MINNESOTA PUBLIC UTILITIES COMMISSION

Staff Briefing Papers

Meeting Date	June 24, 2021	Agenda Item *1
Company	Dakota Electric Association	
Docket No.	**E111/ M-21-314**	
	In the Matter of Dakota Electric Association's Petition to Implement a Limited Arrearage Forgiveness Program	

Issues

1. Should the Commission approve Dakota Electric Association's limited program?
2. Should the Commission take any other action on the limited program?

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✓ **Relevant Documents**	**Date**
Initial Filing, Dakota Electric Association (DEA)	April 30, 2021
Notice of Comment Period	May 11, 2021
Ex Parte Communication – PUC and DEA	May 12, 2021
Comments, Dept. of Commerce – Division of Energy Resources	June 10, 2021
Letter, Office of the Attorney General – Residential Utilities Division	June 10, 2021
Comments, Energy CENTS Coalition	June 10, 2021
Reply Comments, Dakota Electric Association	June 11, 2021

I. Statement of the Issues

1. Should the Commission approve Dakota Electric Association's limited program?
2. Should the Commission take any other action on the limited program?

II. Background

The petition discussed here was introduced in docket 20-375. Staff offers a brief reminder that docket 20-375 was initiated by the Commission and Department of Commerce (Department) at the onset of the COVID-19 pandemic in late March of 2020. A jointly issued letter requested voluntary, immediate utility actions to protect residential customers. Protections concentrated on maintaining heat and electricity service through a moratorium on disconnections as well as potentially burdensome fees (e.g. for reconnection or late payment). Further, eligible customers were encouraged to establish bill payment plans and apply for energy assistance.

As the docket progressed, regular compliance reporting was established and eventually, utilities submitted, and the Executive Secretary found complete, plans for the transition to normal operating service; including the resumption of service disconnections. In the development of these "transition plans," discussions included the merits of arrearage forgiveness programs offered by utilities.

An August 26, 2020 notice asked for comments on additional customer assistance with past due balances, including speaking to existing arrearage forgiveness programs. The Department recommended the Commission, "[d]irect all utilities to develop and offer, to the extent not already in place, an arrearage forgiveness plan in order to assist customers with past due bills.[1]" Other comments in the docket aligned with this recommendation.[2] However, many rate-regulated utilities mentioned a degree of opposition to a mandatory arrearage forgiveness program or noted that they already had such a program, like Gas Affordability Programs (GAP).[3] Consumer Advocates suggested moving discussions on arrearage forgiveness to a separate docket.[4] The Commission did not Order an arrearage forgiveness program though it was recommended by the Department.

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[1] DOC Comments filed October 19th, 2020 (p2).

[2] Sierra Club suggested research on successful arrearage programs, nationally, in comments filed May 14, 2020; Fresh Energy, National Housing Trust, and NRDC suggested stakeholder discussions about arrearage forgiveness in comments filed October 20, 2020; Professor G. Chan supported arrearage forgiveness in comments filed October 19, 2020.

[3] On October 30th, 2020 reply comments, Dakota Electric anticipated there would be some level of opposition to an arrearage forgiveness or payment credit plan line item similar to the response the Cooperative saw to city franchise fees. MERC, CPE and Xcel Energy (all filed October 30, 2020), for example, confirmed existing arrearage forgiveness programs.

[4] Consumer Advocates reply comments filed October 30, 2020, p3. The Consumer Advocates are comprised of the

On April 15, 2021, arrearage forgiveness discussions continued when the Commission met to discuss utilities' transition plans. The Department continued to recommend the Commission order utilities without an existing arrearage forgiveness plan to develop one as part of their Transition Plan.[5] The Office of Attorney General (OAG) supported this recommendation.[6] Conversely, the Consumer Advocates asked that utilities provide, on a one-time basis in narrative form, information on arrearage forgiveness plans.[7] At this meeting, Dakota Electric supported reporting on the status of programs, and opposed mandatory creation of new programs. DEA commented, "Not all regulated utilities are in the same financial position to absorb the impact of such programs or implement revenue mitigation (increase) measures."[8] To this extent, Dakota Electric noted that they have no shareholders to absorb costs of an arrearage forgiveness program.

On May 5, 2021, discussions about transition plans concluded when the Executive Secretary found all eight, rate-regulated utilities' amended transition plans complete. As part of these plans, and captured in the Commission's May 26, 2021 Order, utilities were not required to create new arrearage forgiveness plans if they did not already have such plans, but were ordered to include a narrative update on any type of arrearage forgiveness offered.[9]

On April 30, 2021, Dakota Electric Association (DEA or Cooperative) filed a petition to implement a limited arrearage forgiveness program (Program) and asked for expedited review. The expedited timeline would allow for the program to begin in June 2021.[10] Expedited review was requested to better serve customers during the transition to normal utility service[11] as aid would be available to customers more quickly, nearer to the time at which utilities begin to issue disconnection notices. The Program was developed under authorization from DEA's Board of Directors and in consultation with Energy CENTS Coalition (ECC).[12]

Energy CENTS Coalition, the Citizen's Utility Board of Minnesota, Legal Services Advocacy Project, and MN Community Action Partnership.

[5] Department comments filed February 26, 2021, p2-3.

[6] OAG Letter filed March 1, 2021, p1.

[7] Consumer Advocates' comments filed March 1, 2021.

[8] Dakota Electric reply comments filed March 15, 2021, p6.

[9] Ordering paragraph 1, p9, issued May 26, 2021.

[10] Minn. Rule 7829.1300, subpart 4C such that miscellaneous filings must include the date a proposed service change will go into effect; Minn. Rule 7825.3200 requires notice to the Commission at least 90 days before the proposed effective date of rate changes.

[11] As defined in utilities' amended transition plans filed in docket 20-375; DEA's plan filed April 30, 2021.

[12] In its April 30, 2021 petition, DEA footnoted, "Dakota Electric would like to thank Energy CENTS Coalition (ECC) for participating in several virtual meetings and providing perspective as we considered and developed this program. We also acknowledge, however, that our proposed program may have elements with which they do not fully agree (PDF p7)."

On June 10, 2021, initial comments were filed by the Department, OAG, and ECC. On June 11, 2021 DEA filed reply comments.

III. Dakota's Petition

Total Program Funding

In terms of financial context, the Cooperative entered 2021 with limited operating funds as fees and disconnections for nonpayment were suspended during the pandemic. More, in their initial filing, the Cooperative offered the reminder that when it comes to procuring funds for an ongoing arrearage program they do not have shareholders to absorb costs. Within this context, DEA proposed a Program capped at one million dollars, drawn from the Cooperative's operating margins. Utilizing funds from this source will ensure customer rates do not increase and ensure a rate case is not triggered.[13]

Term

The Program would be offered for 16 months, June 2021- October 15, 2022. The end date aligns with the beginning of the 2022 Cold Weather Rule period. More, the Program term purposefully spans three LIHEAP cycles.[14]

Administration

DEA explored a third-party administrator for their Program but these external organizations were facing staffing constraints. Therefore, DEA will rely on, and perhaps "redeploy" existing staff to administer the Program. Staff will thus be required to balance additional tasks, for example, anticipated high call volume to customer service center as disconnection notices are sent out, with existing workload. The Cooperative notes this balancing may impact customer service, like call wait times.[15] In terms of technical resources, DEA's billing system will require modification but the Cooperative has tested the system, with modifications needed during the pandemic, so will be able to modify again as needed for the Program.

Qualifying Criteria

DEA proposes to direct the arrearage forgiveness to accounts with delinquent balances of 91 days and greater. However, "there will be no income threshold, no minimum delinquent balance threshold, and no maximum delinquent balance threshold. The decision for no income threshold recognizes that consumers at varying income levels could be struggling during the pandemic. In addition, Dakota Electric has limited or no capability to verify reported income and any such activity would add more complexity and time to the process of establishing a

[13] DEA notes their recent rate case completion and implementation of final rates in October 2020 (Initial, PDF p7).

[14] Encompassing three LIHEAP cycles noted in initial filing, PDF p8. Staff notes the three LIHEAP cycles are the current LIHEAP cycle, new cycle starting September 2, 2021, and next year's cycle beginning after April 2022.

[15] DEA initial, PDF p8.

payment plan and arrearage forgiveness credit."[16] Aid will be delivered to customers on a first-come, first-served basis. However, the aid will not be available to customers who are able to pay their entire delinquent balance up front; DEA believes, "that such members have the funds to pay their bill and simply decided not to pay in the short run for any variety of reasons."[17]

Individual Forgiveness Amount

DEA believes their program will incentivize customers to contact DEA and sign up for payment plans. To this extent, the Program will be paired with a payment arrangement. Customers will work with the Cooperative to determine a payment arrangement amount as well as an amount that will be paid monthly toward arrears. Then, the "forgiveness" component of the Program will be implemented such that DEA will "apply a monthly credit of 25% to the amount of a monthly payment that relates to the member's delinquent balance."[18] Credits will be applied to individual accounts until the delinquent balance is paid or the Program budget of one million dollars is exhausted.

Other Parameters

Participation in the Program is contingent upon a customer who is eligible applying for the Energy Assistance Program. To this extent, customers will have one week to apply for Energy Assistance and their application will be verified by DEA via the Department of Commerce's eHEAT website. Customers will not be disconnected in the week they are given to apply for Energy Assistance. DEA included this application for Energy Assistance contingency in attempts to lower customers' overall balances and thus, allow more Program funds to be distributed to more customers. Dakota Electric does not plan to do income verification and intends this requirement to "strongly encourage" customers to access assistance they are eligible to receive.[19]

Following language used in utilities' amended transition plans,[20] DEA will not remove customers from Program benefits if a customer misses one payment, if they re-establish payment.

In addition to the one million dollars from operating margins allocated to the Program, DEA will also apply each individual members' discounted capital credits to their outstanding delinquent balance. As noted by DEA, "applying member discounted capital credits is another way of reducing the member delinquent balance and subsequent monthly payment."[21]

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[16] DEA initial, PDF p9.

[17] DEA initial, PDF p9.

[18] DEA initial, PDF p9.

[19] Ex Parte Communication – PUC and DEA, PDF p3

[20] DEA amended transition plan filed April 30, 2021. Language discussing payment plan customer protections, including allowing one missed payment, can be found on PDF page 7.

[21] DEA initial, PDF p10.

Communication and Billing
Advertisement of the Program will target only eligible customers via a separate mailing. Delinquent balances will be shared with individual customers via their monthly billing statement. Each bill will show the amount of the prior payment received (including the arrearage credit), the current month's consumption, and the resulting net delinquent balance.[22]

IV. Parties' Comments

Considering DEA's unique circumstances, the Department recommended approval of DEA's Program. [23] Additionally, the Department recommended DEA make a compliance filing on June 1, 2022. Reporting is reflected in Decision Options 3a and 4.

The OAG agreed with the Department and recommended support of DEA's Program or a similar arrearage forgiveness program.[24]

ECC recommended the Commission approve, with modification, DEA's Program (Decision Option 2). ECC supported areas of the Program related to eligibility (customers who are 91+ days past-due), funding source and level[25], and targeted outreach. ECC found the proposal to offer the Program on a "first-come, first-served" basis reasonable.[26] ECC suggested minor modifications related to: (1) LIHEAP requirement, (2) credit amount, (3) Program duration, and (4) Program reporting. ECC outlined four modifications to DEA's proposed Program:

1. <u>Participation in DEA's Program should not be contingent on submitting a LIHEAP application</u>, as LIHEAP eligibility is not a requirement for Program participation. ECC stated that time spent processing LIHEAP applications will delay receiving funds for customers who could eventually be denied assistance if they don't qualify. Finally, one week is insufficient for customers to apply for LIHEAP and for their applications to be processed (see Decision Option 2d).
2. <u>25% credit amount may be insufficient to incentivize participation.</u> ECC recommended DEA review the Program three months post-implementation to examine whether raising the credit amount would be beneficial. ECC recommended the Commission delegate to

[22] DEA initial, PDF p10.

[23] Department of Commerce initial comments filed June 10, 2021 p1-2. The Department noted the difference in DEA's proposed Program, when compared to programs offered by other utilities, citing DEA's limited time and financial scope. Further, the Department noted that as DEA is a Cooperative, it has limited ability to assist members with their past due bills.

[24] Office of the Attorney General initial comments (Letter) filed June 10, 2021 p1.

[25] In their June 11, 2021 Reply p6, DEA noted that capital credits would not "offset" program spending, as concluded by ECC but instead add to the $1million offered by DEA.

[26] Energy CENTS initial comments filed June 10, 2021 p2. See Staff Analysis below, where Staff had voiced concern regarding this aspect of the Program.

the Executive Secretary authority to approve a DEA-proposed increase in the credit (see Decision Options 2a and b).

3. Program should be extended until December 1, 2022. DEA structured their proposed timeline, with Program ending October 15, 2022, to include three LIHEAP cycles. ECC's proposed extension would allow additional customers to obtain LIHEAP assistance in the third LIHEAP cycle (see Decision Option 2e).[27]
4. Reporting. In addition to the review of credit amount (above, #2), ECC recommended DEA report on nine facets of their Program. Reports would be filed nine months after Program implementation, approximately half-way through the Program (see Decision Options 3b and 4).[28]

DEA's reply comments addressed parties' recommendations. Regarding LIHEAP (ECC #1), DEA noted their intent was to increase visibility of LIHEAP assistance for members and those who are not eligible or are denied funding will not be delayed in obtaining Program funds.[29] Further, DEA confirmed that they will not delay enrolling a member in the Program because of a pending LIHEAP application. DEA is relying on the customer to determine if they are eligible and should apply for LIHEAP.[30] Therefore, DEA disagrees with ECC's recommendation (Decision Option 2d) concerning LIHEAP.

Regarding the sufficiency of the 25% credit (ECC #2), DEA is willing to provide the three-month compliance report and finds the ability to provisionally increase bill credit levels reasonable. DEA would notify the Commission of any changes through a filing in the current docket (see Decision Options 2a and b).

Regarding outreach, DEA's reply stated that ECC mistakenly understood that DEA would inform all eligible customers of the Program at the same time. ECC assumed DEA would expand outreach if needed (see Decision Option 2c). DEA clarified that it does not intend to notify all eligible customers at the same time as doing so would overwhelm service staff. They would instead, following protocols for sending disconnection notices, alert customers in groups.[31] However, DEA answered Staff's ex parte communication in agreement with ECC's interpretation of DEA's initial filing, that all customers would be informed at the same time.[32] DEA states all

[27] ECC initial comments filed June 10, 2021 p4, "in October of 2022, customers will have only from October 1, 2022 (beginning of the federal fiscal year) until October 15, 2022 to apply for LIHEAP. ECC recommends extending the program until December 1, 2022, to allow more customers enrolled in the program to obtain LIHEAP assistance in the third, overlapping, LIHEAP cycle."

[28] ECC initial, p4.

[29] DEA reply comments, filed June 11, 2021, p4.

[30] Ex Parte Communication – PUC and DEA, pdf p3

[31] DEA reply, p6.

[32] DEA response to Staff's ex parte communication PDF p4, "Answer: Dakota Electric will be sending letters to each qualifying member letting them know about the program and that they qualify. In this regard, everyone will be informed about the program at the same time."

eligible customers will be notified in a timely manner and will not be disadvantaged if they receive their communication later than another eligible member.[33] This area is touched on again in Staff's analysis.

ECC recommended extending the Program if funds remain available and DEA agreed (ECC #3; see Decision Option 2e).

Finally, DEA agreed to the reporting criteria proposed by ECC (ECC #4) and the Department, but would prefer to file a single compliance filing (with data requested by both parties) on June 1, 2022.[34] For reporting see Decision Options 3a,b, and 4.

V. Staff Analysis

Table 1. Dakota Electric Data from filing made June 2, 2021 in Docket no. 20-375

	# Residential Customers	# Past Due Residential Customers	Total Dollars Past Due Residential Customers	Average Past Due Dollar Amount Per Past Due Customers	Average Monthly Residential Bill	Cumulative LIHEAP Customers (year to date)	Total Dollars Received From LIHEAP
Jan-21	102,773	18,736	$6,242,834	$333.00	$111.00	292	$72,795
Feb-21	102,886	18,188	$6,469,080	$356.00	$102.00	449	$70,690
Mar-21	103,002	11,757	$5,437,698	$462.51	$95.38	623	$118,083
Apr-21	103,123	12,080	$5,550,657	$459.00	$85.00	802	$112, 021
May-21	103,276	13,170	$5,722,063	$434.00	$82.00	872	$76,674

Staff notes Dakota reported $587.22 as Total Residential Write-Offs due to uncollectable in January 2021 due to uncollectible. DEA did not write off any amounts in February-May 2021.

- As of May 2021, 12.8% of DEA's residential customers were past due. The data above reflect all past due customers, rather than only those who are 91+ days past due and to whom DEA's Program will be directed.
- One million dollars divided evenly among all 13,170 past due customers would be about $76 per customer,
    - less than the average bill for one month
    - less than 20% of the average amount a customer was past due in May 2021.

[33] DEA reply, p6.

[34] DEA reply, p7.

- Coverage of 25% of average amount past due is $108.00 which, is more than the $76 available to each past due customer. But DEA has said not all customers will be invited to participate in Program, like those who pay debt off at once.

Permissible Ex Parte Email Communication with Dakota Electric Staff.[35] Staff posed 10 questions, listed below, to which DEA responded (Table 2).

Table 2. Staff question topics for Dakota Electric and Staff's remaining questions (red text).

#	Question Topic	Addressed OR Remaining Questions
1	Funding- members consulted	Staff question addressed
2	Funding- $1 million	With Board oversight, Staff question addressed
3	Funding- capital credits	Staff question addressed
4	Balances- # served	With data supplied, Staff question addressed
5	LIHEAP	Staff questions remain and ECC does not support
6	Sign Up	Staff question remains
7	Eligibility	Staff question addressed
8	Eligibility	Staff question addressed
9	Amount Distributed	Staff question remains
10	Communication	Staff question addressed

Below are additional details for each of the staff question topics with numbers corresponding to Table 2:

1) Dakota Electric Association explained that its Board of Directors authorized development of the Program; further, DEA staff reviewed all elements of the proposed program with the Board and the Board authorized this filing.
2) DEA explained that $1 million from operation margins could be redirected to the Limited Arrearage Forgiveness Program while maintaining service quality and reliability. DEA's Board will monitor performance via operating metrics. Further, DEA has not altered its 2021 budget or operating conditions and believes that, "that based on budgeted expenses and weather-normalized sales, we should still be able to meet the minimum financial requirements of our lenders."[36]
3) To understand the practice of applying capital credits, Staff asked, "What is the anticipated value of applying discounted capital credits toward the participant's outstanding balance?". DEA responded that approximately $200,000 of discounted capital credits would be applied to members balances.
4) Staff asked about the number of customers that could be served by the program, those holding delinquent balances for 90+ days. DEA responded that approximately 4,500 customers met this criterion.

[35] Initial email sent and filed by PUC Staff 7 May 2021; response sent from DEA 11 May; filed 12 May 2021

[36] DEA initial, PDF p3.

5) Regarding LIHEAP, Dakota Electric clarified that Program participation requires, or more accurately strongly encourages, eligible customers to submit a LIHEAP application within one week. Staff does echo ECC's concerns that requiring application within one week may be too short of a time frame and may deter some possible Program participants. Staff thinks it is more accurate to describe the LIHEAP component of this Program as a strong encouragement, not a requirement as there is no income verification, and would recommend changing language to communicate that Program participation is not contingent on LIHEAP application. Staff does commend DEA's intention to incentivize what have so far been low LIHEAP application numbers as well as to perhaps extend the Program's reach.
6) Staff had questions regarding the equity of a "first-come, first-served" Program policy; however, ECC did not have concerns with this policy. In response, DEA said all eligible customers will be informed of the Program at the same time and "first-come, first-served" language will create a "sense of urgency". Further, DEA anticipated, "that the $1 million will be more than adequate to cover the arrearage balances of the target consumer segment."[37] However, Staff notes some discrepancies in DEA's responses as to whether all eligible customers will be informed of the Program at the same time or by groups "in a timely manner".
7) Staff also questioned the equity of offering the program to all customers, rather than beginning with or focusing on those most behind on their bills. DEA's reply explained how days past due was used as a proxy for need, rather than amount, as different amounts of debt may pose significant burden to different customers. Staff finds it compelling that ECC also agreed with DEA's determination of need through the use of the 91+ days in arrears criterion, rather than a dollar amount.
8) Concerning logistics of application to the program, DEA confirmed that the proposed Program will be available for customers enrolled in a payment plan prior to the Program's initiation (in addition to use of the Program as a tool to encourage new signups for Payment Plans).
9) Another concern regarding equity, Staff noted that DEA proposed to award arrearage forgiveness dollars based on a percent match of the amount a customer is able to pay towards their balance. This practice will serve to reward more dollars to customers who are able to pay more towards their bill. Staff inquired why this strategy was chosen. DEA responded that their intent was to "simply forgive a certain amount of delinquent balance and encourage bill payment."[38] Staff believes further dialog during the Agenda Meeting may help bring clarity to this Program component.

[37] DEA initial, PDF p4.

[38] Full quote, DEA initial, PDF p5, "Dakota Electric considered an approach that would simply forgive a certain amount of delinquent balance. However, we want a program that encourages bill payment, rewards consumers that stick with a payment plan, and acknowledges the different circumstances of each consumer."

10) DEA confirmed that information on the program will be shared in all languages prominent within the Cooperative's service territory.

VI. Decision Options

1. Approve Dakota Electric Association's Petition to Implement a Limited Arrearage Forgiveness Program (*Dakota Electric Association; Department; OAG).*

[OR]

2. Approve, with the following modifications, Dakota Electric Association's Program (*ECC*):
   a. Require Dakota Electric to report the number of program participants, spending levels, and any proposed credit percentage modification, three months after program implementation (*DEA agreed*)
   b. Allow the Executive Secretary to approve a program modification limited to increasing the percentage credit match (*DEA agreed*)
   c. Require Dakota Electric to expand outreach efforts (e.g. follow-up e-mails, phone-calls, member newsletter announcements) if participation in the program is insufficient
   d. Reject the Company's proposal to require program participants to apply for LIHEAP
   e. Require the Company to extend the program duration until December 1, 2022 (*DEA agreed*)

3. Dakota Electric Association shall make a single compliance filing
   a. On June 1, 2022 (*Department; DEA agreed)*

   [OR]

   b. Nine months after Program commencement. [*ECC; this would be the approximate midpoint of the Program if DO 2e was adopted as proposed by ECC.*]

[AND]

4. Dakota Electric Association's single compliance filing shall contain the following data (*Department, ECC, DEA agreed; Staff combined parties' suggested reporting data)*:
   a. The number of customers assisted,
   b. The amount of past due bills paid by customers
   c. The amount of arrearages forgiven
   d. Number of enrolled program participants
   e. Program spending to date

f. Average past due balance of participants
g. Average monthly payment requested (current bill + arrearage installment payment)
h. Average credit amount
i. Number of participants receiving LIHEAP
j. Number of customers remaining enrolled at 3 and 6 months
k. Customers removed for non-payment
l. Overall retention rate