

February 13, 2018

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101

RE: **Response Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E111/M-17-821

Dear Mr. Wolf:

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

Petition of Dakota Electric Association to Implement Tracker Recovery for Advanced Grid Infrastructure Investments.

The petition was filed on November 20, 2017 by:

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

The Department recommends **approval with modifications**. The Department's team of Mark Johnson, Nancy Campbell, and myself is available to respond to any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ STEPHEN COLLINS
Rates Analyst

SC/lt
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. E111/M-17-821

I. INTRODUCTION

On November 20, 2017, Dakota Electric Association (Dakota Electric or the Cooperative) filed a petition requesting that the Minnesota Public Utilities Commission (Commission):

- Approve the Cooperative’s proposed Advanced Grid Infrastructure (AGi) Rider to recover the capital costs for Advanced Metering Infrastructure (AMI) and Meter Data Management (MDM), and
- Affirm that the Cooperative is authorized to recover Load Management (LM) capital costs, consisting of new load control receivers, through the conservation component of the Cooperative’s existing Resource and Tax Adjust (RTA).¹

On January 19, 2018, the Minnesota Office of the Attorney General, Residential Utilities and Antitrust Division (OAG) filed comments recommending that the Commission “determine whether grid modernization costs can be recovered in one of the riders proposed by Dakota [Electric] and, if so, whether Dakota [Electric] has met the standards of its proposed riders.”

On January 26, 2018, the Minnesota Department of Commerce, Division of Energy Resources (Department), filed comments requesting more information from Dakota Electric and stating that the Department expected to recommend that the Commission approve Dakota Electric’s petition with modifications.

The comments below provide the Department’s final recommendations and response to other parties.

II. RESPONSE TO THE OAG

The OAG’s comments focused on Dakota Electric’s request to recover the AMI and MDM capital costs in the Cooperative’s proposed AGi Rider, for which Dakota Electric has requested approval under Minnesota Statutes section 216B.1636. The Department responds to the three main

¹ A detailed description of the AMI, MDM, and LM capital costs is provided in Dakota Electric’s petition and the Department’s January 26, 2018 comments.

issues addressed in the OAG's comments: (i) whether Dakota Electric can recover grid modernization costs under a statute other than Minnesota Statutes section 216B.16, subdivision 7, the Transmission Cost Recovery (TCR) Statute, (ii) whether an electric cooperative is eligible to request cost recovery under Minnesota Statutes section 216B.1636, and (iii) whether the AMI and MDM costs satisfy the efficiency/conservation requirements for projects approved under section 216B.1636.

A. WHETHER DAKOTA ELECTRIC CAN RECOVER GRID MODERNIZATION COSTS UNDER A STATUTE OTHER THAN THE TCR STATUTE

The OAG's first main point concerns whether Dakota Electric can recover grid modernization costs under a statute other than TCR Statute. The OAG indicates that rider recovery of grid modernization costs can only be recovered under the TCR Statute because "the TCR Statute is the only statute that explicitly allows for grid modernization costs," which in the OAG's view "suggests that the Legislature intended for these costs to be recovered in a specific way—i.e., in a TCR Rider." The OAG also indicates a concern about opening up additional cost-recovery avenues to utilities, stating that allowing Dakota Electric to recover grid-modernization costs outside the TCR Statute would "would mean that investor-owned utilities like Xcel, Minnesota Power, and Otter Tail Power could also request rider recovery of their grid modernization costs without going through the process the Legislature designed in the TCR Statute."

The Department does not share the OAG's concerns on this issue. There are no provisions in the TCR Statute explicitly precluding a utility from requesting rider recovery of grid modernization costs under another statute.

B. WHETHER AN ELECTRIC COOPERATIVE IS ELIGIBLE TO REQUEST COST RECOVERY UNDER SECTION 216B.1636

The OAG's second main point concerns whether an electric cooperative is eligible to request cost recovery under Minnesota Statutes section 216B.1636. The OAG highlights that subdivision 1 of the statute states that "electric utility" as used in the statute means "a public utility as defined in section 216B.02, subdivision 4, that furnishes electric service to retail customers," and the specified definition excludes cooperative electric associations such as Dakota Electric. Therefore, the OAG states, "[i]n order for the Commission to approve Dakota's request, it will need to determine that Dakota is an 'electric utility' as defined by the EUI Statute."

The Department's initial comments acknowledged this definitional issue, but concluded that because, under Minnesota Statutes section 216B.026, Dakota Electric is subject to rate regulation pursuant to sections 216B.03 to 216B.23, and section 216B.1636 falls within this

range, Dakota Electric can seek rate recovery under section 216B.1636. The Department continues to hold this view.

C. WHETHER THE AMI AND MDM COSTS ARE FOR "ELECTRIC UTILITY INFRASTRUCTURE PROJECTS" AS REQUIRED BY SECTION 216B.1636

The OAG's third main point concerns whether, if the Commission determines that Dakota Electric is eligible to seek cost recovery under section 216B.1636, the AMI and MDM capital costs satisfy the statute's requirements that projects eligible for cost recovery must "replace or modify existing electric utility infrastructure, including utility-owned buildings, if the replacement or modification is shown to conserve energy or use energy more efficiently, consistent with section 216B.241, subdivision 1c." The OAG concludes that to satisfy this requirement, Dakota Electric "needs to show that [the AMI and MDM] costs will increase energy efficiency greater than would have occurred through normal maintenance activity." The OAG further concludes that to make this showing, Dakota Electric "may need to provide evidence quantifying the energy savings it expects from its AGi costs."

As noted in the Department's initial comments, the requirement specified in 216B.241, subdivision 1c is that "electric utility infrastructure projects must result in increased energy efficiency greater than that which would have occurred through normal maintenance activity." Therefore, approval of the AGi Rider under section 216B.1636 only requires a showing that an increase in energy efficiency will occur. The Department continues to conclude that the evidence provided by Dakota Electric, as cited on pages 7-9 of the Department's initial comments, is sufficient to meet this standard.

III. RESPONSE TO DAKOTA ELECTRIC

A. AGI RIDER

1. Costs to Be Recovered

The net costs to be recovered by the AGi Rider consist of the gross capital costs of the investments (rate of return, incremental property taxes, and incremental depreciation) minus any appropriate offsets for capital costs embedded in base rates (due to the meters being replaced no longer being used and useful), and minus any appropriate offsets for operational costs embedded in base rates (due to AGi investments reducing certain operational costs embedded in base rates). The Department's initial comments requested more information on Dakota Electric's proposed calculation of these net costs, as shown in Exhibit F of the Cooperative's petition.

Below, the Department reviews the additional information provided in Dakota Electric's reply comments and provides final recommendations on the costs to be recovered in the AGi Rider.

a. Gross Costs

The Department reviewed Dakota Electric's proposed estimates of gross costs and concludes that the estimates match the costs used in the business case and Dakota Electric's cost-benefit analysis. The Department therefore concludes that Dakota Electric's proposed methodology for calculating gross costs is reasonable.

b. Reductions for Replaced Infrastructure

The Department's initial comments concluded that the costs of the new meters and the resulting annual revenue requirements should be offset by the annual revenue requirements included in base rates for the meters that are being replaced to ensure that Dakota Electric's members would not be paying for both the existing and new meters at the same time. The Department requested that Dakota Electric provide a detailed breakdown of the annual revenue requirements associated with the existing infrastructure being replaced or modified as a result of AMI or MDM.

Dakota Electric stated in its reply comments that the existing infrastructure and meters being replaced have an undepreciated balance of over \$3 million that it needs to recover. In light of this information and based on further consideration of the ratemaking circumstances in this proceeding, the Department concludes that the Department's initial proposal would not allow the Cooperative to recover this balance. The negative implications of the Department's proposal is compounded by DEA shortening the remaining life of its existing infrastructure and meters in its 5-year depreciation filing (Docket No. E111/D-17-505) to coincide with the expected 2024 completion of installation of its AGi investments. The resulting increase in depreciation expense is not yet reflected in DEA's rates. As a result, DEA is forgoing this increase in depreciation expense until the cost increase is reflected in DEA's next rate case.

Based on this information, the Department understands that DEA's intent in accelerating the depreciation of the existing infrastructure was to finish recovery of its old infrastructure and meter costs before getting recovery of its new infrastructure and meter costs. Although there may be some overlap, the Department notes that this overlap is somewhat mitigated since DEA is forgoing the increased depreciation expense associated with its old infrastructure and meter costs until its next rate case and since DEA proposes to return the expected lower operational costs to ratepayers in its AGi Rider.

As a result, the Department no longer recommends that the Commission require DEA to remove the revenue requirements associated with its old infrastructure and meters in the AGi Rider. The Department notes that, even with this updated recommendation, the Department expects that approval of the AGi Rider would benefit ratepayers, as the Department's initial

comments concluded that the benefits of AGi appear to outweigh the costs that would be recovered from ratepayers.

c. Reductions for Operational Savings

The Department reviewed Dakota Electric's proposed estimates of operational savings embedded in base rates and concludes that the estimates appropriately match the operational savings assumed in the business case and Dakota Electric's cost-benefit analysis, with one exception: the revenue gains from avoided meter losses cited on page 8 of Dakota Electric's reply comments and described in more detail on page 42 of Dakota Electric's business case (Attachment 1 of the Department's initial comments).² Dakota Electric does not support including these revenue gains as offsets to the gross AGi costs because the gains are only estimates.

The Department disagrees that the lack of an exact number implies that the revenue gains should not be included. They are still revenue gains that reduce Dakota Electric's required revenues, and Dakota Electric's petition acknowledges that they are a significant and quantifiable benefit. As far as quantifying the gains, Dakota Electric's business case indicates that the numbers used are conservative. Therefore, the Department concludes that it is reasonable to include the estimates from Dakota Electric's business case as an offset to be applied to the AGi Rider, effective as soon as the meters are replaced, and recommends that the Commission require Dakota Electric to modify the AGi Rider as such, if approved. Alternatively, if Dakota Electric is able to track the actual revenue gains, then the Department recommends that the rates instead be offset by the actual value instead of the estimates in Dakota Electric's business case.

d. Net Amounts to Be Recovered

The Department recommends that the net amounts to be recovered reflect the gross costs minus reductions for operational savings, as specified above. The Department notes that, consistent with past rider proceedings,³ the amounts allowed to be recovered through the AGi Rider should be limited to the estimates provided by Dakota Electric, to the extent that the Commission considers those estimates to be reasonable. While those estimates would be tried

² These revenue gains are mathematically equivalent to operational savings because they reduce Dakota Electric's required revenues.

³ See for example *In the Matter of the Petition of Minnesota Power for Approval of Investments and Expenditures in the Bison 4 Wind Project for Recovery through MP's Renewable Resources Rider Under Minn. Stat. §216B.1645*, Docket No. E015/M-13-907, *In the Matter of the Petition of Minnesota Power for Approval of Investments and Expenditures in the Thomson Project for Recovery through Minnesota Power's Renewable Resources Rider under Minn. Stat. §216B.1645*, Docket No. E015/M-14-577, and *In the Matter of Minnesota Power's Renewable Resources Rider and 2017 Renewable Factor*, Docket No. E015/M-16-776.

up to actual costs through annual AGi Adjustment filings, the total amount to be recovered through the AGi Rider should be limited to the Commission-approved estimates in this proceeding. Any expenditures above the amounts contemplated in this proceeding can be recovered in a future rate case proceeding, if Dakota Electric can demonstrate that the expenditures are reasonable.

2. *Cost-Benefit Analysis*

Dakota Electric continues to expect that the AGi investments (inclusive of the load control receivers that Dakota Electric proposes to recover under the RTA) on the whole will benefit Dakota Electric's members. As noted in the Department's initial comments, the Department agrees.

3. *Rate Design*

Dakota Electric supports the Department's proposal to design the AGi Rider rates to recover costs on a fixed per-meter basis, with meter costs allocated directly to members on a per-meter basis, and members sharing other costs (shared infrastructure costs and capitalized project management costs) based on energy usage. However, Dakota Electric suggests that capitalized project management costs be allocated in proportion to the allocation of shared-infrastructure costs, and provided rate design calculations assuming this modification. The Department appreciates this minor refinement and believes it is an improvement on the Department's original proposal. Therefore, the Department recommends that the Commission design the rates in the AGi Rider, if approved, to reflect the Department's proposed methodology (described in detail in the Department's initial comments) as refined by Dakota Electric's reply comments.

With this updated proposal, the rate for the primary member classes assessed the AGi Rider would be as follows, as calculated in Dakota Electric's reply comments.

Table 1: Department's Proposed Rate Design

Member Class	Monthly Fixed Charge per Member
Residential	\$1.22
Irrigation	\$3.30
Lighting	\$1.54
Small General	\$1.22
General	\$4.39
C&I Interruptible	\$14.97

B. RTA

The Department's initial comments recommended that the Commission affirm that Dakota Electric is allowed to recover the appropriate load control receiver costs through the RTA, with two conditions. First, the costs must satisfy the requirements of Minnesota Statutes section 216B.16, subd. 6b, paragraphs (c) and (d). Second, the costs satisfy the requirements of section 216B.241 and thus be approved by the Deputy Commissioner of the Department of Commerce. Dakota Electric's reply comments agreed to these conditions.

IV. DEPARTMENT CONCLUSIONS AND RECOMMENDATIONS

As noted in the Department's initial comments, the Department concludes that:

- Dakota Electric is eligible to request rider recovery pursuant to section 216B.1636;
- The proposed AGi Rider satisfies the energy-efficiency requirements in section 216B.1636;
- A modified rate design (described in detail in the comments) would be in the public interest; and
- The benefits of the AMI, MDM, and LM investments appear to outweigh the costs.

Based on the above conclusions and the additional analysis provided in these response comments, the Department recommends that the Commission:

- Approve the AGi Rider requested in Dakota Electric's petition, modified to recover costs on a per-meter basis as shown in Dakota Electric's reply comments, and with the total costs recovered modified to incorporate revenue gains from reductions in meter losses; and
- Affirm that Dakota Electric is authorized to use the conservation component of the RTA to recover the load control receiver capital costs as requested by Dakota Electric, with the conditions that the costs must satisfy the requirements of Minnesota Statutes section 216B.16, subdivision 6b, paragraphs (c) and (d), and be approved by the Deputy Commissioner of the Department of Commerce.

/lt

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
Response Comments**

Docket No. E111/M-17-821

Dated this 13th day of February 2018

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1800 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_17-821_M-17-821
Ian	Dobson	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_17-821_M-17-821
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_17-821_M-17-821
Corey	Hintz	chintz@dakotaelectric.com	Dakota Electric Association	4300 220th Street Farmington, MN 550249583	Electronic Service	No	OFF_SL_17-821_M-17-821
Douglas	Larson	dlarson@dakotaelectric.com	Dakota Electric Association	4300 220th St W Farmington, MN 55024	Electronic Service	No	OFF_SL_17-821_M-17-821
Pam	Marshall	pam@energycents.org	Energy CENTS Coalition	823 7th St E St. Paul, MN 55106	Electronic Service	No	OFF_SL_17-821_M-17-821
David	Moeller	dmoeller@allete.com	Minnesota Power	30 W Superior St Duluth, MN 558022093	Electronic Service	No	OFF_SL_17-821_M-17-821
Eric	Swanson	eswanson@winthrop.com	Winthrop & Weinstine	225 S 6th St Ste 3500 Capella Tower Minneapolis, MN 554024629	Electronic Service	No	OFF_SL_17-821_M-17-821
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_17-821_M-17-821