

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

Katie Sieben	Chair
Joseph Sullivan	Vice-Chair
Valerie Means	Commissioner
Hwikwon Ham	Commissioner
John Tuma	Commissioner

In the Matter of a Commission Investigation into Gas Utility Resource Planning Docket No. G-008, G-002, G-011/CI-23-117

**REPLY COMMENTS OF THE OFFICE
OF THE ATTORNEY GENERAL,
RESIDENTIAL UTILITIES DIVISION**

The Office of the Attorney General—Residential Utilities Division (OAG) respectfully submits these reply comments in response to the Public Utilities Commission’s May 7, 2024 Notice of Extended Comment Period. The OAG weighs in on three discussions from initial comments: (1) how the statutory requirements of Chapter 216H of the Minnesota Statutes inform the consideration of greenhouse gas (GHG) emissions in gas integrated resource plans (IRP); (2) load-forecasts in gas IRPs; and (3) the cadence at which the utilities should file gas IRPs.

I. GHG EMISSIONS SCOPE AND BASELINES

In initial comments, participants weighed in on how GHG emissions should be viewed and analyzed in gas IRPs. Xcel proposed to calculate emissions reductions based on in-state, anthropogenic emissions and to “leverage lifecycle GHG emission factors” from Natural Gas Innovation Act (NGIA) plans. Xcel proposed that gas IRPs should show total GHG reductions using 2020 as the baseline year in line with the NGIA. Xcel proposed the below decision option:

[Xcel Proposed decision option:] Consider the State’s economy-wide greenhouse gas reduction statutory goals consistent with Minn. Stat. § 216H.01 and 216H.02 using 2020 as the baseline year. Lifecycle GHG emission factors from filed Natural Gas Innovation Act (NGIA) Plans can also be considered in resource analysis to ensure lower emissions on a lifecycle basis.¹

¹ Xcel Straw Proposal at 2.

Several parties responded to two aspects of Xcel’s proposal: First, whether emission’s reporting should be on a statewide or lifecycle basis. Second, whether the 2020 NGIA baseline should be used instead of the 2005 baseline provided in Minn. Stat. § 216H.02. The OAG provides a brief response to points that intersect with statutory interpretation of Minnesota’s GHG goals and baseline measurement, following a brief overview of the statewide emissions reporting structure in Chapter 216H of the Minnesota Statutes.

A. Chapter 216H Provides a Framework for Tracking and Reporting Statewide GHG Emissions Using a 2005 Baseline.

The Commission’s March 27, 2024 framework order determined, “The scope of integrated resource planning considers the State’s economy-wide greenhouse gas reduction statutory goals.”² Section 216H.02, subdivision 1, provides Minnesota’s recently updated GHG emission’s reduction goals. Specifically, “It is the goal of the state to reduce statewide greenhouse gas emissions across all sectors producing greenhouse gas emissions by at least the following amounts, compared with the level of emissions in 2005: (1) 15 percent by 2015; (2) 30 percent by 2025; (3) 50 percent by 2030; and (4) to net zero by 2050”³ As used in Chapter 216H, “Statewide greenhouse gas emissions” are defined to include emissions of carbon dioxide, methane, and other greenhouse gases “emitted by anthropogenic sources within the state” and also GHG emissions caused by electricity generation outside of the state but consumed in Minnesota.⁴

Chapter 216H also creates a framework for tracking and reporting statewide greenhouse gas emissions. It tasks the Minnesota Pollution Control Agency (MPCA) with establishing a

² Order Establishing Framework for Natural Gas Utility Integrated Resource Planning at 7 (Mar. 27, 2024) (Framework Order).

³ Minn. Stat. § 216H.02, subd. 1(a).

⁴ Minn. Stat. § 216H.01, subd. 2.

system for reporting and maintaining an inventory of GHG emissions.⁵ It also requires the MPCA and Department of Commerce to provide a biennial report to the Legislature “identifying the level of reductions already achieved and the level necessary to achieve” the statutory goals timetable.⁶

The 2023 biennial report tracks an inventory from 2005 to 2020, including emissions from the residential sector where the largest sources of emissions are oil and natural gas.⁷ The report emphasizes that the state goals were updated in 2023 to reflect scientific consensus that emissions reductions must move farther, faster, and reach 50% by 2030 and net-zero emissions by 2050 compared to Minnesota’s emissions in 2005.⁸ The report notes, however, that net emissions from the residential sector rose by 14% relative to 2005 levels.⁹

The biennial report data is used in Minnesota’s Climate Action Framework, which outlines priorities and next steps to help Minnesota achieve its carbon-neutral vision.¹⁰ Among the priority actions in the most recent framework is reducing GHG emissions from existing buildings by 50% by 2035.¹¹

B. The Commission Should Require Utilities to Report and Forecast both Minnesota Specific and Lifecycle GHG Emissions.

The OAG recommends the Commission clarify that utilities should report and forecast both statewide and lifecycle emissions in their Plans. In response to Xcel’s proposal, Center for Energy

⁵ Minn. Stat. § 216H.021.

⁶ Minn. Stat. § 216H.07, subd. 3.

⁷ See Greenhouse Gas Emissions in Minnesota 2005-2020 at 14, MPCA and Minn. Dep’t of Commerce, <https://www.pca.state.mn.us/sites/default/files/lraq-2sy23.pdf>

⁸ See *id.* at 14.

⁹ *Id.*

¹⁰ Minnesota’s Climate Action Framework, <https://climate.state.mn.us/sites/climate-action/files/Climate%20Action%20Framework.pdf>

¹¹ *Id.* at 50.

and the Environment (CEE) and the Citizen’s Utility Board (CUB) recommended expanding the consideration of GHG emissions to both in-state and out-of-state emissions.¹²

The OAG agrees with CUB and CEE that both in-state and out-of-state emissions are relevant for gas resource planning. The OAG believes, however, that it is important for the gas utilities to report on in-state GHG emissions separately so that the Commission, other state agencies, and stakeholders can use this information to assess Minnesota’s overall work to achieving the statutory goal. The OAG also sees value in the consideration of lifecycle GHG emissions given GHG emission’s global impact. The gas utilities should therefore be required to report and forecast on both reductions in Minnesota specific emissions, as well as use lifecycle greenhouse gas emissions where appropriate.

C. The Commission Should Consider the Statewide GHG Reduction Goals Using the 2005 Statutory Baseline.

The Commission should reject Xcel’s proposal to use a 2020 baseline year for reporting statewide emissions under Chapter 216H. Xcel proposes to use lifecycle GHG emission factors from NGIA plans. Xcel then proposes that the Commission would consider the “statutory goals consistent with Minn. Stat. § 216H.01 and 216H.02 using 2020 as a baseline year.”¹³ However, as several parties pointed out in reply comments, section 216H.02 does not use a 2020 baseline

¹² CUB Initial Comments at 3; CEE Initial Comments at 6. The Clean Energy Organizations (CEOs) also proposed a decision option that would require utilities to include projected emissions that would result from its preferred plan and other resource mixes using lifecycle emissions. CEOs Initial Comments at 5.

¹³ Xcel Straw Proposal at 2.

year; it uses 2005. CEE and CUB noted the different baselines between Chapter 216H and the NGIA, but took no position¹⁴ The Department supported Xcel’s proposal to use a 2020 baseline.¹⁵

While the NGIA uses a 2020 baseline, it is in the context of requiring the comparison of total lifecycle greenhouse gas emissions that the utility projects will be avoided by the plan to total emissions from natural gas use by utility customers.¹⁶ The NGIA 2020 baseline is not used to monitor progress across industries under the statutory goal or to develop a framework to meet the goals. Importantly, the 2020 baseline for NGIA filings are for lifecycle emissions, many of which are out-of-state, not Minnesota specific emissions used for the Chapter 216H goals.

The Commission should reject Xcel’s proposal and should require utilities to report on statewide emissions using a 2005 baseline to allow the Commission to accurately assess the IRP considering Minnesota’s statutory GHG emissions reduction goals. The framework order emphasized that the state goals are “highly relevant to gas resource planning and should inform the utilities’ shorter-term goals” and that through the statute “the legislature signaled that all Minnesota industries should find ways to reduce emissions to achieve this goal”¹⁷ Finally, the Commission’s order notes the comparison to 2005 levels.¹⁸ Making the further clarification to set a 2005 baseline for Minnesota specific emissions is appropriate and will allow for comparison and consideration of projected reductions in the utilities’ IRPs to those reported in the Biennial Plan and used in Minnesota’s Climate Action Plan Framework. This will help the Commission assess the utilities resource plan in-line with overall progress on statewide GHG emissions reductions and allow for greater transparency for stakeholders and the public. This same

¹⁴ CEE Initial Comments at 4–5.

¹⁵ Department Initial Comments at 3.

¹⁶ See Minn. Stat. § 216B.2427, subd. 2(a)(4).

¹⁷ Framework Order at 5.

¹⁸ *Id.* at 3.

comparison will not be as useful or straightforward if the 2020 NGIA baseline for lifecycle emissions are used.

Some parties declined to take a position on the baseline year noting that the 2050 net zero requirement makes the baseline comparison a nullity. While the OAG agrees that the 2050 goal will remain the same regardless of whether a 2005 or 2020 baseline is used, the progress in reaching that goal in various industries remains important to monitor as the state and Commission weigh the size of the task of reaching the goal and the pace of execution against other important factors. The OAG also believes that knowledge of where the gas utilities stand vis-à-vis the 2030 statutory goal to reduce statewide GHG emissions by 50 percent will be an important benchmark in the early years of gas integrated resource planning.

The OAG is not opposed, however, to utilities reporting emissions reductions based on both 2020 and 2005 baselines, if the Commission determines that this would assist the gas IRP process and NGIA process in working together. Nor is the OAG opposed to the utilities using 2020 as a baseline for *lifecycle* emissions reporting if it will reduce costs and allow for greater comparison with the NGIA. But in the Commission's consideration of Minnesota specific GHG emissions reductions and the Chapter 216H goals, the 2005 baseline should be used to compare the utilities' IRPs to the overall work of the state in combating climate change.

II. INTERPLAY OF DEMAND-ENTITLEMENT AND RATE-CASE FORECASTS IN GAS IRPs.

In initial comments, the OAG responded to CenterPoint's proposal to use the company's design day and sales forecasts as the high load forecast for its IRP filing. The OAG responded to CenterPoint's proposal to recommend that the Commission require Commission-approved sales forecasts and design day forecasts rather than the company's proposals. The OAG took no position on CenterPoint's surrounding language regarding its plans for medium- and low-load-forecasts.

The Department, CUB, and CEE raised concerns with several aspects of CenterPoint's proposal. Because the Commission required utilities to provide ten-year sales and emissions forecasts, the Department stated concerns with using rate case sales forecasts, which are typically for one test year but may be up to five-years in multi-year rate plans.¹⁹ CUB commented on CenterPoint's framing of its proposed order modification, stating that it conflated the load forecasts with the resources that would be selected to meet them.²⁰ Similar to CUB, CEE noted that forecasts should be fuel-neutral forecasts of energy loads, and the gas IRP process would provide options for how to meet a utility's energy load.²¹

In its initial comments, CenterPoint clarified that it was "not proposing to restrict forecasting methodologies to current rate cases or demand entitlement filings, but instead is advocating for forecasting consistency across all dockets."²² Regarding the Department's concern about a mismatch between the timelines for the forecasts, CenterPoint stated that beyond the rate case test and plan years, it would use longer term models.²³ Regarding CUB's concern about the conflation of load-forecasts and resources, CenterPoint stated that although the forecasting methodologies from rate case and demand entitlement filings would be used to set the high-demand forecast, the medium- and low-demand forecasts would consider "various levels of demand side projects such as electrification and Energy Conservation and Optimization projects."²⁴ CenterPoint would also provide "a menu of supply side projects such as transmission pipeline capacity additions, storage, renewable natural gas, hydrogen distribution system looping,

¹⁹ Department Initial Comments at 5–6.

²⁰ CUB Initial Comments at 5.

²¹ CEE Initial Comments at 11.

²² CenterPoint Initial Comments at 2.

²³ *Id.*

²⁴ *Id.*

and peaking units to meet the various load forecast scenarios.”²⁵ Notably, CenterPoint’s menu of “supply-side projects” appears to be a list of resource options, but it does not include energy efficiency or demand-response resources.

Regarding the Department’s concerns about load-forecasting timing mismatches, the OAG does not have a strong position on whether existing forecasts should be used for the high-load forecast in a utility’s initial filing, new forecasts and methodologies should be required, or the parameters that should be used to set the medium and low load forecasts. However, if the Commission determines that existing forecasts should be integrated into utilities high-load forecasts, the OAG maintains that these should be Commission approved forecasts—rather than an unvetted utility proposal. Otherwise, the OAG believes the Commission should balance the potential accuracy of requiring the utility to update its forecasting methodologies specifically for gas IRPs against the potential additional regulatory costs—which will likely be borne by ratepayers. Further, the OAG believes that in any further load-forecasting direction in this proceeding should include the clarification that resource-planning participants are free to advocate for changes to the utility’s filed forecasts or otherwise challenge a forecast’s reasonableness or accuracy.

The OAG shares CUB’s and CEE’s comments that CenterPoint appears to be conflating demand forecasting and resource selection. The Commission framework order requires that “[e]nergy efficiency must be treated as an energy resource alongside all other energy resources” and should be “allowed to compete with supply-side and infrastructure resources to determine the optimal level of energy efficiency over the planning period.”²⁶ The order also requires that

²⁵ *Id.*

²⁶ Framework Order at 7.

resource plans “evaluate demand response resources . . . on par with other options for meeting energy and capacity needs.”²⁷ CenterPoint’s statements regarding using energy efficiency in its demand forecasts with no mention of it as a resource is concerning. While the OAG believes the Commission’s order is clear that both energy efficiency and demand response are to be treated as *resources*, not simply accounted for in medium and low load forecasting scenarios, the Commission may wish to advise the utilities of the intent of its order. Therefore, the Commission may wish to clarify that while utilities may use various levels of energy efficiency and demand response to inform load-forecasting scenarios, this does not relieve the utilities of the obligation to also consider energy efficiency and demand response as resources on par with other options for meeting energy and capacity needs.

III. FILING CADENCE FOR GAS IRPs

In initial comments, several parties weighed in on when the various utilities should file their first gas resource plans. The Department of Commerce proposed that Xcel be the first utility to file on October 1, 2026, with CenterPoint filing a year later, October 1, 2027, and MERC, a year after that, October 1, 2028.²⁸ The OAG supports the Department’s proposed cadence. The utilities have stated that 2026 is the earliest feasible deadline for initial plans and avoiding a November 1 filing deadline is important to avoid significant overlap with rate case filings. The OAG also observes that filing each year, with three utilities, will keep the process moving cyclically to provide a streamlined and consistent process for review.

The OAG opposes MERC’s proposal to delay the second utility’s filing deadline until 2028. MERC’s proposed cadence would have the first utility file in 2026, the second utility file

²⁷ *Id.*

²⁸ Department Initial Comments at 9–10.

in 2028, and push MERC’s filing out to 2029.²⁹ MERC’s first resource plan would not be approved until the end of 2030, and its second resource plan would not be approved until the end of 2034.³⁰ MERC justifies its position by arguing that it “allows another 12 months for the second utility to incorporate feedback and Commission determinations” into its plan.³¹ While there may be limited clarification following the order on the first resource plan, the OAG does not believe that the benefits from such clarification offsets the delay of putting off an initial resource plan for MERC until the next decade. Nor has MERC justified why the second utility would need 12 months to incorporate any clarification into its plan. The gas utilities are capable of monitoring ongoing gas IRP proceedings for other utilities and coordinating with stakeholders prior to filing. Further, because any Commission order on a specific utility’s plan would not directly apply to other utilities, there would be little direction that could not be gained by monitoring the docket and engaging with stakeholders.

Alternatively, should the Commission be interested in some delay between the first and second resource plans, it could inquire of Xcel whether it could file its resource plan a few months prior to October 1, 2026—potentially August 1—but otherwise maintain an October 1 filing schedule for subsequent plans. This would allow the second utility, likely CenterPoint, a couple of months to work in any clarifications from the proceedings, while maintaining a filing cadence that does not result in undue delay.

²⁹ MERC Initial Comments at 4–5.

³⁰ *See id.*

³¹ *Id.* at 4.

IV. RECOMMENDATIONS:

The OAG continues to recommend the Commission:

- Reject MERC’s request for deferred accounting.

The OAG modifies its recommendation regarding CenterPoint’s load-forecasting recommendations:

- If the Commission adopts CenterPoint’s proposed ordering point 40a, it should be modified as follows:

40.a. Where the high load forecast may represent the ~~Company’s-Commission-approved~~ forecast for design day as provided in ~~their-the utilities’~~ most recent demand entitlement filing, and ~~the Commission-approved~~ sales forecast as provided in the ~~utilities’~~ most recent rate case.

- The Commission should clarify that gas integrated-resource-planning participants are free to advocate for changes to the filed forecasts in a utility’s plan or otherwise challenge the forecast’s reasonableness or accuracy.
- The Commission should clarify that while utilities may use various levels of energy efficiency and demand response to inform load-forecasting scenarios, this does not relieve the obligation to also consider energy efficiency and demand response as resources on par with other options for meeting energy and capacity needs.

The OAG recommends the following clarifications regarding the consideration of Minnesota’s statutory GHG emissions reductions goals in Chapter 216H:

- The scope of integrated resource planning considers Minnesota’s economy-wide greenhouse gas reduction statutory goals, which consider state specific emissions, and may also consider lifecycle greenhouse gas emissions where appropriate.
- The utilities IRPs should report and forecast “statewide greenhouse gas emissions,” as defined in Minn. Stat. § 216H.01, using a 2005 baseline.

The OAG supports the Department’s filing cadence recommendation from initial comments:

- Require Xcel be the first utility to submit their gas IRP by October 1, 2026, and require the other two utilities to file their Plans on a 12-month cadence, beginning with CenterPoint in late 2027, and MERC in late 2028. [DOC]

Dated: July 19, 2024

Respectfully submitted,

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