

December 10, 2021

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

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E111/M-21-810

Dear Mr. Seuffert:

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

Petition for Approval of a Variance to the Customer Service Rules Regarding Billing Errors

The Petition was filed on November 23, 2021 and clarified on December 6, 2021 by:

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

The Department recommends ***approval of the instant request, and approval of a thirty (30) day negative check off process for all future billing error dockets filed by DEA, as outlined further in these comments.*** The Department is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

Michelle Rebholz
Supervisor, Planning Unit

MR/ja
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. E-111/M-21-810

I. INTRODUCTION

On November 23, 2021, Dakota Electric Association (DEA or the Association) filed a request to vary the Commission's Billing Errors Rule, Minn. Rule 7820.3800, in order to refund a member for an overcharge during the billing period of January 2017-August 2018.

A. PETITION

The Association seeks a variance to the Commission's Billing Error Rule to refund a customer that was overcharged from January 2017-August 2018. DEA indicates the overcharge was due to standby charges incorrectly applied to its member since the member's solar facility entered service. Further, DEA discovered a state tax refund that should be applied to the member.

The amount already refunded to the member is \$7,151.50. The amount to be refunded, if the Commission approves the variance, would be an additional \$3,272.15.

B. DEPARTMENT ANALYSIS

The Current Billing Error Petition and a Potential Streamlined Process

In a recent Minnesota Power (MP) billing error petition (Docket No. E015/M-21-790), the Department filed comments recommending approval of the refund as well as approval of a streamlined process for MP's future billing error requests. In a conversation with the Department, the Association expressed support for using a similar streamlined process for future DEA billing error requests. The Department supports DEA's current variance request and the resulting refund, and we recommend that the Commission use whatever means is fastest to approve the instant petition. The Department is aware of no public policy reason why this petition should not be approved and is aware of no dispute in the docket.

1. Future DEA Billing Error Petitions

For these same reasons we communicated in the MP billing error petition, the Department recommends that the Commission establish a 30-day negative check off process for future billing error variances for DEA, as long as the petition demonstrates the following:

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

2. *History of Billing Errors Rule*

In the following discussion, the Department provides the same history and analysis that we included in the MP billing error docket, E015/M-21-790:

The Commission promulgated the current version of its billing error rule in 2007. At that time, the Commission specified a three (3) year period for refunds using the record it had before it, which included recommendations and analysis from a number of parties. Fourteen years that have passed since the prevailing billing error rule was established, and in that time the Commission, Department, and utilities have gained experience in interpreting and applying this rule to a variety of billing error situations. Billing error filings tend to all have the same elements:

- Utilities often consult with CAO prior to filing a billing error petition.
- Even when the customer agrees with the refund amount, they must wait for the notice, comment, and agenda meeting process before receiving their refund.
- The outcome of these dockets is predictable.¹ Billing error dockets that are refunds are almost never disputed.²

The Commission's notice/comment/agenda meeting process is an important one for transparency in the Commission's decision making. In a typical docket, the written record is developed by the parties and then, based on that record, the Commission makes decisions at an agenda meeting conducted pursuant to the state's Open Meetings Law. However, in the case of an individual customer's refund, particularly one that arises from a situation that applies only to that customer, the applicable docket

¹ See, for example, Docket Nos. E015/M-17-768, E017/M-17-853, E002/M-18-27, and E017/M-18-215, E017/M-21-193. The Department routinely recommends approval, and no other stakeholder files comments in these dockets.

² The closest the Department can find to a dispute in a billing error docket was a 2011 Xcel billing error filing. The customer agreed to the refund, but also produced additional records and requested that the Commission approve a larger refund amount, which Xcel agreed to. Arguably, this was not a dispute as Xcel made the billing error filing and agreed to the refund. See Docket E-002/M-11-1031.

history has demonstrated that the normal notice and comment process results in a delayed refund, with little to no added benefit to the customer awaiting the refund.

The proposed 30 day negative check off process for billing error dockets strikes a balance between docket process transparency and refund timeliness:

- Refunds can be distributed more quickly to the affected customers.
- The petition is still filed as a docket and thus available to be reviewed by anyone.
- The Department and any other interested parties still have the opportunity to file comments within the 30 day window, if there are concerns.

If problems arise with the 30 day negative check off process, the Commission always has the authority to reverse or modify the process.

The Department recommends that the Commission take the following action in this docket³:

- 1) Approve the current petition, as filed by DEA, through any expedited process the Commission considers reasonable. This process may include the consent calendar or through other means.

AND

Establish a 30 day negative check off process for future billing error petitions filed by DEA. That is, parties have 30 days to comment; if no comments opposing approval are received, the petition is deemed approved, and DEA may immediately provide a refund to the customer.⁴

If the Commission believes it can or should endorse this process for other utilities immediately, the Department recommends the Commission notify all utilities. If not, the Department will continue to recommend an expedited process as utilities file individual billing error dockets.

³ The Department notes that it may be more appealing to open a generic docket to establish a 30 day negative check off process for all rate-regulated utilities. A generic docket is certainly an option to establish such a process. In this instance, the Department determined that there is value in establishing this process for one utility in the most recently-filed billing error docket. The Commission could either choose to open a generic docket or establish the process as billing error filings are made by individual utilities.

⁴ The Department presumes the Commission could either affirmatively issue a notice on the 31st day indicating the petition is approved, or clarify the petition is simply deemed approved without notice.

C. *RECOMMENDATION*

- 1) Approve the current petition, as filed by DEA, through any expedited process the Commission considers reasonable. This process may include the consent calendar or through other means.

AND

- 2) Establish a 30 day negative check off process for future billing error petitions filed by DEA. That is, parties have 30 days to comment; if no comments opposing approval are received, the petition is deemed approved, and DEA may immediately provide a refund to the customer upon the 31st day.

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Comments**

Docket No. E111/M-21-810

Dated this 10th day of December 2021

/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 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-810_M-21-810
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_21-810_M-21-810
Adam	Heinen	aheinen@dakotaelectric.com	Dakota Electric Association	4300 220th St W Farmington, MN 55024	Electronic Service	Yes	OFF_SL_21-810_M-21-810
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_21-810_M-21-810
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th PI E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-810_M-21-810
Eric	Swanson	eswanson@winthrop.com	Winthrop & Weinstine	225 S 6th St Ste 3500 Capella Tower Minneapolis, MN 554024629	Electronic Service	No	OFF_SL_21-810_M-21-810