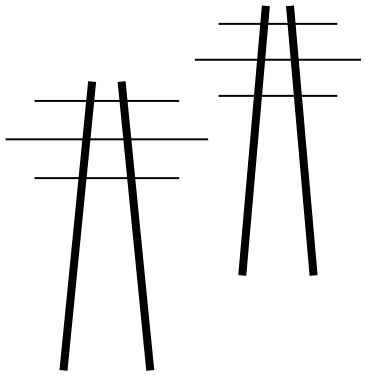
Legalectric, Inc.
Carol Overland **Attorney at Law, MN #254617**
Energy Consultant—Transmission, Power Plants, Nuclear Waste
overland@legalectric.org

1110 West Avenue
Red Wing, Minnesota 55066
612.227.8638



April 13, 2026

Sasha Bergman
Executive Secretary
Public Utilities Commission
121 – 7th Place East
St. Paul, MN 55101

via eFiling only

RE: Petition for Rulemaking – Minn. R. ch. 7849 and 7850

Gopher-Badger/Maribell 765kV Transmission Line - CN-25-121

Power On Midwest – 765kV Transmission Lines - CN-25-117

Iron Range – Arrowhead 345kV Transmission Line - CN-25-111/112

Maple River – Cuyuna 345kV Transmission Line - CN-25-109

Dear Ms. Bergman:

I'm filing this as an individual, an attorney who has worked on more routing and siting dockest than I care to remember, and not in the course of representation of any client, although FULL DISCLOSURE, I am representing clients on the above-captioned Tranche 2.1 transmission line projects.

Attached please find Petition and proposed rules for Ch. 7849 and 7850, from the prior rulemaking docket.
.
In the 2024 legislative session, as you know, there were significant changes to utility infrastructure siting statutes. Worse, most of the siting and routing rules were repealed, leaving only three with little substance:

7850.4000	STANDARDS AND CRITERIA.
7850.4300	PROHIBITED ROUTES.
7850.4300	PROHIBITED ROUTES.

The existing rules in ch. 7849 were untouched, but remain outdated.

Despite this dearth of routing and siting rules, we are now embarking on Certificate of Need and Routing of MISO's Tranche 2.1, which includesmultiple345kV transmission lines and the first 765kV lines in Minnesota – WITHOUT UPDATED CH. 7849 RULES AND ONLY THREE 7850 RULES!!

It's time to fix this mess and comply with the legislative mandate to promulgate rules. Although that statute does say "may," it's hard to imagine a legitimate refusal to enact rules when all but three have been repealed.

The 2024 legislation has a rulemaking mandate:

> **216I.26 RULES.**
>
> Subdivision 1. **Commission rules.** The commission, in order to give effect to the purposes of this chapter, may adopt rules consistent with this chapter, including promulgation of site and route designation criteria, the description of the information to be furnished by the utilities, establishment of minimum guidelines for public participation in the development, revision, and enforcement of any rule, plan, or program established by the commission, procedures for the revocation or suspension of a site or route permit, and the procedure and timeliness for proposing alternative routes and sites. A rule adopted by the commission must not grant priority to state-owned wildlife management areas over agricultural lands in the designation of route avoidance areas. Chapter 14 applies to the appeal of rules adopted by the commission to the same extent as it applies to review of rules adopted by any other agency of state government.
>
> Subd. 2. **Office of Administrative Hearings rules.** The chief administrative law judge must adopt procedural rules for public hearings relating to the site and route permit process. The rules must attempt to maximize citizen participation in these processes consistent with the time limits for commission decision established under this chapter.
>
> **History:** *1973 c 591 s 16; 1975 c 271 s 6; 1977 c 439 s 22; 1978 c 658 s 2; 1982 c 424 s 130; 1984 c 640 s 32; 2001 c 212 art 7 s 27; 2005 c 97 art 3 s 19; 2024 c 126 art 7 s 14; art 9 s 15; 2024 c 127 art 43 s 14; art 45 s 15*

I've searched the dockets and from May 1, 2024 to the present, I find only R-25-86 and R-26-81. No rulemaking docket has been opened for Chapter 7850. There is no rulemaking docket for updating the ch. 7849 Certificate of Need rules, and we have major Certificate of Need dockets proceeding right now.

Most Commissioners were not around for the 2005 changes, though Commissioners Sieben and Tuma were, and most of the staff have retired or left, though the few remaining may remember the very late start to rulemaking for chapters 7849 and7850, Commission docket R-12-1246 and the unfortunate withdrawal of the proposed rules..

As a member of that Advisory group, I encouraged two client groups to participate, and we made many journeys to St. Paul for hours long meetings, spent time reviewing, proposing, and editing multiple versions, and when this finally came before the Commission in 2021, and attended that meeting where the years' long work was tossed in the waste basket. The written Order issued March 1, 2022, seventeen years after the 2005 legislation!

The proposed rules would have addressed many siting and routing concerns and would have brought the rules in line with the "new" 2005 statutory changes. Instead, there were no updates whatsoever. Withdrawal of these proposed rules late in 2021 was not just an insult to those of us

putting so much time into the process, but was an irresponsible choice by the Commission to proceed with outdated rules for so many years.

It should be noted that as those proposed rules were to come before the Commission in December, 2021, there was an intense orchestrated effort of comments stating **"I oppose the proposed amendments in their entirety,"** a canned statement from so many who could not be bothered to participate in the meetings and commentary opportunities over nine years in the open rulemaking process from 2012 to 2022. See R-12-1246, November 12-22, 2021 for canned "comments."

We now have another opportunity to update the rules – something which should be done before the many Tranche 2.1 transmission projects, and others requiring siting and routing permits, wind their way through the system.

At this time, I Petition the Commission to begin the rulemaking for siting and routing, Chapters 7849 and 7850 in earnest. Because there are essentially no rules remaining in Chapter 7850, this is urgent.

Very truly yours,

Carol A. Overland
Attorney at Law

cc: Mike Bull mike.bull@state.mn.us
Bret Eknes bret.eknes@state.mn.us

BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben	**Chair**
Hwikwon Ham	**Commissioner**
Audrey C. Partridge	**Commissioner**
Joseph K. Sullivan	**Commissioner**
John A. Tuma	**Commissioner**

OVERLAND PETITION FOR RULEMAKING

MINN. R. CH. 7850 – SITING AND ROUTING

With this Petition for Rulemaking, I request that the Public Utilities Commission commit to an expediated rulemaking for Chapters 7849 and 7850 to bring the rules in line with the 2024 legislative changes. At this time, although the rules for Chapter 7849 remain, all but THREE rules in Chapter 7850 were repealed. It is unreasonable and irresponsible to proceed with need and routing dockets without updated rules, or in the case of Chapter 7850, without rules.

Name and address: Carol A. Overland
Legalectric
1110 West Avenue
Red Wing, MN 55066

612-227-8638
overland@legalectric.org

Group Represented or Title: No Group – Petitioning as Individual with extensive knowledge of transmission need and siting, and also rulemaking.

Specific action requested: Promulgate rules for Minn. R. ch. 7850, as all but 3 were repealed. Promulgate and revise rules for Minn. R. ch. 7849 as rules are outdated.

I request that the agency named above (check one):

- **X Adopt a new rules, Chapter 7850, governing transmission and power plant siting**
- **X Amend Minnesota Rules, Chapter 7849 governing Certificate of Need**

Need for the requested action: URGENT. As above, nearly all rules of ch. 7850 were repealed in 2024 legislation. Chapter 7849 is outdated. There are many transmission and generating routing and siting applications and Certificate of Need applications under

review or pending.

Proposed language: Attached.

This petition is being eFiled in eDockets, and also filed by mail, as required by Minn. R. 1400.2040 and 1400.2500, sent to Sasha Bergman, Executive Secretary for the Commission, and also served by mail on Attorney General Keith Ellison.

The Public Utilities Commission has a convenient out when it comes to promulgating rules. Minn. Stat. 14.06:

> **14.06 REQUIRED RULES.**
> (a) Each agency shall adopt rules, in the form prescribed by the revisor of statutes, setting forth the nature and requirements of all formal and informal procedures related to the administration of official agency duties to the extent that those procedures directly affect the rights of or procedures available to the public.
>
> (b) Upon the request of any person, and as soon as feasible and to the extent practicable, each agency shall adopt rules to supersede those principles of law or policy lawfully declared by the agency as the basis for its decisions in particular cases it intends to rely on as precedents in future cases. **This paragraph does not apply to the Public Utilities Commission.**

Minn. Stat. §14.06 (emphasis added).

The 2024 Energy Omnibus (Ominous) Bill contains a rulemaking mandate, though it states the Commission "may adopt." There is no excuse to move forward with routing and siting after the 2024 legislature repealed most of Minn. R. ch. 7850 – what more can be said?

> **216I.26 RULES.**
>
> Subdivision 1. **Commission rules.** The commission, in order to give effect to the purposes of this chapter, may adopt rules consistent with this chapter, including promulgation of site and route designation criteria, the description of the information to be furnished by the utilities, establishment of minimum guidelines for public participation in the development, revision, and enforcement of any rule, plan, or program established by the commission, procedures for the revocation or suspension of a site or route permit, and the procedure and timeliness for proposing alternative routes and sites. A rule adopted by the commission must not grant priority to state-owned wildlife management areas over agricultural lands in the designation of route avoidance areas. Chapter 14 applies to the appeal of rules adopted by the commission to the same extent as it applies to review of rules adopted by any other agency of state government.
>
> Subd. 2. **Office of Administrative Hearings rules.** The chief administrative law judge must adopt procedural rules for public hearings relating to the site and route permit process. The rules must attempt to maximize citizen participation in these processes consistent with the time limits for commission decision established under this chapter.
>
> **History:** *1973 c 591 s 16; 1975 c 271 s 6; 1977 c 439 s 22; 1978 c 658 s 2; 1982 c 424 s 130; 1984 c 640 s 32; 2001 c 212 art 7 s 27; 2005 c 97 art 3 s 19; 2024 c 126 art 7 s 14; art 9 s 15; 2024 c 127 art 43 s 14; art 45 s 15*

I have searched the rulemaking "R" dockets, and from May 1, 2024 to the present, I find only R-25-86, ongoing, and R-26-81, denied. No rulemaking docket has been opened for Chapter 7850. There is no rulemaking docket for updating the Chapter 7849 Certificate of Need rules.

The Public Utilities Commission is the regulator. How does the Commission regulate without rules? How can transmission be routed, generation sited, legitimately without rules? We have major, novel, and very large Certificate of Need applications before the Commission, dockets proceeding right now where demonstration of need is more important than ever[1]. We will soon have routing dockets open for the 765kV transmission line from border to border across southern Minnesota, and the others of MISO Tranche 2.1.

At this time, I request that the Commission:

- Immediately begin an expedited rulemaking process for Chapter 7849 and 7850, with rules for Chapter 7850 taking the highest priority.[2]
- Use the rules developed in R-12-1246, attached for your consideration, as starting point.
- Appoint an Advisory Committee. Minn. Stat. §14.101, Subd. 2.
- Notices for request for comments on possible rules and solicitation for Advisory Committee members should be sent to the general notice list and service and interest lists for all current transmission and siting proceedings.
- Stay any routing and siting applications underway at the Commission until there are rules for routing and siting.

Respectfully submitted:

Carol A Overland

Dated: April 13, 2026

Carol A. Overland MN Lic. 254617
Attorney at Law
1110 West Avenue
Red Wing, MN 55066
(612) 227-8638
overland@legalectric.org

[1] See Commission dockets CN-25-109 & 110; CN-25-111 & 112; CN-25-117 (including 118, 119, 120); and CN-25-121 (including 122).
[2] For example, see Minn. Stat. §14.389 (applicable when legislature specifies expedited process).

Public Utilities Commission – DECEMBER 1, 2021 DRAFT

Proposed Permanent Rules Relating to Power Plants or Lines; Revising the Certificate of Need and Site or Route Permit Requirements

7849.0010 DEFINITIONS.

Subpart 1. **Scope.** ~~For purposes of parts 7849.0010 to 7849.0400, the following definitions shall apply.~~ The terms used in this chapter have the meanings given them in this part.

Subp. 2. [See repealer.]

Subp. 3. [See repealer.]

Subp. 4. [See repealer.]

Subp. 5. [See repealer.]

Subp. 6. [See repealer.]

Subp. 6a. **Associated facilities.** "Associated facilities" means buildings, equipment, and other physical structures that are necessary to operate a large electric generating facility or a large high voltage transmission line.

Subp. 7. **Capacity factor.** "Capacity factor" means the ratio of the actual amount of electrical energy generated during a designated period by a particular generating facility to the maximum amount of electrical energy that could have been generated during the period by the facility had it been operated continuously at its rated capacity.

Subp. 8. **Commission.** "Commission" means the ~~Minnesota~~ Public Utilities Commission.

Subp. 9. **Construction.** "Construction" means significant physical alteration of ~~a site~~ an area to install or enlarge a large energy facility, but not including an activity incident to preliminary engineering or environmental studies.

Subp. 9a. **Department.** "Department" means the Department of Commerce.

Subp. 9b. **Environmental assessment or EA.** "Environmental assessment" or "EA" has the meaning given in part 7850.1000, subpart 7.

Subp. 9c. **Environmental impact statement or EIS.** "Environmental impact statement" or "EIS" has the meaning given in part 7850.1000, subpart 8.

Subp. 9d. **Environmental report.** "Environmental report" means a written document that describes the human and environmental impacts of a proposed large electric generating facility or ~~large~~ high voltage transmission line and alternatives to the project and methods to mitigate anticipated adverse impacts.

Subp. 10. [See repealer.]

Subp. 11. [See repealer.]

Subp. 12. **Heat rate.** "Heat rate" means a measure of average thermal efficiency of an electric generating facility expressed as the ratio of input energy per net kilowatt hour produced, computed by dividing the total energy content of fuel burned for electricity generation by the resulting net kilowatt hour generation.

Subp. 12a. **High voltage transmission line; HVTL.** "High voltage transmission line" or "HVTL" means a conductor of electrical energy as defined by Minnesota Statutes, section 216B.2421, subdivision 2, clauses (2) and (3), and associated facilities necessary for normal operation of the conductor, such as insulators, towers, substations, and terminals.

Subp. 12b. **Independent power producer.** "Independent power producer" means any person engaged in the business of owning, operating, maintaining, or controlling equipment or facilities to furnish electric generation. Independent power producer does not include a public utility, municipal electric utility, municipal power agency, cooperative electric association, generation and transmission cooperative power association, or any other entity providing retail electric service to ultimate consumers.

Subp. 13. **Large electric generating facility~~;~~ or LEGF.** "Large electric generating facility" or "LEGF" means an electric power generating unit or combination of units as defined by Minnesota Statutes, section 216B.2421, subdivision 2, clause (1).

Subp. 14. [See repealer.]

Subp. 15. **Load center.** "Load center" means that portion or those portions of a utility's system where electrical energy demand is concentrated.

Subp. 16. [See repealer.]

Subp. 16a. **Mail.** "Mail" has the meaning given in part 7850.1000, subpart 12.

Subp. 17. [See repealer.]

Subp. 18. [See repealer.]

Subp. 19. [See repealer.]

Subp. 20. **Nominal generating capability.** "Nominal generating capability" means the average output power level, net of in-plant use, that a proposed LEGF is expected to be capable of maintaining over a period of four continuous hours of operation.

Subp. 21. [See repealer.]

Subp. 22. [See repealer.]

Subp. 23. **Peak demand.** "Peak demand" means the highest system demand occurring within any designated period of time.

Subp. 24. [See repealer.]

Subp. 24a. **Region.** "Region" means the state of Minnesota, neighboring states, and states or Canadian provinces with utilities that are members of the same regional transmission organization as Minnesota's utilities.

Subp. 25. ~~**Seasonal adjusted net demand**~~ **Regional transmission organization or RTO.** ~~"Seasonal adjusted net demand" means seasonal system demand, minus firm purchases, plus firm sales.~~ "Regional transmission organization" or "RTO" means a regional transmission organization regulated by the Federal Energy Regulatory Commission that includes Minnesota utilities and that has sufficient regional scope to exercise operational or functional control of facilities used for electric energy transmission in interstate commerce and to ensure nondiscriminatory access to the facilities.

Subp. 26. [See repealer.]

Subp. 27. [See repealer.]

Subp. 28. [See repealer.]

Subp. 29. **System.** "System" means the service area where the utility's ultimate consumers are located and that combination of generating, transmission, and distribution facilities that makes up the operating physical plant of the utility, whether owned or nonowned, for the delivery of electrical energy to ultimate consumers.

Subp. 30. [See repealer.]

Subp. 31. **Ultimate consumers.** "Ultimate consumers" means consumers purchasing electricity for their own use and not for resale.

Subp. 32. **Utility.** "Utility" means any entity engaged in the generation, transmission, or distribution of electrical energy, including but not limited to a private investor-owned utility or a public or municipally owned utility.

Subp. 33. [See repealer.]

7849.0030 SCOPE.

Subpart 1. **Facilities covered.** ~~A person applying for a certificate of need for an LEGF or an LHVTL shall provide the information required by parts 7849.0010 to 7849.0400.~~ A

certificate of need is required for a new LEGF, a new ~~LHVTL~~ HVTL, and for expansion of either facility when the expansion is itself of sufficient size to come within the definition of "large electric generating facility" or "~~large~~ high voltage transmission line" in part 7849.0010. The nominal generating capability of an LEGF is considered its size. If the nominal generating capability of an LEGF varies by season, the higher of the two seasonal figures is considered its size.

Subp. 2. **Exemption.** Notwithstanding subpart 1, a certificate of need is not required under this chapter for a facility exempted by Minnesota Statutes, ~~section~~ sections 216B.2422, subdivision 6; 216B.2425, subdivision 3; and 216B.243, ~~subdivision~~ subdivisions 8 and 9.

7849.0100 PURPOSE OF CRITERIA.

The criteria for assessment of need must be used by the commission to determine the need for a proposed large energy facility under Minnesota Statutes, sections 216B.2421, subdivision 2, and 216B.243. The ~~factors listed under each of the~~ criteria ~~set forth~~ in part 7849.0120 must be evaluated to the extent that the commission considers them applicable and pertinent to a facility proposed under ~~parts 7849.0010 to 7849.0400. The commission shall make a specific written finding with respect to each of the criteria~~ this chapter.

7849.0110 ALTERNATIVES CONSIDERATION.

The commission ~~shall~~ must consider ~~only those~~ alternatives proposed before the close of the public hearing ~~and~~ for which there exists substantial evidence on the record with respect to ~~each of~~ the criteria ~~listed~~ in part 7849.0120.

7849.0115 CERTIFICATE OF NEED REQUIREMENTS.

Subpart 1. **Need demonstration.** An applicant for a certificate of need must demonstrate that the projected demand for electricity cannot be met using existing resources, or more cost-effectively through energy conservation and load-management measures, unless the applicant otherwise justifies its need, considering the criteria in part 7849.0120.

Subp. 2. **Renewable resource preferred.** An applicant proposing a large energy facility that generates or transmits electric power by means of a nonrenewable energy source must demonstrate that it has considered the use of renewable energy sources, as required under Minnesota Statutes, section 216B.243, subdivision 3a.

7849.0120 CERTIFICATE OF NEED CRITERIA.

~~A certificate of need must be granted to the applicant on determining that:~~ In evaluating a certificate of need application, the commission must consider the criteria under Minnesota Statutes, section 216B.243, subdivision 3, as well as:

A. whether the probable result of denial would be an adverse effect upon the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and ~~neighboring states, considering:~~ the region;

~~(1) the accuracy of the applicant's forecast of demand for the type of energy that would be supplied by the proposed facility;~~

~~(2) the effects of the applicant's existing or expected conservation programs and state and federal conservation programs;~~

~~(3) the effects of promotional practices of the applicant that may have given rise to the increase in the energy demand, particularly promotional practices which have occurred since 1974;~~

B. ~~(4)~~ the ability of current facilities and planned facilities not requiring certificates of need to meet the future demand; ~~and~~

~~(5) the effect of the proposed facility, or a suitable modification thereof, in making efficient use of resources;~~

~~B.~~ C. ~~a~~ whether the proposed project is more reasonable and prudent than any proposed alternative ~~to the proposed facility has not been,~~ demonstrated by a preponderance of the evidence on the record~~, considering:~~;

D. ~~(1)~~ the appropriateness of the size, the type, and the timing of the proposed facility compared to those of reasonable alternatives;

E. ~~(2)~~ the cost of the proposed facility and the cost of energy to be supplied by the proposed facility compared to the costs of reasonable alternatives and the cost of energy that would be supplied by reasonable alternatives;

F. ~~(3)~~ the effects of the proposed facility upon the natural and socioeconomic environments, including human health, compared to the effects of reasonable alternatives; and

G. ~~(4)~~ the expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives~~;~~.

~~C. by a preponderance of the evidence on the record, the proposed facility, or a suitable modification of the facility, will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health, considering:~~

~~(1) the relationship of the proposed facility, or a suitable modification thereof, to overall state energy needs;~~

~~(2) the effects of the proposed facility, or a suitable modification thereof, upon the natural and socioeconomic environments compared to the effects of not building the facility;~~

~~(3) the effects of the proposed facility, or a suitable modification thereof, in inducing future development; and~~

~~(4) the socially beneficial uses of the output of the proposed facility, or a suitable modification thereof, including its uses to protect or enhance environmental quality; and~~

~~D. the record does not demonstrate that the design, construction, or operation of the proposed facility, or a suitable modification of the facility, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.~~

7849.0125 NOTICE LISTS.

Subpart 1. **Notice lists required.** Notice lists must be established and maintained as described in this part.

Subp. 2. **General list.** The commission must maintain a general list of persons who want to be notified of an application for a proposed site or route permit. The general list must include the names on the list the commission maintains under part 7850.1610, subpart 2.

Subp. 3. **Project contact list.** The commission must maintain a project contact list for each proposed project. The project contact list must include the names of persons who have requested to receive notice of a proposed project. The commission must add a person's name to the list if the commission has reason to believe that the person would like to receive notices of a particular project.

Subp. 4. **Public agency contact list.** The commission must maintain a public agency contact list that includes public agencies likely to be interested in the proposed project. The list must include:

A. the department;

B. the Office of the Attorney General;

C. the United States Army Corps of Engineers;

D. the United States Fish and Wildlife Service;

E. the Federal Aviation Administration; and

F. other state agencies, including:

(1) the Department of Natural Resources;

(2) the Pollution Control Agency;

(3) the Department of Transportation;

(4) the Department of Agriculture;

(5) the Department of Health;

(6) the Office of Pipeline Safety;

(7) the Board of Water and Soil Resources;

(8) the State Historic Preservation Office;

(9) the Department of Employment and Economic Development; and

(10) the Department of Labor and Industry.

Subp. 5. **Landowner list.** An applicant must maintain and make available to the commission, the department, or the public upon request a landowner list for its proposed project. For purposes of the landowner list, a landowner is the person listed on the property record of the county auditor. In a county where tax statements are mailed by the county treasurer, the landowner is the person listed on the property record of the county treasurer. The list must include:

A. for an HVTL, landowners whose property is along a transmission line;

B. for an LEGF, landowners whose property is within the proposed project footprint or within one-half mile of the project footprint, as shown in the applicant's certificate of need application; and

C. for all projects, landowners who are reasonably likely to be affected by the proposed project.

Subp. 6. **Local ~~and tribal~~ government contact list.** An applicant must maintain and make available to the commission and department upon request a list of local units of government, including each local unit of government's chief executive, located in the proposed project footprint. The list must include each:

A. regional development commission;

B. county;

C. incorporated municipality;

D. town;

E. township;

F. statutory city;

G. home rule charter city;

~~H. tribal government;~~

I. watershed district; and

J. soil and water conservation district.

Subp. 7. **List maintenance.**

A. Lists must be maintained as provided in this subpart.

B. A name must not be removed from a list unless:

(1) an individual requests to be removed from the list; or

(2) the commission or applicant sends written notice to an individual on the list asking whether that person's name should remain on the list and no response is received within 30 days of the request.

C. A list must be updated as follows:

(1) the commission or applicant must add the name of a person or entity to a list upon the person's or entity's request;

(2) the applicant must update the landowner list to include each landowner whose property is on or adjacent to the proposed footprint of a project alternative considered in the scope of the environmental report under part 7849.1425; and

(3) the applicant must update the local ~~and tribal~~ government contact list to include each governmental entity located in the area of a project alternative considered in the scope of the environmental report under part 7849.1425.

D. The entity maintaining the list must file the list in the commission's electronic filing system.

7849.0129. **Tribal consultation.** The commission must maintain a contact list for all eleven federally recognized tribes that share geography with Minnesota. The Commission must follow its tribal Consultation Policy for consultation with tribal governments in any pending proceeding under this Chapter. The Department must engage in tribal consultation at each point in this rule chapter where notice is required to be sent to the tribal government contact list. The Department must report the results of its tribal consultation at the time it files either its EA or EIS with a subsequent update after all notices under this chapter have been sent to the tribal government contact list.

7849.0130 PROJECT NOTICE.

Subpart 1. **Notice required.** At least 45 days but not more than 60 days before filing a certificate of need application for an HVTL or an LEGF under this chapter, an applicant must provide notice of a proposed project in the form and manner described in subparts 2 to 7.

Subp. 2. **Notice recipients; all projects.** An applicant must file notice of a proposed project with the commission and mail notice of the proposed project to:

A. the general list;

B. the public agency contact list;

C. the landowner list;

D. the tribal government contact list; and

E. the local ~~and tribal~~ government contact list.

Subp. 3. **Notice content.** The notice must include:

A. for an HVTL:

(1) a map showing:

(a) the end points of the line and existing transmission facilities in the area, including transmission facilities 69 kilovolts or greater; and

(b) shaded-in areas showing possible routes; and

(2) a description of general right-of-way requirements for a line of the size and voltage proposed and a statement that the applicant intends to acquire property rights for the right-of-way that the proposed line will require;

B. for an LEGF:

(1) a map showing the location and project footprint of the proposed facility; and

(2) a description of the proposed project that identifies the proposed fuel source and includes the approximate size of the proposed facility; and

C. for all projects:

(1) a description of the proposed project;

(2) a notice that the line or facility cannot be constructed unless the commission certifies it is needed;

(3) the commission's mailing address, telephone number, and website address, and a brief explanation detailing how to get on the mailing list for the commission's proceeding;

(4) if the applicant is ~~a utility~~ subject to Minnesota Statutes, section 216B.2425, the address of the website on which the applicant has posted its most recent biennial transmission projects report;

(5) a statement that the department will prepare an environmental report on each HVTL or LEGF for which certification is requested;

(6) a statement that a request seeking certification of high voltage transmission lines and large electric generating facilities is governed by Minnesota law, including this chapter and Minnesota Statutes, section 216B.243;

(7) a statement that public meetings will be held by the department and the commission, and that the public will have an opportunity to ask questions about the project, suggest alternatives, and identify impacts for evaluation in the environmental report;

(8) a statement informing the public of where copies of filings in the case are available for review and how copies can be obtained; and

(9) a statement that the proposed project may affect landowners and residents in the area and whether ~~that~~ the applicant may use eminent domain proceedings to obtain land for the project.

Subp. 4. **Newspaper notice.** An applicant must publish in newspapers of general circulation notice to members of the public in each county where a project is proposed. The notice must include a description of the proposed project's location, the proposed project's

infrastructure, and specify a location where the public may obtain additional project information.

Subp. 5. **Press release.** An applicant must mail notice of the proposed project to at least one radio station in each county where the proposed project will be located. If a county does not have a radio station, the applicant must issue a press release to at least one radio station that broadcasts in the county. The notice must be in the form of a press release and must include:

A. the intended application filing date;

B. a description of the location of the proposed project and the project's infrastructure;

C. a statement that the proposed project may affect landowners and residents in the project area and ~~that~~ whether the applicant may use eminent domain proceedings to obtain land for the project;

D. a description specifying where the public may obtain the application, including an electronic link to the application; and

E. information regarding how to contact the commission for information on public participation in the commission's proceeding.

The press release under this subpart for an LEGF must include the proposed fuel source type for the project.

Subp. 6. **Compliance filing.** Within 30 days of the date the notice was mailed, the applicant must file a compliance filing that includes:

A. a copy of the notice sent under subparts 2 to 5 and an affidavit of service that includes the names and addresses of the notice recipients;

B. each affidavit of publication by newspaper;

C. a copy of the press release sent and a list of the stations the press release was sent to; and

D. a map or other graphical representation of the area where the applicant mailed notice of the proposed project under subparts 2 to 5.

Subp. 7. **Good faith sufficient.** The commission is prohibited from denying a request to certify an HVTL or an LEGF on the grounds the notice was defective if the applicant acted in good faith, in substantial compliance with the notice requirements of this part, and in substantial compliance with any commission orders issued under this part. If notice was defective, the commission must consider whether to reject an application as incomplete, suspend or extend the certificate of need proceedings, or direct the applicant to provide proper notice. ~~The commission must modify the process schedule, including notice to affected parties, to allow reasonable time and opportunity to participate.~~

7849.0200 APPLICATION ~~PROCEDURES AND TIMING~~ FORM AND MANNER OF FILING.

Subpart 1. ~~**Form and manner**~~ **Electronic filing.** An applicant ~~for a certificate of need shall apply in a form and manner prescribed by parts 7849.0010 to 7849.0400~~ subject to the electronic filing requirements under Minnesota Statutes, section 216.17, subdivision 3, must follow the filing procedures under Minnesota Statutes, section 216.17, subdivision 3, when filing a certificate of need application.

Subp. 2. ~~**Copies, title, table of contents**~~ **Nonelectronic filing.** An applicant who does not file an application electronically must file the original and ~~13~~ three copies of the application ~~must be filed~~ with the commission. ~~The applicant shall provide copies of the application to other state agencies with regulatory responsibilities in connection with the proposed facility and to other interested persons who request copies. The applicant shall maintain a distribution list of the copies.~~ Documents, forms, and schedules filed with the application must be ~~typed~~ printed on 8-1/2 inch by 11 inch paper except for drawings, maps, and similar materials.

Subp. 2a. **Form.** An application must contain a title page and a complete table of contents that includes the applicable rule by the titles and numbers given in parts 7849.0010 to 7849.0400. The date of preparation and the applicant's name must appear on the title page, as well as on each document filed with the application.

Subp. 3. **Changes to application.** After an application is filed, any supplemental filings, changes, or corrections to the application must comply with ~~subpart 2 as to the number of copies and size of documents~~ this part. ~~In addition,~~ Each page ~~of~~ containing a change or correction to a previously filed page must be marked with the word "REVISED" and with the date the revision was made. The original copy of the changes or corrections must be filed with the administrative law judge~~,~~ and ~~the remaining copies must be submitted to~~ the commission. If there is no proceeding pending before an administrative law judge, the filing must be made with the commission. The applicant ~~shall~~ must send to persons receiving copies of the application a like number of copies of changed or corrected pages.

Subp. 4. **Cover letter and summary.** An application for a certificate of need must be accompanied by a cover letter signed by an authorized officer or agent of the applicant. The cover letter must specify the type of facility for which a certificate of need is requested. The application must also include on a separate page a brief summary of the filing sufficient to apprise potentially interested parties of the nature of the application and its general content.

Subp. 5. [See repealer.]

Subp. 6. **Exemptions.** Before submitting an application, a person is exempted from any data requirement of parts ~~7849.0010~~ 7849.0020 to 7849.0400 if the person (1) requests an exemption from specified rules, in writing to the commission, and (2) shows that the data requirement is unnecessary to determine the need for the proposed facility or may be satisfied by submitting another document. A request for exemption must be filed at least 45 days before submitting an application. ~~The commission shall respond in writing to a request for exemption within 30 days of receipt and include the reasons for the decision.~~ The commission shall file a statement of exemptions granted and reasons for granting them

before beginning the hearing.

Subp. 7. **Service.** The applicant must serve a copy of the application on the department and the Office of the Attorney General and must mail notice of the application to:

A. the general list;

B. the public agency contact list;

C. the landowner list;

D. the tribal government contact list; and

E. the local ~~and tribal~~ government contact list.

Subp. 8. **Docket number.** The applicant must obtain a docket number from the department for the case prior to filing its application. The applicant must display the docket number on the title page of the application and in a prominent location on all other documents filed as part of the application.

Subp. 9. **Joint applications.** If an applicant intends to file a certificate of need application simultaneously with a permit application under chapter 7850, the applicant must first file a draft permit application as required under part 7850.1640. The certificate of need application must be filed at the time the applicant files a permit application under part 7850.1700. The commission must determine, under part 7850.2140, whether to hold joint proceedings on both applications. Joint environmental review by the department on multiple applications is governed by part 7849.1900.

7849.0208 COMPLETENESS DETERMINATION.

Subpart 1. **Written notice required.** Within ten days of receiving an application for a certificate of need, the commission's executive secretary must determine whether the application is complete and notify the applicant in writing of the decision. The executive secretary must designate a commission staff person as public advisor for the proceeding and must include the staff person's name and contact information in the notice provided to

the applicant. The executive secretary must file notice of the completeness determination in the commission's electronic filing system.

Subp. 2. **Incomplete application.** If the application is incomplete, the executive secretary must set the matter for review by the commission at the earliest possible commission agenda meeting, considering the applicant's availability and request for additional time. If the applicant files the missing information prior to the commission meeting, the executive secretary must remove the item from the agenda and notify the applicant in writing that the application is complete.

7849.0220 APPLICATION CONTENTS.

Subpart 1. ~~**Large electric generating facilities (LEGF)**~~ **All applicants.** Each application ~~for a certificate of need for an LEGF shall include all of the information required by parts 7849.0240, 7849.0250, and 7849.0270 to 7849.0340.~~ must contain:

A. a statement that the applicant has complied with the notice requirements under part 7849.0130;

B. a summary of the major factors that justify the need for the proposed project;

C. a description of how the proposed project meets the requirements under part 7849.0115; and

D. an analysis of the proposed project using the criteria under part 7849.0120, including how the proposed project compares to reasonable alternatives.

Subp. 2. ~~**Large high voltage**~~ **Regional transmission** ~~**lines (LHVTL)**~~ **planning.** Each application ~~for a certificate of need for an LHVTL shall include all of the information required by parts 7849.0240 and 7849.0260 to 7849.0340. If, however, a proposed LHVTL is designed to deliver electric power to a particular load center within the applicant's system, the application shall contain the information required by part 7849.0270 for that load center rather than for the system as a whole.~~ must contain a description of applicable regional planning information, including:

A. regional planning processes that identified the need for the proposed project;

B. a statement on whether the facility is part of an approved RTO regional or interregional plan, and if so, a copy of the plan or an electronic link to the plan;

C. data from the RTO on planned additions or retirements that are relevant to the need for the proposed project; and

D. a physical copy of, or an electronic link to, each study the applicant relied on to demonstrate the project is needed under Minnesota Statutes, section 216B.243, subdivision 1.

Subp. 2a. **Joint proceedings.** The application must include a statement explaining whether the applicant intends to file a site or a route permit application for the proposed project, and if so, include the date the applicant intends to make the filing and whether the applicant intends to request that joint proceedings be held under part 7850.2140.

Subp. 3. **Joint ownership and multiparty use.** If the proposed LEGF or ~~LHVTL~~ HVTL is to be owned jointly by two or more utilities or by a pool, the information required by parts 7849.0010 to 7849.0400 must be provided by each joint owner for its system. If the facility is designed to meet the long term needs, in excess of 80 megawatts, of a particular utility that is not to be an owner, that utility must also provide the information required by parts 7849.0010 to 7849.0400. Joint applicants may use a common submission to satisfy the requirements of any part for which the appropriate response does not vary by utility.

7849.0250 PROPOSED LEGF AND ALTERNATIVES APPLICATION.

An application for a proposed LEGF must include:

A. a description of the facility, including:

(1) the nominal generating capability of the facility, as well as a discussion of the effect of the economies of scale on the facility size and timing;

(2) a description of the anticipated operating cycle, including the expected annual capacity factor;

(3) the type of fuel used, including the reason for the choice of fuel, projection of the availability of this fuel type over the projected life of the facility, and alternate fuels, if any;

(4) for fossil fuel facilities, the anticipated heat rate of the facility; ~~and~~

(5) to the fullest extent known to the applicant, the anticipated areas where the proposed facility could be located;

(6) a map scale showing the applicant's system or, when providing a group of maps, one set of maps in scale to the others and labeled "combination scale map". If the applicant does not own or operate an electric system, the applicant must provide a map of the area including the proposed facility; and

(7) a list of any state or federal energy mandate the facility is designed to satisfy and an explanation describing how the proposed project satisfies the mandate;

B. a discussion of the availability of alternatives to the facility, including ~~but not limited to~~:

(1) purchased power;

(2) increased efficiency of existing facilities, including transmission lines;

(3) new transmission lines;

(4) new generating facilities of a different size or ~~using~~ that use a different energy source (fuel oil, natural gas, coal, nuclear fission, ~~and the~~ emergent technologies, and renewable resources); ~~and~~

(5) demand-response programs;

(6) distributed generation;

(7) energy storage;

(8) a no-build alternative;

~~(5)~~ (9) any reasonable combinations of the alternatives listed in subitems (1) to ~~(4)~~ (7); and

(10) energy conservation in combination with other alternatives;

C. for a renewable LEGF designed to meet state or federal renewable energy standards, the applicant is only required to discuss the alternatives under item B that are eligible to meet state or federal renewable energy standards; and

~~C.~~ D. for the proposed facility and for each of the alternatives provided in response to item B that could provide electric power at the asserted level of need, a discussion of:

(1) its capacity cost in current dollars per kilowatt;

(2) its service life;

(3) its estimated average annual availability and capacity factor;

(4) its fuel costs in current dollars per kilowatt-hour;

(5) its variable operating and maintenance costs in current dollars per kilowatt-hour;

(6) the total cost in current dollars of a kilowatt-hour provided by it;

(7) ~~an estimate of its effect on rates systemwide and in Minnesota, assuming a test year beginning with the proposed in-service date~~ the estimate of the present value of the revenue requirement of the proposed facility;

(8) for a fossil fuel facility or a transmission facility, its efficiency, expressed for a generating facility as the estimated heat rate, or expressed for a transmission facility

as the estimated system losses under projected maximum loading and under projected average loading in the length of the transmission line and at the terminals or substations; ~~and~~

(9) the major assumptions made in providing the information in subitems (1) to (8), including projected escalation rates for fuel costs and operating and maintenance costs, as well as projected capacity factors; and

(10) the expected effects on the natural and socioeconomic environments, including human health.

~~D. a map (of appropriate scale) showing the applicant's system; and~~

~~E. such other information about the proposed facility and each alternative as may be relevant to determination of need.~~

7849.0255 INDEPENDENT POWER PRODUCER LEGF APPLICATION.

Subpart 1. **Required data.** An independent power producer proposing an LEGF must provide data as provided under subparts 2 to 5.

Subp. 2. **Utility data.** If the applicant has entered into a power purchase agreement with a utility serving end user customers, the applicant must provide the data required under parts 7849.0250 and 7849.0270 to 7849.0300 from the utility for the proposed facility. The application must also include the docket number for the commission proceeding under which the power purchase agreement was approved.

Subp. 3. **Ownership information.** An independent power producer proposing an LEGF must provide information about the applicant, including:

A. the legal name of the applicant;

B. the state of organization or incorporation;

C. the principal place of business; and

D. the name of the person or entity that owns and controls, either directly or indirectly, a majority of the applicant's outstanding voting securities, or, if no one individual or entity owns and controls a majority of the applicant's voting securities, the name of each individual and each entity that collectively owns and controls, whether directly or indirectly, a majority of the applicant's outstanding voting securities.

E. The applicant must notify the commission of any changes in items A to D that occur after the commission grants a certificate of need and prior to the facility's in-service date. The applicant must notify the commission no later than 30 days following the change.

Subp. 4. **Relevant available data.** If the applicant has not entered into a power purchase agreement with a utility serving ultimate consumers and does not have access to the data required under parts 7849.0250 and 7849.0270 to 7849.0300, the applicant must provide:

A. data on regional capacity, including a description of the data source relied upon and the time period covered by the data;

B. the regional availability of renewable resources and the source relied upon for the data;

C. for a proposed renewable LEGF intended to satisfy renewable energy standards, the planning studies the applicant relied upon to demonstrate the need for renewable generation to meet the standards;

D. alternative approaches to supply the energy;

E. the expected costs of the proposed project to Minnesota ratepayers; and

F. evidence of the facility's ability to maintain electric system reliability.

Subp. 5. **Subsequent power purchase agreement.** If an applicant enters into a power purchase agreement after filing a certificate of need application, the applicant must notify

the commission. The notice must be filed within three business days of the date the applicant entered into the agreement.

7849.0260 PROPOSED ~~LHVTL~~ HVTL AND ALTERNATIVES APPLICATION.

Each application for a proposed ~~LHVTL~~ HVTL must include:

A. a description of the type and general location of the proposed line, including:

(1) the design voltage;

(2) the number, the sizes, and the types of conductors;

(3) the expected system losses under projected maximum loading and under projected average loading ~~in the length of the transmission line and at the terminals or substations~~ and a description of the system or portion of the system affected;

(4) the approximate length of the proposed transmission line and the portion of that length in Minnesota;

(5) the approximate location of DC terminals or AC substations, which information shall be on a map of appropriate scale; and

(6) a list of all counties reasonably likely to be affected by construction and operation of the proposed line;

B. a discussion of reliability risks the proposed line is intended to address, including:

(1) a link to the website address of the most recent reliability report from the North American Electric Reliability Corporation; and

(2) the most recent electric stability study approved by the RTO;

~~B.~~ C. a discussion of the availability of alternatives to the facility, including ~~but not limited to~~:

(1) new generation of various technologies, sizes, and fuel types;

(2) upgrading of existing transmission lines or existing generating facilities;

(3) transmission lines with different design voltages or with different numbers, sizes, and types of conductors, and capacity expressed in megavolt amps;

(4) transmission lines with different terminals or substations;

(5) double circuiting of existing transmission lines;

(6) if the proposed facility is for DC (AC) transmission, an AC (DC) transmission line;

(7) if the proposed facility is for overhead (underground) transmission, an underground (overhead) transmission line; ~~and~~

(8) energy storage;

(9) a no-build alternative;

~~(8)~~ (10) any reasonable combinations of the alternatives listed in subitems (1) to ~~(7)~~ (8); and

(11) energy conservation in combination with other alternatives;

~~C.~~ D. for the proposed facility and for each of the alternatives provided in response to item ~~B~~ C that could provide electric power at the asserted level of need, a discussion of:

(1) its total cost in current dollars;

(2) its service life;

(3) its estimated average annual availability;

(4) its estimated annual operating and maintenance costs in current dollars;

(5) the estimate of the present value of the proposed project's revenue requirement and an estimate of its effect on rates systemwide and in Minnesota, assuming a test year beginning with the proposed in-service date;

(6) ~~its efficiency, expressed for a transmission facility as the estimated losses under projected maximum loading and under projected average loading in the length of the transmission line and at the terminals or substations, or expressed for a generating facility as the estimated heat rate~~ the expected effects on the natural and socioeconomic environments, including human health; and

(7) the major assumptions made in providing the information in subitems (1) to (6); and

~~D.~~ E. a map (of appropriate scale) showing the applicant's system or load center to be served by the proposed ~~LHVTL; and~~ HVTL.

~~E. such other information about the proposed facility and each alternative as may be relevant to determination of need.~~

7849.0270 ~~PEAK DEMAND AND ANNUAL CONSUMPTION FORECAST~~ ENGINEERING DATA.

Subpart 1. **Scope.** Each application ~~shall contain pertinent data concerning peak demand and annual electrical consumption within the applicant's service area and system, as provided in part 7849.0220, including but not limited to the data requested in subpart 2, item B. When recorded data is not available, or when the applicant does not use the required data in preparing its own forecast, the applicant shall use an estimate and indicate in the forecast justification section in subparts 3 to 6 the procedures used in deriving the estimate. The application shall clearly indicate which data are historical and which are projected. It is expected that data provided by the applicant should be reasonable and internally consistent~~ must include pertinent data necessary to demonstrate the need for the project, including the

methodology, data, and assumptions required under this part, and a forecast with supporting data, as required under part 7849.0275.

Subp. 2. [See repealer.]

Subp. 2a. **Engineering analysis required.** An application must contain an engineering analysis supporting the identified need. The engineering analysis must describe the overall methodological framework used and must include:

A. the base case model, including a power-flow study in the case of a proposed HVTL or a capacity expansion model in the case of an LEGF;

B. the name of the model used, the model's source, and the year or years modeled;

C. a list of all modifications made to the base case models, including lines added, generators removed, or load changed;

D. a list of performance criteria and planning standards used;

E. a list of contingencies modeled and facilities monitored relevant to the projected need;

F. if applicable, the method of power transfer simulated, including generation to generation;

G. the conditions modeled, including summer peak, shoulder peak, and winter peak;

H. data for an HVTL, in the form of an electronic spreadsheet that documents:

(1) the software input data, including load bus data and generator bus data; and

(2) the software output data, including voltage magnitude and angle;

I. data for an LEGF, in the form of an electronic spreadsheet that documents the software input and output data; and

J. the study report for each type of analysis performed, including results, key findings, and conclusions.

Subp. 2b. **Extended forecast filing.** An applicant must explain the correlation between the proposed project and the applicant's extended forecast filing required under chapter 7610. This subpart does not apply to an applicant that is not required to file an extended forecast under chapter 7610.

Subp. 3. [See repealer.]

Subp. 4. [See repealer.]

Subp. 5. [See repealer.]

Subp. 6. [See repealer.]

7849.0275 FORECAST METHODOLOGY, DATABASE, AND ASSUMPTIONS.

Subpart 1. **Forecast; methodology.** An applicant must prepare and file a forecast with the commission. An applicant must select and use a forecast methodology, with due consideration given to cost, staffing requirements, and data availability. Forecast data provided by the applicant is subject to tests of accuracy, reasonableness, and consistency. The applicant must detail the forecast methodology employed to obtain the forecast and the output data, as provided in subparts 2 and 3.

Subp. 2. **Data base for forecasts.** The applicant must file copies of the data sets used in making the forecast, including raw and adjusted input data, and raw and adjusted output data. The submitted data set copies must be in the form of an electronic spreadsheet that can be used to replicate the results of the forecast. The applicant must discuss the data base used in arriving at the forecast presented in its application, including:

A. a complete list of all data sets used to make the forecast, including a brief description of each data set and an explanation of how each was obtained, (monthly observations, billing data, consumer survey) or a citation to the data source (population projection from the state demographer);

B. a clear list of any adjustments made to raw data in order to adapt the data for use in forecasts, including:

(1) the nature of the adjustment;

(2) the reason for the adjustment; and

(3) the magnitude of the adjustment;

C. the specific analytical techniques used to produce the forecast, the purpose of each technique used, and the components of the forecast to which the techniques have been applied;

D. the relationship between the specific analytical techniques used to produce the forecast; and

E. for statistical techniques that were used:

(1) the software used in forecasting;

(2) the statistical model used; and

(3) the results of statistical tests.

Subp. 3. **Assumptions and special information.** The applicant must discuss each essential assumption made in preparing the forecast, including the need for the assumption, the nature of the assumption, and the sensitivity of forecast results to variations in the essential assumptions.

The applicant must discuss the assumptions made regarding:

A. the availability of alternate sources of energy;

B. the sources, sinks, and dispatch assumptions (economic dispatch assumptions);

C. the data the applicant relied upon that is not historically available or is not generated by the applicant when preparing the applicant's internal forecast; and

D. any other factor considered by the applicant in preparing the forecast.

7849.0280 SYSTEM CAPACITY.

The applicant ~~shall~~ must describe the ability of its existing system to meet the demand for electrical energy forecast in response to ~~part~~ parts 7849.0270 and 7849.0275, and the extent to which the proposed facility ~~will increase this capability~~ increases the system's ability to meet demand. ~~In~~ When preparing this description, the applicant ~~shall~~ must present the following information:

A. ~~a brief discussion of power planning programs, including criteria, applied to the applicant's system and to the power pool or area within which the applicant's planning studies are based~~ the applicant's reserve margins, including the method to determine the reserve margins; and

B. the applicant's ~~seasonal firm purchases and seasonal firm sales for each utility involved in each transaction for each of the forecast years;~~ total system capacity, including:

(1) generation owned by the applicant;

(2) generation purchased by the applicant; and

(3) the applicant's existing exchange agreements.

~~C. the applicant's seasonal participation purchases and seasonal participation sales for each utility involved in each transaction for each of the forecast years;~~

~~D. for the summer season and for the winter season corresponding to each forecast year, the load and generation capacity data requested in subitems (1) to (13), including the anticipated purchases, sales, capacity retirements, and capacity additions, except those that depend on certificates of need not yet issued by the commission:~~

~~(1) seasonal system demand;~~

~~(2) annual system demand;~~

~~(3) total seasonal firm purchases;~~

~~(4) total seasonal firm sales;~~

~~(5) seasonal adjusted net demand (subitem (1) minus subitem (3) plus subitem (4));~~

~~(6) annual adjusted net demand (subitem (2) minus subitem (3) plus subitem (4));~~

~~(7) net generating capacity;~~

~~(8) total participation purchases;~~

~~(9) total participation sales;~~

~~(10) adjusted net capability (subitem (7) plus subitem (8) minus subitem (9));~~

~~(11) net reserve capacity obligation;~~

~~(12) total firm capacity obligation (subitem (5) plus subitem (11)); and~~

~~(13) surplus or deficit (–) capacity (subitem (10) minus subitem (12));~~

~~E. for the summer season and for the winter season corresponding to each forecast year subsequent to the year of application, the load and generation capacity data requested in item D, subitems (1) to (13), including purchases, sales, and generating capability contingent on the proposed facility;~~

~~F. for the summer season and for the winter season corresponding to each forecast year subsequent to the year of application, the load and generation capacity data requested in item D, subitems (1) to (13), including all projected purchases, sales, and generating capability;~~

~~G. for each of the forecast years subsequent to the year of application, a list of proposed additions and retirements in net generating capability, including the probable date of application for any addition that is expected to require a certificate of need;~~

~~H. for the previous calendar year, the current year, the first full calendar year before the proposed facility is expected to be in operation and the first full calendar year of operation of the proposed facility, a graph of monthly adjusted net demand and monthly adjusted net capability, as well as a plot on the same graph of the difference between the adjusted net capability and actual, planned, or estimated maintenance outages of generation and transmission facilities; and~~

~~I. a discussion of the appropriateness of and the method of determining system reserve margins, considering the probability of forced outages of generating units, deviation from load forecasts, scheduled maintenance outages of generation and transmission facilities, power exchange arrangements as they affect reserve requirements, and transfer capabilities.~~

7849.0290 CONSERVATION PROGRAMS, APPLICATION.

An application filed by an applicant subject to Minnesota Statutes, sections 216B.241 and 216B.2422, must ~~include~~:

~~A. the name of the committee, department, or individual responsible for the applicant's energy conservation and efficiency programs, including load management;~~

~~B. a list of the applicant's energy conservation and efficiency goals and objectives;~~

~~C.~~ A. ~~a description of~~ describe the specific energy conservation and efficiency programs the applicant has considered under Minnesota Statutes, section 216B.243,

subdivision 3, clauses (6) and (8), as alternatives to the project, a list of ~~those~~ the programs that have been implemented, and the reasons why the other programs have not been implemented;

~~D. a description of the major accomplishments that have been made by the applicant with respect to energy conservation and efficiency;~~

~~E. a description of the applicant's future plans through the forecast years with respect to energy conservation and efficiency; and~~

~~F.~~ B. ~~a quantification of~~ quantify the manner by which ~~these~~ energy conservation and efficiency programs affect or help determine the forecast provided in response to part ~~7849.0270, subpart 2~~ 7849.0275, a list of ~~their~~ the total costs by program, and a discussion of ~~their~~ the expected effects ~~in~~ with respect to reducing the need for new generation and transmission facilities~~.~~; and

C. describe the correlation between the proposed project and:

(1) the applicant's integrated resource plan filing under chapter 7843; and

(2) the applicant's conservation improvement plan filing under Minnesota Statutes, section 216B.241, subdivision 1b, paragraph (g).

7849.0300 CONSEQUENCES OF DELAY.

The applicant ~~shall~~ must present a discussion of anticipated consequences to its system, neighboring systems, and the ~~power pool should~~ RTO if the proposed facility ~~be~~ is delayed one, two, and three years, or postponed indefinitely. ~~This information must be provided for the following three levels of demand: the expected demand provided in response to part 7849.0270, subpart 2, and the upper and lower confidence levels provided in response to part 7849.0270, subpart 3, item E.~~

7849.0310 ENVIRONMENTAL INFORMATION REQUIRED.

Each applicant ~~shall~~ must provide environmental data for the proposed facility and for each alternative considered in detail in response to part 7849.0250~~, item C~~; 7849.0255, subpart 4, item D; or 7849.0260~~, item C~~. Information relating to construction and operation of each ~~of these alternatives shall~~ alternative must be provided as indicated in parts 7849.0320 to 7849.0340, to the extent ~~that such~~ the information is reasonably available to the applicant and ~~applicable~~ applies to the particular alternative. Where appropriate, the applicant ~~shall~~ must submit data for a range of possible facility designs. Major assumptions should be stated~~,~~ and references should be cited where appropriate.

7849.0320 GENERATING FACILITIES.

The applicant ~~shall~~ must provide the following information for each alternative that would involve construction of an LEGF:

A. the estimated range of land requirements for the facility with a discussion of assumptions on land requirements for water storage, cooling systems, and solid waste storage;

B. the estimated amount of vehicular, rail, and barge traffic generated by construction and operation of the facility;

C. for fossil-fueled and other combustion facilities:

(1) the expected regional sources of fuel for the facility;

(2) the typical fuel requirement ~~(~~, expressed in tons per hour, gallons per hour, or thousands of cubic feet per hour~~)~~, during operation at rated capacity and the expected annual fuel requirement at the expected capacity factor;

(3) the expected rate of heat input for the facility in Btu per hour during operation at rated capacity;

(4) the typical range of the heat value of the fuel ~~(~~, expressed in Btu per pound, Btu per gallon, or Btu per 1,000 cubic feet~~)~~, and the typical average heat value of the fuel; ~~and~~

(5) the typical ranges of sulfur, ~~ash,~~ mercury, lead, and moisture content of the fuel;

(6) the estimated greenhouse gas air emissions; and

(7) the estimated maximum and range of criteria pollutants, hazardous air pollutants, volatile organic compounds, and any other air emissions regulated under state or federal law, including information on operation at rated capacity and assuming worst-case meteorological conditions;

~~D. for fossil fueled facilities:~~

~~(1) the estimated range of trace element emissions and the maximum emissions of sulfur dioxide, nitrogen oxides, and particulates in pounds per hour during operation at rated capacity; and~~

~~(2) the estimated range of maximum contributions to 24-hour average ground level concentrations at specified distances from the stack of sulfur dioxide, nitrogen oxides, and particulates in micrograms per cubic meter during operation at rated capacity and assuming generalized worst-case meteorological conditions;~~

~~E.~~ D. water use by the facility for alternate cooling systems and expected evaporative losses, including:

(1) the type of water and the water source that will be used for cooling;

(2) the withdrawal intensity, expressed as the gallons of water withdrawn per kilowatt-hour;

(3) the consumption intensity, expressed as the gallons of water consumed per kilowatt-hour;

(4) the method used to determine withdrawal and consumption intensity levels;

(5) maximum and average monthly temperatures of water discharged;

(6) planned modifications to reduce the temperatures of water discharged;

~~(1)~~ (7) the estimated maximum use, including the groundwater pumping rate in gallons per minute and surface water appropriation in cubic feet per second;

~~(2)~~ (8) the estimated groundwater appropriation in million gallons per year; and

~~(3)~~ (9) the annual consumption in acre-feet;

~~F.~~ E. the potential water sources, water quantities, and types of use and discharges attributable to construction and types of discharges to water attributable to operation of the facility, including storm water discharges and discharges to surface and groundwater;

~~G.~~ F. radioactive releases, including:

(1) for nuclear facilities, the typical types and amounts of radionuclides released by the facility in curies per year for alternate facility designs and levels of waste treatment; and

(2) for fossil-fueled facilities, the estimated range of radioactivity released by the facility in curies per year;

~~H.~~ G. the potential types and quantities of solid wastes produced by the facility in tons per year at the expected capacity factor;

~~I.~~ H. the potential sources and types of audible noise attributable to operation of the facility;

~~J.~~ I. the estimated work force required for construction and operation of the facility; ~~and~~

~~K.~~ J. the minimum number and size of transmission facilities required to provide a reliable outlet for the generating facility~~.~~;

K. the potential impacts of the proposed facility on the natural and socioeconomic environment, including:

(1) effects on human health and safety;

(2) effects on hydrological resources, including lakes, rivers, streams, wetlands, floodplains, watersheds, aquifers, and drinking water;

(3) effects on ecological resources, including endangered and protected species, species of special concern, wildlife, natural vegetation, biological diversity, and protected areas; and

(4) effects on land use, including human settlement, historical and cultural resources, recreation, conventional and organic agricultural production, and forestry; and

L. a list of other agency permits required for the project.

M. the potential impact of the project on climate change.

N. the potential impact of the project on environmental justice.

7849.0330 TRANSMISSION FACILITIES.

The applicant ~~shall~~ must provide data for each alternative that would involve construction of an ~~LHVTL~~ HVTL. The following information must be included:

A. for overhead transmission facilities:

(1) schematic diagrams that show the dimensions of the support structures and conductor configurations for each type of support structure that may be used;

(2) a discussion of the strength and distribution of the electric ~~field~~ and magnetic fields attributable to the transmission facility~~, including the contribution of air ions if appropriate~~;

(3) a discussion of ozone and nitrogen oxide emissions attributable to the transmission facility;

(4) a discussion of radio and television interference attributable to the transmission facility; and

(5) a discussion of the characteristics and estimated maximum and typical levels of audible noise attributable to the transmission facilities;

B. for underground transmission facilities:

(1) the types and dimensions of the cable systems and associated facilities that would be used;

(2) the types and quantities of materials required for the cable system, including materials required for insulation and cooling of the cable; and

(3) the amount of heat released by the cable system in kilowatts per foot of cable length;

C. the estimated width of the right-of-way required for the transmission facility;

D. a description of construction practices for the transmission facility;

E. a description of operation and maintenance practices for the transmission facility;

F. the estimated work force required for construction and for operation and maintenance of the transmission facility; ~~and~~

G. a narrative description of the major features of the ~~region~~ location between the endpoints

of the transmission facility. The ~~region~~ location ~~shall~~ must encompass the likely area for routes

between the endpoints. The description should emphasize the area within three miles of the endpoints. The following information ~~shall~~ must be ~~described where applicable~~ provided:

(1) ~~hydrologic features including lakes, rivers, streams, and wetlands~~ effects on human health and safety;

(2) ~~natural vegetation and associated wildlife~~ effects on hydrological resources, including lakes, rivers, streams, wetlands, floodplains, watersheds, aquifers, and drinking water;

(3) ~~physiographic regions~~ effects on ecological resources, including endangered and protected species, species of special concern, wildlife, natural vegetation, biological diversity, and protected areas; and

(4) land-use types, including human settlement, recreation, agricultural production, forestry production, and mineral extraction~~.~~; and

H. a list of other agency permits required for the project.

I. the potential impact of the project on greenhouse gas emissions

J. the potential impact of the project on climate change.

K. the potential impact of the project on environmental justice.

7849.0340 NO-FACILITY ALTERNATIVE.

~~For each of the three levels of demand specified in part 7849.0300,~~ The applicant ~~shall~~ must provide the following information for the alternative of no facility:

A. a description of the expected operation of existing and committed generating

and transmission facilities;

B. a description of the changes in resource requirements and wastes produced by facilities discussed in response to item A, including:

(1) the amount of land required;

(2) induced traffic;

(3) fuel requirements;

(4) airborne emissions;

(5) water appropriation and consumption;

(6) discharges to water;

(7) reject heat;

(8) radioactive releases;

(9) solid waste production;

(10) audible noise; and

(11) labor requirements; and

C. a description of equipment and measures that may be used to reduce the environmental impact of the alternative of no facility.

D. the effect on the no-build alternative on greenhouse gas emissions, climate change, and environmental justice.

7849.0400 CERTIFICATE OF NEED CONDITIONS AND CHANGES.

Subpart 1. **Authority of commission.** Issuance of a certificate of need may be made contingent upon modifications required by the commission. When an application is denied, the commission shall state the reasons for the denial.

Subp. 2. **Proposed changes in size, type, ~~and~~ timing, and ownership.** ~~Changes proposed by~~ The changes to a proposed facility not yet placed into service described in

items A to E are not subject to recertification by the commission. An applicant ~~to the certified size, type, or timing of a proposed facility before the facility is placed in service must conform to the following provisions~~ must promptly report any one of the following changes to the commission:

A. a delay of one year or less in the in-service date of a large generation or transmission facility previously certified by the commission ~~is not subject to review by the commission.~~;

B. a power plant capacity addition or subtraction smaller than the lesser of 80 megawatts or 20 percent of the capacity approved in a certificate of need issued by the commission ~~does not require recertification.~~;

C. a change in power plant ownership smaller than the lesser of 80 megawatts or 20 percent of the capacity approved in a certificate of need issued by the commission ~~does not require recertification.~~;

~~D. The applicant shall notify the commission as soon as it determines that a change described in item A, B, or C is imminent, detailing the reasons for the change.~~

~~E.~~ D. a large transmission line length addition or subtraction made as a result of the route length approved by the ~~Minnesota Environmental Quality Board for projects previously certified does not require recertification.~~ commission; or

~~F.~~ E. a design change required by another state agency in its permitting process for certified facilities ~~is not subject to review by the commission~~, unless the change contradicts the basic type determination specified by the certificate of need.

Subp. 3. **Change requiring application.** ~~C.~~ If a utility applies to the ~~Minnesota Environmental Quality Board~~ commission for a transmission line route that is not expected to meet the definition of ~~LHVTL~~ an HVTL in part 7849.0010, but at some time in the routing process it becomes apparent that the ~~board~~ commission may approve a route that meets the definition, the utility may apply for a certificate of need as soon as possible after that time. The length of a route is determined by measuring the length of its center line.

Subp. 4. **Commission decision.** ~~H.~~ If an applicant determines that a change in size, type, timing, or ownership other than specified in ~~this~~ subpart 2 is necessary for a large generation or transmission facility previously certified by the commission, the applicant must inform the commission of the desired change and detail the reasons for the change. A copy of the applicant's submission to the commission must be sent to each ~~intervenor in~~ person on the commission's official service list under part 7829.0700 for the certificate of need hearing proceeding on the facility. ~~Intervenors~~ A person may comment on the proposed change within 15 days of being notified of the change. The commission ~~shall~~ must evaluate the reasons for and against the proposed change and~~, within 45 days of receipt of the request,~~ promptly notify the applicant whether the change is acceptable without recertification. The commission ~~shall~~ must order further hearings ~~if and~~ only if it determines that the change, if known at the time of the need decision on the facility, could reasonably have resulted in a different decision under the criteria ~~specified~~ in part 7849.0120.

7849.1000 ~~APPLICABILITY AND SCOPE~~ NOTICE AND COMMENTS; PETITION TO INTERVENE.

Subpart 1. ~~**Applicability**~~ **Publication in State Register.** ~~Parts 7849.1000 to 7849.2100 apply to any high voltage transmission line project or large electric power generating plant project for which a certificate of need or other need determination is required by the Public Utilities Commission under Minnesota Statutes, section 216B.243 or 216B.2425, and applicable rules.~~ The commission must publish notice of the certificate of need filing in the State Register.

Subp. 2. ~~**Scope**~~ **Comment period.** ~~Parts 7849.1000 to 7849.2100 establish the requirements for the conduct of environmental review of proposed projects before the Public Utilities Commission for consideration of need pursuant to Minnesota Statutes, section 216B.243or 216B.2425, and applicable rules. Additional review at the permitting stage is required under parts 7850.1000 to 7850.5600.~~ The commission must request comments on the procedural treatment of the filing. Initial comments must be filed within 21 days of the

date the notice under subpart 1 is published. Reply comments must be filed within 14 days of the date the initial comment period expires. Notice of the comment period must be sent to:

A. the project contact list;

B. the public agency contact list;

C. the tribal government contact list; and

D. the local ~~and tribal~~ government contact list.

Subp. 3. **Petition to intervene.** A petition to intervene under this chapter is governed by part 7829.2500, subpart 8.

Subp. 4. **Process schedule.** Upon receipt of a certificate of need application, commission staff must consult with the department and the applicant to set a proposed schedule to complete the certificate of need process within applicable statutory deadlines and must make the schedule available in the commission's electronic filing system. If an application includes a request by the applicant that joint proceedings be held on multiple applications filed under this chapter and chapter 7850, the commission must set a process schedule at the time the commission determines whether to hold joint proceedings under part 7850.2140. If the applicant or the department objects to the proposed process schedule, the applicant or the department may file a request seeking commission review of the schedule. The process schedule must be made available in the commission's electronic filing system.

7849.1150 RECORD DEVELOPMENT.

After the comment reply period under part 7849.1000, subpart 2, closes, the commission must determine whether to:

A. refer the case to the Office of Administrative Hearings for contested case proceedings under part 7829.1000; or

B. develop the record using the commission's informal comment and reply process

under part 7829.1200.

7849.1200 ENVIRONMENTAL REPORT.

The ~~commissioner of the~~ department ~~of Commerce shall~~ must prepare an environmental report on a proposed ~~high voltage transmission line~~ HVTL or a proposed ~~large electric power generating plant~~ LEGF at the need stage. The environmental report must contain information on the human and environmental impacts of the proposed project associated with the size, type, and timing of the project, system configurations, and voltage. The environmental report must also contain information on alternatives to the proposed project and ~~shall~~ must address mitigating measures for anticipated adverse impacts. The ~~commissioner shall be~~ department is responsible for the completeness and accuracy of all information in the environmental report.

7849.1400 PROCESS FOR ENVIRONMENTAL REPORT PREPARATION.

Subpart 1. [See repealer.]

Subp. 1a. **Public meeting.** The commission and the department must hold a public information and scoping meeting in accordance with the process schedule. The commission must provide notice of the public information and scoping meeting.

Subp. 2. **Content of notice.** The meeting notice required by subpart ~~1~~ 1a must contain the following information:

A. a description of the proposed project, including possible sites or routes if known;

B. a statement that authorization from the ~~Public Utilities~~ commission to construct the facility has been applied for and a description of the ~~PUC~~ commission process, including a statement that the ~~PUC~~ commission proceeding is the only proceeding in which the no-build alternative and the size, type, timing, system configuration, and voltage will be considered;

C. a statement that the ~~commissioner of the~~ department ~~of Commerce~~ will prepare an environmental report on the project and a description of the process for preparation of the report;

D. a statement that a public meeting will be held by the ~~commissioner~~ department and the date and place of the meeting, a statement that the public will have an opportunity to ask questions about the project and to suggest alternatives and impacts to address in the environmental report, and a statement explaining the purpose of the public meeting;

E. a statement informing the public of where copies of the pertinent information may be reviewed and copies obtained;

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

G. a statement describing the manner in which an interested person can add the person's name to the mailing list for future notices~~.~~; and

H. the name and contact information for the commission's public advisor and a description of the public advisor's role.

Subp. 3. [See repealer.]

Subp. 3a. **Meeting notice; recipients.** Notice of the public information and scoping meeting must be given as provided in this subpart.

A. At least 15 days prior to the meeting, the commission must mail notice of the public information and scoping meeting to:

(1) the project contact list;

(2) the public agency contact list;

(3) the landowner list;

(4) the tribal government contact list; and

(5) the local ~~and tribal~~ government contact list.

B. The applicant must publish notice of the public information and scoping meeting in a newspaper of local circulation or in a newspaper used to publish legal notices in an affected township. The notice must be published 30 days prior to the meeting and again 14 days prior to the meeting. The department must publish notice of the meeting in the EQB Monitor and must post the notice on the department's website. The commission must post notice of the meeting on the commission's website.

Subp. 4. **Conduct of public information and scoping meeting.** The public meeting must be held in a location that is convenient for persons who live near a proposed project. The ~~commissioner shall~~ commission must make available at the public meeting a copy of the certificate of need application ~~or transmission projects report~~. The ~~commissioner's~~ department's staff ~~shall~~ must explain the process ~~for preparation of~~ used to prepare the environmental report. At the public meeting, the public must be afforded an opportunity to ask questions and present comments and to suggest alternatives and possible impacts to be evaluated in the environmental report. The ~~commissioner shall~~ commission must keep an audio recording of the meeting and a transcript. ~~The commissioner shall provide at least 20 days from the day of the public meeting for the public to submit written comments regarding the proposed project.~~

Subp. 5. **Applicant role.** The applicant ~~shall~~ must provide representatives at the public meeting who can respond to questions about the proposed project.

Subp. 6. ~~**Alternatives and impacts**~~ **Scoping process.** The department must provide the public with an opportunity to participate in the development of the environmental report's scope. A person desiring that a particular alternative to the proposed project or a possible adverse impact of the project be considered in the environmental report ~~shall~~ must identify the alternative or impact to be included, provide an explanation of why the alternative or impact should be included in the environmental report, and submit all supporting information the person wants the ~~commissioner~~ department to consider. The ~~commissioner shall~~

department must provide the applicant with an opportunity to respond to each request that is filed. ~~The commissioner shall include in the environmental report any alternative or impact identified by the PUC for inclusion. The commissioner may exclude from analysis any alternative that does not meet the underlying need for or purpose of the project or that is not likely to have any significant environmental benefit compared to the project as proposed, or if another alternative that will be analyzed is likely to have similar environmental benefits with substantially less adverse economic, employment, or sociological impacts than the suggested alternative.~~

Subp. 7. [See repealer.]

Subp. 8. [See repealer.]

Subp. 9. [See repealer.]

Subp. 10. [See repealer.]

Subp. 11. **Comment period.** The department must provide the public at least 20 days from the date of the public meeting to submit written comments regarding the proposed project.

Subp. 12. **Department analysis.** The department may exclude from its analysis any alternative that does not meet the underlying need for or purpose of the project, is not likely to have any significant environmental benefit compared to the project as proposed, or is likely to have similar environmental benefits with substantially fewer adverse economic, employment, or sociological impacts than another alternative being analyzed. The department's analysis must state the reasons for excluding an alternative.

7849.1410 NOTICE TO COMMISSION.

Prior to filing its scoping decision under part 7849.1425, the department must notify the commission of the alternatives the department intends to include in the scope of the environmental report. The commission must complete its consideration of the department's

proposed alternatives no later than the date the commission makes its decision on record development under part 7849.1150. The department must include any alternative identified by the commission in the scope of the environmental report.

7849.1425 SCOPING DECISION.

Subpart 1. **Scoping decision.** In accordance with the process schedule, the department must issue the scoping decision determining:

A. the alternatives to be addressed in the environmental report, including the alternatives required by part 7849.1500, subpart 1, item B;

B. the specific potential impacts to be addressed;

C. the schedule to complete the environmental report; and

D. other issues to be addressed in the environmental report.

Once the department has issued a scoping decision establishing the matters to be evaluated in the environmental report, the decision must not be changed unless the department determines that substantial changes have been made in the project or substantial new information has arisen that significantly affects the potential environmental effects of the project or the availability of reasonable alternatives.

Subp. 2. **Notice of decision.** The department must file a copy of the scoping decision with the commission and must mail a copy to the project contact list, the public agency contact list, the tribal government contact list, and the local ~~and tribal~~ government contact list, and the landowner list. The department must publish notice of the decision in the EQB Monitor.

7849.1500 ENVIRONMENTAL REPORT CONTENT.

Subpart 1. **Content of environmental report.** The environmental report must include the ~~items~~ content described in items A to H.

A. A ~~general~~ description of the proposed project and associated facilities.

B. A ~~general~~ description of the alternatives to the proposed project that are addressed. Alternatives ~~shall~~ must include each of the following and may include any combination of the following: the no-build alternative~~,~~; demand side management~~,~~; purchased power~~,~~; facilities of a different size ~~or~~, type, or configuration; using a different energy source than the source proposed by the applicant~~,~~; upgrading ~~of~~ existing facilities~~,~~; generation rather than transmission if ~~a high voltage transmission line~~ an HVTL is proposed~~,~~; transmission rather than generation if ~~a large electric power generating plant~~ an LEGF is proposed~~,~~; use of renewable energy sources~~,~~; distributed generation; and ~~those~~ the alternatives identified ~~by the commissioner of the department of Commerce~~ in the scoping decision.

C. An analysis of the human and environmental impacts of a project of the type proposed and of the alternatives identified.

D. An analysis of the potential impacts that are project specific.

E. An analysis of mitigative measures that could reasonably be implemented to eliminate or minimize any adverse impacts identified for the proposed project and each alternative analyzed.

F. An analysis of the feasibility and availability of each alternative considered.

G. A list of permits required for the project.

H. A discussion of other matters identified by the ~~commissioner~~ department.

I. the potential impact of the project on climate change.

J. the potential impact of the project on environmental justice.

Subp. 2. **Impacts of power plants.** At a minimum, the ~~commissioner shall~~ department must address in the environmental report the following impacts for any ~~large electric power generating plant~~ LEGF and associated facilities:

A. the anticipated emissions of ~~the following pollutants~~ all criteria pollutants,

hazardous air pollutants, volatile organic compounds, and any other air emissions regulated under state or federal law, expressed as an annual amount at the maximum rated capacity of the project and as an amount produced per ~~kilowatt hour~~ kilowatt-hour, and the calculations performed to determine the emissions~~: sulfur dioxide, nitrogen oxides, carbon dioxide, mercury, and particulate matter, including particulate matter under 2.5 microns in diameter~~;

B. the anticipated ~~emissions of any hazardous air pollutants and volatile organic compounds~~ greenhouse gas emissions;

C. the anticipated contribution of the project to the impairment of visibility ~~within a 50-mile radius of the plant~~, including regional haze, as governed by state and federal law;

D. the anticipated contribution of the project to the formation of ozone expressed as reactive organic gases. Reactive organic gases are chemicals that are precursors necessary to the formation of ground-level ozone;

E. the availability of the source of fuel for the project, the amount required annually, and the method of transportation to get the fuel to the plant;

F. associated facilities required to transmit the electricity to customers;

G. the anticipated amount of water that will be appropriated to operate the plant ~~and~~, the source of the water ~~if known~~, and measurements or estimates of evaporative losses;

H. the potential wastewater streams and the types of discharges associated with ~~such~~ a project, including storm water discharges, discharges to surface water and groundwater, and potential impacts of a thermal discharge;

I. the types and amounts of solid and hazardous wastes generated by such a project, including an analysis of what contaminants may be found in the ash and where the ash might be sent for disposal or reuse; ~~and~~

J. the anticipated noise impacts of a project, including the distance to the closest receptor where state noise standards can still be met~~.~~; and

K. the potential impacts of the proposed facility on the natural and socioeconomic environment, including:

(1) effects on human health and safety;

(2) effects on hydrological resources, including lakes, rivers, streams, wetlands, floodplains, watersheds, aquifers, and drinking water;

(3) effects on ecological resources, including endangered and protected species, species of special concern, wildlife, natural vegetation, biological diversity, and protected areas; and

(4) effects on land use, including human settlement, historical and cultural resources, recreation, conventional and organic agricultural production, and forestry.

Subp. 3. **Impacts of high voltage transmission lines.** At a minimum, the ~~commissioner shall~~ department must address in the environmental report the following impacts for any high voltage transmission line and associated facilities:

A. the typical right-of-way required for construction of a transmission line;

B. the anticipated size and type of structures required for a line;

C. the electric and magnetic fields usually associated with a line;

D. the anticipated noise impacts of the transmission line; ~~and~~

E. the anticipated visual impacts of the transmission line~~.~~; and

F. the potential impacts of the proposed facility on the natural and socioeconomic environment, including:

(1) on human health and safety;

(2) on hydrological resources, including lakes, rivers, streams, wetlands, floodplains, watersheds, aquifers, and drinking water;

(3) on ecological resources, including endangered and protected species, species of special concern, wildlife, natural vegetation, biological diversity, and protected

areas; and

(4) on land use, including human settlement, historical and cultural resources, recreation, conventional and organic agricultural production, and forestry.

Subp. 4. **Incorporation of information.** In preparing an environmental report, the ~~commissioner~~ department may incorporate information and data from other documents in accordance with part 4410.2400.

7849.1525 ENVIRONMENTAL REPORT; FILING.

Subpart 1. **Time frame for completion of environmental report.** The department must complete the environmental report in accordance with the process schedule. When establishing the schedule for completion of the environmental report, the department must consider any applicable statutory deadlines, the number and complexity of the alternatives and impacts to be addressed, and the interests of the public, the applicant, the commission, the department, and other state agencies.

Subp. 2. **Notification of availability of environmental report.** After the environmental report is complete, the department must publish notice in the EQB Monitor, file the environmental report with the commission, and mail notice of the availability of the environmental report to the project contact list, the public agency contact list, the landowner list, ~~and~~ the tribal government contact list, and the local ~~and tribal~~ government contact list. The department must provide a copy of the environmental report to any other public agency with authority to permit or approve the proposed project. The department must post the environmental report on the agency's website.

7849.1550 PUBLIC HEARING.

Subpart 1. **Public hearing.** After the department files the environmental report, the commission must hold a public hearing designed to encourage members of the public to

express opinions and comment on the application, as required under Minnesota Statutes, section 216B.243, subdivision 4.

Subp. 2. **Public hearing notice.** The commission must send notice of a public hearing required under this part. Notice of the hearing must be coordinated with the administrative law judge. The notice must include the time, date, and location of each hearing. The department must publish notice of the hearing in the EQB Monitor.

Subp. 3. **Notice recipients.** The notice must be sent to the project contact list, the public agency contact list, the landowner list, the tribal government contact list, and the local ~~and tribal~~ government contact list.

Subp. 4. **Newspaper notice.** The applicant must publish notice of the public hearing in a legal newspaper of general circulation in the county where the public hearing is being held. The notice must be published at least ten days before the date of the public hearing. The applicant must file a copy of the affidavit of publication with the commission within five days of receiving the affidavit.

Subp. 5. **Press release.** An applicant must mail notice of the public hearing to at least one radio station in each county where the proposed project is located. The notice must be in the form of a press release. If a county does not have a radio station, an applicant must issue a press release to at least one radio station that broadcasts into the county where the project is located.

Subp. 6. **Comment period.** Interested persons may file comments on the environmental report and on the certificate of need application. Comments must be filed with the administrative law judge within 30 days of the date of the public hearing.

7849.1600 AGENCY ASSISTANCE AND FILING OF AGENCY COMMENTS.

The ~~commissioner of the~~ department ~~of Commerce~~ may request assistance from another state agency ~~to assist~~ in ~~the preparation of~~ preparing an environmental report. Upon request, another state agency ~~shall~~ must provide in a timely manner any unprivileged data or

information ~~to which~~ it has reasonable access to concerning the matters to be addressed in the environmental report and ~~shall~~ must assist in ~~the preparation of~~ preparing the environmental report when the agency has special expertise or access to information. Comments filed by the department or the commission into the commission's electronic filing system on behalf of another state agency or a federal agency must appear as "on behalf of" the agency that authored the comments.

7849.1700 APPLICANT ASSISTANCE.

The ~~commissioner of the~~ department ~~of Commerce~~ may request that the applicant for a certificate of need or for certification of ~~a~~ an HVTL ~~to~~ assist in the preparation of an environmental report. Upon request, the applicant ~~shall~~ must provide in a timely manner any unprivileged data or information ~~to which~~ it has reasonable access to and which will aid in the expeditious completion of the environmental report.

7849.1800 ENVIRONMENTAL REPORT TO ACCOMPANY PROJECT.

Subpart 1. **~~PUC~~ Commission decision.** The environmental report, or environmental assessment or EIS prepared pursuant to part 7849.1900, must be completed and copies provided to the ~~Public Utilities~~ commission before the ~~PUC~~ commission can hold any public hearing or render a final decision on an application for a certificate of need or for certification of ~~a~~ an HVTL. ~~However,~~ The ~~PUC can~~ commission may commence the public hearing process by conducting prehearing matters. The ~~commissioner's~~ department's staff ~~shall~~ must participate in the ~~PUC~~ commission proceeding or the contested case proceeding, and must be available to answer questions about the environmental report ~~or~~, environmental assessment, or EIS and to respond to comments about the document. The environmental report ~~or~~, environmental assessment, or EIS must be considered by the ~~PUC~~ commission in making a final decision on a certificate of need or HVTL certification request.

Subp. 2. **Completeness of environmental report.** At the time the ~~PUC~~ commission makes a final decision on a certificate of need application or a request for certification of a

HVTL, the ~~PUC shall~~ commission must determine whether the environmental report and the record created in the matter address the issues identified by the ~~commissioner~~ department in the scoping decision made pursuant to part ~~7849.1400, subpart 7~~ 7849.1425, subpart 1. The ~~PUC~~ commission may direct the ~~commissioner~~ department to prepare a supplement to the environmental report, ~~or~~ the environmental assessment, or EIS if one is prepared pursuant to part 7849.1900, if the ~~PUC~~ commission determines that an additional alternative or impact should be addressed, or if supplemental information should be provided.

7849.1850 PROCEDURE AFTER ADMINISTRATIVE LAW JUDGE REPORT.

Subpart 1. **Parties.** A party must file any exception to the administrative law judge's report under part 7829.2700.

Subp. 2. **Participating agencies.** A state or federal agency participating in a route or site permit process under this chapter must file final comments regarding the case during the same time period exceptions are due for parties under part 7829.2700.

7849.1900 JOINT PROCEEDING.

Subpart 1. **Environmental assessment or EA.** In the event an applicant for a certificate of need for ~~a LEPGP~~ an LEGF or ~~a~~ an HVTL applies to the ~~commissioner of the Department of Commerce~~ commission for a site permit or route permit ~~prior to the time~~ before the ~~commissioner~~ department completes the environmental report~~,~~ and the project qualifies for alternative review by the ~~commissioner~~ commission under part 7850.2800, the ~~commissioner~~ department may elect to prepare an ~~environmental assessment in accordance with~~ EA under part 7850.3700 in lieu of the environmental report required under part 7849.1200. If combining the processes would delay completion of environmental review under parts 7849.1000 to 7849.2100, the ~~commissioner can~~ department may combine the processes only if the applicant and the ~~Public Utilities~~ commission agree ~~to the combination~~. If the processes are combined, the ~~commissioner shall~~ department must include in the ~~environmental assessment~~ EA the analysis ~~of alternatives~~ required by part 7849.1500, but

is not required to prepare an environmental report under parts 7849.1000 to 7849.2100.

Subp. 2. **Environmental impact statement or EIS.** In the event an applicant for a certificate of need for ~~a LEPGP~~ an LEGF or ~~a~~ an HVTL applies to the ~~commissioner~~ commission for a site permit or route permit ~~prior to the time~~ before the ~~commissioner~~ department completes the environmental report~~,~~ and the project does not qualify for alternative review ~~by the commissioner~~ under part 7850.2800, the ~~commissioner~~ department may elect to prepare an ~~environmental impact statement~~ EIS in lieu of the environmental report required under part 7849.1200 if the applicant and the ~~Public Utilities~~ commission agree to the additional time ~~that will be~~ required to prepare the ~~environmental impact statement~~ EIS. ~~In this event~~ If the applicant and the commission agree, the ~~commissioner shall~~ department must include in the EIS the analysis ~~of alternatives~~ required by part 7849.1500, but is not required to prepare an environmental report under part 7849.1200.

Subp. 3. **Procedures.** In the event the ~~commissioner~~ department combines the two processes pursuant to subpart 1 or 2, the procedures of parts 7850.1000 to 7850.5600 ~~shall~~ must be followed in conducting the environmental review.

Subp. 4. **Joint hearing.** If the ~~commissioner~~ department determines that a joint hearing ~~with the Public Utilities Commission~~ to consider both permitting and need issues is feasible, more efficient, and may further the public interest, the ~~commissioner~~ department may ~~decide to~~ recommend that the commission hold a joint hearing ~~with the approval of the commission~~ under part 7850.2140.

7849.2000 ALTERNATIVE FORM OF REVIEW.

The requirements under parts 7849.1000 to 7849.2100 for ~~preparation of~~ preparing an environmental report on ~~a LEPGP~~ an LEGF or an HVTL for which a determination of need by the ~~Public Utilities~~ commission has been requested is approved as an alternative form of review.

7849.2100 COSTS TO PREPARE ENVIRONMENTAL REPORT.

Subpart 1. **Applicant required to pay costs.** The applicant for a certificate of need for ~~a large electric power generating plant~~ an LEGF or ~~a high voltage transmission line or for a certification of a high voltage transmission line as part of a transmission projects report shall~~ an HVTL must pay the ~~commissioner of the~~ department ~~of Commerce~~ for the reasonable costs incurred by the ~~commissioner~~ department in preparing the environmental report.

Subp. 2. **Payment schedule.** The applicant ~~shall~~ must submit a minimum payment of $5,000 to the ~~commissioner~~ department at the time the application or request is filed with the ~~Public Utilities~~ commission. Additional payments ~~shall~~ must be made within 30 days of notification by the agency that additional fees are necessary ~~for completion of~~ to complete the environmental review. After preparation of the environmental report, the ~~commissioner shall~~ department must provide the applicant with a final accounting. The applicant ~~shall~~ must make the final payment within 30 days of notification~~, or~~. The agency ~~shall~~ must refund any excess payments within 30 days of the final accounting.

7850.1000 DEFINITIONS.

Subpart 1. **Scope.** As used in ~~parts 7850.1000 to 7850.5600~~ this chapter, 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. 5a. **Department.** "Department" means the Department of Commerce.

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 or EA.** "Environmental assessment" or "EA" 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 that is: (1) designed for and capable of operating at a nominal voltage of 100 kilovolts or more either immediately or without significant modification; and (2) greater than 1,500 feet in length. 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 e-mail, 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. [See repealer.]

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~~ This chapter is 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~~ must 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~~ must provide for broad spectrum citizen participation as a principle of operation. To ensure effective citizen participation, the commission ~~shall~~ must 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~~ This chapter establishes the requirements for the processing of permit applications by the ~~Public Utilities~~ commission for large electric power generating plants and high voltage transmission lines, including the environmental review of such projects. ~~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~~ A person ~~may construct~~ is prohibited from constructing ~~a large electric power generating plant~~ an LEPGP without a site permit from the commission. ~~A large electric power generating plant~~ An LEPGP may be constructed only on a site approved by the commission.

Subp. 2. **Route permit.** ~~No~~ A person ~~may construct~~ is prohibited from constructing ~~a high voltage transmission line~~ an HVTL without a route permit from the commission. ~~A high voltage transmission line~~ An HVTL may be constructed only within a route approved by the commission.

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

A. ~~No~~ A person ~~shall increase~~ is prohibited from increasing the voltage of ~~a high voltage transmission line~~ an HVTL without a route permit or other approval from the ~~PUC~~ commission.

B. ~~No~~ A person ~~shall increase~~ is prohibited from increasing the voltage of a transmission line under 100 kilovolts to over 100 kilovolts without a route permit from the ~~PUC~~ commission.

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

D. ~~No~~ A person ~~shall increase~~ is prohibited from increasing 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~~ commission.

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

Subp. 5. **Commence construction.** ~~No~~ A person ~~may commence~~ is prohibited from commencing 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~~ Commencing 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~~ EXEMPT PROJECTS.

Subpart 1. **No ~~PUC~~ commission permit required.** A permit from the ~~PUC~~ commission is not required to construct a power plant of less than 50 megawatts or a transmission line ~~of~~ that is either less than 100 kilovolts or 1,500 feet in length or less. Proposers of ~~such projects~~ an exempt project must obtain ~~whatever~~ all approvals ~~may be~~ required by local, state, or federal units of government with jurisdiction over the project~~, including~~ and must comply with applicable environmental review ~~provisions~~ requirements.

Subp. 2. [See repealer.]

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~~ an LEPGP or ~~high voltage transmission line~~ an HVTL 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~~ an HVTL within an existing right-of-way;

(2) reconductoring or reconstruction of ~~a high voltage transmission line~~ an HVTL 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~~ an HVTL 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~~ an LEPGP;

(2) modification of ~~a large electric power generating plant~~ an LEPGP 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~~ an LEPGP 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) modification of an LEPGP powered by solar energy that is exempt from a certificate of need under Minnesota Statutes, section 216B.243, subdivision 8, clause (7), provided the plant is not expanded beyond the developed portion of the plant site;

~~(4)~~ (5) conversion of the fuel source of ~~a large electric power generating plant~~ an LEPGP to natural gas, as long as the plant is not expanded beyond the developed portion of the plant site; or

~~(5)~~ (6) start-up of an existing ~~large electric power generating plant~~ LEPGP 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~~ HVTL, or ~~large electric power generating plant~~ LEPGP 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~~ an HVTL under subpart 1, item B, subitem (2), or to implement changes to ~~a large electric power generating plant~~ an LEPGP under subpart 1, item C, subitem (2), (3), (4), ~~or~~ (5), or (6), must notify the commission in writing at least 30 days before commencing construction on the modification or change.

7850.1610 NOTICE LISTS.

Subpart 1. **Notice lists required.** Notice lists must be established and maintained as described in this part.

Subp. 2. **General list.** The commission must maintain a list of persons who want to be notified of an application for a proposed site or route permit. A person may request to have the person's name or an organization's name included on the list.

Subp. 3. **Project contact list.** The commission must maintain a project contact list for each proposed project. The project contact list must include the names of persons who have requested to receive notice of a proposed project. The commission must add a person's name to the list if the commission has reason to believe that the person would like to receive notices of a particular project.

Subp. 4. **Public agency contact list.** The commission must maintain a public agency contact list that includes public agencies likely to be interested in the proposed project. The list must include:

A. the department;

B. the Office of the Attorney General;

C. the United States Army Corps of Engineers;

D. the United States Fish and Wildlife Service;

E. the Federal Aviation Administration; and

F. other state agencies, including:

(1) the Department of Natural Resources;

(2) the Pollution Control Agency;

(3) the Department of Transportation;

(4) the Department of Agriculture;

(5) the Department of Health;

(6) the Office of Pipeline Safety;

(7) the Board of Water and Soil Resources;

(8) the State Historic Preservation Office;

(9) the Department of Employment and Economic Development; and

(10) the Department of Labor and Industry.

Subp. 5. **Landowner list.** An applicant must maintain and make available to the commission, the department, or the public upon request a landowner list for its proposed project. For purposes of the landowner list, a landowner is the person listed on the property

record of the county auditor. In a county where tax statements are mailed by the county treasurer, the landowner is the person listed on the property record of the county treasurer. The list must be in a format that makes the list capable of being sorted both alphabetically by last name and by zip code. The list must include:

A. for a route permit application, landowners whose property is along any route the applicant proposes in its route permit application, including a draft route permit application; and

B. for a site permit application, landowners whose property is on or adjacent to any site the applicant proposes in its site permit application, including a draft site permit application.

Subp. 6. **Local ~~and tribal~~ government contact list.** An applicant must maintain and make available to the commission and department upon request a list of local units of government, including each local unit of government's chief executive, located in the proposed project area. The list must include each:

A. regional development commission;

B. county;

C. incorporated municipality;

D. town;

E. township;

F. statutory city;

G. home rule charter city;

~~H. tribal government;~~

I. watershed district; and

J. soil and water conservation district.

Subp. 7. **List maintenance.**

A. Lists must be maintained as provided in this subpart.

B. A name must not be removed from a list unless:

(1) a person requests that the commission remove the person's name from a list maintained by the commission;

(2) a person requests that the applicant remove the person's name from a list maintained by the applicant;

(3) the commission sends written notice to an individual on a list asking whether the person's name should remain on the list and no response is received within 30 days of the date the request is made; or

(4) an applicant sends written notice to a person on a list asking whether the person's name should remain on the list and no response is received within 30 days of the date the request is made.

C. Lists must be updated as follows:

(1) the commission or applicant must add the name of a person or entity to a list upon the person's or entity's request;

(2) the applicant must update the landowner list to include each landowner whose property is on or adjacent to the proposed footprint of a project alternative considered in the scope of the environmental impact statement under part 7850.2500 or the environmental assessment under part 7850.3700; and

(3) the applicant must update the local ~~and tribal~~ government contact list to include each governmental entity located in the area of a project alternative considered in the scope of the EIS under part 7850.2500 or the EA under part 7850.3700.

D. The entity maintaining a list must file the list and any updated list in the

commission's electronic filing system.

7850.1615. Tribal Consultation. The commission must maintain a contact list for all eleven federally recognized Tribes that share geography with Minnesota. The Commission must follow its tribal Consultation Policy for consultation with tribal governments in any pending proceeding under this Chapter. The Department must engage in tribal consultation at each point in this rule chapter where notice is required to be sent to the tribal government contact list. The Department must report the results of its tribal consultation at the time it files either its EA or EIS. The Department must subsequently update its filing after all required notices under this chapter have been sent.

7850.1620 PREAPPLICATION MEETINGS; ~~TRANSMISSION LINES.~~

Subpart 1. **Meetings required.** Prior to filing a draft route or site permit application under part 7850.1640, an applicant must hold a public outreach meeting concerning routes or sites that are under active consideration by the applicant, including routes or sites the applicant intends to propose in its route or site permit application. The applicant must hold at least two public outreach meetings. Each meeting must be held in a county where a portion of the HVTL route or site is under active consideration by the applicant. The meeting must be held as close as practicable to the location of the proposed route or site. If members of the public request additional meetings, the applicant must make good faith efforts to accommodate the requests.

Subp. 2. **Notice.** At least ten days prior to the date each meeting is held, the applicant must notify the commission and the department of the date, time, and location of the meeting. The applicant must also mail notice of the meeting to landowners whose property is along a route identified under subpart 1, or to landowners whose property is on or adjacent to any site at least ten days prior to each meeting. Notice to landowners must include the date, time, and location of each meeting.

Subp. 3. **Public input.** At each public outreach meeting held, an applicant must provide:

A. maps or other written materials that identify and describe each route or site;

B. contact information for the commission, including the mailing address and the e-mail address~~, and information describing how to contact the commission's public adviser;~~

C. information regarding how to sign up to receive commission notices; and

D. an opportunity for members of the public to offer oral or written comments on the proposed project.

Subp. 4. **Meeting summary.** An applicant must prepare a summary of each public outreach meeting held and comments received. An applicant must consider the comments received when deciding which routes or sites to include in its draft application filed under part 7850.1640.

7850.1640 DRAFT PERMIT APPLICATION REQUIRED.

Subpart 1. **Draft permit application.** At least 45 days prior to filing a site or route permit application with the commission, an applicant must file a draft permit application with the commission. At the time of filing, the applicant must request a docket number for the proposed project. The applicant must use the word "draft" on each page of the permit application and must label the application as a draft when filing it in the commission's electronic filing system.

Subp. 2. **Draft site permit application; LEPGP.** A draft site permit application for an LEPGP must include at least two proposed sites. If the applicant intends to propose a project that is eligible for alternative review under Minnesota Statutes, section 216E.04, the applicant is not required to propose more than one site. A draft site permit application must contain:

A. for all projects, including projects eligible for alternative review under part 7850.2800, each site the applicant has considered and rejected, including the reasons for rejecting the site;

B. a statement of proposed ownership of the proposed LEPGP;

C. the name of any permittee and the name of any other person the permit would be transferred to if transfer of the permit is contemplated;

D. each proposed site for the proposed LEPGP;

E. a description of the proposed LEPGP and all associated facilities, including the size and type of the facility;

F. the environmental information required under subpart 4;

G. the name of each person who owns property within each proposed site;

H. the engineering and operational design of the LEPGP at each proposed site;

I. a cost analysis of the LEPGP at each proposed site, including the costs to construct and operate the facility given the facility's design;

J. an engineering analysis of each proposed site, including how each site could accommodate future expansion of generating capacity;

K. a list of the transportation, pipeline, and electrical transmission systems required to construct, maintain, and operate the facility;

L. a list and brief description of federal, state, and local permits that may be required for the project at each proposed site;

M. United States Geological Survey topographical maps or other maps showing the entire proposed project area;

N. a proposed application notice that includes the notice content requirements under part 7850.2100, subpart 2;

O. for a solar-powered LEPGP, a copy of the applicant's project size determination form and a copy of the department's size determination required under Minnesota Statutes, section 216E.021;

P. if the project is eligible for alternative review under part 7850.2800, a statement

whether the applicant elects to follow the alternative review process, and if so whether the applicant recommends that an administrative law judge be assigned to the case to prepare a report with findings, conclusions, and a recommendation;

Q. a statement whether the applicant intends to file both a certificate of need application and a site permit application, or intends to file multiple applications, and if so whether the applicant intends to request that joint proceedings be held on the applications under part 7850.2140;

R. the name of each zoning authority with responsibility over each property within each proposed site and the present zoning classification of the property; ~~and~~

S. a statement ~~that~~ on whether the applicant may exercise the power of eminent domain under Minnesota Statutes, section 216E.12, to acquire land necessary for the project, including the phrase "your property may be included in the final site selected."

T. a decommissioning plan that plans for restoration of the site at the end of the energy facility's useful life.

U. a risk mitigation and recovery plan in anticipation of extreme weather.

Subp. 3. **Draft route permit application; HVTL.** A draft route permit for an HVTL must include at least two routes. If the applicant intends to propose a project that is eligible for alternative review under Minnesota Statutes, section 216E.04, the applicant is not required to propose more than one route. A draft route permit application must contain:

A. a statement of proposed ownership of the facility as of the day of filing and after commercial operation begins;

B. the name of each permittee and the name of any other person the permit would be transferred to if transfer of the permit is contemplated;

C. each proposed route for the proposed HVTL listed alphabetically in texts and in maps;

D. each route the applicant considered and rejected, including the reasons for

rejecting the route;

E. a description of the proposed HVTL and all associated facilities, including the size and type of the HVTL;

F. a statement whether or not the project is eligible for alternative review under part 7850.2800;

G. the environmental information required under subpart 4;

H. a list identifying land uses and environmental conditions along each proposed route;

I. the name of each person who owns property within any of the proposed routes;

J. United States Geological Survey topographical maps or other maps showing the entire length of the HVTL on all proposed routes;

K. a list identifying 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;

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

M. a cost analysis for each route, including the costs to construct, operate, and maintain the HVTL given the line's design;

N. a description of possible design options to accommodate future expansion of the HVTL;

O. the procedures and practices proposed to acquire and restore the right-of-way, and to construct and maintain the HVTL;

P. a list and brief description of federal, state, and local permits that may be required for the proposed HVTL;

Q. a summary of the transmission planning that concluded the project is necessary, including its history of presentation in the Minnesota Biennial Transmission Plans and

Midcontinent Independent System Operator Transmission Expansion Plans;

R. a list of the date, time, and location of each public preapplication meeting schedule to be held by the applicant, or for each public preapplication meeting held, a summary of comments received;

S. a proposed application notice that includes the notice content requirements under part 7850.2100, subpart 2;

T. a list of any differences between the list of landowners who received notice of the applicant's certificate of need application under part 7849.0130 and the list of landowners the applicant is mailing notice of the draft route permit application to under this part;

U. if the project is eligible for alternative review under part 7850.2800, a statement whether the applicant elects to follow the alternative review process, and if so whether the applicant recommends that an administrative law judge be assigned to the case to prepare a report with findings, conclusions, and a recommendation;

V. a statement whether the applicant intends to file both a certificate of need and a route permit application, or multiple permit applications, and if so whether the applicant intends to request that joint proceedings be held on the applications under part 7850.2140; ~~and~~

W. a statement ~~that~~ on whether the applicant may exercise the power of eminent domain under Minnesota Statutes, section 216E.12, to acquire land necessary for the project, including the phrase "your property may be included in the final route selected."

X. a decommissioning plan that plans for restoration of the land affected by the route at the end of the energy facility’s useful life.

Y. a risk mitigation and recovery plan in anticipation of extreme weather.

Subp. 4. **Environmental information.** Each draft site or draft route permit application must contain:

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

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

C. a description of the facility's effects on land-based economies, including agriculture, forestry, tourism, and mining;

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

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

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

G. a list identifying human and natural environmental effects that cannot be avoided if a specific site or route is approved; 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 and feasibility of implementing the identified mitigative measures.

I. a description of the facility on greenhouse gas emissions; climate change; and environmental justice.

7850.1650 NOTICE OF DRAFT PERMIT APPLICATION.

Subpart 1. **Notice recipients.** At the time the applicant files a draft permit application with the commission, the applicant must mail written notice of the draft permit application to:

A. the general list;

B. the public agency contact list;

C. the landowner list;

D. the tribal government contact list; and

~~D~~E. the local ~~and tribal~~ government contact list.

Subp. 2. **Notice content.** The notice sent under subpart 1 must contain:

A. the applicant's name and contact information; including physical address, phone number, and email address

B. a statement that a draft permit application has been filed with the commission;

C. a statement that the applicant is required by the commission to mail the notice ~~and that the commission is soliciting comments on the draft application from interested persons;~~

D. a statement explaining how to obtain a copy of the draft permit application;

E. the commission's contact information, including physical address, phone number, and e-mail address;

F. a statement ~~that~~ on whether the applicant may exercise the power of eminent domain under Minnesota Statutes, section 216E.12, to acquire land necessary for the project, including the phrase "your property may be included in the final site or route selected";

G. a statement that the commission is responsible for making the final decision regarding the location of a site or route; and

H. the date the applicant intends to file its completed application with the commission, if the date is known.

Subp. 3. **Filing with commission.** The applicant must file a copy of the notice with the commission at the time the applicant mails the notice to the recipients under subpart 1.

7850.1680 COMMENTS AND PROCESS.

Subpart 1. **Notice to commission.** The department must notify the commission of any deficiencies in the draft application within ~~ten~~ 21 days of the date the complete draft

application is filed.

Subp. 2. **Notice of comment period.** The commission must request comments regarding whether to appoint an advisory task force under part 7850.2400 for the proceeding. Notice of the comment period must be sent to the general list, the project contact list, the public agency contact list, the landowner list, the tribal government contact list, and the local ~~and tribal~~ government list. Initial comments must be filed within 21 days of the date the notice was made. Reply comments must be filed within seven days of the date the initial comment period expires. If the commission appoints an advisory task force, the commission must determine the charge of the task force under part 7850.2400.

Subp. 3. **Process schedule.** Upon receipt of a draft permit application, commission staff must consult with the department and the applicant to set a proposed schedule to complete the permitting process within applicable statutory deadlines. The commission must make the schedule available in the commission's electronic filing system. If an application includes a request by the applicant that joint proceedings be held on multiple permit applications or on both a certificate of need and a permit application, the commission must set a schedule at the time the commission determines whether to hold joint proceedings under part 7850.2140.

Subp. 4. **Application process.** After complying with the draft application requirements, an applicant that intends to proceed with the permitting process must follow the procedures for filing an application under parts 7850.1700 to 7850.1900.

7850.1700 PERMIT APPLICATION ~~UNDER FULL PERMITTING PROCESS~~ AND MANNER OF FILING.

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

~~must be submitted to the PUC.~~ The applicant must serve copies of the application on the department and the Office of the Attorney General. The applicant must send notice of its filing to the public agency contact list and the general list. An applicant subject to the electronic filing requirements contained in Minnesota Statutes, section 216.17, subdivision 3, must follow the filing procedures under Minnesota Statutes, section 216.17, subdivision 3.

Subp. 2. [See repealer.]

Subp. 3. **Cover letter and summary.** An application for a site or route permit must be accompanied by a cover letter signed by an authorized officer or agent of the applicant. The cover letter must specify the type of facility for which a permit is requested. The letter must also include on a separate page a summary of the filing sufficient to apprise potentially interested parties of the application's nature and its general content.

7850.1710 APPLICATION COMPLETENESS; SCHEDULE.

Subpart 1. **Completeness determination.** Within ten days of the date an application for a site or a route permit is received, the commission's executive secretary must determine whether the application is complete and notify the applicant of the decision in writing. The executive secretary must designate a commission staff person as public advisor for the proceeding and include the staff person's name and contact information in the notice provided to the applicant. The executive secretary must file notice of the completeness determination in the commission's electronic filing system.

Subp. 2. **Incomplete application.** An application is not incomplete if the missing information can be obtained from the applicant within 20 days of the date the application is deemed incomplete and the missing information does not interfere with the public's ability to review the proposed project. If the application is incomplete, the executive secretary must set the matter for further review by the commission at the earliest possible commission agenda meeting, considering the applicant's availability and request for additional time. If the applicant files the missing information prior to the commission meeting, the executive

secretary must remove the item from the agenda and notify the applicant in writing that the application is complete.

Subp. 3. **Joint application.** If the commission receives a request from an applicant that joint proceedings be held on multiple permit applications or on applications filed under this chapter and chapter 7849, joint proceedings must not begin until after the executive secretary determines that all applications are complete.

Subp. 4. **Process schedule update.** At the time the executive secretary makes a determination on completeness and after consulting the department and the applicant, commission staff must update the process schedule with any changes, considering the applicable statutory deadlines for completing the permitting process. The updated schedule must be ~~sent to the department and the applicant, and be made available to the public upon request.~~ made available in the commission's electronic filing system.

Subp. 5. **Statutory deadline; extension.** If during the proceedings the commission determines the commission is unable to meet the deadline to make a final decision on a permit application, the commission may extend the deadline under Minnesota Statutes, section 216E.03, subdivision 9, or 216E.04, subdivision 7.

7850.1800 PERMIT FEES.

Subpart 1. **Requirement.** An applicant for a site permit or route permit ~~shall~~ must pay a fee to the department in accordance with Minnesota Statutes, section 216E.18. The estimated fee for processing the permit application must be determined at the time an application is filed and in accordance with Minnesota Statutes, section 216E.18.

Subp. 2. **Initial payment.** The applicant ~~shall~~ must 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~~ is prohibited from processing a permit application until the first portion of the fee is submitted. The ~~PUC shall~~ department must deposit all money received from the applicant for permit fees in a special

account and notify the commission if payment has not been made at the time the application is received.

Subp. 3. **Additional payments.** The applicant ~~shall~~ must 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 department must notify the commission if any assessed fees have not been paid at the time the final decision on a permit is made. The commission ~~shall not make~~ is prohibited from making 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~~ department must provide a final accounting to the commission and 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~~ must include the necessary and reasonable expenses incurred ~~in processing~~ to process 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~~ must make the final payment within 30 days of notification ~~or~~. The ~~PUC shall~~ department must refund any excess payments ~~with~~ within 30 days of the final accounting.

7850.1900 APPLICATION CONTENTS.

Subpart 1. **Site permit application ~~for;~~ LEPGP.** ~~An application for a site permit for a large electric power generating plant must contain the following information:~~ An application for an LEPGP site permit must include at least two proposed sites. If the applicant intends to propose a project that is eligible for alternative review under Minnesota Statutes, section 216E.04, the applicant is not required to propose more than one site. An application for a site permit must include the information required for a draft site permit application under

part 7850.1640, as well as:

~~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.~~

~~A. for all proposed projects, including those eligible for alternative review under part 7850.2800, a list of each site the applicant has considered and rejected, including the reasons for rejecting the site;~~

B. a description of any change to a project that affects whether the project is eligible for alternative review under part 7850.2800;

C. a description of any material change made to the information filed in the draft application, including the reason for the change; and

D. the location of each public library or government center where the application is available to the public.

Subp. 2. **Route permit application ~~for;~~ HVTL.** ~~An application for a route permit for a high voltage transmission line shall contain the following information:~~ An application for an HVTL route permit must include at least two proposed routes. If the applicant intends to propose a project that is eligible for alternative review under Minnesota Statutes, section 216E.04, the applicant is not required to propose more than one route. A route permit application must include the information required for a draft route permit application under part 7850.1640, as well as:

~~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.~~

~~A. a list of each proposed route, labeled alphabetically in text and maps;~~

~~B. whether or not the project is eligible for alternative review under part 7850.2800,~~

~~a list of each route the applicant has considered and rejected, including the reasons for rejecting the route;~~

C. a description of any change to a project that affects whether the project is eligible for alternative review under part 7850.2800;

D. a description of any material change made to the information filed in the draft application, including the reason for the change; and

E. the location of each library or government center where the application is available to the public.

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:~~ An application must include the information required for a draft ~~site~~ application under part 7850.1640 and must identify any material change made to the information filed in the draft application.

~~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.~~

7850.2100 ~~PROJECT~~ NOTICE OF APPLICATION.

Subpart 1. [See repealer.]

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~~ must 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.~~

A. the general list;

B. the project contact list;

C. the public agency contact list;

D. the landowner list;

E. the tribal government contact list;

F. the ~~tribal and~~ local government contact list, by certified mail; and

G. for a utility, the general service list maintained under part 7829.0600.

Subp. 3. **Content of notice.** The notice mailed under subpart 2 ~~shall~~ must 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~~ commission, including 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~~ is considered by the ~~PUC~~ commission under ~~the provisions of parts 7850.1000 to 7850.5600~~ this chapter and the Power Plant Siting Act and ~~describing~~ a description of the time periods for the ~~PUC~~ commission 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;~~

~~C.~~ D. a statement describing the manner in which persons may register their names with the ~~PUC~~ commission on the project contact list and how persons may subscribe to the docket using the commission's electronic filing system;

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

~~I.~~ E. 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.~~ F. a statement ~~indicating whether~~ ~~that~~ on whether the applicant may exercise the power of eminent domain under Minnesota Statutes, section 216E.12, to acquire ~~the~~ land necessary for the project ~~and the basis for such authority; and~~, including the phrase "your property may be included in the final site or route selected"; and

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

G. a statement that the commission is responsible for making the final determination regarding the location of the site or route.

Subp. 4. **~~Publication of~~ Newspaper notice.** Within 15 days after ~~submission of~~ the date an application is filed, the applicant ~~shall~~ must 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~~ Compliance filing.** 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~~ must make a filing with the commission that demonstrates compliance with the notice requirements. The ~~applicant shall document the giving of the notice by providing the PUC with~~ filing must include 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.

7850.2110 COMMENTS ON APPLICATION.

Subpart 1. **Notice.** The commission must issue a notice requesting comments on the application and whether any changes from the draft permit application exist that are relevant to record development. The notice must be sent to all of the notice lists under part 7850.1610. Initial comments must be filed within 21 days of the date the notice was issued. Reply comments must be filed within 14 days of the date the initial comment period expires.

Subp. 2. **Agency participation.** Comments filed by the department or the commission in the commission's electronic filing system on behalf of another state agency or a federal agency participating in the process must appear as "on behalf of" the agency that authored the comments.

7850.2120 COMMISSION REFERRAL.

After the reply comment period closes, the commission must issue a notice of and order for hearing referring the case to the Office of Administrative Hearings for contested case proceedings, unless the project is an eligible project under part 7850.2800.

7850.2140 JOINT PROCEEDINGS.

If the commission receives an application requesting the commission to conduct concurrent review of multiple permit applications or applications filed under this chapter and chapter 7849, the commission must determine whether to hold joint proceedings and set a process schedule, considering whether to hold:

A. joint public information and scoping meetings;

B. joint public hearings; and

C. joint proceedings to develop the record.

7850.2200 PUBLIC ADVISOR.

Upon acceptance of an application for a site or route permit, the commission ~~shall~~ must 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~~ is prohibited from giving legal advice or other advice that may affect the legal rights of the person being advised, and the public advisor ~~shall not act~~ is prohibited from acting as an advocate on behalf of any person.

7850.2300 PUBLIC INFORMATION AND SCOPING MEETING.

Subpart 1. **Scheduling public information and scoping meeting.** ~~Upon acceptance of an~~ For each site or route permit application ~~for a site or route permit~~ filed under this chapter, the commission ~~shall~~ and the department must schedule a public information and scoping meeting to provide information to the public about the proposed project ~~and~~, to answer questions, and to scope the environmental impact statement or the environmental assessment. The ~~public~~ meeting must be held ~~no later than 60 days after acceptance of the application~~ in accordance with the process schedule. 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~~ At least 14 days before the public information and scoping meeting, the applicant must publish notice of the public meeting in ~~a~~ at least one legal newspaper of general circulation in the area where the proposed project is ~~proposed to be~~ located. Within ten days of the date all affidavits of publication are received, the applicant must file a copy of each affidavit with the commission. If appropriate, the ~~PUC~~ commission 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. At least ten days before the meeting, the commission must mail notice of the meeting to:

A. the project contact list;

B. the public agency contact list;

C. the landowner list;

D. the tribal government contact list; and

~~D~~E. the local ~~and tribal~~ government contact list.

The department must publish notice of the meeting in the EQB Monitor and must post the notice on the department's website.

Subp. 2a. **Notice content.** The notice sent under subpart 2 must include:

A. a statement that a permit application has been submitted to the commission, including the name of the permit applicant and information on how to access a copy of the application;

B. a statement that the commission and the department intend to hold a public information and scoping meeting;

C. the date, time, and location of each scheduled meeting;

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

E. a statement that the commission evaluates the permit application under Minnesota Statutes, chapter 216E and this chapter;

F. a statement describing the time periods for the commission to act;

G. a statement that the department directs the portion of the meeting that includes scoping;

H. a description of the process the department uses to conduct environmental review of the proposed project;

I. the name of and contact information for the commission's public adviser, including a description of the public adviser's role;

J. a description how a person may register the person's name with the commission on the project contact list or with the commission's electronic filing system;

K. a statement that a public hearing is conducted after the draft EIS or the EA is completed, and that notice of the hearing is mailed separately;

L. a statement explaining whether a certificate of need or other commission authorization is required for the project and the status of the matter if authorization is required;

M. a description how a person can access or receive a copy of the commission's referral of the case to the Office of Administrative Hearings;

N. a statement notifying landowners ~~that~~ on whether the applicant may exercise the power of eminent domain under Minnesota Statutes, section 216E.12, to acquire land necessary for the project, including the phrase "your property may be included in the final route selected"; and

O. a statement that the commission is responsible for making the final decision regarding the location of the site or route.

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~~ must explain the permitting process

to the persons in attendance. A transcript of the meeting ~~need~~ ~~does not need to~~ must be maintained, and

~~although~~ the ~~PUC~~ commission ~~may elect to~~ must also keep an audio recording of the meeting. The

scoping portion of the meeting must be conducted by the department as described in parts 7850.2500 to 7850.3700.

Subp. 4. **Applicant role.** The applicant ~~shall~~ must provide representatives at the public meeting who are capable of answering general questions about the proposed project. The applicant must make the application available at the meeting or provide, in writing, an electronic link to the application and an electronic device for viewing the application.

Subp. 5. [See repealer.]

7850.2400 CITIZEN ADVISORY TASK FORCE.

Subpart 1. **Authority.** The commission has the authority to appoint a citizen advisory task force. The commission ~~shall~~ must determine whether to appoint such a task force as early in the process as possible. The commission ~~shall~~ must 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~~ must 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~~ must specify in writing the charge to the task force. The charge ~~shall include the identification of~~ must identify additional sites ~~or~~, routes, or particular impacts ~~to be evaluated~~ recommended for evaluation in the scope of the environmental

~~impact statement~~ review. 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. The department must file a report with the commission summarizing the task force's work. The report must include all routes, sites, and impacts identified, including the sites or routes the task force recommends be included in the scope of the environmental review.

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~~ for inclusion in the environmental ~~impact statement~~ review, or on the specific date identified by the commission in the charge, whichever occurs first.

7850.2450 FULL PERMITTING PROCESS.

Parts 7850.2500 to 7850.2700 apply to all proposed projects that are not eligible for alternative review under part 7850.2800.

7850.2500 EIS PREPARATION.

Subpart 1. **EIS required.** The ~~commissioner of the~~ department ~~of Commerce shall~~ must prepare an ~~environmental impact statement~~ EIS on each proposed ~~large electric power generating plant~~ LEPGP and ~~high voltage transmission line~~ HVTL 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.~~ At the public information and scoping meeting held under part 7850.2300, the department must conduct the scoping portion of the meeting. At the meeting, the department must provide the public with an opportunity to participate in the development of the scope of the EIS by soliciting public comments. Members of the public must be provided the opportunity to comment on the scope of the EIS, including on potential human and environmental impacts and possible mitigation measures, and to submit supporting documentation. The applicant must be provided an opportunity to respond to public input.

Subp. 3. **Alternative sites or routes.** During the public information and scoping ~~process~~ meeting, a person may suggest alternative sites or routes to evaluate in the environmental impact statement. A person ~~desiring~~ advocating that a particular site or route be evaluated ~~shall submit~~ must explain to the ~~commissioner of the~~ department ~~of Commerce, during the scoping process, an explanation of~~ orally or in writing why the site or route should be included in the ~~environmental impact statement~~ EIS and provide any other supporting information the person wants the ~~commissioner~~ department to consider. The ~~commissioner shall~~ department must provide the applicant with an opportunity to respond to each request that an alternative be included in the ~~environmental impact statement~~ EIS and must ask the applicant to address the feasibility of each recommended alternative. ~~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. 3a. **Comment period.** The department must provide a ten day comment period after the meeting concludes to allow interested persons an opportunity to submit written comments on the scope of the EIS.

Subp. 4. [See repealer.]

Subp. 5. [See repealer.]

Subp. 6. [See repealer.]

Subp. 7. [See repealer.]

Subp. 8. [See repealer.]

Subp. 9. [See repealer.]

Subp. 10. [See repealer.]

Subp. 11. [See repealer.]

Subp. 12. [See repealer.]

7850.2520 NOTICE TO COMMISSION.

Prior to filing its scoping decision under part 7850.2530, the department must notify the commission of the alternatives the department intends to include in the scope of the EIS. The commission must complete its consideration of the department's proposed alternatives by the time the commission issues its decision on record development under part 7850.2120. The department must include in the scope of the EIS any alternative identified by the commission or the applicant.

7850.2530 SCOPING DECISION.

Subpart 1. **Scope of EIS.** The scoping process must be used to reduce the scope and bulk of an EIS by identifying potentially significant issues and alternatives requiring analysis and establishing the level of detail with which the issues must be analyzed. The department must include the suggested site or route in the scope of the EIS only if the department determines an evaluation of the proposed site or route assists the commission's decision on the permit application. At a minimum, the scoping decision by the department must address:

A. the issues to be addressed in the EIS;

B. the alternative sites and routes to be evaluated in the EIS; and

C. the schedule to complete the EIS.

Subp. 2. **Filing with commission.** In accordance with the process schedule, the department must complete and file with the commission its scoping decision. Prior to the issuance of the scoping decision, the applicant must coordinate with the department to update the landowner list to include any landowner omitted from the previous list whose property is adjacent to a site or along a route being considered in the scope of the EIS.

Subp. 3. **Notice of decision.** Within five days after filing the scoping decision with the commission, the department must provide notice of the scoping decision to the project contact list, the public agency contact list, the landowner list, the tribal government contact list, and the local ~~and tribal~~ government list. The department must publish notice of the decision in the EQB Monitor. The department must also file an updated map in the commission's electronic filing system showing the location of areas that will be studied in the scope of the EIS.

Subp. 4. **Changes to scoping decision.** Once the department has determined the scope of the EIS, the scope must not be changed unless the department determines substantial changes have been made to the project or substantial new information that significantly affects the potential environmental effects of the project or the availability of reasonable alternatives has been identified.

~~**7850.2540 SUPPLEMENTAL FILING BY APPLICANT.**~~

~~If the commission determines that a site or route not proposed by the applicant must be examined in addition to the applicant's proposed sites or routes, the applicant must file additional information for each alternative site or route to support equivalent comparison of the applicable permitting criteria for all sites or routes evaluated in the EIS. The filing must be made in accordance with the process schedule.~~

7850.2550 DRAFT EIS.

Subpart 1. **Matters excluded.** If the commission has issued a certificate of need for an LEPGP or HVTL, or has placed an HVTL on the certified HVTL list maintained by the commission, the EIS must not address questions of need, including size, type, and timing; questions of alternative system configurations; or questions of voltage.

Subp. 2. **Draft EIS.** The draft EIS must be written in plain and objective language. The draft EIS must follow the standard format for an EIS under part 4410.2300 to the extent the requirements of part 4410.2300 are appropriate. The draft EIS must be completed and filed with the commission in accordance with the process schedule.

Subp. 3. **Public review.** Upon completion of the draft EIS, the department must make the draft EIS available for public review by placing a copy of the draft EIS in a public library or other governmental office in every county where each proposed site or route is located. The department must mail notice of the availability of the draft EIS to each person on the landowner list and the project contact list. The department must also place a notice of the availability of the draft EIS in the EQB Monitor. The department must post the draft EIS on the agency's website.

Subp. 4. **Environmental review meeting.** The department must schedule an environmental review meeting to provide an opportunity for the public to comment on the draft EIS. The meeting must be held no sooner than 20 days after the draft EIS becomes available. The meeting must be held in a location convenient to persons who live near the proposed project. The department must mail notice of the environmental review meeting to each person on the project contact list, the general list, the government agency contact list, the landowner list, the tribal government contact list, and the local ~~and tribal~~ government contact list. The department must also place a notice of the environmental review meeting in the EQB Monitor. The environmental review meeting may be held just prior to holding a contested case hearing

on the permit application. The department must hold the record on the EIS open to receive written comments for not less than ten days after the environmental review meeting closes.

7850.2570 PUBLIC HEARING.

Subpart 1. **Hearing.** After the department files a draft EIS, the commission must hold a public hearing on a site or route permit application, as required under Minnesota Statutes, section 216E.03, subdivision 6.

Subp. 2. **Public hearing notice.** Notice of the hearing must be given by the commission and must be coordinated with the administrative law judge. The notice must include:

A. the time, date, and location of each hearing;

B. a statement notifying landowners ~~that~~ whether the applicant may exercise the power of eminent domain under Minnesota Statutes, section 216E.12, to acquire land necessary for the project, including the phrase "your property may be included in the final site or route selected"; and

C. a statement explaining that the commission is responsible for making the final decision regarding the location of the site or route.

Subp. 3. **Notice recipients.** The commission must send notice of the hearing to the project contact list, the public agency contact list, the landowner list, and by certified mail to the tribal government contact list and the local ~~and tribal~~ government contact list. The department must publish notice of the hearing in the EQB Monitor and must post the notice on the department's website.

Subp. 4. **Newspaper notice.** The applicant must publish notice of the public hearing in a legal newspaper of general circulation in the county where the public hearing is to be held. The notice must be published at least ten days before the date of the public hearing. The applicant must file a copy of the affidavit of publication with the commission within five days of receiving the affidavit.

7850.2650 FINAL EIS.

Subpart 1. **Contents.** The department must respond to the timely, substantive comments received on the draft EIS consistent with the scoping decision and prepare the final EIS. The department may attach to the draft EIS the comments received and its response to comments without preparing a separate document.

Subp. 2. **Filing and public access.** The final EIS must be completed and filed with the commission in accordance with the process schedule. The department must publish notice of the availability of the final EIS in the EQB Monitor and must supply a press release, containing an electronic link to the final EIS, to at least one newspaper of general circulation in the areas where the proposed sites or routes are located. ~~At the time the final EIS is filed with the commission, the department must certify to the commission that the final EIS complies with the adequacy factors in part 7850.2700, subpart 2a.~~

Subp. 3. **Public comment.** ~~The public has~~ Anyone wishing to comment on the final EIS must do so within 25 days of the filing to comment on the adequacy of the final EIS.

Commission staff must establish the timing of the comment period in consultation with the administrative law judge. The department must publish notice of the comment period in the EQB Monitor and must post the notice on the department's website.

Subp. 4. **Cost.** The applicant for a site permit or route permit must pay the department's reasonable costs to prepare and distribute an EIS. The costs must not be assessed separately from the assessment under part 7850.1800 unless the assessment under part 7850.1800 is inadequate to cover the department's reasonable costs to consider the permit application.

Subp. 5. **Environmental review requirements.** Except as provided in this chapter, parts 7849.1000 to 7849.2100 and chapter 4410 do not apply to the preparation or consideration of an EIS for an LEPGP or an HVTL.

7850.2675 PROCEDURE AFTER ADMINISTRATIVE LAW JUDGE REPORT.

Subpart 1. **Parties.** A party must file any exception to the administrative law judge's

report under part 7829.2700.

Subp. 2. **Participating agencies.** A state or federal agency participating in a route or site permit process under this chapter must file final comments regarding the case during the same time period exceptions are due for parties under part 7829.2700.

7850.2700 FINAL DECISION.

Subpart 1. **Timing.** The commission ~~shall~~ must 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~~ must not make a final decision on a permit until the commission has ~~found~~ determined the ~~environmental impact statement to be~~ EIS is adequate.

Subp. 2a. **Adequacy determination.** The commission must determine the adequacy of the final EIS. The commission is prohibited from deciding the adequacy until at least ten days after the date of availability of the final EIS is announced in the EQB Monitor. The final EIS is adequate if the final EIS:

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

B. provides responses to the timely, substantive comments received during the draft EIS review process; and

C. was prepared in compliance with the procedures in this chapter.

If the commission finds that the EIS is not adequate, the commission must direct the department to respond to the deficiencies and resubmit the revised EIS to the commission as soon as possible.

Subp. 3. **Certificate of need decision.** The ~~PUC shall not make~~ commission is prohibited from making 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~~ commission must 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~~ commission must also publish notice in the EQB Monitor. The ~~PUC shall~~ commission must mail notice of its final permit decision to those persons whose names are on the project contact list. The ~~PUC shall~~ commission must post notice of the final decision on the agency's ~~Web page, if possible~~ website.

7850.2800 ELIGIBLE PROJECTS; ALTERNATIVE REVIEW PROCESS.

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 alternative review procedures of parts ~~7850.2800~~ 7850.3700 to 7850.3900 instead of the full permitting procedures in parts ~~7850.1700~~ 7850.2500 to 7850.2700:

A. ~~large electric power generating plants~~ an LEPGP with a capacity of less than 80 megawatts;

B. ~~large electric power generating plants that are~~ an LEPGP fueled by natural gas;

C. ~~high voltage transmission lines~~ an HVTL of between 100 and 200 kilovolts;

D. ~~high voltage transmission lines~~ an HVTL in excess of 200 kilovolts and less than five miles in length in Minnesota;

E. ~~high voltage transmission lines~~ an HVTL 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~~ HVTL rights-of-way;

F. ~~a high voltage transmission line~~ an HVTL 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~~ an HVTL 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

H. an LEPGP powered by solar energy.

Subp. 2. **Notice to ~~PUC~~ commission.** ~~An~~ A permit applicant ~~for a permit~~ for one of the qualifying projects in subpart 1~~,~~ who intends to follow ~~the~~ alternative review procedures ~~of parts 7850.2800 to 7850.3700, shall~~ must notify the ~~PUC~~ commission in writing of ~~such~~ the intent~~, in writing, at least ten days before submitting an application for the project~~ to use alternative review procedures at the time the applicant files a draft permit application under part 7850.1640.

7850.3700 ENVIRONMENTAL ASSESSMENT PREPARATION.

Subpart 1. **Environmental assessment required.** Subject to the alternative review process, the ~~commissioner of the~~ department ~~of Commerce shall~~ must prepare an ~~environmental assessment on~~ EA for each proposed ~~large electric power generating plant~~ LEPGP and each proposed ~~high voltage transmission line being reviewed under the alternative permitting process in parts 7850.2800 to 7850.3900~~ HVTL. The ~~environmental assessment~~ EA must contain information on the human and environmental impacts ~~of~~ resulting from the proposed project and ~~of~~ alternative sites or routes identified by the ~~commissioner~~ commission and the department, and ~~shall~~ must 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.~~ At the public information and scoping meeting held under part 7850.2300, the department must conduct the scoping portion of the meeting. At the meeting, the department must provide the public with an opportunity to participate in the development of the scope of the EA by soliciting public comments. Members of the public must be provided the opportunity to comment on the scope of the EA, including on potential human and environmental impacts and possible mitigation measures, and to submit supporting documentation. The applicant must be provided an opportunity to respond to public input.

Subp. 2a. **Alternative sites or routes.** ~~B.~~ The ~~commissioner shall~~ department must include in the scope of the ~~environmental assessment~~ EA any alternative sites or routes proposed by the citizen advisory task force or by ~~any member agency of the Environmental Quality Board~~ the commission 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~~ advocating that a particular site or route be evaluated ~~shall~~ must submit to the ~~commissioner,~~ department during the scoping process~~,~~ an explanation ~~of~~ detailing why the site or route should be included in the ~~environmental assessment~~ EA and all supporting information the person wants the ~~commissioner~~ department to consider. The ~~commissioner shall~~ department must provide the applicant with an opportunity to respond to each request that an alternative be included in the ~~environmental assessment~~ EA. The ~~commissioner shall~~ department must include the suggested site or route in the scope of the ~~environmental assessment~~ EA only if the ~~commissioner~~ department determines that evaluation of the proposed site or route will assist ~~in~~ the ~~commissioner's~~ commission'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~~ EA.

Subp. 2b. **Public comment.** The department must provide a ten day comment period after the meeting concludes to allow interested persons an opportunity to submit written comments.

Subp. 3. [See repealer.]

Subp. 4. [See repealer.]

Subp. 5. [See repealer.]

Subp. 6. [See repealer.]

Subp. 7. [See repealer.]

Subp. 8. [See repealer.]

Subp. 9. [See repealer.]

7850.3720 NOTICE TO COMMISSION.

Prior to filing its scoping decision under part 7850.3730, the department must notify the commission of the alternatives the department intends to include in the scope of the EA. The commission must complete its consideration of the department's proposed alternatives by the time the commission issues its decision on record development under part 7850.2120. The department must include any alternative identified by the commission in the scope of the EA.

7850.3730 SCOPING DECISION.

Subpart 1. **Scoping decision.** The department must determine the scope of the EA in accordance with the process schedule. Once the department has determined the scope of the EA, the scope must not be changed unless the department determines substantial changes have been made to the project or substantial new information that significantly affects the

potential environmental effects of the project or the availability of reasonable alternatives has been identified. The department must also determine a reasonable schedule for completing the EA as part of the scoping process. The scoping decision by the department must identify:

A. the alternative sites or routes, if any, that must be addressed in the EA

B. any specific potential impacts that must be addressed in the EA;

C. the schedule to complete the EA; and

D. other matters to be included in the EA.

Subp. 2. **Notice of decision.** Within five days of the date the scoping decision is filed with the commission, the department must provide notice of the scoping decision to the project contact list, the public agency contact list, the landowner list, the tribal government contact list, and the local ~~and tribal~~ government contact list. Prior to the issuance of the scoping decision, the applicant must coordinate with the department to update the landowner list to include any landowner omitted from the previous list whose property is adjacent to a site or along a route being considered in the scope of the EA. The department must publish notice of the decision in the EQB Monitor.

Subp. 3. **Alternatives to be included in EA.** Any alternative identified by either the commission or the applicant must be included and considered in the EA.

~~**7850.3740 SUPPLEMENTAL FILING BY APPLICANT.**~~

~~If the commission determines that a site or route not proposed by the applicant must be examined in addition to the applicant's proposed sites or routes, the applicant must file additional information for each site or route alternative to support equivalent comparison of the applicable permitting criteria for all sites or routes evaluated in the EA. The filing must be made in accordance with the process schedule.~~

7850.3750 ENVIRONMENTAL ASSESSMENT.

Subpart 1. **Content of EA.** The EA 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 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.

H. a discussion of the facility's potential impact on greenhouse gas emissions; climate change; and environmental justice.

Subp. 2. **Time frame for completion of EA.** The EA must be filed with the commission in accordance with the process schedule.

Subp. 3. **Notification of availability of EA.** Upon completion of the EA, the department must file the EA with the commission and publish notice of the availability of the EA in the EQB Monitor. The department must also mail notice of the availability of the EA to the persons on the landowner list and on the project contact list. The department must provide a copy of the EA to any public agency with authority to permit or approve the proposed project. The department must post the EA on the agency's website.

Subp. 4. **Matters excluded.** If the commission has issued a certificate of need for an LEPGP or an HVTL, or has placed an HVTL on the certified HVTL list maintained by the commission, the EA must not address questions of need, including size, type, and timing; questions of alternative system configurations; or questions of voltage.

Subp. 5. **No additional environmental review.** An EA is the only state environmental review document the department is required to prepare on a project qualifying for review under the alternative review process.

Subp. 6. **Cost.** The department's cost to prepare an EA must be assessed to the applicant as part of the application fee under 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.~~ The commission must hold a public hearing on a site or route permit application as required under Minnesota Statutes, section 216E.04. The public hearing must be conducted by an administrative law judge. ~~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. 1a. **Public hearing notice.** The commission must give notice of the hearing at least ten days, but not more than 45 days, before the hearing. The notice must include:

A. the time, date, and location of each hearing; and

B. a statement notifying landowners ~~that~~ whether the applicant may exercise the power of eminent domain under Minnesota Statutes, section 216E.12, to acquire land necessary for the project, including the phrase "your property may be included in the final site or route selected."

Subp. 1b. **Notice recipients.** The notice must be sent to:

A. the project contact list;

B. the public agency contact list;

C. the landowner list; and

D. the tribal government contact list; and

E. the local ~~and tribal~~ government contact list, by certified mail.

The department must publish notice of the meeting in the EQB Monitor.

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~~ must be conducted by an administrative law judge. The Commission must request a full report from the administrative law judge ~~is prohibited from preparing a report or make~~ making with a~~ny~~ recommendation to the commission ~~unless the commission requests the hearing examiner~~ administrative law judge ~~to do so~~.

Subp. 3. **Hearing procedure.**

A. The hearing must be conducted as provided in ~~the following manner, although~~ this part. The ~~hearing examiner~~ administrative law judge may vary the order in which the hearing proceeds~~:~~.

~~A.~~ B. ~~The~~ Commission staff ~~shall~~ must 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~~ EA, and various procedural documents~~;~~.

~~B.~~ C. The applicant ~~shall~~ must introduce its evidence by way of testimony and exhibits~~;~~.

D. The department must introduce information for developing the record and offer the project's EA for inclusion in the record;

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

~~D.~~ F. The ~~hearing examiner shall~~ administrative law judge must provide a period of not less than ten days for ~~the submission of~~ written comments to be filed into the record after the close of the hearing~~; and~~.

~~E.~~ G. The ~~hearing examiner shall~~ administrative law judge must transmit the complete record created at the hearing, including all written comments, to the commission within five days of the ~~close of~~ date the record is closed, unless the ~~hearing examiner has been requested by the commission to~~ commission requests that the administrative law judge 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~~ the issues must not be addressed in the public hearing.

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

7850.3900 FINAL DECISION.

Subpart 1. **Timing.** The commission ~~shall~~ must make a final decision on a site permit or a route permit application within 60 days after ~~receipt of~~ the date the record is received from the ~~hearing examiner~~ administrative law judge. 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~~ EA.** ~~At the time the commission makes~~ Before making a final decision on the permit application, the commission ~~shall~~ must determine whether the ~~environmental assessment~~ EA 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~~ commission is prohibited from making 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~~ commission must publish notice of its final permit decision in the State Register within 30 days of the ~~day~~ date the commission makes the decision. The ~~PUC shall~~ commission must also publish notice in the EQB Monitor. The ~~PUC shall~~ commission must mail notice of its final permit decision to those persons whose names are on the project contact list. The ~~PUC shall~~ commission must post notice of the final decision on the agency's ~~Web page, if possible~~ website.

7850.4100 FACTORS CONSIDERED.

~~In~~ When 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~~ site or route permit under this chapter, the commission must consider the factors under Minnesota Statutes, section 216E.03, subdivision 7, as well as:

A. effects on human settlement, including, but not limited to, displacement, noise, aesthetics, cultural values, recreation, and public services, as well as information on electric and magnetic fields;

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.

O. the potential impact of the project on greenhouse gas emissions

P. the potential impact of the project on climate change.

Q. the potential impact of the project on environmental justice.

7850.4400 PROHIBITED SITES.

Subpart 1. **Prohibited sites.** ~~No large electric power generating plant may be~~ An LEPGP is prohibited from being located in any of the following areas:

A. national parks;

B. national historic sites and landmarks;

C. national historic districts;

D. national wildlife refuges;

E. national monuments;

F. national wild, scenic, and recreational riverways;

G. state wild, scenic, and recreational rivers and their land use districts;

H. state parks;

I. nature conservancy preserves;

J. state scientific and natural areas; and

K. state and national wilderness areas.

Subp. 2. **Water use.** The areas identified in subpart 1 must not be permitted as a site for ~~a large electric power generating plant~~ an LEPGP except for use for water intake or discharge facilities. If the commission includes any of these areas within a site for use for water intake or discharge facilities, it may impose appropriate conditions in the site permit to protect these areas for the purposes for which they were designated. The commission ~~shall~~ must also consider the adverse effects of proposed sites on these areas which are located wholly outside of the boundaries of these areas.

Subp. 3. **Site exclusions when alternative sites exist.** ~~No large electric power generating plant may be~~ An LEPGP is prohibited from being located in any of the following

areas unless there is no feasible and prudent alternative. Economic considerations alone do not justify approval of these areas. These areas are:

A. state registered historic sites;

B. state historic districts;

C. state wildlife management areas, except in cases where the plant cooling water is to be used for wildlife management purposes;

D. county parks;

E. metropolitan parks;

F. designated state and federal recreational trails;

G. designated trout streams; and

H. the rivers identified in Minnesota Statutes, section 85.32, subdivision 1.

Subp. 4. **Prime farmland exclusion.** No large electric power generating plant site may be permitted where the developed portion of the plant site, excluding water storage reservoirs and cooling ponds, includes more than 0.5 acres of prime farmland per megawatt of net generating capacity, or where makeup water storage reservoir or cooling pond facilities include more than 0.5 acres of prime farmland per megawatt of net generating capacity, unless there is no feasible and prudent alternative. Economic considerations alone do not justify the use of more prime farmland. "Prime farmland" means those soils that meet the specifications of Code of Federal Regulations 1980, title 7, section 657.5, paragraph (a). These provisions do not apply to areas located within home rule charter or statutory cities; areas located within two miles of home rule charter or statutory cities of the first, second, and third class; or areas designated for orderly annexation under Minnesota Statutes, section 414.0325.

Subp. 5. **Sufficient water supply required.** ~~No~~ A site ~~may~~ must not be designated ~~that~~ if the site does not have reasonable access to a proven water supply sufficient for plant operation. ~~No~~ Use of groundwater ~~may be permitted where~~ is prohibited if removal of

groundwater results in material adverse effects on groundwater, groundwater dependent natural resources, or higher priority users in and adjacent to the area, as determined in each case.The use of groundwater for high consumption purposes, such as cooling, must be avoided if a feasible and prudent alternative exists.

7850.4500 PERMIT APPLICATION REJECTION.

The commission ~~shall~~ must 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~~ must impose in any site permit for ~~a large electric power generating plant~~ an LEPGP or route permit for ~~a high voltage transmission line~~ an HVTL 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~~ an HVTL, the commission ~~shall~~ must 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~~ an HVTL that is capable of expansion in transmission capacity through multiple circuiting or design modifications.

7850.4650 COMPLIANCE FILING.

Subpart 1. **Plan and profile.** At least 30 days prior to construction, the ~~applicant~~ permittee must file a preliminary design plan for the project. The plan, whether filed in segments or its entirety, must include a project profile, including details on the project's location, the location of the right-of-way demonstrating the applicant's compliance with the route permit, and schemata and drawings detailing the right-of-way preparation, construction, cleanup, and

restoration for the project.

Subp. 2. **Commission decision.** The executive secretary must determine whether the plan and profile is consistent with the project's permit conditions and must notify the permittee of the determination in writing. Any subsequent changes to the plan and profile made by the permittee must be filed with the commission.

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~~ must suspend the permit. If at that time~~,~~ or ~~at~~ a ~~time~~ subsequent~~,~~ time the permittee decides to construct the proposed ~~large electric power generating facility~~ LEPGP or ~~high voltage transmission line~~ HVTL, the permittee ~~shall~~ must certify to the commission that there ~~have been~~ are no significant changes in any material aspects of the conditions or circumstances existing when the permit was issued. The commission ~~shall~~ must mail notice of receipt of the certification request and notice of the commission meeting date 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~~, the public agency contact list, the tribal government contact list, and the local ~~and tribal~~ government contact list. The applicant must mail notice of its request to the landowner list. If the commission determines that there are no significant changes, it ~~shall~~ must 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,~~ to an existing or permitted LEPGP or HVTL facility must be approved by 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~~ the design or location of an LEPGP or ~~high voltage transmission line~~ an HVTL that would place the facility outside the site or route approved by the commission and 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~~ commission and to those facilities that were not permitted by the ~~PUC~~ commission but meet the definition of ~~a large electric power generating plant~~ an LEPGP or ~~high voltage transmission line~~ an HVTL under applicable law. A minor alteration to a permit issued by the commission for facilities not yet constructed is also subject to review under this part. For those large electric power generating plants or high voltage transmission lines for which no permit has been issued by the ~~PUC~~ commission, this part applies to minor alterations in the facility as it exists on February 18, 2003.

Subp. 2. **Application for minor alteration of a site or route.** A ~~person~~ permittee or facility owner seeking authorization to make a minor alteration in ~~a large electric power generating plant~~ an LEPGP or ~~high voltage transmission line shall~~ an HVTL must apply to the commission. The application ~~shall~~ must be in writing and ~~shall~~ must describe the alteration in the ~~large electric power generating plant~~ LEPGP or ~~high voltage transmission line~~ HVTL to be made and the explanation why the alteration is minor. The applicant must mail its proposal to landowners reasonably likely to be affected by the alteration, to the project contact list, to the public agency contact list, to the tribal government contact list, and to the local ~~and tribal~~ units of government with jurisdiction over the area where the minor alteration is proposed. The commission ~~shall~~ must 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~~ landowners reasonably likely to be affected by the proposed alteration, to the public agency contact list, to the tribal government contact list, and to the local ~~and tribal~~ units of government with jurisdiction over the area where the minor alteration is proposed. The commission ~~shall~~ must 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. [See repealer.]

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~~ commission, the owner or operator of ~~such~~ the 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~~ an LEPGP or in a route permit for ~~a high voltage transmission line~~ an HVTL issued by the ~~PUC~~ commission upon request of any person who claims to be affected by a permit condition.

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~~ must file with the commission a description of the amendment sought and the reasons for the amendment. The commission ~~shall~~ must mail notice of receipt of the application to ~~those persons on~~ landowners reasonably likely to be affected by the proposed change in the permit condition, to the general list ~~and to those persons on~~, to the project contact list ~~if such a list exists~~, to the public agency contact list, the tribal government contact list, and to the local ~~and tribal~~ units of government with jurisdiction over the affected area. The commission ~~shall~~ must 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. [See repealer.]

7850.4950 REPORTS.

By the 15th day of each month, a permittee must file with the commission a report of all complaints received during the preceding calendar month. The permittee must file monthly

reports from the date the permit is issued until ~~the project~~ construction is complete and notice of the project's completion has been filed with the commission. The report filed must include:

A. a description of the basis or subject of the complaint;

B. whether the complaint has been resolved and, if the complaint has been resolved, the outcome and whether the complainant is satisfied with the outcome; and

C. if no complaints were received, a statement notifying the commission that no complaints were received during the preceding month.

7850.5000 PERMIT TRANSFER.

Subpart 1. **Application.** A permittee holding ~~a large electric power generating plant~~ an LEPGP site permit or ~~a high voltage transmission line~~ an HVTL route permit may request that the ~~PUC to~~ commission transfer its permit. The permittee ~~shall~~ must provide the name of the existing permittee, the name and description of the entity ~~to which~~ the permit is ~~to be~~ being transferred to, 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~~ being transferred ~~shall~~ to must provide the ~~PUC~~ commission with ~~such~~ the information ~~as~~ the ~~PUC shall require~~ commission requires to determine whether the new permittee can comply with the conditions of the permit. The commission ~~shall~~ must 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~~ must provide the same notice to persons on the project contact list if such a list exists.

Subp. 2. **Approval of transfer.** The commission ~~shall~~ must approve the transfer if the commission determines that the new permittee will comply ~~complies~~ with the conditions of the permit. ~~The commission,~~ In approving the transfer of a permit, the commission 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.~~ A permittee must inform the commission of any ownership changes within ten days of the date the ownership change is made.

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~~ Minnesota Statutes, chapter 216E, this chapter, or the permit has occurred.

Subp. 2. **Hearing.** If the commission initiates action to consider revocation or suspension of a permit, the commission ~~shall~~ must provide the permittee with an opportunity ~~for a contested case hearing conducted by an administrative law judge from the Office of Administrative Hearings.~~ to provide written comment and to appear at a commission meeting. At the meeting, the commission must consider the comments received and consider whether any other steps, in accordance with the commission's rules of practice and procedure under chapter 7829, are necessary to decide the matter.

Subp. 3. **Finding of violation.** If the commission finds that a violation of ~~the act, parts 7850.1000 to 7850.5600~~ Minnesota Statutes, chapter 216E, this chapter, 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~~ must consider ~~the following~~ whether:

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~~ A utility whose electric power system requires the immediate construction of ~~a large electric power generating plant~~ an LEPGP or ~~high voltage transmission line~~ an HVTL 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~~ LEPGP or ~~high voltage transmission line~~ HVTL;

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~~ identifying 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~~ commission must 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~~ must make a final decision on an emergency permit within 195 days after the ~~commission's acceptance of~~ date the commission accepts the application. The ~~board shall~~ commission must 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~~ under Minnesota Statutes, section 216E.03, ~~would jeopardize~~ jeopardizes 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~~ must 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~~ commission, the applicant ~~shall~~ must 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~~ an LEPGP with a capacity of less than 80 megawatts;

B. ~~a large electric power generating plant~~ an LEPGP of any size that burns natural gas and is intended to be a peaking plant;

C. ~~a high voltage transmission line~~ an HVTL 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.~~ D. ~~a high voltage transmission line~~ an HVTL service extension to a single customer between 200 and 300 kilovolts and less than ten miles in length; and

~~F.~~ E. ~~a high voltage transmission line~~ an HVTL 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~~ commission.** Within ten days of submission of an application to a local unit of government for approval of an eligible project, the applicant ~~shall~~ must 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~~ must 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~~ must 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~~ commission.** A local unit of government with jurisdiction over a project identified in this ~~section~~ part to whom an applicant has applied for approval to build the project may request the ~~PUC~~ commission to assume jurisdiction and make a decision on a site or route permit. A local unit of government ~~shall~~ must file the request with the commission within 60 days after the date 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~~ must file for a permit under the applicable provisions of ~~parts 7850.1000 to 7850.5600 for a permit from the commission~~ this chapter.

Subp. 5. **Environmental review.** A local unit of government that maintains jurisdiction over a qualifying project ~~shall~~ must prepare an ~~environmental assessment~~ EA on the project. The local unit of government ~~shall~~ must afford the public an opportunity to participate in the development of the scope of the ~~environmental assessment~~ EA before it is prepared. Upon completion of the ~~environmental assessment~~ EA, the local unit of government ~~shall~~ must publish notice in the EQB Monitor that the ~~environmental assessment~~ EA is available for review, and how a copy of the ~~document~~ EA may be reviewed, that the public may comment on the ~~document~~ EA, and the procedure for submitting comments to the local unit of government. The local unit of government ~~shall~~ must provide a copy of the ~~environmental assessment~~ EA to the ~~PUC~~ commission upon completion of the ~~document~~ EA. The local unit of government ~~shall not make~~ is ~~prohibiting~~ prohibited from making a final decision on the permit until at least ten days after the date 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~~ is responsible for preparing the ~~environmental assessment~~ EA, 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~~ LEPGP or ~~high voltage transmission line~~ HVTL determines that it has no ordinances or other provisions for reviewing and authorizing the construction of such project or has no capability ~~of preparing~~ to prepare an ~~environmental assessment~~ EA on the project, the local unit of government ~~shall~~ must refer the matter to the ~~PUC~~ commission for review.

Subp. 7. **Matters excluded.** When the ~~Public Utilities~~ commission has issued a certificate of need for ~~a large electric power generating plant~~ an LEPGP or ~~high voltage transmission line~~ an HVTL or placed ~~a high voltage transmission line~~ an HVTL on the certified HVTL list maintained by the commission, the local unit of government ~~shall~~ must 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~~ must 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~~ commission staff. At the meeting, the ~~PUC shall~~ commission must advise the public of the permits issued by the ~~PUC~~ commission in the past year. The ~~PUC shall~~ commission must 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~~ commission must 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~~ include a tentative agenda for the hearing.

Subp. 3. **Report.** The staff ~~shall~~ must 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~~ Minnesota Statutes, chapter 216E, on or before July 1 of each year, each utility must 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~~ must bill each utility as specified in ~~the act~~ Minnesota Statutes, chapter 216E.

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~~ Minnesota Statutes, chapter 216E or ~~parts 7850.1000 to 7850.5600~~ this chapter. The commission ~~shall~~ must 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.

REPEALER. Minnesota Rules, parts 7829.2550; 7849.0010, subparts 2, 3, 4, 5, 6, 10, 11, 14, 16, 17, 18, 19, 21, 22, 24, 26, 27, 28, 30, and 33; 7849.0200, subpart 5; 7849.0230; 7849.0240; 7849.0270, subparts 2, 3, 4, 5, and 6; 7849.1100; 7849.1300; 7849.1400, subparts 1, 3, 7, 8, 9, and 10; 7850.1000, subpart 14; 7850.1400, subpart 2; 7850.1600; 7850.1700, subpart 2; 7850.2000; 7850.2100, subpart 1; 7850.2300, subpart 5; 7850.2500, subparts 4, 5, 6, 7, 8, 9, 10, 11, and 12; 7850.2600; 7850.2900; 7850.3000; 7850.3100; 7850.3200; 7850.3300; 7850.3400; 7850.3500; 7850.3600; 7850.3700, subparts 3, 4, 5, 6, 7, 8, and 9; 7850.4000; 7850.4200; 7850.4800, subpart 3; and 7850.4900, subpart 3, are repealed.