



September 17, 2024

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

***Subject: Dakota Electric Association Reply Comments***

***In the Matter of Impacts of the “Capacity” Definition in Minnesota Statute 216B.164 and Associated Rules on Net Metering Eligibility for Rate-Regulated Utilities***

***Docket No. E-002, -111, -017, -015/CI-24-200***

Dear Mr. Seuffert:

On May 22, 2024, the Commission issued an *Order Initiating Proceeding into Definition of “Capacity”* in Docket Nos. E111/M-18-711 and E999/CI-16-521 determining that it was reasonable for Dakota Electric to remove the first sentence of Section 11.1.1 of its Technical Specifications Manual (TSM) to avoid potential confusion over the use of nameplate rating.<sup>1</sup> Importantly, the Commission also concluded that: (1) “MnSEIA has not demonstrated that Dakota Electric’s application of ‘nameplate rating’ has impeded installation of net metered or qualifying facilities”; and (2) further exploration of issues raised in the dispute regarding the use and definition of “capacity” as set forth in Minn.

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<sup>1</sup> Dakota Electric filed an updated TSM reflecting the Commission’s Order on May 24, 2024 in Docket No. E111/M-18-711.

Stat. § 216B.164, subd. 3(d) was warranted through a separate docket.<sup>2</sup> In referring the issue to this docket, the Commission concluded that “further discussion of whether a more precise meaning can be derived may be useful in resolving whether current application of the term ‘capacity’ is reasonable.”<sup>3</sup>

On June 4, 2024, the Commission issued a Notice of Comment Period (Notice) in the above-referenced docket. This Notice stated that the issue to be addressed is:

How should the Commission apply the definition of “capacity” in Minnesota Statute 216B.164 and Associated Rules without creating reliability problems related to net-metering rate eligibility for rate-regulated utilities?

The Commission also noted that the following topics were open for comments:

1. How should the Commission consider the “capacity” definition in Minnesota Statute 216B.164 and associated rules on net metering eligibility for rate-regulated utilities?
2. What should the Commission consider regarding the definition of “capacity” as it relates to reliability and net metering rate eligibility?
3. Are there other issues or concerns related to this matter?

On September 3, 2024, the Cooperative filed comments in response to the Commission’s Notice. In these comments, Dakota Electric provided analysis showing that nameplate capacity not only reflects universal long-standing practice but also aligns with the language and purpose of the applicable statute, Minnesota Statute 216B.164. The Cooperative further explained that our interpretation aligns with the Commission’s rules, which tie capacity to inverter production capability and with the wording of the Statewide Contract.<sup>4</sup> The Commission clarified in its rulemaking that capacity “means *the capability to produce, transmit, or deliver*” and that the net metering statute “incentivizes limits on *production* by making available the retail compensation rate to

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<sup>2</sup> May 22, 2024 Commission Order in Docket Nos. E999/CI-16-521 and E111/M-18-711, Page 4.

<sup>3</sup> *Id.*

<sup>4</sup> Dakota Electric Comments, Pages 10-11.

customers operating within applicable limits. The lower, avoided cost rate applies if the *customer's production* exceeds those limits.”<sup>5</sup> Clearly, the Commission's rules define capacity based on production, not net export to the grid. This comports with the Statewide Contract, which assumes a fixed capacity, not one that would potentially vary if based on how much is exported after the consumer's own usage.<sup>6</sup>

Dakota Electric also explained that the Commission's rulemaking order made clear that “point of generator output” is crucial in determining the capacity of a DER for purposes of net metering.<sup>7</sup> This additional clarification made it clear the Commission understood and intended capacity to be measured at the point at which the DER's production interconnects with the local electrical system, which is the point of DER connection. Dakota Electric also showed that determining eligibility for net-metering based on grid export would introduce significant administrative and reliability issues and is not supported by Minnesota Statute or Rules.

The following parties also filed comments in response to the Commission's Notice:

- Minnesota Rural Electric Association (MREA);
- Minnesota Power;
- Otter Tail Power Company (Otter Tail);
- Xcel Energy (Xcel);
- Minnesota Department of Commerce, Division of Energy Resources (Department);
- Minnesota Solar Energy Industries Association (MnSEIA); and
- Nokomis Energy (Nokomis).

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<sup>5</sup> Dakota Electric Comments, Page 8 (citing Docket No. E-999/R-13-729, Statement of Need and Reasonableness at 19 (Dec. 29, 2014) (emphasis added).

<sup>6</sup> Dakota Electric Comments, Page 11.

<sup>7</sup> Dakota Electric Comments, Page 8.

The investor-owned utilities and MREA filed comments that supported the Cooperative's application of capacity for purposes of net-metering eligibility. Each utility in Minnesota uses inverter nameplate rating for both DER interconnection and net metering rate eligibility.

### **Dakota Electric Response**

#### *Purpose of Commission Investigation*

MnSEIA's comments state, or imply, that the Commission opened this investigation solely for the purpose of receiving additional discussion on the definition of capacity, for the purposes of net metering eligibility, as it relates to safety and reliability. In particular, MnSEIA stated:

The Commission opened this proceeding to address the only issue unresolved after the April 11th hearing, which was whether the application of the legal definition of capacity created any reliability issues. Order Point 1 directed Dakota Electric to delete the sentence which misstated the law from Section 11.1.1 of its TSM, and Order Point 2 opened "a proceeding into the application of the definition of "capacity" in Minn. Stat. § 216B.164, subd. 3(d) and associated rules without creating reliability problems related to net-metering rate eligibility for Dakota Electric, Minnesota Power, Otter Tail Power Company, and Xcel."<sup>8</sup>

The topics of safety and reliability are clearly important policy considerations, but the purpose of this investigation is not limited strictly to reliability. Contrary to MnSEIA's characterizations, the Commission did not, in initiating this proceeding, conclude that the definition of capacity as applied to determine net metering eligibility was already clear.<sup>9</sup> This is evident from the Commission's Order authorizing this investigation, where the Commission stated:

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<sup>8</sup> MnSEIA September 3, 2024 Comments, Page 7.

<sup>9</sup> MnSEIA September 3, 2024 Comments, Page 7. MnSEIA quotes discussion during the Commission's April 11, 2024 agenda meeting and characterizes such discussion as the Commission's conclusions. But as MnSEIA is aware, the Commission speaks through its written orders, not verbal statements made during agenda meetings. *In Re Excelsior Energy, Inc.*, 782 N.W.2d 282 (Minn. Ct. App. 2010) ("But the commission does not speak through deliberations of the commissioners; it speaks only through written orders.").

Although MnSEIA has not demonstrated that Dakota Electric’s application of “nameplate rating” has impeded installation of net-metered or qualifying facilities, the Commission will further explore the issues raised by opening a separate docket into the use and definition of “capacity” as set forth in Minn. Stat. § 216B.164, subd. 3(d).

Further discussion of whether a more precise meaning can be derived may be useful in resolving whether current application of the term “capacity” is reasonable. Identifying clear language that can be generally applied to most instances is the basis for establishing standards that are reasonable and that facilitate informed decision-making. Based on the current record, it is unclear, for example, how frequently a facility with a nameplate capacity of 40 kW or more would be installed for the purpose of operating under 40 kW; distilling such circumstances, and how often they vary, will facilitate a more comprehensive understanding of the issues raised and whether the definition of “capacity” should be further refined.<sup>10</sup>

The Commission’s Order expressly concluded that MnSEIA had not demonstrated that Dakota Electric’s (and all other utilities in Minnesota, regardless of ownership structure) use of nameplate capacity (or inverter capacity) to determine net metering eligibility has impeded the installation of DER systems in Minnesota or is an unreasonable or incorrect interpretation or application of capacity.<sup>11</sup> The Commission’s Order is also clear that it is interested in additional information, beyond the topic of safety and reliability, regarding the current definition of capacity used by Minnesota utilities.

Dakota Electric provided significant discussion in its initial comments responding to the Commission’s directive for additional information supporting the reasonableness of our definition of capacity and its application for the purposes of net metering eligibility. In particular, the Cooperative provided historical context around the Commission’s understanding of the terms point of DER connection (PoC) and point of common coupling (PCC).<sup>12</sup> The Cooperative also pointed out potential reliability

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<sup>10</sup> May 22, 2024 Order in Docket Nos. E-111/M-18-711 and E-999/CI-16-521, Page 4.

<sup>11</sup> *Id.* (“...MnSEIA has not demonstrated that Dakota Electric’s application of “nameplate rating” has impeded installation of net-metered or qualifying facilities...”).

<sup>12</sup> Dakota Electric Comments, Pages 7-9.

concerns associated with the positions of MnSEIA, Nokomis, and the Department to determine capacity based on net export.<sup>13</sup>

The Cooperative's comments show that the use of nameplate capacity to determine net metering eligibility ensures system reliability, is based on a well-established and verifiable measuring point, and does not unnecessarily shift costs to other members or cause significant delays in the interconnection of new DER systems. Most importantly, the use of capacity measured at the point of interconnection (nameplate capacity or capacity measured at the inverter) aligns with the definition of capacity if it is reviewed in the full context, and clear intent, of Minn. Stat. § 216B.164.<sup>14</sup>

#### *Point of Common Coupling vs Point of Interconnection*

The comments of MnSEIA and the Department suggest there is a misunderstanding about the fundamental difference between the PoC and PCC in the context of Minnesota Statutes and Rules related to net metering. This misunderstanding is emphasized by the following excerpts:

The MnSEIA DGWG Representative cited the statutory and rule provisions that stated that capacity was measured at the **point of interconnection between the systems, also known as the point of common coupling**, and not measured by the nameplate rating, for purposes of rate eligibility.<sup>15</sup>

The definition of capacity under Minn. Stat. 216B.164 and the associated rules in Minn. R. Ch. 7835 provide clear guidance that capacity is defined at the **point of interconnection, also called the point of common coupling**, with the utility system.<sup>16</sup>

The maximum possible encouragement to cogeneration and small power production dictates that the application of the definition of capacity for purposes of net-metered rate eligibility be consistent with language of the governing statute, **namely that capacity is defined at the point of interconnection.**<sup>17</sup>

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<sup>13</sup> *Id.*, Pages 12-16.

<sup>14</sup> *Id.*, Pages 5-12.

<sup>15</sup> MnSEIA Comments, Page 4 (emphasis added).

<sup>16</sup> Department Comments, Page 5 (emphasis added).

<sup>17</sup> Department Comments, Page 7 (emphasis added).

Dakota Electric, MREA, and Otter Tail provided pictorial diagrams in their comments denoting the difference between the point of common coupling and the point of interconnection.<sup>18</sup> As detailed in Dakota Electric’s initial comments, the Commission adopted the term “point of common coupling” rather than using the statutory term “point of interconnection” based on its understanding that “the point of interconnection and the point of common coupling are not necessarily distinct concepts.” Minn. R. 7835.0100 defines “point of common coupling” as “the point where a qualifying facility's generation system, including the point of generator output, is connected to the utility’s electric power grid.”<sup>19</sup> In adopting that definition, the Commission stated its intent to, “clarify that the point of generator output is relevant in measuring capacity.”<sup>20</sup>

It is noteworthy that MnSEIA’s comments do not include reference to the promulgated definition of point of common coupling, likely because that definition does not support MnSEIA’s own interpretation. MnSEIA instead states the point of common coupling is the location where the bi-directional meter is connected.<sup>21</sup> As explained in the Cooperative’s comments, the location where capacity is determined is important. As MnSEIA observes, “Most, if not all DER systems are serving some, if not significant load.”<sup>22</sup> Minnesota Rules and Statutes are clear that the measure of capacity is not intended to be offset by customer load but rather, based on the output of the DER generation.<sup>23</sup> Minnesota Rules define capacity as, “the *capability* to produce, transmit, or deliver electric energy, ... measured by the number of megawatts alternating current at the point of common coupling between a qualifying facility and a utility's electric system.”<sup>24</sup> Simply put, the statements by MnSEIA and the Department regarding the

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<sup>18</sup> Dakota Electric Comments, Page 14; MREA Comments, Page 4; and Otter Tail Comments, Page 3.

<sup>19</sup> Minn. R. 7835.0100, subp. 17a.

<sup>20</sup> Docket No. E-999/R-13-729, Order Adopting Rules at 4 (July 17, 2015).

<sup>21</sup> MnSEIA Comments, Page 12.

<sup>22</sup> MnSEIA Comments, Page 10.

<sup>23</sup> As explained in Dakota Electric’s comments, if the Legislature had intended the net metering rate to be available based on net export to the grid, the Statute would have simply stated that the retail rate applies to a facility’s net input less than 40 kW into the utility system. Dakota Electric Comments, Page 7.

<sup>24</sup> Minn. R. 7835.0100, subp. 4. Capability is the ability of the distributed generation facility to generate, transmit, or deliver. The rule neither states nor implies that the transmission or delivery that is relevant is the actual amount of energy delivered to the utility but rather, what the system is capable of generating and transmitting.

nature of DER interconnection are factually inaccurate and inconsistent with Minnesota Statutes and Rules.

### *Workgroup Meetings*

As noted in our comments, Dakota Electric participated in an *ad hoc* workgroup with other utilities, MnSEIA, and DER developers in an effort to try and resolve issues related to this investigation. The parties discussed various topics but ultimately were unable to reach consensus.<sup>25</sup> MnSEIA provided significant discussion and detailed information, including work product, from the workgroup in its comments.<sup>26</sup> As part of this discussion, MnSEIA implied that the utilities were being unreasonable and were the reason why the workgroup was unable to reach consensus. This characterization is inaccurate, and the examples and exhibits provided by MnSEIA do not reflect the position of the utilities. The Cooperative is disappointed that MnSEIA provided detailed discussion surrounding the workgroup and filed work product, especially incomplete documents that do not accurately reflect the position of parties. Dakota Electric participated in the workgroup expecting an open, honest, and transparent exchange of ideas in hopes of presenting the Commission with a potential agreement. MnSEIA's comments on this topic are unfortunate and may impact Dakota Electric's willingness to participate in future informal discussions.

### *Response to MnSEIA Comments*

MnSEIA's comments are replete with mischaracterizations of the positions of parties and the Commission's April 11, 2024 Agenda Meeting. The Cooperative addresses specific mischaracterizations separately below.

First, MnSEIA stated that Dakota Electric agreed that it is possible for an inverter to limit a distributed generation facility's export capacity.<sup>27</sup> As MnSEIA knows, the term

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<sup>25</sup> Dakota Electric Comments, Page 3.

<sup>26</sup> MnSEIA Comments, Pages 7-8 and Exhibits A and B.

<sup>27</sup> MnSEIA Comments, Page 6. Dakota Electric notes that MnSEIA's statements attributed to the Cooperative are based on its unofficial recording of the Commission's Agenda Meeting and are not an official transcript.



“inverter settings” refers to a facility’s *production*, not how much electricity is ultimately exported to the grid after the consumer’s usage. When the Cooperative made this statement, it was discussing using a configuration setting *within* an inverter to limit the DER’s physical production capacity (which aligns with Minnesota Rules), not export to the grid.<sup>28</sup> Obviously, if an inverter setting is set to a lower production level, it will also reduce the net amount exported to the grid, which is what the Cooperative meant when using the term “export.”<sup>29</sup>

Second, MnSEIA’s reliance on individual Commissioner comments during oral argument or deliberations is misplaced.<sup>30</sup> Although individual Commissioners often discuss their thoughts during deliberations, it is well understood that the Commission speaks solely through its orders.<sup>31</sup> Interestingly, MnSEIA noted this fact in recent comments it made in a separate Commission proceeding.<sup>32</sup>

Third, MnSEIA alleges, without support, that the utilities’ approach of using nameplate capacity “overestimates the amount of energy the system can export at any point in time . . . requiring unnecessary equipment upgrades.”<sup>33</sup> MnSEIA goes on to suggest that utilities are determining nameplate capacity based on the DC capacity of DER systems, or are “simply adding the nameplate capacity of the PV panels and the nameplate capacity of the inverters.”<sup>34</sup> This is not accurate and, while it is unclear if MnSEIA’s discussion is intentional or an honest misunderstanding of how a system is

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<sup>28</sup> Although it is possible for a DER to limit its export to the grid, this is typically done by using a power control system, or similar device, which is a supplemental device to an inverter that measures load and current DER production to limit the export capacity to the grid. The Cooperative provided extensive discussion around the use of power control systems in our initial comments.

<sup>29</sup> The statement in oral argument was: “...the inverter cannot export **and cannot generate** more than 40kW...,” meaning the Cooperative was specifically discussing generation capacity of the DER at the point of generator output, also known as the point of DER connection.

<sup>30</sup> MnSEIA Comments, Pages 6, 7, 12.

<sup>31</sup> *In Re Excelsior Energy, Inc.*, 782 N.W.2d 282 (Minn. Ct. App. 2010) (“But the commission does not speak through deliberations of the commissioners; it speaks only through written orders.”).

<sup>32</sup> Docket Nos. E-999/CI-16-521, E-002/C-23-434, Reply Comments of Minnesota Solar Advocates (including MnSEIA), Page 4 (“This is evidenced by the fact that Xcel does not appear to cite to the language of the Commission’s March 31 Order even though Xcel is aware that the Commission speaks through its orders.”).

<sup>33</sup> MnSEIA Comments, Page 9.

<sup>34</sup> *Id.*, Page 9.

reviewed and specified,<sup>35</sup> it is inaccurate to imply that Dakota Electric, or any other utility to our knowledge, is aggregating the DC rating of a system and the AC rating of a system. It is important to reiterate that Minnesota Statute is clear that capacity is measured as alternating current (AC).<sup>36</sup> Dakota Electric also reiterates that for purposes of interconnection study, the MN DIP also assumes AC power.<sup>37</sup> The DC rating of a system is not considered for purposes of net metering eligibility or interconnection review. The Cooperative believes a brief discussion of DC coupled versus AC coupled batteries is useful and may be helpful in clarifying the record.

There is a fundamental difference between a DC coupled battery and an AC coupled battery. In a DC coupled battery system, the PV array inverter is shared with the battery; however, the AC nameplate capacity of the inverter is the same regardless of the battery. In other words, the battery has no impact on the system's AC aggregate capacity. MnSEIA's suggestion that Dakota Electric is combining the capacity of the PV system and battery in the case of a DC coupled battery is simply not correct.<sup>38</sup> Again, MnSEIA seems to intentionally mischaracterize current utility practice in order to give the impression that utilities are operating contrary to applicable Statute and Rules.

### *Response to Nokomis Energy*

Nokomis's comments are generally in line with MnSEIA's comments. We do appreciate that Nokomis recognizes there are additional testing requirements and

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<sup>35</sup> Based on the totality of MnSEIA's comments and other mischaracterizations; however, it appears this mischaracterization is intentional and designed to make the Commission believe the utilities are fumbling the application of a statute that clearly refers to the "number of megawatts alternating current (AC)." In sum, MnSEIA's comments continue to advance the position that a significant issue or dispute exists, despite no evidence of such, by mischaracterizing utilities' application of the definition of capacity. This approach appears designed not to "provide clarity, consistency and predictability" as MnSEIA asserts, but to effectively abolish the statutory limitations on net metering eligibility in an effort to significantly expand such rate availability for increasingly large DER; not for the purpose of offsetting a customer's energy usage as prescribed by Minnesota Statute.

<sup>36</sup> Minnesota Statute 216B.164, Subd. 2a(c).

<sup>37</sup> MN DIP Section 1.1.2: 1.1.2 Capitalized terms used herein shall have the meanings specified in the Glossary of Terms or the body of these procedures. All references to DER Nameplate Rating or maximum capacity as described in 5.14.36 herein are in alternating current (AC).

<sup>38</sup> MnSEIA Comments at 9-10.

controls required in order to approve a DER system that uses a power control system.

Additionally, Nokomis's comments state:

These definitions make clear that the "capacity" of a system is measured as the maximum number of megawatts alternating current that can be transmitted from the system to the utility's electric system at a single point in time. As the Department of Commerce noted in its comments on the docket giving rise to this proceeding, this is best described as the "export capacity" of the system.<sup>39</sup>

If a system does not utilize an export limiting device, such as a power control system, the maximum AC capacity that could be transmitted from a DER system to the utility is the AC aggregate nameplate rating of the DER. Dakota Electric provided a robust discussion around the operation of power control systems in our initial comments.<sup>40</sup> If a DER uses a power control system to limit export, there could be several points in time where, due to the nature of power control systems, the DER could export greater than 40kW even if the export limit is set to 40kW. From a reliability perspective, export limiting using a power control system is possible and can be tested and still comply with Dakota Electric's TSM. However, the Cooperative does not believe such a system would qualify for net metering as Dakota Electric could receive a capacity at the point of common coupling that is greater than 40kW, for even *a single point in time*. Dakota Electric does believe that using a power control system to limit export to avoid certain distribution system upgrades could be permissible. To reiterate, Dakota Electric does not believe a DER should be allowed to use a power control system for a DER nameplate system greater than 40kW to limit export specifically for net metering qualification.

#### *Response to Department Comments*

The Department's comments were largely a restatement of their position in the original dispute proceeding, but the Cooperative does wish to respond to two points

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<sup>39</sup> Nokomis Comments, Page 2.

<sup>40</sup> Dakota Electric Comments, Pages 14-16.

raised by the Department. First, their statements that Dakota Electric and utilities are conflating issues of interconnection and net metering eligibility is not accurate. Although interconnection and net metering reside in different authorizing statutes, the discussion of each topic as they relate to the appropriate definition of capacity is not a conflation of the issue because the two topics cannot be fully decoupled. It is important to note that Minnesota Statute 216B.1611 (Interconnection of On-Site Distributed Generation), Minnesota Statute 216B.164 (Cogeneration and Small Power Production), and Minnesota Rules Chapter 7835 include references or processes that tie each statute, and the laws governing interconnection and net metering, together.<sup>41</sup> Furthermore, as discussed in our comments, the definition of capacity in Minnesota Statute and Rules is based on the capability to produce which is tied to a single location, the PoC,<sup>42</sup> which brings Minnesota Statute 216B.1611 and 216B.164 into alignment. Maintaining two capacity values, thereby fully decoupling interconnection and net metering eligibility, not only is unsupported by applicable Statutes and Rules, but introduces significant operational and administrative complications and inefficiencies. It is also unclear whether such an approach would serve to improve DER interconnections or result in increased and equitable DER penetration.<sup>43</sup>

Second, the Department recognized concerns by Dakota Electric and other utilities that adoption of MnSEIA and the Department's capacity interpretation could shift distribution costs to other ratepayers. Despite this realization, the Department concluded that Minnesota Statute 216B.164 does not exclude these noted outcomes and these concerns remain hypothetical and their impacts unknown. The Department concludes, "The statutory intent is to maximize the encouragement of cogeneration and

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<sup>41</sup> The Department states "Minn. R. Ch. 7835 are the rules promulgated to implement Minn. Stat. § 216B.164 and provide additional guidance for purposes of understanding capacity in the context of net-metered rate eligibility." But as reflected in Chapter 7835 and explained in the Commission's Statement of Need and Reasonableness, Chapter 7835 governs filing and reporting requirements, conditions of service, compensation rates, wheeling and exchange agreements, interconnection guidelines, and they also establish a uniform statewide contract. Docket No. E-999/R-13-729, Statement of Need and Reasonableness, Page 1.

<sup>42</sup> Dakota Electric Comments, Pages 7-8.

<sup>43</sup> Dakota Electric, Comments, Page 16.

small power production,”<sup>44</sup> seemingly disregarding the provision in Minn. Stat. §216B.164 which requires such encouragement to be “consistent with protection of the ratepayers and the public.” Further, the Department concluded that the statute already addresses these concerns:

The statute contemplates the potential impact of larger systems on other ratepayers. Minn. Stat. § 216B.164 provides mechanisms for purposes of protecting ratepayers from excessive potential impacts of DER systems. First, Minn. Stat. § 216B.164, Subd. 4c provides public utilities the ability to limit the generation capacity of systems to 120 percent of the customer’s on-site maximum electric demand, for wind generation, or annual electric energy consumption, for solar or other distribution generation. Second, Minn. Stat. § 216B.164, Subd. 3(a) provides cooperative and municipal utilities the ability to charge an additional fee to net-metered customers for purposes of recovering remaining fixed costs. Should the hypothetical cost impacts materialize from larger systems retaining net-metered rate eligibility, Minn. Stat. § 216B.164 provides a potential resolution. As the likelihood and magnitude of such impacts remain hypothetical and unknown, they provide insufficient grounds to apply the definition of capacity in a manner inconsistent with the clear statutory language.<sup>45</sup>

As described in detail in the Cooperative’s comments, Dakota Electric’s application of the definition of capacity is not inconsistent with the clear statutory language. The specific concerns related to this investigation are hypothetical because the longstanding utility standard is to use capacity at the PoC to measure system capacity and determine net metering eligibility; as such, the Department presents a strawman argument that cannot be tested. The fact that a concern exists, but cannot be tested, does not mean that the concern is not significant, easily identifiable, or should be dismissed offhand. It seems reasonable that the Commission and policymakers, would look to prevent cost shifts before they happen. Dakota Electric also notes that the Department’s characterization that these cost shift concerns are hypothetical is not supported by Minnesota Statute. The fact that the Legislature included the 120 percent rule and the grid access fee

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<sup>44</sup> Department Comments at 7.

<sup>45</sup> Department Comments, Page 6.

provision for consumer owned utilities, and required the statute to be construed consistent with protection of ratepayers shows that they were aware that costs shifts from DER systems are a real concern. As MnSEIA observes, Minn. Stat. 216B.03 requires that “[t]o the maximum reasonable extent, the commission shall set rates to encourage ... renewable energy use and to further the goals of sections 216B.164. . . Any doubt as to reasonableness should be resolved in favor of the consumer.” Given the lack of any demonstration that the current utility practice is hampering DER installation, and the information presented by Dakota Electric and the other utilities showing that current practice is consistent with applicable law, the Commissions should not accept MnSEIA’s or the Department’s invitation to significantly expand net metering eligibility to the detriment of small DER and the rates of Dakota Electric members.

#### *Response to Xcel Comments*

Xcel provided discussion on alignment between PURPA and Minnesota Statute § 216B.164 and this relationship to the correct interpretation of capacity for purposes of net metering.<sup>46</sup> In particular, the Cooperative notes Xcel’s reference to FERC specifications that non-power production processes (*e.g.*, load for purposes of consumption) are not netted against electric power capacity calculations. This is an important distinction because it supports Dakota Electric’s analysis that shows the Commission’s rulemaking focused on a DER’s ability to produce, not export to the grid as argued by MnSEIA and the Department.<sup>47</sup> As part of this PURPA discussion, Xcel also referenced other DER policy and legislative issues that are related to the definition of capacity. This is an important consideration that needs to be evaluated because a change to the industry’s longstanding application of capacity would likely impact other parts of DER policy and utility ratemaking and rate design policies beyond simply net metering eligibility.

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<sup>46</sup> Xcel Comments, Pages 3-4.

<sup>47</sup> Dakota Electric Comments, Pages 7-8.

## Conclusion

DER interconnection and net metering compensation are important energy policy matters, and the Commission's investigation into this subject seeks to clarify how capacity is defined to determine net metering eligibility. Dakota Electric reviewed the comments of other parties and continues to conclude that our use of nameplate rating (or rating at the inverter) is supported by Minnesota Statute and Rules and is the appropriate interpretation of capacity for purposes of net metering eligibility. Nameplate rating is a well understood, easily administered industry standard that has been used to determine net metering eligibility for decades and ensures the Cooperative's ability to maintain safe and reliable electric service for all members.

If you or your staff have any questions about these comments, please contact me at 651-463-6258 or [aheinen@dakotaelectric.com](mailto:aheinen@dakotaelectric.com).

Sincerely,

*/s/ Adam J. Heinen*

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Adam J. Heinen  
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**Certificate of Service**

I, Nicole McEathron, hereby certify that I have this day served copies of the attached document to those on the following service list by e-filing, personal service, or by causing to be placed in the U.S. mail at Farmington, Minnesota.

**Docket No. E999/CI-24-200**

Dated this 17th day of September 2024

*/s/ Nicole McEathron*

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Nicole McEathron



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First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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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_24-200_Official
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First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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Kristin	Dolan	kdolan@meeker.coop	Meeker Cooperative Light & Power Assn	1725 US Hwy 12 E. Ste 100 Litchfield, MN 55355	Electronic Service	No	OFF_SL_24-200_Official

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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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_24-200_Official

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