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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-2195**

In the Matter of an Investigation into Implementing Changes to the Renewable Energy Objectives and the Newly Created Carbon-Free Standard Under Minn. Stat. § 216B.1691.

**Filed August 24, 2026
Affirmed
Reyes, Judge**

Minnesota Public Utilities Commission
File No. E-999/CI-23-151

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and

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Considered and decided by Bratvold, Presiding Judge; Larkin, Judge; and Reyes, Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

In this certiorari appeal, relator argues that respondent's decision creating a method for electric utilities to demonstrate compliance with Minnesota Statutes section 216B.1691, subdivision 2g (2024), the carbon-free standard, is (1) affected by an error of law because

it allows electric utilities to violate Minnesota Statutes section 216B.1691, subdivision 4(a) (2024), and (2) arbitrary or capricious because it inadequately safeguards the purpose of the renewable-energy-objectives statute. We affirm.

FACTS

Minnesota Statutes section 216B.1691 (2024 & Supp. 2025), the renewable-energy-objectives statute, provides three renewable-energy standards with which electric utilities must comply. *See* Minn. Stat. § 216B.1691, subds. 2a, 2f, 2g (providing standards for eligible energy technology, solar energy, and carbon-free energy). Those standards mandate reliance on certain energy-generation technologies to meet the demand for electricity in Minnesota. *See id.*

In 2023, the legislature enacted the carbon-free energy standard (the carbon-free standard). *See* 2023 Minn. Laws ch. 7, § 10, at 32 (codified at Minn. Stat. § 216B.1691, subd. 2g). The carbon-free standard requires electric utilities to “generate or procure” a certain amount of “electricity generated from a carbon-free energy technology” (carbon-free electricity). Minn. Stat. § 216B.1691, subd. 2g. “‘Carbon-free’ means a technology that generates electricity without emitting carbon dioxide.” *Id.*, subd. 1(b).

Respondent Minnesota Public Utilities Commission (PUC) monitors utility compliance with the renewable-energy standards, including the carbon-free standard. *See* Minn. Stat. §§ 216B.02, subd. 1a (2024) (“‘Commission’ means the Public Utilities Commission.”), .1691, subd. 7 (stating that “[t]he commission must regularly investigate whether an electric utility is in compliance with” renewable-energy standards). The renewable-energy-objectives statute requires the PUC to provide utilities four methods by

which they can demonstrate compliance with the carbon-free standard. *See* Minn. Stat. § 216B.1691, subds. 2d(b)(2), 4(a)-(b). Two are relevant here. The first method involves renewable energy credits (RECs).¹ Minn. Stat. § 216B.1691, subd. 4. The second method involves purchases from regional transmission organizations (RTOs) in excess of sales to those RTOs (the net-market-purchases method). *Id.*, subd. 2d(b)(2)(ii).

In this appeal, relator Carbon Solutions Group, LLC (CSG) challenges the PUC's decision not to involve RECs in the net-market-purchases method. CSG argues that, as a result, use of the net-market-purchases method will result in violations of Minnesota Statutes section 216B.1691, subdivision 4(a). CSG also argues that the PUC's decision is arbitrary or capricious. Before analyzing these arguments, we provide additional information regarding each method.

Renewable Energy Credits

The following description of RECs is specific to RECs associated with carbon-free energy.

When an entity generates one megawatt hour (MWh) of carbon-free electricity, that entity may receive one REC for that MWh from the Midwest Renewable Energy Tracking System (M-RETS). M-RETS assigns a serial number to that REC. M-RETS stores information linked with each REC serial number, allowing it to identify the date, location, and technology associated with the generation of the MWh of carbon-free electricity that gave rise to the existence of that REC.

¹ This opinion discusses RECs only. We do not address Alternative Energy Credits (AECs) or the umbrella term for both RECs and AECs, Environmental Attribute Credits (EACs).

The REC has value beyond its ability to be “retired,” i.e., used, by the carbon-free-electricity generator to demonstrate compliance with regulations such as the renewable-energy standards. While the REC is linked to a MWh of carbon-free electricity, the REC may be bought and sold separately from that MWh. *See Allco Fin. Ltd. v. Klee*, 861 F.3d 82, 93 (2d Cir. 2017) (“RECs are inventions of state property law whereby the renewable energy attributes are ‘unbundled’ from the energy itself and sold separately.” (quotation omitted)). Therefore, entities such as electric utilities can buy RECs from carbon-free-electricity generators (or entities that purchased RECs from those generators) and then retire the purchased RECs to demonstrate compliance with the carbon-free standard. *See* Minn. Stat. § 216B.1691, subd. 4(b) (providing that electric utilities “may utilize [RECs] allowed under the program to satisfy the [section 216B.1691] standard[s]”).

Regional Transmission Organizations

RTOs are “voluntary associations of utilities that own electrical transmission lines [that are] interconnected to form a regional [electric] grid and that agree to delegate operational control of the [electric] grid to the association.” *In re Application of Otter Tail Power Co.*, 942 N.W.2d 175, 177 n.1 (Minn. 2020) (quotation omitted).

Transmission lines carry large amounts of electricity over long distances, bringing electricity from its generating source to distribution lines that then supply end users with electricity. *See F.E.R.C. v. Elec. Power Supply Ass’n*, 577 U.S. 260, 267 (2016) (“[A]lmost all electricity flows . . . through an interconnected ‘grid’ of near-nationwide scope.”); *Niagara Mohawk Power Corp. v. F.E.R.C.*, 452 F.3d 822, 824 (D.C. Cir. 2006) (“[P]rovision of electric energy to end users traditionally involves three components:

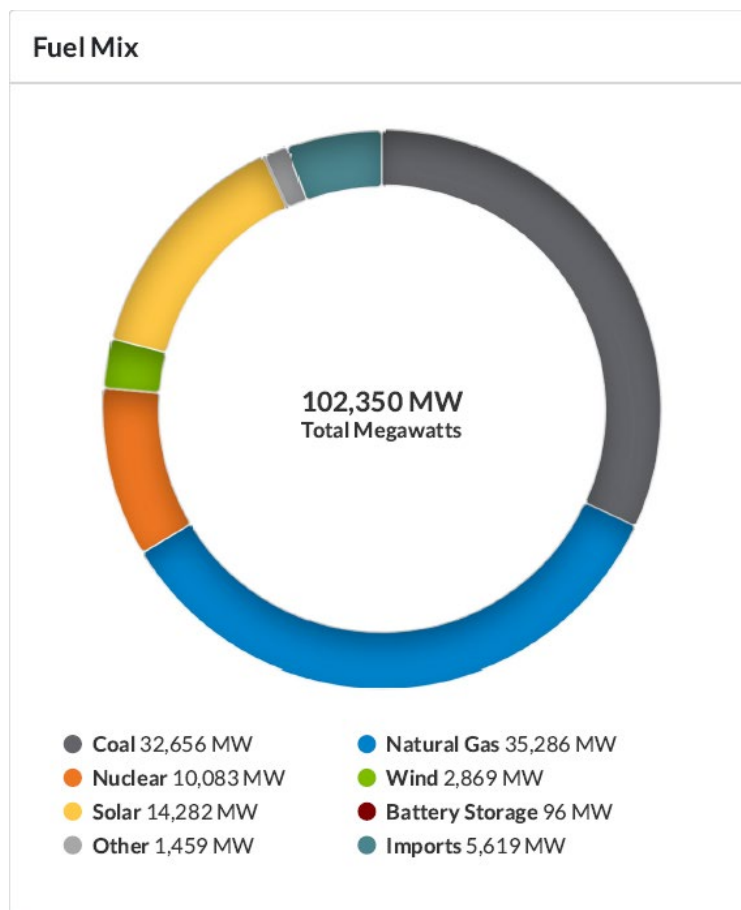
electricity generation; high voltage, long-distance power transmission . . . ; and . . . lower voltage, local distribution of electricity . . . to end users . . .”).

As electricity travels through the electric grid, it mixes with electricity generated by other entities and sources. *See New York v. F.E.R.C.*, 535 U.S. 1, 7 (2002) (explaining that “electricity that enters the [electric] grid immediately becomes a part of a vast pool of energy,” connecting electricity generators and end users); *Energy Mich., Inc. v. Mich. Pub. Serv. Comm’n*, 126 F.4th 476, 480 (6th Cir. 2025) (“Through interconnected transmission lines, a generator takes the electricity it has created and then mixes it with power from other plants on its way to the end user” (quotation and citation omitted)). Each MWh of electricity therefore becomes indistinguishable from one another; an entity cannot identify the specific source or technology responsible for the generation of the electricity that it purchases. *See North Dakota v. Heydinger*, 825 F.3d 912, 915 (8th Cir. 2016) (explaining that electric utilities purchasing electricity from RTOs do so “without regard to [the electricity’s] generation source”).

However, an RTO can measure aggregate characteristics of the electricity flowing through the portion of the electric grid that the RTO manages. For example, the Midcontinent Independent System Operator (MISO)², publishes a “fuel-mix” calculation for its portion of the electric grid, updating the calculation every five minutes. The fuel-mix calculation shows how much of the electricity in MISO’s portion of the grid is

² “MISO manages high-voltage electric transmission grids in 15 states, including Minnesota, and the Canadian province of Manitoba.” *Otter Tail Power*, 942 N.W.2d at 177 n.1.

attributable to different generation technologies at different moments in time. Below is an example of the calculation, which MISO publishes on its website.



Fuel Mix, Midwest Indep. Sys. Operator, Inc., <https://www.misoenergy.org> [<https://perma.cc/8R2R-BT4L>]. This fuel-mix calculation plays a role in the net-market-purchases method of demonstrating compliance with the carbon-free standard. *See* Minn. Stat. § 216B.1691, subd. 2d(b)(2)(ii) (stating that calculation associated with net-market-purchases method must be “based on the [RTO’s] systemwide annual fuel mix or an applicable subregional fuel mix”).

Net Market Purchases

RTOs manage electricity markets and administer auctions through which electric utilities purchase electricity to meet consumer demand. *See Elec. Power Supply Ass’n*, 577 U.S. at 267-69 (explaining auctions administered by RTOs); *see also* Fed. Energy Regul. Comm’n, *Energy Primer: A Handbook for Energy Market Basics* 37, 56, 66-75 (2023) (explaining RTOs and RTO markets). But many electric utilities are not just electricity purchasers, but also electricity generators. *See, e.g., In re Excelsior Energy Inc.*, 782 N.W.2d 282, 286 (Minn. App. 2010) (discussing “a public utility engaged primarily in the business of generating, transmitting, and distributing electrical power and energy”). If an electric utility generates electricity and is an RTO member, then that utility sells the electricity that it generates through the RTO. *See, e.g., Pub. Citizen, Inc. v. F.E.R.C.*, 7 F.4th 1177, 1186-87 (D.C. Cir. 2021) (discussing electricity sales through RTOs).

An electric utility that generates electricity is a “net-market seller” if it sells more electricity through an RTO than it buys through that RTO. But if that utility buys more than it sells, it is a “net-market purchaser.” Through the net-market-purchases method, electric utilities that are net-market purchasers can derive compliance value from their net-market purchases, relying on those purchases as evidence of compliance with the carbon-free standard. *See* Minn. Stat. § 216B.1691, subd. 2d(b)(2)(ii). But compliance value may be derived only from “the percentage of annual net[-market] purchases that is carbon-free.” *Id.* The PUC developed a formula to determine the exact compliance value; a formula that is based on the RTO’s fuel-mix calculation, depicted above. *See id.* (requiring the PUC to

calculate this “percentage . . . based on the [RTO’s] systemwide annual fuel mix or an applicable subregional fuel mix”).

PUC Proceedings

In 2024, the PUC issued a notice of comment period seeking stakeholder input on the issue of “carbon-free standard compliance reporting and verification,” which included the manner in which “net market purchases [should] be counted towards [carbon-free standard] compliance.”

CSG participated in the comment period, raising concerns about the net-market-purchases method and offering several recommendations on the method. CSG was concerned that RECs would already be claimed for much, if not all, carbon-free electricity added to the electric grid and sold through an RTO. For example, a generator of carbon-free electricity that sells that electricity through an RTO may also receive RECs associated with each MWh generated and sold. As a result, the net-market-purchases method would allow two entities to rely on the same MWh of electricity as evidence of compliance with the carbon-free standard: the generator, through an unbundled REC, and the net-market purchaser, through its purchase of electricity from the market. The parties refer to this situation as “double-counting” or “double-claiming.” For ease of reference, we refer to it only as “double-counting.”

CSG recommended involving RECs in the net-market-purchases method as a way to avoid double-counting. While some other commenters shared CSG’s concerns and offered similar recommendations, others made recommendations not involving RECs. The PUC order described CSG’s recommendation as advocating that the PUC “require utilities

to acquire and retire [RECs] for each unit of [electricity] used for demonstrating compliance with the Carbon-Free Standard,” even electricity purchased through RTOs. Staff briefing papers from the PUC include discussion about CSG’s concern and recommendation.

In its final order, the PUC declined to adopt CSG’s recommendation. The PUC determined that the renewable-energy-objectives statute did not allow it to require electric utilities to purchase and retire RECs in order to demonstrate compliance through the net-market-purchases method. The PUC nonetheless acknowledged concerns about double-counting and implemented a “back out” requirement to mitigate the issue: Electric utilities seeking to demonstrate compliance through the net-market-purchases method must subtract “the amount of carbon-free electricity that the utility generated or procured through power purchase agreements.”³ The PUC explained that, “on this basis, the utility can calculate an adjustment to the fuel mix to avoid double-counting the carbon-free energy that it sold into the market and bought back.”

CSG petitioned the PUC for reconsideration of its order. The PUC denied CSG’s petition.

This appeal follows.

³ For an illustration of the relationship between power purchase agreements and RECs, see *In re Xcel Energy’s Petition for a Determination of Entitlement to Renewable Attributes of Energy Purchases Pursuant to Renewable Energy Requirements*, MPUC Docket No. E-002/M-08-440 (Sept. 9, 2010).

DECISION

CSG argues that the PUC’s decision not to require retirement of RECs in the net-market-purchases method is (1) affected by an error of law and (2) arbitrary or capricious.⁴ We begin by discussing the applicable standard of review and then address each argument in turn.

An administrative agency’s decision enjoys a “presumption of correctness”; appellate courts defer to the agency’s expertise and special knowledge in its field. *In re Annandale NPDES/SDS Permit Issuance*, 731 N.W.2d 502, 513 (Minn. 2007) (quotation omitted). The party challenging an agency decision “has the burden of proof when appealing an agency decision.” *Excelsior Energy*, 782 N.W.2d at 289. Under the Minnesota Administrative Procedure Act, Minn. Stat. §§ 14.001-.69 (2024 & Supp. 2025), reviewing courts

may affirm the decision of the agency or remand the case for further proceedings; or [they] may reverse or modify the decision if the substantial rights of the petitioners may have been prejudiced because the administrative finding, inferences, conclusion, or decisions are:

- (a) in violation of constitutional provisions; or
- (b) in excess of the statutory authority or jurisdiction of the agency; or
- (c) made upon unlawful procedure; or
- (d) affected by other error of law; or

⁴ Amicus curiae identified issues with several citations in CSG’s principal brief, stating that the brief “cites to cases that do not exist, and mis-quotes cases that do exist.” CSG then filed a letter with this court acknowledging the citation errors. It explained that “[u]ndersigned counsel acknowledges full responsibility for these errors and apologizes to the Court for submitting a brief that was not properly cite-checked before filing.” With respect to its citation of nonexistent cases, CSG stated that “[b]oth erroneous citations are the result of counsel’s lack of attention to detail, not AI hallucinations.”

- (e) unsupported by substantial evidence in view of the entire record as submitted; or
- (f) arbitrary or capricious.

Minn. Stat. § 14.69.

I. The PUC’s decision is not affected by an error of law.

CSG argues that the PUC’s decision is affected by an error of law because it created a compliance method that violates Minnesota Statutes section 216B.1691, subdivision 4(a), which provides for a tradable-REC program. We are not persuaded.

“When an agency’s decision is based solely on statutory interpretation, we are presented with a question of law, which we review de novo.” *In re Detailing Criteria & Standards for Measuring Elec. Util.’s Good Faith Efforts in Meeting the Renewable Energy Objectives under Minn. Stat. § 216B.1691*, 700 N.W.2d 533, 536 (Minn. App. 2005), *aff’d mem.*, 714 N.W.2d 426 (Minn. 2006). “When the language of a statute . . . is unambiguous, [appellate courts] apply the plain language” and do not defer to an agency’s interpretation of that language. *In re Denial of Contested Case Hearing Requests*, 993 N.W.2d 627, 646, 664 (Minn. 2023). Neither party contends that the statutory language at issue here is ambiguous, and we agree that it is not. *See State v. Riggs*, 865 N.W.2d 679, 682 (Minn. 2015) (“A statute is ambiguous when its language is subject to more than one reasonable interpretation.”). We therefore use preambiguity interpretive tools to discern the statute’s meaning. *See State v. Lee*, 22 N.W.3d 608, 614-18 (Minn. App. 2025) (citing *Riggs*, 865 N.W.2d at 682 n.3) (applying “preambiguity canons of interpretation”).

Disputed statutory language “is not examined in isolation; rather, all provisions in [a] statute must be read and interpreted as a whole.” *State v. Pakhnyuk*, 926 N.W.2d 914,

920 (Minn. 2019). “Every law shall be construed, if possible, to give effect to all its provisions.” Minn. Stat. § 645.16 (2024). “[W]ords and phrases are construed according to rules of grammar and according to their common and approved usage,” unless the statute provides a definition or a technical or special meaning applies. Minn. Stat. § 645.08(1) (2024). “When the words of a law in their application to an existing situation are clear and free from all ambiguity, the letter of the law shall not be disregarded under the pretext of pursuing the spirit.” Minn. Stat. § 645.16.

CSG argues that the net-market-purchases method allows utilities to violate two provisions of Minnesota Statutes section 216B.1691, subdivision 4(a). Subdivision 4(a) requires the PUC to “establish . . . a program for tradable [RECs] for electricity generated by eligible energy technology.” The subdivision then imposes some restrictions on the tradable-REC program. *See* Minn. Stat. § 216B.1691, subd. 4(a). CSG argues that the net-market-purchases method violates two of these restrictions, provided in the following statutory language: (1) “[t]he program must permit a credit to be used only once” and (2) “[t]he program must treat all eligible energy technology equally” regardless of “the state where the energy was generated or the technology with which the energy was generated.” *Id.* The statutory language includes only one subject: “[t]he program.” *Id.* “The program” is “a program *for tradable renewable energy credits* for electricity generated by eligible energy technology.” *Id.* (emphasis added). The restrictions at issue therefore dictate only what the program for tradable RECs must do. We are not persuaded that they control the net-market-purchases method, implemented under subdivision 2d(b)(2)(ii). Moreover, neither the subdivision providing for the net-market-purchases

method nor the subdivision providing the carbon-free standard include language that references or incorporates subdivision 4(a). *See id.*, subds. 2d(b)(2), 2g.

Because the net-market-purchases method does not implicate subdivision 4(a), we decline to address CSG’s arguments as to how the method violates subdivision 4(a). We conclude that the PUC’s decision is not affected by an error of law: the net-market-purchases method does not allow electric utilities to violate section 216B.1691, subdivision 4(a).

II. The PUC’s decision is not arbitrary or capricious.

CSG argues that the PUC’s decision not to require REC retirement in connection with the net-market-purchase method is arbitrary or capricious because it reflects the agency’s will and not its judgment. CSG explains, “The [PUC] cannot simultaneously acknowledge that double-claiming is a risk, identify [REC] retirement as the instrument that prevents it, and then adopt a methodology that requires neither [REC] retirement nor any equivalent safeguard.” We disagree.

As relevant here, “[a]n agency decision is arbitrary or capricious if it represents the agency’s will and not its judgment.” *Denial of Contested Case Hearing Requests*, 993 N.W.2d at 646 (quotation omitted). Appellate courts “will intervene if a combination of danger signals suggest the agency has not taken a hard look at the salient problems and has not genuinely engaged in reasoned decision-making.” *In re Reichmann Land & Cattle, LLP*, 867 N.W.2d 502, 512 (Minn. 2015) (quotation omitted).

As CSG concedes in its brief, “[t]he central issue throughout” one round of PUC deliberations “was how to calculate the ‘carbon-free’ percentage of unspecified net[-

]market purchases in a manner that does not produce duplicative counting claims, *i.e.*, double claiming.” CSG acknowledges that the PUC considered the issue and related comments. The PUC order summarized the dispute, the positions of different entities, and the reasons why the PUC decided against requiring REC retirement. It explained its conclusion that section 216B.1691, read as a whole, indicates that the PUC cannot require REC retirement in connection with the net-market-purchases method. The PUC also adopted a formula to mitigate double-counting to the extent that it believed permissible under law. As acknowledged by CSG and supported by both the record and the order, the PUC took a “hard look” at the double-counting issue and “genuinely engaged in reasoned decision-making” to decide how to address the issue. *See id.* We conclude that the PUC’s decision is not arbitrary or capricious.

Affirmed.