

February 16, 2021

Mr. Will Seuffert  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place East, Suite 350  
St. Paul, Minnesota 55101

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**  
Docket No. E111/M-20-789

Dear Mr. Seuffert:

Attached are the comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

A Petition submitted by Dakota Electric Association (DEA or the Cooperative) requesting approval of a variance to Minnesota Rule 7825.2820 requiring an Annual Auditor's Report for the Cooperative's Annual Automatic Adjustment Report since information in the Cooperative's Annual Automatic Adjustment Report will be submitted with the annual Resource and Tax Adjustment filing.

The petition was filed on October 16, 2020 by:

Douglas R. Larson  
Vice President of Regulatory Services  
Dakota Electric Association  
4300 220th Street West  
Farmington, MN 55024

The Department recommends **approval** and is available to respond to any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ MARK JOHNSON  
Financial Analyst Coordinator

MJ/ja  
Attachment



**Before the Minnesota Public Utilities Commission**  
**Comments of the Minnesota Department of Commerce**  
**Division of Energy Resources**

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Docket No. E111/M-20-789

**I. INTRODUCTION**

On October 16, 2020, DEA submitted a petition to the Minnesota Public Utilities Commission (Commission) requesting approval of a variance to Minnesota Rule 7825.2820 requiring an Annual Auditor's Report for the Cooperative's Annual Automatic Adjustment Report since information in the Cooperative's Annual Automatic Adjustment Report will be submitted with the annual Resource and Tax Adjustment filing. DEA's variance request was submitted pursuant to Minnesota Rule 7829.3200.

**II. BACKGROUND**

On August 28, 2019, DEA made a filing in Docket No. E999/AA-19-402 in accordance with Minnesota Rules 7825.2800-7825.2840, which require that all public utilities make a filing by September 1 of each year to reflect changes in their annual automatic adjustment charges (AAA) or fuel clause adjustment (FCA) riders.

On January 14, 2020, the Minnesota Department of Commerce, Division of Energy Resources (the Department) filed a letter in Docket No. E999/AA-19-402, stating that DEA was the only electric utility to make a filing by September 1, 2019 in Docket No. E999/AA-19-402. The Department stated that the new FCA reform process established in Docket No. E999/CI-03-802 required Minnesota's other regulated utilities (Xcel Electric, Minnesota Power, and Otter Tail Power Company) to submit their fuel clause information by March 1, 2020, while extending the AAA reporting period from June 2019 to December 2019. The Department stated that DEA was not included in the FCA reform and was thus required to make the September 1, 2019 filings for the July 2018 through June 2019 AAA period. In addition, the Department stated:

Since Dakota is an electric distribution-only cooperative, it was exempt from many of the compliance filings required under the old FCA process. For example, since Dakota is neither a transmission nor a generation owner, it was not required to submit any information regarding Midcontinent Independent System Operator (MISO) activities. In addition, Dakota has few choices regarding its fuel and purchased power and associated costs.

The Department notes that Dakota is already required to make a filing in January of each year detailing its purchased energy costs, which Dakota generally refers to as its Annual Resource and Tax

Adjustment (RTA) filing. Moreover, Dakota's RTA filings and resulting RTA factors are reviewed by the Department each year and approved by the Commission.

As a result, the Department generally conducted a limited review of Dakota's AAA filings in past proceedings, other than including Dakota's information in the larger report that focused primarily on Minnesota's vertically integrated, investor-owned utilities.

The Department concludes that there is little to be gained from having Dakota continue to submit annual FCA costs in September AAA filings and in the annual RTA filings. Given that the RTA filings are where Dakota's fuel clause rates are set for the year, the Department recommends that the Commission require Dakota to provide its AAA filing information in its annual RTA filings.

The Department will conduct the necessary reviews of such information in conjunction with its review of Dakota's annual RTA filings. The Department notes that this approach would provide a more streamlined and efficient process for reviewing Dakota's annual purchased energy costs.

Since Dakota already provided information in Docket No. E999/AA-19-402, that information can be considered in the RTA docket once Dakota files its 2020 RTA petition.<sup>1</sup>

In its June 22, 2020 Order in Docket No. E111/M-20-79, the Commission approved DEA's 2020 RTA and granted a variance to Minnesota Rule 7825.2800 to 7825.2840 to allow DEA to file its AAA information and FCA rider in future RTA filings.

On October 16, 2020, DEA filed the instant petition seeking a variance to Minnesota Rule 7825.2820 which requires DEA to provide an independent Annual Auditor's Report in its AAA filings. DEA's proposed variance would apply to all future RTA filings after the January 2021 filing.

The Department's analysis of DEA's variance request is provided below.

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<sup>1</sup> Department's January 14, 2020 Letter in Docket No. E999/AA-19-402.

### III. DEPARTMENT ANALYSIS

#### A. MINNESOTA RULE 7825.2820

Minnesota Rule 7825.2820 states in part:

By September 1 of each year, all gas and electric utilities shall submit to the commission an independent auditor's report evaluating accounting for automatic adjustments for the prior year commencing July 1 and ending June 30 or any other year if requested by the utility and approved by the commission. The commission shall approve the request unless it finds that to do so would seriously affect the administration of the automatic adjustment reporting program.

DEA stated that going forward it would submit its AAA information (July 1 through June 30) in its annual January RTA filing as approved by the Commission in Docket No. E111/M-20-79. In addition, DEA stated that while it was preparing its January 2021 RTA filing it became aware that the separate audit requirement under Minnesota Rule 7825.20 no longer serves a useful purpose and requested an additional variance.

#### B. DEA'S VARIANCE REQUEST

DEA requested approval of a variance to Minnesota Rule 7825.2820 which, if granted, would waive the requirement to have an independent auditor's report for the Cooperative's fiscal year (July 1 through June 30) power costs and recovery. DEA stated that its request was based on 1) the regulatory agencies review of DEA's calendar-year power costs and recoveries in its annual RTA filings and 2) an independent audit of DEA's calendar-year annual finances.

With regard to the first point, DEA stated that its annual RTA filing documents the calendar-year changes in the Cooperative's wholesale power costs, conservation spending, and property taxes from base levels established in the Cooperative's most recent rate case. DEA stated that all its wholesale power costs can be verified by the monthly invoices that the Cooperative receives from Great River Energy. In addition, DEA stated that its RTA filing also details the respective base and adjustment revenues that the Cooperative collects for each power cost base component. DEA stated that this information allows the Department to verify the Cooperative's power costs, recovery of power costs, and the necessary RTA charge or credit per kWh for the upcoming year.

Regarding the second point, DEA stated that it already has an independent annual audit of its overall finances, which includes a review of the billing for RTA amounts to ensure that DEA has properly applied the rates approved by the Commission.

The Department notes that there are differences between the audit performed for the AAA fiscal-year period (July 1 through June 30) and the annual financial audit for the calendar-year period. DEA provided the Department with the following schedule comparing the audit steps performed in its AAA audit along with similar audit steps performed in the annual financial audit for most items:

Department Table 1<sup>2</sup>

|   | AAA Audit Steps   | Annual Financial Audit Steps   |
|---|---|--|
| 1 | Confirm with the power supplier the cost of purchased power for the period July 1, 2019 through June 30, 2020. Compare the documentation supporting payments and invoices received from the utility supplying energy.   | The auditors confirm purchased power and select some months for testing. They review the invoice but not the disbursement.   |
| 2 | Examine the Minnesota Public Utilities Commission – Approved Base Costs of Power, Docket No. E-111/GR14-482 and compare the base costs of power to the bases in use.  | There are elements within the docket that are used in the financial audit but since the docket has a different period than the audit, the auditors focus on the calendar year information. |
| 3 | Recalculate the billing adjustment charge (credit) per kWh charged to customers for purchased power for the period July 1, 2019 through June 30, 2020, as set forth in Exhibit II – Statement of Electric Power Automatic Resource Adjustment Charges (Credits) by Class of Service and compare with the filed tariff.  | The financial audit does not include a review of Exhibit II.   |
| 4 | Review the accounting records for the revenues billed to customers for energy delivered for the period July 1, 2019 through June 30, 2020. Compare the total sales of electric energy in kWh to the Association's billing register. On a test basis, examine individual billings for each class of service, recalculate the automatic adjustment charges and credits used by the Association and trace these amounts to the individual customers' subsidiary records to ensure that the calculated credit or charge was recorded. | The auditors review a sampling of member bills but do not test each class of service as is done as part of the agreed upon procedures.   |
| 5 | Examine the Minnesota Public Utilities Commission – Order Approving Conservation Adjustment and Granting Variance, Docket No. E-111/M-94-227 and Order Approving Proposal for Mechanism to Correct the Power Cost Adjustment, Docket No. E-111/M-99-1396. Agree the amounts of conservation cost recovery expenses included in the conservation tracker recovery account to the accounting records.   | The auditors validate the ending expense and balance sheet amounts in the tracker to the general ledger. They don't review the PUC dockets for the financial audit.                        |

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<sup>2</sup> Per the spreadsheet provided in DEA's January 29, 2021 email. See DOC Attachment 1 to these comments.

|   |   |   |
|---|---|---|
| 6 | Examine Minnesota Public Utilities Commission – Order Approving Property Tax Adjustment Rider as Modified and Granting Variance, Docket No. E-111/M-95-1395. Recalculate the projected under recovered property tax and examine, on a test basis, property tax billings. Agree the amounts included in the property tax tracker recovery account to the accounting records. | The auditors validate the ending balance to the general ledger. They don't review the PUC dockets for the financial audit.  |
| 7 | Reconcile the total revenue and the cost of power to the Association's general ledger with the information in Exhibit II.   | The auditors reconcile revenue and cost of power to the general ledger but not to Exhibit II for the financial audit.   |
| 8 | Recalculate the true-up calculation and trace the related revenue and expense amounts to the Association's accounting records and note the agreement with the amounts used in the true-up calculation.  | The auditors review the tracker spreadsheet, agree the KWH sales and power cost to general ledger or internal reporting for the financial audit. They also review year-end adjustments for the financial audit. |

The Department reviewed the additional information provided by DEA in the above table. The Department notes that most AAA audit steps have comparable audit steps performed in the annual financial audit. However, the main difference appears to be that the audits cover different time frames; the AAA auditor focuses on fiscal-year costs (referred to above as Exhibit II) while the financial auditors focuses on calendar-year costs reflected in DEA’s general ledger. The Department also notes that, unlike the AAA auditor, the financial auditor does not recalculate the billing charges by customers class and compare them to the filed tariff (see audit steps 3 and 4). However, the Department concludes there is little to be gained from having an auditor recalculate tariffed rates that have already been approved by the Commission. Finally, the Department notes that the financial auditor does not review PUC dockets, nor does it recalculate the projected under-recovered property tax and examine, on a test basis, property tax billings (see audit step 5); however, the financial auditor does tie the property tax tracker balance to its calendar year-end general ledger.

With regards to some of these concerns, DEA stated that beyond the assurances provided by its annual audit, it has easily verifiable statements that it receives for two major components of its RTA:<sup>3</sup>

- monthly wholesale power cost bills from Great River Energy (GRE) that can be used to verify DEA’s reported wholesale power costs. In addition, DEA stated that GRE’s financial auditor validates what DEA booked for power costs in comparison to what GRE stated in its financials.
- Property tax statements from Counties where DEA has facilities. DEA stated that its overall property taxes can be verified from these statements.

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<sup>3</sup> Per DEA’s January 29, 2021 email. See DOC Attachment 1 to these comments.

- Finally, while not provided by a third-party, DEA stated that it tracks all CIP related costs through project coding that is provided as part of their annual RTA filing.

Similar to recalculating Commission-approved rates, the Department concludes that there is little to be gained from having the auditor recalculate or review property taxes in the AAA audit when they can be verified from the property tax statements provided in DEA's annual RTA filing.

Based on all the above, the Department concludes that there is significant and unnecessary overlap between the AAA audit and the annual financial audit that warrants DEA's request for a variance. The Department discusses the criteria for granting a variance below.

### *C. Criteria for Granting Variances*

Minnesota Rule 7829.3200 establishes the criteria for granting a variance. Minnesota Rule 7829.3200 states that the Commission shall grant a variance to its rules when it determines that the following requirements are met:

1. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
2. granting the variance would not adversely affect the public interest, and;
3. granting the variance would not conflict with standards imposed by law.

#### *1. Enforcement Would Impose Excessive Burden*

DEA stated that with its AAA information being submitted in future RTA filings, the independent audit performed on July 1 to June 30 fiscal year power costs and recoveries as specified for the AAA report serves no useful purpose. DEA stated that its annual power costs can be verified by reviewing the monthly power cost invoices from Great River Energy. In addition, DEA stated the application of its rates is being verified in the Cooperative's annual financial audit. As a result, DEA stated that the AAA fiscal year audit is duplicative and devotes staff resources and expense to an effort that does not bring value to the Cooperative's members.

The Department agrees with DEA that its wholesale power costs and recoveries can be verified in its annual RTA filings by reviewing the monthly cost invoices from GRE. In addition, the Department agrees with DEA that the application of its Commission-approved rates is being verified in the Cooperative's annual financial audit. As a result, the Department concludes that requiring DEA to continue to provide a AAA fiscal year audit report under Minnesota Rule 7825.2820 constitutes an unnecessary and excessive burden on the Cooperative and its members.

*2. Granting the Variance Does Not Adversely Affect the Public Interest*

DEA stated that in this case the public interest is represented by the financial impact of the Cooperative of not paying for an independent audit of fiscal year power costs and recoveries when the regulatory agencies are reviewing DEA's calendar-year power costs and recovery in its annual RTA filings, and the independent audit of the Cooperative's finances provide the necessary assurance of proper accounting. As a result, DEA stated that it believes it is reasonable to eliminate this redundant audit.

The Department agrees with DEA and concludes that its proposed variance in this case does not adversely affect the public interest.

*3. Variance Does Not Conflict with Standards Imposed by Law*

DEA stated that it is not aware of any conflict with any standards imposed by law. Likewise, the Department is not aware of any conflicts with standards imposed by law if the variance is granted.

*4. Summary*

Based on the above, the Department concludes that DEA's variance request meets the criteria established under Minnesota Rule 7829.3200 and recommends that the Commission approve DEA's variance request for the audit requirement under Minnesota Rule 7825.20 for all future RTA filings after January 2021.

**IV. DEPARTMENT RECOMMENDATIONS**

The Department recommends that the Commission approve DEA's proposed variance request for the audit requirement under Minnesota Rule 7825.2820 for all future RTA filings after January 2021.

MJ/ja



**From:** [Larson, Doug](#)  
**To:** [Johnson, Mark \(COMM\)](#)  
**Cc:** [Hintz, Corey](#); [Fehlhaber, Eric](#)  
**Subject:** Comments re 20-789  
**Date:** Friday, January 29, 2021 9:53:03 AM  
**Attachments:** [DEA\\_5color\\_tsNEW- e5ecca42-ff30-461a-a21e-6da96aa39390.png](#)  
[Facebook\\_5f5e71fb-f8bb-4449-bc72-b3c0824169bf.png](#)  
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[AAA vs Financial Audit Modified with Auditor Responses.xlsx](#)

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Mark,

I talked with Corey Hintz and here are our thoughts on comments and questions related to our AAA audit waiver request.

First, as we discussed, there was an apparent misunderstanding about what it meant to move the AAA report information from the September 1 filing date to instead be included with the January RTA filing. Dakota Electric understood this to mean that we simply provided the same fiscal-year (July 1 – June 30) data but submit it in January instead of September. We now understand that your thought was to also have the AAA report cover a calendar-year timeframe. While Dakota Electric was more than willing to move the submission date of the information, adjusting the time period of the data covered is a huge challenge. To accomplish the typical January 11 RTA filing date, Dakota Electric financial folks must assemble/coordinate much information. It takes every hour to get this accomplished and, even at that, there is data for December that is estimated every year (and then trued-up in the submission for the following year). Submitting the AAA data based on a calendar-year would add to this time constrained effort – and we would still need to include some estimated data that is presently actual data in the fiscal-year timeframe. To include an audit of the AAA calendar-year data would not even be possible by the January 11 typical filing date.

Next, we considered what is being covered in the AAA audit and how the same basic auditing functions are being performed on the Cooperative's annual financials. Attached is an identification of the steps that are performed on the AAA report data and the comparable audit functions that are performed as part of our annual cooperative audit. The essential audit functions are comparable, although the annual audit does not specifically review past PUC dockets/orders. It is this comparability of audit review that led us to request this variance. This duplication has been the case since Dakota Electric has been rate regulated in the early 1980s. We continued to have an audit performed on AAA data because it was

required by Minnesota Rules. We perform an annual cooperative audit as a normal course of business. The request to waive the audit of AAA data became more apparent as we now submit the AAA report at the time of the annual RTA filing.

Even beyond the assurance of an audit review, we note that there are easily verifiable statements that Dakota Electric receives for two major components of the RTA as follows:

- We receive monthly wholesale power cost bills from Great River Energy. These can be used to verify our reported wholesale power costs.
  - Additionally, GRE's financial auditor annually validates what DEA booked for power costs in comparison to what GRE has stated on their financials for the related year.
- We receive property tax statements from the Counties where we have facilities. The overall property taxes can be verified from these statements.

Finally, while not a statement from a third-party, Dakota Electric tracks all CIP related costs through project coding. The detail of this project coding is provided as part of our annual RTA filing.

If you have any questions about this summary, please let me know.

Thank you for your review and comments on this variance request.

Regards,  
Doug



## Doug Larson

VP of Regulatory Services

651-463-6258

dlarson@dakotaelectric.com

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Farmington, MN 55024



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**AAA****Annual Financial Audit**

Confirm with the power supplier the cost of purchased power for the period July 1, 2019 through June 30, 2020. Compare the documentation supporting payments and invoices received from the utility supplying energy.

The auditors confirm purchased power and select some months for testing. They review the invoice but not the disbursement.

Examine the Minnesota Public Utilities Commission – Approved Base Costs of Power, Docket No. E-111/GR14-482 and compare the base costs of power to the bases in use.

There are elements within the docket that are used in the financial audit but since the docket has a different period than the audit, the auditors focus on the calendar year information.

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The financial audit does not include a review of Exhibit II.

Review the accounting records for the revenues billed to customers for energy delivered for the period July 1, 2019 through June 30, 2020. Compare the total sales of electric energy in kWh to the Association's billing register. On a test basis, examine individual billings for each class of service, recalculate the automatic adjustment charges and credits used by the Association and trace these amounts to the individual customers' subsidiary records to ensure that the calculated credit or charge was recorded.

The auditors review a sampling of member bills but do not test each class of service as is done as part of the agreed upon procedures.

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The auditors validate the ending balance to the general ledger. They don't review the PUC dockets for the financial audit.

Reconcile the total revenue and the cost of power to the Association's general ledger with the information in Exhibit II.

The auditors reconcile revenue and cost of power to the general ledger but not to Exhibit II for the financial audit.

Recalculate the true-up calculation and trace the related revenue and expense amounts to the Association's accounting records and note the agreement with the amounts used in the true-up calculation.

The auditors review the tracker spreadsheet, agree the KWH sales and power cost to general ledger or internal reporting for the financial audit. They also review year-end adjustments for the financial audit.

## **CERTIFICATE OF SERVICE**

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons 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. E111/M-20-789**

**Dated this 16<sup>th</sup> day of February 2021**

**/s/Sharon Ferguson**

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| Douglas        | Larson                         | dlarson@dakotaelectric.com           | Dakota Electric Association        | 4300 220th St W<br><br>Farmington, MN 55024                         | Electronic Service | Yes               | OFF_SL_20-789_M-20-789 |
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| Will           | Seuffert                       | Will.Seuffert@state.mn.us            | Public Utilities Commission        | 121 7th PI E Ste 350<br><br>Saint Paul, MN 55101                    | Electronic Service | Yes               | OFF_SL_20-789_M-20-789 |
| Eric           | Swanson                        | eswanson@winthrop.com                | Winthrop & Weinstine               | 225 S 6th St Ste 3500<br>Capella Tower<br>Minneapolis, MN 554024629 | Electronic Service | No                | OFF_SL_20-789_M-20-789 |