

Staff Briefing Papers

Meeting Date June 10, 2021 Agenda Item *2

Company Dakota Electric Association

Docket No. **E111/M-20-789**

In the Matter of the Petition by Dakota Electric Association (Dakota Electric or Cooperative) Requesting a Variance to Minn. Rule 7825.2820 which Requires the Filing of an Annual Audit Report on Dakota Electric's Annual Automatic Adjustment Reports

Issues Should the Commission approve Dakota Electric's request for a variance to the Rule requiring an Annual Auditor's Report for its Annual Automatic Adjustment Report after January 2021?

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✓ Relevant Documents

Date

Dakota Electric Association – Initial Filing/Request for Rule Variance	October 16, 2020
Department of Commerce – Comments	February 16, 2021
Dakota Electric Association – Reply Comments	February 22, 2021

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

I. Statement of the Issues

Should the Commission approve Dakota Electric's request for a variance to the Rule requiring an Annual Auditor's Report for its Annual Automatic Adjustment Report after January 2021?

II. Introduction

Dakota Electric submitted a Petition to the Commission requesting approval of a variance to Minnesota Rule 7825.2800 that requires an Annual Auditor's Report for Dakota Electric's Annual Automatic Adjustment (AAA) Report. The Cooperative is requesting a variance because the information in the AAA Report will also be submitted with the annual Resource and Tax Adjustment filing.

The Minnesota Department of Commerce, Division of Energy Resources (the Department) filed its Comments recommending Commission approve Dakota Electric's request for a Rule variance.

III. Background

Dakota Electric on August 28, 2019 made a filing in Docket No. E999/AA-19-402 (FYE19 AAA) in accordance with Minn. Rules 7825.2800 –7825.2840, which require that all public utilities make a filing by September 1 of each year to reflect changes in their annual automatic adjustment charges (AAA) or fuel clause adjustment (FCA) riders.

Thus, on January 14, 2020, the Department files a letter in Docket No. E999/AA-19-402, stating that Dakota Electric was the only electric utility to make a filing by September 1, 2019 as in Docket No. E999/AA-19-402. Further, the Department stated that the FCA reform process established in Docket No. E999/CI-03-802 required Minnesota's other regulated electric utilities (Xcel Electric, Minnesota Power, and Otter Tail Power Company) to submit their FCA information (FYE19 AAA reports) by March 1, 2020, while extending the AAA reporting period to December 31, 2019.

The Department also stated that Dakota Electric was not included the FCA reform and was therefore required to make a September 1, 2019 filing for the July 2018 – June 2019 AAA period (FYE 2019). In addition, the Department stated:

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

The Department notes that Dakota is already required to make a filing in January of each year detailing its purchased energy costs,

which Dakota generally refers to as its Annual Resource and Tax t (RTA) filing. Moreover, Dakota's RTA filings and resulting RTA factors are reviewed by the Department each year and approved by the Commission. As a result, the Department generally conducted a limited review of Dakota's AAA filings in past proceedings, other than including Dakota's information in the larger report that focused primarily on Minnesota's vertically integrated, investor-owned utilities.

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

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

Since Dakota already provided information in Docket No. E-999/AA-19-402, that information can be considered in the RTA docket once Dakota files its 2020 RTA petition.

The Commission in its June 22, 2020 Order in Docket No. E-111/M-20-79, approved Dakota Electric's 2020 RTA and granted a variance to Minn. Rules 7825.2800 – 7825.2840 to allow Dakota Electric to file its AAA information and FCA rider in future RTA filings.

Dakota Electric on October 16, 2020 filed the instant petition requesting a variance to Minn. Rule 7825.2820, that requires the Cooperative to provide an Independent Annual Auditor's Report in its Annual Automatic Adjustment filings and proposed the variance to apply to all future RTA filings after its January 2021 filing.

IV. Relevant Minnesota Rules

Minnesota Rule 7825.2820

The above Minnesota Rule states in part:

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

seriously affect the administration of the automatic adjustment reporting program.

Minnesota Rule 7829.3200

The above Rule establishes the criteria for granting a variance and states that the Commission shall grant a variance to its rules when it determines that the following requirements are met:

- A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- B. granting the variance would not adversely affect the public interest; and
- C. granting the variance would not conflict with standards imposed by law.

V. Parties' Comments

Dakota Electric requests a variance to Minn. Rule 7825.2820, and should the Commission grant its request, this would waive the requirement to have an Independent Auditor's report for power cost and recovery for fiscal year July 1 to June 30 as required for its AAA filing.

Dakota Electric believes this serves no useful purpose since regulatory agencies review its calendar year power costs and recoveries in annual RTA filings, and there is an independent audit of the Cooperatives annual financial operations. Infact, the annual RTA filing documents any changes in its wholesale power costs, DSM and conservation spending and property taxes base levels established in its most recent rate case.

Further, Dakota Electric notes that wholesale power costs, either monthly or annually can be verified by reviewing the monthly invoices that it receives from Great River Energy (GRE) since all of the Cooperative's wholesale power costs are contained on the GRE invoices. The RTA filing also details the respective base and adjustment revenue that the Cooperative collects for each power cost base component. Thus, Dakota Electric believes all this information, in total, allows for verifying its power costs, recovery of the power costs and necessary RTA charge or credit per kWh for the next year.

Dakota Electric maintains that the annual independent audit of its overall finances includes review of billing for RTA amounts to ascertain that Dakota Electric has appropriately applied the Commission approved rates.

The Department in its Comments notes that there is a difference in audit steps performed for the AAA fiscal year period of July 1 to June 30 and the annual financial audit for the calendar year period.¹ On this point, the Dakota Electric furnished the Department a schedule comparing audit steps performed in its AAA audit with those performed in the annual financial audit (as shown on page 4 of the Department's Comments). The Department reviewed the information thus:

¹ Department's Comments, p. 4.

The Department notes that most AAA audit steps have comparable audit steps performed in the annual financial audit. However, the main difference appears to be that the audits cover different time frames; the AAA auditor focuses on fiscal-year costs (referred to above as Exhibit II) while the financial auditors focuses on calendar-year costs reflected in DEA's general ledger. The Department also notes that, unlike the AAA auditor, the financial auditor does not recalculate the billing charges by customers class and compare them to the filed tariff (see audit steps 3 and 4). However, the Department concludes there is little to be gained from having an auditor recalculate tariffed rates that have already been approved by the Commission. Finally, the Department notes that the financial auditor does not review PUC dockets, nor does it recalculate the projected under-recovered property tax and examine, on a test basis, property tax billings (see audit step 5); however, the financial auditor does tie the property tax tracker balance to its calendar year-end general ledger.²

The Department based on its review of Dakota Electric's petition concludes there appears to be significant and unnecessary overlap between the AAA audit and the annual financial audit that supports Dakota Electric's request for a variance.³

Dakota Electric concurs with the Department's recommendation that the Commission approve Dakota Electric's request for a variance which, if granted, would permit DEA to not include an audit report in future AAA reports that are submitted after January 2021⁴ with DEA's annual RTA filings.

VI. Staff Analysis

Both the Department and Dakota Electric agree that there are significant overlaps between the AAA audit and annual financial audit that instigated Dakota Electric's request for a variance to Minn. Rule 7825.2820 as stated in section IV above.

The Commission must determine whether Dakota Electric has met the criteria established by Minnesota Rule 7829.3200, Other Variances, as stated in section IV above, and if so, the Commission shall grant a variance to its Rule as requested. The criteria are discussed below:

- A. Enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;

Dakota Electric notes that with its AAA information being submitted in future RTA filings, the independent audit performed on July 1 to June 30 fiscal year power costs and recoveries as specified for the AAA report serves no useful purpose. Annual power costs can readily be obtained and reviewed or verified on the monthly power costs through invoices received from

² Department's Comments, p. 5

³ Id., at p. 6.

⁴ Dakota Electric's Reply Comments, p. 2.

Great River Energy. Also, Dakota Electric stated the application of its rates is being verified in the Cooperative's annual financial audit.

Dakota Electric holds that the AAA fiscal year audit is a duplicative effort and unnecessary use of financial and personnel resources that adds little, if any, value to the Cooperative and its members.

The Department concurs with Dakota Electric that the Cooperative's wholesale power costs and recoveries can be verified in its annual RTA filings by reviewing the monthly cost invoices from GRE and application of its Commission approved rates is verified in Dakota's annual financial audit. Therefore, the Department concludes that requiring Dakota Electric to continue to provide a AAA fiscal year audit report under Minn. Rule 7825.2820 imposes an unnecessary burden on the Cooperative and its members.⁵

B. Granting the variance would not adversely affect the public interest; and

According to Dakota Electric in the instant case, the public interest is represented by the financial impact of the Cooperative of not paying for an independent audit of fiscal year power costs and recoveries when the regulatory agencies are reviewing DEA's calendar-year power costs and recovery in its annual RTA filings, and the independent audit of the Cooperative's finances provide the necessary assurance of proper accounting. Thus, in the light of the above stated Dakota Electric believes it is reasonable to eliminate this redundant audit.

The Department agrees with Dakota Electric and concludes that the proposed variance does not adversely affect the public interest.⁶

C. Granting the variance would not conflict with standards imposed by law

The Dakota electric holds that it is not aware of any conflict with any standards imposed by law.

Dakota Electric and the Department equally stated that they are not aware of any conflicts with standards imposed by law if the Commission grants the variance.

Neither party raised any concern about the requested variance being for longer than one-year or permanent.

Staff notes that both the Dakota Electric and the Department agree that there is significant overlap between the AAA audit and the annual financial audit that spurred Dakota Electric to request a variance to the Rule. Dakota provides the same information in its AAA filings which are now included in the RTA reports for the calendar year. Thus, requiring the same power cost and recoveries information that can be obtained and verified from monthly power cost invoices from Great River Energy and from the Cooperative's annual financial audit is duplicative.

⁵ Department" Comments, p. 6.

⁶ Id., at p. 7.

Rather the requirement portends to be an unnecessary use of Dakota Electric's resources that could be better employed in other areas that add value to the Cooperative and its member.

Further, as noted by Dakota Electric and the Department, the variance request does not violate any of the criteria set forth in Minn. Rule 7829.3200. As such, Staff views the request as being appropriate and believes the Department's recommendation that the Commission grant a variance to Minn. Rule 7825.2820 as requested by Dakota Electric should be accepted.

VII. Decision Alternatives

1. Grant Dakota Electric's request for a variance from the audit report requirement in the AAA of charges rules, under Minnesota Rule 7825.2820, for all AAA reports included in future RTA filings after January 2021. (Dakota Electric, Department)
2. Do not approve