

G-002/GR-92-1186 ORDER REQUIRING REPORT

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

ISSUE DATE: February 16, 1995

DOCKET NO. G-002/GR-92-1186

DOCKET NO. E-002/GR-92-1185

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

ORDER REQUIRING REPORT

PROCEDURAL HISTORY

On September 1, 1993, the Commission issued its FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER in Docket No. G-002/GR-92-1186.

On September 29, 1993, the Commission issued its FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER in Docket No. E-002/GR-92-1185, NSP's electric rate case.

In both ORDERS, the Commission directed the filing of reports regarding NSP's bidding and contracting practices. In the gas rate case Order, the Commission ordered the Company to prepare the gas report and in the electric rate case Order, the Commission directed the Minnesota Department of Public Service (the Department) to prepare the electric report.

In petitions for reconsideration of these Orders, the Department requested that the Commission reconsider and order NSP to file a *single* report for both the gas and electric utilities, with the Department and the Company working together to delineate the contents and criteria for the report. The Company agreed that a single report was appropriate, but requested that the Department prepare the report.

On December 30, 1993, the Commission issued its ORDER AFTER RECONSIDERATION in the 1186 Docket, the gas rate case and on January 14, 1994, the Commission issued its ORDER AFTER RECONSIDERATION in the 1185 Docket, the electric rate case. In both ORDERS AFTER RECONSIDERATION, the Commission directed the Department to prepare a single report on the Company's purchasing policies and procedures within six months after issuance of the Commission's ORDER AFTER RECONSIDERATION in NSP's gas rate case, i.e. six months from December 30, 1993. See page 20 of the ORDER AFTER RECONSIDERATION in the 1186 Docket and page 35 of the ORDER AFTER RECONSIDERATION in the 1185 Docket.

On June 30, 1994, the Department filed its report.

On July 29, 1994, NSP Gas filed reply comments.

On February 2, 1995, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

A. Commission Directive

In its Orders after reconsideration in both rate cases, the Commission stated that it agreed with the Company and the Department that a single report should be filed on the purchasing and contracting practices of the electric and the gas utilities. The Commission noted that the issues would be identical and the same Company personnel would be involved in both the purchasing practices and facilitating the report.

The Commission, therefore, directed the Department to report on the Company's purchasing policies, procedures, and compliance within six months of the date of the ORDER AFTER RECONSIDERATION in the gas rate case. See page 20 of the ORDER AFTER RECONSIDERATION in the 1186 Gas Rate Case Docket and page 35 of the ORDER AFTER RECONSIDERATION in the 1185 Electric Rate Case Docket.

B. The Department's Report

The Department reviewed NSP's purchasing and contracting practices based on information obtained in the rate case. As a result of that review, the Department raised the concern (as it did in the rate case) that the Company rarely seeks competitive bids for goods and services, and when bids are taken, the Company rarely takes the low bidder, or even the second lowest bidder.

The Department also reviewed the two purchasing and policy manuals provided by NSP during the rate case: Purchasing Department Policy and Procedures Manual (Manual) and the Power Supply Procurement Index of Guides (PSPd Guides). The Department stated that it took no exception to any of the Company's policies and procedures, as stated in the Manual and PSPd Guides.

The Department stated that the core of its review of NSP's purchasing and contracting practices was its examination of contract documents provided by the Company during the rate cases. The Department reviewed contracts for O&M expenses for both the electric and gas utility through randomly selected O&M transactions. In summary, the Department noted that nothing in the documents reviewed suggested that NSP is in violation of its own purchasing policies, although these do allow for a certain amount of flexibility.

Nevertheless, the Department stated that it continued to have concerns with NSP's purchasing practices and recommended that the Commission order the Company to include in its next general Electric and Gas rate filings some testimony describing the steps it takes to minimize contract-related costs, consistent with the need to obtain high-quality and reliable service. The Department stated that because the Commission required the Department to prepare its Report using only information previously provided by NSP, it was unable to augment the critique that it had raised during the rate cases by doing additional discovery.

C. NSP's Response

NSP stated that the Department merely rehashed its rate case testimony and that the Company had provided rebuttal in the rate cases for each of the Department's allegations of improper purchases. NSP asserted that the Department's conclusions about NSP's purchasing policies and practices do not demonstrate a condition that requires any additional filing requirements for the next general rate application.

In sum, the Company requested that the Commission accept the Department's report, find that NSP is in compliance with its stated purchasing policies and procedures, reject the suggestion for further testimony as a filing requisite for the next electric and gas rate case as unnecessary, and close this docket.

D. Commission Evaluation of the Department's Report

The Department's Report does not fully meet the Commission's directives and will not be accepted. In the rate case, the Department drew a proper distinction between NSP's purchasing policies and its practices and indicated that its concern is whether the Company's practices are consistent with its policies. The Commission understood that concern in authorizing this report and consistently (in four separate Orders¹) indicated that it wanted information regarding the Company's purchasing practices.

To support its belief that it was prevented from doing discovery to examine the Company's practices, the Department relies on Ordering Paragraph 8 in the September 29, 1993 FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER in the Electric Rate Case (Docket No. E-002/GR-92-1185). The Commission does not view this language as preventing the Department from doing discovery regarding the Company's implementation of its purchasing policies. It merely indicates that the analysis is to be made with reference to the Company's policy manuals.

If the Department perceived a discrepancy between that language and the language in the text of the Order (see page 38) or the parallel Ordering Paragraph 7 on page 71 of the Gas Rate Case Order, the Department could have requested clarification in its Petition for Reconsideration. It did not do so.

Moreover, any ambiguity which the Department may have seen regarding what the Commission intended regarding this report should have been resolved by the controlling (most recent) Order in the electric rate case, the ORDER AFTER RECONSIDERATION issued January 14, 1994. In that Order at page 31, the Commission characterized its action on this issue in the gas and electric rate cases as follows:

In the September 1, 1993, gas rate case final Order, the Commission ordered the Company to file a report on its purchasing *practices* and procedures within six months of the date of the Order. The Company was told to work with the Department in setting the criteria for the report.

In the September 29, 1993, electric rate case final Order, the Commission directed the Department to analyze NSP's purchasing *practices*, beginning with the Company's Purchasing Department Policy and Procedure Manual. The Commission ordered the Department to report on NSP's policies, procedures and compliances within six months of the date of the Order.

The Commission then addressed the one issue identified by the parties in both dockets on this subject: the Commission made a change, directing one unified report prepared by the Department rather than two reports, one by the Department in the electric docket and one by the Company in the gas docket.

The scope of the reporting, however, remained unchanged and explicitly included more than an evaluation of the Company's policies. The Commission directed the Department to submit a report on NSP's "purchasing policies, procedures, and compliance." See ORDER AFTER RECONSIDERATION in Docket No. 1185, Ordering Paragraph 6 on page 35 (January 14, 1994) and ORDER AFTER RECONSIDERATION in Docket No. 1186, Ordering Paragraph 9 on page 20 (December 30, 1993).

E. Remaining Areas of Concern

¹ The FINDINGS OF FACT Orders in both dockets and the Orders after reconsideration in both dockets.

During the rate case deliberations, five questions regarding purchasing practices and procedures were raised:

1. How does NSP determine which items are let for bid?
2. How does NSP determine potential bidders?
3. How does NSP select which vendors to ask for a bid out of the total number of potential bidders?
4. How does NSP evaluate the bids and determine to whom to award the bid?
5. If a purchase is not let for bid, how does NSP determine the potential suppliers?

Regarding the first question, NSP's Purchasing Manual lists the factors to be used by the Company in making this determination. Because this is not an area where practice is likely to depart from the policy in any major respect, the Commission views this question as adequately addressed.

However, with respect to the other questions, the Commission believes that information regarding the Company's actual practice should be furnished. The Company has offered to provide that information and the Department agrees that it will be most efficient at this point for the Company to provide that information directly. The Commission will so order.

ORDER

1. The Department's Report regarding NSP's purchasing and contract practices is not accepted.
2. Within 90 days of the date of this Order, NSP is requested to file a report containing the answers to questions 2 through 5 listed above on page 4 of this Order.
3. Within 30 days after receipt of NSP's report, the Department is requested to file comments.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)