

**MINNESOTA PUBLIC UTILITIES COMMISSION**  
**SUITE 350**  
**121 SEVENTH PLACE EAST**  
**ST. PAUL, MINNESOTA 55101-2147**

Katie Sieben	Chair
Joseph Sullivan	Vice Chair
Hwikwon Ham	Commissioner
Audrey Partridge	Commissioner
John Tuma	Commissioner

In the Matter of Impacts of the “Capacity”  
Definition in Minn. Stat. § 216B.164 and  
Associated Rules on Net-Metering  
Eligibility for Rate-Regulated Utilities

Docket No. E-002, E-111, E-017,  
E-015/CI-24-200

Docket No. E-999/R-25-86

In the Matter of a Rulemaking to Amend  
the Definition of “Capacity” under Minn.  
R. 7835.0100, subp. 4

**ADVICE COMMENTS OF THE  
MINNESOTA DEPARTMENT OF  
COMMERCE**

The Minnesota Department of Commerce respectfully submits the following comments in response to the Public Utilities Commission’s July 7, 2025 comment-period notice.<sup>1</sup> The Commission invited interested parties to comment on potentially amending chapter 7835 of the Minnesota Rules to clarify how “capacity” is measured for purposes of Minn. Stat. § 216B.164, subd. 2a(c).<sup>2</sup> It also asked whether the Commission should create an advisory committee for the rulemaking.<sup>3</sup>

The Department recommends that, rather than amend the definition of “capacity,” the Commission adopt a “point of interconnection” definition. The Commission should define “point of interconnection” using the definition it currently proposes to use for “capacity.” And if the

---

<sup>1</sup> NOTICE OF COMMENT PERIOD (July 7, 2025) (eDocket no. 20257-220903-01).

<sup>2</sup> *Id.* at 1.

<sup>3</sup> *Id.* at 3.

Commission creates an advisory committee, the Commission should appoint a Department representative to participate.

## **BACKGROUND**

In June 2024, the Commission asked interested parties to offer guidance on how to interpret the statutory “capacity” definition and associated rules.<sup>4</sup> Through the notice-and-comment process, parties disputed whether capacity should be measured based on nameplate capacity or export capacity for distributed generation facilities.<sup>5</sup> Given the lack of consensus, the Commission started a rulemaking proceeding to clarify the meaning of “capacity” for purposes of eligibility for net-metering in Minn. Stat. § 216B.164, subd. 3(d).<sup>6</sup> Although the order contained a possible amended definition, the Commission explained that it would continue to consider “whether to amend the definition . . . in the course of the rulemaking proceeding[.]”<sup>7</sup>

To begin the process, the Commission initiated a comment period to solicit public input under Minn. Stat. § 14.101.<sup>8</sup> The Commission also asked parties to advise whether it would be appropriate to appoint an advisory committee in connection with the rulemaking.<sup>9</sup>

## **ANALYSIS**

As discussed below, the Commission should define “point of interconnection” and eliminate or revise the existing “capacity” rule definition. And if the Commission creates an advisory committee, it should appoint a Department representative to participate.

---

<sup>4</sup> NOTICE OF COMMENT PERIOD (June 4, 2024) (eDocket no. 20246-207384-01).

<sup>5</sup> ORDER INITIATING RULEMAKING PROCEEDING at 2 (Jan. 23, 2025) (eDocket no. 20251-214288-01).

<sup>6</sup> *Id.* at 3.

<sup>7</sup> *Id.*

<sup>8</sup> NOTICE OF COMMENT PERIOD (June 4, 2024) (eDocket no. 20246-207384-01).

<sup>9</sup> *Id.*

**I. THE COMMISSION SHOULD ADOPT A “POINT OF INTERCONNECTION” DEFINITION TO CLARIFY THE MEANING OF “CAPACITY.”**

The Commission should repurpose its proposed amendment to the definition of “capacity” to instead create a new defined term: “point of interconnection.” The Commission should further eliminate the existing “capacity” rule definition. While the Department agrees with the substantive focus of the Commission’s proposed rule, adopting a “point of interconnection” definition would achieve the same goal while conforming with the statutory standard.

**A. Adopting a “Point of Interconnection” Definition Conforms with Statute and Better Resolves Existing Ambiguities.**

This proceeding’s purpose is clarifying where “capacity” should be measured for net-metering rate eligibility. In part, state law answers this question:

“Capacity” means the number of megawatts alternating current (AC) at the point of interconnection between a distributed generation facility and a utility’s electric system.<sup>10</sup>

In short, the statute requires that capacity be measured at the “point of interconnection.” Despite this requirement, the term remains undefined in statute or rule. Instead, the rules measure “capacity” at the “point of common coupling.”<sup>11</sup> The substitution of “point of interconnection” for “point of common coupling” between the statutory and rule definitions implies that the terms are synonymous.<sup>12</sup> Even if these terms were always synonymous, “point of common coupling” is an engineering term of art that appears to have a generally understood, but not necessarily a

---

<sup>10</sup> Minn. Stat. § 216B.164, subd. 2a(c).

<sup>11</sup> Minn. R. 7835.0100, subp. 4.

<sup>12</sup> The Department understands that depending on the type of generation system (*e.g.*, net metering, community solar garden, and grid scale projects) and local conditions that the “point of interconnection” and “point of common coupling” can, but are not always the same location. That, however, is an engineering nuance that the Commission need not resolve in this rulemaking.

consensus, meaning.<sup>13</sup> The rules and the Commission’s interconnection technical manual, for example, use slightly different “point of common coupling” definitions.<sup>14</sup> As a result, the use of “point of common coupling” in the rules has not brought clarity to the meaning of “capacity.” To conform to the statutory standard, and avoid the ambiguity created by overlapping but not necessarily synonymous definitions, the Commission should adopt a “point of interconnection” definition and eliminate the existing “capacity” rule definition.

Besides conforming to statute and avoiding future confusion, adopting a “point of interconnection” definition would be consistent with best practices. The Office of the Revisor of Statutes explains, “duplication can cause problems if the statute is later amended or repealed. Paraphrasing causes trouble, too, because the two versions could be construed differently.”<sup>15</sup> Recent experience suggests that duplicative and similar definitions have been, at least in part, responsible for some of the confusion over how to measure capacity.

Defining the statutory term “point of interconnection” also may help insulate the rule from challenge. Currently, the statutory and rule definitions of “capacity” are similar, but not identical. That would likely remain true if the Commission revises the definition of “capacity” as currently contemplated. If an aggrieved party challenges the “capacity” definition adopted by rule, however, courts may consider whether the rule conflicts with the statute.<sup>16</sup> And courts will most likely parse the statutory definition using traditional legal tools (e.g., canons of construction or dictionaries) to

---

<sup>13</sup> See, e.g., compare MnSEIA Reply Cmts. at 15 (Sept. 17, 2024) (eDocket no. 20249-210264-01), with Xcel Energy Reply Cmts. at 2 (Sept. 17, 2024) (eDocket no. 20249-210281-01); see also; Minnesota Distributed Energy Resources Interconnection Process (“MN DIP”) at 37 (v2.4), <https://perma.cc/FV4C-NJVB>.

<sup>14</sup> Minn. R. 7835.0100, subp. 17a.

<sup>15</sup> The Office of the Revisor of Statutes, *Minnesota Rules: Drafting Manual with Styles and Forms* at 32-33, <https://perma.cc/AN8F-WQP8>.

<sup>16</sup> *Special Sch. Dist. No. 1 v. Dunham*, 498 N.W.2d 441, 445 (Minn. 1993) (“It is elemental that when an administrative rule conflicts with the plain meaning of a statute, the statute controls.”)

independently determine the statute’s meaning.<sup>17</sup> Adopting a definition for “point of interconnection,” in contrast, would clarify the meaning of an undefined and highly technical term of art falling plainly within the Commission’s subject-matter expertise.<sup>18</sup> While it is impossible to definitively determine whether a rule will survive a challenge, the “point of interconnection” approach would likely place the Commission on firmer footing.<sup>19</sup>

**B. The Commission’s Proposed Capacity Amendment Language Implies a Reasonable Location to Affix the “Point of Interconnection.”**

The Department agrees with the substance of the Commission’s proposed “capacity” amendment language because it ensures that capacity remains stable, it disincentivizes market behavior that would result in undue cross-subsidies, and it alleviates reliability concerns.

In its notice, the Commission proposed potentially defining “capacity” as follows:

“Capacity” means the capability to produce, transmit, or deliver electric energy, and is measured by the number of megawatts alternating current at the point of common coupling between a qualifying facility and a utility’s electric system. “Capacity,” as defined under Minn. Stat. § 216B.164, subd. 2a (c), for purposes of eligibility for net-metering in Minn. Stat. § 216B.164, subd. 3(d), is determined by, and measured at, the qualifying facility’s inverter or a power control system or supplemental device that controls production at the qualifying facility before the net-metered customer’s load.<sup>20</sup>

---

<sup>17</sup> *In re Surveillance & Integrity Review*, 999 N.W.2d 843, 855 (Minn. 2024) (“[W]hen the language is ambiguous, we may, but are not required to, defer to the agency’s reasonable interpretation of the statute.”); *Lagasse v. Horton*, 982 N.W.2d 189, 199 (Minn. 2022) (explaining courts are not bound in matters of statutory interpretation by determinations of administrative agencies).

<sup>18</sup> Minn. Stat. § 14.60, subd. 4; *cf.* Minn. Stat. § 216A.03, subd. 1.

<sup>19</sup> *St. Otto’s Home v. Minn. Dep’t of Hum. Servs.*, 437 N.W.2d 35, 40 (Minn. 1989) (“When the agency’s construction of its own regulation is at issue, however, considerable deference is given to the agency interpretation, especially when the relevant language is unclear or susceptible to different interpretations.”).

<sup>20</sup> NOTICE OF COMMENT PERIOD at 3.

The Department agrees that the “point of interconnection,” as implied by the Commission’s proposed “capacity” amendment, is a facility’s inverter, power control system, or supplemental device that controls production before the net-metered customer’s load. Measuring the facility’s capacity before load ensures that the measurement remains fixed and independent of load. This certainty provides clarity for net-metering eligibility determinations.

Assessing capacity at the “point of interconnection” also disincentivizes exporting energy at the maximum eligible capacity as measured at the “point of common coupling,” which some have interpreted as the bidirectional meter after load. This type of behavior should, in the Department’s view, be discouraged to avoid undesirable ratepayer cross-subsidies. Lastly, the Department understands that uncertainty around the system’s capacity—if measured at the bidirectional meter—can raise reliability concerns for utilities, which may in turn be mitigated by otherwise expensive and unnecessary distribution system upgrades.

In short, the Department believes the Commission’s proposed language strikes a reasonable balance between promoting distributed generation facility development and avoiding possible cross-subsidy and reliability concerns.

**C. The Commission Should Largely Repurpose Its Proposed Capacity Amendment Language to Define “Point of Interconnection.”**

Given the Department’s substantive agreement with the Commission’s proposed amendment, the Department recommends that the Commission consider the following “point of interconnection” definition:

“Point of interconnection” means the point between the inverter, or a power control system, or supplemental device that controls the distributed generation facility’s alternating current (AC) output and the load served by the distributed generation facility.

The proposed definition mirrors the substance of the Commission’s proposed “capacity” definition by focusing on the “inverter, or a power control system or supplemental device” that controls

output. This focus, importantly, both removes the uncertainty around nameplate capacity and allows for accurate measurement of modern solar-plus-storage systems that were not widely in use when the current rule was adopted. The proposed “point of interconnection” definition also attempts to be consistent with Minn. Stat. § 216B.164, subd. 2a(c) by using the term “distributed generation facility” instead of using the broader “qualifying facility” term.<sup>21</sup>

If the Commission chooses to proceed with a “point of interconnection” definition, it should eliminate or, at a minimum, revise the existing “capacity” definition:

~~Subp. 4. Capacity. “Capacity” means the capability to produce, transmit, or deliver electric energy, and is measured by the number of megawatts alternating current at the point of common coupling between a qualifying facility and a utility's electric system.~~

or

Subp. 4. Capacity. “Capacity” means ~~the capability to produce, transmit, or deliver electric energy, and is measured by~~ the number of megawatts alternating current at the point of interconnection. ~~common coupling between a qualifying facility and a utility's electric system.~~

To resolve concerns about paraphrasing or mirroring the statute, the best approach would be to eliminate the “capacity” definition. If the Commission believes that a “capacity” rule definition is still needed, the rule should make clear that “capacity” is measured at the point of interconnection. If the Commission were only to adopt a “point of interconnection” definition without also revising or eliminating the “capacity” definition, there would be ambiguity because the statute would measure capacity at the “point of interconnection” while the rule would measure it at the “point of common coupling.”<sup>22</sup>

---

<sup>21</sup> 18 C.F.R. §§ 292.203, .204 (defining qualifying facility). This is consistent with the Revisor’s Office guidance to avoid varying terms. See The Office of the Revisor of Statutes, *Minnesota Rules: Drafting Manual with Styles and Forms* at 33.

<sup>22</sup> Minn. Stat. § 216B.164, subd. 2a(c); Minn. R. 7835.0100, subp. 17a.

The Department appreciates the Commission’s consideration of these recommendations. While these comments deviate from the approach that the Department recommended in November 2024, the Department has had an opportunity to keep considering the issue in the intervening months. Based on this consideration, the Department believes the “point of interconnection” approach will help resolve the issue more fully. And given that the Commission has not yet issued a notice of proposed adoption of rules or a statement of need or reasonableness,<sup>23</sup> the Commission likely has flexibility to tweak its approach to clarifying the meaning of “capacity.”

**II. IF THE COMMISSION APPOINTS AN ADVISORY COMMITTEE, THE DEPARTMENT WOULD LIKE TO PARTICIPATE.**

Besides soliciting comment on a possible amendment to the “capacity” definition, the Commission asked interested parties to offer advice on whether it should create an advisory committee and whether they would like to serve on the committee should one be created.<sup>24</sup> The Department has no opinion on whether the Commission should create an advisory committee. If the Commission does create an advisory committee, the Department would like to have a representative participate.

**CONCLUSION**

For the reasons discussed above, the Department recommends that the Commission take the following actions:

- (1) Adopt the “point of interconnection” definition proposed above;
- (2) Eliminate the existing “capacity” definition, or at a minimum, revise the definition to make clear that “capacity” is measured at the point of interconnection; and
- (3) Appoint a Department representative to any advisory committee created for this rulemaking.

---

<sup>23</sup> See Minn. Stat. §§ 14.22, 14.23.

<sup>24</sup> NOTICE OF COMMENT PERIOD at 3 (July 7, 2025) (eDocket no. 20257-220903-01).

Dated: August 18, 2025

Respectfully submitted,

KEITH ELLISON  
State of Minnesota  
Attorney General

/s/ **Richard Dornfeld**

RICHARD DORNFELD  
Assistant Attorney General  
Attorney Reg. No. 0401204

445 Minnesota Street, Suite 600  
St. Paul, MN 55101-2125  
(651) 757-1327 (Voice)  
(651) 297-1235 (Fax)  
richard.dornfeld@ag.state.mn.us

ATTORNEY FOR MINNESOTA  
DEPARTMENT OF COMMERCE

#6151230-v2