



February 13, 2024

VIA E-FILING

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

Re: Matter of Investigation into Implementing Changes to the Renewable Energy
Standard and the Newly Created Carbon Free Standard
Docket No. E999/M-23-151
SUPPLEMENTAL COMMENTS

Dear Mr. Seuffert:

On April 23, 2023, the Minnesota Public Utilities Commission (or, "Commission") filed a Notice of Comment Period regarding the Matter of Investigation into Implementing Changes to the Renewable Energy Standard and the Newly Created Carbon Free Standard under Minn. Stat. § 216B.1691. This filing contains Minnesota Power's responses to the Supplemental Topics 5 and 6 issued by the Commission on January 26, 2024.

If you have any questions regarding this filing, please contact me at (218) 428-9846 or jmccullough@mnpower.com.

Respectfully submitted,



Jess McCullough
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Attach.

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

In the Matter of Investigation into
Implementing Changes to the
Renewable Energy Standard and the
Newly Created Carbon Free Standard

Docket No. E999/M-23-151
SUPPLEMENTAL COMMENTS

I. INTRODUCTION

On April 23, 2023, the Minnesota Public Utilities Commission (“Commission”) filed a Notice of Comment Period regarding the Matter of Investigation into Implementing Changes to the Renewable Energy Standard (“RES”) and the Newly Created Carbon Free Standard (“CFS”) under Minn. Stat. § 216B.1691.

On October 11, 2023, Minnesota Power (“Company”) filed a letter clarifying that Hibbing Public Utilities and Brainerd Public Utilities are not contractually defined as municipal customers of Minnesota Power, and as such the Company will not include them in its RES reporting. Following discussion of this issue before the Commission on October 19, 2023, the Commission issued an Order Clarifying Implementation of Changes to Minn. Stat. §216B.1691 and Directing Additional Comment Period on December 20, 2023. The Company filed its Additional Comments on January 19, 2024. The Commission then issued a Notice of Extended and Supplemental Comment Period on January 26, 2024. Below, the Company addresses Supplemental Topics 5 and 6, noting that its answers to Topics 1-4 are included in its January 19, 2024 filing.

II. TOPICS OPEN FOR COMMENT

5. Should municipal power agencies that do not supply energy, like Northeastern Municipal Power Agency, be considered an “electric utility” under Section 216B.1691 and thus be included in the Commission’s list of electric utilities?

a. Do such municipal power agencies meet the statutory definition of a municipal power agency provided in Minn. Stat. § 453.52, or the legislative intent described in Minn. Stat. § 453.51?

No. It is the Company’s position that Minn. Stat. § 216B.1691 is applicable to all entities that supply wholesale electricity to retail electric utilities in Minnesota or to Minnesota retail electric utilities directly, so that all electricity that is provided to retail customers in Minnesota is supplied by an entity that is covered by section 216B.1691. It does not apply to an entity that does not supply electricity to its members. When the Legislature amended Minn. Stat. § 216B.1691 in 2023, it did so knowing that certain municipal utilities were not covered under the current law (as referenced in the Clean Energy Organizations’ comments filed in this docket on February 7, 2024). In addition, the Commission’s order in 2011¹ that applied Minnesota Power’s sales to its wholesale customers was an effective order that Minnesota Power has complied with in retiring Renewable Energy Credits (“RECs”) for its wholesale customers and it would be an absurd result that the Legislature, by expanding the applicability of Minn. Stat. § 216B.1691 to municipal utilities, would allow previously covered municipal utilities to have no obligations.²

6. Should the Commission consider alternate reporting requirements for MPAs that do not supply energy in order to monitor whether the MPA’s members’ energy sales are being accounted for in other electric utilities’ RES and SES compliance reports?

a. If so, what reporting requirements should the Commission consider?

¹ Docket No. E-999/M-10-989, “Order Finding Utilities In Compliance And Clarifying Requirements For Reporting Wholesale Electricity Sales”

² See Minn. Stat. §§ 645.16 (Legislative Intent Controls) and 645.17(1) (“the legislature does not intend a result that is absurd, impossible of execution or unreasonable”).

No. As noted in the February 7, 2024 comments filed by the Clean Energy Organizations, the legislative intent of the 2040 Carbon Free Law as articulated by Rep. Long was to cover all utilities. It is the position of the Company that a Municipal Power Agency (“MPA”) which does not generate electricity is not obligated to monitor and report Renewable Energy Standard (“RES”) and Solar Energy Standard (“SES”) compliance on behalf of its members. The responsibility of compliance and reporting in such a case should fall to the individual members of the MPA that are electric utilities that provide electricity to Minnesota customers and that are not being reported for by another covered entity. Implementing the statute differently could result in many Minnesota customers being deprived of “the benefits of clean and renewable energy, and (ii) the opportunity to participate fully in the clean energy economy”.³

³ <https://www.revisor.mn.gov/laws/2023/0/Session+Law/Chapter/7/>

III. CONCLUSION

Minnesota Power appreciates the opportunity to engage with the Commission and other stakeholders in this docket. The need for consistency in reporting is essential to the effective implementation of the Renewable and Solar Energy Standards and the 2040 Carbon Free Law in general. Minnesota Power believes that the Commission has the authority to clarify these definitions without legislative action and looks forward to a productive discussion of these matters. Please feel free to contact me with any questions regarding these matters.

Dated: February 13, 2024

Respectfully submitted,

A handwritten signature in black ink, reading "Jess McCullough". The signature is fluid and cursive, with the first name "Jess" and last name "McCullough" clearly distinguishable.

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STATE OF MINNESOTA)
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COUNTY OF ST. LOUIS)

AFFIDAVIT OF SERVICE VIA
ELECTRONIC FILING

Tiana Heger of the City of Duluth, County of St. Louis, State of Minnesota, says that on the 13th day of February, 2024, she served Minnesota Power's Supplemental Comments in **Docket No. E999/M-23-151** on the Minnesota Public Utilities Commission and the Energy Resources Division of the Minnesota Department of Commerce via electronic filing. The persons on E-Docket's Official Service List for this Docket were served as requested.



Tiana Heger