

E-308/C-92-1146 ORDER SETTING GUIDELINES FOR HERD HEALTH  
ASSESSMENT AND ESTABLISHING COMMENT PERIOD

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm  
Tom Burton  
Marshall Johnson  
Cynthia A. Kitlinski  
Dee Knaak

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of a Formal  
Complaint by Don and Jeanine  
Wolbeck Regarding Stray Voltage  
Against Sauk Centre Water,  
Light, and Power Commission

ISSUE DATE: November 23, 1993

DOCKET NO. E-308/C-92-1146

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HERD HEALTH ASSESSMENT AND  
ESTABLISHING COMMENT PERIOD

**PROCEDURAL HISTORY**

On September 28, 1992, Donald and Jeanine Wolbeck (Complainants) filed a formal complaint with the Commission against Sauk Centre Water, Light & Power Commission (Sauk Centre or Respondent). The Complainants alleged that Sauk Centre had failed to provide safe, adequate and reasonable service, in violation of Minn. Stat. § 216B.04. Specifically, Complainants alleged that Sauk Centre had failed to install equipment which provides reasonable and adequate protection against injury to Complainants' dairy herd from stray electrical voltage, within 90 days of a request for such services.

Following a number of procedural motions, comments from the parties, and a Commission Order addressing procedure, the Commission issued its ORDER REQUIRING CERTAIN MODIFICATIONS, FURTHER TESTING, AND FILINGS on October 1, 1993. In that Order the Commission required the Respondent, under the direction of Commission Staff, to conduct a conventional cow contact voltage investigation on the Wolbeck dairy farm. The Commission ordered Sauk Centre to implement certain modifications to the Wolbecks' electrical system as part of the investigation. Following implementation of the modifications, the Respondent was to conduct a second measurement of cow contact voltages and to submit a herd health assessment of the Wolbecks' dairy herd.

Pursuant to the October 1 Order, Sauk Centre conducted electrical testing at the Wolbeck farm on September 23, 1993, and October 12, 1993. The required modifications to the Wolbecks' electrical system were implemented during the week of October 4th.

On October 13, 1993, Sauk Centre submitted a proposed herd health assessment protocol. On October 22, 1993, Sauk Centre filed a second, modified proposed protocol which incorporated some of Commission Staff's suggestions. Copies of this document were distributed to the parties.

On November 1, 1993, the Wolbecks filed written comments regarding Respondent's proposed herd health assessment protocol. The Complainants also provided their own proposed protocol.

On November 3, 1993, The Electromagnetic Research Foundation (TERF) filed comments on the proposed herd health assessment protocol. TERF argued that there was no basis for meaningful comparisons since "before and after" testing was necessary and no "before" testing had been done. TERF also stated that the investigation had improperly turned into an evaluation of Complainants' herd management.

The matter came before the Commission for consideration on November 4, 1993. At the hearing, Complainants, Respondent, and the Department provided oral comments.

### **FINDINGS AND CONCLUSIONS**

The Wolbecks and Sauk Centre have a longstanding customer/provider relationship, and will presumably continue to have such a relationship long after the issues in these proceedings are settled and the docket is closed. For these reasons, it is in the best interests of both Complainants and Respondent that they continue to apply good faith efforts to achieve resolution of the issues. Throughout these proceedings, the Commission has attempted to facilitate a resolution of the issues by the parties. It is not possible or advisable for the Commission to set a rigid, lockstep approach to the herd health assessment issues at this time. Rather, the Commission will continue to oversee the proceedings to ensure that a just and equitable resolution of the issues is reached.

Since a herd health assessment was ordered by the Commission, the parties have failed to agree regarding the time parameters and scope of the health assessment. These issues must be settled in order for the Respondent (and other parties, if they wish) to provide a herd health assessment. The Commission will therefore clarify this matter for the parties. The Commission agrees with the Department that a one-time "snapshot" assessment of herd health should be provided. No long-term tracking of the herd would be necessary, nor would environmental causative issues need to be addressed at this time. Rather, the assessor would observe the herd on a specific day and would gather data relevant to individual herd health parameters at that point in time. This one-time observation and data gathering could provide a basis for any comparison in the future.

The Wolbecks also sought guidance regarding a standard to which herd health data could be compared. The Commission agrees with the Department that independent reference points can be compared to health data from the Wolbeck herd. Such reference indicators as state averages or veterinary reference books can be applied to

the health assessment data to determine if the Wolbeck herd health is within the norm, or if a health problem is apparent.

The Commission will not proceed towards setting a rigid herd health test protocol at this time. The findings in this Order should assist the parties as they seek a resolution of the issues, while maintaining flexibility in the proceedings.

Under the terms of the October 1, 1993 Order, the herd health assessment was due on or before November 15, 1993. The Commission will extend the deadline for filing the assessment to December 1, 1993, so that parties may factor in the findings of this Order.

Finally, the Commission will set a comment period for parties who wish to file comments regarding the herd health assessment. In the interests of clarity and simplicity, the Commission will combine a comment period on herd health data with a comment period on electrical data. Comments on either area will be due within 30 days of Respondent's filing of the herd health assessment. Reply comments will be due within 15 days of the close of the 30-day comment period.

#### **ORDER**

1. Sauk Centre, and other parties if they are filing independent assessments, are granted a time extension until December 1, 1993, in which to file a herd health assessment of the Wolbecks' dairy herd. Any herd health assessment should consist of observing the herd on a specific day and gathering data relevant to individual herd health parameters at that point in time. Any comparisons should be to independent reference indicators.
2. Parties who wish to file comments may do so within 30 days of the filing of a herd health assessment. Parties who wish to file reply comments may do so within 15 days of the close of the aforementioned 30-day comment period.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Susan Mackenzie  
Acting Executive Secretary

(S E A L)