

July 27, 2021

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Commerce Department, Division of Energy Resources**
Docket No. E111/M-21-203

Dear Mr. Seuffert:

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

Dakota Electric Association's Petition to Clarify Special Fee and Charges Language Applicable to Situation where Meters are Removed without Authorization

The petition was filed on March 29, 2021 by:

Douglas R. Larson
Vice President of Regulatory Services
Dakota Electric Association
4300 220th Street West
Farmington, MN 55024

The Department recommends that the Minnesota Public Utilities Commission (Commission) **approve Dakota Electric Association's petition**. The Department is available to answer any questions that the Commission may have on this matter.

Sincerely,

/s/ Danielle D. Winner
Rates Analyst



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. E111/M-21-203

I. INTRODUCTION

On March 29, 2021, Dakota Electric Association (DEA, Dakota Electric, or the Cooperative) filed a miscellaneous tariff request (Petition) with the Minnesota Public Utilities Commission (PUC or Commission). In its Petition, the Cooperative requested that the Commission approve Dakota Electric's proposal to recover costs for responding to a situation where a meter is removed. To implement this change, the Cooperative proposes to amend its Special Fees and Charges tariff sheet. The Department submits these Comments in Reply to Dakota Electric's proposal. Section II provides Department Analysis and Section III provides conclusions and recommendations.

II. DEPARTMENT ANALYSIS

A. *STATUTE AND RULES*

DEA filed its Petition pursuant to Minn. Rules 7829.0100, subpart 11, which states:

Miscellaneous filing.

"Miscellaneous filing" means a request or notice that does not require determination of a utility's revenue requirement.

A miscellaneous filing includes a filing involving a new service offering; a change in a utility's rates, services, terms, or conditions of service; a change in a utility's corporate structure, assigned service area, or capital structure, when conducted separately from a general rate proceeding; filings made under the rules governing automatic adjustment of charges in chapter 7825; or any related matter.

The inclusion of a particular type of filing in this list does not require a filing that would not otherwise be required or confer jurisdiction that would not otherwise be present.

The "Miscellaneous Filing" Rule's Statutory authority comes from Minn. Stat. 216A.05: Commission Functions and Powers. The Department agrees that requests in DEA's proposal can be considered "a change in a utility's rates, services, terms, or conditions of service," and thus the filing appears to meet statutory requirements in this regard.

As with all filings that include rates changes, Minn. Stat. 216B.03 applies, which requires that rates must be just and reasonable, and that any doubt as to reasonableness should be resolved in favor of the consumer.

B. BACKGROUND

On May 8, 2018, the Commission issued its *Order Approving Recovery of Grid Modernization Costs* in Docket No. E111/M-17-821 (In the Matter of Dakota Electric Association's Petition to Implement Tracker Recovery for Advanced Grid Infrastructure Investments). As part of that Order, the Commission permitted Dakota Electric to implement an "Advanced Grid Infrastructure" or "AGi" Rider, pursuant to the Electric Utility Infrastructure Cost (EUIC) Statute.¹ The Commission's approval of the AGi Rider authorized Dakota Electric to recover, on a fixed, per-meter basis, the return on incremental rate base, incremental property taxes, and incremental depreciation expense associated with certain AGi investments that arise between rate cases. These costs include planned Advanced Metering Infrastructure (AMI) and Meter Data Management (MDM).^{2,3} The AGi Rider was initially set at a "placeholder" rate of \$0/month for all customer classes.

In 2019, the Cooperative began initial stages of AGi project implementation.

On July 11, 2019, the Commission issued its *Order Amending Service Features Related to Advanced Grid Infrastructure* in Docket No. E111/M-18-640 (In the Matter of Dakota Electric Association's Petition for Approval of Service Features Related to Advanced Grid Infrastructure). In that Order, the Commission permitted Dakota Electric to implement an "Advanced Meter Opt-Out" or "AMO" Rider for customers who do not want to have an advanced, wireless, communicating meter installed at their residence. The costs captured in the AMO Rider include the costs related to reading older meters (such as labor and overheads, mileage, and hardware and software maintenance), less the capital costs of the new meter and the meter reading costs represented in base rates. In that *Order*, the Commission also approved certain tariff language changes related specifically to tampering with the Cooperative's Load Control Receivers (LCRs).

On January 1, 2020, Dakota Electric implemented its 2020 AGi Rider adjustment monthly fees on customer bills, subject to change pending regulatory review and Commission approval. In that filing, Dakota Electric noted that while the Commission had approved the recovery of incremental property taxes associated with AGi capital investments, these taxes were actually being accounted for through the Resource Tax Adjustment (RTA) rather than through the AGi Rider.⁴ On April 20, 2020, the

¹ Minn. Stat. 216B.1636.

² Advanced Metering Infrastructure refers to both the smart meters themselves and the system-wide network that allows for increased communication to and from devices on Dakota Electric's system. Meter Data Management refers to a database with analytics and reporting tools that interfaces with other Dakota Electric software systems.

³ As pointed out in the Cooperative's Petition, AGi also broadly includes the category of Load Management, which involves Load Control Receivers (LCRs). However, per the Commission's May 8, 2018 *Order*, the costs associated with LCRs are recovered through the Cooperative's Resource and Tax Adjustment instead of the AGi Rider.

⁴ This means that for Load Control Receivers, all approved costs are recovered through the RTA, including property taxes. For the other plant recovered through the AGi Rider (the AMI and MDM), only property taxes are recovered through the RTA.

Commission approved Dakota Electric's revisions in Docket No. E111/M-20-78 (In the Matter of a Filing by Dakota Electric Association Regarding the Monthly Fixed charge per Meter for the Advanced Grid Infrastructure (AGi) Rider).

Dakota Electric began installation of the new meters in 2020.

On July 20, 2020, the Commission issued its *Findings of Fact, Conclusions, and Order* in Docket No. E111/GR-19-478 (In the Matter of Dakota Electric Association for Authority to Increase Rates for Electric Service in Minnesota). In that *Order*, the Commission adopted the Administrative Law Judge's April 17, 2020 *Findings of Fact, Conclusions of Law, and Recommendations* and permitted DEA to increase rates. Pursuant to this *Order*, Dakota Electric agreed to make certain adjustments to the 2021 AGi Rider related to the annual depreciation expense and rate of return associated with the already-filed 2020 AGi Rider. The Cooperative also agreed to adjust the 2022 AGi Rider (and each year thereafter until the next rate case) related to the decreasing net book value of meter plant over time.

On January 1, 2021, the Cooperative implemented its 2021 AGi Rider adjustment monthly fees, subject to regulatory review and Commission approval. Dakota Electric filed its proposed 2021 fees with the Commission in Docket No. E111/M-21-45 (In the Matter of a Filing by Dakota Electric Association Regarding the Monthly Fixed charge per Meter for the Advanced Grid Infrastructure (AGi) Rider). The Cooperative unintentionally omitted the agreed-upon credits from the July 20, 2020 *Order*, but the Department and the Cooperative agreed that since the 2021 AGi rates were already in effect, the preferable option would be for DEA to defer the incorporation of these credits until the 2022 AGi Rider. On July 22, 2021, the Commission met and approved the proposed fees.

Dakota Electric plans to continue to install new meters through 2021.

C. DEA'S PETITION

Dakota Electric proposes to amend its Special Fees or Charges tariff (Section V, Sheet 45) to incorporate the following language change:

8. Member Contracted or Service Integrity Hourly Work

Dakota Electric is periodically asked to perform on-site service work. Such services will be provided at a pre-arranged hourly rate. Service Integrity includes repairs such as resealing a meter socket after an unauthorized removal of a meter, which will be billed at actual cost incurred.

Dakota Electric states that this tariff addition is warranted in situations where the Cooperative is notified of an outage at a premise, dispatches a crew to the outage location, and finds that the cause of the outage is an unauthorized meter removal. While DEA was able to detect some level of meter tampering with the older meters when an employee or contactor could physically see that a meter seal had been broken, the advanced meters will let the Cooperative know the instant that a meter is disconnected.

The Cooperative notes that metering tampering is primarily a safety concern, and thus only qualified and properly trained Dakota Electric employees and contractors may disconnect service by removing a meter. However, the Cooperative notes that meter tampering also creates reliability and service problems because it is interpreted as an outage in DEA's outage management system.

D. DISCUSSION

The Department reviewed the *Petition* for compliance with applicable orders, statutes, and usage of approved rate design principles.

The Department reviewed the AGi Rider and the AMO Rider and concludes that neither of these riders contain costs that overlap with those captured in the *Petition*. However, the Department notes that costs incurred to fix tampered-with meters may already be represented in base rates, since unauthorized meter disconnection is not a new phenomenon. Nonetheless, the Department appreciates that the costs of fixing a tampered-with advanced meter may be greater than those of a traditional meter. Further, it is reasonable that the costs of repairing a tampered-with meter should be borne by the cost causers rather than distributed amongst all customers. Therefore, the Department supports the addition of the proposed tariff language, provided costs billed to the customer are incremental to those represented in base rates.

Further, as described by Dakota Electric, it appears that the likeliest cause of meter disconnection would involve a contractor doing work at a customer's premise. The Department's primary concern in this instance is that a customer may not be aware that a contractor is planning to disconnect their meter. In these instances, it could be unfair to the customer to be billed for a cost they did not know they were incurring. For that reason, the Department supports the Cooperative's proactive outreach to contractors.

The Department suggests that the Cooperative may also help mitigate potential problems by notifying customers, reminding them that they would be responsible for costs resulting from unauthorized meter work performed by a contractor.⁵ Further, the Department would suggest, if this is not already the case, that meters should have a weatherproof sticker that warns against unauthorized meter disconnection and provides contact information for DEA's Control Center.

⁵ This notification could be accomplished through either a bill notification or through publication in Dakota Electric's newsletter. Dakota Electric has at various times stated that its newsletter is a very effective means of communicating information to customers.

III. CONCLUSIONS AND RECOMMENDATIONS

The Department concludes that Dakota Electric's proposal is reasonable, provided that charges billed to customers are incremental to those in base rates. The Department also would support additional outreach and notification to customers concerning costs related to meter tampering, as well as any additional notification needed on the meters themselves.

The Department recommends approval of Dakota Electric's *Petition*.

/ar

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

Minnesota Department of Commerce
Comments

Docket No. E111/M-21-203

Dated this 27th day of July 2021

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-203_M-21-203
Eric	Fehlhaber	efehlhaber@dakotaelectric.com	Dakota Electric Association	4300 220th St W Farmington, MN 55024	Electronic Service	No	OFF_SL_21-203_M-21-203
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_21-203_M-21-203
Adam	Heinen	aheinen@dakotaelectric.com	Dakota Electric Association	4300 220th St W Farmington, MN 55024	Electronic Service	Yes	OFF_SL_21-203_M-21-203
Corey	Hintz	chintz@dakotaelectric.com	Dakota Electric Association	4300 220th Street Farmington, MN 550249583	Electronic Service	No	OFF_SL_21-203_M-21-203
Pam	Marshall	pam@energycents.org	Energy CENTS Coalition	823 7th St E St. Paul, MN 55106	Electronic Service	No	OFF_SL_21-203_M-21-203
David	Moeller	dmoeller@allte.com	Minnesota Power	30 W Superior St Duluth, MN 558022093	Electronic Service	No	OFF_SL_21-203_M-21-203
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_21-203_M-21-203
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th PI E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-203_M-21-203
Eric	Swanson	eswanson@winthrop.com	Winthrop & Weinstine	225 S 6th St Ste 3500 Capella Tower Minneapolis, MN 554024629	Electronic Service	No	OFF_SL_21-203_M-21-203