STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION

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In the Matter of Minnesota Power's Petition for Approval of Modifications to its Large Power Tariff	DOCKET NO. E-015/M-26-126

INITIAL COMMENTS OF THE OFFICE OF THE ATTORNEY GENERAL— RESIDENTIAL UTILITIES DIVISION

INTRODUCTION

The Office of the Attorney General—Residential Utilities Division (OAG) respectfully submits the following Comments in response to the Public Utilities Commission's Notice of Extended Comment Period issued on April 2, 2026, regarding the petition of Minnesota Power (MP) for approval of modifications to its Large Power tariff to accommodate very large customers such as data centers. For the reasons explained below, the Commission should require MP to file a new tariff proposal that complies with the relevant law. Specifically, MP should define "very large customer" and should include sufficient protections to ensure that its existing ratepayers are protected from paying costs attributable to these customers, including a longer minimum contract term, explicit minimum-bill and exit-fee requirements, and collateral requirements. MP should make this new proposal expeditiously so that a tariff can be approved before any new very large customers come onto its system.

BACKGROUND

I. MINNESOTA STATUTES SECTION 216B.1622

In June 2025, Minnesota passed legislation regulating data centers and, in particular, setting requirements for public utilities' provision of electric service to "very large customers."[1] The portion of the data-center law pertaining to utility service is codified at Minn. Stat. § 216B.1622.

Section 216B.1622 does not define "very large customer."[2] Instead, it tasks the Commission with establishing "the definition and appropriate characteristics of a very large customer class or subclass" for each public utility providing electric service.[3] The law requires the Commission to define this class or subclass for each utility by December 15, 2026.[4]

Section 216B.1622 further provides that the Commission "may approve, modify or reject a tariff or electric service agreement proposed between a public utility and a very large customer."[5] In making this decision, the Commission must consider how best to achieve four outcomes: (1) that "all costs" attributable to very large customers are assigned to the very large customer class or subclass; (2) that the electricity provided to a very large customer meets the quantitative benchmarks of the state's renewable-energy objectives; (3) that the very-large-customer tariff or agreement "contains the provisions necessary to ensure" that other customers are not put at risk of paying for stranded costs; and (4) that the tariff or agreement is otherwise in the public interest.[6]

Finally, section 216B.1622 exempts from these requirements "existing, renewed, or extended electric service agreements" of customers that would otherwise meet the threshold for

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[1] *See* H.F. 16, 2025 Leg., 1st Spec. Sess. (Minn. 2025).
[2] Another provision, however, defines "data center," in part, as "a facility that is designed to have a load of 100 megawatts or more and whose primary purpose is the storage, management, and processing of digital data." Minn. Stat. § 216B.02, subd. 11.
[3] Minn. Stat. § 216B.1622, subd. 1.
[4] *Id.*
[5] I*d.*, subd. 2.
[6] *Id.*

being a very large customer, as well as "very large customers that have been actively taking electric service from the public utility prior to 2020."[7]

II. POTENTIAL VERY LARGE LOADS

MP is preparing for the addition of significant load from very large customers, as evidenced by its recent announcement of an Electric Service Agreement (ESA) with Google[8] and the resource needs projected in its most recent Integrated Resource Plan (IRP).[9] In the proposed ESA for Google that MP has submitted for Commission approval, MP states that "[t]he ESA will enable the potential development of 700 MW of new clean energy resources, including 300 MW of wind and 400 MW of battery storage – pending Commission approval in future resource acquisition proceedings."[10] The Company's IRP also includes both a "base plan" intended to meet 1,705 MW of peak load in winter 2035[11] and a "growth plan" that would meet 2,810 MW of peak load in winter 2035,[12] with the growth plan representing a 73 percent increase in load over the next decade.[13] In response to an information request, MP stated that, as of April 2025, there were ten requests in its transmission load interconnection queue representing over 7,400 MW of potential load.[14]

MP is likely to incur significant costs to meet the electricity demands of Google, and costs would rise further if additional large loads were to materialize. Though the IRP does not provide

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[7] *Id.*, subd. 3.
[8] Docket No. E-015/M-26-159, Petition for Approval of an Electric Service Agreement Between Google and Minnesota Power (Mar. 27, 2026) ("Google ESA Petition").
[9] *See generally* Docket No. E-015/RP-25-127, 2025-2039 Integrated Resource Plan (Mar. 3, 2025) ("MP IRP Petition").
[10] Google ESA Petition at 22.
[11] MP IRP Petition at 78, tbl. 8.
[12] *Id.* at 80, tbl. 10.
[13] MP estimates peak load for winter 2025 at 1,626 MW (MP IRP Petition at 80, tbl. 10), so 2,810 MW represents a 73 percent increase.
[14] Attachment 1 (Docket No. E-015/RP-25-127, MP Response to CEO IR 005 (Public)).

a comprehensive analysis of resource costs, MP does provide estimates of the 15-year net present value of power supply costs in the base plan and growth plan.[15] MP's base plan power supply costs are estimated at $7.86 billion in present dollars, and the analogous growth plan costs are estimated at $11.15 billion, or over $3 billion more.[16] While it is not possible to evaluate the reasonableness of these estimates without more information, they signal that meeting the demand of new, very large customers could be costly. In light of both the additional costs and the legal mandate, it is important to ensure that very large customer tariffs are designed to protect other ratepayers from the risks of both cost shifting and stranded costs.

III. MINNESOTA POWER'S PETITION

In February 2026, MP filed a six-page petition seeking approval to accommodate new very large customers within its existing Large Power (LP) Customer Class and Large Power Service Schedule (LP Tariff).[17] MP clarifies that "[t]he Company . . . intends for any new customer taking service under the Company's existing LP Service rate schedule to be billed in accordance with the same tariff structure, methodology, and billing components applicable to all existing customers served under that schedule."[18] To support its request, MP states that its current LP class already includes several large industrial customers, with approximately two-thirds of its sales attributable to U.S. Steel, Cleveland-Cliffs, UPM Blandin, and Enbridge.[19]

MP notes that LP Class customers enter into a negotiated Electric Service Agreement (ESA) with the company, which "defines the full scope of commitments, including minimum

[15] *See* MP IRP Petition at 35, tbl. 13 and tbl.14.
[16] *Id.*
[17] *See* Minnesota Power's Petition for Approval of Modifications to its Large Power Tariff at 5 (Feb. 18, 2026) ("Petition").
[18] Petition at 8-9. In a supplementary filing, however, MP proposes changing the Large Power Surcharge currently in the tariff. *See* Proposed Tariff Modifications Compliance Filing at 1-2 (Apr. 14, 2026) ("Petition Compliance Filing").
[19] *Id.* at 5.

billing requirements, service obligations, and other operational and financial terms" and is subject to approval by the Commission.[20] Later in the Petition, MP reiterates that "ESAs for large customers typically include customer-specific provisions related to minimum and contract demand levels, service conditions, security and billing requirements, and revenue assurances necessary to mitigate stranded-cost risk."[21]

MP also states that its existing transmission interconnection processes will help prevent cost shifting, with new very large customers being required to "cover the cost of interconnection studies as well as any interconnection and network upgrade facility costs identified through the process as necessary to serve their load."[22] And since these customers will interconnect at transmission voltages, they are not expected to impose distribution costs on the system.[23]

MP's existing LP Tariff has a multipart rate structure, including (1) a flat charge for the first 10 MW or less of Firm Demand, (2) a per-kW charge for additional firm demand, (3) a per-kW transmission demand charge, (4) a per-kWh Firm Energy charge, and (5) a per-kWh charge for excess energy.[24] Per the tariff, "[i]n general, the Firm Demand will be based on amount specified, selected, nominated, determined or agreed upon in the Customer's ESA," and "[i]n general, the amount of Firm Energy billed in each hour of the billing month will be equal to the amount of Firm Demand in that month unless modified by terms in the Customer's ESA."[25]

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[20] *Id.* at 8.
[21] *Id.* at 9.
[22] *Id.* at 8.
[23] *Id.*
[24] *Id.*, attach. A at 3. Excess energy is defined in the tariff is "the kWh of energy taken by Customer in each hour of the month in excess of the allowable Firm Energy levels specified in the Customer's ESA in that hour, unless the Customer takes such energy under the Rider for Large Power Incremental Production Service or another Rider applicable to Large Power Service and available to the Customer pursuant to its ESA."
[25] *Id.*, attach. A at 5.

The LP Tariff includes a minimum term of ten years, subject to Commission approval, to continue until either party requests cancellation with at least four years' notice.[26] The Tariff also includes a Large Power Surcharge (LP Surcharge) that applies to Firm Demand in excess of 50 MW in any 24-month period, which MP proposes changing in an addendum to its initial filing.[27]

As currently defined, the LP Surcharge is payable for five years and is intended to cover the additional cost to the Company of obtaining the necessary power supply.[28] It includes a per-kW Capacity Portion and a per-kWh Energy Portion.[29] The Capacity Portion is based on (1) the incremental cost of purchasing capacity to serve the additional load, (2) the incremental annual revenue requirement associated with building or refurbishing generation to serve the additional load, or (3) a blend of (1) and (2).[30] The energy portion is designed similarly and is based on (1) the incremental cost of energy associated with the purchased capacity, (2) the incremental cost of energy associated with facilities built or refurbished by MP, or (3) a blend of (1) and (2).[31]

Importantly, MP's petition proposes major changes to the LP Surcharge. While the existing surcharge states that "new customers with Firm Demand in excess of 50,000 kW in any twenty-four month period . . . *will be* subject to a Large Power Surcharge,"[32] the proposed surcharge states that "[c]ustomers with Firm Demand load growth in excess of 50,000 kW *could be* subject to a Large Power Surcharge."[33] In the proposed version, payment of a surcharge is

[26] *Id.*, attach. A at 1-2.
[27] Petition Compliance Filing at 1-2.
[28] Petition, attach. A at 6.
[29] *Id.*
[30] *Id.* at 6-7.
[31] *Id.*, attach. A at 7.
[32] *Id.*, attach. A at 6 (emphasis added).
[33] Petition Compliance Filing, attach. A (emphasis added).

conditional on an incremental cost assessment that MP calls a margin-contribution analysis.[34] In the analysis, to be performed six months prior to reaching load growth of 50,000 kW, MP would compare a customer's prospective costs and revenues over a period of five years. The proposed tariff states that "[i]f the attributable costs are greater than the revenue over the term of the initial ESA, then a Large Power Surcharge shall be applied to the customer bill."[35] If the analysis shows that revenues exceed costs, no surcharge would be applied. The proposed tariff also states that MP "will perform the margin contribution analysis on an annual basis until no surcharge is calculated for a rolling five-year period" and that "[t]here may also be an annual margin contribution analysis true-up calculated and assessed, as applicable."[36]

ANALYSIS

The Legislature sought to protect ratepayers from the risks of data-center development by requiring these "very large customers" to be treated as a separate class for ratemaking purposes and to pay all costs attributable to them. Yet MP's proposal in this case fails to define very large customers or treat them as a new class or subclass. As a result, the proposal would not effectively ensure that very large customers pay all costs attributable to them as required by law. Moreover, MP's existing LP tariff, under which it proposes to serve very large customers, would not sufficiently protect ratepayers from the stranded-asset risks of data centers as required by law. The Commission should require MP to define a new very large customer class and file a proposed very large customer tariff that includes additional protections such as a longer minimum contract term, minimum-bill and exit-fee provisions, an improved LP Surcharge, and collateral requirements. The Commission should require that MP file this tariff proposal expeditiously, potentially as a

[34] *Id.* at 2.
[35] *Id.*, attach. A (proposed revisions to MP Electric Rate Book, Section V, Page 24.5).
[36] *Id.*

compliance filing in this docket, so that the tariff can be in place prior to approval of the Google ESA.

I. MP'S PROPOSAL FAILS TO DEFINE "VERY LARGE CUSTOMER" OR ENSURE THAT VERY LARGE CUSTOMERS PAY ALL COSTS ATTRIBUTABLE TO THEM.

MP argues that it has longstanding experience serving very large customers.[37] But MP's failure to propose a definition of "very large customer" indicates that MP views these customers as indistinguishable from its existing LP customers. This is not the case. There would have been no need for a new data-center law if utilities' status-quo tariffs were sufficient to protect other ratepayers. If these customers could simply be served under MP's existing LP class with a few tweaks to a very large customer's ESA, the Legislature would not have enacted section 216B.1622 or would have exempted MP from its requirements. MP has no experience serving a customer of the size and type of Google's proposed data center, and its filing fails to recognize the unique risks posed by this type of customer.

Because MP does not heed the statutory mandate to define a new very large customer class or subclass, its proposal also fails to ensure that "all costs attributable to the utility's very large customers . . . are assigned to the very large customer class or subclass determined by the commission."[38] Failing to create a separate class for very large customers has two results: MP's proposal fails to (1) effectively isolate costs incurred to serve very large customers from those incurred to serve ratepayers in general; or (2) prevent these costs from being shifted onto existing members of MP's LP Class, who must be separated from very large customers under section 216B.1622, subdivision 3.

[37] *See* Petition at 1, 5.
[38] Minn. Stat. § 216B.1622, subd. 2(1).

While MP's petition does not specifically address cost allocation for very large customers, the Company's proposal to include them in the LP Class suggests that they would be allocated costs in MP's standard cost-allocation process.[39] In this process, all costs—both existing fixed costs and the incremental costs of new very large customers—are typically socialized across all classes based on each class's contribution to peak demand, electricity use, and/or customer counts. Allocating costs in this way has long been a second-best solution, when it is not possible to directly assign large, fixed costs to individual customers or classes of customers who benefit from them. However, due to the concentration of demand in individual very large customers and the ability to identify costs that would not be incurred but for these new customers, direct assignment of costs to very large customers is both possible and desirable.

A recent data center study from Harvard's Electricity Law Initiative elaborates on the risks of not directly assigning costs to large load customers. The authors argue that using "long-standing practices in rate cases" (e.g. conventional cost allocation) is inappropriate for data centers.[40] Unlike historical load growth, data center customers "are identifiable and capable of paying for infrastructure that will directly serve their facilities."[41] Therefore, the study argues, "[t]he easiest way for utilities to shift data centers' energy costs to the public is to simply follow long-standing practices in rate cases."[42]

The Large Power Surcharge in the existing LP Tariff indicates that MP has already identified a mechanism for isolating incremental capacity and energy costs attributable to large

[39] *See, e.g.*, Docket No. E-015/GR-23-155, Shimmin Direct Test. (Nov. 1, 2023) (describing cost allocation using the Company's embedded class cost of service study).
[40] Eliza Martin & Ari Peskoe, Harvard Law School Environmental & Energy Law Program, Extracting Profits from the Public: How Utility Ratepayers Are Paying for Big Tech's Power at 10 (Mar. 2025) ("Harvard Study").
[41] *Id.*
[42] *Id.*

customers. But because the existing LP Surcharge is payable for only five years—a small portion of the useful life of generation assets—it would not fully shield other ratepayers from very large customer costs. Still, it provides evidence of the feasibility of direct cost assignment.

On the other hand, MP's proposed revision to the LP Surcharge would represent a major step backwards, in terms of ensuring that very large customers pay all costs attributable to them. The new surcharge would be triggered only if a short-term prospective analysis found that a very large customer's forecasted costs exceeded its forecasted revenues.[43] Such an analysis could easily underestimate costs. In addition to the potential for the utility's actual costs to surpass the forecasted costs used in the analysis, it is not clear exactly how the utility plans to define "attributable costs,"[44] especially those related to generation resources. Further, when asked whether it plans to include any increases to MISO costs, administrative and general costs, or overhead costs in Google's margin-contribution analysis, MP stated that it had not identified any increases in these costs attributable to Google's load.[45] Given the potential for costs to be underestimated due to forecasting errors, misattribution, and the omission of relevant costs, the margin-contribution analysis is not a sufficient mechanism for preventing cost shifting to other customers.

The second reason MP's proposal would not fulfill the "all costs attributable" requirement is because the law makes a distinction between new very large customers and existing customers that meet the very large customer threshold.[46] Subdivision 3 of section 216B.1622 states that

[43] *See* Petition Compliance Filing at 2 (explaining that a five-year margin-contribution analysis will be used to determine whether the net present value of revenues from the customer are in excess of costs to serve and that the surcharge will be triggered if they are not).
[44] *Id.*, attach. A (showing the proposed changes to MP's Large Power Surcharge in Section V, Page No. 24.5 of MP's Electric Rate Book).
[45] Attachment 2 (Docket No. E-015/M-26-159, MP Response to OAG IR 007).
[46] Minn. Stat. § 216B.1622, subd. 3.

"[t]his section shall not apply to existing, renewed, or extended electric service agreements of public utility customers meeting the threshold of a very large customer, or to very large customers that have been actively taking electric service from the public utility prior to 2020."[47] Since existing customers are legally exempt from the rules that apply to the very large customer class or subclass, it would be inappropriate to combine existing LP Class customers with new very large customers for the purposes of cost allocation and rate design. Doing so would not allow for effective separation of costs attributable to new very large customers and existing LP Class customers. Instead, existing LP Class customers are one of many customer classes to which the law seeks to prevent costs attributable to very large customers from being shifted.

Very large customers should be treated as a separate class for the purposes of cost allocation, revenue apportionment, and rate design. Creating a separate class would both prevent the cross-subsidization of new very large customers and MP's existing LP Class customers, as required by law, and it would allow for direct assignment of costs to this class where possible.

II. USING MP'S EXISTING LP TARIFF FOR VERY LARGE CUSTOMERS WOULD NOT SUFFICIENTLY PROTECT OTHER RATEPAYERS FROM STRANDED-COST RISK.

MP's existing LP Tariff includes some terms that would help mitigate stranded-cost risks, if very large customers were to fully leave the system before paying off the costs incurred to serve them, but these terms are not sufficiently protective. To protect other ratepayers, MP's very large customer tariff should include a longer minimum contract term, explicit minimum bill and exit fee requirements, a more protective LP Surcharge, and collateral requirements.

As noted above, the LP Tariff currently requires an initial ten-year minimum contract term, unless otherwise approved by the Commission, along with a four-year notice requirement for

[47] *Id.*

cancellation.[48] A ten-year term is too short to ensure that very large customers will pay for their fair share of generation assets that may be built to serve their load, given the much longer lifetimes of these assets. MP seems to acknowledge that a longer term is appropriate, having proposed a 15-year initial term in its proposed Google ESA.[49] The minimum term should be longer than ten years, and it should be a fixed minimum that cannot be shortened—but can be lengthened—in an ESA.

While the OAG does not recommend a specific term length at this time, we note that large load tariffs in other jurisdictions are commonly longer than ten years. Such tariffs are a relatively new endeavor for many utilities, but according to the most recent (March 31, 2026) release of the Database of Emerging Large Load Tariffs (DELTa), 19 of the 27 large-load tariffs proposed or adopted by investor-owned utilities with specified contract terms and minimum-billing requirements included contract terms of at least 12 years, with some as long as 20 years.[50] Although even 20-year terms are short relative to the book life of generation assets, they indicate that utilities and commissions in other jurisdictions have acknowledged the increased risks associated with new large loads.

The very large customer tariff should also include explicit minimum-bill and exit-fee provisions. MP's existing LP Tariff includes a flat $244,334 demand charge for the first 10 MW or less of Firm Demand and an additional per-kW charge for Firm Demand in excess of 10 MW.[51] It also states that "[i]n general, the Firm Demand [used to calculate the Demand Charge] will be

[48] Petition, attach. A at 1-2.
[49] Google ESA Petition at 11.
[50] At the time of the March database update, 19 of the 27 tariffs had been approved and 8 were awaiting approval. *See* Database of Emerging Large-Load Tariffs (DELTa), Smart Electric Power Alliance & North Carolina Clean Energy Technology Ctr. (accessed Mar. 31, 2026).
[51] Petition, attach. A at 3.

based on amount specified, selected, nominated, determined or agreed upon in the Customer's ESA."[52] These terms are not sufficiently protective for customers with loads potentially much larger than 10 MW. The very large customer tariff should provide explicit minimum-bill and exit-fee provisions to ensure that the fixed costs incurred to serve the class are recovered, regardless of actual very large customer demand or tenure. As with the minimum contract terms, the tariff's minimum-bill and exit-fee provisions should serve as price floors, which can be increased, but not decreased, upon Commission review of the ESA.

The existing LP Surcharge assigns some of the incremental capacity and energy costs associated with serving a large customer to that customer. This is appropriate, given that these costs would not have been incurred but for the addition of the customer. As discussed above, MP's proposed revision to the LP Surcharge should be rejected, since it provides much less protection to other ratepayers. The five-year payment period for the existing LP Surcharge is too short relative to the lifetimes of generation assets and should be extended in the very large customer tariff. To protect other ratepayers from stranded-cost risk, the surcharge term should be lengthened in the new very-large-customer tariff to help ensure that the total costs recovered from a customer over its contract term match the total costs incurred by that customer. Additional changes may be appropriate but will require more record development to identify.

Finally, the LP Tariff does not explicitly include collateral requirements, ostensibly leaving these to individual ESAs. To provide additional stranded-cost risk, and to ensure consistency and transparency, the very large customer tariff should also include minimum collateral requirements. A November 2025 review of 65 U.S. large load tariffs found that collateral requirements were

[52] *Id.*, attach. A at 5.

included in over half (37) of the tariffs, often taking the form of cash deposits, irrevocable letters of credit from banks, or parent guarantees.[53]

III. KEY RISK-MITIGATION PROVISIONS SHOULD BE INCLUDED IN A VERY LARGE CUSTOMER TARIFF, NOT INDIVIDUAL ESAS.

In its Petition, MP asserts that ESAs are the most appropriate vehicles for ensuring that the legal requirements for very large customers are met:

> While recent legislation appropriately emphasizes the importance of incorporating certain requirements, the Company believes these provisions should also be reflected, and addressed in greater detail, within the ESA itself. Doing so ensures transparency, regulatory certainty, and a comprehensive framework that appropriately allocates risks and responsibilities between the Company and the customer.[54]

The Company argues that addressing the requirements in ESAs will ensure transparency and lead to appropriate risk allocation.[55] Yet it is difficult to imagine how addressing regulatory requirements in ESAs would provide greater transparency than including them in a dedicated very large customer tariff. MP's existing LP Tariff states that "[i]nasmuch as all ESAs will contain confidential information . . . all ESAs are to be marked as trade secret in their entirety for purposes of the Minnesota Government Data Practices Act."[56] ESAs that are trade secret in their entirety are more difficult for stakeholders to review, and reviewing individual ESAs to ensure that risk mitigation measures are adequate is also resource intensive.

The authors of the Harvard data center study reviewed 40 state public utility commission proceedings for special contracts with data centers. They observed: "One challenge for PUCs is that few, if any, parties participate in these proceedings. As a result, the PUC has little or no

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[53] Alyssa Perez, Sarah Wang & Lauren Shwisberg, *Large Energy Users Want Power. Here's How to Protect Other Ratepayers from the Costs*, RMI (Nov. 7, 2025).
[54] Petition at 8.
[55] *Id.*
[56] *Id.*, attach. A at 2.

evidence in the record to compete with the utility's claim that the contract isolates data center energy costs from other ratepayers' bills."[57] In contrast, the authors note, "tariffs are reviewed in open dockets that allow the public and interested parties to scrutinize proposals and understand long-term implications of proposed rates should they go into effect.[58] Including key risk-mitigation provisions in a separate very large customer tariff would increase both transparency and the benefits that come from careful review.

Individual very large customers will still require ESAs, but the protections discussed above—including a longer minimum contract term, minimum-bill and exit-fee provisions, a more protective surcharge, and collateral requirements—should be memorialized in a tariff.

IV. THE COMMISSION SHOULD ESTABLISH A VERY LARGE CUSTOMER TARIFF FOR MP BEFORE ACTING ON ITS ESA WITH GOOGLE.

In March 2026, MP filed an ESA with Google's proposed Hermantown data center (the Google ESA) for Commission approval.[59] MP's Google ESA Petition does not specify any time constraints around when the Google ESA needs to be approved. Under section 216B.1622, however, the Commission must establish the definition and appropriate characteristics of a very large customer class or subclass for MP by December 15.[60] The Commission should also establish a tariff by that time, though the timing of MP's filing may make this difficult. Only after the Commission has defined very large customers and established the tariff should it address the reasonableness of the Google ESA.

As discussed earlier, setting the terms and conditions for very large customer service in a tariff is essential to ensuring transparency and consistency in the treatment of these novel

[57] Harvard Study at 11.
[58] *Id.* at 23.
[59] *See* Google ESA Petition.
[60] Minn. Stat. § 216 B.1622, subd. 1.

customers. Establishing this tariff before approving the Google ESA, moreover, would expedite review of the ESA because the general terms and conditions would serve as a metric against which to judge the ESA and minimize disputes about what reasonable terms should be. Developing terms of service through a single deliberative process is also likely to yield better results than developing them *ad hoc* through individual ESA dockets for numerous reasons, including more robust participation, greater transparency, and consistent treatment of customers. None of this can reasonably be accomplished without first adopting a definition of "very large customer," a definition which MP has yet to propose.

Even if the Google ESA were approved before a very large customer tariff, MP's service of the Hermantown data center would still be governed by the terms of that tariff once it is approved. While section 216B.1622 exempts "existing, renewed, or extended electric service agreements" as well as "very large customers that have been actively taking electric service from the public utility prior to 2020,"[61] neither of these provisions applies to the Hermantown data center, which was not a customer of MP at the time that section 216B.1622 was enacted and still hasn't begun to be served by MP. Because the Hermantown data center is governed by the statute, MP's very large customer tariff will apply to it once the tariff is established. It is therefore in the interests of the ESA parties to have that tariff in place before the ESA is approved so that any modifications to the ESA necessary for consistency with the tariff can be made.

For these reasons, the Commission should require MP to propose a very-large-customer definition and expeditiously file a tariff proposal that treats these customers as a separate class consistent with the statute. The Commission could direct MP to refile its tariff proposal as a compliance filing in the instant docket, rather than in a new docket, to help expedite its

[61] Minn. Stat. § 216B.1622, subd. 3.

consideration. If the Commission is unable to approve a full tariff by December 15, it should still establish "the definition and appropriate characteristics of a very large customer class or subclass" for MP by that date, which is the minimum requirement of section 216B.1622.[62]

Finally, it would be unreasonable to approve the Google ESA before a very large customer tariff is in place, or to rush a decision on the tariff, when MP could have taken steps to allow for a tariff to be considered much sooner. MP waited until eight months after section 216B.1622 was enacted and filed a six-page proposal that fails to treat very large customers as a separate class or subclass—one of the clearest requirements of the statute. Accordingly, any urgency to approve a very large customer tariff is of MP's own making. The Commission should feel no pressure to rush a decision the tariff or the ESA; any risk to the ESA from a delay in the tariff's approval was foreseeable and has been assumed by MP and Google.

RECOMMENDATIONS

For all the foregoing reasons, the Commission should take the following actions:

1. Deny MP's petition for approval to apply its existing LP tariff to very large customers.
2. Require MP to create a very large customer class for cost allocation and ratemaking purposes.
3. Require MP to expeditiously file a tariff proposal consistent with the statute, including a definition of "very large customer."
4. Require MP to include terms in the new very large customer tariff that provide more protection against cost-shifting and stranded costs, including a longer

[62] *Id.*, subd. 1.

minimum contract term, explicit minimum-bill and exit-fee requirements, a more protective surcharge, and collateral requirements.

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