

May 8, 2026

Sasha Bergman
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: Comments of the Minnesota Department of Commerce
Docket No. E015/M-26-126

Dear Ms. Bergman,

Attached are the comments of the Minnesota Department of Commerce (Department) in the following matter:

In the Matter of Minnesota Power's Petition for Approval of its proposal to accommodate very large customers within its existing Large Power (LP) Customer Class and Service Tariff.

The Petition was filed by Minnesota Power on February 18, 2026.

The Department recommends the Commission deny without prejudice MP's Petition and require Minnesota Power to file a new tariff for very large customers consistent with Minn. Stat. § 216B.1622 and the Commission's upcoming Orders in Docket Nos. E015/M-26-159 and E002/M-25-289. The Department is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ Dr. SYDNIE LIEB
Assistant Commissioner of Regulatory Analysis

AB/ad
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce

Docket No. E015/M-26-126

I. INTRODUCTION

On June 14, 2025, legislation was passed that included provisions regarding electric utility regulation and rate design for data centers and other very large customers. The legislation requires the Commission to “establish by order the definition and appropriate characteristics of a very large customer class or subclass for each public utility providing electric service” by December 15, 2026.¹ The legislation states further the commission “may approve, modify or reject a tariff or electric service agreement proposed between a public utility and a very large customer establishing the terms and conditions under which the utility will provide electric service to the customer.”²

II. PROCEDURAL BACKGROUND

- February 18, 2026 Minnesota Power filed a Petition for approval of its proposal to accommodate very large customers within its existing Large Power (LP) Customer Class and Service Tariff.³
- March 26, 2026 Minnesota Power filed a Petition for approval of a new Electric Service Agreement (“Agreement” or “ESA”) between Harmony Group, LLC, a subsidiary of Alphabet, Inc. (“Customer” or “Google”) and Minnesota Power.⁴
- April 14, 2026 Minnesota Power submitted proposed tariff modifications, including the Large Power (“LP”) Service tariff and the Rider for Conservation Program Adjustment for evaluation and approval.⁵

Topic(s) open for comment:

- Does Minnesota Power’s proposal comply with Minn. Stat. § 216B.1622 related to Service for Very Large Customers (Laws 2025, 1st Special Session, Chapter 12)? If not, what additional provisions should be addressed?
- Are there other issues or concerns related to this matter?

¹ [Minn. Stat. § 216B.1622, Subd. 1](#) (2025).

² Minn. Stat. § 216B.1622, Subd. 2 (2025).

³ *In the Matter of Minnesota Power’s Petition for Approval of its proposal to accommodate very large customers within its existing Large Power (LP) Customer Class and Service Tariff* (MP Petition), February 18, 2026, Docket No. E015/M-26-126, (eDockets) [20262-228274-01](#).

⁴ *In the Matter of Minnesota Power’s Petition for Approval a new Electric Service Agreement (“Agreement” or “ESA”) between Harmony Group, LLC, a subsidiary of Alphabet, Inc. (“Customer” or “Google”) and Minnesota Power*. March 26, 2026, Docket No. E015/M-26-159, (eDockets) [20263-229694-01](#).

⁵ MP Petition, *Proposed Tariff Modification*, April 14, 2026, (eDockets) [20264-230401-01](#)

III. DEPARTMENT ANALYSIS

A. *MINN. STAT. § 216B.1622*

The statute provides the following guidance for the Commission for deciding whether to approve, modify or reject Minnesota Power's Petition.

As it evaluates a tariff or agreement under this section, the commission must consider how best to achieve the following required outcomes:

- 1) all costs attributable to the utility's very large customers not exempt under subdivision 3 are assigned to the very large customer class or subclass determined by the commission under paragraph (a);
- 2) the electricity to be provided by the utility to a very large customer achieves each quantitative benchmark of the state's electricity standards under section 216B.1691, as demonstrated by a plan submitted by the utility to serve the additional load without recourse to requesting a delay or modification of these standards;
- 3) the tariff or agreement contains protections necessary to ensure that other customers of the public utility are not placed at risk for paying stranded costs associated with the utility serving the very large customer; and
- 4) any other outcome deemed important by the commission to ensure the tariff or agreement is in the public interest.⁶

In addition, the statute states the following regarding existing tariff or agreements:

Subd. 3. Existing tariff or agreements. This section shall not apply to existing, renewed, or extended electric service agreements of public utility customers meeting the threshold of a very large customer, or to very large customers that have been actively taking electric service from the public utility prior to 2020.⁷

B. *DOES MINNESOTA POWER'S PROPOSAL COMPLY WITH MINN. STAT. § 216B.1622?*

Minnesota Power proposes to accommodate very large customers within its existing LP Customer Class and Service tariff (LP Tariff). The Company currently has eight customers taking service under Electric Service Agreements (ESA) served under its existing LP tariff, which collectively represent over 600 megawatts (MW) of demand. MP claims its existing LP tariff, which has been used by LP Customers equivalent to 10 MW or greater, is sufficient to meet the requirements in Minnesota statutes.⁸

⁶ Minn. Stat. § 216B.1622, Subd. 2 (2025).

⁷ Minn. Stat. § 216B.1622, Subd. 3 (2025).

⁸ MP Petition at 7.

According to MP, new very large customers taking service under its existing LP tariff ensure compliance with statutory requirements, upholds cost causation principles and will protect the interests of all customers.⁹ As described by the Company, the LP tariff includes a mechanism intended to protect both the Company and other customers from potential cost shifts associated with serving customers with very high electricity demand.¹⁰ Accordingly, new very large customers taking service under the Company's existing LP Service rate schedule will be billed in accordance with the same tariff structure, methodology, and billing components applicable to all existing customers served under the same schedule. The Company does not propose any changes to the underlying framework of the LP tariff in its Petition. While all customers are billed based on existing base rates and all applicable riders and adjustments as approved by the Commission, MP clarifies that each new very large customer will also be subject to the billing provisions contained within a Commission-approved ESA.¹¹

MP explains that large industrial customers with new load growth of 10 or more MW must enter into a negotiated ESA with the Company that must be approved by the Commission. The Company argues the requirements in Minn. Stat. § 216B.1622 will be reflected, and addressed in greater detail, within the ESA itself to ensure transparency, regulatory certainty, and a comprehensive framework that appropriately allocates risks and responsibilities between the Company and the customer. MP claims each ESA is tailored to the specific customer and defines the full scope of commitments, including minimum billing requirements, contract demand levels, service obligations, revenue assurances and other operational and financial terms necessary to mitigate stranded-cost risk. Finally, MP assures new very large customers are obligated to an initial term of at least 10 years, with multi-year termination notices required.¹²

B.1. MP's Existing Large Power Tariff

Minnesota Power did not provide an ESA in template form for Commission approval in its Petition. The Company's existing LP tariff includes the following provision:

Inasmuch as all ESAs will contain confidential information with respect to Customer electric usage levels and other proprietary information of both the Customer and the Company ("Confidential Information"), all ESAs are to be marked as trade secret in their entirety for purposes of the Minnesota Government Data Practices Act.¹³

⁹ *Id.*, at 5.

¹⁰ *Id.*, at 7.

¹¹ *Id.*, at 8-9.

¹² *Id.*, at 8.

¹³ *Id.*, Attachment A, Section V, Page No. 24.1.

MP's LP's Tariff states the following minimum requirements that must be included in an ESA:

Every ESA and every amendment or modification of an ESA must be approved by the Minnesota Public Utilities Commission ("Commission") as a supplemental addition to this LP Schedule.

At a minimum, every ESA shall include the following:

- a) The connection point(s) of Company's and Customer's equipment at which Customer takes service ("Points of Delivery");
- b) The voltage level(s) at which service will be supplied;
- c) A method for determining Firm Demand (as defined below) in each month of the term of the ESA;
- d) An Incremental Production Service Threshold as defined in the Rider for Large Power Incremental Production Service, as applicable;
- e) A confidentiality agreement; and
- f) Any terms or conditions that differ from or are additional to the terms and conditions specified in this LP Schedule or in any rider or tariff applicable to Large Power Service.¹⁴

B.2. MP's Existing LP Tariff is not in compliance with Minn. Stat. § 216B.1622

As noted above, Minn. Stat. § 216B.1622, subd. 3 states that existing public utility customers meeting the threshold of a very large customer are not subject to the requirements of Minn. Stat. § 216B.1622. The implied assumption of this provision is that the requirements contained within Minn. Stat. § 216B.1622 offer greater protection of the public utility's existing rate payers than existing tariff and agreements which govern the rates, terms and conditions of the utility's existing large power customer class.

Also as noted above, Minn. Stat. § 216B.1622, subd. 2 requires the Commission to consider how best to achieve specific outcomes when evaluating tariff and agreements for new very large customers such that all costs attributable to the utility's very large customers are assigned to the very large customer class or subclass; the electricity to be provided by the utility to a very large customer achieves each quantitative benchmark of the state's statutory renewable energy electricity standards; the tariff or agreement must contain protections necessary to protect other rate payers from risks of stranded costs associated with the utility serving the very large customer; and, other outcomes deemed important by the commission to ensure the tariff or agreement is in the public interest.

From the Department's review of MP's LP tariff, the LP Tariff falls far short of including provisions that would achieve these required outcomes. As MP states in its Petition, the requirements in Minn. Stat. § 216B.1622 will be reflected, and addressed in greater detail, within the ESA itself that is negotiated

¹⁴ *Id.*, Page No. 24.0

between new very large customers and the Company. However, the LP Tariff requires the ESA “to be marked as trade secret in their entirety.”

Minnesota Government Data Practices Act does not provide for much, if not the majority, of terms and provisions in the ESA to be marked as trade secret. Given the public’s concern for affordability issues and the potential impact that new very large customers may have on other rate payers, the Department believes it is imperative that the terms and conditions negotiated between very large customers and the Company are transparent to gain public trust and acceptance that ratepayers will not be negatively impacted by these agreements.

Finally, as noted above, Minn. Stat. § 216B.1622, subd. 1 requires the Commission to establish by order the definition and appropriate characteristics of a very large customer class or subclass for each public utility providing electric service by December 15, 2026. MP’s Petition does not propose a definition and appropriate characteristic of a very large customer other than stating, “Large industrial customers, with identified new load growth of 10 or more MW would enter into a negotiated ESA with the Company.”¹⁵

Based on this analysis, the Department concludes that MP’s LP Tariff does not comply with Minn. Stat. § 216B.1622. For the above reasons, The Department recommends the Commission deny without prejudice MP’s Petition for approval of its proposal to accommodate very large customers within its existing Large Power (LP) Customer Class and Service Tariff.

C. WHAT ADDITIONAL PROVISIONS SHOULD BE ADDRESSED TO COMPLY WITH MINN. STAT. § 216B.1622?

On July 16, 2025, Xcel Energy filed a Petition for approval of its proposed tariffs for Large General Time of Day Service customers and Large Peak Controlled Time of Day Service customers in Docket No. E002/M-25-289.¹⁶ Xcel’s Petition is currently under review by the Commission and is being evaluated based on the conditions required in Minn. Stat. § 216B.1622. Included in its Petition were two newly proposed tariffs for large customers that meet a demand threshold of 100 MW. Although open to all industries, Xcel noted in its Petition, the customers expressing interest to the Company to take this level of service have been almost exclusively data centers.

Among other terms and conditions in the tariff were the following items:

1. Proposed Rates
 - a. Customer Charge
 - b. Demand Charge
 - c. Energy Charge (On and Off Peak)
 - d. Voltage Discounts

¹⁵ *Id.* at 8.

¹⁶ *In the Matter of Xcel Energy’s Petition for approval of its proposed tariffs for Large General Time of Day Service customers and Large Peak Controlled Time of Day Service customers*, Xcel Energy, Petition, July 16, 2025, Docket No. E002/M-25-289, (eDockets) [20257-221060-01](https://www.dockets.com/20257-221060-01).

2. Minimum terms that must be included in ESAs
 - a. Contract Term, inclusive of Ramp Period.
 - b. Ramp Period length in years (limit of 5 years).
 - c. Size of contracted demand in kW;
 - d. Size of demand in kW during each year of Ramp Period;
 - e. Non-binding confidential anticipated kWh monthly forecast of energy, on and off peak energy and on peak demand
 - f. The connection point(s) of Company's and Customer's equipment at which Customer takes service ("Points of Delivery");
 - g. The voltage level(s) at which service will be supplied;
 - h. Monthly Minimum On Peak Demand Charge;
 - i. Rates which recover at least the incremental cost of providing service;
 - j. The terms and conditions of the Large General Time of Day Service Tariff, any terms or conditions that differ from or are in addition to the terms and conditions specified herein. All modified, additional or redacted terms and conditions must be approved by the Minnesota Public Utilities Commission.
3. Terms to address the potential for changes in customer demand.
4. Terms to address early termination
5. Terms and provisions for Exit Fee and Contract Capacity Reduction Payment
6. Minimum Bill provisions
7. ESA requirements for an Incremental cost test
8. ESA requirement for sufficient security and collateral provisions to support enforcement of the tariff provisions.

In addition to the new proposed tariffs, Xcel provided for review by the Commission revisions to existing tariffs impacted by its Petition, a non-confidential retail ESA template form and an Interconnection Agreement template form.

Xcel's Petition addressed the requirements of Minn. Stat. § 216B.1622 allowing for Commission evaluation of its Petition as it considers whether to approve, modify or reject Xcel's proposed tariff and Retail ESA form establishing the parameters under which all final ESAs between very large customers and Xcel will be negotiated and subsequently approved by the Commission.

As compared to Xcel's Petition, MP's Petition for approval of its proposal to accommodate very large customers within its existing LP tariff lacks sufficient detail to allow for either Commission approval or modification of its existing LP tariff to accommodate very large customers. The Department recommends the Commission require MP to file a new tariff for very large customers consistent with Minn. Stat. § 216B.1622 and the Commission's upcoming Orders in Docket Nos. E015/M-26-159 and E002/M-25-289.

D. PROPOSED TARIFF MODIFICATION

On March 26, 2026, MP filed a Petition for approval of a new ESA it had negotiated with Google.¹⁷ Included in the ESA filing was proposed tariff modifications to MP's existing LP Customer Class and Service Tariff and the Rider for Conservation Program Adjustment.¹⁸ On April 14, 2026, Minnesota Power cross-filed the tariff modifications proposal in this proceeding to aid in the Commission's determination of the appropriate proceedings to consider the proposed tariff modifications.¹⁹

Under MP's proposed tariff modifications, customers with firm demand load growth in excess of 50,000 kW could be subject to a Large Power Surcharge. The updated tariff language includes a margin contribution analysis.²⁰ As described by MP, the margin contribution analysis captures both marginal costs and revenues to understand the impact to existing system customers. The initial margin contribution analysis revenue will include estimated base rate revenue (including interim revenue if applicable) and rider revenue. Margin contribution analysis will also include costs to serve the new large power customer and will include estimated energy- and capacity-related costs. The capacity costs will be determined based on the need for the mix of generation, energy storage additions, and capacity purchases, and, as applicable, will be available after resource selection is completed and approved by the Commission.²¹

The Company will assess the LP Surcharge tied to the load addition by calculating a margin contribution analysis approximately six months prior to reaching load growth of 50,000 kW. The analysis will compare estimated margin contribution analysis costs to estimated margin contribution analysis revenue for an outlook period of five years. If the attributable costs are greater than the revenue over the term of the initial ESA, then an LP Surcharge shall be applied to the customer bill. If the net present value of revenues from the customer are in excess of costs to serve, then no LP surcharge will be applied to the customer bill. After the initial margin contribution analysis, the Company will perform the margin contribution analysis on an annual basis until no surcharge is calculated for a rolling five-year period. There may also be an annual margin contribution analysis true-up calculated and assessed, as applicable.²²

MP proposes revisions to the Rider for Conservation Adjustment to address data center participation in conservation improvement programs consistent with recent Minnesota legislation amending Minn. Stat § 216B.241, subd. 1a. The recent Minnesota legislation exempts qualified large-scale data centers from contributing to a utility's energy conservation plan by paying a fee to a state program which uses those funds to support energy conservation and weatherization for low-income customers anywhere in

¹⁷ *In the Matter of Minnesota Power's Petition for Approval a new Electric Service Agreement ("Agreement" or "ESA") between Harmony Group, LLC, a subsidiary of Alphabet, Inc. ("Customer" or "Google") and Minnesota Power, Minnesota Power, Petition, March 26, 2026, Docket No. E015/M-26-159, (eDockets) [20263-229694-01](#) at 19-21.*

¹⁸ *Id.*, Attachment D, E and F.

¹⁹ MP Petition, *Proposed Tariff Modification*, Attachment B.

²⁰ *Id.*, at 2.

²¹ *Id.*

²² *Id.*, at Attachment A.

Minnesota per Minn. Stat. § 216B.241, subd. 2a(c), as amended. The fee is based on the qualified facility's peak demand.²³

The Department plans to provide a full analysis of MP's proposed tariff changes, including its marginal contribution analysis in Docket No. and E015/M-26-159. As such, the Department does not have a recommendation for MP's proposed tariff modifications at this time.

IV. DEPARTMENT RECOMMENDATIONS

Based on the above analysis and the information in the record, the Department has prepared recommendations, which are provided below. The recommendations correspond to the subheadings of Section III above.

A. DOES MINNESOTA POWER'S PROPOSAL COMPLY WITH MINN. STAT. § 216B.1622?

- The Department recommends the Commission deny without prejudice MP's Petition for approval of its proposal to accommodate very large customers within its existing Large Power (LP) Customer Class and Service Tariff.

B. WHAT ADDITIONAL PROVISIONS SHOULD BE ADDRESSED TO COMPLY WITH MINN. STAT. § 216B.1622?

- The Department recommends the Commission require MP to file a new tariff for very large customers consistent with Minn. Stat. § 216B.1622 and the Commission's upcoming Orders in Docket Nos. E015/M-26-159 and E002/M-25-289.

²³ *Id.*, at 3.

Attachments

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of people by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

Minnesota Department of Commerce
Comments

Docket No. E015/M-26-126

Dated this **8th** day of **May 2026**

/s/Sharon Ferguson

First #	Name	Last Name	Email	Organization	Agency	Address	Delivery Method	Alternate Delivery Method	View Trade Secret	Service List Name
1	Sasha	Bergman	sasha.bergman@state.mn.us		Public Utilities Commission	121 7th PI E Ste 350 St. Paul MN, 55101 United States	Electronic Service		Yes	M-26-126
2	Matthew	Brodin	mbrodin@allete.com	Minnesota Power		30 West Superior Street Duluth MN, 55802 United States	Electronic Service		No	M-26-126
3	Mike	Bull	mike.bull@state.mn.us		Public Utilities Commission	121 7th Place East, Suite 350 St. Paul MN, 55101 United States	Electronic Service		Yes	M-26-126
4	Generic	Commerce Attorneys	commerce.attorneys@ag.state.mn.us		Office of the Attorney General - Department of Commerce	445 Minnesota Street Suite 1400 St. Paul MN, 55101 United States	Electronic Service		Yes	M-26-126
5	Sharon	Ferguson	sharon.ferguson@state.mn.us		Department of Commerce	85 7th Place E Ste 280 Saint Paul MN, 55101-2198 United States	Electronic Service		No	M-26-126
6	Jennifer	Kuklenski	jkuklenski@mnpower.com	Minnesota Power		30 W Superior St, Duluth, MN, 55802 Duluth MN, 54534 United States	Electronic Service		No	M-26-126
7	Discovery	Manager	discoverymanager@mnpower.com	Minnesota Power		30 W Superior St Duluth MN, 55802 United States	Electronic Service		No	M-26-126
8	Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us		Office of the Attorney General - Residential Utilities Division	1400 BRM Tower 445 Minnesota St St. Paul MN, 55101-2131 United States	Electronic Service		Yes	M-26-126