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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. E-999/CI-23-151

PETITION OF CARBON SOLUTIONS GROUP FOR RECONSIDERATION

October 4th, 2025

CONTENTS

I. INTRODUCTION

Carbon Solutions Group ("CSG") respectfully petitions the Minnesota Public Utilities Commission ("Commission") for reconsideration of certain portions of its September 16th, 2025 order related to the proceeding *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. E-999/CI-23-151).

Specifically, CSG seeks reconsideration of Directives #1 and #3 in the Commission's September 16th, 2025, "Order on Carbon-Free Standard–Clarifying Use of Credits, Net Market Purchases, and Reporting" (hereafter "Order" or "Commission Order").

A. *Brief procedural background.*

Following the enactment of H.F. 7 on February 7th, 2023—which established the State's Carbon Free Standard ("CFS")—the Commission opened *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. E-999/CI-23-151) and issued a first "Notice Of Comment Period" on April 28th, 2023.

CSG began engaging with Docket No. 23-151 following the issuance of a third Notice of Comment Period and Updated Timeline on October 31st, 2024. On February 21st, 2025, the Commission issued a Notice of Supplemental Comment Period. CSG submitted reply comments on March 19th, 2025, reiterating support for its previous comments.

On July 7th, 2025, Commission Staff initially issued the Staff Briefing Papers, offering a series of decision options related to the proceeding. Commissioner Audrey Partridge ("Commissioner Partridge") proposed her New Decision Options and New and Revised Decision Options on July 11th, 2025. On July 14th, 2025, CSG submitted its preferred decision options in response to the Staff's proposed decision options, as well as Commissioner Partridge's decision options. Following the receipt of preferred decision options from interested stakeholders, Commission Staff issued "Updated Compiled Decision Options" on July 16th, 2025.

On July 17th, the Commission convened an Agenda Meeting, wherein testimony was given by stakeholders and the Commissioners deliberated various issues related to the docket.

On September 16th, 2025, the Commission filed an Order formalizing many of the issues discussed during the July 17th Agenda Meeting. This Commission Order contained seven numbered items, or "directives." The Commission's September 16th Order, Directive #1 states:

> "1. Utilities may demonstrate compliance with the Carbon-Free Standard, Minn. Stat. § 216B.1691, subd. 2g, by retiring Renewable Energy Credits, Alternative Energy Credits, or equivalent Environmental Attribute Credits registered with the Midwest Renewable Energy Tracking System."[1]

[1] *See* Minnesota Public Utilities Commission. "Order on Carbon-Free Standard–Clarifying Use of Credits, Net Market Purchases, and Reporting." (*hereafter* "Commission Order") *In the Matter of an Investigation into Implementing Changes to the Renewable Energy Standard and the Newly Created Carbon-Free Standard under*

The Commission's September 16th Order, Directive #3 states:

> "3. To calculate the percentage of annual net market purchases that are carbon-free under Minn. Stat. § 216B.1691, subd. 2d(b)(2)(ii), each electric utility must use the average annual fuel mix associated with Local Resource Zones ["LRZs"] 1–7 of the Midcontinent Independent System Operator, Inc., or the applicable regional fuel mix, after removing from the calculation the carbon-free electricity generated directly by the utility or procured by the utility through power purchase agreements in that year. The utility need not retire credits for this purpose."[2]

CSG now respectfully petitions these Directives #1 and #3 in that September 16th, 2025, Commission Order, with a request for reconsideration of those particular directives. This petition concludes with two requested line-level remedies to these directives.

B. *Summary of CSG's argument.*

CSG respectfully asserts that Directive #1 and Directive #3 are unreasonable and unlawful. This assertion is premised on the fact that these directives would lead to CFS-obligated utilities double counting or double claiming carbon-free electricity during the compliance process.[3] "Double claiming" results in duplicative energy accounting that misrepresents the actual volume of energy generated. Inaccurate generation data misinforms the Commission's compliance process and misinforms ratepayers as a result.

Throughout its participation in this proceeding, CSG has argued that the only way to authoritatively account for carbon-free megawatt-hours (MWh)—and thus avoid double claiming those MWh—is to utilize the serialized accounting instrument known as energy attribute certificates ("EACs").[4] For EAC-based accounting to be credible, EACs must be used to account for all CFS-obligated transaction types, including net market purchases. Importantly, no party in this proceeding argued that double claiming would not occur if a harmonized accounting instrument (i.e. EACs) was not used for CFS compliance accounting.

While the focal point of the double claiming discussion in this proceeding has, to date, centered on "net market purchases," Directive #1, in the Commission's Order, represents a fundamental double claiming risk for the totality of CFS compliance claims. This is because Directive #1 is not a requisite (a "shall") but merely an option (a "may") to use EACs for CFS compliance claims.[5] Therefore, under Directive #1, it is possible that a Minnesota utility could submit gross generation data for its obligated "total retail electric sales" and then sell the corresponding EACs for that

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Minn. Stat. § 216B.1691. Docket No. E-999/CI-23- 151. September 16th, 2026. Document ID: 20251-214606-01. p. 12.

[2] *Id.* at p. 12.

[3] *See* CSG's distinction between "double counting" and "double claiming" at Carbon Solutions Group. "Comments." *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. E-999/CI-23-151. January 29th, 2025. p. 12. Document ID: 20251-214606-01.

[4] Also known as "*environmental* attribute certificates."

[5] *See* Commission Order at p. 12: "Utilities may demonstrate compliance with the Carbon-Free Standard, Minn. Stat. § 216B.1691, subd. 2g, by retiring Renewable Energy Credits, Alternative Energy Credits, or equivalent Environmental Attribute Credits registered with the Midwest Renewable Energy Tracking System."

obligated load to another Minnesota utility to be used for CFS compliance. This activity would represent 2 MWh of CFS-compliant electricity on paper for every 1 MWh ever generated in reality. As will be described, this risk of double claiming directly impacts Minnesota-sited utilities obligated under the CFS and extends to non-Minnesota-sited utilities in non-MISO RTO regions.

Directive #3 aims to mitigate the double claiming of carbon-free electricity specific to net market purchases. While Directive #3 laudably aims to mitigate such inaccurate accounting methods, Directive #3 would fail to achieve such mitigation. Rather, Directive #3 would still likely contribute to a CFS-obligated utility double claiming its own carbon-free electricity as well as the electricity of other CFS-obligated utilities. Therefore, Directive #3 is unreasonable as a regulatory solution to double claiming.

Directive #1 and Directive #3 are also fundamentally unlawful. These directives are at odds with Minn. Stat. § 216B.1691 Subd. 4. Namely, Subd. 4(a) directs that renewable energy credits (or EACs) "must be treated the same as a kilowatt-hour of eligible energy technology generated or procured by an electric utility if it is produced by an eligible energy technology." Subd. 4(c) directs: "The commission shall facilitate the trading of renewable energy credits between states." Subd. 4(a) also directs: "The program must treat all eligible energy technology equally and shall not give more or less credit to energy based on the state where the energy was generated or the technology with which the energy was generated." Thus, as per 4(c), EACs generated anywhere in the U.S. could be theoretically used for CFS compliance. Furthermore, as per 4(a), the compliance value (i.e. 1 MWh = 1 EAC) cannot fluctuate based on the geographical location of an EAC-producing facility.

Yet, the Commission's Directive #3 would lead to double-claimed carbon-free electricity for electricity generated within Minnesota and thus within MISO LRZs 1-7. Because electricity generated within MISO LRZs 1-7 can be double claimed, that electricity can be monetized twice and/or used for CFS compliance twice (e.g. once as gross generation data and once as an EAC). On the other hand, electricity generated outside of MISO LRZs 1-7 can only ever be claimed once for CFS compliance. Therefore, more or less credit is actually given to energy based on the state where the energy was generated. This outcome would render Directive #3 unlawful as per Minn. Stat. § 216B.1691 Subd. 4.

The same unlawfulness applies to Directive #1. So long as EAC-based compliance is merely an option and not a requisite for CFS accounting, the compliance value of CFS-compliant energy can fluctuate based on the geographical location of the energy-generating facility. In this case, non-Minnesota-sited energy generation would be disadvantaged when compared to Minnesota-sited generation. Because Minnesota-sited facilities could receive duplicative credit for every MWh generated (through the combined use of gross generation data, sales data, and EAC data to substantiate CFS claims), Minnesota-sited generation would have a greater compliance value than non-Minnesota-sited generation. To reiterate, this outcome would unlawfully undermine Minn. Stat. § 216B.1691 Subd. 4.

Because Directives #1 and #3 would result in double claiming in practice, Directives #1 and #3 would also highly likely result in an unlawful scenario regarding Minn. Stat. § 216B.1691 Subd. 9(a)(4). This statute calls for "ensuring that all Minnesotans share (i) the benefits of clean and

renewable energy, and (ii) the opportunity to participate fully in the clean energy economy[.]" It remains unclear how a Minnesotan could share in the benefits of clean energy and participate fully in the clean energy economy if there are conflicting claims being made on that clean energy—including conflicting claims from out-of-state utilities, as will be described.

C. *Legal standard & rationale for the Motion*.

Pursuant to Minn. Stat. § 216B.27, CSG respectfully files this petition before Minnesota Public Utilities Commission for reconsideration of the Commission's September 16th Order regarding Docket No. 23-151.

i. Minn. Stat. § 216B.27 Subd. 1.

Minn. Stat. § 216B.27 Subd. 1 notes that "any party to the proceeding and any other person, aggrieved by the decision and directly affected thereby, may apply to the commission for a rehearing in respect to any matters determined in the decision." CSG wishes to highlight that it is both a party to the proceeding and is directly affected by the Commission's September 16th Order regarding Docket No. 23-151.

While CSG's role in the proceeding is well-established, it is worth briefly explaining how CSG is also directly and materially affected by the Order. CSG is an aggregator of EACs, which include EACs produced by Minnesota-sited carbon-free facilities. CSG is also an electric vehicle (EV) charging infrastructure developer in Minnesota. Overall, CSG believes it represents around 20%-25% of Minnesota's total publicly accessible EV charging capacity.

As an EAC market participant, CSG is particularly concerned by any legislative or regulatory precedent that could inadvertently increase EAC fraud, distort accurate EAC accounting, and/or artificially disincentivize investment in carbon-free facility development such as nuclear, geothermal, solar, hydro, or other qualifying resources. In this broadest sense, CSG believes the Commission's September 16th Order will distort Minnesota-sited carbon-free electricity compliance accounting and negatively impact both the broader energy market and the CFS-specific energy market. While the focus of this petition concerns an accounting instrument (i.e. EACs), it bears mentioning that the distortion of CFS accounting can negatively impact physical facility development.

On a level specific to CSG, it is the company's belief that this Order will also negatively impact existing and future EAC contracts from Minnesota-sited facilities and potentially increase contract litigation risk for CSG. Namely, CSG believes EAC contracts originating out of Minnesota will likely be facing an increased number of contractual disputes concerning the right to make claims about received carbon-free electricity.

Furthermore, as a Minnesota-sited EV charging infrastructure developer and provider, CSG is a ratepayer to Xcel. As a ratepayer, CSG is concerned with whether it will be receiving carbon-free electricity as required by Minn. Stat. § 216B.1691 Subd. 9. CSG considers it a legal right to receive carbon-free electricity as of 2030, per Minn. Stat. § 216B.1691 Subd. 2g. As has been shown in detail throughout this proceeding, should double claiming occur, CSG and other Minnesota

ratepayers would likely be receiving something less than what is legally owed to them. As a provider of electricity as a fuel, CSG is also highly concerned knowing that utility filings will be misrepresenting the resource mix of its dispensed fuel, so long as the double claiming of carbon-free electricity persists.

For these reasons, CSG believes it has legitimate grounds to file this motion, as per Minn. Stat. § 216B.27 Subd. 1.

ii. Minn. Stat. § 216B.27 Subd. 2.

Minn. Stat. § 216B.27 Subd. 2 states: "The application for a rehearing shall set forth specifically the grounds on which the applicant contends the decision is unlawful or unreasonable."

CSG objects to a number of the adopted decision options that will likely undermine the credibility of the CFS, and for those reasons CSG finds the Order unreasonable on a number of accounts. However, CSG has chosen to focus this petition on issues that are both unreasonable *and* unlawful. Namely, CSG argues Directives #1 and #3 in the Commission's September 16th Order are both unreasonable, in terms of the proposed method of accounting for carbon-free electricity intended for Minnesota ratepayers, and unlawful, in that Directives #1 and #3 would undermine Minn. Stat. § 216B.1691 Subd. 4, which concerns the equal treatment of energy, as well as Minn. Stat. § 216B.1691 Subd. 9, which concerns local benefits. For these reasons, CSG believes it has legitimate grounds to file this motion, as per Minn. Stat. § 216B.27 Subd. 2.

D. *Relevant texts for this Petition.*

Several relevant texts to this petition are herein identified.

Commissioner Partridge's New and Revised Decision Option *Partridge NEW 7A*:

> "To calculate the percentage of annual net market purchases that are carbon-free under Minn. Stat. §216B.1691, subd. 2d(b)(2)(ii), each electric utility shall use the average annual fuel mix associated with the MISO North, Zones 1-7, or the applicable regional fuel mix, after removing from the calculation the carbon-free electricity generated directly by the utility or procured by the utility through power purchase agreements in that year. The utility shall use this calculation to show partial compliance with the CFS and is not required to retire RECs/AECs for this purpose."[6]

The Commission's September 16th Order, Directive #1:

> "1. Utilities may demonstrate compliance with the Carbon-Free Standard, Minn. Stat. § 216B.1691, subd. 2g, by retiring Renewable Energy Credits, Alternative Energy Credits, or equivalent Environmental Attribute Credits registered with the Midwest Renewable Energy Tracking System."[7]

[6] Minnesota Public Utilities Commission. "NEW and REVISED DECISION OPTIONS Proposed by Commissioner Partridge." *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. E-999/CI-23-151. July 11th, 2025. p. 1. Document ID: 20257-220873-01.
[7] Commission Order at p. 12.

The Commission's September 16th Order, Directive #3:

> "3. To calculate the percentage of annual net market purchases that are carbon-free under Minn. Stat. § 216B.1691, subd. 2d(b)(2)(ii), each electric utility must use the average annual fuel mix associated with Local Resource Zones 1–7 of the Midcontinent Independent System Operator, Inc., or the applicable regional fuel mix, after removing from the calculation the carbon-free electricity generated directly by the utility or procured by the utility through power purchase agreements in that year. The utility need not retire credits for this purpose."[8]

Minn. Stat. § 216B.1691 Subd. 4 (emphasis added by CSG):

> "*Renewable energy credits*. (a) To facilitate compliance with this section, the commission, by rule or order, shall establish by January 1, 2008, a program for tradable renewable energy credits for electricity generated by eligible energy technology. The credits must represent energy produced by an eligible energy technology, as defined in subdivision 1. **Each kilowatt-hour of renewable energy credits must be treated the same as a kilowatt-hour of eligible energy technology generated or procured by an electric utility if it is produced by an eligible energy technology**. The program must permit a credit to be used only once, except that a credit may be used to satisfy both the carbon-free energy standard obligation under subdivision 2g and either the renewable energy standard obligation under subdivision 2a or the solar energy standard obligation under subdivision 2f, if the credit meets the requirements of each subdivision. **The program must treat all eligible energy technology equally and shall not give more or less credit to energy based on the state where the energy was generated or the technology with which the energy was generated**. The commission must determine the period in which the credits may be used for purposes of the program.
>
> (b) In lieu of generating or procuring energy directly to satisfy a standard obligation under subdivision 2a, 2f, or 2g, an electric utility may utilize renewable energy credits allowed under the program to satisfy the standard.
>
> (c) **The commission shall facilitate the trading of renewable energy credits between states.**

Minn. Stat. § 216B.1691 Subd. 9 (emphasis added by CSG):

> Subd. 9. *Local benefits*. (a) The commission shall take all reasonable actions within the commission's statutory authority to ensure this section is implemented in a manner that maximizes net benefits to all Minnesota citizens. Reasonable actions the commission must take and benefits that must be maximized include but are not limited to:
>
> (1**)** the creation of high-quality jobs in Minnesota paying wages that support families;
>
> (2) recognition of the rights of workers to organize and unionize;
>
> (3) ensuring that workers have the necessary tools, opportunities, and economic assistance to adapt successfully during the energy transition, particularly in environmental justice areas;
>
> (4) **ensuring that all Minnesotans share (i) the benefits of clean and renewable energy, and (ii) the opportunity to participate fully in the clean energy economy**;

[8] *Id.*

II. THE ARGUMENT

A. *Double claiming remains a risk to Minnesota's Carbon-Free Standard so long as the Commission's Directive #1 remains optional.*

CSG, along with a number of other participants[9] in this proceeding, previously highlighted how accounting methods that do not use EACs would lead to double counting or double claiming carbon-free MWh—which, practically speaking, would result in an obligated utility overstating the volume of its generated and/or procured electricity during the compliance process. In this regard, CSG's underlying assertion is that duplicative energy accounting on paper would represent mathematical impossibilities in the physical world.

Importantly, no party in this proceeding, including the Commissioners themselves, offered a rebuttal or counterargument that would suggest double claiming would not occur if EACs were not exclusively used for accounting purposes.

i. A brief background on EACs and Subd. 4.

As previously stated, Minn. Stat. § 216B.1691 Subd. 4 allows utilities to meet compliance obligations through the procurement *and* retirement of EACs. Renewable energy credits ("RECs") are the best known, and most widely used, type of EAC. The Commission noted in its September 16th Order:

> "Specifically, subd. 4(b) states that "an electric utility may utilize renewable energy credits allowed [under the various standards within the Renewable Energy Objectives] to satisfy the standard," even if the utility never owned the energy associated with the credits. This system of tradeable credits increases the incentive for developers to build efficient carbon-free generators, while also providing utilities with the flexibility to pursue the most competitive method of fulling their statutory obligations."[10]

An EAC is a serialized accounting instrument that encompasses the generation data (or "attributes") of one generated megawatt-hour (MWh). 1 EAC = 1 MWh and thus it is highly

[9] Carbon Solutions Group ("CSG"). "Comments." *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. E-999/CI-23-151. January 29th, 2025. Document ID: 20251-214606-01; CSG. "Reply Comments." Docket No. E-999/CI-23-151. March 19th, 2025. Document ID: 20253-216369-01; CSG. "Preferred Decision Options." Docket No. E-999/CI-23-151. July 14th, 2025. Document ID: 20257-220938-01; Center for Resource Solutions ("CRS"). "Comments." *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. E-999/CI-23-151. January 29th, 2025. Document ID: 20251-214651-01; CRS. "Reply Comments." Docket No. E-999/CI-23-151. March 20th, 2025. Document ID: 20253-216581-01; CRS. "Positions on Decision Options." Docket No. E-999/CI-23-151. July 15th, 2025. Document ID: 20257-220954-01; Minnesota Department of Commerce. "Reply Comments." *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. E-999/CI-23-151. March 19th, 2025. Document ID: 20253-216562-01; Minnesota Department of Commerce. "Supplemental Comments." Docket No. E-999/CI-23-151. May 23rd, 2025. Document ID: 20255-219236-01; Minnesota Department of Commerce. "Preferred Decision Options." Docket No. E-999/CI-23-151. July 14th, 2025. Document ID: 20257-220939-01.

[10] Commission Order at p. 4.

unlikely that 2 EACs would ever be minted for 1 MWh.[11] In this way, EACs, being uniquely serialized for each MWh, are the most effective means of accurately accounting for energy generation. The Commission explained accurately in its Order:

> "Like Renewable Energy Credits, alternative [energy] credits track information about the electricity being generated, including the facility, facility location, and date of generation. These unique serialized accounting mechanisms allow the credit holder to legally claim the environmental attributes associated with the underlying energy—such as the claim that the energy is carbon-free—and prevent others from claiming the same attributes for the same kWh."[12]

The integrity of EAC-based accounting extends to the fact that an EAC-backed claim is not formalized until the EAC is "retired" on a public, digital EAC tracking registry. When a buyer procures an EAC, that buyer procures the contractual right to make a claim about that MWh. Importantly, that claim is only formalized upon "retirement" of the EAC on such a public registry. For the purposes of Minnesota's CFS, M-RETS (a.k.a. CleanCounts) is that registry.

Contractually secured EAC claims generally involve buyers laying claim to certain resource-specific MWh within a supply pool or market footprint. For example, if 100 MWh of solar energy was generated in MISO North in 2025 and a utility retired 20 MISO North-sited solar EACs, then the utility has contractually secured the right to lay claim to 20% of the total solar energy generated in MISO North in 2025. EAC-based claims could be a voluntary claim, such as those made by private technology corporations. Or, more pertinently, these claims could be legally required of utilities, such as are common in state-level energy compliance programs, such as the CFS or Renewable Portfolio Standard ("RPS") programs.

While "voluntary" and "compliance" markets are generally separate on the buyer side, both types of buyers are procuring from the same supply pool. That supply pool is the aggregate electricity generation within a given market footprint. Indeed, the same instrument type, EACs, being minted at the point of generation, are procured by both voluntary and compliance buyers from the same generation facilities. In other words, because 1 EAC = 1 MWh, only one buyer (whether that be voluntary or compliance-based) will ever procure *and* retire that EAC.

ii. Double claiming and double counting in practice.

Double counting and double claiming undermine the symmetrical 1:1 relationship of an EAC to a MWh. To reiterate, double claiming, on paper, appears to account for 2 MWh of electricity when only 1 MWh was ever generated.

Double claiming principally occurs when two different datasets are used to make a claim about the same MWh of electricity. This would most likely happen in the event in which one party made an ownership claim about a MWh through gross generation data and another party made a claim about that same MWh through the retirement of the MWh's corresponding EAC. Double claiming

[11] Prior to the advent of public, digital EAC tracking registries—that are effectively a publicly auditable ledger—some white-collar criminals did in fact mint multiple EACs for 1 MWh of generation, as such fraud allowed for the repeated re-monetization of a single MWh of generation.
[12] Commission Order at p. 5.

can occur i) within one compliance market (e.g. the CFS), ii) across two compliance markets (e.g. the CFS and another RPS), or iii) across a voluntary market and a compliance market.

iii. Regarding "the credit market."

During the July 17th Agenda Meeting, Mr. Kevin Pranis ("Mr. Pranis"), a representative of the Minnesota and North Dakota branch of the Laborer's International Union of North America ("LiUNA"), deemphasized double claiming concerns saying:

> "I also think with respect to folks who are in the credit market business, that's not our business. It's not the Commission's job to disambiguate conflicting commodity claims. The job is to have reliable, increasingly clean and affordable power delivered to Minnesotans. And so if the credits help with that, great. But that's not really our job."[13]

Mr. Pranis confuses several key items in his statement, including seemingly conflating the mission of organized labor with that of the Commission's. However, Mr. Pranis' fundamental confusion on the EAC issue is the most important to highlight in the context of this petition. Mr. Pranis' confusion was echoed by Commissioner Partridge and later by Commissioner John A. Tuma ("Commissioner Tuma"), among others.[14] Commissioner Partridge echoed Mr. Pranis' comments in her opening remarks:

> "I want to specifically talk to the parties who have concerns about double counting. I know that there are parties who are participating in this docket who have great interest and stakes in the voluntary REC market and ensuring that there is integrity in that market. As you hopefully have learned today, we are a regulated state and, as one of the parties noted rightfully, it is not our charge to protect voluntary REC markets or ensure that large data centers are able to trade credits for their own emissions goals and climate goals."[15]

Commissioner Partridge, Commissioner Tuma, and Mr. Pranis all seem to misunderstand that the legally instituted CFS Program is the very "credit market" in question. Indeed, no party in this proceeding asked for the Commission to regulate the voluntary market, for it could not do so with any legal authority. Rather, multiple parties (e.g. the Minnesota Department of Commerce, the Center for Resource Solutions, and CSG) have drawn attention to the fact that—if the Commission fails to understand how EAC markets work—the credibility of CFS compliance, as required by law, will be undermined.

It is essential that the Commission grasp the implications of EAC usage, as EACs will undoubtedly be used for CFS compliance in some volume. To that point, nearly every party in this proceeding (including the aligned utilities) advocated for the ability to use EACs to achieve some portion of compliance. Therefore, the so-called "credit market" will be, in fact, none other than a crucial compliance mechanism for meeting the legal requirements of the CFS. If the Commission-approved CFS accounting methodology (i.e. "the credit market") is known to result in accounting distortions, there will be no credible way to analyze how well LiUNA, or the Commission, is

[13] Minnesota Public Utilities Commission. "MUN PUC Agenda Meeting 07-17-2025." YouTube, 00:25:46. July 17th, 2025. <https://www.youtube.com/watch?v=pHQzS103YLI>

[14] For Commissioner Tuma, *see Id.* at 01:06:40.

[15] *Id.* at 00:56:46.

supporting "reliable, increasingly clean, and affordable power delivered to Minnesotans"—the very "job" of LiUNA and/or the Commission, according to Mr. Pranis.[16]

Furthermore, CSG, with the utmost respect, questions Commissioner Partridge's and Mr. Pranis' claims regarding the "job" or "charge" of the Commission. For, if it is not a regulatory agency's job to disambiguate conflicting commodity claims that are being used for legal compliance—that is, to ensure *credible* compliance with the law—then an open question remains regarding the very role of the Commission in the CFS compliance process.

Commissioner Partridge and Mr. Pranis are correct that various parties did provide examples of double counting between CFS-obligated utilities and voluntary actors (e.g. data centers) during the comment periods and Agenda Meeting. However, CSG wishes to reiterate (as it did in its comments multiple times) that the voluntary market overlap represents only one type of double claiming risk to the CFS.[17] It is critical to note: under the September 16th Order's proposed accounting framework double counting and/or double claiming will almost certainly occur amongst the CFS-obligated utilities themselves. Furthermore, such a Commission-proposed framework also poses double claiming risks between two different sets of compliance-impacted markets.

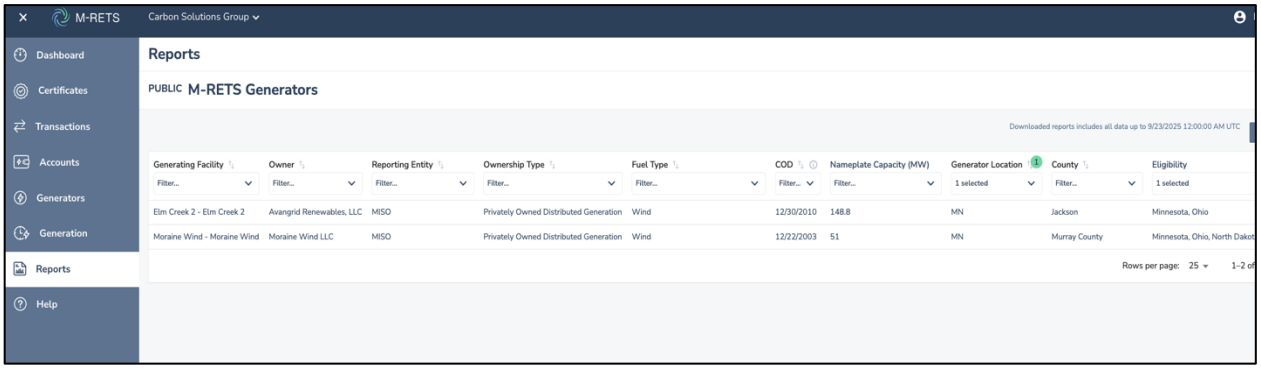
For example, it is important to emphasize that the physical span of double claiming is not limited to the same market footprint or ISO/RTO grid region. Per Minn. Stat. § 216B.1691 Subd. 4, Minnesota's obligated utilities are able to technically procure EACs from any other state to meet CFS compliance. And while M-RETS is the chosen EAC registry for CFS compliance, M-RETS allows for EACs to be registered from facilities well outside of MISO, and even outside of the U.S. More so, M-RETS allows for the import and export of EACs from other registries. M-RETS advertises: "Through our modern API, CleanCounts [a.k.a. M-RETS] allows imports and exports between all REC tracking systems in North America, including the import/export of imported/exported RECs."[18] This includes EAC exchange agreements between M-RETS and PJM-GATS, NAR, ERCOT, NC-RETS, and WREGIS to an extent, among others. In total, M-RETS registrations can represent generation from throughout the U.S.

On the other hand, Xcel exports electricity to PJM and mints EACs that qualify for Maryland's legally instituted RPS Program in PJM. Ohio's utilities, located in PJM, can achieve compliance with Ohio's RPS Program through the procurement and retirement of MISO-sited (e.g. Minnesota-sited) EACs.[19]

Therefore, unless Minnesota CFS compliance requires EAC retirement for the totality of annual "total retail electric sales," a Minnesota utility in MISO could use gross generation or sales data to make a Minnesota CFS compliance claim for a MWh on behalf of MISO-sited customers while an Ohio utility simultaneously makes a claim about that same MWh on behalf of PJM-sited

[16] *Id.* at 00:25:46.
[17] For example, *see* Carbon Solutions Group. "Comments." *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. E-999/CI-23-151. January 29th, 2025. p. 2. Document ID: 20251-214606-01.
[18] CleanCounts. "Import/Export with CleanCounts." Accessed October 4th, 2025.
<https://www.mrets.org/resources/rec-imports-exports>
[19] Ohio Administrative Code Rule 4901:1-40-04 (C)(3)(b).

customers. This simultaneous bilocation of a single MWh across two grid regions is seemingly a physical impossibility. In short, if a PJM-sited Ohio utility is legitimately claiming Minnesota-generated carbon-free electricity on behalf of its customers it is unclear how—in the words of Mr. Pranis—that generation is supporting "reliable, increasingly clean, and affordable power delivered to Minnesotans."



A screenshot of EAC tracking registry M-RETS, showing two Minnesota-sited facilities in MISO that generated Ohio/PJM qualifying EACs. Screenshot taken by CSG on September 24th, 2025.

CSG had previously detailed this Ohio double claiming risk in its January 29th, 2025, comments.[20] It should also be noted that this very issue is presently being considered by the Ohio Supreme Court in *Carbon Solutions Group v. Public Utilities Commission of Ohio*.[21] The case concerns the two facilities depicted above (Elm Creek 2 and Moraine Wind), among others.

iv. Directive #1 would lead to unreasonable results for the CFS Program.

To be clear, the Commission itself does in fact laudably acknowledge double claiming as a real risk in net market purchases, even if its proposed solution to that risk is entirely insufficient.[22] Yet, the Commission's September 16th Order opens up a fundamental risk to the totality of CFS compliance claims—a risk that reaches far beyond the net market purchase portion of obligated load. Specifically, Directive #1 in the September 16th Order states (emphasis added by CSG):

[20] *See* Carbon Solutions Group. "Comments." *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. E-999/CI-23-151. January 29th, 2025. Document ID: 20251-214606-01. at p. 25: "However, unless Minnesota's CFS Program and Ohio's RPS *both* recognize RECs as the [exclusive] harmonized instrument used to account for those MISO-generated emissions claims, there would be no way to accurately account for this transfer of emissions claims from Minnesota (MISO) to Ohio (PJM). If the same MWh was claimed by both a Minnesota utility using electricity sales data, and an Ohio utility using RECs, one or both sets of ratepayers would be deceived by duplicative emissions accounting."

[21] *Carbon Solutions Group, LLC v. Public Utilities Commission of Ohio*. The Supreme Court of Ohio. Appeal from the Public Utilities Commission of Ohio. Case No. 2024-0098. Filed on January 17th, 2024.

[22] *See* Commission Order at p. 8: "After due consideration, the Commission has identified a mechanism to mitigate the problem of double-counting more directly."

> "Utilities *may* demonstrate compliance with the Carbon-Free Standard, Minn. Stat. § 216B.1691, subd. 2g, by retiring Renewable Energy Credits, Alternative Energy Credits, or equivalent Environmental Attribute Credits registered with the Midwest Renewable Energy Tracking System."[23]

Notwithstanding the perceived statutory dissonance between EAC usage and Minn. Stat. § 216B.1691, Subd. 2d(b)(ii)[24]—Directive #1's invocation of the term "may" and not "shall" in the September 16th Order effectively makes EAC usage optional for all CFS compliance claims, including for MWh wherein the obligated utility would or could own corresponding EACs.

Commissioner Joseph K. Sullivan ("Commissioner Sullivan") argued in the July 17th Agenda Meeting that the net market purchase portion of CFS-obligated load is exceedingly small.[25] Because that load is so small, according to Commissioner Sullivan, accurately accounting for that electricity with EACs is unnecessary. CSG disagrees with Commissioner Sullivan's position, as will be examined further. However, while Commissioner Sullivan's argument on "net market purchases" is indeed relevant to Directive #3, the Commissioner's argument is irrelevant to Directive #1.

Rather than limiting the double claiming risk to the net market purchase portion of an obligated utility's "total retail electric sales," Directive #1's optional usage of EACs renders every type of CFS-obligated transaction open to double counting and double claiming risks. As has been detailed in CSG's previous comments, at-risk transactions include i) generated electricity, ii) unspecified market purchases, iii) specified market purchases, and iv) bilateral contracts.[26]

To restate, this means that the double claiming risks inherent in Directive #1 are applicable to the entirety of a CFS-obligated utility's "total retail electric sales." The only way to mitigate this risk is through a requirement for utilities to exclusively use EACs as a CFS accounting instrument. CSG argued in its March 19th, 2025, comments:

> "Thus, in order to avoid the market distortions, liabilities, and potential infringements on Minnesota statute associated with double counting and double claiming, CSG contends that obligated utilities should retire RECs (or equivalent EACs) for the entirety of the utility's obligated load and across all carbon-free transaction methods. That is, the retirement of RECs (or equivalent EACs) should be required to substantiate carbon-free energy generated or procured; partially complying generation or procurement; unspecified market procurement, as well as any compliance shortfall in those categories. To restate, in such an approach, every MWh claim of compliance is accounted for

[23] *Id.* at p. 12.
[24] For example, the Commission argued on p. 8 of the Commission Order: "Interpreting this statutory language to also require a utility to retire credits would render it meaningless: utilities already had the power to demonstrate compliance by retiring credits, whether or not the utility's energy came from net market purchases. The only way to give meaning to the new statutory language is to read it as establishing an additional mechanism for demonstrating compliance with the Renewable Energy Objectives, including the Carbon-Free Standard. Accordingly, the Commission will decline to require a utility to retire credits when claiming to have acquired carbon-free energy from the wholesale market."
[25] Minnesota Public Utilities Commission. "MUN PUC Agenda Meeting 07-17-2025." YouTube, 01:01:42. July 17th, 2025. <https://www.youtube.com/watch?v=pHQzS103YLI>
[26] *See* Carbon Solutions Group. "Comments." *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. E-999/CI-23-151. January 29th, 2025. p. 7. Document ID: 20251-214606-01.

through unique REC (or equivalent EAC) retirements. There is no other method by which double counting and double claiming can be avoided with certainty."[27]

Without a hard requirement for EAC retirements, utilities can feasibly submit gross generation or sales data for compliance purposes while simultaneously selling EACs to each other or to non-Minnesota-sited third-parties, such as Ohio utilities in PJM. To reiterate, either Minnesota or Ohio can claim that Minnesota-generated MWh, but both cannot do so with finality. When conflicting accounting methodologies are used to substantiate carbon-free electricity, the math simply does not work.

For these reasons, CSG argues that Directive #1, or any such directive that would allow for the introduction of wide-ranging double claiming risks into the CFS—and thus lead to mathematical impossibilities—is a fundamentally unreasonable accounting methodology.

B. *Double claiming risks are most acute in net market purchases, and Directive #3 fails to mitigate those risks.*

It was widely acknowledged that net market purchases present the most challenging problem set for credible electricity accounting. To that point, no party in this proceeding—including the Commissioners themselves on July 17th—expressed any doubt that inaccurate, duplicative electricity accounting would be manifest under a scenario in which a gross annual fuel mix was used to calculate the carbon-free portion of net market purchases. Regarding the actual commenters in the proceeding, it was further shown in the record that double claiming would occur if EACs were not used to account for net market purchases. This was summarized well by Commission Staff: "The record clearly displays how using an energy-based market fuel mix calculation to substantiate carbon-free claims would result in double claiming of environmental attributes. This was undisputed."[28]

In previous comment rounds, CSG and other participants argued that—without matching EACs to net market purchases or utilizing a residual mix calculation (which also requires accurate EAC accounting)—there would be no way to avoid double claiming carbon-free electricity during the calculation of net market purchases. Similar to the risks outlined in the previous section, the double claiming of net market purchases could occur across a number of levels: i) an obligated utility double claiming another obligated utility's MWh; ii) an obligated utility double claiming an unobligated utility's MWh; iii) an obligated utility double claiming a voluntary corporate's MWh; or iv) an unobligated utility double claiming its own MWh. In practice, this again would mean that a certain portion of a utility's claimed carbon-free electricity would be duplicative of claims it has already made about itself and/or duplicative of claims made by other utilities or corporations.

The Commission's acknowledgement of double claiming risks for net market purchases first resulted in a proposal by Commissioner Partridge in early July 2025. Commissioner Partridge

[27] Carbon Solutions Group. "Reply Comments." 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. E-999/CI-23-151. March 19th, 2025. p. 6. Document ID: 20253-216369-01.

[28] Minnesota Public Utilities Commission. "Staff Briefing Papers." 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. E-999/CI-23-151. July 7th, 2025. p. 28. Document ID: 20257-220685-01.

introduced a Decision Option titled "Partridge NEW 7A."[29] This proposal was then formalized as Directive #3 in the Commission's September 16th Order as "a mechanism to mitigate the problem of double-counting more directly."[30] Directive #3 states:

> "3. To calculate the percentage of annual net market purchases that are carbon-free under Minn. Stat. § 216B.1691, subd. 2d(b)(2)(ii), each electric utility must use the average annual fuel mix associated with Local Resource Zones 1–7 of the Midcontinent Independent System Operator, Inc., or the applicable regional fuel mix, after removing from the calculation the carbon-free electricity generated directly by the utility or procured by the utility through power purchase agreements in that year. The utility need not retire credits for this purpose."[31]

The Commission described this directive in the September 16th filing:

> "Specifically, the Commission will direct each utility, when calculating the percentage of net market purchases that are carbon-free under Minn. Stat. § 216B.1691, subd. 2d(b)(2)(ii), to start with the average fuel mix for the relevant wholesale market, and then back out the amount of carbon-free electricity that the utility generated or procured through power purchase agreements. This formula recognizes that no utility can be expected to know how much double-counting may result when it claims to have acquired carbon-free energy from the wholesale market. But every utility knows how much carbon-free energy it sold into the market and whether it obtained credits for that energy; on this basis, the utility can calculate an adjustment to the fuel mix to avoid double-counting the carbon-free energy that it sold into the market and bought back.
>
> "To refine this further, the Commission will clarify that the calculation must reflect the fuel mix for MISO Local Resource Zones 1–7 or some other applicable regional fuel mix. MISO's other zones—serving parts of Arkansas, Louisiana, Mississippi, and Texas—are simply too remote to have any practical bearing on the relevant fuel mix for Minnesota's utilities. Finally, the Commission will clarify that this calculation must reflect annual data, as specified by statute."[32]

Commissioner Partridge also explained her rationale for this approach during the July 17th, 2025, Agenda Meeting:

> "The idea in 7A is simply put—just take your own carbon-free out so you're not double counting your own carbon-free in the same filing. That's really the only intent. […] It's just to say when you come in here, please don't ask us to double certify your own carbon-free."[33]

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[29] *See* Minnesota Public Utilities Commission. "NEW DECISION OPTIONS Proposed by Commissioner Partridge." *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. E-999/CI-23-151. Docket ID: 20257-220874-01.: "To calculate the percentage of annual net market purchases that are carbon-free under Minn. Stat. §216B.1691, subd. 2d(b)(2)(ii), each electric utility shall use the average annual fuel mix associated with the MISO North, Zones 1-7, or the applicable regional fuel mix, after removing from the calculation the carbon-free electricity generated directly by the utility or procured by the utility through power purchase agreements in that year."

[30] Commission Order at p. 8.

[31] *Id.* at p. 12.

[32] *Id*. at pp. 8-9.

[33] Minnesota Public Utilities Commission. "MUN PUC Agenda Meeting 07-17-2025." YouTube, 01:35:17. July 17th, 2025. <https://www.youtube.com/watch?v=pHQzS103YLI>

CSG appreciates the Commission's concern and intention with Directive #3 of its September 16th Order. However, Directive #3 ultimately acknowledges the risk of double claiming but fails to institute an effective framework that would mitigate that risk.

Directive #3—that a utility removes its own generation and PPAs from its fuel mix calculation—is indeed a step towards mitigating the duplicative accounting of carbon-free electricity inherent in gross fuel mix accounting without the use of EACs. Problematically, however, this directive is a half-measure that will, in practice, only further confuse CFS compliance accounting.

For example, as noted in the Commission Order itself, Commissioner Partridge's proposal *could* result in a utility avoiding the double claiming of its own generation in the CFS, but her approach would not solve against the risk of that utility double-claiming the generation of all other generators in the seven-state fuel mix region (i.e. MISO North LRZ 1-7).[34] Even if the fuel mix was limited to only Minnesota, Directive #3's approach could still result in one utility—removing its own generation—but then double claiming the generation of every other obligated utility in the CFS Program.

Because Directive #3 does not require a utility to retire EACs for the purposes of removing its own generation or PPAs in this process,[35] that so-called "removed generation" could also still result in double-claimed carbon-free electricity should those EACs be subsequently sold off to another entity. For example, if obligated Utility A "removes its own generation" but sells its EACs associated with that generation to Utility B, then the CFS still ends up with inaccurate accounting that does not reflect reality. Such an approach amounts to a bookkeeping trick that will not support a credible program.

Finally, because Directive #3 lacks a requirement to retire EACs as part of the load removal process, the utility can still double claim its own load—the very practice Commissioner Partridge sought to avoid with this directive (e.g. "It's just to say when you come in here, please don't ask us to double certify your own carbon-free."[36]) For example, if a utility could "remove its own load"—as substantiated through gross generation data—but then use the EACs associated with that removed load to cover even more of its own obligated load, that utility is still double claiming its own load. The outcome of this scenario is the double certification of carbon-free electricity.

As such, Directive #3, in practice, will remain merely a symbolic gesture towards accounting integrity rather than a framework that eliminates duplicative accounting. Because this measure seeks to mitigate double claiming but, in practice would allow for double claiming, CSG contends that Directive #3 in the Commission's September 16th Order is unreasonable in its proposal.

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[34] MISO LRZs 1-7 include Minnesota, Wisconsin, Iowa, Illinois, Missouri, Indiana, and Michigan. *See* MISO. "2023 Regional Resource Assessment." November 2023. p. 35. <https://cdn.misoenergy.org/2023%20Regional%20Resource%20Assessment%20Report630736.pdf>

[35] *See* Commission Order at p. 12: "The utility need not retire credits for this purpose."

[36] Minnesota Public Utilities Commission. "MUN PUC Agenda Meeting 07-17-2025." YouTube, 01:35:17. July 17th, 2025. <https://www.youtube.com/watch?v=pHQzS103YLI>

C. The Commission's rationale for Directive #3 does not dispute the double claiming risks inherent in net market purchases that are not accounted for with EACs.

The Commission's July 17th Agenda Meeting offered justification of the directives that would become the September 16th Commission Order. At this meeting, the nature of Directive #3 was discussed at some length, though no non-utility market participants were allowed to further testify to this issue once opening remarks were made.

Commissioner Patridge made a statement on her proposed decision options, indicating that she based her options in her reading of the law and stressed the need for "flexibility." Importantly, Commissioner Partridge referred to CFS implementation as an "iterative process" that would evolve over time:

> "Today, we are taking the first step in that [iterative] process. And in my opinion, that first step needs to be flexible and account for the fact that there is a lot of things that we don't know. […] And so, I understand—and spent a lot of time with this very extensive record—that many of you have concerns about allowing for flexibility or recognizing that we need to take multiple steps forward, not one giant leap forward."[37]

Commissioner Partridge seemed to imply that proposals for EAC-based accounting would be too burdensome for utilities at this point in time. On the other hand, as previously noted, during the same July 17th Agenda Meeting, Commissioner Sullivan rationalized the incorporation of Partridge NEW 7A, by claiming that net market purchases comprised only a small portion of "total retail electric sales."

To that point, Commissioner Sullivan claimed that Minnesota consumes around 70 million MWh per year, and Minnesota's utilities generate "somewhere in the neighborhood of 68 to 72 million [MWh][.]"[38] While no utility-specific breakdown of those gross numbers was given (as it must be assumed that Xcel makes up a large portion of the sales), Commissioner Sullivan then argued: "When we talk about net market purchases we're talking about a sliver of the overall system."[39] The Commissioner also called upon Great River Energy's ("GRE") Zachary Ruzycki ("Mr. Ruzycki") to confirm this claim. Mr. Ruzycki agreed with Commissioner Sullivan but provided no hard data to support the claim.[40] At another point, Commissioner Sullivan said:

> "We're talking about a fairly small slice of the overall pie that this [net market purchases] potentially would impact. One of the things that I find frustrating are these kind of maximalist arguments that, you know, that the fate of the world hangs on this, when we're actually not talking about the vast, vast majority of the market [which] is going to be covered by your [re: the utilities] purchases which is covered by our resource plans. And we are talking about a thin slice—what you guys basically use to kind of cover things over."[41]

[37] *Id.* at 00:53:10.
[38] *Id.* at 01:01:42.
[39] *Id.* at 01:01:50.
[40] *Id.* at 01:03:10.
[41] *Id.* at 01:04:14.

Dr. Sydnie Lieb ("Dr. Lieb") of the Department of Commerce rebutted Commissioner Sullivan, noting that—if net market purchases are so small—then it should be unburdensome to account for that "small slice of the overall pie" with EACs to ensure an entirely credible program. Dr. Lieb added:

> "We do think that, precedentially, not requiring a REC and allowing for double counting is a very large concern, regardless of how small of a sliver this is. So, if we were to look at this from a pure policy perspective, there's very negative policy implications to allowing the double counting and not requiring a REC for market purchased energy, whether that's RNG or electricity or any of these other things we might envision in the future. And on the opposite side of policy, I don't see what this concern about the need for flexibility or cost concerns are. There's also plenty of cost offramps in this bill, if there were to truly be an actual meaningful cost concern. […] The bill is written without a clear compliance instrument. So it would have been reasonable to assume that a compliance instrument would have been RECs, and I think that that's the direction we are moving towards[.] […] And if the legislature had intended to exempt market purchases from the compliance requirement, they could have done that clearly in plain language."[42]

Dr. Lieb underscores a paradox that emerged from Commissioner Sullivan and Commissioner Partridge's remarks regarding Directive #3. If net market purchases are so miniscule in volume—as Commissioner Sullivan claimed—why did Commissioner Partridge feel the need to emphasize the importance of flexibility in compliance? If net market purchases are so minor, then the affordability vs. accurate accounting question seems moot. If net market purchases are actually substantial in reality, then Commissioner Sullivan's suggestion that net market purchases are not significant enough to justify accurate accounting no longer holds. And, as noted, Commissioner Sullivan's position on Directive #3 is subverted by the program-wide implications of Directive #1, the latter of which would in fact leave the "vast majority of the market" compromised.

However, the most important takeaway from the tension between Commissioner Sullivan's and Commissioner Partridge's position is that neither Commissioner Sullivan nor Commissioner Partridge, nor any other Commissioner, expressed doubt that double counting or double claiming would likely occur in some volume without the usage of a serialized accounting instrument (i.e. EACs).

D. *Directives #1 and #3 are unlawful as per Minn. Stat. § 216B.1691 Subd. 4.*

In defense of Directive #3 in its September 16th Order, the Commission argued:

> "As previously noted, Minn. Stat. § 216B.1691, subd. 4, provides for utilities to demonstrate compliance with the Renewable Energy Objectives by acquiring and retiring credits, and the Commission has long promoted that policy. In addition, the recently adopted Minn. Stat. § 216B.1691, subd. 2d(b)(ii) expressly authorizes a utility to demonstrate compliance via net market purchases. Interpreting this statutory language to also require a utility to retire credits would render it meaningless: utilities already had the power to demonstrate compliance by retiring credits, whether or not the utility's energy came from net market purchases. The only way to give meaning to the new statutory language is to read it as establishing an additional mechanism for demonstrating compliance with the Renewable Energy Objectives, including the

[42] *Id.* at 01:05:40.

> Carbon-Free Standard. Accordingly, the Commission will decline to require a utility to retire credits when claiming to have acquired carbon-free energy from the wholesale market."[43]

CSG disagrees with this reading, as it could not have been the legislature's intention for Minn. Stat. § 216B.1691 Subd. 2d(b)(ii) to result in inaccurate energy accounting that misleads ratepayers—and, indeed, EACs simply ensure that annual net market purchases are accounted for accurately. Yet, there is ultimately some interpretive lassitude when it comes to deciding what is "reasonable" or "unreasonable." However, Directives #1 and Directive #3 are also fundamentally unlawful due to the dissonance the Order creates within Minn. Stat. § 216B.1691, Subd. 4.

i. Key elements of Subd. 4.

Minn. Stat. § 216B.1691 Subd. 4(a) states: "Each kilowatt-hour of renewable energy credits must be treated the same as a kilowatt-hour of eligible energy technology generated or procured by an electric utility if it is produced by an eligible energy technology." This means that eligible EACs are synonymous with eligible electricity.

Minn. Stat. § 216B.1691 Subd. 4(c) states: "The commission shall facilitate the trading of renewable energy credits between states." In practice, this appears to mean that any EAC sited in any U.S. state could feasibly meet CFS compliance. As noted previously—even with a Commission requirement for EACs to be exclusively registered on M-RETS—an M-RETS registration applies to generation facilities sited throughout the U.S.

Lastly, Minn. Stat. § 216B.1691 Subd. 4(a) states: "The program must treat all eligible energy technology equally and shall not give more or less credit to energy based on the state where the energy was generated or the technology with which the energy was generated." This means, for example, that an EAC produced by a facility sited in Louisiana or Oklahoma or North Carolina should not receive any more or less compliance credit than an EAC produced by a facility sited in Minnesota. Furthermore, the compliance value (i.e. 1 MWh = 1 EAC) cannot fluctuate based on the geographical location of an EAC-producing facility.

ii. Directive #3 does not treat all energy equally.

Directive #3's unlawfulness lies in the fact that, in practice, Directive #3 would not treat all eligible energy technology (i.e. EACs as per Subd. 4(a)) equally and does in fact give more or less credit to energy based on the state where the energy was generated. Consider the following:

—CFS-obligated utilities are sited in Minnesota.

—Directive #3 draws a market fuel mix border around MISO LRZs 1-7.

—Minnesota-sited generation will influence the fuel mix for MISO LRZs 1-7.

—This petition (namely Part II, Section B) has described how Directive #3 would result in double claiming or double counting MWh associated with net market purchases. This

[43] Commission Order at p. 8.

double claiming would occur specifically because a Minnesota-sited utility could use gross generation data and market purchase data to meet CFS compliance while then additionally claiming or selling the EACs associated with that generation data and market data. In such instances 1 MWh of net market purchases has the overall compliance value of 2 MWh.

—The MISO LRZs 1-7 fuel mix would be impacted by the duplicative accounting resulting from Directive #3 (and #1 as will be shown). In other words, the fuel mix would not accurately represent the totality of generation claims. Rather, 1 MWh generated in Minnesota would equal something more than 1 MWh, when combined with the MISO LRZs 1-7 fuel mix. This distortion is compounded by the likelihood that non-Minnesota utilities would also likely (and unknowingly) be double claiming generation in MISO LRZs 1-7 because of Directive #3.

—On the other hand, generation external to Minnesota and MISO LRZs 1-7 would not incur CFS double claiming due to a lack of inputs into the MISO LRZs 1-7 fuel mix and the fact that those out-of-region generators would not be obligated under Minnesota law. For generation external to Minnesota or MISO LRZs 1-7, 1 MWh will just equal 1 MWh.

Because electricity generated within Minnesota (and potentially within MISO LRZs 1-7) can be double claimed, that electricity can be potentially used for CFS compliance twice (e.g. once as generation data informing the fuel mix and once as an EAC). This means that some portion of CFS-eligible electricity (and its EACs) generated within Minnesota and/or MISO LRZs 1-7 will receive double (or otherwise extra) compliance credit. Whereas, electricity generated outside of MISO LRZs 1-7 can only ever be claimed once (e.g. in the form of an EAC).

In other words, Minnesota-sited eligible generation/EACs would be able to receive double credit for compliance for a single MWh, while non-Minnesota-sited eligible generation/EACs could only ever receive the compliance value of a single MWh. Therefore, more or less credit is actually given to energy based on the state where the energy was generated. This outcome would directly contradict Minn. Stat. § 216B.1691 Subd. 4(a).

iii. Directive #1 would render the entire CFS Program unlawful.

The same unlawfulness applies to Directive #1 on a more fundamental level. So long as EAC-based compliance is merely an option and not a requisite (a "may" and not a "shall"), the compliance value of CFS-compliant energy can fluctuate based on the geographical location of the EAC-producing facility.

In this scenario, the disparity will manifest between Minnesota-sited generation/EACs and non-Minnesota-sited generation/EACs. Under Directive #1, Minnesota's obligated utilities could use gross generation data for 1 MWh to meet a CFS compliance claim and then i) use the associated EAC to meet another CFS claim or, ii) monetize that EAC through a sale to another obligated utility that will use the EAC for compliance. In both cases, a Minnesota-sited MWh has double value. Again, on the other hand, non-Minnesota-sited generation/EACs will only ever represent 1 MWh of compliance to the CFS. This is because out-of-state facilities are not obligated under CFS,

so only EACs produced by those out-of-state facilities—as retired by obligated Minnesota utilities—would qualify for CFS compliance.

To reiterate, this outcome would unlawfully undermine Minn. Stat. § 216B.1691 Subd. 4(a), as the CFS Program would not treat all eligible energy technology equally, giving more credit to Minnesota-sited electricity/EACs (as generated or procured by CFS-obligated utilities) and less credit to non-Minnesota-sited electricity/EACs (as generated by non-CFS-obligated generators).

E. *Directives #1 and #3 are unlawful as per Minn. Stat. § 216B.1691 Subd. 9(a)(4).*

Throughout its comments in this proceeding, CSG highlighted legal dissonance between double claiming in practice and Minn. Stat. § 216B.1691 Subd. 9(a)(4). That statute directs:

> "(a) The commission shall take all reasonable actions within the commission's statutory authority to ensure this section is implemented in a manner that maximizes net benefits to all Minnesota citizens. Reasonable actions the commission must take and benefits that must be maximized include but are not limited to: […] 4) ensuring that all Minnesotans share (i) the benefits of clean and renewable energy, and (ii) the opportunity to participate fully in the clean energy economy;"

To the extent that a CFS claim made by one utility is double claimed by another utility, both sets of customers (through their respective utilities) are laying claim to the same carbon-free MWh. As has been noted, this means that one set of customers are not receiving a carbon-free MWh. For example, should a Minnesota utility claim gross generation for 1 MWh but sell an EAC to an Ohio utility for Ohio RPS compliance—industry best practices and credible accounting would state that the Ohio ratepayers of that Ohio utility received the carbon-free MWh. If an Ohio utility and its ratepayers are laying claim to that carbon-free MWh, how then could Minnesotans share in the benefits of that carbon-free MWh? How could those Minnesotans be fully participating in a clean energy economy if that clean energy is exported?

Thus, because Directive #1 and #3 would result in double claiming in practice, Directive #1 and #3 would also highly likely result in unlawful practices vis-à-vis Minn. Stat. § 216B.1691 Subd. 9(a)(4).

III. REQUESTED REMEDIES

CSG appreciates the attention the Commission has given to the CFS across two separate dockets. CSG also acknowledges the challenges posed by the statutory language in Minn. Stat. § 216B.1691, which contains potentially conflicting provisions when it comes to issues like EACs, net market purchases, and partially-emitting resources.

When a statute can provide no clear, harmonized interpretation, then a commission might prudently look to the totality of the statute, the precedential implications of the rules in question, as well as the practical reality of implementation. From CSG's admittedly subjective view, Directives #1 and #3, as currently written in the September 16th Order, would sacrifice the rule for the sake of an exception.

CSG is also sensitive to filing a petition that would use up additional Commission resources. To that end, CSG respectfully offers two simple, line-level remedies to the existing September 16th Order that would go to great lengths to mitigate the double claiming risks inherent in the current Commission Order. These proposed remedies represent in no way CSG's ideal accounting framework, nor do the remedies address every issue CSG has engaged upon.

However, these remedies do offer a tangible means of risk mitigation that exist within the Commission's larger, proposed framework. These requested line-level remedies are as follows:

Directive #1:

> "1. For claims other than those involving net market purchases, ~~U~~utilities ~~may~~ shall demonstrate compliance with the Carbon-Free Standard, Minn. Stat. § 216B.1691, subd. 2g, by retiring Renewable Energy Credits, Alternative Energy Credits, or equivalent Environmental Attribute Credits registered with the Midwest Renewable Energy Tracking System."[44]

Directive #3:

> "3. To calculate the percentage of annual net market purchases that are carbon-free under Minn. Stat. § 216B.1691, subd. 2d(b)(2)(ii), each electric utility must use the average annual fuel mix associated with the State of Minnesota ~~Local Resource Zones 1-7 of the Midcontinent Independent System Operator, Inc., or the applicable regional fuel mix~~, after each obligated utility has removed ~~removing~~ from the calculation the carbon-free electricity generated directly by ~~the~~ each obligated utility or procured by ~~the~~ each obligated utility through power purchase agreements in that year. ~~The~~ Each utility ~~need not~~ must retire credits for this purpose."[45]

These remedies are offered with the greatest respect for the Commission.

IV. CODA

Commissioner Partridge expressed dismay regarding the federal passage of the One Big Beautiful Bill and its perceived negative impacts on carbon-free facility deployment in Minnesota.[46] On this topic, it is important to remember that President Trump and Congress were voted into office by the majority of Americans and, as such, the current Administration and Congress are reflective of the political will of the majority of the country as of November 2024. While that political will is a reaction to a multitude of dynamics throughout American society, that political will is partially a reaction to certain climate policies instituted over the last decade. Indeed, there has been a growing sentiment amongst many Americans that climate policy is fraudulent and hypocritical, that it is merely a form of greenwashing deployed for commercial or political gain. It is critical to acknowledge that—whether or not this sentiment actually reflects a truth—this sentiment does reflect a widely held perception.

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[44] *Id.* at p. 12.
[45] *Id.*
[46] Minnesota Public Utilities Commission. "MUN PUC Agenda Meeting 07-17-2025." YouTube, 02:16:35. July 17th, 2025. <https://www.youtube.com/watch?v=pHQzS103YLI>

CSG is a clean energy company. CSG wishes to see more carbon-free facility deployment in Minnesota and throughout the U.S. Particularly, distributed energy resources are a crucial technology format for farmers, families, and businesses to deploy in the support of affordability and grid reliability. However, carbon-free policies and regulations that merely incur unnecessary political risk for the clean energy industry are not useful incentives for long-term investment in American communities. To that end, a carbon-free policy based on inaccurate energy accounting will only serve to create more volatility for carbon-free investment over the next decade.

Indeed, H.F. 7, which created the CFS, was passed in the name of "science." For example, House Majority Leader Jamie Long stated: "The bill before us today would put us on track to achieve the net-zero greenhouse gas emissions by 2050 that the world's leading scientists are telling us are required."[47] Rep. Patty Acomb added: "When we hear scientists say what will happen if we don't pass policies like this, and if we don't cut our carbon emissions, our state bird, the loon, will not be able to survive in Minnesota[.]"[48]

A program cannot be based in science if it does not obey basic arithmetic. Thus, to restate, the Commission's proposed accounting methodology, in its September 16th Order, will only add reputational risk to the CFS, endangering long-term investment prospects in carbon-free technology. While many opinions were voiced throughout this proceeding, in regards to what the majority of the legislature's intentions might have been with H.F. 7, it is a certainty that the legislative majority did not wish for a CFS grounded in inaccurate accounting that incurs unnecessary political risk.

CSG once again thanks the Commission for its leadership on this issue and appreciates the opportunity to engage before a diligent group of experts.

Respectfully submitted,

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[47] Minnesota of House of Representatives. "House passes carbon-free energy requirement after bill generates lively debate." January 26th, 2023. <https://www.house.mn.gov/sessiondaily/Story/17575>
[48] *Id.*