



March 12, 2015

Daniel P. Wolf, Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place East, Suite 350  
St. Paul, Minnesota 55101

**Re: In the Matter of the Application by  
Dakota Electric Association for Authority to  
Increase Rates for Electric Service in Minnesota  
Docket No. E-111/GR-14-482**

Dear Mr. Wolf:

On March 3, 2015, the Minnesota Public Utilities Commission (Commission) issued a *Notice of Schedule for Filing Exceptions to the ALJ's Report and Request for Dakota Electric Association to File Schedules Reflecting the ALJ's Recommendation* (Notice) in the above-referenced docket. This Notice establishes March 12, 2015 as the date by which exceptions must be filed regarding the Administrative Law Judge's March 2 Report and Recommendation. Attached for filing are the Exceptions and Clarification of Dakota Electric Association in this matter.

If you have any questions regarding the information in this filing, please call me at (651) 463-6258.

Sincerely,

A handwritten signature in black ink that reads 'Douglas R. Larson'.

Douglas R. Larson  
Vice President of Regulatory Services  
Dakota Electric Association  
4300 220<sup>th</sup> St. West  
Farmington, MN 55024

Enclosures  
cc: Service List

## **Certificate of Service**

I, Cherry Jordan, hereby certify that I have this day served copies of the attached document to those on the following service list by e-filing, personal service, or by causing to be placed in the U.S. mail at Farmington, Minnesota.

**Docket Nos. E-111/GR-14-482**

Dated this 12th day of March, 2015

/s/ Cherry Jordan

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Cherry Jordan

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

Beverly Jones Heydinger  
Nancy Lange  
Dan Lipschultz  
John Tuma  
Betsy Wergin

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Application of  
DAKOTA ELECTRIC ASSOCIATION,  
for Authority to Increase Rates  
for Electric Service in Minnesota

MPUC Docket No. E-111/GR-14-482  
OAH Docket No. 80-2500-31796

**DAKOTA ELECTRIC ASSOCIATION'S  
EXCEPTIONS AND CLARIFICATIONS  
TO THE  
REPORT OF THE ADMINISTRATIVE LAW JUDGE**

**March 12, 2015**

FELHABER, LARSON, FENLON & VOGT, P.A.  
Harold LeVander, Jr. #62509  
444 Cedar Street, Suite 2100  
St. Paul, MN 55101-2136  
651-312-6005

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## I. INTRODUCTION

Dakota Electric Association (“DEA”, “Dakota Electric”, or “Cooperative”) submits the following Exceptions to the Report of the Administrative Law Judge (ALJ) dated March 2, 2015. These Exceptions deal with the ALJ’s Findings of Fact and Conclusions in two substantive respects: 1) Dakota Electric’s annualizing adjustment for staffing changes and 2) the monthly fixed charge for Small General Service. In addition, these Exceptions correct and clarify the calculation of the staffing annualizing adjustment recommended by the ALJ based on the intent expressed in the ALJ’s narrative.

## II. EXCEPTIONS AND CLARIFICATION

### 1. Adjustment for Staffing Changes

DEA excepts to Paragraph #67 of the ALJ report and recommendations. In Paragraph #67 the ALJ states in part:

“The Administrative Law Judge concludes that the underlying basis for the OAG’s objection to DEA’s annualization adjustment has merit. .... Whether or not specific positions are fully filled during a test year does not warrant extra funding to cover the likelihood that all positions will be filled the following year.”

Dakota Electric included an annualizing staffing adjustment (compensation and benefits) in the test year for sixteen existing positions and one new position added in 2014. The ALJ recommended allowance of the annualized staffing adjustment for the new position (Powerline Design Technician) which was filled in 2014, but disallowance of the annualized staffing adjustment for the sixteen existing positions. If it is reasonable to allow an adjustment for the Powerline Design Technician, a position not filled until 2014, it should also be reasonable by definition to allow the adjustments for 16 existing positions, 14 of which were filled in Test Year 2013.

For the sixteen existing positions, the staffing adjustment reflects the time between an employee vacating the position and a new employee filling the position during the test year. Dakota Electric's adjustment for staffing changes applied to the historical test year reflects a full year of compensation and benefits for all existing positions at the Cooperative. Disallowing this annualization adjustment has the net effect of removing from rate recovery a full year's amount of compensation and benefits of six existing Dakota Electric positions. Furthermore, these changes were both known and measurable changes to test year expenses and, therefore, should be allowed.

The ALJ notes in Finding #67 that test year methodology "rests on the assumption that changes in [a] [c]ompany's financial status during the test year will be roughly symmetrical – some favoring [a] company, others not... anomalies are likely to exist in and beyond the test year."<sup>1</sup> But that theoretical evening out of changes in expenses inside and outside the test year does not exist in this case.

The 2013 historic test year was an atypical year in terms of vacancies in staff positions. An engineer left DEA but returned two months later. A technician was hired away by another utility, a rare occurrence, which sent ripples through the organization. A Lead Member Service Representative was stricken with cancer, and her position was held open, hoping she could return. A Powerline Specialist Crew Chief developed cancer and died. These unusual events tend to distort the job vacancy data beyond the normal employee turnover. (The wages and associated benefits for the two employees that died during 2013 alone account for \$103,562 of the \$690,427 total staffing annualizing adjustment that the OAG recommends for disallowance.)

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<sup>1</sup> *In the Matter of the Application of N. States Power Co. d/b/a Xcel Energy for Auth. To Increase Rates for Elec. Serv. In Minn.*, PUC Docket No. E-002/GR-05-1428, Findings of Fact, Conclusions of Law, and Order at 10 (Sept. 1, 2006).

The unusual nature and duration of these vacancies is the point. It explains why some positions were unfilled for part of the year. These situations were a departure from DEA's normal employment practices, thus making the test year unrepresentative to that extent, and unlikely to be repeated in the next year or years. Rates should be set to account for current staffing and service levels to recover the full year's cost of all positions that were not filled during the test year. That is especially true due to the unusual job vacancy circumstances in 2013. The wage and benefit annualizing staffing adjustment for the sixteen positions in question should be approved as contained in DEA's original filing.

The ALJ noted that the OAG contends that DEA's proposed adjustment is inconsistent with the four year downward trend in annualized payroll expenses for the period 2010-2013. Finding #64. The OAG's comparison of test year payroll to the previous four years of payroll ignores current total staffing and payroll, which is the focus of test year expense. Four year averages are not used for other test year expense adjustments and should not be used on this issue.

## **2. Clarification to Recommended Staffing Adjustment**

Dakota Electric also offers a clarification and correction to Paragraph #68 that calculates the ALJ's dollar recommendation associated with the staffing adjustment in Paragraph #67. The annualized wage adjustment for the sixteen positions that the ALJ recommends be excluded from the test year was itemized on Page 5 of 20 in Exhibit DEA-1 of the Cooperative's initial filing. The annualized wage adjustment for these sixteen positions is \$397,225. (Calculated as the difference between \$1,040,494 and \$643,269.) This amount was identified in Paragraph #68. However, the wages for the new Powerline Design Technician position that the ALJ recommends be allowed in the test year are not included in this \$397,225. (The amount for this new position was shown separately on this same page.) In addition, Dakota Electric included an adjustment

for the benefits for these positions at a rate of 48.34 percent as is detailed on Page 6 of 20 in Exhibit DEA-1 of the Cooperative's initial filing. In total, the annualized wage and benefit adjustment for these sixteen positions is \$589,244. (Calculated as \$397,225 times 1.4834.) Dakota Electric included this corrected adjustment amount in our March 9 compliance filing of financial summaries and schedules.

### **3. Small General Service Fixed Charge**

DEA excepts to Paragraph #170 of the ALJ report and recommendations. In Paragraph #170 the ALJ states:

“With regard to DEA’s proposal to increase the fixed customer charge for the Small General Service class by 40 percent (or \$4.00), the Administrative Law Judge finds this proposal fails to adequately consider the principles favoring gradual increases in fixed customer charges, avoiding rate shock and encouraging reasonable efforts toward conservation. While the parties provided little testimony specific to this customer class, the Administrative Law Judge notes that a 40 percent increase in the fixed customer charge is not gradual and could constitute rate shock. The increase is especially troubling given that the proposed increase in this class’s volumetric charge is only 2 percent, an amount that, if increased, could support conservation goals more strongly. While the Administrative Law Judge recognizes the importance of bringing fixed customer charges closer to each class’s fixed cost of service, this proposal increases the Small General Service class too abruptly. The administrative Law Judge respectfully recommends that the Commission approve a fixed customer charge of \$12.00, which would be a 20 percent increase for the Small General Service class, and adjust the volumetric charge accordingly.”

Dakota Electric contends that the monthly fixed charge for Small General Service should be increased from the present \$10.00 to \$14.00 as contained in its initial filing and agreed to with the Department in the Settlement Agreement. The reasons for this increase, and impact on consumers, are similar to the increase in the monthly residential fixed charge as discussed in the ALJ’s report. Specifically, Dakota Electric has requested increases in the monthly fixed charge based on the costs we incur to stand ready to provide electric service, excluding costs for primary line. The proposed \$4.00 monthly increase in the Small General Service fixed charge makes a meaningful move toward cost recovery, while recognizing political, policy and rate design



considerations. Regarding rate shock, the potential for such rate shock is determined by the total bill for a consumer. In this case, the total bill is comprised of both the fixed charge and seasonally differentiated energy charges, with the average increase to this rate schedule being only 3.5 percent. As the ALJ recognized for residential fixed charges, an artificially low fixed charge tends to result in higher-use consumers subsidizing the fixed costs of lower-use consumers. Fixed charges close to the cost of service provide a more accurate price signal to consumers of the actual fixed cost of utility service and are financially more fair to higher-use consumers. Regarding the impact of rate design on energy conservation, the volumetric energy charge will increase under the rate design agreed to in the Settlement agreement. The increasing energy charge means that a reduction in energy use will result in lower bills. Dakota Electric's proposed rate design, along with our numerous energy conservation programs, encourages our members to use less energy. Accordingly, Dakota Electric requests that the Commission approve the rate design contained in the Settlement Agreement between the Cooperative and Department.

### **III. CONCLUSION**

DEA is a member-owned not-for-profit electric distribution cooperative governed by a board of directors elected by the ratepayer members that it serves. Based on the testimony of all witnesses and the record in this proceeding, DEA's position is that its costs of providing service and rate design reflected in the Settlement Agreement with the DOC are reasonable and well supported by the evidence. The Cooperative respectfully recommends that the Commission adopt the ALJ report with the changes described above. This recommendation reflects the rate design and revenue requirement (minus \$3,141 for a retirement dinner expense) as contained in the Settlement Agreement.

Respectfully submitted,

FELHABER, LARSON, FENLON & VOGT, P.A.

/s/ Harold LeVander, Jr.

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Harold LeVander, Jr. #62509  
444 Cedar Street, Suite 2100  
St. Paul, MN 55101-2136  
651-312-6005  
ATTORNEY FOR  
DAKOTA ELECTRIC ASSOCIATION

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_14-482_Official cc Service List
Andrew	Bahn	Andrew.Bahn@state.mn.us	Public Utilities Commission	121 7th Place E., Suite 350  St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_14-482_Official cc Service List
Ryan	Barlow	Ryan.Barlow@ag.state.mn.us	Office of the Attorney General-RUD	445 Minnesota Street Bremer Tower, Suite 1400 St. Paul, Minnesota 55101	Electronic Service	Yes	OFF_SL_14-482_Official cc Service List
Ian	Dobson	ian.dobson@ag.state.mn.us	Office of the Attorney General-RUD	Antitrust and Utilities Division 445 Minnesota Street, BRM Tower St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_14-482_Official cc Service List
Robert	Harding	robert.harding@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East  St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_14-482_Official cc Service List
Corey	Hintz	chintz@dakotaelectric.com	Dakota Electric Association	4300 220th Street  Farmington, MN 550249583	Electronic Service	No	OFF_SL_14-482_Official cc Service List
Linda	Jensen	linda.s.jensen@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota Street  St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_14-482_Official cc Service List
Ganesh	Krishnan	ganesh.krishnan@state.mn.us	Public Utilities Commission	Suite 350121 7th Place East  St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_14-482_Official cc Service List
Douglas	Larson	dlarson@dakotaelectric.com	Dakota Electric Association	4300 220th St W  Farmington, MN 55024	Electronic Service	Yes	OFF_SL_14-482_Official cc Service List
Harold	LeVander, Jr.	hlevander@felhaber.com	Felhaber, Larson, Fenton & Vogt, P.A.	Suite 2100 444 Cedar Street St. Paul, MN 551012136	Electronic Service	Yes	OFF_SL_14-482_Official cc Service List

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
John	Lindell	agorud.ecf@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_14-482_Official cc Service List
Peter	Madsen	peter.madsen@ag.state.mn.us	Office of the Attorney General-DOC	Bremer Tower, Suite 1800 445 Minnesota Street St. Paul, Minnesota 55101	Electronic Service	Yes	OFF_SL_14-482_Official cc Service List
Gregory C.	Miller	gmiller@dakotaelectric.com	Dakota Electric Association	4300 220th Street West  Farmington, MN 55024	Electronic Service	No	OFF_SL_14-482_Official cc Service List
Dorothy	Morrissey	dorothy.morrissey@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_14-482_Official cc Service List
LauraSue	Schlatter	LauraSue.Schlatter@state.mn.us	Office of Administrative Hearings	PO Box 64620  St. Paul, Minnesota 55164-0620	Electronic Service	Yes	OFF_SL_14-482_Official cc Service List
Janet	Shaddix Elling	jshaddix@janetshaddix.com	Shaddix And Associates	Ste 122 9100 W Bloomington Frwy Bloomington, MN 55431	Electronic Service	Yes	OFF_SL_14-482_Official cc Service List
Lou Ann	Weflen	lweflen@dakotaelectric.com	Dakota Electric Association	4300 220th Street West  Farmington, MN 55024	Electronic Service	Yes	OFF_SL_14-482_Official cc Service List
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_14-482_Official cc Service List