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January 19, 2024

Via Electronic Filing

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

RE: Initial comments of the Minnesota Municipal Utilities Association (MMUA) 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:

The Minnesota Municipal Utilities Association (MMUA) submits the enclosed initial Comments in response to the Commission's December 20, 2023, Notice of Comment Period in the above-referenced docket.

Please contact me at 612-263-0440 or ksulem@mmua.org if you have any questions regarding this filing.

Sincerely,

A handwritten signature in black ink that reads "Kent Sulem".

Kent Sulem
Director of Government Relations and Senior Counsel

Enc. Initial Comments of Minnesota Municipal Utilities Association

STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben	Chair
Hwikwon Ham	Commissioner
Valerie Means	Commissioner
Joseph K. Sullivan	Commissioner
John A. Tuma	Commissioner

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

INITIAL COMMENTS OF
Minnesota Municipal Utilities Association

INTRODUCTION

MMUA offers the following initial comments in response to the Commission’s Notice of Comment Period dated December 20, 2023. MMUA is a nonprofit, voluntary-membership association advocating on behalf of the municipally owned electric, gas, and water utilities across Minnesota. In addition, the municipal power agencies which are at the center of the December 20, 2023, Notice of Comment on Docket 23-251, are affiliate members of MMUA. MMUA’s mission is to unify, support, and serve as a common voice for municipal utilities.

COMMENTS

1. Whether and how municipal power agencies are subject to reporting under Section 216B.1691 as an “Electric Utility.”

Municipal power agencies are expressly included in the definition of the term “electric utility” under Minnesota Statutes Section 216B.1691.¹ Also expressly included in this statutory definition of an electric utility are public utilities (IOUS), generation and transmission cooperative electric associations, and power districts.² Section 216B.1691 goes on to require electric utilities, including municipal power agencies, to report compliance with the renewable energy standard and the newly created carbon-free

¹ §216B.1691, subd. 1 (d).

² Id.

standard.³ The amendments to Minnesota Statutes Section 216B.1691, made during the 2023 regular legislative session, did not change how reports under this statute were to be made.⁴ It is MMUA's assumption that the municipal power agencies will continue to report as an electric utility in the same manner as they currently do for compliance with the Renewable Energy Standard.

a. Should the Commission require each municipal power agency to identify which of its members' electric sales are reported by another entity, which entity is reporting for each member, and the percentage of the member's sales reported by that entity.

Requiring a municipal power agency to report what amount of electric sales a member is receiving from another entity is not required by statute, may impose unnecessary difficulties to the municipal power agencies, and serves no particular purpose. Minnesota Statutes Section 216B.1691 requires a municipal power agency to generate or procure sufficient energy from RES and CFS compliant sources to at least meet the electric utility's total retail electric sales to their distribution utility members.⁵ "Total retail electric sales" is defined by the statute to mean the kilowatt-hours of electricity sold in a year by the municipal power agency as an electric utility.⁶ In other words, compliance with the RES and CFS does not rely on any one member's numbers, but instead is based on all combined sales by the municipal power agency. The individual member is not defined as an electric utility and thus there is no reporting required of the sales of that member individually. That said, some municipal power agencies may show each member's purchases as they relate to the power agency's total retail sales, but it should not be assumed that the municipal power agency would have data related to purchases made by a customer from another entity. Assuming that entity is also defined as an electric utility under Minnesota Statutes Section 216B.1691, subd. 1 (d), the additional sales would be reported by the other entity as part of that entity's total retail sales.

b. Should the Commission require each municipal power agency to identify any member's retail power sales that are not reported for purposes of Minn. Stat. § 216B.1691?

See clause (d) below.

c. Should the Commission require each municipal power agency to make a compliance filing identifying a point of contact (name, address, contact information) for purposes of enforcing compliance with Minn. Stat. § 216B.1691?

MMUA has no opposition to this proposal.

d. Are there other matters associated with municipal power agencies that should be reported to the Commission in connection with Minn. Stat. § 216B.1691?

MMUA is aware of four municipal utilities which appear to fall into a reporting loophole. Two of these utilities are members of a municipal power agency and thus are not electric utilities as that term is statutorily defined, and thus have no statutory obligation to report compliance with the RES and CFS.⁷ Two others are small utilities who are not members of a municipal power agency and thus are defined as

³ §216B.1691, subd. 3.

⁴ See 2023 Regular Session Laws Chapter 7.

⁵ See §216B.1691, subd. 1 (f).

⁶ Id.

⁷ §216B.1691, subd. 1 (d).

an electric utility.⁸ However, they purchase their power through an entity that is not subject to Minnesota Statutes Section 216B.1691. All four of these utilities currently purchase or, in mid-2024, will begin purchasing their power from AEP, an energy supplier, but not a municipal power agency or any of the other types of entities defined as an electric utility under the statute⁹. MMUA recommends that any clarification to the scope of Minnesota Statutes Section 216B.1691 come in the form of a bill subject to the legislative process.

2. Should the Commission require that any entity that intends to report on behalf of one or more electric utilities newly subject to Section 216B.1691, displayed in Table 1 identify:

a. The electric utilities they intend to report on behalf of;

b. The portion of each electric utilities' total retail electric sales covered by the report? (Ex. If a public utility supplies a distribution utility with 100% of the energy they consume in a year, the public utility would name the distribution utility they are reporting for, and state that 100% of the distribution utility's energy sales will be covered by its report.)

Utilities listed on Table 1 are municipal utilities that do not belong to a municipal power agency and thus are defined to be their own electric utility. As such, these utilities are subject to the reporting mandates of Minnesota Statutes Section 216B.1691. However, these utilities are generally very small and buy their power directly from another electric utility required to file its own reports under Minnesota Statutes Section 216B.1691. The report filed by the utility providing the power will include the sales to the Table 1 utilities and thus there is no need for additional reporting to identify parties or their percentages. The issue of the actual power provider reporting on behalf of Table 1 utilities was resolved in the Order to this ongoing docket dated December 6, 2023.

3. Please identify any distribution cooperatives that serve fewer than 50 Minnesota customers (such as those located near the state's border), that have not been included in the list of Electric Utilities displayed in Table 1 below who are included in the definition of "electric utility" in Section 216B.1691. Does the Commission have any authority to modify these utilities' obligation to comply with Section 216B.1691? If so, how should the obligations be modified?

N/A to MMUA or its members.

4. Are there any other issues helpful to the Commission's implementation of Minn. Stat. § 216B.1691?

MMUA has no additional issues under this section at this time.

Respectfully submitted,



Kent Sulem
Director of Government Relations and Senior Counsel
MMUA
Attorney #0231940

⁸ Id.

⁹ Id.