



AN ALLETE COMPANY

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September 3, 2024

VIA E-FILING

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101-2147

Re: In the matter of the the “Capacity” Definition of Minn. Stat. 216B.164 and
Associated Rules on Net Metering Eligibility for Rate Regulated Utilities
Docket No. E002, E111, E017, E015/CI-24-200

Dear Mr. Seuffert:

Minnesota Power (or, the “Company”) appreciates the opportunity to comment on
“Capacity” definition as put forth in the Notice of Comment filed by the Public Utilities
Commission on June 4, 2024.

If you have any questions regarding this filing, please contact me at (218) 428-9846 or
jmccullough@mnpower.com.

Sincerely,

A handwritten signature in black ink that reads 'Jess McCullough'.

Jess McCullough
Public Policy Advisor II

JAM:th
Attach.

I AM
ZERO INJURY.

*Together we choose to work safely for our families, each other, and the public.
We commit to be injury-free through continuous learning and improvement.*

**STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION**

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

Docket No. E002, E111
E017, E015/CI-24-200
INITIAL COMMENTS

I. INTRODUCTION

Minnesota Power (or, the “Company”) submits these comments in response to the Minnesota Public Utilities Commission’s (or, the “Commission”) June 4, 2024 Notice of Comment Period pertaining to the definition of “Capacity” of Minn. Stat. 216B.164 and associated Net Metering Eligibility rules. The topics identified for comment in the Notice were:

- How should the Commission consider the “capacity” definition In Minn. Stat. 216B.164 and associated rules on net metering eligibility for rate-regulated utilities?
- What should the Commission consider regarding the definition of “capacity” as it related to reliability and net metering rate eligibility?
- Are there other issues or concerns related to this matter?

Minnesota Power has been meeting regularly with other regulated utilities and cooperatives across the state, including Dakota Electric, Xcel Energy, Otter Tail Power, and Minnesota Rural Electric Association (or, “MREA”) to develop the Company’s responses to the topics open for comment. The Company responds to these topics below.

II. TOPICS OPEN FOR COMMENT

1. How should the Commission consider the “capacity” definition In Minn. Stat. 216B.164 and associated rules on net metering eligibility for rate-regulated utilities?

The Commission should define “Capacity” as the number of megawatts of the facility’s Alternating Current (or, “AC”) production at its point of interconnection between the distributed generation facility and the grid. This definition is supported by a plain reading of the statutory language, while the definition of capacity put forward by Minnesota Solar Energy Industries Association (or, “MnSEIA”) is contrary to the plain language of the statute and would lead to an absurd and unreasonable result.

Under Minn. Stat. § 216B.164, Subd. 3(d), retail rate compensation applies to “a qualifying facility having less than 40-kilowatt **capacity**[.]” Capacity is generally understood to mean the maximum power output of a generating facility and is not dependent upon how much a facility chooses to generate.

This understanding is supported by the statutory definition of “capacity” within the distributed generation provision at issue. Minn. Stat. § 216B.164, subd. 2a(c) defines “capacity” as “the number of megawatts alternating current (AC) at the point of interconnection between a distributed generation facility and a utility’s electric system.” The statute does not define “point of interconnection,” but it is commonly understood in the industry to mean output of the generating facility exclusive of any offset from load not required for the generation. This common understanding is also supported by FERC’s interpretation of “capacity” in relation to a PURPA Qualifying Facility.¹

The Minnesota statutory definition is clear that capacity means a facility’s AC output at the point of interconnection with the utility’s system and is not dependent on how much the facility exports to the grid. Pursuant to Minn. Stat. § 216B.164, Subd. 3(d), a facility *qualifies* for retail rate compensation only if its “capacity” (maximum power at the point of

¹ 17 FERC ¶ 61,231 at 61,445 (1981). See also *Conn. Valley Elec. Co. v. Wheelabrator Claremont Co.*, 82 FERC ¶ 61,116 (1998).

interconnection) is lower than 40 kW, and then is *compensated* based upon its “net input...into the utility system[.]”

The Commission’s rules implementing Minn. Stat. § 216B.164 further define “capacity” as “the **capability** to produce, transmit, or deliver electric energy...”² Capability is based upon the maximum extent of an ability, in this case to generate power, rather than any actual amount of power produced at any given time. Accordingly, the Commission’s rules support defining capacity to mean the maximum output a generating facility is capable of producing.

MnSEIA’s suggestion that a facility’s “capacity” is determined by its net input into the utility’s system, and not the facility’s maximum output capability, is contrary to the plain language of the statute and would bring about an absurd and unreasonable result. For example, the legislature’s distinction between a facility’s “capacity” based qualification and “net input” based compensation within the same sentence of Minn. Stat. § 216B.164, Subd. 3(d) demonstrates that the two terms are not interchangeable, but rather have two distinct meanings. If capacity means net input into the utility system, as suggested by MnSEIA, then the legislature would not have made a distinction by using the separate terms.

MnSEIA’s interpretation would further lead to uncertainty in the determination of a facility’s “capacity” under the distributed generation statute because the net export of energy to the grid of a facility capable of generating more than 40 kW will necessarily fluctuate and could exceed the 40 kW threshold. Minn. Stat. § 216B.164 does not contemplate facilities moving between different distributed generation compensation methodologies based upon varying rates of net export to the utility’s system. MnSEIA’s suggested outcome would require promulgation of extensive rules and regulations to govern what happens when a facility’s net exports move between the less than 40 kW, 40 to 1,000 kW, and greater than 1,000 kW compensation thresholds. It would also require complex monitoring and billing by the affected utilities.

² Minn. R. 7835.0100, subp. 4 (emphasis added).

Based upon the plain language of Minn. Stat. § 216B.164, the legislature clearly did not intend for such a complex and variable regime as would be required to implement MnSEIA's definition of "capacity." Instead, applying the commonly accepted definition of "capacity" as a facility's maximum capability to produce energy at the point of interconnection with a utility is consistent with the language of the statute and the rules implementing it.

2. What should the Commission consider regarding the definition of "capacity" as it related to reliability and net metering rate eligibility?

The Commission has a developed record that demonstrates eligibility for net metering is determined by maximum AC capability at the point of interconnection. In addition to the statutory language of 216B.164 Subd. 2a(c), the State of Minnesota Distributed Energy Resources Interconnection Process ("MNDIP") 1.1.2 states "All references to DER Nameplate Rating or maximum capacity as described in 5.14.35 herein are in alternating current (AC)" and Minn. R. 7835.0100, subp. 4 states capacity is "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."

3. Are there other issues or concerns related to this matter?

Inverter nameplate rating is the determination of "Capacity" for solar photovoltaic (or, "PV") systems and their eligibility for net metering both for the Company and the industry at large. The nameplate rating of an inverter - which is placed "between" the qualifying facility and the consumer and is therefore its point of interconnection - reflects the AC production capability of a solar PV qualifying facility. The Company utilizes inverter nameplate ratings in its system planning processes. Even if a 500 kW facility curtailed its export to the distribution system to 39.9 kW, the Company would still consider it to be a facility with a capacity of 500 kW.

The Company is additionally concerned that calculating capacity based upon grid export excluding customer consumption would open the door to exploitation of net metering rules not only by solar PV systems which are limited by environmental conditions, but other

distributed energy systems such as anaerobic digestors, which can operate longer and in adverse weather conditions.

III. CONCLUSION

The Company appreciates the opportunity to offer these comments and is in alignment with other utilities and cooperatives that a common definition of capacity as AC production at point of interconnection is critical to a successful and efficient deployment of distributed energy resources.

Dated: September 3, 2024

Respectfully submitted,

A handwritten signature in black ink that reads "Jess McCullough". The signature is written in a cursive style with a large initial "J" and "M".

Jess McCullough
Public Policy Advisor II
218.428.9846
jmccullough@mnpower.com

STATE OF MINNESOTA)
)ss
COUNTY OF ST. LOUIS)

AFFIDAVIT OF SERVICE VIA
ELECTRONIC FILING

Tiana Heger of the City of Duluth, County of St. Louis, State of Minnesota, says that on the 3rd day of September, 2024, she served Minnesota Power's Comments in **Docket No. E002, E111, E017, E015/CI-24-200** on the Minnesota Public Utilities Commission and the Energy Resources Division of the Minnesota Department of Commerce via electronic filing. The persons on E-Docket's Official Service List for this Docket were served as requested.



Tiana Heger