



Minnesota Municipal Utilities Association

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

RE: In the Matter of a Request for Dispute Resolution with Peoples' Energy Cooperative under the Cogeneration and Small Power Production Statute, Minn. Stat. §216B.164; Docket No. E-132/CG-15-255

Dear Mr. Wolf:

Minnesota Municipal Utilities Association (MMUA) appreciates the opportunity to provide the following comments regarding recovery of fixed utility costs from individual customer-owned electric generating facilities interconnected to consumer-owned utilities.

MMUA's mission is to unify, support and serve as a common voice for Minnesota's municipal electric, gas and water utilities so they can continually improve service to their customers and communities. Today there are 125 municipally-owned and operated electric utilities in Minnesota. Of those, 82% have fewer than 5,000 customers, and about 20% have fewer than 500 customers. The median municipal electric utility operates in a city of approximately 2,500 people and has approximately 1,800 customers. The smallest municipal electric is Whalan Electric Department, serving a population of 63.

MMUA supports all of the points made in the March 24 and April 6 filings with the commission by Peoples' Energy Cooperative (Peoples'). A monthly charge by cooperative electric associations or municipal utilities to recover costs associated with serving net metering or qualifying facilities is not precluded by any law. Peoples' and all other consumer-owned utilities are accountable to all of their customer-owners through their governing boards, city councils or local utility commissions. In regard to certain aspects of their utility operations, federal law governs or Minnesota Statutes explicitly supersede local governing authorities. The subject of this proceeding is not one of those special situations.

The legislature *has* expressly intervened in the *rate-setting* authorities of the Minnesota Public Utilities Commission and the cooperatives' and municipal utilities' boards, councils and commissions with regard to rates paid by all utilities for energy provided by their customers under Minnesota Statutes Section 216B.164, subd.3. Rates paid by cooperative electric associations and municipal utilities are governed by paragraphs (a), (c) and (d). Rates paid by

public utilities (i.e., investor-owned utilities) are governed by paragraphs (b), (c) and (d). These provisions appropriately establish state requirements in addition to those established federally under the Public Utilities Regulatory Policy Act (PURPA).

In addition, Minnesota Statutes Section 216B.164, subd. 3a does two things affecting only *public utilities*. Paragraph (a) establishes an option for customer-generators of public utilities to be compensated for their net input into the utility system in the form of a kilowatt-hour credit on their energy bills carried forward and applied to subsequent energy bills. Paragraph (b) prohibits public utilities from imposing standby charges on net metered or qualifying facilities of 100 kilowatts or less capacity and limits them from imposing standby charges on facilities of more than 100 kilowatts capacity by requiring PUC permission through an order.

The state has not likewise chosen to establish a billing credit option for customers of cooperative electric associations or municipal utilities, nor has the state chosen to prohibit or limit cooperative electric associations or municipal utilities from imposing standby charges on net metered or qualifying facilities.

As stated above, Minnesota Statutes Section 216B.164, subd. 3a expressly lays out a specific size threshold below which generating customers may not be charged fees specifically by *public utilities*, and it lays out specific conditions governing how larger facilities may be charged specifically by *public utilities*. By expressly codifying its specific directions and making them applicable only to public utilities, the legislature has clearly indicated its intent that those limitations do not govern fees charged to generating customers of cooperative associations or municipal utilities. If they did, the statute would need to include “cooperative electric associations” and “municipal utilities” expressly or use a more encompassing term than “public utilities,” such as “electric utilities.” Alternatively, the statute could provide prohibitions or conditions for cooperatives and municipals elsewhere. But it does not. Thus there is no ambiguity regarding whether the legislature intends for cooperatives and municipals to be limited in this regard. Clearly it does not.

In subdivision 5, Minnesota Statutes Section 216B.164 – the section governing this proceeding - states:

“In the event of disputes between an electric utility and a qualifying facility, either party may request a determination of the issue by the commission.”

If the dispute at issue concerned the rate at which Peoples’ compensates its customers, the commission would have guidance to adjudicate it. However, since the statute provides no prohibition or conditions regarding fees charged by municipals and cooperatives, there is no guidance for the commission to adjudicate complaints regarding them as there would be for public utilities. There is simply no way for the commission to make a determination supported by authority. That is not a shortcoming of the law but a wise and intended way to keep decision-making authority about a granular issue at the level near consumers through their local utility governing entities.

Minnesota Statutes Section 216B.01 states:

“Because municipal utilities are presently effectively regulated by the residents of the municipalities which own and operate them, and cooperative electric associations are presently effectively regulated and controlled by the membership under the provisions of chapter 308A, it is deemed unnecessary to subject such utilities to regulation under this chapter except as specifically provided herein.”

With good reason, the state has not deemed it necessary to subject municipals and cooperatives to state-imposed limitations on their ability to recover otherwise unrecovered costs to their rate-payers necessitated by individual customer-generators. It has understandably left this type of determination about protecting their electric utility consumer-owners to locally elected or appointed and accountable bodies that govern them.

MMUA therefore urges the commission to find that the matter at hand would be appropriately resolved by the governing board of Peoples' Energy Cooperative.

Thank you for considering these comments.

Sincerely,

s/Bill Black

Bill Black
Government Relations Director