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March 19, 2025

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101-2147

Re: 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

PUC Docket Number E-999/CI-23-151

Comments of Minnkota Power Cooperative, Inc

Dear Mr. Seuffert:

Pursuant to the Minnesota Public Utilities Commission's ("PUC") February 4, 2025, Notice of Extended Reply Comment Period, Minnkota offers the following Reply Comments ("Reply") on questions related to implementation of, and compliance with, the new carbon free standard ("CFS") set forth in Minn. Stat. § 216B.1691.

Minnkota previously submitted comments on Topics 1-3 contained in the PUC's initial October 31, 2024, Notice of Comment Period, and hereby incorporates those comments as part of this Reply. Further, Minnkota joins in the Reply Comments filed jointly by the utilities which provide wholesale electricity to distribution utilities, or which directly participate in retail sales of electricity to Minnesota consumers and hereby incorporate those Reply Comments as they relate to Topics 1-4.

Are there other issues or concerns related to this matter?

Minnkota urges that the Commission use caution when implementing the existing statutory framework. As the Commission is aware, the Federal Power Act (FPA) delegates the exclusive jurisdictional authority over the wholesale marketplace to the Federal Energy Regulatory Commission (FERC) unless under an express legislated exception, e.g. Public Utility Regulatory Policies Act (PURPA).

Minnkota is concerned that the implementation of the CFS will both directly and indirectly influence MISO-market pricing and shift the dispatch costs of resources driving wholesale transactions. Minnkota believes that Minnesota's legislators and the Commission must limit the costs and impacts stemming from Minnesota's encouragement of production or generation of carbon-free electricity to the same borders as the beneficiaries of such policies; the constituents residing and operating within Minnesota.

Minnkota believes that the plain language of the CFS framework creates a cross-subsidy among generators that may injure investors of carbon-releasing plants located wholly outside of Minnesota's regulatory reach and other State utility commissions, such as North Dakota's Public Service Commission, will be faced with the question of whether it is just, fair, and reasonable for its consumers to cross-subsidize Minnesota's consumers. Minnkota's concerns are premised on the impacts of the CFS as illustrated by the implementation recommendations of the Department of Commerce found in its January 29, 2025 entry in Docket No E-999/CI 23-151, in the following ways:

-expressing the intent to impact the interstate market:

p.6 "Even when all Minnesota utilities achieve 100% carbon-free electricity, all generation, including CFS-ineligible generation will be dispatched by MISO to meet grid capacity needs....if the carbon-free capacity is too expensive to routinely dispatch in the MISO merit order, MISO will dispatch lower cost CFS-ineligible resources external to utility-owned or operated resources to meet Minnesota's capacity needs."

p.6 fn 19 "Note that MISO does not recognize borders and MISO dispatches power plants to meet total system load requirements. However, Minnesota contributes to the total MISO load."

p.6-7 "In practice, electric utilities should not be asked to track CFS-ineligible generation because generation and load operate separately and exist in multi-state markets that electric utilities (and the Commission) do not control."

p. 9 "...as explained below, would lead to more accurate data and is more likely to achieve the ultimate goal of shifting generation to carbon-free technology."

p.13 "The electric transmission system is complex and interconnected throughout the country...The absence of [constraints on location of EAC purchases] would enable Minnesota electric utilities to source clean power from anywhere in the country, regardless of whether the power has any chance of physically meeting state energy needs...."

-acknowledgement of direct impact ratepayers, generation and regulatory authority within the interstate market.

p.20 “With requirement to reach 100% carbon-free electricity, there are significant potential ratepayer risks to reach this standard.”

“As renewable resources become a larger share of MISO’s fuel mix, times of low EAC generation may be coincident with more systematic shortages of EAC generation, and therefore prices may spike during these times.”

Minnkota believes that the exercise of the CFS framework to intentionally influence the activities of generators located outside of Minnesota, coupled with the resulting cost to non-Minnesota utilities who transact with interstate generators participating in the regional market, implicates infringement of the Commerce Clause (Article I).

Minnkota does not believe that Minnesota is cut off from “legislating on all subjects relating to the health, life and safety of their citizens” as Congress has left for the states the regulatory authority within their borders, e.g. intrastate generation and transmission siting and allocating the costs of utilities in a just, fair and reasonable manner for Minnesota ratepayers to pay for the benefits they receive. (*See General Motors Corp. v. Tracy*, 519 U.S. 278, 306, 117 S.Ct. 811(1997); *Elec. Power Supply Ass'n v. Star*, 904 F.3d 518, 525 (7th Cir. 2018); 16 U.S.C.A § 824(b)(1).) However, in implementing its jurisdictional authority even an unintended infringement on interstate commerce will be preempted by Congress’ power over interstate commerce, and in this instance FERC’s exclusive jurisdictional authority under the FPA.

Minnkota would point to Governor Armstrong’s letter to Governor Walz and the legislative leaders of Minnesota dated February 26, 2025, the CFS framework must be constrained to Minnesota’s intrastate regulatory authority. Minnkota respectfully requests that the Minnesota Public Utility Commission proceed in a measured fashion to avoid any infringement on federal authority and interjurisdictional conflict.

We appreciate the opportunity to provide a reply to comments on issues raised and comments filed by other individuals and entities.

If you have any questions, please contact me at tsailer@minnkota.com or 701-795-4000.

Sincerely,

MINNKOTA POWER COOPERATIVE, INC.

/s/ Todd Sailer

Todd Sailer, VP – Power Supply

c: Service List