

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE SOUTH DAKOTA	)	FINAL DECISION AND ORDER
PUBLIC UTILITIES COMMISSION,	)	DETERMINING DEMAND
DEMAND RESPONSE INVESTIGATION	)	RESPONSE STANDARDS
	)	UNDER THE
	)	INFRASTRUCTURE
	)	INVESTMENT AND JOBS ACT,
	)	PURSUANT TO SECTION
	)	111(d) OF THE PUBLIC
	)	UTILITY REGULATORY
	)	POLICIES ACT OF 1978
)	
)	
	)	AA22-003

On November 15, 2021, the President of the United States signed The Infrastructure Investment and Jobs Act ("IIJA"), H.R. 3684, 117th Cong. (2021). Pursuant to the IIJA, Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) was amended ("Amendments") by adding the following standard:

Each electric utility shall promote the use of demand-response and demand flexibility practices by commercial, residential, and industrial customers to reduce electricity consumption during periods of unusually high demand.

The Amendments provide that each State regulatory authority shall consider establishing rate mechanisms to allow an electric public utility to timely recover the costs of promoting demand-response and demand flexibility practices. Consideration of the standard or a hearing for consideration must be set within one year of the date of enactment. Consideration must provide a determination within two years of the date of enactment. If prior state actions were taken to address the standard, the requirements do not apply.

On June 23, 2022, Commission Counsel filed a Proposed Order seeking each public utility file written comments in this matter. At its regularly scheduled meeting on July 19, 2022, the Commission considered this matter and on July 20, 2022, the Commission ordered that the South Dakota Electric Public Utilities file initial comments addressing the standard by October 21, 2022. On October 18, 2022, the Commission received MidAmerican Energy Company's comments. On October 19, 2022, the Commission received NorthWestern Energy's comments. On October 21, 2022, the Commission received comments from Otter Tail Power Company and Xcel Energy. On October 28, 2022, the Commission received comments from Black Hills Energy.

At its regularly scheduled meeting of November 8, 2022, the Commission continued its investigation and considered this matter. Having thoroughly provided due process, public notice, and hearing on two occasions and having thoroughly reviewed the filings in the docket and verbal comments on the record, the Commission found that each public utility can propose, recommend, and bring forth tariff changes related to demand-response and demand flexibility practices by commercial, residential, and industrial customers to reduce electricity consumption

during periods of unusually high demand to the Commission for consideration and approval if deemed prudent to their customers. Further, the Commission found that the public utility companies are in the best position to determine what the needs of their customers are regarding demand-response and demand flexibility practices by commercial, residential, and industrial customers to reduce electricity consumption during periods of unusually high demand. Moreover, the Commission found that if the future landscape deems it wise and planning and preparing reserves for resource adequacy and capacity is necessary, tariffs pertaining to demand-response and demand flexibility practices by commercial, residential, and industrial customers to reduce electricity consumption during periods of unusually high demand can be analyzed and adjusted by the Commission.

It is therefore

ORDERED, that the implementation of any such standard regarding establishing rate mechanisms to allow an electric public utility to timely recover the costs of promoting demand-response and demand flexibility practices as established by The Infrastructure Investment and Jobs Act, pursuant to Section 111(d) of the Public Utility Regulatory Policies Act of 1978 is declined.

Dated at Pierre, South Dakota, this 14th day of November 2022.

CERTIFICATE OF SERVICE
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically or by mail.
By: <u>Adam DeHueck</u>
Date: <u>11/14/22</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Chris Nelson
CHRIS NELSON, Commissioner

Kristie Fiegen
KRISTIE FIEGEN Commissioner

Gary Hanson
GARY HANSON, Commissioner