



Your Touchstone Energy® Cooperative 

October 16, 2020

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

**Re: Dakota Electric Association
Request for Variance to MN Rule 7825.2820
Docket No. E-111/M-20-___**

Dear Mr. Seuffert:

Dakota Electric Association® (Dakota Electric® or Cooperative) submits the attached Petition requesting approval of a variance to the Minnesota Public Utilities Commission (Commission or MPUC) Annual Auditor's Report in Minnesota Rule 7825.2820, since information in the Cooperative's Annual Automatic Adjustment report will be submitted with the annual Resource and Tax Adjustment filing.

If you or your staff has any questions regarding Dakota Electric's variance petition, please contact me any time at (651) 463-6258.

Sincerely,

/s/ Douglas R. Larson

Douglas R. Larson
Vice President of Regulatory Services
Dakota Electric Association
4300 220th Street West
Farmington, MN 55024
651-463-6258
dlarson@dakotaelectric.com

STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION

IN THE MATTER OF A
DAKOTA ELECTRIC ASSOCIATION
PETITION FOR VARIANCE – TO M.R. 7825.2820

DOCKET No. E-111/M-20-____

SUMMARY

On October 16, 2020, Dakota Electric Association® (Dakota Electric® or Cooperative) submitted a Petition to the Minnesota Public Utilities Commission (Commission or MPUC) requesting approval of a variance to Minnesota Rule 7825.2820 requiring an Annual Auditor's Report for the Cooperative's Annual Automatic Adjustment Report, since information in the Cooperative's Annual Automatic Adjustment Report will be submitted with the annual Resource and Tax Adjustment filing.

STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben	Chair
Valerie Means	Commissioner
Matthew Schuerger	Commissioner
Joseph K. Sullivan	Commissioner
John A. Tuma	Commissioner

IN THE MATTER OF A
DAKOTA ELECTRIC ASSOCIATION
PETITION FOR VARIANCE – TO M.R. 7825.2820

DOCKET NO. E-111/M-20-____

PETITION OF DAKOTA ELECTRIC ASSOCIATION

I. Introduction

Dakota Electric Association® (Dakota Electric® or Cooperative) submits the following Petition to the Minnesota Public Utilities Commission (Commission or MPUC) requesting approval of a variance to the Annual Auditor’s Report in Minnesota Rule 7825.2820, since information in the Cooperative’s Annual Automatic Adjustment report will be submitted with the annual Resource and Tax Adjustment filing. This variance request is submitted pursuant to Minnesota Rule 7829.3200.

II. Filing Requirements

Pursuant to Minn. Stat. § 216B.16, subd. 1 and Minn. Rule 7829.1300, Dakota Electric provides the following required general filing information.

1. Summary of Filing (Minn. Rule 7829.1300, subp.1)

A one paragraph summary accompanies this Petition.

2. Service on Other Parties (Minn. Rule 7829.1300, subp. 2)

Pursuant to Minn. Rules 7829.1300, subp. 2, Dakota Electric eFiles this Petition on the Minnesota Department of Commerce – Division of Energy Resources and the Office of

Attorney General – Antitrust and Utilities Division. A summary of the filing prepared in accordance with Minn. Rules 7829.1300, subp. 1 is being served on Dakota Electric’s general service list.

3. Name, Address and Telephone Number of Utility (Minn. Rule 7829.1300, subp. 4(A))

Dakota Electric Association
4300 220th Street West
Farmington, MN 55024
(651) 463-6212

4. Name, Address and Telephone Number of Utility Attorney (Minn. Rule 7829.1300, subp. 4(B))

Eric F. Swanson
Winthrop & Weinstine
225 South Sixth Street, Suite 3500
Minneapolis, Minnesota 55402-4629

5. Date of Filing and Date Proposed Rate Takes Effect (Minn. Rule 7829.1300, subp. 4(C))

This Petition is being filed on October 16, 2020. Dakota Electric requests approval of a variance to the Annual Auditor’s Report in Minnesota Rule 7825.2820, since information in the Cooperative’s Annual Automatic Adjustment report will be submitted with the annual Resource and Tax Adjustment filing.

6. Statute Controlling Schedule for Processing the Filing (Minn. Rule 7829.1300, subp.4(D))

This Petition is made pursuant to Minn. Stat. § 216B.16. Minn. Rule 7825.3200 requires that utilities serve notice to the Commission at least 90 days prior to the proposed effective date of modified rates. Dakota Electric’s proposed variance falls within the definition of a “Miscellaneous Tariff Filing” under Minn. Rules 7829.0100, subp. 11. Minn. Rules 7829.1400, subp. 1 and 4 specify that comments in response to a miscellaneous filing be filed within 30 days, and reply comments be filed no later than 10 days from the expiration of the original comment period.

7. Utility Employee Responsible for Filing (Minn. Rule 7829.1300, subp. 4(E))

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8. Impact on Rates and Services (Minn. Rule 7829.1300, subp. 4(F))

The proposed variance does not affect rates or Cooperative services. Further, the Cooperative is in the process of completing the noted audit for information to be included in the January 2021 Resource and Tax Adjustment (RTA) filing. This proposed variance would apply to all future RTA filings after the January 2021 filing.

The additional information required under Minn. Rule 7829.1300, subp. 4(F) is included throughout this Petition.

III. Petition

1. Background

In March 9, 2020 Comments on Dakota Electric’s annual RTA filing (Docket No. E-111/M-20-79) , the Minnesota Department of Commerce (Department or DOC) discussed the matter of Dakota Electric’s Annual Automatic Adjustment filing as follows:

“On August 28, 2019, Dakota Electric Association (Dakota or DEA) made a filing in Docket No. E999/AA-19-402 (2019 AAA) in accordance with Minnesota Rules 7825.2800-7825.2840, which requires that all public utilities make a filing by September 1 of each year to reflect changes in their annual automatic adjustment of charges (AAA) or fuel clause adjustment (FCA) riders.

On January 14, 2020, The Minnesota Department of Commerce (Department) filed a letter in Docket No. E999/AA-19-402 stating that Dakota was the only electric utility to make a filing by September 1, 2019 in Docket No. E999/AA-19-402 (Letter). The Department’s Letter also stated that, given the January 1, 2020 implementation date of the new FCA reform process established in Docket No. E999/CI-03-802, the Minnesota Public Utilities Commission’s (Commission) December 12, 2018 Order permitted Minnesota’s other regulated electric utilities, which include Xcel Electric, Minnesota Power, and Otter Tail Power Company, to submit the previous fuel clause adjustment information (FYE19 AAA reports) by March 1, 2020, while extending the covered period to December 31, 2019. The

Department stated that Dakota was not included in the FCA reform, and was thus required to make the September 1, 2019 filing for the July 2018 – June 2019 (FYE19) reporting period. In addition, the Department stated:

Since Dakota is an electric distribution-only cooperative, it was exempt from many of the compliance filings required under the old FCA process. For example, since Dakota is neither a transmission nor a generation owner, it was not required to submit any information regarding Midcontinent Independent System Operator (MISO) activities. In addition, Dakota has few choices regarding its fuel and purchased power and associated costs.

The Department notes that Dakota is already required to make a filing in January of each year detailing its purchased energy costs, which Dakota generally refers to as its Annual Resource and Tax Adjustment (RTA) filing. Moreover, Dakota's RTA filings and resulting RTA factors are reviewed by the Department each year and approved by the Commission. As a result, the Department generally conducted a limited review of Dakota's AAA filings in past proceedings, other than including Dakota's information in the larger report that focused primarily on Minnesota's vertically integrated, investor-owned utilities.

The Department concludes that there is little to be gained from having Dakota continue to submit annual FCA costs in September AAA filings and in the annual RTA filings. Given that the RTA filings are where Dakota's fuel clause rates are set for the year, the Department recommends that the Commission require Dakota to provide its AAA filing information in its annual RTA filings.

The Department will conduct the necessary reviews of such information in conjunction with its review of Dakota's annual RTA filings. The Department notes that this approach would provide a more streamlined and efficient process for reviewing Dakota's annual purchased energy costs.

Since Dakota already provided information in Docket No. E999/AA-19-402, that information can be considered in the RTA docket once Dakota files its 2020 RTA petition."

Dakota Electric concurred with these Department recommendations and the Minnesota Public Utilities Commission approved the Cooperative's 2020 RTA in a June 22, 2020 Order that included the following disposition for future AAA filings:

"3. Granted a variance to Minn. R. 7825.2800 to 7825.2840 to allow Dakota Electric to file its AAA reports and fuel clause adjustment (FCA) rider in future RTA

petitions. Require Dakota Electric to continue to use a fiscal year for its AAA and FCA rider reporting periods.”

2. Minnesota Rule 7825.2820

Minnesota Rules 7825.2800-7825.2840 require that all public utilities make a filing by September 1 of each year to reflect changes in their annual automatic adjustment of charges (AAA) or fuel clause adjustment riders.

The audit required in Minnesota Rule 7825.2820 specifies:

“By September 1 of each year, all gas and electric utilities shall submit to the commission an independent auditor's report evaluating accounting for automatic adjustments for the prior year commencing July 1 and ending June 30 or any other year if requested by the utility and approved by the commission. The commission shall approve the request unless it finds that to do so would seriously affect the administration of the automatic adjustment reporting program.”

Going forward, Dakota Electric will submit the AAA information with our annual Resource and Tax Adjustment filing as approved by the Commission in Docket No. E-111/M-20-79. However, as Dakota Electric is preparing the AAA filing material to be included in the January 2021 RTA filing, we now realize that the separate audit in Minnesota Rules 7825.2820 does not serve a useful purpose and are requesting an additional variance as described below.

3. Variance Request

Dakota Electric requests Commission approval of a variance that would waive the requirement to have an independent audit performed on July 1 to June 30 fiscal year power costs and recovery as specified for the AAA report. This request is based on 1) the regulatory agencies review of our calendar-year power costs and recovery in the RTA and 2) the independent audit of the Cooperative’s annual finances as discussed below. These existing mechanisms provide the necessary assurance of proper accounting for the Cooperative’s power costs and recovery.

Dakota Electric’s annual Resource and Tax Adjustment filing documents the changes (increases and decreases) in wholesale power costs, conservation spending, and property

taxes from base levels established in the Cooperative's most recent general rate case. For wholesale power costs, the monthly and annual power costs can be verified by reviewing the monthly invoices that Dakota Electric receives from Great River Energy. All of Dakota Electric's wholesale power costs are contained on the GRE invoices. The RTA filing also details the respective base and adjustment revenue that the Cooperative collects for each power cost base component. This documentation allows the Department to verify 1) power costs, 2) revenue recovery of power costs, and 3) the necessary RTA charge or credit per kWh for the coming year.

Dakota Electric has an annual audit of the Cooperative's overall finances conducted by an independent auditor. This audit includes a review of the billing for RTA amounts to ensure that the Cooperative has properly applied the rates as approved by the Commission.

The criteria for granting variances to the Commission's Rules include:

- 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.

A. Enforcement of the Rule Would Impose an Excessive Burden.

With Annual Automatic Adjustment information being submitted in future Dakota Electric RTA filings, the independent audit performed on July 1 to June 30 fiscal year power costs and recovery as specified for the AAA report serves no useful purpose. Annual power costs can be verified by reviewing the monthly power cost invoices from Great River Energy. The application of the rates is being verified in the Cooperative's overall annual audit. The AAA fiscal year audit is duplicative and devotes staff resources and expense to an effort that does not bring value to Dakota Electric members.

B. Granting the Variance Does Not Adversely Affect the Public Interest.

In this case the public interest is represented by the financial impact on the Cooperative of not paying for an independent audit on fiscal year power costs and recovery when 1) regulatory agencies are reviewing our calendar-year power costs and recovery and 2) the

independent audit of the Cooperative's finances provide the necessary assurance of proper accounting. Dakota Electric believes it is reasonable to eliminate this redundant audit.

C. Variance Does Not Conflict with Standards Imposed by Law.

Dakota Electric is not aware of any conflict with any standards imposed by law.

Conclusion

For the reasons stated herein, Dakota Electric respectfully requests that the Commission approve a variance to Minnesota Rule 7825.2820, to discontinue this audit of fiscal year power costs since the state agency review of the Cooperative's annual RTA and the annual independent audit of the Cooperative's financials provide the necessary oversight.

Dated: October 16, 2020

Respectfully Submitted,

/s/ Douglas R. Larson

Douglas R. Larson
Vice President of Regulatory Services
Dakota Electric Association

Certificate of Service

I, Melissa Cherney, hereby certify that I have this day served copies of the attached document to those on the following service list by e-filing, personal service, or by causing to be placed in the U.S. mail at Farmington, Minnesota.

Docket No. E-111/M-20-____

Dated this 16th day of October 2020

/s/ Melissa Cherney

Melissa Cherney

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Ryan	Barlow	ryan.barlow@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 55101214	Electronic Service	No	GEN_SL_Dakota Electric Association_General Service List
Eric	Fehlhaber	efehlhaber@dakotaelectric.com	Dakota Electric Association	4300 220th St W Farmington, MN 55024	Electronic Service	No	GEN_SL_Dakota Electric Association_General Service List
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	GEN_SL_Dakota Electric Association_General Service List
Corey	Hintz	chintz@dakotaelectric.com	Dakota Electric Association	4300 220th Street Farmington, MN 550249583	Electronic Service	No	GEN_SL_Dakota Electric Association_General Service List
Douglas	Larson	dlarson@dakotaelectric.com	Dakota Electric Association	4300 220th St W Farmington, MN 55024	Electronic Service	Yes	GEN_SL_Dakota Electric Association_General Service List
Pam	Marshall	pam@energycents.org	Energy CENTS Coalition	823 7th St E St. Paul, MN 55106	Electronic Service	No	GEN_SL_Dakota Electric Association_General Service List
David	Moeller	dmoeller@allete.com	Minnesota Power	30 W Superior St Duluth, MN 558022093	Electronic Service	No	GEN_SL_Dakota Electric Association_General Service List
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	No	GEN_SL_Dakota Electric Association_General Service List
Eric	Swanson	eswanson@winthrop.com	Winthrop & Weinstine	225 S 6th St Ste 3500 Capella Tower Minneapolis, MN 554024629	Electronic Service	No	GEN_SL_Dakota Electric Association_General Service List