

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben
Valerie Means
Matthew Schuerger
Joseph K. Sullivan
John A. Tuma

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Xcel
Energy for a Route Permit for a 3.2-mile,
345-kilovolt Transmission Line in Sherburne
County

ISSUE DATE: September 22, 2022

DOCKET NO. E-002/TL-21-189

In the Matter of the Application of Xcel
Energy for a Route Permit for a 1.7-mile,
345-kilovolt Transmission Line in Sherburne
County

DOCKET NO. E-002/TL-21-190

In the Matter of the Application of Xcel
Energy for a Site Permit for the up to 460-
megawatt Sherco Solar Energy Generating
System in Sherburne County

DOCKET NO. E-002/GS-21-191

ORDER ISSUING SITE AND ROUTE
PERMITS

PROCEDURAL HISTORY

On April 20, 2021, Northern States Power Company, d/b/a Xcel Energy (Xcel), submitted an application for a site permit and two route permits for the Sherco Solar Project in Sherburne County (the project).

On July 6, 2021, the Commission issued an order in Docket No. E-002/M-20-891 exempting the project from the certificate-of-need requirement based on a previously approved bidding process under Minn. Stat. § 216B.2422, subd. 5(b).¹

On August 11, 2021, the Commission issued an order finding Xcel Energy's application for a site permit and two route permits substantially complete.² The Commission requested the Department of Commerce, Energy Environmental Review and Analysis unit (EERA) continue to study the issues and indicate during the hearing process whether it is reasonable to grant the site and route permits. In addition, the Commission found it appropriate to proceed with the

¹ *In the Matter of Xcel Energy's Petition for Approval of the Sherco Solar Project*, Docket No. E-002/M-20-891, Order Granting Certificate of Need Exemption (July 6, 2021).

² Order Accepting Application as Complete and Authorizing Use of the Alternative Review Process (Aug. 11, 2021).

alternative review process under Minn. R. 7850.2800–.3900 and requested that an Administrative Law Judge (ALJ) from the Office of Administrative Hearings (OAH) preside over the alternative review process.³

On August 31 and September 1, 2021, EERA and Commission staff conducted in-person and remote joint public information and environmental assessment scoping meetings for the project at Becker High School in Becker.

On December 10, 2021, the Commission issued an order requiring the inclusion of certain alternatives in the environmental assessment.⁴

On December 13, 2021, EERA issued its environmental assessment scoping decision.

On February 7, 2022, the City of Becker (Becker) filed a document titled “City of Becker’s Environmental Review Submission,” which provided information related to five parcels of land included in the footprint of the proposed solar project that the city identified as problematic to its future development plans.

On March 15, 2022, EERA filed the environmental assessment.

On April 4, 2022, the Commission issued a notice regarding public hearings and the availability of the environmental assessment.

On April 6, 2022, Xcel and Becker filed a joint letter and direct testimony announcing their agreement to Site Alternative 1A.

On April 14, 2022, Xcel filed a letter responding to EERA’s questions regarding how Xcel could maintain the up to 460 MW capacity for Site Alternative 1A.

On April 20 and 21, 2022, ALJ Kimberly Middendorf held in-person and remote public hearings regarding the project.

On May 5, 2022, EERA submitted comments recommending revisions to Xcel’s draft decommissioning plan and Section 9.1 of the draft site permit regarding decommissioning.

By May 9, 2022, written comments regarding the project were submitted by the following:

- Center for Energy and the Environment (CEE)
- International Brotherhood of Electrical Workers – Local 292 (IBEW)
- MN Representative Jamie Long
- John Adams
- Minnesota American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)

³ The OAH docket number for this proceeding is OAH 21-2500-37959.

⁴ Order for Consideration of Additional Site Alternatives in Environmental Assessment (Dec. 10, 2021).

- Kelsey Brodt
- Laborers’ International Union of North America – Minnesota and North Dakota (LIUNA)
- North Central States Regional Council of Carpenters (NCSRCC)
- Minnesota Farmers Union
- Department of Natural Resources
- Nick Parmenter

On May 16, 2022, Xcel submitted a reply to written comments and oral comments raised at the public hearings.

On May 31, 2022, EERA responded to Xcel’s reply comments.

On June 21, 2022, the ALJ filed her findings of fact, conclusions of law, and recommendation (ALJ Report).

On July 12, 2022, Xcel filed a letter compiling the special permit conditions agreed to by Xcel and EERA.

On August 18, 2022, the Commission met to consider the matter, and the record closed under Minn. Stat. § 14.61, subd. 2.

FINDINGS AND CONCLUSIONS

I. Summary of Commission Action

In this order, the Commission will take the following actions:

1. Adopt the ALJ Report to the extent it is consistent with the Commission’s final decisions.
2. Determine that the environmental assessment and the record created in this matter address the issues identified in the scoping decision.
3. Issue a site permit for the Sherco Solar Project.
4. Issue a route permit for the high-voltage transmission line for the East Block portion of the Sherco Solar Project.
5. Issue a route permit for the high-voltage transmission line for the West Block portion of the Sherco Solar Project.

II. Background

A. Project Summary

The proposed project is an up to 460 megawatt (MW) solar project and two high-voltage transmission lines to interconnect the solar project to the electrical grid. The solar project would border the city of Becker in Sherburne County and consist of the East Block in Becker Township

and the West Block in Clear Lake Township. Both blocks would be built adjacent to Xcel's Sherburne County coal-fired generating facility (Sherco Generating Plant), which will cease operations in 2023. The solar project will connect to the electrical grid at the existing Sherburne County Substation via the East and West 345 kilovolt (kV) high-voltage transmission line projects. The West transmission line project would be approximately 3.2 miles long and the East transmission line project would be approximately 1.7 miles long.

The primary components of the solar facility would include photovoltaic (PV) panels affixed to a linear ground-mounted single-axis tracking system, solar inverters, an electrical collection system, access roads, security fencing, two electric collector step-up substations, an operation and maintenance facility, stormwater drainage basins, and weather stations. Xcel estimates total project costs will be \$621 million, and the solar project has an anticipated service life of 35 years.

B. Site Alternative 1A

During the proceeding, Becker expressed concerns with five parcels in the project footprint, arguing that solar development on those parcels could impede the city's future growth. Xcel and Becker maintained collaborative discussions over these issues, and they were able to agree to Site Alternative 1A, which would exclude those five parcels totaling approximately 246.7 acres from the project footprint. Xcel indicated that it would work to select equipment and refine the design of the solar project to achieve up to 460 MW capacity within the remaining project footprint.

III. Comments

A. Oral Comments

The Commission accepted oral comments on the project during the in-person and remote-access public hearings held by the ALJ on April 20 and 21, 2022. At the in-person hearing, 18 people spoke, while 5 people spoke at the remote-access hearing. The ALJ summarized each oral comment in the ALJ Report.

Commenters at the public hearings expressed support for and opposition to the project. Supporters touted the potential jobs the project would create for local residents, the transition to renewable energy, and local economic benefits. Opponents raised various concerns with the project, including the loss of agricultural land, visual impacts of solar panels, and the loss of jobs from decommissioning the Sherco Generating Plant.

B. Written Comments

The Commission received written comments from a variety of stakeholders. Several union groups weighed in to support the project. The AFL-CIO noted that the project would create 900 local union construction jobs and that Xcel had a goal of including 50 participants from the Workforce Training and Development Pilot program, which is designed to recruit, employ and support individuals from underrepresented populations—including people of color, women and veterans—on energy construction and maintenance projects. IBEW recommended requiring that state licensure requirements be applied to the project, while NCSRCC and LIUNA opposed this and noted that state law exempts utility generation projects from state licensure requirements.

CEE described its studies documenting the impact of power plant retirements on host communities. CEE emphasized the importance of replacing the tax base provided by the retiring Sherco Generating Plant and maintaining the community's role as a power provider. CEE also noted the opportunity to train current Sherco plant workers in solar project development and diversify the utility workforce. Lastly, CEE lauded the project's use of existing utility assets such as interconnection rights.

DNR recommended a number of special permit conditions regarding the following topics: avoiding impacts to the snowmobile trail that bisects the East Block, protection measures for the loggerhead shrike and Blanding's turtle, a perimeter fencing plan to mitigate wildlife impacts, wildlife-friendly erosion control blankets, mitigating impacts from facility lights, restricting mowing of established vegetation from mid-April to mid-August, avoidance of certain dust control products, placement of avian flight diverters on the transmission lines, and wetland buffers.

EERA submitted comments recommending revisions to Xcel's draft decommissioning plan and Section 9.1 of the draft site permit to require Xcel to submit an updated plan prior to the pre-construction meeting. EERA agreed with DNR's recommended permit conditions and noted that Xcel's goal to meet the highest standard for vegetation management established by the Board of Water and Soil Resources exceeds the requirements in the draft site permit.

State Representative Jamie Long filed a letter supporting the project due to its environmental and economic benefits, including the carbon-free electricity generation that utilizes existing transmission capacity, union jobs, tax-base replacement, and equity and diversity in hiring.

The Minnesota Farmers Union filed comments supporting the project, particularly due to its avoidance of prime farmland.

Members of the public commented to support the project because it will provide carbon-free, economical energy and avoid volatile fossil-fuel pricing. But commenters also expressed concern about less power being produced on site and the loss of jobs from retirement of the Sherco Generating Plant.

C. Xcel Response

Xcel filed reply comments thanking the public for its support and responding to several issues raised by commenters. Xcel disagreed with IBEW that state licensure requirements should be applied to the project; Xcel argued that the project is exempt from those requirements as it will be owned, operated, and maintained by a utility. Xcel indicated that it has and will continue to coordinate with the Vegetation Management Plan Working Group in an effort to meet the "gold standard" of the Board of Water and Soil Resources Wildlife Friendly Solar Program, and it did not object to site permit language requiring that the final vegetation management plan be submitted prior to construction.

In response to DNR, Xcel stated that it had coordinated with the local snowmobile association and proposed permit language requiring coordination to reroute the snowmobile trail. Xcel agreed to nearly all DNR's recommendations, and the Company proposed special permit conditions regarding the loggerhead shrike, Blanding's turtle, perimeter fencing, wildlife-

friendly erosion control, facility lighting, and dust control. Regarding DNR's mowing restriction recommendation, Xcel asserted that it must properly maintain the project as an energy-producing facility, but it reaffirmed its commitment to coordinating with the Vegetation Management Plan Working Group to address any concerns.

In response to EERA, Xcel stated that it would make a correction to the financial surety portion of the decommissioning plan. As EERA noted in response comments, Xcel did not indicate whether it supported or opposed EERA's recommendation regarding the change to Section 9.1 of the draft site permit.

IV. ALJ Report

A. ALJ's Recommendation

The ALJ issued a thorough report detailing the proceedings, the evidence in the record, the arguments of parties and commenters, and the various issues discussed during environmental review and evaluation of the site and route permits.

As discussed further in each section below, the ALJ found that the environmental assessment addressed the issues raised in the scoping decision and concluded that the project satisfies the criteria for the requested permits. The ALJ therefore recommended that the Commission issue a site permit and two route permits for the project.

B. Commission Action

The Commission has examined and considered the record and the ALJ Report. The Commission finds that the report is well-reasoned and thorough, and no exceptions to the ALJ Report were filed. Based on the record, the Commission concurs with the ALJ's findings of fact, conclusions of law, and recommendation, and will adopt them to the extent they are consistent with the Commission's decisions on the site permit and route permits as discussed below.

V. Environmental Review

A. Legal Standard

As a large electric power generating plant powered by solar energy, the proposed solar project qualifies for the alternative review process under Minn. Stat. § 216E.04 and Minn. R. 7850.2800–.3900.⁵ The proposed high-voltage transmission lines also qualify for this alternative review process because they are each less than five miles in length.⁶ This more streamlined process does not require the applicant to propose a second site or route for the project and requires the preparation of an environmental assessment as the only state environmental review document.

⁵ Minn. Stat. § 216E.04, subd. 2(8).

⁶ *Id.*, subd. 2(4).

The environmental assessment contains information on the human and environmental impacts of the proposed project and alternative sites or routes included in the scoping decision. It also addresses mitigating measures for all sites or routes considered.⁷

The environmental assessment is shaped by the scoping process. After receiving public input, EERA issues a scoping decision identifying the alternatives, potential impacts, and mitigation measures to be addressed in the environmental assessment.⁸ EERA then prepares and issues the environmental assessment. The Commission's role is to determine whether the environmental assessment and the record address the issues identified in the scoping decision.⁹

B. Environmental Assessment

The scoping decision offers an overview of the project description and the regulatory process, and it summarizes the comments submitted during the scoping process. EERA offered its analysis and recommendation for the alternatives to be included in the environmental assessment and outlined the numerous issues to be addressed.

A main issue identified in scoping was Becker's request for alternative siting options that would remove two parcels from the East Block and three parcels from the West Block of the solar generating system, because the project's footprint encompasses areas of interest for future business growth and development.

The scoping decision recommended two alternatives to the proposed siting of the solar generating system. Alternative 1 would remove the parcels requested by Becker with no substitute parcels. Alternative 2 would remove the requested parcels and substitute parcels at a site west of the project in Clear Lake. The scoping decision did not identify any alternative high-voltage transmission line routes.

C. ALJ Recommendation

The ALJ found that "the evidence in the record demonstrates that the [environmental assessment] is adequate because the [environmental assessment] and the record created at the public hearing and during the subsequent comment period address the issues and alternatives raised in the Scoping Decision."¹⁰

D. Commission Action

The Commission agrees with the ALJ that the environmental assessment and the record created in this matter address the issues identified in the scoping decision. The environmental assessment was prepared in accordance with Minn. R. 7850.3700, and all procedural requirements have been met. Therefore, the environmental-review requirements for the project have been satisfied.

⁷ Minn. R. 7850.3700, subp. 1.

⁸ *Id.*, subp. 2–3.

⁹ Minn. R. 7850.3900, subp. 2.

¹⁰ ALJ Report, finding 327.

VI. Site and Route Permits

A. Legal Standard

Under Minn. Stat. § 216E.03, subd. 1, any person constructing a large electric generating facility must first obtain a site permit from the Commission. The solar project qualifies as a large electric generating facility under Minn. Stat. § 216E.01, subd. 5, because it can generate 50 megawatts or more of electricity. The project also qualifies as a solar energy generating system under Minn. Stat. § 216E.03, subd. 9a, because the primary purpose of the facility is to produce electricity by a combination of collecting, transferring, and converting solar-generated energy.

Under 216E.03, subd. 2, any person constructing a high-voltage transmission line must first obtain a route permit. The transmission lines proposed for the project qualify as high-voltage transmission lines because they each are over 100 kilovolts and greater than 1,500 feet in length.¹¹

Chapter 216E requires that the Commission's site and route permit determinations "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,"¹² as well as the considerations listed Minn. Stat. § 216E.03, subd. 7(b) and Minn. R. 7850.4100.

B. ALJ Recommendation

The ALJ recommended that the Commission issue a site permit and two route permits to Xcel to construct and operate the up to 460 MW Solar Project in the area identified as Site Alternative 1A, as well as the two associated 345 kV transmission lines. The ALJ recommended that the site permit and two route permits include the permit conditions proposed by Xcel and identified in the ALJ Report.

C. Commission Action

Based on careful consideration of the record, as well as the site permit and route permit criteria contained in Minn. R. 7850.4100 and Minn. Stat. § 216E.03, the Commission concludes that all procedural requirements have been met and that the project, subject to the conditions in the attached site and route permits, is consistent with state 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.

The Commission will therefore adopt the ALJ Report to the extent it is consistent with the Commission's final decisions. The Commission will issue the following permits attached to this order: 1) site permit for the up to 460-megawatt Sherco Solar Project; 2) route permit for the 1.7-mile, 345-kilovolt high-voltage transmission line for the East Block portion of the Sherco Solar Project; and 3) route permit for the 3.2-mile, 345-kilovolt high-voltage transmission line for the West Block portion of the Sherco Solar Project.

¹¹ Minn. Stat. § 216E.01, subd. 4.

¹² Minn. Stat. § 216E.03, subd. 7(a).

ORDER

1. The Commission adopts the ALJ Report to the extent it is consistent with the Commission's final decisions.
2. The Commission determines that the environmental assessment and the record created in this matter address the issues identified in the Scoping Decision.
3. The Commission issues the site permit attached to this order for the up to 460-megawatt Sherco Solar Project in Sherburne County.
4. The Commission issues the route permit attached to this order for the 1.7-mile, 345-kilovolt high-voltage transmission line for the East Block portion of the Sherco Solar Project in Sherburne County.
5. The Commission issues the route permit attached to this order for the 3.2-mile, 345-kilovolt high-voltage transmission line for the West Block portion of the Sherco Solar Project in Sherburne County.
6. This order shall become effective immediately.

BY ORDER OF THE COMMISSION



Will Seuffert
Executive Secretary



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