

ISSUE DATE: October 30, 1996

DOCKET NO. E,G-002/M-96-867

ORDER APPROVING TARIFF CHANGE AND SETTING REQUIREMENTS FOR
BILLING INFORMATION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Joel Jacobs
Marshall Johnson
Dee Knaak
Mac McCollar
Don Storm

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Petition of Northern States
Power Company to Modify Surcharge Riders
to Collect Franchise Fees from Electric and
Gas Customers in the City of St. Paul

ISSUE DATE: October 30, 1996

DOCKET NO. E,G-002/M-96-867

ORDER APPROVING TARIFF CHANGE
AND SETTING REQUIREMENTS FOR
BILLING INFORMATION

PROCEDURAL HISTORY

On July 30, 1996, Northern States Power Company (NSP or the Company) filed a petition seeking authority to revise its electric and gas tariff surcharge riders. If approved, the revised riders would allow NSP to implement a new franchise fee structure for the City of St. Paul (the City).

On August 29, 1996, the Department of Public Service (the Department) filed comments recommending Commission approval of the petition.

On September 5, 1996, NSP filed reply comments.

On September 9, 1996, the City filed reply comments.

The matter came before the Commission for consideration on October 10, 1996.

FINDINGS AND CONCLUSIONS

I. THE NSP PROPOSAL TO AMEND ITS SURCHARGE RIDER

A. Governing Statutes and Rule

NSP filed its petition pursuant to Minn. Stat. §§ 216B.16 and 216B.37 and Minn. Rules, part 7829.1300.

Minn. Stat. § 216B.16 governs utility rate changes, including the provisions for notice and Commission approval.

Minn. Stat. § 237.36 governs municipal regulatory and taxing powers. The statute provides in part:

Any public utility furnishing the utility services enumerated in section 216B.02 or occupying streets, highways, or other public property within a municipality may be required to obtain a license, permit, right or franchise in accordance with the terms, conditions, and limitations of regulatory acts of the municipality, including the placing of distribution lines and facilities underground. Under the license, permit, right, or franchise, the utility may be obligated by any municipality to pay to the municipality fees to raise revenue or defray increased municipal costs accruing as a result of utility operations, or both.

Minn. Rules, part 7829.1300 provides the procedure for Miscellaneous Tariff and Price List Filings.

B. Factual Background

For decades, NSP and the City of St. Paul have negotiated franchise fee agreements governing the provision of gas and electricity in the City. Under the terms of the agreements, NSP bills and collects franchise fees from its customers and remits the fees to the City each month.

This year the City enacted an ordinance authorizing a new ten-year gas and electric franchise agreement with NSP. The ordinance, which came into effect on July 1, 1996, will revise franchise structures effective November 1, 1996.

Under previous franchise structures, the fee has been based on a percentage of the customer's bill. In the new version, the structure of the franchise fee will mirror the structure of NSP's retail rates: the fee will include a per meter charge (like a customer charge), a per unit charge (like a demand charge), and a per KW charge (like a demand charge) when applicable.

The new fee arrangement will result in an increase in the franchise fees paid by residential and small C&I customers; the franchise fees paid by large customers will either decrease or increase slightly.

II. THE PARTIES' COMMENTS

A. NSP

NSP stated that the parties' franchise agreement provides a reasonable balance among the needs of the City, NSP, and NSP's customers. The arrangement also protects NSP from competitive disadvantage because it is supplier-neutral: the fee is based on metered NSP deliveries, not revenues, and is the same regardless of who supplies the electricity or gas. The new fees would therefore not encourage otherwise uneconomic bypass in a retail electric wheeling or gas aggregation service environment. NSP also stated that the new franchise fees would provide the City with revenue stability and would encourage conservation.

B. The Department

The Department looked at the impact of NSP's proposed surcharge rider on NSP's revenues and found it minimal. The Department declared that the surcharge would not discriminate against any party because all customers served under the same rate schedules would be assessed the same franchise fees. The Department found that the franchise fee structure properly balances the interests of interested parties. The proposed surcharge adjustment would have no impact on NSP's proposed rate freeze in NSP's ongoing merger proceeding, Docket No. E.G.-002/SA-95-500.

The Department concluded that the Commission should approve NSP's surcharge proposal based upon the Company's new franchise agreement with the City of St. Paul.

C. The City of St. Paul

The City stated that Minn. Stat. § 216B.36 provides clear and exclusive authority to the City to control franchises with utilities serving within its boundaries. The City noted that the franchise arrangement with NSP is the product of lengthy negotiations between the City and NSP. The approval of the franchise resulted from an open process, involving proper notice and a public hearing, before the City Council and Mayor. The Mayor and City Council are ready and willing to accept responsibility to the people of the City of St. Paul for approval of the agreement.

The City argued that the revised franchise agreement should be approved because it: 1) allows the City to regulate its rights-of-ways; 2) provides the City with a stable source of revenue; and 3) fosters rate predictability for customers. The City also argued that the franchise agreement will provide a moderate revenue increase which is more than justified by policy considerations.

III. COMMISSION ACTION

The City of St. Paul acted within its statutory authority in entering into a franchise agreement with the NSP gas and electric utility. As Minn. Stat. § 216B.36, states, "...the utility may be obligated by any municipality to pay to the municipality fees to raise revenue or defray increased municipal costs accruing as a result of utility operations, or both."

NSP properly reflected the terms of the new franchise agreement in its surcharge tariff. The Company acted correctly in bringing the proposed administrative tariff change before the Commission for approval.

The Department provided an analysis of the terms of the franchise agreement and resulting tariff change. The Department found that the proposed rate is just and reasonable, is not discriminatory, and is consistent with the public interest.

The Commission finds that all parties to this proceeding have acted within the bounds of their statutory and regulatory authority. The Commission will approve the proposed administrative change to the Company's tariff book.

At the same time, the Commission is concerned that NSP's ratepayers fully understand the consequences of the franchise fee change on their gas bills. Appropriate billing and ratepayer education are important parts of a regulated utility's service obligation. Proper billing format and ratepayer education are particularly important in this situation, in which a municipal tax is indirectly levied and collected through utility bills. In this case, the format of the bill and accompanying explanation will determine if the party paying the bill will be both an informed ratepayer and an informed citizen. The Commission has the duty to ensure that NSP fully and accurately represents the collection of the franchise fee on the utility bill.

The Commission will therefore require that the City of St. Paul franchise fee appear as a separate line item on NSP utility bills.¹ A billing insert with the first month's billing reflecting the change in franchise fee should note that the change in the franchise fee results from an agreement between the City and NSP, and indicate that the ratepayer can obtain a more complete explanation from the City. The Commission will require that the proposed billing insert be submitted to Commission Staff for approval before it is sent out.

¹ The Commission is aware that NSP is currently including the St. Paul franchise fee as a separate line item.

ORDER

1. The Commission approves NSP's July 30, 1996 petition seeking authority to reflect the revised St. Paul franchise fees in its electric and gas tariff surcharge riders.
2. NSP shall include the collection of the City of St. Paul franchise fee as a line item on its utility bills.
3. NSP shall include a billing insert with the first month's billing reflecting the change in franchise fees. The billing insert, which must be approved by Commission Staff, should note that the change in the franchise fee results from an agreement between the City and NSP, and indicate that the ratepayer can obtain a more complete explanation from the City.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (612) 297-4596 (voice), (612) 297-1200 (TTY), or 1-800-627-3529 (TTY relay service).