

ISSUE DATE: January 10, 1996

DOCKET NO. G-008/CI-94-675

DOCKET NO. E-002/M-94-925

ORDER REQUIRING FILING

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Joel Jacobs	Chair
Tom Burton	Commissioner
Marshall Johnson	Commissioner
Dee Knaak	Commissioner
Don Storm	Commissioner

In the Matter of a Low Income Residential
Pilot Project for Minnegasco

ISSUE DATE: January 10, 1996

DOCKET NO. G-008/CI-94-675

In the Matter of the Petition of Northern States
Power Company to Establish an Electric Rate
Discount for Certain Low-Income Electric
Customers

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PROCEDURAL HISTORY

Statutorily Required Pilot Low-income Residential Rate Program

In 1994, the Minnesota legislature added subdivision 15 to Minn. Stat. § 216B.16. The new statutory subdivision required the Commission to order a low income residential rate pilot program for at least one utility, to be implemented by January 1, 1995.

On August 2, 1994, the Commission issued its ORDER SELECTING MINNEGASCO FOR A PILOT PROGRAM AND REQUIRING EXPEDITIOUS COLLABORATIVE ACTION. In that Order the Commission selected Minnegasco to implement a low-income residential pilot program. The Order stated that Commission Staff would design a proposed pilot program for Commission review and approval. The Commission ordered Minnegasco, Northern States Power Company (NSP), the Department of Public Service (the Department), the Residential Utilities Division of the Office of the Attorney General (RUD-OAG), and other interested parties to work in a collaborative process, under the direction of Commission Staff, to design a proposed pilot program.

In August and September, 1994, Commission Staff held a series of meetings with a work group comprised of low-income utility customers, the Energy CENTS Coalition (Energy CENTS), Community Action Program (CAP) agencies, Salvation Army/HeatShare, St. Paul Neighborhood Energy Consortium, the Minnesota Department of Economic Security, the Department, the RUD-OAG, NSP, and Minnegasco. The work group focused on low-income discount proposals by Energy CENTS and Minnegasco, as well as a wide range of issues touching on low-income discounts.

Following the close of the collaborative meetings and submission of written comments by HeatShare, Ms. Cyd Holland, Minnegasco, the Department, and Energy CENTS, the Staff proposal for Minnegasco's pilot low-income program came before the Commission for consideration on November 10, 1994.

On December 2, 1994, the Commission issued its ORDER ADOPTING PILOT PROGRAM AND REQUIRING FURTHER FILINGS in Docket No. G-008/CI-94-675. In its Order, the Commission adopted a proposal for a pilot low-income program to be administered by Minnegasco. The Pilot Program is available to 3,000 low-income customers that participate in the State's Energy Assistance Program (EAP)¹ and includes a straight 30 percent discount to the customer's bill. Ordering Paragraph 5 of the Order required Minnegasco to prepare and submit a proposal for extending eligibility for the discount program beyond participation in the EAP. Minnegasco was also required to discuss the reasons why 60 percent of income eligible customers do not apply for Energy Assistance.

NSP's Statutorily Required Low-Income Discount

In 1994, the Minnesota legislature enacted Minn. Stat. § 216B.16, subd. 14. This statutory subdivision requires any public utility with more than 200,000 residential electric service customers to provide a 50 percent electric rate discount on the first 300 kWh consumed in a billing period by a low-income residential customer. The statute defines a "low-income" customer as one who is receiving assistance from the federal low-income energy assistance program (EAP).

On October 5, 1994, Northern States Power Company (NSP), a Minnesota public utility with more than 200,000 residential electric service customers, submitted a proposed low-income electric rate discount as required by the statute.

On November 2, 1994, the Department filed comments regarding NSP's proposed low-income discount.

On November 4, 1994, the Residential Utilities Division of the Office of the Attorney General (RUD-OAG) filed comments.

On November 14, 1994, NSP filed reply comments.

On January 11, 1995, the Commission issued its ORDER APPROVING LOW-INCOME DISCOUNT PROPOSAL WITH MODIFICATIONS in Docket No. E-002/M-94-925. In its Order, the Commission approved Northern States Power Company's (NSP) proposal, but restricted eligibility for the rate to customers who have received LIHEAP funding in the current fiscal year². Minn. Stat. § 216B.16, subd. 14, (1994) required NSP to establish a low-income electric discount for its customers that receive LIHEAP funding. Finally, the Commission's Order also required NSP to work with Minnegasco to examine alternatives to

¹ The Energy Assistance Program (EAP) is the State of Minnesota's Program for administering funding from the Low-Income Heating Energy Assistance Program (LIHEAP), a federal program which disburses energy assistance funds to the states. EAP is a division of the Department of Economic Security.

² NSP originally proposed to certify customers on its own if a customer became eligible for or applied for LIHEAP assistance after the LIHEAP application period for the year had ended.

the Energy Assistance Program for eligibility determination and submit a proposal on or before June 30, 1995.

Jointly Filed Compliance Filing

On June 30, 1995, Minnegasco and NSP (the Companies) submitted a joint report as a compliance filing to the Commission's above-cited December 2, 1994 and January 11, 1995 Orders. See Docket Nos. G-008/CI-94-675 and G-002/M-94-925, respectively.

On August 7, 1995, Energy CENTS filed comments.

On December 21, 1995, the Commission met to consider these matters.

FINDINGS AND CONCLUSIONS

A. Commission Filing Directives Foster Collaboration

In its December 2, 1994 Order in Docket No. G-008/CI-94-675, the Commission directed Minnegasco to work with interested parties (including NSP) to prepare and submit a proposal for extending eligibility for the low-income discount program beyond those who participate in the LIHEAP. The Commission specified that Minnegasco's proposal should contain a discussion of reasons that 60 percent of income eligible customers do not apply for energy assistance and that the report should be filed on or before June 30, 1995. See Ordering Paragraph 5.

In its January 11, 1995 Order in Docket No. E-002/M-94-925, the Commission recalled the collaborative effort that it had initiated in its December 2, 1994 Order in Docket No. G-008/CI-94-675. The Commission cited its directive in that Order that Minnegasco, working with other interested parties, submit a proposal for extending program eligibility beyond those participating in the Energy Assistance Program. The Commission observed that since NSP and Minnegasco are each initiating low-income rate programs, and are faced with similar issues regarding certification, it would be mutually beneficial for the utilities to pool their research on certification. Accordingly, the Commission ordered NSP to work with Minnegasco to examine alternatives to EAP certification for determining eligibility for NSP's low-income discount and submit an eligibility proposal to the Commission on or before June 30, 1995. See Ordering Paragraph 1b of the Order.

B. The Companies' Joint Filing

In their June 30, 1995 joint filing, the Companies' reported on their collaborative efforts. The Companies stated that they had adopted the following goals:

- ◆ to verify the claim that 60 percent of customers eligible for energy assistance do not apply for it and
- ◆ to examine alternative LIHEAP qualifications as eligibility for low-

income discount programs

The Companies reported that they invited several representatives from community action agencies, state agencies, and other interested groups to three meetings to discuss the various alternatives to the LIHEAP qualification process.

The issues addressed at the meetings included why many income eligible customers don't apply for assistance and what other programs and qualification processes or eligibility criteria are available.

The Collaborative identified several assistance programs, both privately and publicly funded. The Companies reported 1) that the Collaborative discussed the merits of the qualification process used in each such program based on ease of application, cost, simplicity of administration and whether or not a program and its process were effective for targeting energy assistance to those who need it and 2) that their initial examination of the programs suggested a wide variety of potential qualification processes as well as an extensive communications network available to reach persons eligible for assistance.

The Companies' joint filing also contained an individual proposal from each of the companies, as follows:

Minnegasco's Proposal to Maintain the Pilot Program As Is

Minnegasco proposed that the Commission maintain the current size (3,000 participants annually) and current eligibility criteria of the existing pilot project for three reasons:

First, Minnegasco stated that it intended to report on a variety of potential effects of the discount and argued that changing the eligibility criteria one year into the three-year program would complicate the understanding and effectiveness of the results of the project.

Second, Minnegasco argued that changing the eligibility criteria would complicate the understanding and effectiveness of the results because some of the newly eligible persons may be receiving other forms of assistance and may be reluctant to divulge that information to Minnegasco.

Third, Minnegasco stated that the current participant selection mechanism (random selection from proportionate pools selected by the relevant assistance agencies) provides participant representation from the whole group of low-income customers on a non-discriminatory basis. More expansive eligibility criteria would jeopardize the equity of that system.

NSP's Proposal to Change the Eligibility Criteria for its Discount Rate

NSP's proposal is very similar to the proposal rejected by the Commission in its January 11, 1995 Order in Docket No. E-002/M-94-925. Prior to that Order, NSP proposed that it be allowed to determine rate eligibility on its own once a customer became eligible for or applied for the LIHEAP assistance after the application period for the year had ended. In its compliance filing, NSP proposed the following:

1. Customers receiving assistance and whose income level is at or below 135 percent of the federal poverty level and have been certified by the administering agency would be eligible for the low-income discount rate.
2. NSP would certify customers' eligibility for the discount during the months of May through September.
3. The discount for these customers would commence with the billing cycle subsequent to certification by the Company.
4. All other administrative procedures for the low-income program would remain intact.

C. Comments of Energy CENTS Coalition

Energy CENTS complained that the Collaborative established by Minnegasco and NSP gave no serious consideration to expanding the eligibility for the Companies' discount programs beyond recipients of LIHEAP. Energy CENTS reported 1) that Minnegasco was willing to consider allowing customers who don't receive federal energy assistance to be eligible for the discount, but only if the current limit of 3,000 customers was maintained and 2) that NSP's position on expanding the eligibility for its discount included only certifying and offering the discount in the summer months to people who were eligible for LIHEAP but who, for whatever reason, did not receive it during the program year.

Energy CENTS argued that the Companies' filing missed the opportunity to discuss energy assistance beyond the LIHEAP context and appeared oblivious to the fact that proposals to cut funding to LIHEAP may have a significant impact upon the Companies' current discount rate programs.

Energy CENTS recommended that the Commission

1. support statutory changes to current laws (Minn. Stat. 216B.16, subd. 14) that require LIHEAP assistance in order to qualify for the discounts and instead reflect the income eligibility limit for LIHEAP;
2. ask the Companies to develop and propose methods to actually expand their programs and what they intend to do with the significant change in LIHEAP funding and whether they are meeting their expected number of participants; and
3. allow NSP to determine eligibility during the summer months.

D. Commission Analysis and Action

1. Minnegasco's Proposal: Status Quo for the Pilot Project

The Commission has discretion under Minn. Stat. § 216B.16, subd. 15 (1995) to alter the pilot program in several ways such as, to increase its size, alter the eligibility criteria, etc. However, the purpose of the pilot program is to determine the economic efficiency of offering discounted rates for low-income persons, thereby improving their actual payment record and saving the company arrearage and shut-off related customer service expenses. The Commission finds that altering the parameters of the experiment at this point (one year into the three year program) would unnecessarily complicate (at best) and more likely seriously jeopardize the usefulness of the pilot. In these circumstances, the Commission will not change any aspect of the pilot at this time.

2. NSP's Proposal to Include Customers Who Qualify for But Do Not Receive LIHEAP

In its January 11, 1994 Order the Commission found that the statute in question (Minn. Stat. § 216B.16, subd. 14) does not provide NSP with the discretion to include customers who are not receiving LIHEAP assistance. See Order at page 4. The Commission finds no reason to alter this view of the statute.³ In short, NSP is precluded, by terms of the statute, from expanding the eligibility for its discount beyond recipients of LIHEAP. Accordingly, this aspect of NSP's proposal is not approved.

3. The Companies' Report on Eligibility Determination Options

In its December 2, 1995 Order approving a pilot project for Minnegasco, the Commission indicated its concern "that only about 40 percent of those eligible for EAP grants choose to participate in that program. As a result, many customers who are eligible to participate in the

³ Minn. Stat. § 216B.16, subd. 14 (1994) requires that customers must be "receiving assistance from the federal low-income home energy assistance program" in order to be eligible for the low-income discount authorized under the statute.

pilot program based upon income criteria will not be eligible due to nonparticipation in EAP.” Order at page 5. The Commission therefore directed Minnegasco to work with Commission Staff, Energy CENTS, and all other interested parties to develop a proposal for extending future program eligibility beyond EAP participation. Order at page 5.

Also, in its January 11, 1994 Order approving NSP’s low-income discount, the Commission expressed its concern with NSP’s proposal to certify eligibility on its own during the months (May through September) when EAP applications are not being accepted. The Commission denied the Company’s proposal and directed NSP “to work with Minnegasco to examine alternatives to EAP certification for determining eligibility for NSP’s low-income discount.” Order at page 4.

The Companies’ compliance report suggested that the Companies have already collected much of this information. Unfortunately, the Companies have provided very little of that information to the Commission. There is no specific information in the Report on the programs the utilities examined.

The Commission finds that the Companies should provide more information on this subject. First, after the pilot project has been completed and evaluated the Commission may decide to expand the low-income discount to reach more low-income customers. Equity suggests that it is important to find ways to increase the percentage of eligible customers actually receiving the rate over the current percent level. Second, funding for LIHEAP will likely be reduced and/or the program could be eliminated. If either of these occur, the effect will be to make the current method of determining eligibility even less effective, while at the same time increasing the need of low-income customers for a rate discount. It may be appropriate to find or develop an alternative to LIHEAP eligibility given the uncertainties surrounding its funding.

Accordingly, the Commission will direct the Companies to provide a more detailed report on the options available for determining eligibility for their discount program. The additional information will include, at a minimum, answers to the following:

1. Which programs were examined?
2. What level of income is used to determine eligibility for each of the programs?
3. How is income calculated by each of the programs?
4. How many people participate in the program?
5. How often is a person certified within the program?
6. What is the annual turnover among recipients?

7. What is the potential for coordinating eligibility between the various programs and the utilities?
8. What level of participation among the eligible customers was achieved?
9. What methods or approaches were used to increase the percentage of eligible customers participating in the discount rate program?

4. Energy CENTS' Recommendations

As stated above, Minn. Stat. § 216B.16, subd. 14 (1995) restricts eligibility for the low-income discount authorized under that statute to customers actually receiving LIHEAP. Energy CENTS' recommendation that NSP be allowed to determine customers' eligibility during the summer months without regard to whether they have actually received LIHEAP, therefore, cannot be approved.

Also, Energy CENTS' recommendation that the Commission support certain statutory changes to current laws to expand the use of low-income discount rates goes beyond the scope of these dockets that have been opened to implement specific legislation:

- ▶ In Docket No. G-008/CI-94-675, the subject at hand is the implementation of a pilot program, mandated by specific legislation, offering a rate discount to a selected group of low-income customers. Minn. Stat. § 216B.16, subd. 15 (1994).
- ▶ In Docket No. E-002/M-94-925, the Commission is overseeing implementation of a low-income discount rate that has been designed and mandated by the Minnesota legislature. Minn. Stat. § 216B.16, subd. 14 (1994).

The Commission notes that Energy CENTS continues to raise a very large and important issue: assistance for low-income customers in support of their ability to pay for basic heating utility service. In general, however, the Commission's role with respect to social programs (such as energy assistance) is to respond to legislative direction and leadership. This is particularly appropriate in this case because the legislature has undertaken some action in this regard, as evidenced by the legislation referred to above. Therefore, Energy CENTS' recommendation will not be accepted in this Order.

Finally, the Commission will also reject Energy CENTS' recommendation that the Companies be required to suggest methods to actually expand their programs and to respond to the significant change in LIHEAP funding. The Commission wishes to underline that the problem being addressed here (assistance for low-income customers in support of their ability to pay for basic heating utility service) exceeds the scope of these dockets and, just as important, is not the sole or primary responsibility of the Minnesota gas utility companies. The Commission wishes to underline its view that this is a societal problem that will require a comprehensive approach and will benefit from legislative direction.

At the same time, however, the Commission is aware of the potential technical support that it can provide the legislature related to completion and possible future expansion of the

initiatives already taken by the legislature. Minn. Stat. § 216B.16, subds. 14 and 15 (1994). Accordingly, the Commission will direct the Companies to complete their joint report by providing the information stated previously at page 8 of this Order.

ORDER

1. Within 30 days of this Order, Minnegasco and NSP shall complete their compliance filing responsibilities under the Commission's December 2, 1994 and January 11, 1995 Orders in Docket Nos. G-008/CI-94-675 and E-002/M-94-925, respectively, by providing a more detailed report on the options for

- ◆ determining eligibility for their discount programs and
- ◆ achieving a higher rate of participation in a low-income discount rate program than is currently achieved under LIHEAP.

Specific questions that the filing should respond to are listed above on page 8 of this Order.

2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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