

June 24, 2015

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

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E111/M-15-499

Dear Mr. Wolf:

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

Dakota Electric Association Request for a Variance to Commission Rules Regarding
Billing Errors

The filing was submitted on May 27, 2015 by:

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

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

Sincerely,

/s/ DALE V. LUSTI
Financial Analyst

DVL/ja
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

**COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES**

DOCKET No. E1111/M-15-499

I. BACKGROUND AND SUMMARY OF FILING

On May 27, 2015, Dakota Electric Association (Dakota Electric or Cooperative) filed a petition requesting approval of a variance to Minnesota Public Utilities Commission (Commission) Billing Error Rules, Minnesota Rules, part 7820.3800, and a one-time modification to the terms of the “Billing Corrections – Remedy for Overcharge” requirements contained in the Cooperative’s Rate Book.

Dakota Electric requested this rule variance to gain approval to refund to a “General Service” member/customer (member) overcharges that the member paid during a period outside of the three-year limit set in Minnesota Rules. The Cooperative stated that the overcharge was due to an inadvertent omission of the primary service discount to the customer following a reconfiguration of the customer’s service and the installation of new metering in 2009. Prior to the installation of new metering the customer did receive the primary service discount. The omission was discovered by the Cooperative while it was reviewing and verifying existing primary metering.

Upon discovery of the error, the Cooperative provided the member with a check for the most recent three years (04-2012 to 03-2015) of over-billing, as allowed by Commission regulations and Dakota Electric’s Rate Book. In order for the Company to provide a refund to the member for the period exceeding three years (11-2009 to 03-3012) the Company must file this variance request with the Commission.

The Cooperative calculated a total credit for the member of approximately \$251,460.05 as shown in Table 1 below, for the total timeframe both within and exceeding the Commission Rule and Tariff periods. Dakota Electric calculated and provided billing credits in accordance with Minn. R. 7820.3800 and calculated interest consistent with Minn. Stat. 325E.02(b) as summarized in the table below.

Table 1: Credit Amounts Provided and Credit Amounts Requiring Variance

Time Period	Principal	Interest	Total
Credit Provided (4/2012 - 3/2015)	\$153,992.55	\$291.03	\$154,283.58
Credit Requiring Variance (11/2009 - 3/2012)	\$96,503.70	\$672.77	\$97,176.47
Total	\$250,496.25	\$963.80	\$251,460.05

II. DEPARTMENT ANALYSIS

Minnesota Rules, part 7820.3800 states in relevant part:

Subpart 1. Errors warranting remedy.

When a customer has been overcharged or undercharged as a result of incorrect reading of the meter, incorrect application of rate schedule, incorrect connection of the meter, application of an incorrect multiplier or constant or other similar reasons, the amount of the overcharge shall be refunded to the customer or the amount of the undercharge may be billed to the customer as detailed in subparts 2 through 4.

Subpart 2. Remedy for overcharge.

When a utility has overcharged a customer, the utility shall calculate the difference between the amount collected for service rendered and the amount the utility should have collected for service rendered, plus interest, for the period beginning three years before the date of discovery. Interest must be calculated as prescribed by Minnesota Statutes, section 325E.02, paragraph (b).

Subpart 4. Exception if error date known.

If the date the error occurred can be fixed with reasonable certainty, the remedy shall be calculated on the basis of payments for service rendered after that date, but in no event for a period beginning more than three years before the discovery of an overcharge or one year before the discovery of an undercharge.

Dakota Electric's Rate Book, Section VI, 3rd Revised Sheet No. 12 states, in relevant part:

Remedy for overcharge

Dakota Electric shall calculate the difference between the amount collected for service and the amount the Cooperative should have collected for service, plus interest, for the period beginning three years before the date of discovery. Interest will

be calculated as prescribed by Minnesota Statutes, section 325E.02(b).

Dakota Electric stated that it has provided the affected member the refund in accordance with Minnesota Rules. The Cooperative requested approval to issue a further credit for the amount overcharged to the customer for the periods that lie outside the 3-year limit.

Minnesota Rules, part 7829.3200, subp. 1 establishes the following criteria for evaluating a variance request:

The commission shall grant a variance to its rules when it determines that the following requirements are met:

- A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- B. granting the variance would not adversely affect the public interest; and
- C. granting the variance would not conflict with standards imposed by law.

The Department believes that the rule variance criteria can also be used to assess the reasonableness of the one-time tariff modification that Dakota Electric has requested.

In support of Dakota Electric's variance request, the Cooperative stated, given the amount of time at issue, enforcement of Minnesota Rule 7820.3800 would impose a burden on the member, by limiting the refund the member is entitled to. Further, Dakota Electric stated that public interest is represented by the financial impact to the Cooperative from providing an additional refund for the known over-charges, which were due to the lack of credit for primary metering. Dakota Electric stated that it is not aware of any conflict with any standards imposed by law. The Commission has in the past approved a utility's voluntary refund beyond the limits of its Rules when special circumstances exist affecting a member.

The Department concludes that the criteria for granting a variance as set forth by Minnesota Rules, part 7829.3200, subp. 1 are met for Dakota Electric's variance request and for a one-time modification to its tariff.

III. RECOMMENDATION

The Department recommends that the Commission approve Dakota Electric's request for a variance to Minnesota Rules, part 7820.3800 and a one-time modification to its Billing Error Tariff requirements.

/ja

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-15-499

Dated this 24th day of June 2015

/s/Sharon Ferguson

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