

In the Matter of the Application of Northern States Power Company for Authority to Increase its Rates for Electric Service in Minnesota

ISSUE DATE: APRIL 25, 1988

DOCKET NO. E-002/GR-87-670

ORDER ESTABLISHING PROCEDURE
FOR TREATMENT OF OFFER OF
SETTLEMENT

PROCEDURAL HISTORY

On November 2, 1987 Northern States Power Company (NSP or the Company) filed a petition for an increase in electric rates under Minn. Stat. Sec. 216B.16 (1986). On December 4, 1987 the Commission accepted the filing, suspended the proposed rates, and set the matter for contested case hearing. Administrative Law Judge Richard C. Luis was assigned to the case.

The Administrative Law Judge (ALJ) held a pre-hearing conference on December 30, 1987, where he granted petitions for intervention and established timetables for the proceedings. All parties submitted pre-filed direct and rebuttal testimony. Some parties also submitted pre-filed surrebuttal testimony. NSP filed supplemental testimony reducing its requested increase.

The Financial Issues Stipulation

On March 2, prior to the commencement of evidentiary hearings, the parties who had introduced evidence on the financial issues filed a stipulation which reflected agreement of the signatories to all but one of the revenue requirement issues. On or about March 31, all parties to the proceeding entered into a stipulated settlement of most of the rate design issues in the case.

The stipulation on the financial issues was presented to the ALJ as part of the evidentiary record. It represented the signatories' joint position on the issues it treated. The stipulating parties introduced it into the record and requested that the ALJ adopt its resolution of the financial issues as his findings in his Report to the Commission. The ALJ accepted it as an evidentiary item. The parties agree that the stipulation may be modified in part or rejected by the Commission. The Commission has the right to weigh this stipulation of facts and independently make a decision as to whether it serves the public interest and meets the substantial evidence test. That stipulation does not require Commission action at this time.

it, they wanted the opportunity to decide whether they should present their cases as fully as if there had been no stipulated Offer of Settlement. They therefore incorporated into the Offer of Settlement provisions purporting to nullify it, at the option of the parties, if the Commission rejected or modified it.

The ALJ was unable to assure the parties that they need not make as complete a record as usual on rate design issues, since he could not predict with certainty whether the Commission would or would not refer the matter for further proceedings if it rejected or modified the settlement. To reduce uncertainty, the ALJ certified to the Commission the parties' motion for specified treatment of their Offer of Settlement.

The matter came before the Commission on April 8, 1988. Michael Bradley, Assistant Attorney General; William Flynn, Lindquist & Vennum; Joan Peterson, Special Assistant Attorney General, and David Sparby, Northern States Power Company; appeared on behalf of the parties to the case.

STATEMENT OF THE ISSUE

The issue before the Commission is how it will treat the Offer of Settlement the parties have executed on the issues of rate design.

FINDINGS AND CONCLUSIONS

The Commission will grant the parties' motion as amended to apply only to the offer of settlement and give them assurance that, if the Commission rejects or modifies the Offer of Settlement, it will grant the parties 10 days to void the settlement by withdrawing their participation from the settlement. Should any party exercise the right to void the settlement, the Commission will again refer the matter to the ALJ for resumption and completion of the evidentiary portion of the contested case proceedings. The Commission reserves the right to set forth its specific concerns at that time and to identify areas that require further testimony and evidentiary development for the resumption and completion of the evidentiary hearings.

The Commission adopts this procedure as an experiment that may improve and expedite the regulatory process. The Commission must try to accommodate the parties' need for predictability of process and also the protection of the general public interest.

In this case, the experimental procedure urged by the parties appears to strike a reasonable balance of all interests. The Commission is adopting this procedure to further a policy of encouraging settlements between parties when the terms of a settlement can be proven to be in the best interest of the public. The action of the Commission is not a waiver of any present legal authority, nor is it to be bound to the terms of the settlement in future rate cases.

following manner:

- a. If the Commission rejects the Offer of Settlement, the Commission will again refer the rate design portion of the case to the Administrative Law Judge setting forth its specific concerns and identifying those areas which it believes require further testimony and evidentiary development for the resumption and completion of the evidentiary proceedings.
- b. If the Commission modifies the settlement, the parties will have 10 days from the date of the Order modifying it to decide whether to withdraw their participation in the Offer of Settlement. A party may withdraw only upon written notice to the Commission's Executive Secretary within the 10-day review period.
- c. If any party withdraws, the Commission will again refer the rate design portion of the case to the Administrative Law Judge setting forth its specific concerns and identifying those areas which it believes require further testimony and evidentiary development for the resumption and completion of the evidentiary proceedings.
- d. If no party withdraws, the Offer of Settlement, as modified by the Commission, becomes binding on all parties to the same extent as the original Offer of Settlement.

2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)