



June 9, 2025

Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, MN 55101

Re: **Initial Comments of Wolf River Electric**
In the Matter of a Formal Complaint by the Upper Sioux Community Against Minnesota
Valley Cooperative Light & Power Association
Docket No. E-123/C-25-219

Minnesota Public Utilities Commission,

Wolf River Electric respectfully submits these Initial Comments in support of the Upper Sioux Community's formal Complaint against Minnesota Valley Cooperative Light and Power Association (hereinafter "Cooperative"), and to respectfully urge the Minnesota Public Utilities Commission (hereinafter "Commission") to exercise its jurisdiction and initiate a formal investigation into the Cooperative's discriminatory service practices, retaliatory conduct, and manipulation of its required interconnection process.

I. Introduction

As the solar partner and licensed electrical contractor for the Upper Sioux Community's behind-the-meter solar generation project, Wolf River Electric has significant knowledge of the Cooperative's actions, including its refusal to provide transparency, unjustified mischaracterization of the solar project as an energy-exporting system, and the subsequent threatened disconnection of electric service to an entire federally recognized tribal government.

These actions are not only inconsistent with Minnesota's statutory and regulatory framework governing utility practices, they also present an urgent public interest concern, especially in light of the serious implications for tribal sovereignty, energy justice, and equitable access to renewable infrastructure.

NICHOLAS JAMES KASPROWICZ

General Counsel | Attorney at Law

Email: Nick@WolfRiverElectric.com | Phone: (763)229-6662

101 Isanti Parkway Northeast Suite G | Isanti, MN 55040 | Wolf River Electric

The allegations raised by the Upper Sioux Community are deeply troubling and implicate fundamental questions about how electric cooperatives are expected to treat their members, particularly Sovereign Indigenous Nations. The facts presented warrant immediate review, and the Commission's authority and obligation to act are both well-established and essential to maintaining public trust in the state's utility regulatory system.

This submission outlines the statutory and judicial foundations for Commission jurisdiction, demonstrates the factual and procedural adequacy of the Complaint, and explains why Commission intervention is necessary to protect the public interest and prevent irreparable harm.

II. The Commission Has Jurisdiction Over the Subject Matter of the Complaint.

The Commission has clear statutory jurisdiction over the subject matter of the Complaint against the Cooperative pursuant to Minn. Stat. §§ 216B.17, subdvs. 1 and 6a, along with Minn. Stat. §§ 216B.01, 216B.02(6), and 216B.172.

The Commission's jurisdiction includes electric cooperatives when allegations concern service "standards and practices," especially where discriminatory service is alleged.¹

A. Statutory Framework Grants Jurisdiction Over Cooperatives in Limited but Express Instances

The Minnesota Legislature has articulated in Minn. Stat. § 216B.01 that,

It is hereby declared to be in the public interest that public utilities be regulated... in order to provide the retail consumers of natural gas and electric service in this state with adequate and reliable services at reasonable rates... and to minimize disputes between public utilities which may result in inconvenience or diminish efficiency in service to the consumers.

While this statutes generally acknowledge that cooperative electric associations are self-governed under Chapter 308A, it also makes clear that such cooperatives remain subject to Commission jurisdiction in areas "specifically provided" for.²

One such express provision is found in Minn. Stat. § 216B.17, subdiv. 6a, which states, "[f]or the purposes of this section, public utility shall include cooperative electric associations with respect to service standards and practices only." The Commission clearly has jurisdiction over this matter.

¹ Minn. Stat. § 216B.17(6a).

² Minn. Stat. § 216B.01.

B. The Minnesota Supreme Court has Confirmed the Commission's Jurisdiction Over Cooperative Service Practices

The Minnesota Supreme Court in *Taylor v. Beltrami Elec. Co-op.* interpreted this provision to mean that the Commission has jurisdiction over electric cooperatives when service practices, such as discriminatory practices, are challenged.³ The Minnesota Supreme Court explained,

By retaining Public Utilities Commission jurisdiction over the service standards and practices of electric cooperatives, the legislature has assured members and potential members of an administrative remedy to protect those rights which the cooperative has no authority to limit or qualify.⁴

The Court further held,

Therefore, even allowing for emphasis and careful consideration of the declared policy of the legislature of usually excluding electrical cooperatives from regulation, a practice . . . which [is] claimed to be discriminatory must be within the jurisdiction of the Public Utilities Commission.⁵

Here, the Upper Sioux Community alleges Cooperative's actions, issuing a cease-and-desist order, threatening power disconnection, and attempting to interfere with the Sovereign Nation based on a board policy that arbitrarily caps system size, are unreasonable, discriminatory service practices. These are precisely the types of practices that § 216B.17(6a) and *Taylor* place under Commission jurisdiction.

C. The Commission Must Investigate as the Complaint Properly Invokes Minn. Stat. § 216B.17.

The Commission is required to investigate the Upper Sioux Community's formal complaint.

[U]pon a complaint made against any public utility . . . by a complainant under section 216B.172 that . . . any regulation, measurement, practice, act, or omission affecting or relating to the production, transmission, delivery, or furnishing of natural gas or electricity or any service in connection therewith is in any respect unreasonable, insufficient, or unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission **shall** proceed, with notice, to make such investigation as it may deem necessary.⁶

³ *Taylor v. Beltrami Elec. Co-op., Inc.*, 319 N.W.2d 52 (Minn. 1982).

⁴ *Id.* at 56.

⁵ *Id.*

⁶ Minn. Stat. 216B.17(1)(emphasis added).

The Community's complaint fits squarely within this scope. It alleges discriminatory and retaliatory treatment by Minnesota Valley through arbitrary enforcement of its interconnection policy and the threat of service termination.

Additionally, Minn. Stat. § 216B.02(6) defines "service" to include "electricity; the installation, removal, or repair of equipment or facilities for delivering or measuring such electricity." This confirms that decisions concerning interconnection requirements, system sizing, and disconnection threats fall well within the scope of regulated service practices.

Given the above authorities, the Commission not only *may* investigate these allegations, it *must*. Jurisdiction is statutorily provided, judicially confirmed, and consistent with the legislative goal of preventing utility service disputes that affect fairness, reliability, and public trust.

III. There Are Reasonable Grounds for the Commission to Investigate These Allegations

The Complaint filed by the Upper Sioux Community presents more than sufficient grounds to warrant a formal investigation by the Commission under Minn. Stat. § 216B.17, subdiv. 1 and Minn. R. 7829.1800. The allegations concern conduct that, on its face, appear blatantly discriminatory, retaliatory, and inconsistent with the statutory and implied duties of a cooperative electric association to provide reliable service to its members on fair and reasonable terms.

A. The Threat to Disconnect Power to a Sovereign Indigenous Nation Is Discriminatory and Unprecedented

Minnesota Valley has threatened to disconnect electrical service to the Upper Sioux Community's casino and associated facilities, effectively threatening to shut off power to an entire federally recognized Sovereign Indigenous Nation. This is not a typical customer dispute. It is an alarming escalation involving a utility cooperative using its control over a critical public service as leverage against a sovereign government.

The Upper Sioux Community is not just a customer, it is a distinct political entity that operates under federal recognition, with inherent sovereignty and territorial jurisdiction over its reservation lands. Targeting the Upper Sioux Community for pursuing a solar energy project that aligns with state energy policy and federal clean energy priorities, particularly under the pretense of internal board policies, raises serious concerns of discriminatory treatment and retaliatory utility practices.

The Cooperative's conduct, particularly the threat to disconnect electric service to an entire tribal nation, including its citizens, businesses, and governmental organizations, is not just an administrative overreach. It echoes a longstanding historical pattern in which entities have wielded access to critical services as leverage to influence and suppress tribal nations.

Such tactics have been widely condemned by federal agencies, courts, and energy justice advocates. Disconnecting a tribe's power supply not only jeopardizes public safety and critical infrastructure, but also functions as an act of political and economic coercion. When the recipient of such a threat is a sovereign government acting within its own jurisdiction, pursuing lawful and environmentally sustainable energy, it raises constitutional, ethical, and public policy alarms.

The Cooperative's conduct is inconsistent with its obligation to treat all members fairly and non-discriminatorily and raises profound public interest concerns, particularly when the party being targeted is an entire tribal nation. It is difficult to imagine a clearer case where the Commission's investigative authority should be exercised.

B. The Cooperative Is Improperly Leveraging Its Power Against Its Largest Group Of Members

The Upper Sioux Community is among the largest, if not the single largest, member served by Minnesota Valley Cooperative, based on its substantial energy consumption stemming from the operation of its casino, governmental facilities, and community infrastructure. As such, the Community is not only a key consumer but a central stakeholder in the cooperative's membership base.

Electric cooperatives are established to serve their members, not to profit from them. As mutual associations, they operate under principles of democratic governance and member-oriented service. Yet here, the Cooperative appears to have abandoned those principles. Rather than engaging in good-faith collaboration, the Cooperative has sought to exert pressure on the Upper Sioux Community through threats of disconnection, strained legal justifications, and internal policy references, all while disregarding the Upper Sioux Community's sovereign status and its pursuit of lawful, behind-the-meter renewable energy solutions.

This conduct constitutes a fundamental breach of the Cooperative's obligations and mission. It suggests an effort to stifle energy independence through coercion and raises significant concerns about whether Minnesota Valley is honoring its regulatory and fiduciary duties as a cooperative entity.

C. The Complaint Is Factually and Procedurally Proper

The Upper Sioux Community has followed all appropriate procedures: first attempting informal and formal mediation under Minn. Stat. § 216B.164, then filing a formal Complaint under Minn. Stat. § 216B.17. The Complaint includes detailed factual allegations and documentary evidence, including the cease-and-desist letter from the Cooperative threatening to terminate electric service based on noncompliance with disputed legal interpretations and internal policy.

This is not a speculative dispute. It is a concrete and well-documented conflict over a utility's alleged abuse of power, discrimination, and failure to comply with both the letter and spirit of Minnesota utility law. The Commission is not only empowered but **obligated** to investigate such claims under its statutory mandate.⁷

D. The Commission Should Also Investigate The Cooperative's Interconnection Process, Which Was Marred by Obstruction, Manipulation, and Retaliation.

The Commission should also investigate the Cooperative's initial approval of the Upper Sioux Community's non-export solar system, its subsequent manipulation of the System Impact Study, and its apparent reliance on the false premise that the project is an exporting system, despite repeated assurances and design documentation confirming otherwise.

The interconnection process, as required and conducted by the Cooperative, raises serious concerns about transparency, fairness, and adherence to established procedural norms under Minnesota DER interconnection policies.

The Cooperative was aware of the Upper Sioux Community's solar project well before it entered formal development. In early discussions with the Cooperative's Distributed Energy Resource (DER) coordinator, the utility informed Wolf River Electric that a similar project had previously been proposed but ultimately abandoned because the Cooperative was unwilling to accept or purchase excess generation. This prior experience directly informed the decision to pursue a zero-export system with integrated storage, specifically designed to prevent any backfeed to the grid.

At that time, the Cooperative's DER coordinator explicitly stated that if the project was truly zero-export, there would be no reason it could not proceed. Wolf River Electric relied upon the Cooperative's assurances and relayed this information to the Upper Sioux Community.

⁷ Minn. Stat. 216B.17(1); See also Mike Bull, H. Res. Dep't., The Minnesota Public Utilities Commission and Related Agencies: Structure and Function, 2 (2002).

When the Upper Sioux Community decided to move forward and Wolf River Electric initiated the interconnection process, Wolf River Electric was not directed to submit a standard interconnection application. Instead, Cooperative instructed Wolf River Electric to first complete a pre-application, despite the clear statement that the project was committed and ready to proceed. The Cooperative insisted the pre-application was necessary to determine the cost of a full System Impact Study.

This pre-application was reviewed by Power System Engineering, Inc. (PSE), a firm contracted by the utility, and no substantial issues were identified in their report.

The Cooperative then instructed Wolf River Electric to submit a full interconnection application along with a substantial payment for the System Impact Study. Payment was made and the study was conducted by PSE.

What followed raised serious concerns. Wolf River Electric only learned that the System Impact Study had been completed after paying for it, when PSE engineers reached out to our project team, not to deliver the report, but to confirm scope changes.

Specifically, PSE informed Wolf River Electric that the Cooperative had instructed them to revise the study to assume 100% energy export, despite the fact that the project had always been presented, and approved conceptually, as a zero-export system.

This change was made without any notification, input, or approval from either Wolf River Electric or the Upper Sioux Community. Wolf River Electric had no indication that the original study had even been finalized. The engineers reached out solely to confirm the scope change imposed by the utility.

This situation suggests the Cooperative may have attempted to retroactively alter the scope of the study in order to fabricate the need for costly grid upgrades, potentially creating financial obstacles to derail the project. Even more troubling, neither the original nor revised study was shared with Wolf River Electric, despite payment for the study. Fortunately, the Upper Sioux Community was able to acquire the study and shared it with Wolf River Electric. PSE also confirmed they could not release the report directly, as the Cooperative would not approve them to provide it to Wolf River Electric.

This apparent obstruction, manipulation, and lack of transparency appeared to be a deliberate effort to obstruct the solar installation process is deeply troubling.

The System Impact Study dated January 2025 evaluates the solar and battery project's effects on the Cooperative's grid. Based on discussions with PSE, this is likely the second iteration of the study, revised to model full energy export. The original zero-export version, believed to have been completed in November or December 2024, was never provided.

In the revised version, it states, "[w]e also studied the DER assuming that it may export onto the distribution system." The revised report also states that any solar generation beyond the 40 kW of on-site usage would either charge the battery or be exported to the grid at real-time market pricing.

This change in assumptions directly contradicts the project's design. Even under this more burdensome export scenario, the study concludes that no significant technical issues exist, and all required upgrades are manageable within standard DER practices.

Wolf River Electric urges the Commission to obtain and compare both the original zero-export study and this revised version, along with any internal utility communications regarding the scope change. This review is essential to determine whether proper procedures were followed and whether the utility's actions comply with DER interconnection standards.

After the System Impact Study was completed, Wolf River Electric received no follow-up from the DER coordinator or utility personnel. The only communication came in the form of a statement that the utility planned to issue a legal notice to the Upper Sioux Community, expressing its opposition to the solar project. When Wolf River Electric attempted to follow up, it was informally told that the Cooperative was upset because the tribe had historically received favorable electricity rates, and the utility did not want to see its revenues reduced due to on-site energy generation.

This was deeply concerning to Wolf River Electric's management team. It indicated that the Cooperative's resistance was not rooted in technical or safety concerns, which it originally hid behind, but in preserving profit margins.

Further efforts to engage with the DER coordinator or escalate to Cooperative leadership were unsuccessful. During one attempt, after being placed on hold for 30 minutes, the Cooperative's CEO abruptly ended the call, stating that there would be "no deal-making."

Since that time, Wolf River Electric has received no further communication from the Cooperative, despite repeated attempts. Instead, the only development has been escalating legal threats from the Cooperative, including threats to disconnect the Upper Sioux Community's electric service entirely.

These actions, including obstruction of study results, unilateral manipulation to the study, lack of transparency, and threats of disconnection, underscore the urgent need for Commission intervention.

IV. It Is Squarely in the Public Interest for the Commission to Investigate These Allegations.

The Commission's core mandate under Minn. Stat. § 216B.01 is to protect the public interest by ensuring that utility services in Minnesota are provided fairly, reliably, and without discrimination. The allegations raised by the Upper Sioux Community strike at the heart of that mission, and the public interest demands that the Commission conduct a thorough and transparent investigation.

A. The Commission's Oversight Is Essential to Protect the Public Interest in Fair Utility Access and Renewable Energy Development.

This proceeding directly implicates the core mission and statutory mandate of the Commission to safeguard the public interest in the provision of essential utility services. The actions alleged in the Upper Sioux Community's Complaint, namely, the discriminatory obstruction of a sovereign tribal nation's behind-the-meter solar energy project and the threatened disconnection of electric service, fall within the very types of conduct the Commission is duty-bound to address.

As articulated in the House Research Department's foundational report on the Commission's role:

The mission of the Minnesota Public Utilities Commission (PUC) is to protect and promote the public's interest in safe, adequate, and reliable utility services (electricity, natural gas and telecommunications) at fair, reasonable rates. It does so by providing independent, consistent, professional, and comprehensive oversight and regulation of utility service providers.⁸

Moreover, the Commission exists specifically to serve the public interest embedded in access to utility services. According to the same report, "[t]he commission exists to serve the public interest that is embedded in the provision of, and access to, necessary utility services."⁹

The Commission has consistently recognized that the public interest includes universal and equitable access to essential services, protection of the environment and promotion of renewable energy, and reliability and integrity of utility service for all ratepayers.¹⁰

⁸ Mike Bull, H. Res. Dep't., The Minnesota Public Utilities Commission and Related Agencies: Structure and Function, 2 (2002).

⁹ *Id.* at 20.

¹⁰ *See Id.* at n.2.

These principles are not merely aspirational. They are reflected in statute. The Minnesota Legislature has specifically directed the Commission and other state agencies to develop and support indigenous energy resources, including solar energy.

The commissioner shall design a comprehensive program for the development of indigenous energy resources... including providing technical, informational, educational, and financial services and materials to persons, businesses, municipalities, and organizations involved in the development of solar.¹¹

The Upper Sioux Community's solar project falls squarely within these public policy goals. It represents a local, sovereign-led renewable energy investment, a zero-export, non-invasive system that improves grid resilience, a project tailored to reduce dependence on fossil fuel sources, and a development that aligns with Minnesota's broader clean energy and energy independence goals.

Investigating the Cooperative's efforts to obstruct this project and threaten disconnection of service is not only within the Commission's jurisdiction, it is clearly in the public interest.

B. The Legislature Has Declared That Preventing Utility Disputes and Ensuring Fair Service Is in the Public Interest

As articulated in Minn. Stat. § 216B.01,

It is hereby declared to be in the public interest that public utilities be regulated... in order to provide the retail consumers of natural gas and electric service in this state with adequate and reliable services at reasonable rates... and to minimize disputes between public utilities which may result in inconvenience or diminish efficiency in service to the consumers.

This language affirms that dispute resolution, equitable access, and utility accountability are not discretionary, they are essential components of the Commission's public service obligation. Investigating this matter would not only resolve a serious service dispute but also prevent escalation of harm to both the cooperative membership and the broader public.

C. The Threat of Power Disconnection Against a Sovereign Indigenous Nation Raises Critical Public Policy Concerns

The Cooperative's threat to disconnect electrical service to the Upper Sioux Community presents not just a legal issue, but a public policy crisis. Shutting off power to a tribal nation is an act that carries public safety implications, economic harm to tribal enterprise and employment, social disruption to tribal citizens, and reputational damage to Minnesota's public utility system.

¹¹ Minn. Stat. § 216C.09(12).

When any utility, especially one organized to serve its members, wields the threat of disconnection as a tool to suppress a lawful, renewable energy project on tribal land, the public interest is clearly implicated.

D. The Case Involves Broader Renewable Energy and Energy Justice Policy Goals

The Minnesota legislature stated that it is in the public interest “to review, analyze, and encourage those energy programs that will minimize the need for annual increases in fossil fuel consumption,” and “provide for an optimum combination of energy sources and energy conservation consistent with environmental protection and the protection of citizens.”¹² It is the energy policy of the state of Minnesota to increase the amount of renewable energy alternatives, including solar.¹³

Allowing the Cooperative to block tribal solar development through the selective use of internal board policies and threats undermines both legislative intent and public confidence in utility regulation.

V. Recommended Procedures for Investigating the Complaint

If the Commission chooses to investigate the Upper Sioux Community’s Complaint, as it should, it must ensure the process is not only thorough and fair, but also swift and responsive to the serious and immediate harm alleged. Given the nature of the threatened conduct and its potential impact on public safety, tribal sovereignty, and essential services, an expedited proceeding and immediate injunctive relief are warranted.

A. The Commission Should Proceed with an Expedited Proceeding Under Minn. R. 7829.1700–.1900.

This Complaint falls squarely within the scope of Minn. R. 7829.1800 et seq, which authorizes a formal investigation though expedited proceeding when there is a reasonable basis to believe a violation of law or rule has occurred or may occur. The procedural rules under Minn. R. 7829.1900 provide a framework for discovery, fact development, and Commission review.

The threat to disconnect electric service to a federally recognized Sovereign Tribal Nation is not a theoretical harm, it is an imminent danger to public health, safety, and tribal self-governance. Delayed review would effectively deny relief.

¹² Minn. Stat. 216C.05(1).

¹³ See Minn. Stat. 216C.05(2)(2-3).

B. The Commission Should Immediately Issue an Order Preventing Disconnection

To protect the Community from irreparable harm, the Commission should issue immediate injunctive relief under its equitable authority, restraining the Cooperative from terminating or suspending electric service to the Upper Sioux Community.

A temporary injunction is necessary to prevent catastrophic service disruption to an entire Sovereign Indigenous Nation, including its citizens, businesses, and governmental organizations, maintain energy access for critical tribal infrastructure, and prevent the Cooperative from circumventing the Commission's jurisdiction by acting unilaterally before a final ruling.

C. The Investigation Should Respect Tribal Sovereignty and Ensure Procedural Fairness.

As previously noted, the Upper Sioux Community is not a private party, it is a Sovereign and federally recognized Nation. As such, the Commission should structure its procedures in a manner that acknowledges the government-to-government nature of the dispute, allows for meaningful tribal participation in scheduling and process, and considers whether a tribal nation's solar system should be considered a de facto Qualifying Facility under state and federal law.¹⁴

D. Require Transparency from Minnesota Valley and Consider Broader Compliance Concerns.

To facilitate fact development and future resolution, the Commission should order the Cooperative to produce all policies, board decisions, and legal interpretations relied upon in issuing the cease-and-desist order, disclose any other members with systems over 40 kW or similar projects, and identify whether past exceptions or favorable treatment have been granted to non-tribal members.

These disclosures will help the Commission evaluate the consistency, fairness, and potential discriminatory intent behind the cooperative's actions.

In light of the issues raised and their potential impact statewide, the Commission should also consider issuing guidance or initiating a broader rulemaking docket addressing interconnection policy enforcement among cooperatives, particularly where sovereign tribal governments are involved.

¹⁴ See Minn. Stat. 216B.164(8) (stating "utilities shall be required to interconnect with a qualifying facility that offers to provide available energy").

VI. Conclusion

For the reasons set forth above, Wolf River Electric respectfully urges the Commission to exercise its jurisdiction under Minn. Stat. § 216B.17 and related authorities to initiate a formal and expedited investigation into Minnesota Valley's discriminatory service practices, obstructive interconnection conduct, and retaliatory threats to disconnect electric service to the Upper Sioux Community.

The actions alleged are not isolated or procedural in nature; they reflect a willful pattern of behavior that undermines Minnesota's clean energy policies, cooperative governance principles, and the sovereign rights of a federally recognized tribal nation.

The Commission has both the authority and the obligation to act decisively to prevent further harm, ensure fair and transparent interconnection procedures, protect public trust, and uphold the public interest in reliable, nondiscriminatory utility service.

Respectfully,

Nicholas J. Kasprowicz
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