

March 19, 2025

Via Electronic Filing

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

RE: Reply Comments
In the Matter of 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

Dear Mr. Seuffert:

Missouri Basin Municipal Power Agency, d/b/a Missouri River Energy Services, submits the enclosed Reply Comments in response to the Minnesota Public Utilities Commission's February 4, 2025, Notice of Extended Reply Comment Period in the above-referenced docket.

Please contact me at 605-330-4890 or derek.bertsch@mrenergy.com if you have any questions regarding this filing.

Sincerely,

/s/ *Derek Bertsch*

Derek Bertsch
Senior Regulatory and Contracts Counsel

Enc. Reply Comments of Missouri River Energy Services
Cc: Service List

STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION

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In the Matter of 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
MISSOURI RIVER ENERGY SERVICES

INTRODUCTION

Missouri Basin Municipal Power Agency d/b/a Missouri River Energy Services (“MRES”) submits these Reply Comments in response to the initial comments submitted by the Minnesota Department of Commerce (“Department”) and Midwest Renewable Energy Tracking System, Inc. (“M-RETS”) regarding the Minnesota Public Utilities Commission’s (“Commission”) October 31, 2024, Notice of Comment Period and February 4, 2025, Notice of Extended Reply Comment Period issued in Docket No. E999/CI-23-151.

REPLY COMMENTS

I. Hourly Matching

In its January 29, 2025, initial comments, the Department recommends the Commission change to hourly tracking and matching of energy and carbon-free credit trading for compliance with the new carbon free standard (“CFS”). MRES strongly opposes requiring hourly matching for CFS compliance and has joined with other utilities in submitting separate Joint Reply Comments on this issue. The Joint Reply Comments explain that the plain language of Minn. Stat. § 216B.1691 provides for compliance with the CFS to be determined on an annual basis. As discussed further in the Joint Reply Comments, the Minnesota Legislature (“Legislature”) intended compliance with the CFS to be demonstrated on the same annual basis as compliance has been determined with the renewable energy standard (“RES”), now named the “eligible energy technology standard” (“EETS”).

In addition to being contrary to the plain language of the statute and legislative intent, the Department’s proposal would be extremely difficult to implement. MRES’ resource planning software is not capable of modeling hourly renewable energy certificates (“RECs”), making MRES unable to incorporate hourly matching into its Integrated Resource Plan (“IRP”). MRES is not aware of any other resource planning software capable of incorporating hourly matching

constraints in the models to demonstrate CFS compliance. Without tools like the planning software to robustly test alternative resource options, it is difficult if not impossible to estimate the costs of implementing what the Department has proposed.

Even if resource planning software supported hourly matching in the models, it would become a very time intensive and administratively burdensome effort to demonstrate CFS compliance. All electric utilities, including small municipal electric utilities that do not file an IRP but otherwise are required to demonstrate CFS compliance, would be subject to the increased costs for CFS compliance that would result from an hourly matching requirement. This is inconsistent with the Legislature's directive to the Commission to protect against undesirable economic impacts on Minnesota utility ratepayers.¹

II. Deliverability of Renewable Energy Certificates

The Department recommended in its initial comments that the Commission require that all energy attribute certificates ("EAC")² retired to demonstrate CFS compliance meet similar deliverability requirements as set forth in the regulations established by the Internal Revenue Service for the hydrogen tax credit under section 45V of the Internal Revenue Code. Specifically, the Department recommended that utilities only be permitted to retire EACs to meet the CFS if the EACs are generated within the "Midwest" region of the Midcontinent Independent System Operator ("MISO") as defined by the 45V regulation or meet the regulation's interregional delivery limitations. According to the Department's proposal, a utility could only retire for CFS compliance an EAC associated with energy generated outside the Midwest region of MISO if the utility has transmission rights to deliver that energy to the Midwest region, settles the transaction within the region, and does not have any reverse transactions to counteract the sale.

The Department's proposal is contrary to both the plain language and intent of Minn. Stat. § 216B.1691. Minn. Stat. § 216B.1691, subd. 4(b) clearly states in lieu of generating or procuring energy directly to satisfy the CFS, a utility may utilize RECs allowed under a Commission-approved program. This provision expressly grants utilities the option to meet the CFS by utilizing renewable energy attributes that are separate and distinct from the energy. To treat RECs (or EACs) as only being counted for CFS compliance when the attributes are bundled with deliverable energy runs counter to how RES compliance has been determined for nearly two decades. The Legislature could have, but chose not to, create a requirement that the energy associated with a REC also be deliverable to the Midwest region of MISO. Instead, the Legislature's decision to have the CFS subject to the same statutory provisions as the EETS with respect to RECs underscores the Legislature's intent to not impose a requirement for deliverability into MISO. Finally, requiring deliverability directly contravenes the Legislature's directive that the Commission "shall facilitate the trading of renewable energy credits between states."³

¹ Minn. Stat. § 216B.1691, Subd. 2d(b)(1).

² The IRS 45V tax credits for hydrogen use the term "energy attribute certificate" for RECs and other credits that can be retired to demonstrate compliance with the regulation. See 26 CFR Ch. I, Sch. A, § 1.45V-4 Paragraph (d)(2)(ii).

³ Minn. Stat. § 216B.1691, subd. 4(c).

Further, requiring delivery of the energy associated with the RECs into the MISO Midwest footprint would unduly burden entities that have built renewable facilities outside MISO. MRES' Pierre Solar Project and Brookings Solar Project (currently under construction) are both located in South Dakota within the Southwest Power Pool footprint. It is not financially feasible for MRES to purchase transmission service between SPP and MISO for these solar energy projects. MRES believes the RECs associated with the energy produced from these projects should count toward CFS compliance, just as they currently count toward compliance with the EETS. Otherwise, to impose a deliverability requirement not found in statute would be contrary to Minn. Stat. § 216B.1691, subd. 4 that allows one REC to be used to:

... satisfy both the carbon-free energy standard obligation under subdivision 2g and either the renewable energy standard obligation under subdivision 2a or the solar energy standard obligation under subdivision 2f, if the credit meets the requirements of each subdivision.⁴

III. Net Market Purchases

M-RETS recommended in its initial comments that all claims of renewable or clean electricity consumption, including net market purchases, should be validated using RECs, alternative energy credits (AECs), or other Commission-approved EACs. The Department also recommended requiring electric utilities to purchase EACs equivalent to the carbon-free share of their net market purchases in order to claim partial compliance credit with the CFS.

These recommendations are directly contrary to both the plain language and intent of Minn. Stat. § 216B.1691, subd. 2d(b). Subdivision 2d(b) requires the Commission to allow electric utilities to receive partial compliance with the CFS for the percentage of the electric utility's annual net purchases from the regional transmission organization ("RTO") that are determined to be carbon-free. The statute does not include any requirement that electric utilities must separately purchase and retire RECs corresponding to such net carbon-free market purchases from the RTO.

Further, nothing in the applicable statute suggests that the Legislature intended for utilities to procure and retire RECs as a condition to receiving partial compliance credit under subdivision 2d(b). To impose such a requirement would make the Legislature's enactment of provisions to allow for partial compliance with the CFS meaningless, as utilities already can procure RECs under Minn. Stat. § 216B.1691, subd. 4(b) to account for their wholesale market purchases for CFS compliance. Subdivision 4(b) provides:

In lieu of generating or procuring energy directly to satisfy a standard obligation under subdivision 2a, 2f, or 2g, an electric utility **may** utilize renewable energy credits allowed under the program to satisfy the standard.⁵

⁴ Minn. Stat. §216B.1691, subd. 4(a).

⁵ Minn. Stat. § 216B.1691, subd. 4(b). (Emphasis added).

The use of the word “may” in the statute makes it clear that RECs are not the **only** manner of demonstrating compliance with the CFS.

As discussed in MRES’ initial comments, utilities should report and describe in their CFS compliance filing all calculations made by the utility in determining any partial compliance credit claimed for carbon-free market purchases. The utility should receive partial compliance credit for such carbon-free purchases by applying the amount of the utility’s net market purchases from the RTO that are deemed carbon-free towards the utility’s CFS obligation for the applicable compliance period.

CONCLUSION

The Legislature has provided clear statutory directives for compliance with the CFS, establishing an effective framework that aligns with long-standing practices under the EETS. The proposed shift to hourly tracking for CFS compliance contradicts this framework, posing significant implementation challenges without sufficient planning tools. Similarly, the Department’s proposal to impose deliverability requirements into the MISO Midwest footprint is inconsistent with statutory language, which allows utilities to meet the CFS using RECs regardless of energy delivery status. Imposing such a requirement would disadvantage projects located outside MISO and contradict legislative intent to facilitate REC trading. Lastly, requiring utilities to purchase and retire RECs for net market purchases deemed carbon-free conflicts with statutory provisions that explicitly allow for partial compliance credit without such conditions. The Legislature’s established framework has effectively guided compliance with the EETS for nearly two decades and should remain the standard for compliance with the CFS.

MRES appreciates the opportunity to submit these reply comments on behalf of itself and its municipal members, and we respectfully ask the Commission to consider these reply comments in any future action it may take to clarify CFS compliance reporting and verification under Minn. Stat. § 216B.1691. We look forward to continued participation in this matter.

Dated: March 19, 2025

MISSOURI RIVER ENERGY SERVICES

/s/ *Derek Bertsch*

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Derek Bertsch
My commission expires: 4-26-30