

Minnesota Enacts Sweeping Energy Legislation with Implications for Permitting, Transmission, and Decarbonization

Alert

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Minnesota Governor Tim Walz recently signed into law sweeping energy legislation designed to ease permitting burdens on renewable energy development and address interconnection and transmission congestion in the state (the Legislation). See [SF4942](#) at pages 130-177. Perhaps most significantly, the Legislation consolidates and reforms Minnesota’s review and permitting process for energy generation, storage, and transmission projects—welcome changes generally, but especially in light of the forthcoming Midcontinent Independent System Operator (MISO) Tranche 2 approval. The Legislation also impacts the Minnesota energy community more broadly, from distributed resource interconnection to transmission optimization to carbon dioxide pipelines, reinforcing Minnesota’s commitment to decarbonization and laying the practical groundwork for the state to achieve the aggressive goal it adopted last year for 100% carbon-free energy by 2040. See [Minn. Stat. § 216B.1691, subd. 2g](#).

This alert provides highlights from the Legislation and a summary of the permitting, certificate of need (CN), and other key changes contained in it. Notably, the Legislation is a combination of several detailed and previously distinct energy bills now contained in a broader omnibus bill that was passed in the final minutes of the 2024 legislative session. Interested parties are encouraged to contact counsel for specific guidance.

Broadly speaking, the Legislation:

- Overhauls Minnesota’s energy infrastructure permitting processes, consolidating and conforming previously distinct pathways, streamlining review timelines, and generally modernizing the state’s

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environmental review.

- Exempts additional projects from Minnesota's CN statute (Minn. Stat. § 216B.243), effectively narrowing the statute's applicability to a handful of large project categories.
- Imposes congestion study and reporting requirements on entities that own more than 750 miles of transmission lines in Minnesota.
- Addresses congestion in the distributed resource interconnection process by directing the Minnesota Public Utilities Commission (the Commission) to issue a standard order that governs the related upgrade process and establishing an ombudsperson to mediate interconnection disputes.
- Shortens the time for incumbent transmission owners to provide notice under the state's right of first refusal (ROFR) statute.
- Requires a route permit from the Commission for carbon dioxide (CO₂) pipelines and instructs the Commission to conduct a study on CO₂ pipeline impacts.

ENERGY INFRASTRUCTURE PERMITTING PROCESS

The Legislation overhauls Minnesota's existing energy infrastructure permitting process (known as the "Power Plant Siting Act") by enacting the "Minnesota Energy Infrastructure Permitting Act" (MEIPA), to be codified at Minnesota Statutes chapter 216I. MEIPA is effective July 1, 2025, and, in the meantime, requires rulemaking by the Commission to implement the changes (the to-be-codified provisions are referenced below). Importantly, MEIPA consolidates the permitting process for all electric energy infrastructure (wind, solar, nonrenewable generation, storage, and transmission) and divides the permitting and environmental review into two tracks: Standard Review and Major Review.

Standard Review under Minn. Stat. § 216I.07 applies to all solar energy, large wind energy conversion, and energy storage systems; all generating plants fueled by natural gas or with a capacity of less than 80 MW; high voltage transmission lines (HVTLs) up to 300 kV; and HVTLs in excess of 300 kV that (1) have less than 30 miles of length in Minnesota or (2) locate 80% of the proposed line along existing HVTL right of way. Notably, under Standard Review, the applicant will prepare and submit an environmental assessment with its application, which the Commission will supplement as appropriate during the permitting process. The Commission must hold a public hearing and may request that an administrative law judge (ALJ) from the Office of Administrative Hearings (OAH) preside over the hearing.

Major Review under Minn. Stat. § 216I.06 practically applies to nonrenewable generating facilities with a capacity of 80 MW or greater and HVTLs over 300 kV with 30 miles or more of length in Minnesota, more than 20% of which uses new HVTL right of way. Under Major Review, the Commission must prepare an environmental impact statement (EIS). Following completion of the EIS, it must hold a public hearing

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presided over by an ALJ from OAH, and may designate a portion of the hearing as a contested case.

In addition to the Standard Review and Major Review pathways, MEIPA also retains the option for applicants to choose local, rather than Commission, review of certain smaller, low impact projects, including energy storage systems. *See* Minn. Stat. § 216I.08, subd. 1(a).

MEIPA contains several other important provisions beyond the key permitting processes described above. MEIPA transfers the Energy Environmental Review and Analysis (EERA) unit of the Minnesota Department of Commerce, and its responsibility for project environmental review, to the Commission, a change designed to simplify communication and coordination. In light of this realignment, MEIPA also clarifies that communication with environmental review staff is permissible under the Commission's ex parte rules. Additionally, MEIPA formalizes pre-application review requirements that project developers and EERA have observed for some time, and expedites the Commission's determination of application completeness. These and other changes should shorten the permitting horizon for many projects.

CERTIFICATES OF NEED

Recognizing that Minnesota has categorically declared a need for certain carbon free energy sources (and related transmission), MEIPA expands the types of "large energy facility" projects exempt from the general CN requirement under Minn. Stat. § 216B.243.

First, it revises the definition of "large energy facility" specific to HVTLs in Minn. Stat. § 216B.2421, subd. 2 (2) and (3), raising the threshold for CN applicability to any HVTL:

- "with a capacity of 200 ~~300~~ kilovolts or more and greater than 1,500 feet one mile in length in Minnesota"; or
- "with a capacity of 100 kilovolts or more with more than ten miles of its length in Minnesota or that crosses a state line."

Second, MEIPA expressly exempts the following projects under Minn. Stat. § 216B.243, subd. 8:

- Energy storage systems.
- HVTLs that directly interconnect certain wind, solar, and energy storage systems to the transmission system.
- HVTLs when relocated to a new right of way provided the voltage does not increase.

Together with recent changes from the 2023 legislative session, these changes considerably narrow the CN requirement for transmission projects and remove it entirely for many renewable and storage projects (although some projects owned by utilities remain subject to a scaled back CN process). These CN

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exemptions are effective immediately.

OTHER KEY PROVISIONS

- Entities owning more than 750 miles of transmission lines in Minnesota are required to submit a Grid Enhancing Technologies Report to the Commission with information about current and forecasted congestion issues and options for grid enhancing technologies, including an evaluation of the costs associated with installing such technologies and an implementation plan. The Commission will review the implementation plan and can issue an order requiring its implementation.
- Related to issues of congestion, the Commission will establish standards for cost sharing for “necessary” upgrades to increase capacity or otherwise address congestion issues on utility distribution systems related to interconnection of distributed energy resources. The standards will be designed to address a range of issues, including accelerating expansion of hosting capacity, providing guidance for the financial burden on “trigger projects,” and limiting the upgrade costs recoverable from ratepayers. Additionally, the Commission must create a position for an interconnection ombudsperson to track interconnection disputes between applicants and utilities and facilitate the “efficient and fair resolution” of those disputes.
- The Legislation reduces the time—from 90 to 60 days following approval in a federally registered planning authority transmission plan—for incumbent transmission owners to provide notice under the ROFR statute (Minn. Stat. § 216B.246) to the Commission regarding intent to construct. It also expedites the deadline for filing a related CN application from 18 to 12 months after plan approval.
- Finally, the Legislation contains several changes relating to CO₂ CO₂ pipelines are now explicitly required by statute to obtain a route permit from the Commission prior to construction, and the Commission must prepare an EIS for a CO₂ pipeline prior to issuing a route permit. These changes are to be codified at Minn. Stat. § 216G.025. The Legislation also instructs the Commission to “contract with an independent third party to conduct a study” to “assess the human health and environmental impacts that result from constructing, operating, and maintaining” CO₂ pipelines. The study must be submitted to the Minnesota Legislature no later than November 1, 2026.

The Legislation is a significant shift in the state’s energy landscape. Interested parties are again encouraged to contact counsel for specific guidance on any related questions they may have.

For more information or specific guidance regarding Minnesota’s energy legislation, please contact [Nathaniel Donoghue](#), [Tammie Ptacek](#), [Micah Revell](#), [Guy Smith](#), [Bob Striker](#), [Claire Williams](#), [Zachary Wright](#) or the Stinson LLP contact with whom you regularly work.

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