

May 8, 1995

DOCKET NO. E-999/CI-95-135

ORDER DETERMINING SCOPE OF INVESTIGATION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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In the Matter of an Investigation into
Structural and Regulatory Issues in the
Electric Utility Industry

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FILINGS

PROCEDURAL HISTORY

At a meeting held February 16, 1995, the Commission directed its Staff to develop the scope of an investigation of the structural and regulatory issues currently facing the electric industry.

On April 20, 1995, the Commission Staff's recommendations came before the Commission at its weekly energy agenda meeting. At that meeting the Commission determined the scope of the investigation and the basic procedure for the investigation.

FINDINGS AND CONCLUSIONS

I. SUMMARY OF THE COMMISSION ORDER

In this Order the Commission will discuss the forces which are currently driving the electric utility industry toward change. The discussion will include some major alternatives being contemplated by advocates of industry change.

The Commission will briefly discuss the regulatory and structural status of the electric utility industry in Minnesota. Viewing the current status of the Minnesota electric utility industry against the forces for change in the industry as a whole, the Commission will draw conclusions regarding the manner in which possible change should be approached in Minnesota.

With this framework in mind, the Commission will initiate the investigation of the structural and regulatory issues currently facing the electric industry in Minnesota. In this Order the Commission will discuss the scope of the investigation and the process it anticipates as the investigation progresses.

II. SOME FORCES FOR CHANGE IN THE ELECTRIC INDUSTRY

The electric utility industry has traditionally been characterized by large, vertically integrated companies providing economies of scale and scope. These companies are considered natural monopolies and are therefore subject to extensive state and federal economic regulation.

Recently, certain changes in the technological, political, legal and economic characteristics of the electric industry have combined to stimulate change in its structure and regulation.

Changes in technology and new manufacturing efficiencies have encouraged smaller units of power production. Such new technologies as gas and wind turbines, fuel cells, photovoltaics, and advanced coal combustion have in many cases supplemented or replaced the large generation plants of the traditional, vertical electric utility.

Passage of the Energy Policy Act of 1992 (EPACT) has also propelled change in the electric industry. EPACT has allowed a more competitive and less vertically integrated electric power industry to develop. EPACT has lifted barriers to the development of wholesale power facilities and expanded the Federal Energy Regulatory Commission's authority to order transmission access under a wide range of conditions.¹

Recent years have seen a growth in the independent power production (IPP) industry. IPPs, which own and operate electric generating facilities but have no transmission facilities or retail customers, are a force for change in the electric industry. Because IPPs have limited ability to market their power, they seek less traditional regulation of their generation and sales of power. IPPs seek more flexible pricing and a more varied marketplace for their power.

These and other changes in the electric utility industry have set the stage for possible changes in regulation and structure.

¹ Although EPACT has facilitated a more competitive electric industry, it has also brought about greater use of integrated resource planning-- a trend which calls for more governmental planning and less reliance on market force for future development.

III. TRENDS IN THE ELECTRIC UTILITY INDUSTRY

Most voices for change in the electric utility industry advocate a move toward more competition. Forces for competition place special emphasis upon the wholesale generation sector, believing that competition will bring about operating efficiencies not present under the current structure.

In exploring possible change in the structure and regulation of the electric industry, however, one must remain aware that open competition is one part of a continuum of possible change. The continuum extends from the traditional, vertical utility monopoly to a fully deregulated, fully competitive market. There may be points on the continuum which prove in some instances more useful than open competition, and other points which may be useful in conjunction with competition.

Two examples of possible directions for the electric industry are integrated resource planning (IRP) and performance-based ratemaking (PBR). IRP, which is not yet fully developed in the industry, can promote public evaluation of electric utility planning and prevent planning mistakes which can lead to plant cancellations and regulatory disallowances. PBR, which is fairly new to the industry, can provide incentives to companies to achieve efficiencies in areas directly related to the construction and operation of generation, the procurement of power, and the delivery of energy services to the consumer.

Any regulator seeking guidance for possible changes in the electric industry must remain open to these and other possible new directions. They are some of the means available to pursue the ultimate goal of providing safe, reliable service to customers at the lowest possible economic and environmental cost.

IV. MINNESOTA'S ELECTRIC INDUSTRY

In general, Minnesota's electric industry is a healthy one. Few of the situations driving change on the east and west coasts are present in Minnesota. Unlike utilities on the coasts, Minnesota electric utilities for the most part are not charging high energy prices, or experiencing the consequences of excess capacity or long-term, unfavorable power contracts.

In Minnesota the electric utilities have a favorable mix of low-cost fuels from which to choose. The state has long fostered a progressive environmental policy, placing the electric utilities "ahead of the curve" on compliance with the Clear Air Act Amendments of 1990. The utilities have for the most part exercised careful planning and have experienced few plant cancellations or regulatory disallowances.

To date, Minnesota's electric industry has largely followed the traditional, vertically-integrated monopoly model. In recent years, the Minnesota legislature and Public Utilities Commission have carefully explored certain changes to the traditional structural and regulatory environment.

Since the late 1980's, the legislature has granted the Commission the discretion to allow new rate forms such as area development rates, and competitive rates for electric utilities. In several cases the Commission has made decisions which moved beyond traditional regulation. The Commission has instituted competitive bidding for new generation, launched a Chairman's Roundtable on incentive regulation, and approved a competitive market rider.

Minnesota is now in the favorable position of possessing a healthy electric industry, offering low prices and sound environmental standards, which has remained open to recent regulatory developments. Minnesota regulators, industry interests and intervenors have the opportunity to study possible changes in the industry, to observe other jurisdictions, and to decide what, if any, structural and regulatory changes would benefit Minnesota's electric utility industry. Because the Minnesota electric industry is not problem-driven, Minnesota has the opportunity to continue its strong tradition of electric service while remaining open to any changes which could improve the system.

V. INITIATING THE INVESTIGATION

Against this backdrop, the Commission is commencing its investigation of possible structural and regulatory changes in the electric industry. The Commission hopes to achieve two main goals through this investigation. First, the Commission will use this opportunity to examine its own policies regarding electric utility regulation. This examination should help the Commission determine how its current regulatory authority should be exercised in light of any changes in the overall industry. Second, the investigation will provide an opportunity for all stakeholders to discuss possible industry changes. A public forum for the exchange of ideas by regulators, utility interests, and intervenors should provide helpful guidance to the Commission as it examines possible directions for the Minnesota electric industry.

Because electric industry change may occur through coordination on the local, state, regional, and national levels, the Commission will not confine its investigation to actions it can effect on its own. To obtain the maximum benefit from the investigation, the Commission welcomes comments on every aspect of the overall process of industry change.

VI. THE INVESTIGATORY PROCESS

The Commission will commence the investigation by requesting written comments from interested parties regarding issues of change in the electric industry. See Attachment A. All Minnesota investor-owned electric utilities will be required to respond; any other interested party may respond as well.

Initial comments will be served only on the Commission. Following receipt of the comments, the Commission will compile a service list of commenting parties and will serve notice of the list upon all commenting parties. From that point, all comments must be filed upon all parties on this service list.

After a reply period, Commission Staff will summarize and compile comments for the

Commission's review. The Commission will then provide an opportunity for commenting parties to address the Commission.

At this point in the process, the Commission will have a clear picture of the shape of the investigation. The Commission will then determine the further steps the investigation should take. Possibilities include further public hearings, the formation of a working group, and the development of legislative proposals.

ORDER

1. Within 60 days of the date of this Order, all investor-owned electric utilities shall respond to the questions listed in Attachment A. Other interested parties may respond to any or all of the questions. Commenting parties may also comment on any other issues which they believe will assist in developing the record.
2. Initial comments shall be served only on the Commission. Within ten days of the receipt of a notice of service list from the Commission, commenting parties shall serve their initial comments on all parties on the service list.
3. Any interested party who did not file initial comments may view the public record of this proceeding on file at the Department of Public Service, or obtain copies of comments from the Department at the Department's usual charge.
4. Within 40 days of the date of the notice of service list, parties wishing to respond must file their comments with the Commission and serve them on all parties on the service list.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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