July 8, 2025

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

RE: Comments of the Minnesota Department of Commerce
Docket No. E-111/M-25-178

Dear Mr. Seuffert:

Attached are the comments of the Minnesota Department of Commerce (Department) in the following matter:

> *The Petition of Dakota Electric Association to Modify its Extension of Service Tariff.*

The Petition was filed by Dakota Electric Association (Dakota Electric, DEA or Cooperative) on March 31, 2025.

The Department recommends the Commission approve Dakota Electric's Petition and is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ Dr. SYDNIE LIEB
Assistant Commissioner of Regulatory Analysis

APB/ad
Attachment

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COMMERCE DEPARTMENT

Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce

Docket No. E111/M-25-178

I. INTRODUCTION

The growth and development of large data centers could soon have significant implications for Minnesota's energy consumption. Large data centers will likely have a significant impact on the State's local distribution networks and ratepayers through increased energy demand. Minnesota is currently experiencing a surge in data center development, primarily driven by the increasing demand for cloud computing and artificial intelligence. Large-scale data centers require enormous amounts of electricity to power servers and cooling systems. If all proposed data centers are built, their combined energy needs could equal the total consumption of all households in Minnesota.[1]

Without planning, this increased demand from data centers will put a strain on the existing electricity grid—possibly leading to reliability issues—and could impact the ability of the State to meet its clean energy goals. In addition, it is important to recognize how this growth may lead to higher system costs for all customers, including residential ratepayers. Due to this potential development of large-scale data centers, Dakota Electric is exercising precautions by proposing tariff modifications to protect existing ratepayers.

II. PROCEDURAL BACKGROUND

March 31, 2025	Dakota Electric filed its Petition to modify its Extension of Service Tariff to establish a process to extend service to Extraordinarily Large Commercial and Industrial and System Intensive members.
April 18, 2025	The Public Utilities Commission (Commission) posted a notice of comment period for the Petition.

Topics open for comment include:

- Should the Commission approve the modification to Dakota Electric's Extension of Service tariff?
- Are any modifications necessary to Dakota Electric's Letter of Authorization Agreement (LOA) and Engineering and Construction Agreement (ECA)?

[1] Orenstein, Walker, *Mega data centers are coming to Minnesota. Their power needs are staggering,* The Minnesota Star and Tribune, January 10, 2025, (Minnesota data centers power needs could be staggering).

III. DEPARTMENT ANALYSIS

A. BACKGROUND

Dakota Electric is a non-profit, member-owned distribution electric utility Association founded in 1937. The Cooperative serves approximately 115,000 members in an area south of Minneapolis and St. Paul covering much of Dakota County and portions of Scott, Rice, and Goodhue counties. DEA purchases wholesale electricity from Great River Energy (GRE), located in Maple Grove, Minnesota. DEA is governed by a twelve-person elected board of directors made up of members and is regulated by the Minnesota Public Utilities Commission (Commission). DEA is the only rate-regulated electric cooperative in Minnesota.

Among its members, DEA provides electric service to over 3,000 commercial accounts through demand-based rate schedules including General Service (Schedule 46), General Service Optional TOD (Schedule 54), and Interruptible Service (Schedules 70 and 71). In most cases, when new/potential members request electric service, estimating the costs of service extension, and providing overall service, is relatively straightforward, because DEA is already serving similar loads. However, DEA stated in its Petition it has recently received inquiries from various types of large loads requesting service at voltages other than the Cooperative's customary 12.5 kilovolt (kV) service that could require significant distribution expenditures before service can be extended to these new members.[2]

Over the past two years, Dakota Electric has seen increased requests for service from large loads in its service territory. According to DEA, these new loads are unique, making load estimates more difficult to define and to use as a basis for determining required Cooperative distribution plant investment necessary to serve the new load. This uncertainty creates the possibility that existing Dakota Electric members may end up shouldering the costs associated with plant investment required to serve an individual member.[3]

DEA has an existing Large Load Agreement that has been in place since 2013 that was intended for loads over 2 MW. In 2013, it was envisioned that the large load would be energized or reach its ultimate load in a relatively short timeframe. However, the recent inquiries are for loads that are orders of magnitude greater than the 2 MW threshold envisioned in 2013. DEA asserts these large loads pose financial risks to the Cooperative that must be properly mitigated.[4]

According to DEA, the recent inquiries for new large loads are complex in nature and require significant engineering design and analysis prior to extending service. As part of this design and analysis, DEA states it must determine whether service is feasible and whether service will be at voltages other than Dakota Electric's standard 12.5 kV service. In addition, DEA must analyze load ramps associated with

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[2] *In the Matter of the Petition of Dakota Electric Association to Modify it Extension of Service Tariff,* Dakota Electric Association, Petition, March 31, 2025, Docket No. E111/M-25-178, (eDockets) 20254-217869-01, at 7 (Hereafter "The Petition").
[3] *Id.*
[4] *Id.,* at 8-9.

the development of these loads that are much longer in duration than those contemplated in the Large Load Agreement. Because the analysis requires DEA to expend significant time and resources that must be performed prior to extending service, there is uncertainty and financial risk to DEA and its membership if the load does not materialize.[5]

For the above reasons, DEA is seeking approval for a separate section in its Extension of Service Tariff that will formalize a large load/engineering queue process and create the frameworks for evaluating load requests and extend service without unduly burdening Dakota Electric, prospective members, or existing members. The intent of the new process will be to properly account for, and mitigate financial risks to the cooperative and its membership.[6] DEA's Petition seeks Commission approval of the modification to DEA's Extension of Service tariff, and requests that the Commission consider its Letter of Authorization Agreement (LOA) and Engineering and Construction Agreement (ECA) and propose any modifications if necessary.[7]

B. EXTENSION OF SERVICE TARIFF MODIFICATIONS

Dakota Electric requests Commission approval to modify its Extension of Service Tariff (Sheet 7.0 of Section VI) to add provisions for extension of service to extraordinary large commercial and industrial and system intensive members. The added Provisions are as follows:

> Dakota Electric Association will provide electric service, to the extent capacity is available, to large commercial and industrial members requiring service delivery at a voltage other than the Association's regular and customary service of 12.5 kV and system intensive members, in accordance with established applicable rates and charges or a Commission approved Electric Service Agreement, when the anticipated revenue from the prospective member justifies the expenditure. System intensive members are considered members with service requirements that involve significant system modifications, design, and/or engineering to extend service to these members. The Association will have the sole discretion to determine what member is considered system intensive. Members requesting, or requiring, this type of service will be screened through Dakota Electric's large load engineering project queue and will be required to execute the Association's Letter of Authorization and Construction and Engineering agreements to protect the financial interests of the Association and its other members. An economic analysis and an engineering analysis will be made for any member requesting this type of service and a contribution in aid of construction will be required for necessary distribution equipment and upgrades. The contribution in aid of construction and construction and energization requirements are detailed

[5] *Id*.
[6] *Id.,* at 9.
[7] *Id.,* at 12.

in the Association's Letter of Authorization and Construction and Engineering Agreements.[8]

As stated in the proposed modification, Dakota Electric has the sole discretion to determine whether this new provision for service extension process will apply to a prospective load. The provision of service is incumbent upon capacity being available to serve the load and applies to members requiring service at a voltage other than Dakota Electric's customary 12.5 kV service. The tariff provision may also apply to members taking service at 12.5 kV if the service will require significant engineering planning or system upgrades (*e.g.,* dedicated substation). In addition, the new provision establishes a large load engineering project queue with reference to LOA and ECA agreements.

While the new provisions establish requirements for potential large loads to reimburse the Cooperative for any costs incurred to complete engineering, design, and construction to extend service to the prospective member, the terms, conditions, and rates applicable to electric service are not addressed in DEA's Petition. The proposed modifications are designed to protect existing members and create a fair and transparent review process for prospective loads. The specific rates that will be charged and the service characteristics of these loads will be addressed if, and when, an Electric Service Agreement (ESA) is executed and approved by the Commission, through existing rate classes, or through a future request to establish a unique rate class and rate design for these types of loads.[9]

The Department finds DEA's provisions for extension of service to extraordinary large commercial and industrial and system intensive members to be reasonable and recommends Commission approval to modify its Extension of Service Tariff accordingly.

C. LARGE LOAD ENGINEERING PROJECT QUEUE

To efficiently and fairly process load requests, DEA proposes a large load engineering project queue that is built around two separate, but related, agreements—the LOA and ECA. DEA based these agreements on an established process used by other cooperatives in the United States that have experienced significant large load development. DEA views these agreements as being like its Technical Specification Manual (TSM) for distributed energy resources and does not propose including either the LOA or ECA in its tariff. DEA is not requesting formal Commission approval of these agreements, since it is not necessary, but suggests Commission acceptance or acknowledgement of the process may be administratively helpful and provide regulatory, and process certainty, for potential members.[10]

C.1. letter of authorization agreement (LOA)

When a potential large load member contacts DEA about potential service, the Cooperative conducts a basic screening to determine whether the load meets our criteria as either extraordinarily large or system intensive. If DEA decides that the load is characteristic of an extraordinary large commercial

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[8] *Id.,* Exhibit C, Dakota Electric Association Rate Schedule, SECTION: VI, SHEET: 7.0., Extension of Service.
[9] *Id.,* at 7.
[10] *Id.,* at 9-10.

and industrial and system intensive members as described in the tariff, it will send the LOA to the prospective member. The LOA provides the timeline and expectations for how the review will progress and, if applicable, transition to the ECA.[11] The LOA requires the prospective member to provide DEA with detailed information about the prospective member's site and project. Specifically, the LOU requires the following deliverables from the prospective customer:

- Annual Electric Load and Electric Load Ramp Schedule, including expected load factor;
- Customer's Project Development Schedule (including construction start and requested in-service dates);
- Draft Site Plan with a site map that includes, but not limited to, customer buildings, roadways, planned location of any required substations and/or switching stations, grading contour plan and non-buildable areas; and
- Firm Site Plan, which includes, at a minimum, topology, storm water management facilities, site buffering, perimeter fencing, areas on the site subject to structure height restrictions, areas on site unavailable for constructing any facilities, location and footprint and height of customer structures, roadways, utilities, facilities, final substation site, firm commitment for ingress and egress easement routes, and final capacity for each building.[12]

In addition, the LOA states DEA will issue to the Customer an invoice for a non-refundable deposit ("Deposit") of $25,000 plus $0.25 per kW for work associated with reviewing the Project. The Invoice states the following:

> The Deposit will cover Dakota Electric's cost for planning and engineering associated with test fits, impact studies, and third-party engineering and related support services. The Deposit also covers GRE's cost to develop a conceptual plan for transmission service, including but not limited to, at GRE's discretion, switching station conceptual designs and transmission routing analyses.[13]

After receiving the Deposit and deliverables from prospective member DEA conducts DEA will submit a System Impact Study Request to GRE, which defines the feasibility of the requested project and any necessary transmission system upgrades or changes needed for the project to move forward. Upon completion and review of the System Impact Study, DEA will submit a Facilities Study to GRE.[14] The Facilities study informs the Facility Plan for completion of the project and will include the following:

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[11] *Id.,* at 10.
[12] *Id.,* Exhibit A at 1-2.
[13] *Id.,* Exhibit A at 2.
[14] *Id.,* Exhibit A at 3-4.

- Determination of Cooperative electric facilities required to provide electric service;
- Estimated costs for Dakota Electric to plan, engineer, procure, and construct both normal and excess facilities required to provide electric service;
- Estimated Cooperative Project schedule for construction of Dakota Electric facilities required to provide electric service to the Customer's site;
- Determination of any applicable permits, permissions or approvals needed to construct Cooperative electric facilities and the estimated time needed by Dakota Electric to acquire these permits and permissions, if applicable;
- Provisions needed to provide the appropriate land rights for the substation site and required distribution easement(s) to be assigned to Dakota Electric; and Next steps and associated timeframes for delivery of electric service.[15]

Finally, the LOA provides that if the agreement is terminated prior to execution of an ECA, the prospective member remains responsible for all costs incurred by the DEA to study the potential load interconnection.

> If Dakota Electric's costs exceed the non-refundable Deposit prior to the execution of an Engineering and Construction (E&C) Agreement, Dakota Electric will notify the Customer in writing prior to exceeding the nonrefundable Deposit and will invoice the Customer for additional funds prior to proceeding with the Project. Should this Project terminate during the LOA phase, the Customer additionally will be responsible for all costs and services rendered by GRE and Dakota Electric prior to terminating. If the Customer does not provide the Deposit, or authorize and fund the additional required funds, if necessary, within thirty (30) business days, Dakota Electric will notify Customer in writing of its intent to terminate the LOA. If Customer does not provide the Deposit or additional funds, if necessary, within five (5) business days of receipt of such termination notice, Dakota Electric may terminate this LOA. If so terminated, Dakota Electric also reserves the right to recover all such costs through binding arbitration. [16]

This LOA shall be deemed complete upon execution of the ECA. The LOA provides that any payment made by Customer under the LOA, exclusive of any portion of the nonrefundable Deposit(s), will be credited toward the CIAC payments detailed in the E&C Agreement.

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[15] *Id.,* Exhibit A at 4-5.
[16] *Id.,* Exhibit A at 2.

C.2. Engineering and Construction Agreement (ECA)

After project advances beyond the LOA, and reaches the construction phase, DEA will require the execution of an ECA. The goal of the ECA is to ensure that costs and risks are allocated to the parties responsible for the construction, not other Dakota Electric members, and to provide full transparency and understanding of the project construction. The ECA provides specific details about the project components and costs, responsibility of parties, specifics about the final construction and service characteristics of the project, and the Contribution-In-Aid-of-Construction (CIAC) schedule, based on the timeline for DEA to procure equipment to serve the project. The CIAC schedule is designed such that the prospective member will pay for all equipment costs, and the vast majority of these costs will be recovered well before final energization. In the event the prospective member does not ultimately take service from DEA, and the ECA is terminated, the prospective member is responsible for all costs incurred by the Cooperative, including costs to remove electric infrastructure already installed and restoration costs. The ECA also includes various provisions designed to protect the Cooperative and other members through milestone and design requirements that may remove a project from the queue and require it to be re-studied if significant project modifications occur.[17]

C.3 SUGGESTED MODIFICATIONS TO AGREEMENTS

The Department has reviewed the LOA and ECA, and generally finds the provisions and processes set forth in the agreements to be reasonable. The Department notes that unlike the LOA, the ECA does not contain a governing law or dispute-resolution provision. The Department therefore suggests that DEA incorporate provisions addressing the forum in and process by which disputes relating to the ECA will be resolved.

Despite finding the provisions and processes set forth in the agreements to be reasonable, the Department is nonetheless concerned over the lack of certainty regarding the use of these agreements. DEA's proposed modifications to the Extension of Service Tariff include the statement: "Members requesting, or requiring, this type of service will be screened through Dakota Electric's large load engineering project queue and will be required to execute the Association's Letter of Authorization and Construction and Engineering agreements to protect the financial interests of the Association and its other members."[18] The agreements are therefore directly referenced in the proposed modifications to the tariff, but DEA's petition makes clear that it is not including the actual agreements in the tariff and is not seeking approval of the agreements from the Commission.[19] Indeed, DEA is only requesting that the Commission "propose" any needed modifications to the agreements and has not committed to incorporating any Commission proposals into the final versions of the agreements.

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[17] *Id.,* at 11.

Id., Exhibit C, Dakota Electric Association Rate Schedule, SECTION: VI, SHEET: 7.0., Extension of Service.

[19] The Department notes that the statutory definition of rate in Minn. Stat. § 216B.02, subd. 5 includes "every compensation, charge, fare, toll, tariff, rental, and classification, or any of them, demanded, observed, charged, or collected by any public utility for any service and any rules, practices, or *contracts* affecting any such compensation, charge, fare, toll, rental, tariff, or classification." (Emphasis added.)

Because DEA is not including the agreements in the tariff or seeking Commission approval, DEA could seemingly choose to modify provisions of the agreements when entering into the agreements with prospective members. The ultimate protections offered by the agreements are therefore unclear.

IV. DEPARTMENT RECOMMENDATIONS

Based on its analysis of DEA's Petition to Modify its Extension of Service Tariff, the Department recommends the Commission approve DEA's Petition. In addition, the Department has reviewed DEA's submission of the Letter of Authorization Agreement (LOA) and the Engineering and Construction Agreement (ECA) and suggests the modifications identified in section C.3. The Department recommends the Commission acknowledge receipt of DEA's LOA and ECA agreements.

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-25-178

Dated this **8th** day of **July 2025**

/s/Sharon Ferguson

#	First Name	Last Name	Email	Organization	Agency	Address	Delivery Method	Alternate Delivery Method	View Trade Secret	Service List Name
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2	Generic	Commerce Attorneys	commerce.attorneys@ag.state.mn.us		Office of the Attorney General - Department of Commerce	445 Minnesota Street Suite 1400 St. Paul MN, 55101 United States	Electronic Service		Yes	M-25-178
3	Eric	Fehlhaber	efehlhaber@dakotaelectric.com	Dakota Electric Association		4300 220th St W Farmington MN, 55024 United States	Electronic Service		No	M-25-178
4	Sharon	Ferguson	sharon.ferguson@state.mn.us		Department of Commerce	85 7th Place E Ste 280 Saint Paul MN, 55101-2198 United States	Electronic Service		No	M-25-178
5	Adam	Heinen	aheinen@dakotaelectric.com	Dakota Electric Association		4300 220th St W Farmington MN, 55024 United States	Electronic Service		No	M-25-178
6	Corey	Hintz	chintz@dakotaelectric.com	Dakota Electric Association		4300 220th Street Farmington MN, 55024-9583 United States	Electronic Service		No	M-25-178
7	Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us		Office of the Attorney General - Residential Utilities Division	1400 BRM Tower 445 Minnesota St St. Paul MN, 55101-2131 United States	Electronic Service		Yes	M-25-178
8	Kristin	Stastny	kstastny@taftlaw.com	Taft Stettinius & Hollister LLP		2200 IDS Center 80 South 8th Street Minneapolis MN, 55402 United States	Electronic Service		Yes	M-25-178