



AN ALLETE COMPANY

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March 13, 2023

VIA E-FILING

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

Re: In the Matter of a Commission Investigation into
the Potential Role of Third-Party Aggregation of
Retail Customers
Docket No. E999/CI-22-600

Dear Mr. Seuffert:

Minnesota Power (or “the Company”) submits the comments below in response to the Minnesota Public Utilities Commission’s (“Commission”) December 9, 2022, request for comments regarding the impacts of potential third-party aggregation of retail customers.

Topics open for comment include:

1. Should the Commission permit aggregators of retail customers to bid demand response into organized markets?
2. Should the Commission require rate-regulated electric utilities to create tariffs allowing third-party aggregators to participate in utility demand response programs?
3. Should the Commission verify or certify aggregators of retail customers for demand response or distributed energy resources before they are permitted to operate, and if so, how?
4. Are any additional consumer protections necessary if aggregators of retail customers are permitted to operate?

Minnesota Power serves some of the nation’s largest industrial customers and has effectively implemented and managed demand response (“DR”) resources on behalf of its customers, large and small, to both efficiently respond to system emergencies and to keep rates low through the avoidance of building or buying additional capacity resources. Minnesota Power’s thirty year history of successfully offering DR to customers demonstrates it both understands the value of DR, and is committed to the success of its DR programs into the future. Today, Minnesota Power has nearly 300 MW of demand

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We commit to be injury-free through continuous learning and improvement.*

response capability on its system through residential, commercial, and industrial programs. Additionally, since this topic was last considered by the Commission,¹ Minnesota Power has implemented two new DR products (Product A² and Product C³), and in its most recent Integrated Resource Plan (“IRP”) proceeding proposed, and was subsequently ordered, to work collaboratively with customers to pursue up to 50 MW of additional long-term demand response by 2030 to address future resource adequacy changes.⁴ Lastly, Minnesota Power continually evaluates additional demand response programs through its IRPs, including air conditioning and electric hot water heater cycling programs.

The Company does not support efforts to permit aggregators of retail customers to bid DR into organized markets or require utilities to create tariffs for third-party aggregators due to significant concerns over the statutory authority to do so. Additionally, Minnesota Power does not believe permitting third-party aggregators to bid DR into organized markets is necessary for the utility to capture the benefits of DR on its system.

COMMENTS

1. Should the Commission permit aggregators of retail customers to bid demand response into organized markets?

Minnesota Power does not believe that the Commission should permit aggregators of retail customers to bid demand response into organized markets at this time.

This issue was previously considered by the Commission in Docket No. E-999/CI-09-1449. In that proceeding, the Commission prohibited the demand response of retail customers of Xcel Energy, Minnesota Power, Interstate Light and Power, and Otter Tail Power from being bid into organized markets by non-utility aggregators of retail customers. From the May 18, 2010 order:

“[T]he Minnesota Public Utilities Act creates a comprehensive regulatory structure to ensure that all state providers of electrical service have just and reasonable rates and just and reasonable terms and conditions of service.⁵ It is unclear at this point how ARCs would fit into that regulatory structure and what mechanisms the Commission would use to ensure that their actions and practices met the “just and reasonable” legal standard and served the public interest.”

¹ Docket No. E999/CI-09-1449

² Docket No. E-015/M-18-735

³ Docket No. E015/M-21-28

⁴ Docket No. E015/RP-21-33

⁵ Minn. Stat. Chapter 216B; Minn. Stat. § 216B.03

The arguments against third-party aggregators largely remain the same today, including that they violate Minnesota service territory law (Minn. Stat. § 216B.37-43), and may violate all provisions in Commission approved electric service agreements (Minn. Stat. § 216B.05 Subd. 2a).

As noted in their January 4, 2023 letter from Minnesota Rural Electric Association (“MREA”) and the Laborers International Union of North America, Minnesota & North Dakota (“LIUNA”),⁶ managing electric demand is a core component of delivering retail electric service in Minnesota. Minn. Stat. § 216B gives electric utilities the sole responsibility to deliver electric service to consumers in their service area, and allowing third-party aggregators unfettered access to current utility customers would conflict with statute. In addition, third-party aggregators may cause confusion for current customers, particularly those already part of the Company’s existing demand response programs.

DR is a tool for shifting electricity consumption away from peak load times or when intermittent renewable production is low, for reshaping the underlying load profiles, and, when needed, for shedding load; it can be used to avoid unnecessary investments in generation and distribution infrastructure, increase overall system efficiency, and improve reliability. Without clear insight to how and when DR would be used by a third party, the Company would not be able to maximize the benefits listed above.

Finally, when Minnesota Power proposes a new DR product, it performs a detailed analysis that is presented in a public process and ultimately approved by the Commission to ensure rates are set at appropriate levels that reflect the value of the load being curtailable, while minimizing or eliminating costs borne by non-participating customers. The same is not necessarily true for non-utility DR programs.

2. Should the Commission require rate-regulated electric utilities to create tariffs allowing third-party aggregators to participate in utility demand response programs?

Given Minnesota’s long history of successful DR programs, and its commitment to future DR, the Company does not believe the Commission should require rate-regulated electric utilities create tariffs allowing third-party aggregators to participate in utility demand response programs.

⁶ Docket Nos. E002/M-21-101, E002/CI-17-401

As stated above, in recent years the Company has received approval for two additional DR programs, Demand Response Products A and C. The success of those programs can be attributed in part to the Company's intentional outreach and collaboration with large industrial customers and other stakeholders. This collaborative process has succeeded where other methods to obtain additional DR have failed.

For example, in 2016, as part of the 2015 IRP outcome to identify additional resource options, the Commission directed the Company to propose a DR competitive-bidding process.⁷ In compliance with that Order, Minnesota Power issued a Request for Proposal ("RFP") for up to 300 MW of Large Customer Demand Response Resource. The Company's RFP requested cost-effective DR resources that utilized the capability of Minnesota Power's large industrial customers to curtail their load for electric system emergencies or market economics and provide capacity that is creditable under MISO resource adequacy rules.⁸ Minnesota Power received only one response to this RFP, a customer offering 96 MW of system capacity DR available for energy curtailment events during MISO system emergencies or Minnesota Power local system emergencies starting in 2019 for a ten-year period. This bid was offered at a price well above the cost for Minnesota Power to add new peaking generation to the system and ultimately was not selected to move forward in the broader resource acquisition process.

Minnesota Power's large industrial customers indicated that they preferred the historical method of working directly and collaboratively with the Company on co-developing these types of opportunities. When taking into consideration the feedback industrial customers provided and the unique opportunity Minnesota Power's customer mix provides in capturing large scale DR for the benefit of all customers, the Company continues to believe a collaborative effort between stakeholders results in a better overall product for all customers than offering a tariff for third-party aggregators would.

⁷ Docket No. E-015/RP-15-690

⁸ The Large Customer Demand Response Resources RFP requested two types of DR products: (1) Minnesota Power System Capacity, DR available for energy curtailment events during MISO system emergencies or Minnesota Power local system emergencies and (2) Scheduled Economic Curtailment Energy, DR available for economic energy curtailment events determined by market energy process in the discretion of the Company.

3. Should the Commission verify or certify aggregators of retail customers for demand response or distributed energy resources before they are permitted to operate, and if so, how?

The Company believes that if the Commission chooses to permit third-party aggregators, then they must verify or certify them before they are permitted to operate. While the Company believes this step is necessary, the mechanism on how will differ based on if the third-party aggregators are considered a utility or not according to Minn. Stat. § 216B.02 subd. 4. If the third-party aggregators are considered a utility, then they are subject to all the same restrictions and guidelines as Minnesota Power. If they are not, then the Company believes a process would need to be instituted for verification and/or certification. Should the Commission decide to permit third-party aggregators, but not consider them a utility, the Company believes a more focused public process to consider the issues of verification/certification, consumer protections, and other stakeholder concerns must be had.

4. Are any additional consumer protections necessary if aggregators of retail customers are permitted to operate?

If third-party aggregators were allowed to operate in Minnesota, the Company believes consumer protections would need to be developed and implemented. That being said, the exact nature of what those consumer protections would be would be based on whether the third-party aggregators would be considered a utility by statute (which comes with a number of prescribed consumer protections). As stated above, should the Commission decide to permit third-party aggregators, but not consider them a utility, the Company believes a more focused public process on verification/certification, consumer protections, and other stakeholder concerns must be had. At the very least, any programs provided by third-party aggregators would need to provide benefits to participating customers while not disproportionately affecting non-participating customers.

Minnesota Power serves some of the nation's largest industrial customers and has effectively aggregated demand response resources on behalf of its customers for the past thirty years. Additionally, through its transparent and collaborative IRP process, Minnesota Power continues to evaluate and pursue demand response resources for the benefit of both the grid and its customers into the future. Through effective management of these demand response resources, Minnesota Power has been able to historically deliver some of the lowest electric rates in the state and efficiently respond to system emergencies by leveraging its demand response portfolio instead of building or buying

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additional capacity. At this time, given the arguments above, the Company believes the Commission should not permit aggregators of retail customers to bid demand response into organized markets.

The Company appreciates the opportunity to comment on this topic. If you have any questions regarding this filing, please contact me at 218.355.3602 or avang@mnpower.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ana Vang', with a stylized flourish at the end.

Ana Vang
Senior Public Policy Advisor

AMV:th

STATE OF MINNESOTA)
) ss
COUNTY OF ST. LOUIS)

AFFIDAVIT OF SERVICE VIA
ELECTRONIC FILING

Tiana Heger of the City of Duluth, County of St. Louis, State of Minnesota, says that on the 13th day of March, 2023, she served Minnesota Power's Comments in **Docket No. E999/CI-22-600** on the Minnesota Public Utilities Commission and the Energy Resources Division of the Minnesota Department of Commerce via electronic filing. The persons on E-Docket's Official Service List for this Docket were served as requested.



Tiana Heger