E-002/M-93-1253 ORDER APPROVING ACCOUNTING PROCEDURES

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 the Petition by Northern States Power Company for Declaratory Finding, or in the Alternative, Approval of Affiliate Interest Agreement in Connection with the Sale of Steam from the Sherburne County Generating Station to Liberty Paper, Inc.

ISSUE DATE: February 14, 1995

DOCKET NO. E-002/M-93-1253

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PROCEDURAL HISTORY

On December 8, 1993, Northern States Power Company (NSP or the Company) filed a petition for Commission approval of a contract for the sale of steam and electricity from NSP to Liberty Paper, Inc. (LPI). NSP specifically sought approval of the proposed accounting and ratemaking treatment of the venture.

Following a delay due to a change in Environmental Protection Agency rules, the Department of Public Service (the Department) filed a report and recommendations on May 10, 1994. The Department recommended rejection of the Company's petition.

The parties submitted responsive filings in May and June, 1994.

On September 23, 1994, NSP supplemented its filing in an effort to address what the Department deemed filing deficiencies.

On October 4, 1994, the Department filed supplemental comments recommending approval of the proposed NSP/LPI project as an affiliated interest transaction.

On January 26, 1995, NSP's petition came before the Commission for consideration.

FINDINGS AND CONCLUSIONS

I. THE NSP/LPI CONTRACT

Under the NSP/LPI contract, LPI would construct a cardboard recycling facility on land adjoining NSP's Sherco plant. The plan called for NSP to construct a steam line from its Sherco generating stations to LPI's facility. NSP would supply steam to satisfy LPI's thermal energy needs and would also provide LPI about eight megawatts of electricity under tariff. LPI would pay a fixed facilities charge for the use of the steam supply system and an energy charge for the steam supplied.

Under the agreement, NSP would accept a portion of LPI's recycled solid waste for consumption in one of NSP's generating plants using refuse-derived fuel.

II. NSP'S PETITION

NSP submitted its petition pursuant to Minn. Stat. § 216B.05, subd. 2, which requires the filing of all rates and contracts affecting rates with the Commission, and Minn. Stat. § 216B.10, which provides the Commission's authority over accounting.

The Company later responded to the Department's comments by providing the filings required under the affiliated interest statute, Minn. Stat. § 216B.48. NSP continued to disagree with the Department's recommendation that the contract be analyzed under the affiliated interest requirements. NSP argued that there is no separate entity or division within the Company which will have an affiliated interest relationship with the main Company. The enterprise will be conducted by NSP-Generation, which is part of the regulated operations. Since the provision of steam is not encompassed within utility operations, these activities will be separately identified and accounted for as nonregulated.

While NSP acknowledged that the Commission generally prefers fully allocated costing to separate regulated and nonregulated activities, NSP argued that the circumstances of this contract warrant the use of incremental costing. NSP stated that the project would not be economically sound under fully allocated costing, that incremental costing would not adversely impact customers, and that incremental costing would still allow a contribution to fixed costs through increased electricity sales.

NSP argued that the project would bring benefits to ratepayers and the general public. According to NSP, the recycling facility would create new jobs and provide for almost complete recycling of waste materials. Implementing the contract would allow the recycling facility to be constructed without the installation of another stationary emissions source. NSP's customers would receive a direct benefit through the project's contribution to fixed costs.

III. COMMENTS OF THE DEPARTMENT

The Department stated that NSP's petition satisfied the accounting requirements of Minn. Stat. § 216B.10. The Department disagreed with the Company's filing under Minn. Stat. § 216B.05, subd. 2, which requires public utilities to file published schedules for service. Because NSP would be providing steam to LPI, the Department argued, the provision of service does not come under the parameters of the statute.

The Department argued that the filing must be analyzed under the affiliated interest statute, Minn. Stat. § 216B.48, and the property transfer statute, Minn. Stat. § 216B.50. According to the Department, the entity within NSP which provides the steam supply is "part of a corporation in which an operating division is a public utility" under the statutory definition of affiliated interest. Compensation provided by the nonregulated entity to NSP (regulated) for the costs of steam, energy and labor constitute an exchange of services which amounts to an affiliated transaction. The property transfer statute applies because the nonregulated division of NSP will be "renting or leasing" the facilities necessary to generate steam at Sherco.

The Department stated that NSP had provided the requisite information under the affiliated interest statute. The Department stated that the proposed agreement was in the public interest and should be approved.

IV. COMMISSION ACTION

A. Summary of Commission Action

The Commission finds that NSP properly submitted its petition for approval under Minn. Stat. §§ 216B.05 and 216B.10. The proposal fulfills the statutory filing and accounting requirements and sufficiently protects ratepayers' interests. The Commission finds that the proposed accounting methods for the project should be approved, subject to future rate case review.

B. Accounting

NSP proposes to treat the construction and operation of the steam supply system as a nonregulated venture. Costs associated with the construction of the steam supply system will be segregated from the utility rate base for ratemaking purposes. Operating and maintenance expenses will be recorded in nonutility operating accounts on an incremental basis.

The Commission finds that the use of incremental cost methodologies is acceptable under this set of facts. The Commission is satisfied that NSP's proposed accounting methods in this case will sufficiently protect ratepayers from financial risk or cross-subsidization. The overall contractual arrangement will provide a contribution to NSP's fixed costs from the sale of electricity to LPI. The recycling project will provide benefits to the environment, and to the economy through a significant increase in jobs. Viewed as a whole, therefore, the proposed contract and project, with the accounting methods which are in this case necessary for economic viability, are reasonable.

The Commission's finding in this case does not mean that the Commission no longer favors fully allocated costing to separate regulated from nonregulated costs and revenues. Neither does this decision mean that the Commission will automatically approve incremental costing if it is part of a proposal which includes aspects which may benefit the economic interests of an area. The Commission will continue to prefer fully allocated costing in the majority of cases, and will scrutinize each proposal carefully to determine if the particular circumstances warrant approval.

C. Commission Jurisdiction

The Commission has clear jurisdiction under Minn. Stat. § 216B.05 (which governs the filing of contracts) and Minn. Stat. § 216B.10 (which governs accounting) to determine if NSP's proposal should be approved. The Company has provided complete and proper information required under these statutes.

The Commission has jurisdiction to analyze the petition pursuant to the statutes under which it was filed, and has determined under these statutes that the proposed accounting methods should be approved. For these reasons the Commission need not and will not reach the issue of possible analysis under Minn. Stat. § 216B.48 or Minn. Stat. § 216B.50.

D. Ratemaking Treatment

Under the heading "Proposed Accounting and Rate Treatment" in its petition, NSP stated that it would treat the construction and operation of the steam supply system as a nonregulated venture. NSP also stated that the costs associated with the construction of the steam supply system would be segregated from the utility rate base for ratemaking purposes. Operating and maintenance expenses and revenue would be recorded in nonutility operating accounts.

The Commission has found the Company's accounting treatment for this project to be reasonable and acceptable. The actual costs and revenues associated with the venture will be subject to the normal rate case review of prudence and reasonableness.

ORDER

1. The Commission approves NSP's proposed accounting procedures for its sale of steam and electricity to Liberty Paper, Inc.

2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)