. The following exemptions were approved as proposed:
  - 7849.0240, subp. 2 (B): Promotional Activities;

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<sup>1</sup> ORDER – eDocket ID# [20221-181183-01](#)

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

**B. CERTIFICATE OF NEED APPLICATION**

On February 9, 2023, Lake Wilson filed its *Application for Certificate of Need* (Application) for the proposed Lake Wilson Solar Energy Center (Project). The proposed Project is a 150 MW solar energy generating system and associated battery storage at a single 2,621-acre site within Chanarambie and Leeds Townships in Murray County, Minnesota. The Project would utilize solar panels affixed to tracking mechanisms that would allow the panels to track the sun throughout the day. In addition, the Project would consist of associated facilities including a maintenance building, substation facility, electrical collection system, weather stations, a short 115 kV overhead transmission line. The proposed Project would also include an up to 50 MW battery energy storage component. The Project proposes to interconnect to the existing Northern States Power Fenton to Chanarambie 115 kV line, which is located within the Project development footprint. Lake Wilson plans an in-service date for the project in 2026.

On February 21, 2023, the Commission issued a *Notice of Comment Period on Certificate of Need Application Completeness* requesting comments on completeness by March 7, 2023. In its notice the Commission requested the Department to evaluate if the Certificate of Need Application contained the information required by Minn R. 7849.0220, which in turn requires that certain information be filed according to Minnesota R. 7849.0240, 7849.0250, 7849.0270, and 7849.0340.

On March 14, 2023, the Department filed comments on the completeness of the Certificate of Need Application recommending that the Commission find Lake Wilson's Application complete following its review of the Certificate of Need Application and its compliance with Minnesota Rules, parts 7849.0240 to 7849.0340 and referencing the Commission's January 4, 2022, Exemption Order.<sup>2</sup>

On April 4, 2023, the Commission issued an *Order* on the consent agenda accepting Lake Wilson's application as complete and directed the Certificate of Need Application to proceed using the informal review process (Completeness Order).

On September 14, 2023, the Commission issued a *Notice of Comment Period on the Merits of the Application for a Certificate of Need* (Notice) that established a comment deadline of October 16, 2023, on the merits of the CN Application. According to the Notice, the topics open for comments include:

- The merits of the proposed project, particularly whether there are any contested issues of fact with respect to the representations made in the application pertaining to the certificate of need.

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<sup>2</sup> ORDER – eDocket ID# [20221-181183-01](#)

- The application's compliance with Minnesota Statutes, section 216B.243, and Minnesota Rules part 7849.0010 to 7849.0400.
- Other issues or concerns related to this matter.

In response to the Notice, below are the Department's comments.

## II. DEPARTMENT ANALYSIS

Minnesota Statutes, section 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.

Since the proposed Project would have a design capacity of 150 MW (150,000 kilowatts), it qualifies as an LEF. Minnesota Statutes, section 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 pursuant to sections 216C.05 to 216C.30 and this section and consistent with the criteria for assessment of need." Therefore, a CN application must be approved by the Commission before the proposed facility can be sited or constructed.

Minnesota statutes and rules set forth a number of factors that must be evaluated in establishing need. In its analysis below, the Department has grouped these various criteria into five categories – Need Analysis,<sup>3</sup> Link to Planning,<sup>4</sup> Analysis of Alternatives,<sup>5</sup> Socioeconomic Analysis,<sup>6</sup> and Policy Analysis.<sup>7</sup> The Department notes that Minnesota Rules, parts 7849.0240 to 7849.0340 contain

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<sup>3</sup> The Need Analysis section broadly covers the requirements of Minnesota Rules part 7849.0120 (A) which governs the circumstances under which the Commission may grant a CN. This section also includes analysis of compliance with Minnesota Rules part 7849.0270, 7849.0120 C (1), and Minnesota Statutes section 216B.243, subd. 3 (1), (3), (5), which govern the Applicant's required forecast, the State's overall energy needs, and reliability, respectively.

<sup>4</sup> The Link to Planning section discusses the requirements that data be provided regarding the size, type, and timing of the Project, Minnesota's renewable preference, and demand-side management as an alternative to the proposed project. This data is required by Minnesota Rules 7849.0120 A (2), B (1), 7849.0250 (B), 7849.0290, and Minnesota Statutes, section 216B.243, subd. 3 (2), 3 (11), and 3a, section 216B.2422, subd. 4.

<sup>5</sup> The Analysis of Alternatives section covers the requirements of Minnesota Rules 7849.0120 B, which states that a more reasonable and prudent alternative to the proposed facility has not been demonstrated. This section includes an analysis of alternatives, reliability analysis, the availability of distributed generation as an alternative, and the preference for innovative energy projects. These requirements are governed by Minnesota Rules 7849.0120, 7849.0250 (C) and Minnesota Statutes sections 216B.243, subd. 3 (6), 216B.2426, 216B.169, and 216B.169A, subd. 2 (a) (4).

<sup>6</sup> The Socioeconomic analysis section discusses the requirements of Minnesota Rules, part 7849.0120 C which requires that the evidence on the record shows that the facility will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environment, including human health.

<sup>7</sup> The Policy Analysis section discusses other statutory and rules requirements that do not fit into one of the other categories, including compliance with other State and Federal agencies rules as required by Minnesota Rules, part 7849.0120 D and Minnesota Statutes, section 216B.243 subd. 3 (3), the promotional practices that may have given rise to the increase in energy demand of the Applicant as required by Minnesota Statutes, section 216B.243 subd. 3 (4) and Minnesota Rules, Part 7849.0120 A (3), Compliance with the Renewable Energy Standard as required by Minnesota Statutes,

requirements for what the Applicant must include in its Certificate of Need application, and were addressed by the Department in its March 14, 2023, comments on completeness.

Additionally, Minnesota Rules 7849.1800 subpart 1 requires that an Environmental Report (ER), Environmental Assessment (EA), or an Environmental impact statement (EIS) must be completed for the project. The Department's Energy Environmental Review and Analysis unit (EERA) will provide this analysis and, as such, sections of the CN requirements that reference environmental and related socioeconomic factors will be addressed in EERA's report rather than in these comments. As the project is not a Large High Voltage Transmission Line, as defined by Minnesota Statutes, section 216B.2421, An Environmental Report (ER) is not required for the CN in this case. On June 12, 2023, EERA filed comments and recommendations on the scoping process indicating that EERA staff is preparing an EA for the project. The EA provides an analysis of potential human and environmental impacts of the Project, as well as alternatives to the Project. The Department recommends that the Commission consider the EA when it is filed.

A. *NEED ANALYSIS*

Minnesota Rules, part 7849.0120 (A) states that a CN must be granted, in part, 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 Department presents the analysis of the need for the proposed Project in two parts below. The first part is designed to address the accuracy of the forecast underlying the claimed need. The second is designed to address broader reliability needs.

1. *Forecast Analysis*

a. *Accuracy of the Forecast*

The Commission is required to analyze the accuracy of the Applicants forecast Minnesota Statute 216B.243, subd. 3 (1), and Minnesota Rules 7849.0270 and 7849.0120 A (1). Specifically, Minnesota Statute 216B.243 requires the Commission to evaluate "the accuracy of the long-range energy demand forecasts on which the necessity for the facility is based" while similarly Minnesota Rule 7849.0120 A (1) requires that the Commission consider "the accuracy of the applicant's forecast of demand for the type of energy that would be supplied by the proposed facility" when determining if 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

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Sections 216B.243, subd. 3(10) and 216 B.1691, Environmental Cost Planning, as required by Minnesota Statutes section 216B.243, subd. 3 (12), Transmission Planning Compliance, as required by Minnesota Statutes Section 216B.243, subd. 3 (10), and Carbon Dioxide Emissions as required by Minnesota Statutes, section 216H.03, subd 3.

Minnesota and neighboring states. Both requirements require that the accuracy of the forecast used in supporting the need for the facility be evaluated and considered. The Department provides a review of the Applicant's forecast information below.

The Commission exempted Lake Wilson from the requirement in Minnesota Rules, part 7849.0270, which more specifically requires an applicant to provide information regarding its system peak demand and annual energy consumption. In the case of independent power producers (IPP), such as Lake Wilson, the Commission often requires similar data for the buyer's service area. However, as Lake Wilson has not yet secured a purchaser for the output of the Project, it is unable to reasonably provide a forecast of peak demand for the buyer's service area. Instead, Lake Wilson was required to provide information about regional demand, consumption, and capacity. Lake Wilson provided a discussion showing a rapid growth in solar use in Minnesota and a shift from fossil fuel generators to wind and solar resources. Lake Wilson stated that utility integrated resource plans and requests for proposals indicate that utilities will seek additional renewable generation sources in the next few years.

Specifically, Lake Wilson noted that Xcel Energy announced plans to reduce carbon emissions at least 86 percent from 2005 levels by 2030, and 100 percent by 2050.<sup>8</sup> As part of this goal Xcel Energy stated that it plans to add 3,150 MW of utility-scale solar generation and 2,650 MW of wind generation.<sup>9</sup> This announcement was supported by the Xcel's most recent integrated resource plan which evaluated both Xcel's peak energy demand as well as its annual consumption.

Lake Wilson also noted that Minnesota Power has a 100 percent carbon free energy goal by 2050<sup>10</sup> and Southern Minnesota Municipal Power Agency has plans for a 90 percent reduction in carbon dioxide emissions from 2005 levels by 2030.<sup>11</sup> Additionally, Lake Wilson referenced several other internal renewable energy goals as filed by the Minnesota Transmission Owners in the 2019 Biennial Transmission Projects Report Docket No. E002/M-19-205. Specifically, Dairyland Cooperative stated a goal to reduce carbon dioxide emissions by 50 percent by 2030 compared to 2005 levels; Great River Energy has a goal of 50 percent renewable energy by 2030; Minnesota Municipal Power Agency has a goal to deliver 70 percent renewable power supply by 2030, reduce carbon emissions by 80 percent by 2035, and 100 percent carbon free by 2050; and Rochester Public Utilities has a goal to transition to 100 percent renewable energy by 2030.<sup>12</sup> Goals aimed to reduce overall emissions directly point to need based on annual consumption from baseload generators.

Lake Wilson also cites an article stating that corporate and industrial demand for long term purchase power agreements for renewable energy are increasing. While a PPA between an IPP and a customer is

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<sup>8</sup> Xcel Energy, 2020-2034 Upper Midwest Integrated Resource Plan Reply Comments (July 24, 2021), Docket No. E002/RP-19-368, <https://www.edockets.state.mn.us/edockets/searchDocuments.do?method=showPoup&documentId={70F0437A-0000-CF1C-96D6-E7E22CE60B9C}&documentTitle=20216-175386-01>.

<sup>9</sup> *Id.*, p. 113.

<sup>10</sup> <https://www.mnpower.com/Environment/EnergyForward>.

<sup>11</sup> <https://smmpa.com/news/2020/2/5/smmpa-plans-to-be-80-carbon-free-in-2030#:~:text=The%20plan%20would%20result%20in,an%20annual%20basis%20in%202030>.

<sup>12</sup> Compliance Filing, *In the Matter of the Minnesota Transmission Owners' 2019 Biennial Transmission Projects Report*, Docket No. E002/M-19-205 (Oct. 29, 2021) eDockets No. [202110-179283-07](https://www.edockets.state.mn.us/edockets/searchDocuments.do?method=showPoup&documentId={70F0437A-0000-CF1C-96D6-E7E22CE60B9C}&documentTitle=202110-179283-07). Pages 189-193.

not regulated by the Commission, the Department is aware of some activity of this nature, for instance on February 10, 2021, ALLETE Clean Energy announced signing renewable energy sales agreements with the Oshkosh Corporation and Hormel Foods for a combined 100 megawatts.<sup>13</sup> The Department notes that in Docket No. IP-6997/CN-18-699 the Commission indicated that the demonstration of corporate demand and internal utility goals was sufficient evidence to demonstrate need under Minnesota Rules, part 7849.0120.<sup>14</sup> As such these internal goals demonstrate that there is demand for renewable energy from several Utilities and Municipalities.

Additionally, during the 2023 legislative session Minnesota enacted a carbon-free standard for electric utilities requiring that they must generate, from carbon free generation sources, 80 percent of their energy by 2030, 90 percent by 2035, and 100 percent by 2040.<sup>15</sup> This law specifically requires new solar generation to address peak energy demand and annual consumption.

The Department also reviewed the most recent Biennial Transmission report in Docket No. E999/M-21-111 and concludes that the while Minnesota utilities and Municipalities appear to have the capacity to meet the previous Renewable Energy Standard (RES), there will be a need for substantially more renewable energy generation if Minnesota utilities are to meet the new carbon free requirements. Specifically, the report shows that the Minnesota transmission owning utilities and municipalities were on pace to have about double the renewable energy generation required by the RES for 2025, which had a 25 percent renewable goal. The new carbon free law, however, will likely spur further increased demand for renewables and storage.<sup>16</sup> Additionally, a regional trend towards retirements of coal units, indicates a strong market for renewable energy.

The Department reviewed the information provided by the Applicant as well as the other sources discussed above and concludes that the accuracy of the Applicant's forecasts appears to be reasonable as related to Minnesota Statute 216B.243, subd. 3 (1), Minnesota Rule 7849.0120 A (1). Additionally based on the discussion above the Department concludes that Lake Wilson has provided sufficient information about regional demand, capacity, and annual consumption for solar energy generation.

#### *b. Overall State Energy Needs*

Minnesota Rule 7849.0120 C(1) states that, by a preponderance of the evidence, the proposed facility must benefit society in a manner compatible with protecting the natural and socioeconomic environments, including human health, considering "the relationship of the proposed facility, or a suitable modification thereof, to overall state energy needs...." Additionally, Minnesota Statutes, section 216B.243 subd. 3 (3) states that in assessing need, the Commission shall evaluate "the relationship of the proposed facility to overall state energy needs, as described in the most recent state energy policy and conservation report prepared under section 216C.18, or, in the case of a high-

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<sup>13</sup> See ACE's press release at <http://alletecleanenergy.com/Content/Documents/PressReleases/press-release021021.pdf>.

<sup>14</sup> ORDER – Order Granting Certificate of Need and Issuing Siter Permit and Route Permit – PT 1 of 2 eDockets # [20219-178198-01](#)

<sup>15</sup> See <https://www.revisor.mn.gov/laws/2023/0/7/laws.0.10.0#laws.0.10.0>

<sup>16</sup> See Minnesota Transmission Owners – Report – Biennial Transmissions Projects Report eDockets # [202110-179283-10](#) pages 181-186.

voltage transmission line, the relationship of the proposed line to regional energy needs, as presented in the transmission plan submitted under section 216B.2425;”

The Applicant discusses several ways in which the Project synergizes with the State’s overall energy needs. Specifically, the Applicant notes that Xcel Energy’s recently approved Integrated Resource Plan (IRP) calls for the addition of up to 3,150 MW of utility-scale solar in the next decade.<sup>17</sup> The Applicant also discusses the statutory directive to achieve 100 percent clean energy by 2040.<sup>18</sup> This goal will require significant increases in wind and solar generation, as well as battery storage. As the Project would produce carbon free energy and its battery storage capabilities could offset the need for natural gas peaking facilities, the Applicant’s Project could contribute to these state goals.

The Department’s review of Utilities’ most recently filed IRPs indicate 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>19</sup>
- Minnesota Power’s IRP includes a -0.4 percent annual average energy decline for 2019 to 2034;<sup>20</sup> and
- Otter Tail Power’s IRP includes a 0.46 percent annual average energy growth rate, prior to conservation programs.<sup>21</sup>

However, all three utilities are or were considering retirements of, or are retiring, large baseload coal units:

- Xcel is retiring the Allen S. King and Sherburne County Generating Station unit 3;
- Minnesota Power is proposing to retire Boswell Energy Center unit 3; and
- Otter Tail Power initially proposed to withdraw from Otter Tail Power’s 35 percent ownership interest in Coyote Station in its ongoing IRP. However, in its March 31, 2023, Supplemental resource plan Otter Tail Power revised its proposal to retain ownership of Coyote Station “until there is a need for a large, non-routine capital investment necessary to operate the plant or to comply with a regulatory requirement.”<sup>22</sup>

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

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<sup>17</sup> See the Commission’s April 15, 2022, *Order Approving Plan With Modifications and Establishing Requirements for Future Filings* Docket No. E002/RP-19-368 Page 9. edocket# [20224-184828-01](#)

<sup>18</sup> See <https://www.revisor.mn.gov/laws/2023/0/60/laws.12.22.0#laws.12.22.0>

<sup>19</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>20</sup> See MP’s *2021 Integrated Resource Plan* at page 21, filed February 1, 2021 in Docket No. E015/RP-21-33.

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

<sup>22</sup> See Otter Tail Power’s March 31, 2023 *Supplemental Resource Plan* Docket No. E017/RP-21-339 page 3. eDocket# [20233-194373-03](#)



## *2. Reliability Analysis*

Minnesota Statutes, section 216B.243, subd. 3 (5) directs the Commission to evaluate the “benefits of this facility, including its uses to . . . increase reliability of energy supply in Minnesota and the region.” Lake Wilson is required to and has applied to the Midcontinent Independent System Operator (MISO) to interconnect to the transmission grid. MISO studies each addition to the grid and it determines its impact on the reliability of the electrical system. Following the completion of the study, MISO determines what transmission upgrade are necessary to allow the operation of the interconnecting facility without lowering the reliability of the system or negatively affecting facilities that are already interconnected. Those upgrades are required to be paid for by the interconnecting facilities owner in order for the facility to be connected to the system. If MISO determines that Lake Wilson’s interconnection would maintain or improve reliability of the system, then the Department would find that factor to support the reliability criteria in Minnesota Statutes section 216B.243, subd. 3 (5). As MISO operates the grid and is responsible for reliability, the Department relies upon MISO’s analysis to determine that the Project meets these requirements. As the Applicant has applied to the MISO process, and the Project cannot begin construction without obtaining MISO approval and paying all required upgrade costs, 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; Minnesota’s 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) requires consideration of “the appropriateness of the size, the type, and the timing of the proposed facility compared to those of reasonable alternatives” in determining whether there is a more reasonable and prudent alternative to the proposed project.

##### *a. Size*

The Commission has previously concluded that with respect to renewable energy projects, the analysis of the size of the project should focus on the appropriateness of the size of the project to the overall state and regional energy needs. In the accuracy of forecast section above, the Department reviewed the Applicant’s discussion of the need for solar and other renewable generation in Minnesota in the coming decades. Specifically, Minnesota’s new carbon free standard will require significant investment in new renewable generation. Additionally, if the Project is granted an CN and is implemented, it will have to compete with other renewable energy projects in the solar energy market, as the applicant is not a Utility with captive customers, to obtain a purchaser and fulfil any needs, which encourages the Applicant to build a cost competitive facility, or in other words a facility sized to take advantage of economic incentives for economies of scale and limiting interconnection costs that may vary based on the facilities size.

The Applicant claims that the Project is sized to take advantage of economies of scale while also making efficient use of existing transmission capacity. Specifically, Lake Wilson states that is the project is large enough to realize cost savings but not so large as to raise transmission costs to unreasonable levels due to MISO transmission congestions. Additionally, as Lake Wilson has not secured a purchaser, it is in the Applicant's best interest to build a cost competitive facility. The Department generally recognizes that larger scale projects can often obtain better deals on bulk orders of materials, and also notes that according to the U.S. Energy Information Administration (EIA) utility-scale solar tends to have higher generation rates than small-scale solar, likely due to better siting, maintenance, and higher proportions of panels with sun-tracking features.<sup>23</sup> As such, there are benefits of large scale solar. However, the Department is generally aware that the direct impacts of economics of scale are unclear when comparing the Project to different sized utility scale solar projects. Specifically, the Department is aware that the benefits of solar scale appear to primarily exist when comparing small scale-solar with utility-scale solar. This is at least in part due to a larger sized solar facility generally obtaining that larger size simply by having more photovoltaic panels. This means overall cost savings are reduced as there are fewer savings from common equipment being used or larger sizes creating more efficient production.<sup>24</sup> One study did find, however, that utility-scale solar is around half as expensive than an equivalent amount of distributed small scale solar projects.<sup>25</sup> In fact, the Applicant clarified that:

Generally, economics of scale (system size) do not affect the generation characteristics of the proposed facilities since the efficiency of a photovoltaic system depends primarily on the characteristics of the individual panels and the inverter. This allows excellent flexibility to adjust system size for the site-specific constraints without impacting the facilities' overall efficiencies.<sup>26</sup>

Based on the discussion above regarding forecasted solar energy needs and the Applicant's economic incentives to provide a lower cost facility, in order to be more competitive in the market for large solar generation and to secure a buyer, the Department concludes that the proposed Project's size reasonable compared to alternative sizes.

*b. Type*

The Commission's Exemption Order<sup>27</sup> granted Lake Wilson a full exemption to Minnesota Rules, part 7849.0250(B)(1)-(3) and (5). The Applicant was granted a partial exemption to the data requirement in (4) to the extent that the Rule requires discussion of non-renewable alternatives. Lake Wilson stated that since the goal of the project is to provide renewable energy that will help utilities satisfy

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<sup>23</sup> See EIA.gov *EIA Electricity Data Now Include Estimated Small-Scale Solar PV Capacity and Generation* at <https://www.eia.gov/todayinenergy/detail.php?id=23972>

<sup>24</sup> See *ilsr.org Report: Is Bigger Best in Renewable Energy* at <https://ilsr.org/report-is-bigger-best/>

<sup>25</sup> See *Brattle.com Study by Brattle Economists Quantifies the Benefits of Utility-Scale Solar PV* at <https://www.brattle.com/insights-events/publications/study-by-brattle-economists-quantifies-the-benefits-of-utility-scale-solar-pv/>

<sup>26</sup> Application, page 39-42.

<sup>27</sup> See the Commission's January 4, 2022 *ORDER* In Docket No. IP-7070/CN-21-791 edocket# [20221-181183-01](#)

renewable energy and other clean energy goals, information regarding non-renewable alternatives would not be relevant.

Minn. R. 7849.0250(B)(4) and the Commission's Exemption Order, require Lake Wilson to evaluate new renewable generating facilities as alternatives to the proposed Project, and reasonable combinations thereof. Lake Wilson evaluated the ability of wind, hydropower, biomass, various storage technologies, and emerging technologies to serve as reasonable alternatives to the proposed Project.

On a cost basis, only wind generation is as cost-effective as the proposed solar generation. The EIA Annual Energy Outlook for 2021 estimates the levelized cost of new electric generators that would enter service in 2026, the proposed in-service timeline for the Project, for onshore wind and solar to be \$31.45 per MWh and \$29.04 per MWh respectively. No other renewable technology had similarly low costs in the EIA Annual Energy Outlook for 2021.<sup>28</sup> Wind and Solar generation are generally complementary technologies, as the peak performance for both technologies occur at different parts of the day and year. Solar is most efficient during the summer months when there are more daylight hours<sup>29</sup> and during peak demand hours of the day, while wind energy tends to have its highest capacity factors during the spring, and lowest in summer.<sup>30</sup> Additionally, as both resources are intermittent and rely on weather conditions to produce electricity, having different types of generators will generally result in a more stable amount of energy produced. Wind generation also relies on different sites, generally of a larger more dispersed nature, than solar generation. As wind and solar generation tend to use different locations and have different peak energy production periods the two technologies complement one another and having both types will tend to stabilize electricity production to some extent and benefit the system overall.

The Project is an independent power producer and thus will rely on selling the output either through the MISO market or directly to another buyer, and thus cannot recover its costs directly from ratepayers. As such, it needs to be cost effective to secure a purchaser for the output. If the Project is permitted and ultimately fails to be constructed the potential negative impacts to parties other than the Applicant would be the use of regulatory time that could have been otherwise allocated, and any impacts to contracted landowners of the deal falling apart, such as reduced crop yields if contract land was left unplanted due to the expected construction. Overall, the Applicant has an economic incentive to ensure a cost-effective project, but there is the potential for speculation on sites that might eventually require significant transmission upgrades, which could cause the costs of projects to become non-viable. As discussed above the Department relies on the MISO planning process to determine the viability of sites due to transmission constraints. It is the Department's experience that the MISO process is generally slow, and thus often the total costs of required upgrades are not

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<sup>28</sup> See EIA.gov *Annual Energy Outlook Report 2021* available at:

[https://www.eia.gov/outlooks/archive/aeo21/pdf/electricity\\_generation.pdf](https://www.eia.gov/outlooks/archive/aeo21/pdf/electricity_generation.pdf)

<sup>29</sup> See EIA.gov *Wind and Solar in March Accounted for 10% of U.S. Electricity Generation for First Time* at

<https://www.eia.gov/todayinenergy/detail.php?id=31632#:~:text=Monthly%20solar%20output%20is%20highest,to%20improve%20their%20seasonal%20output.>

<sup>30</sup> See EIA.gov *Wind Generation Seasonal patterns vary across the United States* at

<https://www.eia.gov/todayinenergy/detail.php?id=20112#:~:text=Wind%20plant%20generation%20performance%20varies,is%20around%20the%20annual%20median.>

available at the time of regulatory decisions. However, as the Applicant has an incentive to not build the project unless it secures a purchaser, the financial risk of the Project is primarily on the Applicant and will not impact Minnesota ratepayers in the event of the Project failing.

Given these factors, along with the preference for renewable, non-carbon-emitting energy resources in Minnesota Statutes, the Department concludes that the proposed Project's type is appropriate. The Department notes that the Commission's assessment of the appropriateness of the Project's type will be further informed by the information to be contained in the EA, which will assess the environmental impacts of alternatives.

*c. Timing*

Lake Wilson stated that the Project is expected to be operational by December 2026, assuming regulatory approval. Lake Wilson stated that the project will be online in time to assist Minnesota with meeting its short-term and long-term renewable energy goals. The recent implementation of new carbon free standards has greatly increased the need for renewable energy generation to meet the 2030, 2035, and 2040 goals. The Department has no reason to disbelieve Lake Wilson's proposed in-service date but must rely on the Applicant's estimates in this regard. The Department notes that Minnesota Rule 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.

It is possible that the project could help an individual utility meet Minnesota's solar and renewable energy goals under Minnesota Statutes §216B.1691 and newly implemented carbon free goals;<sup>31</sup> however, the Department notes that:

- It is unlikely there will be a one-to-one match between CN applications based on regional need for renewable generation and Minnesota utilities' solar and renewable compliance level;
- Additional renewable resources may be needed for certain Minnesota utilities to meet their 2025-2030 renewable energy standard requirements due to capacity expirations;
- Additional renewable resources may be needed to meet the state's 2030, 2035, and 2040 carbon free generation goals;
- Capacity additions are typically added in "chunks" due to the benefits of economies of scale;
- The production tax credit and the investment tax credit's expected phase down of tax credits was removed in the Inflation Reduction Act, and thus allows the project to take full advantage of tax credits of up to 30 percent investment tax credit for the capital costs of the project and \$0.0275 per kWh production tax credit for projects greater than 1 MW<sup>32</sup>;

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<sup>31</sup> See <https://www.revisor.mn.gov/laws/2023/0/7/laws.0.10.0#laws.0.10.0>

<sup>32</sup> See EPA.gov *Summary of Inflation Reduction Act Provisions Related to Renewable Energy* at <https://www.epa.gov/green-power-markets/summary-inflation-reduction-act-provisions-related-renewable-energy#Monetize>

- 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.

In summary, the Department concludes that the timing of the proposed Project is appropriate as the Project will take advantage of extended tax credits and can contribute toward renewable and carbon free goals.

## *2. Renewable Preference*

Minnesota Statutes dictate a preference for renewable resources in resource planning and certificate of need decisions. Minnesota Statutes, section 216B.243, subd. 3a<sup>33</sup> 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.

Minnesota Statutes, section 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 not in the public interest.

As a solar generation facility, the proposed Project meets a renewable preference.

## *3. DSM Analysis*

The Commission's Exemption Order exempted the Applicant from providing information on conservation programs, as required by Minnesota Rule 7849.0290, 7849.0120 A (2), and Minnesota Statutes, section 216B.243, subd. 3 (2), and the potential for reducing the need for this generation facility because Lake Wilson does not have retail customers and does not operate any conservation programs.

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<sup>33</sup> Additionally, Minnesota Statutes, Section 216B.243 subd. 3 (11) requires that in assessing need, the Commission shall evaluate "whether the applicant has made the demonstrations required under subdivision 3a..."

However, it is unlikely that the regional needs for solar energy at the scale indicated by Lake Wilson could be met through conservation programs as demand side management resources are generally peaking resources, while more general conservation is implemented through the Conservation Improvement Program (CIP), with many of the lower cost conservation options having already been implemented. In general, as more conservation options are implemented the overall cost of conservation increases. The Department reviewed the 2023 CIP status reports for electric utilities<sup>34</sup> and observes that while overall energy savings has generally increased in the last few years, the total savings amount to between 2.3 and 2.99 percent of each utility's total electric load per year. Further, the actual demand savings, or the savings at any one point of time, for the utilities is 8.195 MW for Minnesota Power, 19.834 MW for Otter Tail Power, and 183.92 MW for Xcel Energy. For Minnesota Power and Otter Tail Power to conserve a similar amount of energy to the output of the proposed facility the Utilities would need to increase their conservation many times over, likely hitting substantial diminishing returns on cost effectiveness. Xcel Energy, meanwhile, is the largest electric utility in the state, and it would essentially need to double its conservation to offset the energy produced by the proposed Project. While the Department supports conservation, it is unlikely that conservation alone could be increased enough to offset the need for this and similar Projects as the State moves to meet its carbon reduction goals.

### C. ANALYSIS OF ALTERNATIVES

Minnesota Statutes, Section 216B.243, subd. 3(6) and Minnesota Rule 7849.0120 B require an evaluation of possible alternatives for satisfying the energy demand. The grant of a CN requires a determination that there is not a more reasonable or prudent alternative to the project considering, in part, the size, type, and timing of the project; the cost of the project compared to reasonable alternatives; the effects of the project on natural and socioeconomic environments, and the expected reliability of the project. The Department further 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

##### a. 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 do not require certificates of need (less than 50 MW).

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<sup>34</sup> See Docket Nos. E017/M-23-150, E002/M-23-145, and E015/M-23-135

As an IPP, Lake Wilson is a producer or seller, rather than purchaser, of electric generation. Based on the general principles of economics of scale, a renewable facility of less than 50 MW would likely not benefit as much from economies of scale as the proposed Project, however, as discussed above economies of scale are lower for solar facilities than other types of generation, and likely are more impactful when moving from small, rooftop solar, to utility grade facilities.

The Applicant has the incentive to site generation in an economically efficient manner inside or outside Minnesota in order to lower its overall costs and make the Project more attractive to potential purchasers. As such if it were cheaper for the Applicant to site their Project outside of Minnesota and sell in state via long distance transmission lines, it would do so. Further the Applicant also would have an incentive to avoid regulatory costs if multiple facilities of less than 50 MW were economically preferable.

The Department notes that any party wishing to do so may propose an alternative to the proposed facility. According to the June 12, 2023, *EERA Comments on EA Scoping Process*,<sup>35</sup> no party filed any Non-CN alternatives to be included in the EA. 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.

*b. Cost Analysis*

Minnesota Rule 7849.0120 B(2) requires consideration of “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.” Because the Commission exempted Lake Wilson from Minnesota Rule 7849.0250(C)’s requirement to provide a description of alternatives that could provide electric power at the asserted level of need, only details regarding renewable alternatives are required, including an estimate of the proposed Project’s effect on wholesale rates in Minnesota or the region.

As discussed above Lake Wilson has not yet secured a purchaser, but as an independent power producer it assumes the risk of not securing a PPA, rather than the state or the ratepayer. The Department agrees with this fact but notes that if the Project fails, there could be potential negative impacts on landowners that the Project contracted with as well as regulatory agency time diverted from review and permitting of other potentially viable projects.

Lake Wilson’s discussion of alternatives relied on cost information from the U.S. Department of Energy’s Energy Information Administration. Lake Wilson concluded that the Project is more cost effective than other technologies, and that while wind is cost competitive with the Project the two technologies are generally complementary (rather than direct competitors) as they provide peak output at different times of year. Further, as discussed previously, The EIA Annual Energy Outlook for

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<sup>35</sup> See EERA Staff’s June 12, 2023 *Comments-On EA Scoping Process* Docket No. IP-7070/CN-21-791 and IP7053/GS-21-792 edocket# [20236-196499-01](#)

2021 estimates the levelized cost of new electric generators that would enter service in 2026, the proposed in-service timeline the Project is aiming for, which estimated that the total levelized costs for onshore wind and solar to be \$31.45 per MWh and \$29.04 per MWh respectively. No other renewable technology had similarly low costs in the EIA Annual Energy Outlook for 2021.<sup>36</sup> As such solar facilities do appear to, on average, have a slightly lower cost currently. Lake Wilson has taken advantage of the compact footprint of solar technology and sited the project so that only a 200-400 foot long 115 kV gen-tie line is needed to connect the project to Xcel's Fenton Chanarambie 115 kV high voltage transmission line at a new Xcel switchyard.

The Department reviewed Lake Wilson's cost projections<sup>37</sup> and compared them to other similar CNs for solar and wind projects.<sup>38</sup> The Department concludes that Lake Wilson's estimated total costs of between **[TRADE SECRET DATA HAS BEEN EXCISED]** for the non-storage portion of the Project appear to be higher than other projects,<sup>39</sup> but, based on a review of recent rate cases for the large regulated electric utilities in Minnesota,<sup>40</sup> lower than the current Commission approved per kWh rates charged by Minnesota's large electric utilities to ratepayers, not factoring in additional fixed charges. Additionally, the inclusion of battery storage allows Lake Wilson to provide additional peaking energy that similar renewable facilities do not provide. Although the project is likely more expensive than similar solar or wind projects, it is still priced competitively relative to current utility rates, and thus is likely to drive overall energy costs down and provide storage capacity that will help provide peaking capacity that will be necessary as utilities phase out non-renewable peaking generation in order to comply with Minnesota's carbon free standard. As discussed above, if the project's costs ultimately prove too high to secure a power purchaser, the majority of the risk falls on the IPP, not Minnesota ratepayers. The Department notes, however, the time and capacity required by all of the regulatory agencies to participate, in good faith, in the review and permitting of such projects.

The Department also notes that the proposed Project's energy production will be modest in comparison to the annual energy consumption of Minnesota and the region, meaning that any overall rate impact of the Project will be relatively small. However, because the proposed Project would not be subject to fluctuations in fuel costs, such as those experienced during Winter Storm Uri, which caused a massive spike in natural gas prices from around \$3 per MMBtu to a peak of \$23.86 per

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<sup>36</sup> See EIA.gov *Annual Energy Outlook Report 2021* available at:

[https://www.eia.gov/outlooks/archive/aeo21/pdf/electricity\\_generation.pdf](https://www.eia.gov/outlooks/archive/aeo21/pdf/electricity_generation.pdf)

<sup>37</sup> See Appendix A

<sup>38</sup> The Department reviewed similar cost projections for similar solar projects in Docket Nos. IP-7039/CN-20-646, IP-7053/CN-21-112, IP-7041/CN-20-764, and IP-7014/CN-19-486 and similarly sized wind projects in Docket Nos. IP-7013/CN-19-408 and IP-6997/CN-18-699.

<sup>39</sup> *Id.*

<sup>40</sup> The Department reviewed the rates set in:

- Minnesota Power's most recent Commission approved rate case in Docket No. E015/GR-21-335 via its October 5, 2023 *Compliance Filing – Updated Tariff Sheets – Final Rates Implementation* edocket# [202310-199407-01](#)
- Xcel Energy's most recent Commission approved rate case in Docket No. E002/GR-21-630 via its October 17, 2023 *Compliance Filing* edocket# [202310-199663-01](#)
- Otter Tail Power's most recent Commission approved rate case in Docket No. E017/GR-20-719 via its March 8, 2022 *Compliance Filing – Final Rates Schedules* edocket# [20223-183597-02](#)



MMBtu at the Henry Hub distribution point,<sup>41</sup> the Project could help stabilize or lower electricity prices in the state and region. Overall, the Project is not likely to have a significant effect on MISO wholesale prices due to the small size of the Project relative to MISO's annual peak load of 122 GWs as of 2022.<sup>42</sup>

In aggregate, wind and solar facilities are dispatched "first" under MISO protocols since they have the lowest variable cost as independent system operators like MISO were created to provide non-discriminatory access to transmission, which includes discrimination based on price.<sup>43</sup> Since pricing in the MISO market is based on the last (marginal) resource (typically natural gas or inefficient coal), electricity produced by solar facilities in aggregate can decrease the amount of natural gas, or whatever fuel type is associated with the generation facility that is 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 Project and the cost of energy to be supplied by the Project is reasonable as it is overall lower than current utility rates, provides a service that competes with peaking generation, and will need to compete with alternative generators to find a buyer.

*c. 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 should have relatively minor pollution impacts, as solar generation is an emissions-free resource, resulting in no CO<sub>2</sub> or NO<sub>x</sub> emissions. For this reason, using the Commission approved externality values would not impact the overall cost analysis against the Project.

The Applicant also noted that recent studies indicate that there could be net benefits to soil resources over the lifecycle of solar projects from the soil being taken out of production. The Department is generally aware that there can be potential for soil quality improvements when farmland is taken out of service and pesticide and herbicide use is reduced.<sup>44</sup> The Applicant stated that approximately 1,526 acres of agricultural land would be removed from production, roughly 0.4 percent of the farmland in Murray County. Some of this land may be returned to agricultural production following the decommissioning of the Project.

The Applicant also discussed the impacts on the local economy through the hiring of temporary construction workers, permanent facility workers, payments to landowners, and long-term benefits to the county's tax base. The Department has not verified this claim. While it assumes that this position

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<sup>41</sup> See HARC *Winter Storm Uri's Impacts & Pathways to Resilience in Texas* at [https://experience.arcgis.com/experience/cc48fcfebf4e414b99b3d18f86c72c27/page/Natural-Gas-Pricing/?views=view\\_7](https://experience.arcgis.com/experience/cc48fcfebf4e414b99b3d18f86c72c27/page/Natural-Gas-Pricing/?views=view_7)

<sup>42</sup> See Potomac Economics *2022 State of the Market Report for the MISO Electricity Markets* page 8 available at [https://www.potomaceconomics.com/wp-content/uploads/2023/06/2022-MISO-SOM\\_Report\\_Body-Final.pdf](https://www.potomaceconomics.com/wp-content/uploads/2023/06/2022-MISO-SOM_Report_Body-Final.pdf)

<sup>43</sup> See [Misoenergy.org](https://www.misoenergy.org) *Business Practices Manual, Market Settlements* available at <https://www.misoenergy.org/legal/business-practice-manuals/>

<sup>44</sup> See Energy.gov *Farmer's Guide to Going Solar* at <https://www.energy.gov/eere/solar/farmers-guide-going-solar>

may be correct as a matter of practice, the actual impacts of the Project are likely to vary from the Applicant's estimates.

Based on the above, the Department concludes that this sub-criterion has been met pending the additional consideration by the Commission of the EA being conducted concurrently in this proceeding by EERA staff, which will include a full analysis of the effects of the proposed Project and any alternatives upon the natural and socioeconomic environments.

## 2. Reliability Analysis

Minnesota Rule 7849.0120 B(4) states that the Commission must consider "the expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives." Lake Wilson estimates that the proposed Project will have an availability, or the portion of time the facility is able to produce electricity if the sun is shining and not out of service for maintenance or other reasons, of at least 99 percent, which it states is consistent with industry standards.<sup>45</sup> Given such a high availability and MISO's generation accreditation process, through which MISO analyzes resources based on their seasonal forced outage rate, the Department concludes that the proposed project will have a reliability similar to that of reasonable alternatives.<sup>46</sup>

The Applicant also estimates a capacity factor of approximately 25.3 percent.<sup>47</sup> The Department confirmed that the proposed expected capacity factor is near the middle of the National Renewable Energy Laboratory's *Utility-Scale PV* range.<sup>48</sup> Lake Wilson stated that the Project would consist of a tracking rack system that allows the panels to chase the sun's position throughout the day. Since these values are estimates, the Department is unable to confirm that these values will be correct, but based on industry standards for solar photovoltaic panels the Department does not have a reason to believe that the Project will not achieve these targets. Further the MISO accreditation process will regularly evaluate both the availability and the capacity factor of the facility yearly once the Project is operational,<sup>49</sup> ensuring that any buyer of the output from this facility will have this information, likely incentivizing the Applicant to produce fairly accurate estimates or face potential legal consequences if it misrepresented the facilities capabilities to the seller. The Applicant's reliability estimates fall within the range of industry standards, and there are incentives for the Applicant to accurately represent this information. While the Department is unable to verify Applicant's estimates, MISO should be able to do so through the accreditation process.

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<sup>45</sup> Petition, pg. 47.

<sup>46</sup> See [Misoenergy.org Business Practices Manual, Resource Adequacy](https://www.misoenergy.org/legal/business-practice-manuals/) available at <https://www.misoenergy.org/legal/business-practice-manuals/>

<sup>47</sup> Petition, pg. 25.

<sup>48</sup> [https://atb.nrel.gov/electricity/2021/utility-scale\\_pv](https://atb.nrel.gov/electricity/2021/utility-scale_pv) accessed October 5, 2023.

<sup>49</sup> See [Misoenergy.org Business Practices Manual, Resource Adequacy](https://www.misoenergy.org/legal/business-practice-manuals/) available at <https://www.misoenergy.org/legal/business-practice-manuals/>

### 3. *Distributed Generation Analysis*

Minnesota Statutes § 216B.2426 states:

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.

Minnesota Rule 7849.0110 requires the Commission consider alternatives proposed before the close of the public hearing for which there exists substantial evidence on the record. This rule allows other parties to propose alternatives to the Project during the CN process for consideration. No proposals for distributed generation as an alternative to the proposed Project have been filed in this proceeding. Potential buyers of the proposed Project’s output should have an economic incentive to use the lowest cost resource available while investor-owned utilities would need to submit a purchase power agreement to the Commission to review whether the agreement is economically beneficial to ratepayers. If purchasing distributed generation instead of the output of the Project is economically preferable, potential buyers would likely pursue the cheaper option.

During its 2023 session, the Minnesota Legislature created a new Distributed Solar Energy Standard which requires public utilities to generate, depending on the size of the utility, between 1 to 3 percent of the utilities’ total retail electric sales from solar energy generating systems of less than 10 megawatts and connected directly to the utility’s distribution system, in addition to other requirements.<sup>50</sup> The proposed Project would not qualify for this standard because it would be much larger than 10 megawatts and would not be connected directly to the distribution network. As Minnesota Statutes section 216B.2426 requires that distributed generation be considered under the proceeding, distributed generation alternatives were able to be submitted to the filing, and since 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.

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<sup>50</sup> <https://www.revisor.mn.gov/laws/2023/0/60/laws.12.22.0#laws.12.22.0>

#### 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.

This statute does not apply since the proposed facility is not a fossil-fuel-fired generation facility.

#### D. *SOCIOECONOMIC ANALYSIS*

Minnesota Rule 7849.0120 C requires 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, considering:

- (1) the relationship of the proposed facility, or a suitable modification thereof, to overall state energy needs;
- (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;
- (3) the effects of the proposed facility, or a suitable modification thereof, in inducing future development; and
- (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;

Lake Wilson stated that the proposed Project would provide renewable energy with minimal environmental impact. Further, the Applicant stated that the Project would benefit the local economies through lease payments, energy production taxes, jobs (both temporary construction and permanent operations and maintenance jobs), and other local spending. Lake Wilson also stated that recent studies have shown that during the lifetime of solar projects the land used generally sees benefits in soil quality by being removed from production, with associated benefits from reduced use of pesticides and herbicides.<sup>51</sup> There are unlikely to be any affects on future development outside any induced by increases in the local tax base or due to payments from the Applicant to landowners, as the energy output from the facility will not be exclusively available to the local area. Other than the

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<sup>51</sup> See Energy.gov *Farmer's Guide to Going Solar* at <https://www.energy.gov/eere/solar/farmers-guide-going-solar>

benefits of payments the Project may provide societal benefits if the project offsets the use of non-clean energy generation sources, but this value is hard to quantify due to the nature of the energy market and the operations of the system.

As noted above, the Department relies on its EA for its socioeconomic analysis in a CN proceeding. As of the date of the submission of these comments, the EA is not yet complete. The Department recommends that the Commission consider the EA that will be filed by the Department's Energy Environmental Review and Analysis staff in this matter in the instant docket.

#### *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 section, the Department addresses criteria related to:

- policies of other state and federal agencies;
- promotional practices;
- Renewable Energy Standard compliance;
- environmental cost planning;
- transmission planning compliance; and
- carbon dioxide emissions.

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

Minnesota Rules, part 7849.0120 D requires, in part, that when granting a certificate of need:

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.

Similarly, Minnesota Statutes, section 216B.243 subd. 3 (3) requires that in assessing need, the Commission shall evaluate "the policies, rules, and regulations of other state and federal agencies and local governments."

Lake Wilson claimed that the proposed Project serves overall state and regional energy needs, addresses federal and state renewable energy policies, and will meet or exceed the requirements of all federal, state, and local environmental laws and regulations.<sup>52</sup> Lake Wilson provided a table listing the potential permits and approvals needed for the proposed Project (see Table 14 in section 12.3 of the CN Application). This table appears comprehensive. The Department takes no position on whether the

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<sup>52</sup> Petition, pg. 31.

Applicant will obtain these permits and approvals in the future. The Department recommends that the Commission consider the EA that will be filed by the Department's EERA staff and any filings by other relevant state agencies in this matter and concludes that the record has not demonstrated that the Applicant will fail to comply with various policies, rules, and regulations of other state and federal agencies and local governments.

## *2. Promotional Practices*

Minnesota Statutes, section 216B.243 subd. 3 (4) requires that in assessing need the Commission shall evaluate "promotional activities that may have given rise to the demand for this facility," Minnesota Rule 7849.0120 A(3) requires consideration of "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" and Rule 7849.0240 similarly requires the Applicant to explain the relationship of the Project to the promotional activities that may have given rise to the demand for the facility. This rule is concerned is intended to ensure that utilities and other power producing entities are not advertising to consumers of electricity to incite increased demand for electricity, that utilities can then use to justify the construction of new generation facilities, that they would then be able to bill to utility ratepayers. In its Exemption Order, the Commission exempted Lake Wilson from Rule 7849.0240, subp. 2(B) because Lake Wilson does not have captive retail customers and there is no authorized rate of return to consider. The Applicant 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 Project.<sup>53</sup> The Department does not have any knowledge to the contrary and based on the Commission's exemption the Department concludes that this subcriterion 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 . . . ." Section 216B.1691 provides a number of requirements related to renewable energy sources and carbon-free electricity generation in the state and requires the Commission to establish standards and criteria to measure an electric utility's efforts to meet renewable and clean energy standards, including solar energy standards, and determine whether a utility is meeting those standards. It also requires the Commission to take all reasonable actions to ensure that the entire section is implemented in a manner to maximize net benefits to all Minnesota citizens. The Applicant does not qualify as an Electric Utility under the Section 216B.1691 as it is not a public utility providing electric service, a generation and transmission cooperative electric association, a municipal power agency, or a power district and thus the majority of the requirements of Section 216B.1691 do not apply. As such the Department concludes that the Project is in compliance with Minnesota Statutes § 216B.243, subd. 3(10).

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<sup>53</sup> Petition, pg. 19.

#### *4. Environmental Cost Planning*

Minnesota Statutes section 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, Lake Wilson is proposing a renewable generation facility. Therefore, this provision does not apply.

#### *5. Transmission Planning Compliance*

Minnesota Statutes section 216B.243, subd. 3(10) requires the Commission to evaluate whether the applicant is compliant with the applicable provisions of section “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.” Section 216B.2425, subd. 7 requires that the owners or operators of transmission lines, except those that interconnect a single generating facility, must “determine necessary transmission upgrades to support development of renewable energy resources required to meet objectives under section 216B.1691 and shall include those upgrades in [their biennial] report.”

Lake Wilson stated that the proposed Project would interconnect via a 200-400 foot long 115 kV gen-tie line to Xcel’s Fenton Chanarambie 115 kV high voltage transmission line via a new Xcel switchyard. This line spans less than the 1,500 feet length requirement that would trigger a route permit. Otherwise, Lake Wilson does not own any transmission lines. Since Minnesota Statutes, section 216B.2425 is applicable only to entities that own or operate electric transmission lines in Minnesota, and Lake Wilson only intends to own its feeder line, it appears that this statute does not apply in this case. Additionally, in order to obtain interconnection rights from MISO the Applicant must pay for any necessary transmission upgrades as determined in MISO’s interconnection studies.

#### *6. Carbon Dioxide Emissions*

Minnesota Statutes § 216H.03, subd. 3 prohibits, with limited exceptions, construction of a new large energy facility that would contribute to statewide power sector carbon dioxide emissions. As a renewable energy facility, the proposed Project will generate carbon free energy.

### III. SUMMARY OF DEPARTMENT ANALYSIS

In these comments, the Department addressed the following criteria:

<b>Regulatory Criteria</b>	<b>Where Addressed in these Comments</b>
Minn. Stat. § 216B.243, subd. 3(9)	N/A
Minn. Stat. §§ 216B.243, subd. 3a and 216B.2422, subd. 4	Section II, B, 2 Page 13
Minn. Stat. § 216B.2426	Section II, C, 3 Page 19
Minn. Stat. § 216B.1694, subd. 2(a)(5)	Section II, C, 4 Page 21
Minn. Stat. §§ 216B.243, subd. 3(10) and 216B.1691	Section II, E, 3 Page 22
Minn. Stat. § 216B.243 subd. 3(12)	Section II, E, 4 Page 23
Minn. Stat. §§ 216B.243, subd. 3(10) and 216B.2425, subd. 7	Section II, E, 5 Page 23
Minn. Stat. §§ 216B.243, subd. 3 and 216B.243, subd. 3(8)	Section II, B, 3 Page 15
Minn. Stat. § 216H.03	Section II, E, 6 Page 23
Minn. R. 7849.0120, Subpart A (1)	Section II, A, 1, a Pages 5
Minn. R. 7849.0120, Subpart A (2)	Section II, B, 3 Page 15
Minn. R. 7849.0120, Subpart A (3)	Section II, E, 2 Page 22
Minn. R. 7849.0120, Subpart A (4)	Section II, C, 1, a Pages 14
Minn. R. 7849.0120, Subpart A (5)	Section II, D Pages 20
Minn. R. 7849.0120, Subpart B (1)	Section II, B, 1 Page 9
Minn. R. 7849.0120, Subpart B (2)	Section II, C, 1, b Page 15
Minn. R. 7849.0120, Subpart B (3)	Section II, C, 1, c Page 17



Minn. R. 7849.0120, Subpart B (4)	Section II, C, 2 Page 18
Minn. R. 7849.0120, Subpart C (1)	Section II, A, 1, b Page 7
Minn. R. 7849.0120, Subpart C (2)	Section II, C, 3 and Section II, D Pages 19 and 20
Minn. R. 7849.0120, Subpart C (3)	Section II, D Pages 20
Minn. R. 7849.0120, Subpart C (4)	Section II, D Pages 20
Minn. R. 7849.0120, Subpart D	Section II, E, 1 Page 21

#### IV. DEPARTMENT RECOMMENDATION

Based upon the above analysis and its analysis in the Department's March 14, 2023, Completeness comments, the Department:

- Has not identified any contested issues with respect to the representations made in the application pertaining to the certificate of need, but relies on input from MISO studies and EERA's EA on some issues; and
- The Application complies with Minnesota Statutes, section 216B.243 and Minnesota Rules Part 7849.0010 to 7849.0400.
  - Lake Wilson has met each of the five criteria listed under Minnesota Rules, part 7849.0120 A and thus 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;"
  - Lake Wilson has met each of the four criteria listed under Minnesota Rules, part 7849.0120 B and thus shown that "a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record;" and
  - Lake Wilson has shown 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."

Should the Commission find, after consideration of the Environmental Report, 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 Certificate of Need to Lake Wilson Solar Energy, LLC.

## **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  
Public Comments**

**Docket No. IP7070/CN-21-791**

Dated this 9<sup>th</sup> day of **November 2023**

**/s/Sharon Ferguson**

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Lisa	Agrimonti	lagrimonti@fredlaw.com	Fredrikson & Byron, P.A.	60 South Sixth Street Suite 1500 Minneapolis, MN 55402-4400	Electronic Service	Yes	OFF_SL_21-791_Official CC Service List
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	OFF_SL_21-791_Official CC Service List
David	Bell	david.bell@state.mn.us	Department of Health	POB 64975  St. Paul, MN 55164	Electronic Service	No	OFF_SL_21-791_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_21-791_Official CC Service List
Mark D	Crowl	MCrowl@invenenergy.com	Invenenergy, LLC	1401 17th St Ste 1100  Denver, CO 80202	Electronic Service	Yes	OFF_SL_21-791_Official CC Service List
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Bridget	Duffus	bduffus@fredlaw.com	Fredrikson & Byron, P.A.	60 S Sixth St Ste 1500  Minneapolis, MN 55402-4400	Electronic Service	Yes	OFF_SL_21-791_Official CC Service List
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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_21-791_Official CC Service List
Chad	Konickson	chad.konickson@usace.ar my.mil	U.S.Army Corps of Engineers	180 5th St # 700  Saint Paul, MN 55101	Electronic Service	No	OFF_SL_21-791_Official CC Service List

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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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	OFF_SL_21-791_Official CC Service List
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Cezar	Panait	Cezar.Panait@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 55101	Electronic Service	No	OFF_SL_21-791_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_21-791_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_21-791_Official CC Service List
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Cynthia	Warzecha	cynthia.warzecha@state.mn.us	Minnesota Department of Natural Resources	500 Lafayette Road Box 25 St. Paul, MN 55155-4040	Electronic Service	No	OFF_SL_21-791_Official CC Service List
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	OFF_SL_21-791_Official CC Service List
Jonathan	Wolfgram	Jonathan.Wolfgram@state.mn.us	Office of Pipeline Safety	445 Minnesota St Ste 147  Woodbury, MN 55125	Electronic Service	No	OFF_SL_21-791_Official CC Service List
Robert	Young	Ryoung@invenenergy.com	Invenenergy, LLC	One S Wacker Dr Ste 1800  Chicago, IL 60606	Electronic Service	Yes	OFF_SL_21-791_Official CC Service List

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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
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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

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Jonathan	Wolfgram	Jonathan.Wolfgram@state.mn.us	Office of Pipeline Safety	445 Minnesota St Ste 147  Woodbury, MN 55125	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS