

E-121, 267/SA-88-899DENYING CHANGE IN SERVICE AREA ARRANGEMENTS

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 Petition by Mr. L.D. Wright to be Released as a Customer of Meeker Cooperative Light and Power Association and Served by Litchfield Public Utilities.

ISSUE DATE: December 26, 1989  
DOCKET NO. E-121, 267/SA-88-899

ORDER DENYING CHANGE IN SERVICE  
AREA ARRANGEMENTS

PROCEDURAL HISTORY

On November 14, 1988, Mr. L.D. Wright filed a petition requesting that the Commission grant his restaurant, the New Farmer's Daughter Restaurant and Lounge (Farmer's Daughter) the right to receive electric service from Litchfield Public Utilities (LPU) instead of from its current utility, Meeker Cooperative Light and Power Association (Meeker). Although service area maps drawn by the two utilities show the Farmer's Daughter as part of LPU's service area, in reality Meeker has served the Farmer's Daughter since the restaurant's construction in 1973. Mr. Wright purchased the restaurant in 1988.

Mr. Wright stated that his petition should be granted because his restaurant is located within LPU's service area, Meeker's service is about twice as expensive as LPU's, and many of Mr. Wright's neighbors are served by LPU.

After the matter came before the Commission on April 18, 1989, the Commission issued a notice soliciting comments on Mr. Wright's petition. Comments were received from Meeker, LPU, Mr. Wright, and the Department of Public Service (the Department). The Department recommended denial of the petition on the grounds that Meeker had been properly serving the location of the Farmer's Daughter since before the restaurant was constructed or service area maps drawn. The Department also reasoned that if service area maps had been drawn in 1974 with sufficient detail, they would have shown the Farmer's Daughter as an "island" of Meeker service within LPU's service area.

The matter came before the Commission on November 21, 1989.

FINDINGS AND CONCLUSIONS

## Factual and Statutory Background

In 1974 the legislature directed that the state be divided into geographical areas, called assigned service areas, in which electric utilities would have exclusive service rights. The reasons for establishing assigned service areas were to encourage the development of coordinated statewide electric service, to avoid unnecessary duplication of electric facilities, and to promote the provision of economical, efficient, and adequate electric service throughout the state. Minn. Stat. Section 216B.37 (1988). The Commission was to set the boundaries of these assigned service areas, after notice and hearing. Minn. Stat. Section 216B.39, subd. 2 (1988).

Boundaries were to be determined within twelve months of enactment of the statute. The legislature expected and encouraged most service area boundaries to be set by agreement of the parties.

In 1974 the two small utilities serving the Litchfield area, LPU and Meeker, quickly drew service area maps to abide by the statutory deadline. The result of their efforts was a system of broadly drawn maps of insufficient detail to show small "islands" of service such as the Farmer's Daughter restaurant.

## Commission Action

The Commission agrees with the Department that Mr. Wright's petition to be released as a customer of Meeker and served by LPU should be denied.

In this case, the fact that the maps were broad renditions of area service resulted in a failure to show the Farmer's Daughter as an "island" of service within LPU's service area. The utilities, however, have been living in harmony with the arrangement. Neither utility has asked the Commission to amend their service area arrangement. The statutory goals of coordination, stability, economy, and avoidance of service duplication are best served by denying the petition.

Minn. Stat. Section 216B.40 (1988) provides exclusive electric service rights to utilities within their assigned service areas. The statute allows a possible exception if the assigned utility consents in writing to service within the assigned area by another electric utility. In this case, although there has been no memorialized consent, both utilities agree there was actual consent, and have consistently conducted themselves in accordance

with that understanding. Under these circumstances, the Commission will recognize a service exception without a writing.

The Commission could, after notice and hearing, conduct a full scale examination of the assigned service areas of these two utilities and make any boundary changes found necessary and reasonable. Minn. Stat. Section 216B.39, sub. 3 (1988). The Minnesota Court of Appeals, however, has recently reaffirmed the service area goals of stability, coordination of service, economy, and avoidance of duplication, all to be fit within the framework of **broad public interest**. In the Matter of the Petition of Northern States Power Company for an Electric Utility Service Area Change Within the City of White Bear Lake, 443 N.W.2d 204 (Minn. 1989). Mr. Wright has not met the burden of showing that the public interest requires comprehensive re-examination of the assigned service areas of these two utilities.

While the Commission finds that Mr. Wright's petition should be denied, the Commission also recognizes the desirability of properly memorialized service area arrangements. For this reason, the Commission urges Meeker and LPU to file amended maps reflecting their actual service area arrangements, including any oral agreements not previously on file with the Commission. This practice will reduce future conflicts among parties, and allow the Commission to ensure continued stability of service boundaries.

Finally, the Commission notes that a legislative task force is currently looking into service area boundary issues, and welcomes any legislative examination of the issues raised.

### ORDER

1. The petition by Mr. L.D. Wright to be released as a customer of Meeker Cooperative Light and Power Association and served by Litchfield Public Utilities is hereby denied.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Lee Larson  
Acting Executive Secretary

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