



March 4, 2022

Consumer Affairs Office
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul MN 55101

RE: In the Matter of a Commission Investigation into Potential Rule Amendments Related to
Liquified Carbon Dioxide

PUC Docket Numbers: U999/CI-21-847

Dear Consumer Affairs and Commission Staff,

We agree with and echo the comments of The Upper Sioux Community, MCEA, CURE, MDA, DOC-EERA, DNR, MNDOT, and MN OPS that the definition of “hazardous liquid” in Minnesota Rule 7852.0100, subd. 18 should be amended to include liquified carbon dioxide. We also have the following rebuttal comments:

DOC EERA seemed to support the rule change under the expedited process as defined in [Minn. Stat. § 14.389](#) (DOC EERA had a typo in their citation), which we also strongly support. They proposed tying MN's definition of hazardous liquid to [49 CFR § 195.1, as amended](#), which does include CO₂, but has a handful of exemptions that might not be good for Minnesota. More generally, this proposal would subject Minnesota to future changes in Federal policy and rulemaking. It seems like a better approach would be to reference that regulation, but word it in a way that would make Minnesota's rules always at least as strict as the Federal rules, or to explicitly not have those exemptions. We believe the following definition would accomplish those objectives:

"Hazardous liquid" means carbon dioxide (CO₂), petroleum, petroleum products, anhydrous ammonia, including any substance transported in pipelines and associated

facilities, including pipelines and associated facilities only affecting intrastate commerce that otherwise would be subject to regulation under Code of Federal Regulations, title 49, section 195.1, as amended.

GPI seemed to deliberately misconstrue the hazardous nature of CO₂. Certainly they are well aware that CO₂ is an asphyxiant, and that asphyxiation leads to brain injury and death. Instead they used talking points about the presence of (lesser concentrations of) CO₂ in regular air, and about photosynthesis. This seems to be a deliberate attempt to mislead the Commission, and the public. They also seem to imply that these projects don't involve liquid CO₂, because the CO₂ is "supercritical" (a term the general public may not be familiar with), however Navigator in their comment openly describes their pipeline system as transporting "liquid CO₂". We agree with CURE's more elaborate comment on this issue.

GPI went on to state that "released CO₂ generally rapidly dissipates into the atmosphere." As many other commenters referenced, the [CO₂ leaks in Satartia, MS](#) obviously didn't dissipate rapidly enough to spare the victims of the disaster. It seems important to note here that [GPI has taken money](#) from corporations who operate CO₂ pipelines and fossil fuel infrastructure that is or could be served by CO₂ pipelines.

When GPI said that "appropriately sited, constructed, monitored, and maintained pipeline infrastructure can mitigate potential hazards to life, limb, and property" - what "potential hazards" are they referring to if their claim of "CO₂ is not hazardous" is true? In reality, "appropriate" siting, construction, monitoring, and maintenance only happens as a result of robust proactive regulation, and defining CO₂ as hazardous is a necessary step for that.

Valero, an international petrochemical and ethanol corporation, expressed their desire for a rapid permitting process, in order to increase their profits via tax credits. This should never be a consideration for the Commission, and it has nothing to do with the question of whether CO₂ is a hazardous liquid. Valero also claimed that "Missed opportunities associated with development of a low-carbon fuel are also likely." This is also irrelevant because oil and ethanol are not low carbon fuels.

Navigator expressed concern about "the potential imposition of a new regulatory requirement at a time when Navigator will soon begin applying for permits to construct the Project." The Commission should not base their rulemaking decisions or timing around speculative and uncertain timelines of companies that have not even applied for any sort of certificate or permit from the Commission.

Navigator also argued that they are "subject to substantial regulation by numerous other federal, state and local units of government." This fact does not preclude the Commission from regulating them. Moreover, one of those other units of government is the MN DNR, who

submitted a comment indicating they believe that the PUC permitting process is better than their own process for managing project wide issues. DOC-EERA and MNDOT expressed similar thoughts. Rival corporation Summit even undercut Navigator's argument by admitting that "The Commission has expertise in the routing of pipelines generally that may make it a preferred state regulator for such projects." We agree.

Navigator's request for an exemption for CO₂ pipelines that would only be in a single MN county doesn't have much merit, because consistent regulation is important for this emerging type of infrastructure, and a PUC proceeding for such a line wouldn't take very long to complete. They also alluded to a number of temporary jobs, and a few permanent jobs that their project would allegedly create. The vast majority of those jobs would not be in Minnesota, and are therefore irrelevant to this docket.

Summit argued that "expanding the definition of 'hazardous liquids' to include CO₂ does not accurately reflect important differences between CO₂ and other products." Obviously "hazardous" is not and should not be a narrowly defined term, and therefore it is reasonable for substances with different properties to be defined as hazardous.

Summit referenced [Minn. Stat. § 216G.02, subd. 1](#), in an attempt to cast doubt on whether the Commission has the authority to undertake such a rulemaking. However, item (1) under subd. 1 solely refers to "hazardous liquids", not a list of "numerous other products." Therefore, the absence of CO₂ from subd. 1 is insignificant, and "Hazardous Liquid" as defined in [MN rule 7852.0100 subpart 18](#) is what Minn. Stat. § 216G.02, subd. 1 is referring to. Summit's complaint that "the definition of pipeline in [Minn. Stat. § 216G.01, subd. 3](#)" is being ignored by commenters is invalid, because Minn. Stat. § 216G.02, subd. 1 includes the phrase "notwithstanding section 216G.01, subdivision 3."

Summit's claim of "amending the definition found in Minn. R. 7852.0100 would not comprehensively address regulation of CO₂ pipelines" is not a reason to not do so. There is no solid argument that the Commission lacks authority to conduct a rule change of 7852.0100 subpart 18. We agree with CURE that the "good cause exemption" would apply here. Furthermore, the MN Office of Pipeline Safety (OPS) commented that "A regulatory change to Minnesota Statutes Chapter 216G or Minnesota Rules 7852 to include CO₂ would ensure consistency between the PUC's routing authority and MNOPS' safety regulatory authority."

Summit also expressed concern that the potential rulemaking is "unlikely to comprehensively address questions regarding the regulation of most CO₂ pipelines" due to the 6-inch minimum nominal diameter required for regulation under Minn. Stat. § 216G.02. [Summit's own map](#) indicates that the vast majority of their proposed system in MN would be at least 6-inch diameter. However, these systems are worth regulating regardless of the portion of pipe below 6-inch diameter.

Both Navigator and Summit argued that this proposed rulemaking could impact their timelines. They used overly dramatic language to weaponize their self-imposed arbitrary timelines against the Commission and against prudent regulation of CO₂ pipelines. They both went on to express (with questionable sincerity) concern that delay of their projects caused by regulation of CO₂ as a hazardous liquid would result in additional CO₂ being emitted into the atmosphere. This argument is flawed and unethical on multiple levels.

First, because it uses the same contrived “gun to our head” ([Lipschultz, 2018](#)) strategy that the Canadian tar sands oil corporation Enbridge used to push the Commission to approve their Line 3 pipeline. Not surprisingly, both Navigator and Summit have hired the same lawyers that Enbridge used in that case.

Second, this argument presumes that the liquid CO₂ flowing through their respective pipelines will never be used for enhanced oil recovery (EOR) at any point during the operational lifetime of these pipelines. It is known that EOR has been used at or very near the proposed sequestration sites of both projects, in [North Dakota](#) and [Illinois](#). Furthermore, North Dakota’s largest oil driller has [invested \\$250 Million](#) into Summit’s CO₂ pipeline system. There is no reason to believe corporate assertions that EOR isn’t planned for their projects. Even if it isn’t, they could always change their mind later, especially if they believe the Commission wouldn’t hold them accountable for such a change. The amount of GHG emissions caused by EOR would cancel out or exceed the amount captured by the CO₂ pipelines, even if the carbon sequestration process actually works well.

Third, it completely ignores the responsibility of the ethanol and fertilizer companies that Navigator and Summit have partnered with. Those companies are currently choosing to emit vast amounts of CO₂ while providing little to no value to society or the environment, and relying on significant government subsidies to prop up their unsustainable operations. The massive land use impacts and opportunity costs of ethanol production further increase the net emissions of these systems. [A recent study](#) by Scientists from midwestern universities and the U.S. Department of Energy found that the carbon intensity of corn ethanol is 24% higher than gasoline in the U.S.

The Commission should define CO₂ as a hazardous liquid. CO₂ pipelines are dangerous and should be strictly regulated in Minnesota. If the Commission does not open the rulemaking process to define CO₂ as a hazardous liquid, pipeline companies will be able to complete currently planned and future projects very quickly, with very little regulatory oversight and no full environmental impact studies. The Commission should not use OPS’ jurisdiction over pipeline safety as an excuse to not regulate CO₂ pipelines.

Sincerely,

Science for the People - Twin Cities, MN350, and MN Interfaith Power & Light