MINNESOTA
PUBLIC UTILITIES COMMISSION

Staff Briefing Papers

Meeting Date	**November 20, 2025**		**Agenda Item 4****
Company	All Electric Utilities		
Docket No.	E999/CI-23-151		
	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		
Issues	Should the Commission grant the Petition for Reconsideration submitted by Carbon Solutions Group?		
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✓ **Relevant Documents**	**Date**
Commission Order	September 16, 2025
Petition for Reconsideration, Carbon Solutions Group	October 6, 2025
Answer to Petition, Xcel Energy	October 16, 2025

BACKGROUND

Minn. Stat. § 216B.1691, the Renewable Energy Objectives (REO) statute, was amended in 2024 to include the state's Carbon-Free Standard ("CFS"). The statute tasks the Commission with issuing the necessary orders detailing the criteria and standards to (1) measure an electric utility's efforts to meet the CFS and (2) determine whether the utility is achieving the standards. Unlike other REO standards, the CFS contains a partial compliance provision, which, in part, allows for partial compliance from net market purchases. In relevant part, the statute states:

> **Subd. 2d. Commission order.**
> (b) … the commission shall include criteria and standards that: (1) protect against undesirable impacts on the reliability of the utility's system and economic impacts on the utility's ratepayers and that consider technical feasibility; and (2) require the commission to allow for partial compliance with subdivision 2g from:
> (ii) an electric utility's annual purchases from a regional transmission organization net of the electric utility's sales to the regional transmission organization, but only for the percentage of annual net purchases that is carbon-free, which percentage the commission must calculate based on the regional transmission organization's systemwide annual fuel mix or an applicable subregional fuel mix.

To provide guidance concerning the CFS, the Minnesota Public Utilities Commission ("Commission") opened Docket No. E-999/CI-23-151, *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* ("CFS Docket"). The Commission established four rounds of investigation for the CFS Docket, categorized by topic. Round 3 of the CFS proceedings involved CFS compliance.

In the Round 3 CFS proceeding, the Carbon Solutions Group ("CSG," the current Petitioner) provided extensive comments and analysis on market purchases, Renewable Energy Credits (RECs), Alternative Energy Credits (AECs) and Environmental Attribute Credits (RECs). Staff provides the following excerpt from its July 7, 2025 Briefing Papers, in which in referenced information provided by CSG.

- **Double counting** is when two separate entities use the same REC to make separate energy-based claims. This could occur, for example, if multiple parties are sold the same REC but use two different tracking systems. Another example might be if a utility used the same REC both to meet its RES requirements and in a sale in its voluntary green pricing program.

- **Double claiming** is when a) one entity makes a MWh-based

> emissions claim substantiated by an unbundled REC retirement, and b) another entity makes an emissions claim based on the same MWh but substantiated by generation or sales data for the underlying electricity. In this case, two different datasets, reflecting the same single MWh claim, are being used to substantiate two separate MWh-based claims. This could occur, for example, if a facility with a power purchase agreement for on-site solar claims to be using renewable electricity, while at the same time, the system owner is selling the RECs to a utility to meet its RES requirements.
>
> CSG listed a number of problems associated with double counting and double claiming, including market distortion, the potential for greenwashing, misinformed policymakers and ratepayers, and the undermining of Minnesota statutory goals.[footnote omitted]

The Commission met on July 17th and issued two Orders: one on August 7, 2025 and one on September 16, 2025.

The Commission's September 16th *Order on Carbon-Free Standard—Clarifying Use of Credits, Net Market Purchases, and Reporting* ("September 16th Order") took a number of actions, including:

- Specifying that in addition to RECs, utilities may also use AECs and EACs registered with the Midwest Renewable Energy Tracking Systems (M-RETS) to demonstrate compliance with the CFS; and
- Specifying that utilities are not required to retire RECs/AECs/EACs commensurate with their net market purchases. Instead, CFS-obligated utilities may simply calculate the carbon-free portion of their net market purchases to demonstrate compliance. However, the Commission directed utilities to first remove their own generation and purchases from the market fuel mix to prevent the double claiming of the utility's own carbon-free attributes.

On October 6, 2025, CSG filed its Petition for Reconsideration ("Petition") concerning the Commission's September 16th Order. On October 16, 2025, Xcel Energy filed a Response to Petition for Reconsideration ("Response").

RECONSIDERATION PETITION AND ANSWERS

I. Petition

CSG states it is requesting reconsideration of Ordering Paragraphs 1 and 3 from the September 16th Order, pursuant to Minn. Stat. § 216B.27 Subd. 1 and Subd. 2.

CSG lays out its arguments on pages 4-21 of its Petition. Broadly, CSG argues that Ordering

Paragraphs 1 and 3 are unlawful because they would allow for double-counting or double-claiming of carbon-free energy attributes. CSG includes a variety of quotes both from commenters and Commissioners at the July 17th agenda meeting to illustrate its arguments.

A. Ordering Paragraph 1

Ordering Paragraph 1 states:

> *Utilities may demonstrate compliance with the Carbon-Free Standard, Minn. Stat. § 216B.1691, subd. 2g, by retiring Renewable Energy Credits, Alternative Energy Credits, or equivalent Environmental Attribute Credits registered with the Midwest Renewable Energy Tracking System.*

Ordering Paragraph 3 states:

> *To calculate the percentage of annual net market purchases that are carbon-free under Minn. Stat. § 216B.1691, subd. 2d(b)(2)(ii), each electric utility must use the average annual fuel mix associated with Local Resource Zones ["LRZs"] 1–7 of the Midcontinent Independent System Operator, Inc., or the applicable regional fuel mix, after removing from the calculation the carbon-free electricity generated directly by the utility or procured by the utility through power purchase agreements in that year. The utility need not retire credits for this purpose.*

CSG first argues that the Ordering Paragraphs are unreasonable.

CSG argues that Ordering Paragraph 1 is unreasonable because represents a fundamental double claiming risk for CFS compliance claims. CSG is concerned that the use of "may" rather than "shall" allows utilities to demonstrate compliance through other means, aside from credit retirement. CSG states that this could result in utilities simply submitting gross generation data for CFS compliance purposes, then selling the corresponding EACs to another Minnesota utility, who in turn could use those EACs for CFS compliance. In such a case, the amount of carbon-free energy reported to the state would be twice the amount of carbon-free energy actually generated.

CSG states Ordering Paragraph 3 is unreasonable because although it attempts to mitigate double-claiming, it would fail to achieve such mitigation and likely contribute to a CFS-obligated utility double claiming its own carbon-free energy as well as the electricity of other CFS-obligated utilities.

CSG argues that Ordering Paragraph 3 is unlawful because it conflicts with Minn. Stat. §216B.1691, subd. 4, which deals with the renewable credit program. CSG sites the following

subdivision requirements:

> (a) …The program must treat all eligible energy technology equally and shall not give more or less credit to energy based on the state where the energy was generated or the technology with which the energy was generated.
>
> (c) The commission shall facilitate the trading of renewable energy credits between states.

CSG argues that the geographical components of the Commission's order run afoul of these provisions. CSG states that the compliance value of an EAC (1 MWh = 1 EAC) cannot fluctuate based on the geographical location of an EAC-producing facility. CSG further states that electricity generated outside of MISO LRZs 1-7 can be double claimed under the Commission's Ordering Paragraphs, while electricity generated outside of these LRZs can only ever be claimed once for CFS compliance. CSG concludes that, as a result, more or less credit is actually given to energy based on the state where the energy is generated.

CSG also argues that Ordering Paragraph 3 is unlawful because it conflicts with Minn. Stat. §216B.1691, subd.9 (a)(4), which deals with maximizing net benefits to Minnesotans.

> (a) The commission shall take all reasonable actions within the commission's statutory authority to ensure this section is implemented in a manner that maximizes net benefits to all Minnesota citizens. Reasonable actions the commission must take and benefits that must be maximized include but are not limited to: […] 4) ensuring that all Minnesotans share (i) the benefits of clean and renewable energy, and (ii) the opportunity to participate fully in the clean energy economy.

To this, CSG argues:

> To the extent that a CFS claim made by one utility is double claimed by another utility, both sets of customers (through their respective utilities) are laying claim to the same carbon-free MWh. As has been noted, this means that one set of customers are not receiving a carbon-free MWh. For example, should a Minnesota utility claim gross generation for 1 MWh but sell an EAC to an Ohio utility for Ohio RPS compliance—industry best practices and credible accounting would state that the Ohio ratepayers of that Ohio utility received the carbon-free MWh. If an Ohio utility and its ratepayers are laying claim to that carbon-free MWh, how then could Minnesotans share in the benefits of that carbon-free MWh? How could those Minnesotans be fully participating in a clean energy

economy if that clean energy is exported?[1]

CSG argues that Ordering Paragraph 1 is unlawful in part because of Ordering Paragraph 3. CSG states that because 1) the value of EACs can fluctuate based on geography, 2) non-Minnesota sited generation would be disadvantaged over Minnesota-sited generation because of the potential for double-claiming, therefore 3) Minnesota-sited generation would have greater compliance value than non-Minnesota sited generation.

To address its concerns, CSG suggests the following edits to Ordering Paragraphs 1 and 3:

> "1. For claims other than those involving net market purchases, ~~U~~utilities ~~may~~ shall demonstrate compliance with the Carbon-Free Standard, Minn. Stat. § 216B.1691, subd. 2g, by retiring Renewable Energy Credits, Alternative Energy Credits, or equivalent Environmental Attribute Credits registered with the Midwest Renewable Energy Tracking System."[44]

> "3. To calculate the percentage of annual net market purchases that are carbon-free under Minn. Stat. § 216B.1691, subd. 2d(b)(2)(ii), each electric utility must use the average annual fuel mix associated with the State of Minnesota ~~Local Resource Zones 1-7 of the Midcontinent Independent System Operator, Inc., or the applicable regional fuel mix~~, after each obligated utility has removed ~~removing~~ from the calculation the carbon-free electricity generated directly by ~~the~~ each obligated utility or procured by ~~the~~ each obligated utility through power purchase agreements in that year. ~~The~~ Each utility ~~need not~~ must retire credits for this purpose."[45]

II. Answers

Only Xcel Energy ("Xcel") responded to CSG's petition. Xcel's response was brief and stated:

> *Xcel Energy respectfully recommends denial of CSG's Petition. The Petition does not present new information and fails to otherwise satisfy these criteria. CSG's Petition states that Order Point Nos. 1 and 3 would "lead to [Carbon Free Standard]-obligated utilities double counting or double claiming carbon-free electricity during the compliance process." As the September 16 Order notes, parties – including CSG, the Department of Commerce, Center for Resource Solutions, EnergyTag, and M-RETS – raised concerns regarding double-counting during the proceeding. The Commission considered and addressed these concerns during the hearing and in its Order, stating, "After due consideration, the Commission has identified a mechanism to mitigate the problem of double-counting more directly." Order Point No. 3 memorializes that mechanism.[2] [footnotes omitted]*

[1] Petition, p. 22.

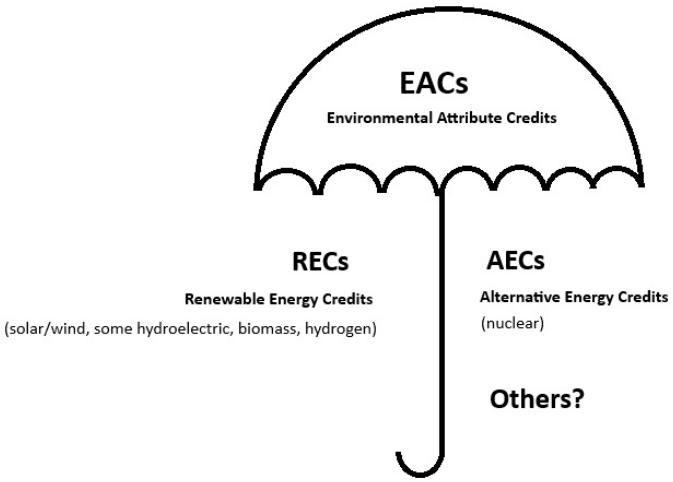
[2] Xcel Energy October 16, 2025 Answer to Reconsideration, p. 2.

STAFF ANALYSIS

The Commission "may reverse, change, modify, or suspend" its original decision if it determines that "the original decision, order, or determination is in any respect unlawful or unreasonable." Minn. Stat. § 216B.27, subd. 3. 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. Staff has reviewed the Petition under this standard, and for the reasons below, does not believe that reconsideration is necessary or appropriate.

Ordering Paragraph 1

Parties in the CFS Round 3 proceeding agreed that RECs, AECs, and EACs should all be permissible as a means for compliance. This was important for commenters, as previously the Commission had required only REC retirement. However, nuclear—which may be covered under the CFS statute—generates AECs and not RECs. As a reminder, Staff provides following infographic of the relationship between RECs, AECs, and EACs, with EACs as the umbrella term.



The initial impetus of Ordering Paragraph 1 was not to undermine the requirement to retire credits generally, but to open the door to other types of credits beyond RECs. The Commission's reasoning from its Order was:

> Where a generation resource produces carbon-free energy, the Commission will recognize the alternative credits arising from that resource for use in demonstrating compliance with the Renewable Energy Objectives. Like Renewable Energy Credits, alternative credits track information about the electricity being generated, including the facility, facility location, and date of generation. These unique serialized accounting mechanisms allow the credit holder to

> legally claim the environmental attributes associated with the underlying energy–such as the claim that the energy is carbon-free—and prevent others from claiming the same attributes for the same kWh. Accordingly, the Commission will grant the proposal to authorize this usage.

In other words, the initial point of "may" in Ordering Paragraph 1 was not to make credit retirement optional, but to allow for other types of credits. The Petitioner implies that because the PUC said “may” in Ordering Paragraph 1, this means that a utility—rather than the PUC—will have the discretion to determine the circumstances under which the utility must retire credits when demonstrating compliance with the CFS. This conclusion is unjustified. Furthermore, the PUC is *not* requiring utilities to retire credits for every MWh of compliance demonstration, since net market purchases will not require credit retirement, so the use of “may” is entirely appropriate.

However, the Petitioner’s suggested remedy is not unreasonable. Although Staff believes it may be unnecessary, should the Commission wish to clarify Ordering Paragraph 1 through adopting CSG’s proposed edits, Staff offers **Decision Option 2.**

Ordering Paragraph 3

A fundamental point of contention in the Round 3 CFS proceeding was whether the Commission should require “credit-based compliance” or allow “energy-based compliance” for net market purchases. Advocates of credit-based compliance argued that carbon-free net market purchases should be accompanied by EACs to prevent double-counting and double-claiming of energy attributes. The Department of Commerce also noted that a utility using an average fuel mix calculation would inadvertently be claiming a fraction of its own carbon-free generation. Advocates of energy-based compliance argued that the statute makes no requirement concerning the retirement of EACs for net market purchases, or as a condition to receive compliance credit. In all previous REO standards, the Commission has required REC retirements to demonstrate compliance, and the allowance of energy-based compliance was a new proposition.

In its July 7, 2025 Briefing Papers, Staff provided the following analysis:

> The record clearly displays how using an energy-based market fuel mix calculation to substantiate carbon-free claims would result in double claiming of environmental attributes. This was undisputed. Instead, those in favor of using energy-based compliance for net market purchases argued that such substantiation is allowed under the REO statute.
>
> It is also clear to Staff that the statute permits partial compliance through the carbon-free portion of net market purchases, and that

> requiring net market purchases to be accompanied by a separate purchase of RECs, AECs, or equivalent EACs might render the net market purchases provision meaningless.

The Commission expressed its understanding of the double-counting and double-claiming risks at the July 17th agenda meeting. At that time, the Commission sought to find the appropriate balance that would align with the requirements of the statute while mitigating the risk of double-counting and double-claiming. As a result, the Commission adopted Decision Option 3, reasoning:

> Ultimately the Commission finds that this dispute is governed by statute. As previously noted, Minn. Stat. § 216B.1691, subd. 4, provides for utilities to demonstrate compliance with the Renewable Energy Objectives by acquiring and retiring credits, and the Commission has long promoted that policy. In addition, the recently adopted Minn. Stat. § 216B.1691, subd. 2d(b)(ii) expressly authorizes a utility to demonstrate compliance via net market purchases. Interpreting this statutory language to also require a utility to retire credits would render it meaningless: utilities already had the power to demonstrate compliance by retiring credits, whether or not the utility's energy came from net market purchases. The only way to give meaning to the new statutory language is to read it as establishing an additional mechanism for demonstrating compliance with the Renewable Energy Objectives, including the Carbon-Free Standard. Accordingly, the Commission will decline to require a utility to retire credits when claiming to have acquired carbon-free energy from the wholesale market.
>
> Nevertheless, this statutory analysis does not address commenters' concerns about double-counting. This was the context in which those commenters proposed interpreting the statute to limit its scope. After due consideration, the Commission has identified a mechanism to mitigate the problem of double-counting more directly.
>
> Specifically, the Commission will direct each utility, when calculating the percentage of net market purchases that are carbon-free under Minn. Stat. § 216B.1691, subd. 2d(b)(2)(ii), to start with the average fuel mix for the relevant wholesale market, and then back out the amount of carbon-free electricity that the utility generated or procured through power purchase agreements. This formula recognizes that no utility can be expected to know how much double-counting may result when it claims to have

> acquired carbon-free energy from the wholesale market. But every utility knows how much carbon-free energy it sold into the market and whether it obtained credits for that energy; on this basis, the utility can calculate an adjustment to the fuel mix to avoid double-counting the carbon-free energy that it sold into the market and bought back.
>
> To refine this further, the Commission will clarify that the calculation must reflect the fuel mix for MISO Local Resource Zones 1–7 or some other applicable regional fuel mix. MISO's other zones—serving parts of Arkansas, Louisiana, Mississippi, and Texas—are simply too remote to have any practical bearing on the relevant fuel mix for Minnesota's utilities.

As noted, the issues concerning Decision Option 3 were discussed extensively in the record. From Staff's review, the Petitioner did not (i) raise new issues, (ii) point to new and relevant evidence, (iii) expose errors or ambiguities in the underlying order, or (iv) otherwise persuade the Commission that it should rethink its decision.

Staff also found some of CSG's arguments unfounded. The Commission is not restricting the trading of EACs between states in any way; the geographical component of Ordering Paragraph 3 was to put a geographical bound upon the fuel mix calculation, as required by statute. It has nothing to do with where the utility may buy or sell EACs. Further, the Commission has also not given more or less credit to EACs generated in different states; for all qualifying generation in all states, 1 EAC = 1 MWh. If the *monetary value* of EACs differs based on where those EACs are generated, this is not something the Commission can do anything about, as it is simply a matter of market forces. Staff allows that it is possible the Commission's permittance of energy-based compliance could have a small hand in de-valuing EACs, but Staff fails to see how utilities removing their own generation from a market fuel mix calculation would result in the statutory violations claimed by CSG.

Further, the Commission is not violating the requirement that the Commission take action to ensure that all Minnesotans share the benefits of clean and renewable energy, and the opportunity to participate fully in the clean energy economy. Quite the opposite, the Commission is providing nuanced and thoughtful regulatory guidance about how partial compliance for net market purchases is best demonstrated. The Commission is not required to do anything to mitigate double-claiming, yet has taken significant efforts to understand the issue and render decisions in the public interest to the best of its ability.

DECISION OPTIONS

1. Deny the Petition.
2. Clarify the September 16, 2025 Order as follows:

    A. Adopt the Petitioner's recommended adjustments to Ordering Paragraph 1 so that it reads:

    > *For claims other than those involving net market purchases, utilities shall demonstrate compliance with the Carbon-Free Standard, Minn. Stat. § 216B.1691, subd. 2g, by retiring Renewable Energy Credits, Alternative Energy Credits, or equivalent Environmental Attribute Credits registered with the Midwest Renewable Energy Tracking System.*

3. Reconsider the September 16, 2025 Order as follows:
    A. Adopt the Petitioner's recommended adjustments to Ordering Paragraph 3 so that it reads:

    > *To calculate the percentage of annual net market purchases that are carbon-free under Minn. Stat. § 216B.1691, subd. 2d(b)(2)(ii), each electric utility must use the average annual fuel mix associated with the State of Minnesota, after each obligated utility has removed from the calculation the carbon-free electricity generated directly by each obligated utility or procured by each obligated utility through power purchase agreements in that year. Each utility must retire credits for this purpose.*