



March 19, 2025

- Via Electronic Filing -

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

**RE: Joint Reply Comments of the Aligned Utilities
In the Matter of an Investigation into Implementing Changes to the Renewable Energy
Standard and the Newly Created Carbon Free Standard under Minn. Stat. § 216B.1691
DOCKET NO. E999/CI-23-151**

Dear Mr. Seuffert:

Pursuant to the Minnesota Public Utilities Commission's ("Commission") February 4, 2025, Notice of Extended Reply Comment Period ("Notice"), Great River Energy, Rochester Public Utilities, Connexus Energy, Central Municipal Power Agency/Services, Missouri River Energy Services, Minnkota Power Cooperative, Basin Electric Power Cooperative, Minnesota Municipal Utilities Association, Minnesota Municipal Power Agency, East River Electric, Minnesota Rural Electric Association, Otter Tail Power Company, Xcel Energy, Southern Minnesota Municipal Power Agency, and ALLETE Minnesota Power (collectively, the "Aligned Utilities") jointly submit the following Reply Comments on questions related to implementation of, and compliance with, the new carbon free standard ("CFS") set forth in Minn. Stat. § 216B.1691. In particular, the Utilities take this opportunity to express their strong opposition to the Minnesota Department of Commerce ("Department") recommendation in its January 29, 2025, comments that the Commission adopt hourly matching for CFS compliance.¹ As discussed below, the

¹ In addition to submitting these brief Joint Reply Comments, several of the Utilities intend to submit individual reply and supplemental comments addressing other topics in the October 31, 2024, notice.

Department's proposal is contrary to both the plain language and intent of Minn. Stat. § 216B.1691 and would negatively impact electric customers in Minnesota.

A. Plain Language and Legislative Intent

The relevant statute expressly provides that compliance with the CFS will be based upon an annual metric. Specifically, the statute establishes the CFS based on carbon-free percentages of “total retail electric sales,” which the statute defines as “the kilowatt-hours of electricity **sold in a year** by an electric utility to retail customers ...” (Emphasis added). The statute leaves no doubt about the Legislature's intent to measure CFS compliance on an annual basis, defining the CFS as follows:

Each electric utility must generate or procure sufficient electricity generated from a carbon-free energy technology to provide the electric utility's retail customers in Minnesota, or the retail customers of a distribution utility to which the electric utility provides wholesale electric service, so that the electric utility generates or procures an amount of electricity from carbon-free energy technologies that is equivalent to at least the following standard percentages of the electric utility's total retail electric sales to retail customers in Minnesota... **by the end of the year indicated** ...²

This statutory language for the CFS is identical to the language for determining compliance with the renewable energy standard (RES), now named the Eligible Energy Technology Standard (EETS), which, reads:³

Each electric utility shall generate or procure sufficient electricity generated by an eligible energy technology to provide its retail customers in Minnesota, or the retail customers of a distribution utility to which the electric utility provides wholesale electric service, so that the electric utility generates or procures an amount of electricity from an eligible energy technology that is equivalent to at least the following standard percentages of the electric utility's total retail electric sales to retail customers in Minnesota **by the end of the year indicated**....⁴

RES compliance has been determined on an annual basis under this language for nearly two decades. The Legislature's decision to adopt identical language for the CFS underscores its intent to apply the same annual compliance approach.

Nothing in the applicable statute, Minn. Stat. § 216B.1691, suggests that the Legislature intended to fundamentally change compliance from an annual to an hourly basis.⁵ The

² Minn. Stat. § 216B.1691, subd. 2g. **Carbon-free standard**. (Emphasis added).

³ MN Statute 216B.1691, Subdivision 2a.

⁴ Minn. Stat. § 216B.1691, Subd. 2a. **Eligible energy technology standard**. (Emphasis added).

⁵ The only change made to the definition of “Total electric retail sales” was the deletion of the following caveat at the end of the definition: “Total retail electric sales’ does not include the sale of hydroelectricity supplied by a

Legislature had the opportunity to make such a change and chose not to. Any suggestion that the Legislature intended hourly accounting is not supported by the express statutory text or decades of precedent for determining RES compliance.

The Department erroneously asserts that the Commission has broad authority under Minn. Stat. § 216B.1691, Subd. 2d(a) to require hourly matching for CFS compliance. That provision authorizes the Commission to issue necessary orders “detailing the criteria and standards” to measure compliance with the CFS, but it does not authorize the Commission to change the annual compliance approach established by the Legislature in favor of an hourly approach that the Legislature did not reference or allude to anywhere in the statute. To the contrary, the Commission’s authority to prescribe criteria and standards for compliance refers specifically and repeatedly to annual metrics. Specifically, the statute directs the Commission to include criteria and standards regarding partial compliance with the CFS based on:

(ii) “an electric utility’s annual purchases from a regional transmission organization net of the electric utility’s sales to the regional transmission organization, but only for the percentage of annual net purchases that is carbon-free....”⁶

Again, the explicit measurement period with respect to market purchases is based on annual netting. The Department’s hourly matching proposal for CFS compliance is not supported by the plain language of Minn. Stat. § 216B.1691 and would depart from well-established precedent with respect to renewable energy objective/standard tracking through renewable energy certificate (REC) and/or alternative energy certificate (AEC) retirements. Nothing in the statute or legislative discussions leading to the adoption of the CFS suggests that the Legislature intended such a departure from how compliance has been determined by the Commission since 2007. To the contrary, the statute expressly provides for determining compliance with the CFS on an annual basis.

B. Negative Customer Impact and Uncertainty

Not only does the Department’s proposal conflict with the applicable statute; it would also negatively impact Minnesota consumers by substantially increasing energy and compliance costs – a possibility acknowledged by the Department in its January 29 Comments.⁷ One simple example illustrates this fact. Assume the days when, during the hourly “matching periods,”

federal power marketing administration or other federal agency, regardless of whether the sales are directly to a distribution utility or are made to a generation and transmission utility and pooled for further allocation to a distribution utility.”

⁶ Minn. Stat. § 216B.1691, Subd. 2d(b)(2)(i) and (ii) (Emphasis added).

⁷ Department January 29 Comments at 20 (“The Department acknowledges that a Commission order to implement hourly matching may increase ratepayer costs.”).

intermittent renewable resources are unavailable to utilities due to lack of wind or solar irradiance, and such utilities must utilize dispatchable generation and/or purchase energy from the MISO market – which is not 100% carbon free. In such a circumstance, electric utilities will all be seeking RECs and/or AECs for the specific hours in question to comply with the hourly matching proposed by the Department. This would lead to competition for hourly RECs/AECs and drive up the cost for such certificates in that hour, presuming they are even available to purchase.

Hourly matching, even if consistent with state law (and it is not), would be fraught with uncertainty and resulting cost implications. First, hourly REC/AEC markets do not currently exist, and no other state requires hourly carbon free compliance demonstrations. As a result, utilities would not be able to accurately reflect hourly matching in their next resource planning cycle. Time would **not** allow for the expansion of generation resources to individually comply with such an interpretation of the CFS. Second, even if hourly REC/AEC markets have matured by the time CFS compliance demonstration is required, there is no guarantee there will be fully developed markets with a large number of buyers and sellers providing market liquidity; instead, there may be a small number of market participants (the regulated utilities), all needing RECs/AECs for the same hours of low renewable generation, competing for a limited supply and driving up the price.

In addition, if the years between now and compliance demonstration continue to bring additional voluntary purchases of RECs/AECs to Minnesota—for example, large customers like data centers and hydrogen producers seeking to demonstrate 24/7 clean electricity for their own goals—those purchases would be competing with utilities for the same, potentially very limited supply of hourly RECs/AECs, further driving up the price. This would increase the costs for CFS compliance without any corresponding benefits, in a manner that directly contravenes the Legislature’s directive that in issuing Orders on CFS compliance, the Commission “protect against undesirable impacts on the reliability of the utility’s system and economic impacts on the utility’s ratepayers and that consider technical feasibility...”⁸

As such, we recommend the Commission reject the Department’s hourly matching proposal for CFS compliance. The proposal (1) conflicts with the express language of the statute and almost 20 years of RES/EETS compliance and planning that relied on identical statutory language; and (2) is not supported by any available evidence of legislative intent. Even if it were consistent with the statute, hourly matching for CFS compliance (1) would rely on liquid hourly REC/AEC markets that do not exist today and may not exist or may be limited in the future; and (2) could dramatically increase costs of CFS compliance, inconsistent with the Legislature’s directive to

⁸ Minn. Stat. § 216B.1691, Subd. 2d(b)(1). We consider “technical feasibility” in this context to include consideration of whether a mature hourly REC/AEC market, that the Department’s proposal would require, exists. It does not today and may not in the near future.

the Commission to protect against undesirable economic impacts on Minnesota utility ratepayers. Minnesota's CFS is the most aggressive utility-sector decarbonization mandate in the Nation. Imposition of costly complexities like hourly matching that have no foundation in law, and provide no identifiable benefits to customers, poses unnecessary challenges for utility compliance with milestones identified in the CFS.

Dated: March 19, 2025

Respectfully Submitted.

Great River Energy

/s/ Zac Ruzycki
Director, Resource Planning
763-445-6116
zruzycki@greenergy.com

Rochester Public Utilities

/s/Tim McCollough
General Manager
507-280-1601
tmccollough@rpu.org

Connexus Energy

/s/ Tessa Haagenson
Director, Power Supply & Business Development
763-323-4262
Tessa.Haagenson@connexusenergy.com

Central Municipal Power Agency/Services

/s/ Jay Anderson
Chief Executive Officer
jaya@cmpas.org

Missouri River Energy Services

/s/Terry Wolf
Vice President, Power Supply & Operations
Terry.Wolf@mrenergy.com

Minnkota Power Cooperative

/s/ Todd Sailer
Vice President of Power Supply
701-795-4000
tsailer@minnkota.com

Basin Electric Power Cooperative

/s/ Casey Jacobson
Senior Staff Counsel
cjacobson@bepc.com

Minnesota Municipal Utilities Association

/s/ Kent Sulem
Director of Government Relations and Senior Counsel
763-551-1230
ksulem@mmua.org

Minnesota Municipal Power Agency

/s/ Oncu Er
Chief Operating Officer, Avant Energy, Inc., Agent for
MMPA
(612) 252-6531
Oncu.er@avantenergy.com

East River Electric

/s/ Chris Studer
Chief Member & Public Relations Officer
605-256-8016
cstuder@eastriver.coop

Minnesota Rural Electric Association

/s/ Darrick Moe
President & CEO
763-424-7233
darrick@mrea.org

Otter Tail Power Company

/s/ Nathan Jensen
Manager, Resource Planning
njensen@otpc.com

Xcel Energy

/s/ Bria E. Shea
Regional Vice President, Regulatory Policy
bria.e.shea@xcelenergy.com

Southern Minnesota Municipal Power Agency

/s/ Jeremy Sutton
Chief Operating Officer
(507) 292-6460
Jb.sutton@smmpa.org

Minnesota Power

/s/ Jennifer Kuklenski
Regulatory Strategy & Policy Manager
218-355-3297
kuklenski@mnpower.com

Cc: Service List