

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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 Buffalo to Extend Its Assigned Service Area into an Area Presently Served by the Wright-Hennepin Cooperative Electric Association

ISSUE DATE: July 8, 1988

DOCKET NO. E-221, E-148/SA-87-661 (E86-01)

ORDER ACCEPTING STIPULATION AND RESCINDING ORDER REQUIRING 30 DAYS NOTICE PRIOR TO EXTENDING SERVICE TO NEW CUSTOMERS

PROCEDURAL HISTORY

The Petition

On October 12, 1987 the City of Buffalo (the City) filed a petition under Minn. Stat. Section 216B.44 (1986) to extend its service territory within its corporate boundaries into an area presently served by the Wright-Hennepin Cooperative Electric Association (the Association). The petition stated that the City and the Association were unable to agree on appropriate compensation for the acquisition and asked the Commission to determine reasonable compensation, as provided by the statute.

The petition also asked the Commission to grant the City an immediate exclusive right to serve an industrial park under development in the area of the proposed extension. In the alternative, the petition asked that the Commission require the Association to give 30 days notice to the City before extending service to any new customer within the area.

When the petition was filed, there were no utility customers in the industrial park. Both the City and the Association believed, however, that soon there would be. The Association opposed the City's request to serve the industrial park during the process of determining compensation.

The Initiation of Contested Case Proceedings

On March 3, 1988 the Commission issued its NOTICE AND ORDER FOR HEARING, referring both the issues of compensation and interim service rights to the Office of Administrative Hearings for contested case proceedings. On the same date, the Commission issued its ORDER REQUIRING NOTICE PRIOR TO EXTENSION OF SERVICE, requiring both parties to give 30 days notice to one another and to the Commission before extending service to any new customer within the proposed area of extension. The Commission requested a bifurcated hearing process, with the interim service rights issue to be determined first.

The Stipulation

On April 19, 1988 the City and the Association entered into a stipulation on the record on the issue of interim service rights. The stipulation provided that the City would serve any new customer within the area of acquisition who was located north of Third Street South, while the Association would serve any new customer south of Third Street South. The parties also agreed that the stipulation would be without prejudice to the Association's claim for compensation for the City's acquisition of this portion of its service territory, which was then bare ground. The stipulation also established what compensation would be due the City for any distribution facilities it might erect to serve the area of acquisition in the event it later abandoned this effort to expand its service area.

The Administrative Law Judge's Recommendation

The parties subsequently reduced their stipulation to writing and submitted it to the Administrative Law Judge (ALJ) on April 29, 1988. On May 9, 1988 the ALJ filed with the Commission her FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDED ORDER APPROVING STIPULATION.

That Order found the stipulation to be in the interests of electric consumers who might locate in the area of acquisition, to be in the public interest, and to comply with the terms of the statute. The ALJ recommended that the Commission accept and adopt the stipulation, rescind its March 3 ORDER REQUIRING NOTICE PRIOR TO EXTENSION OF SERVICE, and reserve the compensation issue as requested by the parties.

No party objected to the stipulation before the Administrative Law Judge or filed exceptions to her recommendation with the Commission.

The matter came before the Commission on June 28, 1988.

STATEMENT OF THE ISSUE

The issue before the Commission is whether to approve the stipulation regarding interim service rights.

FINDINGS AND CONCLUSIONS

The Commission agrees with the Administrative Law Judge and the parties that the stipulation on the interim service rights issue is in the public interest, is in the interests of electric consumers, comports with the meaning and purpose of the statute, and should be approved.

The stipulation ends the uncertainty about which utility will serve new businesses and industries locating in the industrial park during the interim period. This new certainty benefits potential tenants of the park, by giving them a clearer indication of what their energy costs will be. This increases the attractiveness of the park, which benefits the community by facilitating the economic growth it built the industrial park to promote.

The agreement comports with the policies underlying the assigned service area statutes by avoiding unnecessary duplication of facilities and promoting the reliable provision of economical, efficient, and adequate electric service to the public. Minn. Stat. Section 216B.37, 44 (1986). It furthers the statutory goal of encouraging coordinated statewide electric service, by making the potential transfer of territory from the Association to the City more orderly and efficient. It conserves Commission resources by avoiding Commission involvement in every service extension in the area of acquisition between now and the conclusion of contested case proceedings. It is generally in the public interest.

The Commission agrees with the parties that its acceptance of the stipulation should not and does not imply any judgment on what compensation may be due the Association for the service rights the City acquires under it or thereafter. Finally, the Commission agrees that its acceptance of the stipulation will render the March 3 ORDER REQUIRING NOTICE PRIOR TO EXTENSION OF SERVICE unnecessary and will rescind it.

The Commission therefore accepts, adopts, and incorporates herein by reference the attached stipulation of the parties.

ORDER

1. The Commission hereby accepts, adopts, and incorporates herein by reference the attached STIPULATION OF THE CITY OF BUFFALO AND WRIGHT-HENNEPIN COOPERATIVE ELECTRIC ASSOCIATION.
2. The Commission hereby rescinds its ORDER REQUIRING NOTICE PRIOR TO EXTENSION OF SERVICE, which was issued in this docket on March 3, 1988.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)