

**STATE OF MINNESOTA  
PUBLIC UTILITIES COMMISSION**

Katie Sieben	Chair
Audrey Partridge	Commissioner
Hwikwon Ham	Commissioner
Joseph Sullivan	Commissioner
John Tuma	Commissioner

**In the Matter of a Commission  
Investigation into a Fuel Life-Cycle  
Analysis Framework for Utility  
Compliance with Minnesota's Carbon-  
Free Standard**

**Docket No. E-999/CI-24-352**

**PETITION FOR RECONSIDERATION AND CLARIFICATION  
OF THE CLEAN ENERGY ORGANIZATIONS**

**June 3, 2026**

**TABLE OF CONTENTS**

Introduction ..... 1

Petition for Reconsideration ..... 1

I. The Commission’s interpretation of “carbon-free” violates the plain language of the law and legislative intent..... 2

    A. The statutory definition of carbon-free excludes generating technologies that emit carbon dioxide ..... 3

    B. The legislative history shows that legislators intended to exclude technologies burning solid waste and other waste biomass from the definition of carbon-free..... 4

II. The legal reasoning provided in the Order fails to justify the use of the Fuel Life-Cycle Analysis framework..... 6

    A. The Commission need not choose between the extreme bookends of looking only at emissions at the point-of-generation or conducting a life-cycle analysis with a comparison to a full counterfactual scenario. .... 6

    B. The Commission can protect reliability and affordability without adopting a Fuel Life-Cycle Analysis framework ..... 8

    C. The Commission exceeds its statutory authority and responsibility when weighing power sector emissions against waste sector emissions ..... 9

III. The Commission’s Fuel Life-Cycle Analysis framework undermines the progress needed to achieve Minnesota’s climate and waste goals by weakening the carbon-free standard and subsidizing waste-burning..... 10

Petition for Clarification ..... 12

IV. For a facility using CCS technology, does the formula for determining its carbon-free share of electricity reflect indirect emissions?..... 12

Conclusion ..... 14

## INTRODUCTION

Minnesota Center for Environmental Advocacy and Sierra Club (collectively, “Clean Energy Organizations” or “CEOs”) respectfully petition the Commission for rehearing, reconsideration, and clarification of certain portions of its May 14, 2026, order (“Order”).<sup>1</sup> We file this petition pursuant to Minn. Stat. § 216B.27 and the Commission’s rule at Minn. R. part 7829.3000.

We ask that the Commission reconsider its decision that generating technologies that emit carbon dioxide, particularly those that burn solid waste or other waste biomass, can be treated as “carbon-free” under Minnesota’s Carbon-Free Standard (“CFS”) based on the results of a Fuel Life-Cycle Analysis. The legal definition of “carbon-free” is limited to “a technology that generates electricity without emitting carbon dioxide.”<sup>2</sup> Burning solid waste or other waste biomass to generate electricity undeniably emits carbon dioxide. Even if a Fuel Life-Cycle Analysis finds that the likely counterfactual scenario of handling the waste would emit more greenhouse gases, that would not make burning this waste carbon-free under the law.

In addition, we ask that the Commission clarify whether indirect emissions are included in the formula used to determine the carbon-free share of output from facilities using carbon capture and storage (“CCS”). If the formula does not include indirect emissions, we also ask for reconsideration of that issue.

## PETITION FOR RECONSIDERATION

Under Minn. Stat. § 216B.27, the Commission may reverse or modify an Order if upon rehearing it finds the Order “is in any respect unlawful or unreasonable.” The CEOs respectfully submit that the Commission’s use of the Fuel Life-Cycle Analysis framework is both unlawful and unreasonable.

---

<sup>1</sup> Minn. Pub. Utils. Comm’n, *In the Matter of a Commission Investigation into a Fuel Life-Cycle Analysis Framework for Utility Compliance with Minnesota’s Carbon-Free Standard*, Order Adopting Fuel Life-Cycle Analysis Framework for Identifying Carbon-Free Technologies, Docket No. E-999/CI-24-352 (May 14, 2026) [hereinafter, “Order”].

<sup>2</sup> Minn. Stat. § 216B.1691, subd. 1(b).

The Order is unlawful because it deviates from the statutory definition of carbon-free and runs counter to the contemporaneous legislative history, which shows that legislators fully understood and intended that the carbon-free definition excluded technologies that burn solid waste and biomass to generate electricity (Section I). Moreover, the legal reasoning set forth in the Order fails to justify adoption of the Fuel Life-Cycle Analysis framework. The Commission did not need to choose between an interpretation of carbon-free so narrow that it ignores emissions beyond the point-of-generation and one so broad that it requires a life-cycle analysis that includes comparison to counterfactual scenarios (Section II.A). Nor is the legal interpretation the Commission has chosen needed to protect reliability and affordability because it has other tools for that protection (Section II.B). And the Commission has no legal authority or responsibility to limit the scope of the CFS in order to reduce or avoid waste sector emissions (Section II.C).

The Commission's Order is also unreasonable because adoption of the Fuel Life-Cycle Analysis framework undermines Minnesota's climate and waste goals. Its use would have the effect of locking in current polluting practices, inhibiting the progress needed to achieve the state's goals (Section III).

**I. The Commission's interpretation of "carbon-free" violates the plain language of the law and legislative intent**

In its Order, the Commission states that:

[w]hether a generation resource qualifies as carbon-free should be determined by whether the net emissions resulting from a technology or fuel used to produce electricity, evaluated over the fuel's production and combustion cycle, is lower than the emissions that would result from the process most likely to occur in the absence of its use for electricity generation. This is the Fuel Life-Cycle Analysis.<sup>3</sup>

---

<sup>3</sup> Order, p. 12.

We respectfully submit that this interpretation of what qualifies as carbon-free is an error of law because it contradicts both the plain language of the statute and the legislative intent.

**A. The statutory definition of carbon-free excludes generating technologies that emit carbon dioxide**

The statutory definition of carbon-free—“a technology that generates electricity without emitting carbon dioxide”<sup>4</sup>—does not refer to “net” carbon emissions or “net” climate impact, as the CEOs have argued in our comments in this docket.<sup>5</sup> (We attach to this Petition, and incorporate in full by reference, our Initial, Reply, and Supplemental comments in this docket as well as our Petition for Clarification and Reconsideration filed earlier in the CFS docket.<sup>6</sup>) Similarly, carbon-free status under the law is not defined as relative to, or in comparison with, other facilities or technologies that emit carbon dioxide.<sup>7</sup> Even if, for example, it could be shown that burning solid waste emitted fewer greenhouse gases than landfilling the waste, that would not make burning the solid waste “carbon-free,” either under the statutory definition or under the term’s common usage, because it would still be emitting carbon dioxide. Indeed, it would be emitting far more carbon dioxide per unit of electricity generated than a coal plant.<sup>8</sup>

It is helpful to compare the language of the CFS with the language of the Natural Gas Innovation Act (“NGIA”), enacted just two years prior to the CFS.<sup>9</sup> Unlike the CFS, the NGIA expressly authorizes the Commission to assess utility innovation plans on a comparative basis. That is, the plan’s emissions must be lower than emissions from natural gas produced from conventional sources.<sup>10</sup> Moreover, unlike the CFS, the NGIA

---

<sup>4</sup> Minn. Stat. § 216B.1691, subd. 1(b).

<sup>5</sup> See CEOs’ Initial Comments, p. 6-7.

<sup>6</sup> Clean Energy Organizations, *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*, Petition of the Clean Energy Organizations for Clarification and Reconsideration, Docket No. E-999,CI-23-151 (Nov. 27, 2024).

<sup>7</sup> CEOs’ Initial Comments, p. 6-7.

<sup>8</sup> CEOs’ Initial Comments, p. 41.

<sup>9</sup> See CEOs’ Initial Comments, p. 7-9.

<sup>10</sup> Minn. Stat. § 216B.2427, subd. 2(b)(4).

expressly authorizes that comparison to be on the basis of lifecycle emissions, using the term “lifecycle” twenty times.<sup>11</sup> The legislature clearly knew how to establish a law based on comparative lifecycle emissions, but it chose not to do so in the CFS.

The Commission’s interpretation of carbon-free also fails to maximize net benefits of the law to all Minnesotans, as required by subdivision 9 of the statute. That subdivision requires the Commission to take all reasonable actions within its authority to maximize such benefits, including “ensuring that statewide air emissions are reduced, particularly in environmental justice areas.”<sup>12</sup> Facilities that burn solid waste or waste biomass are known to have high emissions of air pollutants that damage human health, including nitrogen oxides, sulfur dioxide, particulate matter (PM<sub>2.5</sub>), dioxins, and lead.<sup>13</sup> These facilities are often located in environmental justice areas.<sup>14</sup>

**B. The legislative history shows that legislators intended to exclude technologies burning solid waste and other waste biomass from the definition of carbon-free**

In addition to being unsupported by the language of the statute, the Commission’s adoption of the Fuel Life-Cycle Analysis framework is also unsupported by the contemporaneous legislative history. On the contrary, the contemporaneous history shows that legislators fully understood that the definition of carbon-free they were enacting would exclude generators burning both solid waste and waste wood.<sup>15</sup>

For example, opponents of the CFS bill argued that since solid waste incinerators were not eligible for carbon-free status, the CFS would lead to more landfilling and increased methane emissions, which could cause a greater climate impact than incineration. When confronted with this argument, the chief House author disputed the premise that the law would lead to more landfilling, noting the statutorily preferred options of recycling, composting, and waste diversion. Notably, he did not dispute the

---

<sup>11</sup> Minn. Stat. §§ 216B.2427 and 216B.2428.

<sup>12</sup> Minn. Stat. § 216B.1691, subd. 9(a)(5).

<sup>13</sup> See CEOs’ Initial Comments, p. 46-49.

<sup>14</sup> CEOs’ Initial Comments, p. 48.

<sup>15</sup> See CEOs Initial Comments, p. 11-13.

assertion that incinerators were excluded from the definition of carbon-free, nor did he or anyone suggest that the Commission could use a life-cycle analysis to define incinerators as carbon-free despite their carbon emissions.<sup>16</sup> This same argument, that the CFS would close incinerators and lead to more landfilling, was repeated on the House floor by a legislator as a reason to oppose the bill.<sup>17</sup> Similarly, a legislator argued on the House floor that the CFS bill should be amended to exclude municipalities because a municipal generator in his district that burned waste wood from a factory would not qualify as carbon-free. No one suggested that these legislators' concerns were unfounded or that the law permitted the Commission to deem these technologies carbon-free.<sup>18</sup>

The Commission's Order cites a letter from Senator Frentz in this docket stating his intent that burning waste biomass be considered carbon-free.<sup>19</sup> However, 43 other legislators submitted comments in this docket stating that "(b)iomass, renewable natural gas, and solid waste should *not* be eligible as either fully or partially carbon free based on fuel life-cycle analyses, because the 100% Carbon-Free Standard does not permit life-cycle analyses as a method of determining whether a technology is carbon-free."<sup>20</sup> Moreover, in his comments Senator Frentz proposed an interpretation of the law that had nothing to do with life-cycle analysis.<sup>21</sup> Thus, none of the legislators who submitted comments in this docket supported the Commission's choice to use comparative life-cycle analysis to determine a generating technology's carbon-free status. We respectfully request the Commission reconsider that choice.

---

<sup>16</sup> Comments of Rep. Jamie Long, House Climate and Energy Finance and Policy Committee, Jan. 18, 2023, at minutes 1:46-55 – 1:47:16, *available at* <https://www.house.mn.gov/hjvid/93/896125>.

<sup>17</sup> Comments by Rep. Marion O'Neill, House Floor Session, Jan. 26, 2023, at minutes 5:49:40 – 5:53:40, *available at* <https://www.house.mn.gov/hjvid/93/896169>.

<sup>18</sup> Comments by Sen. Robert Farnsworth, Senate Floor Session, Part 2, Feb. 02, 2023, at minutes 1:02:25 – 1:03:50, *available at* [https://mnsenate.granicus.com/player/clip/10105?view\\_id=1&redirect=true&h=d4d3df43d64903eb6913c3f78d9e5ea3](https://mnsenate.granicus.com/player/clip/10105?view_id=1&redirect=true&h=d4d3df43d64903eb6913c3f78d9e5ea3).

<sup>19</sup> Order, p. 9.

<sup>20</sup> Letter from Members of the Minnesota Legislature, Rep. Patty Acomb, *et al.* (Sep. 17, 2025) (emphasis added).

<sup>21</sup> Letter from Sen. Nick Frentz (Sep. 18, 2025).

## II. The legal reasoning provided in the Order fails to justify the use of the Fuel Life-Cycle Analysis framework

The Order presents certain legal reasons seeking to support the adoption of the Fuel Life-Cycle Analysis framework. We explain below why this reasoning does not justify use of the Fuel Life-Cycle Analysis framework.

### A. The Commission need not choose between the extreme bookends of looking only at emissions at the point-of-generation or conducting a life-cycle analysis with a comparison to a full counterfactual scenario

The Order indicates that the Commission had to choose between looking solely at emissions at the moment of generation (what it calls the Point-of-Generation framework) or considering emissions of a technology or fuel over its production and combustion cycle and then comparing those emissions to whatever was most likely to occur if the fuel had not been used for electricity (the Fuel Life-Cycle Analysis framework).<sup>22</sup> However, as the CEOs explained in our supplemental comments, neither of these two extreme interpretations of the law finds support in the statutory language and neither reflects legislative intent.<sup>23</sup> We provided another interpretation in this docket that is consistent with the plain language and intent of the law.

The carbon-free definition does not use the term “point-of-generation,” nor does it use the term “facility” or “generator.” Rather it refers to a *technology that generates electricity*. If the technology emits carbon dioxide at the point-of-generation, then the Commission need not look further; the technology is disqualified from carbon-free status. But it need not stop there. If there are no emissions at the point-of-generation, the Commission can and should look upstream and downstream of the generator to determine if the *technology*, which includes more than just the generator, could reasonably be seen as carbon-free.

---

<sup>22</sup> Order, p. 12. The Commission also describes a third option, the Eligible Energy Technology framework, which would treat all technologies listed under Minn. Stat. § 216B.0691, subd. 1(c) as carbon-free, but it does not base its reasoning on this framework in its Order. Order, p. 9.

<sup>23</sup> CEOs’ Supplemental Comments, p. 8-11.

For example, if the Commission faces a hypothetical future plant fueled solely by hydrogen, the Commission should consider carbon dioxide emissions associated with the production of that hydrogen because it is a core aspect of the technology of using hydrogen to make electricity. If the hydrogen production is not carbon-free, then the technology in question—using that hydrogen to generate electricity—cannot be considered carbon-free. Similarly, if a hypothetical future plant has no carbon dioxide emissions at the point-of-generation because it employs 100% carbon capture, the Commission should consider the fate of the captured carbon dioxide. If it is not securely stored, the technology in question—generating electricity while using carbon capture—cannot be considered carbon-free. (The same reason and authority to look beyond the point-of-generation applies under the partial compliance provision, which applies to facilities that use “carbon-free technologies.”<sup>24</sup>) The legislative history supports the expectation that the Commission would look at aspects of the technology beyond just the point-of-generation. It shows that legislators intended the Commission to differentiate between green hydrogen and other types (requiring them to look at upstream hydrogen production), and to consider whether captured carbon dioxide is truly sequestered (requiring them to look at the downstream fate of the carbon dioxide).<sup>25</sup>

However, looking beyond the point-of-generation in this way is a far cry from conducting a Fuel Life-Cycle Analysis complete with a comparison to a likely counterfactual scenario. The interpretation advanced by the CEOs asks whether “the technology that generates electricity” emits carbon dioxide, consistent with the carbon-free definition. The Fuel Life-Cycle Analysis takes the Commission far beyond the technology that generates electricity. It requires the Commission to speculate about what would be the “likely” waste management counterfactual if the waste fuel was not used

---

<sup>24</sup> Minn. Stat. § 216B.0691, subd. 2d(b)(2)(i).

<sup>25</sup> See comments by chief author and House Majority Leader Jamie Long (discussing green hydrogen), Climate and Energy Finance and Policy Committee, Jan. 18, 2023, at minutes 1:22:51 – 1:22:59 and at 1:43:51 – 1:44:15, available at <https://www.house.mn.gov/hjvid/93/896125>; and comments by Majority Leader Long (discussing carbon used for enhanced oil recovery), House Floor Session, Jan. 26, 2023, at minutes 2:40:29 -2:40:39, available at: <https://www.house.mn.gov/hjvid/93/896169>.

to generate electricity, and then to speculate about that counterfactual's likely long-term emissions, requiring a consideration of waste management practices that have nothing to do with a technology that generates electricity. Making such a leap is inconsistent with the law and legislative intent, and it is not necessary to achieve the goal of considering significant indirect emissions attributable to a *technology* that generates electricity.

**B. The Commission can protect reliability and affordability without adopting a Fuel Life-Cycle Analysis framework**

The Commission cites the need to maintain system reliability and manage costs to ratepayers as reason to adopt the Fuel Life-Cycle Analysis framework.<sup>26</sup> The CEOs do not question the need for the Commission to maintain a reliable and affordable electric system. However, the record does not support the claim that interpreting the carbon-free definition as written would threaten either of those objectives. Whether a utility will face cost or reliability concerns caused by the CFS is a decision that can only be made on a utility-specific basis by considering the options available at a given time, ideally in a long-term resource plan. Concluding in 2026 that utilities will need to rely on generators burning solid waste or waste biomass in the 2030s or 2040s or beyond for reliability or cost reasons is certainly not supported by the record.

Moreover, the CFS law provides other forms of flexibility for utilities that might face cost or reliability problems due to the CFS. For example, they can apply for a modification or delay of the standard under subdivision 2b, where cost and reliability concerns are listed as factors the Commission must consider. Or they can buy Renewable Energy Credits or Energy Attribute Credits under subdivision 4. Adopting a legally unsupported definition of carbon-free is not a necessary or appropriate way to deal with concerns over future cost or reliability problems that could hypothetically be caused by the CFS.

---

<sup>26</sup> Order, p. 12.

**C. The Commission exceeds its statutory authority and responsibility when weighing power sector emissions against waste sector emissions**

Under the Fuel Life-Cycle Analysis framework, the Commission would compare the emissions of an electric generator that burns waste to the emissions of a counterfactual waste-management scenario for that waste. If the generator's emissions are lower than the counterfactual, the Commission would treat that generator as carbon-free, and in the case of new capital investments in a waste-burning generator, that carbon-free status could remain unexamined for decades until the asset is fully depreciated. However, the Commission has no authority to weaken the definition of carbon-free based on claims that doing so might avoid emissions in another sector of the economy. It is also in a poor position to assess whether the alleged waste sector emission reductions – in exchange for which the Commission could be locking in decades of higher power sector emissions – would have been avoided anyway given the changing practices needed to achieve climate and waste management goals, discussed below. The Commission should not allow increased emissions in the power sector, which the Commission has the responsibility to regulate, in exchange for potentially lower emissions in the waste sector, which is governed by its own set of laws and regulations, and which the Commission has no responsibility or authority to regulate.<sup>27</sup>

There is one and only one provision in the CFS statute that authorizes the Commission to consider how implementing the CFS might impact greenhouse gas emissions outside the electric sector.<sup>28</sup> That is the “beneficial electrification” provision under subdivision 2b(10). This provision requires the Commission, when considering a utility's request to modify or delay the CFS, to look at the increase in electrical demand caused by substituting electricity for a fossil fuel in another sector, for example the building or transportation sectors. The Commission must compare the emissions from generating more electricity to meet this demand against the emissions from continuing

---

<sup>27</sup> See CEOs' Initial Comments, p. 25-26.

<sup>28</sup> See CEOs' Initial Comments, p. 9-10.

to use a fossil fuel.<sup>29</sup> This provision could be relevant when, for example, replacing gas furnaces with electric heat pumps or gasoline-fueled cars with electric vehicles. The Commission might delay or modify a utility's CFS requirement under subdivision 2b if it finds the delay would yield more GHGs benefits through beneficial electrification. Yet even this provision does not authorize the Commission to alter the carbon-free definition at the heart of the CFS. It merely authorizes the Commission to consider beneficial electrification in the context of a particular utility's request to make a particular delay or modification of its own CFS obligation.

Notably absent from the law is a similar provision asking the Commission to compare the greenhouse gas emissions from burning solid waste or other waste biomass with emissions from other scenarios for managing that waste. There is simply nothing in the CFS, or in the legislative history, that supports the Commission modifying the definition of carbon-free to reduce greenhouse gas emissions from the waste sector, and certainly nothing to suggest that waste sector emission reductions should be given priority over power sector emission reductions.

### **III. The Commission's Fuel Life-Cycle Analysis framework undermines the progress needed to achieve Minnesota's climate and waste goals by weakening the carbon-free standard and subsidizing waste-burning**

In addition to being unlawful, use of the Fuel Life-Cycle Analysis framework is unreasonable because it undermines both Minnesota's climate goals and its waste goals.<sup>30</sup> Both sets of goals require rapid and sustained progress toward better, cleaner technologies and practices than we use today. The carbon-free definition reflects the need for transformative changes in the power sector. The state's economy-wide statutory goal of achieving net-zero greenhouse gas emissions by 2050 similarly reflects the need for transformation economy-wide.<sup>31</sup> And ambitious goals to transform the way solid waste is managed have been adopted at both the state and local levels. For example, state law

---

<sup>29</sup> Minn. Stat. § 216B.0691, subd. 2b(10).

<sup>30</sup> See CEOs' Initial Comments, p. 41-46.

<sup>31</sup> Minn. Stat. § 216H.02, subd. 1.

establishes the goal that metro counties will recycle or compost 75 percent of total solid waste by 2030, and Hennepin County has adopted a goal to divert 90 percent or more of its solid waste from landfills or incinerators.<sup>32</sup>

The Fuel Life-Cycle Analysis framework would undermine the progress needed to achieve these goals. It would treat as carbon-free the ongoing use of waste-burning generating technologies with high rates of carbon dioxide emissions solely because likely alternative waste management methods in use today may have higher emissions. The Commission's approach is explicitly tied to counterfactuals based on "commercially available" technologies.<sup>33</sup> This would exclude consideration of new but not yet commercially available technologies, even though we can expect many of these technologies to become commercially available during the lifetime of the waste-burning generator. This approach effectively replaces the no-emissions standard set forth in the carbon-free definition with a fewer-emissions-than-today's-likely-alternatives standard, which is far weaker and fails to drive the transformative changes needed to meet state climate and waste goals.<sup>34</sup> On the contrary, this weaker standard impedes progress toward those goals by indicating that technologies that are just slightly better than existing alternatives are good enough.

Moreover, granting waste-burning generating facilities carbon-free status effectively incentivizes and subsidizes them because it allows them to generate and sell carbon-free attributes.<sup>35</sup> This result also undermines the state's climate goals and its waste management goals.<sup>36</sup> Providing a new income stream for solid waste incinerators interferes with the goal of moving away from solid waste incineration toward statutorily preferred options like recycling, composting, and waste reduction.<sup>37</sup> Providing a new income stream for any form of waste burning, whether solid waste or other forms of

---

<sup>32</sup> Minn. Stat. § 115A.551, subd. 2a; Hennepin County Zero Waste Plan, p. 3, *available at* <https://www.hennepin.us/en/your-government/projects-initiatives/solid-waste-planning>.

<sup>33</sup> Order, p 16.

<sup>34</sup> See CEOs' Reply Comments, p. 2-5; and CEOs' Supplemental Comments, p. 2-5.

<sup>35</sup> See CEOs' Initial Comments, p. 22-24.

<sup>36</sup> See CEOs' Initial Comments, p. 41-45.

<sup>37</sup> Minn. Stat. §§ 115A.02(b) and 115A.551, subd. 2a.

biomass, interferes with reaching net-zero emissions by 2050 because it incentivizes the use of technologies that have emissions.<sup>38</sup>

The Commission's approach is particularly concerning with respect to new capital projects, which would not have their carbon-free status re-evaluated until the end of their projected service life or until they are fully depreciated, whichever comes first.<sup>39</sup> This means they would avoid re-evaluation for decades, well past the 2050 net-zero goal. A new waste-burning generator, or an old generator that has received new investment, could continue to enjoy carbon-free status long after truly carbon-free alternatives to managing the waste it burns have become commercially available. The result is locking in a carbon-emitting technology for decades to avoid emissions from a counterfactual, even though the emissions from that counterfactual could soon be eliminated.

For the reasons discussed above and in the CEOs' attached comments and petition, the Commission's adoption of a Fuel Life-Cycle Analysis framework is both unlawful and unreasonable under Minn. Stat. § 216B.27. We therefore urge the Commission to reconsider its decision and to adopt the legal interpretation of carbon-free advanced by the CEOs.

#### PETITION FOR CLARIFICATION

#### **IV. For a facility using CCS technology, does the formula for determining its carbon-free share of electricity reflect indirect emissions?**

The CEOs respectfully request that the Commission clarify whether the formula for determining the carbon-free share of output from facilities using CCS includes indirect emissions. The Order discusses generating technologies using CCS outside the context of the Fuel Life-Cycle Analysis framework and sets forth a formula for determining what share of output from a plant with CCS can be considered carbon-free. The Order states that partial credit for generating technologies that use CCS will be based

---

<sup>38</sup> We note that the state's net-zero goal refers to reducing statewide greenhouse gas emissions, the definition of which does not include the option of using carbon-free credits to achieve compliance. Minn. Stat. §§ 216H.01, subd. 2, and 216H.02, subd. 1.

<sup>39</sup> Order, p. 19.

on “the net emissions of electricity generation with carbon capture & storage as compared to the net emissions of electricity generation without carbon capture & storage, on a kg CO<sub>2e</sub>/MWh basis.”<sup>40</sup>

The Order also states that utilities seeking partial compliance credit for such facilities must estimate and later report “indirect greenhouse gas emissions associated with the carbon capture & storage facility, measured in CO<sub>2e</sub>.”<sup>41</sup> The Order does not define indirect emissions. However in the record they are discussed as emissions related to the carbon capture and storage technology that do not occur at the point-of-generation, such as emissions from offsite sources producing the steam or electricity needed to power the carbon capture process, or emissions related to transmission, injection, and storage of the capture carbon.<sup>42</sup> Such indirect emissions can be substantial, particularly given the large amount of steam and electricity required by the carbon capture process.

While the formula stated above does not expressly mention that the “net” emissions used to determine the carbon-free share would include indirect emissions, we assume they are intended to be included given the requirement to project and track those indirect emissions. Moreover, including indirect emissions would be consistent with the Commission’s preference to look beyond the point-of-generation. However, uncertainty around this question could be avoided if the Commission would clarify that indirect emissions are included in the comparative net emissions formula it has adopted to determine the carbon-free share of generation from a facility using carbon capture. If the Commission does not intend to include indirect emissions in the formula, we ask it to reconsider.

---

<sup>40</sup> Order, p. 23, order point 14

<sup>41</sup> Order, p. 24, order points 15(E) and 17(C).

<sup>42</sup> See CEOs’ Initial Comments, p. 55-58.

## CONCLUSION

For the foregoing reasons, the CEOs respectfully request that the Commission reconsider and clarify its May 14, 2026 Order in this docket.

Respectfully submitted,

/s/ Barbara Freese

Barbara Freese

Staff Attorney

Minnesota Center for Environmental Advocacy

1919 University Ave W, Suite 515

St. Paul, MN 55104

[bfreese@mncenter.org](mailto:bfreese@mncenter.org)

*Attorney for Clean Energy Organizations*