

May 12, 2022

To: Senator Gary Dahms Representative Rob Ecklund
 Senator Nick Frentz Representative Jamie Long
 Senator Eric Pratt Representative Mohamud Noor
 Senator Jason Rarick Representative Zack Stephenson
 Senator David Senjem Representative Chris Swedzinski

Dear Conferees to Senate File (SF) 4091,

Thank you for your work on SF 4091/HF 4355 and for the opportunity to comment on the provisions contained in the bill. This letter pertains to the Energy and Utilities (Senate) and Climate and Energy (House) sections of the bill. As you know, the Public Utilities Commission (PUC or the Commission) regulates the state's Investor-Owned electric and gas utilities and oversees the permitting of large energy infrastructure. The Commission respectfully provides the following comments on some of the provisions contained in the bill(s):

- **Large Wind and Solar County Approvals:** The Senate bill contains a provision (Section 6) requiring County approval for the permitting of large energy facilities. Under current law (Minn. Stat. § 216E), the Commission has siting authority for large energy projects, including solar, over 50 MW; local jurisdiction for projects under 50 MW.

The Commission has siting authority for wind projects over 5 MW under Minn. Stat. §216F, with the ability of counties to assume the responsibility to site wind facilities under 25 MW. Under §216F.081, counties may adopt wind siting standards more stringent than the Commission's standards, and the Commission must apply the more stringent standards, unless the Commission finds good cause not to do so.

The Commission takes the responsibility for considering local input very seriously in its permitting considerations. As is the case with the siting and routing of all large energy facilities, the Commission's permit decisions supersede and preempt local authorities, but those decisions take into consideration problems raised by state, federal, and local entities (among others). Local governments and community leaders are very active in Commission proceedings and their concerns are frequently addressed in agency permits.

The Commission is charged with ensuring safe and reliable electric and gas service for customers of investor-owned utilities. Limiting the Commission's jurisdiction over the permitting of large energy facilities will make it more difficult to fulfill the agency's mandate.

- **Appropriations:** The House bill contains funding for the Commission to implement a variety of policy measures included in the legislation, however, the Senate does not include funding in its bill. Should the conference committee adopt any of the policy provisions in either version, it is important to include funding as outlined in the respective fiscal notes.
 - **Natural Gas Securitization:** lines 185.23-185.27 of the House bill appropriate funds for “the commission's contracting with consultants with expertise in securitized utilities customer-backed bond financing.”

The appropriations language is drafted too narrowly to support the complete implementation of this provision and doesn't include costs for PUC staff resources as outlined in the fiscal note. The Senate language does not appropriate funds. If the conference committee adopts this policy, the Commission would need funding as outlined in the fiscal note.

By way of background, the Commission is currently investigating (docket 21-135 et al.) whether the decisions made by CenterPoint Energy, Great Plains Natural Gas Co., Minnesota Energy Resources Corporation (MERC), and Xcel Energy during Winter Storm Uri were reasonable and what money the utilities spent can be recovered from ratepayers. A decision is scheduled for later this summer.

- **Certificate of Need (CN) Exemptions:** The House bill adds an exemption for certificate of need requirements (Article 22, Section 6). Should the Conference Committee approve this provision, it is important that Article 24, Section 15 also be adopted, as it incorporates some of the CN criteria into the permit requirements.
- **Participant Compensation:** Article 20, Section 14 of the House bill expands the types of proceedings eligible for intervenor compensation beyond just rate cases and modifies the criteria. The Commission has worked hard to expand public participation consistent with the 2020 Program Evaluation Report issued by the Office of the Legislative Auditor. The changes contained in the House version of the bill would further increase the level of meaningful public participation in Commission dockets.
- **Utility Diversity Reporting:** Article 26, Section 4 of the House bill includes language requiring annual utility reporting on workforce and supplier diversity.

Minnesota Session Laws, 2019, First Special Session, Chapter 7, Article 11, Section 13 directed the Minnesota Public Utilities Commission to convene a stakeholder group to examine the challenges and opportunities for Minnesota's energy utilities to attract a diverse workforce with the skills needed to advance a 21st century industry and to increase supplier diversity of energy utilities. The Commission successfully convened the

Energy Utility Diversity Group (EUDG), and the group submitted its report to the legislature in January 2020.¹

Utility diversity reporting, as required in this provision, is consistent with the recommendations of the EUDG. Moreover, the PUC has required related reporting in some dockets over the past few years. A consistent framework established in statute would serve the public interest.

The Commission appreciates your consideration of our comments and the hard work of the Conference Committee. We are happy to meet with individual conferees should you want to discuss further. Please direct any questions to Will Seuffert, will.seuffert@state.mn.us, Executive Secretary.

Sincerely,

A handwritten signature in black ink that reads "Katie Sieben". The signature is written in a cursive, flowing style.

Katie Sieben
Chair

Equal Opportunity Employer

¹ [See MN PUC Energy Utility Diversity Stakeholder Group Report - January 2020](#)