STATE OF MINNESOTA
Executive Department

Governor Tim Walz

Emergency Executive Order 20-58

Authorizing the Minnesota Public Utilities Commission to Hold Remote Meetings as Necessary to Protect Health and Safety

I, Tim Walz, Governor of the State of Minnesota, by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:

The COVID-19 pandemic presents an unprecedented challenge to our State. Minnesota has taken proactive steps to ensure that we are ahead of the curve on COVID-19 prevention and response. On March 13, 2020, I issued Executive Order 20-01 and declared a peacetime emergency because this pandemic, an act of nature, threatens the lives of Minnesotans, and local resources are inadequate to address the threat. In Executive Order 20-01, I directed all state agencies to submit proposed orders and rules to protect and preserve public health and safety. After notifying the Legislature, on April 13, 2020 and again on May 13, 2020, I issued Executive Orders extending the peacetime emergency declared in Executive Order 20-01.

The Minnesota Public Utilities Commission ("PUC") is charged with regulating electricity, natural gas, and telecommunications service in Minnesota. The PUC also considers whether to issue certificates and permits for large energy facilities. These services are essential in ensuring that Minnesotans continue to receive safe, reliable, and affordable energy and telecommunications service, and to allow the development of important infrastructure.

The PUC has procedures in place to provide the public an opportunity to engage with its decision-making. This engagement often involves holding in-person meetings for the public to learn about potential projects and provide feedback to the agency. These meetings are an important opportunity for the public to interact with the PUC, its staff, and the applicants requesting action from the PUC. Additionally, in some situations the PUC, or the Office of Administrative Hearings ("OAH") on behalf of the PUC, is required by statute or rule to hold these meetings in certain locations based on proximity to proposed project sites.

The Minnesota Open Meeting Law, Minnesota Statutes 2019, Chapter 13D, requires meetings of public bodies to be available for members of the public. However, Minnesota Statutes 2019, 13D.021, permits public bodies to hold meetings via telephone or other electronic means if a determination is made by the public body that an in-person meeting "is not practical or prudent because of a health pandemic or an emergency declared under chapter 12." During the current

COVID-19 peacetime emergency, many public bodies, state agencies, and other organizations in Minnesota, including the Executive Council, have held remote meetings accessible to the public. Such meetings allow for public engagement without threatening the public health.

The PUC faces a unique challenge: unlike other boards and commissions, some meetings held by the PUC (or by OAH on behalf of the PUC) are not subject to the Open Meeting Law but are required to be in-person and at a specific location. During the COVID-19 pandemic, these in-person meetings pose a significant risk to public health and safety. In Executive Order 20-56, I directed Minnesotans to avoid unnecessary travel, prohibited gatherings of more than 10 people, and urged governmental bodies to hold remote meetings when possible. Requiring the PUC to conduct in-person meetings would expose members of the public and state employees to unreasonable health and safety risks. Holding PUC meetings remotely during the peacetime emergency will help limit the spread of COVID-19 and safely allow members of the public to learn about and provide feedback regarding potential projects.

In Minnesota Statutes 2019, section 12.02, subdivision 1, the Minnesota Legislature recognized the "existing and increasing possibility of the occurrence of natural and other disasters of major size and destructiveness" and conferred upon the Governor the emergency and disaster powers provided in Chapter 12 to "ensure that preparations of this state will be adequate to deal with disasters," to "generally protect the public peace, health, and safety," and to "preserve the lives and property of the people of the state." Pursuant to Minnesota Statutes 2019, section 12.21, subdivision 1, the Governor has general authority to control the State's emergency management as well as carry out the provisions of Minnesota's Emergency Management Act. Pursuant to Minnesota Statutes 2019, section 12.21, subdivision 3(1), the Governor may "make, amend, and rescind the necessary orders and rules to carry out the provisions" of Minnesota Statutes 2019, Chapter 12. When approved by the Executive Council and filed in the Office of the Secretary of State, such orders and rules have the force and effect of law during the pendency of a peacetime emergency. Any inconsistent rules or ordinances of any agency or political subdivision of the state are suspended during the pendency of the emergency.

For these reasons, I order as follows:

1. For the duration of the peacetime emergency, all requirements for the PUC to hold in-person meetings, hearings, or other gatherings may be met by holding meetings conducted by telephone and other electronic means in accordance with Minnesota Statutes 2019, section 13D.021. The meetings, hearings, or other gatherings that may be held remotely include, but are not limited to, those required by Minnesota Statutes 2019, sections 216B.243 and 216E.03, and Minnesota Rules 2019 parts 7849.1400, 7850.2300, 7850.2500, 7850.2600, 7850.3500, 7850.3800, and 7854.0900, and related meetings or hearings conducted by the Office of Administrative Hearings on behalf of the PUC.

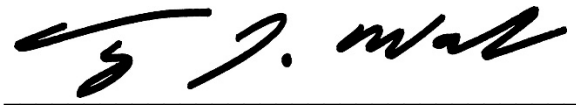
2. Nothing in this Order should be construed to waive or modify the requirements of the Open Meetings Law, Minnesota Statutes 2019, Chapter 13D.

Pursuant to Minnesota Statutes 2019, section 4.035, subdivision 2, and section 12.32, this Executive Order is effective immediately upon approval by the Executive Council. It remains in

effect until the peacetime emergency declared in Executive Order 20-01 is terminated or until it is rescinded by proper authority.

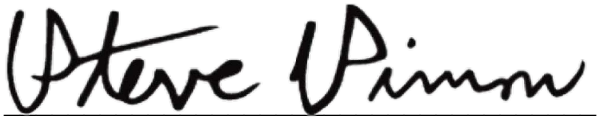
A determination that any provision of this Executive Order is invalid will not affect the enforceability of any other provision of this Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.

Signed on May 15, 2020.



Tim Walz
Governor

Filed According to Law:



Steve Simon
Secretary of State

Approved by the Executive Council on May 15, 2020:

Alice Roberts-Davis
Secretary, Executive Council

Filed May 15 2020
Office of the Minnesota
Secretary of State,
Steve Simon