

**STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION**

Katie Sieben	Chair
Joseph K. Sullivan	Vice Chair
Hwikwon Ham	Commissioner
Audrey Partridge	Commissioner
John Tuma	Commissioner

In the Matter of Minnesota Power’s
Petition for Approval of Modifications to
its Large Power Tariff

DOCKET NO. E-015/M-26-126

**OPPOSITION OF THE OFFICE OF THE
ATTORNEY GENERAL—RESIDENTIAL
UTILITIES DIVISION, CITIZENS UTILITY
BOARD OF MINNESOTA, AND CURE TO
MINNESOTA POWER’S PETITION TO
WITHDRAW FILING**

INTRODUCTION

The Office of the Attorney General—Residential Utilities Division (OAG), the Citizens Utility Board of Minnesota (CUB), and CURE respectfully submit the following Opposition to Minnesota Power’s (MP’s) petition to withdraw its tariff proposal for very large customers in this matter. MP’s tariff proposal is deficient, and the undersigned parties agree that it should not move forward in its current form. However, for the reasons explained below, its withdrawal would contravene the public interest and prejudice opposing parties unless the following conditions are imposed:

1. By June 21, 2026, MP must file an updated Google ESA that:
 - Provides that all costs attributable to the Hermantown data center will be assigned to the very large customer class or subclass, once it is defined; and
 - Explains in detail MP’s plans for allocating costs to the data center, given its new class designation.
2. MP must file a new very-large-customer tariff proposal by July 15, 2026.

Imposing these conditions will be especially important if the Commission does not postpone consideration of the Google ESA until a tariff is established, as recommended by several parties in initial comments.

BACKGROUND

In June 2025, the Minnesota Legislature enacted Minnesota Statutes section 216B.1622, which requires utilities to treat “very large customers” as a separate class or subclass and hold other customers harmless from their costs.¹

In February 2026, MP filed a six-page petition seeking approval to accommodate new very large customers within its existing Large Power customer class and tariff,² rather than as a separate class or subclass as required by section 216B.1622.

In March, MP filed a petition seeking approval of an electric service agreement (ESA) with Google’s subsidiary Harmony Group, LLC, which is developing a data center in Hermantown (the Google ESA).³ The Google ESA contemplates that the Hermantown data center will be served as a Large Power customer under MP’s existing Large Power tariff, contrary to section 216B.1622.⁴

On May 8, several parties, including the undersigned, filed initial comments opposing MP’s request to serve very large customers under the Large Power tariff. CUB and the OAG also explained that the Commission should approve a very-large-customer tariff before acting on the Google ESA.⁵

¹ See Minn. Stat. § 216B.1622, subds. 1, 2.

² See MP’s Petition for Approval of Modifications to Its Large Power Tariff at 5 (Feb. 18, 2026).

³ Docket No. E-015/M-26-159, Google ESA Petition at 1 (Mar. 27, 2026).

⁴ See, e.g., Google ESA Petition attach. A at 3, 6–8, 15; *id.*, attach. A, ex. C (attaching Large Power tariff); *id.*, attach. C (business expansion incentive margin-contribution analysis); *id.*, attach. D (proposing revisions to Large Power tariff); *id.*, attach. E (Large Power surcharge margin-contribution analysis).

⁵ See OAG Initial Comments at 15–17; CUB Initial Comments at 2–3; *see also* Sierra Club et al. Reply Comments at 2 (supporting CUB and OAG’s recommendation).

On May 19, the deadline for reply comments, MP filed a petition to withdraw its request to serve very large customers under the Large Power tariff, noting the “lack of support in the record for the Company’s proposed approach.”⁶ MP indicates an intent to refile a tariff proposal by an unspecified date in “mid-summer”—but argues that this should not delay consideration of the Google ESA.⁷

On May 29, MP filed a letter in the Google ESA docket requesting to withdraw the portion of the Google ESA Petition that proposes modifications to the Large Power Surcharge.

ANALYSIS

Under the Commission’s rules, a party may withdraw a filing whose withdrawal is opposed only if the Commission determines that the proposed withdrawal does not:

1. contravene the public interest;
2. prejudice any party; and
3. concern a filing that raises issues requiring commission action.⁸

If the Commission finds that withdrawal would contravene the public interest or prejudice a party, it may permit withdrawal only subject to conditions that mitigate the harm identified.⁹

Granting MP’s withdrawal petition would contravene the public interest and prejudice opposing parties unless the Commission imposes conditions to mitigate the procedural harms that withdrawal would cause. First, the Commission should not accept MP’s vague offer to file a section 216B.1622-compliant tariff proposal sometime in mid-summer, but should instead require the filing by a date certain. Second, the Commission should require MP to refile the Google ESA with revisions to reflect that it will be serving very large customers in a separate class or subclass.

⁶ Withdrawal Petition at 1 (May 19, 2026).

⁷ *Id.*

⁸ Minn. R. 7829.0430, subp. 2.

⁹ *Id.*

Other parties cannot reasonably be expected to evaluate an ESA that is inconsistent with the law and with MP's current plan to separate these customers from its Large Power customers.

I. MP'S WITHDRAWAL REQUEST DOES NOT MEET THE COMMISSION'S STANDARD FOR WITHDRAWAL UNLESS CONDITIONS ARE IMPOSED.

MP's withdrawal petition contravenes the public interest and prejudices other parties by severely truncating the time available to review its tariff proposal. In June 2025, with the passage of section 216B.1622, MP knew that the Commission would be tasked with defining a very large customer class, likely in a tariff, by December 15, 2026.¹⁰ MP also presumably knew in 2025 that it was negotiating with a potential very large customer to provide service to a data center in Hermantown.¹¹ Yet MP waited until February 2026, eight months after section 216B.1622 was enacted and five weeks before it would file the Google ESA, to file a tariff proposal that fails to treat very large customers as a separate class or subclass—one of the clearest requirements of the statute. Then, after its proposal was almost universally panned by other parties, MP waited the full reply-comment period to file its withdrawal request, offering to try to file a new very-large-customer tariff by “mid-summer, 2026.”

MP's procedural decisions leave parties and the Commission with just five months to evaluate its very-large-customer tariff before the December 15 deadline, assuming MP files a new proposal by July 15, something it has not specifically committed to do. And even if the Commission severs consideration of the specific tariff requirements applicable to very large customers from its determination of “the definition and appropriate characteristics”¹² of these customers in order to meet the statutory deadline for the latter, other parties will be prejudiced by

¹⁰ See Minn. Stat. § 216B.1622, subd. 1.

¹¹ See Docket No. E-015/PA-24-198, CURE Petition for Reconsideration at 2–3 (Dec. 30, 2025) (providing timeline of Hermantown data center).

¹² *Id.*

not knowing the contours of the full tariff while evaluating the Google ESA, assuming the timeline for ESA evaluation remains as currently scheduled.¹³

MP abandoning its request to serve very large customers under the Large Power tariff also complicates reviewing the Google ESA. The ESA, filed the month after MP's original tariff proposal, assumes that very large customers will be served under the Large Power rate schedule, contrary to the law and MP's current plan. The parties cannot reasonably be expected to evaluate an ESA that is out-of-date, and requiring them to do so would prejudice them and undermine the public interest by preventing effective review of the agreement. Accordingly, if MP's withdrawal request is granted, the Commission will need to require MP to update and file a Google ESA that reflects its current plans and the law, as discussed below.

The procedural bind that MP has put parties and the Commission in is unfortunate, and it was also unnecessary. As noted above, the requirement to separate new very large customers from existing customers and to establish the characteristics of the new class or subclass is one of the clearest requirements of the statute. Other utilities have generally managed to file proposed tariffs in a timely fashion that complied with the statute's most basic requirements.¹⁴ Yet MP, even though it knew it was negotiating with a data center, did not. It chose instead to sequence its tariff and ESA filings in such a way that approval of a section 216B.1622-compliant tariff by the December 15 deadline would be very difficult, and the Google ESA would become the template for the tariff rather than the other way around.

For these reasons and as further explained below, the Commission should impose conditions on withdrawal that will mitigate the procedural harms caused by MP's actions.

¹³ See OAG Initial Comments at 15–17 (explaining that the tariff should be finalized before the ESA is considered).

¹⁴ See Docket Nos. E-002/M-25-289, E-015/M-26-211.

II. AS A CONDITION OF WITHDRAWAL, THE COMMISSION SHOULD REQUIRE MP TO FILE A NEW TARIFF PROPOSAL BY A DATE CERTAIN AND PROVIDE INTERVENORS WITH SUFFICIENT TIME TO EVALUATE THE FILING.

MP's request to withdraw its filing throws off the procedural schedule for considering a very large tariff and the Google ESA. Normally, an ESA is evaluated in light of the tariff governing service to the customer's class. Here, however, MP urges the Commission to push ahead with evaluating the Google ESA while promising it will get around to filing a new tariff sometime later. MP's proposal gets the process backwards and is likely to cause wasted effort for stakeholders and the Commission if the reasonableness of the ESA needs to be revisited after a very-large-customer tariff is approved. Approving the ESA before a tariff also holds risks for Google if ESA modifications need to be made for consistency with the tariff.¹⁵

Moreover, there appears to be no reason to rush approval of the ESA. The facilities-construction agreement attached to the ESA contemplates the "Phase 1" transmission upgrades serving the data center going into service no earlier than November 2027.¹⁶ The ramp schedule attached to the ESA, moreover, contemplates that the data center will begin to ramp up well after transmission service begins.¹⁷ Finally, the data center is the subject of a lawsuit to stop its construction pending more thorough environmental review.¹⁸ This lawsuit was recently stayed while the City of Hermantown completes a second alternative urban areawide review (AUAR).¹⁹ General estimates of the amount of time needed for this review suggest that it will take 8–12

¹⁵ See OAG Initial Comments at 16.

¹⁶ Google ESA Petition, attach. H, appx. A at A-5 tbl.2 line 6 (appendix A to facilities-construction agreement).

¹⁷ See *id.*, attach. A at ex. A (confidential ramp schedule attached to ESA).

¹⁸ See Complaint, *Minn. Ctr. for Env't Advocacy v. City of Hermantown*, No. 69DU-CV-25-3448 (Minn. Dist. Ct. Nov. 5, 2025).

¹⁹ See Stipulated Order Staying Further Proceedings, *Minn. Ctr. for Env't Advocacy v. City of Hermantown*, No. 69DU-CV-25-3448 (Minn. Dist. Ct. May 18, 2026).

months if it is not unusually complex.²⁰ It appears unusually complex.²¹ These facts show that the data center is unlikely to go into service until the end of 2027 *at the very earliest*.

The Commission should take the time it needs to consider the appropriate terms and conditions of a very large customer tariff before taking up the Google ESA. Moreover, to help ensure that consideration of the tariff and the ESA can proceed in a timely manner, the Commission should condition MP's withdrawal of its current tariff proposal on MP filing a new tariff proposal by a specific date. Given MP's statement that it is targeting a mid-summer filing, the Commission should set July 15 as the deadline for its new tariff proposal to be filed. Setting a date certain for the tariff filing will let other parties know when to expect it, allow for timely consideration of the very-large-customer tariff given the looming December 15 deadline for the Commission to define very large customers, and provide information that will be valuable for evaluating the Google ESA.

III. THE COMMISSION SHOULD REQUIRE MP TO FILE AN UPDATED GOOGLE ESA AS A CONDITION OF WITHDRAWAL.

The Google ESA that MP filed in March is outdated and inaccurate in light of MP's withdrawal petition. The ESA contemplates that the data center will take service under the Large Power tariff, but this is contrary to MP's current plan to serve very large customers under a separate tariff. More importantly, it is contrary to section 216B.1622's requirement that very large customers be put in a separate class or subclass from a utility's existing customers. The Commission should order MP to file an updated ESA providing that all costs attributable to the Hermantown data center will be assigned to the very large customer class or subclass once it is

²⁰ See City of Duluth, *Environmental Reviews*, <https://duluthmn.gov/planning-development/land-use-zoning-applications/environmental-reviews/> (last visited May 26, 2026).

²¹ See Memo from Eric Johnson to Mayor & City Council of Hermantown Re: AUAR Scoping, app. C (May 18, 2026) (attaching public comments on AUAR scoping document), <https://hermantownmn.portal.civicclerk.com/event/27/files/attachment/3786>.

defined by the Commission. The updated ESA should also include a detailed explanation of how MP plans to allocate costs attributable to the data center in rate cases and riders.

Granting MP's requested withdrawal without these conditions would contravene the public interest and prejudice other parties by forcing them to evaluate an outdated ESA. The ESA as written cannot possibly comply with section 216B.1622, because it would place an indisputably very-large customer into a class with legacy industrial customers, thereby socializing the data center's attributable costs across a class that includes non-very-large customers. Parties should not have to sink time and effort into reviewing a filing that needs to be corrected to reflect that the data center is not a member of the Large Power class. Moreover, without an explanation of how MP plans to isolate the costs of the data center and assign it to the very large customer class, the record will lack sufficient information to establish that the ESA complies with section 216B.1622. Failing to require this information would prejudice the parties by requiring them to draw it out of MP through discovery when it should already have been provided.

For these reasons, the Commission should condition withdrawal on MP filing an updated ESA that (1) provides that all costs attributable to the Hermantown data center will be assigned to a very large customer class or subclass and (2) includes a detailed explanation of how MP plans to allocate costs to the data center in base rates and riders. The Commission should require MP to make this filing as soon as possible but in no event later than June 21, 2026, one month before the initial-comment deadline. If MP is unable to file the updated ESA by then, the comment deadlines for the ESA will need to be pushed out to avoid prejudicing parties and the public.

CONCLUSION

For the foregoing reasons, the Commission should grant MP's withdrawal petition only under the following conditions:

1. By June 21, 2026, MP must file an updated Google ESA that:
 - a. Provides that all costs attributable to the Hermantown data center will be assigned to the very large customer class or subclass, once it is defined; and
 - b. Explains in detail MP's plans for allocating costs to the data center, given its new class designation.
2. MP must file its new very-large-customer tariff proposal by July 15, 2026.

Dated: June 1, 2026

Respectfully submitted,

/s/ **Peter G. Scholtz**

Peter G. Scholtz
Assistant Attorney General
Office of the Attorney General—
Residential Utilities Division

/s/ **Brandon Crawford**

Brandon Crawford
Regulatory Advocate
Citizens Utility Board of Minnesota

/s/ **Hudson Kingston**

Hudson Kingston
Legal Director
CURE