



Minnesota Municipal Utilities Association

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Minnesota Department of Commerce
Division of Energy Resources
85 7th Place East, Suite 500
St. Paul, MN 55101

Re: Comments regarding Draft CHP Action Plan

Minnesota Municipal Utilities Association (MMUA) appreciates the opportunity to provide the following comments regarding the Draft CHP Action Plan under development by the Division of Energy Resource (DER).

MMUA represents the interests of Minnesota's municipal electric, gas and water utilities. Our mission is to unify, support and serve these utilities so they can in turn improve service to their customers and communities. Today there are 125 municipally-owned and operated electric utilities in Minnesota and 32 municipally-owned and operated gas utilities. As Public Power entities, these distribution utilities have a particularly strong commitment to their customer-owner communities.

MMUA participated in the CHP stakeholder meetings that are the basis for the Draft CHP Action Plan and found the process to be informative. One criticism of the information provided, however, would be that FVB Energy Inc., in its "Minnesota Combined Heat and Power Policies and Potential," report over-emphasized the "technical potential" for 3,049 megawatts of CHP in Minnesota for which the process of determining potential admittedly "does not consider screening for economic rate of return, or other factors such as ability to retrofit, owner interested in applying CHP, capital availability, natural gas availability, or variation of energy consumption within customer application/size class." P. 14. Rather than breaking down "technical potential" by utility sector, as the report does, a more useful analysis would have centered on the "economic potential" of CHP in Minnesota stated in the report as being 984 megawatts. P. xvi.

More troubling for municipal utilities, however, are certain non-Minnesota type concepts forwarded by stakeholders or outside groups during the process leading to the Draft CHP Action Plan.

One such concept was suggested as a "best practice" in materials prepared for DER by the Regulatory Assistance Project (RAP) for the meeting that focused on the subject of standby tariffs. According to slide 36 of RAP's presentation entitled Designing Standby Rates Well, "[c]ustomers should be able to procure standby service from the open market." RAP is an organization not headquartered in Minnesota and may not be sensitive to the fact that Minnesota is a regulated state when it comes to the sale of electricity at the retail level. More troubling is that DER recommended this practice nearly verbatim to the Minnesota Public Utilities Commission in its January 30, 2015 report to the commission regarding a Generic Proceeding on Standby Service Tariffs (Docket No. E-999CI-15-115) despite knowing that Minnesota law states "each electric utility shall have the exclusive right to

provide electric service at retail to each and every present and future customer in its assigned service area.” Minn. Stat. Sec. 216B.40.

The small phrase describing this “best practice” in the materials referred to above may seem innocuous to a non-utility stakeholder. But exclusive service authority by locally- and state-regulated utilities is a foundational and intentional tenet of Minnesota’s regulatory framework. Public Power electric utilities and their individual, locally-determined tariffs will not be directly affected by the tariffs that will be produced through the PUC’s generic standby tariff proceedings. However, MMUA brought this broad policy issue into focus for the PUC’s benefit through our comments filed in that docket. And since that initiative is incorporated as part of the Draft CHP Action Plan, we offer the same statement of our concern in these comments.

Broad public policy principles such as exclusive service must not be allowed to creep into the CHP Action Plan. Negative consequences to both the investor-owned and consumer-owned utility sectors could easily flow from overt or indirect indications given by state agencies that Minnesota would somehow be open to allowing electric customers to circumvent their locally- or state-regulated utilities and purchase electricity directly from wholesale suppliers.

In much the same way, it would be widely harmful if other piecemeal anti-regulation related initiatives were made a part of the CHP Action Plan in any form or to any degree. One such initiative would be the sale of electricity by CHP facility owners (or other third-party distributed generation facility owners) to non-utility electricity users. This subject was brought into the process through an audience question during a panel discussion at Stakeholder Meeting #3, indicating that is on one person’s mind and perhaps on the minds of others. Again, Minnesota law intentionally and explicitly prohibits the sale of electricity by any entity except utilities. See Minn. Stat. Sec. 216B.40. A lack of experience in Minnesota utility law from out-of-state groups or stakeholders should not be cause for inviting a re-hash of the de-regulation debates of the 1990s into this Action Plan development process.

During that time period, electric de-regulation was enacted in 15 states, and its advance was suspended mid-process in seven others. After much debate Minnesota determined that de-regulating our electric industry would be unwise. Yet advocates for restructuring continue to seek ways to sell electricity in Minnesota without having to comply with the regulations that utilities – including municipal utilities – are required to follow. Those statewide utility regulations address important public policy demands, including the obligation to serve all customers present and future indiscriminately, customer protections, rate regulation by the state or a local governing body, quality of service, reliability and affordability.

We urge DER to approach incursions into piecemeal deregulation efforts with extreme caution, to enforce Minnesota’s statutes and to guard against regulatory change proposals that run counter to them. At the very least, major public policy shifts such as deconstructing our electric service regulatory structure should be recognized as fully within the domain of the legislative branch of government and not up for debate within regulatory proceedings.

In addition, we are concerned about the interest expressed by DER in its January 30, 2015 report on standby rates to “accurately account for all relevant value streams, including both costs *and benefits* . . .” (Emphasis added.) P. 13.

The idea of somehow including the benefits of distributed generation, including CHP, as part of calculating the appropriately recoverable costs incurred by utilities in serving them may seem tempting. However, as shown in the recent efforts to determine a usable “value of solar” formula, trying to incorporate non-quantifiable public policy considerations into already complex calculations can result in disappointing outcomes for both benefits promoters and the utilities. Whether the PUC pursues the goal of ascertaining the benefits of distributed generation or does not, we believe such public policy discussions belong at the legislature for broader discussion and should not be part of the final CHP Action Plan.

Thank you for considering these comments.

Sincerely,

s/Bill Black

Bill Black
Government Relations Director