



December 13, 2021

Will Seuffert, Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
Saint Paul, MN 55101-2147

**Subject: *Dakota Electric Association Reply Comments
Request for Variance—Billing Error Rules
Docket No. E-111/M-21-810***

Dear Mr. Seuffert:

On November 23, 2021, Dakota Electric Association[®] (Dakota Electric or Cooperative) filed a petition with the Minnesota Public Utilities Commission (Commission) requesting approval of a variance to Minnesota Rule 7820.3800 regarding Billing Errors. In this petition, the Cooperative noted that while preparing a member for a transition to AGI metering, Dakota Electric discovered that it had incorrectly applied standby charges for this member and had overcharged them since their solar facility entered service. Since the solar facility entered service more than three years ago, Dakota Electric filed a variance request with the Commission so that we can return the entire overcharge amount, with interest, to the effected member. On December 6, 2021, Dakota Electric filed a letter clarifying the refund amount due to this member. In this letter, the Cooperative noted that while preparing the member refund for the most recent three-year period, Dakota Electric discovered that its initial refund calculation did not factor in

a state tax refund. After factoring in the state tax refund, Dakota Electric calculated the following revised refund amounts:

Time Period	Principal	Interest	Tax	Total Refund
Within Commission Rules: 09/18 through 08/21	\$6,418.23	\$275.98	\$457.29	\$7,151.50
Exceeding Commission Rules: 01/17 through 08/18	\$3,019.74	\$37.25	\$215.16	\$3,272.15
Total	\$9,437.97	\$313.23	\$672.45	\$10,423.65

Department of Commerce Comments

On December 10, 2021, the Minnesota Department of Commerce, Division of Energy Resources (Department) filed comments reviewing Dakota Electric’s petition. In these comments, the Department reviewed Dakota Electric’s petition, provided a brief history of the billing error rule, and presented a streamlined process to handle future billing error petitions.

In terms of the Cooperative’s petition, the Department reviewed the request and it supports the variance request and the resulting refund amount. The Department also recommended that the Commission use whatever means are fastest to approve the petition and that the Department is not aware of disputes in the docket or policy reasons for why the petition should not be approved.

In its comments, the Department provided a concise and illustrative history on the billing errors rule. The Department explained that the current version of this rule was promulgated by the Commission in 2007 and specifies a three-year refund period for overcharges, but if the error is longer than three years it requires a rule variance. The Department noted that in the 14 years since the current rules were adopted, the Commission, the Department, and the utilities have gained experience applying this rule, and the process has been relatively consistent with predictable outcomes and a lack of

disputes. The Department further explained that the Commission's regular notice process is important from a transparency standpoint, but, in the case of the billing errors rule, these proceedings have regularly involved an individual customer refund and that the normal notice process has delayed refunds with little to no added benefit to the customer awaiting refund.

The nature of the billing error process resulted in the Department recommending a streamlined review process for future billing error petitions in a recent Minnesota Power billing error petition (Docket No. E015/M-21-790). The streamlined process involves the establishment of a 30-day negative check off process, if a future petition demonstrates:

- 1) The utility has communicated the refund amount to the customer, and the customer agrees with the utility regarding the amount and timing of the refund.
- 2) The utility has consulted with the Commission's Consumer Affairs Office (CAO), and the CAO does not object to the refund.
- 3) No other novel or unusual circumstances exist that would warrant the petition proceeding through the normal notice and comment process.

The Department explained that the negative check off process strikes a balance between transparency and refund timeliness. If the Department reviews the filing and finds no issues, and that it meets the three requirements above, the refund can proceed in a more efficient manner. However, if during its review, the Department observes concerns or issues that need to be addressed, the Department is still able to file comments and the petition continues under the standard notice process.

In addition to recommending approval of Dakota Electric's petition, the Department also recommended that the Commission establish a 30-day negative check off process for future billing error petitions filed by Dakota Electric.

Dakota Electric Reply Comments

Dakota Electric appreciates the Department's review of our petition, and the Cooperative is supportive of the Department's recommendations and proposed process for future billing error filings. The process proposed by the Department will likely decrease the amount of time required to fully refund impacted members, while also maintaining the ability for additional review of a petition if deficiencies or areas of concern are discovered. In its comments, the Department noted the possibility of establishing an open generic docket for the 30-day negative check off process for all rate-regulated utilities. Although Dakota Electric understands the basis for this suggestion, it believes that individual docket filings for each billing error are more appropriate. Billing errors requiring a Commission variance do not occur on a regular, or predictable basis, and their frequency can differ between utilities. The creation of a generic docket raises the possibility that regulatory costs may shift to other utilities; as such, Dakota Electric believes that the continuation of individual docket filings is most appropriate.

Conclusion

Dakota Electric appreciates the opportunity to provide reply comments on this matter. The Cooperative also appreciates the Department's prompt review of this petition and supports the Department's proposed negative check off process for future billing error rule filings. Dakota Electric also supports the Department's recommendation that the Commission use whatever means are fastest to approve the petition so that we can refund the full amount to our member. If you or your staff have any questions about these comments, please contact me at 651-463-6258 or aheinen@dakotaelectric.com.

Sincerely,

/s/ Adam J. Heinen

Adam J. Heinen
Vice President of Regulatory Services
Dakota Electric Association
4300 220th Street West
Farmington, MN 55024

Certificate of Service

I, Melissa Cherney, 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/M-21-810

Dated this 13th day of December 2021

/s/ Melissa Cherney

Melissa Cherney