

STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION

Katie Sieben	Chair
Joseph Sullivan	Vice-Chair
Hwikwon Ham	Commissioner
Audrey Partridge	Commissioner
John Tuma	Commissioner

In the Matter of the Petition of the Dakota
Electric Association to Modify its Extension of
Service Tariff

Docket No. E-111/M-25-178

Comments of the Citizens Utility Board of Minnesota

The Citizens Utility Board of Minnesota (“CUB”) respectfully submits the following comments pursuant to the Minnesota Public Utilities Commission’s (“Commission”) Notice of Extended Comment Period issued on May 23, 2025 in the above-referenced matter.

I. Overview

Dakota Electric Association (“Dakota Electric” or the “Cooperative”) petitioned the Commission on March 31, 2025 to modify its Extension of Service Tariff as it relates to new large load members seeking service in the Cooperative’s service territory.¹ As explained by Dakota Electric, numerous requests for service have been received over the past 24 months that far exceed the 2 megawatt (“MW”) threshold currently utilized in its Large Load Agreement.² Given the increasing frequency and scale of these large load requests, Dakota Electric claims the existing tariff must be updated to mitigate financial risks to the Cooperative and its members.³

The modifications included in the Cooperative’s petition are intended to facilitate the interconnection of extraordinarily large loads while ensuring existing Cooperative members are insulated from the costs associated with bringing these entities online.⁴ Dakota Electric’s proposal does not seek to revise current rate class structures, but instead addresses the allocation of engineering, design, and construction costs necessary for interconnecting potential large load members.⁵ Rather than placing the burden of these expenses on existing members, the Cooperative argues large load entities should bear the costs.

¹ *In the Matter of the Petition of Dakota Electric Association to Modify its Extension of Service Tariff*, Docket No. E-111/M-25-178, Petition of Dakota Electric Association (Mar. 31, 2025) (hereinafter “DEA Extension of Service Tariff Petition”).

² *Id.* at 8.

³ *Id.* at 8.

⁴ *Id.* at 4-5.

⁵ *Id.*

II. Analysis

The recent introduction of “hyperscale” data centers and other large load entities into the utility space has raised fundamental questions about grid reliability and cost allocation. Extending service to these prospective loads is a substantial undertaking and could have unintended consequences for existing members if precautions are not taken. As acknowledged by Dakota Electric, the size and complexity of these “system intensive” loads necessitates “significant engineering design and analysis,” to which equally significant infrastructure construction costs are attached.⁶

As reflected by the Commission’s decision in Xcel Energy’s integrated resource plan proceeding and recently enacted legislation, parameters must be established to ensure the costs associated with bringing large load entities online are borne by those same companies.⁷ Dakota Electric’s Extension of Service Tariff modification attempts to facilitate this process by requiring system intensive members to execute Letters of Authorization (“LOA”), as well as Construction and Engineering (“C&E”) Agreements.⁸ Under the provisions of these contracts, preparatory study and equipment costs would be isolated and borne by the prospective member. While CUB supports Dakota Electric’s efforts to mitigate cost impacts for its existing members, we have some concerns about the process envisioned by the Cooperative.

First, legislation has been passed since Dakota Electric’s initial filing that seeks to address the financial risks posed by large loads. Under Minn. Stat. § 216B.1622, the Commission must now define what constitutes a “very large customer” and establish a separate rate class or subclass for those entities.⁹ The Commission must also evaluate proposed tariffs and service agreements to ensure the costs of serving large loads are appropriately allocated so other customers are not placed at risk.¹⁰ While this statutory language is geared towards public utilities, a similar process could be employed for Dakota Electric, which is rate-regulated by the Commission.

Our second source of concern relates to Dakota Electric’s authority to determine whether prospective members qualify as system intensive. As detailed in the Cooperative’s proposed tariff language, “[s]ystem intensive members are considered members with service requirements that involve significant system modifications, design, and/or engineering to extend service.”¹¹ No quantitative or objective basis is provided for when a member should fall into this category. Instead, the proposed tariff language states that the Cooperative “will have the sole discretion to determine what member

⁶ *Id.* at 8.

⁷ See *In the Matter of Xcel Energy’s 2024-2040 Upper Midwest Integrated Resource Plan*, Docket No. E-002/RP-24-67, Order Approving Settlement Agreement with Modifications at 25-26 (Apr. 21, 2025) (requiring Xcel to file a proposal for a new rate class or sub-class and tariff for super-large customers); Laws of Minnesota 2025, Chapter 12 – H.F. No. 16, Section 9 (creating and enacting Minn. Stat. § 216B.1622).

⁸ See DEA Extension of Service Tariff Petition, Tariff Revision Filing at Section VI, Sheet 7.0.

⁹ Minn. Stat. § 216B.1622, Subd. 1.

¹⁰ Minn. Stat. § 216B.1622, Subd. 2.

¹¹ DEA Extension of Service Tariff Petition, Tariff Revision Filing at Section VI, Sheet 7.0.

is considered system intensive.”¹² By extension, this means Dakota Electric will have complete control over which data centers or other large load entities must execute LOAs or enter into C&E Agreements.

Such expansive discretion is not appropriate in this instance. All the protections sought by the Cooperative are dependent on system intensive classifications, as only those members are required to execute LOA and C&E Agreements. CUB believes the Commission should retain ultimate authority to decide whether a potential member meets the system intensive threshold—and therefore, whether other members receive protections against large load costs—rather than the Cooperative having sole discretion.

Further, while the Cooperative has clearly stated is not seeking to address the “terms, conditions, and rates applicable to electric service” in this Petition, these topics are intricately related to the extension of service and could be impacted by system intensive designations.¹³ For example, decisions about load classifications at this stage might influence eventual rate class assignments, cost allocation determinations, or the availability of consumer protections not yet contemplated in this Petition. The evaluation process envisioned by Minn. Stat. § 216B.1622 presents a reasonable method for considering these issues as part of a cohesive whole. Under that framework, the Commission must establish for public utilities the definition and appropriate characteristics of a “very large customer” by December 15, 2026.¹⁴ Employing a similar process for the Cooperative would permit the development of objective standards for identifying what constitutes large, system intensive loads and ensure consistency in application both before and after the extension of service.

Third, we question whether the Extension of Service Tariff’s cross-reference to the LOA and C&E agreements is sufficient to adequately protect members. Dakota Electric has stated it is neither proposing to include its LOA and C&E agreements in its tariff, nor is it seeking Commission approval of those contracts’ terms.¹⁵ Notably, all the protections designed to “properly account for, and mitigate, financial risks” to the Cooperative and its members are contained within these agreements and are not reflected in tariff language.¹⁶ Consequently, the LOA and C&E agreement terms—and the protections contained therein—could be modified or removed without Commission oversight or approval.

This is inconsistent with the rate regulation framework established by statute. By law, rates include “contracts affecting any . . . compensation, charge, fare, toll, rental, tariff, or classification” demanded, observed, or charged by a utility.¹⁷ The LOA and C&E both impose charges on system intensive members and negate financial burdens for other Cooperative members. In this way, they fall squarely within the definition of “rate” and should be subject to Commission approval.

¹² *Id.*

¹³ DEA Extension of Service Tariff Petition at 7.

¹⁴ Minn. Stat. § 216B.1622, Subd. 1.

¹⁵ DEA Extension of Service Tariff Petition at 10, 11.

¹⁶ *Id.* at 9.

¹⁷ Minn. Stat. § 216B.02, Subd. 5.

Fourth, we appreciate Dakota Electric's statement that prospective system intensive members will be required to pay for equipment costs. However, we have several questions about how those costs are represented in the Cooperative's C&E Agreement and Contribution in Aid of Construction ("CIAC") schedule. Section 2(A) of the C&E Agreement appears to capture most expenses associated with infrastructure construction, but there is no discussion of labor costs—which, given the scope and scale of potential investments, could be substantial. Furthermore, while the C&E Agreement includes provisions for when CIAC installments must be paid, no CIAC methodologies or language are included in the Cooperative's petition. We respectfully request that the Cooperative provide a descriptive explanation of how *all* costs—including labor—are incorporated into the C&E Agreement and reflected in the CIAC.

Lastly, we do not believe the inclusion of an arbitration provision in the LOA is appropriate. Arbitration results in binding decisions with significant implications not only for the parties to the agreement, but also for the Cooperative's other members. Nonetheless, the proceedings are often confidential and lack any degree of transparency.

III. Conclusion

CUB appreciates Dakota Electric's efforts to mitigate the cost impacts of extending service to prospective system intensive members. However, the current Extension of Service Tariff proposal limits Commission oversight and provides insufficient protection for existing members. Until such time as these shortfalls are corrected, we recommend against approving the Cooperative's Petition.

Sincerely,

July 8, 2025

/s/ Brandon Crawford

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