

E-111/M-94-227 ORDER APPROVING CONSERVATION ADJUSTMENT AND GRANTING VARIANCE

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

ISSUE DATE: May 10, 1994

DOCKET NO. E-111/M-94-227

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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. The Group suggested that it would be appropriate to "test" the implementation of the adjustment initially on one or two utilities.

On October 6, 1993, Minnesota Power and Light Company (MP) filed a request for a CIP adjustment and in a January 7, 1994 Order, the Commission granted MP's request.

On March 9, 1994, Dakota Electric Association (Dakota or the Cooperative) filed its request for an annual recovery of conservation expenses and for a variance from the rules governing the fuel clause adjustment (FCA).

On April 21, 1994, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

I. BACKGROUND

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 energy 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 energy conservation costs and, if so, in what manner it will provide for such recovery.

II. DAKOTA'S PROPOSAL

Dakota Electric 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 Implementation Study Group Report, the Cooperative proposed to combine the surcharge with the Power Cost Adjustment (Dakota's fuel clause adjustment) 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, a variance to these rules is required in order to combine the two adjustments. The Cooperative requested that it receive Commission approval to apply the adjustment to bills starting with its May billing cycle, which begins on May 11, 1994.

III. THE DEPARTMENT'S COMMENTS

The Department noted that Dakota Electric's proposed method for calculating the Resource Adjustment Charge differs from Minnesota Power's method.

Minnesota Power uses projected costs calculated as a percentage of gross revenue. The CIP Tracker balance is amortized and recovered over a three-year period. Dakota Electric has proposed to use historical costs per kWh. Due to the one-year lag in Dakota's recovery of the Conservation Tracker Account balance, the Cooperative proposed to apply a carrying charge to the balance.

Because Dakota Electric has a smaller Tracker Account balance that is more easily recovered over a year's time, the Department stated that the Cooperative's proposal is reasonable.

The Department believes it is in the best interest of the Cooperative to file its Tracker Account summary on February 15. The Department agreed that the February 15 filing should allow sufficient time to review the report before the new Resource Adjustment Charge is implemented in May each year.

The Department stated that without a variance to the FCA rules, the Cooperative will create unnecessary confusion for customers by adding an additional line item on the bill. The Department argued that the variance will further the public interest by allowing conservation costs to be recovered in a timely manner, save customers money by reducing carrying charges, and eliminate the need for a rate case solely to recover increasing conservation expenses. 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 the Commission:

- approve Dakota Electric's proposed Resource Adjustment Charge and the Cooperative's request for variance to the FAC rules and
- approve implementation of Dakota's Resource Adjustment Charge beginning with May billings and allow the Cooperative to file its Tracker Account summary each year on February 15.

IV. COMMISSION ANALYSIS AND ACTION

In reviewing the Cooperative's proposal, the Commission is guided by the general legislative statements that rates must be

just and reasonable and that they encourage conservation "to the maximum reasonable extent...." Minn. Stat. § 216B.03 (1992).

With these goals in mind, the Commission finds that Dakota Electric's proposal represents a reasonable and efficient implementation strategy for a conservation adjustment. Accordingly, the Commission will approve that proposal.

Dakota Electric's request for a variance is necessary because its proposal to combine the conservation adjustment with the current fuel clause adjustment (FCA) for presentation as one line on the bill violates Item K of the Commission's Billing Content Rules, Minn. Rules Part 7820.3500. Item K requires that the bill include "fuel or power adjustment clause separately itemized, if applicable."¹

The Commission is authorized to vary its rules pursuant to Minn. Rules, part 7830.4400 which states:

The Commission shall grant a variance to its rules where it appears to the Commission's satisfaction that (A) enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule; (B) granting the variance would not adversely affect the public interest; and (C) granting of the variance would not conflict with standards imposed by law.

The Commission finds that the standards for a variance are met in this case and will grant the requested variance.

The public interest standard (B), however, warrants individual comment. The Order adopting the billing content rule states that the inclusion of factors on the bill should be governed by the requirement that bills "shall show all data necessary for the customer to check the computation of the bill."

The Order adopting the FCA rules states:

The Commission proposed that [the billing content rule] be amended to require that the adjustment per kWh or the amount of the adjustment be stated on the customer's bill. The reason for the change was to enable the customer to calculate his bill. [Bracketed material added.]²

The Commission finds that combining the FCA with a conservation adjustment would not substantially impair the customer's ability to calculate his bill. The customer would receive notice of the new adjustment and could request a higher level of detail from the Cooperative if desired. Consequently, the Commission would not disrupt the original intent of the rule by granting this variance.

V. LOOKING AHEAD

In the long run, it is more appropriate for the utility to recover the majority of conservation expenditures through base rates, rather than through a surcharge. A preferred use of the adjustment mechanism would be to balance the difference between base rate recovery and actual expenses. For this reason, Dakota Electric will be required to set a new conservation component of base rates (a "base cost of conservation") when it calculates final rates in its next general rate

¹ This requirement is echoed in the FCA and PGA rules, Part 7825.2600, subpart 1 and Part 7825.2700, subpart 1, respectively.

² In the Matter of Proposed Rules of Minnesota Public Service Commission Relating to Accounting and Financial Regulation of Gas and Public Utilities, Docket No. A-8117-11, FINDINGS OF FACT, CONCLUSIONS AND ORDER FOR AUTOMATIC ADJUSTMENT OF CHARGES FOR PUBLIC UTILITY SERVICE (June 15, 1977) at page 21.

case.

ORDER

1. Dakota Electric's conservation adjustment mechanism is approved as filed.
2. Dakota Electric'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 conservation adjustment with the FCA on the utility bill is granted.
3. On February 15 of each year, the Cooperative shall file its Tracker Account summary.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)