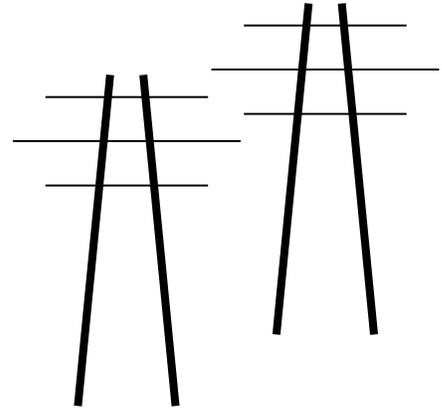


# Legalelectric, Inc.

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January 19, 2026

Sarah Bergman  
Executive Secretary  
Public Utilities Commission  
121 – 7<sup>th</sup> Place East  
St. Paul, MN 55101

via eFiling only

RE: **Rulemaking necessary stop use of “policy, guideline, bulletin, criterion, manual standard, or similar pronouncement as though it were a duly adopted rule.”**

In the Matter of Possible Rulemaking to Amend Minn. R. ch 7825  
PUC Docket E,G-999/RP-26-81

Dear Ms. Bergman:

## **PLEASE ADD MY NAME AND CONTACT INFORMATION TO THE SERVICE LIST.**

On behalf of myself as an individual and Legalelectric, I offer these comments after reviewing the Rulemaking Petition above-captioned, petitioning for initiation of a rulemaking proceeding from “Statement of Policy” at the Commission that has been languishing since 1982.

Regarding rulemaking, and the Commission’s efficacy, I’m reminded of the Power Plant Siting Act rulemaking for Minn. R. ch. 7849 and 7850, to address 2005 changes, which was only begun in 2012, with nearly TEN years of committee work of meetings and revisions, which was flatly rejected by the Commission and no subsequent rulemaking was initiated. Since that time, the Commission’s been operating without outdated rules. Those proposed rules would have addressed some of the issues raised in the Legislative Auditor’s report<sup>1</sup> recommending the Commission beef-up its public participation and processes. Meanwhile, the Commission has approved need for and routed the CapX 2020, MISO MVP, and MISO Tranche 1 projects and is now looking at the MISO Tranche 2.1 projects with multiple 765kV transmission lines proposed, all with outdated rules.

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<sup>1</sup> See OLA Report Public Utilities Commission’s Public Participation Processes, online at: <https://www.auditor.leg.state.mn.us/ped/pedrep/puc2020.pdf>

I have little confidence in the Commission's ability and or willingness to correct such problems needing attention. The lack of rules for siting wind and the Commission's failure to initiate rulemaking and legislature's repeal of Chapter 7854 rules is another prime example<sup>2</sup>. The Commission has work to do.

The **Utility Reform Now!** Petition is long overdue, as is Commission action. The URN! Petition addresses issues from the early '80s. Whew, that's even worse than the 2005 utility infrastructure legislative changes! Even the methods of filing rulemaking petitions is hopelessly outdated Minn. R. 1400.2500 should be updated, though that's a matter for OAH/CAH<sup>3</sup>.

Since 2001, utilizing other than a "duly adopted rule," as the Commission has regarding these 'Statement of Policy' proclamations adopted in 1982, "[t]his conduct is unlawful," Similarly, I've observed Commission utilize "guidance" rather than rules, both for use of improper ground effect inputs in noise modeling for wind projects resulting in gross understatements of expected noise<sup>4</sup> and also decades of use of small wind general wind permit siting standards<sup>5</sup> for siting large wind projects (LWECS). This practice of failure to adopt rules and use of non-rules should stop. Initiation of the URN! Petition's "Statement of Policy" rulemaking is a good place to start.

The gist of the Petition is to incorporate, or not incorporate, the seven "Statement of Policy" adopted on April 14 and June 14, 1982, however at the same time, this would best be done through initiation of rulemaking under the APA. What a concept!

I urge the Commission to take on this rulemaking and proceed with broad notice to potentially interested parties, such as the recommended large service list from the Energy Infrastructure Permitting Annual Hearing, f/k/a PPSA Annual Hearing. Petition, p. 1.

An issue noted is that the 1982 Statements of Policy are inaccessible, and this information is only available to "insiders." This is also an issue with the Small Wind Standards that are used for siting LARGE wind projects, and likely others. See PUC Docket M-07-1102. Only those of us grizzled old farts with institutional memory are aware of these foundational documents that shape current dockets and decisions.

In addition to initiating rulemaking as requested in this Petition to decisively incorporate, or not incorporate, the Statements of Policy, the Commission embark with an archeological dig back into records before all those with institutional memory have retired or croaked. When similar

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<sup>22</sup> See [PUC denies Reconsideration re: Wind Rulemaking](https://legalelectric.org/weblog/17757/), December 6th, 2018 (or [https://legalelectric.org/f/2018/07/Petition4Rulemaking\\_FINAL.pdf](https://legalelectric.org/f/2018/07/Petition4Rulemaking_FINAL.pdf) (and in PUC eDockets

<sup>3</sup> I'm mindful of my filing of a few rulemaking petitions directly into eDockets as "Initial Filings" which went into the system and were in time addressed (and rejected!) by the Commission.

<sup>4</sup> An example is the adoption of noise "guidance" permitting use of other than 0.0 ground factor, and allowing use of 0.5 and even 0.7 as inputs for noise modeling that was developed by Commerce and Freeborn Wind applicants behind closed doors with no notice or participation of the public.

<sup>5</sup> See Order Establishing General Wind Permit - Small Wind Standards PUC Docket G,E-999/M-07-1102, and subsequent LARGE wind projects utilizing these SMALL wind standards; see also the wind rules, or absence of wind siting rules, Minn. R. ch. 7854, all repealed in 2024:

<https://www.revisor.mn.gov/laws/2024/0/Session+Law/Chapter/126/>,  
<https://www.revisor.mn.gov/laws/2024/0/Session+Law/Chapter/127/>

adoption of non-rules as “rules” the Commission should initiate rulemaking and comply with the law. Minn. Stat. §14.381, Subd. 1(a) (2024); 2001 Minn. Laws. Ch. 179, §8. The Commission is likely to find more than one instance of “policy, guideline, bulletin, criterion, manual standard, or similar pronouncement as though it were a duly adopted rule.”

“Initiating rulemaking is the right policy choice... To align ratemaking practice with the requirements of the Administrative Procedure Act and state policy, the Commission should grant the Petition and the requested relief.” Petition, pps. 5, 6. Just do it!

Thank you in advance for your consideration of this important issue.

Very truly yours,

A handwritten signature in cursive script that reads "Carol A. Overland".

Carol A. Overland  
Attorney at Law

cc: Utility Reform Now! [eric@utilityreformnow.com](mailto:eric@utilityreformnow.com)