

November 17, 2021
Minnesota Public Utilities Commission
121 7th Place E, Suite 350
Saint Paul, MN 55101-2147

Dear Minnesota Public Utilities Commission:

I am writing on behalf of the Union of Concerned Scientists to request that the Public Utilities Commission (PUC) hold a public hearing on the ‘Proposed Permanent Rules Relating to Power Plants or Lines; Revising the Certificate of Need and Site and Route Permits Requirements.’ UCS is a strong advocate of renewable energy and significant transmission investments to facilitate increased renewable energy integration. However, we oppose the proposed rules in their entirety due to concerns about process, lack of sufficient public input and stakeholder engagement, lack of environmental justice protections, and a lack of climate impacts and emission reduction considerations in decisionmaking.

The proposed rules are underinclusive and do not provide sufficient protection to overburdened Black and Indigenous and other people of color (BIPOC) communities as well as low-income communities against unnecessary and avoidable impacts of new energy infrastructure. In addition, the proposed rules do not do enough to facilitate public input and meaningful participation from the communities that will be most impacted by these projects.

Cumulative impacts: While the rules mention the “effects of the proposed facility upon the natural and socioeconomic environments” including “human health,” they do not require the PUC to assess or consider the cumulative impacts of the project or how it would affect communities that suffer from legacy pollution and environmental harms. The rules list places where it is not allowed to place large energy infrastructure, but the current criteria would not protect low-income or BIPOC communities from unwanted projects sited through their land.

Greenhouse gas emissions: Decarbonizing the energy sector is a critical priority if we are to stave off climate disaster. The proposed rules for establishing need make only passing reference to greenhouse gas (GHG) emissions and provide no parameters for how project proposers should assess and report emissions, or what the PUC must do with such information. The proposed rules do not require the PUC to include GHG emissions or their cumulative impact on climate change in their decision-making.

Indigenous sovereignty: The proposed rules treat sovereign tribal nations the same as local governments and give the project proposer control over which tribes are contacted regarding the project. This violates the tribes’ sovereign rights to be consulted whenever a project may impact their treaty rights and puts private companies in control of something the PUC is responsible for.

Equitable distribution of harms and benefits: The proposed rules should address how the distribution of both harms and benefits should be brought to bear on the decisions regarding need and siting of energy projects, with special consideration given to those impacts on overburdened and under resourced communities.

Disaster risk and recovery: The proposed rules do not recognize disaster risk as a consideration for project approval or siting. Climate change is and will increasingly cause more extreme weather events, including severe storms, heat, and floods which in turn bring disproportionate harm to low-income communities and BIPOC communities who are least equipped to respond and recover from them. Siting regulations for energy infrastructure must address the risks that climate-induced weather changes pose to proposed projects and how this will impact disadvantaged communities. The proposed rules should also require that project proposers include risk mitigation and recovery plans at the time of application.

Protections against air pollution, climate pollution, and environmental injustice: Given the exemption in statute for large power plants “fueled by gas” from full environmental review, it is especially critical to include protections for environmental justice communities and factor climate in decision making. In addition to the climate impacts, gas-fired power plants produce a significant amount of air pollution in the form of nitrous oxides (NO_x), particulate matter, and other deadly pollutants. NO_x causes direct respiratory problems and reacts with other substances in the air to produce particulate matter and ozone, further impacting local air quality and public health.

Public Participation: The 2020 legislative audit of the PUC’s public participation processes found these processes to be implemented inconsistently and to significantly vary case by case. A primary recommendation for the PUC was to do more to facilitate participation. However, the proposed procedure for members of the public to intervene in the decision-making around energy infrastructure need and siting is weak and will decrease participation.

- The proposed rules provide an overwhelming number of points in the process where the public is expected to provide informed comment, in some cases setting up overlapping timelines for comment periods. For example, the rules combine the informational meetings agencies are required to hold with the scoping comment period—meaning that the public is required to make important scoping comments before they have sufficient information. This creates a barrier to participation, especially for communities that are already overburdened and under-resourced.
- There is no requirement to meet with tribal elders, or take public comments in a manner that respects rural, low-income, or Indigenous people communication styles and resources.
- **Utility and developer dominance:** Under the proposed rules, the project proposer has too much control over the timeline and therefore over how much review and input the project receives.
- **Language requirements:** There are no language requirements for public notice, ensuring that non-English speakers will be further excluded from the process.

We look forward to providing further input in a public hearing.

Sincerely,

Meghan Hassett
Midwest Clean Energy Advocate
Union of Concerned Scientists