

**STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION**

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

Docket No. E015/M-26-126

INITIAL COMMENTS OF THE CLEAN ENERGY ORGANIZATIONS

Clean Grid Alliance, Environmental Law and Policy Center, Fresh Energy, Minnesota Center for Environmental Advocacy, Sierra Club, and Vote Solar (collectively “Clean Energy Organizations” or “CEOs”) respectfully submit these Initial Comments on Minnesota Power’s Petition for Approval of Modifications to its Large Power Tariff. For the reasons discussed below, the CEOs recommend the Commission reject this tariff proposal pursuant to Minn. Stat. § 216B.1622 and require Minnesota Power to file a very large customer tariff that addresses the unique needs and stranded cost risks presented by large data centers, which are expected to be the predominant type of new very large load customers on Minnesota Power’s system.

I. Minnesota Power’s proposal does not meet the requirements of Minn. Stat. § 216B.1622

In 2025, Minnesota passed legislation governing public utilities’ provision of electric service to “very large customers,” including data centers. The law, Minnesota Statute Section 216B.1622, contains two substantive provisions.¹ Subdivision 1 requires that the characteristics of a very large customer class or subclass be established for each public electric utility by December 15, 2026.² Subdivision 2 requires that when evaluating a tariff or an electric service agreement (“ESA”) applicable to very large customers, the Commission consider four outcomes required by

¹ Minn. Stat. § 216B.1622 (2025).

² Minn. Stat. § 216B.1622, subd 1 (2025).

the statute, and whether the tariff or ESA terms are the best way to satisfy those outcomes.³ The four outcomes required by statute are: (1) that all costs attributable to the very large customers are assigned to the very large customer class (except those costs that are exempt), (2) that the utility include a plan showing that the electricity provided to the very large customer achieves each benchmark of Minn. Stat. § 216B.1691 without causing any delay of those standards, (3) that the tariff contain protections to ensure that other utility customers are not at risk of paying for stranded costs associated with serving the very large customer, and (4) that any term the Commission deems necessary to ensure the tariff is in the public interest is included.⁴ Because Minnesota Power’s Large Power Tariff proposal does not satisfy subdivision 1, and does not include at least three of the four required outcomes for a very large customer tariff in subdivision 2, it should be rejected.

A. Minnesota Power’s Petition does not satisfy the requirement for a new customer class or subclass under Minn. Stat. § 216B.1622, subdivision 1

In its Petition, Minnesota Power has not proposed a new customer class or subclass for very large customers. This conflicts with Minn. Stat. § 216B.1622, subdivision 1, which requires the creation of a “very large customer class or subclass for each public utility providing electric service.” This statute makes clear that the legislature contemplated treating very large customers differently from existing customers by requiring the creation of a *new* class or subclass. Notably, to comply with subdivision 1, Xcel Energy proposed creating a new rate class for very large customers, which is currently pending before the Commission in Docket No. 25-289. For Minnesota Power, this docket is the most logical place for the new class or subclass to be proposed, and it should be included with Minnesota Power’s Petition.

B. Minnesota Power’s Large Power Tariff does not satisfy at least three of the four required outcomes for a very large customer tariff under Minn. Stat. § 216B.1622, subdivision 2

Minnesota Power’s proposal to use its existing Large Power Tariff to serve very large customers does not comply with subdivision 2 of Minnesota Statute § 216B.1622. This subdivision requires the tariff applicable to very large customers to achieve four specific outcomes. These outcomes include ensuring that all costs are assigned to the very large customer class, that

³ Minn. Stat. § 216B.1622, subd 2 (2025).

⁴ Minn. Stat. § 216B.1622, subd 2 (2025).

electricity provided to the very large customer meets the benchmarks of Minn. Stat. § 216B.1691, and that other customers of Minnesota Power are protected from the potential for stranded costs associated with serving the very large customer.⁵ Grouping new very large load customers together with Minnesota Power’s current industrial customers under the existing Large Power Tariff is not the best way to achieve these outcomes.

First, without creating a separate customer class for very large customers, it is unclear how Minnesota Power can comply with the requirement to ensure all costs attributable to the very large customers will be assigned only to the very large customer class.

Second, the Large Power Tariff does not sufficiently protect other customers from the stranded cost risks associated with a very large customer such as a hyperscale data center project. In order to do this sufficiently, Minnesota Power’s tariff must include specific terms that are known to insulate existing customers against data center industry volatility. The existing Large Power Tariff does not contain most of the key terms needed to protect other customers from stranded cost risk as discussed further in Section II. Rather than amend the existing Large Power Tariff, which would affect many different types of customers, the best way for Minnesota Power to comply with this required tariff outcome would be to propose a separate tariff applicable only to very large customers.

Third, subdivision 2 also requires the utility to demonstrate that the electricity provided to very large customers will achieve each quantitative benchmark of the state’s electricity standards under Minn. Stat. § 216B.1691, which includes the state’s carbon-free standard.⁶ However, in its Petition, Minnesota Power does not discuss how its Large Power Tariff complies with this requirement, beyond its general assertion that the existing large load tariff is “sufficiently flexible to meet the requirements of the law.”⁷ While Minnesota Power does offer a Voluntary Renewable Energy Rider to customers from all rate classes, including large industrial customers, this rider does not offer the same level of protection to other customers that a tariff might, does not incentivize very large customers to support renewable energy projects for the longer-term because the minimum service term under the rider is just one year, and does not contemplate the role of

⁵ Minn. Stat. § 216B.1622, subd 2 (2025).

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

⁷ Petition at 7, *In the Matter of the Petition of Minnesota Power for Approval of Modifications to its Large Power Tariff*, E-dockets No. E015/M-26-126 (hereafter “Minn. Power Pet.”).

renewable energy in meeting capacity requirements associated with very large customers subscribing to it. To realize the requirements of Minn. Stat. § 216B.1691, Minnesota Power's tariff offering should more transparently enable all potential pathways for clean energy for very large customers, including through implementation of a clean energy and capacity tariff as well as load flexibility arrangements (discussed further in section IV).

Thus, because Minnesota Power's Large Power Tariff does not satisfy the majority of the statutorily required outcomes for tariffs serving very large customers, it should be rejected. Instead, Minnesota Power should propose a new distinct tariff serving only very large customers that addresses the requirements of Minn. Stat. § 216B.1622.

II. Minnesota Power's Large Power Tariff does not have sufficient terms to protect other customers from stranded cost risks associated with very large customers

Based on the contents of other very large power tariffs around the country, advocates have identified terms that constitute best practices for tariffs to shield other customers from the potential stranded cost risk from very large customers.⁸ Some of these best practices include an eligibility threshold, a minimum billing demand regardless of actual demand use,⁹ a lengthy contract (15 to 20 years or more),¹⁰ an exit fee in the event of pre-contract term departure, and a fee for any capacity reduction. Very large customers like hyperscale data centers impose great cost on electric utilities that would be unfairly socialized across the utility's customer base if not directly allocated to the very large customer. Therefore, Minnesota Power's tariff applicable to very large customers should include these key terms to protect other customers. The status of these terms in Minnesota Power's current proposal is discussed below.

Minnesota Power's proposed tariff contains no minimum billing provisions.¹¹ Minnesota Power claims that the minimum billing requirement will be addressed in each ESA, but no default provision is contemplated in the tariff.¹² In comparison, Xcel Energy's proposed tariff applicable

⁸ Stacy Sherwood, *Review of Large Load Tariffs to Identify Safeguards and Protections for Existing Ratepayers* 1 (2025).

⁹ *Id.*

¹⁰ *Id.* at 6.

¹¹ *See* Minn. Power Pet. at 8.

¹² *Id.*

to very large customers contains a minimum billing demand provision of 75% of the customer's contracted capacity.¹³

The contract length contained in Minnesota Power's proposed tariff defaults to only 10 years with a 4-year cancellation notice.¹⁴ A relatively short contract length creates a risk that the costs of building new generation and transmission needed to serve the very large customer may not be recovered by the time the data center exits the contract, putting the utility's other customers at risk of paying unrecovered costs. Xcel Energy's default contract length under its proposed tariff is 15 years.¹⁵

Minnesota Power's proposed tariff does not include an exit fee provision to ensure that costs are appropriately allocated to the very large customer in the event of an early exit.¹⁶ This protective measure would further ensure Minnesota Power's other customers do not have to pay for stranded assets built to serve a very large customer that leaves earlier than expected. Xcel Energy's proposed tariff includes an exit fee provision that Xcel Energy believes is "important to ensure that the [very large customers] are paying their fair share of the costs to provide service to them."¹⁷

Minnesota Power's proposed tariff does not include a fee or charge from the very large customer if the customer does not use the agreed-upon demand. This term, along with a minimum billing provision, would ensure that costs for Minnesota Power to provide power to a very large customer are not spread across Minnesota Power's other customers if the very large customer does not use the volume of power it predicted was needed. Unlike Minnesota Power's proposed tariff, Xcel Energy's proposed tariff includes a capacity reduction fee if the customer reduces contracted capacity.¹⁸ Xcel Energy believes this provision will protect other customers against stranded costs.¹⁹

¹³ Petition at 14, *In the Matter of the Petition of Northern States Power Company for Approval of a Large General Time of Day Service Tariff and Large Peak Controlled Time of Day Service Tariff*, E-dockets E002/M-25-289 (hereafter "Xcel Energy Pet.").

¹⁴ Minn. Power Electric Rate Book, Volume 1, Section V at 24.0.

¹⁵ Xcel Energy Pet. at 10.

¹⁶ See Minn. Power Electric Rate Book.

¹⁷ Xcel Energy Pet. at 11.

¹⁸ *Id.* at 14.

¹⁹ *Id.*

These are just some key terms that have consistently emerged in proceedings across the country as critical measures for tariffs serving very large customers like hyperscale data centers. Given that Minnesota Power's Large Power Tariff is lacking so many key terms, the proposed tariff is not sufficient to ensure that other ratepayers are protected from stranded asset risk and should be rejected as a tariff applicable to very large customers.

III. Failing to include general terms in the tariff that would be included in very large customer ESAs sends a confusing market signal to prospective customers and creates transparency issues

Minnesota Power's Petition makes clear that the Company plans to use the Large Power Tariff as a generic tariff and then will address specific terms needed for very large customers in individual ESAs.²⁰ However, Minnesota Power should have a separate tariff for very large power customers that is more reflective of the general terms a customer would find in an ESA. Without having such a tariff, prospective customers could look at Minnesota Power's existing Large Power Tariff and believe that this is a fair representation of the likely terms of their ESA. However, it is clear that individual ESAs will have significant departures or additions from the terms of the Large Power Tariff as discussed by Minnesota Power in this Petition²¹ and as evidenced by the differences between the Google ESA filed in docket 26-159²² and this Large Power Tariff. Therefore, allowing this Large Power Tariff to apply to large data centers could send an inappropriate market signal to new customers to come to Minnesota Power's territory based on tariff terms that are not representative of final contract terms. This could prejudice other electric utilities in Minnesota whose large load tariffs *are* reflective of generally expected terms in ESAs. Additionally, this could result in additional load growth uncertainty in Minnesota Power's territory, if data centers pursue a project there based on the tariff terms but then leave once it becomes clear that their ESA would look significantly different than the tariff.

Moreover, Minnesota Power's plan to use this generic tariff and then deal with specific terms needed for very large customers in individual ESAs reduces critical transparency. ESAs include significant amounts of trade secret information, requiring advocates and other interested

²⁰ See Minn. Power Pet. at 8.

²¹ *Id.*

²² See Petition, *In the Matter of the Petition for Approval of an Electric Service Agreement between Google and Minnesota Power*, E-dockets No. E015/M-26-159.

parties to sign NDAs to access all documents in the proceeding. By contrast, the tariff is not specific to individual customers and thus does not include customer-protected information. For example, this docket includes no trade secret information, but many key portions of the Google ESA in docket 26-159 are marked trade secret. Thus, it is better policy for Minnesota Power to create a very large load customer tariff that is reflective of the terms expected in an ESA. This allows all parties, including the public who do not sign NDAs, to weigh in on how best to design terms of service for very large customers like data centers. Getting the terms of service right is critical to protecting other customers, and those other customers should have a meaningful opportunity to see the general terms that will govern very large customers and provide feedback.

Thus, for various policy reasons, the Commission should reject this proposal and require Minnesota Power to file a separate very large customer tariff that is more reflective of the general terms included in an ESA.

IV. Minnesota Power should pursue clean energy and load flexibility solutions to meet data center and other very large customer load

Minnesota Statute Section 216B.1623 mandates that the Commission require public utilities to offer a clean energy and capacity tariff for commercial and industrial customers that would allow customers “to elect to serve some or all of their energy or capacity usage from new clean energy or capacity resources as long as reliability is maintained . . .” Such a tariff would support the ability of very large customers to invest in clean resources and advance the state’s carbon-free energy goals, while also protecting other ratepayers from associated costs. We recommend the Commission require a clean energy and capacity tariff filing from Minnesota Power, which it could consider in an independent proceeding or in a multi-utility proceeding.

In addition, in its Petition, Minnesota Power touts the ability of its existing Large Power customers to provide demand response capabilities to decrease peak demand, in turn allowing the utility to defer or avoid investments.²³ Minnesota Power refers to other tariff offerings that enable such demand response, but does not indicate how such tariffs would accommodate very large customers. In contrast, Xcel Energy has proposed a specific interruptible service tariff for very large customers, in addition to allowing for non-exempt customers (i.e., non-data center customers) to participate in its ECO load flexibility programs. Minnesota Power should similarly

²³ See Minn. Power Pet. at 10.

develop and offer a load flexibility tariff tailored to very large customers, to ensure this unique customer group can take advantage of an interruptible service option. Maximizing such load flexibility options can ensure efficient use of resources and decrease the new resources—including potentially fossil fuel resources—required to serve these very large customers.

CONCLUSION

For these reasons, the Clean Energy Organizations respectfully request the Commission reject Minnesota Power’s proposal to allow new very large customers to take service under the existing Large Power Tariff. Instead, we request the Commission order Minnesota Power to create a separate customer class and tariff for very large customers that meets the requirements of Minn. Stat. §216B.1622 and contains the terms necessary to protect other ratepayers from the stranded cost risks associated with very large customers. In addition, we request the Commission require Minnesota Power to file a clean energy and capacity tariff, either in an independent proceeding or in a multi-utility proceeding. Finally, we recommend Minnesota Power develop and offer a load flexibility tariff tailored to very large customers, similar to that proposed by Xcel Energy.

Respectfully Submitted,

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On behalf of the Clean Energy Organizations