

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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| Barbara Beerhalter | Chair |
| Cynthia A. Kitlinski | Commissioner |
| Norma McKanna | Commissioner |
| Robert J. O'Keefe | Commissioner |
| Darrel L. Peterson | Commissioner |

In the Matter of the Application of the City of Delano to Extend Its Municipal Electric Service Area into an Area Served by Wright-Hennepin Electric Cooperative Association

ISSUE DATE: April 25, 1988

DOCKET NO. E-228-148/SA-87-379

ORDER APPROVING STIPULATION

PROCEDURAL HISTORY

On June 24, 1987, the City of Delano (Delano or the City) filed a petition with the Minnesota Public Utilities Commission (the Commission) requesting resolution of a dispute with the Wright-Hennepin Electric Cooperative Association (Wright-Hennepin) over the acquisition of a service area lying within the corporate limits of Delano.

On July 15, 1987, Wright-Hennepin filed its response to Delano's petition and filed an amended response on July 29, 1987.

The Minnesota Department of Public Service (the Department or DPS) submitted its Report of Investigation and Recommendation on August 4, 1987. The DPS recommended that the Commission set the matter for hearing.

On August 21, 1987 the Commission issued a Notice and Order for Hearing for this case. Administrative Law Judge (ALJ) Allan W. Klein was assigned to hear the case by the Office of Administrative Hearings.

A prehearing conference was held on October 9, 1987. The ALJ filed his First Prehearing Order on October 14, 1987 which granted the DPS the right to intervene and participate in this matter.

The parties filed a proposed settlement to the case. On December 11, 1987, the ALJ forwarded the settlement to the Commission with his recommendation that the Commission approve it.

FINDINGS AND CONCLUSIONS

The issue before the Commission is whether the proposed settlement complies with Minn. Stat. § 216B.44 (1986) and should be approved.

The Commission finds that Minn. Stat. § 216B.44 (1986) governs this matter. That statute states in part:

Notwithstanding the provisions of sections 216B.38 to 216B.42, whenever a municipality which owns and operates an electric utility (a) extends its corporate boundaries through annexation or consolidation, or (b) determines to extend its service territory within its existing corporate boundaries, the municipality shall thereafter furnish electric service to these areas unless the area is already receiving electric service from an electric utility in which event, the municipality may purchase the facilities of the electric utility serving the area. The municipality acquiring the facilities shall pay to the electric utility formerly serving the area the appropriate value of its properties within the area which payment may be by exchange of other electric utility property outside the municipality on an appropriate basis giving due consideration to revenue from and value of the respective properties. In the event the municipality and the electric utility involved are unable to agree as to the terms of the payment or exchange, the municipality or the electric utility may file an application with the commission requesting the commission determine the appropriate terms for the exchange or sale.

In this case, the City operates a municipal electric utility and annexed a parcel of land to its corporate limits which is currently within the assigned service area of Wright-Hennepin. The City asked the Commission to: 1) determine after notice and hearing pursuant to Minn. Stat. § 216B.44 (1986), that Wright-Hennepin has no property within the annexed area; 2) order that the right to serve the annexed area be transferred from Wright-Hennepin to the City; and 3) issue an Order prohibiting Wright-Hennepin from extending any additional service within the annexed area.

Wright-Hennepin acknowledged that it had no current customers within the disputed area. However, Wright-Hennepin maintained that it should be compensated for any transfer of the service area because it has facilities in the disputed area and has facilities installed in the adjacent area to serve the disputed area.

In the proposed settlement of December 11, 1987, Wright-Hennepin withdrew its objections to the City's application.

The Commission finds that Minn. Stat. § 216B.44 (1986) contemplates private negotiations between a municipality which operates an electric utility and the other electric utility regarding municipal service territory extensions. In the event, that those negotiations fail, the statute establishes a procedure, a contested case hearing, and provides standards for the Commission to determine appropriate terms for the exchange or sale.

The Commission finds that the City of Delano and Wright-Hennepin Cooperative Electric Association have both property and financial interests in this matter. They have negotiated a mutually acceptable settlement. The Department of Public Service also accepted the settlement and the ALJ recommended that the Commission approve it.

The settlement provides:

1. Wright-Hennepin agreed to withdraw its objections to the City's application.
2. The City may extend its electric service area without compensation to Wright-Hennepin to the area commonly known as Maplewood Estates which is within the Delano corporate boundaries.
3. A new map which is attached to the Stipulation showing the boundaries of the extension of the City's assigned service area will become effective and the area will be incorporated into the City's assigned service area upon Commission approval.
4. Wright-Hennepin may maintain its existing utility facilities within the Maplewood Estates area.

The Commission will approve the December 11, 1987 Stipulation under Minn. Stat. § 216B.44 (1986)

ORDER

1. The Commission accepts the Stipulation of the parties which is attached and hereby incorporated in this Order.

2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)