

E-299, 132/SA-89-329 GRANTING CITY OF ROCHESTER'S PETITION

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 a Petition by the City of Rochester, Minnesota to Provide Interim Service to an Annexed and Newly Platted Area Known as Manorwoods West Third Subdivision within the City of Rochester

ISSUE DATE: July 20, 1989

DOCKET NO. E-299, 132/SA-89-329

ORDER GRANTING CITY OF ROCHESTER'S PETITION

PROCEDURAL HISTORY

In December, 1988, the City of Rochester (the City) filed an application with the Minnesota Public Utilities Commission (the Commission) to adjust its service area to include all of the areas it has annexed since 1974 in its service area and to determine compensation for these areas (Docket E-132, 299/SA-88-996). The area involved in the instant matter, Manorwoods West Third Subdivision, is included in that application.

On May 12, 1989, the City submitted an application to the Commission requesting authority to provide service to Manorwoods West Third Subdivision while compensation is being determined. The area in question lies within the city limits, but a portion of the subdivision is in the exclusive service area of People's Cooperative Power Association (People's or the Cooperative).

People's filed a response to this petition on June 1, 1989. It stated that it would agree to allow the City to serve in this subdivision. The Cooperative noted that it did not waive any right it may have to compensation for those portions of the subdivision which currently lie in its exclusive service territory.

Comments received by the Department of Public Service recommended that the City's petition be granted.

The Commission met on July 5, 1989 to consider this matter.

FINDINGS AND CONCLUSIONS

The Commission must determine whether People's or the City should provide service to Manorwoods West Third Subdivision until such time as compensation has been determined and has been paid by the City to People's.

Minn. Stat. §§ 216B.44 and 216B.40 (1988) govern this proceeding. Minn. Stat. § 216B.44 (1988) provides that when a municipality which owns and operates a public utility extends its boundaries through annexation or consolidation, or extends its service territory within its existing boundaries, the municipality shall thereafter provide electric service to these areas unless the area is already receiving service from an electric utility. If so, the municipality may purchase the facilities of the electric utility serving the area. While compensation is being determined, the statute provides that the electric utility serving the area may continue service, but may not extend service to additional points in the area if the Commission, after notice and hearing, determines that it is not in the public interest for the utility to do so.

In previous cases involving the issue of interim service, the Commission has found that the statutory preference given a municipally owned electric utility to serve persons within its corporate boundaries arises only after compensation has been determined and paid. At this stage in the proceeding, portions of the subdivision in question are still in the exclusive assigned service territory of People's.

However, Minn. Stat. §216B.40 (1988) provides that a utility may extend electric service within the assigned area of another electric utility if that utility consents thereto in writing. In this case, People's has consented to the City extending electric service into West Manorwoods Third Subdivision, while reserving its right to any compensation it may be due.

The Commission finds that because People's has consented to the City's provision of service in West Manorwoods Third Subdivision, the City's petition for interim service should be granted. The Commission further finds that granting the City's petition by People's consent does not eliminate the City's obligation to pay such compensation for this area as may be determined in Docket E-132, 299/SA-88-996.

ORDER

1. The City of Rochester's request for authorization to provide interim service to West Manorwoods Third Subdivision is hereby granted.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)