

August 26, 2020

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

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**  
Docket No. IP7039/CN-20-646

Dear Mr. Seuffert:

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

Request for Exemption from Certain Certificate of Need Application Content Requirements  
for the Application of Louise Solar Project, LLC for a Certificate of Need for the 50 MW  
Louise Solar Project in Mower County, Minnesota

The Petition was filed on behalf of Louise Solar Project, LLC on August 5, 2020 by:

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

The Department recommends that the Minnesota Public Utilities Commission (Commission) **approve the data exemption requests, as detailed in the attached Comments.** The Department is available to answer any questions the Commission may have.

Sincerely,

/s/ MICHAEL N. ZAJICEK  
Rates Analyst

MNZ/ja  
Attachment



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

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Docket No. IP7039/CN-20-646

**I. SUMMARY OF FILING**

On August 5, 2020 Louise Solar Project, LLC (Louise or the Applicant) filed a *Request for Exemption from Certain Certificate of Need Application Content Requirements* (Petition).

On August 18, 2020 the Minnesota Public Utilities Commission (Commission) issued its *Notice of Comment Period on Certificate of Need Exemption Requests* (Notice). The Notice asked: “Should the Commission grant the exemptions to the certificate of need application content requirements requested by Louise Solar Project, LLC in its August 5, 2020 filing?”

**A. PROJECT BACKGROUND**

Louise is an independent power producer (IPP) that plans to construct and operate an up to 50-MW large photovoltaic (PV) solar-energy generating system at a single site in Mower County, Minnesota (Project). The proposed Project qualifies as a “large energy facility” (LEF) as defined by Minn. Stat. § 216B.2421, subd 2(1), and a “large electric generating facility” as defined by Minn. Rules 7849.0010, Subp. 13.

The Applicant intends to sell power produced by this solar facility to wholesale customers and/or corporate customers. The Project would span approximately 350 acres in Mower County, Minnesota, and would use panels affixed to tracking mechanisms. Additionally the Project would include an electrical collection system, inverters, racking, fencing, access roads, an operation and maintenance building, substation facility, underground electrical collection system, up to two weather stations, and other infrastructure typical for a PV solar-energy generating system. The Project would interconnect to ITC Midwest’s existing Adams Substation in Mower County, Minnesota.

**B. EXEMPTION REQUESTS**

In the Petition, Louise requests exemption from providing data relevant to the Minnesota Rules listed below:

- 1) 7849.0240, subp. 2 (B);
- 2) 7849.0250 (B) 1-5;
- 3) 7849.0250 (C) 1 to 6, 8 and 9;
- 4) 7849.0250 (C) 7;
- 5) 7849.0250 (D);
- 6) 7849.0270;

- 7) 7849.0280;
- 8) 7849.0290;
- 9) 7849.0300;
- 10) 7849.0330; and
- 11) 7849.0340.

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

Below are the Comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) regarding the Petition.

## **II. DEPARTMENT ANALYSIS**

### *A. GOVERNING STATUTE*

Minnesota Statutes § 216B.243, subd. 2 states that no LEF shall be constructed without a certificate of need (CN). At 50 MW, the proposed Project qualifies as an LEF. Louise's Petition requests exemption from several of the filing requirements related to a future CN application for the proposed Project.

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

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

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

### *B. EXEMPTION ANALYSIS*

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

This rule requires an applicant to provide an explanation of the relationship of the proposed facility to promotional activities that may have given rise to the demand for the facility. Louise states that the Applicant "has not engaged in promotional activities that could have given rise to the need for the

electricity the project will generate.” The Department notes that the Commission has granted this exemption to other IPPs because these companies do not have captive retail customers.

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

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

- 1) purchased power;
- 2) increased efficiency of existing facilities, including transmission lines;
- 3) new transmission lines;
- 4) new generating facilities of a different size or using a different energy source; and
- 5) any reasonable combinations of the alternatives listed in sub items (1) to (4).

Louise requests an exemption from information requirements 1, 2, 3 and 5 as they are not applicable and a partial exemption from requirement 4 such that Louise not be required to address non-renewable alternatives. The Department agrees with the Applicant that an exemption to the extent an alternative cannot address the need for renewable power is reasonable.

Regarding Minnesota Rules 7849.0250 (B) 1, Louise is proposing to produce power to sell to utilities in the market or other potential off-takers, and thus purchased power is not an alternative. Thus, an exemption is appropriate.

The requirements of Minnesota Rules 7849.0250 (B) 2, 3 and 5 are not applicable to Louise as the Applicant is not a vertically integrated regulated utility and therefore has no existing facilities in Minnesota for which efficiency could be improved in order to mitigate the need for the project, and does not own or plan to own transmission lines other than those needed for the interconnection of the project. Therefore, the Department recommends that the exemption be granted.

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

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

- 1) capacity costs in current dollars per kilowatt;
- 2) service life;
- 3) estimated average annual availability;
- 4) fuel costs in current dollars per kilowatt hour;
- 5) variable operating and maintenance costs in current dollars per kilowatt hour;
- 6) total cost in current dollars of a kilowatt hour provided by it;
- 7) estimate of its effect on rates system wide and in Minnesota;
- 8) efficiency, expressed as the estimated heat rate; and

- 9) major assumptions made in providing the above information (e.g., escalation rates used, projected capacity factors).

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

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

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

This rule requires an applicant to provide an estimate of the project’s effect on rates system-wide and in Minnesota, assuming a test year beginning with the proposed in-service date. Louise requests an exemption because Louise does not operate a system, is not a utility with retail rates, and has not secured a purchaser for power produced by the Project. The Commission has granted a similar exemption to other IPPs because IPPs do not have a system. Louise proposes to submit data on the Project’s impact on state or regional wholesale prices instead. Therefore, the Department recommends that the Commission grant the proposed exemption.

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

This rule requires an applicant to provide a map of the applicant’s system. Louise requests an exemption because Louise does not operate a system and thus the information does not exist. As an alternative, Louise proposes to file a map showing the site of the Project and its location relative to the power grid. The Department agrees that the proposed alternative map would contain more relevant data. Therefore, the Department recommends that the Commission approve the requested exemption with the provision of Louise’s proposed alternative data.

#### *6. 7849.0270: Peak Demand and Annual Consumption Forecast*

This rule requires an applicant to provide system forecast data. Louise requests an exemption because it does not have a service area or a system. Because the Applicant also has not identified a buyer yet, Louise cannot reasonably forecast peak demand for the buyer’s service area. Louise proposes to submit regional demand, consumption, and capacity data to demonstrate the need for independently produced renewable energy. The Department agrees that the Applicant’s proposed alternative data is relevant. Therefore, the Department recommends that the Commission approve the requested exemption and require Louise to provide data regarding regional demand, consumption, and capacity.

*7. 7849.0280: System Capacity*

This rule requires an applicant to provide information regarding the ability of its existing system to meet the demand for electrical energy forecast in response to part 7849.0270. Again, Louise does not have a system but proposes to submit regional demand, consumption and capacity data. The Department recommends that the Commission approve the requested exemption and require Louise to provide data regarding regional demand, consumption and capacity.

*8. 7849.0290: Conservation Programs*

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

The Department agrees that conservation program information is not relevant to the determination of need for the Project and recommends that the Commission approve the requested exemption.

*9. 7849.0300: Consequences of Delay—System*

This rule requires an applicant to provide information regarding anticipated consequences to its system, neighboring systems, and the power pool should the proposed facility be delayed one, two, and three years, or postponed indefinitely. Louise requests an exemption because the Applicant does not have a system, and requests instead to provide data on the consequences of delay to its potential customers and the region. The Department recommends that the Commission approve the requested exemption and require Louise to provide data regarding the consequences of delay on its potential customers and the region.

*10. 7849.0330: Alternative Involving a Large High Voltage Transmission Line (LHVTL)*

This rule requires an applicant to provide data for each alternative that would involve construction of an LHVTL. Regarding this requirement Louise states that transmission facilities are not true alternatives to the Project as the purpose of the Project is to increase the available solar energy. Additionally, the Project intends to connect to the existing ITC Adams Substation in Mower County, Minnesota and any transmission line for the Project will be short and limited in use to connecting the Project to the broader transmission system. Louise states that it does not plan to install any facilities that would be defined as an LHVTL. The Department agrees with Louise's analysis and recommends that the Commission grant the proposed exemption as the rule is not applicable.

*11. 7849.0340: The Alternative of No Facility*

This rule requires an applicant to provide information regarding the impact of the alternative of no facility on the existing system. Louise requests an exemption because it does not have a system. The Department recommends that the Commission approve the requested exemption and allow Louise to provide data regarding the impact on the wholesale market of the “no facility” alternative as the Applicant proposes.

**III. DEPARTMENT RECOMMENDATION**

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

- 7849.0250 (B) 4: Description of Certain Alternatives;
- 7849.0250 (D): Map of Applicant’s System;
- 7849.0270: Peak Demand and Annual Consumption Forecast;
- 7849.0280: System Capacity;
- 7849.0300: Consequences of Delay—System; and
- 7849.0340: The Alternative of No Facility.

The Department recommends that the Commission approve the following exemptions as proposed:

- 7849.0240, subp. 2 (B): Promotional Activities;
- 7849.0250 (B) 1, 2, 3, and 5: Description of Certain Alternatives;
- 7849.0250 (C) 1 to 6, 8 and 9: Availability of Alternatives to the Facility;
- 7849.0250 (C) 7: Effect of Project on Rates System-wide;
- 7849.0290: Conservation Programs; and
- 7849.0330: Alternatives Involving a LHVTL.

/ja

## **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. IP7039/CN-20-646**

Dated this **26<sup>th</sup>** day of **August 2020**

**/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	No	OFF_SL_20-646_CN-20-646
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400  St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_20-646_CN-20-646
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280  Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_20-646_CN-20-646
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_20-646_CN-20-646
Jacob	Salisbury	Jacob.Salisbury@edf-re.com	EDF Renewables	10 NE 2nd St Ste 400  Minneapolis, MN 55413	Electronic Service	No	OFF_SL_20-646_CN-20-646
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th PI E Ste 350  Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_20-646_CN-20-646
Adam	Sokolski	adam.sokolski@edf-re.com	EDF Renewable Energy	10 Second Street NE Ste 400  Minneapolis, MN 55413	Electronic Service	No	OFF_SL_20-646_CN-20-646
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