

E-015/GR-94-1 ORDER GRANTING PRELIMINARY DETERMINATION OF ELIGIBILITY
FOR INTERVENOR COMPENSATION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
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Chair
Commissioner
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Commissioner

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

ISSUE DATE: June 24, 1994

DOCKET NO. E-015/GR-94-1

ORDER GRANTING PRELIMINARY DETERMINATION OF ELIGIBILITY FOR INTERVENOR COMPENSATION

PROCEDURAL HISTORY

On January 3, 1994, Minnesota Power Company (Minnesota Power or the Company) filed a petition seeking a general rate increase for electric service in Minnesota. The matter was set for contested case hearing by Commission Order dated February 7, 1994.

On March 9, 1994, the Administrative Law Judge (ALJ) assigned to the Minnesota Power rate case granted the petition of the Minnesota Senior Federation-Northeast Coalition (Senior Federation) to intervene in the rate case.

On May 12, 1994, the Senior Federation filed a request for a preliminary determination of eligibility for a compensation award under Minn. Rules, part 7831.0500.

On May 26, 1994, the Company filed a response to the Senior Federation's preliminary request. Although Minnesota Power did not object to a preliminary determination on financial need, the Company asserted that a preliminary determination on material assistance would be premature.

The matter came before the Commission for consideration on June 9, 1994.

FINDINGS AND CONCLUSIONS

I. The Intervenor Compensation Rules, Minn. Rules, Parts 7831.0100 Through 7831.0800

Minn. Rules, part 7831.0300 requires that applicants for compensation awards shall file a request for compensation at least 75 days after notice of a filing or 30 days before the beginning of evidentiary hearings, whichever occurs later. The request must contain basic information regarding the applicant, proof of insufficient financial resources, a budget, and a statement of participation in the proceeding.

Minn. Rules, part 7831.0500 requires the Commission to issue a preliminary determination of compensation eligibility within 45 days of the filing of the request. The Commission must address the status of the applicant as an intervenor and the applicant's showing of insufficient financial resources. The Commission may preliminarily determine the applicant's material assistance to the proceeding and such other factors as duplication of positions or presentations.

Minn. Rules, part 7831.0500, subpart 3 provides that a preliminary determination will not guarantee either a grant or a denial of compensation award. A preliminary determination will,

however, have an effect on the applicant's request. If the preliminary determination is to grant intervenor costs, a rebuttable presumption of an eventual award is raised. If the preliminary determination is to deny intervenor costs, the applicant may still elect to intervene in the proceedings. In its eventual claim for compensation, however, the applicant must overcome a presumption that the award will be denied.

II. The Senior Federation Request for Compensation

The Senior Federation is a volunteer organization of senior citizens concerned with consumers' interests in health care reform, solid waste management, utilities, energy conservation, taxes, and other matters. The Senior Federation includes over 50 affiliated clubs and over 5,500 dues-paying members in Duluth and the surrounding area.

The Senior Federation's balance sheet, as of December 31, 1993, showed a negative fund balance of \$1,326.88.

The Senior Federation's budget showed a net loss in 1993 of \$10,071.00. Budget figures for 1994, excluding the costs of intervention in the Minnesota Power rate case, showed a projected net gain of \$954.00.

The Senior Federation's projected budget for intervention in the Minnesota Power rate case was \$53,000.00.

In its statement of participation, the Senior Federation stated that it would represent the interests of low income seniors living on fixed incomes and of low income families in Northeastern Minnesota. The Senior Federation would focus its rate case participation on such issues as the Lifeline rate, a discount rate for low income customers, the dual fuel rate, cost allocations to the residential class, and rate of return.

In its June 9, 1994, presentation before the Commission, the Senior Federation asked the Commission to make a specific preliminary determination of material assistance.

III. The Minnesota Power Response

Minnesota Power stated that the Senior Federation did not demonstrate that it would materially assist the Commission in the rate case. The Company stated that the issues raised and positions taken by the Senior Federation were duplicative of other parties' filings. According to Minnesota Power, the Senior Federation did not contribute a new or different viewpoint to the proceedings. In light of the presumption raised by a preliminary

determination of material assistance, the Company argued that the Senior Federation's witnesses should be subject to cross examination before a finding regarding material assistance is made.

Minnesota Power did not object to a preliminary determination that the Senior Federation is properly an intervenor or that it lacks sufficient financial resources to participate without a compensation award.

IV. Commission Action

A. Intervenor Status

The Commission finds that the Senior Federation is an intervenor under Minn. Rules, part 7831.0100, subpart 10, which defines intervenor as: "a person who is entitled or permitted by law, or permitted under rule of the commission or by order of the presiding officer, to intervene in a proceeding." Since the ALJ presiding over the Minnesota Power rate case granted the Senior Federation its request to intervene, the applicant comes under the definition of intervenor.

B. Insufficient Financial Resources

After determining intervenor status, the Commission must make a finding on the sufficiency of the applicant's financial resources in the preliminary determination. Minn. Rules, part 7831.0500, subpart 1(B) states that the determination must address:

whether the applicant has made a sufficient showing that, but for an award of compensation for all or part of its intervenor costs, it has insufficient financial resources to intervene and participate fully and effectively in the proceeding, assuming all information in the request filing is true and accurate pending an audit that may be required under part 7831.0700, and pending a decision awarding or denying compensation under part 7831.0800.

The Commission finds that the Senior Federation has made the necessary showing of insufficient financial resources for participation. The organization's financial filings show that it lacks the resources to pay for the costs of intervention, absent an award of compensation.

C. Material Assistance

The Commission will not make a preliminary determination regarding material assistance. The Senior Federation's material assistance to the Commission will best be determined at the close of the rate case, when the Senior Federation and other parties have completed all phases of their participation. At that time, the Commission will make a finding regarding the factors under Minn. Rules, part 7831.0800 which determine material assistance to the proceeding.

ORDER

1. The Commission grants a preliminary determination of eligibility for intervenor compensation to the Minnesota Senior Federation-Northeast Coalition.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)