



117 South First Street • Montevideo, MN 56265

April 7, 2025

Chair Frentz
Senate Energy, Utilities, Environment, and Climate Committee
Re: S.F. 2393

Chair Frentz and Committee Members,

CURE is a rurally based, non-profit organization dedicated to protecting and restoring resilient towns and landscapes by harnessing the power of the people who care about them. We appreciate the opportunity to testify in strong opposition to the proposed DE3 amendment to S.F. 2393. CURE has testified about several of the bills found in this omnibus and has expressed our serious concerns with the consequences of such bills passing. We reiterate those concerns here.

Article 3, Sections 2-4, 11, and 18-20

These sections of the bill were written by, and for, Amazon Data Services. In December, Amazon Data Services asked the Public Utilities Commission (PUC) for expedited review of its request for an exemption to the typical Certificate of Need process required under Minnesota law.¹ Amazon is seeking to build a hyperscale data center in Becker and wants to have emergency backup generation available if Xcel is unable to provide power. According to their filing, Amazon would build 250 generators, operating on polluting diesel fuel, for a combined capacity of up to 600 MW—approximately the amount of electricity generated at the Monticello nuclear plant. Just a few weeks ago, the PUC determined that Amazon *does* need to obtain a Certificate of Need for its proposed backup generation. Still, Amazon has continued to ask the legislature to end-run the expert agency's decision. These sections of the bill would:

- **Exempt diesel engines from Certificate of Need proceedings.** Engines used for emergency backup generation for a data center with a combined capacity greater than 50 MW would no longer need to obtain a Certificate of Need from the Public Utilities Commission, only a site permit. The bill also allows for minimal environmental review and expedited permitting under the “standard” review processes. Importantly, developers can already request exemptions from the Certificate of Need application data

¹ Amazon Data Services, *In the Matter of Amazon Data Services, Inc.'s Petition for an Exemption from Certificate of Need Requirements for Emergency Backup Generators at Becker, Minnesota*, eDockets Document No. 202412-213305-01, <https://www.edockets.state.mn.us/documents/%7BA0131894-0000-CA1F-896D-37D55FD8A087%7D/download?contentSequence=0&rowIndex=17>.



requirements—Amazon itself requested and was granted such exemptions.² To exempt all future data centers from the *entire* Certificate of Need process and then try to piece together elements of that process (see Article 3, Section 20), is an illogical solution to a non-existent problem.

- **Allow businesses to utilize the AUAR process to circumvent typical environmental review.** AUARs are intended to allow local governments to analyze different development scenarios, not the impacts of specific projects. Unsurprisingly, AUARs have less stringent requirements when it comes to the level of detail of environmental review and allow for less community engagement during the review process. Generally, AUARs are completed before projects for the area are even announced, making public input almost impossible due to the timing of comment versus when information is available. Indeed, the AUAR that Becker completed prior to the Amazon proposal mentions data centers but has no real or detailed assessment of the environmental impacts expected from a facility of this size and scope.³ AUARs were certainly not intended for the use of private companies to avoid compliance with the Minnesota Environmental Policy Act.

These carve outs are especially concerning because diesel generators, like those proposed by Amazon, can emit high levels of particulate matter, including fine particles and ultrafine particles, nitrogen oxides, and other toxic and carcinogenic air contaminants. Even if operated under the parameters of “emergency backup generation” (which does allow for operation in non-emergency situations), the size and scale of such facilities means the surrounding community could still face a serious pollution burden which cannot be causally dismissed.

Again, this bill was not written by, or for, Minnesotans. It’s clear that Minnesota does need to address if and how we want data centers to be built and operate in our state. But Minnesotans should be driving that conversation, not powerful, wealthy, private companies who stand to benefit from such changes to the law. CURE is supportive of the kinds of policies contemplated in S.F. 3320, and H.F. 2928, which would provide a starting point from which Minnesota can have these essential conversations. Those bills include several necessary provisions to analyze the social, environmental, and economic impacts of hyperscale data center development and to protect our energy systems, water resources, and communities, without placing arbitrary or excessive burdens on those seeking to do business in our state.

Article 3, Section 5

CURE has a deep appreciation for our rural electric cooperatives and have worked side by side with them to secure historic investments from the federal government. Cooperatives and

² Minnesota Public Utilities Commission, *Order Requiring Certificate of Need and Granting Exemption from Certain Application Data Requirements*, 6, <https://www.edockets.state.mn.us/documents/%7B6062F295-0000-CF1C-96AE-61D59FA827E4%7D/download?contentSequence=0&rowIndex=1>.

³ Xcel Energy/City of Becker Alternative Urban Area-wide Review (AUAR), Jan. 2023, <https://www.ci.becker.mn.us/DocumentCenter/View/2689/Xcel-Energy--City-of-Becker-AUAR>.

municipal utilities are the best places for member-owners and constituents to achieve energy democracy and work together to produce and consume clean energy in community.

While Minnesota’s approach to net metering is not perfect, weakening the program in the way proposed by this bill is not the solution. Net metering has been debated almost annually for the last several years and has been changed numerous times since 2010. But this instability makes it difficult for both electricity providers and consumers to conduct long-range planning. Without clarity, transparency, and consistency around how to set truly fair repayment rates, the disputes about net metering will continue.

The more appropriate action at this time is to commission a study that could, among other things, identify the specific concerns raised by stakeholders, collect necessary information about those issues, and analyze potential solutions. The goal of a successful net-metering policy should be to ensure cooperative and municipal utilities are compensated fairly, that member owners with net metering installations are compensated fairly, and that distributed generation is accelerated in its deployment.

Article 3, Section 7

Community solar is a popular and effective tool for thousands of Minnesotans to reduce their electricity bills and participate in the just transition to a carbon-free energy future, even if they don’t have the means to install their own rooftop solar. The Department of Commerce estimates that the Community Solar Garden program delivers nearly \$3 billion in net benefits for the state, and another \$1.6 billion for developers, who in turn provide jobs, lease payments for land use, and other community benefits. The bottom line is that the benefits of the Community Solar Garden program “are significantly higher than costs to for Minnesota and CSG developers.”⁴ Additionally, recent changes to the Community Solar Garden program require that 30% of subscribers in a project be low- and moderate-income households. This ensures that the benefits of the program are available to those who need it most.

Taking away a program that allows for public participation in our energy transition, lowers utility bills, and increases distributed generation does not benefit our state.

Article 3, Section 8 and 9

In 2023, the legislature passed the 100% carbon-free law. The law explicitly states that “‘carbon-free’ means a technology that generates electricity without emitting carbon dioxide.” That language is not ambiguous. If a technology emits carbon dioxide in the process of generating electricity, it is not “carbon-free.” Despite this, the proposed amendments to S.F. 2329 would

⁴ Minnesota Department of Commerce, *Community Solar Garden Study*, Dec. 2024, <https://www.lrl.mn.gov/docs/2024/mandated/241703.pdf>.

declare that “electricity generated from a carbon-free technology” includes a method that, by its very nature, *emits carbon*.⁵

Arguments have been made that B100 should nevertheless be included in the 100% carbon-free law because it is “cleaner” than diesel fuel. This ignores two important realities: first, the combustion of B100 still emits harmful pollutants, and in fact increases the emission of nitrogen oxides, a pollutant that can aggravate respiratory diseases, and combine with water in the atmosphere to form acid rain. Second, the impacts of B100 combustion are not limited air emissions. Minnesota is very familiar with the impacts of biofuel production on our land, water, air, and human health, and has yet to find a successful way to mitigate or eliminate these harms. Others argue that the nature of peaking plants means that B100 would be used sparingly. But B100 is less efficient than diesel, meaning more B100 will need to be burned to produce the same amount of electricity. And the bill specifically contemplates the operation of peaking plants using B100 for at least 400 hours per year.

This bill follows a disturbing trend of attempts to erode the 100% carbon-free law, often under the guise of concerns about reliability and affordability.⁶ But carbon-free resources are available now, consistently less expensive than their non-carbon-free counterparts, and both reliable and resilient.⁷ This is true even for peaking plants, which some believe will continue to be a necessary part of our energy system even as we transition to carbon-free generation.⁸

The future of our energy system may not look like it has in the past, but that does not mean it will be less reliable, less resilient, or more expensive. To achieve that future, we must support the development and deployment of home-grown, *carbon-free* energy resources, including distributed generation—like rooftop solar and community solar gardens—grid-enhancing technologies, energy efficiency measures, and energy storage. Embracing this transition will in turn create jobs and industries in Minnesota for manufacturing, installing, and maintaining these systems and can even provide new sources of income for the communities who have historically hosted our fossil fuel infrastructure.

⁵ The production of biofuels, including biodiesel, has additional environmental and human health impacts that are often overlooked. See Angela Scafidi & Haley Leslie-Bole, *Increased Biofuel Production in the US Midwest May Harm Farmers and the Climate*, World Resources Institute, <https://www.wri.org/insights/increased-biofuel-production-impacts-climate-change-farmers> (Feb. 27, 2024).

⁶ Aaron Schwartz et al., *Reality Check: Dispatchability and Reliability Are Not the Same Thing*, RMI, <https://rmi.org/reality-check-dispatchability-and-reliability-are-not-the-same-thing/> (Jan. 8, 2025); Mike O’Boyle & eric Gimon, *Regulators: Don’t panic and rush to gas amid cries we’re out of power*, Utility Dive, <https://www.utilitydive.com/news/regulators-dont-panic-and-rush-to-gas/712435/> (Apr. 11, 2024).

⁷ Kingsmill Bond & Sam Butler-Sloss, *Reality Check: The IEA Busts 10 Myths About the Energy Transition*, RMI, <https://rmi.org/reality-check-the-iea-busts-10-myths-about-the-energy-transition/> (Sept. 29, 2023).

⁸ Alternatives to peaking plants include carbon-free generation paired with battery storage, distributed generation, expanding and upgrading transmission lines, and adopting demand-response systems. See, e.g., Rocky Mountain Institute, *The Hidden Health Costs of Gas-Fired Power Plants*, Oct. 18, 2022, <https://rmi.org/hidden-health-costs-of-gas-fired-power-plants/>.

Delaying this future by granting exemptions for any and every industry that wants one, and by removing popular programs with proven benefits to ratepayers, our energy system, and the environment, is not in Minnesota's best interests. Instead, these tactics perpetuate the negative environmental and human health impacts associated with the production and use of such sources of energy and discourage the deployment of carbon-free resources.

Given the concerns outlined above, CURE does not support this omnibus bill as currently written. We urge this committee to reject the policy portions in Article 3 of the bill until our concerns and those expressed by other stakeholders are adequately addressed. If no changes are made to these provisions, we ask that you reject this bill in its entirety. In the meantime, CURE welcomes the opportunity to discuss our concerns in greater detail with the author, members of this committee, other stakeholders, or anyone else who wishes to do so.

Sincerely,

/s/ Sarah Mooradian

Government Relations & Policy Director

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