ENVIRONMENTAL LAW & POLICY CENTER
Protecting the Midwest's Environment and Natural Heritage

March 12, 2020

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

RE: Petition for Reconsideration by the Environmental Law & Policy Center and Institute for Local Self Reliance

***In the Matter of Trade Secret Designations of 2019 Cogeneration and Small Power Production Reports*, Docket No. E999/PR-19-9**

Dear Mr. Seuffert,

Please find enclosed the *Petition for Reconsideration by the Environmental Law & Policy Center and Institute for Local Self Reliance*. These documents have been electronically filed and served through the eFiling system.

Please feel free to contact me with any questions you may have regarding this filing.

Respectfully submitted,

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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

121 Seventh Place East, Suite 350
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Katie Sieben	Chair
Valerie Means	Commissioner
Matt Schuerger	Commissioner
John A. Tuma	Commissioner

In the Matter of Trade Secret Designations of 2019 Cogeneration and Small Power Production Reports	Docket No. E999/PR-19-9

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Pursuant to Minn. Stat. § 216B.27(1) and Minn. R. 7829.3000, the Environmental Law & Policy Center and the Institute for Local Self Reliance (the Petitioners) submit this petition for reconsideration and rehearing of the Minnesota Public Utilities Commission's (MPUC) February 21, 2020 Order Accepting Trade Secret Designations and Requiring Public Filings (the Order).

INTRODUCTION

In its February 21, 2020 Order, the MPUC approved in part the current practices of Minnesota Power, Otter Tail Power, and Xcel Energy (collectively, the "Utilities") that deny public access to the avoided energy cost and avoided capacity cost data in Schedules A and B of filings required by Minn. R. 7835.0500 and 7835.0600. The MPUC's decision is unlawful. Minnesota's statutory and regulatory scheme to implement the Public Utility Regulatory Policies Act (PURPA) requires utilities to make this avoided cost data public. Both PURPA and Minnesota's corresponding statute were designed to remove obstacles to the development and interconnection of cogeneration and small power production facilities. *See* 16 U.S.C. § 824a-3(a); Minn. Stat. § 216B.164(1). In the regulations implementing PURPA, the Federal Energy Regulatory Commission (FERC) and the MPUC both required publicly available avoided cost information. *See* 18 C.F.R. § 292.302(b)(1)-(3); Minn. R. 7835.1200. Otherwise, as FERC and the MPUC noted, it would be hard for investors to determine whether to construct or finance cogeneration or small power production facilities. *Small Power Production and Cogeneration Facilities; Regulations Implementing Section 210 of the Public Utility Regulatory Policies Act of 1978*, 45 Fed. Reg. 12,214, 12,217-18 (Feb. 25, 1980); *In the Matter of the Proposed Adoption of Rules of the Minnesota Pub. Utilities Comm'n Governing Cogeneration & Small Power Prod.*, No. E-999, 1983 WL 908113, at *33–34 (Mar. 7, 1983). Investors and power producers are not the only ones hurt by obstacles to development and interconnection. Ratepayers and the public

also miss out on the ancillary benefits of diverse, renewable electricity generation, including, as FERC stated, the benefit to "ratepayers and the nation as a whole . . . from the decreased reliance o[n] scarce fossil fuels, such as oil and gas, and the more efficient use of energy." *See* 35 Fed. Reg. at 12,222.

The Utilities, however, designated as trade secret this avoided energy cost and avoided capacity cost data in Schedules A and B. Contrary to both the purpose of the PURPA statutory scheme and the language of FERC's and the MPUC's implementing rules, the Order accepts the modified trade secret designations of the Utilities in their cogeneration and small power production tariff and report filings. The MPUC should reconsider its decision to accept the trade secret designations, withdraw its Order, and issue a new order disallowing the trade secret designations and making the avoided cost data at issue publicly available, as required by state and federal law.[1]

STANDARD OF REVIEW

The MPUC generally reviews petitions for reconsideration to "determine whether the petition (i) raises new issues, (ii) points to new and relevant evidence, (iii) exposes errors or ambiguities in the underlying order, or (iv) otherwise persuades the Commission that it should rethink its decision." *In the Matter of Xcel Energy's Petition for Approval of Elec. Vehicle Pilot Programs*, No. E-002/M-18-643, 2019 WL 5102553, at *3 (Oct. 7, 2019).

As this petition will demonstrate, the language and intent of PURPA and Minnesota's implementing statute and rule demonstrate why public access to the avoided cost information at issue is necessary. The MPUC should reconsider the Order, first, because it is based on legal errors of statutory and regulatory interpretation. Second, the MPUC should revisit the Utilities' approach to occasionally allowing access to the data following the entry of a nondisclosure agreement. The

[1] The Petitioners do not seek reconsideration of paragraph 2 of the Order.

Utilities' use of nondisclosure agreements contradicts PURPA and Minnesota's statutory scheme and is an unlawful burden to cogeneration and small power production facilities. Third, the MPUC's decision to accept the Utilities' trade secret designations for the avoided cost data at issue is arbitrary and capricious.

STATUTORY BACKGROUND

I. Congress designed PURPA to remove obstacles to cogeneration facilities and small power producers seeking to establish interconnection with a utility and, to that end, FERC requires avoided cost data to be available for public inspection.

Congress designed PURPA to diversify the electrical grid, encourage the use of alternative, efficient, and renewable power sources, and to encourage equitable rates for public ratepayers. 16 U.S.C. § 2611; *see FERC v. Mississippi*, 456 U.S. 742, 745 (1982) (recognizing that Congress "designed [PURPA and other legislation] to combat the nationwide energy crisis"). As part of PURPA, Congress required FERC to prescribe rules that "it determines [are] necessary to encourage cogeneration and small power production," 16 U.S.C. § 824a-3(a), because Congress "determined that the development of cogeneration and small power production facilities would conserve energy," *FERC v. Mississippi*, 456 U.S. at 757. Cogeneration facilities are efficient because they produce electricity and another form of useful thermal energy, 16 U.S.C. § 796(18), and small power production facilities produce electricity from renewable resources such as solar, wind, waste, geothermal, and biomass resources, *id.* § 796(17).

To implement PURPA, FERC specifies that each regulated electric utility must "*make available* data from which avoided costs may be derived" every two years and that the state regulatory authority "*shall maintain for public inspection*" data including estimated avoided costs

of energy purchases from qualifying facilities and estimated capacity costs at completion of planned capacity additions.[2] 18 C.F.R. § 292.302(b)(1)-(3) (emphases added).

FERC's explicit goal in making this data publicly available was to remove obstacles to the development of cogeneration and small power production facilities. FERC specified that it requires the public availability of this data "[t]o enable potential cogenerators and small power producers to be able to estimate these avoided costs." 45 Fed. Reg. 12,214, 12,215 (1980). The data is needed by potential cogenerators and small power producers early in their development. For example, "in order to be able to evaluate the financial feasibility of a cogeneration or small power production facility, an investor needs to be able to estimate, with reasonable certainty, the expected return on a potential investment before construction of a facility," which depends on "the price at which the qualifying facility can sell its electric output" based on avoided cost data. *Id*. at 12,218. FERC "recognizes that the ability of a qualifying cogenerator or small power producer to negotiate with an electric utility is buttressed by the existence of the rights and protections of these rules." *Id*. at 12,217.

[2] Specifically, the PURPA filings must include:

> (1) The estimated avoided cost on the electric utility's system, solely with respect to the energy component, for various levels of purchases from qualifying facilities;
> (2) The electric utility's plan for the addition of capacity by amount and type, for purchases of firm energy and capacity, and for capacity retirements for each year during the succeeding 10 years; and
> (3) The estimated capacity costs at completion of the planned capacity additions and planned capacity firm purchases, on the basis of dollars per kilowatt, and the associated energy costs of each unit, expressed in cents per kilowatt hour.

See 18 C.F.R. § 292.302(b)(1)-(3).

II. Pursuant to PURPA, Minnesota's legislature requires the MPUC to implement FERC's rules and, accordingly, the MPUC requires avoided cost data to be available for "public inspection."

PURPA "establishe[d] a program of cooperative federalism*," FERC v. Mississipp*i, 456 U.S. at 767, and called for each state regulatory authority to, after notice-and-comment rulemaking, implement FERC's rules, 16 U.S.C. § 824a-3(f). Minnesota did just that. First, the Minnesota Legislature adopted the Minnesota Cogeneration and Small Power Production Act, Minn. Stat. § 216B.164, to implement PURPA and the FERC rules. The Legislature forcefully stated that the law "shall at all times be construed in accordance with its intent to give the *maximum possible encouragement* to cogeneration and small power production consistent with protection of the ratepayers and the public." Minn. Stat. § 216B.164(1) (emphasis added).

Second, the MPUC promulgated rules to implement PURPA, the FERC regulations thereunder, and the Minnesota Cogeneration and Small Power Production Act. *See id.* § 216B.164(2). Pursuant to these rules, the MPUC requires public utilities to file avoided energy cost and avoided capacity cost data with the agency. Minn. R. 7835.0300 – 7835.1100. The data the MPUC requires utilities to file largely mirrors the data FERC requires under PURPA. *See* 18 C.F.R. § 292.302(b)(1)-(3). Just like FERC's regulations, Minnesota's rules state that "[t]hese filings must be available for public inspection." Minn. R. 7835.1200.

During the MPUC's rulemaking process, "134 public witnesses appeared and 119 written exhibits were received from members of the public." Seth M. Colton James, *Cogeneration-the Small Facility Perspective in Minnesota*, 11 WM. MITCHELL L. REV. 477, 500 n.20 (1985) (citing *In re Proposed Adoption of New Rules of the Minnesota Public Utilities Commission Governing Cogeneration and Small Power Production*, Report of the Hearing Examiner, No. PUC-82-063-BC, 1 (Minn. Pub. Util. Comm'n Dec. 30, 1982)). Owners of cogeneration and small power

production facilities "revealed their perception that many utilities have discouraged [their] interconnection." *Id*. In contrast, PURPA and the Minnesota law address utilities' practice of discouraging interconnection and instead encourage that interconnection through requirements such as making the avoided cost data publicly available. *See, e.g.*, Minn. Stat. § 216B.164(1).

Avoided cost transparency, at an early stage of the development process, is necessary to encourage cogeneration and small power production facilities. As the MPUC reasoned when enacting Minn. R. 7835.1200, utilities frustrate the Minnesota Legislature's goal when they obstruct access to the cost data that qualifying facilities need to estimate their costs and potential returns on investments:

> It is necessary that all tariff filings concerning purchase rates be made readily available so that the Commission, all qualifying facilities, and any potential qualifying facility can estimate present and future avoided cost based purchase rates. Access to filings will allow interested parties an opportunity to make a judgments as to the reasonableness of all computations and an opportunity to understand their responsibilities as sellers of energy to a utility. *Restricting access to the filed information would serve to frustrate the purpose of M.S. § 216B.164 by discouraging cogeneration and small power production and would be unreasonable.*

In the Matter of the Proposed Adoption of Rules of the Minnesota Pub. Utilities Comm'n Governing Cogeneration & Small Power Prod., No. E-999, 1983 WL 908113, at *33–34 (Mar. 7, 1983) (emphasis added). Thus, the MPUC, like FERC, requires the avoided cost data to be available for public inspection. *Compare* 18 C.F.R. § 292.302(b)(1)-(3), *with* Minn. R. 7835.1200. The data must be readily available at an early stage in the development process so that investors can determine the potential financial viability of a project before sinking costs into planning and development.

III. The Minnesota Government Data Practices Act, under which the Utilities claim trade secret protection, is part of Minnesota's commitment to making data available to the public.

The Minnesota Government Data Practices Act (MGDPA) is one of several Minnesota statutes that "are part of a fundamental commitment to making the operations of our public institutions open to the public. In recognition of this policy, the courts construe such laws in favor of public access." *Prairie Island Indian Cmty. v. Minn. Dep't of Public Safety*, 658 N.W.2d 876, 883–84 (Minn. 2003). The MGDPA specifies that all data collected and received by a government entity "shall be public" unless an exception applies, and it sets out how a government entity must make data available for inspection to requesters. Minn. Stat. § 13.03; *see also KSTP-TV v. Ramsey Cty.*, 787 N.W.2d 198, 200 (Minn. Ct. App. 2010) ("The act creates a presumption that government data are public and may be accessed by the public unless access is prohibited by law or a temporary classification of the data."), *aff'd*, 806 N.W.2d 785 (Minn. 2011). Data collected or received by any government entity, such as the avoided cost data in Schedules A and B here, are government data. Minn. Stat. § 13.02(7); *see also* 18 C.F.R. § 388.106 (providing for public access to filings with FERC). The MPUC itself has "argue[d] that Minnesota law requires that disclosure laws be construed to favor public access." *North Dakota Pipeline Co. v. MPUC*, 2014 WL 2895289, at *5 (May 30, 2014).

Trade secret designations, like the one claimed by the Utilities here under the MGDPA, are meant to be construed narrowly and in favor of public disclosure. The MGDPA defines trade secret as government data "that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who obtain economic value from its disclosure or use." Minn. Stat. § 13.37(1)(b). The burden of proving that data is trade secret is on the party claiming trade-secret status to specify the harm that would follow from disclosure. *Prairie Island Indian Cmty.*, 658 N.W.2d at 884. The MGDPA specifies

what energy and utilities data is nonpublic, and avoided capacity costs and avoided energy costs are *not* listed in those sections. *See* Minn Stat. § 13.679-13.685*; see also Prairie Island Indian Cmty*, 658 N.W.2d at 887–88 (recognizing that where the MGDPA specifies that certain financial data has protected status, that suggests that other financial data "may not qualify for special protection"). Even where data is trade secret, the MGDPA contemplates its disclosure where "the benefit to the party seeking access to the data outweighs any harm to the confidentiality interests of the entity maintaining the data, or of any person who has provided the data or who is the subject of the data, or to the privacy of an individual identified in the data." Minn. Stat. § 13.03(6) (addressing the discoverability of trade secret data); *see also id.* § 13.03(8) (addressing the means by which trade secret data becomes available after a period of ten years).

ARGUMENT

I. The MPUC legally erred in interpreting Minn. R. 7835.1200 to not require public disclosure.

Principles of statutory and regulatory interpretation support interpreting the cooperative federalism scheme of PURPA, Minnesota law, and Minn. R. 7835.1200 to require publicly available avoided cost data and a transparent power market. Statutory interpretation begins "with the plain language of the statute." *KSTP-TV*, 787 N.W.2d at 200. Similarly, the interpretation of a regulation begins with the plain language of the regulation. *See Indep. Sch. Dist. No. 12 v. Minn. Dep't of Educ.*, 788 N.W.2d 907, 913–14 (Minn. 2010) (applying a plain language reading to regulations, as the court would to statutes). Only if the language is susceptible to more than one reasonable interpretation (i.e., ambiguous) do other canons of statutory interpretation apply "to ascertain and effectuate the intent of the Legislature." *KSTP-TV*, 787 N.W.2d at 200; *see also* Minn. Stat. § 645.16 ("The object of all interpretation and construction of laws is to ascertain and effectuate the intention of the legislature.").

The MPUC erred because the plain language of the words "public inspection" require the members of the public, including the Petitioners, to be able to review the filed avoided cost data without Utilities adding conditions and restrictions that undermine the intent of the law. To the extent the words "public inspection" are unclear, the intent of Congress and the Minnesota legislature supports making the avoided cost data available to the public. Additionally, the MPUC misconstrued a principle of statutory construction to state that the MGDPA's trade secret provision could override the cooperative statutory scheme of PURPA and Minn. Stat. § 216B.164.

A. The plain language of both the Minnesota Cogeneration and Small Power Production Act and the MPUC's public inspection rule (Minn. R. 7835.1200) require the avoided cost data to be available for public review.

The MPUC erred by interpreting the words "public inspection" to preclude *public* inspection of avoided cost data. The plain language of the statute and the rule require the avoided cost data to be available for public review. Pursuant to Minn. Stat. § 216B.164(2), the Minnesota legislature specifies that PURPA and the FERC regulations thereunder "shall . . . apply to all Minnesota electric utilities." Minnesota thus incorporated into its statutory scheme FERC's regulation that, "[t]o make available data from which avoided costs may be derived," regulated electric utilities "shall provide to [their] State regulatory authority, and shall maintain for public inspection" certain avoided cost data. 18 C.F.R. § 292.302(b). Minnesota's implementing rule mirrors FERC's language, specifying that avoided cost data "must be available for public inspection." Minn. R. 7835.1200.

The language chosen by FERC and the MPUC—specifically, the phrase "public inspection"—is unambiguous. *See also Tax Analysts v. I.R.S.*, 495 F.3d 676, 677, 681 n.3 (D.C. Cir. 2007) (holding that the language of a provision of the Internal Revenue Code stating that "'the text of any written determination and any background file document relating to such written

determination *shall be open to public inspection*'" is "plain on its face" and required disclosure). "Public" means "[o]pen or available for all to use, share, or enjoy." PUBLIC, Black's Law Dictionary (11th ed. 2019). "Inspection," defined as "a careful examination of something," clarifies the form of use is for the public to examine, or view. INSPECTION, Black's Law Dictionary (11th ed. 2019). Moreover, "shall" and "must" emphasize that that the public inspection requirement is mandatory. *See* 18 C.F.R. § 292.302(b); Minn. R. 7835.1200.

The MPUC's Order accepting the Utilities' trade secret designations is inconsistent with a plain language reading of Minn. R. 7835.1200 because it prevents the data from being available to all. The Order is also in conflict with a plain language reading.

B. Even if the plain language of the Minnesota law and Minn. R. 7835.1200 is ambiguous, effecting the intent of the legislature requires the MPUC to make the Utilities' avoided cost data available early in the development process in order to remove an obstacle to cogeneration and small power production facilities.

By accepting the trade secret designations, the MPUC frustrated the purpose of the federal and state laws designed to remove obstacles to cogeneration facilities and small power production facilities. Even if the plain language of "public inspection" were susceptible to more than one meaning, the legislative intent of both Congress and the Minnesota legislature is clear. Both legislative bodies specified that their intention was to encourage cogeneration facilities and small power production facilities. The law's "public inspection" requirement is a fundamental component of this framework because it directly addresses the information asymmetry barriers that have historically discouraged investment in those facilities.

Congress enacted PURPA with the intention of encouraging the use of alternative, efficient, and renewable power sources, 16 U.S.C. § 2611, and "encourag[ing] cogeneration and small power production," 16 U.S.C. § 824a-3(a). *See also* 45 Fed. Reg. at 12,215. "Congress believed that increased use of these sources of energy would reduce the demand for traditional

fossil fuels." *FERC v. Mississippi*, 466 U.S. at 750. Minnesota acted with a similar intention. The Minnesota legislature stated that its law and rules implementing PURPA "shall at all times be construed in accordance with its intent to give the maximum possible encouragement to cogeneration and small power production consistent with protection of the ratepayers and the public." Minn. Stat. § 216B.164(1).

Congress, FERC, and the MPUC recognized that the lack of publicly available avoided cost data is an obstacle to cogeneration and small power production. In promulgating 18 C.F.R. § 292.302(b), FERC specified the regulation would help qualifying cogeneration and small power production facilities obtain investors and negotiate with electric utilities. 45 Fed. Reg. at 12,217-18. In promulgating Minn. R. 7835.1200, the MPUC echoed FERC's rationale: "Restricting access to the filed information would frustrate the purpose of Minn. Stat. § 216B.164 by discouraging cogeneration and small power production and would be unreasonable." *Pub. Utilities Comm'n Governing Cogeneration & Small Power Prod.*, 1983 WL 908113, at *33–34.

Other Minnesota statutes and regulations also use the phrase "available for public inspection" to mean that certain information is publicly available without restriction. *See, e.g.*, Minn. R. 7845.7300(3) (requiring the Commission's secretary to "serve a copy of [any prohibited ex parte communication received by a Commissioner] on the parties and participants to a proceeding" and make the communication "available for public inspection"). The MPUC has—through its formal rulemaking process—made an exception for trade secrets in at least one other context, so it is notable that the MPUC did *not* do so here. *See, e.g.*, Minn. R. 7854.0400(3) (allowing certain information in applications for large wind energy site permits to be labeled trade secret and setting out a process by which the MPUC determines whether it is trade secret). Even

an informal exception for trade secret here would contradict the legislative intent of the PURPA scheme.

Allowing the Utilities to designate this data trade secret "[r]estricts access to the filed information," which, as the MPUC has said, "frustrate[s] the purpose of Minn. Stat. § 216B.164 by discouraging cogeneration and small power production and [is] unreasonable." *Pub. Utilities Comm'n Governing Cogeneration & Small Power Prod.*, 1983 WL 908113, at *33–34. The MPUC has thus violated the "object of all interpretation and construction of laws [,which] is to ascertain and effectuate the intention of the legislature." Minn. Stat. § 645.16.

C. The MPUC erred by stating that the MGDPA, an entirely separate statutory scheme, could prevail over the MPUC's rules for implementing PURPA.

The MPUC misapplied another principle of statutory interpretation when it stated, "the Commission's administrative rules cannot overrule the statutory language allowing for trade secret designation in Minn. Stat. § 13.37, and the foundational principles in Minn. Stat. § 216B.164." Order at 9. Rules "must be construed consistently with the statutory scheme they implement."[3] *Berglund v. Comm'r of Revenue*, 877 N.W.2d 780, 784 (Minn. 2016). Thus, where a rule conflicts with a part of the very statute it is meant to implement, then the statute prevails. *Id.* at 784–5. In referencing this principle, the MPUC made two errors. First, the MPUC erred by holding that a trade secret *exception* to the MGDPA, which encapsulates Minnesota's general policy of public access to documents filed with the government, could override the explicit public inspection requirements in a *separate* statutory scheme: PURPA and the Minnesota Cogeneration and Small

[3] This principle of statutory interpretation is part of each of the cases that the Utilities cited to support their flawed premise that the MGDPA could trump rules implementing the Minnesota Cogeneration and Small Power Production Act and PURPA. *See Berglund*, 877 N.W.2d at 784; *Stinson v. United States*, 508 U.S. 36, 45 (1993); *Special Sch. Dist. No. 1 v. Dunham*, 498 N.W.2d 441, 445 (Minn. 1993).

Power Production Act. Not only does the MGDPA not trump the PURPA scheme, but to the extent they conflict, PURPA preempts the MGDPA. Second, the MPUC erred by failing to recognize that the public inspection requirement of Minn. R. 7835.1200 is *consistent* with the state and federal statutes that it implements and that were designed to encourage cogeneration and small power production.

First, the trade secrets designation is *not* part of the statutory scheme governing the public inspection rule, Minn. R. 7835.1200, and does not prevail over the separate PURPA scheme. Nor is it obvious that the MGDPA supports the treatment of avoided cost data as trade secret. First, the MGDPA specifies what energy and utilities data is nonpublic, and avoided capacity costs and avoided energy costs are not listed in those sections. *See* Minn Stat. § 13.679-13.685. Where the MGDPA specifies that certain financial data has protected status, that suggests that other financial data "may not qualify for special protection." *See Prairie Island Indian Cmty*, 658 N.W.2d at 887–88. Second, as the Minnesota Supreme Court has recognized, basic financial information has been found not to be trade secret in other contexts. *Id*. at 884–85 (citing *Confederated Tribes of the Chehalis Reservation v. Johnson*, 958 P.2d 260 (Wash. 1998)).

Because the MPUC interprets the MGDPA to prevail over the "public inspection" requirement of PURPA, 18 C.F.R. § 292.302(b), the MPUC has created a conflict between state and federal law. Federal law preempts state law where there is a conflict. *English v. Gen. Elec. Co.*, 496 U.S. 72, 79 (1990). "[A] state law is preempted by means of conflict preemption if the "state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. *Angell v. Angell*, 791 N.W.2d 530, 535 (Minn. 2014) (citing *Freightliner Corp. v. Myrick*, 514 U.S. 280, 287 (1995)). Congress designed PURPA to remove obstacles to cogeneration and small power production facilities. 45 Fed. Reg. at 12,215. By approving the trade

secret designations and making the data unavailable for the public to inspect "at the commission," Minn. R. 7835.1200, the MPUC's Order stands as an obstacle to the accomplishment of Congress's objectives in enacting PURPA. And where the MPUC can construe a statute, like the MGDPA, "to avoid a constitutional confrontation, [the MPUC is] to do so." *State v. Irby*, 848 N.W.2d 515, 521 (Minn. 2014).

Second, Minn. R. 7835.1200 is part of and implements a statutory scheme of cooperative federalism, found in PURPA and Minn. Stat. § 216B.164, which supports broad public disclosure. The foundational principles of Minn. Stat. § 216B.164 demand transparency of energy market data to "give the maximum possible encouragement to cogeneration and small power production." *See also* 16 U.S.C. § 824a-3(a). Where avoided cost data is transparent—i.e., made available for public inspection—it "enable[s] potential cogenerators and small power producers to be able to estimate these avoided costs." 45 Fed. Reg. at 12,215.

FERC's and the MPUC's rules requiring avoided cost data to be made available to the public support the foundational principles of PURPA and Minn. Stat. § 216B.164 by remedying "obstacles" to cogeneration and small power production in the past. 45 Fed. Reg. at 12,215; *see also FERC v. Mississippi*, 456 U.S. at 750 (noting that Congress passed PURPA because utilities' "reluctan[ce] to purchase power from, and to sell power to" nontraditional facilities was an impediment to the development of nontraditional facilities); Colton James, 11 WM. MITCHELL L. REV. at 500 n.20 (noting that during the MPUC's rulemaking process owners of cogeneration and small power production facilities "revealed their perception that many utilities have discouraged [their] interconnection"). As FERC noted, the avoided cost data is essential for investors "to be able to evaluate the financial feasibility of a cogeneration or small power production facility . . . with reasonable certainty." 45 Fed. Reg. at 12,218. In other words, a cogeneration or small power

production facility requires the public availability of this data in order to get the financial resources to lease a site, begin construction, seek permits, or take other necessary steps to operate a viable power generation project.

Denial of the trade secrets designation would support the foundational principles of the relevant, governing statutory scheme of PURPA and Minn. Stat. § 216B.164.

II. The MPUC should revisit the Utilities' approach to nondisclosure agreements because it frustrates the purpose of federal and state law, as well as the public inspection requirement of Minn. R. 7835.1200.

Instead of making the avoided cost data available for public inspection, the Utilities purport to have procedures for using nondisclosure agreements (NDAs) to make the data available to individual developers "when appropriate." Order at 10. Throughout this proceeding, the Utilities have balked at the idea of using a standardized NDA, and in its Order, the MPUC declined to require one. Order at 10. In the Order, the MPUC stated that if it "finds there are widespread problems with the utilities' approach to NDAs in the future, the Commission may revisit this issue." Order at 10. By allowing the Utilities to set the terms by which someone may access the avoided cost data, the MPUC abandons its obligation to make the data "available for public inspection *at the commission*." Minn. R. 7835.1200 (emphasis added).

First, the MPUC errs by ceding to the Utilities the agency's duty to make the avoided costs data available to the public and by allowing the Utilities to be the gatekeepers to the data. Where the developers of specific projects may only access avoided cost data on the Utilities' terms and the Utilities' timelines, the avoided cost data is not available for public inspection. The plain language of "public inspection" requires the data to be available for "all," not just select developers on terms and at times determined by the Utilities. *See* PUBLIC, Black's Law Dictionary (11th ed. 2019). By contracting for an NDA with a developer, the Utilities bargain away PURPA

regulations, which is unlawful. *Public Serv. Co. of New Hampshire v. New Hampshire Electric Cooperative, Inc.*, 83 FERC 61,224, at 61,998-99 (May 29, 1998) (stating that utilities "cannot lawfully bargain away any portion of" PURPA or FERC).

Second, the point in development at which the Utilities allow for an NDA and provide the avoided cost data frustrates the purpose of Minn. Stat. § 216B.164. As Xcel Energy stated during the hearing, it only considers an NDA appropriate for "viable projects, such as where a LEO has been established." Minn. Pub. Utilities Comm'n Hr'g at 2:11:04 (Dec. 19, 2019) (No. 2019-133), *available at* minnesotapuc.granicus.com/MediaPlayer.php?view_id=2&clip_id=1103; *see also* Br. for Ridge Energy at 1 (March 8, 2019) (No. 2019-133) (describing the difficulty that a small project faces in trying to get avoided cost data from Xcel Energy). A LEO is a legally enforceable obligation which arises "when a qualifying facility does everything within its power to establish its project's viability." *See In re Pet. by Highwater Wind L.L.C.*, MPUC Docket No. 11-1073, Order at 7 (Feb. 25, 2013); *see also In the Matter of the Complaint of LS Power Corporation Against Northern States Power Company*, Docket No. E-002/C-92-899, Order at 4 (April 12, 1993) (applying factors such as "(1) price; (2) site and design details of the proposed [facility]; (3) interconnection plans; (4) financing for the project; and (5) fuel supply" to determine whether a LEO exists in Minnesota). The time at which a developer needs avoided cost data, however, is before a LEO exists. The avoided cost data, for example, is critical to developers and their investors so that they can estimate the expected return on investment in a facility before finalizing site details and beginning construction. 45 Fed. Reg. at 12,218.

Under the status quo as articulated by the Utilities, developers in Minnesota are caught in a circular trap: they both need avoided cost data to get their renewable energy project off the ground and cannot obtain the avoided cost data until their renewable energy project is near

operational. This frustrates the express purpose of PURPA and Minn. Stat. § 216B.164 to encourage cogeneration and small power production. *See also Hydrodynamics Inc*., 146 FERC 61,193 at ¶ 32-33 (Mar. 20, 2014) (recognizing that unreasonable obstacles to obtaining a LEO are contrary to PURPA's express goal of encouraging the development of cogeneration and small power production facilities).

The MPUC thwarts its obligation to make avoided cost data available for public inspection by allowing Utilities to make a LEO or any other step in the development process a condition precedent of obtaining access to the avoided cost data. There are widespread problems and the MPUC should revisit the issue.

III. The MPUC's decision to treat the avoided cost data as "trade secret" was arbitrary and capricious and not based on substantial evidence.

Even if principles of statutory and regulatory interpretation permitted restricting access to the avoided cost data—which they do not—the MPUC's acceptance of the trade secret designations was arbitrary and capricious, contrary to law, and unsupported by substantial evidence. An agency acts inappropriately if its act is arbitrary or capricious, contrary to law, or unsupported by substantial evidence. Minn. Stat. § 14.69. An agency decision is arbitrary and capricious if the agency:

> (a) relied on factors not intended by the legislature; (b) entirely failed to consider an important aspect of the problem; (c) offered an explanation that runs counter to the evidence; or (d) the decision is so implausible that it could not be explained as a difference in view or the result of the agency's expertise.

Citizens Advocating Responsible Dev. v. Kandiyohi Cty. Bd. of Comm'rs, 713 N.W.2d 817, 832 (Minn. 2006). Changing positions without a reasoned explanation is also arbitrary and capricious.

First, the Order is arbitrary or capricious because it represents a departure from the MPUC's earlier position favoring public disclosure under Minn. R. 7835.1200 without an acknowledgment or explanation of the departure. Second, the Order is contrary to law and arbitrary

or capricious because the MPUC inappropriately failed to consider a factor required by the legislature: the encouragement of cogeneration and small power production. Third, the Order is contrary to law and not based on substantial evidence because the Utilities have only justified the trade secret designation with a speculative harm.

A. The MPUC acted arbitrarily or capriciously by departing from its earlier position without acknowledging its prior position or providing a reasoned explanation for its departure from it.

In the MPUC's initial order adopting its PURPA regulations in 1983, the MPUC articulated a clear position that restricting access to the public accessibility of avoided cost data is intolerable. As the MPUC stated: "Restricting access to the [avoided cost] information would *frustrate the purpose* of Minn. Stat. § 216B.164 by discouraging cogeneration and small power production and would be unreasonable." *Pub. Utilities Comm'n Governing Cogeneration & Small Power Prod.*, 1983 WL 908113, at *33–34 (emphasis added). By accepting the Utilities' trade secret designations, the MPUC restricted access to the information. Because the MPUC did so without acknowledging and explaining its departure from its prior position, it acted arbitrarily or capriciously.

The MPUC "has a duty to explain its departure" from a prior position. *In re Review of 2005 Annual Automatic Adjustment of Charges for All Elec. and Gas Utilities*, 768 N.W.2d 112 (Minn. 2009). This explanation must include a "reasoned analysis." *Id*. at 120. Failure to acknowledge a change in agency position and explain it is arbitrary and capricious. *See FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009) (recognizing that the requirement that an agency explain its change in position "would ordinarily demand that it display awareness that it *is* changing position"); *see also Org. Vill. of Kake v. U.S. Dep't of Agric.*, 795 F.3d 956, 966 (9th Cir. 2015) (en banc) ("Unexplained inconsistency between agency actions is a reason for holding an interpretation to be an arbitrary and capricious change.") (internal quotation marks and citation

omitted). An agency may not "depart from a prior policy *sub silentio* or simply disregard rules that are still on the books." *See Fox Television Stations, Inc.*, 556 U.S. at 515.

By not even acknowledging that it has changed its position, the MPUC has acted arbitrarily and capriciously. *See id*. Further, the MPUC did not explain why restricting access to the avoided cost data no longer "frustrate[s] the purpose of Minn. Stat. § 216B.164 by discouraging cogeneration and small power production," and why something that was once "unreasonable" is now acceptable. The MPUC's lack of an explanation also renders its decision arbitrary and capricious.

The Utilities argue that they have long claimed trade secret status. The Utilities' long-standing practice of using the MGDPA as a shield against public inspection, however, is not an *agency* practice. *See City of St. Paul v. Hall*, 58 N.W.2d 761, 763 (Minn. 1953) (focusing on the position of the Attorney General in multiple orders to establish a long-standing practice of the Attorney General). Nor had the Utilities' obfuscation been challenged seriously or by these parties until now. And at no other point has the MPUC explained its change in position.

The MPUC's apparent acceptance of the Utilities' policy argument for withholding public access is not a sufficient explanation for the MPUC's changed position. The Utilities argued that disclosure might lead to the creation of an artificial "floor" for bidders. The MPUC characterizes that risk as "not certain" and "not imagined." Order at 9. A speculative risk is not a reasoned explanation sufficient to support trade secret designations, and the MPUC cannot rely on it. *See Nat'l Fuel Gas Supply Corp., v. FERC*, 468 F.3d 831, 843 (D.C. Cir. 2006) ("Professing that an order ameliorates a real industry problem but then citing no evidence demonstrating that there is in fact an industry problem is not reasoned decision making."). Furthermore, the Utilities' policy

argument conflicts with Minnesota's policy "in favor of public access." *Prairie Island Indian Cmty.*, 658 N.W.2d at 884; *see also KSTP-TV*, 787 N.W.2d at 200.

B. The MPUC acted contrary to Minn. Stat. § 216B.164 by failing to consider whether its Order would "give the maximum possible encouragement to cogeneration and small power production."

The MPUC acted contrary to law by not construing Minn. Stat. § 216B.164 "in accordance with its intent to give the maximum possible encouragement to cogeneration and small power production consistent with the protection of the ratepayers and the public." While the MPUC stated this principle of construction for Minn. R. 7835.1200, Order at 8, the MPUC did not consider whether approving the Utilities' trade secret designations would encourage cogeneration and small power production.

Where an agency limits the scope of its review and fails to account for a consideration that is required by statute, it commits a legal error. *See Pfoser v. Harpstead*, -- N.W.2d --, 2020 WL 130452, at *10-11 (Minn. App. Jan. 13, 2020). It also is arbitrary and capricious for an agency to "entirely fail[] to consider an important aspect of the problem." *Citizens Advocating Responsible Dev.*, 713 N.W.2d at 832. The MPUC made such an error here because it failed to consider whether its order would "give the maximum possible encouragement to cogeneration and small power production," as required by the governing statute. Minn. Stat. § 216B.164.

According to FERC and the MPUC, making the avoided cost data available for public inspection encourages cogeneration and small power production. Conversely, the MPUC's instant order treating the avoided cost data as trade secret does not encourage cogeneration and small power production—let alone provide those energy sources "maximum possible encouragement." Minn. Stat. § 216B.164. Where the data is not publicly available, it "frustrate[s] the purpose of M.S. § 216B.164 by discouraging cogeneration and small power production and would be unreasonable." *In the Matter of the Proposed Adoption of Rules of the Minnesota Pub. Utilities*

Comm'n Governing Cogeneration & Small Power Prod., 1983 WL 908113, at *33–34. Lack of avoided cost data is an obstacle to obtaining investment in and developing cogeneration or small power production facilities and negotiating with electric utilities. 45 Fed. Reg. at 12,217-18.

Encouraging cogeneration and small power production—in part by making the avoided cost data available for public inspection—is consistent with the protection and benefit of the ratepayers and the public. *See FERC v. Mississippi*, 456 U.S. at 745 (recognizing that PURPA was part of a legislative package designed in part to address the "increasing costs and decreasing efficiency" of electric utilities); *see also* Minn. Stat. § 216B.164 (implying that the interests of cogeneration and small power production are "consistent" with the protection of ratepayers and the public). For example, increasing cogeneration and small power production facilities "reduce[s] the demand for traditional fossil fuels" and diversifies energy sources. *FERC v. Mississippi*, 456 U.S. at 750. Indeed, Congress enacted PURPA because diversifying energy sources and reducing reliance on oil and natural gas *benefits* ratepayers and the public by "lessen[ing] the country's dependence on foreign oil" and "control[ling] consumer costs." *Id*. at 746. PURPA combats an inefficient preference for utility self-generation and removes barriers for non-utility generation where such generation is cost effective, thereby increasing competition and creating downward pressure on power generation costs, which helps ratepayers. *See In re Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities* 75 FERC ¶ 61,080, at § 111.C (1996) ("Congress recognized that the rising costs and decreasing efficiencies of utility-owned generating facilities were increasing rates and harming the economy as a whole."). But PURPA (and Minn. Stat. § 216B.164) can only serve this purpose and provide these benefits if barriers for non-utility generation are truly removed—and inaccessible avoided

cost data remains a barrier in Minnesota as long as the Utilities and the MPUC treat the data as trade secret.

By failing to consider how accepting the Utilities' trade secret designations would discourage cogeneration and small power production, the MPUC misapplied Minn. Stat. § 216B.164 and acted arbitrarily and capriciously.

C. The MPUC's acceptance of the Utilities' trade secret designations is not based on substantial evidence because conclusory allegations of harm are insufficient to justify a trade secret.

The MPUC erred by accepting the Utilities' inadequate justifications for trade secret designations. The Utilities justified the trade secret designation with bare speculation: a concern that bidders will use the avoided cost data as a "floor" above which they place their bids. The Utilities did not support this justification for the trade secret designation with affidavits about bidding behavior, for example. Such speculation is an inadequate basis for a trade secret designation under the MGDPA and does not amount to substantial evidence upon which the MPUC could accept the designations.

First, the MPUC misapplied the MGDPA by accepting the trade secret designations where the Utilities' had not carried their burden of justifying the designations. Minnesota maintains a general policy in favor of public access to government data. *See Prairie Island Indian Cmty.*, 658 N.W.2d at 884; *see also KSTP-TV.*, 787 N.W.2d at 200. Relevant here, data supplied to the government is excepted from that policy and treated as trade secret where the data "derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who obtain economic value from its disclosure or use." Minn. Stat. § 13.37(1)(b). In all cases where data filed with the MPUC is identified as trade secret, an accompanying statement justifying the designation is required. Minn.

R. 7829.0500(5). The burden of proving that the designation applies is on "the party claiming trade-secret status" and the party's statement justifying protection "require[s] specificity in proving harm from disclosure." *Prairie Island Indian Cmty.*, 658 N.W.2d at 884. Speculative harm is insufficient. *See In re Rahr Maltin Co.*, 632 N.W.2d 572, 576 (Minn. 2001) ("Conclusory allegations of harm do not support a finding that data constitutes a trade secret.").

Here, even the MPUC concluded that the Utilities' justifications for the trade secret designations did not prove harm, but instead established that any "harm is not certain." Order at 9. The MPUC erred by accepting speculative harm as a justification for a trade secret designation. *See In re Rahr Maltin Co.*, 632 N.W.2d at 576.

Second, the MPUC's Order is not supported by substantial evidence. For an agency's action to be supported by substantial evidence, the agency must "adequately explain[] how it derived its conclusion and whether that conclusion is reasonable on the basis of the record." *Matter of RS Eden/Eden House*, 928 N.W.2d 326, 333 (Minn. 2019). "Substantial evidence requires more than a scintilla of evidence, more than some evidence, and more than any evidence." *Id*. (internal quotation marks and citation omitted). Where an agency *prediction* is treated as substantial evidence, it is often based upon historical trends or quantitative modeling of future trends. *See, e.g., Minnesota Power & Light Co. v. Minnesota Pub. Utilities Comm'n*, 342 N.W.2d 324, 330 (Minn. 1983) (accepting an MPUC-adopted growth rate where the MPUC explained that it took the weighted average of two experts, one of whom based a recommended growth rate on the average growth of 91 utilities, and the other of whose recommendation was based on the historical growth of the utility at issue and related companies). Again, speculation is insufficient. *See, e.g.*, *Trout Unlimited v. Lohn*, 559 F.3d 946, 959 (9th Cir. 2009) (noting that the record showed that the agency relied on "scientific data, and not on mere speculation").

The MPUC failed to "adequately explain[] how it derived its conclusion" that it agreed the public disclosure of the avoided cost data at issue might set a floor for bidders. The MPUC did not cite facts upon which it based its conclusions. Nor did the MPUC cite any past actions of bidders that would cause the MPUC to believe that bidders might act a certain way in the future. *Contra Minnesota Power & Light Co.*, 342 N.W.2d at 330. Substantial evidence does not support a trade secret designation for the avoided cost data.

Finally, to the extent the public disclosure of avoided cost data lessens the Utilities' bargaining power as they hypothesize, that is the very purpose of the governing PURPA scheme. *See* 45 Fed. Reg. at 12,217-18 (specifying that the federal rule requiring the avoided cost data be available for public inspection would help qualifying cogeneration and small power production facilities negotiate with electric utilities). Congress determined that a statutory scheme to encourage the development of cogeneration and small power production facilities was necessary because "traditional electricity utilities were reluctant to purchase power from" such facilities. *FERC v. Mississippi*, 456 U.S. at 750. Congress intended to decrease traditional utilities' hold on the market and increase competition.

CONCLUSION

For the reasons stated above, and in previous filings of the Petitioners, the Petitioners respectfully request that the MPUC withdraw its Order and determine that PURPA and Minnesota's implementing rules require public access to the avoided capacity cost and avoided energy cost data in Schedules A and B of the Utilities' filings.

Dated: March 12, 2020

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CERTIFICATE OF SERVICE

Docket No. PR-19-09

I, Rebecca Lazer, hereby certify that I have this day, served a true and correct copy of the *Petition for Reconsideration by the Environmental Law & Policy Center and Institute for Local Self-Reliance* to all persons at the addresses indicated on the attached service list by electronic filing, electronic mail, or by depositing the same enveloped with postage paid in the United States Mail at Chicago, Illinois.

Date: March 12, 2020

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Michael	Krause	michaelkrause61@yahoo.com	Kandiyo Consulting, LLC	433 S 7th Street Suite 2025 Minneapolis, Minnesota 55415	Electronic Service	No	OFF_SL_19-9_PR-19-9
Jeffrey L.	Landsman	jlandsman@wheelerlaw.com	Wheeler, Van Sickle & Anderson, S.C.	44 E. Mifflin Street, 10th Floor Madison, WI 53703	Electronic Service	No	OFF_SL_19-9_PR-19-9
Mark	Larson	mlarson@meeker.coop	Meeker Coop Light & Power Assn	1725 Highway 12 E Ste 100 Litchfield, MN 55355	Electronic Service	No	OFF_SL_19-9_PR-19-9
Dean	Leischow	dean@sunrisenrg.com	Sunrise Energy Ventures	315 Manitoba Ave Wayzata, MN 55391	Electronic Service	No	OFF_SL_19-9_PR-19-9
Phillip	Lipetsky	greenenergyproductsllc@gmail.com	Green Energy Products	PO Box 108 Springfield, MN 56087	Electronic Service	No	OFF_SL_19-9_PR-19-9

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Sara G	McGrane	smcgrane@felhaber.com	Felhaber Larson	220 S 6th St Ste 2200 Minneapolis, MN 55420	Electronic Service	No	OFF_SL_19-9_PR-19-9
Dave	McNary	David.McNary@hennepin.us	Hennepin County DES	701 Fourth Ave S Ste 700 Minneapolis, MN 55415-1842	Electronic Service	No	OFF_SL_19-9_PR-19-9
John	McWilliams	John.McWilliams@DairylandPower.com	Dairyland Power Cooperative	3200 East Ave SPO Box 817 La Crosse, WI 54601-7227	Electronic Service	No	OFF_SL_19-9_PR-19-9
Thomas	Melone	Thomas.Melone@AllcoUS.com	Minnesota Go Solar LLC	222 South 9th Street Suite 1600 Minneapolis, Minnesota 55120	Electronic Service	No	OFF_SL_19-9_PR-19-9
Tim	Mergen	tmergen@meeker.coop	Meeker Cooperative Light And Power	1725 US Hwy 12 E. Suite 100 PO Box 68 Litchfield, MN 55355	Electronic Service	No	OFF_SL_19-9_PR-19-9
Alan	Miller	N/A		2210 20th St NE Stewartville, MN 55976	Paper Service	No	OFF_SL_19-9_PR-19-9
Darrick	Moe	darrick@mrea.org	Minnesota Rural Electric Association	11640 73rd Ave N Maple Grove, MN 55369	Electronic Service	No	OFF_SL_19-9_PR-19-9
David	Moeller	dmoeller@allete.com	Minnesota Power	30 W Superior St Duluth, MN 558022093	Electronic Service	No	OFF_SL_19-9_PR-19-9
Dalene	Monsebroten	dalene.monsebroten@nmpagency.com	Northern Municipal Power Agency	123 2nd St W Thief River Falls, MN 56701	Electronic Service	No	OFF_SL_19-9_PR-19-9

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Andrew	Moratzka	andrew.moratzka@stoel.com	Stoel Rives LLP	33 South Sixth St Ste 4200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_19-9_PR-19-9
Ben	Nelson	benn@cmpasgroup.org	CMMPA	459 South Grove Street Blue Earth, MN 56013	Electronic Service	No	OFF_SL_19-9_PR-19-9
Tony	Nelson	tnelson@itasca-mantrap.com	Itasca-Mantrap Coop. Electric Assn.	PO Box 192 Park Rapids, MN 56470	Electronic Service	No	OFF_SL_19-9_PR-19-9
Dale	Niezwaag	dniezwaag@bepc.com	Basin Electric Power Cooperative	1717 East Interstate Avenue Bismarck, ND 58503	Electronic Service	No	OFF_SL_19-9_PR-19-9
David	Niles	david.niles@avantenergy.com	Minnesota Municipal Power Agency	220 South Sixth Street Suite 1300 Minneapolis, Minnesota 55402	Electronic Service	No	OFF_SL_19-9_PR-19-9
Michael	Noble	noble@fresh-energy.org	Fresh Energy	Hamm Bldg., Suite 220 408 St. Peter Street St. Paul, MN 55102	Electronic Service	No	OFF_SL_19-9_PR-19-9
Rolf	Nordstrom	rnordstrom@gpisd.net	Great Plains Institute	2801 21ST AVE S STE 220 Minneapolis, MN 55407-1229	Electronic Service	No	OFF_SL_19-9_PR-19-9
Samantha	Norris	samanthanorris@alliantenergy.com	Interstate Power and Light Company	200 1st Street SE PO Box 351 Cedar Rapids, IA 524060351	Electronic Service	No	OFF_SL_19-9_PR-19-9
Timothy	O'Leary	toleary@llec.coop	Lyon-Lincoln Electric Cooperative, Inc	P.O. Box 639 Tyler, MN 561780639	Electronic Service	No	OFF_SL_19-9_PR-19-9

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Jeff	O'Neill	jeff.oneill@ci.monticello.mn.us	City of Monticello	505 Walnut Street Suite 1 Monticelllo, Minnesota 55362	Electronic Service	No	OFF_SL_19-9_PR-19-9
Russell	Olson	rolson@hcpd.com	Heartland Consumers Power District	PO Box 248 Madison, SD 570420248	Electronic Service	No	OFF_SL_19-9_PR-19-9
Wendi	Olson	wolson@otpco.com	Otter Tail Power Company	215 South Cascade Fergus Falls, MN 56537	Electronic Service	No	OFF_SL_19-9_PR-19-9
Dan	Patry	dpatry@sunedison.com	SunEdison	600 Clipper Drive Belmont, CA 94002	Electronic Service	No	OFF_SL_19-9_PR-19-9
Jeffrey C	Paulson	jeff.jcplaw@comcast.net	Paulson Law Office, Ltd.	4445 W 77th Street Suite 224 Edina, MN 55435	Electronic Service	No	OFF_SL_19-9_PR-19-9
Joyce	Peppin	joyce@mrea.org	Minnesota Rural Electric Association	11640 73rd Ave N Maple Grove, MN 55369	Electronic Service	No	OFF_SL_19-9_PR-19-9
Mary Beth	Peranteau	mperanteau@wheelerlaw.com	Wheeler Van Sickle & Anderson SC	44 E. Mifflin Street, 10th Floor Madison, WI 53703	Electronic Service	No	OFF_SL_19-9_PR-19-9
Mark	Rathbun	mrathbun@grenergy.com	Great River Energy	12300 Elm Creek Blvd Maple Grove, MN 55369	Electronic Service	No	OFF_SL_19-9_PR-19-9
Michael	Reinertson	michael.reinertson@avantenergy.com	Avant Energy	220 S. Sixth St. Ste 1300 Minneapolis, Minnesota 55402	Electronic Service	No	OFF_SL_19-9_PR-19-9
John C.	Reinhardt	N/A	Laura A. Reinhardt	3552 26th Ave S Minneapolis, MN 55406	Paper Service	No	OFF_SL_19-9_PR-19-9

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Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_19-9_PR-19-9
Kevin	Reuther	kreuther@mncenter.org	MN Center for Environmental Advocacy	26 E Exchange St, Ste 206 St. Paul, MN 551011667	Electronic Service	No	OFF_SL_19-9_PR-19-9
Darla	Ruschen	d.ruschen@bcrea.coop	Brown County Rural Electric Assn.	PO Box 529 24386 State Highway 4 Sleepy Eye, MN 56085	Electronic Service	No	OFF_SL_19-9_PR-19-9
Robert K.	Sahr	bsahr@eastriver.coop	East River Electric Power Cooperative	P.O. Box 227 Madison, SD 57042	Electronic Service	No	OFF_SL_19-9_PR-19-9
Richard	Savelkoul	rsavelkoul@martinsquires.com	Martin & Squires, P.A.	332 Minnesota Street Ste W2750 St. Paul, MN 55101	Electronic Service	No	OFF_SL_19-9_PR-19-9
Larry L.	Schedin	Larry@LLSResources.com	LLS Resources, LLC	332 Minnesota St, Ste W1390 St. Paul, MN 55101	Electronic Service	No	OFF_SL_19-9_PR-19-9
Kenric	Scheevel	Kenric.scheevel@dairylandpower.com	Dairyland Power Cooperative	3200 East Ave S PO Box 817 La Crosse, Wisconsin 54602	Electronic Service	No	OFF_SL_19-9_PR-19-9
Christopher	Schoenherr	cp.schoenherr@smmpa.org	SMMPA	500 First Ave SW Rochester, MN 55902-3303	Electronic Service	No	OFF_SL_19-9_PR-19-9
Kay	Schraeder	kschraeder@minnkota.com	Minnkota Power	5301 32nd Ave S Grand Forks, ND 58201	Electronic Service	No	OFF_SL_19-9_PR-19-9

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Ronald J.	Schwartau	rschwartau@noblesce.com	Nobles Cooperative Electric	22636 U.S. Hwy. 59 Worthington, MN 56187	Electronic Service	No	OFF_SL_19-9_PR-19-9
Dean	Sedgwick	Sedgwick@Itascapower.com	Itasca Power Company	PO Box 455 Spring Lake, MN 56680	Electronic Service	No	OFF_SL_19-9_PR-19-9
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th Pl E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_19-9_PR-19-9
David	Shaffer	shaff081@gmail.com	Minnesota Solar Energy Industries Project	1005 Fairmount Ave Saint Paul, MN 55105	Electronic Service	No	OFF_SL_19-9_PR-19-9
Doug	Shoemaker	dougs@charter.net	Minnesota Renewable Energy	2928 5th Ave S Minneapolis, MN 55408	Electronic Service	No	OFF_SL_19-9_PR-19-9
Esther	Simon	esimon@itasca-mantrap.com	Itasca-Mantrap Cooperative	PO Box 192 Park Rapids, MN 56470	Electronic Service	No	OFF_SL_19-9_PR-19-9
Felicia	Skaggs	fskaggs@meeker.coop	Meeker Cooperative Light & Power	1725 US Highway 12 E Suite 100 Litchfield, MN 55355	Electronic Service	No	OFF_SL_19-9_PR-19-9
Trevor	Smith	trevor.smith@avantenergy.com	Avant Energy, Inc.	220 South Sixth Street Suite 1300 Minneapolis, Minnesota 55402	Electronic Service	No	OFF_SL_19-9_PR-19-9
Beth H.	Soholt	bsoholt@windonthewires.org	Wind on the Wires	570 Asbury Street Suite 201 St. Paul, MN 55104	Electronic Service	No	OFF_SL_19-9_PR-19-9

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Marcia	Solie	m.solie@bcrea.coop	Brown County Rural Electrical Assn.	24386 State Hwy. 4, PO Box 529 Sleepy Eye, Minnesota 56085	Electronic Service	No	OFF_SL_19-9_PR-19-9
Robyn	Sonstegard	robynnsec@wiktel.com	North Star Electric Cooperative, Inc.	PO Box 719 441 State Hwy 172 NW Baudette, MN 56623	Electronic Service	No	OFF_SL_19-9_PR-19-9
Sherry	Swanson	sswanson@noblesce.com	Nobles Cooperative Electric	22636 US Highway 59 PO Box 788 Worthington, MN 56187	Electronic Service	No	OFF_SL_19-9_PR-19-9
Eric	Swanson	eswanson@winthrop.com	Winthrop & Weinstine	225 S 6th St Ste 3500 Capella Tower Minneapolis, MN 554024629	Electronic Service	No	OFF_SL_19-9_PR-19-9
Thomas P.	Sweeney III	tom.sweeney@easycleanenergy.com	Clean Energy Collective	P O Box 1828 Boulder, CO 80306-1828	Electronic Service	No	OFF_SL_19-9_PR-19-9
Lynnette	Sweet	Regulatory.records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7 Minneapolis, MN 554011993	Electronic Service	No	OFF_SL_19-9_PR-19-9
Pat	Treseler	pat.jcplaw@comcast.net	Paulson Law Office LTD	4445 W 77th Street Suite 224 Edina, MN 55435	Electronic Service	No	OFF_SL_19-9_PR-19-9
Adam	Tromblay	atromblay@noblesce.com	Nobles Cooperative Electric	22636 US Hwy. 59 P.O. Box 788 Worthington, MN 56187-0788	Electronic Service	No	OFF_SL_19-9_PR-19-9
Sam	Villella	sdvillella@gmail.com		10534 Alamo Street NE Blaine, MN 55449	Electronic Service	No	OFF_SL_19-9_PR-19-9
Robert	Walsh	bwalsh@mnvalleyrec.com	Minnesota Valley Coop Light and Power	PO Box 248 501 S 1st St Montevideo, MN 56265	Electronic Service	No	OFF_SL_19-9_PR-19-9

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Roger	Warehime	roger.warehime@owatonnautilities.com	Owatonna Public Utilities	208 South WalnutPO Box 800 Owatonna, MN 55060	Electronic Service	No	OFF_SL_19-9_PR-19-9
Paul	White	paul.white@prcwind.com	Project Resources Corp./Tamarac Line LLC/Ridgewind	618 2nd Ave SE Minneapolis, MN 55414	Electronic Service	No	OFF_SL_19-9_PR-19-9
Robyn	Woeste	robynwoeste@alliantenergy.com	Interstate Power and Light Company	200 First St SE Cedar Rapids, IA 52401	Electronic Service	No	OFF_SL_19-9_PR-19-9
Thomas J.	Zaremba	TZaremba@wheelerlaw.com	WHEELER, VAN SICKLE & ANDERSON	44 E. Mifflin Street, 10th Floor Madison, WI 53703	Electronic Service	No	OFF_SL_19-9_PR-19-9