

Minnesota Public Utilities Commission
Staff Briefing Papers

Meeting Date: August 21, 2014 *Agenda Item # 5

Company: Dakota Electric Association (“Dakota Electric”, “DEA”, “Dakota”, or the “Company”)

Docket No. E-111/GR-14-482
In the Matter of the Application by Dakota Electric Association for Authority to Increase Rates for Electric Service in Minnesota

Issues: **Should this filing be accepted, the proposed rates suspended, this matter referred to the Office of Administrative Hearings for contested case hearing, and interim rates set as requested by the Company?**

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Relevant Documents

Dakota Electric - Initial Filing & Interim Rate Petition July 2, 2014
Department – Comments July 14, 2014
Dakota Electric - Reply Comments July 18, 2014
Dakota Electric – Revised Customer Rate Increase Notice July 30, 2014

The attached materials are workpapers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless otherwise noted.

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August 14, 2014

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Statement of the Issues

- Should this filing be accepted as complete? Should the proposed rates be suspended? If so, for what period?
- Should this matter be referred to the Office of Administrative Hearings for a contested case proceeding? If so, are there issues in addition to the standard rate case issues the Commission would like parties to address?
- What level of interim revenue increase should be set? Should the Commission find exigent circumstances in its determination of interim rates? How should the increase be collected from customers?

Overview

The basic issues at this stage of a rate case are whether to accept the filing, suspend the proposed final rates, refer this matter to the Office of Administrative Hearings (OAH) for a contested case proceeding, and set interim rates subject to refund.

On July 2, 2014, Dakota Electric Association (“Dakota Electric”, “Dakota” or “DEA”) filed a general rate case with the Minnesota Public Utilities Commission (Commission) which was assigned Docket No. E-111/GR-14-482. The Company is asking for an increase in its retail electric rates in Minnesota of approximately \$4,189,000 or approximately 2.1 percent per year, effective September 11, 2014, based on a calculated, effective rate of return on common equity capital of 6.01¹ percent.

Dakota Electric’s proposed test year, ending on December 31, 2014, was developed from DEA’s historical 2013 calendar year operations adjusted for known and measureable changes. Dakota serves approximately 103,171 customers and has proposed total annual electricity sales to be approximately 1,898,207 MWh.²

Dakota Electric is requesting an interim rate increase of approximately \$2,982,000, or 1.5 percent annual increase, an amount it anticipates to be sufficient to maintain positive annual margins in 2014 and during the pendency of this case. The Company’s requested interim revenue increase is less than what an interim increase would be if it were calculated per statute (Minn. Stat. § 216B.16 subd. 3 (b)). More specifically, Dakota stated that calculating interim rates based upon Commission requirements would result in an interim revenue increase of \$5.1 million, or a 2.58 percent revenue increase, which also exceeds its total final revenue increase request of \$4.2 million, or 2.1 percent.

Dakota Electric has proposed to apply the interim rate increase as a uniform 1.5 percent increase to the subtotal of its members’ bills.³

¹ DEA’s return on equity request is 4.49%. The effective return on equity (ROE) was calculated using DEA’s ROE request of 4.49% multiplied by the Total Capital-to-Total Rate Base Factor (or 1.339).

² Initial filing Exhibit DEA-1, p. 12.

³ The application of a uniform percentage increase to its customer’s billing subtotals is the same approach used in the Company’s most recent interim rate increase (Docket E-111/GR-09-175, Interim Exhibit, page 7). The subtotal

Background

On July 7, 2014, the Commission issued its notice requesting comments on whether Dakota Electric's filing complies with the filing requirements in Minn. Stat. § 216B.16, Minn. Rules, Parts 7825.3100 to 7825.4400 and Commission Orders. The Commission also asked for comments on whether this rate application should be referred to the Office of Administrative Hearings (OAH) for a contested case proceeding.

On July 14, 2014, the Minnesota Department of Commerce, Division of Energy Resources (Department) recommended the Commission accept Dakota's application as substantially complete. In its comments, the Department stated that its initial review of Dakota's filing relates only to whether Dakota's application is substantially complete with respect to:

- Minn. Stat. § 216B.16;
- Minn. Rules, Parts 7825.3100 to 7825.4400;
- Commission Policy Statements;
- Commission's Order from Dakota's last rate case (E-111/GR-09-175); and
- Commission's Orders in various dockets prior to and subsequent to DEA's most recent rate case.

The Department noted that DEA provided a matrix of regulatory requirements in Volume 1 of its Petition. This matrix identified where in this filing applicable Statutes and Rules, Commission Policy Statements, and prior Commission Orders were addressed by the Company.

The Department concluded that DEA's application complied with the filing requirements. The Department noted that this initial review did not assess the substance, merits or reasonableness of Dakota's request, or whether Dakota had met its burden of proof with respect to its request for this rate increase. Further analysis and a more in depth review can be undertaken in an investigatory period to determine reasonableness of DEA's proposals. The Department recommended the Commission accept the Petition and refer this matter to the Office of Administrative Hearings for a contested case proceeding.

On July 18, 2014, Dakota Electric submitted a letter agreeing to the Department's conclusions and recommendations.

On July 30, 2014, Dakota Electric filed a revised customer notice, incorporating recommended updates and changes suggested by Commission staff.

includes, in part, the basic charge, energy charge, demand charge, a resource tax adjustment, and controlled air conditioning/water heating discounts.

Prior Rate Cases

Over the past 25 years (1989 – 2013), Dakota Electric has filed three rate cases.

Table 1

Rate Case	Request		Interim		Final Granted	
	Amount	% Increase	Amount	% Increase	Amount	% Increase
2009	\$ 6,029,000	3.40%	\$ 3,567,821	2.00%	\$5,902,380	3.20%
2003	\$ 5,956,000	5.40%	none requested	n/a	\$5,356,793	4.80%
1991	\$ 4,002,777	6.03%	\$ 3,963,702	6.00%	\$3,950,724	5.99%

In Dakota Electric's prior three rate cases, the final authorized rates have been in the range of 90 to 98 percent of the requested final rates.

In this filing, Dakota's interim rate increase request of \$2,982,000 is approximately 71.2 percent of the Company's total final rate increase request of \$4,189,000.

Dakota's Application

Dakota Electric stated that its application for a rate increase has two objectives. The first is financial. Dakota Electric requests an increase in rates of approximately \$4,189,000 or approximately 2.1 percent per year, effective September 11, 2014. Dakota Electric states it has experienced steadily increasing costs to provide electric distribution service. Under present rates, Dakota anticipates its 2014 net operating margin to be \$664,000, making an increase in rates necessary and unavoidable. Dakota's second objective is to make continuing progress in aligning the class rates and revenues with the cost of providing service. A cost of service study is included to assist in this objective.

1. Comparison of Authorized and Proposed Revenue Requirement

The following abbreviated schedule compares the revenue requirement approved in Dakota Electric's most recent rate case⁴ (2009 rate case) and the proposed revenue requirement in this docket.

Table 2

Financial Summary	Authorized 2009 Rate Case Docket No. E-111/GR-09- 175	Proposed 2014 Rate Case Docket No. E-111/GR-14- 482
Rate Base	\$161,221,972	\$171,613,635
Rate of Return	7.42%	6.52%
Return on Equity	6.26%	6.01%
Required Operating Income	\$11,962,670	\$11,191,322
Less: Non-Operating Income ‡	\$908,416	\$399,147
Net Operating Income Required	\$11,054,254	\$10,792,175
Total Revenue (including energy revenue)	\$184,297,196*	\$199,564,247
Operating Expense (including energy cost)	\$167,402,677	\$192,961,304
Operating Income	\$11,054,254	\$6,602,943
Revenue Deficiency	-----	\$4,189,232

Notes:

‡ - Non-Operating income consists of equity investments, interest earned and other non-operating margins.

* - Total allowed revenue from rates was \$184,297,196. However Total Operating Revenue netted to \$178,456,931 (\$184,297,196 - \$5,840,265) due to a negative Other Revenue resulting primarily from the variance between the Resource Tax Adjustment rider's billed and booked amounts.

The proposed increase of approximately \$4,189,000 can be attributed to the following changes since rates were increased in the 2009 rate case:

Increase in Rate Base	\$771,075
Decrease in Net Income	\$4,960,580
Decrease in Rate of Return	<u>(\$1,542,423)</u>
Total	\$ 4,189,232

⁴ Docket No. E-111/GR-09-175.

The Company has proposed a rate base increase of 6.4 percent since its last filing. However, the lower overall rate of return requested in this filing reduces the impact that the rate base increase has on the required operating income.

The Company's requested increase is primarily attributed to increases in operating expenses of about \$4.1 million (excluding the pass through purchased power costs). Shown below is a comparison of current non-power operating expense areas to the Company's last general rate filing (E-111/GR-09-175):

Table 3

Non-Power Cost Operating Expense	Rate Case Filing Comparison		Change in \$
	2009 Approved	2014 Proposed	
Distribution			
Operations	6,370,324	7,384,602	1,014,278
Maintenance	5,200,647	6,314,230	1,113,583
Consumer Accts	4,233,690	4,315,618	81,928
Consumer Svc & Info	3,035,321	3,193,367	158,046
Admin. & General	8,576,754	9,492,140	915,386
Depr & Amort.	8,104,476	8,497,932	393,456
Taxes - Property	3,057,802	3,700,450	642,648
Other- Interest	450,793	283,445	(167,348)
Other Deductions	(102,918)	(202,541)	(99,623)
Total Non-Power Operating. Exp.	\$ 38,926,889	\$ 42,979,243	\$4,052,354

Presented next, a limited review of operating expense items shows that the increase (change) in employees' wages and benefit expenses together account for more than half of this filing's operating expense increases over costs levels in Dakota's 2009 rate case. In addition, notable increases in the proposed property taxes and depreciation expense have also contributed to the proposed income deficiency. Reviewed in isolation, these four operating expense items represent approximately 85 percent of the Company's proposed rate increase. This review is shown below:

Table 4

Comparison of Certain Operating Expenses				
Source: Exhibit DEA-1*				
Description	2009	2014	Change in \$ from 2009 to 2014	\$ Change
				Expressed as % of Proposed 2014 Increase
Payroll Expense	13,604,274	15,176,774	1,572,500	
Employee Benefits	6,189,554	6,965,841	776,287	
Subtotal: Change in payroll/bene.:			2,348,787	56.1%
Depreciation	7,857,816	8,497,932	640,116	
Property Taxes	3,100,000	3,700,000	600,000	
Subtotal: Change in depr./prop. tax:			1,240,116	29.6%
Total				85.7%
* - 2009: Docket E-111/GR-09-175, Exhibit DEA-1, pp. 6-7.				
* - 2014: Docket E-111/GR-14-482, Exhibit DEA-1, pp. 7-8.				

2. Proposed Test Year Cost of Capital

The Commission approved the following capital structure and cost rate by type of capital in Dakota Electric's previous rate case, Docket E-111/GR-09-175:⁵

Type of Capital	Proportion	Cost Rate	Weighted Cost
Long-Term Debt	55.39%	5.81%	3.22%
Common Equity	44.61%	6.26%	2.79%
Weighted Cost of Capital	100%		6.01%
Return on Rate Base		Rate Base Factor = 1.233	7.42%

Typically, the rate of return method is intended to ensure that earnings are sufficient to cover the cost of debt (interest) and generate a fair return on the investment (equity) for the owners.

Dakota Electric has proposed the following test-year capital structure and return on type of capital in the instant rate case:⁶

Type of Capital	Proportion	Cost Rate	Weighted Cost
Long-Term Debt	46.715%	5.31%	2.48%
Common Equity	53.285%	4.49%	2.39%
Weighted Cost of Capital	100%		4.87%
Return on Rate Base		Rate Base Factor = 1.339	6.52%

Dakota Electric's overall Rate of Return on Rate Base (6.52%) is given by the formula:

$$\text{Weighted Cost of Capital (4.87\%)} \times \text{times the Ratio of Total Capital to the Rate Base (1.339)}^7$$

Dakota Electric noted that the rate of return method for establishing the margin requirement has been recommended by the Department and previously approved by the Commission and that it is intended to ensure that earnings are sufficient to cover the cost of debt (interest) and generate a fair return on the investment (equity) for the owners. However, because Dakota Electric is a cooperative and not an investor-owned utility, the rate of return methodology is intended to

⁵ Order, May 24, 2010, p. 21.

⁶ D. R. Larson, Direct Testimony, p. 15.

⁷ The Ratio of Total Capital to the Rate Base is the rate base factor. According to Dakota electric, "Rate of return on rate base is not a financial performance metric used by Dakota Electric's Lenders." [Larson, Direct, p. 16]

permit the development of sufficient margins to cover the cost of debt and equity capital. As distinct from the case of investor-owned utilities, the term “return on equity” when applied to cooperatives, is related to the retirement, or rotation, of patronage capital and meets the financial covenants of their lenders.

In Dakota Electric’s last rate case, the Commission ordered Dakota Electric to demonstrate in its next rate case that its long-term interest expense was prudently incurred and that Dakota Electric shall include data on the rates offered by other lenders.⁸ Dakota Electric provided this information in non-public, Workpaper 17, entitled “Long Term Interest Expense Prudently Incurred.”

3. Proposed Class Cost of Service Study (CCOSS)

Minnesota Rules, Part 7825.4300(c) requires a request for a change in rates to include a class cost-of-service study.⁹ Dakota’s rate case filing contained its analysis of class cost of service.

Dakota’s cost of service study is an engineering evaluation and provides a rough guide to designing rates.

Dakota’s cost of service presented in this rate case is the same as the study previously approved by the Commission. In the instant filing, however, the cost study incorporates two modifications.

First, it responds to the Commission’s order in the previous rate case in which the Commission adopted a Department recommendation requiring Dakota to “either use the minimum-size method to classify Distribution accounts, or provide such an analysis to support the outcome of the zero-intercept method.”¹⁰

Second, the cost of service has incorporated Dakota’s wholesale supplier’s implementation of a new ancillary service energy charge by distributing the ancillary service energy costs to each energy cost component based upon the kWh purchases and the ancillary services rate.

The total revenue requirement distributed to the various customer classes in this case is \$200,728,492.¹¹ The following table (Table 7) provides a comparison of Dakota Electric’s

⁸ Order, May 24, 2010, Docket E-111/GR-09-175, p. 12 and ordering paragraph 5.

⁹ The cost of service studies identify and attribute the cost of providing service to each rate class according to load and service features. Essentially, the cost of service study distributes the fully-embedded cost to each service class according to cost-causative functions.

Costs incurred in providing service are classified according to whether these are directly assignable to the customer class responsible for these costs; whether costs are related to consumer number and location; whether costs are incurred while a utility stands ready to serve peak demand by adding capacity; and whether costs are related to the amount of energy used.

In the end, the cost study takes the revenue requirement and distributes it among the various rate classes.

¹⁰ Order, May 24, 2010, Docket E-111/GR-09-175, pp. 12-14 and ordering paragraph 6.

¹¹ This number is slightly less than the Pro Forma Test Year Revenue Requirement of \$203,753,479 (Interim exhibit, page 3 of 14).

estimate of its cost of providing service to each rate class (based on its proposed revenue requirement) with the revenue generated under the present rates by that class:

Table 7				
Cost of Service Summary				
Rate Class	Revenue Requirement (Cost)	Present Revenue	Revenue Deficiency	% Revenue Increase Indicated by Cost Study¹²
Residence and Farm	\$115,576,812	\$112,384,414	-\$3,192,398	2.84%
Small General Service	\$7,171,338	\$6,674,522	-\$496,816	7.44%
Irrigation	\$997,009	\$977,226	-\$19,783	2.02%
General Service	\$47,749,413	\$47,909,060	\$159,647	-0.33%
C&T Interruptible	\$27,212,425	\$26,594,877	-\$617,548	2.32%
Lighting	\$2,021,495	\$1,990,160	-\$31,335	1.12%
Total	\$200,728,492	\$196,530,259	-\$4,198,233	2.14%

Dakota Electric uses the percent revenue increase indicated by the cost study as a guide in proposing the actual rate increase, but it allows for other influences such as mitigating abrupt rate shocks.

4. Proposed Test-Year Customer and Energy Sales (kWh) Forecast

In Dakota Electric's last rate case, the Commission ordered Dakota Electric in future rate cases to "be consistent in its use and source of weather data in determining its sales forecast."¹³ Dakota Electric referred to Workpaper 13, entitled "Sales History and Forecasted Test Year Normalization" to demonstrate its compliance with this requirement.

Dakota notes that,

"[t]he calculation of forecasted Test Year billing units is shown in Workpaper 13. The forecasted billing units rely on regression analysis for the residential rate class which is most sensitive to fluctuating consumption based on changing weather. For those classes that do not experience such consumption fluctuations due to weather, the Test Year billing units reflect average energy and demand for each class multiplied times budget average number of members for the respective classes."

Staff believes Dakota has complied with this requirement in the Commission's Order from Dakota Electric's 2009 rate case.

Table 8 below provides the test year customer counts, sales (kWh) and revenue data. Dakota Electric proposes a forecasted test year ending December 31, 2014 (Test Year 2014). In Test Year 2014, Dakota Electric forecasted sales of approximately 1,898,203,860 kWh based on an

¹² % Revenue Increase = ABSOLUTE VALUE (Revenue Deficiency)/Present Revenue

¹³ Order, May 24, 2010, Docket E-111/GR-09-175, p. 6 and ordering paragraph 4.

average customer count of 103,171. The pro forma test year revenue of \$198,872,121 is derived from estimated customers, sales and demand across all customer classes.¹⁴

Residential and Farm Service (47.8 percent of total energy sales), General Service (24.5 percent of total energy sales), and C&I Interruptible (23.6 percent of total energy sales) are the three largest customer classes. Dakota Electric forecasts a decline in sales for the Residential, Farm and General Service classes (in total), and a slight increase for the C&I Interruptible class as compared to the test year in docket 09-175. On an overall basis, Dakota Electric projects a 3.4% decline in total energy sales (from 1.964 million kWh in the 2009 rate case (table 9) to 1.898 kWh in the present filing (table 8) in Test Year 2014.

Table 8					
Summary of Consumers, Energy Sales, and Revenue Under Present Rates					
Consumer and Sales Data for Pro Forma Test Year					
(a) Line No.	(b) Description	[c] 2014 Budget Avg. No. Consumers ¹⁵	(d) Energy Sales ¹⁶ (kWh)	(e) Billing Demand ¹⁷ (kW)	(f) Revenue ¹⁸ (\$)
1	Residential & Farm Service (31)	95,586	879,773,544	N.A.	113,330,908
2	Residential & Farm Demand Control (32)	18	442,584	1,158.8	48,617
3	Electric Vehicle (33)	5	13,080	N.A.	1,037
4	Irrigation Service (36) Firm	9	273,780	2,704.2	69,220
5	Irrigation Service (36) Interruptible	340	10,342,800	61,855.0	904,565
6	Small General Service (41)	4,630	53,504,280	N.A.	6,767,752
7	Security Lighting Service (44)	1,214	714,480	N.A.	158,673
8	Street Lighting Service (44)	2,480	2,599,800	N.A.	494,127
9	Street Lighting Service (44-1)	474	484,680	N.A.	66,583
10	Street Lighting Service (44-2)	11,944	6,566,880	N.A.	1,272,737
11	Low Wattage Unmetered Service (45)	54	-	N.A.	5,184
12	General Service (46)	2,316	446,839,776	1,394,678.8	47,284,619
13	Municipal Civil Defense Sirens (47)	65	-	N.A.	3,900
14	Geothermal Heat Pump (49)	5	387,300	N.A.	32,921
15	Controlled Energy Storage (51)	1,346	9,529,680	N.A.	404,057
16	Controlled Interruptible Service (52)	6,648	46,828,512	-	2,481,912
17	Residential & Farm Time of Day (53)	19	246,468	N.A.	31,553
18	General Service Time of Day (54)	8	4,934,016	23,268.5	455,726
19	Standby Service (60)	1	-		56,550
20	Full Interruptible Service (70)	211	408,431,856	925,439.9	24,579,461

¹⁴ See Exhibit DEA-1, page 12 of 20.

¹⁵ Pro Forma Test Year consumers are based on DEA's average number of 2014 budgeted consumers.

¹⁶ Energy Sales are based on average monthly sales using 5 years of history multiplied by average budgeted 2014 number of customers. See Vol. 2, Workpaper 13

¹⁷ Ibid.

¹⁸ See Exh. DEA-1, pages 13 through 19.

(a) Line No.	(b) Description	[c] 2014 Budget Avg. No. Consumers ¹⁵	(d) Energy Sales ¹⁶	(e) Billing Demand ¹⁷	(f) Revenue ¹⁸
			(kWh)	(kW)	(\$)
21	Partial Interruptible Service (71)	28	26,293,344	115,434.9	1,921,760
22	Cycled Air Conditioning Service (80)	39,480	5,666,000	N.A.	(1,539,168)
23	Wellspring				39,427
24	Total ¹⁹	103,171	1,898,203,860	2,524,539.5	198,872,121
25	Actual Revenue Recorded 2013				193,604,527
26	Adjustment				5,267,594

The data relating to the test year in Docket E-111/GR-09-175 (09-175) are presented in Table 9 below.

(a) Line No.	(b) Description	[c] 2009 Budget Avg. No. Consumers	(d) Energy Sales	(e) Billing Demand	(f) Revenue
			(kWh)	(kW)	(\$)
1	Residential & Farm Service (31)	94,601	904,018,356	N.A.	104,462,654
2	Residential & Farm Demand Control (32)		430,920	1,083.2	41,294
3	Irrigation Service (36) Firm		657,120	5,840.4	148,614
4	Irrigation Service (36) Interruptible	295	9,692,520	64,447.4	808,014
5	Small General Service (41)	4,259	53,636,354	N.A.	6,042,101
6	Security Lighting Service (44)	1,271	808,548	N.A.	157,506
7	Street Lighting Service (44-2)	2,429	2,627,820	N.A.	447,214
8	Street Lighting Service (44-1)	451	476,940	N.A.	56,740
9	Custom Residential Street Lighting Service (44-3)	11,714	7,050,384	N.A.	1,154,964
10	Low Wattage Unmetered Service (45)			N.A.	4,992
11	General Service (46)	2,328	496,022,710	1,541,143.2	45,747,664
12	Municipal Civil Defense Sirens (47)			N.A.	3,780
13	Geothermal Heat Pump (49)		313,200	N.A.	18,792
14	Controlled Energy Storage (51)	1,026	7,879,680	N.A.	315,187
15	Controlled Interruptible Service (52)	5,862	42,206,400	-	2,025,907

¹⁹ The total number of consumers excludes Security, Street & Residential Lighting, Low Wattage Unmetered Service, Municipal Civil Defense Sirens, Controlled Off-Peak Energy Storage, Interruptible Heating, and Controlled Air Conditioning Service.

Table 9					
(Compliance Filing, Schedule C, Dkt 09-175)					
Summary of Consumers, Energy Sales, and Revenue Under Ordered Rates					
Consumer and Sales Data for Pro Forma [2009] Test Year					
(a) Line No.	(b) Description	[c] 2009 Budget Avg. No. Consumers	(d) Energy Sales	(e) Billing Demand	(f) Revenue
			(kWh)	(kW)	(\$)
16	Residential & Farm Time of Day (53)		262,080	N.A.	29,860
17	General Service Time of Day (54)		5,088,000	27,141.5	476,763
18	Standby Service (60)	1	-	-	98,280
19	Full Interruptible Service (70)	170	406,741,320	903,997.4	22,076,423
20	Partial Interruptible Service (71)		26,977,824	102,169.8	1,749,189
21	Cycled Air Conditioning Service (80)	39,432	406,741,320		(1,569,258)
22	Total	101,207	1,964,890,176	2,645,822.9	184,296,679

5. Proposed Rate Design

The following summary is an overview of some of the proposed changes in rate design and is not meant to be a complete or comprehensive catalog of Dakota Electric's rate design proposal in this docket.

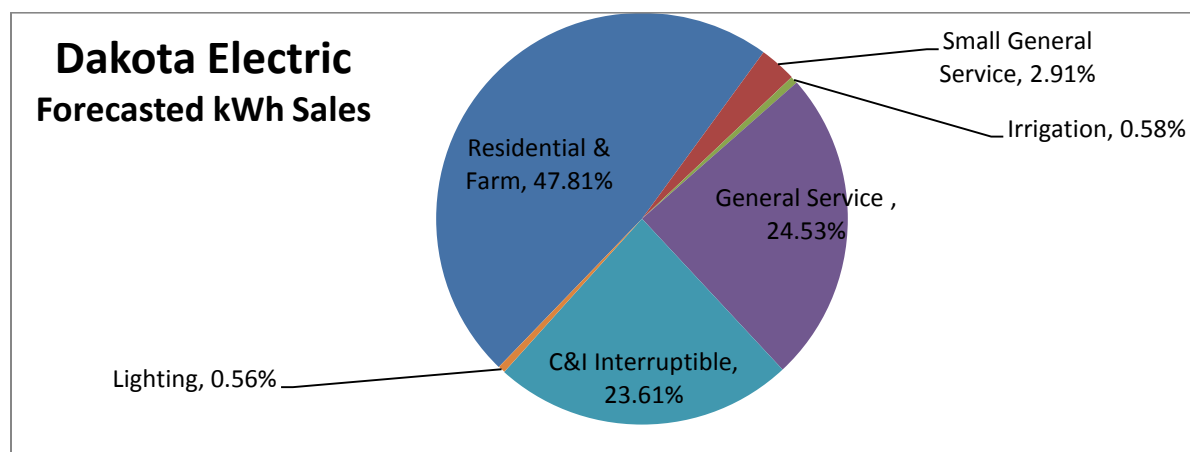
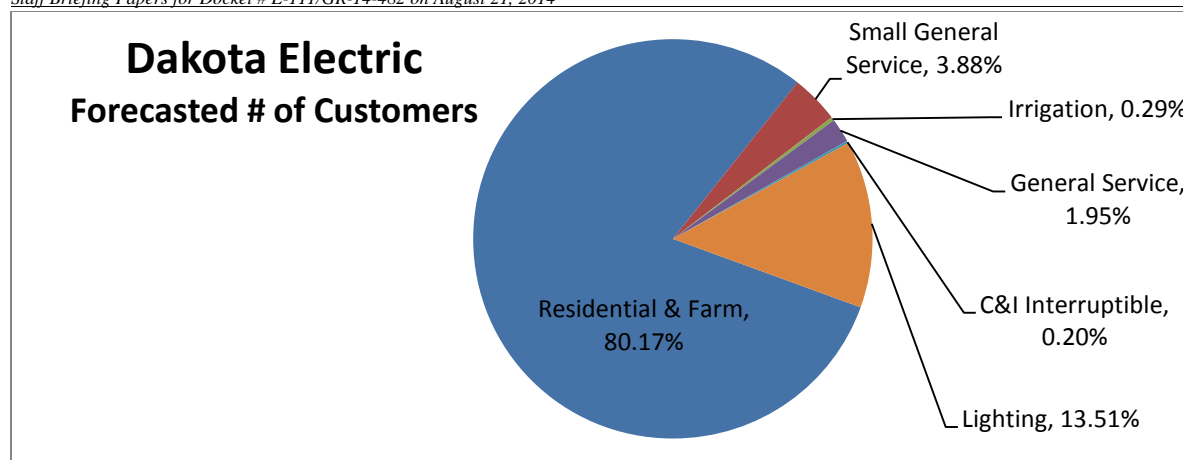
Approximately 80% of Dakota Electric's customers are Residential & Farm customers²⁰, 2% are General Service customers²¹ and 0.20% percent of customers are Commercial and Industrial (C&I).²² General Service (i.e. C&I Firm) and C&I interruptible customers each account for nearly one fourth of Dakota's forecasted sales in kWh and Residential and Farms service customers account for a little less than one half of Dakota's forecasted sales in kWh.²³

²⁰ Residential and Farm customers consist of three separate rate schedules: (1) Schedule 31, the largest rate class with 95,586 customers forecasted for 2014 is Residential & Farm Service that is available to individual residential and farm members for all domestic and farm use, except irrigation; (2) Schedule 32, Residential & Farm Demand Control that is available to residential and farm members with at least 5 kW of controlled electric heating units (18 forecasted customers in 2014); and (3) Schedule 53, Residential and Farm Service with Time-of-Day Rate (19 forecasted customers in 2014).

²¹ General Service customers consist of two rate schedules: (1) Schedule 46 General Service that is available to any commercial member for all uses except irrigation (2316 forecasted customers in 2014), and (2) schedule 54, General Service Time of Use rate (8 forecasted customers in 2014).

²² C&I Interruptible consist of two rate schedules that are available to any member with a minimum controllable demand of 50 kW: (1) Schedule 70, Full Interruptible Service (211 forecasted customer in 2014), and (2) Schedule 72, Partial Interruptible Service (28 forecasted customers in 2014).

²³ The total forecasted customers and kWh sales in the pie charts does not include Municipal Civil Defense Sirens, Low Wattage Unmetered Service, Electric Vehicle, Geothermal Heat Pump, Controlled Energy Storage, Controlled Interruptible Service, Standby Service, and Cycled Air Conditioning Service.



Dakota Electric has forecasted 95,623 residential & Farm customers, 2,324 General Service customers and 239 C&I Interruptible for the 2014 test year. In addition, Dakota has forecasted 4,630 Small Service Customers.²⁴ Dakota forecasted Residential & Farm customers will account for approximately 880 million kWh, General Service customers approximately 450 million kWh, C&I Interruptible customers approximately 435 million kWh and Small General Service customers approximately 50 million kWh sales in 2014.

²⁴ Small General Service customers are defined as any commercial member for all uses, except irrigation pumps, where the metered demand is 15 kW or less.

Class Revenue Apportionment

The following table²⁵ contains Dakota Electric's proposed apportionment of each customer class' responsibility for Xcel's revenue requirements under current and proposed rates as well as the proposed dollar amount and percentage increase for each customer class.

Table 10

Rate Class (Schedules)	Forecasted # of Customers	Forecasted kWh Sales	Current Revenue (\$)	Proposed Revenue (\$)	Proposed Increase	
					(\$)	(%)
Res & Farm (31,32,53)	95,623	880,462,596	\$113,411,078	\$116,552,101	\$3,141,023	2.77%
Small Gen Service (41)	4,630	53,504,280	\$6,767,752	\$7,111,447	\$343,695	5.08%
Irrigation (36) ²⁶	349	10,616,580	\$973,785	\$993,287	\$19,502	2.00%
Gen Service (46, 54)	2,324	451,773,792	\$47,740,345	\$47,759,154	\$18,809	0.04%
C & I Interruptible (70, 71)	239	434,725,200	\$26,501,221	\$27,100,366	\$599,145	2.26%
Lighting (44, 44-1, 44-2, 44- 3)	16,109	10,365,840	\$1,992,119	\$2,012,432	\$20,312	1.02%
Mun. Sirens (47)	65	--	\$3,900	\$3,900	\$0	0.00%
Low Watt Unmeter (45) ²⁷	54	--	\$5,184	\$6,480	\$1,296	25.00%
Elec. Veh. (33) ²⁸	5	13,080	\$1,037	\$989	(\$48)	-4.63%
Geo. Heat Pump (49) ²⁹	5	387,300	\$32,921	\$36,406	\$3,485	10.59%
Cnt. Nrg. Stor. (52) ³⁰	1,346	9,529,680	\$404,057	\$419,307	\$15,250	3.77%

²⁵ The tables and graphs are based on exhibits attached to Douglas R. Larson's Direct testimony. Please see Exhibits DEA-1, p. 12 of 20 and DEA-5, p. 2 of 9.

²⁶ Irrigation service consists of both firm and interruptible service that is available to any member for service to irrigation pumps.

²⁷ Available for low-wattage electronic devices that are: 1) Individually located at each point of delivery, 2) Rated at less than 150 watts, and 3) A determinable load level.

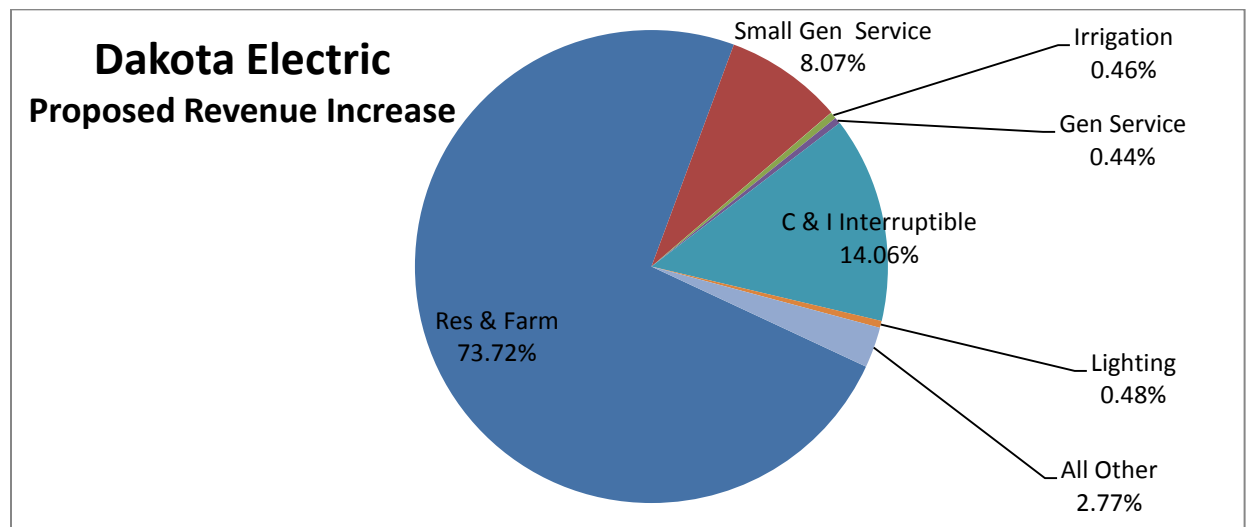
²⁸ Available on voluntary basis as a pilot program for residential consumers taking service under Schedule 31 who also desire metered service for the sole purpose of electrically charging a licensed automobile or light truck.

²⁹ Available to any commercial member for energy used by a geothermal heat pump system

³⁰ Controlled Energy Storage is available to members taking service concurrently under another rate schedule. This rate is for interruptible service to energy storage loads which are remotely controlled by the Association.

Rate Class (Schedules)	Forecasted # of Customers	Forecasted kWh Sales	Current Revenue (\$)	Proposed Revenue (\$)	Proposed Increase	
					(\$)	(%)
Cnt. Interrup (52) ³¹	6,648	46,828,512	\$2,481,912	\$2,575,568	\$93,656	3.77%
Standby Ser. (60) ³²	1	--	\$56,550	\$60,990	\$4,440	7.85%
Cycle Air Cond. (80) ³³	39,427	408,431,856	(\$1,539,168)	(\$1,664,599)	(\$125,431)	8.15%
Total Retail³⁴	127,398	1,898,206,860	\$198,832,693	\$202,967,828	\$4,135,134	2.08%

If Dakota Electric’s proposal is approved in its entirety, residential customers would be responsible for nearly 75% of the proposed revenue increases. Small General Services would be responsible for approximately 8%, General Services 0.44% and C&I Interruptible 14% of the total proposed revenue increases. Dakota’s proposed revenue increases are apportioned among the customer classes as follows:³⁵



³¹ Controllable interruptible Service is available to member taking service concurrently under another rate schedule. This rate is for interruptible service to qualifying loads which are remotely controlled by the Association.

³² Standby service is for the quantity specified in the member’s Electric Service Agreement as the maximum amount of firm or non-firm standby service the Cooperative is obligated to supply.

³³ Cycled Air Conditioning Service is available to members taking service concurrently under another rate schedule. This rate is for interruptible service to central air conditioners which are remotely controlled by the Association.

³⁴ Total customers does not include Cycled Air conditioning Service.

³⁵ All Other in the pie chart includes Municipal Civil Defense Sirens, Low Wattage Unmetered Service, Electric Vehicle, Geothermal Heat Pump, Controlled Energy Storage, Controlled Interruptible Service and Standby Service.

Customer Charges

Dakota Electric proposed to increase its monthly fixed customer charge for Residential and Farm Service by \$2.00, Small General Service by \$4.00, Irrigation and General Service by \$6.00, and C&I Interruptible by \$30.00 per month. The percentage increase for each customer class is given below.

Table 11 Schedule	Rate Class	Current	Proposed	Proposed Increase	
				(\$)	(%)
31	Residential & Farm Service	\$8.00	\$10.00	\$2.00	25.00%
32	Residential & Farm Demand Control	\$11.00	\$13.00	\$2.00	18.18%
53	Residential and Farm Service (Time-of-Day Rate)	\$11.00	\$13.00	\$2.00	18.18%
45	Low Wattage Unmetered Service	\$8.00	\$10.00	\$2.00	25.00%
41	Small General Service	\$10.00	\$14.00	\$4.00	40.00%
36	Irrigation Services	\$24.00	\$30.00	\$6.00	25.00%
46	General Service	\$28.00	\$34.00	\$6.00	21.43%
54	General Service Optional Time-of-Day Rate	\$30.00	\$36.00	\$6.00	20.00%
70	C&I Interruptible Services	\$80.00	\$110.00	\$30.00	37.50%

Line Extensions

Dakota Electric also proposed to update its line extension charges. The present line extension policy provides a base footage allowance of 100 feet, with a \$200.00 charge imposed on all individual residential line extensions plus \$6.80 per foot for extensions in excess of 100 feet. Dakota Electric proposed to change individual residential line extension charges to a base footage allowance of 75 feet, with a \$500.00 charge imposed on all individual residential line extensions plus \$8.30 per foot for extensions in excess of 75 feet. Dakota stated that the proposed line extension charge better reflects costs recovered through base rates and helps ensure that new members are paying a more reasonable share of line extension costs while reducing any cost burden on existing ratepayers.

In Dakota Electric's last rate case the Commission ordered Dakota to include information on any increase in the number of its overhead extensions in its next rate case.³⁶ Dakota stated in its filing that the annual number of individual residential line extensions is less than the number of extensions in its last rate case and that the annual number of residential extensions has varied from 6 to 16 in the past 5 years.

³⁶ E-111/GR-09-175, *Findings of Fact, Conclusions of Law, and Order*, 05/24/10, Ordering paragraph 7, p. 23.

Smart Meter

Dakota Electric included in its filing a summary of Federal Energy Policy Act of 2005 and the Commission's actions in regard to smart meters. Dakota provided that the Commission stated its intention to examine individual utilities' smart metering practices in the context of rate cases on August 10, 2007 in an *Order Taking Action Under Federal Energy Policy Act of 2005* (Docket No. E-999/CI-06-159). According to Dakota, in its Order, the Commission modified the smart metering standard "to include practices that achieve goals similar to smart metering, and which reflect Minnesota utilities' experiences with practices that achieve the same goals as smart metering," and found it "appropriate to consult the standard, as modified to reflect Minnesota utilities' experiences, during the review of rate structures of individual utilities on an ongoing basis, during rate cases or at other appropriate times."

As examples of rate structures offered by Dakota that achieve goals similar to smart metering, Dakota described its time based rates and demand response (load management) rates. Dakota stated that its time-based rates and load management rates have been designed and specifically implemented to achieve: (1) conservation of energy supplied by electric utilities; (2) optimization of the efficiency of use of facilities and resources by electric utilities; and (3) Equitable rates to electric customers.

Staff Analysis

1. Should this filing be accepted, and if so, as of what date?

A. Completeness

Compliance with rules and statutes

Staff reviewed this filing for compliance under Minn. Stat. § 216B.16 and Minn. Rules 7825.3100 through 7825.4400. Staff agrees with the Minnesota Department of Commerce – Division of Energy Resources ("Department" or "DOC") analysis and believes Dakota Electric's filing substantially complies with these requirements.

Compliance with and issues from prior Commission orders/recent & pending dockets before the Commission

Staff believes the Company has made a good faith effort to comply and respond to the orders issued in Dakota's last rate case as well as other orders that have a bearing on this case. The Company provided a seven page "Compliance Requirements" schedule found in the filing's beginning pages of Volume 1.

B. Date of acceptance

The Department stated DEA's filing was substantially complete as of July 2, 2014, the date Dakota Electric submitted its filing. Staff is in agreement.

2. If this filing is accepted, should the proposed rates be suspended, pursuant to Minn. Stat. § 216B.16, Subd. 2?

The Commission generally suspends proposed final rates during a rate case to allow for further investigation of the Company's application. The statute provides for interim rates during the suspension period. These interim rates are subject to refund if they are higher than approved final rates. If interim rates are less than the approved final rates, the utility may ask to recover the difference in revenue between the date of the final determination and the date the new rate schedules are put into effect.

The statutory deadline for the Commission to issue its final order in this matter is ten months from the date this filing was found to be substantially complete, pursuant to Minn. Stat. §216B.16, Subd. 2(a). If this case is accepted as of July 2, 2014, then the Commission's deadline for issuing an order would be May 2, 2015.

However, the Commission has the authority to extend the deadline up to ninety days later (i.e. until Aug. 2), pursuant to Minn. Stat. §216B.16, Subd. 2(f):

If the commission finds that it has insufficient time during the suspension period to make a final determination of a case involving changes in general rates because of the need to make a final determination of any pending case involving changes in general rates under this section or section 237.075, the commission may extend the suspension period to allow up to a total of 90 additional calendar days to make the final determination. An extension of the suspension period under this paragraph does not alter the setting of interim rates under subdivision 3.

The Commission has two other general rate cases pending. The first rate case is Minnesota Energy Resources Corporation (MERC), in Docket No. G-011/GR-13-617. The Commission extended the deadline in MERC's case by ninety days. The ALJ's report and recommendation are expected in mid-August 2014. The Commission is scheduled to hear the MERC rate case in late September and issue its decision by October 28, 2014.

The other pending case is the Xcel Energy (Xcel) electric rate case, in Docket E-002/GR-13-868. The Commission extended the deadline in Xcel's rate case by 180 days. Xcel asked for a multiyear rate increase, which allows the Commission an additional ninety days to process Xcel's request pursuant to Minn. Stat. § 216B.16, Subd. 19(c). The Commission was authorized to extend the deadline by an additional ninety days, pursuant to Minn. Stat. § 216B.16, Subd. 2(f), because of the other pending rate cases. The ALJ's report and recommendation in the Xcel rate case are expected in late December 2014. The Commission is scheduled to hear this matter in February 2015 and issue its decision by March 24, 2015.

Absent an extension of time in the Dakota Electric rate case, there will be less than two months between the statutory deadline in the Xcel rate case (March 24, 2015) and the Dakota Electric rate case (May 2, 2015). Staff does not believe that schedule would allow a sufficient amount of time between the two cases for the Commission to make a final determination in the Dakota Electric rate case within the normal ten month suspension period. Staff believes extra time in the Dakota Electric rate case would allow for more flexible scheduling and more time for the Commission to make its decision.

Staff also notes that Dakota Electric offered to waive its right to decision within ten months and requested a final Commission Order in early July 2015. In its transmittal letter, Dakota Electric stated that

We request implementation of the proposed rates within 10 months of the date of Application. However, we recognize that there are presently multiple general rate filings before the Commission. Accordingly, Dakota Electric is willing to provide a limited waiver of the 10 month statutory timeframe, extending the disposition of this case an additional two months, and requests that a Commission Order is received at the beginning of July 2015.³⁷

Staff is making a recommendation below on extending the suspension period based on staff's understanding of what is workable (and a corresponding recommendation in the next section on the date for the ALJ report).

Staff recommends that the Commission find that it will have insufficient time under the standard ten-month time frame to make a determination on final rates in the instant Dakota Electric rate case because of the need to make final determinations in the pending Xcel electric rate case. Staff recommends the Commission extend the suspension period in the Dakota Electric rate case by sixty days rather than the full ninety days allowed by the statute. Assuming the Commission accepts Dakota Electric's rate case as complete as of July 2, 2014, staff believes the Commission should suspend the proposed rates until July 2, 2015.

3. If this filing is accepted, should this matter be referred to the Office of Administrative Hearings (OAH) for a contested case?

The Department recommended the Commission refer this matter to OAH for a contested case proceeding. The Commission is required to refer a rate case to OAH for a contested case proceeding unless the Commission finds that all significant issues can be resolved to its satisfaction, pursuant to Minn. Stat. § 216B.16, Subd. 2(b). Staff does not believe the Commission can make such a finding absent a fully developed record and recommends setting this matter for a contested case hearing.

If the Commission suspends the final rates for additional time, i.e. until July 2, 2015, then staff recommends the Commission request the ALJ's report by May 1, 2015. This report date would

³⁷ Dakota Electric, Transmittal Letter, p. 2 (July 2, 2014)

give the Commission the customary two months prior to the statutory deadline. Staff believes this is reasonable given the other pending rate cases.

If the Commission does not suspend final rates for the additional sixty day time period and the deadline for the Commission's order in this case is May 2, 2015, then to ensure the Commission has sufficient time to consider this matter and issue its order within the ten month statutory deadline, staff recommends the Commission request the ALJ's report be received by March 2, 2015. This is consistent with the Commission's practice of asking for the ALJ report approximately two months prior to the Commission's statutory deadline for issuing its order.

4. Identification of issues of special interest or requiring additional, supplemental testimony

In addition to the standard rate case issues, Staff suggests the Commission consider requesting that parties specifically and thoroughly address the following issues during the course of the contested case proceedings:

- 1) In the development of rate case financial statements, the total, pro forma test year revenue should include energy cost revenue in an amount equal to the cost of purchased power reported in the pro forma test year operating expense. Having power cost revenue match power cost expense is necessary to assess the amount of remaining revenue available to cover operating costs, which in turn, leads to the determination of the revenue deficiency and the rate increase. In staff's limited review, it appears that Dakota Electric's pro forma test year revenue (\$198,872,121) reflects power cost revenue at a level that differs from the pro forma test year power cost operating expense (\$149,982,061). Therefore, staff suggests that the Commission request the parties to further review and address this concern.
- 2) Dakota Electric's pre-filed testimony stated it is not requesting any adjustment to the rate of return methodology used historically and in this current filing. However, Dakota has requested that the Commission consider the usefulness of a financial performance metric, the Modified Debt Service Coverage (MDSC) measure, to potentially adjust the proposed and approved rate of return for Dakota Electric in future rate case filings. Staff believes further record development would be needed for the Commission to consider or act on this request. The Commission may want to ask parties to further review the MDSC adjustment concept in order to develop the record on this issue more fully. A decision option on this subject is available for Commission consideration.

The Commission may request other issues of interest to be addressed.

5. If this filing is accepted, should interim rates be set as requested by Dakota Electric?

Dakota Electric stated that its interim rate calculation indicated an interim revenue deficiency of \$5,130,994 or approximately 2.58%. However, Dakota Electric requested a lower interim rate increase of 1.5% or approximately \$2,982,432.

A. Interim Rate Statute

Under the interim rate statute, Minn. Stat. 216B.16, subd. 3, the Commission is directed to order an interim rate schedule into effect not later than 60 days after the initial filing date, ex parte without a public hearing. Minn. Stat. § 216B.16, subd. 3 (b) states in part that:

(b) Unless the Commission finds that exigent circumstances exist, the interim rate schedule shall be calculated using the proposed test year cost of capital, rate base, and expenses, except that it shall include: (1) a rate of return on common equity for the utility equal to that authorized by the commission in the utility's most recent rate proceeding; (2) rate base or expense items the same in nature and kind as those allowed by a currently effective order of the commission in the utility's most recent rate proceeding; and (3) no change in the existing rate design . . .

Interim rates are not subject to an application for rehearing or an appeal to court until the Commission has rendered its final determination on the main rate request. Interim rates are subject to refund if the interim rates exceed the rates in the final determination.

The 60 day time period ends August 31, 2014.

B. Effective date for interim rates

In the event the Commission accepts this petition as of the July 2, 2014 filing date, the Company would be authorized to implement any approved interim rate increase on August 31, 2014. However, Dakota Electric requested that the interim rates be effective at a later date, to be implemented with the Cycle 1 billings in October 2014, which reflects consumption occurring on and after September 11, 2014. As a result, Dakota would waive its right to some revenue it would otherwise have been authorized to collect. A decision option addressing this matter is provided for the Commission's consideration.

In discussions with staff, Dakota Electric stated that when the rates go into effect for bills issued on or after a specific date, customers may be charged different rates for the first month, depending on the billing cycle they are in. Dakota Electric also stated in discussions that it has 4 billing cycles that reflect consumption according to the following schedule:

Table 12

Billing Cycle	For Consumption on or after
Cycle 1	September 11, 2014
Cycle 2	September 18, 2014
Cycle 3	September 25, 2014
Cycle 4	October 2, 2014

From discussions with Dakota Electric, staff understands that Dakota's billing system does not allow it to implement interim rates to be effective on the same date for all customers. Therefore, Customers in billing cycle 1 will be affected by interim rates before customers in billing cycles

2, 3 and 4. Staff notes that this billing feature (i.e. the ability to prorate bills to allow changes in rates to go into effect on a common effective date for all customers) is standard for most (if not all) of the other rate-regulated utilities under the Commission's jurisdiction. Staff understands that Dakota is currently undergoing an evaluation of its entire billing system and that it intends to update its billing system with this billing feature that allows prorated bills. Dakota anticipates this update will be in place before the next rate case or within five years.

C. Financial matters

Minn. Stat. § 216B.16, subd. 3(b) directs how an interim rate should be calculated, unless the commission finds exigent circumstances.

Dakota Electric has proposed an interim rate increase, subject to refund, of approximately \$2,982,432. DEA's interim revenue increase requested amount is lower than the result that would occur had the statutory requirement been applied. Dakota Electric found that calculating an interim rate revenue increase using statutory requirements would result in an interim revenue increase that exceeds its final revenue increase request. Alternatively, DEA has requested a reduced interim revenue increase and proposed an amount it believed would be sufficient to meet DEA's financial metrics during the course of this proceeding and would also provide customers a transitional step to final rates. The interim rate request amount reflects approximately 71 percent of DEA's final proposed revenue increase.

The following schedule compares DEA's proposed final revenue increase with the interim rate revenue increase calculated per statute, by DEA and staff, respectively. The reason for the differences in resulting revenue deficiency is due to the rate of return. The rate of return is discussed further in the next subpart, "Cost of Capital." All other costs included in the interim rate schedules appear to be of the same nature and kind as those in the 2009 rate case.

Table 13

Line No.		2014 Proposed		
		Final Rate Increase	Interim ROR per DEA	Interim ROR per Staff
1	Rate Base	\$171,613,635		
2	Rate of Return	6.52%	7.07%	7.79%
3	Required Operating Income	\$11,191,322	\$12,133,084	\$13,368,702
4	Less: Non-Operating Income	\$399,147	\$399,147	\$399,147
5	Net Operating Income Required	\$10,792,175	\$11,733,937	\$12,969,555
	Compared to Present Rate Operations:			
6	Total Revenue (including energy revenue)	\$199,564,247		
7	Operating Expense (including energy cost)	\$192,961,304		
8	Operating Income	\$6,602,943		
9	Revenue Deficiency (line 8 - line 5)	\$4,189,232	\$5,130,994	\$6,366,612

Dakota's interim rate request is about \$1,207,000 lower than the final rates increase sought (\$4,189,000 minus \$2,982,000).

As stated earlier in the "Prior Rate Case" section, over the past twenty-five years DEA has submitted three rate cases and in each case, the Commission's authorized final rates increase ranged from 90 to 98 percent of DEA's final revenue increase requests. Staff believes the amount of Dakota Electric's proposed interim revenue increase is reasonable and in the public interest. Dakota's request does provide its customers a gradual rate increase, should final rates be higher, and avoids collecting more revenue than the Company ultimately seeks, allowing customers to use and have access to their own money now. In order to grant Dakota's request, under Minn. Stat. § 216B.16, subd. 3(b), the Commission may need to find that exigent circumstances exist in order to vary from the prescribed statutory calculation.

D. Cost of capital

Minn. Stat. § 216B.16, Subd. 3 (b), provides, among other things, that unless "the commission finds that exigent circumstances exist, the interim rate schedule shall be calculated using the proposed test year cost of capital, rate base, and expenses, except that it shall include: (1) a rate of return on common equity for the utility equal to that authorized by the commission in the utility's most recent rate proceeding"

For interim rates, Dakota Electric proposed the following capital structure and cost rates by type of capital as shown below:³⁸

Type of Capital	Proportion	Cost Rate	Weighted
Long-Term Debt	55.39% (authorized ratio from previous rate case)	5.31% (proposed test-year cost rate in this case)	2.94%
Common Equity	44.61% (authorized ratio from previous rate case)	6.26% (authorized cost rate from previous rate case)	2.79%
Weighted Cost of Capital	100%		5.73%
Return on Rate Base		1.233 (authorized factor from previous rate case)	7.07%

Dakota Electric has appropriately used the previously authorized return on equity in the calculation of the cost of capital. However, in the capital structure, Dakota Electric has used the previously authorized composition of capital (i.e. capital structure), not the proposed split of

³⁸ Interim Petition (un-paginated), 3rd page.

capital between equity and debt, and the return on rate base adjustment factor used in the previous rate case.

Dakota noted that in determining the interim rate request, the proposed overall rate of return calculation used the “present” (staff understands this to mean the proposed test-year figure in this case) average cost of long-term debt and the previously authorized return on equity by the Commission in Dakota Electric’s last rate case (Docket No. E-111/GR-09-175). Dakota further noted that “[t]he proportion of each component and the factor to adjust the weighted cost of capital to establish return on rate base [are] also consistent with the numbers approved in the final order from our last general rate case.”

As calculated by Dakota, the application of the 7.07 percent return on rate base in the calculation of interim rates entitles Dakota to recover as much as \$5,130,994 (or 2.58 percent higher than the pro forma test year revenue under present rates) during the interim period. This 2.58 percent is greater than the requested interim increase of 1.5% and even greater than the overall increase of 2.11% requested in this proceeding.

If Dakota Electric applied the formula specified by the interim rate statute, the interim cost of capital would be 7.79%, calculated as follows:

Type of Capital	Proportion	Cost Rate	Weighted
Long-Term Debt	46.715% (proposed test-year ratio in this rate case)	5.31% (proposed test-year cost rate in this case)	2.48%
Common Equity	53.285% (proposed test-year ratio in this rate case)	6.26% (authorized cost rate from last rate case)	3.34%
Weighted Cost of Capital	100%		5.82%
Return on Rate Base		1.339 (proposed test-year adjustment factor in this rate case)	7.79%

Staff notes that a strict application of test year data, except for the previously authorized return on equity, works out to a return on rate base of 7.79 percent and would entitle Dakota to seek an even higher level of interim rates. However, as stated before, Dakota seeks only to implement an increase in rates in the amount of \$2,982,432. Dakota noted that the proposed 1.5% interim rate increase is anticipated to be sufficient to maintain positive annual margins in 2014 and during the pendency of this case.

Dakota Electric did a similar thing in its previous rate case filing in Docket 09-175 in that it petitioned to recover interim revenue well below the level permissible under the statute.

The Commission found in that docket that

“[s]etting rates at a level other than that authorized by statute requires a finding of exigent circumstances, which the Commission hereby makes; charging the Association’s ratepayers more than the utility believes its operations require would contravene the public interest” (Order Accepting Filing and Suspending Rates, May 1, 2009, p. 2).

Supreme Court of Minnesota decision upholding the Commission’s authority to find exigent circumstances in setting interim rates in a general rate case

On September 18, 2013, the Supreme Court of Minnesota issued its decision upholding the Commission’s authority to find exigent circumstances in the setting interim rates in a general rate case, pursuant to Minn. Stat. § 216B.16, subd. 3(b), when the Commission clearly identifies and explains the factors that caused the exigent (i.e. urgent) circumstances and the Commission’s determination is supported by substantial record evidence. [Supreme Court of Minnesota, In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota, Case No. A11-0352]

In its September 18, 2013 ruling, the Supreme Court defined exigent circumstances as follows and stated that the existence of exigent circumstances is a factual determination for the Commission to make as part of its interim rate making function using the substantial evidence test.

“Exigent circumstances” is defined as “[a] situation that demands unusual or immediate action and that may allow people to circumvent usual procedures.” Similarly, dictionary definitions of exigent include “[r]equiring immediate action” and “[r]equiring immediate aid or action.” Our case law is consistent with these definitions. We have said that the term “ ‘exigent’ bespeaks urgency or emergency.” (holding that the utility’s proposed rate increase to only one service class “hardly suggests a pressing need of the type which would justify abandoning the statutory plan for interim rates and taking extraordinary action”). [pp. 17-18, citations omitted]

Should the Commission find exigent circumstances exist in this rate case?

There is no dispute regarding the level of interim rates. Because Dakota has petitioned for recovery of about \$2.982 million rather than the higher amount that Dakota will be entitled to recover if the procedure authorized by the statute is followed, the Commission may want to make a finding of exigent circumstances -- charging Dakota’s ratepayers more than the utility believes its operations require would contravene the public interest – and approve the proposed interim capital structure, rates of return, and return on rate base. As noted previously, Dakota’s request does provide its customers a gradual rate increase, should final, authorized rates be higher, and avoids requiring Dakota to collect more revenue now than the Company ultimately seeks in final

rates, and allows customers to use and have access to their own money now rather than wait for an interim rate refund at the end of this case.³⁹

On the other hand, in light of the Minnesota Supreme Court's 2013 decision that further defined exigent circumstances, the Commission may want to consider whether it needs to find exigent circumstances exist in order to approve Dakota Electric's request. The financing of electric cooperative associations is different from that of investor own electric utilities and the standard formula used for setting interim rates and estimating the interim cost of capital may not be a particularly good fit for Dakota Electric.

E. Rate Design

Minnesota Statutes §216B.16, subd. 3(b) requires that the interim rates charged by a utility maintain the existing, authorized rate design. Dakota Electric requested an interim rate adjustment that will increase base rate revenues by \$2,982,432 or 1.5 percent above the test year gross revenues. Dakota Electric requested that the interim rate adjustment will be uniformly billed as a 1.5 percent increase on the subtotal of members' bills. Dakota's petition stated that it will recover its interim rate increase through a 1.5% line item (the "Interim Rate Adjustment") after a customer's bill is subtotaled. The Company stated that its interim rates do not change existing rate design.

³⁹ The Commission has found exigent circumstances in only one rate case since the Minnesota Supreme Court issued its decision in 2013. In that case

"MERC requested that it be allowed to forgo collection of the full amount of the interim rate increase from its Super Large Volume (SLV) and market rate ("FLEX" rate) customers. The Company asserted that these customers are especially sensitive to rate increases, even during a period of interim rates, and have the ability to bypass MERC's system in favor of alternative natural gas service suppliers. The departure of these customers from MERC's system would, according to the Company, result in a significant, permanent increase in rates for MERC's remaining customers.

MERC proposed to recover some of the interim rate increase attributed to its SLV and FLEX rate customers rather than the entire amount. The Company, however, will not seek to recover the difference from other customer classes.

The Commission finds that:

- MERC's SLV and FLEX rate customers are especially sensitive to rate increases;
- the SLV and FLEX rate customers have the ability to bypass MERC by building their own facilities, by taking service directly from the interstate pipeline, or by using an alternative fuel; and
- the loss of these customers from MERC's distribution system would result in increased costs and rates for MERC's remaining customers, including residential customers.

These circumstances constitute exigent circumstances that warrant granting MERC's request regarding these customers. The Commission will therefore approve MERC's request to collect less than the full amount of the interim rate increase from its SLV and FLEX rate customers, and to not seek recovery of the difference from its other customers."

Please see ORDER SETTING INTERIM RATES, In the Matter of a Petition by Minnesota Energy Resources Corporation for Authority to Increase Natural Gas Rates in Minnesota, Docket No. G-011/GR-13-617 (November 27, 2013)

Table 16

Dakota Rate Class (Schedules)	Current Revenue (\$)	Proposed Revenue (\$)	Proposed Increase	
			(\$)	(%)
Res & Farm (31,32,53)	\$113,411,078	\$115,112,244	\$1,701,166	1.50%
Small Gen Service (41)	\$6,767,752	\$6,869,268	\$101,516	1.50%
Irrigation (36)	\$973,785	\$988,391	\$14,606	1.50%
Gen Service (46, 54)	\$47,740,345	\$48,456,450	\$716,105	1.50%
C & I Interruptible (70, 71)	\$26,501,221	\$26,898,739	\$397,518	1.50%
Lighting (44, 44-1, 44-2, 44-3)	\$1,992,119	\$2,022,002	\$29,883	1.50%
Municipal Sirens (47)	\$3,900	\$3,900	\$0	0.00%
Low Watt Unmetered (45)	\$5,184	\$5,262	\$78	1.50%
Elec. Vehicle. (33)	\$1,037	\$1,053	\$16	1.50%
Geo. Heat Pump (49)	\$32,921	\$33,415	\$494	1.50%
Controlled Energy Storage(51)	\$404,057	\$410,118	\$6,061	1.50%
Controlled Interruptible (52)	\$2,481,912	\$2,519,141	\$37,229	1.50%
Standby Service (60)	\$56,550	\$57,398	\$848	1.50%
Cycle Air Conditioning (80)	(\$1,539,168)	(\$1,562,256)	(\$23,088)	1.50%
Total Retail	\$198,832,693	\$201,815,125	\$2,982,431	1.50%

Dakota's Interim Rate Surcharge Rider tariff sheet states that the 1.5% Interim Rate Surcharge does not apply to: Municipal Civil Defense Sirens, Special Fees or Charges, Competitive Service Rider, Franchise Fee Surcharge Rider, Optional Renewable Energy Rider, Member Energy Exchange Rider, Voluntary Energy Reduction Rider, and the Late Payment Charge.

Dakota Electric also did not apply an Interim Rate Surcharge to the same riders and fees in its last rate case. In that rate case, the Commission stated the following in its Order Setting Interim Rates:⁴⁰

Nearly all of these exemptions are appropriate and justify findings of exigent circumstances. The civil defense siren rate has been stable for decades, continues to cover costs, and serves an important public purpose. The competitive service rider, member energy rider, and voluntary energy reduction rider currently have no customers and are not expected to have any customers while the case is in process. The franchise fee rider is a pass-through for fees imposed by local governments and is therefore unaffected by the utility's costs.

The optional renewable energy rider is a direct pass-through of wholesale power costs with no markup, again having no relationship to general utility costs. Special fees and charges, including the late payment and reconnection charge, have a unique cost basis unrelated to the general utility costs driving the rate case.

⁴⁰ Docket No. E-111/GR-09-175, *Order Setting Interim Rates*, May 1, 2009, p. 3.

In discussions with Staff, Dakota confirmed that the competitive service rider, member energy rider and voluntary energy reduction rider do not currently have any customers and Dakota does not expect to have any customers for these riders while the case is in progress.

Dakota Electric stated the interim rates will be subject to refund, pending final Commission determination on the general electric rate increase.

F. Methods, procedures and interest rate for refunding

Pursuant to Minn. Stat. §216B.16, subd. 3, Dakota included an Agreement and Undertaking to make appropriate refunds, if required, which can be found in Volume 1, within the introductory pages. Titled “Agreement to Refund”, Dakota Electric makes an unqualified agreement concerning the refund of any portion of the requested increase in rates determined by the Commission to be unreasonable. The statement reads as follows:

I, Gregory C. Miller, President and Chief Executive Officer, acting on behalf of Dakota Electric Association, do hereby agree that the Association will refund any portion of the increase in interim rates, determined by the Minnesota Public Utilities Commission to be unreasonable, together with interest thereon.

Public Hearing Locations

The date, time, and location of the public hearings is typically discussed and decided around the time of the pre-hearing conference by the Administrative Law Judge in consultation with the Company, parties, and the Commission. A formal Commission decision on this point is not needed for the purpose of issuing the Commission’s orders at this time.

Below is a summary of public hearing locations and attendance information from Dakota Electric’s last three rate cases.

Table 17

	1991	2003	2009
Public Hearing Locations	1 in Apple Valley 1 in Farmington	1 in Apple Valley 2 in Farmington	1 in Apple Valley 1 in Farmington
Public Hearing - Estimated Attendance	4	0	8

Prior public input hearings were scheduled to provide at least one afternoon and one evening session. Any additional direction from the Commission on the appropriate number and location of public hearings to recommend to the ALJ would be welcome.

Administrative and Compliance Issues

The Commission's practice in most rate cases has been to require: a) notice to municipalities and counties of the proposed rate change, b) public hearings at locations within the company's service area, and c) notice of evidentiary and public hearings.

The decision alternatives contain ordering language that is similar to the language used in notice and orders for hearing in previous general rate proceedings.⁴¹ Staff recommends that this language be incorporated into the Commission's decisions in this docket. General rate case notice requirements can be found in Minn. Stat. § 216B.16, subd. 1, and Minn. Rules, Part 7829.2400, subparts 3 and 7.⁴²

The Commission's practice has also been to require interim rate compliance filings. These filings typically include tariff sheets with supporting documents, and a Commission-approved notice to customers of the interim rate increase. Companies are also required to keep records of their sales and collections to support any potential interim rate refund obligation. The decision alternatives contain language typical of the language used in previous Commission Orders authorizing interim rates.

Staff recommends the Commission require all of the administrative and compliance related items listed in the decision alternatives. Customer notices are generally administrative items that are negotiated between Commission staff and the utility, and authority to approve notices is usually delegated to the Commission's Executive Secretary for the duration of the proceeding. Staff has been working with the Company to finalize these notices prior to issuance. Staff recommends continuing that practice here.

⁴¹ *Notice and Order for Hearing*, In the Matter of a Petition by Great Plains Natural Gas Company, a Division of MDU Resources Group, Inc., for Authority to Increase Natural Gas Rates in Minnesota, Docket No. G-004/GR-02-1682, November 19, 2002 (please see Ordering Paragraphs 3, 4 and 5)

⁴² Staff also recommends the Commission require Dakota Electric to send a copy of the Commission's notice and order for hearing to all local governing bodies in its service area. This notification will ensure that these entities can make an appearance at the prehearing conference or make arrangements to intervene in this case if they are interested.. This notification is in addition to the notice required by Minn. Stat. § 216B.16, Subd. 1, and Minn. Rule 7829.2400, subp. 3, and is consistent with past Commission practice.

Decision Alternatives

1. Acceptance

- A. Accept this filing as being in proper form and substantially complete as of July 2, 2014, **or**
- B. Reject this filing as not being in proper form and/or not being substantially complete.

If this filing is accepted as being in proper form and substantially complete as of a certain date, then the Commission should also decide the following:

2. Suspension of Proposed Final Rates

- A. Suspend the proposed final rates until the Commission makes its final determination in this matter. Find the Commission has insufficient time to make a final determination if the rates are suspended for a 10-month suspension period because of the need to make a final determination in other pending cases involving changes in general rates. Find that the rates in this case should be suspended for an additional sixty days, until July 1, 2015, **or**
- B. Suspend the proposed final rates until the Commission makes its final determination in this matter, and allow this case to proceed on a ten-month timeline.

3. Referral of this Matter to the Office of Administrative Hearings (OAH) for a Contested Case Proceeding

- A. Refer this matter to the Office of Administrative Hearings, and
 - i. Request the ALJ's report on or before May 1, 2015 [if the Commission adopts alternative 2(A) above]. If the deadline for the Commission's decision is extended beyond ten months plus sixty days at any point during this proceeding for any reason (e.g. settlement discussions, waiver, etc.) request the ALJ's report at least two months before the extended deadline for the Commission's decision; **or**
 - ii. Request the ALJ's report within eight months of the date of the Commission's acceptance of this filing, i.e. on or before March 2, 2015 [if the Commission adopts alternative 2(B) above]. If the statutory deadline for the Commission's decision is extended beyond the normal ten months at any point during this proceeding for any reason (e.g. settlement discussions, waiver, etc.) request the ALJ's report at least two months before the extended deadline for the Commission's decision.

B. Identification of issues requiring development of a complete record in this case.

- i. The standard rate case issues,⁴³
- ii. Request parties to address and provide schedules and supporting documentation in the development of this record, that show the matching of power cost revenue to power cost expense in the pro forma test year financial schedules,
- iii. Request parties to address Dakota Electric's request for consideration of how the Modified Debt Service Coverage (MDSC) financial performance metric might be used in future Dakota Electric rate cases, and
- iv. Any other issue as identified by the Commission.

4. Effective Date of Interim Rates

If the proposed final rates are suspended, the Commission is required to set interim rates as of a certain effective date.

- A. Set interim rates to be effective for service rendered on and after August 31, 2014 (sixty days after DEA's July 2, 2014 filing date), **and**
- B. Grant DEA's request to waive its right under the statute to put interim rates into effect on August 31, 2014 and authorize Dakota to implement interim rates for service rendered on and after September 11, 2014 (on bills rendered starting in October 2014).

5. Interim Rates (Financial Matters, Capital Structure & Cost of Capital)

- A. Find that exigent circumstances exist and do not require Dakota Electric to apply the capital structure and cost of capital required by the interim rate statute (Minn. Stat. § 216B.16, subd. 3(b)), when determining the interim rate increase in this rate case. Approve an interim rate increase of \$2,982,432. **or**
- B. Without finding exigent circumstances, permit Dakota Electric to apply the capital structure and cost of capital proposed in its interim rate petition to calculate the interim rate increase in this case. Approve an interim rate increase of \$2,982,432. **or**
- C. Find that exigent circumstances exist and approve an interim rate increase of \$4,189,232, an amount equal to the full amount of the requested final increase yet still lower than the amount calculated under statute (Minn. Stat. § 216B.16, subd. 3(b)). **or**

⁴³ The Department recommends the following rate case issues to be addressed: 1) Is the test year revenue increase sought by the Association reasonable or will it result in unreasonable and excessive earnings? 2) Is the rate design proposed by the Association reasonable? and, 3) Are the Association's proposed capital structure, cost of capital and return on equity reasonable?

- D. Without finding exigent circumstances approve an interim rate increase of \$4,189,232, an amount equal to the full amount of the requested increase. **or**
- E. Do not find that exigent circumstances exist and require Dakota Electric to apply the capital structure and cost of capital required by the interim rate statute (Minn. Stat. § 216B.16, subd. 3(b)), in determining the interim rate increase. Approve an interim rate increase of \$6,366,612, which is more than the amount of the requested final increase.

And (applicable only if 5(C, D, or E) is selected)

- F. If the Commission makes any adjustments to the level of interim rates proposed by the Company, direct Dakota Electric to file revised financial schedules and calculations (interim rate base, income statement, cost of capital, and revenue summary) and class revenue schedules reflecting the Commission's modifications within 5 business days of this meeting.

6. Interim Rates (Rate Design)

- A. Approve DEA's proposed method of applying the interim rate increase, **or**
- B. Reject Dakota's proposed method of applying the interim rate increase.

7. Administrative & Compliance Issues

- A. In the Notice and Order for Hearing, require the following:
- i. This Order will be served on the Company, which shall mail copies of the Order to all municipalities, counties, and local governing bodies in its Minnesota service area,
 - ii. Public Hearings shall be held in this matter at locations within the service area of the Company, and
 - iii. The Company shall give the following notices of the evidentiary and public hearings:
 - a. Individual written notice to each customer, which may be in the form of a bill insert, and shall be served at least ten days before the first day of hearings;
 - b. Written notice to the governing bodies of all municipalities, counties, and local governing bodies in the area affected and to all parties in the Company's last two rate cases. These notices shall be mailed at least ten days before the first day of hearings;

- c. Display advertisements in legal newspapers of affected counties and other newspapers of general circulation within the Company's Minnesota service area. These advertisements shall appear at least ten days before the first day of hearings. They shall include the heading **RATE INCREASE NOTICE**, which shall appear in bold face type no smaller than 30 points;
- d. The Company shall submit proposed notices for Commission approval prior to publication or service.

B. In the Order Setting Interim Rates require the following:

- i. Order the Company to file with the Commission and the Department of Commerce-Division of Energy Resources interim rate tariff sheets and supporting documentation reflecting the decisions herein. The Company's filing should also include the notice to customers, approved by the Executive Secretary, regarding the rate change under the interim rate schedule,
- ii. Order the Company to keep such records of sales and collections under interim rates as would be necessary to compute a potential refund. Any refund should be made within 120 days of the effective date of the Commission's final order in a manner approved by the Commission, and
- iii. Order the Company to include with each customer's first bill under the interim rate schedule a notice of the rate change, approved by the Executive Secretary. Upon completion of this task, the Company shall certify this fact to the Commission.

8. Approval of Notices and Customer Bill Inserts

- A. Delegate authority to approve notices, bill inserts, and bill format to the Commission's Executive Secretary for the duration of this proceeding; **or**
- B. Do not delegate authority to the Commission's Executive Secretary.

Concluding Comment & Recommendation

If the Commission accepts this filing as substantially complete, the Commission should also suspend the proposed final rates, set this matter for contested case hearing, and request the ALJ's report and recommendation within a sufficient amount of time for the Commission to issue its order before the statutory deadline.

With respect to interim rates financial issues, staff recommends the Commission approve the adjusted interim increase amount of approximately \$2,982,432. With respect to the interim rate design issues, staff recommends the Commission approve Dakota Electric's proposal. Staff also recommends all of the administrative and compliance items listed under Decision Alternative No. 7 and recommends the Commission delegate to the Commission's Executive Secretary authority to approve notices and customer bill inserts for the duration of this proceeding.

Staff recommends alternatives 1(A), 2(A), 3(A)(i), 3(B)(i, ii and iii), 4(A and B), 5(A or B), 6(A), 7 in its entirety, and 8(A).

Staff does not have a recommendation as to whether the Commission needs to find exigent circumstances to grant Dakota Electric's request for an interim rate increase of approximately \$2,982,432.