

E-015/M-93-996 ORDER GRANTING VARIANCE, APPROVING MP'S PROPOSED
CIP ADJUSTMENT AND REQUIRING FILINGS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Petition of
Minnesota Power for Approval of
an Annual Recovery Mechanism for
Conservation Related Costs and
Expenses and for Variance of
Fuel Clause Adjustment Rules

ISSUE DATE: January 7, 1994

DOCKET NO. E-015/M-93-996

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PROCEDURAL HISTORY

In May, 1993, the Minnesota Legislature authorized the Commission to permit a public utility to file rate schedules providing for annual recovery of the costs of energy conservation improvements. MN Laws 1993, Chapter 49.

On July 7, 1993, the Commission initiated a CIP Adjustment Implementation Study Group. The group met three times between July and September and achieved agreement on a substantial number of issues.

On November 8, 1993, the Study Group filed its "Report of the CIP Adjustment Implementation Study Group" which reflects those agreements. Among other things, the Group agreed that gas utilities would file CIP adjustments on January 1 of each year, and electric utilities would file CIP adjustments on April 1, with the exception of Dakota Electric Association, which would file when it files its annual fuel clause adjustment (FCA). However, the Group decided that it would be appropriate to "test" the implementation of the adjustment initially on one or two utilities. Minnesota Power indicated an interest in participating in the initial implementation test of the adjustment.

On October 6, 1993, Minnesota Power filed its request for an adjustment.

On October 28, 1993 and November 3, 1993, respectively, the Residential Utilities Division of the Office of the Attorney General (RUD-OAG) and the Minnesota Department of Public Service (the Department) filed comments, in response to a general notice issued by the Commission requesting comments.

On December 16, 1993, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

I. BACKGROUND

In 1991, the Minnesota legislature expanded the Conservation Improvement Program (CIP) to include all investor-owned utilities and required minimum expenditure levels: 1.5 percent of gross revenues for electric utilities and 0.5 percent of gross revenues for gas utilities by 1994. The legislation authorized the utilities to recover conservation costs eventually but not contemporaneously in their rates.

The Commission took steps, within the authority granted in that legislation, to encourage utilities to fully spend their test-year CIP budgets and increase conservation expenditures between rate cases. The Commission authorized deferred debit accounting for these expenditures. The Commission authorized utilities to track authorized expenditures in CIP tracker accounts. This assured that these costs, to the extent they exceeded related collections and were found to be prudent and reasonable during the utility's next general rate proceeding, would be recovered.

II. 1993 LEGISLATION

In 1993, the Minnesota legislature expanded the Commission's discretion with respect to recovery of energy conservation costs. The legislature amended Minn. Stat. § 216B.16, subd. 6b by adding the following sentence:

The commission may permit a public utility to file rate schedules providing for annual recovery of the costs of energy conservation improvements.

Prior to this amendment it was not explicit that the Commission had authority to authorize recovery of these expenditures any way other than through rates adopted pursuant to a general rate case proceeding. In practice, this kind of recovery was limited to reimbursement for expenditures made sometimes years earlier. With conservation expenditures rising rapidly in response to the requirements of the Omnibus Energy Act, many utilities came to be carrying significant tracker balances for the extensive periods between general rate proceedings.

The 1993 amendment did not mandate annual recovery of conservation expenditures but did authorize the Commission to provide for such recovery of these expenditures. The legislature left it to the Commission to determine, on either a generic or case-by-case basis, whether it is good public policy to permit annual recovery of CIP costs and, if so, in what manner it will provide for such recovery.

III. MP'S PROPOSAL

Minnesota Power stated that its proposal was intended to comply with the report of the Implementation Study Group (the Report), which was in draft form at the time of the Company's filing. It proposed an adjustment as a surcharge that would be applied to customer's bills immediately prior to the calculation of sales tax and local fees or assessments. Consistent with the Report, MP proposed to combine the surcharge with the fuel clause adjustment (FCA) as a single line item on the bill, called a "Resource Adjustment." Because Minnesota Rules, Parts 7820.3500 and 7825.2600 require that the FCA be stated as a separate line item on the bill, MP would require a variance to these rules in order to combine the two adjustments. MP requested that it receive Commission approval to apply the adjustment to bills starting with its January billing cycle, which begins on January 4, 1994.

MP argued that its proposed recovery mechanism is in the public interest. Current recovery of CIP expenditures will send proper price signals to customers and could result in additional participation in Company-sponsored conservation programs. Current recovery of these expenses will also reduce carrying charges on the CIP tracker balance, which will reduce costs for ratepayers.

IV. PARTIES' COMMENTS

The RUD-OAG noted that the 1993 amendments to Minn. Stat. §216B.16 require the Commission to determine whether to permit a CIP adjustment mechanism on a case-by-case basis. The RUD-OAG commented that MP is in a unique position with regard to CIP cost recovery. In its last rate case, the Commission authorized collection of \$120,000 to \$135,000 in base electric rates. MP's most recent (1994-95) CIP budget is over \$11.6 million, and the outstanding balance in the CIP tracker is approaching \$15 million. There is an extreme mismatch between rates and proposed expenditures. Because of these unique facts, the RUD-OAG stated that it did not object to MP's petition.

The RUD-OAG reviewed the calculations set forth in the "Rider for Conservation Program Adjustment." The Rider reflects one of the methods of cost recovery discussed by the Implementation Study Group. The RUD-OAG does not object to the method, and MP's calculations were performed correctly. It had no objection to the proposed notice.

Finally, the RUD-OAG emphasized that its lack of objection to MP's proposal should not be viewed as an endorsement for CIP adjustments for all utilities. The RUD-OAG will review each proposal filed with the Commission on its merits and in light of each company's unique circumstances.

The Department stated that MP's proposal is reasonable and is consistent with the Report on the following points: the surcharge will not appear as a separate line item on customer bills; the surcharge will be consistent with existing rate design; the CIP tracker balance will be amortized over three years; adequate notice will be provided to customers; and the surcharge will be recalculated each April 1. In addition, the Department stated that MP has correctly calculated the initial surcharge, to be effective from January, 1994 through June, 1995, at 2.64 percent.

The Department also recommended that the Commission grant the requested variance to the FCA rules. It argued that without a variance, the Company will create unnecessary confusion for customers by adding an additional line item on the bill. The variance will further the public interest by allowing conservation costs to be recovered in a timely fashion. Because customers already pay a carrying charge on the tracker account, they will not be adversely affected by this adjustment. The Department further argued that this variance is consistent with the standards imposed by law, since it will facilitate implementation of recent legislation.

The Department recommended approval of MP's proposed annual recovery mechanism, the variance to the FCA rules, and the initial surcharge of 2.64 percent.

V. COMMISSION ANALYSIS AND ACTION

A. Appropriateness of Granting MP a CIP Adjustment

The Commission will proceed on a case-by-case basis. The first question for the Commission in this proceeding, then, is whether it is appropriate for MP to implement a CIP adjustment at this time.

The 1993 amendment does not give the Commission guidance as to what standards should be applied when determining whether to allow a CIP adjustment. However, Minn. Stat. § 216B.03 requires that rates be just and reasonable. In addition, this statute requires that "[t]o the maximum reasonable extent, the commission shall set rates to encourage conservation..."

Two other areas of the statute also specifically address recovery of conservation expenditures. The first is in Minn. Stat. § 216B.16, subd. 6b, immediately preceding the new legislation permitting annual adjustments for conservation. This section states:

All investments and expenses of a public utility...incurred in connection with energy conservation improvements shall be recognized and included by the commission in the determination of just and reasonable rates as if the investments and expenses were directly made or incurred by the utility in furnishing utility service.

Also, Minn. Stat. § 216B.241 states that "[t]he commission shall allow a utility to recover expenses resulting from a conservation improvement program required by the department."

In addition to statutory guidelines, the Commission may look to general regulatory principles, such as appropriate matching of expenses and recovery, in order to determine whether or not it is in the public interest to permit MP to implement a CIP adjustment. As noted by the RUD-OAG, MP currently suffers from a gross mismatch between conservation expenditures and conservation recovery built into base rates. Although the current practice of permitting the Company to track unrecovered expenditures in its CIP Tracker account provides assurances that this money will eventually be recovered, the mismatch is so large that the tracker balance may become burdensome to ratepayers. In addition, delaying recovery of the tracker could force future ratepayers to bear expenses for programs which benefit current customers.

The Commission agrees with the RUD-OAG that the facts of MP's situation are compelling. In its last rate case, the Commission authorized collection of \$120,000 to \$135,000 in base electric rates. MP's most recent (1994-95) CIP budget is over \$11.6 million, and the outstanding balance in the CIP tracker is approaching \$15 million. There is an extreme mismatch between rates and proposed expenditures. The conservation expenditures have already been reviewed and recommended for recovery. In addition, the annual adjustment mechanism sets up an ongoing forum to resolve the issues surrounding MP's tracker balance, whereas rate case treatment of these issues would only resolve issues to the end of the test year. Finally, MP needs to increase CIP expenditures beyond the test year in order to achieve the statutory minimum of 1.5 percent of gross operating revenues, and may need to increase expenditures beyond that to fulfill the requirements of future resource plans.

Based on these unique circumstances, the Commission concludes that it is reasonable to implement a CIP adjustment for Minnesota Power at this time.

B. MP's Proposed CIP Adjustment

The second question is whether MP's proposed CIP adjustment is reasonable. The Implementation Study Group reached substantial agreement on the issues surrounding the implementation of a CIP adjustment, should the Commission determine to authorize one, and

MP's proposal is consistent with the Report. The Commission, of course, is not bound by the recommendations of the Study Group, nor is any utility prevented from making an alternative proposal for a CIP adjustment. However, having carefully reviewed MP's proposal and having taken into consideration the parties' comments, the Commission concludes that MP's proposal represents a reasonable and efficient implementation strategy for a CIP adjustment.

One aspect of MP's proposal (cost recovery presentation on customer bills) requires separate discussion. MP proposed to combine the conservation adjustment with the FCA on customer bills. Combining any other cost with the FCA is prohibited by the Commission's Billing Content Rules, Minn. Rules, Part 7820.3500, Item K and the FCA rule, Minn. Rules, Part 7825.2600, subpart 1. These rules require the utility to itemize the FCA on bills separately.

On the other hand, the Commission finds that without such a combined presentation, the conservation adjustment would be itemized separately, which inappropriately singles out one particular expense for separate display on the bill. This would clearly be at odds with the Commission's long-standing efforts to promote conservation by integrating conservation measures into the routine operations of utilities. At the same time, granting the variance to permit combined presentation of the conservation adjustment would not adversely affect the public interest. The Commission's intent in adopting the cited rules was to show all data necessary for the customer to check the computation of the bill. This purpose is not frustrated by granting the variance. Finally, the variance conflicts with no standards imposed by law. In sum, the Commission finds that the prerequisites for granting a variance¹ are met and will, accordingly, grant the variance.

VI. FOR FUTURE CONSIDERATION

A. Base Rate Recovery

This Order approves recovery of conservation expenditures through a surcharge. However, in the long run, it is probably more appropriate for the utility to recover the majority of conservation expenditures through base rates and use the adjustment mechanism to balance the difference between base rate recovery and actual expenses. To prepare for that transition, the Commission will require MP to address this issue in its next rate case. MP will be required to introduce a new conservation component into final base rates in its next general rate case.

¹ See Minn. Rules, Part 7830.4400.

B. Basis of Conservation Cost Recovery Calculation

This Order accepts MP's proposal to calculate the conservation cost recovery on a percent of revenue basis, rather than the typical charge per kWh. In its next rate case, MP will be required to address whether, once conservation costs are in base rates, it should be allowed to continue to calculate the conservation cost recovery on a percent of revenue basis.

C. Accounting Treatment

Finally, it should be clarified that the Commission is neither approving nor disapproving MP's proposed accounting treatment for the adjustment at this time.

ORDER

1. MP's request for a variance to Minn. Rules Parts 7820.3500 (k) and 7825.2600, subpart 1 in order to permit the utility to combine its CIP adjustment with the fuel clause adjustment (FCA) on the utility bill is granted.
2. MP's CIP adjustment mechanism, including a 2.64 percent surcharge for 1994, is approved.
3. In its next rate case filing, MP shall address the issue of the appropriate basis for calculating conservation costs when recovery of such costs is provided for in base rates.
4. In its next general rate case, MP shall introduce a new conservation component into final base rates.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)