MINNESOTA
PUBLIC UTILITIES COMMISSION

Staff Briefing Papers

Meeting Date	September 17, 2020		Agenda Item *4
Company	Louise Solar Project, LLC		
Docket No.	**IP-7039/CN-20-646**		
	In the Matter of the Application of Louise Solar Project, LLC for a Certificate of Need for the 50 MW Louise Solar Project in Mower County, Minnesota		
Issues	Should the Commission grant Louise Solar Project, LLC's request for exemptions from certain certificate of need filing requirements?		
Staff	Cezar Panait	Cezar.Panait@state.mn.us	651-201-2207

✓ **Relevant Documents**	**Date**
Louise Solar Project, LLC – Initial Filing	August 5, 2020
DOC DER – Comments on Exemptions	August 26, 2020
Louise Solar Project, LLC Reply Comments	August 27, 2020

I. Statement of the Issues

Should the Commission grant Louise Solar Project, LLC's request for exemptions from certain certificate of need filing requirements?

II. Background

Louise Solar Project, LLC (Louise Solar or Applicant) is proposing to construct a 50 megawatt solar photovoltaic project in Mower County, Minnesota, known as the Louise Solar Project. On August 5, 2020, Louise Solar filed a Petition[1] for an Exemption from certain Certificate of Need application information requirements pursuant to Minn. Rule 7849.0200, Subp. 6. Louise Solar asserts that the information requirements for which it is requesting exemption are not applicable to independent power producers or can be satisfied by submitting another document.

III. Parties' Comments

Department of Commerce Division of Energy Resources (Department or DOC DER) filed comments on August 26, 2020 recommending that the Minnesota Public Utilities Commission (Commission) approve the data exemption requests with conditions.

On August 27, 2020, the Applicant submitted a letter stating that it has reviewed the comments filed by the Department on August 26, 2020, regarding Louise's Request, that it agrees with the Department's recommendations and it requested the Commission approve the data exemption requests.

IV. Staff Analysis

As noted by the Department, the requested exemptions to the Certificate of Need filing requirements are common exemptions afforded by the Commission to independent power producers. The Commission has authorized these exemptions several times before (see Louise Solar Application footnotes on page 3 for citations).

Rather than restating the Department's response to each exemption request individually as per certain rule provisions from Minn. Rules 7849.0240 through 7849.0340, staff included the Department's entire comments addressing these exemptions.

Staff agrees with the Department and supports adopting the Department's recommendations.

[1] Louise Solar Petition for Exemption from Certain CN Application Requirements, eDockets ID 20208-165612-02

V. Decision Options

A. Petition for exemption from certain Certificate of Need application requirements:

1. Grant the petition for exemptions from certain Certificate of Need application requirements for the Louise Solar Project with the conditions set forth by the DOC DER.

2. Deny the petition.

3. Take some other action deemed appropriate.

Staff Recommendation: A1

Attachment: Department August 26, 2020 Comments on the Petition for Exemptions

COMMERCE DEPARTMENT

August 26, 2020

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

A. 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

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COMMERCE DEPARTMENT

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

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 STATUE

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.