

STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION

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

In the Matter of the Petition of Dakota Electric
Association to Modify its Extension of Service
Tariff

Docket No. E-111/M-25-178

Supplemental Comments of the Citizens Utility Board of Minnesota

The Citizens Utility Board of Minnesota (“CUB”) respectfully submits the following supplemental comments pursuant to the Minnesota Public Utilities Commission’s (“Commission”) Notice of Supplemental Comment Period issued on August 8, 2025 in the above-referenced matter.

I. Overview

On March 31, 2025, Dakota Electric Association (“Dakota Electric” or the “Cooperative”) petitioned the Commission to modify its Extension of Service Tariff.¹ As recognized by the Cooperative, serving “hyperscale” data centers and other large loads will require “significant engineering design and analysis” and substantial infrastructure expenditures.² CUB agrees with Dakota Electric that reasonable provisions must be implemented to mitigate financial risks to the Cooperative and its members associated with extending service to these large load entities.

CUB, the Minnesota Department of Commerce (“Department”), the Office of the Attorney General – Residential Utilities Division (“OAG”), and CURE filed comments in response to the petition and raised concerns about the adequacy of the Cooperative’s proposal. Dakota Electric thereafter proposed additional tariff revisions for consideration.³

CUB appreciates Dakota Electric’s commitment to protecting its members and its responsiveness to the issues raised by other parties. While the changes proposed by the Cooperative partially address the concerns identified by CUB, we still believe several modifications are necessary to ensure existing members are adequately safeguarded against the costs and risks of bringing large load entities online.

¹ *In the Matter of the Petition of Dakota Electric Association to Modify its Extension of Service Tariff*, Docket No. E-111/M-25-178, Petition of Dakota Electric Association (Mar. 31, 2025) (hereinafter “DEA Extension of Service Tariff Petition”).

² DEA Extension of Service Tariff Petition at 8.

³ *In the Matter of the Petition of Dakota Electric Association to Modify its Extension of Service Tariff*, Docket No. E-111/M-25-178, Dakota Electric Reply Comments (Jul. 29, 2025) (hereinafter “DEA Reply Comments”).

II. Analysis

A. Approval of LOA and C&E Agreements

CUB raised several concerns related to Dakota Electric's initial Extension of Service Tariff petition. First, the Cooperative proposed requiring "system intensive" members to execute Letters of Authorization ("LOA") and Construction and Engineering ("C&E") agreements through which "preparatory study and equipment costs would be isolated and borne by the prospective member."⁴ CUB questioned whether the provisions in the LOA and C&E agreements would be sufficient to shield members from potential financial risks, as those protections are not explicitly included in the Cooperative's tariff proposal.⁵ In the absence of direct Commission oversight or approval, we expressed concern that the agreements—and the member protections contained therein—could be unilaterally adjusted or removed.⁶

In response, Dakota Electric explained that it does not oppose seeking formal approval of the contract terms.⁷ The Cooperative had excluded its LOA and C&E agreements from its tariff proposal because the contracts are between the Cooperative and non-member entities at the time of execution.⁸ That such large load entities are only prospective members, however, does not change that the LOA and C&E agreements—and the Extension of Service Tariff itself—are considered "rates" under Minnesota law. By its plain language, Minn. Stat. § 216B.02, Subd. 5 defines "rates" to include "every compensation, charge, . . . tariff . . . and classification . . . for any service" and "any rules, practices, or contracts affecting any such compensation, charge . . . tariff, or classification." The LOA and C&E agreements fall under this definition because they are contracts that impose charges for the extension of service. Given this relationship, and the potential implications of these agreements for existing members, we believe the Commission should move forward with requiring approval of the contracts and any subsequent modifications.

To effectuate the approval process, Dakota Electric proposes to treat its LOA and C&E agreements as it would its Technical Specifications Manual ("TSM") for distributed energy resources.⁹ Pursuant to Commission Order, the Cooperative submits its TSM as part of the annual reporting required by Minn. R. 7835.0300 and whenever updates occur.¹⁰ Thereafter, TSM modifications are subject to a 30-day negative checkoff within which parties can raise concerns with the Cooperative's proposals. If no party objects within that timeframe, the revisions are implemented at the end of the 30-day period.¹¹ We agree that this approach—seeking formal approval of the LOA and C&E agreements in the instant

⁴ *In the Matter of the Petition of Dakota Electric Association to Modify its Extension of Service Tariff*, Docket No. E-111/M-25-178, CUB Initial Comments (Jul. 8, 2025) (hereinafter "CUB Comments"); DEA Extension of Service Tariff Petition, Tariff Revision Filing at Section VI, Sheet 7.0.

⁵ CUB Comments at 3.

⁶ *Id.*

⁷ DEA Reply Comments at 4.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

docket, filing the contracts annually thereafter, and making revisions subject to a 30-day negative checkoff—mitigates our concerns about the lack of Commission oversight.

B. Application of Tariff Provisions

CUB's second cause for concern was that Dakota Electric's proposal would grant the Cooperative exclusive authority to determine whether prospective members qualify as "system intensive," rendering them subject to the tariff provisions and the protections contained in the LOA and C&E agreements.¹² Dakota Electric suggests it is appropriate to maintain this level of discretion due to the "complexities of distribution planning, business considerations, and existing tariff provisions."¹³ We continue to question the reasonableness of this approach. While some level of flexibility may be warranted, it is essential to avoid weakening member protections by making their application subject to the Cooperative's unilateral determination of what constitutes "system intensive."

1. Service at Non-Customary Voltages

In seeking to clarify the scope of the tariff, Dakota Electric noted that large data center loads requiring service at voltages other than 12.5 kV ("non-customary voltages") will be automatically subject to the tariff, and do not require a separate system intensive classification.¹⁴ We appreciate this clarification and agree that this is reasonable. However, the Cooperative should be required to make the following change to its proposed tariff language to ensure member protections operate as envisioned:

Members requesting, or requiring, ~~this type of service~~ system intensive service or service at voltages other than 12.5 kV will be screened through Dakota Electric's large load engineering project queue and will be required to execute the Association's Letter of Authorization and Engineering and Construction agreements to protect the financial interests of the Association and its other members. An economic analysis and an engineering analysis will be made for any member requesting ~~this type~~ these types of services and a contribution in aid of construction will be required for necessary distribution equipment and upgrades.¹⁵

This alteration is necessary to make clear that both system intensive members *and* large load entities receiving service at non-customary voltages will be required to execute LOA and C&E agreements. In particular, the phrase "this type of service" is insufficiently descriptive when viewed in its broader context. The sentences immediately preceding this phrase are focused on defining "system intensive" members, which are served from the Cooperative's 12.5 kV distribution system. Because there is no clear transition back to discussing system intensive and non-customary voltage members together, we are concerned that "this type of service" could be read as applying *only* to system intensive members. While minor, the above change seeks to remove any ambiguity over whether non-

¹² CUB Comments at 2.

¹³ DEA Reply Comments at 6.

¹⁴ *Id.*

¹⁵ *Id.* at 14 (excluding redline edits of Dakota Electric).

customary voltage members will be required to execute contracts or pay a contribution in aid of construction ("CIAC"). We believe this is consistent with the Cooperative's intent.

2. System Intensive Classifications

Apart from the above revision, we continue to have concerns with Dakota Electric's request for unilateral discretion to decide whether large loads utilizing 12.5 kV voltage should be classified as system intensive. The Cooperative provides two examples of when discretion might be applied. First, a prospective member may not meet traditional size thresholds for constituting a large load but may nonetheless require a dedicated substation or other infrastructure investments for service to be extended.¹⁶ Second, an existing member may decrease demand, opening up distribution capacity and eliminating the need for infrastructure expenditures prior to bringing a new large load entity online.¹⁷ Under these circumstances, the Cooperative suggests it would be reasonable to forego the system intensive classification. CUB disagrees.

We believe a system intensive classification is appropriate in both scenarios presented by the Cooperative. In the first example, a system intensive classification is warranted due to the unique system requirements necessary to extend service and the need to mitigate financial risks to other members. In the second example, the prospective member would, under normal circumstances, require distribution upgrades and equipment prior to service being extended. The only change is the timing of when that member comes online. There are several issues we see with the Cooperative's proposal to utilize its discretion to exempt the entities described in the second scenario from system intensive classification.

The lack of a system intensive classification could be used by a prospective member to argue against their inclusion in a large load customer class. While Dakota Electric has made clear that it does not intend to address rate design in its instant petition, we see these two issues as inextricably related. As written, the Cooperative's tariff makes service extensions to system intensive members dependent on an economic analysis of expected revenues "in accordance with established applicable rates and charges or a Commission-approved Electric Service Agreement."¹⁸ The economics of bringing these prospective members online could drastically shift if rate designs are modified or if a new customer class is created. Because it would be inappropriate to rely on system intensive classifications when eventually designing large load rate structures, we recommend the Commission require the Cooperative to incorporate the following language into its tariff:

Whether or not a member is extended service under this section will not predetermine which rate or rate class that member is assigned.

¹⁶ DEA Reply Comments at 6-7.

¹⁷ *Id.* at 6.

¹⁸ DEA Extension of Service Tariff Petition, Tariff Revision Filing at Section VI, Sheet 7.0.

Including this language will provide prospective large load members with notice that the system intensive classification—and the economic analyses relied on in making that determination—cannot form the basis for which rate or rate class the member receives service under.

CUB is also concerned that if the system intensive classification is not applied at the outset, other members could bear the costs of future changes in demand that necessitate the construction of infrastructure. For example, assume a manufacturing facility comes online when distribution capacity is available, thereby negating the system intensive classification under Dakota Electric's hypothetical. Several years later when there is no surplus capacity, the member expands its operations, doubling the amount of electricity it uses. In this scenario, new infrastructure may be needed to serve the increased demand, but the extension of service tariff would no longer apply because the facility is already a Cooperative member. While this concern exists regardless of whether a member is designated as system intensive, the classification provides an avenue for ensuring protections continue beyond the initial extension of service. We therefore recommend the Commission require the following tariff adjustment:

If members taking service under this section require subsequent system modifications, design, and/or engineering studies after the initial extension of service, such members are responsible for bearing those costs. An engineering study and economic analysis will be conducted for any member requesting a change in service that necessitates materially significant system investments. Such members will be required to execute the Association's Letter of Authorization and Engineering and Construction agreements, and must provide payment of a CIAC for distribution equipment and upgrades necessary for the continuation or expansion of service.

Lastly, the member protections captured in the LOA and C&E agreements are entirely dependent on the system intensive designation. CUB remains uncomfortable with an approach that allows these measures to be revoked based on a unilateral decision untethered from objective or quantitative variables. However, we can imagine a process that provides Dakota Electric with flexibility to determine whether an engineering study or other non-refundable costs are necessary in limited situations. Under this approach, members above a specified megawatt threshold would be required to execute the LOA and C&E agreements regardless of whether providing service necessitates system modifications, design, and/or engineering. However, such members would not be required to pay a CIAC or other non-refundable deposits if no costs are incurred by the Cooperative to extend service. The inclusion of this provision would also not prevent Dakota Electric from employing its discretion to determine whether loads below the threshold should be classified as system intensive. While we do not offer any specific language to effectuate this change, we believe that such a modification could be combined with the above tariff revisions to effectively protect existing members from the costs and risks of large loads.

C. Calculation of Costs

CUB raised questions in Initial Comments about how equipment and labor costs are calculated in the Cooperative's C&E agreement and Contribution in Aid of Construction schedule.¹⁹ In particular, Dakota Electric did not discuss labor costs, nor did it include a description of CIAC methodologies. CUB therefore requested the Cooperative provide a full description of how all costs associated with the extension of service to large load entities would be incorporated into the C&E and CIAC provisions.²⁰ Dakota Electric provided that overview in Reply Comments and confirmed that the CIAC charged to prospective members would be inclusive of labor expenses.²¹ The Cooperative likewise updated its tariff provisions to include a CIAC schedule and ensure the entirety of potential costs are captured:

For members deemed subject to this section, the CIAC will represent the estimated total costs that the Association will incur to plan, design, procure, construct, and purchase electric facilities, infrastructure, or related equipment associated with, and necessary, to serve this member. Association will track actual project costs as they are incurred and CIAC will be trued-up upon completion of the project.

CUB appreciates the Cooperative's response and additional clarification. We believe that these revisions, together with the Cooperative's explanation, are sufficient to alleviate our concerns.

D. Large Load Rate Design

Lastly, we noted that legislation passed after the Cooperative's filing directed the Commission to define "very large customer[s]" and develop separate rate classes or subclasses for those entities.²² While public utilities are the focus of this legislation, we continue to believe it would be reasonable and prudent for Dakota Electric to engage in a similar process. Establishing a separate rate class or subclass for large load entities would be consistent with the Cooperative's stated mission of protecting its financial interests and those of its members.²³ While the tariff modifications contemplated in this docket may mitigate near-term risks associated with the extension of service, they do not shield existing members from the ongoing costs incurred to serve large loads. In contrast, the new legislation contemplates developing a rate design that ensures *all* expenses attributable to large loads are borne by those same entities, and that utility ratepayers are not placed at risk for paying stranded asset costs.²⁴ In this way, we view the development of a new rate construct as being an appropriate outgrowth of the instant petition. We recommend the Commission formally direct the Cooperative to submit for approval a large load tariff or electric service agreement that complies with the newly enacted provisions of Minn. Stat. § 216B.1622.

¹⁹ CUB Comments at 4.

²⁰ *Id.*

²¹ DEA Reply Comments at 10.

²² CUB Comments at 2 (citing Laws of Minnesota 2025, Chapter 12 – H.F. No. 16, Section 9 (creating and enacting Minn. Stat. § 216B.1622)).

²³ DEA Extension of Service Tariff Petition at 7.

²⁴ Minn. Stat. § 216B.1622, Subdivision 2(1) and (3).

III. Conclusion

CUB appreciates Dakota Electric's responsiveness to the concerns raised by parties and values the opportunity to provide supplemental comments in this proceeding. We recommend the Commission take the following actions to ensure the Cooperative and its members are adequately protected from the financial risks associated with extending service to large load entities:

Approval of LOA and C&E Agreements

1. Require formal approval of Dakota Electric's LOA and C&E agreements.
2. Require Dakota Electric to annually file its LOA and C&E agreements in the instant docket.
3. Require Dakota Electric to submit to the Commission any revisions contemplated for its LOA and C&E agreements. Such revisions will be subject to a 30-day negative check-off, whereby parties may raise objections within 30 days of the Cooperative's filing. If any objections are raised, a comment period will be opened. If no objections are raised within the allotted timeframe, the revisions will be deemed approved.

Application of Tariff Provisions

4. Require Dakota Electric to make the following modification to its tariff provisions:
 - a. Members requesting, or requiring, ~~this type of service~~ **system intensive service or service at voltages other than 12.5 kV** will be screened through Dakota Electric's large load engineering project queue and will be required to execute the Association's Letter of Authorization and Engineering and Construction agreements to protect the financial interests of the Association and its other members. An economic analysis and an engineering analysis will be made for any member requesting ~~this type~~ **these types** of services and a contribution in aid of construction will be required for necessary distribution equipment and upgrades.
 - b. ~~Whether or not a member is extended service under this section will not predetermine which rate or rate class that member is assigned.~~
 - c. ~~If members taking service under this section require subsequent system modifications, design, and/or engineering studies after the initial extension of service, such members are responsible for bearing those costs. An engineering study and economic analysis will be conducted for any member requesting a change in service that necessitates materially significant system investments. Such members will be required to execute the Association's Letter of Authorization and Engineering and Construction agreements, and must provide payment of a CIAC for distribution equipment and upgrades necessary for the continuation or expansion of service.~~
5. Require Dakota Electric to develop tariff language that requires members above a specified megawatt threshold to execute LOA and C&E agreements regardless of whether

providing service necessitates system modifications, design, and/or engineering. Such members would not be required to pay a CIAC or other non-refundable deposits if no costs are incurred by the Cooperative to extend service. Under this provision, Dakota Electric will retain flexibility to determine whether loads below the threshold should be classified as system intensive.

Large Load Rate Design

6. Require Dakota Electric to submit for approval a large load tariff or electric service agreement that complies with the newly enacted provisions of Minn. Stat. § 216B.1622.

Sincerely,

August 21, 2025

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