

**STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION**

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

In the Matter of the Petition of Dakota Electric Association to Modify its Member Service Information Tariffs

DOCKET NO. E-111/M-25-442

**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 January 22, 2026. In its Petition, Dakota Electric Association (DEA) includes two unrelated requests: (1) a compliance filing resulting from a settlement with the OAG and the Department of Commerce to revise its reconnection practices to reduce the situations where it charges a reconnection deposit; and (2) a request that the Commission vary its rules to allow DEA to remotely disconnect its residential members for non-payment. The first request, a priority of the OAG in DEA’s rate case, is meant to protect financially vulnerable DEA members by allowing them to receive service following a disconnection without onerous upfront payments. The second request does the opposite. It would reduce consumer protections mandated by Minnesota law without meeting the Commission’s requirements to vary its rules.

As a result, the OAG’s recommendations on these issues diverge. The OAG generally supports DEA’s proposed revisions to its reconnection deposit policy but recommends modifications to ensure that members are sufficiently protected and DEA follows its described

process and Minnesota rule. The OAG opposes, however, DEA’s request for a variance to allow remote disconnections. DEA has not demonstrated that its current safety-based remote disconnection policy is an excessive burden, and it has not shown that remotely disconnecting residential members in the case of nonpayment would be in the public interest. If the Commission does choose to vary its rules to allow broad remote disconnections, the Commission should condition any variance on DEA complying with the same conditions that the Commission requires of Xcel, and it should require further conditions in light of current deficiencies in Xcel’s remote disconnection practices and stemming from DEA’s specific circumstances.

BACKGROUND

In December 2024, DEA filed an electric rate case, which it has typically done on an approximately five-year cycle.¹ DEA’s rate case was based on a 2023 historical test year adjusted for known and measurable changes.² In its 2024 rate case, DEA moved the costs of its Advanced Grid Initiative (AGi) Project into base rates, but did not make other adjustments for known and measurable changes to account for any reduced costs due to the completion of the AGi Project and functionality of AMI meters.³

Reconnection Deposits – Rate Case

In direct testimony, the OAG recommended that DEA cease requiring a large service deposit for residential members to reconnect their service after being disconnected for nonpayment.⁴ DEA stated that its policy “requires the member to pay a deposit, their delinquent

¹ See Docket No. E-111/GR-24-400, [Direct Testimony of Adam J. Heinen](#) at 53 (Dec. 30, 2024) (referring to the more recent approximate five-year cycle for Dakota Electric rate cases) (Heinen Direct).

² *Id.* at 2.

³ *Id.* at 7; Ex. DEA-1 at 2-5 (Summary of Test Year Adjustments to Operating Expenses).

⁴ Docket No. E-111/GR-24-400, [Direct Testimony of Chad Stevenson](#) at 97, [CS-D-29](#) (Apr. 30, 2025) (Stevenson Direct).

amount, and the approved reconnection fee in our tariff book.”⁵ This service deposit was calculated as the two month average of bills.⁶ DEA’s average service deposit in 2024 was \$210.52,⁷ and the average past due balance was \$124.15. In order to reconnect service, a member would have to pay on average \$344.67,⁸ which is approximately 17 percent of the monthly income of an average household that receives Energy Assistance Program assistance.⁹ Although other Minnesota electric public utilities have the ability to charge a service deposit, Otter Tail, Minnesota Power, and Xcel all reported in 2024 that they do not charge a deposit.¹⁰

While the OAG recommended eliminating the service deposit policy, in the comprehensive rate case settlement, DEA agreed to “work with interested parties to develop modifications to its current policy requiring Residential members to pay a deposit in addition to the reconnection fee before reconnecting a member who has been disconnected for nonpayment.”¹¹ DEA agreed to make a filing with the Commission by late February 2026 and seek approval by May 1, 2026.¹² This timing was important to the OAG because it coincides with the end of the Cold Weather Rule (CWR) period, which generally corresponds with high disconnection rates.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 97-98, CS-D-29.

⁸ \$210.52 (average service deposit) + \$124.15 (average past due balance) + \$10 (reconnection fee) = \$344.67. DEA has since increased its reconnection fee to \$12.

⁹ Stevenson Direct at 98.

¹⁰ *See id.* at 99 (citing *In re Recent Utility Cold Weather Rule Data*, MPUC Docket No. E, G-999/PR-24-02, Otter Tail Power Company, December 2024 CWR (Jan. 21, 2025); Xcel Energy, December 2024 CWR (Jan. 21, 2025); Minnesota Power, December 2024 CWR (Jan. 21, 2025)).

¹¹ Docket No. E-111/GR-24-400, Settlement Agreement at 20 (June 6, 2025).

¹² *Id.* at 20-21.

In the months following the settlement, DEA, the Department, and the OAG met to discuss changes to DEA's reconnection policy. The Commission approved the settlement at a December 11, 2025 agenda meeting and issued a written order on January 16, 2026.¹³

Dakota's Current Petition

On December 31, 2025, DEA filed a petition with the Commission. The petition combined DEA's proposed changes to its reconnection deposit policies per the rate case settlement with substantial changes to its disconnection policies. Specifically, DEA requested a variance to Minnesota rules to allow remote disconnection for nonpayment for residential members.¹⁴

ANALYSIS

The two requests in DEA's petition are vastly different. As an initial matter, the Commission need not decide these requests together, as DEA's remote disconnection request is much weightier and does not face the same time constraints. Second, although the OAG agrees with DEA's general revisions to its reconnection deposit practices, the OAG recommends changes to ensure compliance with Minnesota law and to protect DEA's members. Third, the OAG opposes DEA's requested variance to broadly implement remote disconnections for its residential members. Finally, if the Commission nevertheless permits DEA to remotely disconnect residential members where no safety concern is present, the Commission should condition a rule variance on all of the same requirements that it requires of Xcel, as well as other conditions that are necessary

¹³ Docket No. E-111/GR-24-400, Order Approving Settlement Agreement at 1-2 (Jan. 16, 2026).

¹⁴ Docket No. E-111/M-25-442, DEA Petition at 1 (Dec. 31, 2025).

in light of Xcel's experience with remote disconnections and due to DEA's currently authorized rates.

I. THE COMMISSION NEED NOT MAKE A DETERMINATION ON ALL OF DEA'S REQUESTS AT THE SAME TIME.

DEA requests that the Commission reach a decision by May 1, 2026 so that it can have these processes in place prior to or concurrent with the end of the CWR period. While the OAG negotiated for DEA to revise its reconnection deposit policies prior to the end of the CWR period, DEA's request that the Commission vary its rules to allow broad remote disconnection for non-payment is a much bigger policy question and faces none of the same urgency.

The OAG is disappointed that DEA is seeking to combine a settlement compliance filing with a major policy question about the very substantial costs and potential benefits of remote disconnection. These issues are not, as DEA claims, "explicitly linked because they relate to cost involved with disconnection and reconnection of service."¹⁵ In fact, as discussed further below, DEA has not incorporated any cost savings for remote disconnections into its current rates. The mere fact that both requests would require tariff changes is not an true obstacle. DEA's redlines to its disconnection policies and service deposits are on different pages of the tariff under different headings.¹⁶ Instead, these issues are entirely separate, and the Commission is not bound by DEA's attempt to package new ratepayer protections with the destruction of other ratepayer protections.

As such, if the Commission needs additional time to consider DEA's remote disconnection proposal, the OAG recommends that the Commission take action on DEA's proposal to modify its reconnection deposit policies in line with the rate case settlement, and then take up the remainder of DEA's petition at a later date.

¹⁵ DEA Petition at 8.

¹⁶ DEA Petition, attachment pages 1 and 2.

II. THE COMMISSION SHOULD MAKE MODIFICATIONS TO DEA’S RECONNECTION DEPOSIT TARIFF PROVISIONS.

In the settlement for its 2024 rate case, DEA agreed to “work with interested parties to develop modifications to its current policy requiring Residential members to pay a deposit in addition to the reconnection fee before reconnecting a member who has been disconnected for nonpayment.”¹⁷ DEA met with the OAG and the Department to discuss the general parameters of its reconnection deposit proposal. The OAG offered written feedback to DEA, much but not all of which was incorporated into DEA’s proposal.

While the OAG continues to believe that reconnection deposits may be an unreasonable impediment to struggling residential members seeking to regain an essential service, the OAG appreciates DEA’s movement from its previous policy that present an onerous obstacle to reconnection. In general, the OAG finds DEA’s proposed three-tiered framework to be acceptable for the time being.¹⁸ However, DEA’s description on pages 10-11 of its petition exclude a previously discussed edit from the OAG that would ensure the Cooperative understands its obligation to offer payment arrangements under Minnesota law. DEA’s tariff also contains additional unsupported conditions. The Commission should require DEA to amend its tariff, as provided in Attachment 1 of these comments and as described below.¹⁹

A. DEA’s Reconnection Deposit Process Must Respect the Requirements in Minnesota Law to Offer Payment Plans.

DEA outlines its reconnection process on pages 10-11 of its Petition. For the first and second disconnections, DEA states: “To pay the outstanding balance, Dakota Electric *will* offer the member a payment plan that is agreeable to parties and takes into account the member’s

¹⁷ Docket No. E-111/GR-24-400, Settlement Agreement at 20 (June 6, 2025).

¹⁸ The OAG reserves the right to revisit this issue in future proceedings if DEA’s revised policy produces unreasonable results that harm struggling ratepayers.

¹⁹ See Attachment 1.

financial condition and any extenuating circumstances of the household, as noted in Minnesota Statute § 216B.098.”²⁰ But for the third disconnection, DEA states only that it “*may* offer the member a payment plan.”²¹ The statute does not allow such discretion on DEA’s part. It requires that “[a] utility *shall* offer a payment agreement for the payment of arrears.”²² The details of this payment agreement “must consider a customer’s financial circumstances and any extenuating circumstances of the household.”²³ Because of the requirement to consider specific circumstances, DEA cannot be relieved of its obligation to offer a payment arrangement for arrears simply because the customer has faced two disconnections in the past twelve months. Indeed, there are myriad circumstances where members who have struggled to maintain service in the past may still be relied on to enter a payment agreement, and both the utility and the member may be served better by not requiring a deposit. The Commission should require that any training materials or other descriptions of DEA’s process do not misstate the Cooperative’s obligations under Minnesota law regarding offering payment agreements for the payment of arrears.

B. DEA’s Proposed Tariff Requires Edits to Comport with DEA’s Description of Its Planned Process, Protect DEA’s Members, and Comply with Commission Rules.

The OAG offers edits to ensure that the tariff language comports with DEA’s description of its planned process, sufficiently protects DEA’s members seeking to reconnect service, and clearly complies with Minnesota law.

First, the Commission should modify DEA’s tariff to more clearly comport with DEA’s described process. As DEA describes in its Petition, for a second disconnection in 12 months,

²⁰ Petition at 10-11 (emphasis added).

²¹ *Id.* at 11 (emphasis added).

²² Minn. Stat. § 216B.098 (emphasis added).

²³ *Id.*

“[t]he disconnected member will be assessed a service deposit up to two months’ average bill, which can be rolled into the member’s payment plan, if applicable.”²⁴ For subsequent disconnections, “Any unpaid amount of the deposit in part 2 will be due upfront and not eligible for inclusion in the member’s payment plan.”²⁵ Based on the Petition and previous conversations with DEA, the OAG understands that the deposit for a third disconnection is simply the unpaid amount of the second disconnection deposit that was rolled into a payment arrangement that the member defaulted on.

However, the proposed tariff is not clear that the deposit amount for a third disconnection will be reduced by any paid amount of the previous deposit. DEA’s proposed tariff provides the following:

In the case of deposits for nonpayment, this deposit may be rolled into the payment arrangement for the first instance a deposit is required during the 12-month period. For all subsequent disconnections for nonpayment during the 12-month period, the deposit must be made in full. *Any existing deposit must be applied to the delinquent bill, and then the new deposit will be assessed and must be paid (or agreement made for payment through a payment arrangement) prior to the time the service is restored.*²⁶

The tariff thus contemplates that a customer’s previous deposit is applied to the bill and the customer is assessed *another* deposit. The OAG offers redlines to amend this deficiency and ensure the tariff language comports with DEA’s proposal and previous representations made to the OAG.²⁷

Second, the Commission should remove bankruptcy from the extenuating circumstances under which DEA may impose a deposit outside of the structure it agreed to. DEA’s proposed

²⁴ Petition at 10.

²⁵ Petition at 11.

²⁶ Petition Attach. B at 4.

²⁷ See Attach 1.

tariff currently includes the following statement: “Absent extenuating circumstances (*e.g.*, meter tampering, theft, bankruptcy), the Association will not impose deposit requirements on the first instance of disconnection during a 12-month period.”²⁸ DEA’s tariff, however, does not define “extenuating circumstances,” and the inclusion of bankruptcy in the examples provided is troubling. It is not clear which sources DEA would rely on to determine if a customer has filed for bankruptcy or why individuals seeking the protections of bankruptcy law should be penalized. Further, the inclusion of bankruptcy in the list could open the door to DEA requiring a service deposit for existing members based on subjective and unspecified credit concerns. Because electricity is an essential service for residential members, DEA should be required to follow its three-tiered process for requiring reconnection deposits unless the Cooperative has recorded the account holder previously tampering with a meter or damaging utility equipment, or the account holder has committed theft or fraud against the Cooperative.

Third, DEA’s plans to treat members that have lapsed for 90 days as new members is at odds with the treatment of service deposits in Commission rules. Instead, DEA should treat members who have received service in the past six months as “existing service” subject to the reconnection deposit provisions. Commission rules distinguish between “new service” and “existing service” for the purposes of deposits or other guarantees of payments.²⁹ “New service” is defined as “service extended to or requested by any customer who has not received service as a customer for the preceding six months.”³⁰ “Existing service” is defined as “service presently being extended to a customer or which has been extended to a customer within the past six

²⁸ Petition, Attach. A at 2.

²⁹ Minn. R. 7820.0430, 7820.4400.

³⁰ Minn. R. 7820.0430.

months.”³¹ For each of these categories, the Commission’s rules provide different limitations on when a “cash deposit or other guarantee of payment” can be assessed.³²

DEA proposes to only follow its three-tiered process for members that are disconnected from service for less than 90 days—that is, treating anyone disconnected for longer than 90 days as a “new customer.” For members disconnected for longer than 90 days, DEA’s tariff provides “a deposit equal to two average months’ electric bills of the most recent occupant at that address may be assessed.”³³ DEA should be required to treat all members receiving service within the past six months as “existing customers” for the purpose of service deposits to comport with Commission rules that DEA is not seeking to vary. The OAG has provided tariff amendments to achieve this.³⁴

III. DEA HAS NOT SHOWN THAT ITS CURRENT DISCONNECTION POLICY IMPOSES AN EXCESSIVE BURDEN OR THAT A RULE VARIANCE WOULD NOT ADVERSELY AFFECT THE PUBLIC INTEREST.

To authorize DEA’s request to allow it to remotely disconnect its residential members in cases of non-payment, the Commission would need to authorize a variance to Minnesota Rule 7820.2500. In order to grant a rule variance, the Commission must determine that three requirements are met: (1) enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule; (2) granting the variance would not adversely affect the public interest; and (3) granting the variance would not conflict with standards imposed by law.³⁵ The Commission may grant a variance contingent on a utility’s compliance with conditions.³⁶

³¹ Minn. R. 7820.4400.

³² Minn. R. 7820.0430, 7820.4400.

³³ Petition, Attach B. at 4.

³⁴ Attach. 1.

³⁵ Minn. R. § 7829.3200, subp. 1.

³⁶ *Id.*, subp. 2.

DEA does not provide a sufficient showing to meet the rule variance requirements. First, DEA has not shown that enforcement of the existing rule imposes an excessive burden on it or others. Second, DEA has not shown that granting the variance to allow it to remotely disconnect its members would not adversely affect the public interest.

A. There Is No Excessive Burden to DEA of Continuing to Follow the Commission’s Disconnection Rules. In Fact, DEA’s Rates Include the Costs for It to Do So.

There is no excessive burden to DEA of continuing with its currently authorized permanent rule variance that allows remote disconnections in cases where there is a known safety concern.³⁷ DEA does not provide sufficient justifications for needing a variance beyond the variance it already has. Further, since DEA recently received a rate increase that includes the costs of in-person disconnections, there would be no financial benefit in rates resulting from any cost savings from remote reconnections. Given the high bar to show an excessive burden, DEA’s inability to show any burden outside of safety concerns for which it already has a variance should disqualify it from receiving a variance.

DEA’s only argument for a rule variance appears to be related to the safety of its staff.³⁸ While safety is a valid concern, DEA’s invocation of this rationale is puzzling because it already has a rule variance allowing remote disconnections to address this issue. In September 2022, DEA filed a request for a one-year variance to allow remote disconnections “when a known safety concern, such as the need for a police escort, exists.”³⁹ At that time, the OAG agreed that a one-year variance was reasonable, due in part to the limited nature of variance, the one-year timeframe to allow DEA to test its notification procedures, the outreach DEA had engaged in with

³⁷ See Docket No. E-111/M-22-494, Order (Dec. 16, 2022) (authorizing one year variance); Order (Feb. 27, 2024) (making one year variance permanent).

³⁸ Petition at 11-12.

³⁹ Docket No. E-111/M-22-494, DEA Petition at pdf page 5 (Sept. 6, 2022).

stakeholders, and DEA's incorporation of feedback, particularly regarding protections for medically-vulnerable and older adult members.⁴⁰ In November 2023, DEA petitioned the Commission to make the rule variance permanent, which the Commission approved.⁴¹

Now DEA requests to be able to disconnect *all* residential members because safety concerns may be present for house visits in a few instances for which it already has remote disconnection abilities.⁴² Further to support its safety argument, DEA simply cites to one local news article involving a different utility, and an article discussing a sovereign citizen in Australia who killed two police officers.⁴³ While the OAG does not deny that utility workers may face safety concerns when disconnecting customers, DEA's current variance already addresses this concern and DEA has not provided any evidence showing the current variance is not sufficient to protect its employees.

Further, there is no clear financial burden to DEA resulting from compliance with the disconnection rule. DEA's final rates resulting from its 2024 rate case were authorized just last month.⁴⁴ Notably, DEA's test year in that case used 2023 financials with adjustments for known and measurable changes.⁴⁵ The known and measurable changes do not contemplate any changes to its disconnection policies. Therefore, there is no financial burden, excessive or otherwise, to DEA from continuing to comply with Minn. R. 7820.2500—its rates include the costs of continued compliance. Indeed, it has been DEA's practice to file a rate case every five years, and without drawing DEA into another rate case, its rates would continue to be set assuming costs that included

⁴⁰ Docket No. E-111/M-22-494, OAG Letter at 2-4 (Oct. 26, 2022).

⁴¹ Docket No. E-111/M-22-494, Order (Feb. 27, 2024).

⁴² Petition at 12-13.

⁴³ Petition at 12, n. 10-11.

⁴⁴ Docket No. E-111/GR-24-400, Order Approving Settlement Agreement (Jan. 16, 2026).

⁴⁵ Heinen Direct at 2.

in-person visits for disconnection likely until after 2030.⁴⁶ DEA's ratepayers will therefore continue to pay for compliance with Minn. R. 7820.2500 even if DEA was granted a variance.

DEA has not made a showing that there is any burden to it from continuing to comply with the requirements of Minn. R. 7820.2500, much less the excessive burden that is required to overcome the first prong of the variance analysis. The Commission should deny DEA's request to vary the rules to authorize remote disconnections.

B. Granting the Variance Would Adversely Affect the Public Interest.

DEA's petition also fails to show that granting the variance would not adversely affect the public interest.⁴⁷ While DEA appears to offer some protections to mitigate impacts to the public interest, they fall short of actually doing so. Notably, although DEA *appears* to agree to pursue some conditions of a rule variance that the Commission has required of Xcel Energy, DEA does not actually agree to follow many of them. But even if DEA did agree to follow *all* conditions of remote disconnection that the Commission currently requires of Xcel, the experience of vulnerable customers under Xcel's current variance should give the Commission pause. Indeed, Xcel's disconnections have skyrocketed since the Commission authorized remote disconnection. DEA has not shown that granting a variance would not adversely impact the public interest and the Commission should deny DEA's rule variance request.

DEA's proposed mitigations would not sufficiently protect the public interest. DEA discusses several conditions that are currently required for Xcel but does not actually commit to implementing them. For example, to remotely disconnect a customer, Xcel is required to reach a customer via a final phone call or voicemail. DEA says that it "is likely able to accommodate

⁴⁶ See Docket No. E-111/GR-24-400, Direct Testimony of Adam J. Heinen at 53 (Dec. 30, 2024) (refereeing "the more recent approximate five-year cycle for Dakota Electric rate cases).

⁴⁷ Minn. R. 7829.3200.

similar requirements but there are some modifications or adjustments that are necessary to better fit our operating realities.”⁴⁸ For other conditions of Xcel’s remote disconnection variance, such as reconnecting customers during extreme heat or periods of unhealthy air quality, DEA says it will do so but only “[i]f ordered by the Commission”⁴⁹ and provided that DEA’s “internal systems can facilitate the[se] types of requirements.”⁵⁰

DEA’s request even walks back the protections that are currently in place for its current variance for remote disconnections where there is a safety related concern. Under DEA’s current variance, it is required to send a member with a known safety concern a final communication via certified mail. Certified mail provides an additional protection because, by requiring a signature from the addressee, it shows that the letter was in fact received.⁵¹ Receiving certified mail also creates an impression of importance so that recipients appreciate the gravity of the communication and are more likely to review the letter. DEA provides no information why such a requirement is unnecessary to protect all members, but instead DEA focuses on the increased volume of connections if it is permitted to remotely disconnect being burdensome from a staffing and cost perspective. DEA’s argument appears to be that it would be burdensome to it to mitigate the impacts of its request to remotely disconnect members. To avoid this burden, DEA should be required to simply comply with the rule, which it has not shown is burdensome.

Even if DEA’s remote disconnection variance request were conditioned to the same extent the Commission has conditioned Xcel’s variance, Xcel’s experience shows it is very likely there will be adverse impacts to the public interest. Since Xcel was authorized to remotely disconnect

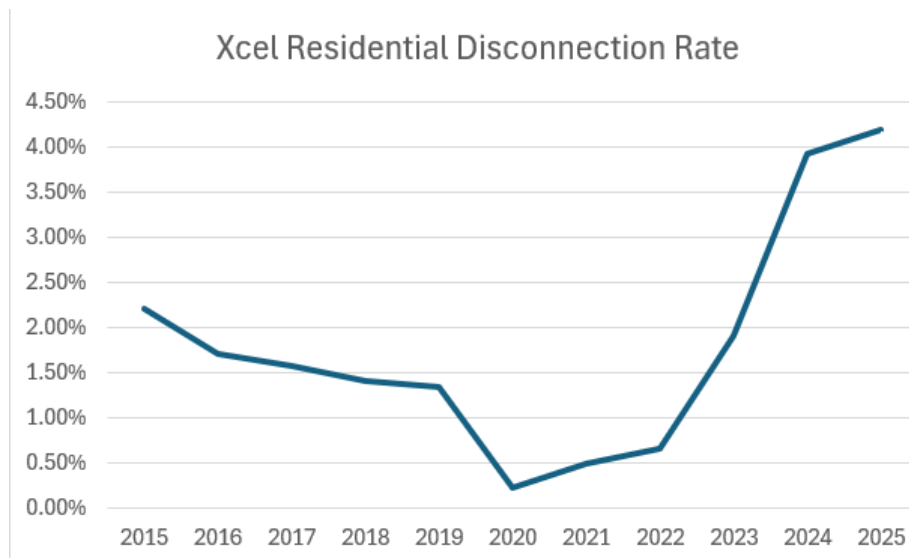
⁴⁸ Petition at 13.

⁴⁹ *Id.*

⁵⁰ *Id.* at 14.

⁵¹ Certified Mail – The Basics, USPS.com, <https://faq.usps.com/s/article/Certified-Mail-The-Basics>.

customers in May 2023,⁵² its disconnection rates have skyrocketed. Xcel's disconnection rate for all residential customers⁵³ is now double pre-pandemic levels:⁵⁴



While some increase in disconnections is expected due to remote capabilities, the very real toll of disconnections on customers should not be discounted. Further, Xcel itself has pointed to increased disconnections from its implementation of remote disconnections as a reason for increased complaints from its customers to the Commission.⁵⁵

DEA has not shown that its proposal, with significantly fewer consumer protections than Xcel has, would not adversely affect the public interest. Instead, it is likely to have a similar or even more pronounced negative impact on the public interest than Xcel's current remote

⁵² See Docket No. E002/M-02-2034, Xcel Energy Comments at 2 (May 31, 2024).

⁵³ This includes gas customers because Xcel's customer service system is unable to track disconnections due solely to electric nonpayment. See *In the Matter of Xcel Energy's 2024 Annual Safety, Reliability, and Service Quality Report*, Docket No. E-002/M-25-27, 2024 Annual Report, Part I, Att. E (Apr. 1, 2025).

⁵⁴ Data compiled using Xcel's reporting in docket no. 25-02.

⁵⁵ Docket Nos. E,G002/CI-02-2034 AND E,G002/M-12-383, 2024 Annual Report at 3-4 (May 15, 2025).

disconnection policy, including a likely increase in disconnections and customer complaints. The Commission should deny DEA's variance request.

IV. IF THE COMMISSION ALLOWS REMOTE DISCONNECTIONS, ADDITIONAL SAFEGUARDS ARE NEEDED TO PROTECT RATEPAYERS AND THE PUBLIC INTEREST.

The OAG strongly opposes DEA's petition for a variance allowing it to remotely disconnect residential members for non-payment because DEA's petition falls far short of the legal standard for the Commission to vary its rules. If the Commission disagrees, however, significantly more conditions on DEA's variance are necessary. These include the following conditions, which are described further in the subsections below:

- A. All conditions currently required for Xcel's remote disconnection variance;
- B. Continued requirement to send a notice via certified mail prior to disconnection;
- C. Prohibition on remotely disconnecting any members that have a current or lapsed medical certification or who have otherwise indicated they have a medical need for electrical service;
- D. Requirement that DEA track any cost savings from remotely disconnecting customers; and
- E. One year limitation.

A. The Commission Should Impose the Same Conditions on DEA as It Imposed on Xcel.

As discussed above, DEA does not agree to the same conditions that the Commission imposed on Xcel's remote disconnection variance. DEA appears to argue that these conditions would be too burdensome for it to follow. But this misunderstands how the variance analysis operates. If the utility can show compliance with the existing rule would impose an excessive burden, it must then show either that the variance would not affect the public interest or that the Commission may impose conditions that would protract the public interest from being affected. DEA's arguments about the burden from compliance with variance conditions are not relevant. Instead, the question is whether the conditions are as necessary to protect DEA's members as they were to protect Xcel's customers. From the customers' perspective, the application of these

conditions are identical. The Commission should impose them if it allows a variance for remote disconnection.

B. The Commission Should Continue to Require DEA to Send a Notice via Certified Mail Prior to Disconnection.

DEA argues that it would be burdensome to send certified mail for as many customers as it plans to disconnect remotely.⁵⁶ This burden is irrelevant. Instead the focus should be on what is necessary to prevent the proposed rule variance from adversely affecting the public interest. The Commission determined that certified mail was a necessary condition to notify members with known safety concerns. DEA provides no reason why the Commission should find that DEA's members who do not present a safety concern should be afforded less protection. The Commission should continue to require certified mail prior to any remote disconnection.

C. The Commission Should Prohibit DEA from Remotely Disconnecting any Members with Either Current or Lapsed Medical Certifications or Who Have Otherwise Indicated a Medical Need for Electrical Service.

Minnesota Rule 7820.2500 requires "a personal visit by a representative of the utility to the address where the service is rendered and an attempt to make personal contact with the customer at the address." Visiting the premises allows the utility representative to view the conditions at the property, which could include observing medical equipment. Minnesota law allows customers to certify that they have a medical need for electricity service and avoid disconnection.⁵⁷ However, the ongoing requirements of the medical-certification statute are onerous, requiring a customer to obtain a medical certification from a medical doctor, physician's assistant, advanced practice registered nurse, or in certain limited conditions, registered nurses.⁵⁸ The customer must then renew the certification every six months, although some utilities may

⁵⁶ DEA Petition at 16.

⁵⁷ Minn. Stat. § 216B.098, subd. 5.

⁵⁸ *Id.*, subd. 5(b).

provide up to a year.⁵⁹ Removing the requirement for a home visit prior to disconnection could result in disconnecting a customer who needed electricity service to stay alive.

For this reason, the Commission should impose additional conditions on any remote disconnections it allows to protect medically vulnerable members. Specifically, the Commission should not allow remote disconnections for any members who have previously had a medical certification on file or in any instance where DEA has a reason to believe that a medical emergency exists or medical equipment requiring electricity necessary to sustain life is in use. While this condition goes beyond the requirements in statute, asking DEA to simply follow the requirements of Rule 7820.2500 in these cases is a minimal ask compared to the catastrophic consequences from remotely disconnecting a member who had a medical need for electricity service.

D. The Commission Should Require DEA to Track Any Cost Savings from Remote Disconnections.

As discussed above, DEA's currently authorized rates include the costs of providing in-person disconnections. Because DEA is unlikely to file a rate case until 2029, granting the variance would allow it to collect these costs in rates without making the expenditures. The Commission should require that DEA track any cost reductions arising from remote disconnections. Rather than simply pass these costs back to ratepayers in DEA's likely 2029 rate case, the Commission should also explore using any tracked cost savings in a way that mitigates the harms of remote disconnections, such as an emergency fund to assist members facing disconnection with paying down arrears.

⁵⁹ *Id.*, subd. 5(c).

E. The Commission Should Limit Any Variance to One Year.

DEA states that the “significant changes to our internal operations” from the variance “may make a one-year variance, subject to future extension, administratively burdensome.”⁶⁰ However, DEA does not request a longer variance.⁶¹ The OAG agrees that one year is the maximum that DEA should receive for this type of variance. Such a major change, with the potential for negative impacts to DEA’s members and the public interest, should not be made permanent with no clear opportunity for review by the Commission and public interest and ratepayer advocates. Instead, the Commission should limit any variance to one year in line with the automatic one-year limitation in Minn. R. 7829.3200, subpart 3.

CONCLUSION

DEA’s petition mashes two disparate issues into a single request. The first issue, to modify DEA’s reconnection policies to comply with its rate case settlement, would improve disconnected customers’ ability to regain access to essential electric service. This request should be approved with the modifications described above and in Attachment 1.

DEA’s second request goes the opposite direction. It fails the legal requirements for a rule variance, would significantly increase the number of disconnected members, place members that may have a medical need for electricity at added risk of disconnection, and provides no present benefit to DEA’s ratepayers. The Commission should deny it. If the Commission nevertheless allows remote disconnections, significantly more protections are needed than the few DEA floats but does not fully agree to. The Commission should therefore condition any variance on the conditions provided in Section IV, above.

⁶⁰ Petition at 19-20.

⁶¹ *Id.*

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Respectfully submitted,

KEITH ELLISON
State of Minnesota
Attorney General

/s/ Katherine Hinderlie
KATHERINE HINDERLIE
Assistant Attorney General
Atty. Reg. No. 0397325

445 Minnesota Street, Suite 600
St. Paul, Minnesota 55101-2125
(651) 757-1468 (Voice)
(651) 296-9663 (Fax)
katherine.hinderlie@ag.state.mn.us

ATTORNEYS FOR MINNESOTA
OFFICE OF THE ATTORNEY GENERAL—
RESIDENTIAL UTILITIES DIVISION

MEMBER SERVICE INFORMATION DEPOSITS

~~Dakota Electric Association may collect a deposit if service has been disconnected for nonpayment. Absent extenuating circumstances (e.g., a recorded instance of meter tampering or damaging utility equipment, or theft or fraud against Dakota Electric Association, bankruptcy), the Association will not impose deposit requirements on the first instance of disconnection during a 12-month period. For subsequent disconnections for nonpayment, and extenuating circumstances, the Association may collect a deposit not to exceed an estimated two months' gross bill or existing two months' average bill. In the case of deposits for nonpayment, the deposit may be rolled into the payment arrangement for the first instance a deposit is required during the 12-month period. For all subsequent disconnections for nonpayment during the 12-month period, the deposit must be made in full but the amount will be reduced by any paid amounts of the deposit previously rolled into the payment arrangement—a member will not be assessed a second deposit. where applicable if the service has been terminated because of nonpayment or when a bankruptcy is filed. Any existing deposit must be applied to the delinquent bill, and then the new deposit will be assessed and must be paid (or agreement made for payment through a payment arrangement) prior to the time the service is restored.~~

When a member returns to Dakota Electric Association after leaving, ~~or being disconnected for longer than 90 days~~ 6 months, with an unpaid balance, ~~or~~ other credit problems, ~~or past extenuating circumstances~~, a deposit equal to two average months' electric bills of the most recent occupant at that address may be assessed. This deposit is in addition to payment in full for the previously unpaid balance or mutually agreed upon payment plan.

Dakota Electric shall not require a deposit for a new member with no prior service from the Association unless the credit history of the new member demonstrates that payment cannot be assured. The determination of the new member's credit history shall be made only by credit reports reflecting the purchase of utility service, unless permission in writing is received from the new member to use other credit reports, and such reports are mailed to the new member. Refusal of a new member to permit use of a credit rating or credit service, other than that of a utility, shall not affect the Association's determination of that new member's credit history. Satisfactory credit shall be 12 consecutive months of on-time payments with no remaining unpaid balance.

If a member has maintained a good payment record for one year, the deposit will be refunded. A good payment record is defined as payment of the electric bill within 25 days of the due date each of the preceding 12 months.

Deposits shall earn interest at an annual rate as specified by Minnesota Statute 325E.02. This interest will be credited to the electric bill printed in December or will be credited to the final bill, whichever occurs first.

Deposits, plus interest, will be applied to the final bill, and any credit balance remaining will be refunded within forty-five (45) days from the date service is terminated.

Dakota Electric shall not require a deposit of any member without explaining in writing why that deposit or guarantee is required.

Docket No. E-111/M-25-442
OAG Initial Comments
Attach. 1