

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 4784

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DATE	D-PG	OFFICIAL STATUS
03/07/2024	12063	Introduction and first reading Referred to Energy, Utilities, Environment, and Climate
03/14/2024	12209a	Comm report: To pass as amended and re-refer to Environment, Climate, and Legacy
03/18/2024	12419	Withdrawn and re-referred to State and Local Government and Veterans
03/20/2024	12430	Comm report: To pass and re-referred to Energy, Utilities, Environment, and Climate
03/21/2024	12523a	Comm report: To pass as amended and re-refer to Environment, Climate, and Legacy
	12534	Authors added Nelson; Pratt
03/25/2024	12812a	Comm report: To pass as amended and re-refer to Finance

1.1

A bill for an act

1.2 relating to energy; establishing the Minnesota Energy Infrastructure Permitting

1.3 Act; modifying provisions governing certificates of need; making conforming and

1.4 technical changes; authorizing administrative rulemaking; providing for coordinated

1.5 plans to complete environmental review and other state agency actions; requiring

1.6 reports; amending Minnesota Statutes 2022, sections 216A.037, subdivision 1;

1.7 216B.2421, subdivision 2; 216B.243, subdivisions 3, 3a, 4, 9; 216E.08, subdivision

1.8 2; 216E.11; 216E.13; 216E.14; 216E.15; 216E.16; 216E.18, subdivision 2a;

1.9 Minnesota Statutes 2023 Supplement, sections 10.65, subdivision 2; 216B.243,

1.10 subdivision 8; 216E.06; 216E.07; 216E.10, subdivisions 1, 2, 3; proposing coding

1.11 for new law in Minnesota Statutes, chapters 84; 116; proposing coding for new

1.12 law as Minnesota Statutes, chapter 216I; repealing Minnesota Statutes 2022,

1.13 sections 216E.001; 216E.01, subdivisions 1, 2, 3, 4, 5, 7, 8, 9, 10; 216E.02;

1.14 216E.021; 216E.03, subdivisions 2, 3a, 3b, 4, 9; 216E.04, subdivisions 1, 3, 4, 5,

1.15 6, 7, 8, 9; 216E.05, subdivisions 1, 3; 216E.08, subdivisions 1, 4; 216E.18,

1.16 subdivisions 1, 2; 216F.01; 216F.011; 216F.012; 216F.015; 216F.02; 216F.03;

1.17 216F.05; 216F.06; 216F.07; 216F.08; 216F.081; Minnesota Statutes 2023

1.18 Supplement, sections 216E.01, subdivisions 3a, 6, 9a; 216E.03, subdivisions 1, 3,

1.19 5, 6, 7, 10, 11; 216E.04, subdivision 2; 216E.05, subdivision 2; 216F.04; Minnesota

1.20 Rules, parts 7850.1000; 7850.1100; 7850.1200; 7850.1300; 7850.1400; 7850.1500;

1.21 7850.1600; 7850.1700; 7850.1800; 7850.1900; 7850.2000; 7850.2100; 7850.2200;

1.22 7850.2300; 7850.2400; 7850.2500; 7850.2600; 7850.2700; 7850.2800; 7850.2900;

1.23 7850.3000; 7850.3100; 7850.3200; 7850.3300; 7850.3400; 7850.3500; 7850.3600;

1.24 7850.3700; 7850.3800; 7850.3900; 7850.4000; 7850.4100; 7850.4200; 7850.4500;

1.25 7850.4600; 7850.4700; 7850.4800; 7850.4900; 7850.5000; 7850.5100; 7850.5200;

1.26 7850.5300; 7850.5400; 7850.5500; 7850.5600; 7854.0100; 7854.0200; 7854.0300;

1.27 7854.0400; 7854.0500; 7854.0600; 7854.0700; 7854.0800; 7854.0900; 7854.1000;

1.28 7854.1100; 7854.1200; 7854.1300; 7854.1400; 7854.1500.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

MINNESOTA ENERGY INFRASTRUCTURE PERMITTING ACT

Section 1. [216I.01] CITATION.

This chapter may be cited as the "Minnesota Energy Infrastructure Permitting Act."

Sec. 2. [216I.02] DEFINITIONS.

Subdivision 1. **Applicability.** For purposes of this chapter, the terms defined in this section have the meanings given, unless context clearly indicates or provides otherwise.

Subd. 2. **Associated facility.** "Associated facility" means a building, equipment, communication instrumentation, or other physical structure that is necessary to operate a large energy infrastructure facility. Associated facility includes transmission lines designed for and capable of operating at 100 kilovolts or less that interconnect the large energy infrastructure facility with the existing high-voltage transmission system.

Subd. 3. **Commission.** "Commission" means the Public Utilities Commission. Commission also means the executive secretary of the Public Utilities Commission for purposes of the following:

(1) applicability determinations under section 216I.04;

(2) completeness determinations under section 216I.05;

(3) public meetings under section 216I.05, subdivision 9;

(4) draft environmental impact statements under section 216I.06, subdivision 1, paragraph (c);

(5) public hearings under section 216I.06, subdivision 2, or 216I.07, subdivision 4; and

(6) minor alterations under section 216I.09.

Subd. 4. **Construction.** "Construction" means any clearing of land, excavation, or other action that adversely affects the site's or route's natural environment. Construction does not include changes needed to temporarily use sites or routes for nonutility purposes, or uses in securing survey or geological data, including necessary borings to ascertain foundation conditions.

Subd. 5. **Cultivated agricultural land.** "Cultivated agricultural land" has the meaning given in section 216G.01, subdivision 4.

3.1 Subd. 6. **Energy storage system.** "Energy storage system" means equipment and
3.2 associated facilities designed with a nameplate capacity of 10,000 kilowatts or more that is
3.3 capable of storing generated electricity for a period of time and delivering the electricity
3.4 for use after storage.

3.5 Subd. 7. **Executive secretary.** "Executive secretary" means the executive secretary of
3.6 the Public Utilities Commission under section 216A.04 or Public Utilities Commission staff
3.7 designated by the executive secretary.

3.8 Subd. 8. **High-voltage transmission line.** "High-voltage transmission line" means a
3.9 conductor of electric energy and associated facilities that is (1) designed for and capable of
3.10 operation at a nominal voltage of 100 kilovolts or more, and (2) is greater than 1,500 feet
3.11 in length.

3.12 Subd. 9. **Large electric power generating plant.** "Large electric power generating
3.13 plant" means electric power generating equipment and associated facilities designed for or
3.14 capable of operation at a capacity of 50,000 kilowatts or more.

3.15 Subd. 10. **Large energy infrastructure facility.** "Large energy infrastructure facility"
3.16 means a high-voltage transmission line, a large electric power generating plant, an energy
3.17 storage system, a large wind energy conversion system, and any associated facility.

3.18 Subd. 11. **Large wind energy conversion system.** "Large wind energy conversion
3.19 system" means any combination of wind energy conversion systems with a combined
3.20 nameplate capacity of 5,000 kilowatts or more, and may include transmission lines designed
3.21 for and capable of operating at 100 kilovolts or less that interconnect a large wind energy
3.22 conversion system with a high-voltage transmission line.

3.23 Subd. 12. **Permittee.** "Permittee" means a person to whom a site or route permit is
3.24 issued.

3.25 Subd. 13. **Person.** "Person" means an individual, partnership, joint venture, private or
3.26 public corporation, association, firm, public service company, cooperative, political
3.27 subdivision, municipal corporation, government agency, public utility district, or any other
3.28 entity, public or private, however organized.

3.29 Subd. 14. **Route.** "Route" means the location of a high-voltage transmission line between
3.30 two end points. The route may have a variable width of up to 1.25 miles.

3.31 Subd. 15. **Site.** "Site" means the location of a large electric power generating plant, solar
3.32 energy generating system, energy storage system, or large wind energy conversion system.

4.1 Subd. 16. **Small wind energy conversion system.** "Small wind energy conversion
4.2 system" means any combination of wind energy conversion systems with a combined
4.3 nameplate capacity of less than 5,000 kilowatts.

4.4 Subd. 17. **Solar energy generating system.** "Solar energy generating system" means a
4.5 set of devices whose primary purpose is to produce electricity by means of any combination
4.6 of collecting, transferring, or converting solar-generated energy with a combined nameplate
4.7 capacity of 50,000 kilowatts alternating current or more.

4.8 Subd. 18. **Utility.** "Utility" means any entity engaged or intending to engage in generating,
4.9 transmitting, or distributing electric energy in Minnesota. Utility includes but is not limited
4.10 to a private investor-owned utility, cooperatively owned utility, and public or municipally
4.11 owned utility.

4.12 Subd. 19. **Wind energy conversion system.** "Wind energy conversion system" means
4.13 a device, including but not limited to a wind charger, windmill, or wind turbine and associated
4.14 facilities, that converts wind energy to electrical energy.

4.15 Sec. 3. **[216L.03] SITING AUTHORITY.**

4.16 Subdivision 1. **Jurisdiction.** (a) The commission has the authority to provide for site
4.17 and route selection for large energy infrastructure facilities. The commission must issue
4.18 permits for large energy infrastructure facilities in a timely fashion and in a manner consistent
4.19 with the overall determination of need for the project under section 216B.2425 or 216B.243,
4.20 if applicable.

4.21 (b) The scope of an environmental review conducted under this chapter must not include:
4.22 (1) questions of need, including size, type, and timing; (2) alternative system configurations;
4.23 or (3) voltage.

4.24 Subd. 2. **Interstate routes.** If a route is proposed in two or more states, the commission
4.25 must attempt to reach an agreement with affected states on the entry and exit points before
4.26 designating a route. The commission, in discharge of the commission's duties under this
4.27 chapter, may make joint investigations, hold joint hearings within or outside of the state,
4.28 and issue joint or concurrent orders in conjunction or concurrence with any official or agency
4.29 of any state or of the United States. The commission may, pursuant to any consent of
4.30 Congress, negotiate and enter into any agreements or compacts with agencies of other states
4.31 for cooperative efforts to certify the construction, operation, and maintenance of large
4.32 electric power facilities in a manner consistent with this chapter's requirements and to enforce
4.33 the respective state laws regarding large electric power facilities.

5.1 Sec. 4. **[216L.04] APPLICABILITY DETERMINATION.**

5.2 Subdivision 1. **Generally.** This section may be used to determine: (1) whether a proposal
5.3 meets the definition of large energy infrastructure facility and is subject to the commission's
5.4 siting or routing jurisdiction under this chapter; or (2) which review process is applicable
5.5 at the time of the initial application.

5.6 Subd. 2. **Solar, wind, or energy storage facilities.** For solar energy generating systems,
5.7 large wind energy conversion systems, or energy storage systems, the alternating current
5.8 nameplate capacity of one solar energy generating system, wind energy conversion system,
5.9 or energy storage system must be combined with the alternating current nameplate capacity
5.10 of any other solar energy generating system, wind energy conversion system, or energy
5.11 storage system that:

5.12 (1) is constructed within the same 12-month period; and

5.13 (2) exhibits characteristics of being a single development, including but not limited to
5.14 ownership structure, an umbrella sales arrangement, shared interconnection, revenue-sharing
5.15 arrangements, and common debt or equity financing.

5.16 Subd. 3. **Transmission lines.** For transmission lines, the petitioner must describe the
5.17 applicability question and provide sufficient facts to support the determination.

5.18 Subd. 4. **Forms; assistance; written determination.** (a) The commission must provide
5.19 forms and assistance to help applicants make a request for an applicability determination.

5.20 (b) Upon written request from an applicant, the commission or its designee must provide
5.21 a written determination regarding applicability under this section. The commission or its
5.22 designee must provide the written determination within 30 days of the date the request was
5.23 received or 30 days of the date information that the commission requested from the applicant
5.24 is received, whichever is later. This written determination constitutes a final decision of the
5.25 commission.

5.26 Sec. 5. **[216L.05] DESIGNATING SITES AND ROUTES.**

5.27 Subdivision 1. **Site permit.** (a) A person is prohibited from constructing a large electric
5.28 generating plant, a solar energy generating system, an energy storage system, or a large
5.29 wind energy conversion system without a site permit issued by the commission. A person
5.30 may construct a large electric generating plant, an energy storage system, a solar energy
5.31 generating system, or a large wind energy conversion system only on a site approved by
5.32 the commission.

(b) The commission must incorporate into one proceeding the route selection for a high-voltage transmission line that is directly associated with and necessary to interconnect the large electric generating plant, energy storage system, solar energy generating system, or large wind energy conversion system to the transmission system if the applications are submitted jointly under this chapter.

Subd. 2. **Route permit.** A person is prohibited from constructing a high-voltage transmission line without a route permit issued by the commission. A person may construct a high-voltage transmission line only along a route approved by the commission.

Subd. 3. **Application.** (a) A person that seeks to construct a large energy infrastructure facility must apply to the commission for a site or route permit, as applicable.

(b) The application must contain:

(1) a statement of proposed ownership of the facility at the time of filing the application and after commercial operation;

(2) the name of any person or organization initially named as permittee or permittees and the name of any other person to whom the permit may be transferred if transfer of the permit is contemplated;

(3) a description of the proposed large energy infrastructure facility and all associated facilities, including size, type, and timing of the facility;

(4) the environmental information required under subdivision 4;

(5) the names of each owner described under subdivision 8;

(6) United States Geological Survey topographical maps, or other maps acceptable to the commission, that show the entire proposed large energy infrastructure facility;

(7) a document that identifies existing utility and public rights-of-way along or near the large energy infrastructure facility;

(8) the engineering and operational design concepts for the proposed large energy infrastructure facility;

(9) a cost analysis of the proposed large energy infrastructure facility, including the costs to construct, operate, and maintain the facility;

(10) a description of possible design options to accommodate the large energy infrastructure facility's future expansion;

(11) the procedures and practices proposed to acquire, construct, maintain, and restore the large energy infrastructure facility's right-of-way or site;

(12) a list and brief description of federal, state, and local permits that may be required for the proposed large energy infrastructure facility;

(13) a discussion regarding whether a certificate of need application is required and, if a certificate of need application is required, whether the certificate of need application has been submitted;

(14) a discussion regarding any other sites or routes that were considered and rejected by the applicant; and

(15) any information the commission requires pursuant to an administrative rule.

Subd. 4. **Environmental information.** (a) An applicant for a site or route permit must include in the application environmental information for each proposed site or route. The environmental information submitted must include:

(1) a description of each site or route's environmental setting;

(2) a description of the effects the facility's construction and operation has on human settlement, including but not limited to public health and safety, displacement, noise, aesthetics, socioeconomic impacts, environmental justice impacts, cultural values, recreation, and public services;

(3) a description of the facility's effects on land-based economies, including but not limited to agriculture, forestry, tourism, and mining;

(4) a description of the facility's effects on archaeological and historic resources;

(5) a description of the facility's effects on the natural environment, including effects on air and water quality resources, flora, and fauna;

(6) a description of the greenhouse gas emissions associated with construction and operation of the facility;

(7) a description of the climate change resilience of the facility;

(8) a description of the facility's effects on rare and unique natural resources;

(9) a list that identifies human and natural environmental effects that are unavoidable if the facility is approved at a specific site or route; and

(10) a description of (i) measures that might be implemented to mitigate the potential human and environmental impacts identified in clauses (1) to (7), and (ii) the estimated costs of the potential mitigative measures.

(b) An applicant that applies using the standard process under section 216I.06 may include the environmental information required under paragraph (a) in the applicant's environmental assessment.

Subd. 5. Preapplication coordination. At least 30 days before filing an application with the commission, an applicant must provide notice to: (1) each local unit of government within which a site or route may be proposed; (2) Minnesota Tribal governments, as defined under section 10.65, subdivision 2; and (3) the state technical resource agencies. The notice must describe the proposed project and provide the entities receiving the notice an opportunity for preapplication coordination or feedback.

Subd. 6. Preapplication review. (a) Before submitting an application under this chapter, an applicant must provide a draft application to commission staff for review. A draft application must not be filed electronically.

(b) Commission staff's draft application review must focus on the application's completeness and clarifications that may assist the commission's review of the application. Upon completion of the preapplication review under this subdivision, commission staff must provide the applicant a summary of the completeness review. The applicant may include the completeness review summary with the applicant's application under subdivision 3.

Subd. 7. Complete applications. (a) The commission or the commission's designee must determine whether an application is complete and advise the applicant of any deficiencies within ten working days of the date an application is received.

(b) An application is not incomplete if: (1) information that is not included in the application may be obtained from the applicant prior to the initial public meeting; and (2) the information that is not included in the application is not essential to provide adequate notice.

Subd. 8. Application notice. (a) Upon finding an application is complete, the commission must:

(1) publish notice of the application in a legal newspaper of general circulation in each county in which the site or route is proposed;

(2) provide notice of the application to any regional development commission, Minnesota Tribal government as defined under section 10.65, subdivision 2, county, incorporated municipality, and town in which any part of the site or route is proposed;

(3) provide notice of the application and description of the proposed project to each owner whose property is within or adjacent to the proposed site or route for the large energy infrastructure facility; and

(4) provide notice to persons who have requested to be placed on a list maintained by the commission to receive notice of proposed large energy infrastructure facilities.

(b) The commission must identify a standard format and content for application notice. At a minimum, the notice must include: (1) a description of the proposed project, including a map displaying the general area of the proposed site or route; (2) a description detailing how a person may receive more information and future notices regarding the application; and (3) a location where a copy of the application may be reviewed.

(c) The notice must also provide information regarding the date and location of the public meeting where the public can learn more about the proposed project and the commission's review process.

(d) For the purposes of providing mailed notice under this subdivision, an owner is the person indicated in the records of the county auditor or, in a county where tax statements are mailed by the county treasurer, in the records of the county treasurer. If necessary, other appropriate records may be used for purposes of providing mailed notice. The failure to provide mailed notice to a property owner or defects in the notice do not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.

Subd. 9. **Public meeting.** (a) The commission must hold at least one public meeting in a location near the proposed large energy infrastructure facility project's location to explain the permitting process, present major issues, and respond to questions raised by the public.

(b) At the public meeting and in written comments accepted at least ten days following the date of the public meeting, the commission must accept comments on potential impacts, permit conditions, and alternatives the commission should evaluate when considering the application.

Subd. 10. **Draft permit; additional considerations.** Upon close of the public comment period following the public meeting in subdivision 9, the commission must:

(1) prepare a draft site or route permit for the large energy infrastructure facility. The draft permit must identify the person or persons who are the permittee, describe the proposed

project, and include proposed permit conditions. A draft site permit does not authorize a person to construct a large energy infrastructure facility. The commission may change the draft site permit in any respect before final issuance or may deny the permit; and

(2) identify the scope of the environmental impact statement prepared under section 216I.06 or the addendum prepared under section 216I.07.

Subd. 11. **Designating sites and routes; considerations.** (a) The commission's site and route permit determinations must be guided by the state's goals to conserve resources, minimize environmental impacts, minimize human settlement and other land use conflicts, and ensure the state's energy security through efficient, cost-effective energy supply and infrastructure.

(b) To facilitate studying, researching, evaluating, and designating sites and routes, the commission must be guided by but is not limited to:

(1) evaluating research and investigations relating to: (i) large energy infrastructure facilities' effects on land, water, and air resources; and (ii) the effects water and air discharges and electric and magnetic fields resulting from large energy infrastructure facilities have on public health and welfare, vegetation, animals, materials, and aesthetic values, including baseline studies, predictive modeling, and evaluating new or improved methods to minimize adverse impacts of water and air discharges and other matters pertaining to large energy infrastructure facilities' effects on the water and air environment;

(2) conducting environmental evaluation of sites and routes that are proposed for future development and expansion, and the relationship of proposed sites and routes for future development and expansion to Minnesota's land, water, air, and human resources;

(3) evaluating the effects of measures designed to minimize adverse environmental effects;

(4) evaluating the potential for beneficial uses of waste energy from proposed large electric power generating plants;

(5) analyzing the direct and indirect economic impact of proposed sites and routes, including but not limited to productive agricultural land lost or impaired;

(6) evaluating adverse direct and indirect environmental effects that are unavoidable should the proposed site and route be accepted;

(7) evaluating alternatives to the applicant's proposed site or route, if applicable;

- 11.1 (8) when appropriate, evaluating potential routes that would use or parallel existing
11.2 railroad and highway rights-of-way;
- 11.3 (9) evaluating governmental survey lines and other natural division lines of agricultural
11.4 land to minimize interference with agricultural operations;
- 11.5 (10) evaluating the future needs for large energy infrastructure facilities in the same
11.6 general area as any proposed site or route;
- 11.7 (11) evaluating irreversible and irretrievable commitments of resources should the
11.8 proposed site or route be approved;
- 11.9 (12) when appropriate, considering the potential impacts raised by other state and federal
11.10 agencies and local entities;
- 11.11 (13) evaluating the benefits of the proposed facility with respect to (i) the protection and
11.12 enhancement of environmental quality, and (ii) the reliability of state and regional energy
11.13 supplies;
- 11.14 (14) evaluating the proposed facility's impact on socioeconomic factors; and
- 11.15 (15) evaluating the proposed facility's employment and economic impacts in the facility
11.16 site's vicinity and throughout Minnesota, including the quantity, quality, and compensation
11.17 level of construction and permanent jobs. The commission must consider a facility's local
11.18 employment and economic impacts, and may reject or place conditions on a site or route
11.19 permit based on the local employment and economic impacts.
- 11.20 (c) If the commission's rules are substantially similar to existing federal agency
11.21 regulations the utility is subject to, the commission must apply the federal regulations.
- 11.22 (d) The commission is prohibited from designating a site or route that violates state
11.23 agency rules.
- 11.24 (e) When applicable, the commission must make a specific finding that the commission
11.25 considered locating a route for a high-voltage transmission line on an existing high-voltage
11.26 transmission route and using parallel existing highway right-of-way. To the extent an existing
11.27 high-voltage transmission route or parallel existing right-of-way is not used for the route,
11.28 the commission must state the reasons.
- 11.29 Subd. 12. **Final decision.** (a) The commission shall issue a site or route permit that is
11.30 demonstrated to be in the public interest pursuant to this chapter. The commission may
11.31 require any reasonable conditions in the site or route permit that are necessary to protect

12.1 the public interest. The commission maintains continuing jurisdiction over the route and
12.2 site permits and any conditions therein.

12.3 (b) The commission is prohibited from issuing a site permit in violation of the site
12.4 selection standards and criteria established under this section and in rules the commission
12.5 adopts. When the commission designates a site, the commission must issue a site permit to
12.6 the applicant with any appropriate conditions. The commission must publish a notice of the
12.7 commission's decision in the Environmental Quality Board Monitor within 30 days of the
12.8 date the commission issues the site permit.

12.9 (c) The commission is prohibited from issuing a route permit in violation of the route
12.10 selection standards and criteria established under this section and in rules the commission
12.11 adopts. When the commission designates a route, the commission must issue a permit for
12.12 the construction of a high-voltage transmission line that specifies the design, routing,
12.13 right-of-way preparation, and facility construction the commission deems necessary,
12.14 including any other appropriate conditions. The commission may order the construction of
12.15 high-voltage transmission line facilities that are capable of expanding transmission capacity
12.16 through multiple circuiting or design modifications. The commission must publish a notice
12.17 of the commission's decision in the Environmental Quality Board Monitor within 30 days
12.18 of the date the commission issues the route permit.

12.19 (d) The commission must require as a condition of permit issuance, including the issuance
12.20 of a modified permit for a repowering project, as defined in section 216B.243, subdivision
12.21 8, paragraph (b), that the recipient of a site or route permit to construct an energy
12.22 infrastructure facility, including all of the permit recipient's construction contractors and
12.23 subcontractors on the project: (1) must pay no less than the prevailing wage rate, as defined
12.24 in section 177.42; and (2) is subject to the requirements and enforcement provisions under
12.25 sections 177.27, 177.30, 177.32, 177.41 to 177.435, and 177.45.

12.26 Subd. 13. **Commission; technical expertise and other assistance.** (a) The commission
12.27 must consult with other state agencies and obtain technical expertise and other assistance
12.28 for activities and proceedings under this chapter.

12.29 (b) Notwithstanding the requirements of section 216B.33, employees of the commission
12.30 may take any action related to the requirements of this chapter immediately following a
12.31 hearing and vote by the commission, prior to issuing a written order, finding, authorization,
12.32 or certification.

13.1 Sec. 6. **[216I.06] APPLICATIONS; MAJOR REVIEW.**

13.2 Subdivision 1. **Environmental review.** (a) The commission must prepare an
13.3 environmental impact statement on each proposed large energy infrastructure facility for
13.4 which a complete application has been submitted. For the purposes of environmental review,
13.5 the commission is prohibited from considering whether or not the project is needed. No
13.6 other state environmental review documents are required. The commission must study and
13.7 evaluate any site or route identified by the commission under section 216I.05, subdivision
13.8 10, clause (2).

13.9 (b) For a cogeneration facility, as defined in section 216H.01, subdivision 1a, that is a
13.10 large electric power generating plant and is not proposed by a utility, the commission must
13.11 make a finding in the environmental impact statement whether the project is likely to result
13.12 in a net reduction of carbon dioxide emissions, considering both the utility providing electric
13.13 service to the proposed cogeneration facility and any reduction in carbon dioxide emissions
13.14 resulting from increased efficiency from thermal energy production on the part of the
13.15 customer that operates or owns the proposed cogeneration facility.

13.16 (c) The commission must publish a draft environmental impact statement in which the
13.17 commission determines the scope of the environmental impact statement under section
13.18 216I.05, subdivision 10. The public may provide comments on the draft environmental
13.19 impact statement at the public hearing and comment period under subdivision 2.

13.20 (d) The commission must publish a final environmental impact statement responding to
13.21 the timely substantive comments on the draft environmental impact statement consistent
13.22 with the scope approved by the commission under section 216I.05, subdivision 10, clause
13.23 (2). The final environmental impact statement must discuss at appropriate points in the final
13.24 environmental impact statement any reasonable opposing views relating to scoping issues
13.25 that were not adequately discussed in the draft environmental impact statement and must
13.26 indicate a response to the reasonable opposing views. When making the commission's final
13.27 decision, the commission must consider the final environmental impact statement and the
13.28 entirety of the record related to human and environmental impacts.

13.29 Subd. 2. **Public hearing.** (a) No later than 15 days after the date the draft environmental
13.30 impact statement is published, the commission must hold a public hearing on an application
13.31 for a large energy infrastructure facility site or route permit. A hearing held to designate a
13.32 site or route must be conducted by an administrative law judge from the Office of
13.33 Administrative Hearings. The commission must provide notice of the hearing at least ten
13.34 days before but no earlier than 45 days before the date the hearing commences. The

14.1 commission must provide notice by (1) publishing in a legal newspaper of general circulation
14.2 in the county in which the public hearing is to be held, (2) mailing to chief executives of
14.3 the regional development commissions, counties, organized towns, townships, and
14.4 incorporated municipalities in which a site or route is proposed, and (3) Tribal governments
14.5 as defined by section 10.65, subdivision 2. Any person may appear at the hearings and offer
14.6 testimony and exhibits without the necessity of intervening as a formal party to the
14.7 proceedings. The administrative law judge may allow any person to ask questions of other
14.8 witnesses. The administrative law judge must hold a portion of the hearing in the area where
14.9 the large energy infrastructure facility's location is proposed. The commission and
14.10 administrative law judge must accept written comments within 20 days of the public hearing's
14.11 date.

14.12 Subd. 3. **Administrative law judge report.** The administrative law judge must issue a
14.13 report and recommendations no later than 30 days after completion of post-hearing briefing
14.14 or the date the public comment period under subdivision 2 closes, whichever is later.

14.15 Subd. 4. **Timing.** The commission must make a final decision on an application within
14.16 60 days of the date the administrative law judge's report is received. A final decision on the
14.17 site or route permit request must be made within one year of the date the commission
14.18 determines an application is complete. The commission may extend the time limit under
14.19 this subdivision for up to three months for just cause or upon agreement with the applicant.

14.20 **Sec. 7. [216L.07] APPLICATIONS; STANDARD REVIEW.**

14.21 Subdivision 1. **Standard review.** An applicant who seeks a site or route permit for which
14.22 the applicant's proposal is one of the projects identified in this section may follow the
14.23 procedures under this section in lieu of the procedures under section 216L.06. The applicant
14.24 must notify the commission at the time the application is submitted which procedure the
14.25 applicant has elected to follow.

14.26 Subd. 2. **Applicable projects.** The requirements and procedures under this section apply
14.27 to projects for which the applicant's proposal is:

14.28 (1) large electric power generating plants with a capacity of less than 80 megawatts;

14.29 (2) large electric power generating plants that are fueled by natural gas;

14.30 (3) high-voltage transmission lines with a capacity between 100 and 300 kilovolts;

14.31 (4) high-voltage transmission lines with a capacity in excess of 300 kilovolts and less
14.32 than 30 miles in length in Minnesota;

15.1 (5) high-voltage transmission lines with a capacity in excess of 300 kilovolts, if at least
15.2 80 percent of the distance of the line in Minnesota, as proposed by the applicant, is located
15.3 along existing high-voltage transmission line right-of-way;

15.4 (6) solar energy systems;

15.5 (7) energy storage systems; and

15.6 (8) large wind energy conversion systems.

15.7 Subd. 3. **Environmental review.** (a) For the projects identified in subdivision 2 and
15.8 following the procedures under this section, the applicant must prepare and submit an
15.9 environmental assessment with the application. A draft of the environmental assessment
15.10 must also be provided to commission staff as part of the preapplication review under section
15.11 216I.05, subdivision 6. The environmental assessment must (1) contain information regarding
15.12 the proposed project's human and environmental impacts, and (2) address mitigating measures
15.13 for identified impacts. The environmental assessment is the only state environmental review
15.14 document that must be prepared for the proposed project.

15.15 (b) If after the public meeting the commission identifies other sites or routes or potential
15.16 impacts for review, the commission must prepare an addendum to the environmental
15.17 assessment that evaluates (1) the human and environmental impacts of the alternative site
15.18 or route, and (2) any additional mitigating measures related to the identified impacts
15.19 consistent with the scoping decision made pursuant to section 216I.06, subdivision 10,
15.20 clause (2). The public may provide comments on the environmental assessment and any
15.21 addendum to the environmental assessment at the public hearing and comment period under
15.22 subdivision 4. When making the commission's final decision, the commission must consider
15.23 the environmental assessment, the environmental assessment addendum, if any, and the
15.24 entirety of the record related to human and environmental impacts.

15.25 Subd. 4. **Public hearing.** After the commission issues any environmental assessment
15.26 addendum and a draft permit under section 216I.05, subdivision 10, the commission must
15.27 hold a public hearing in the area where the facility's location is proposed. The commission
15.28 must provide notice of the public hearing in the same manner as required under section
15.29 216I.06, subdivision 2. The commission must conduct the public hearing under procedures
15.30 established by the commission and may request that an administrative law judge from the
15.31 Office of Administrative Hearings conduct the hearing and prepare a report. The applicant
15.32 must be present at the hearing to present evidence and to answer questions. The commission
15.33 must provide opportunity at the public hearing for any person to present comments and to
15.34 ask questions of the applicant and commission staff. The commission must also provide

16.1 interested persons an opportunity to submit written comments into the record up to 20 days
16.2 after the public hearing.

16.3 Subd. 5. **Timing.** The commission must make a final decision on an application within
16.4 60 days of the date the public comment period following completion of the public hearing
16.5 closes. A final decision on the request for a site or route permit under this section must be
16.6 made within six months of the date the commission determines the application is complete.
16.7 The commission may extend the time limit under this subdivision for up to three months
16.8 for just cause or upon agreement with the applicant.

16.9 Sec. 8. **[216L.08] APPLICATIONS; LOCAL REVIEW.**

16.10 Subdivision 1. **Local review authorized.** (a) Notwithstanding sections 216L.06 and
16.11 216L.07, an applicant who seeks a site or route permit for one of the projects identified in
16.12 subdivision 2 may apply to the local units of government that have jurisdiction over the site
16.13 or route for approval to build the project. If local approval is granted, a site or route permit
16.14 is not required from the commission. If the applicant files an application with the commission,
16.15 the applicant waives the applicant's right to seek local approval for the project.

16.16 (b) A local unit of government with jurisdiction over a project identified in this section
16.17 to whom an applicant has applied for approval to build the project may request that the
16.18 commission assume jurisdiction and make a decision on a site or route permit pursuant to
16.19 the applicable provisions under this chapter. A local unit of government must file the request
16.20 with the commission within 60 days of the date an applicant files an application for the
16.21 project with any one local unit of government. If one of the local units of government with
16.22 jurisdiction over the project requests that the commission assume jurisdiction, jurisdiction
16.23 over the project transfers to the commission. If the local units of government maintain
16.24 jurisdiction over the project, the commission must select the appropriate local unit of
16.25 government to be the responsible governmental unit to conduct the project's environmental
16.26 review.

16.27 Subd. 2. **Applicable projects.** An applicant may seek approval under this section from
16.28 a local unit of government to construct:

16.29 (1) large electric power generating plants and solar energy generating systems with a
16.30 capacity of less than 80 megawatts;

16.31 (2) large electric power generating plants of any size that burn natural gas and are intended
16.32 to be a peaking plant;

16.33 (3) high-voltage transmission lines with a capacity between 100 and 200 kilovolts;

17.1 (4) substations with a voltage designed for and capable of operation at a nominal voltage
17.2 of 100 kilovolts or more;

17.3 (5) a high-voltage transmission line service extension to a single customer between 200
17.4 and 300 kilovolts and less than ten miles in length;

17.5 (6) a high-voltage transmission line rerouting to serve the demand of a single customer
17.6 if at least 80 percent of the rerouted line is located on property owned or controlled by the
17.7 customer or the owner of the transmission line;

17.8 (7) energy storage systems; and

17.9 (8) large wind energy conversion systems with a capacity less than 25 megawatts.

17.10 Subd. 3. **Notice of application.** An applicant must notify the commission that the
17.11 applicant has elected to seek local approval of the proposed project within ten days of the
17.12 date the applicant submits an application to a local unit of government to approve an eligible
17.13 project.

17.14 Subd. 4. **Environmental review.** A local unit of government that maintains jurisdiction
17.15 over a qualifying project must prepare or request that the applicant prepare an environmental
17.16 assessment on the project. The local unit of government must afford the public an opportunity
17.17 to participate in developing the scope of the environmental assessment before the
17.18 environmental assessment is prepared. Upon completing the environmental assessment, the
17.19 local unit of government must publish notice in the EQB Monitor that indicates (1) the
17.20 environmental assessment is available for review, (2) how a copy of the document may be
17.21 reviewed, (3) that the public may comment on the document, and (4) the procedure for
17.22 submitting comments to the local unit of government. Upon completion of the environmental
17.23 assessment, the local unit of government must provide a copy of the environmental
17.24 assessment to the commission. The local unit of government is prohibited from making a
17.25 final decision on the permit until at least ten days after the date the notice appears in the
17.26 EQB Monitor. If more than one local unit of government has jurisdiction over a project and
17.27 the local units of government cannot agree which local unit of government prepares the
17.28 environmental assessment, any local unit of government or the applicant may request that
17.29 the commission select the appropriate local unit of government to be the responsible
17.30 governmental unit to conduct an environmental review of the project.

18.1 Sec. 9. **[216L.09] PERMIT AMENDMENTS.**

18.2 Subdivision 1. **Applicability.** This section applies to a request by the owner of the large
18.3 energy infrastructure facility to modify any provision or condition of a site or route permit
18.4 issued by the commission, including the following:

18.5 (1) upgrades or rebuilds an existing electric line and associated facilities to a voltage
18.6 capable of operating between 100 kilovolts and 300 kilovolts that does not result in significant
18.7 changes in the human and environmental impact of the facility; or

18.8 (2) repowers or refurbishes a large electric power generating plant, a large wind energy
18.9 conversion system, a solar energy generating system, or an energy storage system that
18.10 increases the efficiency of the system, provided the project does not increase the developed
18.11 area within the permitted site or increase the nameplate capacity of the facility's most recent
18.12 interconnection agreement. For a large electric power generating plant, an increase in
18.13 efficiency is a reduction in the amount of British thermal units required to produce a kilowatt
18.14 hour of electricity at the facility.

18.15 Subd. 2. **Application.** A person that seeks authorization to amend a large energy
18.16 infrastructure facility must apply to the commission. The application must be in writing and
18.17 must (1) describe the alteration to be made or the amendment sought, and (2) explain why
18.18 the request meets the eligibility criteria under subdivision 1. The application must describe
18.19 any changes to the environmental impacts evaluated by the commission as part of the initial
18.20 permit approval.

18.21 Subd. 3. **Notice.** The commission must mail notice that the application was received to
18.22 the persons on the general list and to the persons on the project contact list, if a project list
18.23 exists.

18.24 Subd. 4. **Public comment.** The commission must provide at least a ten-day period for
18.25 interested persons to submit comments on the application or to request that the matter be
18.26 brought to the commission for consideration. The applicant may respond to submitted
18.27 comments within seven days of the date the comment period closes.

18.28 Subd. 5. **Timing.** Within twenty days of the date the public comment period closes, the
18.29 commission must decide whether to authorize the minor alteration or permit amendment,
18.30 bring the matter to the commission for consideration, or determine that the application
18.31 requires a permitting decision under another section in this chapter.

18.32 Subd. 6. **Decision.** The commission may authorize a minor alteration or amendment but
18.33 impose reasonable conditions on the approval. The commission must notify the applicant

19.1 in writing of the commission's decision and send a copy of the decision to any person who
19.2 requested notification or filed comments on the application.

19.3 Subd. 7. **Local review.** For a large electric power generating plant or high-voltage
19.4 transmission line that was not issued a permit by the commission, the owner or operator of
19.5 the nonpermitted facility may seek approval of a project listed under subdivision 1 from
19.6 the local unit of government if the facility qualifies for standard review under section 216I.07
19.7 or local review under section 216I.08.

19.8 **Sec. 10. [216I.10] EXEMPT PROJECTS.**

19.9 Subdivision 1. **Permit not required.** A permit issued by the commission is not required
19.10 to construct:

19.11 (1) a small wind energy conversion system;

19.12 (2) a power plant or solar energy generating system with a capacity of less than 50
19.13 megawatts;

19.14 (3) an energy storage system with a capacity of less than ten megawatts;

19.15 (4) a transmission line that (i) has a capacity of 100 kilovolts or more, and (ii) is less
19.16 than 1,500 feet in length; and

19.17 (5) a transmission line that has a capacity of less than 100 kilovolts.

19.18 Subd. 2. **Other approval.** A person that proposes a facility listed in subdivision 1 must
19.19 (1) obtain any approval required by local, state, or federal units of government with
19.20 jurisdiction over the project, and (2) comply with the environmental review requirements
19.21 under chapter 116D and Minnesota Rules, chapter 4410.

19.22 **Sec. 11. [216I.11] PERMITTING REQUIREMENTS; EXCEPTIONS FOR CERTAIN**
19.23 **FACILITIES.**

19.24 Subdivision 1. **Permit not required.** The following projects do not constitute the
19.25 construction of a large energy infrastructure facility and may be constructed without a permit
19.26 issued by the commission:

19.27 (1) maintaining or repairing an existing large energy infrastructure facility within an
19.28 existing site or right-of-way;

19.29 (2) adding equipment at an existing substation that does not (i) require more than a
19.30 one-acre expansion of the land needed for the substation, and (ii) involve an increase in the
19.31 voltage or changes in the location of existing transmission lines, except that up to the first

20.1 five transmission line structures outside the substation may be moved to accommodate the
 20.2 equipment additions, provided the structures are not moved more than 500 feet from the
 20.3 existing right-of-way;

20.4 (3) reconductoring or reconstructing a high-voltage transmission line that does not result
 20.5 in a change to voltage or a change in right-of-way;

20.6 (4) relocating a high-voltage transmission line that is required by a local or state agency
 20.7 as part of road, street, or highway construction;

20.8 (5) converting the fuel source of a large electric power generating plant to natural gas,
 20.9 provided the plant is not expanded beyond the developed portion of the plant site; and

20.10 (6) starting up an existing large electric power generating plant that has been closed for
 20.11 any period of time at no more than the large electric power generating plant's previous
 20.12 capacity rating and in a manner that does not involve changing the fuel or expanding the
 20.13 developed portion of the plant site.

20.14 Subd. 2. **Minor alteration or amendment.** If a modification or other change to an
 20.15 existing large energy infrastructure facility does not qualify for an exception under
 20.16 subdivision 1, the modification or change may qualify as a minor alteration or amendment
 20.17 under section 216I.09.

20.18 Subd. 3. **Notice.** A person that proposes to implement changes to a large energy
 20.19 infrastructure facility under subdivision 1, clauses (2) to (5), must notify the commission
 20.20 in writing at least 30 days before commencing construction of the modification or change.

20.21 Sec. 12. **REVISOR INSTRUCTION.**

20.22 The revisor shall renumber each section of Minnesota Statutes in Column A with the
 20.23 number in Column B.

20.24	<u>Column A</u>	<u>Column B</u>
20.25	<u>216E.06</u>	<u>216I.12</u>
20.26	<u>216E.07</u>	<u>216I.13</u>
20.27	<u>216E.08, subdivision 2</u>	<u>216I.14, subdivision 1</u>
20.28	<u>216E.08, subdivision 3</u>	<u>216I.14, subdivision 2</u>
20.29	<u>216E.09</u>	<u>216I.15</u>
20.30	<u>216E.10</u>	<u>216I.16</u>
20.31	<u>216F.084</u>	<u>216I.17</u>
20.32	<u>216E.11</u>	<u>216I.18</u>
20.33	<u>216E.12</u>	<u>216I.19</u>

21.1	<u>216E.03, subdivision 8</u>	<u>216I.20</u>
21.2	<u>216E.13</u>	<u>216I.21</u>
21.3	<u>216E.14</u>	<u>216I.22</u>
21.4	<u>216E.15</u>	<u>216I.23</u>
21.5	<u>216E.16</u>	<u>216I.24</u>
21.6	<u>216E.17</u>	<u>216I.25</u>
21.7	<u>216E.18, subdivision 2a</u>	<u>216I.26, subdivision 1</u>
21.8	<u>216E.18, subdivision 3</u>	<u>216I.26, subdivision 2</u>

21.9 **Sec. 13. REPEALER.**

21.10 Subdivision 1. **Minnesota Statutes, chapter 216E, repeals.** (a) Minnesota Statutes
 21.11 2022, sections 216E.001; 216E.01, subdivisions 1, 2, 3, 4, 5, 7, 8, 9, and 10; 216E.02;
 21.12 216E.021; 216E.03, subdivisions 2, 3a, 3b, 4, and 9; 216E.04, subdivisions 1, 3, 4, 5, 6, 7,
 21.13 8, and 9; 216E.05, subdivisions 1 and 3; 216E.08, subdivisions 1 and 4; and 216E.18,
 21.14 subdivisions 1 and 2, are repealed.

21.15 (b) Minnesota Statutes 2023 Supplement, sections 216E.01, subdivisions 3a, 6, and 9a;
 21.16 216E.03, subdivisions 1, 3, 5, 6, 7, 10, and 11; 216E.04, subdivision 2; and 216E.05,
 21.17 subdivision 2, are repealed.

21.18 Subd. 2. **Minnesota Statutes, chapter 216F, repeals.** (a) Minnesota Statutes 2022,
 21.19 sections 216F.01; 216F.011; 216F.012; 216F.015; 216F.02; 216F.03; 216F.05; 216F.06;
 21.20 216F.07; 216F.08; and 216F.081, are repealed.

21.21 (b) Minnesota Statutes 2023 Supplement, section 216F.04, is repealed.

21.22 Subd. 3. **Minnesota Rules, chapter 7854, repeals.** Minnesota Rules, parts 7854.0100;
 21.23 7854.0200; 7854.0300; 7854.0400; 7854.0500; 7854.0600; 7854.0700; 7854.0800;
 21.24 7854.0900; 7854.1000; 7854.1100; 7854.1200; 7854.1300; 7854.1400; and 7854.1500, are
 21.25 repealed.

21.26 Subd. 4. **Minnesota Rules, chapter 7850, repeals.** Minnesota Rules, parts 7850.1000;
 21.27 7850.1100; 7850.1200; 7850.1300; 7850.1400; 7850.1500; 7850.1600; 7850.1700;
 21.28 7850.1800; 7850.1900; 7850.2000; 7850.2100; 7850.2200; 7850.2300; 7850.2400;
 21.29 7850.2500; 7850.2600; 7850.2700; 7850.2800; 7850.2900; 7850.3000; 7850.3100;
 21.30 7850.3200; 7850.3300; 7850.3400; 7850.3500; 7850.3600; 7850.3700; 7850.3800;
 21.31 7850.3900; 7850.4000; 7850.4100; 7850.4200; 7850.4500; 7850.4600; 7850.4700;
 21.32 7850.4800; 7850.4900; 7850.5000; 7850.5100; 7850.5200; 7850.5300; 7850.5400;
 21.33 7850.5500; and 7850.5600, are repealed.

22.1 Sec. 14. **EFFECTIVE DATE.**

22.2 This article is effective January 1, 2025.

22.3 **ARTICLE 2**

22.4 **CERTIFICATES OF NEED**

22.5 Section 1. Minnesota Statutes 2022, section 216B.2421, subdivision 2, is amended to read:

22.6 Subd. 2. **Large energy facility.** "Large energy facility" means:

22.7 (1) any electric power generating plant or combination of plants at a single site with a
22.8 combined capacity of 50,000 kilowatts or more and transmission lines directly associated
22.9 with the plant that are necessary to interconnect the plant to the transmission system;

22.10 (2) any high-voltage transmission line with a capacity of ~~200~~ 300 kilovolts or more and
22.11 greater than ~~1,500 feet~~ one mile in length in Minnesota;

22.12 (3) any high-voltage transmission line with a capacity of 100 kilovolts or more with
22.13 more than ten miles of its length in Minnesota ~~or that crosses a state line~~;

22.14 (4) any pipeline greater than six inches in diameter and having more than 50 miles of
22.15 its length in Minnesota used for the transportation of coal, crude petroleum or petroleum
22.16 fuels or oil, or their derivatives;

22.17 (5) any pipeline for transporting natural or synthetic gas at pressures in excess of ~~200~~
22.18 275 pounds per square inch with more than 50 miles of its length in Minnesota;

22.19 (6) any facility designed for or capable of storing on a single site more than 100,000
22.20 gallons of liquefied natural gas or synthetic gas;

22.21 (7) any underground gas storage facility requiring a permit pursuant to section 103I.681;

22.22 (8) any nuclear fuel processing or nuclear waste storage or disposal facility; and

22.23 (9) any facility intended to convert any material into any other combustible fuel and
22.24 having the capacity to process in excess of 75 tons of the material per hour.

22.25 **EFFECTIVE DATE.** This section is effective the day following final enactment.

22.26 Sec. 2. Minnesota Statutes 2022, section 216B.243, subdivision 3, is amended to read:

22.27 Subd. 3. **Showing required for construction.** No proposed large energy facility shall
22.28 be certified for construction unless the applicant can show that demand for electricity cannot
22.29 be met more cost effectively through energy conservation and load-management measures

23.1 and unless the applicant has otherwise justified its need. In assessing need, the commission
23.2 shall evaluate:

23.3 (1) the accuracy of the long-range energy demand forecasts on which the necessity for
23.4 the facility is based;

23.5 (2) the effect of existing or possible energy conservation programs under sections 216C.05
23.6 to 216C.30 and this section or other federal or state legislation on long-term energy demand;

23.7 (3) the relationship of the proposed facility to overall state energy needs, as described
23.8 ~~in the most recent state energy policy and conservation report prepared under section~~
23.9 ~~216C.18, or, in the case of a high-voltage transmission line, the relationship of the proposed~~
23.10 ~~line to and regional energy needs, as presented in the transmission plan submitted under~~
23.11 ~~section 216B.2425;~~

23.12 (4) promotional activities that may have given rise to the demand for this facility;

23.13 (5) benefits of this facility, including its uses to protect or enhance environmental quality,
23.14 and to increase reliability of energy supply in Minnesota and the region;

23.15 (6) possible alternatives for satisfying the energy demand or transmission needs including
23.16 but not limited to potential for increased efficiency and upgrading of existing energy
23.17 generation and transmission facilities, load-management programs, and distributed generation,
23.18 except that the commission must not require evaluation of alternative end points for a
23.19 high-voltage transmission line qualifying as a large energy facility unless the alternative
23.20 end points are (i) consistent with end points identified in a federally registered planning
23.21 authority transmission plan, or (ii) otherwise agreed to for further evaluation by the applicant;

23.22 (7) the policies, rules, and regulations of other state and federal agencies and local
23.23 governments;

23.24 (8) any feasible combination of energy conservation improvements, required under
23.25 section 216B.241, that can (i) replace part or all of the energy to be provided by the proposed
23.26 facility, and (ii) compete with it economically;

23.27 (9) with respect to a high-voltage transmission line, the benefits of enhanced regional
23.28 reliability, access, or deliverability to the extent these factors improve the robustness of the
23.29 transmission system or lower costs for electric consumers in Minnesota;

23.30 (10) whether the applicant or applicants are in compliance with applicable provisions
23.31 of sections 216B.1691 and 216B.2425, subdivision 7, and have filed or will file by a date
23.32 certain an application for certificate of need under this section or for certification as a priority

24.1 electric transmission project under section 216B.2425 for any transmission facilities or
24.2 upgrades identified under section 216B.2425, subdivision 7;

24.3 (11) whether the applicant has made the demonstrations required under subdivision 3a;
24.4 and

24.5 (12) if the applicant is proposing a nonrenewable generating plant, the applicant's
24.6 assessment of the risk of environmental costs and regulation on that proposed facility over
24.7 the expected useful life of the plant, including a proposed means of allocating costs associated
24.8 with that risk.

24.9 **EFFECTIVE DATE.** This section is effective the day following final enactment and
24.10 applies to all pending applications.

24.11 Sec. 3. Minnesota Statutes 2022, section 216B.243, subdivision 3a, is amended to read:

24.12 Subd. 3a. **Use of renewable resource.** The commission may not issue a certificate of
24.13 need under this section for a large energy facility that generates electric power ~~by means~~
24.14 ~~of a nonrenewable energy source, or that transmits electric power generated by means of a~~
24.15 nonrenewable energy source, unless the applicant for the certificate has demonstrated to
24.16 the commission's satisfaction that it has explored the possibility of generating power by
24.17 means of renewable energy sources and has demonstrated that the alternative selected is
24.18 less expensive ~~(including environmental costs)~~, than power generated by a renewable
24.19 energy source. For purposes of this subdivision, "renewable energy source" includes hydro,
24.20 wind, solar, and geothermal energy and the use of trees or other vegetation as fuel.

24.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.

24.22 Sec. 4. Minnesota Statutes 2022, section 216B.243, subdivision 4, is amended to read:

24.23 Subd. 4. **Application for certificate; hearing.** Any person proposing to construct a
24.24 large energy facility shall apply for a certificate of need and for a site or route permit under
24.25 chapter ~~216E~~ 216I prior to construction of the facility. The application shall be on forms
24.26 and in a manner established by the commission. In reviewing each application the commission
24.27 shall hold at least one public hearing pursuant to chapter 14. The public hearing shall be
24.28 held at a location and hour reasonably calculated to be convenient for the public. An objective
24.29 of the public hearing shall be to obtain public opinion on the necessity of granting a certificate
24.30 of need and, if a joint hearing is held, a site or route permit. The commission shall designate
24.31 a commission employee whose duty shall be to facilitate citizen participation in the hearing
24.32 process. Unless the commission determines that a joint hearing on siting and need under

this subdivision and ~~section 216E.03, subdivision 6~~ chapter 216I, is not feasible or more efficient, or otherwise not in the public interest, a joint hearing under ~~those subdivisions~~ shall this subdivision and chapter 216I must be held. When the commission authorizes a joint hearing under this subdivision, only the environmental requirements and review under chapter 216I apply to the certificate of need process.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 5. Minnesota Statutes 2023 Supplement, section 216B.243, subdivision 8, is amended to read:

Subd. 8. **Exemptions.** (a) This section does not apply to:

(1) cogeneration or small power production facilities as defined in the Federal Power Act, United States Code, title 16, section 796, paragraph (17), subparagraph (A), and paragraph (18), subparagraph (A), and having a combined capacity at a single site of less than 80,000 kilowatts; plants or facilities for the production of ethanol or fuel alcohol; or any case where the commission has determined after being advised by the attorney general that its application has been preempted by federal law;

(2) a high-voltage transmission line proposed primarily to distribute electricity to serve the demand of a single customer at a single location, unless the applicant opts to request that the commission determine need under this section or section 216B.2425;

(3) the upgrade to a higher voltage of an existing transmission line that serves the demand of a single customer that primarily uses existing rights-of-way, unless the applicant opts to request that the commission determine need under this section or section 216B.2425;

(4) a high-voltage transmission line of one mile or less required to connect a new or upgraded substation to an existing, new, or upgraded high-voltage transmission line;

(5) conversion of the fuel source of an existing electric generating plant to using natural gas;

(6) the modification of an existing electric generating plant to increase efficiency, as long as the capacity of the plant is not increased more than ten percent or more than 100 megawatts, whichever is greater;

(7) a large wind energy conversion system, as defined in section ~~216F.01, subdivision 2~~ 216I.02, subdivision 12, or a solar energy generating system, as defined in section ~~216E.01, subdivision 9a~~ 216I.02, subdivision 18, for which a site permit application is submitted by an independent power producer under chapter ~~216E or 216F~~ 216I; or

(8) a large wind energy conversion system, as defined in section ~~216F.01, subdivision 2~~ 216I.02, subdivision 12, or a solar energy generating system ~~that is a large energy facility,~~ as defined in section ~~216B.2421, subdivision 2~~ 216I.02, subdivision 18, engaging in a repowering project that:

(i) will not result in the system exceeding the nameplate capacity under its most recent interconnection agreement; or

(ii) will result in the system exceeding the nameplate capacity under its most recent interconnection agreement, provided that the Midcontinent Independent System Operator has provided a signed generator interconnection agreement that reflects the expected net power increase;

(9) energy storage systems, as defined in section 216I.02, subdivision 7;

(10) transmission lines directly associated with large wind energy conversion systems, solar energy generating systems, or energy storage systems that are necessary to interconnect the facility to the transmission system; or

(11) relocation of an existing high voltage transmission line to new right-of-way, provided that any new structures that are installed are not designed for and capable of operation at higher voltage.

(b) For the purpose of this subdivision, "repowering project" means:

(1) modifying a large wind energy conversion system or a solar energy generating system that is a large energy facility to increase its efficiency without increasing its nameplate capacity;

(2) replacing turbines in a large wind energy conversion system without increasing the nameplate capacity of the system; or

(3) increasing the nameplate capacity of a large wind energy conversion system.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 6. Minnesota Statutes 2022, section 216B.243, subdivision 9, is amended to read:

Subd. 9. **Renewable energy standard facilities.** This section does not apply to a ~~wind energy conversion system or a solar electric generation facility that is~~ the energy resources identified in section 216B.1691, subdivision 1, paragraphs (b) and (c), that are intended to be used to meet the obligations of section 216B.1691; provided that, after notice and comment, the commission determines that the facility is a reasonable and prudent approach

27.1 to meeting a utility's obligations under that section. When making this determination, the
27.2 commission must consider:

27.3 (1) the size of the facility relative to a utility's total need for renewable resources;

27.4 (2) alternative approaches for supplying the renewable energy to be supplied by the
27.5 proposed facility;

27.6 (3) the facility's ability to promote economic development, as required under section
27.7 216B.1691, subdivision 9;

27.8 (4) the facility's ability to maintain electric system reliability;

27.9 (5) impacts on ratepayers; and

27.10 (6) other criteria as the commission may determine are relevant.

27.11 **EFFECTIVE DATE.** This section is effective the day following final enactment.

27.12 **ARTICLE 3**

27.13 **CONFORMING CHANGES**

27.14 Section 1. Minnesota Statutes 2023 Supplement, section 10.65, subdivision 2, is amended
27.15 to read:

27.16 Subd. 2. **Definitions.** As used in this section, the following terms have the meanings
27.17 given:

27.18 (1) "agency" means the Department of Administration; Department of Agriculture;
27.19 Department of Children, Youth, and Families; Department of Commerce; Department of
27.20 Corrections; Department of Education; Department of Employment and Economic
27.21 Development; Department of Health; Office of Higher Education; Housing Finance Agency;
27.22 Department of Human Rights; Department of Human Services; Department of Information
27.23 Technology Services; Department of Iron Range Resources and Rehabilitation; Department
27.24 of Labor and Industry; Minnesota Management and Budget; Bureau of Mediation Services;
27.25 Department of Military Affairs; Metropolitan Council; Department of Natural Resources;
27.26 Pollution Control Agency; Department of Public Safety; Department of Revenue; Department
27.27 of Transportation; Department of Veterans Affairs; Gambling Control Board; Racing
27.28 Commission; the Minnesota Lottery; the Animal Health Board; the Public Utilities
27.29 Commission; and the Board of Water and Soil Resources;

27.30 (2) "consultation" means the direct and interactive involvement of the Minnesota Tribal
27.31 governments in the development of policy on matters that have Tribal implications.

28.1 Consultation is the proactive, affirmative process of identifying and seeking input from
28.2 appropriate Tribal governments and considering their interest as a necessary and integral
28.3 part of the decision-making process. This definition adds to statutorily mandated notification
28.4 procedures. During a consultation, the burden is on the agency to show that it has made a
28.5 good faith effort to elicit feedback. Consultation is a formal engagement between agency
28.6 officials and the governing body or bodies of an individual Minnesota Tribal government
28.7 that the agency or an individual Tribal government may initiate. Formal meetings or
28.8 communication between top agency officials and the governing body of a Minnesota Tribal
28.9 government is a necessary element of consultation;

28.10 (3) "matters that have Tribal implications" means rules, legislative proposals, policy
28.11 statements, or other actions that have substantial direct effects on one or more Minnesota
28.12 Tribal governments, or on the distribution of power and responsibilities between the state
28.13 and Minnesota Tribal governments;

28.14 (4) "Minnesota Tribal governments" means the federally recognized Indian Tribes located
28.15 in Minnesota including: Bois Forte Band; Fond Du Lac Band; Grand Portage Band; Leech
28.16 Lake Band; Mille Lacs Band; White Earth Band; Red Lake Nation; Lower Sioux Indian
28.17 Community; Prairie Island Indian Community; Shakopee Mdewakanton Sioux Community;
28.18 and Upper Sioux Community; and

28.19 (5) "timely and meaningful" means done or occurring at a favorable or useful time that
28.20 allows the result of consultation to be included in the agency's decision-making process for
28.21 a matter that has Tribal implications.

28.22 **EFFECTIVE DATE.** This section is effective August 1, 2024.

28.23 Sec. 2. Minnesota Statutes 2022, section 216A.037, subdivision 1, is amended to read:

28.24 Subdivision 1. **Ex parte communications prohibitions; rules.** (a) The commission
28.25 shall adopt rules under chapter 14 prescribing permissible and impermissible ex parte
28.26 communications. The ex parte rules may prohibit only ex parte communications, directly
28.27 or indirectly, between a commissioner and a participant or party under the commission's
28.28 rules of practice and procedure relating to:

28.29 (1) a material issue during a pending contested case proceeding;

28.30 (2) a material issue in a rulemaking proceeding after the beginning of commission
28.31 deliberations;

28.32 (3) a material issue in a disputed formal petition; and

29.1 (4) any other communication impermissible by law.

29.2 (b) The commission may apply ex parte prohibitions, prospectively and after notice to
29.3 affected parties, to other commission proceedings as the commission deems necessary.

29.4 (c) A contested case is pending from the time the commission refers the matter to the
29.5 Office of Administrative Hearings until the commission has issued its final order, and the
29.6 time to petition for reconsideration has expired or the commission has issued an order finally
29.7 disposing an application for reconsideration, whichever is later.

29.8 (d) Commission staff and consultants that carry out environmental review and other
29.9 activities identified in chapters 216G and 216I are not parties, participants, or decision
29.10 making personnel, as defined under Minnesota Rules, part 7845.7000.

29.11 Sec. 3. Minnesota Statutes 2023 Supplement, section 216E.06, is amended to read:

29.12 **216E.06 EMERGENCY ~~PERMIT~~ PERMITS.**

29.13 Subdivision 1. Utility emergency action. ~~(a)~~ Any utility whose ~~electric power~~ system
29.14 requires the immediate construction of a large ~~electric power~~ energy infrastructure facility
29.15 due to a major unforeseen event may apply to the commission for an emergency permit.
29.16 The application ~~shall~~ must provide notice in writing of the major unforeseen event and the
29.17 need for immediate construction. The permit must be issued in a timely manner, no later
29.18 than 195 days after the commission's acceptance of the application and upon a finding by
29.19 the commission that (1) a demonstrable emergency exists, (2) the emergency requires
29.20 immediate construction, and (3) adherence to the procedures and time schedules specified
29.21 ~~in section 216E.03 would jeopardize~~ under this chapter jeopardizes the utility's electric
29.22 power system or ~~would jeopardize~~ jeopardizes the utility's ability to meet the electric needs
29.23 of ~~its~~ the utility's customers in an orderly and timely manner.

29.24 Subd. 2. Utility emergency procedures. ~~(b)~~ A public hearing to determine if an
29.25 emergency exists must be held within 90 days of the application. The commission, after
29.26 notice and hearing, ~~shall~~ must adopt rules specifying the criteria for emergency certification.

29.27 Sec. 4. Minnesota Statutes 2023 Supplement, section 216E.07, is amended to read:

29.28 **216E.07 ANNUAL HEARING.**

29.29 The commission ~~shall~~ must hold an annual public hearing at a time and place prescribed
29.30 by rule in order to afford interested persons an opportunity to be heard regarding any matters
29.31 relating to the siting and routing of large ~~electric power~~ energy infrastructure facilities. At
29.32 the meeting, the commission ~~shall~~ must advise the public of the permits issued by the

30.1 commission in the past year. The commission ~~shall~~ must provide at least ten days but no
 30.2 more than 45 days' notice of the annual meeting by mailing or serving electronically, as
 30.3 provided in section 216.17, a notice to those persons who have requested notice and by
 30.4 publication in the EQB Monitor and the commission's weekly calendar.

30.5 Sec. 5. Minnesota Statutes 2022, section 216E.08, subdivision 2, is amended to read:

30.6 Subd. 2. **Other Public participation.** The commission ~~shall~~ must adopt broad spectrum
 30.7 citizen participation as a principal of operation. The form of public participation ~~shall~~ must
 30.8 not be limited to public meetings and hearings ~~and advisory task forces~~ and ~~shall~~ must be
 30.9 consistent with the commission's rules and guidelines ~~as provided for in~~ under section
 30.10 ~~216E.16~~ 216I.24.

30.11 Sec. 6. Minnesota Statutes 2023 Supplement, section 216E.10, subdivision 1, is amended
 30.12 to read:

30.13 Subdivision 1. **Site or route permit prevails over local provisions.** To assure the
 30.14 paramount and controlling effect of the provisions herein over other state agencies, regional,
 30.15 county, and local governments, and special purpose government districts, the issuance of a
 30.16 site permit or route permit and subsequent purchase and use of ~~such~~ the site or route locations
 30.17 for large ~~electric power~~ energy infrastructure facility purposes ~~shall be~~ is the sole site or
 30.18 route approval required to be obtained by the ~~utility~~ permittee. ~~Such~~ The permit ~~shall~~
 30.19 ~~supersede~~ supersedes and ~~preempt~~ preempts all zoning, building, or land use rules,
 30.20 regulations, or ordinances promulgated by regional, county, local and special purpose
 30.21 government.

30.22 Sec. 7. Minnesota Statutes 2023 Supplement, section 216E.10, subdivision 2, is amended
 30.23 to read:

30.24 Subd. 2. **Other state permits.** Notwithstanding anything herein to the contrary, ~~utilities~~
 30.25 ~~shall~~ a permittee must obtain state permits that may be required to construct and operate
 30.26 large ~~electric power~~ energy infrastructure facilities. A state agency in processing a ~~utility's~~
 30.27 permittee's facility permit application ~~shall be~~ is bound to the decisions of the commission;
 30.28 with respect to (1) the site or route designation, and ~~with respect to~~ (2) other matters for
 30.29 which authority has been granted to the commission by this chapter.

31.1 Sec. 8. Minnesota Statutes 2023 Supplement, section 216E.10, subdivision 3, is amended
31.2 to read:

31.3 Subd. 3. **State agency participation.** (a) ~~A state agencies agency~~ agency authorized to issue
31.4 permits required ~~for construction or operation of~~ to construct or operate a large electric
31.5 ~~power facilities shall~~ energy infrastructure facility must participate during routing and siting
31.6 at public hearings and all other activities of the commission on specific site or route
31.7 designations and design considerations of the commission, and ~~shall~~ must clearly state
31.8 whether the site or route being considered for designation or permit and other design matters
31.9 under consideration for approval ~~will be in compliance~~ complies with state agency standards,
31.10 rules, or policies.

31.11 (b) An applicant for a permit under this section or under chapter 216G ~~shall~~ must notify
31.12 the commissioner of agriculture if the proposed project ~~will impact~~ impacts cultivated
31.13 agricultural land, ~~as that term is defined in section 216G.01, subdivision 4.~~ The commissioner
31.14 may participate and advise the commission as to whether to grant a permit for the project
31.15 and the best options for mitigating adverse impacts to agricultural lands if the permit is
31.16 granted. The Department of Agriculture ~~shall be~~ is the lead agency on the development of
31.17 any agricultural mitigation plan required for the project.

31.18 (c) The Minnesota State Historic Preservation Office shall participate in the commission's
31.19 siting and routing activities as described in this section. The commission's consideration
31.20 and resolution of Minnesota State Historic Preservation Office's comments satisfies the
31.21 requirements of section 138.665, when applicable.

31.22 Sec. 9. Minnesota Statutes 2022, section 216E.11, is amended to read:

31.23 **216E.11 IMPROVEMENT OF SITES AND ROUTES.**

31.24 ~~Utilities that have acquired~~ A permittee that acquires a site or route in accordance with
31.25 this chapter may proceed to construct or improve the site or route for the intended purposes
31.26 at any time, subject to section ~~216E.10, subdivision 2~~ 216I.16, subdivision 2, provided that
31.27 if the construction and improvement has not commenced within four years after a permit
31.28 for the site or route has been issued, ~~then the utility~~ the permittee must certify to the commission
31.29 that the site or route continues to meet the conditions upon which the site or route permit
31.30 was issued.

32.1 Sec. 10. Minnesota Statutes 2022, section 216E.13, is amended to read:

32.2 **216E.13 FAILURE TO ACT.**

32.3 If the commission fails to act within the times specified ~~in section 216E.03~~ under this
 32.4 chapter, the applicant or any affected person may seek an order of the district court requiring
 32.5 the commission to designate or refuse to designate a site or route.

32.6 Sec. 11. Minnesota Statutes 2022, section 216E.14, is amended to read:

32.7 **216E.14 REVOCATION OR SUSPENSION.**

32.8 A site or route permit may be revoked or suspended by the commission after adequate
 32.9 notice of the alleged grounds for revocation or suspension and a full and fair hearing in
 32.10 which the affected ~~utility~~ permittee has an opportunity to confront any witness and respond
 32.11 to any evidence against ~~it~~ the permittee and to present rebuttal or mitigating evidence upon
 32.12 a finding by the commission of:

32.13 (1) any false statement knowingly made in the application or in accompanying statements
 32.14 or studies required of the applicant, if a true statement would have warranted a change in
 32.15 the commission's findings;

32.16 (2) failure to comply with material conditions of the site certificate or construction
 32.17 permit, or failure to maintain health and safety standards; or

32.18 (3) any material violation of the provisions of this chapter, any rule promulgated pursuant
 32.19 thereto, or any order of the commission.

32.20 Sec. 12. Minnesota Statutes 2022, section 216E.15, is amended to read:

32.21 **216E.15 JUDICIAL REVIEW.**

32.22 Any applicant, party or person aggrieved by the issuance of a site or route permit, minor
 32.23 alteration, amendment, or emergency permit from the commission or a certification of
 32.24 continuing suitability filed by a ~~utility~~ permittee with the commission or by a final order in
 32.25 accordance with any rules promulgated by the commission, may appeal to the court of
 32.26 appeals in accordance with chapter 14. The appeal ~~shall~~ must be filed within 30 days after
 32.27 the publication in the State Register of date the notice of the issuance of the permit by the
 32.28 ~~commission or~~ commission's permit issuance is published in the EQ Monitor, certification
 32.29 is filed with the commission, or the filing of any final order is filed by the commission.

33.1 Sec. 13. Minnesota Statutes 2022, section 216E.16, is amended to read:

33.2 **216E.16 RULES.**

33.3 Subdivision 1. Commission rules. The commission, in order to give effect to the purposes
 33.4 of this chapter, may adopt rules consistent with this chapter, including promulgation of site
 33.5 and route designation criteria, the description of the information to be furnished by the
 33.6 utilities, establishment of minimum guidelines for public participation in the development,
 33.7 revision, and enforcement of any rule, plan, or program established by the commission,
 33.8 procedures for the revocation or suspension of a site or route permit, and the procedure and
 33.9 timeliness for proposing alternative routes and sites. ~~No~~ A rule adopted by the commission
 33.10 ~~shall~~ must not grant priority to state-owned wildlife management areas over agricultural
 33.11 lands in the designation of route avoidance areas. ~~The provisions of Chapter 14 shall apply.~~
 33.12 applies to the appeal of rules adopted by the commission to the same extent as it applies to
 33.13 review of rules adopted by any other agency of state government.

33.14 Subd. 2. Office of Administrative Hearings rules. The chief administrative law judge
 33.15 ~~shall~~ must adopt procedural rules for public hearings relating to the site and route permit
 33.16 process. The rules ~~shall~~ must attempt to maximize citizen participation in these processes
 33.17 consistent with the time limits for commission decision established ~~in sections 216E.03,~~
 33.18 ~~subdivision 10, and 216E.04, subdivision 7~~ under this chapter.

33.19 Sec. 14. Minnesota Statutes 2022, section 216E.18, subdivision 2a, is amended to read:

33.20 Subd. 2a. **Route Application fee; appropriation.** ~~Every~~ An applicant for a ~~transmission~~
 33.21 ~~line site or route permit~~ shall must pay to the ~~commissioner of commerce~~ commission a fee
 33.22 to cover the necessary and reasonable costs incurred by the commission ~~in acting to act on~~
 33.23 the permit application and ~~carrying~~ carry out the requirements of this chapter. The
 33.24 commission may adopt rules providing for ~~the fee payment of the fee.~~ Section 16A.1283
 33.25 does not apply to ~~the establishment of this~~ the fee under this subdivision. All money received
 33.26 ~~pursuant to~~ under this subdivision ~~shall~~ must be deposited in a special account. Money in
 33.27 the account is appropriated to the ~~commissioner of commerce~~ commission to pay expenses
 33.28 incurred ~~in processing~~ to process applications for site and route permits in accordance with
 33.29 this chapter and, in the event ~~the~~ expenses are less than the fee paid, to refund the excess
 33.30 fee paid to the applicant.

34.1 Sec. 15. **ADMINISTRATIVE RULEMAKING.**

34.2 (a) The Public Utilities Commission must adopt rules, using the expedited process under
34.3 Minnesota Statutes, section 14.389, that amend Minnesota Rules, chapter 7850, to conform
34.4 with the changes made in this act.

34.5 (b) The Environmental Quality Board must adopt rules, using the expedited process
34.6 under Minnesota Statutes, section 14.389, that amend Minnesota Rules, chapter 4410, to
34.7 conform with the changes made in this act.

34.8 (c) The Public Utilities Commission must amend Minnesota Rules, chapter 7850, to
34.9 authorize applicants for site and route permits to begin submitting preconstruction compliance
34.10 filings to commission staff for review immediately following the commission's vote for
34.11 granting the applicant a site or route permit, but prior to the issuance of a written commission
34.12 order.

34.13 **EFFECTIVE DATE.** This section is effective the day following final enactment.

34.14 Sec. 16. **EFFECTIVE DATE.**

34.15 Sections 2 to 14 are effective January 1, 2025.

34.16 **ARTICLE 4**

34.17 **ENVIRONMENTAL REVIEW AND PERMITTING**

34.18 Section 1. **[84.0265] ENVIRONMENTAL REVIEW AND PERMITTING;**
34.19 **COORDINATED PROJECT PLANS.**

34.20 Subdivision 1. **Definitions.** In this section, the following terms have the meanings given:

34.21 (1) "commissioner" means the commissioner of natural resources;

34.22 (2) "coordinated project plan" or "plan" means a plan to ensure that any required
34.23 environmental review and associated required state agency actions are completed efficiently
34.24 by coordinating and establishing deadlines for all necessary state agency actions;

34.25 (3) "eligible project" means a project that requires the commissioner to prepare an
34.26 environmental assessment worksheet or an environmental impact statement under chapter
34.27 116D and associated permits, unless the project is sponsored by the Department of Natural
34.28 Resources; and

34.29 (4) "state agency" means the department or any other office, board, commission, authority,
34.30 department, or other agency of the executive branch of state government.

35.1 Subd. 2. **State policy.** It is the goal of the state to maximize the coordination,
35.2 effectiveness, transparency, and accountability of environmental review, associated
35.3 environmental permitting, and other regulatory actions for facilities in Minnesota.

35.4 Subd. 3. **Early communication; identifying issues.** To the extent practicable, the
35.5 commissioner must establish and provide an expeditious process for a person that requests
35.6 to confer with the department and other state agencies about an eligible project. The
35.7 department must provide information about any identified challenging issues regarding the
35.8 potential environmental impacts related to an eligible project, including any issues that
35.9 could substantially delay a state agency from completing agency decisions; and issues that
35.10 must be addressed before an environmental assessment worksheet, environmental impact
35.11 statement, final scoping decision, permit action, or other required action by a state agency
35.12 can be started.

35.13 Subd. 4. **Plan preparation; participating agencies.** (a) A person who submits an
35.14 application for an eligible project to the commissioner may request that the commissioner
35.15 prepare a coordinated project plan to complete any required environmental review and
35.16 associated agency actions for the eligible project.

35.17 (b) Within 60 days of receiving a request under paragraph (a), the commissioner must
35.18 prepare a coordinated project plan in consultation with the requestor and other state agencies
35.19 identified under paragraph (c). If an eligible project requires or otherwise includes the
35.20 preparation of an environmental impact statement, the commissioner is required to prepare
35.21 a coordinated project plan that first covers the period through a final scoping decision.
35.22 Within 60 days of completion of the final scoping decision, the commissioner must update
35.23 the coordinated project plan to include the remainder of the environmental review process
35.24 as well as applicable state permits and other state regulatory decisions. The coordinated
35.25 project plan is subject to modification in accordance with subdivision 7.

35.26 (c) Any state agency that must make permitting or other regulatory decisions over the
35.27 eligible project must participate in developing a coordinated project plan.

35.28 (d) If an eligible project requires environmental review and the Department of Natural
35.29 Resources is the responsible governmental unit, then the Department of Natural Resources
35.30 is the lead agency responsible for preparation of a coordinated project plan under this section.
35.31 If an eligible project requires environmental review and the Pollution Control Agency is
35.32 the responsible governmental unit, then the Pollution Control Agency is the lead agency
35.33 responsible for preparation of a coordinated project under section 116.035.

36.1 Subd. 5. **Plan contents; synchronization; updates.** (a) A coordinated project plan must
36.2 include:

36.3 (1) a list of all state agencies known to have environmental review, permitting, or other
36.4 regulatory authority over the eligible project and an explanation of each agency's specific
36.5 role and responsibilities for actions under the coordinated project plan;

36.6 (2) a schedule for any formal public meetings; and

36.7 (3) a comprehensive schedule of deadlines by which all environmental reviews, permits,
36.8 and other state agency actions must be completed. The deadlines established under this
36.9 clause must include intermediate and final completion deadlines for actions by each state
36.10 agency and must be consistent with subdivision 6, subject to modification in accordance
36.11 with subdivision 7.

36.12 (b) The commissioner must update a coordinated project plan quarterly.

36.13 Subd. 6. **Required deadlines.** (a) Deadlines established in a coordinated project plan
36.14 must comply with this subdivision, unless an alternative time period is agreed upon by the
36.15 commissioner and proposer.

36.16 (b) When an environmental assessment worksheet is prepared for an eligible project for
36.17 which an environmental impact statement is not mandatory under Minnesota Rules, chapter
36.18 4410, the decision on the need for an environmental impact statement must be made as
36.19 expeditiously as possible but no later than 18 months after the environmental assessment
36.20 worksheet is deemed complete by the commissioner.

36.21 (c) When an environmental impact statement is prepared for an eligible project, the
36.22 decision on the adequacy of the final environmental impact statement must be made as
36.23 expeditiously as possible but no later than four years after the data submitted for the
36.24 environmental assessment worksheet is deemed complete.

36.25 (d) If the commissioner includes plan deadlines that are inconsistent with paragraphs
36.26 (b) and (c), then within 30 days of finalizing the plan, the commissioner must report to the
36.27 chairs and ranking minority members of the legislative committees and divisions with
36.28 jurisdiction over natural resources policy to explain how deadlines were established and
36.29 why the deadlines under paragraphs (b) and (c) are not attainable.

36.30 Subd. 7. **Deadline compliance; modification.** (a) A state agency that participates in the
36.31 commissioner's development coordinated project plan must comply with deadlines established
36.32 in the plan. If a participating state agency fails to meet a deadline established in the
36.33 coordinated project plan or anticipates failing to meet a deadline, the state agency must

37.1 immediately notify the commissioner to explain the reason for the failure or anticipated
37.2 failure and to propose a date for a modified deadline.

37.3 (b) The commissioner may modify a deadline established in the coordinated project plan
37.4 if the project proposer fails to meet a deadline established in the coordinated project plan
37.5 or provides inadequate information to meet that deadline, or if:

37.6 (1) the commissioner provides the person that requested the plan with a written
37.7 justification for the modification; and

37.8 (2) the commissioner and the state agency, after consultation with the person that
37.9 requested the plan, mutually agree on a different deadline.

37.10 (c) If the combined modifications to one or more deadlines established in a coordinated
37.11 project plan extend the initially anticipated final decision date for an eligible project
37.12 application by more than 20 percent, the commissioner must report to the chairs and ranking
37.13 minority members of the legislative committees and divisions with jurisdiction over natural
37.14 resources policy within 30 days to explain the reason the modifications are necessary. The
37.15 commissioner must also notify the chairs and ranking minority members within 30 days of
37.16 any subsequent extensions to the final decision date. The notification must include the reason
37.17 for the extension and the history of any prior extensions. For purposes of calculating the
37.18 percentage of time that modifications have extended the anticipated final decision date,
37.19 modifications made necessary by reasons wholly outside the control of state agencies must
37.20 not be considered.

37.21 Subd. 8. **Annual report.** As part of the annual permitting efficiency report required
37.22 under section 84.027, the commissioner must report on progress toward required actions
37.23 described in this section.

37.24 Subd. 9. **Relation to other law.** Nothing in this section is to be construed to require an
37.25 act that conflicts with applicable state or federal law. Nothing in this section affects the
37.26 specific statutory obligations of a state agency to comply with criteria or standards of
37.27 environmental quality.

37.28 Sec. 2. **[116.035] ENVIRONMENTAL REVIEW AND PERMITTING;**
37.29 **COORDINATED PROJECT PLANS.**

37.30 Subdivision 1. **Definitions.** In this section, the following terms have the meanings given:

37.31 (1) "commissioner" means the commissioner of the Pollution Control Agency;

(2) "coordinated project plan" or "plan" means a plan to ensure that any required environmental review and associated required state agency actions are completed efficiently by coordinating and establishing deadlines for all necessary state agency actions;

(3) "eligible project" means a project that requires the commissioner to prepare an environmental assessment worksheet or an environmental impact statement under chapter 116D and associated permits; and

(4) "state agency" means the agency or any other office, board, commission, authority, department, or other agency of the executive branch of state government.

Subd. 2. **State policy.** It is the goal of the state to maximize the coordination, effectiveness, transparency, and accountability of environmental review, associated environmental permitting, and other regulatory actions for facilities in Minnesota.

Subd. 3. **Early communication; identifying issues.** To the extent practicable, the commissioner must establish and provide an expeditious process for a person that requests to confer with the agency and other state agencies about an eligible project. The agency must provide information about any identified challenging issues regarding the potential environmental impacts related to an eligible project, including any issues that could substantially delay a state agency from completing agency decisions and issues that must be addressed before an environmental assessment worksheet, environmental impact statement, final scoping decision, permit action, or other required action by a state agency can be started.

Subd. 4. **Plan preparation; participating agencies.** (a) A person who submits an application for an eligible project to the commissioner may request that the commissioner prepare a coordinated project plan to complete any required environmental review and associated agency actions for the eligible project.

(b) Within 60 days of receiving a request under paragraph (a), the commissioner must prepare a coordinated project plan in consultation with the requestor and other state agencies identified under paragraph (c). If an eligible project requires or otherwise includes the preparation of an environmental impact statement, the commissioner is required to prepare a coordinated project plan that first covers the period through a final scoping decision. Within 60 days of completion of the final scoping decision, the commissioner must update the coordinated project plan to include the remainder of the environmental review process as well as applicable state permits and other state regulatory decisions. The coordinated project plan is subject to modification in accordance with subdivision 7.

39.1 (c) Any state agency that must make permitting or other regulatory decisions over the
39.2 eligible project must participate in developing a coordinated project plan.

39.3 (d) If an eligible project requires environmental review and the Department of Natural
39.4 Resources is the responsible governmental unit, then the Department of Natural Resources
39.5 is the lead agency responsible for preparation of a coordinated project plan under section
39.6 84.0265. If an eligible project requires environmental review and the Pollution Control
39.7 Agency is the responsible governmental unit, then the Pollution Control Agency is the lead
39.8 agency responsible for preparation of a coordinated project under this section.

39.9 Subd. 5. **Plan contents; synchronization; updates.** (a) A coordinated project plan must
39.10 include:

39.11 (1) a list of all state agencies known to have environmental review, permitting, or other
39.12 regulatory authority over the eligible project and an explanation of each agency's specific
39.13 role and responsibilities for actions under the coordinated project plan;

39.14 (2) a schedule for any formal public meetings; and

39.15 (3) a comprehensive schedule of deadlines by which all environmental reviews, permits,
39.16 and other state agency actions must be completed. The deadlines established under this
39.17 clause must include intermediate and final completion deadlines for actions by each state
39.18 agency and must be consistent with subdivision 6, subject to modification in accordance
39.19 with subdivision 7.

39.20 (b) The commissioner must update a coordinated project plan quarterly.

39.21 Subd. 6. **Required deadlines.** (a) Deadlines established in a coordinated project plan
39.22 must comply with this subdivision unless an alternative time period is agreed upon by the
39.23 commissioner and proposer.

39.24 (b) When an environmental assessment worksheet is prepared for an eligible project for
39.25 which an environmental impact statement is not mandatory under Minnesota Rules, chapter
39.26 4410, the decision on the need for an environmental impact statement must be made as
39.27 expeditiously as possible but no later than 18 months after the environmental assessment
39.28 worksheet is deemed complete by the commissioner.

39.29 (c) When an environmental impact statement is prepared for an eligible project, the
39.30 decision on the adequacy of the final environmental impact statement must be made as
39.31 expeditiously as possible but no later than four years after the submitted data for the
39.32 environmental assessment worksheet is deemed complete.

(d) If the commissioner includes plan deadlines that are inconsistent with paragraphs (b) and (c), then within 30 days of finalizing the plan, the commissioner must report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over natural resources policy to explain how deadlines were established and why the deadlines under paragraphs (b) and (c) are not attainable.

Subd. 7. Deadline compliance; modification. (a) A state agency that participates in the commissioner's development coordinated project plan must comply with deadlines established in the plan. If a participating state agency fails to meet a deadline established in the coordinated project plan or anticipates failing to meet a deadline, the state agency must immediately notify the commissioner to explain the reason for the failure or anticipated failure and to propose a date for a modified deadline.

(b) The commissioner may modify a deadline established in the coordinated project plan if the project proposer fails to meet a deadline established in the coordinated project plan or provides inadequate information to meet that deadline, or if:

(1) the commissioner provides the person that requested the plan with a written justification for the modification; and

(2) the commissioner and the state agency, after consultation with the person that requested the plan, mutually agree on a different deadline.

(c) If the combined modifications to one or more deadlines established in a coordinated project plan extend the initially anticipated final decision date for an eligible project application by more than 20 percent, the commissioner must report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over natural resources policy within 30 days to explain the reason the modifications are necessary. The commissioner must also notify the chairs and ranking minority members within 30 days of any subsequent extensions to the final decision date. The notification must include the reason for the extension and the history of any prior extensions. For purposes of calculating the percentage of time that modifications have extended the anticipated final decision date, modifications made necessary by reasons wholly outside the control of state agencies must not be considered.

Subd. 8. Annual report. As part of the annual permitting efficiency report required under section 116.03, the commissioner must report on progress toward required actions described in this section.

Subd. 9. Relation to other law. Nothing in this section is to be construed to require an act that conflicts with applicable state or federal law. Nothing in this section affects the

- 41.1
- specific statutory obligations of a state agency to comply with criteria or standards of
- 41.2
- environmental quality.

216E.001 CITATION.

This chapter shall be known as the "Minnesota Power Plant Siting Act."

216E.01 DEFINITIONS.

Subdivision 1. **Applicability.** As used in this chapter, the terms defined in this section have the meanings given them, unless otherwise provided or indicated by the context.

Subd. 2. **Commission.** "Commission" means the Public Utilities Commission.

Subd. 3. **Construction.** "Construction" means any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route but does not include changes needed for temporary use of sites or routes for nonutility purposes, or uses in securing survey or geological data, including necessary borings to ascertain foundation conditions.

Subd. 3a. **Energy storage system.** "Energy storage system" means equipment and associated facilities designed with a nameplate capacity of 10,000 kilowatts or more that is capable of storing generated electricity for a period of time and delivering the electricity for use after storage.

Subd. 4. **High-voltage transmission line.** "High-voltage transmission line" means a conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of 100 kilovolts or more and is greater than 1,500 feet in length.

Subd. 5. **Large electric power generating plant.** "Large electric power generating plant" shall mean electric power generating equipment and associated facilities designed for or capable of operation at a capacity of 50,000 kilowatts or more.

Subd. 6. **Large electric power facilities.** "Large electric power facilities" means high voltage transmission lines, large electric power generating plants, and energy storage systems.

Subd. 7. **Person.** "Person" shall mean an individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

Subd. 8. **Route.** "Route" means the location of a high voltage transmission line between two end points. The route may have a variable width of up to 1.25 miles.

Subd. 9. **Site.** "Site" means the location of a large electric power generating plant.

Subd. 9a. **Solar energy generating system.** "Solar energy generating system" means a set of devices whose primary purpose is to produce electricity by means of any combination of collecting, transferring, or converting solar-generated energy, and may include transmission lines designed for and capable of operating at 100 kilovolts or less that interconnect a solar energy generating system with a high-voltage transmission line.

Subd. 10. **Utility.** "Utility" shall mean any entity engaged or intending to engage in this state in the generation, transmission, or distribution of electric energy including, but not limited to, a private investor-owned utility, cooperatively owned utility, and a public or municipally owned utility.

216E.02 SITING AUTHORITY.

Subdivision 1. **Policy.** The legislature hereby declares it to be the policy of the state to locate large electric power facilities in an orderly manner compatible with environmental preservation and the efficient use of resources. In accordance with this policy the commission shall choose locations that minimize adverse human and environmental impact while insuring continuing electric power system reliability and integrity and insuring that electric energy needs are met and fulfilled in an orderly and timely fashion.

Subd. 2. **Jurisdiction.** The commission is hereby given the authority to provide for site and route selection for large electric power facilities. The commission shall issue permits for large electric power facilities in a timely fashion and in a manner consistent with the overall determination of need for the project under section 216B.243 or 216B.2425. Questions of need, including size, type, and timing; alternative system configurations; and voltage must not be included in the scope of environmental review conducted under this chapter.

Subd. 3. **Interstate routes.** If a route is proposed in two or more states, the commission shall attempt to reach agreement with affected states on the entry and exit points prior to designating a route. The commission, in discharge of its duties pursuant to this chapter may make joint

investigations, hold joint hearings within or without the state, and issue joint or concurrent orders in conjunction or concurrence with any official or agency of any state or of the United States. The commission may negotiate and enter into any agreements or compacts with agencies of other states, pursuant to any consent of Congress, for cooperative efforts in certifying the construction, operation, and maintenance of large electric power facilities in accord with the purposes of this chapter and for the enforcement of the respective state laws regarding such facilities.

216E.021 SOLAR ENERGY SYSTEM SIZE DETERMINATION.

(a) This section must be used to determine whether a combination of solar energy generating systems meets the definition of large electric power generating plant and is subject to the commission's siting authority jurisdiction under this chapter. The alternating current nameplate capacity of one solar energy generating system must be combined with the alternating current nameplate capacity of any other solar energy generating system that:

- (1) is constructed within the same 12-month period as the solar energy generating system; and
- (2) exhibits characteristics of being a single development, including but not limited to ownership structure, an umbrella sales arrangement, shared interconnection, revenue sharing arrangements, and common debt or equity financing.

(b) The commissioner of commerce shall provide forms and assistance for applicants to make a request for a size determination. Upon written request of an applicant, the commissioner shall provide a written size determination within 30 days of receipt of the request and of any information requested by the commissioner. In the case of a dispute, the chair of the Public Utilities Commission shall make the final size determination.

216E.03 DESIGNATING SITES AND ROUTES.

Subdivision 1. **Site permit.** No person may construct a large electric generating plant or an energy storage system without a site permit from the commission. A large electric generating plant or an energy storage system may be constructed only on a site approved by the commission. The commission must incorporate into one proceeding the route selection for a high-voltage transmission line that is directly associated with and necessary to interconnect the large electric generating plant to the transmission system and whose need is certified under section 216B.243.

Subd. 2. **Route permit.** No person may construct a high-voltage transmission line without a route permit from the commission. A high-voltage transmission line may be constructed only along a route approved by the commission.

Subd. 3. **Application.** Any person seeking to construct a large electric power facility must apply to the commission for a site or route permit, as applicable. The application shall contain such information as the commission may require. The applicant shall propose at least two sites for a large electric power facility and two routes for a high-voltage transmission line. Neither of the two proposed routes may be designated as a preferred route and all proposed routes must be numbered and designated as alternatives. The commission shall determine whether an application is complete and advise the applicant of any deficiencies within ten days of receipt. An application is not incomplete if information not in the application can be obtained from the applicant during the first phase of the process and that information is not essential for notice and initial public meetings.

Subd. 3a. **Project notice.** At least 90 days before filing an application with the commission, the applicant shall provide notice to each local unit of government within which a route may be proposed. The notice must describe the proposed project and the opportunity for a preapplication consultation meeting with local units of government as provided in subdivision 3b.

Subd. 3b. **Preapplication consultation meetings.** Within 30 days of receiving a project notice, local units of government may request the applicant to hold a consultation meeting with local units of government. Upon receiving notice from a local unit of government requesting a preapplication consultation meeting, the applicant shall arrange the meeting at a location chosen by the local units of government. A single public meeting for which each local government unit requesting a meeting is given notice satisfies the meeting requirement of this subdivision.

Subd. 4. **Application notice.** Within 15 days after submission of an application to the commission, the applicant shall publish notice of the application in a legal newspaper of general circulation in each county in which the site or route is proposed and send a copy of the application by certified mail to any regional development commission, county, incorporated municipality, and town in which any part of the site or route is proposed. Within the same 15 days, the applicant shall also send a notice of the submission of the application and description of the proposed project to

each owner whose property is on or adjacent to any of the proposed sites for the power plant or along any of the proposed routes for the transmission line. The notice must identify a location where a copy of the application can be reviewed. For the purpose of giving mailed notice under this subdivision, owners are those shown on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer; but other appropriate records may be used for this purpose. The failure to give mailed notice to a property owner, or defects in the notice, does not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made. Within the same 15 days, the applicant shall also send the same notice of the submission of the application and description of the proposed project to those persons who have requested to be placed on a list maintained by the commission for receiving notice of proposed large electric generating power plants and high voltage transmission lines.

Subd. 5. Environmental review. (a) The commissioner of the Department of Commerce shall prepare for the commission an environmental impact statement on each proposed large electric power facility for which a complete application has been submitted. The commissioner shall not consider whether or not the project is needed. No other state environmental review documents shall be required. The commissioner shall study and evaluate any site or route proposed by an applicant and any other site or route the commission deems necessary that was proposed in a manner consistent with rules concerning the form, content, and timeliness of proposals for alternate sites or routes, excluding any alternate site for a solar energy generating system that was not proposed by an applicant.

(b) For a cogeneration facility as defined in section 216H.01, subdivision 1a, that is a large electric power generating plant and is not proposed by a utility, the commissioner must make a finding in the environmental impact statement whether the project is likely to result in a net reduction of carbon dioxide emissions, considering both the utility providing electric service to the proposed cogeneration facility and any reduction in carbon dioxide emissions as a result of increased efficiency from the production of thermal energy on the part of the customer operating or owning the proposed cogeneration facility.

Subd. 6. Public hearing. The commission shall hold a public hearing on an application for a site or route permit for a large electric power facility. All hearings held for designating a site or route shall be conducted by an administrative law judge from the Office of Administrative Hearings pursuant to the contested case procedures of chapter 14. Notice of the hearing shall be given by the commission at least ten days in advance but no earlier than 45 days prior to the commencement of the hearing. Notice shall be by publication in a legal newspaper of general circulation in the county in which the public hearing is to be held and by certified mail to chief executives of the regional development commissions, counties, organized towns, townships, and the incorporated municipalities in which a site or route is proposed. Any person may appear at the hearings and offer testimony and exhibits without the necessity of intervening as a formal party to the proceedings. The administrative law judge may allow any person to ask questions of other witnesses. The administrative law judge shall hold a portion of the hearing in the area where the power plant or transmission line is proposed to be located.

Subd. 7. Considerations in designating sites and routes. (a) The commission's site and route permit determinations must be guided by the state's goals to conserve resources, minimize environmental impacts, minimize human settlement and other land use conflicts, and ensure the state's electric energy security through efficient, cost-effective power supply and electric transmission infrastructure.

(b) To facilitate the study, research, evaluation, and designation of sites and routes, the commission shall be guided by, but not limited to, the following considerations:

(1) evaluation of research and investigations relating to the effects on land, water and air resources of large electric power facilities and the effects of water and air discharges and electric and magnetic fields resulting from such facilities on public health and welfare, vegetation, animals, materials and aesthetic values, including baseline studies, predictive modeling, and evaluation of new or improved methods for minimizing adverse impacts of water and air discharges and other matters pertaining to the effects of power plants on the water and air environment;

(2) environmental evaluation of sites and routes proposed for future development and expansion and their relationship to the land, water, air and human resources of the state;

(3) evaluation of the effects of new electric power generation and transmission technologies and systems related to power plants designed to minimize adverse environmental effects;

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(4) evaluation of the potential for beneficial uses of waste energy from proposed large electric power generating plants;

(5) analysis of the direct and indirect economic impact of proposed sites and routes including, but not limited to, productive agricultural land lost or impaired;

(6) evaluation of adverse direct and indirect environmental effects that cannot be avoided should the proposed site and route be accepted;

(7) evaluation of alternatives to the applicant's proposed site or route proposed pursuant to subdivisions 1 and 2;

(8) evaluation of potential routes that would use or parallel existing railroad and highway rights-of-way;

(9) evaluation of governmental survey lines and other natural division lines of agricultural land so as to minimize interference with agricultural operations;

(10) evaluation of the future needs for additional high-voltage transmission lines in the same general area as any proposed route, and the advisability of ordering the construction of structures capable of expansion in transmission capacity through multiple circuiting or design modifications;

(11) evaluation of irreversible and irretrievable commitments of resources should the proposed site or route be approved;

(12) when appropriate, consideration of problems raised by other state and federal agencies and local entities;

(13) evaluation of the benefits of the proposed facility with respect to (i) the protection and enhancement of environmental quality, and (ii) the reliability of state and regional energy supplies;

(14) evaluation of the proposed facility's impact on socioeconomic factors; and

(15) evaluation of the proposed facility's employment and economic impacts in the vicinity of the facility site and throughout Minnesota, including the quantity and quality of construction and permanent jobs and their compensation levels. The commission must consider a facility's local employment and economic impacts, and may reject or place conditions on a site or route permit based on the local employment and economic impacts.

(c) If the commission's rules are substantially similar to existing regulations of a federal agency to which the utility in the state is subject, the federal regulations must be applied by the commission.

(d) No site or route shall be designated which violates state agency rules.

(e) The commission must make specific findings that it has considered locating a route for a high-voltage transmission line on an existing high-voltage transmission route and the use of parallel existing highway right-of-way and, to the extent those are not used for the route, the commission must state the reasons.

Subd. 9. **Timing.** The commission shall make a final decision on an application within 60 days after receipt of the report of the administrative law judge. A final decision on the request for a site permit or route permit shall be made within one year after the commission's determination that an application is complete. The commission may extend this time limit for up to three months for just cause or upon agreement of the applicant.

Subd. 10. **Final decision.** (a) No site permit shall be issued in violation of the site selection standards and criteria established in this section and in rules adopted by the commission. When the commission designates a site, it shall issue a site permit to the applicant with any appropriate conditions. The commission shall publish a notice of its decision in the State Register within 30 days of issuance of the site permit.

(b) No route permit shall be issued in violation of the route selection standards and criteria established in this section and in rules adopted by the commission. When the commission designates a route, it shall issue a permit for the construction of a high-voltage transmission line specifying the design, routing, right-of-way preparation, and facility construction it deems necessary, and with any other appropriate conditions. The commission may order the construction of high-voltage transmission line facilities that are capable of expansion in transmission capacity through multiple circuiting or design modifications. The commission shall publish a notice of its decision in the State Register within 30 days of issuance of the permit.

(c) The commission must require as a condition of permit issuance, including issuance of a modified permit for a repowering project, as defined in section 216B.243, subdivision 8, paragraph (b), that the recipient of a site permit to construct a large electric power generating plant, including all of the permit recipient's construction contractors and subcontractors on the project: (1) pay no less than the prevailing wage rate, as defined in section 177.42; and (2) be subject to the requirements and enforcement provisions under sections 177.27, 177.30, 177.32, 177.41 to 177.435, and 177.45.

Subd. 11. **Department of Commerce to provide technical expertise and other assistance.** (a) The commissioner of the Department of Commerce shall consult with other state agencies and provide technical expertise and other assistance to the commission or to individual members of the commission for activities and proceedings under this chapter and chapters 216F and 216G. This assistance shall include the sharing of power plant siting and routing staff and other resources as necessary. The commissioner shall periodically report to the commission concerning the Department of Commerce's costs of providing assistance. The report shall conform to the schedule and include the required contents specified by the commission. The commission shall include the costs of the assistance in assessments for activities and proceedings under those sections and reimburse the special revenue fund for those costs. If either the commissioner or the commission deems it necessary, the department and the commission shall enter into an interagency agreement establishing terms and conditions for the provision of assistance and sharing of resources under this subdivision.

(b) Notwithstanding the requirements of section 216B.33, the commissioner may take any action required or requested by the commission related to the environmental review requirements under chapter 216E or 216F immediately following a hearing and vote by the commission, prior to issuing a written order, finding, authorization, or certificate.

216E.04 ALTERNATIVE REVIEW OF APPLICATIONS.

Subdivision 1. **Alternative review.** An applicant who seeks a site permit or route permit for one of the projects identified in this section shall have the option of following the procedures in this section rather than the procedures in section 216E.03. The applicant shall notify the commission at the time the application is submitted which procedure the applicant chooses to follow.

Subd. 2. **Applicable projects.** The requirements and procedures in this section apply to the following projects:

- (1) large electric power generating plants with a capacity of less than 80 megawatts;
- (2) large electric power generating plants that are fueled by natural gas;
- (3) high-voltage transmission lines of between 100 and 200 kilovolts;
- (4) high-voltage transmission lines in excess of 200 kilovolts and less than 30 miles in length in Minnesota;
- (5) high-voltage transmission lines in excess of 200 kilovolts if at least 80 percent of the distance of the line in Minnesota will be located along existing high-voltage transmission line right-of-way;
- (6) a high-voltage transmission line service extension to a single customer between 200 and 300 kilovolts and less than ten miles in length;
- (7) a high-voltage transmission line rerouting to serve the demand of a single customer when the rerouted line will be located at least 80 percent on property owned or controlled by the customer or the owner of the transmission line;
- (8) large electric power generating plants that are powered by solar energy; and
- (9) energy storage systems.

Subd. 3. **Application.** The applicant for a site or route permit for any of the projects listed in subdivision 2 who chooses to follow these procedures shall submit information as the commission may require, but the applicant shall not be required to propose a second site or route for the project. The applicant shall identify in the application any other sites or routes that were rejected by the applicant and the commission may identify additional sites or routes to consider during the processing of the application. The commission shall determine whether an application is complete and advise the applicant of any deficiencies.

Subd. 4. **Notice of application.** Upon submission of an application under this section, the applicant shall provide the same notice as required by section 216E.03, subdivision 4.

Subd. 5. **Environmental review.** For the projects identified in subdivision 2 and following these procedures, the commissioner of the Department of Commerce shall prepare for the commission an environmental assessment. The environmental assessment shall contain information on the human and environmental impacts of the proposed project and other sites or routes identified by the commission and shall address mitigating measures for all of the sites or routes considered. The environmental assessment shall be the only state environmental review document required to be prepared on the project.

Subd. 6. **Public hearing.** The commission shall hold a public hearing in the area where the facility is proposed to be located. The commission shall give notice of the public hearing in the same manner as notice under section 216E.03, subdivision 6. The commission shall conduct the public hearing under procedures established by the commission. The applicant shall be present at the hearing to present evidence and to answer questions. The commission shall provide opportunity at the public hearing for any person to present comments and to ask questions of the applicant and commission staff. The commission shall also afford interested persons an opportunity to submit written comments into the record.

Subd. 7. **Timing.** The commission shall make a final decision on an application within 60 days after completion of the public hearing. A final decision on the request for a site permit or route permit under this section shall be made within six months after the commission's determination that an application is complete. The commission may extend this time limit for up to three months for just cause or upon agreement of the applicant.

Subd. 8. **Considerations.** The considerations in section 216E.03, subdivision 7, shall apply to any projects subject to this section.

Subd. 9. **Final decision.** (a) No site permit shall be issued in violation of the site selection standards and criteria established in this section and in rules adopted by the commission. When the commission designates a site, it shall issue a site permit to the applicant with any appropriate conditions. The commission shall publish a notice of its decision in the State Register within 30 days of issuance of the site permit.

(b) No route designation shall be made in violation of the route selection standards and criteria established in this section and in rules adopted by the commission. When the commission designates a route, it shall issue a permit for the construction of a high-voltage transmission line specifying the design, routing, right-of-way preparation, and facility construction it deems necessary and with any other appropriate conditions. The commission may order the construction of high-voltage transmission line facilities that are capable of expansion in transmission capacity through multiple circuiting or design modifications. The commission shall publish a notice of its decision in the State Register within 30 days of issuance of the permit.

216E.05 LOCAL REVIEW OF APPLICATIONS.

Subdivision 1. **Local review.** (a) Notwithstanding the requirements of sections 216E.03 and 216E.04, an applicant who seeks a site or route permit for one of the projects identified in this section shall have the option of applying to those local units of government that have jurisdiction over the site or route for approval to build the project. If local approval is granted, a site or route permit is not required from the commission. If the applicant files an application with the commission, the applicant shall be deemed to have waived its right to seek local approval of the project.

(b) A local unit of government with jurisdiction over a project identified in this section to whom an applicant has applied for approval to build the project may request the commission to assume jurisdiction and make a decision on a site or route permit under the applicable provisions of this chapter. A local unit of government must file the request with the commission within 60 days after an application for the project has been filed with any one local unit of government. If one of the local units of government with jurisdiction over the project requests the commission to assume jurisdiction, jurisdiction over the project transfers to the commission. If the local units of government maintain jurisdiction over the project, the commission shall select the appropriate local unit of government to be the responsible governmental unit to conduct environmental review of the project.

Subd. 2. **Applicable projects.** Applicants may seek approval from local units of government to construct the following projects:

- (1) large electric power generating plants with a capacity of less than 80 megawatts;
- (2) large electric power generating plants of any size that burn natural gas and are intended to be a peaking plant;

- (3) high-voltage transmission lines of between 100 and 200 kilovolts;
- (4) substations with a voltage designed for and capable of operation at a nominal voltage of 100 kilovolts or more;
- (5) a high-voltage transmission line service extension to a single customer between 200 and 300 kilovolts and less than ten miles in length;
- (6) a high-voltage transmission line rerouting to serve the demand of a single customer when the rerouted line will be located at least 80 percent on property owned or controlled by the customer or the owner of the transmission line; and
- (7) energy storage systems.

Subd. 3. **Notice of application.** Within ten days of submission of an application to a local unit of government for approval of an eligible project, the applicant shall notify the commission that the applicant has elected to seek local approval of the proposed project.

216E.08 PUBLIC PARTICIPATION.

Subdivision 1. **Advisory task force.** The commission may appoint one or more advisory task forces to assist it in carrying out its duties. Task forces appointed to evaluate sites or routes considered for designation shall be comprised of as many persons as may be designated by the commission, but at least one representative from each of the following: Regional development commissions, counties and municipal corporations and one town board member from each county in which a site or route is proposed to be located. No officer, agent, or employee of a utility shall serve on an advisory task force. Reimbursement for expenses incurred shall be made pursuant to the rules governing state employees. The task forces expire as provided in section 15.059, subdivision 6. At the time the task force is appointed, the commission shall specify the charge to the task force. The task force shall expire upon completion of its charge, upon designation by the commission of alternative sites or routes to be included in the environmental impact statement, or upon the specific date identified by the commission in the charge, whichever occurs first.

Subd. 4. **Scientific advisory task force.** The commission may appoint one or more advisory task forces composed of technical and scientific experts to conduct research and make recommendations concerning generic issues such as health and safety, underground routes, double circuiting and long-range route and site planning. Reimbursement for expenses incurred shall be made pursuant to the rules governing reimbursement of state employees. The task forces expire as provided in section 15.059, subdivision 6. The time allowed for completion of a specific site or route procedure may not be extended to await the outcome of these generic investigations.

216E.18 BIENNIAL REPORT; APPLICATION FEES; APPROPRIATION; FUNDING.

Subdivision 1. **Biennial report.** Before November 15 of each even-numbered year the commission shall prepare and submit to the legislature a report of its operations, activities, findings, and recommendations concerning this chapter. The report shall also contain information on the commission's biennial expenditures, its proposed budget for the following biennium, and the amounts paid in permit application fees and in assessments pursuant to this section. The proposed budget for the following biennium shall be subject to legislative review.

Subd. 2. **Site application fee.** Every applicant for a site permit shall pay to the commissioner of commerce a fee to cover the necessary and reasonable costs incurred by the commission in acting on the permit application and carrying out the requirements of this chapter. The commission may adopt rules providing for the payment of the fee. Section 16A.1283 does not apply to establishment of this fee. All money received pursuant to this subdivision shall be deposited in a special account. Money in the account is appropriated to the commissioner of commerce to pay expenses incurred in processing applications for site permits in accordance with this chapter and in the event the expenses are less than the fee paid, to refund the excess to the applicant.

216E.01 DEFINITIONS.

Subdivision 1. **Scope.** As used in this chapter, the terms defined in section 216E.01 and this section have the meanings given them, unless otherwise provided or indicated by the context or by this section.

Subd. 2. **Large wind energy conversion system or LWECS.** "Large wind energy conversion system" or "LWECS" means any combination of WECS with a combined nameplate capacity of 5,000 kilowatts or more.

Subd. 3. **Small wind energy conversion system or SWECS.** "Small wind energy conversion system" or "SWECS" means any combination of WECS with a combined nameplate capacity of less than 5,000 kilowatts.

Subd. 4. **Wind energy conversion system or WECS.** "Wind energy conversion system" or "WECS" means any device such as a wind charger, windmill, or wind turbine and associated facilities that converts wind energy to electrical energy.

216F.011 SIZE DETERMINATION.

(a) The total size of a combination of wind energy conversion systems for the purpose of determining what jurisdiction has siting authority under this chapter must be determined according to this section. The nameplate capacity of one wind energy conversion system must be combined with the nameplate capacity of any other wind energy conversion system that:

(1) is located within five miles of the wind energy conversion system;

(2) is constructed within the same 12-month period as the wind energy conversion system; and

(3) exhibits characteristics of being a single development, including, but not limited to, ownership structure, an umbrella sales arrangement, shared interconnection, revenue sharing arrangements, and common debt or equity financing.

(b) The commissioner shall provide forms and assistance for project developers to make a request for a size determination. Upon written request of a project developer, the commissioner of commerce shall provide a written size determination within 30 days of receipt of the request and of any information requested by the commissioner. In the case of a dispute, the chair of the Public Utilities Commission shall make the final size determination.

(c) An application to a county for a permit under this chapter for a wind energy conversion system is not complete without a size determination made under this section.

216F.012 SIZE ELECTION.

(a) A wind energy conversion system of less than 25 megawatts of nameplate capacity as determined under section 216F.011 is a small wind energy conversion system if, by July 1, 2009, the owner so elects in writing and submits a completed application for zoning approval and the written election to the county or counties in which the project is proposed to be located. The owner must notify the Public Utilities Commission of the election at the time the owner submits the election to the county.

(b) Notwithstanding paragraph (a), a wind energy conversion system with a nameplate capacity exceeding five megawatts that is proposed to be located wholly or partially within a wind access buffer adjacent to state lands that are part of the outdoor recreation system, as enumerated in section 86A.05, is a large wind energy conversion system. The Department of Natural Resources shall negotiate in good faith with a system owner regarding siting and may support the system owner in seeking a variance from the system setback requirements if it determines that a variance is in the public interest.

216F.015 REQUIREMENTS CODED ELSEWHERE.

Requirements governing certain towers are established in section 360.915.

216F.02 EXEMPTIONS.

(a) The requirements of chapter 216E do not apply to the siting of LWECS, except for sections 216E.01; 216E.03, subdivision 7; 216E.08; 216E.11; 216E.12; 216E.14; 216E.15; 216E.17; and 216E.18, subdivision 3, which do apply.

(b) Any person may construct an SWECS without complying with chapter 216E or this chapter.

(c) Nothing in this chapter shall preclude a local governmental unit from establishing requirements for the siting and construction of SWECS.

216F.03 SITING OF LWECS.

The legislature declares it to be the policy of the state to site LWECS in an orderly manner compatible with environmental preservation, sustainable development, and the efficient use of resources.

216F.04 SITE PERMIT.

(a) No person may construct an LWECS without a site permit issued by the Public Utilities Commission.

(b) Any person seeking to construct an LWECS shall submit an application to the commission for a site permit in accordance with this chapter and any rules adopted by the commission. The permitted site need not be contiguous land.

(c) The commission shall make a final decision on an application for a site permit for an LWECS within 180 days after acceptance of a complete application by the commission. The commission may extend this deadline for cause.

(d) The commission may place conditions in a permit and may deny, modify, suspend, or revoke a permit.

(e) The commission must require as a condition of permit issuance, including issuance of a modified permit for a repowering project, as defined in section 216B.243, subdivision 8, paragraph (b), that the recipient of a site permit to construct an LWECS with a nameplate capacity above 25,000 kilowatts, including all of the permit recipient's construction contractors and subcontractors on the project: (1) pay no less than the prevailing wage rate, as defined in section 177.42; and (2) be subject to the requirements and enforcement provisions under sections 177.27, 177.30, 177.32, 177.41 to 177.435, and 177.45.

216F.05 RULES.

The commission shall adopt rules governing the consideration of an application for a site permit for an LWECS that address the following:

(1) criteria that the commission shall use to designate LWECS sites, which must include the impact of LWECS on humans and the environment;

(2) procedures that the commission will follow in acting on an application for an LWECS;

(3) procedures for notification to the public of the application and for the conduct of a public information meeting and a public hearing on the proposed LWECS;

(4) requirements for environmental review of the LWECS;

(5) conditions in the site permit for turbine type and designs; site layout and construction; and operation and maintenance of the LWECS, including the requirement to restore, to the extent possible, the area affected by construction of the LWECS to the natural conditions that existed immediately before construction of the LWECS;

(6) revocation or suspension of a site permit when violations of the permit or other requirements occur; and

(7) payment of fees for the necessary and reasonable costs of the commission in acting on a permit application and carrying out the requirements of this chapter.

216F.06 MODEL ORDINANCE.

The commission may assist local governmental units in adopting ordinances and other requirements to regulate the siting, construction, and operation of SWECS, including the development of a model ordinance.

216F.07 PREEMPTION.

A permit under this chapter is the only site approval required for the location of an LWECS. The site permit supersedes and preempts all zoning, building, or land use rules, regulations, or ordinances adopted by regional, county, local, and special purpose governments.

216F.08 PERMIT AUTHORITY; ASSUMPTION BY COUNTIES.

(a) A county board may, by resolution and upon written notice to the Public Utilities Commission, assume responsibility for processing applications for permits required under this chapter for LWECS with a combined nameplate capacity of less than 25,000 kilowatts. The responsibility for permit application processing, if assumed by a county, may be delegated by the county board to an appropriate county officer or employee. Processing by a county shall be done in accordance with procedures and processes established under chapter 394.

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(b) A county board that exercises its option under paragraph (a) may issue, deny, modify, impose conditions upon, or revoke permits pursuant to this section. The action of the county board about a permit application is final, subject to appeal as provided in section 394.27.

(c) The commission shall, by order, establish general permit standards, including appropriate property line set-backs, governing site permits for LWECS under this section. The order must consider existing and historic commission standards for wind permits issued by the commission. The general permit standards shall apply to permits issued by counties and to permits issued by the commission for LWECS with a combined nameplate capacity of less than 25,000 kilowatts. The commission or a county may grant a variance from a general permit standard if the variance is found to be in the public interest.

(d) The commission and the commissioner of commerce shall provide technical assistance to a county with respect to the processing of LWECS site permit applications.

216F.081 APPLICATION OF COUNTY STANDARDS.

A county may adopt by ordinance standards for LWECS that are more stringent than standards in commission rules or in the commission's permit standards. The commission, in considering a permit application for LWECS in a county that has adopted more stringent standards, shall consider and apply those more stringent standards, unless the commission finds good cause not to apply the standards.

7850.1000 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 7850.1000 to 7850.5600, the following terms have the meanings given them.

Subp. 2. **Act.** "Act" means the Power Plant Siting Act of 1973, as amended, Minnesota Statutes, chapter 216E.

Subp. 3. **Associated facilities.** "Associated facilities" means buildings, equipment, and other physical structures that are necessary to the operation of a large electric power generating plant or a high voltage transmission line.

Subp. 4. **Commission.** "Commission" means the Public Utilities Commission.

Subp. 5. **Certified HVTL list.** "Certified HVTL list" means the transmission projects certified by the Public Utilities Commission as priority projects under Minnesota Statutes, section 216B.2425.

Subp. 6. **Developed portion of the plant site.** "Developed portion of the plant site" means the portion of the LEPGP site that is required for the physical plant and associated facilities.

Subp. 7. **Environmental assessment.** "Environmental assessment" means a written document that describes the human and environmental impacts of a proposed large electric power generating plant or high voltage transmission line and alternative routes or sites and methods to mitigate such impacts.

Subp. 8. **Environmental impact statement or EIS.** "Environmental impact statement" or "EIS" means a detailed written statement that describes proposed high voltage transmission lines and large electric power generating plants and satisfies the requirements of Minnesota Statutes, section 116D.04.

Subp. 9. **High voltage transmission line or HVTL.** "High voltage transmission line" or "HVTL" means a conductor of electric energy and associated facilities designed for and capable of operating at a nominal voltage of 100 kilovolts or more either immediately or without significant modification. Associated facilities shall include, but not be limited to, insulators, towers, substations, and terminals.

Subp. 10. **Large electric power facilities.** "Large electric power facilities" means high voltage transmission lines and large electric power generating plants.

Subp. 11. **Large electric power generating plant or LEPGP.** "Large electric power generating plant" or "LEPGP" means electric power generating equipment and associated facilities designed for or capable of operation at a capacity of 50,000 kilowatts or more. Associated facilities include, but are not limited to, coal piles, cooling towers, ash containment, fuel tanks, water and wastewater treatment systems, and roads.

Subp. 12. **Mail.** "Mail" means either the United States mail or electronic mail by email, unless another law requires a specific form of mailing.

Subp. 13. **Person.** "Person" means any individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

Subp. 14. **PUC.** "PUC" means the entire Public Utilities Commission, including the commission and staff.

Subp. 15. **Right-of-way.** "Right-of-way" means the land interest required within a route for the construction, maintenance, and operation of a high voltage transmission line.

Subp. 16. **Route.** "Route" means the location of a high voltage transmission line between two end points. A route may have a variable width of up to 1.25 miles within which a right-of-way for a high voltage transmission line can be located.

Subp. 17. **Route segment.** "Route segment" means a portion of a route.

Subp. 18. **Site.** "Site" means an area of land required for the construction, maintenance, and operation of a large electric power generating plant.

Subp. 19. **Utility.** "Utility" means any entity engaged or intending to engage in this state in the generation, transmission, or distribution of electric energy including, but not limited to, a private investor owned utility, a cooperatively owned utility, a public or municipally owned utility, a limited liability company, or a private corporation.

7850.1100 PURPOSE AND AUTHORITY.

Parts 7850.1000 to 7850.5600 are prescribed by the Minnesota Public Utilities Commission pursuant to the authority granted to the commission in the Power Plant Siting Act, as amended, Minnesota Statutes, chapter 216E, to give effect to the purposes of the act.

It is the purpose of the act and the policy of the state to locate large electric power generating plants and high voltage transmission lines in an orderly manner compatible with environmental preservation and the efficient use of resources. In accordance with this policy, the commission shall choose locations that minimize adverse human and environmental impact while ensuring continuing electric power system reliability and integrity and ensuring that electric energy needs are met and fulfilled in an orderly and timely fashion. The commission shall provide for broad spectrum citizen participation as a principle of operation. To ensure effective citizen participation, the commission shall maintain a public education program on, but not limited to, the considerations identified in Minnesota Statutes, section 216E.03, subdivision 7.

7850.1200 APPLICABILITY.

Parts 7850.1000 to 7850.5600 establish the requirements for the processing of permit applications by the Public Utilities Commission for large electric power generating plants and high voltage transmission lines. Requirements for environmental review of such projects before the commission are established in the applicable requirements of chapter 4410 and parts 7849.1000 to 7849.2100.

7850.1300 PERMIT REQUIREMENT.

Subpart 1. **Site permit.** No person may construct a large electric power generating plant without a site permit from the commission. A large electric power generating plant may be constructed only on a site approved by the commission.

Subp. 2. **Route permit.** No person may construct a high voltage transmission line without a route permit from the commission. A high voltage transmission line may be constructed only within a route approved by the commission.

Subp. 3. **Expansion of existing facility.**

A. No person shall increase the voltage of a high voltage transmission line without a route permit or other approval from the PUC.

B. No person shall increase the voltage of a transmission line under 100 kilovolts to over 100 kilovolts without a route permit from the PUC.

C. Except as provided in part 7850.1500 or 7850.4800, no person shall increase the generating capacity or output of an existing large electric power generating plant without a permit from the commission.

D. No person shall increase the generating capacity or output of an electric power plant from under 50 megawatts to more than 50 megawatts without a site permit from the PUC.

Subp. 4. **Local authority.** A site permit from the commission is not required for a large electric power generating plant that is permitted by local units of government under Minnesota Statutes, section 216E.05. A route permit from the commission is not required for a high voltage transmission line that is permitted by local governmental authorities under Minnesota Statutes, section 216E.05.

Subp. 5. **Commence construction.** No person may commence construction of a large electric power generating plant or a high voltage transmission line until a permit has been issued by the commission or by the appropriate local units of government if local review is sought. "Commence construction" means to begin or cause to begin as part of a continuous program the placement, assembly, or installation of facilities or equipment, or to conduct significant physical site preparation or right-of-way preparation work for installation of facilities or equipment. Conducting survey work or collecting geological data or contacting landowners to discuss possible construction of a power plant or transmission line is not commencement of construction.

7850.1400 SMALL PROJECTS.

Subpart 1. **No PUC permit required.** A permit from the PUC is not required to construct a power plant of less than 50 megawatts or a transmission line of less than 100 kilovolts. Proposers of such projects must obtain whatever approvals may be required by local, state, or federal units of government with jurisdiction over the project.

Subp. 2. **Environmental review.** Proposers of power plants of less than 50 megawatts or transmission lines of less than 100 kilovolts must comply with the environmental review requirements of chapter 4410, parts 7849.1000 to 7849.2100, and Minnesota Statutes, chapter 116D.

7850.1500 EXCEPTIONS TO PERMITTING REQUIREMENT FOR CERTAIN EXISTING FACILITIES.

Subpart 1. **No permit required.** The following projects are not considered construction of a large electric power generating plant or high voltage transmission line and may be constructed without a permit from the commission:

A. equipment additions at an existing substation that do not require expansion of the land needed for the substation and do not involve an increase in the voltage or changes in the location of existing transmission lines, except that up to the first five transmission line structures outside the substation may be moved to accommodate the equipment additions provided the structures are not moved more than 500 feet from the existing right-of-way;

B. high voltage transmission lines:

(1) maintenance or repair of a high voltage transmission line within an existing right-of-way;

(2) reconductoring or reconstruction of a high voltage transmission line with no change in voltage and no change in right-of-way, provided that any new structures that are installed are not designed for and capable of operation at higher voltage; or

(3) relocation of a high voltage transmission line that is required by a local or state agency as part of road, street, or highway construction; or

C. large electric power generating plants:

(1) maintenance or repair of a large electric power generating plant;

(2) modification of a large electric power generating plant to increase efficiency as long as the capacity of the plant is not increased more than ten percent or more than 100 megawatts, whichever is greater, and the modification does not require expansion of the plant beyond the developed portion of the plant site. If a subsequent modification results in a total of more than 100 megawatts of additional capacity, this provision does not

apply. An increase in efficiency is a reduction in the amount of Btu's (British Thermal Units) required to produce a kilowatt hour of electricity at the facility;

(3) refurbishment of a large electric power generating plant that does not expand the capacity of the plant or expand the plant beyond the developed portion of the plant site and the refurbishment does not require a certificate of need from the public utilities commission;

(4) conversion of the fuel source of a large electric power generating plant to natural gas, as long as the plant is not expanded beyond the developed portion of the plant site; or

(5) start-up of an existing large electric power generating plant that has been closed for any period of time at no more than its previous capacity rating and in a manner that does not involve a change in the fuel or an expansion of the developed portion of the plant site.

Subp. 2. **Minor alteration.** In the event a modification or other change in an existing substation, high voltage transmission line, or large electric power generating plant does not qualify for an exception under this part, the modification or change may qualify for a minor alteration under part 7850.4800.

Subp. 3. **Notice.** Any person proposing to move transmission line structures under subpart 1, item A, or to reconductor or reconstruct a high voltage transmission line under subpart 1, item B, subitem (2), or to implement changes to a large electric power generating plant under subpart 1, item C, subitem (2), (3), (4), or (5), must notify the commission in writing at least 30 days before commencing construction on the modification or change.

7850.1600 JOINT PROCEEDING.

The proposer of a large electric power generating plant that will also require a high voltage transmission line may elect to apply for both a site permit for the large electric power generating plant and a route permit for the high voltage transmission line in one application and in one process. The PUC on its own volition may elect to combine two pending applications if it is appropriate to consider both projects as part of one proceeding. An applicant may also combine an application for a pipeline routing permit if a natural gas or petroleum pipeline to a new large electric power generating facility will be required.

7850.1700 PERMIT APPLICATION UNDER FULL PERMITTING PROCESS.

Subpart 1. **Filing of application for permit.** A person seeking a site permit or route permit for a large electric power generating facility must file three copies of the application for the permit with the PUC. Upon acceptance of the application, the commission will advise the applicant of how many copies of the application must be submitted to the PUC.

Subp. 2. **Electronic copy.** A person filing an application for a site permit or route permit shall provide the PUC with an electronic version of the application suitable for posting on the PUC's web page.

7850.1800 PERMIT FEES.

Subpart 1. **Requirement.** An applicant for a site permit or route permit shall pay a fee in accordance with Minnesota Statutes, section 216E.18. The estimated fee for processing the permit application must be determined in accordance with Minnesota Statutes, section 216E.18.

Subp. 2. **Initial payment.** The applicant shall submit with the application 25 percent of the total estimated fee, or up to 50 percent of the total estimated fee if the commission determines that the additional percentage is reasonably necessary to complete the site evaluation and design process. The commission shall not process a permit application until the first portion of the fee is submitted. The PUC shall deposit all money received from the applicant for permit fees in a special account.

Subp. 3. **Additional payments.** The applicant shall pay an additional 25 percent of the fee within 90 days after the application has been accepted by the commission. Additional payments must be made within 30 days of notification by the commission that additional fees are necessary for completion of the permitting process. The commission shall not make a final decision on a permit application if any assessed fees have not been paid.

Subp. 4. **Final accounting.** At the end of the permitting process, including any judicial review of the commission's final decision, the PUC shall provide a final accounting to the applicant of the total cost of processing the permit application. The applicant may review all actual costs associated with processing an application and present objections to the commission. The application fees paid by the applicant shall include the necessary and reasonable expenses incurred in processing the application, including, but not limited to, staff time, expenses for public notice and meetings and hearings, environmental review, administrative overhead, and legal expenses. The applicant shall make the final payment within 30 days of notification or the PUC shall refund any excess payments with 30 days of the final accounting.

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Subpart 1. **Site permit for LEPGP.** An application for a site permit for a large electric power generating plant must contain the following information:

- A. a statement of proposed ownership of the facility as of the day of filing and after commercial operation;
- B. the precise name of any person or organization to be initially named as permittee or permittees and the name of any other person to whom the permit may be transferred if transfer of the permit is contemplated;
- C. at least two proposed sites for the proposed large electric power generating plant and identification of the applicant's preferred site and the reasons for preferring the site;
- D. a description of the proposed large electric power generating plant and all associated facilities, including the size and type of the facility;
- E. the environmental information required under subpart 3;
- F. the names of the owners of the property for each proposed site;
- G. the engineering and operational design for the large electric power generating plant at each of the proposed sites;
- H. a cost analysis of the large electric power generating plant at each proposed site, including the costs of constructing and operating the facility that are dependent on design and site;
- I. an engineering analysis of each of the proposed sites, including how each site could accommodate expansion of generating capacity in the future;
- J. identification of transportation, pipeline, and electrical transmission systems that will be required to construct, maintain, and operate the facility;
- K. a listing and brief description of federal, state, and local permits that may be required for the project at each proposed site; and
- L. a copy of the Certificate of Need for the project from the Public Utilities Commission or documentation that an application for a Certificate of Need has been submitted or is not required.

Subp. 2. **Route permit for HVTL.** An application for a route permit for a high voltage transmission line shall contain the following information:

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A. a statement of proposed ownership of the facility at the time of filing the application and after commercial operation;

B. the precise name of any person or organization to be initially named as permittee or permittees and the name of any other person to whom the permit may be transferred if transfer of the permit is contemplated;

C. at least two proposed routes for the proposed high voltage transmission line and identification of the applicant's preferred route and the reasons for the preference;

D. a description of the proposed high voltage transmission line and all associated facilities including the size and type of the high voltage transmission line;

E. the environmental information required under subpart 3;

F. identification of land uses and environmental conditions along the proposed routes;

G. the names of each owner whose property is within any of the proposed routes for the high voltage transmission line;

H. United States Geological Survey topographical maps or other maps acceptable to the commission showing the entire length of the high voltage transmission line on all proposed routes;

I. identification of existing utility and public rights-of-way along or parallel to the proposed routes that have the potential to share the right-of-way with the proposed line;

J. the engineering and operational design concepts for the proposed high voltage transmission line, including information on the electric and magnetic fields of the transmission line;

K. cost analysis of each route, including the costs of constructing, operating, and maintaining the high voltage transmission line that are dependent on design and route;

L. a description of possible design options to accommodate expansion of the high voltage transmission line in the future;

M. the procedures and practices proposed for the acquisition and restoration of the right-of-way, construction, and maintenance of the high voltage transmission line;

N. a listing and brief description of federal, state, and local permits that may be required for the proposed high voltage transmission line; and

O. a copy of the Certificate of Need or the certified HVTL list containing the proposed high voltage transmission line or documentation that an application for a Certificate of Need has been submitted or is not required.

Subp. 3. **Environmental information.** An applicant for a site permit or a route permit shall include in the application the following environmental information for each proposed site or route to aid in the preparation of an environmental impact statement:

A. a description of the environmental setting for each site or route;

B. a description of the effects of construction and operation of the facility on human settlement, including, but not limited to, public health and safety, displacement, noise, aesthetics, socioeconomic impacts, cultural values, recreation, and public services;

C. a description of the effects of the facility on land-based economies, including, but not limited to, agriculture, forestry, tourism, and mining;

D. a description of the effects of the facility on archaeological and historic resources;

E. a description of the effects of the facility on the natural environment, including effects on air and water quality resources and flora and fauna;

F. a description of the effects of the facility on rare and unique natural resources;

G. identification of human and natural environmental effects that cannot be avoided if the facility is approved at a specific site or route; and

H. a description of measures that might be implemented to mitigate the potential human and environmental impacts identified in items A to G and the estimated costs of such mitigative measures.

7850.2000 APPLICATION REVIEW.

Subpart 1. **Review by commission.** Within ten working days of receipt of an application for a site permit or a route permit, the commission shall determine whether the application is complete and notify the applicant in writing of the acceptance or rejection of the application. If the commission rejects an application, the commission shall advise the applicant of the deficiencies in the application.

Subp. 2. **Resubmission of rejected application.** If the commission should reject an application, an applicant may decide to address the deficiencies identified by the commission and resubmit the application with additional information. In this event, the commission shall again review the application within ten days and determine whether the application is complete and advise the applicant of the commission's determination.

Subp. 3. **Reasons for rejection.** The commission shall not reject an application if the information that is missing can be obtained from the applicant within 60 days from the date of the application and the lack of the information will not interfere with the public's ability to review the proposed project.

Subp. 4. **Schedule.** The date of the commission's determination that an application is complete marks the start of the schedule for the commission to make a final decision on a permit application.

7850.2100 PROJECT NOTICE.

Subpart 1. **Notification lists.** The PUC shall maintain the notification lists described in items A and B.

A. The PUC shall maintain a list of persons who want to be notified of the acceptance of applications for site permits or route permits. Any person may request to have that person's name or an organization's name included on the list. The PUC may from time to time request that persons whose names are on the list advise the PUC whether they want to remain on the list, and the PUC may delete any names for which an affirmative response is not received within a reasonable time. A person whose name has been removed may request to have the name added back on the list. The PUC shall provide an applicant with the general list upon acceptance of an application.

B. The PUC shall maintain a project contact list for each project for which an application for a permit has been accepted. The project contact list must contain the names of persons who want to receive notices regarding the project. Any person may request to have that person's name or an organization's name included on a project contact list. The PUC may add a person's name to the list if the PUC believes the person would like to receive notices about the particular project. The PUC shall provide an applicant with the project contact list upon request.

Subp. 2. **Notification to persons on general list, to local officials, and to property owners.** Within 15 days after submission of an application, the applicant shall mail written notice of the submission to the following people:

A. those persons whose names are on the general list maintained by the PUC for this purpose;

B. each regional development commission, county, incorporated municipality, and township in which any part of the site or route or any alternative is proposed to be located; and

C. each owner whose property is adjacent to any of the proposed sites for a large electric power generating plant or within any of the proposed routes for a high voltage transmission line. For purposes of giving notice under this item, owners are those persons shown on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer, or any other list of owners approved by the commission.

Subp. 3. **Content of notice.** The notice mailed under subpart 2 shall contain the following information:

A. a description of the proposed project, including a map showing the general area of the proposed site or proposed route and each alternative;

B. a statement that a permit application has been submitted to the PUC, the name of the permit applicant, and information regarding how a copy of the application may be obtained;

C. a statement that the permit application will be considered by the PUC under the provisions of parts 7850.1000 to 7850.5600 and the Power Plant Siting Act and describing the time periods for the PUC to act;

D. a statement that the PUC will hold a public meeting within 60 days and the date of the meeting if it is known at the time of the mailing;

E. the manner in which the PUC will conduct environmental review of the proposed project, including the holding of a scoping meeting at which additional alternatives to the project may be proposed;

F. the name of the PUC staff member who has been appointed by the commission to serve as the public advisor, if known, or otherwise, a general contact at the PUC;

G. the manner in which persons may register their names with the PUC on the project contact list;

H. a statement that a public hearing will be conducted after the EIS is prepared;

I. a statement indicating whether a certificate of need or other authorization from the Public Utilities Commission is required for the project and the status of the matter if such authorization is required;

J. a statement indicating whether the applicant may exercise the power of eminent domain to acquire the land necessary for the project and the basis for such authority; and

K. any other information requested by the commission to be included in the notice.

Subp. 4. **Publication of notice.** Within 15 days after submission of an application, the applicant shall publish notice in a legal newspaper of general circulation in each county in which a site, route, or any alternative is proposed to be located that an application has been submitted and a description of the proposed project. The notice must also state where a copy of the application may be reviewed.

Subp. 5. **Confirmation of notice.** Within 30 days after providing the requisite notice, the applicant shall submit to the PUC documentation that all notices required under this part have been given. The applicant shall document the giving of the notice by providing the PUC with affidavits of publication or mailing and copies of the notice provided.

Subp. 6. **Failure to give notice.** The failure of the applicant to give the requisite notice does not invalidate any ongoing permit proceedings provided the applicant has made a bona fide attempt to comply, although the commission may extend the time for the public to participate if the failure has interfered with the public's right to be informed about the project.

7850.2200 PUBLIC ADVISOR.

Upon acceptance of an application for a site or route permit, the commission shall designate a staff person to act as the public advisor on the project. The public advisor must be available to answer questions from the public about the permitting process. The public advisor shall not give legal advice or other advice that may affect the legal rights of the person being advised, and the public advisor shall not act as an advocate on behalf of any person.

7850.2300 PUBLIC MEETING.

Subpart 1. **Scheduling public meeting.** Upon acceptance of an application for a site or route permit, the commission shall schedule a public meeting to provide information to the public about the proposed project and to answer questions and to scope the environmental impact statement. The public meeting must be held no later than 60 days after acceptance of the application. The public meeting must be held in a location that is convenient for persons who live near the proposed project.

Subp. 2. **Notice of public meeting.** The PUC shall give at least ten days' notice of the public meeting by mailing notice to persons whose names are on the project contact list maintained pursuant to part 7850.2100, subpart 1. The PUC shall also publish notice of the public meeting in a legal newspaper of general circulation in the area where the project is proposed to be located. If appropriate, the PUC may request the applicant to include notice of the public meeting in the notice to be provided by the applicant pursuant to part 7850.2100.

Subp. 3. **Conduct of public meeting.** The commission shall appoint a person, who may be a PUC staff person, to conduct the public meeting. The public meeting must be conducted in an informal manner designed to encourage public participation. The public must be afforded an opportunity to present comments and ask questions. The PUC shall make available at the public meeting a copy of the application and other pertinent documents in the PUC files regarding the application. The staff shall explain the permitting process to the persons in attendance. A transcript of the meeting need not be maintained, although the PUC may elect to keep an audio recording of the meeting.

Subp. 4. **Applicant role.** The applicant shall provide representatives at the public meeting who are capable of answering general questions about the proposed project.

Subp. 5. **EIS scoping.** At the public meeting, the public must be provided an opportunity to comment on the scope of the environmental impact statement in accordance with part 7850.2500.

7850.2400 CITIZEN ADVISORY TASK FORCE.

Subpart 1. **Authority.** The commission has the authority to appoint a citizen advisory task force. The commission shall determine whether to appoint such a task force as early in the process as possible. The commission shall establish the size of the task force and appoint its members in accordance with Minnesota Statutes, section 216E.08. The commission shall advise of the appointment of the task force at the next monthly commission meeting.

Subp. 2. **Commission decision.** If the commission decides not to appoint a citizen advisory task force and a person would like such a task force appointed, the person may request that the commission create a citizen advisory task force and appoint its members. Upon receipt of such a request, the commission shall place the matter on the agenda for the next regular monthly commission meeting.

Subp. 3. **Task force responsibilities.** Upon appointment of a citizen advisory task force, the commission shall specify in writing the charge to the task force. The charge shall include the identification of additional sites or routes or particular impacts to be evaluated in the environmental impact statement. The commission may establish additional charges,

including a request that the task force express a preference for a specific site or route if it has one.

Subp. 4. **Termination of task force.** The task force expires upon completion of its charge, designation by the commission of alternative sites or routes to be included in the environmental impact statement, or the specific date identified by the commission in the charge, whichever occurs first.

7850.2500 EIS PREPARATION.

Subpart 1. **EIS required.** The commissioner of the Department of Commerce shall prepare an environmental impact statement on each proposed large electric power generating plant and high voltage transmission line for which a permit application has been accepted by the commissioner.

Subp. 2. **Scoping process.** The commissioner of the Department of Commerce shall provide the public with an opportunity to participate in the development of the scope of the environmental impact statement by holding a public meeting and by soliciting public comments. The public meeting required under part 7850.2300 satisfies the requirement to hold a scoping meeting. The commissioner shall provide a period of at least seven days from the day of the public meeting for the public to submit comments on the scope of the EIS. The commissioner shall determine the scope of the environmental impact statement as soon after holding the public meeting as possible. Within five days after the decision, the commissioner shall mail notice of the scoping decision to those persons whose names are on either the general list or the project contact list. Once the commissioner has determined the scope of the environmental impact statement, the scope must not be changed except upon decision by the commissioner that substantial changes have been made in the project or substantial new information has arisen significantly affecting the potential environmental effects of the project or the availability of reasonable alternatives.

Subp. 3. **Alternative sites or routes.** During the scoping process, a person may suggest alternative sites or routes to evaluate in the environmental impact statement. A person desiring that a particular site or route be evaluated shall submit to the commissioner of the Department of Commerce, during the scoping process, an explanation of why the site or route should be included in the environmental impact statement and any other supporting information the person wants the commissioner to consider. The commissioner shall provide the applicant with an opportunity to respond to each request that an alternative be included in the environmental impact statement. The commissioner shall include the suggested site or route in the scope of the environmental impact statement only if the commissioner determines that evaluation of the proposed site or route will assist in the commissioner's decision on the permit application.

Subp. 4. **Scope of EIS.** The scoping process must be used to reduce the scope and bulk of an environmental impact statement by identifying the potentially significant issues and alternatives requiring analysis and establishing the detail into which the issues will be analyzed. The scoping decision by the commissioner of the Department of Commerce shall at least address the following:

- A. the issues to be addressed in the environmental impact statement;
- B. the alternative sites and routes to be addressed in the environmental impact statement; and
- C. the schedule for completion of the environmental impact statement.

Subp. 5. **Matters excluded.** When the Public Utilities Commission has issued a Certificate of Need for a large electric power generating plant or high voltage transmission line or placed a high voltage transmission line on the certified HVTL list maintained by the commission, the environmental impact statement shall not address questions of need, including size, type, and timing; questions of alternative system configurations; or questions of voltage.

Subp. 6. **Draft EIS.** The draft environmental impact statement must be written in plain and objective language. The draft environmental impact statement shall follow the standard format for an environmental impact statement prescribed in part 4410.2300 to the extent the requirements of that rule are appropriate.

Subp. 7. **Public review.** Upon completion of the draft environmental impact statement, the commissioner of the Department of Commerce shall make the document available for public review by placing a copy of the document in a public library or other governmental office in each county where the proposed project may be located. The commissioner shall send notice of the availability of the draft environmental impact statement to each person on the project contact list maintained under part 7850.2100, subpart 1. The commissioner shall also place a notice in the EQB Monitor of the availability of the draft environmental impact statement. The commissioner shall post the environmental impact statement on the agency's web page if possible.

Subp. 8. **Informational meeting.** The commissioner of the Department of Commerce shall schedule an informational meeting to provide an opportunity for the public to comment on the draft environmental impact statement. The meeting must not be held sooner than 20 days after the draft environmental impact statement becomes available. The meeting must be held in a location convenient to persons who live near the proposed project. The commissioner shall send notice of the informational meeting to each person on the project contact list maintained under part 7850.2100, subpart 1. The commissioner shall also place notice in the EQB Monitor. The informational meeting may be held just prior to the holding of a contested case hearing on the permit application. The commissioner shall hold the record on the environmental impact statement open for receipt of written comments for not less than ten days after the close of the informational meeting.

Subp. 9. **Final EIS.** The commissioner of the Department of Commerce shall respond to the timely substantive comments received on the draft environmental impact statement consistent with the scoping decision and prepare the final environmental impact statement. The commissioner may attach to the draft environmental impact statement the comments received and its response to comments without preparing a separate document. The commissioner shall publish notice of the availability of the final environmental impact statement in the EQB Monitor and shall supply a press release to at least one newspaper of general circulation in the areas where the proposed sites or routes are located.

Subp. 10. **Adequacy determination.** The Public Utilities Commission shall determine the adequacy of the final environmental impact statement. The commission shall not decide the adequacy for at least ten days after the availability of the final environmental impact statement is announced in the EQB Monitor. The final environmental impact statement is adequate if it:

A. addresses the issues and alternatives raised in scoping to a reasonable extent considering the availability of information and the time limitations for considering the permit application;

B. provides responses to the timely substantive comments received during the draft environmental impact statement review process; and

C. was prepared in compliance with the procedures in parts 7850.1000 to 7850.5600.

If the commission finds that the environmental impact statement is not adequate, the commission shall direct the staff to respond to the deficiencies and resubmit the revised environmental impact statement to the commission as soon as possible.

Subp. 11. **Cost.** The applicant for a site permit or route permit shall pay the reasonable costs of preparing and distributing an environmental impact statement. The costs must not be assessed separately from the assessment under part 7850.1800 unless that assessment is inadequate to cover the commissioner's reasonable costs of considering the permit application.

Subp. 12. **Environmental review requirements.** The requirements of chapter 4410 and parts 7849.1000 to 7849.2100 do not apply to the preparation or consideration of an environmental impact statement for a large electric power generating plant or high voltage transmission line except as provided in parts 7850.1000 to 7850.5600.

7850.2600 CONTESTED CASE HEARING.

Subpart 1. **Hearing.** The PUC shall hold a contested case hearing after the draft environmental impact statement is prepared on all applications for a site permit or a route permit. The hearing must be conducted by an administrative law judge from the Office of Administrative Hearings pursuant to the contested case procedures of Minnesota Statutes, chapter 14. Notice of the hearing must be given in accordance with Minnesota Statutes, section 216E.03, subdivision 6. At least a portion of the hearing must be held in a county where the proposed large electric power generating plant or high voltage transmission line would be located.

Subp. 2. **Issues.** Once the commission has determined questions of need, including size, type, and timing; questions of system configuration; and questions of voltage, those issues must not be addressed in the contested case hearing.

Subp. 3. **Hearing.** If the commission determines that a hearing to consider both permitting and need issues is feasible, more efficient, and may further the public interest, the commission may decide to hold a hearing. The commission may also elect to hold a joint hearing with other states pursuant to Minnesota Statutes, section 216E.02, subdivision 3.

7850.2700 FINAL DECISION.

Subpart 1. **Timing.** The commission shall make a final decision on a site permit or a route permit application within 60 days after receipt of the report of the administrative law judge. A final decision must be made within one year after the commission's determination that an application is complete. The commission may extend this time limit for up to three months for just cause or upon agreement of the applicant.

Subp. 2. **EIS adequacy.** The commission shall not make a final decision on a permit until the commission has found the environmental impact statement to be adequate.

Subp. 3. **Certificate of need decision.** The PUC shall not make a final decision on a permit for a project that requires a Certificate of Need from the Public Utilities Commission until the applicant has obtained the necessary approval.

Subp. 4. **Notice.** The PUC shall publish notice of its final permit decision in the State Register within 30 days of the date the commission makes the decision. The PUC shall also publish notice in the EQB Monitor. The PUC shall mail notice of its final permit decision to those persons whose names are on the project contact list. The PUC shall post notice of the final decision on the agency's web page, if possible.

7850.2800 ELIGIBLE PROJECTS.

Subpart 1. **Eligible projects.** An applicant for a site permit or a route permit for one of the following projects may elect to follow the procedures of parts 7850.2800 to 7850.3900 instead of the full permitting procedures in parts 7850.1700 to 7850.2700:

- A. large electric power generating plants with a capacity of less than 80 megawatts;
- B. large electric power generating plants that are fueled by natural gas;
- C. high voltage transmission lines of between 100 and 200 kilovolts;
- D. high voltage transmission lines in excess of 200 kilovolts and less than five miles in length in Minnesota;

E. high voltage transmission lines in excess of 200 kilovolts if at least 80 percent of the distance of the line in Minnesota will be located along existing high voltage transmission line rights-of-way;

F. a high voltage transmission line service extension to a single customer between 200 and 300 kilovolts and less than ten miles in length; and

G. a high voltage transmission line rerouting to serve the demand of a single customer when the rerouted line will be located at least 80 percent on property owned or controlled by the customer or the owner of the transmission line.

Subp. 2. **Notice to PUC.** An applicant for a permit for one of the qualifying projects in subpart 1, who intends to follow the procedures of parts 7850.2800 to 7850.3700, shall notify the PUC of such intent, in writing, at least ten days before submitting an application for the project.

7850.2900 PERMIT APPLICATION UNDER ALTERNATIVE PROCESS.

Part 7850.1700, regarding submission of a permit application, applies to projects being considered under the alternative permitting process.

7850.3000 PERMIT FEES.

Part 7850.1800, regarding permit fees, applies to projects being considered under the alternative permitting process.

7850.3100 CONTENTS OF APPLICATION.

The applicant shall include in the application the same information required in part 7850.1900, except the applicant need not propose any alternative sites or routes to the preferred site or route. If the applicant has rejected alternative sites or routes, the applicant shall include in the application the identity of the rejected sites or routes and an explanation of the reasons for rejecting them.

7850.3200 APPLICATION REVIEW.

Part 7850.2000 regarding the commission's review of the application, applies to projects being considered under the alternative permitting process.

7850.3300 PROJECT NOTICE.

Part 7850.2100, regarding obligations to give notice of the project, applies to projects being considered under the alternative permitting process.

7850.3400 PUBLIC ADVISOR.

Part 7850.2200, regarding appointment of a public advisor, applies to projects being considered under the alternative permitting process.

7850.3500 PUBLIC MEETING.

Subpart 1. **Public meeting.** Part 7850.2300, subparts 1 to 4, apply to projects being considered under the alternative permitting process.

Subp. 2. **Environmental assessment.** At the public meeting, the public shall be provided an opportunity to comment on the scope of the environmental assessment in accordance with part 7850.3700.

7850.3600 CITIZEN ADVISORY TASK FORCE.

Part 7850.2400, regarding the appointment of a citizen advisory task force, applies to projects being considered under the alternative permitting process.

7850.3700 ENVIRONMENTAL ASSESSMENT PREPARATION.

Subpart 1. **Environmental assessment required.** The commissioner of the Department of Commerce shall prepare an environmental assessment on each proposed large electric power generating plant and each proposed high voltage transmission line being reviewed under the alternative permitting process in parts 7850.2800 to 7850.3900. The environmental assessment must contain information on the human and environmental impacts of the proposed project and of alternative sites or routes identified by the commissioner and shall address mitigating measures for all sites or routes considered.

Subp. 2. Scoping process.

A. The commissioner of the Department of Commerce shall provide the public with an opportunity to participate in the development of the scope of the environmental assessment by holding a public meeting and by soliciting public comments. The public meeting required under part 7850.3500 satisfies the requirement to hold a scoping meeting. The commissioner shall mail notice of the meeting to those persons on either the general list or the project contact list at least ten days before the meeting. The commissioner shall provide at least seven days from the day of the public meeting for the public to submit comments regarding the scope of the environmental assessment.

B. The commissioner shall include in the scope of the environmental assessment any alternative sites or routes proposed by the citizen advisory task force or by any member agency of the Environmental Quality Board prior to the close of the scoping period. During the scoping process, any person may suggest an alternative site or route to evaluate in the environmental assessment. A person desiring that a particular site or route be evaluated shall submit to the commissioner, during the scoping process, an explanation of why the site or route should be included in the environmental assessment and all supporting information the person wants the commissioner to consider. The commissioner shall provide the applicant with an opportunity to respond to each request that an alternative be included in the environmental assessment. The commissioner shall include the suggested site or route in the scope of the environmental assessment only if the commissioner determines that evaluation of the proposed site or route will assist in the commissioner's ultimate decision on the permit application. Any person may also suggest specific human or environmental impacts that should be included in the environmental assessment.

Subp. 3. **Scoping decision.** The commissioner of the Department of Commerce shall determine the scope of the environmental assessment within ten days after close of the public comment period and shall mail notice of the scoping decision to those persons on the project contact list within five days after the decision. Once the commissioner has determined the scope of the environmental assessment, the scope shall not be changed except upon a decision by the commissioner that substantial changes have been made in the project or substantial new information has arisen significantly affecting the potential environmental effects of the project or the availability of reasonable alternatives. The commissioner shall also determine as part of the scoping process a reasonable schedule for completion of the environmental assessment. The scoping decision by the commissioner must identify:

- A. the alternative sites or routes, if any, to be addressed in the environmental assessment;
- B. any specific potential impacts to be addressed;
- C. the schedule for completion of the environmental assessment; and
- D. other matters to be included in the environmental assessment.

Subp. 4. **Content of environmental assessment.** The environmental assessment must include:

- A. a general description of the proposed facility;
- B. a list of any alternative sites or routes that are addressed;

C. a discussion of the potential impacts of the proposed project and each alternative site or route on the human and natural environment;

D. a discussion of mitigative measures that could reasonably be implemented to eliminate or minimize any adverse impacts identified for the proposed project and each alternative site or route analyzed;

E. an analysis of the feasibility of each alternative site or route considered;

F. a list of permits required for the project; and

G. a discussion of other matters identified in the scoping process.

Subp. 5. **Time frame for completion of environmental assessment.** The commissioner of the Department of Commerce shall complete the environmental assessment in accordance with the schedule established during the scoping process. In establishing the schedule for completion of the environmental assessment, the commissioner shall take into account any applicable statutory deadlines, the number and complexity of the alternatives and impacts to be addressed, the status of other proceedings affecting the project, and the interests of the public, the applicant, and the commissioner.

Subp. 6. **Notification of availability of environmental assessment.** Upon completion of the environmental assessment, the commissioner shall publish notice in the EQB Monitor of the availability of the environmental assessment and mail notice of the availability of the document to those persons on the project contact list. The commissioner shall provide a copy of the environmental assessment to any public agency with authority to permit or approve the proposed project. The commissioner shall post the environmental assessment on the agency's web page, if possible.

Subp. 7. **Matters excluded.** When the Public Utilities Commission has issued a Certificate of Need for a large electric power generating plant or high voltage transmission line or placed a high voltage transmission line on the certified HVTTL list maintained by the commission, the environmental assessment shall not address questions of need, including size, type, and timing; questions of alternative system configurations; or questions of voltage.

Subp. 8. **No additional environmental review.** An environmental assessment must be the only state environmental review document required to be prepared by the commissioner of the Department of Commerce on a project qualifying for review under the alternative review process. No environmental assessment worksheet or environmental impact statement shall be required. Environmental review at the certificate of need stage before the Public Utilities Commission must be performed in accordance with parts 7849.1000 to 7849.2100.

Subp. 9. **Cost.** The cost of the preparation of an environmental assessment must be assessed to the applicant as part of the application fee pursuant to part 7850.1800.

7850.3800 PUBLIC HEARING.

Subpart 1. **Public hearing.** The PUC shall hold a public hearing once the environmental assessment has been completed. Notice of the hearing shall be given in accordance with Minnesota Statutes, section 216E.03, subdivision 6. At least a portion of the hearing shall be held in a county where the proposed large electric power generating plant or high voltage transmission line would be located.

Subp. 2. **Hearing examiner.** The commission shall appoint a person to act as the hearing examiner at the public hearing. The hearing examiner may be an employee of the PUC. The hearing examiner shall set the date and place for the hearing and provide notice to the public. The hearing examiner may make such rulings as are required to conduct the hearing in a fair, impartial, and expeditious manner, including the authority to maintain decorum at the hearing, to exclude repetitious or irrelevant testimony, to limit the amount of time for oral testimony, and to continue the hearing from time to time as needed. Persons may testify at the hearing without being first sworn under oath. The hearing examiner shall ensure that the record created at the hearing is preserved and transmitted to the commission.

An audio recording of the hearing must be made, unless the commission determines that a court reporter is appropriate. The hearing examiner shall not prepare a report or make any recommendation to the commission unless the commission requests the hearing examiner to do so.

Subp. 3. **Hearing procedure.** The hearing must be conducted in the following manner, although the hearing examiner may vary the order in which the hearing proceeds:

A. the staff shall make a brief presentation to describe the project, explain the process to be followed, and introduce documents to be included in the record, including the application, the environmental assessment, and various procedural documents;

B. the applicant shall introduce its evidence by way of testimony and exhibits;

C. the public must be afforded an opportunity to make an oral presentation, present documentary evidence, and ask questions of the applicant and staff;

D. the hearing examiner shall provide a period of not less than ten days for the submission of written comments into the record after the close of the hearing; and

E. the hearing examiner shall transmit the complete record created at the hearing, including all written comments, to the commission within five days of the close of the record, unless the hearing examiner has been requested by the commission to prepare a report.

Subp. 4. **Issues.** Once the Public Utilities Commission has determined questions of need, including size, type, and timing; questions of system configurations; and questions of voltage, those issues must not be addressed in the public hearing.

Subp. 5. **Environmental assessment.** Interested persons may comment upon the environmental assessment at the public hearing. Comments on the environmental assessment shall become part of the record in the proceeding but the commission shall not be required to revise or supplement the environmental assessment document.

7850.3900 FINAL DECISION.

Subpart 1. **Timing.** The commission shall make a final decision on a site permit or a route permit application within 60 days after receipt of the record from the hearing examiner. A final decision must be made within six months after the commission's determination that an application is complete. The commission may extend this time limit for up to three months for just cause or upon agreement of the applicant.

Subp. 2. **Completeness of environmental assessment.** At the time the commission makes a final decision on the permit application, the commission shall determine whether the environmental assessment and the record created at the public hearing address the issues identified in the scoping decision.

Subp. 3. **Certificate of need decision.** The PUC shall not make a final decision on a permit for a project that requires a certificate of need from the Public Utilities Commission until the applicant has obtained the necessary approval from the Public Utilities Commission.

Subp. 4. **Notice.** The PUC shall publish notice of its final permit decision in the State Register within 30 days of the day the commission makes the decision. The PUC shall also publish notice in the EQB Monitor. The PUC shall mail notice of its final permit decision to those persons whose names are on the project contact list. The PUC shall post notice of the final decision on the agency's web page, if possible.

7850.4000 STANDARDS AND CRITERIA.

No site permit or route permit shall be issued in violation of the site selection standards and criteria established in Minnesota Statutes, sections 216E.03 and 216E.04, and in rules adopted by the commission. The commission shall issue a permit for a proposed facility when the commission finds, in keeping with the requirements of the Minnesota Environmental Policy Act, Minnesota Statutes, chapter 116D, and the Minnesota Environmental Rights

Act, Minnesota Statutes, chapter 116B, that the facility is consistent with state goals to conserve resources, minimize environmental impacts, and minimize human settlement and other land use conflicts and ensures the state's electric energy security through efficient, cost-effective power supply and electric transmission infrastructure.

7850.4100 FACTORS CONSIDERED.

In determining whether to issue a permit for a large electric power generating plant or a high voltage transmission line, the commission shall consider the following:

- A. effects on human settlement, including, but not limited to, displacement, noise, aesthetics, cultural values, recreation, and public services;
- B. effects on public health and safety;
- C. effects on land-based economies, including, but not limited to, agriculture, forestry, tourism, and mining;
- D. effects on archaeological and historic resources;
- E. effects on the natural environment, including effects on air and water quality resources and flora and fauna;
- F. effects on rare and unique natural resources;
- G. application of design options that maximize energy efficiencies, mitigate adverse environmental effects, and could accommodate expansion of transmission or generating capacity;
- H. use or paralleling of existing rights-of-way, survey lines, natural division lines, and agricultural field boundaries;
- I. use of existing large electric power generating plant sites;
- J. use of existing transportation, pipeline, and electrical transmission systems or rights-of-way;
- K. electrical system reliability;
- L. costs of constructing, operating, and maintaining the facility which are dependent on design and route;
- M. adverse human and natural environmental effects which cannot be avoided; and
- N. irreversible and irretrievable commitments of resources.

7850.4200 FACTORS EXCLUDED.

When the Public Utilities Commission has issued a Certificate of Need for a large electric power generating plant or a high voltage transmission line or placed a high voltage transmission line on the certified HVTL list maintained by the commission, questions of need, including size, type, and timing, questions of alternative system configurations, and questions of voltage shall not be factors considered by the commission in deciding whether to issue a permit for a proposed facility.

7850.4500 PERMIT APPLICATION REJECTION.

The commission shall reject a permit application at the time it is submitted if the application is for a facility to be located on a prohibited site or within a prohibited route or if the applicant fails to address in the application why no feasible and prudent alternative exists for sites or routes that may be authorized in such a situation.

7850.4600 PERMIT CONDITIONS.

Subpart 1. **Generally.** The commission shall impose in any site permit for a large electric power generating plant or route permit for a high voltage transmission line such conditions as the commission deems appropriate and are supported by the record.

Subp. 2. **HVTL permits.** When the commission issues a permit for a route for a high voltage transmission line, the commission shall specify the design, route, right-of-way preparation, and facility construction and operation it deems necessary. The commission may impose a condition in the permit requiring the permittee to construct a high voltage transmission line that is capable of expansion in transmission capacity through multiple circuiting or design modifications.

7850.4700 DELAY IN ROUTE OR SITE CONSTRUCTION.

If construction and improvement of a route or site have not commenced four years after the permit has been issued by the commission, the commission shall suspend the permit. If at that time, or at a time subsequent, the permittee decides to construct the proposed large electric power generating facility or high voltage transmission line, the permittee shall certify to the commission that there have been no significant changes in any material aspects of the conditions or circumstances existing when the permit was issued. The commission shall mail notice of receipt of the certification request to those persons on the general list at least seven days before the commission's consideration of the matter, and the same notice to those persons on the project contact list if such a list exists. If the commission determines that there are no significant changes, it shall reinstate the permit. If the commission determines that there is a significant change, it may order a new hearing and consider the matter further, or it may require the permittee to file a new application.

7850.4800 MINOR ALTERATION IN GENERATING PLANT OR TRANSMISSION LINE.

Subpart 1. **Applicability.** No person may make a minor alteration in a large electric power generating plant or high voltage transmission line without approval from the commission, unless the action is exempt from review under part 7850.1500. A minor alteration is a change in a large electric power generating plant or high voltage transmission line that does not result in significant changes in the human or environmental impact of the facility. The requirements of this part apply to those facilities that have been permitted by the PUC and to those facilities that were not permitted by the PUC but meet the definition of a large electric power generating plant or high voltage transmission line under applicable law. For those large electric power generating plants or high voltage transmission lines for which no permit has been issued by the PUC, this part applies to minor alterations in the facility as it exists on February 18, 2003.

Subp. 2. **Application.** A person seeking authorization to make a minor alteration in a large electric power generating plant or high voltage transmission line shall apply to the commission. The application shall be in writing and shall describe the alteration in the large electric power generating plant or high voltage transmission line to be made and the explanation why the alteration is minor. The commission shall mail notice of receipt of the application to those persons on the general list and to those persons on the project contact list if such a list exists. The commission shall provide at least a ten-day period for interested persons to submit comments on the application or to request that the matter be brought to the commission for consideration.

Subp. 3. **Commission decision.** The commission shall decide within ten days after close of the public comment period whether to authorize the minor alteration, bring the matter to the commission for consideration, or determine that the alteration is not minor and requires a full permitting decision. The commission may authorize the minor alteration but impose reasonable conditions on the approval. The commission shall notify the applicant in writing of the commission's decision and send a copy of the decision to any person who requested notification or filed comments on the application.

Subp. 4. **Local review.** For those large electric power generating plants or high voltage transmission lines for which no permit has been issued by the PUC, the owner or operator of such unpermitted facilities may elect to seek approval of a minor alteration from the local unit of government if the facility qualifies for local review under Minnesota Statutes, section 216E.05.

7850.4900 AMENDMENT OF PERMIT CONDITIONS.

Subpart 1. **Authority.** The commission may amend any of the conditions in a site permit for a large electric power generating plant or in a route permit for a high voltage transmission line issued by the PUC upon request of any person.

Subp. 2. **Process.** The person requesting an amendment of a condition in a site permit or a route permit shall submit an application to the commission in writing describing the amendment sought and the reasons for the amendment. The commission shall mail notice of receipt of the application to those persons on the general list and to those persons on the project list if such a list exists. The commission shall provide at least a ten-day period for interested persons to submit comments on the application or to request that the matter be brought to the commission for consideration.

Subp. 3. **Decision.** The commission shall decide within ten days after close of the public comment period whether to approve the amendment request or to bring the matter to the commission for consideration. The commission shall notify the applicant in writing of the commission's decision and send a copy of the decision to any person who requested notification or filed comments on the application.

7850.5000 PERMIT TRANSFER.

Subpart 1. **Application.** A permittee holding a large electric power generating plant site permit or a high voltage transmission line route permit may request the PUC to transfer its permit. The permittee shall provide the name of the existing permittee, the name and description of the entity to which the permit is to be transferred, the reasons for the transfer, a description of the facilities affected, and the proposed effective date of the transfer. The person to whom the permit is to be transferred shall provide the PUC with such information as the PUC shall require to determine whether the new permittee can comply with the conditions of the permit. The commission shall mail notice of receipt of the application to those persons on the general list at least seven days in advance of the commission's consideration of the matter. The commission shall provide the same notice to persons on the project contact list if such a list exists.

Subp. 2. **Approval of transfer.** The commission shall approve the transfer if the commission determines that the new permittee will comply with the conditions of the permit. The commission, in approving the transfer of a permit, may impose reasonable additional conditions in the permit as part of the approval. The commission may decide to hold a public meeting to provide the public with an opportunity to comment on the request for the transfer prior to making a decision.

7850.5100 PERMIT REVOCATION OR SUSPENSION.

Subpart 1. **Initiation of action to revoke or suspend.** The commission may initiate action to consider revocation or suspension of a permit on its own motion or upon the request of any person who has made a prima facie showing by affidavit and documentation that a violation of the act, parts 7850.1000 to 7850.5600, or the permit has occurred.

Subp. 2. **Hearing.** If the commission initiates action to consider revocation or suspension of a permit, the commission shall provide the permittee with an opportunity for a contested case hearing conducted by an administrative law judge from the Office of Administrative Hearings.

Subp. 3. **Finding of violation.** If the commission finds that a violation of the act, parts 7850.1000 to 7850.5600, or the permit has occurred, it may revoke or suspend the permit,

require the utility to undertake corrective or ameliorative measures as a condition to avoid revocation or suspension, or require corrective measures and suspend the permit. In determining the appropriate sanction, the commission shall consider the following:

- A. whether the violation will result in any significant additional adverse environmental effects;
- B. whether the results of the violation can be corrected or ameliorated; and
- C. whether a suspension or revocation of a permit or certificate will impair the utility's electrical power system reliability.

7850.5200 EMERGENCY PERMIT.

Subpart 1. **Application for emergency permit.** Any utility whose electric power system requires the immediate construction of a large electric power generating plant or high voltage transmission line due to a major unforeseen event may apply to the commission for an emergency permit. The application must contain the following information:

- A. a description of the proposed large electric power generating plant or high voltage transmission line;
- B. an explanation of the major unforeseen event causing the emergency situation;
- C. a discussion of the anticipated impacts on the electric system if the proposed facility is not approved within 195 days;
- D. a copy of the written notification to the Public Utilities Commission of the major unforeseen event and the need for immediate construction; and
- E. as much of the information required under part 7850.1900 as the utility has available.

Subp. 2. **Public hearing.** The PUC shall hold a public hearing on the application for an emergency permit. The hearing must be held within 90 days after the application is submitted. The hearing must be held in accordance with part 7850.3800.

Subp. 3. **Final decision.** The commission shall make a final decision on an emergency permit within 195 days after the commission's acceptance of the application. The board shall grant the emergency permit if it finds the following:

- A. a demonstrable emergency exists;
- B. the emergency requires immediate construction;
- C. adherence to the procedures and time schedules specified in Minnesota Statutes, section 216E.03, would jeopardize the utility's electric power system or the utility's ability to meet the electric needs of its customers in an orderly and timely manner;
- D. the utility will implement mitigating measures to minimize the human and environmental impacts of the facility; and
- E. the utility will carry out the project in an expeditious manner consistent with the emergency.

Subp. 4. **Permit conditions.** The commission may impose reasonable conditions in an emergency permit.

Subp. 5. **Permit fee.** The applicant for an emergency permit shall pay the same fee as would be required for a regular permit for the same project.

7850.5300 LOCAL REVIEW OF PROPOSED FACILITIES.

Subpart 1. **Local review.** An applicant who seeks a site or route permit for one of the projects identified in subpart 2 has the option of applying to those local units of government that have jurisdiction over the site or route for approval to build the project. If local approval

is granted, a site or route permit is not required from the commission. If the applicant files an application with the PUC, the applicant shall be deemed to have waived its right to seek local approval of the project.

Subp. 2. **Eligible projects.** An applicant may seek approval from a local unit of government to construct the following projects:

- A. a large electric power generating plant with a capacity of less than 80 megawatts;
- B. a large electric power generating plant of any size that burns natural gas and is intended to be a peaking plant;
- C. a high voltage transmission line of between 100 and 200 kilovolts;
- D. a substation with a voltage designed for and capable of operation at a nominal voltage of 100 kilovolts or more;
- E. a high voltage transmission line service extension to a single customer between 200 and 300 kilovolts and less than ten miles in length; and
- F. a high voltage transmission line rerouting to serve the demand of a single customer when at least 80 percent of the rerouted line will be located on property owned or controlled by the customer or the owner of the transmission line.

Subp. 3. **Notice to PUC.** Within ten days of submission of an application to a local unit of government for approval of an eligible project, the applicant shall notify the commission in writing that the applicant has elected to seek local approval of the proposed project. Within the same ten-day period, the applicant shall mail notice to those persons on the general notification list that a permit has been applied for from the local unit of government for the project and shall provide a description of the project and the name of a person with the local unit of government to contact for more information.

Subp. 4. **Referral to PUC.** A local unit of government with jurisdiction over a project identified in this section to whom an applicant has applied for approval to build the project may request the PUC to assume jurisdiction and make a decision on a site or route permit. A local unit of government shall file the request with the commission within 60 days after an application for the project has been filed with any one local unit of government. If one of the local units of government with jurisdiction over the project requests the commission to assume jurisdiction, jurisdiction over the project transfers to the commission and the applicant shall file under the applicable provisions of parts 7850.1000 to 7850.5600 for a permit from the commission.

Subp. 5. **Environmental review.** A local unit of government that maintains jurisdiction over a qualifying project shall prepare an environmental assessment on the project. The local unit of government shall afford the public an opportunity to participate in the development of the scope of the environmental assessment before it is prepared. Upon completion of the environmental assessment, the local unit of government shall publish notice in the EQB Monitor that the environmental assessment is available for review, how a copy of the document may be reviewed, that the public may comment on the document, and the procedure for submitting comments to the local unit of government. The local unit of government shall provide a copy of the environmental assessment to the PUC upon completion of the document. The local unit of government shall not make a final decision on the permit until at least ten days after the notice appears in the EQB Monitor. If more than one local unit of government has jurisdiction over a project, and the local units of government cannot agree on which unit will prepare the environmental assessment, any local unit of government or the applicant may request the commission to select the appropriate local unit of government to be the responsible governmental unit to conduct an environmental review of the project.

Subp. 6. **No local authority.** In the event a local unit of government that might otherwise have jurisdiction over a proposed large electric power generating plant or high voltage transmission line determines that it has no ordinances or other provisions for

reviewing and authorizing the construction of such project or has no capability of preparing an environmental assessment on the project, the local unit of government shall refer the matter to the PUC for review.

Subp. 7. **Matters excluded.** When the Public Utilities Commission has issued a Certificate of Need for a large electric power generating plant or high voltage transmission line or placed a high voltage transmission line on the certified HVTTL list maintained by the commission, the local unit of government shall not address questions of need, including size, type, and timing; questions of alternative system configurations; or questions of voltage.

7850.5400 ANNUAL PUBLIC HEARING.

Subpart 1. **Annual public hearing.** The commission shall hold an annual public hearing in November or December in St. Paul in order to advise the public of matters relating to the siting of large electric power generating plants and routing of high voltage transmission lines. The meeting must be conducted by the PUC staff. At the meeting, the PUC shall advise the public of the permits issued by the PUC in the past year. The PUC shall invite representatives of other state agencies to attend the meeting and be available to answer questions by the public. An audio recording of the hearing must be maintained.

Subp. 2. **Notice.** The PUC shall provide at least ten days but no more than 45 days notice of the annual hearing by mailing notice to those persons who have requested notice and by publication in the EQB Monitor. The notice must be accompanied by a tentative agenda for the hearing.

Subp. 3. **Report.** The staff shall prepare a report of the annual hearing within 60 days after the hearing and submit it to the commission. No action on the report is required.

7850.5500 ANNUAL ASSESSMENT ON UTILITIES.

For purposes of determining the annual assessment on a utility pursuant to the act, each utility shall, on or before July 1 of each year, submit to the commission a report of its retail kilowatt-hour sales in the state and its gross revenue from kilowatt-hour sales in the state for the preceding calendar or utility reporting year. Upon receipt of these reports, the commission shall bill each utility as specified in the act.

7850.5600 PROGRAM ADVISORY TASK FORCE.

The commission may appoint a program advisory task force to provide advice and recommendations concerning development, revision, and enforcement of any rule or program initiated under the act or parts 7850.1000 to 7850.5600. The commission shall provide guidance to the program advisory task force in the form of a charge and through specific requests. The program advisory task force must be composed of as many members as may be designated by the commission and its membership must be solicited on a statewide basis. The program advisory task force and its chair must be appointed for a one-year term.

7854.0100 DEFINITIONS.

Subpart 1. **Scope.** As used in this chapter, the following terms have the meanings given them.

Subp. 2. **Associated facilities.** "Associated facilities" means facilities, equipment, machinery, and other devices necessary to the operation and maintenance of a large wind energy conversion system, including access roads, collector and feeder lines, and substations.

Subp. 3. **Commission.** "Commission" means the Minnesota Public Utilities Commission.

Subp. 4. **Construction.** "Construction" means to begin or cause to begin as part of a continuous program the placement, assembly, or installation of facilities or equipment or to conduct significant site preparation work for installation of facilities or equipment. Entering

into binding power purchase contracts or obtaining wind easements from property owners or gathering wind data is not construction.

Subp. 5. **Draft site permit.** "Draft site permit" means a document prepared by the chair that indicates a preliminary decision to issue a site permit with particular terms and conditions.

Subp. 6. **EQB Monitor.** "EQB Monitor" means the biweekly bulletin published by the Environmental Quality Board.

Subp. 7. **Large wind energy conversion system or LWECS.** "Large wind energy conversion system" or "LWECS" means a combination of wind energy conversion systems with a combined nameplate capacity of 5,000 kilowatts or more.

Subp. 8. **Person.** "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

Subp. 9. **Power purchase agreement.** "Power purchase agreement" means a legally enforceable agreement between two or more persons where one or more of the signatories agrees to provide electrical power and one or more of the signatories agrees to purchase the power.

Subp. 10. **PUC.** "PUC" means the commission and the commission's staff.

Subp. 11. **Site permit.** "Site permit" means a document issued by the commission authorizing a person or persons to construct a large wind energy conversion system under the terms and conditions specified in the document.

Subp. 12. **Small wind energy conversion system or SWECS.** "Small wind energy conversion system" or "SWECS" means a combination of wind energy conversion systems with a combined nameplate capacity of less than 5,000 kilowatts.

Subp. 13. **Wind energy conversion system or WECS.** "Wind energy conversion system" or "WECS" means a device such as a wind charger, windmill, or wind turbine and associated facilities that converts wind energy to electric energy.

7854.0200 PURPOSE.

This chapter provides for the consideration of applications for site permits for large wind energy conversion systems by the Minnesota Public Utilities Commission. This chapter is intended to provide for the siting of large wind energy conversion systems in an orderly manner compatible with environmental preservation, sustainable development, and the efficient use of resources.

7854.0300 PERMIT REQUIREMENT.

Subpart 1. **LWECS.** No person may construct an LWECS without a site permit from the commission. No person may commence construction of an LWECS until the commission has issued a site permit for the LWECS.

Subp. 2. **SWECS.** A site permit from the commission is not required to construct an SWECS. Nothing in this chapter precludes a local governmental unit from establishing requirements for the siting and construction of an SWECS.

Subp. 3. **Expansion of existing system.** No person may expand an existing LWECS by any amount or expand an SWECS to exceed 5,000 kilowatts without a site permit from the commission. A new project is considered an expansion of an existing WECS if the new WECS is within five miles of any turbine in the existing WECS, both projects are under common ownership, and a permit application for the new WECS is submitted to the PUC less than three years after the existing WECS commenced operation. Two WECS are under common ownership if the proposer of the new project, or a principal of the proposer, has

an ownership or other financial interest in the existing WECS, although two projects are not under common ownership solely because the same person provided equity financing for both projects. The requirements of this subpart do not apply to any proposed SWECS for which the necessary local approvals were obtained prior to October 1, 2002, and for which construction started prior to December 31, 2002.

7854.0400 FILING APPLICATION FOR SITE PERMIT; PROTECTING DATA.

Subpart 1. **Number of copies.** A person seeking a site permit for an LWECS shall file three copies of the application for the site permit with the PUC for review prior to acceptance of the application.

Subp. 2. **Electronic copy.** A person filing an application for a site permit for an LWECS shall provide the PUC with an electronic version of the application suitable for posting on the PUC web page. An applicant may request that the commission waive this requirement, completely or in part, if an electronic version of the application is difficult or expensive for the applicant to obtain.

Subp. 3. **Not public data.** An applicant for a site permit for an LWECS may certify, according to the Minnesota Government Data Practices Act or other applicable law, that certain information in the application is trade secret information or other protected data or information that is not available to the public. The commission shall determine if the certified data or information satisfies the requirements for the protected classification and shall advise the applicant of the commission's determination before releasing any certified data or information. An applicant may withdraw its application if the commission determines that the data or information is not entitled to the protected classification. Any person aggrieved by the decision of the commission regarding the status of certain data may request the commission to reconsider its decision. The PUC shall ensure that data or information that is entitled to a protected classification is used and disclosed only according to applicable law.

7854.0500 SITE PERMIT APPLICATION CONTENTS.

Subpart 1. **Applicant.** An applicant for a site permit must provide the following background information regarding the applicant:

- A. a letter of transmittal signed by an authorized representative or agent of the applicant;
- B. the complete name, address, and telephone number of the applicant and any authorized representative;
- C. the signature of the preparer of the application if prepared by an agent or consultant of the applicant;
- D. the role of the permit applicant in the construction and operation of the LWECS;
- E. the identity of any other LWECS located in Minnesota in which the applicant, or a principal of the applicant, has an ownership or other financial interest;
- F. the operator of the LWECS if different from the applicant; and
- G. the name of the person or persons to be the permittees if a site permit is issued.

Subp. 2. **Certificate of need or other commitment.**

A. The applicant shall state in the application whether a certificate of need for the system is required from the commission and, if so, the anticipated schedule for obtaining the certificate of need. The commission shall not issue a site permit for an LWECS for which a certificate of need is required until the applicant obtains the certificate, although the commission may process the application while the certificate of need request is pending before the commission.

B. The commission may determine if a certificate of need is required for a particular LWECS for which the commission has received a site permit application.

C. If a certificate of need is not required from the commission, the applicant shall include with the application a discussion of what the applicant intends to do with the power that is generated. If the applicant has a power purchase agreement or some other enforceable mechanism for sale of the power to be generated by the LWECS, the applicant shall, upon the request of the commission, provide the commission with a copy of the document.

Subp. 3. **State policy.** The applicant shall describe in the application how the proposed LWECS project furthers state policy to site such projects in an orderly manner compatible with environmental preservation, sustainable development, and the efficient use of resources.

Subp. 4. **Proposed site.** The applicant shall include the following information about the site proposed for the LWECS and any associated facilities:

A. the boundaries of the site proposed for the LWECS, which must be delineated on a United States Geological Survey Map or other map as appropriate;

B. the following characteristics of the wind at the proposed site:

- (1) interannual variation;
- (2) seasonal variation;
- (3) diurnal conditions;
- (4) atmospheric stability, to the extent available;
- (5) turbulence, to the extent available;
- (6) extreme conditions;
- (7) speed frequency distribution;
- (8) variation with height;
- (9) spatial variations; and
- (10) wind rose, in eight or more directions;

C. other meteorological conditions at the proposed site, including the temperature, rainfall, snowfall, and extreme weather conditions; and

D. the location of other wind turbines in the general area of the proposed LWECS.

Subp. 5. **Wind rights.** The applicant shall include in the application information describing the applicant's wind rights within the boundaries of the proposed site.

Subp. 6. **Design of project.** The applicant shall provide the following information regarding the design of the proposed project:

A. a project layout, including a map showing a proposed array spacing of the turbines;

B. a description of the turbines and towers and other equipment to be used in the project, including the name of the manufacturers of the equipment;

C. a description of the LWECS electrical system, including transformers at both low voltage and medium voltage; and

D. a description and location of associated facilities.

Subp. 7. **Environmental impacts.** An applicant for a site permit shall include with the application an analysis of the potential impacts of the project, proposed mitigative measures, and any adverse environmental effects that cannot be avoided, in the following areas:

- A. demographics, including people, homes, and businesses;
- B. noise;
- C. visual impacts;
- D. public services and infrastructure;
- E. cultural and archaeological impacts;
- F. recreational resources;
- G. public health and safety, including air traffic, electromagnetic fields, and security and traffic;
- H. hazardous materials;
- I. land-based economics, including agriculture, forestry, and mining;
- J. tourism and community benefits;
- K. topography;
- L. soils;
- M. geologic and groundwater resources;
- N. surface water and floodplain resources;
- O. wetlands;
- P. vegetation;
- Q. wildlife; and
- R. rare and unique natural resources.

The analysis of the environmental impacts required by this subpart satisfies the environmental review requirements of chapter 4410, parts 7849.1000 to 7849.2100, and Minnesota Statutes, chapter 116D. No environmental assessment worksheet or environmental impact statement shall be required on a proposed LWECs project.

Subp. 8. **Construction of project.** The applicant shall describe the manner in which the project, including associated facilities, will be constructed.

Subp. 9. **Operation of project.** The applicant shall describe how the project will be operated and maintained after construction, including a maintenance schedule.

Subp. 10. **Costs.** The applicant shall describe the estimated costs of design and construction of the project and the expected operating costs.

Subp. 11. **Schedule.** The applicant shall include an anticipated schedule for completion of the project, including the time periods for land acquisition, obtaining a site permit, obtaining financing, procuring equipment, and completing construction. The applicant shall identify the expected date of commercial operation.

Subp. 12. **Energy projections.** The applicant shall identify the energy expected to be generated by the project.

Subp. 13. **Decommissioning and restoration.** The applicant shall include the following information regarding decommissioning of the project and restoring the site:

- A. the anticipated life of the project;
- B. the estimated decommissioning costs in current dollars;
- C. the method and schedule for updating the costs of decommissioning and restoration;

D. the method of ensuring that funds will be available for decommissioning and restoration; and

E. the anticipated manner in which the project will be decommissioned and the site restored.

Subp. 14. **Identification of other permits.** The applicant shall include in the application a list of all known federal, state, and local agencies or authorities, and titles of the permits they issue that are required for the proposed LWECS.

7854.0600 APPLICATION ACCEPTANCE.

Subpart 1. **Action by commission.** Within 30 days after receipt of an application for a site permit, the commission shall accept, conditionally accept, or reject the application. If the commission conditionally accepts or rejects an application, the commission shall advise the applicant in writing of the deficiencies in the application and the manner in which the deficiencies can be addressed. Upon refile of a revised application, the commission shall again act on the application within 30 days after receipt.

Subp. 2. **Notice of application acceptance.** Within 15 days after commission acceptance of an application, the applicant shall provide notice of the application to the county board, each city council, and each township board in each county where the LWECS is proposed to be located and shall publish notice of the application in a newspaper of general circulation in each county. Failure to give this notice or a delay in providing this notice constitutes cause to reject an application or delay a decision by the commission. The commission may elect to give this notice in lieu of requiring the applicant to provide the notice.

Subp. 3. **Additional copies.** Upon acceptance of the application by the commission, the commission shall advise the applicant of how many additional copies of the application to submit to the PUC. The applicant shall also provide a copy of the accepted application to the Minnesota Historical Society and to each landowner within the boundaries of the proposed LWECS site. The applicant shall also provide a copy to the office of each regional development commission of a development region, the auditor of each county, and the clerk of each city and township in which the LWECS is to be located. Each county auditor, city clerk, and township clerk shall retain the application and make it available for public inspection upon request. The applicant shall maintain a list of all persons to whom copies of the application are provided.

7854.0700 PUBLIC ADVISOR.

Upon acceptance of an application for a site permit, the commission shall designate a staff person to act as the public advisor on the project. The public advisor shall be available to answer questions from the public about the permitting process. The public advisor shall not give legal advice or other advice that may affect the legal rights of the person being advised, and the public advisor shall not act as an advocate on behalf of any person.

7854.0800 PRELIMINARY DETERMINATION AND DRAFT SITE PERMIT.

Subpart 1. **Preliminary determination.** Within 45 days after acceptance of the application by the commission, the commission shall make a preliminary determination whether a permit may be issued or should be denied. If the preliminary determination is to issue a permit, the commission shall prepare a draft site permit for the project. The draft site permit must identify the person or persons who will be the permittee, describe the proposed LWECS, and include proposed permit conditions.

Subp. 2. **Effect of draft site permit.** A draft site permit does not authorize a person to construct an LWECS. The commission may change the draft site permit in any respect before final issuance or may deny the site permit.

7854.0900 PUBLIC PARTICIPATION.

Subpart 1. **Public notice.** Upon preparation of a draft site permit, the PUC shall provide public notice of the draft site permit. The public notice must include the following:

- A. the name and address of the applicant for the site permit;
- B. a concise description of the proposed LWECS project;
- C. the location where a copy of the site permit application may be reviewed and how a copy of the application may be obtained;
- D. a statement of the availability of the draft site permit;
- E. the name of the public advisor and how the public advisor may be contacted to obtain more information;
- F. the time and place of a public information meeting;
- G. a statement that during the comment period any person may submit comments to the commission on the draft site permit, a statement of the dates on which the comment period commences and terminates, and a statement that any person may request a contested case hearing on the matter; and
- H. a brief description of the anticipated procedures for reaching a final decision on the permit application.

Subp. 2. **Distribution of public notice.** The PUC shall publish the notice in a newspaper in each county in which the proposed LWECS is to be located. The PUC shall also mail the public notice to those persons known to the PUC to be interested in the proposed LWECS project, including governmental officials in each county in which the LWECS is proposed to be located. The PUC shall also publish notice in the EQB Monitor.

Subp. 3. **Public comments on draft site permit.** The PUC shall afford the public a minimum of 30 days after publication of the draft site permit notice in the EQB Monitor to submit written comments to the PUC. The commission may extend the public comment period if necessary to afford the public adequate time to review the application and other pertinent information in order to formulate complete comments on the draft site permit and the project.

Subp. 4. **Public information meeting.** The PUC shall hold at least one public information meeting in a convenient location in the vicinity of the proposed LWECS project. The PUC shall give the public at least ten days' notice of the public information meeting. The public information meeting must be held more than ten days prior to the end of the public comment period on the draft site permit. The commission shall extend the comment period if necessary to meet this requirement.

Subp. 5. **Contested case hearing.**

A. Any person may request in writing that a contested case hearing be held on an application for a site permit for a proposed LWECS project. The contested case hearing request must be filed within the time period established for submitting comments on the draft site permit. The person requesting the public hearing shall include, as part of the request, the issues to be addressed in the hearing and the reasons a hearing is required to resolve those issues.

B. The commission shall order a contested case hearing if the commission finds that the person requesting the contested case hearing has raised a material issue of fact and that holding a hearing would aid the PUC in making a final determination on the permit application.

C. The hearing must be conducted according to the rules of the Office of Administrative Hearings.

D. For a contested case hearing, the commission shall identify the issues to be resolved and limit the scope and conduct of the hearing according to applicable law, due process, and fundamental fairness. Alternatively, the commission may request the administrative law judge to identify the issues and determine the appropriate scope and conduct of the hearing according to applicable law, due process, and fundamental fairness.

7854.1000 FINAL SITE PERMIT DECISION.

Subpart 1. **Commission action.** Upon completion of the procedures and requirements of this chapter, the matter must be brought to the commission for a final decision. If a contested case hearing has been held, the commission shall act according to applicable requirements for action in a contested case proceeding. If no contested case hearing has been held, the commission shall compile the record that has been created and make a decision on the basis of that record.

Subp. 2. **Time limit for decision.** The commission shall take final action on the application for a site permit for an LWECS within 180 days after acceptance of an application by the commission, unless the applicant agrees to an extension or the commission extends this deadline for cause.

Subp. 3. **Determination by commission.** The commission shall not issue a site permit for an LWECS unless the commission determines that the project is compatible with environmental preservation, sustainable development, and the efficient use of resources, and the applicant has complied with this chapter.

Subp. 4. **Conditions.** The commission may include in a site permit conditions for turbine type and designs, site layout and construction, and operation and maintenance of the LWECS, including the requirement to restore, to the extent possible, the area affected by construction of the LWECS to the natural conditions that existed immediately before construction of the LWECS and other conditions that the commission determines are reasonable to protect the environment, enhance sustainable development, and promote the efficient use of resources.

Subp. 5. **Term.** The term of a site permit for an LWECS is 30 years. The commission may renew the permit for an appropriate period of time upon request of the permit holder.

7854.1100 PERMIT AUTHORITY LIMITED.

Subpart 1. **Wind rights.** Nothing in a site permit for an LWECS shall be construed to convey the right to install a wind turbine in an area within the boundaries of the project for which the permittee does not hold the wind rights.

Subp. 2. **Other LWECS construction.** Nothing in a site permit for an LWECS shall be construed to preclude another person from seeking a site permit to construct an LWECS in an area within the boundaries of the project covered by the permit if the permittee does not hold exclusive wind rights for the areas.

Subp. 3. **Power purchase agreement.** A site permit does not authorize construction of the project until the permittee has obtained a power purchase agreement or some other enforceable mechanism for sale of the power to be generated by the project. If the permittee does not have a power purchase agreement or other enforceable mechanism at the time the permit is issued, the commission shall provide in the permit that the permittee shall advise the commission when it obtains a commitment for purchase of the power. The commission may establish as a condition in the permit a date by which the permittee must obtain a power purchase agreement or other enforceable mechanism or the site permit is null and void.

7854.1200 DELAY IN CONSTRUCTION.

If the permittee has not commenced construction of the project within two years after issuance of the site permit, the permittee must advise the commission of the reasons construction has not commenced. In such event, the commission may determine whether

the permit should be revoked. No revocation of a permit for failure to commence construction may be undertaken except in accordance with part 7854.1300, subpart 4.

7854.1300 SITE PERMIT AMENDMENT OR REVOCATION.

Subpart 1. **New boundary.** Once construction of an LWECS is completed, the permittee shall advise the commission of the completion of the project and the commission shall amend the site permit to specifically define the area authorized for the LWECS. The boundary must be no larger than necessary to allow for efficient operation of the LWECS. If any person objects to the amendment of the permit to reflect the actual boundaries of the project, the commission shall bring the matter for decision in accordance with applicable procedural requirements.

Subp. 2. **Permit amendment.** The commission may amend a site permit for an LWECS at any time if the commission has good cause to do so.

Subp. 3. **Permit revocation.** The commission may revoke a site permit for an LWECS at any time if the commission determines that any of the following has occurred:

A. the applicant knowingly made a false statement in the application or in accompanying statements or studies required of the applicant, if a true statement would have warranted a change in the commission's findings;

B. the applicant has failed to comply with a material condition or term of the permit;

C. the permitted LWECS endangers human health or the environment and the danger cannot be resolved by modification of the permit or LWECS; or

D. the permittee has violated other laws that reflect an inability of the permittee to comply with the permit.

Subp. 4. **Procedure.** The commission may initiate action to consider amendment or revocation of a site permit for an LWECS on its own initiative or upon the request of any person. No site permit may be amended or revoked without first providing notice and affording due process to the permit holder.

7854.1400 PERMIT TRANSFER.

Subpart 1. **Request for transfer.** A permittee of a site permit for an LWECS may apply to the PUC for the transfer of its permit. The permittee must provide the name of the existing permittee, the name and description of the person to whom the permit is to be transferred, the reasons for the transfer, a description of the facilities affected, and the requested date of the transfer. The person to whom the permit is to be transferred shall provide the PUC with information required by the PUC to determine whether the new permittee can comply with the conditions of the permit. The permittee shall provide notice of the request to those persons identified by the PUC as persons interested in the matter.

Subp. 2. **Approval of transfer.** The commission shall approve the transfer if the commission determines that the new permittee will comply with the conditions of the permit. The commission, in approving the transfer of a permit, may impose reasonable additional conditions in the permit as part of the approval. The commission may hold a public meeting to provide the public with an opportunity to comment on the request for the transfer prior to making a decision.

7854.1500 FEES.

Subpart 1. **Fee requirement.** An applicant for a site permit under Minnesota Statutes, section 216F.04, shall pay an application fee to the PUC. The purpose of the application fee is to cover actual costs necessarily and reasonably incurred in processing an application for a site permit, including, but not limited to, staff time, expenses for public notice and meetings, environmental review, administrative overhead, and legal expenses.

APPENDIX
Repealed Minnesota Rules: S4784-3

Subp. 2. **Determination of PUC budget.** Upon receipt of an application for a site permit, the commission shall estimate the costs the PUC expects to incur in processing the application and establish an estimated budget. If the applicant disagrees with the amount of the estimated budget, the applicant may request that the Public Utilities Commission determine the appropriate estimated budget.

Subp. 3. **Initial payment.** Upon determination of the estimated budget, the applicant shall pay at least 50 percent of the estimated budget to the PUC. The commission shall not process a permit application until the first portion of the fee is submitted. The PUC shall deposit all money received from an applicant for permit fees in a special account.

Subp. 4. **Periodic payments.** The remaining costs incurred by the PUC must be paid in periodic payments upon receipt of an invoice from the PUC. The PUC shall not make a final decision on a site permit application if any assessed fees are unpaid.

Subp. 5. **Final accounting.** At the end of the permitting process, including any judicial review of the commission's final decision, the PUC shall provide a final accounting to the applicant of the total cost of processing the permit application. The applicant may review all actual costs associated with processing an application and present objections to the commission. The applicant shall make the final payment within 30 days of notification, or the PUC shall refund any excess payments within 30 days of the final accounting.