

**STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION**

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**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**

Docket No. E-999/CI-23-151

REPLY COMMENTS OF THE CLEAN ENERGY ORGANIZATIONS

November 18, 2025

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INTRODUCTION

Minnesota Center for Environmental Advocacy (“MCEA”) and the Sierra Club (collectively, the “Clean Energy Organizations,” or “CEOs”) appreciate the opportunity to submit these reply comments in Phase 4 of this docket, addressing issues related to the off-ramp process under the state’s Carbon-Free Standard (“CFS”).¹ For the reasons explained below, we recommend that the Commission:

- clarify that it will grant cost-based off-ramp requests only if compliance “would cause significant rate impact” and an off-ramp would be “in the public interest,” as required under Minn. Stat. § 216B.1691, subd. 2b(a) and (b), rather than evaluating off-ramp requests based on an incremental cost-benefit analysis as suggested by Great River Energy (“GRE”);
- decline to adopt the list of “categorical considerations” that GRE proposes for off-ramp requests, or if it does adopt such a list, expand it to require information on all relevant considerations already specified by law or Commission order;
- decline to establish a maximum cost threshold beyond which compliance would be automatically deemed too costly, as proposed by the Department of Commerce (“Department”);
- strongly encourage off-ramp requests to be made as part of a utility’s Integrated Resource Plans (“IRPs”) whenever feasible, consistent with the recommendation made by Minnesota Power;
- require a utility seeking an off-ramp outside of the IRP process to explain why the non-compliance was not foreseen in its resource planning and to include relevant information in its request of the type an IRP would require; and
- extend the default comment period to at least 60 days for initial comments and 30 days for reply comments.

¹ Minn. Pub. Utils. Comm’n, *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*, Notice of Comment Period, Docket No. E-999/CI-23-151 (Sep. 12, 2025).

I. The law authorizes the Commission to grant a cost-based off-ramp request only if compliance would cause significant rate impact and if it is in the public interest

GRE has proposed that the Commission define a framework for evaluating off-ramp requests, listing various types of what it calls “categorical considerations.”² While GRE says that it makes no recommendation regarding thresholds or caps that may serve as a trigger for a modification or delay request, it also says that “the key policy question is how to determine that costs of compliance materially exceed the benefits of incremental carbon-free deployment.”³ However, this language suggests a different standard for granting off-ramp requests than what the law establishes.

The law authorizes the Commission to modify or delay the implementation of the CFS if the Commission determines that doing so “is in the public interest.”⁴ This is the overarching standard for assessing any requested modification or delay (i.e., “off-ramp”). When assessing whether an off-ramp request is in the public interest, the Commission must consider ten statutorily listed factors. In some cases the factors would need to be balanced against each other. For example, the first listed consideration is the financial cost impact of *implementing* the standard on the utility’s customers, while the second consideration is the environmental cost impact of *modifying or delaying* the standard.⁵

The statute goes on to establish additional requirements for granting certain types of off-ramp requests. With respect to modifications made under the first four listed

² GRE Initial Comments, p. 2.

³ *Id.*

⁴ Minn. Stat. § 216B.1691, subd. 2b(a).

⁵ *Id.*, clauses (1) and (2).

considerations – including those related to utility customer costs, reliability, and technical concerns – the law says the Commission may modify or delay the standard “*only if it finds implementation would cause significant rate impact, requires significant measures to address reliability, or raises significant technical issues.*”⁶

For the Commission to give effect to both of these provisions, as the law requires,⁷ the Commission cannot approve a cost-based off-ramp request unless it both: (1) finds under subdivision 2b(b) that denying the request would cause “significant rate impact,” and (2) determines under subdivision 2b(a) that granting the request “is in the public interest,” after considering the listed factors.

To the extent that GRE’s comments suggest that the standard for granting an off-ramp request is simply whether the incremental cost of compliance exceeds the incremental benefits of compliance, that proposal would violate the statute and should be rejected. The readily identifiable benefits of the last increments of compliance with the law could be exceeded by their costs without necessarily having a “significant rate impact.” Moreover, even if compliance does have a significant rate impact, the Commission could find it is not in the public interest to grant the off-ramp request given the other factors it must consider, like the environmental cost of delaying compliance, impacts on environmental justice areas, or other statutory obligations on the Commission or a utility.⁸

⁶ Minn. Stat. § 216B.1691, subd. 2b(b)(emphasis added).

⁷ “Every law shall be construed, if possible, to give effect to all its provisions.” Minn. Stat. § 645.16.

⁸ Minn. Stat. § 216B.1691, subd. 2b(a), clauses (2), (8), and (9).

If the Commission decides to provide a list of factors it will consider relevant in assessing off-ramp requests (discussed more below), it should clarify in its order that the statutory standard for granting cost-based off-ramp requests is not merely whether the costs of incremental compliance exceed the benefits, but rather the two-part standard required by statute, described above.

II. If the Commission identifies a list of substantive information to include in an off-ramp request, it should clarify that the request must address all the relevant factors required by law or Commission order, not just those supporting the request

GRE has proposed a list of thirteen considerations falling under five categories that it proposes be part of a Commission-established framework for evaluating off-ramp requests, though GRE calls the list just a starting point.⁹ While the list includes many factors that could be relevant when considering an off-ramp request, we note that GRE's proposal leaves out important considerations that could weigh against granting an off-ramp request, including those specifically mentioned in the statute and in the Commission's prior order.

For example, under GRE's proposed category of "Broader Societal and Environmental Trade-offs," GRE does not list "the environmental impact that would be incurred as a result of a delay or modification, based on the full range of environmental cost values established in section 216B.2422, subdivision 3," even though the statutory off-ramp provision specifically requires this to be considered.¹⁰ GRE lists the

⁹ GRE Initial Comments, p. 2-3.

¹⁰ Minn. Stat. § 216B.1691, subd. 2b(a)(2).

environmental justice implications of building renewable energy, but it does not include the environmental justice implications of continuing to operate fossil fuel-burning power plants or building new gas-fired units.¹¹ GRE's list does not include any reference to showing that the need for an off-ramp was due to circumstances beyond the utility's control, even though the statute makes this a necessary finding before the Commission can grant many types of off-ramp requests.¹² GRE's list also leaves out the two substantive requirements for off-ramp requests that the Commission identified in its 2010 Order considering petitions to delay implementation of the Renewable Energy Standard ("2010 Order"). In its 2010 Order the Commission said petitions should: (1) include the statutorily required plan for future compliance; and (2) explain why buying Renewable Energy Credits is not a viable alternative to the off-ramp.¹³

The CEOs do not believe that the Commission should create a detailed framework for assessing off-ramp requests at this time. The existing off-ramp provisions in statute already set forth a long list of factors the Commission must consider, giving utilities notice of the kind of information they should include in their requests. Adding to that list now is unnecessary, and it risks misleadingly suggesting a standard of approval different from what the law specifies, as discussed in Part I above. However, if the Commission does decide to create such a framework, we ask that it require utilities to address *all*

¹¹ Minn. Stat. § 216B.1691, subd. 2b(a)(9).

¹² Minn. Stat. § 216B.1691, subd. 2b(b) and (c).

¹³ Minn. Pub. Utils. Comm'n. *In the Matter of Detailing Criteria and Standards for Measuring an Electric Utility's Good Faith Efforts in Meeting the Renewable Energy Objectives Under Minn. Stat. § 216B.1691, Order Clarifying Criteria and Standards for Determining Compliance Under Minn. Stat. § 216B.1691, Docket No. E-999/CI-03-869, p. 7 (Mar. 19, 2010) [hereinafter, "2010 Order"]*.

relevant considerations identified under the statute and the 2010 Order. For example, if the Commission were to consider GRE's framework proposal, it should also require off-ramp requests to provide information related to:

1. the environmental costs that would be incurred as a result of a delay or modification, based on the full range of environmental cost values established in section 216B.2422, subd. 3, including not just carbon costs but also criteria pollutant costs;¹⁴
2. impacts on environmental justice areas of a delay or modification of compliance;¹⁵
3. other statutory obligations imposed on the Commission or a utility;¹⁶
4. whether the asserted need for an off-ramp is due to circumstances beyond the utility's control and make compliance not feasible;¹⁷
5. the utility's plan to come into compliance with the CFS;¹⁸ and
6. why coming into compliance using RECs or carbon-free credits is not a viable alternative to an off-ramp.¹⁹

III. The Commission should not establish a maximum cost threshold beyond which compliance would be automatically deemed too costly

The Department has proposed that the Social Cost of Carbon ("SCC"), specified at Minn. Stat. § 216B.2422, subd. 3, should "establish the maximum amount that should be paid to satisfy compliance requirements," while the Commission retains discretion to find that a value lower than the SCC is a reasonable maximum.²⁰ The CEOs ask the Commission to reject this recommendation. Establishing a maximum value beyond

¹⁴ Minn. Stat. § 216B.1691, subd. 2b(a)(2).

¹⁵ Minn. Stat. § 216B.1691, subd. 2b(a)(9).

¹⁶ Minn. Stat. § 216B.1691, subd. 2b(a)(8).

¹⁷ Minn. Stat. § 216B.1691, subd. 2b(b) and (c).

¹⁸ Minn. Stat. § 216B.1691, subd. 2b(e).

¹⁹ 2010 Order, p. 7, *supra*, n. 13.

²⁰ Department Initial Comments, p. 6.

which compliance would automatically be deemed too costly is incompatible with the two statutory determinations the Commission must make before granting a cost-based off-ramp request. The requirement to find that “implementation would cause significant rate impact” under Minn. Stat. § 216B.1691, subd. 2b(b) sets forth a threshold determination different from simply comparing implementation costs with the SCC or some other maximum value.

Moreover, the Commission must also make a public interest determination under Minn. Stat. § 216B.1691, subd. 2b(a), which requires it to consider factors beyond the SCC. While the statute says the Commission must consider environmental costs, it does not say that if compliance costs are greater than environmental costs an off-ramp should be granted, and the statute does not limit the Commission’s environmental considerations to greenhouse gas emissions. The Commission must consider all environmental costs established under section 216B.2422, subd. 3, including costs resulting from criteria pollutants. Additionally, the statute requires the Commission to consider other statutory obligations imposed on the Commission or a utility as well as the particular impacts on environmental justice areas.²¹

The complex rate impact and public interest determinations the Commission must make before granting a cost-based off-ramp cannot be reduced to a single number selected potentially years before an off-ramp request is made and applied without the

²¹ Minn. Stat. § 216B.1691, subd. 2b(a)(8) and (9).

ability to consider the request on a case-by-case basis. The Commission should therefore reject the Department's proposal to do so.

IV. Off-ramp requests should be made as part of a utility's IRP, whenever feasible

The statutory off-ramp provisions specify that the Commission may grant off-ramps as part of an IRP proceeding, though it may also consider requests made outside of an IRP.²² There appears to be broad agreement that considering an off-ramp request within the context of an IRP is preferable to considering it in another proceeding, since IRPs provide the most informed and longest-term analysis of the cost and reliability of the resource options available to a utility.

The CEOs agree with this overall sentiment, including the recommendation of Minnesota Power that "requests made outside of the IRP process should be reserved for requests caused by unforeseen circumstances that may occur outside of IRP evaluation periods, such as but not limited to delays in necessary permitting processes, nondelivery or delayed delivery of equipment or services necessary for construction or operation of an eligible energy technology facility, or other statutory obligations imposed on the Commission or a utility."²³ Utilities are already required to demonstrate in their IRPs how they plan to comply with the CFS.²⁴ The fifteen-year perspective of IRPs helps ensure that utilities are on track to meet their CFS obligations and helps avoid noncompliance based on a utility having waited until it is too late to take the necessary steps to comply.

²² Minn. Stat. § 216B.1691, subd. 2c.

²³ Minnesota Power Initial Comments, p. 6.

²⁴ Minn. Pub. Utils. Comm'n, *In the Matter of Establishing an Updated 2022 Estimate of the Costs of Future Carbon Dioxide Regulation on Electricity Generation Under Minn. Stat. § 216H.06*, Order Addressing Environmental and Regulatory Costs, Docket No. E-999/DI-22-136, p. 19 (Dec. 19, 2023).

We therefore recommend that the Commission's order strongly encourage utilities to make any off-ramp requests within their IRPs, to the extent feasible.

While the CEOs agree utilities should make any off-ramp requests in the context of an IRP when feasible, this does not mean utilities should make – or the Commission should grant – off-ramp requests many years before a compliance deadline, potentially based on overly-pessimistic predictions about future resource options. We must expect significant changes in the economics, reliability, availability, and regulation of energy technologies over the next several years. Granting an off-ramp request years before a compliance deadline would undercut Minnesota's CFS by allowing a utility to prematurely stop even trying to achieve compliance. Utilities should be required to keep working to meet their CFS obligations as long as feasible and until it becomes clear that an off-ramp is in the public interest under the statutory criteria. This is particularly true given that a utility may achieve compliance with the CFS by purchasing RECs or carbon-free credits, the cost of which will be difficult to predict years in advance. However, the IRP is still an appropriate setting for a utility to warn the Commission and stakeholders well in advance if it thinks it may eventually need and qualify for an off-ramp, even if an actual off-ramp request is not made until closer to the compliance deadline.

V. Off-ramp requests made outside an IRP should explain why non-compliance was not foreseen in utility planning and include all relevant information of the type an IRP would require

If a utility makes an off-ramp request outside the scope of an IRP, it should be required to explain why non-compliance was not foreseen in its IRP. The request should identify the specific unforeseen circumstances that are the basis of the off-ramp request.

The request should also provide the necessary information to support an off-ramp, including relevant information of the type that would normally be included in an IRP. For example, if the request is based on cost or reliability concerns, it should include the most updated cost and reliability information related to available resource alternatives, including updated capacity expansion modeling if the most recent IRP modeling has become outdated. The Commission should not be put in a position of assessing whether to modify or delay compliance with Minnesota’s landmark climate law without a record sufficient to determine if such a modification or delay is actually necessary.

VI. The default comment period for off-ramp requests outside an IRP should be extended to at least 60 days for initial comments and 30 days for reply comments

The Commission’s 2010 Order states that petitions for an off-ramp from the RES must comply with the service and filing requirements of Minnesota Rules 7829.1300, and at least initially, follow the procedural track set forth in Minnesota Rules 7829.1400, two provisions that apply to “Miscellaneous Filings.” The Commission’s rule 7829.1400 establishes a comment period of 30 days, followed by a 10 day reply period, “[i]n the absence of a commission order or notice establishing a different comment period.”²⁵

Given the importance of these off-ramp requests, the many statutory factors that must be considered, and the potential need for significant information regarding available compliance alternatives when an off-ramp request occurs outside an IRP (including new modeling), we believe the existing 30/10 day comment schedule is too short even as a default assumption. Leaving this default schedule in place would create

²⁵ Minn. Rules. 7829.1400, subp. 1 and subp. 4.

significant uncertainty during the first weeks after an off-ramp request is filed, as commenters wonder if they need to request an extension or if the Commission will extend the comment schedule on its own initiative, during which time commenters must also prepare to meet the 30-day deadline. The CEOs therefore request that the Commission establish a longer default comment period in its forthcoming order, and propose a default schedule of at least 60 days for initial comments and 30 days for reply comments.

CONCLUSION

For the foregoing reasons, the CEOs recommend that the Commission:

1. affirm that cost-based off-ramp requests will be assessed pursuant to Minn. Stat. § 216B.1691, subd. 2b(a) and (b), requiring the Commission to determine whether compliance “would cause significant rate impact” and whether an off-ramp would be “in the public interest;”
2. decline to adopt a detailed list of factors it will consider when assessing off-ramp requests, or if it does adopt such a list, expand it to require information on all relevant considerations already specified by law and Commission order;
3. decline to establish a maximum cost threshold beyond which compliance would be automatically deemed too costly;
4. strongly encourage off-ramp requests to be made as part of a utility’s IRP, whenever feasible;
5. require a utility seeking an off-ramp outside of the IRP process to explain why the non-compliance was not foreseen in its planning and to include relevant information in its request of the type an IRP would require, including updated capacity expansion modeling where necessary; and
6. extend the default comment period to at least 60 days for initial comments and 30 days for reply comments.

Respectfully submitted,

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