

REQUEST FOR INFORMAL COMMENTS

As part of the MPSC Staff's collaboration with local units of government, project developers, and other interested persons to develop application filing instructions and guidance for the Commission's consideration to implement the provisions of PA 233 of 2023 for renewable energy and energy storage facility siting, the MPSC Staff is requesting informal comments on the items presented in this document. This is a **partial draft** which will be refined over time based on comments received and further engagement with subject-matter experts and interested persons. Today, we are seeking comments on the following initial Staff Straw Proposals included within this document:

- a. Site plans and minor changes
- b. Emergency response and fire response plans
- c. Conditions for consideration

Comments responding to these draft straw proposals, which may be in the form of redlined suggestions, general comments, or the identification of other items that should be considered are requested from local units of government, project developers, subject matter experts, and interested members of the public.

Please submit your informal comments on these items by email to colec1@michigan.gov and baldwinj2@michigan.gov with Siting Comments in the subject line.
Your comments are requested on these items by June 12, 2024.

Comments received will help to inform what the Staff eventually files in Case No. U-21547 as Staff's proposal which is due to be filed by June 21, 2024.

If you have not already done so, please consider signing up for our email distribution list to receive future communications related to the implementation of PA 233 at the bottom of the [Renewable Energy and Energy Storage Facility Siting webpage](#).

ATTORNEY-CLIENT PRIVILEGED INFORMATION

STAFF DRAFT STRAW PROPOSAL ON SITE PLANS AND MINOR CHANGES

Sec. 224. (1) A site plan required under section 223 or 225 shall meet application filing requirements established by commission rule or order to maintain consistency between applications. The site plan shall include the following:

(a) The location and a description of the energy facility.

(b) A description of the anticipated effects of the energy facility on the environment, natural resources, and solid waste disposal capacity, which may include records of consultation with relevant state, tribal, and federal agencies.

(c) Additional information required by commission rule or order that directly relates to the site plan.

(2) When it submits a site plan required under section 223 or 225 to the commission, an electric provider or independent power producer shall, for informational purposes, submit a copy to the clerk of each affected local unit.

Straw proposal primarily developed from:

- NY Regulations: [chapter-xviii-title-19-of-nycrr-part-900-subparts-900-1-through-900-15.pdf](#)
- Ohio regulations: [OPSB Rule Review | Ohio Power Siting Board](#) and [ViewImage.aspx \(state.oh.us\)](#)
- WI regulations: [PUBLIC SERVICE COMMISSION OF WISCONSIN](#) and [PSC Wind Siting Rules](#)
- UM Capstone report recommendations and lessons learned.
- Discussions with subject matter experts, developers, local government officials and public comments received earlier in the process.

SITE PLAN

SITE PLAN SECTION 1 – PLANNED FACILITIES:

(a) Latest- or recent-edition USGS maps (1:24,000 topographic edition, utilizing GIS mapping to the extent available), showing the proposed facilities including a two-mile radius from the project area facility showing: (electronically in geospatial mapping format with the ability to toggle layers on and off provided to Staff and other parties to the case upon request with pdf files submitted in the docket)

- (1) The proposed location of the facility and potential right-of-way extents, including proposed electric collection and transmission lines and interconnections, all fenced in or secured areas, as well as ancillary features located on the facility site such as roads, railroads, switchyards, energy generation, storage or regulation facilities, substations and similar facilities;
- (2) The proposed location of any off-site utility interconnections, including all electric transmission lines, communications lines, stormwater drainage lines, and

- appurtenances thereto, to be installed connecting to and servicing the site of the facility;
- (3) The proposed limits of clearing and disturbance for construction of all facility components and ancillary features;
 - (4) Major institutions, parks, and recreational areas;
 - (5) Lakes, reservoirs, streams, canals, rivers, wetlands, and other waterbodies;
 - (6) Population centers and legal boundaries of cities, villages, townships, and counties;
 - (7) Sensitive receptors within 1000 feet of the site (such as occupied buildings);
 - (8) The location of inverters and other noise-emitting facilities in relation to sensitive receptors, property lines, and public rights-of-way;
 - (9) The area of the proposed site or right-of-way for the facility, and the identification of participating properties and adjacent properties;
 - (10) The location of any deeded easement that exists within the footprint of the facility.

The applicant should ensure that all items provided are clear and legible which could entail providing some of the requested items on separate layers, separate pdf maps, or by showing some areas on another scale.

- (b) An aerial photograph with depictions of planned facilities, fences, roads, occupied buildings, and planned screening, landscaping, and vegetative cover.
- (c) A dimensioned drawing or map with dimensions added showing setbacks from the project boundary and fences to all structures on participating properties, road rights-of-way, waterways, wetlands, occupied buildings and structures on non-participating properties, and property lines of non-participating properties.
- (d) A description of the maximum height of solar panels, wind turbines, storage facilities, and associated electrical equipment in relation to existing overhead communication and electric transmission lines, in relation to the maximum height allowed under a Determination of No Hazard to Air Navigation by the Federal Aviation Administration under 14 CFR part 77 (for wind turbines).

SITE PLAN SECTION 2– AREA LAND USE INFORMATION:

(e) Latest- or recent-edition USGS maps (utilizing GIS mapping to the extent available) showing the proposed facilities and surrounding area showing (electronically in geospatial mapping format with the ability to toggle layers on and off provided to Staff and other parties to the case upon request when feasible, with pdf files submitted in the docket):

- (1) Maps clearly showing the location of the facility and all ancillary features not located on the facility site in relation to municipal boundaries and taxing jurisdictions, at a scale sufficient to determine and demonstrate relation of facilities to those geographic and political features.
- (2) A map showing existing and proposed land uses within the facility and surrounding area including, but not limited to, the identification of prime farmland and cultivation of specialty crops.
- (3) A map of any existing overhead and underground major facilities for electric, gas or telecommunications transmission within the facility and surrounding area and a summary of any

consultations with owners of major facilities for electric, gas or telecommunications that may be impacted by the facility (crossing existing utilities or otherwise).

- (4) A map of all properties upon which any component of a facility or ancillary feature would be located, and for wind facilities, all properties within two thousand (2,000) feet of such properties, and for solar or storage projects, all properties within one thousand (1,000) feet, that shows the current land use, tax parcel number and owner of record of each property, and any publicly known proposed land use plans for any of these properties. Also identify any parcels within the project boundaries participating in farmland development rights agreements under Michigan's Farmland and Open Space Preservation Program (PA 116).
- (5) A map of existing local zoning districts and proposed zoning districts within the facility and surrounding area and a description of the permitted and the prohibited uses within each zone. For "floating" or "overlay" zones that are not specifically attributable to a specific mapped zoning district, describe the applicable substantive criteria that apply for establishment of the overlay zone.
- (6) Maps showing designated coastal areas, inland waterways, groundwater management zones, designated agricultural districts, flood-prone areas, and coastal erosion hazard areas, that are located within the facility and surrounding area.
- (7) Maps showing recreational and other land uses within the facility and surrounding area that might be affected by the sight or sound of the construction or operation of the facility, interconnections and related facilities, including wild, scenic and recreational river corridors, open space, and any known archaeological, geologic, historical or scenic area, park, designated wilderness, forest lands, scenic vistas, conservation easement lands, federal or state designated scenic byways, nature preserves, designated trails, and public-access fishing areas, major communication and utility uses and infrastructure, and institutional, community and municipal uses and facilities.
- (8) A map depicting the proposed facilities, adjacent properties, all structures within participating and adjacent properties, property lines, and the projected sound isolines along with the modeled sound isolines including the statutory limit and any limits that have been adopted in administrative rules by the MPSC. (N/A right now)
- (9) A map or schematic showing the area that will be impacted by shadow flicker for wind facilities.

The applicant should ensure that all items provided are clear and legible which could entail providing some of the requested items on separate layers, separate pdf maps, or by showing some areas on another scale.

SITE PLAN SECTION 3 – EXPLANATORY INFORMATION:

(f) Written explanations of the elements and features shown on all provided maps as well as other planned site/facility information including a description of the project area and the portion of the community where the project will be sited including socioeconomic and demographic profiles, major industries in the area, and local land use plans and policies. Examples of relevant project area information include: geography, topography, population centers, major industries, and landmarks.

- (1) Provide justification for how the proposed project location, layout, construction methods, etc. minimize:

- a) Environmental impacts
 - b) Noise
 - c) Visual impacts
 - d) Impacts to traffic
 - e) Impacts to solid waste disposal capacity
 - f) Other impacts to property owners during construction and operation.
- (2) The number of acres, of the proposed site or right-of-way for the facility.
 - (3) Describe any unusual features and explain how the proposed project design accounts for unusual features.
 - (4) Written descriptions explaining the relation of the location of the facility site, and all ancillary features not located on the facility site, to the affected municipalities and taxing jurisdictions.
 - (5) A statement as to whether any applicable local jurisdiction has an adopted comprehensive plan applicable to lands on which facility components or ancillary facilities are located and whether the proposed facility is consistent with such comprehensive plan. A copy of the plan shall be provided in the application, with an indication of plan sections applicable to the proposed uses.
 - (6) A qualitative assessment of the compatibility of the facility, including any off-site staging and storage areas, with existing, proposed and allowed land uses, and local and regional land use plans, located within a two (2)-mile radius of the facility site. The assessment shall identify the nearby land uses of particular concern to the community and shall address the land use impacts of the facility on residential areas, schools, civic facilities, recreational facilities, and commercial areas. The assessment and evaluation shall demonstrate that conflicts from facility-generated noise, traffic and visual impacts with current and planned uses have been minimized to the extent practicable.
 - (7) A qualitative description of the planned screening, landscaping, and vegetative cover.
 - (8) A written description of how planned fencing complies with the latest version of the National Electric Code.
 - (9) A report detailing the sound modeling results along with mitigation plans to ensure that sound emitted from the facilities will remain below the statutory limit throughout the operational life of the facilities.
 - (10) Plans to comply with dark sky-friendly lighting solutions for solar or storage facilities and light-mitigation plans for wind facilities, including exemptions requested for during the construction period.
 - (11) A report detailing the flicker modeling results for wind facilities along with mitigation plans to ensure that flicker will remain below the statutory limit throughout the operational life of the facilities.
 - (12) An emergency response plan and a fire response plan for the facilities.
 - (13) The anticipated impacts and plans to mitigate impacts to the environment and natural resources, including, but not limited to, sensitive habitats and waterways, wetlands and floodplains, wildlife corridors, parks, historic and cultural sites, and threatened or endangered species. A description and supporting records of consultations, including any consultations with relevant state, tribal, and federal agencies, that have taken place related to the anticipated impacts and plans to mitigate impacts to the environment and natural resources.
 - (14) An Unanticipated Discoveries Plan (UDP) including the following:

- A. A set of procedures to be followed if cultural resources are discovered. Examples of cultural materials include, but are not limited to:
 - (a) An accumulation of shell, burned rocks, or other food related materials
 - (b) Bones or small pieces of bone
 - (c) An area of charcoal or very dark stained soil with artifacts
 - (d) Stone tools or waste flakes (i.e., an arrowhead, or stone chips)
 - (e) Clusters of tin cans or bottles
 - (f) Logging or agricultural equipment that appears to be older than 50 years
 - (g) Buried railroad tracks, decking, or other industrial materials
 - B. A set of procedures to be followed if human remains are discovered
 - C. A contact list that includes the following:
 - (a) Contact for the State Historic Preservation Office
 - (b) Contacts for Tribal Historic Preservation Offices of Michigan
 - (c) Local, project specific, emergency contacts (i.e., County Sheriff, County Medical Examiner, etc.)
- (15) A list of all parcels that are participating or adjacent to the proposed facilities, including land-owner information for each parcel. Land-owner information may be redacted and filed confidentially pursuant to protective order at the discretion of the applicant.
- (16) Proposed complaint resolution process for the site. The complaint process should include the name of a designated developer/operator representative provided with the authority to resolve local complaints, a dedicated phone number for complaints, an email address for complaints, and website information instructing the public on the complaint resolution process. The complaint process should include regular reporting of complaints received and how each complaint was resolved to be filed on a periodic basis in the docket.
- (17) The list of local governments which were provided copies of the site plan pursuant to MCL 460.1224 (2) as well as the dates the site plans were provided to each..
- (18) Plans to comply with any more stringent requirements that may be adopted in administrative rules.

SITE PLAN SECTION 4 - CONSTRUCTION INFORMATION

- (g) Describe the project's proposed installation methods. The proposed site clearing, construction methods, and reclamation operations, including:
- (1) Soil Surveying and testing, pursuant to Act 451.
 - (2) Grading and excavation.
 - (3) Construction of temporary and permanent access roads, staging areas, and laydown areas and trenches.
 - (4) Stringing of cable and/or laying of pipe.
 - (5) Installation of electric transmission line poles and structures, including foundations.
 - (6) Depth of underground facilities.
 - (7) Post-construction restoration.
 - (8) Maps showing the following:
 - A. The planned routes for cranes and other heavy equipment.

- B. The location of any existing deeded easement granted to any entity within the footprint of the facility.
- C. The location of all existing and proposed drains, drain easements, and underground drainage tile including data provided by the county drain commission.

SITE PLAN SECTION 5– CHANGES AND ALTERNATIVES

(h) A map and description of any future modifications or variations in the proposed site plan, including the nature and approximate timing of contemplated changes.

(i) A map and description of each alternative site location, proposed site layout, or other alternatives that are or were being considered, including rationale for why alternative locations were not selected for development.

MINOR CHANGES:

Section 222(3) If the commission has issued a certificate for an energy facility, the electric provider or IPP may make minor changes, as defined by the commission, to the site plan if the changes are within the footprint of the previously approved site plan.

PROPOSED DEFINITION / GUIDANCE: A minor change does not include an increase in capacity or output from the facilities, nor does it include a change in planned technologies (such as the addition of storage to an existing site or other technological changes impacting noise or permit requirements), nor does it include reduced setbacks from any part of the planned facilities to occupied structures, non-participating property lines, public rights-of-way, or changes in the height of any facilities from what was included in an approved application, nor does a minor change require revised permits from any federal, state, or local permitting agency.

STAFF DRAFT STRAW PROPOSAL FOR FIRE AND EMERGENCY RESPONSE PLANS

Staff recommends the Commission consider adopting the following guidance related to the requirement for a fire response plan and an emergency response plan as outlined in PA 233 of 2023.

(All Projects) Application for certificate under 222(2) shall contain all of the following.....

Section 225 (q) - A fire response plan and an emergency response plan.

(Energy Storage Only) *Section 226(8)(c)(ii) - The energy storage facility complies with the version of NFPA 855 "Standard for the Installation of Stationary Energy Storage Systems" in effect on the effective date of the amendatory act that added this section or any applicable successor standard adopted by the commission as reasonable and consistent with the purposes of this subdivision.*

Straw proposal primarily developed from:

- NY Regulations: [chapter-xviii-title-19-of-nycrr-part-900-subparts-900-1-through-900-15.pdf](#)
- NFPA 855: <https://link.nfpa.org/free-access/publications/855/2023>
- Pacific Northwest National Laboratory report, "[Energy Storage in Local Zoning Ordinances](#)"
- University of Michigan report, "Power in Partnership: Insights for siting utility-scale renewables in Michigan"
- Discussions with subject matter experts.

FIRE AND EMERGENCY RESPONSE PLANS

1. The application shall include an Emergency Response Plan (ERP). The ERP shall include:
 - a. Evidence of consultation or a good faith effort to consult with local first responders to ensure that the ERP is in alignment with acceptable operating procedures, capabilities, resources, etc. If consultation with local first responders is not possible, provide evidence of consultation or a good faith effort to consult with other local emergency managers.
 - b. An identification of contingencies that would constitute a safety or security emergency (fire emergencies are to be addressed in a separate Fire Response Plan);
 - c. Emergency response measures by contingency;
 - d. Evacuation control measures by contingency;
 - e. Community notification procedures by contingency; and
 - f. An identification of potential approach and departure routes to and from the facility site for police, fire, ambulance, and other emergency vehicles.
 - g. A commitment to review the ERP annually with fire departments and first responders and update as needed.
 - h. Other information the applicants finds relevant.
2. The application shall include a Fire Response Plan (FRP). The FRP shall include:
 - a. Evidence of consultation or a good faith effort to consult with local fire department representatives to ensure that the FRP is in alignment with acceptable operating procedures, capabilities, resources, etc. If consultation with local fire department

- representatives is not possible, provide evidence of consultation or a good faith effort to consult with the State Fire Marshal or other local emergency manager.
- b. A description of all on-site equipment and systems to be provided to prevent or handle fire emergencies.
 - c. A description of all contingency plans to be implemented in response to the occurrence of a fire emergency.
 - d. A commitment to conduct, or provide funding to conduct, site-specific training drills with emergency responders before commencing operation, and at least once per year while the facility is in operation. Training should familiarize local fire departments with the project, hazards, procedures, and current best practices.
 - e. An analysis of whether plans to be implemented in response to a fire emergency can be fulfilled by existing local emergency response capacity, and identification of any specific equipment or training deficiencies in local emergency response capacity.
 - f. Other information the applicants finds relevant.
3. Changes to the design, type, manufacturer, etc. of facilities after the initial filing must be analyzed to determine if changes are necessary to the ERP or FRP. Additional consultation with local fire department and first responder is required for amended plans.
 4. In addition to the requirements above, applications for energy storage projects shall include the following in compliance with NFPA 855:
 - a. Commissioning Plan (4.2.4 & 6.1.3.2)
 - b. Emergency Operation Plan (4.3.2.1.4)
 - c. Hazard Mitigation Analysis (4.4)

<https://link.nfpa.org/free-access/publications/855/2023>

4.2.4 Commissioning Plan. A commissioning plan meeting the provisions of Chapter 6 shall be provided to the building owner or their authorized agent and the AHJ.

6.1.3 Commissioning Plan.

6.1.3.1 The system installer or commissioning agent shall prepare a written commissioning plan that provides a description of the means and methods necessary to document and verify that the system and its associated controls and safety systems, as required by this standard, are in proper working condition.

6.1.3.2 The commissioning plan shall include, but not be limited to, the following information:

- (1) An overview of the commissioning process developed specifically for the ESS to be installed and narrative description of the activities to be conducted
- (2) Roles and responsibilities for all those involved in the design, commissioning, construction, installation, or operation of the system(s)

- (3) Means and methods whereby the commissioning plan will be made available during the implementation of the ESS project(s)
- (4) Plans and specifications necessary to understand the operation of the ESS and all associated operational controls and safety systems
- (5) A detailed description of each activity to be conducted during the commissioning process, who will perform each activity, and at what point in time the activity is to be conducted
- (6) Procedures to be used in documenting the proper operation of the ESS and all associated operational controls and safety systems
- (7) Testing for any required fire detection or suppression and thermal management, ventilation, or exhaust systems associated with the installation and verification of proper operation of the safety controls
- (8) The following documentation:
 - (a) Commissioning checklist
 - (b) Relevant operational testing forms
 - (c) Necessary commissioning logs
 - (d) Progress reports
- (9) Means and methods whereby facility operation and maintenance staff will be trained on the system
- (10) Identification of personnel who are qualified to service and maintain the system and respond to incidents involving each system
- (11) A decommissioning plan meeting the provisions of Section 8.1 that covers the removal of the system from service and from the facility in which it is located and information on disposal of materials associated with each ESS

4.3 Emergency Planning and Training.

4.3.1* General. For ESS installations that exceed the maximum stored energy limits of Table 9.4.1, emergency planning and training shall be provided by the owner of the ESS or their authorized representative so that ESS facility operations and maintenance personnel and emergency responders can address foreseeable hazards associated with the on-site systems.

4.3.2 Facility Staff Planning and Training. For ESS installations that exceed the maximum stored energy limits of Table 9.4.1, an emergency operations plan and associated training shall be established, maintained, and conducted by ESS facility operations and maintenance personnel.

4.3.2.1 Emergency Operations Plan.

4.3.2.1.1 An emergency operations plan shall be readily available for use by facility operations and maintenance personnel.

4.3.2.1.2 For normally occupied facilities, the emergency operations plan shall be on site.

4.3.2.1.3 The plan shall be updated when conditions that affect the response considerations and procedures change.

4.3.2.1.4 The emergency operations plan shall include the following:

- (1) Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions
- (2) Procedures for inspection and testing of associated alarms, interlocks, and controls
- (3)* Procedures to be followed in response to notifications of system alarms or out-of-range conditions that could signify potentially dangerous conditions, including shutting down equipment, summoning service or repair personnel, and providing agreed-upon notification to fire department personnel, if required
- (4)* Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions
- (5) Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required
- (6) Procedures for dealing with ESS equipment damaged in a fire or other emergency event, including contact information for personnel qualified to safely remove damaged ESS equipment from the facility
- (7) Other procedures as determined necessary by the AHJ to provide for the safety of occupants and emergency responders
- (8) Procedures and schedules for conducting drills of these procedures

4.3.2.1.5 The emergency operations plan in 4.3.2.1 shall not be required for electric utility facilities under the exclusive control of the electric utility located outdoors or in building spaces used exclusively for such installations.

4.4 Hazard Mitigation Analysis (HMA).

4.4.1* A hazard mitigation analysis shall be provided to the AHJ for review and approval where any of the following conditions are present:

- (1) Technologies not specifically addressed in Table 1.3 are provided
- (2) More than one ESS technology is provided in a single fire area where adverse interaction between the technologies is possible
- (3) Where allowed as a basis for increasing maximum stored energy as specified in 9.4.1.1 and 9.4.1.2
- (4) Where required by the AHJ to address a potential hazard with an ESS installation that is not addressed by existing requirements
- (5) Where required for existing lithium-ion ESS systems that are not UL 9540 listed in accordance with 9.2.2.1
- (6) Where required for outdoor lithium-ion battery ESS systems in accordance with 9.5.2.1

4.4.2 Failure Modes.

4.4.2.1* The hazard mitigation analysis shall evaluate the consequences of the following failure modes and others deemed necessary by the AHJ:

- (1) A thermal runaway or mechanical failure condition in a single ESS unit
- (2) Failure of an energy storage management system or protection system that is not covered by the product listing failure modes and effects analysis (FMEA)
- (3) Failure of a required protection system including, but not limited to, ventilation (HVAC), exhaust ventilation, smoke detection, fire detection, fire suppression, or gas detection

4.4.2.2 Only single failure modes shall be considered for each mode given in 4.4.2.1.

4.4.3 The AHJ shall be permitted to approve the hazard mitigation analysis as documentation of the safety of the ESS installation if the consequences of the analysis demonstrate the following:

- (1) Fires will be contained within unoccupied ESS rooms for the minimum duration of the fire resistance rating specified in 9.6.4.
- (2) Fires and products of combustion will not prevent occupants from evacuating to a safe location.
- (3) Deflagration hazards will be addressed by an explosion control or other system.

4.4.4 The hazard mitigation analysis shall be documented and made available to the AHJ and those authorized to design and operate the system.

4.4.5* Construction, equipment, and systems that are required for the ESS to comply with the hazard mitigation analysis shall be installed, tested, and maintained in accordance with this standard and the manufacturer's instructions.

STAFF DRAFT STRAW PROPOSAL ON CONDITIONS for consideration

Staff recommends the Commission consider adopting guidance that the following conditions should be considered in contested cases held pursuant to PA 233.

*Sec. 226: (6) In evaluating the application, the commission shall consider the feasible alternative developed locations described under section 225(1)(n), if applicable, and the impact of the proposed facility on local land use, including the percentage of land within the local unit of government dedicated to energy generation. **The commission may condition its grant of the application on the applicant taking additional reasonable action related to the impacts of the proposed energy facility, including, but not limited to, the following:***

- (a) Establishing and maintaining for the life of the facility vegetative ground cover. This subdivision does not apply to an application for an energy facility that is proposed to be located entirely on brownfield land.*
- (b) Meeting or exceeding pollinator standards throughout the lifetime of the facility, as established by the “Michigan Pollinator Habitat Planning Scorecard for Solar Sites” developed by the Michigan State University Department of Entomology in effect on the effective date of the amendatory act that added this section or any applicable successor standards approved by the commission as reasonable and consistent with the purposes of this subdivision. Seed mix used to establish pollinator plantings shall not include invasive species as identified by the Midwest Invasive Species Information Network, led by researchers at the Michigan State University Department of Entomology and supporting regional partners. This subdivision does not apply to an application for an energy facility that is proposed to be located entirely on brownfield land.*
- (c) Providing for community improvements in the affected local unit.*
- (d) Making a good-faith effort to maintain and provide proper care of the property where the energy facility is proposed to be located during construction and operation of the facility.*

Straw proposal primarily developed from:

- UM Capstone report recommendations and lessons learned.
- Minnesota Department of Commerce procedures and requirements: [Energy Environmental Review and Analysis Home \(state.mn.us\)](https://www.state.mn.us/energy/energy-environmental-review-and-analysis-home)
- Discussions with subject matter experts, developers, local government officials, and public comments received earlier in the process.

Staff recommends that these conditions are permissible under Section 226(6) and recommends the Commission adopt guidance indicating that the following conditions (**at a minimum**) should be considered by parties in cases filed at the MPSC pursuant to PA 233. The Commission may condition approval of a certificate upon the following:

1. An agreement from the applicant to hire a third-party independent monitor, funded by the applicant, selected in consultation with the MPSC Staff and to the extent practicable, the local unit of government, to be onsite during the construction process on a weekly basis to monitor the construction activities. The third-party independent monitor could provide weekly reports to the MPSC Staff, the local unit of government, and the applicant from the start of construction and continuing through the first 3 months of commercial operation.
2. An agreement to participate in a pre-construction meeting with the MPSC Staff, to the extent practicable local units of government which may include the County drain commissioner, and the third-party monitor to review final drawings signed by a professional engineer and plans and to review final approved permits and associated permit conditions prior to the start of

construction. The certificate could also be conditioned on filing the final drawings, plans, and permits received in the docket prior to the start of construction.

3. An agreement by the applicant to repair or replace all public and private drainage systems damaged from construction or decommissioning processes.
4. An agreement to file mechanical completion certificates for the facilities in the docket.
5. An agreement from the applicant to a complaint process that is agreeable to Staff and to the extent practicable, the local unit of government. The complaint process should include the name of a designated developer/operator representative provided with the authority to resolve local complaints, a dedicated phone number for complaints, an email address for complaints, and website information instructing the public on the complaint resolution process. The complaint process should include regular reporting of complaints received and how each complaint was resolved to be filed on a periodic basis in the docket.
6. An agreement to provide emergency contact information for the site in the docket and keep it updated on an annual basis.
7. An agreement to the planned implementation of screening that is mutually agreeable to local landowners, the MPSC Staff, and to the extent practicable, the local unit of government or another intervening party.
8. An agreement to the planned implementation of vegetative ground cover in consideration of Michigan State University's "Michigan Pollinator Habitat Planning Scorecard for Solar Sites" and avoiding invasive species that is mutually agreeable to local landowners, the MPSC Staff, and to the extent practicable, the local unit of government, or another intervening party.
9. An agreement to bury underground facilities to a depth that is mutually agreeable to the landowners, the MPSC Staff, and to the extent practicable, the local unit of government or another intervening party.
10. An agreement to hire a third-party acoustics expert to conduct post-construction sound measurements and file the report in the docket. An agreement that if the post-construction sound measurements are close to or do not meet the statutory requirements, noise mitigation plans will be implemented and the post-construction sound measurements will be repeated and the results will be filed in the docket.
11. An agreement to conduct additional third-party sound measurements and if the sound level is not compliant with the statute, to implement noise mitigation during facility operations should significant complaints be received by the developer/operator, the local unit of government, or the MPSC.
12. An agreement to mitigate flicker that does not meet the statutory provisions.
13. An agreement to remedy at the applicant's cost, any electromagnetic interference that is disrupted by any wind energy facility and restore reception to at least the levels present before the wind energy facility began operations.
14. An agreement by the developer/operator to provide ongoing annual training for local fire departments and other first responders.
15. Approval contingent upon receiving approval for all other applicable state, federal, and local permits and an agreement to file a finalized list of all permits required for the construction of the process along with the permitting agency and when the permit was granted in the docket.
16. Approval contingent upon the execution of a decommissioning agreement approved by the Commission and an agreement to demonstrate that financial assurance has been acquired and

will be maintained throughout the operational life of the facilities, as outlined in the decommissioning agreement.

17. An agreement to comply with all other applicable (non-zoning) ordinances throughout the operational life of the facilities that were in effect at the time the MPSC certificate was issued.
18. An agreement to comply with the provision of periodic reports over time on the amount of electricity produced per turbine or per parcel, a report listing complaints received during the time period as well as the developer/operators' response including resolution and/or plans for mitigation, a report outlining the operating condition and performance of the facilities on the site (including non-producing ancillary equipment, structures, fencing, locks, gates, screening, vegetative ground cover and other items specifically listed in the condition), a report listing any failures of equipment or structures that took place during the period as well as repairs that have been made during the time period or are planned or underway, and a report of any improvements made to the site or facilities during the period as well as any planned improvements or planned changes to the site or facilities including changes to fencing or ancillary equipment during the reporting period, to be filed in the docket.
19. An agreement to provide annual maintenance plans and annual inspection results in the docket.
20. An agreement to file a glare technical study and glare mitigation plans in the docket.
21. An agreement to provide for community improvements in the affected local unit.
22. An agreement to maintain proper care for the property where the energy facility is proposed and to be located during the construction and operation of the facility.
23. An agreement to utilize a project labor agreement or operate under a collective bargaining agreement for the construction and maintenance work to be performed.
24. An agreement to indemnify and hold harmless the Commission and its officials, employees, agents, and representatives for any and all claims or causes of action arising from any acts or omissions of the certificate recipient done in connection with the issuance of the certificate.
25. An agreement confirming the applicant's acceptance and agreement to comply with all terms and conditions in the certificate.