

**STATE OF MINNESOTA  
PUBLIC UTILITIES COMMISSION**

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February 5, 2020

**In the Matter of Establishing an Updated Estimate of the Costs of Future Carbon Dioxide Regulation on Electricity Generation Under Minn. Stat. § 216H.06**

**Docket No. 07-1199**

**CLEAN ENERGY ORGANIZATIONS' REPLY COMMENTS**

Clean Grid Alliance, Fresh Energy, Minnesota Center for Environmental Advocacy, Sierra Club, and Union of Concerned Scientists (together, the "Clean Energy Organizations") submit these reply comments in response to the Minnesota Public Utilities Commission's December 20, 2019 [Notice of Comment Period](#). We respond to the initial comments of Xcel Energy in Section 1 and the Minnesota Large Industrial Group in Section 2.

**1) Response to Xcel Energy (Xcel)**

*1.1 Historical auction prices should not be the sole basis for CO<sub>2</sub> regulatory cost values*

In its initial comments, Xcel claimed:

[CEOs] suggest the Commission should not consider current CO<sub>2</sub> prices, since CO<sub>2</sub> prices may be higher in the future, and that the RGGI/WCI floors and ceilings are indicators of what those prices might be. This attempts to read too much into a single word: all CO<sub>2</sub> regulation was future regulation at the time the statute was passed, and it seems a stretch to read into that single word the legislative intent that the Commission should ignore current, actual CO<sub>2</sub> prices.<sup>1</sup>

To be clear: we do not believe the Commission should ignore historical data from U.S. carbon pricing programs. These programs provide concrete examples of carbon pricing, and it is entirely possible that Minnesota will join one of these markets in the future.

However, as we argued in our September 6, 2019 comments to the Minnesota Pollution Control Agency and Department of Commerce (together, the "Agencies"): "While we agree with the Agencies that it is relevant to review existing market prices when developing regulatory CO<sub>2</sub> values, it is inappropriate to base them **solely** on the prices today" (emphasis added).<sup>2</sup> As shown in Figure 3 of our January 24, 2020 comments, auction prices in each of these markets have increased significantly over time. The average RGGI auction price in 2019 was *double* the price cited by the Agencies in making their recommended Low value.

Further, as described in our January 24, 2020 comments, auction prices in these markets will continue to increase moving forward. Both programs include provisions that aim to limit the range of CO<sub>2</sub> prices within a given year. These provisions provide rough low and high bounds for auction clearing prices, and they signal RGGI's and WCI's expectation that auction prices will remain within that range and RGGI's and WCI's intention to actively intervene if auction prices fall outside of this range.

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<sup>1</sup> Xcel Energy, "Comments," filed January 24, 2020 in Docket 07-1199, at page 8 (eDocket No. [20201-159574-02](#)).

<sup>2</sup> Clean Energy Organizations, "Comments," filed September 6, 2019 in Docket 07-1199, at page 3 (eDocket No. [20199-155708-02](#)).

Thus, while it is appropriate to consider existing auction prices when developing regulatory CO<sub>2</sub> values, it is inappropriate to base a *future* cost value solely on *historical* auction prices.

## 1.2 Our recommended modification to the High value will better accomplish the Agencies' objectives

Xcel also claimed the CEOs proposed a "blended approach" that relied on a Synapse national CO<sub>2</sub> price forecast from 2016, and that this forecast is "no longer an appropriate basis" for regulatory CO<sub>2</sub> values.<sup>3</sup>

First, to clarify, it was the Agencies that developed this "blended approach," not the CEOs, and this is the approach employed by the Agencies to develop the range currently in use.<sup>4</sup> Nevertheless, we agree with Xcel that it is not ideal to base regulatory CO<sub>2</sub> values on a forecast that is over three years old. However, we note that the Agencies' recommended High value—which Xcel supports—is based on this very forecast. Basing the High value on this forecast was not our recommendation, it was the Agencies' decision. We simply contend that if the Commission prefers to continue using the Agencies' approach, it would be more reasonable to use the Synapse forecast for the actual planning year than to freeze the values at the forecasted 2022 level. This would better accomplish the Agencies objective of "projecting regulatory costs into the future, which corresponds to electric utility planning horizons."<sup>5</sup>

## 2) Response to the Minnesota Large Industrial Group (MLIG)

### 2.1 MLIG's recommended application date would circumvent Minn. Stat. §216H.06

MLIG recommended the Commission delay the application of CO<sub>2</sub> regulatory costs until 2037 or later, claiming that "[b]y postponing the application of regulatory costs associated with CO<sub>2</sub> emissions until at least 2037, the application of such values is moved beyond utility planning periods for pending or soon-to-be-filed integrated resource plans."<sup>6</sup> MLIG also argued that "carbon regulation is increasingly speculative."<sup>7</sup>

MLIG's claim that CO<sub>2</sub> regulation is "increasingly speculative" is staggeringly out of touch with reality. As detailed in our initial comments, there is growing urgency to reduce greenhouse gas emissions, and scientists, economists, politicians, and citizens around the state and across the world are calling for policies to reign in greenhouse gas emissions. There are already 57 carbon pricing initiatives implemented worldwide, including two within the U.S.<sup>8</sup> The Clean Air Act requires the federal government to regulate carbon dioxide and other heat-trapping pollutants, and the Minnesota Pollution Control Agency has the clear authority, and arguably the obligation to limit CO<sub>2</sub> emissions under Minn. Stat. §116.07.

Moreover, MLIG's recommendation would effectively remove this requirement from statute. Minn. Stat. §216H.06 not only requires the Commission to establish an estimated CO<sub>2</sub> regulatory cost range, it also stipulates that the cost range "**must** be used in **all** electricity generation resource acquisition proceedings" (emphasis added). Moving the threshold application year "beyond utility planning periods" would

<sup>3</sup> Xcel Energy, "Comments," filed January 24, 2020 in Docket 07-1199, at page 8 (eDocket No. [20201-159574-02](#)).

<sup>4</sup> See: Minnesota Department of Commerce and Minnesota Pollution Control Agency, "Corrected Analysis and Recommendations," filed February 28, 2018 in Docket 07-1199, at page 4 (eDocket No. [20182-140586-01](#)).

<sup>5</sup> *Id.*, at page 3.

<sup>6</sup> Minnesota Large Industrial Group, "Comment," filed January 24, 2020 in Docket 07-1199, at page 4 (eDocket No. [20201-159590-03](#)).

<sup>7</sup> *Id.*, at page 3.

<sup>8</sup> World Bank Group, "[State and Trends of Carbon Pricing 2019](#)," June 2019.

circumvent this requirement entirely; MLIG is effectively asking the Commission to take an end run around the legislative process and remove this statute from Minnesota Law.

Further, as the Commission noted, CO<sub>2</sub> emissions are a financial liability for electricity customers:

Minnesota Statutes §216H.06 reflects the Legislature's conclusion that it is likely that eventually laws will govern the emission of CO<sub>2</sub> and that utilities and their ratepayers will need to bear these costs. The statute's chief requirement is to compel utilities to plan accordingly. A utility's failure to correctly forecast the magnitude of CO<sub>2</sub> regulation costs may result in the utility's making choices that prove to be costly in retrospect.<sup>9</sup>

MLIG's recommendation is not only out of touch with reality, MLIG's proposed Ostrich Strategy would likely result in utilities making choices that prove to be costly in retrospect.

## *2.2 A carbon pricing program could take many forms*

MLIG also argued:

As noted in the Agencies' 2017 request for comments, the United States Supreme Court previously stayed the Clean Power Plan, which was further eroded by President Trump's Executive Order in March 2017. Last year, the EPA also issued the Affordable Clean Energy Rule effectively replacing the previous Clean Power Plan. Comments in the Agencies' Recommendations reflect this reality, where the Agencies explicitly acknowledge that "state or federal carbon regulations are unlikely by 2025." This progression of events demonstrates that a regulatory carbon emissions mandate is not likely in the foreseeable future and the Commission's current 2025 estimate is not valid.<sup>10</sup>

Implicit in this analysis is the assumption that a federal executive action is the only possible future carbon pricing program. On the contrary, as explained in our initial comments and recognized by other parties in this docket, a potential carbon pricing program could take many forms. For example, Minnesota could join an existing cap and trade program through executive action or develop its own carbon pricing program through legislative action. As the recent experience of the state of New Jersey demonstrates, this process can proceed rapidly: New Jersey rejoined RGGI less than two years after Governor Phil Murphy's executive order initiating the process of rejoining the market.<sup>11</sup> At the Federal level, a new carbon pricing program could also be developed through the legislative process. As noted in our initial comments, there are at least five active bills with bipartisan support that would put a price on carbon emissions, each of which would take effect within two years of passage.<sup>12</sup>

### **3) Conclusion and recommendations**

We appreciate the opportunity to provide input on these important topics. While it is appropriate to consider historical auction price data when developing regulatory CO<sub>2</sub> values, it is inappropriate to base a future cost value solely on historical auction prices. Our recommended modifications to the Agencies' methodology would produce a more reasonable cost range that would be more consistent with the statute

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<sup>9</sup> Minnesota Public Utilities Commission, "Order Establishing 2009 and 2010 Estimate of Future Carbon Dioxide Regulation Costs," filed October 8, 2009 in Docket 07-1199, at page 2 (eDocket No. [200910-42619-01](#)).

<sup>10</sup> Minnesota Large Industrial Group, "Comment," filed January 24, 2020 in Docket 07-1199, at pages 3-4 (footnotes omitted) (eDocket No. [20201-159590-03](#)).

<sup>11</sup> State of New Jersey, Governor Phil Murphy, "[Executive Order No. 7](#)," filed January 29, 2018.

<sup>12</sup> Energy Innovation and Carbon Dividend Act, [H.R. 763](#), 116<sup>th</sup> Congress 2019; the Raise Wages, Cut Carbon Act, [H.R. 3966](#), 116<sup>th</sup> Congress 2019; the Climate Action Rebate Act [H.R. 4051/S.2284](#), 116<sup>th</sup> Congress 2019; Stemming Warming and Augmenting Pay (SWAP) Act [H.R. 4058](#), 116<sup>th</sup> Congress 2019; and the Modernizing America with Rebuilding to Kickstart the Economy of the Twenty-first Century with a Historic Infrastructure-Centered Expansion Act [H.R.4520](#), 116<sup>th</sup> Congress 2019.

and the Agencies' objectives. MLIG's recommendation would circumvent Minn. Stat. §216H.06 and expose electricity customers to excessive risk. We continue to recommend the Commission:

- Set the Low regulatory CO<sub>2</sub> cost value as RGGI's Emissions Containment Reserve trigger price for years 2023-2030, and escalate the 2030 value at seven percent annually for years after 2030;
- Set the High regulatory CO<sub>2</sub> cost value as the inflation-adjusted High case forecast from Synapse Energy Economics' Spring 2016 National Carbon Dioxide Price Forecast for the relevant planning year; and
- Find that 2023 is the appropriate threshold year for the application of CO<sub>2</sub> regulatory costs.

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