

Staff Briefing Papers

Meeting Date March 27, 2025

Agenda Item 1**

Company All Rate-Regulated Electric Utilities

Docket No. E002, E011, E017, E015/CI-24-200

In the Matter of Impacts of the “Capacity” Definition in Minn. Stat. § 216.164 and Associated Rules on Net-metering Eligibility for Rate-Regulated Utilities

Issues Should the Commission reconsider its January 23, 2025 Order which delegated authority to the Executive Secretary to open a new rulemaking proceeding to clarify that “capacity,” as defined under Minn. Stat. § 216B.164, subd. 2a (c), for purposes of eligibility for net-metering in Minn. Stat. § 216B.164, subd. 3(d), is determined by, and measured at, the qualifying facility’s inverter or a power control system or supplemental device that controls production at the qualifying facility before the net-metered customer’s load?

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✓ **Relevant Documents**

Date

Commission Order	January 23, 2025
Petition for Reconsideration, Minnesota Solar Advocates	February 11, 2025
Response to Petition, Joint Electric Utilities	February 20, 2025
Response to Petition, Department of Commerce	February 20, 2025

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

BACKGROUND

On October 2, 2023, the Minnesota Solar Energy Industries Association (“MnSEIA”) filed an objection in Docket Nos. E111/M-18-711 and E999/CI-16-521 regarding a specific statement in Section 11 of Dakota Electric Association’s (“DEA”) Technical Specifications Manual (“TSM”). MnSEIA objected that DEA’s TSM had incorrectly applied Minnesota law by giving compensation for a qualifying facility based on the generation capacity measured by its nameplate rating. MnSEIA claimed that Minnesota law required net-metering compensation for qualifying facilities with a capacity of less than 40 kW based on the export capacity at the point of interconnection.

In its May 22, 2024 Order in Docket Nos. E111/M-18-711 and E999/CI-16-521, the Commission required that DEA’s TSM be modified to remove the application of “nameplate rating” from Section 11.1.1 of the manual. The Commission determined this was a reasonable modification to avoid any potential confusion over the use of nameplate rating in the TSM. An additional dispute over the use and definition of “capacity” as set forth in Minn. Stat. § 216B.164, subd. 3(d) was unresolved.

The Commission’s Order provided that:

MnSEIA...had not demonstrated that Dakota Electric’s application of “nameplate rating” has impeded the installation of net-metered or qualifying facilities, the Commission will further explore the issues raised by opening a separate docket into the use and definition of “capacity” as set forth in Minn. Stat. § 216B.164, subd. 3(d).¹

Order point 2 of the Commission’s May 22, 2024 Order opened a proceeding into the application of the definition of “capacity” in Minn. Stat. § 216B.164 and associated rules related to net-metering rate eligibility for rate-regulated utilities without creating reliability problems. The Order also stated discussion of whether a more precise meaning of “capacity” can be derived may be useful in resolving whether the current application of the term “capacity” is reasonable.

On June 4, 2024, the Commission issued a notice requesting comments on how to apply the definition of “capacity” under Minn. Stat. § 216B.164. On November 7, 2024, the issue came in front of the Commission.

The Commission issued an Order on January 23, 2025, which delegated authority to the Executive Secretary to open a rulemaking proceeding to clarify that “capacity,” as defined

¹ In the Matter of Dakota Electric’s Updates to Specific Distribution Interconnection Process and Interconnect Agreement and In the Matter of Updating the Generic Standards for the Interconnection and Operation of Distributed Generation Facilities Under Minn. Stat. § 216B.1611, Docket Nos. E111/M-18-711 and E999/CI-16-521 at 4 (May 22, 2024).

under Minn. Stat. § 216B.164, subd. 2a (c), for purposes of eligibility for net-metering in Minn. Stat. § 216B.164, subd. 3(d), is determined by, and measured at, the qualifying facility's inverter or a power control system or supplemental device that controls production at the qualifying facility before the net-metered customer's load.

On February 11, 2025, Minnesota Solar Advocates ("MSA"), comprised of MnSEIA, Solar United Neighbors ("SUN"), and Institute for Local Self Reliance ("ILSR"), submitted a Petition for Rehearing, Amendment or Vacation of the Commission's Order Initiating Rulemaking Proceeding in Docket E002/M-24-200. On February 20, 2025, the Joint Electric Utilities, which includes Dakota Electric Association, Minnesota Power, Xcel Energy, Otter Tail Power Company, Minnesota Rural Electric Association, and Minnesota Municipal Utilities Association, filed a letter in response to the petition. The Department of Commerce ("Department") also filed a letter in response to the petition on February 20, 2025.

DISCUSSION

MSA argues Order Point 1 violates the plain language of Minn. Stat. § 216B.164, subd. 2a(c), and existing Minn. R. 7835.0100, subp. 4, as well as Minn. Stat. § 216B.03. MSA also states that Order point 1 is unlawful and unreasonable pursuant to Minn. Stat. § 216B.27 and Minn. R. 7829.3000.² Therefore, MSA requests that the Commission's Order Point be amended to read:

The Commission hereby delegates authority to the Executive Secretary to open a new rulemaking proceeding to discuss whether it is necessary to clarify that the term "capacity," as defined under Minn. Stat. § 216B.164, subd. 2a (c), for purposes of eligibility for net-metering in Minn. Stat. § 216B.164, subd. 3(d), is determined by, and measured at, the qualifying facility's inverter or a power control system or supplemental device that controls production at the qualifying facility before the net metered customer's load. **(Decision Option 1)**

If the Commission does not amend its January 23, 2025 Order, MSA requests that the Order be vacated. **(Decision Option 2)** MSA argues the language stating that capacity is "determined by, and measured at, the qualifying facility's inverter or a power control system or supplemental device that controls production at the qualifying facility before the net-metered customer's load," violates Minn. Stat. 216B.164, subd. 2a(c), and Minn. R. 7835.0100, subp. 4. MSA also argues the language violates Minn. Stat. 216B.03 because it does not, to "the maximum reasonable extent . . . set rates to encourage energy conservation and renewable energy use and to further the goals of sections 216B.164." ³

However, Staff notes that the Commission opened a rulemaking proceeding in Docket No.

² Petition for Reconsideration, page 6.

³ Id at 26.

E999/R-25-86, and suggested language, no statutes or laws have been violated or changed in this directive. The rulemaking process is extensive involving multiple parties and perspectives. Statutory language can be, and is, changed by the rulemaking process which ensures transparency, input, and legitimacy when creating, amending or repealing regulations. Staff notes it could be argued that rulemaking proceedings violate current statutory language simply because they are up for discussion.

The Joint Electric Utilities commented the Commission's Order "aligns with applicable law and is supported by a robust record; as such, the Order should not be modified, vacated, or otherwise disturbed."⁴ **(Decision Option 3)** The Department also supported the Commission's Order in its Letter responding to the Petition.

DECISION OPTIONS

1. Grant reconsideration of the January 23, 2025 Order and amend Ordering Paragraph 1 as follows: (MSA)

The Commission hereby delegates authority to the Executive Secretary to open a new rulemaking proceeding to discuss whether it is necessary to clarify that the term "capacity," as defined under Minn. Stat. § 216B.164, subd. 2a (c), for purposes of eligibility for net-metering in Minn. Stat. § 216.B.164, subd. 3(d), is determined by, and measured at, the qualifying facility's inverter or a power control system or supplemental device that controls production at the qualifying facility before the net metered customer's load.

OR

2. Grant reconsideration of the January 23, 2025 Order and vacate the Order in its entirety. (MSA if the Commission does not choose Decision Option 1)

OR

3. Deny the petitioners' request for reconsideration of the January 23, 2025 Order. (Joint Electric Utilities, Department)

⁴ Response to Petition, page 1.

