

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Montana-Dakota Utilities Co.
Electric Service Agreement – Applied Digital
Approval

Case No. PU-23-322

ORDER

May 23, 2024

Preliminary Statement

On October 2, 2023, Montana-Dakota Utilities Co. (MDU) filed an application for approval of an Electric Service Agreement (ESA) with APLD-ELN-02 LLC (Applied). The ESA provides that Applied would take electric service from MDU under its High Density Contracted Demand Response Rate 45 (Rate 45).

On October 24, 2023, the Commission issued a Notice of Opportunity for Hearing, which provided until December 5, 2023, for receiving written comments or hearing requests. The notice identified the following as issues to be considered:

1. What is the value of MDU's property, used and useful, for the service and convenience of the public in North Dakota?
2. What is the just and reasonable rate of return on MDU's property, used and useful, for the service and convenience of the public in North Dakota?
3. What rates and charges are necessary to provide a just and reasonable rate of return on MDU's property, used and useful, for the service and convenience of the public in North Dakota?
4. Are MDU's rate schedules designed in such a manner that they result in a basis of charge to its customers that is just and reasonable without undue discrimination?
5. Whether the electric service agreement should be approved.

On February 21, 2024, an informal hearing with the Commission was held.

On March 26, 2024, MDU filed an agreement between MDU and Applied extending the Conditions Precedent deadline of March 31, 2024, included in the ESA, to May 31, 2024.

On April 29, 2024, the Commission held a work session to discuss the matter.

Discussion

1. The ESA allows Applied to take service under MDU's High Density Contracted Demand Response Rate 45. The facility is within MDU's service territory as provided for in the Service Area Agreement entered into by and between MDU and Dakota Valley Electric Cooperative in Case No. PU-23-272.
2. The ESA between MDU and Applied provides for the sale of all electric power required by Applied's high density data center to be located near MDU's Ellendale 345 kV substation near Ellendale, North Dakota. The ESA is in effect for an initial period of five years and may be extended for an additional period of five years subject to approval by the Commission and both parties.
3. The ESA proposes that MDU will charge or pass through certain transmission related charges, which will be credited to customers within the Transmission Cost Adjustment Rate 59.
4. The ESA also proposes that MDU retain 100% of the charges billed as a transaction charge on Applied's bill (margin) with any overearnings subject to the earnings-sharing provision instituted as part of the Settlement Agreement in MDU's last rate case (PU-22-194).
5. During the April 29, 2024, work session the Commission questioned MDU's retention of 100% of the margin and provided direction to return 70% of the margin in a manner consistent with the Order approving MDU's first electric service agreement with Applied Digital (then Applied Blockchain) in Case No. PU-22-371.
6. Having considered this matter the Commission finds that the ESA as modified by this Order results in just and reasonable rate without undue discrimination for the customer that provides MDU with an opportunity to collect a just and reasonable rate of return on its property used and useful for the service and convenience of the public in North Dakota and should be approved.

Order

The Commission Orders:

1. MDU's Electric Service Agreement with APLD-ELN-02 LLC is APPROVED except for MDU's proposal to retain 100% of the charges billed as a transaction charge on Applied's bill for a term of five years beginning May 23, 2024. After the initial five-year term, the contract must be filed with the Commission for review and approval.

2. MDU shall refund to customers 70% of the charges billed as a transaction charge on Applied's bill back to North Dakota customers as a credit in the Fuel and Purchased Power Adjustment Rate 58 in a manner consistent with the Order issued on June 6, 2023, in Case No. PU-22-371.

3. The sales volumes, investment and costs associated with providing electric service to Applied under Rate 45 shall be excluded from the jurisdictional allocation calculations. To the extent that the jurisdictional allocations are impacted by Applied's Rate 45 sales volumes, investment, or costs, MDU shall not seek regulatory recovery for the resultant change in the jurisdictional allocations. If MDU is required to update its jurisdictional allocation calculations by another state based upon the direct impact of Applied sales volumes, investment, and costs, MDU shall defend the position to exclude Applied in the jurisdictional allocation calculation, but is not precluded from making a filing with the Commission to request a change in the jurisdictional allocation factors or amend the ESA if ordered by another state.

4. If Applied no longer takes electric service from MDU, MDU will not seek regulatory recovery of the cost, to the extent the incremental costs exceed the salvage value, to disconnect and remove the facilities used to serve Applied.

PUBLIC SERVICE COMMISSION


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Commissioner


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Chair


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