

ISSUE DATE: August 24, 2000

DOCKET NO. E-294,145/SA-98-66

**ORDER APPROVING SETTLEMENT AGREEMENT, REVISING SERVICE AREA
MAPS, AND REQUIRING FURTHER FILING**

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

**Gregory Scott
Edward A. Garvey
Joel Jacobs
Marshall Johnson
LeRoy Koppendrayer**

**Chair
Commissioner
Commissioner
Commissioner
Commissioner**

**In the Matter of the City of Preston's
Petition for Approval of an Adjustment of
its Service Area Boundaries with Tri-County
Electric Cooperative**

ISSUE DATE: August 24, 2000

DOCKET NO. E-294,145/SA-98-66

**ORDER APPROVING SETTLEMENT
AGREEMENT, REVISING SERVICE
AREA MAPS, AND REQUIRING
FURTHER FILING**

PROCEDURAL HISTORY

On January 12, 1998, the City of Preston (the City) filed a petition under Minn. Stat. § 216B.44 stating its intention to extend its assigned service area to include specified areas within its city limits annexed between 1986 and the present. All annexed areas lie within the assigned service area of Tri-County Electric Cooperative (Tri-County). The petition asked the Commission to adjust the City's service area boundaries to include these areas and to determine appropriate compensation to Tri-County for service rights within the areas.

On March 11, 1998, the Commission issued a Notice and Order for Hearing, referring the case to the Office of Administrative Hearings for contested case proceedings. The Administrative Law Judge deferred evidentiary hearings at the request of the parties, who hoped to negotiate a settlement agreement.

On June 1, 2000, the parties filed a settlement agreement with the Administrative Law Judge and the Commission. On June 26, 2000, the Department of Commerce, the only other party in the case, filed a letter stating that it had reviewed the settlement agreement and had no objection to it.

On June 30, 2000, the Administrative Law Judge (ALJ) filed her report and recommendation. The ALJ recommended that the Commission take the following actions:

- (1) approve the parties' settlement agreement;**
- (2) change the official service area maps to reflect the new service area**

boundaries established in the settlement agreement;

- (3) dismiss the contested case with prejudice when the settlement agreement receives final approval from the United States Rural Utilities Service, Tri-County's major lender.

On August 17, 2000, the matter came before the Commission.

FINDINGS AND CONCLUSIONS

Under Minn. Stat. § 216B.44 a municipal utility may acquire the right to serve any area within its city limits upon paying appropriate compensation to the assigned utility. If the two utilities are unable to agree on compensation, either utility may petition the Commission to set compensation. The Commission is to consider the original cost, less depreciation, of any utility property transferred, loss of revenue to the displaced utility, integration expenses, and "other appropriate factors." Minn. Stat. § 216B.44.

The Commission has examined the settlement agreement and concurs with the Administrative Law Judge that it resolves all issues in the case in compliance with Minn. Stat. § 216B.44. The agreement comports with the purposes and requirements of the Public Utilities Act; it is in the public interest; and it will be approved.

The Commission will also amend the official service area maps to conform with the new map filed by the parties, subject to and effective upon the settlement agreement's approval by the United States Rural Utilities Service (RUS). The Commission will dismiss the contested case hearing with prejudice when the parties' settlement agreement has received final RUS approval.

The Commission will so order.

ORDER

1. The settlement agreement filed by the parties is hereby accepted and approved.
2. The official service area maps shall be revised to conform with the revised service area map filed by the parties, subject to and effective upon final approval of the settlement agreement by the United States Rural Utilities Service.
3. Tri-County Electric Cooperative shall notify the Commission forthwith when the United States Rural Utilities Service takes final action on the parties' settlement agreement.

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 (651) 297-4596 (voice), (651) 297-1200 (TTY), or 1-800-627-3529 (TTY relay

service).