This opinion is nonprecedential except as provided by Minn. R. Civ. App. P. 136.01, subd. 1(c).

STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1450
A24-1454
A24-1455
A24-1700
A24-1741
A24-1750

In the Matter of the Petition of Northern States Power Company, d/b/a Xcel Energy, for Approval of Its Proposed Community Solar Garden Program.

Filed August 4, 2025
Affirmed
Schmidt, Judge

Minnesota Public Utilities Commission
File No. E-002/M-13-867

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Considered and decided by Cochran, Presiding Judge; Reyes, Judge; and Schmidt, Judge.

NONPRECEDENTIAL OPINION

SCHMIDT, Judge

Relators Standard Solar, Inc., United States Solar Corporation, and Joint Solar Associations (collectively, relators) challenge a decision by respondent Minnesota Public Utilities Commission (the commission) that transitioned the method used by respondent Northern States Power Company d/b/a Xcel Energy to calculate bill credits for subscribers of certain Community Solar Gardens. Relators raise eight arguments, contending that the commission: (1) exceeded its statutory authority, (2) impermissibly engaged in retroactive-ratemaking, (3) issued an order that was arbitrary and capricious, (4) should have ordered a contested-case hearing, (5) violated the Contract Clauses of the United States and Minnesota Constitutions, (6) violated the federal and state constitutional Takings Clauses, (7) violated the *Mobile-Sierra*[1] doctrine, and (8) issued an order that violated the doctrine of promissory estoppel. We affirm.

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[1] *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 332 (1956); *Fed. Power Comm'n v. Sierra Pac. Power Co.*, 350 U.S. 348 (1956).

FACTS

This appeal requires us to review the commission's decision as to how Xcel should calculate bill credits for subscribers of certain Community Solar Gardens (CSGs). To provide context, we summarize the history of the CSG statute (Minn. Stat. § 216B.1641 (2024)), Xcel's CSG program, and pertinent commission orders related to that program.

The CSG statute was enacted in 2013 to promote solar energy growth in the state by providing individual customers and communities the opportunity to support the development of solar energy by subscribing to a solar garden. *See* 2013 Minn. L. ch. 85, art. 10, § 2 (codified at Minn. Stat. § 216B.1641, subd. 1).[2] The statute defines a solar garden as "a facility that generates electricity by means of a ground-mounted or roof-mounted solar photovoltaic device whereby subscribers receive a bill credit for the electricity generated in proportion to the size of their subscription." *Id.*, subd. 1(b). A CSG generates solar energy and delivers the energy to Xcel. *Id.*, subd. 1(b), (d). The CSGs obtain revenue from subscribers, which includes individuals, municipalities, schools, hospitals, and other entities. *Id.*, subd. 1(h). CSG subscribers receive a discount—in the form of a bill credit—on their Xcel energy bill in proportion to the size of their subscription. *Id.*, subd. 1(d), (h). Xcel recovers the costs of the program from all ratepayers.

The CSG statute requires Xcel to purchase the energy generated by approved CSGs and provides that "[t]he purchase shall be at the rate calculated under section 216B.164,

[2] In 2023, the legislature amended the statute, segregating its original provision in Minnesota Statutes section 216B.1641 to govern CSGs approved by the commission before January 1, 2024. Minn. Stat. § 216B.1641, subd. 1(i). At issue in this appeal is Xcel's legacy program.

subdivision 10, or, until that rate for the public utility has been approved by the commission, the applicable retail rate." *Id.*, subd. 1(d). The rate calculated under Minn. Stat. § 216B.164, sub. 10, is referred to as the value of solar (VOS) rate. The VOS rate is calculated under a methodology approved by the commission that accounts for benefits of distributed solar generation, such as avoiding the costs of fuel, operations-and-maintenance, generation-capacity, transmission and distribution, and environmental expenses. *See* Minn. Stat. § 216B.164, subd. 10 (2024). The statute does not define the "applicable retail rate" (ARR), but the commission has interpreted the term to mean "the full retail rate, including the energy charge, demand charge, customer charge, and applicable riders, for the customer class applicable to the subscriber receiving the credit."

In September 2013, Xcel filed the statutorily-required proposal for a CSG program for the commission's approval. *Id.*, subd. 1(a). The commission received many comments on the proposed plan. Based on this feedback, the commission issued an order rejecting the proposal and requiring Xcel to file a revised plan.

Xcel timely filed a revised plan. The commission issued an order (2014 Order) approving Xcel's modified plan, which required Xcel to "purchase solar-garden energy at the [ARR] until the commission approved a VOS rate." The 2014 Order also allowed CSGs to sell renewable energy credits (RECs) to Xcel at a rate intended to help make the CSGs financeable. The 2014 Order further required Xcel to modify its proposed tariff and add language in the standard CSG form contract that was included in the tariff.

Consistent with the 2014 Order, the standard form contract included language that required the RECs price for CSG gardens to "remain fixed for the entire 25-year contract period." The contract specified that "[s]ubsequent Commission approved REC prices shall only apply to new garden applications." But the contract further provided that "[i]n the event of any conflict between the terms of this Contract and Company's electric tariff, the provisions of the tariff shall control." The standard form contract also stated that the contract is, at all times, subject to "all rules and orders issued by the Commission or other government agency having jurisdiction over the subject matter of this Contract." It further noted that the contract "shall be modified and amended if required to comply with any order or regulation of the Commission, applicable state or federal laws or regulations, or other government agency having jurisdiction over the subject matter of this Contract."

In September 2016, the commission issued an order (the 2016 Order) that approved the VOS rate—which was less than the ARR—for all solar garden applications filed after December 31, 2016.[3] The 2016 Order stated that: "Parties unanimously recommend that any change to the bill-credit rate be applied prospectively so as not to undermine the viability of existing applications. The Commission concurs[.]" Following the 2016 Order, CSGs for which applications were filed on or before December 31, 2016, operated under the ARR rate (ARR-era CSGs) and CSGs for which applications were filed on January 1, 2017, or later operated under the VOS rate.

In July 2023, the commission ordered Xcel to "develop and file a detailed proposal . . . for switching ARR-era gardens to the appropriate VOS rate." Xcel submitted a timely proposal. After receiving voluminous comments from stakeholders who provided

[3] Xcel did not support transitioning to the VOS rate without adjustments to the VOS methodology. The commission rejected Xcel's position.

input on the proposal, the commission issued an order on May 30, 2024 (2024 Order) approving the rate-transition proposal, with modifications.

The 2024 Order approved "Xcel's compliance filing and authorize[d] a transition from the [ARR] to the [VOS rate] for all existing CSGs," which effectively impacted only ARR-era CSGs. The commission found that "circumstances have evolved since the CSG program rollout" that required the transition. The commission reasoned that the change was necessary "due to the cost of ARR-era community solar gardens' bill credits to non-subscribing ratepayers." The commission found that the "[ARR] rates for purchasing CSG energy [from ARR-era CSGs] are significantly higher than the market price of non-CSG energy, and the entire above-market cost of purchased CSG energy is recovered from Xcel's Minnesota customers." The 2024 Order also noted that, "most importantly, there now exists nearly a decade's worth of data related to the CSG program's operation that support a shift to the VOS."

To facilitate a successful transition to the VOS rate, the commission modified Xcel's proposal by including temporary "adders"—additional credit above the VOS rate—for subscribers of ARR-era CSGs who would be affected by the rate reduction from the ARR rate to the VOS rate. The commission intended the adders to gradually transition the bill credits from the ARR to the VOS rate. The commission also delayed implementation of the transition until April 1, 2025 to allow subscribers and CSGs to adjust their operations.

The relators filed petitions requesting reconsideration of the 2024 Order. The commission denied the petitions, finding that they "do not raise new issues, do not point to new and relevant evidence, and do not expose errors in the Commission's decisions."

Standard Solar,[4] U.S. Solar,[5] and Joint Solar Associations (JSA)[6] each filed a certiorari appeal. We consolidated the three appeals. We granted a motion to stay the appeal to allow the commission to consider relators' second petition for reconsideration.[7] After the commission denied the second request for reconsideration, we lifted the stay.

DECISION

Relators argue that the commission lacked the statutory authority to transition the rates to VOS, that the 2024 Order was arbitrary and capricious, and that the commission violated the United States and Minnesota Constitutions' Contract Clauses. Standard Solar and U.S. Solar argue that the transition effects an unconstitutional taking. Standard Solar argues that the commission engaged in impermissible retroactive ratemaking. JSA argues the commission should have held a contested-case hearing. Finally, U.S. Solar argues the commission's 2024 Order should be reversed under the *Mobile-Sierra* and promissory estoppel doctrines. We begin by setting forth our standard of review.

"Any party to a proceeding before the commission or any other person, aggrieved by a decision and order and directly affected by it, may appeal from the decision and order of the commission in accordance with [the Minnesota Administrative Procedure Act]."

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[4] Standard Solar operates 11 AAR and 28 VOS-rate solar gardens in Minnesota.

[5] U.S. Solar has 95 CSGs in Minnesota, many of which are ARR-era gardens.

[6] JSA is an organization that includes the Coalition for Community Solar Access—a community-solar-industry-nonprofit organization—and the Minnesota Solar Energies Association—a nonprofit trade association representing Minnesota's solar industry.

[7] We denied a motion that sought to stay the 2024 Order pending appeal.

Minn. Stat. § 216B.52 (2024). "On writ of certiorari, we determine whether the Commission violated the constitution, exceeded its authority, engaged in unlawful procedure, erred as a matter of law, issued a decision unsupported by substantial evidence, or acted arbitrarily or capriciously." *In re Investigation into Intra-LATA Equal Access & Presubscription*, 532 N.W.2d 583, 588 (Minn. App. 1995), *rev. denied* (Minn. Aug. 30, 1995). An agency's decision is presumed correct, and we defer to the agency's expertise in factfinding. *Id.* Agency decisions are entitled to deference in areas requiring an agency's technical training, education, and experience. *In re Petition of N. States Power Co.*, 676 N.W.2d 326, 331 (Minn. App. 2004). "When reviewing questions of law, however, we are not bound by the agency's decision and need not defer to the agency's expertise." *In re Investigation into Intra-LATA Equal Access*, 532 N.W.2d at 588. The party challenging the commission's decision bears "the burden of proof when appealing." *In re Petition of Excelsior Energy Inc.*, 782 N.W.2d 282, 289 (Minn. App. 2010).

The commission's 2024 Order transitioning from ARR to VOS rates involves both quasi-legislative and quasi-judicial decision-making. An agency engages in quasi-judicial decision-making when it receives evidence to make factual findings and weighs that evidence as a judge would in a court trial. *St. Paul Area Chamber of Com. v. Minn. Pub. Serv. Comm'n*, 251 N.W.2d 350, 358 (Minn. 1977). For quasi-judicial decisions, we review the commission's decision and we

> may affirm the decision of the agency or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioners may have been prejudiced because the administrative finding, inferences, conclusion, or decisions are:

> (a) in violation of constitutional provisions; or
>
> (b) in excess of the statutory authority or jurisdiction of the agency; or
>
> (c) made upon unlawful procedure; or
>
> (d) affected by other error of law; or
>
> (e) unsupported by substantial evidence in view of the entire record as submitted; or
>
> (f) arbitrary or capricious.

Minn. Stat. § 14.69 (2024). *See also* Minn. Stat § 216B.52 (providing that a decision and order of the commission may be appealed in accordance with chapter 14). This court cannot substitute its judgment for that of an agency when the agency's findings are properly supported by the evidence. *Vicker v. Starkey*, 122 N.W.2d 169, 173 (Minn. 1963).

In contrast, the commission acts in a quasi-legislative function "when it balances cost and noncost factors and makes choices among public policy alternatives." *In re Qwest's Wholesale Serv. Quality Standards*, 678 N.W.2d 58, 62 (Minn. App. 2004), *aff'd*, 678 N.W.2d 58 (Minn. 2004). We grant deference to the commission when it exercises its quasi-legislative powers. *See id.* We will affirm an agency's decision when acting in a legislative function "unless it is shown, by clear and convincing evidence, to be in excess of statutory authority or to have unjust, unreasonable, or discriminatory results." *Id.*

I. The commission had the statutory authority to transition the rate.

Relators argue that the commission lacked the statutory authority to transition CSGs that were operating under the ARR to a VOS rate. As a creature of statute, an agency only has the authority granted to it by the legislature. *In re Hubbard*, 778 N.W.2d 313, 318 (Minn. 2010). Whether an administrative agency "acted within its statutory authority is a question of law" that appellate courts review de novo. *Id.* We look to the plain language of the authorizing statute to determine whether an agency acted within its power. *In re Valley Branch Watershed Dist.*, 781 N.W.2d 417, 421-22 (Minn. App. 2010). "An agency's authority may be stated either expressly in statute or implied from the express powers given to the [agency] by the Legislature." *In re Application of Otter Tail Power Co.*, 942 N.W.2d 175, 179 (Minn. 2020).

A. The statutes empowered the commission to change the rate.

1. The commission's action does not violate Minnesota Statutes sections 216B.1641 or 216B.164, or Minnesota Rule 7835.4023.

Relators argue that the commission exceeded its statutory authority in the 2024 Order. Statutory interpretation begins by determining "whether the statute's language, on its face, is clear or ambiguous." *Am. Fam. Ins. Grp. v. Schroedl*, 616 N.W.2d 273, 277 (Minn. 2000). A statute is ambiguous when the language "is subject to more than one reasonable interpretation." *Amaral v. Saint Cloud Hosp.*, 598 N.W.2d 379, 384 (Minn. 1999). We construe words and phrases "according to their plain and ordinary meaning." *Schroedl*, 616 N.W.2d at 277. "[N]o word, phrase, or sentence should be deemed superfluous, void, or insignificant[,]" and each statute must be construed as a whole and interpreted "in light of the surrounding sections to avoid conflicting interpretations." *Id.* at 277 (quotation omitted). This court should "avoid absurd results and unjust consequences." *Id.* at 278; *see also* Minn. Stat. § 645.17 (2024). The "goal is to ascertain and effectuate the intention of the legislature." *Schroedl*, 616 N.W.2d at 278; *see also* Minn. Stat. § 645.16 (2024).

The CSG statute requires the purchase rate for energy generated by a solar garden to "be at the rate calculated under section 216B.164, subdivision 10, or, until that rate for the public utility has been approved by the commission, the applicable retail rate." Minn. Stat. § 216B.1641, subd. 1(d). And Minnesota Statutes section 216B.164, subdivision 10(e), required the commission to approve methodology for calculating the VOS rate. Subdivision 10(a), provides a process for Xcel to seek approval of an alternative tariff for customers "operating solar photovoltaic resources interconnected to the utility system and operating by customers primarily for meeting their own energy needs." This alternative tariff must be calculated with reference to the methodology approved by the commission within subdivision 10, and, if approved, would only apply to customers' interconnections occurring after the date of approval. Minn. Stat. § 216B.164, subd. 10(b), (e), (f); *see also* Minn. R. 7835.4023 (2023) ("If a public utility has received commission approval of an alternative tariff for the value of solar . . . the tariff applies to new solar photovoltaic interconnections effective after the tariff approval date."). Xcel has not sought approval for an alternative tariff, but the VOS rate calculated under section 216B.164, subdivision 10, is nevertheless pertinent because the CSG statute incorporates that rate.

Relators argue that the commission violated Minnesota law because the 2024 Order violates the plain language of the statutes that provide the commission with the authority to set rates for the purchase of energy from CSGs. The commission counters that section 216B.1641, subdivision 1(e), grants the commission the express authority to modify Xcel's CSG program if it is consistent with the statutory requirements. Minn. Stat. § 216B.1641, subd. 1(e) (stating that any plan the commission approves must "reasonably allow for the creation, financing, and accessibility of community solar gardens" and "be consistent with the public interest"). Xcel concurs, arguing that the legislature gave the commission the express authority to modify CSG programs, and required the commission to transfer all ARR-era CSGs to the VOS rate after the commission approved the VOS rate. Minn. Stat. § 216.1641, subd. 1(d), (e). We agree with the commission and Xcel.

Section 216B.1641, subdivision 1(d), states that VOS rate applies once it has been approved. Minn. Stat. § 216B.1641, subd. 1(d) ("The purchase shall be at the [VOS rate], or, until that rate for the public utility has been approved by the commission, the applicable retail rate."). The statutory language shows the legislature only intended the ARR to be an interim rate. *Id.* The commission's 2024 Order brings the rates in compliance with the legislative intent by transitioning the rate for ARR-era CSGs to the VOS rate. And the commission has express authority to adopt rates and modify them if the plan "reasonably allow[s] for the creation, financing, and accessibility of community solar gardens" and is "consistent with the public interest." Minn. Stat. § 216B.1641, subd. 1(e)(1), (4).

Relators insist that section 216B.164, subdivision 10(b) mandates that VOS-based bill credits for CSGs apply only to CSGs interconnected after January 1, 2017, the effective date of the VOS rate approved in the 2016 Order. Section 216B.164, subdivision 10(b) provides that "[i]f approved, the alternative tariff shall apply to customers' interconnections occurring after the date of approval." Relators also argue that the CSG statute—specifically the word "until" in subdivision 1(d) in section 216B.1641—only authorizes a single, prospective, and program-wide rate transition. According to relators, the commission transitioned prospective CSGs—those that filed applications on or after January 1, 2017—to the VOS rate through the 2016 Order, which means another transition is not possible under the statute. Relators contend that any CSG that applied for the program before January 1, 2017, and completed its interconnection process is entitled to maintain the ARR rate. We disagree.

Contrary to relators' argument, the plain language of section 216B.164, subdivision 10(b) applies only if Xcel adopts an alternative tarrif and then only to "customers" interconnections. Minn. Stat. § 216B.164, subd. 10(b) ("If approved, the alternative tariff shall apply to customers' interconnections occurring after the date of approval."); Minn. Stat. § 216B.164, subd. 2a(f) ("'Customer' means the person who is named on the utility electric bill for the premises."). The customer language demonstrates that subdivision 10 only applies to situations in which a customer of Xcel connects a power generation source directly to the utility, like roof top solar. It does not apply to CSGs because CSG owners interconnect the solar gardens to the electricity system, not the individual subscribers who are customers of Xcel. And a CSG owner by definition is not a "customer" of Xcel because it is not "named on the electric bill for the premises." Thus, subdivision 10(b) of section 216B.164 does not limit the commission's authority to modify the rates.

Even if the single prospective-change interpretation is correct such that all CSGs should have been changed to the VOS rate as a result of the 2016 Order, the commission is statutorily empowered to correct its past error. The Minnesota Legislature gave the commission the power to "rescind, alter, or amend any order fixing rates, tolls, charges, or schedules, or any other order made by the commission." Minn. Stat. § 216B.25 (2024). If the commission exercises this power, the statute provides that the new order has "the same effect as an original order." *Id.* *See also Minn. Transitions Charter Sch. v. Comm'r of Minn. Dep't of Educ.*, 844 N.W.2d 223, 235 (Minn. App. 2014) (holding agency may correct errors and take a course of action that corresponds with the statute's plain meaning), *rev. denied* (Minn. May 28, 2014). Thus, even if relators are correct that the statute only authorized a one-time transition for all rates, the commission had the power to correct the 2016 Order that retained the ARR for ARR-era CSGs. The commission exercised that power in the 2024 Order by bringing all CSG rates in compliance with the legislative intent.

We conclude the commission had the authority to modify the program—or correct the 2016 Order—so long as the 2024 Order met the statutory requirements of financing, accessibility, and being in the interest of the public. Minn. Stat. § 216B.1641, subd. 1(e).

2. The 2024 Order contemplated the financing and accessibility of CSGs and addressed the public interest.

The statute empowers the commission to modify rates for the CSG program so long as the modification reasonably allowed "for the creation, financing, and accessibility of community solar gardens." *See* Minn. Stat. § 216B.1641, subd. 1(e)(1). The commission's actions must also "be consistent with the public interest." *Id.*, subd. 1(e)(4).

Relators argue the 2024 Order violates Minn. Stat. § 216B.1641, subd. 1(e)(1), (4), by decreasing the financeability of existing and future CSGs and by failing to be within the interest of the public. This argument attacks the commission's decision that exercised its quasi-legislative function because these factors invoke the commission balancing "cost and noncost factors" and making "choices among public policy alternatives." *In re Qwest's Wholesale*, 678 N.W.2d at 62. As such, the commission's decision must be "affirmed unless it is shown, by clear and convincing evidence, to be in excess of statutory authority or to have unjust, unreasonable, or discriminatory results." *Id.*

Relators contend that the ARR-era CSGs that have financing agreements will be detrimentally impacted by the 2024 Order "resulting in steep penalties, defaults[,]" and even foreclosure. Thus, relators argue the transition order should be reversed because substantial evidence is lacking that the transition is financeable. We disagree.

The CSG statute does not require that the commission guarantee that all CSGs will be financeable. Instead, the statute requires that the program as a whole, "*reasonably* allow for the creation, financing, and accessibility of" CSGs. Minn. Stat. § 216B.1641, subd. 1 (emphasis added). Within its legislative function, the commission reasonably allowed for financing in the 2024 Order transitioning all CSGs to VOS rates and included protections to ensure a smooth transition. For example, the commission incorporated temporary adders for ARR-era CSGs to gradually transition bill credits from the ARR to the VOS rate. In addition, the commission delayed implementation of the transition until April 1, 2025, to allow subscribers and CSGs to adjust to the new financial reality. The commission added these provisions specifically to allow for financing in compliance with its statutory duty.

Relators further argue that the commission failed to comply with the public-interest requirement. *See* Minn. Stat. § 216B.1641, subd. 1(e)(4) (noting commission action must "be consistent with the public interest"). Standard Solar, for example, argues that the transition is contrary to public interest because "70% of subscribers to ARR-era CSGs are governments, public schools, hospitals, clinics, churches, private schools, and residential customers" and these subscribers will be forced to pay more for their energy.[8]

But, as we held earlier, the legislature required all CSGs to transition from ARR to VOS rates. Minn. Stat. § 216B.1641, subd. 1(d). By implementing the will of the legislature, the commission acted in furtherance of the public interest. To the extent relators disagree with the commission's decision to fully comply with the legislature's express intent, relators' remedy is to request that the legislature amend the statute.

Beyond complying with the legislature's intent, the commission is also required to act in the best interests of all ratepayers. *See* Minn. Stat. § 216B.03 (2024) (requiring rates to be "reasonable" and stating that "[a]ny doubt as to reasonableness should be resolved in favor of the consumer"); Minn. Stat. § 216B.1641, subd. 1(e)(4) (requiring commission's decision to "be consistent with the public interest"); *see also Minnegasco v. Minn. Pub. Utils. Comm'n*, 549 N.W.2d 904, 908 (Minn. 1996) (noting the commission's "objective is to set just and reasonable rates and to protect the ratepayers"). The commission found that the ARR had the effect of requiring Xcel customers who are not CSG subscribers—

[8] The City of Winona filed an amicus brief as a subscriber receiving bill credits from the CSG program. The City asserted that the change will reduce "by more than 50% the City's anticipated, and contracted for benefits, by an estimated $1.8 million over the life of the City's 25-year CSG Subscriber Contracts."

the majority of Xcel customers—to over subsidize the credit that CSG subscribers—a small subset of Xcel customers—received on their Xcel energy bills. The 2024 Order noted that the transition to VOS "will also meaningfully reduce the level of cross-subsidization by non-subscribing ratepayers of ARR-era gardens while aligning the CSG program's continued operation consistent with the public interest." The CSG subscribers will, according to the commission, still receive credit on their energy bill under the VOS rate, especially given the protections discussed above that the commission included in the 2024 Order. The 2024 Order sought to balance the interests of subscribers and nonsubscribers.

Rate allocation is the commission acting in its legislative capacity and "[t]he careful balancing of public policies and private needs is not a matter for the courts, unless statutory authority has been exceeded or discretion abused." *St. Paul Area Chamber of Com.*, 251 N.W.2d at 357. Relators have not met their burden of showing "by clear and convincing evidence" that the transition will lead to "unjust, unreasonable, or discriminatory results." *In re Qwest*, 678 N.W.2d at 62.

B. The commission's 2024 Order was not retroactive ratemaking.

Standard Solar argues that the commission impermissibly engaged in retroactive ratemaking by transitioning ARR-era CSGs to the VOS rate. "[T]he Public Utility Act expressly prohibits retroactive ratemaking." *Peoples Nat. Gas Co. v. Minn. Pub. Utils. Comm'n*, 369 N.W.2d 530, 533 (Minn. 1985). The commission "shall determine and by order fix reasonable rates, tolls, charges, schedules, or joint rates to be imposed, observed, and followed *in the future* in lieu of those found to be unreasonable or unlawful." Minn. Stat. § 216B.23, subd. 1 (2024) (emphasis added).

Standard Solar first argues the commission did not meaningfully address the retroactive ratemaking concerns. But the commission found that retroactive ratemaking was not implicated because "these rates will only apply prospectively to sale and purchases of subscribed energy generated after the updated tariff is filed and becomes effective." Although brief, the commission did provide adequate reasoning for its decision "with a reasonable degree of specificity to provide an adequate basis for judicial review." *Hibbing Taconite Co. v. Minn. Pub. Serv. Comm'n*, 302 N.W.2d 5, 12 (Minn. 1980).

Second, Standard Solar contends that the ARR-to-VOS transition constituted retroactive ratemaking because it changed rates in existing contracts between Xcel and CSG owners. Standard Solar argues that because this transition modified existing contracts—meant to last for 25 years—the commission violated Minnesota Statues section 216B.23, subdivision 2 (2024). We disagree.

The Minnesota Supreme Court has stated that "the statutory scheme tends to allow only for rate orders that operate prospectively, rather than remedially." *In re Application of Minnegasco*, 565 N.W.2d 706, 712 (Minn. 1997). We have held that the commission does not engage in retroactive ratemaking to "establish reasonable rates for future imposition." *Hanna Min. Co. v. Internorth, Inc.*, 379 N.W.2d 663, 668-69 (Minn. App. 1986), *rev. denied* (Minn. Mar. 14, 1986). Here, the commission changed the rate in a prospective manner. In addition, the commission delayed implementation of the VOS rate by one year, making the rate effective as of April 1, 2025.

Finally, Standard Solar argues the commission failed to make the required statutory findings to change the ARR to the VOS rate. Standard Solar contends that the commission failed to make the statutorily required finding that the prior framework was "unjust, unreasonable, insufficient, or unjustly discriminatory or preferential or otherwise unreasonable or unlawful." Minn. Stat. § 216B.23, subd. 1.

Section 216B.23 requires that if, after an investigation, the commission finds rates to be "unjust, unreasonable, insufficient, or unjustly discriminatory or preferential or otherwise unreasonable or unlawful," it should then determine reasonable replacement rates. Minn. Stat. § 216B.23, subd. 1. The CSG program has its own statute that provides the requirements for modification. Minn. Stat. § 216B.1641, subd. 1(e). The commission may modify a CSG program if it satisfies the statutory criteria. *Id.* As discussed above, the commission satisfied the accessibility, financeabiltity, and public interest requirements for modification. In addition, the commission determined that the VOS rate was reasonable for CSGs to be financially viable based on the experience of other CSGs operating under the VOS rate. Thus, the commission did not engage in retroactive ratemaking and appropriately exercised its authority when requiring CSGs to transition to VOS rates.

II. The commission's 2024 Order was not arbitrary and capricious.

Relators argue that the commission arbitrarily and capriciously failed to adequately justify its actions. The arbitrary or capricious standard is "a catchall, picking up administrative misconduct not covered by the other more specific paragraphs." *In re Denial of Contested Case Hearing Requests*, 993 N.W.2d 627, 646 (Minn. 2023) (quotation omitted). A "decision is arbitrary or capricious if it represents the agency's will and not its judgment." *Id.* (quotation omitted). An agency imposes its will when it:

> (a) relied on factors not intended by the legislature; (b) entirely failed to consider an important aspect of the problem; (c) offered an explanation that runs counter to the evidence; or (d) the decision is so implausible that it could not be explained as a difference in view or the result of the agency's expertise.

Citizens Advocating Responsible Dev. v. Kandiyohi County Bd. of Comm'rs, 713 N.W.2d 817, 832 (Minn. 2006). Appellate courts "consider whether a combination of danger signals suggests that the agency has not taken a hard look at the salient problems and has not genuinely engaged in reasoned decision-making." *In re Denial*, 993 N.W.2d at 646-47 (quotations omitted). When "there is room for two opinions on the matter, such action is not 'arbitrary and capricious,' even though it may be believed that an erroneous conclusion has been reached." *Brown v. Wells*, 181 N.W.2d 708, 711 (Minn. 1970).

Relators argue that the commission reversed its prior orders without providing a reasoned explanation for its decision. But the commission provided reasoning in the 2024 Order for why the transition was not a reversal of its earlier orders. The commission noted that the legislature intended the ARR to be a short-term rate and, with the 2024 Order, the commission implemented the rate required by the legislature. *See* Minn. Stat. §§ 216B.164, subd. 10, .1641, subd. 1(d). By effectuating the express intent of the legislature, the commission exercised its judgment within the interests of the public.

However, the 2014 Order did state that CSGs "should be credited at the [ARR] in place at the time of energy generation for the duration of the 25-year contract[,]" and in the 2016 Order the commission agreed that the VOS rate would only apply "to applications filed after December 31, 2016." But even though the commission reversed the 2014 and 2016 Order, the commission is not bound by its prior orders and can reverse a prior decision so long as it provides reasoning. *See* Minn. Stat. § 216B.25.[9] We have consistently recognized the statutory authority of an agency to reverse, amend, or correct its prior decisions. *See, e.g.*, *In re Applications for Auth. to Provide Alt. Operator Servs. in Minn.*, 490 N.W.2d 920, 925 (Minn. App. 1992) ("[W]e have stated that an agency has inherent authority to correct its prior decisions."), *rev. denied* (Minn. Dec. 15, 1992); *Minn. Transitions Charter Sch.*, 844 N.W.2d at 235 (recognizing an agency's statutory power to "correct past errors and adopt a course of action that corresponds to the controlling statute's plain meaning"), *rev. denied* (Minn. May 28, 2014); *accord In re Detailing Criteria & Standards for Measuring*, 700 N.W.2d 533, 539 (Minn. App. 2005) (stating that "although an agency is not bound to follow its past decisions, it must provide a reasonable basis for departure from precedent"), *aff'd*, 714 N.W.2d 426 (Minn. 2006).

The commission provided reasoning in both the 2024 Order and in its order denying reconsideration. For example, in the 2024 Order, the commission reasoned that some CSGs had been operating under the VOS rate for over a decade. The commission used data from that experience to assess the impact on the public. The 2024 Order also noted that the commission had better information related to the effect on Xcel customers who had not subscribed to CSGs, which were concerns that the CSG developers had downplayed before the prior orders went into effect.

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[9] JSA argues this statute only provides that the commission is not subject to the doctrine of res judicata, citing *In re Petition of Peoples Nat. Gas Co.*, 358 N.W.2d 684, 689 (Minn. App. 1984), *aff'd*, 389 N.W.2d 903 (Minn. 1986). But the plain language of the statute is not limited to res judicata; instead, it states that the commission may alter a rate at any time, so long as it provides "notice to the public utility" and an "opportunity to be heard" beforehand. Minn. Stat. § 216B.25.

In addition, in its denial of the motions for reconsideration, the commission stated:

> The Commission will . . . clarify that to the extent the May 30 Order may be a departure from the 2014 and 2016 orders, the Commission has authority under § 216B.25 and relevant case law to depart from its past decisions and finds that it was in the public[s] interest to do so based on how Xcel's CSG program has evolved and the nearly decade's worth of data related to the CSG program's operation. The May 30 order details the changed circumstances informing the Commission's consideration of Xcel's CSG program, particularly the significant and escalating costs of the ARR-gardens to non-subscribing ratepayers and the successful operation of CSGs under the VOS. As explained in the order, transitioning to the VOS is consistent with the Commission's fundamental and overarching duty to establish just and reasonable rates.

The commission also determined that "the escalating rate impact of maintaining the ARR bill-credit framework and the successful operation of CSG[s] under the VOS justify the Commission's current examination of whether the bill-credit framework implemented in 2014 will continue to allow for a CSG program that operates consistent with the public interest." Even if the 2024 Order reversed, amended, or corrected the 2014 or 2016 Order, the commission was empowered to do so and provided sufficient reasoning for its decision.

Relators argue the commission failed to consider all aspects of this issue. But the commission stated, based on its "experience with the CSG program, the Commission finds that rates needed to ensure the development and financing of CSGs have changed and that the higher ARR is not required to ensure continuation of a successful program."

The commission is required to provide a reasonable basis for its decision. The commission did so. Relators' disagreement with the result or the basis that the commission provided does not make the order arbitrary or capricious. *See Brown*, 181 N.W.2d at 711.

III. The commission did not need to hold a contested-case hearing.

JSA argues that we should reverse because the commission refused to grant a contested-case hearing despite material facts in dispute. "If a proceeding involves contested material facts and there is a right to a hearing under statute or rule, or if the commission finds that all significant issues have not been resolved to its satisfaction, the commission shall refer the matter . . . for contested case proceedings[.]" Minn. R. 7829.1000 (2023); *see also* Minn. Stat. § 14.57(a) (2024) ("An agency shall initiate a contested case proceeding when one is required by law."). The "relator must show that it is entitled to a contested case hearing under a statute or rule *and* that there are contested material facts." *In re Petition of N. State Power Co.*, 676 N.W.2d at 332 (emphasis in original).

JSA has identified no statute or rule that provides a right to a contested-case hearing. And nothing in the CSG statute provides a right to a hearing. *See* Minn. Stat. § 216B.1641.

JSA insists that the commission, in its discretion, should have ordered a contested-case hearing because the allegations of harm to CSG subscribers, owners, and developers were uncontradicted and the commission resolved disputed facts without a hearing. The commission, however, found that there was no "persuasive evidence that purchasing all CSG energy at the VOS [rate] fails to reasonably allow for the financing and development of solar gardens." And the commission was "satisfied that the detailed and extensive record developed, which fully reflect[ed] the varied positions of the parties, provide[d] a sufficient basis on which to make a decision and that no further proceeding [was] warranted." In other words, the commission found the issues were resolved to its satisfaction based on the record before it. Consequently, no contested-case hearing was necessary.

IV. Relators' constitutional challenges fail.

All three relators argue that the commission violated the Contract Clauses of the United States Constitution and the Minnesota Constitution. Standard Solar and U.S. Solar also argue that the commission also violated the Takings Clauses of the federal and state constitutions. We address each argument in turn.

A. The Contract Clause argument fails.

Relators argue the commission violated the Contract Clauses of the federal and state constitutions. *See* U.S. Const. art. 1, § 10, cl. 1 ("No State shall . . . pass any . . . Law impairing the Obligation of Contracts[.]"); Minn. Const. art. 1, § 11 (no "law impairing the obligation of contracts shall be passed"). A commission order fixing rates is a "law" for purposes of a Contract Clause analysis. *See Louisville & Nashville R.R. Co. v. Garrett*, 231 U.S. 298, 318 (1913) (holding order of Railroad Commission fixing rates has "the same force as if made by the legislature" and so considered a law under the Contract Clause); *see also Schermer v. State Farm Fire & Cas. Co.*, 721 N.W.2d 307, 313 (Minn. 2006) (discussing the legislative function of fixing public utility rates).

The party asserting a constitutional challenge to the exercise of legislative authority bears a heavy burden to prevail. *Clark v. City of St. Paul*, 934 N.W.2d 334, 345 (Minn. 2019). To determine whether the Contract Clause has been violated, appellate courts use a three-part test: (1) whether the state law substantially impairs a contractual relationship; (2) if there is a substantial impairment, whether the state has "a significant and legitimate public purpose[;]" and (3) whether the state's public purpose plan is based on "reasonable conditions and is of a character appropriate to the public purpose." *Id.* (quotations omitted).

1. No substantial impairment.

In determining whether the 2024 Order substantially impairs a contractual relationship, we consider "the extent to which the law undermines the contractual bargain, interferes with a party's reasonable expectations, and prevents the party from safeguarding or reinstating his rights." *Sveen v. Melin*, 584 U.S. 811, 819 (2018). "An important consideration in evaluating the severity of impairment is whether the activity regulated by the statute has been regulated in the past." *Minn. Tr. Co. v. Hatch*, 368 N.W.2d 372, 375-76 (Minn. App. 1985) (citation omitted).

As evidence of a substantial impairment, relators argue their revenues will significantly decrease and they face potential refinancing issues. Relators argue that the language of the standard contract, prior orders, and statutes locked the commission and Xcel into the ARR for 25 years. If there is a diminution in value, we must determine whether it interfered with the parties' reasonable expectations. *Sveen*, 584 U.S. at 819.

But utilities are a heavily regulated industry. Minn. Stat. §§ 216B.01-.82 (2024). The statute provides that the ARR would be in effect until the VOS rate was approved. *See* Minn. Stat. § 216B.1641, subd. 1(d). Put another way, the legislature expressly provided that the VOS rate would eventually control. *Id.*; Minn. Stat. § 216B.25. Based upon the statutory regime, it was foreseeable that the rate may change.

Relators were also on notice that the contract terms with Xcel could change. The standard contract provided that the "rates for sales and purchases of Subscribed Energy shall be changed annually or otherwise as provided by order of the" commission. The standard contract also provided:

> The Community Solar Garden Operator shall comply with all of the rules stated in the Company's applicable electric tariff related to the Solar*Rewards Community Program and the tariffed version of this Contract, as the same may be revised from time to time, or as otherwise allowed by an amendment to this Contract approved, or deemed approved, by the Minnesota Public Utilities Commission.

The contract also expressly noted that if there is a conflict between the contract and the tariff, the tariff controls. Finally, the contract provided:

> [T]his Contract shall at all times be subject to all rules and orders issued by the Commission or other government agency having jurisdiction over the subject matter of this Contract. The terms of this Contract shall be modified and amended if required to comply with any order or regulation of the Commission, applicable state or federal laws or regulations, or other government agency having jurisdiction over the subject matter of this Contract.

The circumstances here are similar to those in *Energy Reserves Group, Inc. v. Kansas Power & Light Co.*, in which the United States Supreme Court rejected a Contract Clause argument related to a utility rate change. 459 U.S. 400, 414-16 (1983). Kansas Power & Light Company had natural gas supply contracts with Energy Reserves Group. *Id.* at 403. A federal law replaced federal price controls for natural gas with price ceilings that rose monthly. *Id.* at 405. Energy Reserves Group sought to increase its gas prices under the federal law, but Kansas Power & Light Company refused their contract precluded the increased federal rate. *Id.* at 408. The Supreme Court rejected the Contract Clause argument and concluded that reasonable expectations had not been impaired because there was extensive and intrusive supervision of the utility industry, the agreements were structured around regulated gas prices, and the contractual terms were "subject to relevant present and future state and federal law." *Id.* at 416.

As in *Energy Reserves*, the utility industry in Minnesota is highly regulated. The statutory regime anticipated the rate change. And the contract recognized that it is subject to changes from the commission. Because it was reasonably foreseeable that rates would change, we conclude there was not a substantial impairment to contractual relationships.

Because relators have not met their burden to establish a substantial impact, we do not need to address the other factors. We do so, however, to thoroughly analyze the issue.

2. The state has a significant and legitimate purpose.

"To justify impairing contractual rights the state must identify a significant and legitimate public purpose such as the remedying of a broad and general social or economic problem." *Hatch*, 368 N.W.2d at 376 (quotations omitted). Relators argue there is no justification for this change "after a decade of Commission decisions to the contrary." Relators also argue there will be long-term damage from unreliability, emphasizing that stability in utility agreements is important. *See United Gas Pipe Line Co.*, 350 U.S. at 344 (stating that "preserving the integrity of contracts" permits "the stability of supply arrangements which all agree is essential to the health of the natural gas industry").

The commission's stated purpose behind the 2024 Order was to comply with the legislative intent that all CSGs operate under the VOS rate. Minn. Stat. § 216B.1641, subd. 1(d). The commission also addressed the economic concerns of all rate payers, rather than benefiting a smaller group of interest. *See Energy Rsrvs. Grp.*, 459 U.S. at 417 ("The

State reasonably could find that higher gas prices have caused and will cause hardship among those who use gas heat but must exist on limited fixed incomes."). The commission's reasoning provided a significant and legitimate purpose behind its decision. And although there is a detriment to the CSG developers, subscribers, and financiers, this does not negate the legitimate interest in decreasing the hardship to the majority of Xcel's Minnesotan ratepayers. We therefore conclude that there is a significant and legitimate purpose for the 2024 Order.

3. The order is based on reasonable conditions of a character appropriate to the public purpose.

The final factor requires the commission's order to be "reasonably and appropriately tailored to accomplish its goal." *Hatch*, 368 N.W.2d at 376. Relators argue the transition is inappropriate and unreasonable because the commission exceeded its statutory authority and the change in circumstances the commission relies on is contrary to the record.

The 2024 Order is "based upon reasonable conditions" and "of a character appropriate to the public purpose." *Id.* at 375 (quotations omitted). As noted above, the VOS rate was required by statute and the commission's order sought to effectuate the legislative intent. The commission also sought to protect all ratepayers by transitioning to the VOS rate. In addition, the commission included reasonable terms, such as a temporary adder to ease the burden on CSGs and subscribers. The commission also delayed the effective date of the VOS rate. These reasonable conditions facilitated the transition and support the public purpose of the order.

We conclude that relators have not met their heavy burden to demonstrate that the 2024 Order violates the Contract Clauses. *See Clark*, 934 N.W.2d at 345.

B. The Takings Clause argument fails.

Standard Solar and U.S. Solar argue the 2024 Order constitutes an improper taking because it imposes a significant economic impact, undermines investment-backed expectations, and invalidates promises made by the commission and Xcel. We disagree.

The United States and Minnesota Constitutions prohibit the government from taking property without just compensation. *See* U.S. Const. amend V (providing private property shall not "be taken for public use, without just compensation"); Minn. Const. art. 1, § 13 ("Private property shall not be taken, destroyed or damaged for public use without just compensation therefor, first paid or secured."). Because the state and federal Takings Clauses are similar, Minnesota courts have relied on cases interpreting the federal constitution to interpret the Minnesota Takings Clause. *Wensmann Realty, Inc. v. City of Eagan*, 734 N.W.2d 623, 631-32 (Minn. 2007). "Whether a governmental entity's action constitutes a taking is a question of law [appellate courts] review de novo." *Id.* at 631.

As a threshold matter, we must determine whether Standard Solar and U.S. Solar had a protected property interest. *See Minn. Sands, LLC v. County of Winona*, 940 N.W.2d 183, 200 (Minn. 2020) ("The first question in any takings analysis is to determine what, if any, property interest is at stake."). Property interests "are not created by the Constitution." *Ruckelshaus v. Monsanto Co.*, 467 U.S. 986, 1001 (1984). "Rather, they are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law." *Id.* If there is a protected property interest, then we consider several factors identified by the Supreme Court to analyze whether the government's action constitutes a taking. *Id.* Courts analyze the economic impact of the regulation, particularly "the extent to which the regulation has interfered with distinct investment-backed expectations." *Wensmann Realty, Inc.*, 734 N.W.2d at 632 (quoting *Penn Cent. Transp. Co. v. City of N.Y.*, 438 U.S. 104, 124 (1978)). Courts also consider the "character of the governmental action." *Id.* 632-33. "A 'taking' may more readily be found when the interference with property can be characterized as a physical invasion by government . . . than when interference arises from some public program adjusting the benefits and burdens of economic life to promote the common good." *Penn Cent. Transp. Co.*, 438 U.S. at 124 (citation omitted).

The commission argues that "[w]hen a contract is expressly subject to later regulation, the contract cannot form the basis of a takings claim." We agree. The Minnesota Supreme Court has recognized that "[a] contractual interest that is contingent upon the discretionary decision of a governmental unit is not a property interest protected by the Fifth Amendment." *Minn. Sands, LLC*, 940 N.W.2d at 205. The supreme court, therefore, concluded that there is no compensable property interest in a lease where possessory rights were contingent upon obtaining a conditional use permit. *Id.* at 206.

Similarly, the Eighth Circuit Court of Appeals has concluded that a business did not have a "cognizable property interest" based on contracts because the contracts could be "modified or nullified by the state." *Hawkeye Commodity Promotions, Inc. v. Vilsack*, 486 F.3d 430, 440 (8th Cir. 2007). The Eighth Circuit held that the business' expectation that its contracts would not be modified was undermined by the fact that it was involved in a heavily regulated industry (gambling), there was language about potential modification in the contracts and licenses, and the owner had experience with regulation. *Id.*

Supreme Court precedent also supports our conclusion. *See, e.g.*, *Connolly v. Pension Benefit Guar. Corp.*, 475 U.S. 211, 223-24 (1986). The Court acknowledged that contracts could create property rights but noted that "when contracts deal with a subject matter which lies within the control of Congress, they have a congenital infirmity." *Id.* The Supreme Court held that "[p]arties cannot remove their transactions from the reach of dominant constitutional power by making contracts about them." *Id.* at 224.

This situation is similar to *Minnesota Sands*, *Hawkeye*, and *Connolly*. The CSGs operate in a heavily regulated industry. Standard Solar and U.S. Solar knew the rates were subject to change by the legislature or the commission. In addition, the standard contract itself contains several terms indicating that the contract may be modified. Because Standard Solar and U.S. Solar do not have a compensable property interest, we determine that their takings claims fail. *See Minn. Sands*, 940 N.W.2d at 206.

V. U.S. Solar's *Mobile-Sierra* doctrine and promissory estoppel arguments fail.

U.S. Solar argues that the commission's order runs afoul of the *Mobile-Sierra* doctrine and that the doctrine of promissory estoppel should preclude the transition from ARR to VOS rates. We disagree and address each argument in turn.

A. The *Mobile-Sierra* doctrine does not apply.

U.S. Solar argues the commission's action violates the *Mobile-Sierra* doctrine. "Under the *Mobile-Sierra* doctrine, the Federal Energy Regulatory Commission . . . must presume that the rate set out in a freely negotiated wholesale-energy contract meets the 'just and reasonable' requirement imposed by law." *Morgan Stanley Cap. Grp. Inc. v. Pub. Util. Dist. No. 1*, 554 U.S. 527, 530 (2008).

We conclude that the *Mobile-Sierra* doctrine does not apply for three reasons. First, the doctrine has not been adopted in Minnesota and, as an error-correcting court, we lack the authority to do so. *Tereault v. Palmer*, 413 N.W.2d 283, 286 (Minn. App. 1987) ("[T]he task of extending existing law falls to the supreme court or the legislature, but it does not fall to this court."), *rev. denied* (Minn. Dec. 18, 1987). Second, the *Mobile-Sierra* doctrine has only been applied to rates set by contracts between parties with equal negotiation powers. *NRG Power Mktg., LLC v. Me. Pub. Utils. Comm'n*, 558 U.S. 165, 171 (2010). In contrast, the rates here were neither set by contract, nor freely negotiated by the parties. Instead, the rates are set by the commission. Minn. Stat. § 216B.1641, subd. 1(d). Finally, the *Mobile-Sierra* doctrine has only been applied to the Federal Energy Regulatory Commission, *Morgan Stanley*, 554 U.S. at 530, which is not involved in this case.

B. The promissory estoppel argument fails.

U.S. Solar argues that promissory estoppel should preclude the transition from ARR to VOS rates because the commission's prior orders constitute clear and definite promises that ARR-era CSGs would receive the ARR for the duration of their contracts, the commission intended to induce reliance on its promise, and the promise must be enforced to prevent injustice. Promissory estoppel "may be applied against the state to the extent that justice requires." *Christensen v. Minneapolis Mun. Emps. Ret. Bd.*, 331 N.W.2d 740, 749 (Minn. 1983). But "it is an extraordinarily rare case in which the equitable remedy of promissory estoppel should preclude state action." *Meriwether Minn. Land & Timber, LLC v. State*, 818 N.W.2d 557, 565 (Minn. App. 2012).

"Promissory estoppel is an equitable doctrine that implies a contract in law where none exists in fact." *Martens v. Minn. Mining & Mfg. Co.*, 616 N.W.2d 732, 746 (Minn. 2000) (quotation omitted). "It requires proof that 1) a clear and definite promise was made, 2) the promisor intended to induce reliance and the promisee in fact relied to his or her detriment, and 3) the promise must be enforced to prevent injustice." *Id.* "In applying promissory estoppel, two factors must be kept in mind: (1) What has been promised by the state? and (2) to what degree and to what aspects of the promise has there been reasonable reliance on the part of the [promisee]?" *Christensen*, 331 N.W.2d at 749. Here, we discern no clear and definite promises in the commission's orders. In addition, the CSGs have no agreement with the commission; the CSG's contract is with Xcel. Thus, there was no contract or promise of a contract between the commission and U.S. Solar. But even if that first element were met, we would conclude that U.S. Solar could not have reasonably relied on those promises for all the reasons that we have explained in relation to relators' other arguments on appeal. We therefore reject U.S. Solar's promissory estoppel argument.

Affirmed.