BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

In the Matter of Northern States Power Company's Application for Resource Plan Approval 1994-2008

ISSUE DATE: December 6, 1994

DOCKET NO. E-002/RP-93-630

ORDER AFTER RECONSIDERATION

PROCEDURAL HISTORY

On July 1, 1993, Northern States Power Company (NSP or the Company) filed its application for Resource Plan Approval with the Commission. The matter was assigned to this docket.

On July 15, 1994, the Commission issued its ORDER APPROVING NSP'S 1993 RESOURCE PLAN AS MODIFIED, REQUIRING DETAILED COMPLIANCE FILING, AND SETTING REQUIREMENTS FOR 1995 RESOURCE PLAN FILING. Among other things, the Order required NSP to make a compliance filing by November 1, 1994.

On August 4, 1994, NSP filed a petition for reconsideration of the Commission's July 15, 1994 Order in this matter.

On August 22, 1994, the Commission accepted, for purposes of tolling the 20-day time period, NSP's August 4, 1994 petition for reconsideration. The Commission stated that it would meet at later date to consider the merits of the Company's petition.

On September 27, 1994, NSP petitioned the Commission for an extension of time to make the November 1, 1994 compliance filing.

On October 26, 1994, the Commission issued its ORDER EXTENDING TIME FOR COMPLIANCE FILING. The Commission reasoned that it would be unreasonable to require the Company to make the compliance filing on November 1, 1994 using the environmental cost values when the Commission may find, on reconsideration, that these values should not have been required. The Commission granted the Company's request to extend the time for making the compliance filing that was originally due November 1, 1994. The Commission stated that it would set the new date for the compliance filing in its ORDER AFTER RECONSIDERATION. Finally, the Commission directed the Company to proceed to prepare the compliance filing with respect to all items not subject to its petition for reconsideration, so that it would be able to make a timely filing of the compliance filing after the ORDER AFTER RECONSIDERATION.

On November 10, 1994, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

A. NSP's Petition

NSP asked that the Commission

- reconsider its requirement that the Company refile its Scenario Analysis using the interim environmental cost values established in Docket No. E-999/CI-93-583

- reverse its requirement that the Company provide copies of information supplied to the Legislative Energy Task Force to parties upon request and

- clarify the Order concerning the costs assumed for wind and biomass in the compliance filing.

B. Interim Environmental Cost Values

1. The Flaw

The Company argued that in the absence of a showing that its environmental cost numbers were flawed, the Commission's decision to require the Company to use interim values was arbitrary.

The Residential Utilities Division of the Office of the Attorney General (RUD-OAG) noted that the record did in fact contain a critique of NSP's environmental cost numbers. The RUD-OAG cited its November 1, 1993 comments which pointed out the flaw in NSP's use of environmental cost factors in its resource plan. In those comments, the RUD-OAG had noted NSP's failure to provide a complete and internally consistent analysis of the environmental impacts of various resource options. Specifically, the RUD-OAG argued, NSP's proposed values for environmental costs were much lower than the implicit environmental costs needed to justify NSP's selection of its preferred resource option.

The Commission agrees with the RUD-OAG's assertion that this resource selection showed inconsistent treatment of environmental costs between the Company's proposed values and the values it must have used in selecting its preferred resource option. Those costs must be made internally consistent before the Commission can approve the Company's plan.

2. The Appropriate Correction

In its July 15, 1994 Order, the Commission determined that the best way for the Company to correct its plan would be to use the Commission's interim environmental cost values to evaluate the environmental cost impacts on the Company's scenarios.

In its petition for reconsideration, NSP argued that the requirement to refile its scenarios using the interim environmental cost values is inconsistent with the Commission's March 1, 1994 ORDER ESTABLISHING INTERIM ENVIRONMENTAL COST VALUES in Docket No. E-999/CI-93-583. In that Order, the Commission stated in a footnote that only Otter Tail Power, Minnesota Power, CPA, and UPA would be likely to use the interim values since the Commission anticipated that final values would be adopted before 1995 Resource Plans would be filed. The Company stated that it had relied on the footnote in determining not to seek further review of the Commission's decision on interim cost values. In these circumstances, the Company argued that it would be unfair to require it to use the interim cost values.

The Commission will continue to require the Company to refile its scenarios using internally consistent values for environmental externalities. However, since NSP's due process rights may be implicated by a contrary action, the Commission will not *require* the Company to use the

Commission's interim environmental externality cost figures. In sum, although this decision on reconsideration does not preclude the Company from using the interim values[1], it may in fact use *any* set of such figures, provided that they are reasonable and used consistently throughout the plan.

C. Provision of Information to Non-governmental Entities

In its July 15, 1994 Order, the Commission directed NSP to file copies of all information it provides to the Legislative Energy Task Force with the Commission, the Department, and the RUD-OAG, and to supply copies of that information to any party upon request.

NSP sought reconsideration of this requirement on several grounds:

First, the Company asserted that the Commission had no authority to require a utility to produce information produced in a separate proceeding conducted by a different governmental body. Second, the Company argued that the materials may be commercially sensitive. Third, the Company objected that the information it would file with the Legislative Energy Task Force would be voluminous and it would be burdensome to require provision of this information to third parties. The Company argued that it would be better for interested parties to obtain this information from the Task Force, the Commission, or the Department through the Data Practices Act.

The Department countered that the Commission did indeed have the authority to impose these data provision requirements. The Department noted that, at base, the Commission may require NSP to file any information which the Commission may deem helpful in this matter. Since data relevant to the Legislative Energy Task Force relates generally to the subject of this proceeding, it is within the Commission's discretion to require the Company to file it with the Commission as well.

As to service upon other parties, the Department argued that once data is filed with the Commission in this proceeding, due process and Commission rules require that it be served upon the parties to this proceeding. See Minn. Rules, Part 7829.0400, Subp. 5. The Department noted, in fact, that in directing the Company to serve these documents upon parties other than the Department and the RUD-OAG only upon request, the Commission had accommodated the Company's concern to the maximum extent.

The Commission agrees with the Department's analysis of this issue. Cross filing of materials submitted to the Legislative Energy Task Force is a reasonable and responsible requirement. It will assure continuity of the Company's facts, figures and presentation before both bodies. This continuity will promote an informed approach by both bodies to NSP's energy resource planning. If the Company believes that any document submitted contains trade secret information, it can employ the Commission's process for maintaining the integrity of such material.

D. Clarification of Wind and Biomass Costs

NSP stated that the July 15, 1994 Order misstated its position regarding wind costs in that it did not agree with the RUD-OAG's wind costs, as stated in the Order. Instead, according to the Company, its position was to favor using the most up-to-date costs. Therefore, the Company

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[1] In fact, as the Commission stated in its July 15, 1994 Order, there is good reason to use the interim values: the usefulness of the scenarios is enhanced by using the most current environmental cost figures available. July 15, 1994 Order at page 11.

stated, it would model wind in the compliance filing using the RUD-OAG's wind numbers but also comment on whether those values appear to be the most current and accurate.

Regarding biomass costs, the Company stated that while a study by EPRI analysis will produce, theoretically, the most current information on biomass costs, it has not yet been published. Moreover, the EPRI study is subject to confidentiality agreements. In these circumstances, the Company argued, it would be appropriate for the Commission to clarify that if no new information on biomass costs becomes available to update the 1993 numbers, it will not be necessary to submit a remodelled biomass scenario.

The RUD-OAG responded that NSP was attempting to rewrite its role in the history of this docket. According to the RUD-OAG, the Company did not use the most accurate and up-to-date information on these costs when it made its original filing even though such information was available to it. RUD-OAG argued that the Commission properly directed the Company to refile its wind and biomass scenarios using the RUD-OAG costs which were the most accurate and up-to-date at the time of the Order.

The Commission finds that the record supports the RUD-OAG's contention that when NSP filed its resource plan it did not use the best cost figures that were available at that time. Accordingly, when the Commission's July 15, 1994 Order directed the Company to use the wind costs proposed by the RUD-OAG, it was properly requiring the Company to use the best figures that were available in early 1993 when the resource plan was filed.

That being said, the Commission is also aware that subsequently more accurate costs may have become available. Since the Commission's consistent concern has been to assure that the most accurate up-to-date cost figures be used, the Commission will simply clarify in this Order that to the extent, then, that current cost information is easily available and can be supported, the Company should use it.

To summarize: in its compliance filing, the Company should refile the wind and biomass scenarios using the most recent cost values that are available. If wind costs more current than the RUD-OAG figures cited in the July 15, 1994 Order are available, the Company should use these new figures. If not, then the Company should use the RUD-OAG figures. Likewise as to biomass: if the EPRI study figures become available in time for use in the compliance filing, the Company should use them. If not, the Company should use the most recent correct biomass information available.

E. Clarifications on the Commission's Own Motion

In its July 15, 1994 Order, the Commission identified two items (specific goals for the baseload/cogeneration component of the dispersed generation plan and an estimate of the incremental transmission costs of developing 200, 500, and 1,000 MW of wind generation in southern and southwestern Minnesota) to be filed in the 1995 Resource Plan. By inadvertence, these two items were listed in the Ordering Paragraphs as due in the Compliance Filing.

The Commission, on its own motion, hereby clarifies that these two items should be filed, not in the Compliance Filing, but in the Company's 1995 Resource Plan.

ORDER

1. Northern States Power Company Inc.'s (NSP's or the Company's) request for reconsideration and clarification of the Commission's July 15, 1994 Order in this matter

is granted in part and denied in part.

2. The July 15, 1994 Order is modified to require the Company to refile its scenario analysis not necessarily using the interim environmental cost values as originally required. The Company may use any values for environmental costs that are reasonable and consistently applied.

3. The July 15, 1994 Order is clarified to require the Company in its compliance filing to use the most recent wind and biomass cost values available.

4. The requirement of the July 15, 1994 Order that the Company file with the Commission, the Department, and the RUD-OAG any information that it files with the Legislative Energy Task Force and that the Company provide such information to any other party on request is affirmed. As stated in the July 15, 1994 Order, the Company's filing with the Commission may incorporate by reference any information filed at the legislature that has already been filed with the Commission.

5. The Company shall make its compliance filing in this matter on or before December 12, 1994.

6. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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