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 by Dakota Electric Association to Modify its Extension of Service Tariff

DOCKET NO. E-111/M-25-178

SUPPLEMENTAL COMMENTS OF THE OFFICE OF THE ATTORNEY GENERAL—RESIDENTIAL UTILITIES DIVISION

The Office of the Attorney General—Residential Utilities Division (OAG) respectfully submits the following Supplemental Comments in response to the Public Utilities Commission's Notice of Supplemental Comment Period issued on August 8, 2025.

The OAG appreciates Dakota Electric Association's agreement to make modifications to its proposed tariff for Extraordinary Large Commercial and Industrial and System Intensive Members to include additional provisions regarding Contribution in Aid of Construction (CIAC). Dakota Electric's revised tariff contains significantly more clarity and protection for existing members to ensure that CIAC will represent "the full cost to extend service."[1]

There are a few additional tariff modifications, however, that would be helpful to prevent ambiguity and further protect Dakota Electric's existing members. First, two minor edits to Dakota Electric's proposed tariff would be helpful to clarify Dakota Electric's provisions about the customers to which the tariff is intended to apply. Second, the tariff should clearly include in the CIAC calculation the cost of any property rights that Dakota Electric requires to extend service.

[1] Dakota Electric Reply Comments at 9 (emphasis in original).

Last, the OAG appreciates Dakota Electric's offer to file any substantive modifications to the Letter of Authorization (LOA) and Engineering and Construction (E&C) agreements at least 30 days before their effective date(s), and recommends the Commission order Dakota Electric to do so.

I. TWO MINOR MODIFICATIONS TO THE TARIFF ARE NEEDED TO AVOID AMBIGUITY.

The OAG appreciates Dakota Electric's clarification that the tariff is intended to apply to both members requiring service at a voltage other than 12.5kV *and* "system intensive members" that take service from the 12.5kV distribution system.[2] But the formatting and placement of some provisions in Dakota Electric's modified tariff could continue to create confusion about the tariff's applicability without some minor modifications.

The OAG, therefore, proposes the below modifications to avoid any potential ambiguity that *both* members seeking to take service at a voltage other than 12.5kV *and* "system intensive members" are considered to take "this type of service"[3] and will be required to execute the Letter of Authorization and Engineering and Construction agreements and to pay any CIAC assessed in those agreements and in the tariff. In addition, a minor wording addition is needed to clarify that some basic CIAC provisions are now included in Dakota Electric's tariff. The OAG's proposed modifications on these points are provided below. Dakota Electric's updates to its original tariff are provided in red, and the OAG's additional edits are provided in blue. In addition, the OAG recommends two paragraph breaks as indicated in brackets to separate the definition of system intensive members from provisions that apply to both types of potential members:

[2] *See id.* at 5-6, 14.

[3] Without these modifications an extraordinarily large load customer seeking to take service at above 12.5kV could argue that the sentences in the tariff requiring the LOA and E&C agreements did not apply to it and only applied to "system intensive members."

Extraordinary Large Commercial and Industrial and System Intensive Members

Dakota Electric Association will provide electric service, to the extent capacity is available, to large commercial and industrial members requiring: 1) service delivery at a voltage other than the Association's regular and customary service of 12.5 kV and 2) 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.

[new paragraph]

System intensive members are considered members served from Dakota Electric's 12.5 kV distribution system with service requirements that involve significant system modifications, design, and/or engineering to extend service to these members. The Association will exercise reasonable discretion, based on internal workflows and load characteristics, to determine what member is considered system intensive.

[new paragraph]

Members requesting, or requiring, ~~this type of~~ service pursuant to 1) or 2) above[4] 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 Engineering and Construction 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 pursuant to 1) or 2) above,[5] and a contribution in aid of construction will be required for necessary distribution equipment and upgrades. The contribution in aid of construction and construction (CIAC) and energization requirements are detailed in the Association's Letter of Authorization and Engineering and Construction Agreements and within this section.

[4] Alternatively, this provision could state: "Members requesting, or requiring, ~~this type of~~ service delivery at a voltage other than the Association's regular and customary service of 12.5 kV or are system intensive members, 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 Engineering and Construction agreements to protect the financial interests of the Association and its other members."

[5] Likewise, this provision could state: "An economic analysis and an engineering analysis will be made for any member requesting ~~this type of~~ service at a voltage other than the Association's regular and customary service of 12.5 kV or are system intensive members, and a contribution in aid of construction will be required for necessary distribution equipment and upgrades.

These revisions seek to avoid any ambiguity in the application of the tariff and requirement that the very largest loads execute LOA and E&C agreements and are assessed the applicable CIAC, both as stated in those agreements and within the tariff. The OAG recommends the Commission modify Dakota Electric's tariff accordingly.

II. The Tariff Should Require CIAC for Procurement of Any Land Rights Necessary for Dakota Electric to Provide Service to Extraordinarily Large Commercial and Industrial or System Intensive Members.

In initial comments, the OAG recommended that Dakota Electric's tariff provide that CIAC will include any "[c]osts related to the acquisition of any land, easements, or rights-of-way that must be procured to site any facilities, equipment, or infrastructure to serve the customer."[6] Dakota Electric did not provide a response in reply comments to the OAG's recommendation on this point. But Dakota Electric's tariff modifications do not include a clear requirement that potential extraordinarily large commercial and industrial or system intensive members pay for any land rights needed to extend service. Dakota Electric's tariff should be modified to clearly require CIAC for the necessary procurement of any land rights.

As the Commission is aware, land values in locations proximate to the transmission system or that are otherwise desirable for siting facilities with large electric loads have spiked in recent years.[7] As the Commission is also aware, serving large electric loads can require utilities to construct infrastructure that requires the acquisition of new property rights, either through purchasing land or acquiring new rights-of-way or easements.[8]

---

[6] OAG Initial Comments at 9.

[7] *See In re Xcel Energy's Petition for Approval to Return the Proceeds from the Sale of 348 Acres of Land at Sherco to Elec. Customers*, Docket No. E002/M-22-489, Xcel Response to PUC IR No. 3 (Jan. 31, 2025) (explaining how demand for data centers, and land necessary to site them, spike due to AI since 2022).

[8] *See In re Petition of N. States Power Co. for Approval of an Affiliated Interest Option to Purchase Land from United Power and Land*, Docket No. E002/AI-24-357, Petition (Oct. 25, 2024)

Likewise, Dakota Electric acknowledges in its comments that members subject to this tariff may require the construction of a dedicated substation to take service.[9] Indeed, Dakota Electric's proposed LOA requires the Cooperative to review with the potential customer "[p]rovisions needed to provide the appropriate land rights for the substation site and required distribution easements to be assigned to Dakota Electric."[10] As acknowledged by the LOA, Dakota Electric may need to acquire, or have the customer acquire and transfer,[11] new land rights. But these provisions are not clearly covered by the CIAC provisions in the tariff.

To ensure that the CIAC assessed to extraordinarily large commercial and industrial or system intensive members "represents the full cost to extend service,"[12] including any costs to procure land rights, the Commission should modify Dakota Electric's tariff as follows:

> For members deemed subject to this section, the CIAC will represent the estimated total costs that the Association will incur to plan, design, procure, construct, and purchase electric facilities, infrastructure, ~~or~~ related equipment, or land rights associated with, and necessary, to serve this member. Association will track actual project costs as they are incurred and CIAC will be trued-up upon completion of the project.[13]

(petitioning the Commission to approve a $1.6 million purchase of land from an affiliate for construction of a substation).

[9] Dakota Electric Reply Comments at 6.

[10] OAG Initial Comments at 9 n.23.

[11] The OAG believes its proposed tariff revisions would account for the situation contemplated in the LOA where a potential member acquires, or already owns, the land rights and assigns those rights to Dakota Electric. In this case, the costs the Dakota Electric incurs would likely be any associated costs necessary to transfer or assign the land rights (i.e. recording fees, deed taxes, etc.).

[12] Dakota Electric Reply Comments at 9 (emphasis in original).

[13] Dakota Electric's updates to its original tariff are provided in red, and the OAG's additional edits are provided in blue.

III. The OAG Recommends the Commission Order Dakota Electric to File Any Substantive Modifications to the LOA and E&C Agreements at Least 30 Days Prior to Their Effective Date(s).

In reply comments, Dakota Electric offered to file any substantive modifications to the LOA or E&C agreements at least 30 days prior to their effective date.[14] Dakota Electric likened the LOA and E&C to its Technical Specifications Manual (TSM) for distributed energy resources and proposed a similar process.[15] While the OAG disagrees that agreements that provide parameters surrounding extending electric service for extraordinarily large loads is akin to engineering standards for potential distributed generation resources (the TSM process), the OAG appreciates Dakota Electric's agreement to file any substantive modifications to the LOA or E&C agreements prior to their effective date. The OAG recommends, therefore, the Commission order Dakota Electric to file any substantive modifications to the LOA and E&C agreements at least 30 days prior to their effective date(s).

RECOMMENDATIONS

The OAG appreciates Dakota Electric's agreement to modify its tariff to include provisions that dictate more specifically how CIAC will be calculated. But a few impactful yet minimal modifications remain necessary to protect Dakota Electric and its members. First, the OAG recommends the Commission adopt the modifications in Section I above to prevent ambiguity surrounding the application of the tariff's provisions to both sets of prospective members. Second, the OAG recommends the Commission adopt the modifications in Section II above to ensure that the CIAC calculation includes any costs to Dakota Electric to procure land rights. Third, the OAG

---

[14] Dakota Electric Reply Comments at 4.
[15] *Id.*

recommends the Commission order Dakota Electric to file any substantive modifications to the LOA and E&C agreements at least 30 days prior to their effective date(s).

Dated: August 21, 2025

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