



January 2012

## NRECA: Co-ops uniquely challenged by EPA regs

More than half of the nation's coal-fired electric generating units will need to be retrofitted by 2015 to comply with the Environmental Protection Agency's MACT (Maximum Achievable Control Technology) rule, but those operated by electric cooperatives will be at a unique disadvantage, documents submitted to the Federal Energy Regulatory Commission (FERC) by the National Rural Electric Cooperative Association (NRECA) suggest.

The rule was issued in final form December 21.

A new round of comments submitted the previous week to the FERC by NRECA explained that co-ops will face special problems because most generation and transmission cooperatives are small by comparison with investor-owned utilities and therefore "will not be priority customers for engineering and emission control companies who are far more likely to favor (and profit from) larger entities requiring more emissions controls while promising less administrative overhead on a percentage of revenue basis."

Co-op operated generation, as a result, may be less able to have new controls installed by the MACT rule's early, three-year compliance deadline and are at correspondingly greater risk of being forced to shut down while waiting for a vendor to perform the mandated retrofits.

A second NRECA concern, applicable industry-wide, is the "dramatic and unacceptable impacts" on wholesale power prices resulting from the simultaneous unavailability of multiple base-load generation units as utilities take them off-line for retrofits.

The comments warned of a potential replay of the wholesale power crisis in Western states that took place as restructured California electricity markets were melting down at the beginning of the past decade, suggesting that concern about "significantly escalated market prices, is not unrealistic."

A petition by NRECA to extend the MACT compliance deadline for two to three years beyond 2015 remains pending before the EPA.

### Bruce's briefs

by CN Lobbyist Bruce Kleven

### Budget surplus projected

After bracing for the possibility that the state budget deficit would increase by somewhere between \$500 million and \$1 billion, state leaders were pleasantly surprised in December when State Economist Tom Stinson released the November budget forecast. It predicted the State of Minnesota would close out the current two-year budget cycle with a \$876 million budget surplus.

That's not the equivalent of having money in the bank, but rather represents what Stinson thinks the books will look like at midnight June 30, 2013, assuming revenue and spending patterns aren't changed by the Legislature and the governor. If those patterns remain unaltered there will be \$876 million on the bottom line after paying for the \$35.5 billion spent by the 2011 Legislature. The last time the state economist predicted black ink for the state budget was in February of 2007—nearly five years ago.

But technically, this is not a surplus in the usual sense, as none of it is available for additional spending under the priorities established by previous Legislatures. Current law requires that the first \$255 million of the surplus go to restore the state cash flow account to \$350 million. The second priority is to get the reserve fund back to \$653 million, which will require all of the remaining \$621 million. The reserve fund was depleted several years ago and remains at zero. After the reserve fund is restored, the third priority is to start repaying school districts nearly \$2.8 billion in borrowed and shifted money.

So far, neither Governor Dayton nor legislative leaders have expressed any willingness to change these priorities; therefore there won't be too much wrangling over the surplus during the upcoming session. An updated forecast will be released February 29, right in the middle of the next legislative session.

Republicans in the Legislature credited their philosophy of tightening the belt as the reason the economy has responded and the surplus has been predicted. But Governor Dayton said the surplus came at the cost of

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## National discount program available

National Discount Programs coordinated by FCC Services are all available to cooperative businesses, and the Colorado-based organization is inviting co-op employees and directors to also take advantage of discounts available for personal use.

Participants include 800-Flowers, Floral Ambiance, Omaha Steaks, Alamo & National car rental, Dell, AT&T Wireless, Sprint Wireless, and United Van Lines.

Details are available at the Cooperative Network website ([cooperativenetwork.coop](http://cooperativenetwork.coop)) and by contacting Brianna Pade, National Discount Programs administrator, at [brianna.pade@fccservices.com](mailto:brianna.pade@fccservices.com) or at (303) 721-3247.

# Co-op a winner in coal-shipping case

Almost three years after Arizona Electric Power Cooperative complained to federal regulators about being overcharged for coal shipments from New Mexico, Wyoming, and Montana, the co-op has won reparations payments and rate relief valued at an estimated \$63 million.

Most of that sum will arrive in the form of reduced shipping rates through 2018, as ordered by the Surface Transportation Board (STB).

In December 2008 the generation and transmission cooperative (AEPCO) filed a complaint with the STB challenging the reasonableness of rates charged jointly by the Burlington Northern Santa Fe and Union Pacific railroads to deliver coal from the Powder River Basin and from mines in northwest New Mexico to its power plant near Cochise in southeast Arizona.

The dispute arose when the railroads presented the cooperative with a take-it-or-leave-it doubling of their previous rates upon expiration of a shipping contract. AEPCO has no reasonable alternative to the two railroads for obtaining coal deliveries.

The STB heard oral arguments in the case in September 2010 and issued its decision at the end of November.

The STB found AEPCO had demonstrated that the rates were unreasonable, applying the agency's test of what a hypothetical, stand-alone railroad would need to charge in order to recover all of its costs plus a reasonable return.

In this case, the STB said the test results indicated the rates charged by Burlington Northern and the Union Pacific were in violation of federal law—and also that an appropriate rate would be lower than federal law allows the agency to prescribe. It ordered the railroads to establish rates

no higher than 180 percent of their revenue-to-variable-cost ratio.

The STB said the result for AEPCO would be a 28-percent reduction in the rates it paid for 2009 and a reduction averaging 37 percent over the 10-year period (2009–18) for which the cooperative is entitled to relief.

Following agency practice, the parties are to work out the total amount of reparations and interest to be paid to the cooperative and are to return to the STB to resolve the matter if they fail to reach agreement.

## Non-Discrimination language unchanged

Cooperatives with loans from the U.S. Department of Agriculture's Rural Utilities Service (RUS) are required to publish annually in their local newspapers a non-discrimination statement approved by the RUS. Here is the most current version of the approved language, as verified in December by Cooperative Network:

### Non-Discrimination Statement

(Your co-op's name) is the recipient of Federal financial assistance from the U.S. Department of Agriculture (USDA).

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political belief, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotope, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider, employer, and lender.

## Bruce's briefs

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much higher property taxes at the local level, and DFL legislative leaders pointed out that while the state's savings account now has some money, the credit card is still maxed out. It's also worth noting that in the next fiscal biennium running from July 1, 2013, to June 30, 2015, the same budget forecast shows a projected \$1.3 billion deficit, not counting the \$2.8 billion owed to school districts. Clearly, we're not out of the woods yet.

Cooperative  
Network

Capsule

Prepared monthly to provide timely information on matters pertaining to Minnesota's non-profit, consumer-owned rural electric cooperatives.

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## Job market

**Line Superintendent**—Agralite Electric Cooperative, Benson, Minnesota, seeks applicant to succeed line superintendent planning retirement. Position reports to manager of engineering and operations. Duties include but not limited to overseeing construction and maintenance of electric distribution system consisting of approximately 1,297 miles overhead and 1,100 miles underground line, directing employees and contractors in a safe and efficient manner, working with cooperative's members. Qualifications: Associate degree in power-line work with additional specialized training in electric utility operations preferred. Minimum 10 years electrical distribution experience as foreman or journeyman lineman. Supervisory experience preferred. Must have proven ability to effectively communicate with employees and members, be proficient in use of personal computers, have a valid driver's license, and live within close proximity to Agralite's headquarters. Agralite, an electric distribution cooperative with service territory covering west central Minnesota, offers a competitive wage and benefits package including health insurance, 401k, vacation, and sick leave. Agralite Electric Cooperative is an Equal Opportunity Employer. Send resume and three references by Jan 12, 2012, by e-mail to: [thoffman@agralite.com](mailto:thoffman@agralite.com) with 'Line Superintendent' as the Subject, or by postal service to Agralite Electric Cooperative, Attn: Manager of Eng & Ops., PO Box 228, Benson, MN 56215.