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October 23, 2023

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

Re: *In the Matter of Commission Review of Utility Performance Incentives for Energy Conservation*
MPUC Docket No. E,G-999/CI-08-133

Dear Mr. Seuffert:

The Office of the Attorney General – Residential Utilities Division (“OAG”) respectfully submits these comments in support of the Minnesota Department of Commerce’s (“Department”) proposed changes to the shared-savings demand-side-management financial incentive mechanism (“shared-savings incentive”) for 2024–2026. At a high level, the Department’s proposed changes to the shared-savings incentive would do the following:

1. Adopt the new “Minnesota Test” cost-effectiveness test that the Department has begun using to evaluate utility conservation-improvement programs (“CIP”);
2. Adopt the same 3.3 percent societal discount rate that the Department uses as part of the Minnesota Test to evaluate utility CIP;
3. Lower the cap on utilities’ maximum share of net benefits (the “Net Benefits Cap”) from 10 percent to 3.4 percent; and
4. Lower the cap that is based on a percentage of a utility’s annual CIP spending (the “CIP Expenditures Cap”) from 30 percent to 15 percent, or 20 percent for utilities that achieve energy savings of at least 2 percent of retail sales (electric utilities) or 1.2 percent of retail sales (gas utilities).

The Department’s proposal satisfies the criteria for conservation incentives under Minn. Stat. § 216B.16, subd. 6c, and the Commission should adopt it. The proposal is in the public interest for at least three reasons. First, the Department’s proposal aligns the shared-savings incentive with the Minnesota Test and the policy preferences embedded in it.¹ Second, the reduced

¹ See *In the Matter of 2024-2026 CIP Cost-Effectiveness Methodologies for Electric and Gas Investor-Owned Utilities*, Docket No. E,G-999/CIP-23-46, Deputy Commissioner’s Decision at 89–90 (Mar. 31, 2023) (cataloguing impacts included in Minnesota Test, including societal impacts).

Net Benefits Cap and CIP Expenditures Cap will help ensure that utilities do not receive a windfall purely due to the impact of a new cost-effectiveness test. Third, the cap adjustments will bring utilities' incentives in line with (and generally slightly below) the incentives they have received in recent years. A modest reduction in incentives is reasonable because Minnesota's incentives are higher than those of other states with high-performing energy conservation programs, and past reductions to shared-savings incentives have not led to reduced performance by utilities.

First, it is reasonable to align the cost-effectiveness test and discount rate used in the shared-savings incentive with the primary cost-effectiveness test and discount rate that the Department uses in evaluating utilities' CIP. Doing so will help ensure that utilities do not receive mixed messages about what kinds of conservation improvements, demand response, and efficient fuel switching Minnesota regulators wish to prioritize.

Second, if the Commission agrees that it is appropriate to adopt the cost-effectiveness test the Department uses to evaluate CIP, the Net Benefits Cap and CIP Expenditures Cap will also need to be adjusted. There are at least two reasons for this. First, the Minnesota Test, unlike the "Utility Cost Test" previously used to determine net benefits, assigns a monetary benefit to greenhouse-gas emissions reductions, among other societal impacts. Second, the 3.3 percent societal discount rate used with the Minnesota Test is much lower than the utility-specific discount rates previously used with the Utility Cost Test. All else equal, these two changes would more than double the total amount of financial incentive awarded in a given year²—without requiring a utility to achieve any additional energy savings. It would be unreasonable to award utilities more money for no additional performance, and the Department rightfully proposes reductions to both the Net Benefits Cap and the CIP Expenditures Cap to avoid this result.

Finally, the Department's specific reductions to the Net Benefits Cap and CIP Expenditures Cap are reasonable. The existing Net Benefits Cap is 10 percent, while the existing CIP Expenditures Cap is 30 percent. The new cap levels selected by the Department are calibrated to bring utilities' incentives slightly below the incentives they earned under the previous iteration of the incentive mechanism, on an absolute and dollars-per-unit-of-energy-saved basis.³ A 10 percent share of net benefits calculated under the Utility Cost Test is equivalent to about a 4 percent share of net benefits calculated under the Minnesota Test.⁴ And an 8.5 percent share of Utility-Cost-Test net benefits is equivalent to about a 3.4 percent share of Minnesota-Test net benefits.⁵ Thus, a 3.4 percent Net Benefits Cap, combined with adopting the Minnesota Test, should yield a modest reduction in shared-savings incentives.

A modest reduction in incentives is appropriate because Minnesota's incentives have historically been, and remain, higher than those awarded in states with similarly strong utility conservation programs.⁶ The Commission has been gradually ratcheting down the shared-savings

² Department Comments at 21 (Sept. 1, 2023).

³ See *id.* at 24 (stating that "[o]n an incentives per first-year unit of energy saved basis, the average incentives paid goes down from \$0.039 per first-year kWh saved in the 2020-2022 period to \$0.031 per first-year kWh saved in the 2024-2026 triennial period for electric utilities" and from \$4.215 to \$3.518 per dekatherm for gas utilities); *id.* at 25 fig.11, 26 fig.12 (comparing electric and gas utilities' average annual incentives in 2020–2022 to their predicted average annual incentives in 2024–2026).

⁴ *Id.* at 22.

⁵ *Id.*

⁶ See *id.* at 35–39 (comparing Minnesota's incentive to other states').

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incentive since its inception, yet this has not negatively impacted utilities' performance.⁷ Therefore, the Department's proposal will ensure that the incentive continues to encourage utility investment in cost-effective energy conservation—and will protect ratepayers from overpaying for that investment.

For the foregoing reasons, the Commission should adopt the Department's proposed changes to the shared-savings incentive mechanism.

Sincerely,

/s/ **Peter G. Scholtz**

PETER G. SCHOLTZ

Assistant Attorney General

(651) 757-1473 (Voice)

(651) 296-9663 (Fax)

peter.scholtz@ag.state.mn.us

⁷ See *id.* at 6 fig.1, 11 fig.5 (showing electric and gas savings increasing over 2006–2022 at the same time as incentives decreased).

CERTIFICATE OF SERVICE

Re: *In the Matter of Commission Review of Utility Performance Incentives for Energy Conservation*
MPUC Docket No. E,G-999/CI-08-133

I, JUDY SIGAL, hereby certify that on the 23rd day of October, 2023, I e-filed with eDockets *a Letter of the Minnesota Office of the Attorney General—Residential Utilities Division* and served a true and correct copy of the same upon all parties listed on the attached service list by e-mail, electronic submission, and/or United States Mail with postage prepaid, and deposited the same in a U.S. Post Office mail receptacle in the City of St. Paul, Minnesota.

/s/ Judy Sigal

JUDY SIGAL

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Michael	Ahern	ahern.michael@dorsey.com	Dorsey & Whitney, LLP	50 S 6th St Ste 1500 Minneapolis, MN 554021498	Electronic Service	No	OFF_SL_8-133_Official
Anjali	Bains	bains@fresh-energy.org	Fresh Energy	408 Saint Peter Ste 220 Saint Paul, MN 55102	Electronic Service	No	OFF_SL_8-133_Official
Christina	Brusven	cbrusven@fredlaw.com	Fredrikson Byron	60 S 6th St Ste 1500 Minneapolis, MN 55402-4400	Electronic Service	No	OFF_SL_8-133_Official
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_8-133_Official
Stacy	Dahl	sdahl@minnkota.com	Minnkota Power Cooperative, Inc.	5301 32nd Ave S Grand Forks, ND 58201	Electronic Service	No	OFF_SL_8-133_Official
Justin	Fay	fay@fresh-energy.org	Fresh Energy	408 St. Peter St Ste 220 St. Paul, MN 55102	Electronic Service	No	OFF_SL_8-133_Official
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 55102198	Electronic Service	Yes	OFF_SL_8-133_Official
Edward	Garvey	garveyed@aol.com	Residence	32 Lawton St Saint Paul, MN 55102	Electronic Service	No	OFF_SL_8-133_Official
Metric	Giles	metricpsp@gmail.com	Community Stabilization Project	501 Dale St N Saint Paul, MN 55101	Electronic Service	No	OFF_SL_8-133_Official
Jenny	Glumack	jenny@mrea.org	Minnesota Rural Electric Association	11640 73rd Ave N Maple Grove, MN 55369	Electronic Service	No	OFF_SL_8-133_Official

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Laura	Goldberg	lgoldberg@nrdc.org	Natural Resources Defense Council	20 N. Upper Wacker Dr. Suite 1600 Chicago, IL 60606	Electronic Service	No	OFF_SL_8-133_Official
Jason	Grenier	jgrenier@otpc.com	Otter Tail Power Company	215 South Cascade Street Fergus Falls, MN 56537	Electronic Service	No	OFF_SL_8-133_Official
Jeffrey	Haase	jhaase@grenergy.com	Great River Energy	12300 Elm Creek Blvd Maple Grove, MN 55369	Electronic Service	No	OFF_SL_8-133_Official
Tiana	Heger	theger@mpower.com	Minnesota Power	30 W. Superior Street Duluth, MN 55802	Electronic Service	No	OFF_SL_8-133_Official
Joe	Hoffman	ja.hoffman@smpa.org	SMMPA	500 First Ave SW Rochester, MN 55902-3303	Electronic Service	No	OFF_SL_8-133_Official
Tina	Koecher	tkoecher@mpower.com	Minnesota Power	30 W Superior St Duluth, MN 558022093	Electronic Service	No	OFF_SL_8-133_Official
Martin	Kushler	mgkushler@aceeee.org		28003 Copper Creek Lane Farmington Hills, MI 48331	Electronic Service	No	OFF_SL_8-133_Official
Discovery	Manager	discoverymanager@mpower.com	Minnesota Power	30 W Superior St Duluth, MN 55802	Electronic Service	No	OFF_SL_8-133_Official
Andrew	Moratzka	andrew.moratzka@stoel.com	Stoel Rives LLP	33 South Sixth St Ste 4200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_8-133_Official

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Ted	Nedwick	tednedwick@nhtinc.org	National Housing Trust	1101 30th Street NW Ste 100A Washington, DC 20007	Electronic Service	No	OFF_SL_8-133_Official
Samantha	Norris	samanhanorris@alliantenergy.com	Interstate Power and Light Company	200 1st Street SE PO Box 351 Cedar Rapids, IA 524060351	Electronic Service	No	OFF_SL_8-133_Official
Audrey	Partridge	apartridge@mncee.org	Center for Energy and Environment	212 3rd Ave. N. Suite 560 Minneapolis, MN 55401	Electronic Service	No	OFF_SL_8-133_Official
James	Phillippo	james.phillippo@weenergygroup.com	Minnesota Energy Resources Corporation	PO Box 19001 Green Bay, WI 54307-9001	Electronic Service	No	OFF_SL_8-133_Official
Lisa	Pickard	lseverson@minnkota.com	Minnkota Power Cooperative	5301 32nd Ave S Grand Forks, ND 58201	Electronic Service	No	OFF_SL_8-133_Official
Scott	Reimer	reimer@federatedrea.coop	Federated Rural Electric Assoc.	77100 US Highway 71 PO Box 69 Jackson, MN 56143	Electronic Service	No	OFF_SL_8-133_Official
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 55102131	Electronic Service	Yes	OFF_SL_8-133_Official
Michael	Sachse	michael.sachse@opower.com	OPOWER	1515 N. Courthouse Rd, 8th Floor Arlington, VA 22201	Electronic Service	No	OFF_SL_8-133_Official
Bruce	Saylor	bruce@connexusenergy.com	Connexus Energy	14601 Ramsey Boulevard Ransley, MN 55303	Electronic Service	No	OFF_SL_8-133_Official

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Christine	Schwartz	Regulatory.records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7 Minneapolis, MN 554011993	Electronic Service	No	OFF_SL_8-133_Official
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7 h Pl E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_8-133_Official
Jeffrey	Springer	jeff.springer@diarylandpower.com	Dairyland Power Cooperative	3200 East Ave S La Crosse, WI 54601	Electronic Service	No	OFF_SL_8-133_Official
Grey	Staples	gstaples@mendotagroup.com	The Mendota Group LLC	1830 Fargo Lane Mendota Heights, MN 55118	Electronic Service	No	OFF_SL_8-133_Official
Analeisha	Vang	avang@minpower.com	Minnesota Power	30 W Superior St Duluth, MN 558022093	Electronic Service	No	OFF_SL_8-133_Official
Robert	Walsh	bwalsh@mvalleyrec.com	Minnesota Valley Coop Light and Power	PO Box 248 501 S 1st St Montevideo, MN 56265	Electronic Service	No	OFF_SL_8-133_Official
Ethan	Warner	ethan.warner@centerpointenergy.com	CenterPoint Energy	505 Nicollet Mall Minneapolis, MN 55402	Electronic Service	No	OFF_SL_8-133_Official