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February 9, 2017

Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**  
Docket No. E111/M-17-33

Dear Mr. Wolf:

Attached are the comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) on the following matter:

Dakota Electric Association's 2017 Annual Resource and Tax Adjustment.

The petition was filed on January 12, 2017 by:

Corey Hintz  
Director of Financial Planning, Analysis and Regulatory  
Dakota Electric Association  
4300 220<sup>th</sup> Street West  
Farmington, Minnesota 55024

The Department recommends **approval** and is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ DANIEL W. BECKETT  
Rates Analyst

DWB/lt

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE  
MINNESOTA DEPARTMENT OF COMMERCE  
DIVISION OF ENERGY RESOURCES

DOCKET No. E111/M-17-33

**I. BACKGROUND**

On January 12, 2017, Dakota Electric Association (DEA or the Cooperative) filed its proposed 2017 Annual Resource and Tax Adjustment (RTA Petition) with the Minnesota Public Utilities Commission (Commission). Dakota Electric's RTA factor is adjusted every January and then reviewed after six months and adjusted again as necessary.

The RTA Petition shows that DEA calculated its proposed RTA on a per-kWh basis for the projected calendar year ending December 31, 2017. The RTA has the following three components:

- A power cost adjustment;
- A demand-side management (DSM) and conservation adjustment; and
- A property and real estate tax adjustment.

The net credit or charge per kWh of all these adjustments appears on customers' bills as a single line titled "Resource and Tax Adjustment."

For residential customers, DEA proposed a total net 2017 RTA of \$0.0036 per kWh, broken down into a power cost adjustment of \$0.0030 per kWh, a DSM and conservation adjustment of \$0.0004 kWh, and a property and real estate tax adjustment of \$0.0002 per kWh. DEA's 2016 net RTA was \$0.0030 per kWh for residential customers, so there is a proposed increase of \$0.0006 per kWh. DEA purchases nearly all its power from Great River Energy (GRE).

Table 1 below summarizes DEA's proposed RTA by rate class for the calendar year January, 2017 through December, 2017.

**Table 1: Proposed RTA by Rate Class**

Rate Class	Power Cost Adjustment	DSM & Conservation Adjustment	Property & Real Estate Tax Adjustment	Total Resource & Tax Adjustment
Residential	\$0.0030	\$0.0004	\$0.0002	\$0.0036
Residential Demand Control	\$0.0030	\$0.0004	\$0.0002	\$0.0036
Irrigation – Firm	\$0.0030	\$0.0004	\$0.0002	\$0.0036
Irrigation – Interruptible	\$0.0004	\$0.0004	\$0.0002	\$0.0010
Small General Service	\$0.0030	\$0.0004	\$0.0003	\$0.0037
Street Lights	\$0.0030	\$0.0004	\$0.0002	\$0.0036
Security Lights	\$0.0030	\$0.0004	\$0.0002	\$0.0036
General Service	\$0.0030	\$0.0004	\$0.0000	\$0.0034
Geothermal Heat Pump	\$0.0016	\$0.0004	\$0.0000	\$0.0020
Controlled Energy Storage	\$0.0016	\$0.0004	\$0.0002	\$0.0022
Controlled Interruptible	\$0.0059	\$0.0004	\$0.0002	\$0.0065
Time of Day – Residential	\$0.0030	\$0.0004	\$0.0002	\$0.0036
Time of Day – General Service	\$0.0030	\$0.0004	\$0.0000	\$0.0034
Interruptible Option – Full	\$0.0004	\$0.0004	\$0.0001	\$0.0009
Interruptible Option – Partial	\$0.0004	\$0.0004	\$0.0001	\$0.0009

Minn. Stat. §216B.241, subd. 2b allows a public utility to petition the Commission for approval to include an automatic adjustment for real and personal property taxes, fees and permits on customer monthly bills. The Commission’s April 22, 1996 Order in Docket No. E111/M-95-1395 gave DEA approval to include an adjustment for real and personal property taxes.

## I. DEPARTMENT ANALYSIS

As noted above, there are three factors which comprise DEA’s RTA: the purchased power cost adjustment, the conservation cost adjustment, and the property tax adjustment. The purpose of the RTA is to allow DEA to adjust rates for variations from the predicted costs of each of these adjustments as compared to the rates determined in DEA’s most recent rate case. By design, the RTA is forward-looking, based on estimated costs for the upcoming year, and designed to ensure that there is no double recovery of costs in the RTA and in the base rates. In addition, the mid-year adjustment affords timelier matching of costs DEA incurs to serve customers with revenues from customers in these areas.

*A. POWER COST ADJUSTMENT*

The purchased power cost adjustment is defined as the difference between the projected cost of power and DEA's base cost of power rate approved in its most recent rate case. Six months after each January 1, DEA compares the projected power cost against actual costs to determine whether a change in the power cost adjustment is necessary to zero out any over- or under-recovery accumulated since January 1. If an adjustment is necessary, the factor is changed beginning with power consumed in July. Since the aggregate power cost adjustment credit or charge is based on the projected level of sales, the actual credit or charge will generally not equal the projection. To account for the difference, DEA performs a true-up calculation at the end of each fiscal year, and adjusts any net over- or under-recovery on the subsequent year's power cost recovery.

The Department reviewed DEA's calculation of the true-up and concludes that the calculation is accurate. Therefore, the Department concludes that DEA's proposal to recover the difference between its base cost of energy and wholesale power costs through the power cost adjustment is appropriate.

*B. DEMAND-SIDE MANAGEMENT AND CONSERVATION ADJUSTMENT*

DEA's approved DSM and conservation spending additions from the calendar year are recovered from January 1 through December 31 of the next year. The recovery factor is computed using the same kWh sales projections used for the purchased power cost adjustment factor, as noted above.

DEA proposed a DSM and conservation adjustment of \$0.0004 as the Company had under recovered in 2016 by \$42,219, as shown on Schedule A3 and B2 of DEA's filing. The Company expects to have an over-recovered balance of \$66,399 at the end of 2016.

The Department reviewed DEA's calculation of the DSM and conservation adjustment and concludes that the calculation is accurate. The Department concludes that DEA's proposed DSM and conservation adjustment is appropriate.

*C. PERSONAL PROPERTY TAX ADJUSTMENT*

In previous iterations of DEA's RTA filing, the Cooperative was required to adhere to Minn. Stat. §216B.241, subd. 2b, which states in part:

A public utility is eligible to file for adjustment for real and personal property taxes, fees, and permits under this subdivision only if, in the year previous to the year in which it files for adjustment, it has spent or invested at least 1.75

percent of its gross revenues from provision of electric service and 0.6 percent of its gross revenue from provisions of gas service for that year for energy conservation improvements in this section.

However, the 2016 Minnesota Legislative Session removed the 1.76 percent Conservation Improvement Program spending requirement as a prerequisite for rider recovery of real and personal property taxes for a cooperative electric association that has elected to be subject to state rate regulation. Minn. Stat. §216B.1647 now states:

A cooperative electric association that has elected to be subject to rate regulation under section 216B.026 is eligible to file with the commission for approval an adjustment for real and personal property taxes, fees, and permits.

DEA submitted a letter to the Commission in Docket No. E-111/M-12-144 on July 5, 2016, discussing this matter.<sup>1</sup>

The Department concludes that DEA is eligible to file a property tax adjustment without consideration of the 1.75 percent spending requirement set forth in Minn. Stat. §216B.241, subd. 2b.

#### *D. COMPLIANCE WITH COMMISSION ORDERS*

In its April 22, 1996 Order in Docket No. E111/M-95-1395 approving the RTA, the Commission ordered DEA to provide the following compliance information as part of its filing:

- The annual conservation tracker account report detailing DEA's eligibility to recover incremental taxes under Minn. Stat. §216B.241, subd. 2b.<sup>2</sup>
- The finalized current year's total real and personal property tax bill and its proposed filing to true-up its annual tax adjustment rider.
- Information to verify that the incremental real and personal property tax recovery is limited to known and actual gross revenues and conservation expenditures.

The Department notes that DEA submitted the information set forth in the Commission's April 22, 1996 Order.

The Department also reviewed DEA's petition to ensure that it preserved the existing rate design. In Docket No. E111/M-95-1395 concerning the RTA, DEA and the Department agreed that the increased tax expense should be allocated to the customer classes based on the class-cost-of-service method in DEA's most recent rate case.

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<sup>1</sup> The letter is included as an attachment to the Department's comments as a reference.

<sup>2</sup> As the aforementioned Minn. Stat. §216B.1647 states, DEA is no longer required to meet the 1.75 percent spending requirement set out in Minn. Stat. §216B.241, subd. 2b.

DEA's most recent rate case was approved by the Commission in its June 8, 2015 Order in Docket No. E111/GR-14-482. As part of its filing, DEA submitted a schedule detailing the allocation of taxes to the various classes, along with the net recoverable balance after any over- or under-recovery. A review of the schedule indicates that DEA has allocated its taxes among the classes in compliance with the Commission's April 22, 1996 Order.

In summary, the Department concludes that DEA has complied with the Commission's Order, and recommends that the Commission approve DEA's 2017 Annual Resource and Tax Adjustment.

## **II. DEPARTMENT RECOMMENDATIONS**

The Department recommends that the Commission approve DEA's 2017 Annual Resource and Tax Adjustment petition.

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July 5, 2016

Daniel P. Wolf, Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, MN 55101-2147

***Subject: Dakota Electric Association – Informational Letter  
2016 Property Tax Adjustment Legislation  
Docket No. E-111/M-12-144***

Dear Mr. Wolf:

Dakota Electric Association (Dakota Electric, Cooperative, or DEA) is sending this letter to the Minnesota Public Utilities Commission (Commission or MPUC) to describe the passage of legislation in the 2016 Minnesota Legislative Session affecting Dakota Electric's implementation of the property tax adjustment component within the Cooperative's Resource and Tax Adjustment (RTA).

This letter 1) describes a 2012 filing that Dakota Electric submitted to the Commission regarding the annual Conservation Improvement Program (CIP) spending threshold to apply the property tax adjustment, 2) reviews legislation that Dakota Electric pursued regarding the implementation of the property tax adjustment, and 3) summarizes the effect on future filings to apply the property tax adjustment.

### **2012 Petition for Clarification**

Dakota Electric's RTA allows the Cooperative to pass through increases and decreases in purchased power costs, conservation spending, and changes in net property taxes. The present RTA components were authorized by the MPUC in stages, as petitioned by Dakota Electric, in response to enabling statutes.

On February 16, 2012, Dakota Electric submitted a petition to the MPUC requesting clarification of the qualifying criteria associated with the Cooperative's property tax adjustment. Specifically, Dakota Electric sought Commission clarification and guidance on the continuing application of the property tax adjustment if the Cooperative falls below the 1.75% of gross operating revenue spending threshold on energy conservation programs. Dakota Electric requested this guidance because we believe it is important that we spend our members' money prudently. There have been

recent years where Dakota Electric reached the energy conservation goal but it has been a challenge to reach the spending threshold to be eligible to apply the property tax adjustment.

On March 5, 2012, the Minnesota Department of Commerce (Department or DOC) submitted comments in this matter. The Department found that, “Minn. Stat. §216B.241, subd. 2b clearly requires that eligibility for the property tax recovery may occur **only if** the target spending threshold is met, and does not allow for flexibility if other energy-savings goals are met. Consequently, the Department does not believe DEA has flexibility to reduce its CIP spending if it also wants to recover property taxes through its Resource and Tax Adjustment (RTA).”

The Commission deliberated this matter on June 7, 2012. During this deliberation, the Commission agreed with the statutory interpretation set forth in the Department’s comments and indicated that a legislative remedy would be required to address the situation for which the Cooperative sought clarification. The June 12, 2012 written order in this docket stated that the Commission concluded that: “[I]f Dakota Electric Association were to reduce its spending below the 1.75% requirement in any year, then it would not be permitted to include an adjustment for property taxes in rates in the following year.”

### **Property Tax Adjustment Legislation**

After Dakota Electric received this Order from the Commission, we began to explore possible legislation to remove the linkage between CIP spending and annual qualification to apply the property tax adjustment. This exploration resulted in the introduction of HF1951 (Chief Author Rep. Garofalo) and the companion SF1867 (Chief Author Sen. Carlson) during the 2015 Legislative Session. These two bills add the following new language as Minnesota Statute 216B.1647:

“A cooperative electric association that has elected to be subject to rate regulation under section 216B.026 is eligible to file with the commission for approval an adjustment for real personal property taxes, fees, and permits.”

Dakota Electric testified at the following committee meetings regarding this legislation:

- House Job Growth & Energy Affordability Policy and Finance Committee on February 10, 2015,
- Senate Committee on Environment and Energy on March 24, 2016, and
- Senate Committee on Taxes on April 19, 2016.

During these legislative committee meetings, Dakota Electric described that this language would allow a regulated electric cooperative to implement a property tax adjustment without tying it to CIP spending.

The House Job Growth & Energy Affordability Policy and Finance Committee moved the legislation to be included in a future omnibus bill. The Senate Committee on Environment and Energy referred the bill to the Senate Committee on Taxes. The Senate



Committee on Taxes sent the bill to the Senate floor for passage. The language from HF1951 and SF1867 was ultimately included in two omnibus bills in the 2016 Minnesota Legislative Session – the Omnibus Budget Bill and the Omnibus Tax Bill – both of which were passed by the legislature. The Governor signed the Omnibus Budget Bill and it is now codified as 2016 Session Laws, Chapter 189.

### **Future RTA Filings**

With the passage of new Minnesota Statute 216B.1647 as described above, Dakota Electric's future application of the property tax adjustment within the Resource and Tax Adjustment will not be dependent on meeting a threshold for spending on CIP programs. The purpose of this letter is to highlight this future change in our Resource and Tax Adjustment filings.

### **Conclusion**

If the Commission or Department has any questions about M.S. 216B.1647 or Dakota Electric's plans for future RTA filings regarding the application of the property tax adjustment, please contact me at 651-463-6258 or at [dlarson@dakotaelectric.com](mailto:dlarson@dakotaelectric.com).

Sincerely,

*/s/ Douglas R. Larson*

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Douglas R. Larson  
Vice President of Regulatory Services  
Dakota Electric Association  
4300 220<sup>th</sup> Street West  
Farmington, MN 55024  
651-463-6258  
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**Certificate of Service**

I, Cherry Jordan, 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-12-144***

Dated this 5th day of July, 2016

*/s/ Cherry Jordan*

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Cherry Jordan

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 500  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	No	GEN_SL_Dakota Electric Association_General Service List
John	Lindell	agorud.ecf@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	No	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
Ron	Spangler, Jr.	rlspangler@otpc.com	Otter Tail Power Company	215 So. Cascade St. PO Box 496 Fergus Falls, MN 565380496	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
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	No	GEN_SL_Dakota Electric Association_General Service List