

E-001/GR-91-605 ORDER VARYING TIME REQUIREMENTS FOR EXCEPTIONS TO  
THE ALJ'S REPORT, ELIMINATING REPLIES, AND ESTABLISHING SERVICE  
REQUIREMENTS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm	Chair
Thomas Burton	Commissioner
Cynthia A. Kitlinski	Commissioner
Dee Knaak	Commissioner
Norma McKanna	Commissioner

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

ISSUE DATE: April 14, 1992

DOCKET NO. E-001/GR-91-605

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**PROCEDURAL HISTORY**

On August 15, 1991 Interstate Power Company filed the above-entitled general rate case. The case was referred to the Office of Administrative Hearings for contested case proceedings and assigned to Administrative Law Judge (ALJ) Allen E. Giles. Judge Giles conducted public and evidentiary hearings in the matter and reported that he intended to file his Report on April 17, 1992. Under Minnesota Rules, part 7830.3900, parties are required to file any exceptions to the ALJ's Report within 20 days of its service upon them.

On April 14, 1992 the Commission met on its own motion to consider two issues: (1) whether to vary the rule to shorten the 20-day period for filing exceptions, and (2) whether to allow parties to file replies to exceptions, which are optional under the rules.

**FINDINGS AND CONCLUSIONS**

**The 20-Day Exception Period**

The Commission may grant a variance to any of its rules upon finding that the following conditions apply:

1. Enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
2. Granting the variance would not adversely affect the public interest; and
3. Granting the variance would not conflict with standards imposed by law.

Minn. Rules, part 7830.4400.

The Commission finds that the requirements for granting a variance are met in this case.

Enforcing the rules' 20-day exception period would impose an excessive burden on the Commission and would not serve the regulatory process. The Commission is required by law to issue a final decision in this case within 10 months of its filing, by June 15, 1992. Minn. Stat. § 216B.16 (1990). The number and complexity of the issues in this case require careful analysis of the record. Allowing parties 20 days to file exceptions to the ALJ's Report would not allow adequate time to conduct that analysis and meet the 10 month statutory deadline.

Varying the 20-day exception period would not adversely affect the public interest. In fact, it would serve the public interest by ensuring that the Commission had time for careful and thorough deliberation.

Finally, varying the 20-day exception period would not conflict with standards imposed by law. Minn. Stat. § 14.61 (1990) requires that the ALJ's Report be available to parties for at least 10 days before the final decision is made, that parties be allowed to file exceptions to the Report, and that parties be allowed to present oral argument. The accelerated filing requirements under consideration would comply with these and all other statutory requirements.

The Commission concludes that the requirements of Minn. Rules, part 7830.4400, have been met and will order Minn. Rules, part 7830.3900 varied.

### **Replies to Exceptions**

Given the time frames under which this case must be decided, the Commission believes it would be most efficient to dispense with replies to exceptions and allow parties to respond to exceptions at oral argument.

**Expedited Service**

Finally, given the accelerated filing deadlines in this case, the Commission finds that allowing service by mail would put all parties under unnecessary additional time pressure. The Commission will therefore require parties to serve their exceptions and replies to exceptions in person or by an overnight delivery service.

**ORDER**

1. Minn. Rules, part 7830.3900 is hereby varied to require that exceptions to the ALJ's Report be filed and served no later than 11 days from issuance of the ALJ's Report.
2. Replies to exceptions will not be accepted.
3. All parties shall serve their exceptions to the ALJ's Report in person or by an overnight delivery service.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster  
Executive Secretary

(S E A L)