

March 24, 2025

VIA E-FILING

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

**Re: In the Matter of the Application of Summit Carbon Solutions, LLC for a Route Permit for the Otter Tail to Wilkin Carbon Dioxide Pipeline Project in Otter Tail and Wilkin Counties, Minnesota.
OAH Docket No. 22-2500-38948
MPUC Docket No. IP-7093/PPL-22-422**

Dear Mr. Seuffert:

Summit Carbon Solutions, LLC respectfully submits the enclosed Answer to Petition for Reconsideration.

This document has been e-filed through www.edocket.state.mn.us. A copy of this filing is also being served upon the persons on the Official Service List of record.

Please let me know if you have any questions regarding this filing.

Sincerely,

FREDRIKSON & BYRON, P.A.



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**STATE OF MINNESOTA
BEFORE THE
PUBLIC UTILITIES COMMISSION**

Katie Sieben
Joseph K. Sullivan
Audrey Partridge
Hwikwon Ham
John Tuma

Chair
Vice-Chair
Commissioner
Commissioner
Commissioner

**In the Matter of the Application of
Summit Carbon Solutions, LLC for a
Route Permit for the Otter Tail to Wilkin
Carbon Dioxide Pipeline Project in Otter
Tail and Wilkin Counties, Minnesota.**

MPUC Docket No. IP-7093/PPL-22-422
OAH Docket No. 22-2500-38948

**SUMMIT CARBON SOLUTIONS, LLC'S
ANSWER TO CURE'S PETITION FOR
RECONSIDERATION**

INTRODUCTION

Summit Carbon Solutions, LLC (Summit) submits this answer to CURE's Petition for Reconsideration and Rehearing (Petition)¹ of the Minnesota Public Utilities Commission's (Commission) February 21, 2025 Order Adopting the Administrative Law Judge Report as Modified, Finding Environmental Impact Statement (FEIS) Adequate, and Issuing Route Permit with Conditions (Order).² The Order was entered after development and consideration of a voluminous and robust record and granted a route permit to Summit to construct and operate the Otter Tail to Wilkin carbon dioxide (CO₂) pipeline (Project).

CURE's Petition presents no new compelling issues or evidence that suggests reconsideration of the Order is appropriate. CURE also spends a significant portion of its Petition

¹ CURE Petition for Reconsideration and Rehearing (Mar. 13, 2025) (eDocket No. 20253-216331-01) (hereafter cited as "CURE Petition").

² Order Adopting the Administrative Law Judge Report as Modified, Finding Environmental Impact Statement Adequate, and Issuing Route Permit with Conditions (Feb. 21, 2025) (eDocket No. 20252-215654-01) (hereafter cited as "Order"). The Commission also issued an Erratum Notice on March 10, 2025, which contained minor corrected permit language.

re-raising arguments already asserted and considered by the Commission at several different stages of this proceeding before entering its Order. Indeed, the Commission’s Order thoughtfully and proactively addressed the issues raised in the Petition based upon a robust record. Because the Petition does not raise credible new issues, point to new evidence, or otherwise show that the Commission’s Order is unlawful or unreasonable, Summit respectfully requests that the Petition be denied.

LEGAL STANDARD

A petition for reconsideration must be timely filed and must specifically set forth the grounds for rehearing.³ The Commission “may reverse, change, modify, or suspend” its original decision only if “the original decision, order, or determination is in any respect unlawful or unreasonable.”⁴ Generally, the Commission will review petitions for reconsideration to determine whether the petition (i) raises new issues, (ii) points to new and relevant evidence, (iii) exposes errors or ambiguities in the underlying order, or (iv) otherwise persuades the Commission that it should rethink its decision.⁵ The Commission may decide on a petition for reconsideration with or without a hearing and oral argument.⁶

DISCUSSION

CURE asserts four arguments that it contends warrant the Commission to reconsider the Order. CURE suggests that (A) legislation passed by South Dakota should preclude development

³ Minn. Stat. § 216B.27, subd. 2; *see also* Minn. R. 7829.3000, subp. 2.

⁴ Minn. Stat. § 216B.27, subd. 3; *see also* Minn. Stat. § 14.69 (providing that, on appeal, a reviewing court may affirm an agency decision unless, among other things, it is not supported by substantial evidence or is arbitrary or capricious).

⁵ *See, e.g., In the Matter of the Formal Complaint and Request for Relief by the Minnesota Solar Advocates*, MPUC Docket No. E-002/C-23-424, Order Denying Petition for Reconsideration at 1 (Apr. 26, 2024).

⁶ Minn. R. 7829.3000, subp. 6.

of the Project; (B) unadopted and now-withdrawn proposed rules from the Pipeline and Hazardous Materials Safety Administration (PHMSA) are inconsistent with the Order; (C) the Department of Commerce, Energy Environmental Review and Analysis unit's (EERA) experts lacked certain qualifications; and (D) the Commission's Order is otherwise legally erroneous. As discussed in more detail below, CURE's "new" arguments (A) and (B) are baseless and fall far short of its burden to demonstrate that reconsideration is warranted. CURE's recycled arguments (C) and (D) are largely recitations of arguments already briefed by several different parties and considered and rejected by the Commission. The record demonstrates that the Commission thoroughly and consistently addressed these concerns throughout the proceeding, culminating in the Commission's Order, which carefully accounted for CURE's concerns noted in the Petition and is supported by substantial evidence in the record. Accordingly, the Commission should deny CURE's Petition.

I. THE COMMISSION CONTEMPLATED THE REGULATORY LANDSCAPE AND REQUIRED APPROVALS FROM OTHER STATES.

CURE first claims that recently passed legislation in the state of South Dakota "would severely impact the financial viability and routing of the project," making Commission approval in Minnesota premature.⁷ This argument is inherently flawed, as CURE ignores the basic tenet that the Commission is jurisdictionally distinct from regulatory agencies in South Dakota such as the South Dakota Public Utilities Commission. The Commission rendered its decision based upon the record developed in this proceeding, its judgment, its application of relevant state routing authority, and its expertise. Notably, the Commission previously entertained and rejected a similar

⁷ CURE Petition at 2.

argument from CURE regarding a request to stay pending resolution of North Dakota regulatory action.⁸

Notwithstanding the futility of CURE's position, the Commission imposed conditions in its Order that satiate CURE's alleged concerns. For example, Permit Condition 9.18 provides:

The Permittee must obtain all the necessary permits to build a pipeline and sequester CO₂ in North Dakota and must provide documentation that it has commenced construction on both projects in North Dakota in the plan and profile filing before beginning construction in Minnesota. If at any time during construction of either project in North Dakota the Permittee receives an order from a Federal regulatory agency, a North Dakota regulatory agency or a court with appropriate jurisdiction to cease construction in North Dakota, the Permittee must immediately stop construction in Minnesota, secure the site and notify the Commission. The Permittee may not recommence construction again in Minnesota until such order ceasing construction is lifted or the Permittee has obtained permission from the Commission to recommence construction in the meantime.

Likewise, Permit Condition No. 9.25 requires Summit to make compliance filings demonstrating certain financial assurances regarding the construction and decommissioning of the Project:

The Permittee shall create and fund a sufficient financial security instrument(s) to protect against the failure to complete construction and fund decommissioning; and acquire and maintain General Liability and Environmental Liability insurance policies meeting coverage requirements.⁹

This permit condition directly undercuts CURE's concern regarding "the overall financial viability of the Applicant."¹⁰ CURE's conclusory speculation that CO₂ permitting in South Dakota will be impossible due to South Dakota's legislation falls well short of its burden to demonstrate the Order is unreasonable or unlawful.

⁸ Ex. PUC-20 at 4-5 (Order Approving Scope of Environmental Review and Denying Stay).

⁹ Order Erratum Notice at Condition No. 9.25 (Mar. 10, 2025) (eDocket No. 20253-216244-01).

¹⁰ CURE Petition at 3.

II. THE PHMSA PROPOSED RULES WERE NEVER ADOPTED AND WERE WITHDRAWN.

CURE next suggests that proposed—but never adopted and subsequently withdrawn—rules proposed by PHMSA conflict with the FEIS and the language and requirements of the Order. PHMSA’s proposal would revise certain provisions of the Pipeline Safety Regulations.¹¹ PHMSA’s rule updates were merely *proposed* rules and were never formally implemented or published in the Federal Register. As CURE reluctantly acknowledges, the proposed rules were never adopted.¹²

What CURE does not acknowledge, however, is that the proposed rules were removed from PHMSA’s website all together following a January 20, 2025, presidential action from the Trump Administration titled *Regulatory Freeze Pending Review*.¹³ The action specifically mandated “all executive departments and agencies” to “[i]mmediately withdraw any rules that have been sent to the OFR but not published in the *Federal Register*.”¹⁴ This included PHMSA’s

¹¹ See generally, CURE Petition at 3; CURE Petition at Ex. B, p. 1 (“PHMSA proposes revisions to the Pipeline Safety Regulations to include safety standards and reporting requirements for gas- and liquid-phase carbon dioxide pipelines. PHMSA proposes safety improvements for all carbon dioxide pipelines, including the establishment of an emergency planning zone for improved emergency response and public communications; more prescriptive fracture control requirements; explicit inclusion of carbon dioxide in the definition of a highly volatile liquid; specific requirements for vapor dispersion modeling; and conforming changes to operations, maintenance, and emergency manuals. PHMSA also proposes specific requirements applicable to both hazardous liquid and carbon dioxide pipelines, including enhanced right-of-way inspections to identify geologic hazards and mitigate those threats, and the use of fixed vapor detection and alarm systems at specific highly volatile liquid pipeline facilities. Additionally, PHMSA proposes changes to the conversion to service requirements affecting both hazardous liquid and carbon dioxide pipelines.”).

¹² CURE Petition at 4.

¹³ See Presidential Actions, *Regulatory Freeze Pending Review* (Jan. 20, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/01/regulatory-freeze-pending-review/>.

¹⁴ See Presidential Actions, *Regulatory Freeze Pending Review* (Jan. 20, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/01/regulatory-freeze-pending-review/>.

proposed rule, which was indeed withdrawn, ineffective, and therefore has no weight on the Commission's decision in this matter.

Moreover, the FEIS and the Administrative Law Judge (ALJ) Report provide that "The Applicant would implement public and emergency response awareness programs and comply with new PHMSA regulations for CO₂ pipelines once established."¹⁵ The proposed rules CURE suggests should guide the Commission's decisions were never established.¹⁶ Finally, Summit notes that it has developed a draft Emergency Response Plan that describes the actions that Summit and local first responders would take to minimize human health and safety impacts in the event of release of CO₂ from the Project.¹⁷ Summit will also file its Emergency Response Plan with the Commission prior to commencement of operations.¹⁸ In light of the withdrawal of PHMSA's proposed rules, and other emergency response requirements in the Order, such as the filing of

¹⁵ Ex. DOC-18 at ES-14 (FEIS); ALJ Report at ¶ 384 (emphasis added).

¹⁶ Even if the Commission were to consider PHMSA's proposed rules, the Commission should not rely on CURE's characterization of the rules as set forth in its Petition. For example, CURE suggests that the proposed rule, which suggests a two-mile "safety zone buffer" around CO₂ pipelines, conflicts with the Order language which discusses area of "maximum impact distance." See CURE Petition at 5. CURE conflates these two distinct, separate topics. The proposed rules recognize hazards from a CO₂ pipeline release depend on a myriad of factors *specific to the carbon pipeline itself and its location and area*: "Precisely how far those hazards from the release point those could occur turns on a number of variables, including pipeline segment-specific operating parameters (diameter, operating pressure, etc.); release characteristics; topography of the surrounding landscape; environmental conditions (e.g., wind, humidity, and temperature); and the diverse physical distributions of private dwellings, industrial buildings, and places of public assembly in the vicinity of the pipeline." CURE Petition at Ex. B, p. 105. The two-mile emergency planning zone boundary in the proposed rule, therefore, does not relate to "maximum impact" as CURE asserts, but rather to survey obligations of a CO₂ pipeline operator and a uniform emergency planning zone intended to "promote efficient administration of proposed population density survey and emergency response information distribution." CURE Petition at Ex. B, p. 105.

¹⁷ ALJ Report at ¶ 455.

¹⁸ ALJ Report at ¶ 612(B); Order Section 9.2.

Summit's Emergency Response Plan, CURE's second argument provides no cognizable basis for reconsideration.

III. EERA'S WITNESSES ARE QUALIFIED TO OFFER TESTIMONY, AND CURE'S ATTACK ON EERA'S WITNESSES HAS ALREADY BEEN REJECTED BY THE COMMISSION.

CURE's third argument suggests that a response from PHMSA to CURE's Freedom of Information Act (FOIA) request regarding EERA's expert witnesses demonstrates the witnesses' lack of qualifications to offer opinions in this proceeding.¹⁹ Specifically, that PHMSA not returning responsive records to CURE's request "puts in further doubt the credentials of experts who cannot give any specifics about the relevant projects they've worked on."²⁰ CURE's attack on EERA's experts is a recitation of previous arguments asserted in its briefing—including verbatim argument lifted from its post-hearing reply briefing and inserted into its Petition.²¹

The FOIA information received does not call into doubt these experts' qualifications. Indeed, EERA previously outlined the qualifications of its witnesses, noting that "[EERA's] expert consultant has extensive experience in gas and hazardous liquid pipeline integrity."²² The issue of EERA's witness credibility has already been raised and considered by the Commission, and CURE's newly submitted FOIA request results do not suggest any proper ground for reconsideration.

¹⁹ CURE Petition at 8-10.

²⁰ CURE Petition at 10.

²¹ *Compare* CURE Reply Post-Hearing Brief at 22-23 (Oct. 4, 2024) (eDocket No. 202410-210734-01), *with* CURE Petition at 8.

²² EERA Initial Post-Hearing Brief at 12 (Sept. 18, 2024) (eDocket No. 20249-210291-01).

IV. THE ORDER IS LAWFUL.

Finally, CURE parrots a multitude of arguments previously raised in briefing, comments, and exceptions to the ALJ Report. CURE largely asserts no new evidence, nor does it advance arguments that the Commission had not previously considered before issuing the Order. These issues have been previously briefed by EERA, Summit, CURE, and the Clean Energy Organizations (CEOs) in this docket, and CURE's Petition points to no unlawful or erroneous Commission action.

A. The Order and ALJ Report are well-reasoned and consistent with Minnesota law.

CURE asserts that the ALJ improperly assumed the Commission does not have authority to deny a route permit in the absence of a Certificate of Need. As noted extensively in briefing, the ALJ Report, and the Order, the Commission is tasked with applying statutory and administrative rule routing criteria and determining whether the proposed Project meets that criteria. The Commission found all criteria were met and the review surrounding the Project—namely the FEIS—as adequate, so it granted the route permit. Minnesota Rules 7852.0100-4100 (the Routing Permit Chapter) state that the purpose of the Routing Permit Chapter is “to aid in the selection of a pipeline route and to aid in the understanding of its impacts and how those impacts may be reduced or mitigated through the preparation and review of information contained in pipeline routing permit applications and environmental review documents.”²³

The ALJ Report is well-reasoned and consistent with Minnesota law. CURE and the CEOs raised this same argument through submissions of their exceptions to the ALJ Report.²⁴ These

²³ Minn. R. 7852.0200, subp 3.

²⁴ See CURE Exceptions to ALJ Report at 6-7 (Nov. 19, 2024) (eDocket No. 202411-212147-01); CEOs Exceptions to ALJ Report at 1-3 (Nov. 19, 2024) (eDocket No. 202411-212170-01).

arguments were a part of the record when the Commission decided to issue the route permit. CURE's Petition asserts no new position, nor does it advance any persuasive argument that the Commission had not previously considered.

B. The Project was not improperly segmented.

CURE claims once again that the Commission improperly segmented the Project from the larger Midwest Carbon Express (MCE) pipeline network for environmental review purposes.²⁵ CURE's position remains contrary to the plain language of Minn. R. 4410.2000, subp. 4, which provides that for segments of pipeline projects that are part of a larger "planned network, ... the RGU shall treat the present proposal as the total proposal or select only some of the future elements for present consideration..." The Commission applied the plain language of the Rule when determining that evaluation of the full MCE Project was outside the scope of the FEIS. Specifically, the Commission explained in its September 2023 order where it entertained and rejected this very argument:

As EERA and Summit noted, it is within the Commission's discretion under Minn. R. 4410.2000, subp. 4, to treat the current proposed pipeline as the total proposal for purposes of the EIS even though it relates to a larger planned network, as long as the selection is logical in relation to the design of the total network and is not made merely to divide a large system into exempted segments. In this case, reviewing the Otter Tail–Wilkin pipeline separately is logical because this pipeline is separated from the other Minnesota portions of the network geographically by about 100 miles. Further, it is the only portion of the pipeline network for which a permit is currently being sought from the Commission, meaning there is far less information available to inform a meaningful review of the other pipelines at this time as compared to the Otter Tail–Wilkin project.²⁶

²⁵ CURE Petition at 14-15.

²⁶ Ex. PUC-20 at 12 (Order Approving Scope of Environmental Review and Denying Stay).

Moreover, after the Commission's September 2023 order, CURE once again raised this argument in post-hearing briefing,²⁷ to which EERA and Summit responded. EERA noted that "The record further establishes that the Otter Tail to Wilkin pipeline segment and other proposed Minnesota pipeline segments are largely in distinct regions of influence ... Given that most regions of influence applicable to pipeline construction and operation are local and do not extend the approximately 100 miles between pipeline segments, the Commission was justified in exercising its discretion not to evaluate the project and portions of the planned network jointly."²⁸ Summit likewise explained the application of the plain language of Minn. R. 4410.2000, subp. 4, and noted that all larger portions of the MCE project will be evaluated through an EIS.²⁹

CURE's segmentation argument raised once again is unpersuasive,³⁰ just as it was when the Commission previously considered and rejected it.

C. Water appropriation and resource availability was extensively documented in the record and adequately considered throughout the proceedings.

CURE next contends that the Order failed to "resolve the issue that the environmental review is incomplete under the requirements of MEPA for a full analysis of the groundwater

²⁷ CURE Initial Post-Hearing Brief at 19-25 (Sept. 18, 2024) (eDocket No. 20249-210318-01).

²⁸ EERA Reply Post-Hearing Brief at 15-16 (Oct. 4, 2024) (eDocket No. 202410-210707-01).

²⁹ Summit Reply Post-Hearing Brief at 11-13 (Oct. 4, 2024) (eDocket No. 202410-210727-01).

³⁰ CURE has asserted this same argument several times throughout this proceeding. *See* CURE Initial Completeness Comments at 8-10 (Nov. 1, 2022) (eDocket No. 202211-190295-02); CURE Supplemental Completeness Comments at 4-7 (Nov. 21, 2022) (eDocket No. 202211-190813-01); CURE Scoping Comments at 2-3, 7, 10-11 (May 18, 2023) (eDocket No. 20235-195968-01); CURE DEIS Comments at 19 (Feb. 26, 2024) (eDocket No. 20242-203795-01); CURE Initial Post-Hearing Brief at 3, 19-25 (Sept. 18, 2024) (eDocket No. 20249-210318-01).

resources available for the project.”³¹ Again, this assertion is meritless, as potential impacts to water resources were identified and addressed in the record, as well as was raised in post-hearing briefing and considered by the Commission before issuing its Order.³²

As explained in briefing, the FEIS addresses issues related to water resources available for appropriation as they were raised in scoping.³³ The final scoping decision document required that the FEIS identify water resources, including floodplains, and potential impacts to these resources; discuss water use and appropriation; discuss waterbody crossing, including the isolated dry trench method and horizontal direction drill (HDD) method; discuss shut-off valve locations; and discuss the use of sheet piling and trench breaker placement.³⁴ Summit explained that during pipeline construction, HDDs, hydrostatic testing, and dust control could involve appropriations from surface water or groundwater sources, if permitted by the Minnesota Department of Natural Resources (DNR).³⁵ The FEIS likewise required Summit to obtain the appropriate permits for water to be used during operations.³⁶ Finally, Order Condition No. 7.13 requires Summit to meet “All requirements of the U.S. Army Corps of Engineers (USACE), [DNR], and local units of government,” including water appropriations permits.³⁷

³¹ CURE Petition at 15.

³² *See, e.g.*, CURE Initial Post-Hearing Brief at 8-9 (Sept. 18, 2024) (eDocket No. 20249-210318-01).

³³ Summit Reply Post-Hearing Brief at 6 (Oct. 4, 2024) (eDocket No. 202410-210727-01); Ex. DOC-18 at 5-135 to 5-152 (FEIS).

³⁴ Ex. DOC-10 at 7–8 (Final Scoping Decision Document).

³⁵ Summit Initial Post-Hearing Brief at 22 (Sept. 18, 2024) (eDocket No. 20249-210301-02).

³⁶ Ex. DOC-18 at 5-149 (FEIS).

³⁷ Order at Condition No. 7.13.

The FEIS thoroughly considered impacts to groundwater resources available for the Project, and additional agency permitting processes as required by the Order will ensure that water appropriations would not deplete or degrade the water sources, as the permit would specify maximum water withdrawal rates. There is no ground for reconsideration on this point.

D. CURE’s recycled arguments regarding FEIS adequacy were already heard and rejected by the Commission.

Staying consistent with its theme of repeating previously-asserted arguments, CURE’s Petition next contends the FEIS is inadequate.³⁸ After having the opportunity to review these arguments, the Commission evaluated the adequacy of the FEIS and concluded “the EIS is adequate because it addresses the potentially significant issues and alternatives raised in the scoping process, responds to the substantive comments received during the draft EIS review, and was prepared in compliance with the procedures of Minn. Stat. ch. 116D and Minn. R. 4410.0200 to 4410.6500.”³⁹ CURE’s Petition does nothing to suggest the Commission made this determination in error.

Specifically, CURE claims the FEIS did not perform certain analyses that CURE wanted.⁴⁰ EERA explained that these analyses were unnecessary for an analytical—as opposed to an encyclopedic—document like an FEIS.⁴¹ Each route alternative (RA) has similar relative impacts on the environment because the alternatives lie near each other and cross similar soils, geology,

³⁸ CURE Petition at 16-20.

³⁹ Order at 17.

⁴⁰ CURE Petition at 16-17.

⁴¹ EERA Reply Post-Hearing Brief at 7 (Oct. 4, 2024) (eDocket No. 202410-210707-01).

and the same surficial beach ridge aquifer; therefore, the additional analyses would not assist the Commission's decision-making and were unnecessary.⁴²

CURE next suggests that pipeline rupture modeling performed was insufficient.⁴³ This concern was addressed in post-hearing briefing, as EERA presented a thorough and detailed response regarding the sufficiency of its rupture analysis and modeling and included a discussion of the use of industry-standard CANARY modeling software.⁴⁴

CURE also contends that findings related to the impact of a CO₂ release in water were not supported by citations in the EIS.⁴⁵ This was once again raised in post-hearing briefing, and addressed by EERA.⁴⁶ EERA explained that these clerical errors in citations did not change the substance of what is in the record, or otherwise affect the adequacy of the FEIS.⁴⁷ The Commission previously heard this same argument before it determined the FEIS was adequate, and CURE does not offer any new argument in its Petition.

CURE also suggests that the FEIS erred in not addressing enhanced oil recovery.⁴⁸ This claim is puzzling, as the FEIS explicitly addresses enhanced oil recovery. The FEIS explains that approximately 316,700 to 633,300 barrels of oil could be produced annually using enhanced oil

⁴² EERA Reply Post-Hearing Brief at 7-8 (Oct. 4, 2024) (eDocket No. 202410-210707-01).

⁴³ CURE Petition at 17.

⁴⁴ EERA Initial Post-Hearing Brief at 10-12 (Sept. 18, 2024) (eDocket No. 20249-210291-01).

⁴⁵ CURE Petition at 17-18.

⁴⁶ See CURE Initial Post-Hearing Brief at 15-16 (Sept. 18, 2024) (eDocket No. 20249-210318-01); EERA Reply Post-Hearing Brief at 9-10 (Oct. 4, 2024) (eDocket No. 202410-210707-01).

⁴⁷ EERA Reply Post-Hearing Brief at 10 (Oct. 4, 2024) (eDocket No. 202410-210707-01).

⁴⁸ CURE Petition at 18-20.

recovery. The EIS further details that 316,700 to 633,300 barrels of oil annually would result in between 136,181 to 272,319 metric tons of CO₂ emissions per year.⁴⁹ The FEIS also provides a range of emissions based on differing CO₂ capture rates and details the Applicant's representations that the captured CO₂ could be used for enhanced oil recovery.⁵⁰ This issue was further addressed in EERA's post-hearing briefing.⁵¹

Summit also previously refuted claims from CURE and the CEOs that the Project will not be used for enhanced oil recovery and cited hearing testimony from its Chief Operating Officer confirming that the Project is only sized to capture CO₂ from the Green Plains Ethanol Plant, and that it has no other shippers and no capacity to ship additional CO₂ for any other purpose.⁵²

In sum, CURE's claims regarding FEIS inadequacy have already been considered by the Commission, and CURE raises no new evidence or legal errors that should compel the Commission to revisit its prior determination that the FEIS was appropriate and responsive to issues raised during the scoping process and comments during the draft EIS process.

E. The Commission approved Route RA-South after consideration of evidence in the robust and developed record.

Finally, CURE asserts that RA-South is "not the best option."⁵³ The voluminous record in this proceeding shows that RA-South, as well as other route alternatives including RA-North and RA-Hybrid, and other proposals such as a no action alternative, were scrupulously evaluated. The

⁴⁹ Ex. DOC-18 at 5-107 (FEIS).

⁵⁰ Ex. DOC-18 at 5-107 through 5-108 (FEIS).

⁵¹ See EERA Reply Post-Hearing Brief at 11-12 (Oct. 4, 2024) (eDocket No. 202410-210707-01).

⁵² Summit Reply Post-Hearing Brief at 14 (Oct. 4, 2024) (eDocket No. 202410-210727-01) (citing Evid. Hrg. Tr. at 90:5-8 and 97:4-17 (Powell)).

⁵³ CURE Petition at 20.

Commission considered and applied all requisite routing criteria when authorizing RA-South, including an evaluation of environmental impacts and mitigative measures.⁵⁴

The merits of route alternatives were discussed extensively in the ALJ Report and in post-hearing briefing.⁵⁵ CURE again suggests that RA-North is less impactful than the approved RA-South.⁵⁶ The FEIS concluded that the impacts were similar in nearly every category across all three alternatives. Moreover, potential human and environmental impacts were well addressed with the best management practices and conditions outlined in the FEIS.⁵⁷

In addition, the no action alternative CURE advocates for was studied and evaluated in the FEIS, which ultimately concluded: “If the Project is not constructed, the impacts described in Chapter 5 would not occur—there would be no human or environmental impacts because of the Project. There would be no potential risk from a pipeline rupture. Likewise, increased tax revenues would not be realized, and the ethanol plant would continue to emit CO₂ into the atmosphere as permitted.”⁵⁸ The ALJ Report also recognized that “If the no action alternative is selected, neither the benefits nor the harms of the Project will occur. Significantly, the ethanol plant would continue to emit CO₂ into the atmosphere as permitted.”⁵⁹ Therefore, a no action alternative is not viable if Minnesota is serious about reducing its CO₂ emissions across all sectors of the economy.

⁵⁴ Order at 10-17.

⁵⁵ *See generally*, ALJ Report at ¶¶ 591-608; Summit Initial Post-Hearing Brief at 21-22 (Sept. 18, 2024) (eDocket No. 20249-210301-02); Summit Reply Post-Hearing Brief at 13-18 (Oct. 4, 2024) (eDocket No. 202410-210727-01).

⁵⁶ CURE Petition at 21.

⁵⁷ Summit Reply Post-Hearing Brief at 17 (Oct. 4, 2024) (eDocket No. 202410-210727-01).

⁵⁸ Ex. DOC-18 at 7-1 (FEIS).

⁵⁹ ALJ Report at ¶ 401.

The Commission considered the benefits and impacts of RA-South and alternative routes, applying routing criteria, and granted a route permit for RA-South. CURE may disagree with the Commission's conclusion, but that disagreement does not raise new factual concerns or issues that were not previously discussed. Thus, to the extent that CURE raises concerns about impacts of RA-South, these concerns were raised in the proceeding, subjected to thorough review, accounted for in a carefully balanced decision-making process, further mitigated by the Commission's Order, and do not warrant reconsideration.

CONCLUSION

CURE falls well short of its burden to demonstrate the Order is unlawful or unreasonable. CURE presents no new and relevant evidence that suggests the Commission should rethink its decision. Much of CURE's Petition repeats arguments previously advanced by CURE and subsequently rejected by the Commission. CURE's discontentment with the Order is not grounds for reconsideration. Summit respectfully asks the Commission deny CURE's Petition.

Dated: March 24, 2025

Respectfully submitted,

/s/ Christina K. Brusven

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**In the Matter of the Application of Summit
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the Otter Tail to Wilkin Carbon Dioxide
Pipeline Project in Otter Tail and Wilkin
Counties, Minnesota.**

**OAH Docket No. 22-2500-38948
MPUC Docket No. IP-7093/PPL-22-422**

CERTIFICATE OF SERVICE

Maia Martinez certifies that on the 24th day of March, 2025, she e-filed true and correct copy the Answer to Petition for Reconsideration on behalf of Summit Carbon Solutions, LLC via eDockets (www.edockets.state.mn.us):

Said documents were also served as designated on the Official Service Lists on file with the Minnesota Public Utilities Commission and as attached hereto.

Executed on: March 24, 2025

Signed: /s/ Maia Martinez

Fredrikson & Byron, P.A.

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3	Adam	Carlesco	acarlesco@fwwatch.org	Food & Water Watch		1616 P St. NW, Suite 300 Washington DC, 20036 United States	Electronic Service		No	22-422Official
4	Generic	Commerce Attorneys	commerce.attorneys@ag.state.mn.us		Office of the Attorney General - Department of Commerce	445 Minnesota Street Suite 1400 St. Paul MN, 55101 United States	Electronic Service		Yes	22-422Official
5	Randall	Doneen	randall.doneen@state.mn.us		Department of Natural Resources	500 Lafayette Rd, PO Box 25 Saint Paul MN, 55155 United States	Electronic Service		No	22-422Official
6	Sharon	Ferguson	sharon.ferguson@state.mn.us		Department of Commerce	85 7th Place E Ste 280 Saint Paul MN, 55101-2198 United States	Electronic Service		No	22-422Official
7	Todd	Green	todd.a.green@state.mn.us		Minnesota Department of Labor & Industry	443 Lafayette Rd N St. Paul MN, 55155-4341 United States	Electronic Service		No	22-422Official
8	Richard	Kolodziejski	rkolodziejski@ncsrcc.org	North Central States Regional Council of Carpenters		700 Olive St St. Paul MN, 55130 United States	Electronic Service		No	22-422Official
9	Chad	Konickson	chad.konickson@usace.army.mil	U.S.Army Corps of Engineers		332 Minnesota St. Suite E1500 Saint Paul MN, 55101 United States	Electronic Service		No	22-422Official
10	Stacy	Kotch Egstad	stacy.kotch@state.mn.us		MINNESOTA DEPARTMENT OF TRANSPORTATION	395 John Ireland Blvd. St. Paul MN, 55155 United States	Electronic Service		No	22-422Official
11	Dawn S	Marsh	dawn_marsh@fws.gov	U.S. Fish & Wildlife Service		Minnesota-Wisconsin Field Offices 4101 American Blvd E Bloomington MN, 55425 United States	Electronic Service		No	22-422Official
12	Sarah	Mooradian	sarah@curemn.org	CURE		117 South 1st Street Montevideo MN, 56265 United States	Electronic Service		No	22-422Official
13	Christa	Moseng	christa.moseng@state.mn.us		Office of Administrative Hearings	P.O. Box 64620 Saint Paul MN, 55164-0620 United States	Electronic Service		No	22-422Official

#	First Name	Last Name	Email	Organization	Agency	Address	Delivery Method	Alternate Delivery Method	View Trade Secret	Service List Name
14	Kevin	Pranis	kpranis@liunagroc.com	Laborers' District Council of MN and ND		81 E Little Canada Road St. Paul MN, 55117 United States	Electronic Service		No	22-422Official
15	Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us		Office of the Attorney General - Residential Utilities Division	1400 BRM Tower 445 Minnesota St St. Paul MN, 55101-2131 United States	Electronic Service		Yes	22-422Official
16	Stephan	Roos	stephan.roos@state.mn.us		Minnesota Department of Agriculture	625 Robert St N Saint Paul MN, 55155-2538 United States	Electronic Service		No	22-422Official
17	Nathaniel	Runke	nrunke@local49.org			611 28th St. NW Rochester MN, 55901 United States	Electronic Service		No	22-422Official
18	John	Satterfield	jsatterfield@summitcarbon.com	Summit Carbon Solutions, LLC		2321 N Loop Dr, Suite 221 Ames IA, 50010 United States	Electronic Service		No	22-422Official
19	Will	Seuffert	will.seuffert@state.mn.us		Public Utilities Commission	121 7th Pl E Ste 350 Saint Paul MN, 55101 United States	Electronic Service		Yes	22-422Official
20	Rosalie	Solyntjes	msolyntjes@comcast.net			null null, null United States	Electronic Service		No	22-422Official
21	Cindy	Tassi	ctassi@summitcarbon.com	Summit Carbon Solutions		2321 N. Loop Dr., Suite 221 Ames IA, 50010 United States	Electronic Service		No	22-422Official
22	Jayme	Trusty	execdir@swrdc.org	SWRDC		2401 Broadway Ave #1 Slayton MN, 56172 United States	Electronic Service		No	22-422Official
23	Jen	Tyler	tyler.jennifer@epa.gov	US Environmental Protection Agency		Environmental Planning & Evaluation Unit 77 W Jackson Blvd. Mailstop B-19J Chicago IL, 60604-3590 United States	Electronic Service		No	22-422Official
24	Chris	Ventura	cventura@consumerenergyalliance.org	Consumer Energy Alliance		21 East State Street Suite 2200 Columbus OH, 43215 United States	Electronic Service		No	22-422Official
25	Jess	Vilsack	jvilsack@summitcarbon.com	Summit Carbon Solutions, LLC		2321 N Loop Dr, Suite 221 Ames IA, 50010 United States	Electronic Service		No	22-422Official
26	Amelia	Vohs	avohs@mncenter.org	Minnesota Center for Environmental Advocacy		1919 University Avenue West Suite 515 St. Paul MN, 55104 United States	Electronic Service		No	22-422Official

#	First Name	Last Name	Email	Organization	Agency	Address	Delivery Method	Alternate Delivery Method	View Trade Secret	Service List Name
27	Cynthia	Warzecha	cynthia.warzecha@state.mn.us	Minnesota Department of Natural Resources		500 Lafayette Road Box 25 St. Paul MN, 55155-4040 United States	Electronic Service		No	22-422Official
28	Alan	Whipple	sa.property@state.mn.us		Minnesota Department Of Revenue	Property Tax Division 600 N. Robert Street St. Paul MN, 55146-3340 United States	Electronic Service		No	22-422Official
29	Jonathan	Wolfgram	jonathan.wolfgram@state.mn.us		Office of Pipeline Safety	445 Minnesota St Ste 147 Woodbury MN, 55125 United States	Electronic Service		No	22-422Official