



July 19, 2024

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101

Re: *In the Matter of a Commission Evaluation of Changes to Natural Gas Utility Regulatory and Policy Structures to Meet State Greenhouse Gas Reduction Goals - PUC Docket Nos. G008,G002,G011/CI-23-117, G999/CI-21-565*

Executive Secretary Seuffert,

CURE, MN350 Action, Minnesota Interfaith Power & Light, Midwest Building Decarbonization Coalition, Ayada Leads, and concerned members of the public (collectively “Commenters”) respectfully submit these reply comments¹ regarding the questions noticed in the above docket on May 7, 2024.² Commenters write in support of positions made by Citizens Utility Board of Minnesota³ (CUB) and Clean Energy Organizations⁴ (CEOs). Commenters also write in response to Minnesota Energy Resources Corporation⁵ (MERC) on the issue of equity. The Commission should adopt practices that maximize public input and support individuals and communities that

¹ These comments are the product of collective work between the named organizations as well as members of the public who have devoted their time to promoting clean heat for all Minnesotans. Feedback came from science educators serving underserved youth, policy wonks, and Minnesotans from around the state.

² eDockets No. [20245-206461-01](#) [hereinafter “Notice”].

³ eDockets No. [20246-208130-03](#) [hereinafter “CUB”].

⁴ eDockets No. [20246-208115-01](#) [hereinafter “CEOs”].

⁵ eDockets No. [20246-208070-01](#) [hereinafter “MERC”].

are harmed, or could be harmed in the future, by fossil-fuel industry infrastructure and wasted sunk costs.

I. CUB

Commenters agree with CUB's point that **both in-state and out-of-state emissions should be included in required modeling for evaluating a resource.**⁶ It is important to remember that gas infrastructure has significant impacts to environmental justice communities throughout the extraction, transport, and distribution system. So in addition to out-of-state emissions, the Commission should require utilities to fully account for historic impacts on low-income communities and communities of color as a part of their plans, and require discussion of how changes to the distribution system will have upstream impacts on communities impacted by gas extraction and transportation. Frequently these communities will be Tribal Nations in other states and Canada, and their past and present impacts should be considered when weighing buildout or contraction of the utility's service.

Commenters also agree with CUB that "the Commission [should] also require utilities provide a narrative description of how their preferred plan is estimated to meet the net zero by 2050 goal,"⁷ **but the Commission should not accept any preferred alternative that does not clearly move the utility towards the 2050 goal set by the legislature.**

Commenters agree that using externality values for carbon dioxide, nitrous oxides, sulfur dioxide, and particulate matter from Docket No. 14-643 is a useful starting point. However, those externality values relate to pollution of the outdoor environment and climate,⁸ they do not in any way estimate the severe and disproportionate negative health impacts to gas customers who are harmed by methane, criteria pollutants, and particulate matter formed when gas is burned in their homes. As a result, Commenters would urge the Commission to **go further than the existing externality values, and require analysis of the mortality and morbidity caused by continued gas use in residences and businesses** where there are known long-term health impacts such as asthma and heart disease, often leading to premature death and lost quality of life.⁹ The Commission should

⁶ CUB at 3.

⁷ CUB at 4.

⁸ See Commission Order setting criteria air pollutants environmental costs values, Jan. 3, 2018, eDockets No. [20181-138585-01](#); Commission Order setting greenhouse gas environmental cost values, Dec. 19, 2023, eDockets No. [202312-201351-03](#).

⁹ Public Health Law Center, *Public Health Requires Rethinking Gas Stoves*, July 6, 2023,

open a docket to set indoor gas use externality values based on the current medical science reflecting the serious damage done to the most vulnerable members of our society by continued indoor gas combustion.

Rather than merely setting high, medium, and low forecasts based on gas demand, Commenters would like to see the Commission also order the utilities to express demand as a function of heating needs. That is to say, the forecasts should reflect actual human needs, not be based on the ability of a utility to provide their preferred type of fuel. While Commenters do not dispute the high/medium/low forecast concept, it should be expressed as a need for units of heat that could be met by different technological solutions. **This will allow utilities to better discuss winterization and switching customers to electric heating systems rather than contemplating how to sell them more gas in a leaky house.** This will pair well with the Commission’s prior decision to require energy efficiency to be modeled as a resource¹⁰ – efficiency should include both insulation and the higher overall efficiency that comes from heat pump technology as compared with gas combustion.

Regarding Expansion Alternatives Analysis (EAA), as discussed further below expansion into low-income communities should always be subjected to an alternatives analysis that gives a robust public commenting opportunity to the impacted community. At this point it does not seem sufficient to ballpark the need for an EAA to an arbitrary dollar amount,¹¹ because even a relatively small expansion into a new neighborhood could saddle those residents with aging infrastructure that they will have to pay to remediate.¹² **As a “do no harm” principle the Commission should either place a moratorium on expansion into low-income communities or have an automatic trigger for EAA should expansion be proposed in an environmental justice community with significant numbers of BIPOC residents, low-income residents, or any expansion in Indian Country or**

<https://www.publichealthlawcenter.org/commentary/230706/7/6/23-public-health-requires-rethinking-gas-stoves>; PUBLIC HEALTH LAW CENTER, COOKING WITH SMOKE: HOW THE GAS INDUSTRY USED TOBACCO TACTICS TO COVER UP HARMS FROM GAS STOVES, Mar. 2024, <https://www.publichealthlawcenter.org/sites/default/files/resources/Cooking-With-Smoke.pdf>.

¹⁰ See CUB at 6.

¹¹ See CUB at 9 (“CUB understands the Gas Utilities have agreed to provide data on the number of expansion projects each utility has had over the last five years above each of the following thresholds: \$1 million, \$3 million, \$5 million, \$10 million and \$15 million. This information will allow the utilities, other stakeholders, and the Commission to better understand what a reasonable and workable cost threshold should be to allow a sufficient menu of project options for the utility to choose from in conducting an alternatives analysis.”)

¹² CUB describes this saddling of the least well off with the bill for aging gas infrastructure in its initial comment at 12.

Indigenous communities. As CUB states, utilities should consult with impacted communities to determine when an EAA is required,¹³ but this duty should not just fall to the utilities, and it is incumbent on the Commission to assure equity even if a utility does not identify a particular project as having a disproportionate impact. Commenters do not think a one-size-fits all dollar threshold for EAA is sufficient if it is not set low enough to give voice to all impacted communities who may not later have the means to extricate themselves from the gas network.

Working with stakeholders may be a useful ongoing discussion, as CUB states,¹⁴ but a stakeholder process administered by industry insiders does not in any way make up for robust and meaningful public participation. This is discussed further below. Commenters urge the Commission to engage with the public as much as possible in gas planning and not merely replicate stakeholder processes that have failed to include the perspectives of the larger public in prior dockets.

Equity cannot be reduced to a mapping exercise. While it is useful to have data laid out in a map format, merely tagging communities for analysis is not the same as meaningfully engaging with them. Also, the danger of working from a map would be to assume that a low-income community would benefit from additional infrastructure (e.g. buildout of new gas lines) when that new infrastructure actually negatively impacts them economically and in terms of their health.¹⁵ **Effective engagement with impacted communities must be a part of any planning process, and merely mapping folks or turning to “stakeholders” to represent their interests is not a sufficient stand-in for talking to people themselves.**

II. CEOs

Commenters also generally agree with the initial comment made by the CEOs. Specifically, Commenters support many of the CEOs draft decision options, including

¹³ CUB at 13.

¹⁴ CUB at 10.

¹⁵ A corollary example would be the buildout of carbon capture and sequestration infrastructure, which is also likely to harm host communities and be clustered in Black, Indigenous, People of Color, and low-income communities, many of them rural. *See* WHITE HOUSE ENVIRONMENTAL JUSTICE ADVISORY COUNCIL, RECOMMENDATIONS: CARBON MANAGEMENT WORKGROUP, Nov. 17, 2023, at 4 https://www.epa.gov/system/files/documents/2023-11/final-carbon-management-recommendations-report_11.17.2023_508.pdf (“As research has shown for decades, existing fossil fuel infrastructure, such as power plants, have been disproportionately sited in or within several miles of Black, Brown, and Indigenous communities and communities with lower incomes. Carbon management infrastructure will add risks and further burden EJ communities because it must be added to existing energy infrastructure.”).

decision options 1, 2, 4,¹⁶ 6,¹⁷ 7,¹⁸ 8,¹⁹ 9, and 10.²⁰ Despite this general agreement, a few specifics are worth repeating:

- Commenters continue to assert that a full externalities analysis must also include accounting for the immediate human health harms of gas combustion indoors, which is not already covered by the Commission's existing externality values.
- Commenters reiterate that alternatives analysis under the overall planning structure or within an EAA should be done at the discretion of impacted communities, in addition to projects that are large enough to clear a dollar threshold established by the Commission.
- Commenters also reiterate that merely mapping out environmental justice communities, or engaging with "stakeholders" instead of the communities themselves, is not sufficient to bring equity into the gas planning process.

Commenters agree that **all gas planning should include demand-side solutions that include alternatives to gas expansion**,²¹ and agree with CEOs that the Commission should align the required analysis with the standard set in Colorado including "non-pipeline alternatives" analysis.²²

Regarding the projection of gas distribution jobs, another requirement in Colorado,²³ Commenters urge the Commission to create a mechanism for existing employees of the utilities to provide input and have their voices heard without the intermediary of their employer. For example, the Commission could create a commenting system for

¹⁶ This decision option will need to be reworded to not start with "The Commission should clarify" but the content of the option is nonetheless sound. As discussed above, the externality figures used in electricity planning are useful as a starting point but they do not fully account for the negative health impacts experienced from combustion inside homes and other buildings, so the Commission should add additional externalities figures for the immediate public health harms of gas combustion indoors.

¹⁷ Ideally this could be made more specific than "casts a wide net," but again Commenters agree with the point made.

¹⁸ As stated above, a money threshold should not be the only factor in determining whether to conduct an EAA, but it should be one factor.

¹⁹ This decision option could be improved to go beyond "stakeholders" and include all members of the impacted community, including community leaders (e.g. local government or tribal leaders) and other important leaders such as elders.

²⁰ As stated above, equity cannot be reduced to a mapping exercise. Mapping out impacted communities is a beginning of an analysis but does not replace robust engagement with the identified communities.

²¹ CEOs at 10.

²² CEOs at 11.

²³ CEOs at 11.

employees that allows them to voice their concerns and views anonymously in a way that informs and assists the planning process without requiring them to submit comments through management. **As the industry evolves and employees are able to retrain into different industries, the Commission will need to view the issue of job impacts and workforce preparedness from the perspective of the employees and not just from the utility's vantage point.** Workers should be able to move on to other good-paying jobs and the Commission should help to plan for that even if that transition is contrary to the desires of utility leadership.

Commenters also agree with CEOs that, ultimately, in order to move the gas system towards a cleaner future with more wellbeing for customers and workers, the utilities will have to become part of the transition to electrifying heating and cooling throughout their service territories.²⁴ **Utilities are service providers, and by partnering with other businesses they can deploy significant resources to update buildings to make them run more efficiently and without the need for pipes and fuels.** The Commission should discourage a transition from gas to costly and potentially very dangerous alternatives, such as hydrogen – these alternatives will very likely harm low-income communities and are ultimately not long-term solutions for the people of Minnesota. Investing far more resources into insulation and clean renewable energy on the grid will ultimately make communities far more resilient, both economically and environmentally.

III. MERC

Commenters disagree with most of MERC's initial comments regarding equity in gas planning. MERC's comment could be summarized as asserting that doing practically nothing different from the status quo will be enough to ensure equity in the gas planning process – this is entirely incorrect. The status quo has harmed, and continues to harm, communities and groups that have been systematically excluded from decision making in places such as Commission planning dockets. As the Commission already established in its notice, the planning process must provide some forms of redress for past and existing harms.²⁵

MERC's initial comment states that supplying job opening announcements to diverse organizations is a benefit because it may result in hiring diverse members of the community,²⁶ but adding diverse workers to a system that is harmful ultimately doesn't benefit them or their communities. Existing fossil fuel pipeline infrastructure and resource extraction disproportionately impacts Tribal Nations in the U.S.,

²⁴ See CEOs at 14.

²⁵ Notice at 2 (prompting comments on “Redress for previous harms (for example, considering how to locate utility jobs and affordability programs in communities that have been impacted by environmental injustices or another systemic disinvestment).”).

²⁶ MERC at 7.

Canada, and around the world.²⁷ As a result, merely providing employment to some individuals is not a sufficient remedy for the ongoing impact to Native lands and cultures. Instead of status quo solutions, **the Commission should require the gas utilities to plan for the establishment of decommissioning trust funds.**²⁸ Such trust funds should be funded sufficiently for the interest earned to be paid back to Tribal Nations now for past harms, while the principal of the fund will eventually be used to remove gas infrastructure when the companies cease operations of particular pipelines or distribution networks.

Employment in the gas industry does not make up for setting aside funds to remove outdated gas infrastructure. It is likely existing infrastructure will be abandoned as gas sales decline. Abandoned in-ground piping must be made safe and abandoned property must not have any legacy environmental issues. **The Commission should require establishment of sufficient decommissioning funds to cover any future liabilities arising from abandonment.**

MERC suggests that equity can be removed from the IRP process and addressed within another docket.²⁹ But moving equity out of the planning process ignores the fact that the Commission's notice also identified the need to address distribution of burdens and benefits from the utility's activities.³⁰ Only in the full system planning process can the Commission have sufficient information and options to allocate benefits to impacted communities by protecting them from unnecessary gas buildout.

²⁷ For example, EPA recently announced its largest Clean Air Act stationary-source civil settlement ever for air quality violations by an oil company on a reservation in North Dakota. Associated Press, *Marathon Oil reaches \$241 million settlement with EPA for environmental violations in North Dakota*, MPR News, July 11, 2024, <https://www.mprnews.org/story/2024/07/11/marathon-oil-241-million-settlement-epa-environmental-violations-north-dakota>. This is merely one example of the overall trend identified by experts. *Fossil fuel extraction is harming Indigenous communities, say experts*, Harvard T.H. Chan School of Public Health, Apr. 20, 2022, <https://www.hsph.harvard.edu/news/features/fossil-fuel-extraction-harming-indigenous-communities/>. See also WHITE HOUSE ENVIRONMENTAL JUSTICE ADVISORY COUNCIL, RECOMMENDATIONS: CARBON MANAGEMENT WORKGROUP, Nov. 17, 2023, at 4 https://www.epa.gov/system/files/documents/2023-11/final-carbon-management-recommendations-report_11.17.2023_508.pdf (“Research and scientific assessment, including the U.S. National Climate Assessment, demonstrates Black, Brown, and Indigenous communities suffer the most severe impacts from climate change.”).

²⁸ While the IRP process may not contain the full proceeding of establishing a decommissioning trust fund, the conditional acceptance of the first IRPs should include setting a docket that establishes a fully-funded trust for each gas utility.

²⁹ MERC at 7.

³⁰ Notice at 2.

Lower income customers will be some of the last to leave the natural gas system as the state moves to a no-GHG future.³¹ It seems inevitable the last customers on the natural gas system will face higher costs as a shrinking rate base will not be able to maintain the system efficiently enough to keep rates stable.

Gas utilities should be required to establish plans to avoid this circumstance. For example, it may make sense (financially and for operations) if a gas utility planned to cease serving whole areas of customers at once. The utility would need to work with government units to ensure all customers in an identified service area were moved off natural gas in an orderly phase out, perhaps assisted with state/federal/local funding to transition them to other options for heating. Local groups who currently do weatherization and home fix-up projects could be a resource.³²

MERC is the gas utility that serves the largest number of rural Minnesota residents, but it offered no information on how rural customers or non-customers use fuels differently than urban residents.³³ Commenters are concerned that, generally, rural communities that are not already connected to natural gas utilities are seen as an expansion opportunity for natural gas companies. Hence, communities that currently rely on propane, fuel oil, wood, or electric resistance heat may be included in gas company plans for expansion. Considering the substantial public health harms of natural gas, and that heat pump (or other electric heating) systems operate at lower cost and without the indoor emissions of those legacy delivered-fuel systems, **rural low-income communities should be prioritized for clean heating options when replacing propane, fuel oil, or wood heating.** To better support equity the Commission should not allow service territories to expand within low-income areas currently using delivered fuels. Such expansion would potentially induce

³¹ See CLIMATE SOLUTIONS, TRANSITIONING FROM GAS: A MANAGED AND TIMELY TRANSITION LOWERS COST AND RISK FOR CUSTOMERS, May 2024, https://www.climatesolutions.org/sites/default/files/2024-05/Managed_Timely_Transition_summary.pdf (“Increasing gas bills, via the utility death spiral, will disproportionately harm low-income gas customers who may not be able to afford the full cost of a heat pump or face additional barriers in electrifying their homes. Low-income households, disproportionately BIPOC, face higher levels of air pollutants and should not be the last ones left on the gas system with increasing bills.”).

³² Utilities need not reinvent the wheel but can work to put customers in touch with organizations such as CERTs and resources available through the Department of Commerce. MN Department of Commerce Energy & Utilities, Improving Home Efficiency, <https://mn.gov/commerce/energy/conserving-energy/efficiency/>.

³³ Notice at 2 (“How does your community use natural gas in unique ways, ways that the Commission or other groups might not see (for example, your need for a particular power source or appliance)?”).

Minnesotans of limited means to become reliant on a fuel that is likely to become more expensive as the gas industry becomes less profitable over time.

Instead of discussing how utilities must engage with communities, MERC merely made reference to making information available through existing channels or picking meeting locations.³⁴ Picking better meeting locations would be a necessary step towards engagement, but not sufficient to fully engage and meaningfully hear from customers, consistent with the Commission's questions: "Before making final decisions, how can utilities best engage with communities to make sure community needs are considered in resource plans? How should utilities document community feedback as well as explain why community input was or was not used in final gas resource plans?"³⁵

In response to these questions, Commenters think that **effective engagement is made up of many best practices**, some small and others cross-cutting principles that guide other decisions. For example, in public meetings it would make sense to plan for:

- Providing healthy and appropriate food/beverages
- Prior coordination with local community leaders to assure high attendance and awareness
- Providing information during existing community events/meetings
- When transit is available, choosing locations with walkable access to major transit lines
- Scheduling during a reasonable time after typical working hours and school hours if planned during the week
- Dependent-friendly spaces
- Public meetings prioritized in areas designated as 'Green Zones' or in identified environmental justice areas
- Space for community organizations or nonprofits to set up information and engage with attendees, equivalent in location and prominence to information provided by utilities

The Commission should **also adopt best practices for seeking comment from tribal members and low-income communities laid out in the CEQ guidance on environmental justice**, which requires adaptive techniques for gathering information.³⁶ The Commission could also incorporate explicit standards set out by

³⁴ MERC at 6-7.

³⁵ Notice at 2.

³⁶ Council on Environmental Quality, Environmental Justice Guidance Under the National Environmental Policy Act at 13 (1997), https://www.epa.gov/sites/default/files/2015-02/documents/ej_guidance_nepa_ceq1297.pdf. ("Participation of low-income

the White House Environmental Justice Advisory Council in the context of other types of new infrastructure buildout.³⁷ The Commission and Utilities should plan to contact government bodies and community groups before scheduling public meetings. These bodies/groups can provide input on scheduling for maximum attendance. The utilities' representatives typically interface primarily with larger customers but these meetings require contacts well beyond their business-as-usual set. There will be no one-size-fits-all form of public meeting, and coordinating with local community members at the planning stage would be very helpful in assuring that the event is well attended.

Providing online commenting opportunities is necessary but will not always be sufficient. Many rural, low-income, and Indigenous people have limited access to reliable high-speed internet. In some cases, allowing commenters to provide feedback over the phone or by other means may be appropriate.

IV. Conclusion

Commenters thank the Commission for allowing us the opportunity to respond to others' comments in this important docket. How the Commission sets up the gas planning process will ultimately determine whether or not low-income and other impacted communities are properly assisted in exiting the gas market, or if they get swept up in a transition that is not their doing but could harm them greatly. In the meantime, indoor air pollution and climate change are impacting low-income groups the most, and legacy fossil fuel infrastructure has hurt Indigenous peoples and continues to extract value from their lands. The Commission can set strong standards for externalities, public participation, workforce retraining, decommissioning trust funds, alternatives analysis that leads to non-pipe solutions, and moratoriums on expansion where it would only strand new customers in a shrinking system that no longer serves the public's best interests.

The Commission is not normally tasked with closing utilities, but it certainly has a role in helping them evolve into better companies that are more resilient and serve the public better. The gas planning process should be a part of that, and it should

populations, minority populations, or tribal populations may require adaptive or innovative approaches to overcome linguistic, institutional, cultural, economic, historical, or other potential barriers to effective participation in the decision-making processes These barriers may range from agency failure to provide translation of documents to the scheduling of meetings at times and in places that are not convenient to working families.”).

³⁷ See WHITE HOUSE ENVIRONMENTAL JUSTICE ADVISORY COUNCIL, RECOMMENDATIONS: CARBON MANAGEMENT WORKGROUP, Nov. 17, 2023, at 23 https://www.epa.gov/system/files/documents/2023-11/final-carbon-management-recommendations-report_11.17.2023_508.pdf (listing ten principles and sub-principles).

lead to strong utilities that help customers get heating solutions that don't make them sick and don't burden them with unfair costs. Helping utilities realistically plan for zero emissions by 2050 will ultimately serve them and the people of Minnesota better than allowing business as usual to continue indefinitely.

Signatories:

Ayada Leads

CURE

Midwest Building Decarbonization Coalition

Minnesota Interfaith Power & Light

MN350 Action