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February 14, 2024

Via Electronic Filing

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

RE: Supplemental comments of the Minnesota Municipal Utilities Association (MMUA) in response to the Notice of Extended and Supplemental Comment period dated 1/26/2024 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.

Docket No. E-999/CI-23-151

Dear Mr. Seuffert:

The Minnesota Municipal Utilities Association (MMUA) submits the enclosed supplemental comments in Docket # E-999/CI-23-151.

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

Sincerely,

A handwritten signature in cursive script that reads "Kent Sulem".

Kent Sulem
Director of Government Relations and Senior Counsel

Enc. Supplemental Comments of Minnesota Municipal Utilities Association

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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 an 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

Supplemental Comments of Minnesota
Municipal Utilities Association

INTRODUCTION

MMUA offers the following Supplemental Comments in response to the Notice of Extended and Supplemental Comments dated January 26, 2024. MMUA is a nonprofit, voluntary-membership association advocating on behalf of the municipally owned electric, gas, and water utilities across Minnesota.

COMMENTS

Comments dated February 7, 2024, and filed in this docket by a group calling itself the “Clean Energy Organizations,” misstate MMUA’s position as laid out in our earlier filings associated with this docket. In particular, the CEOs state MMUA contends that members of the Northeastern Minnesota Municipal Power Agency (NEMMPA) cannot be subjected to Minnesota Statutes Section 216B.1691 because NEMMPA does not sell power directly to its members. Members of NEMMPA are not subject to direct reporting under the statute because they are not “electric utilities” as clearly defined under Section 216B.1691. The definition clearly lists municipal power agencies as being “electric utilities” and also those utilities that are not a member of one of the expressly listed entity types. Thus, the clear and precise language of the statute as adopted by the 2023 legislature is what gives members of NEMMPA their exemption from direct coverage by the statute.

MMUA clearly states in its earlier comments that NEMMPA is subject to Section 216B.1691. However, because NEMMPA provides no sales, its report would be zero and not at all helpful towards tracking compliance. As the facts show, however, all but two members of NEMMPA receive their power from an IOU subject to mandatory reporting of its sales and said IOU has independently acknowledged its obligation to report on behalf of these utilities.

The CEOs rely on their view of statutory intent to try and bring NEMMPA's members directly under the scope of Section 216B.1691, but statutory intent is neither proven by one legislator's comment, nor is it relevant when there is no statutory ambiguity.

As MMUA outlines in its filing dated February 7, 2024, NEMMPA is a validly incorporated power agency. The fact that they do not sell power does not negate this fact. NEMMPA's existence has made it feasible for members to provide consumers with reliable and affordable electric power. Further, any challenge to NEMMPA's validity would be a question for the courts and not the Commission.

Contrary to the contention of the CEOs, recognizing NEMMPA's valid stature under Minnesota Statutes Sections 453.51-453.62, and thus the exemption of its members from the definition of "electric utilities" under Section 216B.1691, does not create a significant and unwarranted gap in the law. As previously stated in MMUA's filings to this docket, only two NEMMPA utilities fall in a gap where the express language of the law does not result in their mandated reporting. If the legislature is concerned about the nominal number of utilities not covered by the scope of Section 216B.1691, new legislation could be introduced.

Respectfully submitted,



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