

E-002, 123/C-89-984 PROHIBITING PROVISION OF ELECTRIC SERVICE OR REQUIRING
ITS CESSATION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Darrel L. Peterson	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Patrice Vick	Commissioner

In the Matter of the Complaint by Minnesota Valley Cooperative Light and Power Association Against Northern States Power Company for Providing or Intending to Provide Electric Service to Innovex, Inc. in Montevideo, Minnesota

ISSUE DATE: December 15, 1989

DOCKET NO. E-002, 123/C-89-984

ORDER PROHIBITING PROVISION OF ELECTRIC SERVICE OR REQUIRING ITS CESSATION

PROCEDURAL HISTORY

On November 2, 1989 Minnesota Valley Cooperative Light and Power Association (Minnesota Valley or the co-op) filed a complaint alleging that Northern States Power Company (NSP) had extended or was preparing to extend electric service to a plant expansion under construction by one of the co-op's industrial customers, Innovex, Inc. The construction was taking place on Lot 4, Block 1 of Airport Industrial Park. The co-op alleged that the construction site lay within its exclusive service area and that service by NSP would violate Minnesota's assigned service area statutes, Minn. Stat. §§ 216B.37 et seq. (1988). The co-op requested that the Commission order NSP to refrain from or cease providing electric service to the plant expansion.

NSP filed an answer admitting that the expansion lay within the co-op's service territory as reflected in the official service area maps filed with the Department and signed by both utilities. NSP alleged that the maps were in error, however, for two reasons: 1. The boundaries on the official maps appear to differ from those on an original map in NSP's files. The NSP map appears to show all or part of the lot in question to be within NSP's assigned service area. 2. To the extent that the original boundaries placed the lot in the co-op's service territory, they were improperly drawn. Under Minn. Stat. § 216B.39, subd. 5 (1988), those boundaries should have tracked the boundaries of the two utilities' city franchises. This would have placed the lot within NSP's service territory.

With its answer NSP filed a Petition to Amend Service Area Boundary, asking the Commission to amend the official service area maps to conform to city franchise boundaries as they existed when the official maps were drawn.

The Department of Public Service (the Department) filed comments confirming that the official service area maps placed the construction site within the co-op's service territory. The Department said it believed the service areas had been drawn improperly and should have followed the city franchise boundaries. Finally, the Department recommended contested case proceedings to examine the public interest issues surrounding any change in service area boundaries at this point.

Innovex submitted comments stating it preferred to receive service from NSP and that changing its plans and receiving service from the co-op might delay construction and increase costs.

The City of Montevideo, where Innovex is located, took no position on disputed issues. The City did, however, submit a letter stating that the Innovex facilities are located in an industrial park considered essential to Montevideo's economic development and that uncertainty regarding the park's utility service could hamper the City's industrial development efforts.

The matter came before the Commission on November 28, 1989.

FINDINGS AND CONCLUSIONS

Under Minn. Stat. § 216B.43 (1988) the Commission is required to hear complaints alleging service area violations within 15 days of filing and to issue a decision within 30 days of hearing. Clearly, the legislature shared the concern expressed by the City regarding the importance of knowing which utility was entitled and obligated to serve any given customer at any given time.

The statutory time frames require that complaints alleging service area violations be dealt with in an expedited manner. Normally, such proceedings are not proper vehicles for reconsidering original service area assignments or for determining whether the broad public interest requires a change in existing service area assignments. The purpose of complaint proceedings is to maintain the integrity of official service areas by prompt enforcement of their boundaries. Without the stability such enforcement provides, the goals of the assigned service area statutes -- encouraging coordinated delivery of electric service throughout the state, preventing unnecessary duplication of facilities, and promoting economical, efficient, and adequate electric service to the public -- cannot be met. Whenever feasible, service area complaints should be decided on the basis of the official service area maps.

In this case the official service area maps are clear and clearly show the plant expansion within the exclusive service area of the co-op. The Commission will therefore order NSP to observe duly established service area boundaries and to refrain from serving the customer.

NSP may, if it wishes, bring a separate petition to amend the official service area maps to reflect its understanding of the original agreement between the utilities, its view of the statutory significance of the 1974 city franchise boundaries, or its assessment of the general public interest. Those issues, however, are beyond the scope of this proceeding.

ORDER

1. Northern States Power Company shall not provide service to the Innovex plant expansion unless and until such time as the official service area maps are amended to place the plant expansion within its service territory, Minnesota Valley Cooperative Light and Power Company consents to such service, or the Commission approves such service.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Lee Larson
Acting Executive Secretary

(S E A L)