

**CHAPTER 7849**  
**PUBLIC UTILITIES COMMISSION**  
**POWER PLANTS AND TRANSMISSION LINES**

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**7849.0010 DEFINITIONS.**

Subpart 1. **Scope.** For purposes of parts 7849.0010 to 7849.0400, the following definitions shall apply.

Subp. 2. **Adjusted net capability.** “Adjusted net capability” means net generating capacity, minus participation sales, plus participation purchases.

Subp. 3. **Adjusted net demand.** “Adjusted net demand” means system demand, minus firm purchases, plus firm sales.

Subp. 4. **Annual adjusted net demand.** “Annual adjusted net demand” means annual system demand, minus firm purchases, plus firm sales.

Subp. 5. **Annual electrical consumption.** “Annual electrical consumption” means sales of kilowatt hours of electricity to ultimate consumers over a 12-month period beginning January 1 and ending December 31 of the forecast year.

Subp. 6. **Annual system demand.** “Annual system demand” means the highest system demand of a utility occurring during the 12-month period ending with a given month.

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

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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 to install or enlarge a large energy facility, but not including an activity incident to preliminary engineering or environmental studies.

Subp. 10. **Firm purchases; firm sales.** “Firm purchases” and “firm sales” mean the amount of power to be purchased or sold which is intended to have assured availability.

Subp. 11. **Forecast years.** “Forecast years” means the 26 calendar years consisting of the calendar year the application is filed with the commission, the ten previous calendar years, and the 15 subsequent calendar years.

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. 13. **LEGF; large electric generating facility.** “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. **LHVTL; large high voltage transmission line.** “Large high voltage transmission line” or “LHVTL” means a conductor of electrical energy as defined by Minnesota Statutes, section 216B.2421, subdivision 2, clause (2), and associated facilities necessary for normal operation of the conductor, such as insulators, towers, substations, and terminals.

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. **Load factor.** “Load factor” means the ratio of the average load in kilowatts supplied during a designated period to the maximum load in kilowatts that was supplied during that designated period.

Subp. 17. **Minnesota service area.** “Minnesota service area” means that portion of a utility’s system lying within Minnesota.

Subp. 18. **Net generating capacity.** “Net generating capacity” means the total number of kilowatts, less station use, that all the generating facilities of a system could supply at the time of its maximum system demand. The capability of the generating units that are temporarily out of service for maintenance or repair shall be included in the net generating capacity.

Subp. 19. **Net reserve capacity obligation.** “Net reserve capacity obligation” means the annual adjusted net demand multiplied by the percent reserve capacity requirement.

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. **Participation power.** “Participation power” means power and energy that are sold from a specific generating unit or units for a period of six or more months on a continuously available basis (except when such unit or units are temporarily out of service for maintenance, during which time the delivery of energy from other generating units is at the seller’s option).

Subp. 22. **Participation purchases; participation sales.** “Participation purchases” and “participation sales” mean purchases and sales under a participation power agreement or a seasonal participation power agreement.

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

Subp. 24. **Promotional practices.** “Promotional practices” means any action or policies by an applicant, except those actions or policies that are permitted or mandated by statute or rule, which directly or indirectly give rise to the demand for the facility, including but not

limited to advertising, billing practices, promotion of increased use of electrical energy, and other marketing activities.

Subp. 25. **Seasonal adjusted net demand.** “Seasonal adjusted net demand” means seasonal system demand, minus firm purchases, plus firm sales.

Subp. 26. **Seasonal participation power.** “Seasonal participation power” means participation power sold and bought on a seasonal (summer or winter) basis.

Subp. 27. **Seasonal system demand.** “Seasonal system demand” means the maximum system demand on the applicant’s system that occurs or is expected to occur in any summer season or winter season.

Subp. 28. **Summer season.** “Summer season” means the period from May 1 through October 31.

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. **System demand.** “System demand” means the number of kilowatts that is equal to the kilowatt hours required in any clock hour, attributable to energy required by the system during such hour for supply of firm energy to ultimate consumers, including system losses, and also including any transmission losses occurring on other systems and supplied by the system for transmission of firm energy, but excluding generating station uses and excluding transmission losses charged to another system.

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. **Winter season.** “Winter season” means the period from November 1 through April 30.

**Statutory Authority:** *MS s 216B.08; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115; 12 SR 2624; 26 SR 1438*

### CERTIFICATES OF NEED

#### 7849.0020 PURPOSE.

The purpose of parts 7849.0010 to 7849.0400 is to specify the content of applications for certificates of need and to specify criteria for the assessment of need for large electric generating facilities and large high voltage transmission lines.

**Statutory Authority:** *MS s 216A.05; 216B.08; 216B.2421; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115; 12 SR 2624*

#### 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, 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 for a facility exempted by Minnesota Statutes, section 216B.243, subdivision 8.

**Statutory Authority:** *MS s 216A.05; 216B.08; 216B.2421; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115; 12 SR 2624*

**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.

**Statutory Authority:** *MS s 216A.05; 216B.08; 216B.2421; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115; 12 SR 2624*

**7849.0110 ALTERNATIVES CONSIDERATION.**

The commission shall 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.

**Statutory Authority:** *MS s 216A.05; 216B.08; 216B.2421; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115; 12 SR 2624*

**7849.0120 CRITERIA.**

A certificate of need must be granted to the applicant on determining that:

A. 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:

(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;

(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. a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record, considering:

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

(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;

(3) the effects of the proposed facility upon the natural and socioeconomic environments compared to the effects of reasonable alternatives; and

(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.

**Statutory Authority:** *MS s 216A.05; 216B.08; 216B.2421; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115; 12 SR 2624*

#### 7849.0200 APPLICATION PROCEDURES AND TIMING.

Subpart 1. **Form and manner.** An applicant for a certificate of need shall apply in a form and manner prescribed by parts 7849.0010 to 7849.0400.

Subp. 2. **Copies, title, table of contents.** The original and 13 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 on 8-1/2 inch by 11 inch paper except for drawings, maps, and similar materials. 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, changes or corrections to the application must comply with subpart 2 as to the number of copies and size of documents. In addition, each page of 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. The applicant shall send to persons receiving copies of the application a like number of copies of changed or corrected pages.

Subp. 4. **Cover letter.** 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.

Subp. 5. **Complete applications.** The commission must notify the applicant within 30 days of the receipt of an application if the application is not substantially complete. On notification, the applicant may correct any deficiency and may resubmit the application. If the revised application is substantially complete, the date of its submission is considered the application date.

Subp. 6. **Exemptions.** Before submitting an application, a person is exempted from any data requirement of parts 7849.0010 to 7849.0400 if the person (1) requests an exemption from specified rules, in writing to the commission, and (2) shows that the data requirement is unnecessary to determine the need for the proposed facility or may be satisfied by submitting another document. A request for exemption must be filed at least 45 days before submitting an application. The 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.

**Statutory Authority:** *MS s 216A.05; 216B.08; 216B.2421; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115; 12 SR 2624*

#### 7849.0210 FILING FEES AND PAYMENT SCHEDULE.

Subpart 1. **Fees.** The fee for processing an application shall be: \$10,000 plus \$50 for each megawatt of plant capacity for LEGF's; or \$10,000 plus \$40 per kilovolt of design voltage for LHVTL's; plus such additional fees as are reasonably necessary for completion of the evaluation of need for the proposed facility.

Subp. 2. **Payment schedule.** Twenty-five percent of the fee set according to subpart 1 must accompany the application, and the balance must be paid in three equal installments within 45, 90, and 135 days after submission of the application. The applicant must be notified of and billed for costs not covered by the fee described in subpart 1. The additional fees must be paid within 30 days of notification. The billing of additional fees must be accompanied by an itemized document showing the necessity for the additional assessment.

Subp. 3. **Payment required.** The commission shall not issue its decision on the application until the outstanding set fee payments and additional billings under subparts 1 and 2 are paid by the applicant.

**Statutory Authority:** *MS s 216A.05; 216B.08; 216B.2421; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115; 12 SR 2624*

#### 7849.0220 APPLICATION CONTENTS.

Subpart 1. **Large electric generating facilities (LEGF).** 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.

Subp. 2. **Large high voltage transmission lines (LHVTL).** 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.

Subp. 3. **Joint ownership and multiparty use.** If the proposed LEGF or LHVTL 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.

**Statutory Authority:** *MS s 216A.05; 216B.08; 216B.2421; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115; 12 SR 2624*

#### 7849.0230 ENVIRONMENTAL REPORT.

Subpart 1. **Draft report.** If the application is for an LHVTL, the information submitted under parts 7849.0240, 7849.0260, and 7849.0290 to 7849.0340 must be designated by the applicant as its "draft environmental report" and distributed in accordance with part 4410.7100, subpart 5.

Subp. 2. **Written responses.** The applicant shall submit written responses to the substantive comments entered into the record of the proceeding before the close of the public hearing on the application. The written responses must be entered into the record and be available to the administrative law judge in preparing the recommendation on the application.

Subp. 3. **Final report.** The draft environmental report, written comments, and the applicant's written responses to comments comprise the "final environmental report," which must be distributed in accordance with part 4410.7100, subpart 5.

Subp. 4. **Notice of final report.** On completing the final environmental report, the commission shall have published in the EQB Monitor, published by the Minnesota Environmental Quality Board, a notice indicating completion.

Subp. 5. **Supplements.** The applicant must prepare a supplement to the final environmental report if the tests described in part 4410.3000, subparts 1 and 2, are met and a certificate of need proceeding on the proposed facility is pending.

**Statutory Authority:** *MS s 216A.05; 216B.08; 216B.2421; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115; 12 SR 2624*

**7849.0240 NEED SUMMARY AND ADDITIONAL CONSIDERATIONS.**

Subpart 1. **Need summary.** An application must contain a summary of the major factors that justify the need for the proposed facility. This summary must not exceed, without the approval of the commission, 15 pages in length, including text, tables, graphs, and figures.

Subp. 2. **Additional considerations.** Each application shall contain an explanation of the relationship of the proposed facility to each of the following socioeconomic considerations:

A. socially beneficial uses of the output of the facility, including its uses to protect or enhance environmental quality;

B. promotional activities that may have given rise to the demand for the facility; and

C. the effects of the facility in inducing future development.

**Statutory Authority:** *MS s 216A.05; 216B.08; 216B.2421; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115; 12 SR 2624*

**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) 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;

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 a different energy source (fuel oil, natural gas, coal, nuclear fission, and the emergent technologies); and

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

C. 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;

(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;

(8) its efficiency, expressed for a generating facility as the estimated heat rate, or 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; and

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(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;

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.

**Statutory Authority:** *MS s 216A.05; 216B.08; 216B.2421; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115; 12 SR 2624*

### 7849.0260 PROPOSED LHVTL AND ALTERNATIVES APPLICATION.

Each application for a proposed LHVTL 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 losses under projected maximum loading and under projected average loading in the length of the transmission line and at the terminals or substations;

(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 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;

(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) any reasonable combinations of the alternatives listed in subitems (1) to (7);

C. 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 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) 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; and

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

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



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

**Statutory Authority:** *MS s 216A.05; 216B.08; 216B.2421; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115; 12 SR 2624*

#### 7849.0270 PEAK DEMAND AND ANNUAL CONSUMPTION FORECAST.

**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.

**Subp. 2. Content of forecast.** For each forecast year, the following data must be provided:

A. when the applicant's service area includes areas other than Minnesota, annual electrical consumption by ultimate consumers within the applicant's Minnesota service area;

B. for each of the following categories, estimates of the number of ultimate consumers within the applicant's system and annual electrical consumption by those consumers:

(1) farm, excluding irrigation and drainage pumping (for reporting purposes, any tract of land used primarily for agricultural purposes shall be considered farm land);

(2) irrigation and drainage pumping;

(3) nonfarm residential (when electricity is supplied through a single meter for both residential and commercial uses, it shall be reported according to its principal use, and apartment buildings shall be reported as residential even if not separately metered);

(4) commercial (this category shall include wholesale and retail trade; communication industries; public and private office buildings, banks, and dormitories; insurance, real estate and rental agencies; hotels and motels; personal business and auto repair services; medical and educational facilities; recreational, social, religious, and amusement facilities; governmental units, excluding military bases; warehouses other than manufacturer owned; electric, gas, water and water pumping, excluding water pumping for irrigation, and other utilities);

(5) mining;

(6) industrial (this category shall include all manufacturing industries, construction operations and petroleum refineries);

(7) street and highway lighting;

(8) electrified transportation (this category shall include energy supplied for the propulsion of vehicles, but shall not include energy supplied for office buildings, depots, signal lights or other associated facilities that shall be reported as commercial or industrial);

(9) other (this category shall include municipal water pumping facilities, oil and gas pipeline pumping facilities, military camps and bases, and all other consumers not reported in subitems (1) to (8)); and

(10) the sum of subitems (1) to (9);

C. an estimate of the demand for power in the applicant's system at the time of annual system peak demand, including an estimated breakdown of the demand into the consumer categories listed in item B;

D. the applicant's system peak demand by month;

E. the estimated annual revenue requirement per kilowatt hour for the system in current dollars; and

F. the applicant's estimated average system weekday load factor by month; in other words, for each month, the estimated average of the individual load factors for each weekday in the month.

**Subp. 3. Forecast methodology.** An applicant may use a forecast methodology of its own choosing, with due consideration given to cost, staffing requirements, and data avail-

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ability. However, forecast data provided by the applicant is subject to tests of accuracy, reasonableness, and consistency. The applicant shall detail the forecast methodology employed to obtain the forecasts provided under subpart 2, including:

- A. the overall methodological framework that is used;
- B. the specific analytical techniques which are used, their purpose, and the components of the forecast to which they have been applied;
- C. the manner in which these specific techniques are related in producing the forecast;
- D. where statistical techniques have been used:
  - (1) the purpose of the technique;
  - (2) typical computations (e.g., computer printouts, formulas used), specifying variables and data; and
  - (3) the results of appropriate statistical tests;
- E. forecast confidence levels or ranges of accuracy for annual peak demand and annual electrical consumption, as well as a description of their derivation;
- F. a brief analysis of the methodology used, including:
  - (1) its strengths and weaknesses;
  - (2) its suitability to the system;
  - (3) cost considerations;
  - (4) data requirements;
  - (5) past accuracy; and
  - (6) other factors considered significant by the applicant; and
- G. an explanation of discrepancies that appear between the forecasts presented in the application and the forecasts submitted under chapter 7610 or in the applicant's previous certificate of need proceedings.

**Subp. 4. Data base for forecasts.** The applicant shall discuss the data base used in arriving at the forecast presented in its application, including:

- A. a complete list of all data sets used in making the forecast, including a brief description of each data set and an explanation of how each was obtained, (e.g., monthly observations, billing data, consumer survey, etc.) or a citation to the source (e.g., population projection from the state demographer's office);
- B. a clear identification of any adjustments made to raw data in order to adapt them for use in forecasts, including:
  - (1) the nature of the adjustment;
  - (2) the reason for the adjustment; and
  - (3) the magnitude of the adjustment.

The applicant shall provide to the commission or the administrative law judge on demand copies of the data sets used in making the forecasts, including both raw and adjusted data, input and output data.

**Subp. 5. Assumptions and special information.** The applicant shall 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 shall discuss the assumptions made regarding:

- A. the availability of alternate sources of energy;
  - B. the expected conversion from other fuels to electricity or vice versa;
  - C. future prices of electricity for customers in the applicant's system and the effect that such price changes will likely have on the applicant's system demand;
  - D. the data requested in subpart 2 that is not available historically or not generated by the applicant in preparing its own internal forecast;
  - E. the effect of energy conservation programs on long-term electrical demand;
- and

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

Subp. 6. **Coordination of forecasts with other systems.** The applicant shall provide:

A. a description of the extent to which the applicant coordinates its load forecasts with those of other systems, such as neighboring systems and associate systems in a power pool or coordinating organization; and

B. a description of the manner in which such forecasts are coordinated, and any problems experienced in efforts to coordinate load forecasts.

**Statutory Authority:** *MS s 216A.05; 216B.08; 216B.2421; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115; L 1987 c 312 art 1; 12 SR 2624; 17 SR 1279*

#### 7849.0280 SYSTEM CAPACITY.

The applicant shall describe the ability of its existing system to meet the demand for electrical energy forecast in response to part 7849.0270 and the extent to which the proposed facility will increase this capability. In preparing this description, the applicant shall 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;

B. the applicant's seasonal firm purchases and seasonal firm sales for each utility involved in each transaction for each of the forecast years;

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 op-

eration 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.

**Statutory Authority:** *MS s 216A.05; 216B.08; 216B.2421; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115; 12 SR 2624*

#### **7849.0290 CONSERVATION PROGRAMS, APPLICATION.**

An application 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 description of the specific energy conservation and efficiency programs the applicant has considered, a list of those 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. a quantification of the manner by which these programs affect or help determine the forecast provided in response to part 7849.0270, subpart 2, a list of their total costs by program, and a discussion of their expected effects in reducing the need for new generation and transmission facilities.

**Statutory Authority:** *MS s 216A.05; 216B.08; 216B.2421; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115; 12 SR 2624*

#### **7849.0300 CONSEQUENCES OF DELAY.**

The applicant shall present a discussion of anticipated consequences to its system, neighboring systems, and the power pool should the proposed facility be delayed one, two, and three years, or postponed indefinitely. 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.

**Statutory Authority:** *MS s 216A.05; 216B.08; 216B.2421; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115; 12 SR 2624*

#### **7849.0310 ENVIRONMENTAL INFORMATION REQUIRED.**

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

**Statutory Authority:** *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115*

#### **7849.0320 GENERATING FACILITIES.**

The applicant shall 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 facilities:

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

(2) the typical fuel requirement (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 (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, and moisture content of the fuel;

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. water use by the facility for alternate cooling systems, including:

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

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

(3) the annual consumption in acre-feet;

F. the potential sources and types of discharges to water attributable to operation of the facility;

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

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

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

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

**Statutory Authority:** *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115*

#### 7849.0330 TRANSMISSION FACILITIES.

The applicant shall provide data for each alternative that would involve construction of an LHVTL. 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;

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(2) a discussion of the strength and distribution of the electric field 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 between the endpoints of the transmission facility. The region shall 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 be described where applicable:

(1) hydrologic features including lakes, rivers, streams, and wetlands;

(2) natural vegetation and associated wildlife;

(3) physiographic regions; and

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

**Statutory Authority:** *MS s 216A.05; 216B.08; 216B.2421; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115; 12 SR 2624*

### 7849.0340 NO-FACILITY ALTERNATIVE.

For each of the three levels of demand specified in part 7849.0300, the applicant shall 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.

**Statutory Authority:** *MS s 216A.05; 216B.08; 216B.2421; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115; 12 SR 2624*

#### 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.** Changes proposed by 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:

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. 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.

F. 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.

G. If a utility applies to the Minnesota Environmental Quality Board for a transmission line route that is not expected to meet the definition of LHVTTL in part 7849.0010, but at some time in the routing process it becomes apparent that the board 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.

H. If an applicant determines that a change in size, type, timing, or ownership other than specified in this subpart 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 the certificate of need hearing proceeding on the facility. Intervenors may comment on the proposed change within 15 days of being notified of the change. The commission shall evaluate the reasons for and against the proposed change and, within 45 days of receipt of the request, notify the applicant whether the change is acceptable without recertification. The commission shall 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.

**Statutory Authority:** *MS s 216A.05; 216B.08; 216B.2421; 216B.243; 216C.10*

**History:** *L 1983 c 289 s 115; 12 SR 2624*

#### SITE AND ROUTE PERMITS

##### 7849.5010 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 7849.5010 to 7849.6500, the following terms have the meanings given them.

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

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

Subp. 4. **Commission.** “Commission” means the Public Utilities Commission.

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

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

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

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

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

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

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

Subp. 11. [Repealed, 27 SR 1295]

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. **PUC.** “PUC” means the entire Public Utilities Commission, including the commission and staff.

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

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

Subp. 17. **Route segment.** “Route segment” means a portion of a route.

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

Subp. 19. **Utility.** “Utility” means any entity engaged or intending to engage in this state in the generation, transmission, or distribution of electric energy including, but not lim-



ited to, a private investor owned utility, a cooperatively owned utility, a public or municipally owned utility, a limited liability company, or a private corporation.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *15 SR 1598; 27 SR 1295; L 2005 c 97 art 3 s 19*

#### 7849.5020 PURPOSE AND AUTHORITY.

Parts 7849.5010 to 7849.6500 are prescribed by the Minnesota Public Utilities Commission pursuant to the authority granted to the commission in the Power Plant Siting Act, as amended, Minnesota Statutes, chapter 216E, to give effect to the purposes of the act.

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *15 SR 1598; 27 SR 1295; L 2005 c 97 art 3 s 19*

#### 7849.5030 APPLICABILITY.

Parts 7849.5010 to 7849.6500 establish the requirements for the processing of permit applications by the Public Utilities Commission for large electric power generating plants and high voltage transmission lines. Requirements for environmental review of such projects before the commission are established in the applicable requirements of chapter 4410 and parts 7849.7010 to 7849.7110.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

#### 7849.5040 PERMIT REQUIREMENT.

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

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

##### Subp. 3. Expansion of existing facility.

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

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

C. Except as provided in part 7849.5060 or 7849.5980, no person shall increase the generating capacity or output of an existing large electric power generating plant without a permit from the commission.

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

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

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

#### **7849.5050 SMALL PROJECTS.**

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

Subp. 2. **Environmental review.** Proposers of power plants of less than 50 megawatts or transmission lines of less than 100 kilovolts must comply with the environmental review requirements of chapter 4410, parts 7849.7010 to 7849.7110, and Minnesota Statutes, chapter 116D.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

#### **7849.5060 EXCEPTIONS TO PERMITTING REQUIREMENT FOR CERTAIN EXISTING FACILITIES.**

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

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

B. high voltage transmission lines:

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

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

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

C. large electric power generating plants:

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

(2) modification of a large electric power generating plant to increase efficiency as long as the capacity of the plant is not increased more than ten percent or more than 100 megawatts, whichever is greater, and the modification does not require expansion of the plant beyond the developed portion of the plant site. If a subsequent modification results in a total of more than 100 megawatts of additional capacity, this provision does not apply. An increase in efficiency is a reduction in the amount of BTUs (British Thermal Units) required to produce a kilowatt hour of electricity at the facility;

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

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

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

Subp. 2. **Minor alteration.** In the event a modification or other change in an existing substation, high voltage transmission line, or large electric power generating plant does not qualify for an exception under this part, the modification or change may qualify for a minor alteration under part 7849.5980.

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

#### 7849.5070 JOINT PROCEEDING.

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

#### 7849.5200 PERMIT APPLICATION UNDER FULL PERMITTING PROCESS.

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

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

#### 7849.5210 PERMIT FEES.

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

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

Subp. 3. **Additional payments.** The applicant shall pay an additional 25 percent of the fee within 90 days after the application has been accepted by the commission. Additional

payments must be made within 30 days of notification by the commission that additional fees are necessary for completion of the permitting process. The commission shall not make a final decision on a permit application if any assessed fees have not been paid.

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

#### **7849.5220 APPLICATION CONTENTS.**

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

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

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

C. at least two proposed sites for the proposed large electric power generating plant and identification of the applicant's preferred site and the reasons for preferring the site;

D. a description of the proposed large electric power generating plant and all associated facilities, including the size and type of the facility;

E. the environmental information required under subpart 3;

F. the names of the owners of the property for each proposed site;

G. the engineering and operational design for the large electric power generating plant at each of the proposed sites;

H. a cost analysis of the large electric power generating plant at each proposed site, including the costs of constructing and operating the facility that are dependent on design and site;

I. an engineering analysis of each of the proposed sites, including how each site could accommodate expansion of generating capacity in the future;

J. identification of transportation, pipeline, and electrical transmission systems that will be required to construct, maintain, and operate the facility;

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

L. a copy of the Certificate of Need for the project from the Public Utilities Commission or documentation that an application for a Certificate of Need has been submitted or is not required.

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

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

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

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

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

E. the environmental information required under subpart 3;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

#### 7849.5230 APPLICATION REVIEW.

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

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

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

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

### 7849.5240 PROJECT NOTICE.

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

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

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

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

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

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

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

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

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

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

C. a statement that the permit application will be considered by the PUC under the provisions of parts 7849.5010 to 7849.6500 and the Power Plant Siting Act and describing the time periods for the PUC to act;

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

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

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

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

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

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

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

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

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

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

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

#### **7849.5250 PUBLIC ADVISOR.**

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

#### **7849.5260 PUBLIC MEETING.**

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

**Subp. 2. Notice of public meeting.** The PUC shall give at least ten days' notice of the public meeting by mailing notice to persons whose names are on the project contact list main-

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tained pursuant to part 7849.5240, subpart 1. The PUC shall also publish notice of the public meeting in a legal newspaper of general circulation in the area where the project is proposed to be located. If appropriate, the PUC may request the applicant to include notice of the public meeting in the notice to be provided by the applicant pursuant to part 7849.5240.

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

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

**Subp. 5. EIS scoping.** At the public meeting, the public must be provided an opportunity to comment on the scope of the environmental impact statement in accordance with part 7849.5300.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

### 7849.5270 CITIZEN ADVISORY TASK FORCE.

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

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

**Subp. 3. Task force responsibilities.** Upon appointment of a citizen advisory task force, the commission shall specify in writing the charge to the task force. The charge shall include the identification of additional sites or routes or particular impacts to be evaluated in the environmental impact statement. The commission may establish additional charges, including a request that the task force express a preference for a specific site or route if it has one.

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

### 7849.5300 EIS PREPARATION.

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

**Subp. 2. Scoping process.** The commissioner of the Department of Commerce shall provide the public with an opportunity to participate in the development of the scope of the environmental impact statement by holding a public meeting and by soliciting public comments. The public meeting required under part 7849.5260 satisfies the requirement to hold a



scoping meeting. The commissioner shall provide a period of at least seven days from the day of the public meeting for the public to submit comments on the scope of the EIS. The commissioner shall determine the scope of the environmental impact statement as soon after holding the public meeting as possible. Within five days after the decision, the commissioner shall mail notice of the scoping decision to those persons whose names are on either the general list or the project contact list. Once the commissioner has determined the scope of the environmental impact statement, the scope must not be changed except upon decision by the commissioner that substantial changes have been made in the project or substantial new information has arisen significantly affecting the potential environmental effects of the project or the availability of reasonable alternatives.

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

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

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

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

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

**Subp. 7. Public review.** Upon completion of the draft environmental impact statement, the commissioner of the Department of Commerce shall make the document available for public review by placing a copy of the document in a public library or other governmental office in each county where the proposed project may be located. The commissioner shall send notice of the availability of the draft environmental impact statement to each person on the project contact list maintained under part 7849.5240, subpart 1. The commissioner shall also place a notice in the EQB Monitor of the availability of the draft environmental impact statement. The commissioner shall post the environmental impact statement on the agency's Web page if possible.

**Subp. 8. Informational meeting.** The commissioner of the Department of Commerce shall schedule an informational meeting to provide an opportunity for the public to comment on the draft environmental impact statement. The meeting must not be held sooner than 20 days after the draft environmental impact statement becomes available. The meeting must be held in a location convenient to persons who live near the proposed project. The commissioner shall send notice of the informational meeting to each person on the project contact list maintained under part 7849.5240, subpart 1. The commissioner shall also place notice in the

EQB Monitor. The informational meeting may be held just prior to the holding of a contested case hearing on the permit application. The commissioner shall hold the record on the environmental impact statement open for receipt of written comments for not less than ten days after the close of the informational meeting.

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

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

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

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

C. was prepared in compliance with the procedures in parts 7849.5010 to 7849.6500.

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

Subp. 11. **Cost.** The applicant for a site permit or route permit shall pay the reasonable costs of preparing and distributing an environmental impact statement. The costs must not be assessed separately from the assessment under part 7849.5210 unless that assessment is inadequate to cover the commissioner's reasonable costs of considering the permit application.

Subp. 12. **Environmental review requirements.** The requirements of chapter 4410 and parts 7849.7010 to 7849.7110 do not apply to the preparation or consideration of an environmental impact statement for a large electric power generating plant or high voltage transmission line except as provided in parts 7849.5010 to 7849.6500.

**Statutory Authority:** *MS s 116C.66; 116D.04; 216E.16*

**History:** *27 SR 1295; 28 SR 951; L 2005 c 97 art 3 s 19*

#### **7849.5330 CONTESTED CASE HEARING.**

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

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

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**7849.5340 FINAL DECISION.**

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

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

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

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**7849.5500 ELIGIBLE PROJECTS.**

Subpart 1. **Eligible projects.** An applicant for a site permit or a route permit for one of the following projects may elect to follow the procedures of parts 7849.5500 to 7849.5720 instead of the full permitting procedures in parts 7849.5200 to 7849.5340:

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

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

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

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

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

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

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

Subp. 2. **Notice to PUC.** An applicant for a permit for one of the qualifying projects in subpart 1, who intends to follow the procedures of parts 7849.5500 to 7849.5700, shall notify the PUC of such intent, in writing, at least ten days before submitting an application for the project.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**7849.5510 PERMIT APPLICATION UNDER ALTERNATIVE PROCESS.**

Part 7849.5200, regarding submission of a permit application, applies to projects being considered under the alternative permitting process.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295*

**7849.5520 PERMIT FEES.**

Part 7849.5210, regarding permit fees, applies to projects being considered under the alternative permitting process.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295*

**7849.5530 CONTENTS OF APPLICATION.**

The applicant shall include in the application the same information required in part 7849.5220, except the applicant need not propose any alternative sites or routes to the preferred site or route. If the applicant has rejected alternative sites or routes, the applicant shall include in the application the identity of the rejected sites or routes and an explanation of the reasons for rejecting them.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295*

**7849.5540 APPLICATION REVIEW.**

Part 7849.5230 regarding the commission's review of the application, applies to projects being considered under the alternative permitting process.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**7849.5550 PROJECT NOTICE.**

Part 7849.5240, regarding obligations to give notice of the project, applies to projects being considered under the alternative permitting process.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295*

**7849.5560 PUBLIC ADVISOR.**

Part 7849.5250, regarding appointment of a public advisor, applies to projects being considered under the alternative permitting process.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295*

**7849.5570 PUBLIC MEETING.**

Subpart 1. **Public meeting.** Part 7849.5260, subparts 1 to 4, apply to projects being considered under the alternative permitting process.

Subp. 2. **Environmental assessment.** At the public meeting, the public shall be provided an opportunity to comment on the scope of the environmental assessment in accordance with part 7849.5700.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295*

**7849.5580 CITIZEN ADVISORY TASK FORCE.**

Part 7849.5270, regarding the appointment of a citizen advisory task force, applies to projects being considered under the alternative permitting process.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295*

**7849.5700 ENVIRONMENTAL ASSESSMENT PREPARATION.**

Subpart 1. **Environmental assessment required.** The commissioner of the Department of Commerce shall prepare an environmental assessment on each proposed large electric power generating plant and each proposed high voltage transmission line being reviewed under the alternative permitting process in parts 7849.5500 to 7849.5720. The environmental assessment must contain information on the human and environmental impacts of the proposed project and of alternative sites or routes identified by the commissioner and shall address mitigating measures for all sites or routes considered.

Subp. 2. **Scoping process.**

A. The commissioner of the Department of Commerce shall provide the public with an opportunity to participate in the development of the scope of the environmental assessment by holding a public meeting and by soliciting public comments. The public meeting required under part 7849.5570 satisfies the requirement to hold a scoping meeting. The commissioner shall mail notice of the meeting to those persons on either the general list or the project contact list at least ten days before the meeting. The commissioner shall provide at least seven days from the day of the public meeting for the public to submit comments regarding the scope of the environmental assessment.

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

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

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

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

- A. a general description of the proposed facility;
- B. a list of any alternative sites or routes that are addressed;
- C. a discussion of the potential impacts of the proposed project and each alternative site or route on the human and natural environment;
- D. a discussion of mitigative measures that could reasonably be implemented to eliminate or minimize any adverse impacts identified for the proposed project and each alternative site or route analyzed;
- E. an analysis of the feasibility of each alternative site or route considered;
- F. a list of permits required for the project; and
- G. a discussion of other matters identified in the scoping process.

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

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

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

Subp. 8. **No additional environmental review.** An environmental assessment must be the only state environmental review document required to be prepared by the commissioner of the Department of Commerce on a project qualifying for review under the alternative review process. No environmental assessment worksheet or environmental impact statement shall be required. Environmental review at the certificate of need stage before the Public Utilities Commission must be performed in accordance with parts 7849.7010 to 7849.7110.

Subp. 9. **Cost.** The cost of the preparation of an environmental assessment must be assessed to the applicant as part of the application fee pursuant to part 7849.5210.

**Statutory Authority:** *MS s 116C.66; 116D.04; 216E.16*

**History:** *27 SR 1295; 28 SR 951; L 2005 c 97 art 3 s 19*

#### **7849.5710 PUBLIC HEARING.**

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

Subp. 2. **Hearing examiner.** The commission shall appoint a person to act as the hearing examiner at the public hearing. The hearing examiner may be an employee of the PUC. The hearing examiner shall set the date and place for the hearing and provide notice to the public. The hearing examiner may make such rulings as are required to conduct the hearing in a fair, impartial, and expeditious manner, including the authority to maintain decorum at the hearing, to exclude repetitious or irrelevant testimony, to limit the amount of time for oral testimony, and to continue the hearing from time to time as needed. Persons may testify at the hearing without being first sworn under oath. The hearing examiner shall ensure that the record created at the hearing is preserved and transmitted to the commission. An audio recording of the hearing must be made, unless the commission determines that a court reporter is appropriate. The hearing examiner shall not prepare a report or make any recommendation to the commission unless the commission requests the hearing examiner to do so.

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

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

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

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

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

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

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

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

#### 7849.5720 FINAL DECISION.

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

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

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

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

#### 7849.5900 STANDARDS AND CRITERIA.

No site permit or route permit shall be issued in violation of the site selection standards and criteria established in Minnesota Statutes, sections 216E.03 and 216E.04, and in rules adopted by the commission. The commission shall issue a permit for a proposed facility when the commission finds, in keeping with the requirements of the Minnesota Environmental Policy Act, Minnesota Statutes, chapter 116D, and the Minnesota Environmental Rights Act, Minnesota Statutes, chapter 116B, that the facility is consistent with state goals to conserve resources, minimize environmental impacts, and minimize human settlement and other land use conflicts and ensures the state's electric energy security through efficient, cost-effective power supply and electric transmission infrastructure.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

#### 7849.5910 FACTORS CONSIDERED.

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

A. effects on human settlement, including, but not limited to, displacement, noise, aesthetics, cultural values, recreation, and public services;

B. effects on public health and safety;

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

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- 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.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

### 7849.5920 FACTORS EXCLUDED.

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

### 7849.5930 PROHIBITED ROUTES.

Subpart 1. **Wilderness areas.** No high voltage transmission line may be routed through state or national wilderness areas.

Subp. 2. **Parks and natural areas.** No high voltage transmission line may be routed through state or national parks or state scientific and natural areas unless the transmission line would not materially damage or impair the purpose for which the area was designated and no feasible and prudent alternative exists. Economic considerations alone do not justify use of these areas for a high voltage transmission line.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295*

### 7849.5940 PROHIBITED SITES.

Subpart 1. **Prohibited sites.** No large electric power generating plant may be 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 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 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 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 site may be designated that does not have reasonable access to a proven water supply sufficient for plant operation. No use of groundwater may be permitted where 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.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

#### 7849.5950 PERMIT APPLICATION REJECTION.

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**7849.5960 PERMIT CONDITIONS.**

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

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**7849.5970 DELAY IN ROUTE OR SITE CONSTRUCTION.**

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**7849.5980 MINOR ALTERATION IN GENERATING PLANT OR TRANSMISSION LINE.**

Subpart 1. **Applicability.** No person may make a minor alteration in a large electric power generating plant or high voltage transmission line without approval from the commission, unless the action is exempt from review under part 7849.5060. A minor alteration is a change in a large electric power generating plant or high voltage transmission line that does not result in significant changes in the human or environmental impact of the facility. The requirements of this part apply to those facilities that have been permitted by the PUC and to those facilities that were not permitted by the PUC but meet the definition of a large electric power generating plant or high voltage transmission line under applicable law. For those large electric power generating plants or high voltage transmission lines for which no permit has been issued by the PUC, this part applies to minor alterations in the facility as it exists on February 18, 2003.

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

Subp. 3. **Commission decision.** The commission shall decide within ten days after close of the public comment period whether to authorize the minor alteration, bring the matter to the commission for consideration, or determine that the alteration is not minor and requires a full permitting decision. The commission may authorize the minor alteration but im-

pose reasonable conditions on the approval. The commission shall notify the applicant in writing of the commission's decision and send a copy of the decision to any person who requested notification or filed comments on the application.

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

#### **7849.5990 AMENDMENT OF PERMIT CONDITIONS.**

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

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

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

#### **7849.6000 PERMIT TRANSFER.**

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

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

#### **7849.6010 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 7849.5010 to 7849.6500, or the permit has occurred.

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

**Subp. 3. Finding of violation.** If the commission finds that a violation of the act, parts 7849.5010 to 7849.6500, or the permit has occurred, it may revoke or suspend the permit, require the utility to undertake corrective or ameliorative measures as a condition to avoid revocation or suspension, or require corrective measures and suspend the permit. In determining the appropriate sanction, the commission shall consider the following:

A. whether the violation will result in any significant additional adverse environmental effects;

B. whether the results of the violation can be corrected or ameliorated; and

C. whether a suspension or revocation of a permit or certificate will impair the utility's electrical power system reliability.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

#### **7849.6100 EMERGENCY PERMIT.**

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

A. a description of the proposed large electric power generating plant or high voltage transmission line;

B. an explanation of the major unforeseen event causing the emergency situation;

C. a discussion of the anticipated impacts on the electric system if the proposed facility is not approved within 195 days;

D. a copy of the written notification to the Public Utilities Commission of the major unforeseen event and the need for immediate construction; and

E. as much of the information required under part 7849.5220 as the utility has available.

**Subp. 2. Public hearing.** The PUC shall hold a public hearing on the application for an emergency permit. The hearing must be held within 90 days after the application is submitted. The hearing must be held in accordance with part 7849.5710.

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

A. a demonstrable emergency exists;

B. the emergency requires immediate construction;

C. adherence to the procedures and time schedules specified in Minnesota Statutes, section 216E.03, would jeopardize the utility's electric power system or the utility's ability to meet the electric needs of its customers in an orderly and timely manner;

D. the utility will implement mitigating measures to minimize the human and environmental impacts of the facility; and

E. the utility will carry out the project in an expeditious manner consistent with the emergency.

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

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**7849.6200 LOCAL REVIEW OF PROPOSED FACILITIES.**

Subpart 1. **Local review.** An applicant who seeks a site or route permit for one of the projects identified in subpart 2 has the option of applying to those local units of government that have jurisdiction over the site or route for approval to build the project. If local approval is granted, a site or route permit is not required from the commission. If the applicant files an application with the PUC, the applicant shall be deemed to have waived its right to seek local approval of the project.

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

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

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

Subp. 4. **Referral to PUC.** A local unit of government with jurisdiction over a project identified in this section to whom an applicant has applied for approval to build the project may request the PUC to assume jurisdiction and make a decision on a site or route permit. A local unit of government shall file the request with the commission within 60 days after an application for the project has been filed with any one local unit of government. If one of the local units of government with jurisdiction over the project requests the commission to assume jurisdiction, jurisdiction over the project transfers to the commission and the applicant shall file under the applicable provisions of parts 7849.5010 to 7849.6500 for a permit from the commission.

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

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

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

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

### 7849.6300 ANNUAL PUBLIC HEARING.

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

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

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

### 7849.6400 ANNUAL ASSESSMENT ON UTILITIES.

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

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

### 7849.6500 PROGRAM ADVISORY TASK FORCE.

The commission may appoint a program advisory task force to provide advice and recommendations concerning development, revision, and enforcement of any rule or program initiated under the act or parts 7849.5010 to 7849.6500. The commission shall provide guidance to the program advisory task force in the form of a charge and through specific requests. The program advisory task force must be composed of as many members as may be designated by the commission and its membership must be solicited on a statewide basis. The program advisory task force and its chair must be appointed for a one-year term.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

### 7849.7010 APPLICABILITY AND SCOPE.

Subpart 1. **Applicability.** Parts 7849.7010 to 7849.7110 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.

Subp. 2. **Scope.** Parts 7849.7010 to 7849.7110 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.243 or 216B.2425, and applicable rules. Additional review at the permitting stage is required under parts 7849.5010 to 7849.6500.

**Statutory Authority:** *MS s 116D.04*

**History:** *28 SR 951; L 2005 c 97 art 3 s 19*

#### 7849.7020 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 7849.7010 to 7849.7110, the following terms and abbreviations have the meanings given them.

Subp. 2. **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. 3. **Commissioner.** “Commissioner” means the person who is the commissioner of the Department of Commerce.

Subp. 4. **Environmental report.** “Environmental report” 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 alternatives to the project and methods to mitigate anticipated adverse impacts.

Subp. 5. **High voltage transmission line or HVTL.** “High voltage transmission line” or “HVTL” means any high voltage transmission line with a capacity of 200 kilovolts or more and any high voltage transmission line with a capacity of 100 kilovolts or more with more than ten miles of its length in Minnesota or that crosses a state line.

Subp. 6. **Large electric power generating plant or LEPGP.** “Large electric power generating plant” or “LEPGP” means any electric power generating plant or combination of plants at a single site with a combined capacity of 50,000 kilowatts or more and transmission lines directly associated with the plant that are necessary to interconnect the plant to the transmission system.

Subp. 7. **Mail.** “Mail” means either the United States mail or electronic mail by e-mail.

Subp. 8. **Public Utilities Commission or PUC.** “Public Utilities Commission” or “PUC” means the Minnesota Public Utilities Commission.

**Statutory Authority:** *MS s 116D.04*

**History:** *28 SR 951; L 2005 c 97 art 3 s 19*

#### 7849.7030 ENVIRONMENTAL REPORT.

The commissioner of the Department of Commerce shall prepare an environmental report on a proposed high voltage transmission line or a proposed large electric power generating plant 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 address mitigating measures for anticipated adverse impacts. The commissioner shall be responsible for the completeness and accuracy of all information in the environmental report.

**Statutory Authority:** *MS s 116D.04*

**History:** *28 SR 951; L 2005 c 97 art 3 s 19*

#### 7849.7040 INFORMATION REQUIRED FOR ENVIRONMENTAL REVIEW.

Subpart 1. **Certificate of need application.** A person who submits an application to the Public Utilities Commission for a certificate of need for a LEPGP or a HVTL pursuant to Minnesota Statutes, section 216B.243, shall at the same time submit a copy of the application and all accompanying materials required by the PUC to the commissioner of the Department of Commerce. The person shall provide the commissioner with an electronic version of the application suitable for posting on the commissioner’s Web page.

Subp. 2. **Transmission projects report.** A person who submits a transmission projects report to the Public Utilities Commission with a request for certification of a high voltage transmission line pursuant to Minnesota Statutes, section 216B.2425, shall at the same time submit a copy of the report and all accompanying materials required by the PUC to the commissioner of the Department of Commerce. The person shall provide the commissioner with an electronic version of the report suitable for posting on the commissioner's Web page.

**Statutory Authority:** *MS s 116D.04*

**History:** *28 SR 951; L 2005 c 97 art 3 s 19*

#### **7849.7050 PROCESS FOR ENVIRONMENTAL REPORT PREPARATION.**

Subpart 1. **Notice to interested persons.** Upon receipt of an application for a certificate of need or receipt of a transmission projects report seeking certification of a high voltage transmission line, the commissioner of the Department of Commerce shall provide notice to interested persons of the pending project. Notice must be mailed to the following persons:

A. those persons on the commissioner's list maintained pursuant to part 7849.5240;

B. those persons on the general service list maintained by the applicant pursuant to part 7829.0600;

C. those persons on any service list maintained by the Public Utilities Commission for the proceeding;

D. those persons who are required to be given notice of the certificate of need application or the transmission projects report under rules of the Public Utilities Commission;

E. local governmental officials in the area of the proposed project; and

F. those persons who own property adjacent to any site or within any route identified by the applicant as a preferred location for the project or as a site or route under serious consideration by the applicant if such sites or routes are known to the applicant.

Subp. 2. **Content of notice.** The notice required by subpart 1 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 process, including a statement that the PUC 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 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 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.

Subp. 3. **Public meeting.** The commissioner of the Department of Commerce shall hold a public meeting within 40 days after receipt of an application for a certificate of need or receipt of a transmission projects report seeking certification of a high voltage transmission line. At least 15 days prior to the meeting, the commissioner shall mail notice of the meeting to those persons listed in subpart 1. The commissioner shall also publish notice of the meeting in a newspaper of local circulation in the area at least ten days before the meeting. The



commissioner shall also publish notice of the meeting in the EQB Monitor and shall post the notice on the commissioner's Web page. The public meeting must be held in a location that is convenient for persons who live near a proposed project.

**Subp. 4. Conduct of public meeting.** The commissioner shall make available at the public meeting a copy of the certificate of need application or transmission projects report. The commissioner's staff shall explain the process for preparation of 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 keep an audio recording of the meeting. 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 provide representatives at the public meeting who can respond to questions about the proposed project.

**Subp. 6. Alternatives and impacts.** 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 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 to consider. The commissioner shall 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. Commissioner decision.** Within ten days after close of the public comment period, the commissioner shall issue an order determining the following:

- A. the alternatives to be addressed in the environmental report, including the alternatives required by part 7849.7060, subpart 1, item B;
- B. the specific potential impacts to be addressed;
- C. the schedule for completion of the environmental report; and
- D. other matters to be included in the environmental report.

Once the commissioner has issued an order establishing the matters to be evaluated in the environmental report, the order must not be changed except upon a decision by the commissioner that substantial changes have been made in the project or substantial new information has arisen significantly affecting the potential environmental effects of the project or the availability of reasonable alternatives. The commissioner may elect to bring any decisions regarding what should be included in the environmental report to the next regularly scheduled meeting or a special meeting.

**Subp. 8. Notice of decision.** At the time of the commissioner's decision, the commissioner shall mail the order to those persons who have requested to be notified. Any person may request to bring the matter of what alternatives or impacts to include in the environmental report to the commissioner in accordance with part 4405.0600, subpart 5. Such request shall be filed in writing with the commissioner within ten days of the commissioner's decision. A request to bring the matter to the commission shall not preclude the commissioner from beginning preparation of the environmental report in accordance with the commissioner's decision.

**Subp. 9. Time frame for completion of environmental report.** The commissioner shall complete the environmental report in accordance with the schedule determined by the commissioner. In establishing the schedule for completion of the environmental report, the commissioner shall take into account 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 PUC, the commissioner, and other state agencies. The commissioner shall complete the environmental report within four months of submission of the information required by part 7849.7040. If the PUC should determine that an initial certificate of need ap-

plication or transmission projects report is incomplete, the commissioner's schedule shall be extended accordingly.

Subp. 10. **Notification of availability of environmental report.** Upon completion of the environmental report, the commissioner shall publish notice in the EQB Monitor of the availability of the environmental report and mail notice of the availability of the document to those persons who have requested to be notified. The commissioner shall provide a copy of the document to the PUC and to any other public agency with authority to permit or approve the proposed project. The commissioner shall post the environmental report on the agency's Web page.

**Statutory Authority:** *MS s 116D.04*

**History:** *28 SR 951; L 2005 c 97 art 3 s 19*

### **7849.7060 ENVIRONMENTAL REPORT CONTENT.**

Subpart 1. **Content of environmental report.** The environmental report must include the items 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 include the no-build alternative, demand side management, purchased power, facilities of a different size or 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 is proposed, transmission rather than generation if a large electric power generating plant is proposed, use of renewable energy sources, and those alternatives identified by the commissioner of the Department of Commerce.

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.

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

A. the anticipated emissions of the following pollutants expressed as an annual amount at the maximum rated capacity of the project and as an amount produced per 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;

C. the anticipated contribution of the project to impairment of visibility within a 50-mile radius of the plant;

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;

H. the potential wastewater streams and the types of discharges associated with such a project including 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.

Subp. 3. **Impacts of high voltage transmission lines.** At a minimum, the commissioner shall 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.

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

**Statutory Authority:** *MS s 116D.04*

**History:** *28 SR 951; L 2005 c 97 art 3 s 19*

#### **7849.7070 AGENCY ASSISTANCE.**

The commissioner of the Department of Commerce may request another state agency to assist in the preparation of an environmental report. Upon request, another state agency shall provide in a timely manner any unprivileged data or information to which it has reasonable access concerning the matters to be addressed in the environmental report and shall assist in the preparation of the environmental report when the agency has special expertise or access to information.

**Statutory Authority:** *MS s 116D.04*

**History:** *28 SR 951; L 2005 c 97 art 3 s 19*

#### **7849.7080 APPLICANT ASSISTANCE.**

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

**Statutory Authority:** *MS s 116D.04*

**History:** *28 SR 951; L 2005 c 97 art 3 s 19*

#### **7849.7090 ENVIRONMENTAL REPORT TO ACCOMPANY PROJECT.**

Subpart 1. **PUC decision.** The environmental report, or environmental assessment or EIS prepared pursuant to part 7849.7100, must be completed and copies provided to the Public Utilities Commission before the PUC can hold any public hearing or render a final decision on an application for a certificate of need or for certification of a HVTL. However, the PUC can commence the public hearing process by conducting prehearing matters. The commissioner's staff shall participate in the PUC proceeding and 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 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 makes a final decision on a certificate of need application or a request for certification of a HVTL, the PUC shall determine whether the environmental report and the record created in the matter address the issues identified by the commissioner in the decision made pursuant to part

7849.7050, subpart 7. The PUC may direct the commissioner to prepare a supplement to the environmental report, or the environmental assessment or EIS if one is prepared pursuant to part 7849.7100, if the PUC determines that an additional alternative or impact should be addressed or supplemental information should be provided.

**Statutory Authority:** *MS s 116D.04*

**History:** *28 SR 951; L 2005 c 97 art 3 s 19*

#### **7849.7100 JOINT PROCEEDING.**

**Subpart 1. Environmental assessment.** In the event an applicant for a certificate of need for a LEPGP or a HVTL applies to the commissioner of the Department of Commerce for a site permit or route permit prior to the time the commissioner completes the environmental report, and the project qualifies for alternative review by the commissioner under part 7849.5500, the commissioner may elect to prepare an environmental assessment in accordance with part 7849.5700 in lieu of the environmental report required under part 7849.7030. If combining the processes would delay completion of environmental review under parts 7849.7010 to 7849.7110, the commissioner can combine the processes only if the applicant and the Public Utilities Commission agree to the combination. If the processes are combined, the commissioner shall include in the environmental assessment the analysis of alternatives required by part 7849.7060, but is not required to prepare an environmental report under parts 7849.7010 to 7849.7110.

**Subp. 2. Environmental impact statement.** In the event an applicant for a certificate of need for a LEPGP or a HVTL applies to the commissioner for a site permit or route permit prior to the time the commissioner completes the environmental report, and the project does not qualify for alternative review by the commissioner under part 7849.5500, the commissioner may elect to prepare an environmental impact statement in lieu of the environmental report required under part 7849.7030 if the applicant and the Public Utilities Commission agree to the additional time that will be required to prepare the environmental impact statement. In this event, the commissioner shall include in the EIS the analysis of alternatives required by part 7849.7060, but is not required to prepare an environmental report under part 7849.7030.

**Subp. 3. Procedures.** In the event the commissioner combines the two processes pursuant to subpart 1 or 2, the procedures of parts 7849.5010 to 7849.6500 shall be followed in conducting the environmental review.

**Subp. 4. Joint hearing.** If the commissioner 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 may decide to hold a joint hearing with the approval of the commission.

**Statutory Authority:** *MS s 116D.04*

**History:** *28 SR 951; L 2005 c 97 art 3 s 19*

#### **7849.7105 ALTERNATIVE FORM OF REVIEW.**

The requirements under parts 7849.7010 to 7849.7110 for preparation of an environmental report on a LEPGP or HVTL for which a determination of need by the Public Utilities Commission has been requested is approved as an alternative form of review.

**Statutory Authority:** *MS s 116D.04*

**History:** *28 SR 951*

#### **7849.7110 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 or a high voltage transmission line or for a certification of a high voltage transmission line as part of a transmission projects report shall pay the commissioner of the Department of Commerce the reasonable costs incurred by the commissioner in preparing the environmental report.

**Subp. 2. Payment schedule.** The applicant shall submit a minimum payment of \$5,000 to the commissioner at the time the application or request is filed with the Public Utilities

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Commission. Additional payments shall be made within 30 days of notification by the agency that additional fees are necessary for completion of the environmental review. After preparation of the environmental report, the commissioner shall provide the applicant with a final accounting. The applicant shall make the final payment within 30 days of notification, or the agency shall refund any excess payments within 30 days of the final accounting.

**Statutory Authority:** *MS s 116D.04*

**History:** *28 SR 951; L 2005 c 97 art 3 s 19*