

November 6, 2015

Mr. Daniel P. Wolf, Executive Secretary
Minnesota Public Utilities Commission
127 7th Place East, Suite 350
Saint Paul, MN 55101-2147

RE: EERA Comments and Recommendations on Application Completeness
Black Dog Unit 6 Project
eDockets No. E002/GS-15-834

Dear Mr. Wolf:

Attached are comments and recommendations of the Minnesota Department of Commerce, Energy Environmental Review and Analysis (EERA) unit in the following matter:

In the Matter of the Application of Xcel Energy for a Site Permit for the 215 MW Black Dog 6 Project in Burnsville, Minnesota

The site permit application was filed on October 15, 2015, by:

Amy S. Fredregill
Manager, Resource Planning and Strategy
Northern States Power Company
414 Nicollet Mall, 7th Floor
Minneapolis, MN 55401

EERA recommends the Minnesota Public Utilities Commission (Commission) accept the application for the Black Dog 6 Project as substantially complete, with the understanding that the applicant will provide EERA staff with supplemental information. EERA also recommends that the Commission take no action on an advisory task force at this time.

Staff is available to answer any questions the Commission might have.

Sincerely,



Andrew Levi
Environmental Review Manager
Energy Environmental Review and Analysis

Enclosure

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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

**COMMENTS AND RECOMMENDATIONS OF
MINNESOTA DEPARTMENT OF COMMERCE
ENERGY ENVIRONMENTAL REVIEW AND ANALYSIS**

Docket No. E002/GS-15-834

Date: November 6, 2015

Staff: William Cole Storm 651-539-1844
 Andrew Levi 651-539-1840

In the Matter of the Application of Xcel Energy for a Site Permit for the 215 MW Black Dog 6 Project in Burnsville, Minnesota

Issues addressed: These comments and recommendations address the completeness of the site permit application submitted for the project, the presence of disputed issues, and the need for an advisory task force.

- Figures and Tables:**
 Figure 1 Project Location Map
 Table 1 Hypothetical Process Timing
 Table 2 Application Completeness Checklist

Additional documents and information can be found on eDockets by searching “15” for year and “834” for number at: <https://www.edockets.state.mn.us/EFiling/search.jsp>, and on the EERA webpage at: <http://mn.gov/commerce/energyfacilities/Docket.html?Id=34314>.

This document can be made available in alternative formats (that is, large print or audio) by calling (651) 539-1530 (voice).

Introduction and Background

On October 15, 2015, Xcel Energy (applicant) filed a Site Permit Application (application) to construct and operate a 215 megawatt (MW) peaking electric generating facility in Burnsville, Minnesota.¹ The Minnesota Public Utilities Commission (Commission) issued a notice soliciting comments on the completeness of the application, the presence of contested issues, and other concerns on October 23, 2015.²

¹ Xcel Energy, *Application to the Minnesota Public Utilities Commission for a Site Permit for the Black Dog Unit 6 Project*, October 15, 2015, eDockets No. [201510-114858-01](https://www.edockets.state.mn.us/EFiling/search.jsp). (Hereinafter “Application”)
² Minnesota Public Utilities Commission, *Notice of Comment Period on Completeness of Site Permit*

Project Purpose

The proposed project was selected by the Commission as part of a competitive resource acquisition process to provide additional electrical power sources to meet the projected needs of the applicant's customers (E002/CN-12-1240).³ The proposed project will ensure reliable 115 kilovolt (kV) power supply to the Twin Cities metropolitan area by utilizing existing transmission infrastructure that serves distribution substations across the area.

Project Description

The applicant proposes to construct a 215 megawatt (MW) simple-cycle natural gas-fired combustion turbine unit (Unit 6) and associated facilities at the existing Black Dog Generating Plant (generating plant) in Burnsville, Minnesota. The proposed project is a "peaking" facility, meaning it will generally only operate at times of high electric demand, for example, hot summer afternoons. Once constructed, the turbine is expected to operate between 4 and 10 percent of the time. Its service life is expected to exceed 35 years. The proposed project will increase the generating plant's overall electric generating capacity to 498 MW.

The applicant proposes to utilize existing infrastructure to the greatest extent practicable, including using an existing powerhouse building to house Unit 6, and an existing 115 kV switchyard. These facilities are available because Units 3 and 4 were recently retired from service. Units 3 and 4 were dual-fuel boilers with steam turbines that utilized low-sulfur coal as a primary fuel.

The proposed project will use natural gas as a fuel source. Any needed improvements to natural gas infrastructure, for example, pipelines, and associated approvals will be the responsibility of the gas supplier and are not a part of this proceeding.

The applicant intends to begin construction in June 2016, and begin commercial operation in April 2018. The proposed project is anticipated to cost \$100 million.

Regulatory Process and Procedures

In Minnesota, no person may construct a large electric power generating plant (LEPGP) without a site permit from the Commission.⁴ A large electric power generating plant is defined as "*electric power generating equipment and associated facilities designed for or capable of operation at a capacity of 50,000 kilowatts [50 MW] or more.*"⁵ The proposed project will have an electric generating capacity of 215 MW.⁶ As a result, the proposed

Application, October 23, 2015, eDockets No. [201510-115058-01](#).

³ Minnesota Public Utilities Commission, *Order Approving power Purchase Agreement with Calpine, Approving Power Purchase Agreement with Geronimo, and Approving Price Terms with Xcel*, February 5, 2015, eDockets No. [20152-107070-01](#). (Hereinafter E002/CN-12-1240 Order)

⁴ Minnesota Statutes [216E.03](#), subdivision 1., Minnesota Rules [7850.1300](#), subpart 1.

⁵ Minn. Stat. [216E.01](#), subd. 5.

⁶ [Application](#).

project requires a site permit from the Commission. Because this project will be fueled solely by natural gas⁷ it qualifies under the Commission's alternative permitting process.⁸

In addition, an applicant cannot construct a large energy facility in Minnesota without first receiving a Certificate of Need (CN) issued by the Commission.⁹ While the proposed project is a large energy facility,¹⁰ it was selected as part of a competitive resource acquisition process.¹¹ As a result, a CN is not required.¹²

Applicants that intend to submit a site permit application for a LEPGP under the alternative permitting process must provide the Commission with a written notice of their intent to file at least 10 days prior to submitting a site permit application.¹³ The applicant filed a written notice meeting this requirement on September 16, 2015.¹⁴

Site Permit Application and Acceptance

Site permit applications must provide specific information about the proposed project, including but not limited to, information about the applicant, descriptions of the project and proposed site, and discussion of potential human and environmental impacts and possible mitigation measures.¹⁵ Under the alternative permitting process an applicant is not required to propose alternative sites; however, if an applicant evaluated and rejected alternative sites these sites and the reasons for rejecting them must be described as part of the site permit application.¹⁶

Upon receiving a site permit application for a LEPGP, the Commission may accept it as complete, reject it and require that additional information be submitted, or accept it as complete upon filing of supplemental information.¹⁷ If the Commission determines that a site permit application is complete, the environmental review process begins. The Commission is required to make a permit decision within six months from the date an application is accepted.¹⁸ This time limit may be extended up to three months for just cause or upon agreement of the applicant.¹⁹

⁷ [Application](#).

⁸ Minn. Stat. [216E.04](#), subd. 2(2).

⁹ Minn. Stat. [216B.243](#), subd. 2.

¹⁰ Minn. Stat. [216B.2421](#), subd. 2.

¹¹ [E002/CN-12-1240 Order](#).

¹² Minn. Stat. [216B.2422](#), subd. 5(b).

¹³ Minn. R. [7850.2800](#), subp. 2.

¹⁴ Xcel Energy, *Notification of Intent to File Site Permit Application Under the Alternative Permitting Process for the Black Dog Unit 6 Project*, September 16, 2015, eDockets No. [20159-114052-01](#).

¹⁵ Minn. Stat. [216E.04](#), subd. 3., Minn. R. [7850.3100](#).

¹⁶ Minn. Stat. [216E.04](#), subd. 3., Minn. R. [7850.3100](#).

¹⁷ Minn. R. [7850.3200](#).

¹⁸ Minn. R. [7850.3900](#), subp. 1.

¹⁹ Minn. R. [7850.3900](#), subp. 1.

Advisory Task Force

The Commission may appoint an advisory task force to aid in the environmental review process.²⁰ An advisory task force would assist Department of Commerce (Commerce), Energy Environmental Review and Analysis (EERA) staff with identifying alternative site locations, or particular impacts, to be evaluated in the environmental assessment (EA) for the project.²¹ If appointed, an advisory task force must include certain local government representatives.²² The advisory task force expires upon completion of its charge or issuance of the scoping decision, whichever comes first.²³

The Commission is not required to appoint an advisory task force. In the event no advisory task force is appointed, citizens may request one be created.²⁴ If such a request is made, the Commission must make this determination at its next monthly commission meeting.²⁵

The decision whether to appoint an advisory task force does not need to be made at this time; however, a decision should be made as soon as practicable to ensure an advisory task force could complete its charge prior to the scoping decision.

Environmental Review

Site permit applications are subject to environmental review. The alternative permitting process requires completion of an EA.²⁶ An EA contains an overview of the resources and potential human and environmental impacts and mitigation measures associated with the proposed project.²⁷ This is the only state environmental review document required for the project.²⁸

The EA is developed and prepared by EERA. EERA also conducts necessary public information and scoping meetings in conjunction with a public comment period to inform the scope (or content) of the EA.²⁹ The commissioner of Commerce determines the scope of the EA,³⁰ and may include alternative sites suggested during the scoping process if it is determined the alternatives would aid the Commission in making a permit decision.³¹

²⁰ Minn. Stat. [216E.08](#), subd. 1., Minn. R. [7850.3600](#).

²¹ Minn. R. [7850.3600](#)., Minn. R. [7850.2400](#), subp. 3

²² Minn. Stat. [216E.08](#), subd. 1.

²³ Minn. R. [7850.3600](#)., Minn. R. [7850.2400](#), subp. 4.

²⁴ Minn. R. [7850.3600](#)., Minn. R. [7850.2400](#), subp. 2.

²⁵ Minn. R. [7850.3600](#)., Minn. R. [7850.2400](#), subp. 2.

²⁶ Minn. Stat. [216E.04](#), subd. 5., Minn. R. [7850.3700](#), subp. 1.

²⁷ Minn. Stat. [216E.04](#), subd. 5., Minn. R. [7850.3700](#), subp. 4.

²⁸ Minn. Stat. [216E.04](#), subd. 5.

²⁹ Minn. R. [7850.3700](#), subp. 2.

³⁰ Minn. R. [7850.3700](#), subp. 3.

³¹ Minn. R. [7850.3700](#), subp. 2.

Public Hearing

The alternative process requires a public hearing(s) be conducted in the project area upon completion of the EA³² in accordance with the procedures outlined in Minnesota Rule 7850.3800, subpart 3. The hearing is typically presided over by an administrative law judge (ALJ) from the Office of Administrative Hearings (OAH). The Commission may request that the ALJ provide a summary of the hearing (summary report). Alternately, the Commission may request that the ALJ provide findings of fact, conclusions of law, and recommendations regarding the site permit application (summary proceeding). This hearing is not a contested case hearing and is not conducted under OAH Rule 1405.

Whether multiple alternatives are proposed or a significant number of disputed human and environmental issues exist are two determinants for electing a summary report or summary proceeding. Requesting the ALJ to prepare findings, conclusions and recommendations will extend the length of the permitting process, and may require the Commission to extend the expected six month timeframe for a final decision up to three months. **Table 1** provides a hypothetical comparison of timing between the two processes. This comparison assumes that the Commission will not vary Minnesota Rule 7850.3700 to afford time for Commission input regarding site alternatives (see discussion below).

EERA Staff Analysis and Comments

EERA conferred with the applicant concerning the proposed project, reviewed a draft site permit application, and provided comments to the applicant. These comments were substantially addressed in the application filed with the Commission.

EERA evaluated the application against the completeness requirements of Minnesota Rule 7850.3100 (**Table 2**). The application contains appropriate information with respect to these requirements, including descriptions of the proposed project and potential human and environmental impacts and mitigation measures. As noted in Table 2, the application could benefit from further clarification and supplemental information in select sections. This includes additional clarification regarding project construction, construction related impacts and mitigation measures, a listing of any unavoidable impacts, and a concise listing of the associated facilities the applicant anticipates will be covered under the site permit, should a permit be issued by the Commission.

Accordingly, EERA staff concludes the application addresses the content requirements of Minnesota Rule 7850.3100 and is substantially complete with the understanding that the applicant will provide EERA staff with the above-noted supplemental information as requested in advance of the public information and scoping meeting(s).

Upon acceptance of the application as substantially complete, EERA will commence the environmental review process.

³² Minn. R. [7850.3800](#), subp. 1.

Disputed Issues of Fact

At this time, EERA is unaware of any disputed issues with respect to the application, and alternatives are not proposed. The likelihood for significant disagreement appears minimal given the use of the existing facility and electric transmission infrastructure. However, issues might be identified during the scoping process.

While potential issues or impacts might be identified during the scoping process, alternative sites that may minimize these impacts appear to be precluded for this project. Consistent with the Commission's approach for the Mankato Energy Center Expansion Project (IP-6949/GS-15-620), EERA staff understands the Commission, through its competitive resource acquisition process, has selected the applicant's proposed project, including the site for the project, that is, the existing generating plant in Burnsville, Minnesota.³³ Potential human and environmental impacts of this selection were analyzed by EERA staff in an environmental report.³⁴ The Commission used this report in deciding its acquisition process.

Assuming alternative sites are precluded in the scoping process, EERA staff believes that:

- It is unnecessary for EERA staff to present site alternatives to the Commission for its input prior to Commerce issuing the scoping decision.³⁵
- A summary proceeding may not be required.

Advisory Task Force

EERA analyzed the merits of establishing an advisory task force for the proposed project considering four characteristics: project size, project complexity, known or anticipated controversy, and sensitive resources. The proposed design information and preliminary environmental data contained in the application were used to complete this evaluation.

Project Size

The proposed project is a large gas-fired combustion turbine. However, the applicant proposes to use existing infrastructure to the greatest extent practicable, including housing the turbine in an existing powerhouse facility. Therefore, no "greenfield" development will occur and the overall footprint of the generating plant will not increase.

Complexity

The proposed project is straightforward, and will be constructed within an existing facility. It will use existing electrical transmission infrastructure and water service. While a new

³³ [E002/CN-12-1240 Order](#).

³⁴ Minnesota Department of Commerce, *Environmental Report: Xcel Competitive Resources Acquisition Proposals*, October 14, 2013, eDockets Nos. [201310-92487-01](#), [201310-92487-02](#), [201310-92487-03](#), [201310-92487-04](#).

³⁵ It would also be unnecessary to vary Minn. R. 7850.3700 to afford time for Commission input regarding site alternatives.

pipeline will be constructed for the project, it is not a part of this proceeding. On whole, the project presents a low level of complexity.

Known or Anticipated Controversy

The proposed project will be constructed within an existing facility. This limits the number of entities involved in the project, which results in a lower likelihood for disagreement. The project will replace coal-fired generation. Changing fuel sources from coal to natural gas would, by itself, lessen or eliminate impacts, for example, it will reduce air emissions and eliminate train deliveries. Lastly, staff received no outside communications regarding the project, and no concerns were posted to the Commission's "Speak Up!" online commenting tool at time of filing. As a result, EERA staff anticipates little controversy.

Sensitive Resources

The proposed project will be located within the existing generating plant. As a result, potential impacts to sensitive natural resources are anticipated to be minimal.

Based on this analysis and the understanding that alternative sites are precluded in this proceeding, EERA staff believes an advisory task force is not warranted for the project.

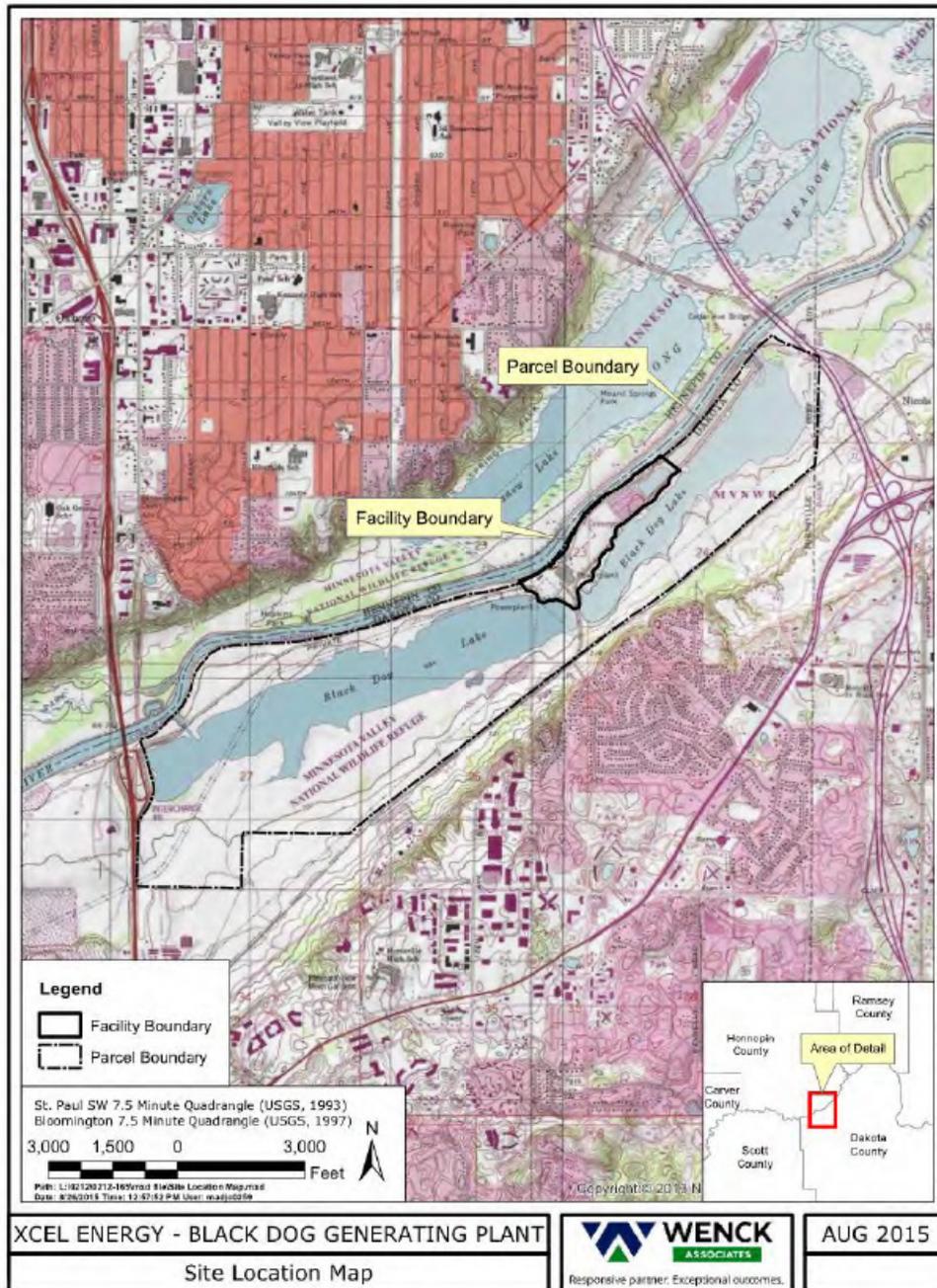
EERA Staff Recommendation

EERA staff recommends that the Commission accept the application for the Black Dog 6 Project as substantially complete with the understanding that the applicant will provide EERA staff with supplemental information. EERA staff also recommends that the Commission take no action on an advisory task force at this time.

Additionally, assuming alternative sites are precluded in the scoping process, EERA staff believes that:

- It is unnecessary for EERA staff to present site alternatives to the Commission for its input prior to Commerce issuing the scoping decision.
- A summary proceeding may not be required.

Figure 1 Site Location Map³⁶



³⁶ [Application](#).

Table 1 Hypothetical Comparison of Timing

Project Day	Alternative Review Process Step	Responsible Party
–	10-day Notice	Applicant
	Application Filed	Applicant
	Application Completeness Comments	Agencies/Public
	Reply Comments	Applicant
	Consideration of Application Acceptance	Commission
Acceptance through Environmental Assessment		
0	Application Acceptance Order	Commission
10	Public Information/Scoping Meetings	EERA/Commission
20	Scoping Period Closes	EERA
30	Scoping Decision Issued	Commerce
120	EA Issued/Public Hearing Notice	EERA/Commission
Summary Report*		
130	Public Hearing	OAH
140	Comment Period Closes	OAH
150	ALJ Submits Hearing Transcript and Comments	OAH
160	Draft Findings of Fact (FOF)	Applicant
170	Comments on Draft FOF/Technical Analysis	EERA
	Response to Hearing Comments	Applicant
	ALJ Submits Summary Report	OAH
200	Consideration of Site Permit Issuance	Commission
Summary Proceeding**		
130	Public Hearing	OAH
140	Comment Period Closes	OAH
150	ALJ Submits Hearing Transcript and Comments	OAH
160	Draft FOF	Applicant
170	Comments on Draft FOF/Technical Analysis	EERA
	Response to Hearing Comments	Applicant
210	ALJ Issues FOF and Recommendation	OAH
225	Exceptions to ALJ Report	EERA, Applicant
255	Consideration of Site Permit Issuance	Commission

* A **summary report** includes:

- The hearing process consists of a public hearing (or multiple hearings depending on the project) and one comment period (closing 10 days after the last public hearing).
- An ALJ presides over the public hearing.
- ALJ provides a summary of the public hearing and comments only.
- Applicant provides proposed findings of fact, conclusions and a recommendation.
- EERA responds to comments on the EA; provides technical analysis; and responds to the applicant's proposed findings.
- No exception period is provided.

** A **summary proceeding** includes:

- The hearing process is identical to the summary report process.
- An ALJ presides over the public hearing.
- The ALJ provides a summary and a factual analysis of the record, findings of fact, and recommendations on alternatives or permit conditions.
- Applicant provides proposed findings of fact, conclusions and a recommendation.
- EERA responds to comments on the EA; provides technical analysis; and responds to the applicant's proposed findings.
- An exception period pursuant to Minn. R. 7829.2700 is provided.

Table 2 Application Completeness Checklist

Minnesota Rule 7850.3100 Contents of Application

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

Minnesota Rule 7850.1900 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:

7850.1900, Subp. 1	Section	EERA Comments
A. a statement of proposed ownership of the facility as of the day of filing and after commercial operation;	2.1	Information about this requirement is provided. The proposed facility will be owned and operated by Northern States Power Company (NSP). Xcel Energy is its parent utility holding company.
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;	2.2	Information about this requirement is provided. The permittee will be NSP, and the project contact is Ms. Amy Fredregill. At this time, NSP does not intend to transfer the site permit, if received.
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;	2.6	This requirement is not applicable to the proposed project, and is discussed as part of the application. Per Minnesota Rule 7850.3100, an alternative site is not required under the alternative review process.
D. a description of the proposed large electric power generating plant and all associated facilities, including the size and type of the facility;	1.5; Chapter 3.0	Information about this requirement is provided. The applicant proposes to construct a 215 MW peaking simple-cycle natural gas-fired combustion turbine unit utilizing existing infrastructure to the greatest extent practicable. The application could benefit from a concise listing of the associated facilities the applicant anticipates will be covered under the site permit, should a permit be issued by the Commission.
E. the environmental information required under subpart 3;		See Minn. R. 7850.1900, Subpart 3 below.

7850.1900, Subp. 1	Section	EERA Comments
F. the names of the owners of the property for each proposed site;	2.1	Information about this requirement is provided. NSP owns the property for the proposed site.
G. the engineering and operational design for the large electric power generating plant at each of the proposed sites;	3.0	Information about this requirement is provided. The application could benefit from information regarding scheduled maintenance.
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;	2.4	Information about this requirement is provided. Additional information was provided as requested by EERA staff.
I. an engineering analysis of each of the proposed sites, including how each site could accommodate expansion of generating capacity in the future;	2.7	Information about this requirement is provided. No additional electric generation is planned at the facility at this time.
J. identification of transportation, pipeline, and electrical transmission systems that will be required to construct, maintain, and operate the facility;	2.5.2; 3.1.2; 4.5.4	Information about this requirement is provided. Pipeline. Upgrades to existing pipeline infrastructure will be required. A request for proposals has been issued. Currently, the exact pipeline size and location is not determined, as it is contingent upon the winning bid and permitting requirements. Pipeline routing will be reviewed under a separate permitting process. Transmission. Minor modifications to the existing 115 kV switchyard will be needed, but no upgrades to the 115 kV transmission system are required.
K. a listing and brief description of federal, state, and local permits that may be required for the project at each proposed site; and	2.5.3	Information about this requirement is provided.
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.	2.5.1	Information about this requirement is provided. The Minnesota Public Utilities Commission selected the proposed project through a competitive acquisition process, as such, a certificate of need for the proposed project is not required.

Minnesota Rule 7850.1900 Application Contents

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

7850.1900, Subp. 3	Section	EERA Comments
A. a description of the environmental setting for each ... site;	Chapter 4	Information about this requirement is provided.
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;	4.4; 4.5; 4.6	Information about this requirement is provided. The proposed project will be constructed within existing buildings and entirely within the existing footprint of the Black Dog Generating Plant. As such, residential and commercial displacement will not occur. The application could benefit from additional information regarding project construction.
C. a description of the effects of the facility on land-based economies, including, but not limited to, agriculture, forestry, tourism, and mining;	4.5	Information about this requirement is provided. Agricultural, forestry, or mining areas do not exist within the project footprint. Tourism is not dependent upon the project area.
D. a description of the effects of the facility on archaeological and historic resources;	4.6.4	Information about this requirement is provided.
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;	4.1; 4.2; 4.3; 4.7.	Information about this requirement is provided. Water usage is not expected to increase from current permit limits, and, because the unit will be constructed in an existing generating plant, no further impacts to vegetation and wildlife are expected.
F. a description of the effects of the facility on rare and unique natural resources;	4.7.8	Information is provided to satisfy this requirement. On October 22, 2015, the applicant supplemented their application by submitting a Minnesota Department of Natural Resources Natural Heritage Review.
G. identification of human and natural environmental effects that cannot be avoided if the facility is approved at a specific ... site; and	Chapter 4	Information about this requirement is provided; however, the application would benefit from a concise listing of any unavoidable impacts.

7850.1900, Subp. 3	Section	EERA Comments
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.	Chapter 4	Information about this requirement is provided.