

DOCKET NO. E-002/M-96-340

ORDER ACCEPTING CIP ADJUSTMENT AND DSM FINANCIAL INCENTIVE REPORT

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Joel Jacobs  
Marshall Johnson  
Dee Knaak  
Don Storm

Chair  
Commissioner  
Commissioner  
Commissioner

In the Matter of Northern States Power  
Company's Petition for Approval of Its  
Electric Utility 1996 CIP Adjustment and  
1995 DSM Financial Incentive

ISSUE DATE: July 24, 1996

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**PROCEDURAL HISTORY**

On April 1, 1996, Northern States Power Company (NSP or the Company) filed its proposed 1995 Conservation Improvement Program (CIP) adjustment and its demand side management (DSM) financial incentive report.

On May 9, 1996, the Department of Public Service (the Department) filed comments recommending approval of the Company's filing.

On May 13, 1996, certain NSP customers filed comments recommending denial of NSP's request for a CIP adjustment. The customers included Land O' Lakes, Manildra Milling Corporation, North Star Steel, and United Defense LP (Land O' Lakes et al.).

On May 23, 1996, NSP and the Department filed reply comments.

The matter came before the Commission for consideration on July 3, 1996.

**FINDINGS AND CONCLUSION**

**I. THE COMPANY FILING AND DEPARTMENT RESPONSE**

NSP's filing included its 1995 DSM financial incentive report, a request to include its financial incentives in the CIP tracker balance, and a request to increase its CIP adjustment rate from 2.45 percent to 3.49 percent to reflect expected CIP costs for 1996.

The Department responded that NSP had correctly calculated its financial incentive, CIP tracker balance, and CIP adjustment. The Department recommended approval of the Company's filings, including the proposed 3.49 percent CIP adjustment. Commission approval of NSP's 1995 tracker balance would allow NSP to add \$7,282,107 in lost margins, a bonus return on equity of \$902,896, and associated carrying charges and taxes to its 1995 CIP tracker account.

## **II. COMMENTS OF LAND O' LAKES ET AL.**

Land O' Lakes et al. offered three reasons that NSP's proposed CIP adjustment should be rejected: NSP's 1995 returns were excessive; NSP projects excessive returns for 1996; and granting the petition will result in piecemeal ratemaking.<sup>1</sup>

Land O' Lakes et al. argued that NSP's actual return on common equity in 1995 was 12.03 percent, or 56 basis points above the 11.47 percent authorized in the Company's latest rate case; NSP consequently over-recovered \$11 million in revenue in 1995.

In addition, NSP projects a 1996 rate of return on its common equity of 12.73 percent, which exceeds by 1.26 percent the latest rate of return allowed by the Commission. Land O' Lakes et al. argued that this disparity would result in an over-recovery of \$25,424,620 in 1996.

Land O' Lakes et al. noted that Minn. Stat. § 216B.16, subd. 6 (b) is permissive -- it allows, but does not require, the Commission to permit public utilities to recover their energy conservation improvement costs annually. Because annual cost recovery is not required, and because the Company has been overearning and will continue to do so, the Commission should reject NSP's proposed CIP adjustment. If the Commission does not reject the CIP adjustment entirely, it should reduce it from 3.49 to 1.02 percent. While the 3.49 percent adjustment would fully recover the \$51.4 million which will remain in the Company's 1996 year-end CIP tracker balance, the 1.02 percent adjustment would reflect the \$15 million which would remain after NSP's \$36.4 million over-recovery is subtracted from the tracker balance.

Land O' Lakes et al. also argued that NSP's request for a CIP adjustment constitutes piecemeal ratemaking. If the Company wishes to include its CIP adjustment in rates, it should do so in the context of a general rate filing.

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<sup>1</sup> Land O' Lakes et al. noted that its comments addressed only the Company's proposed CIP adjustment. While not commenting on NSP's DSM financial incentives or CIP tracker accounting, Land O' Lakes et al. stated that it did not necessarily endorse the Company's position on these issues.

At the July 3, 1996 Commission meeting, Land O' Lakes et al. noted that the Commission is currently investigating NSP's rates in the NSP/ Wisconsin Energy Corporation merger proceeding, Docket No. E-002/PA-95-500. Land O' Lakes et al. argued that a rate decrease greater than the current CIP adjustment could emerge from the merger proceeding. Land O' Lakes et al. therefore asked the Commission to defer consideration of the CIP adjustment to the merger docket.

### III. THE DEPARTMENT'S REPLY

The Department stated that the Minnesota legislature guarantees recovery of CIP-related expenses. Approval of a CIP adjustment does not affect the level of the CIP expense recovery, but the timing of that recovery. CIP cost recovery and the annual adjustment are specifically governed by statute and cannot be considered piecemeal ratemaking.

The Department argued that the CIP adjustment should not be tied to the Company's earnings. Minn. Stat. § 216B.16, subd. 6 (b) guarantees recovery of approved CIP expenditures, regardless of other factors.

The Department also noted that a single-year return on equity increase of less than one percent would not warrant an earnings investigation.

### IV. COMMISSION DECISION

The Commission agrees with the Department that NSP's DSM financial incentive report, CIP tracker accounting, and CIP adjustment report are appropriate and should be accepted.

Minn. Stat. § 216B.16, subd. 6 (b) provides a clear legislative directive that the costs of a utility's energy conservation improvements may be recovered by the utility. The statute does not link the recovery to the utility's earnings:

**Energy conservation improvements.** All investments and expenses of a public utility as defined in section 216B.241, subdivision 1, paragraph (d), incurred in connection with energy conservation improvements shall be recognized and included by the commission in the determination of just and reasonable rates as if the investment and expenses were directly made or incurred by the utility in furnishing utility service. The commission may permit a public utility to file rate schedules providing for annual recovery of the costs of energy conservation improvements.

The Commission's Orders, including those approving NSP's establishment of DSM financial incentives and CIP tracker account, have followed the legislative mandate to allow conservation cost recovery, regardless of utility earnings. Land O' Lakes et al. has produced no evidence that this longstanding policy of the legislature and Commission should be reversed, allowing the CIP tracker account to be used as a "true-up" mechanism to adjust utility earnings.

The Commission also notes that a utility's earnings will often vary from the rate case test year levels. As NSP pointed out in its reply comments, Land O' Lakes et al. ignored the fact that

NSP reported earnings below authorized levels in the years 1993 and 1994. This fact further supports NSP's and Department's argument that the CIP recovery process was not meant as an earnings true-up mechanism.

The Commission also finds that the language of Minn. Stat. § 216B.16, subd. 6 allowing the Commission to permit annual CIP cost recovery controverts Land O' Lakes' assertion that recovery of CIP costs outside of a rate case is piecemeal ratemaking. Clearly, the legislature believed that removing conservation disincentives was a desirable goal justifying CIP cost recovery outside of a rate case proceeding.

Finally, should Land O' Lakes et al. remain concerned regarding NSP's earnings level, the Commission notes that Minn. Stat. § 216B.17 provides a mechanism to file a complaint with the Commission. The Commission finds no need to defer consideration of NSP's CIP cost recovery to the NSP merger docket.

### **ORDER**

1. The Commission accepts NSP's April 1, 1996 report and approves the Company's proposed CIP adjustment of 3.49 percent.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

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