

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott	Chair
Edward A. Garvey	Commissioner
Marshall Johnson	Commissioner
LeRoy Koppendrayner	Commissioner
Phyllis A. Reha	Commissioner

In the Matter of an Investigation Into Allowing
Submetering By Building Owners in Multi-
Unit Residential Buildings Already
Individually Metered by an Electric Utility

ISSUE DATE: February 6, 2002

DOCKET NO. E-999/CI-01-1128

ORDER ACCEPTING REPORT AND
CONCLUSION AND CLOSING
INVESTIGATION

PROCEDURAL HISTORY

On July 21, 2000, a Complaint and Petition for Declaratory Relief and Order was filed by ConServe Corporation (ConServe) individually and on behalf of Park Point Apartments and Riverwood Apartments (collectively Complainants). The Complaint alleged that Northern States Power Company now d/b/a Xcel Energy (NSP or Xcel) was in violation of Minn. Stat. § 216B.022 and related tariffs and rules by refusing to permit ConServe to submeter Park Point and Riverwood apartment buildings.

On November 21, 2000, the Commission issued its ORDER OPENING INVESTIGATION, requiring NSP, the Complainants, and other interested parties to provide comments and answers to specific legal and factual questions.¹

In the period between December 26, 2000 and January 25, 2001, comments were filed by a group of building owners and managers, Legal Services Advocacy Project and Energy CENTS coalition (LSAP/ECC), NSP, the Residential and Small Business Utilities Division of the Office of the Attorney General (RUD-OAG), the Department of Commerce (DOC), Dakota Electric Association (Dakota), and the Complainants. Reply comments were filed by LSAP/ECC, NSP, RUD-OAG, DOC, the Complainants, and the Minnesota Multi Housing Association (MMHA).

¹ *In the Matter of the Complaint Regarding Northern States Power Company's Refusal to Allow ConServe Corporation, Park Point Apartments, and Riverwood Apartments to Convert Their Buildings to Master-Metered Commercial Service and to Submeter*, Docket No. E-002/C-00-954, ORDER OPENING INVESTIGATION (November 21, 2000).

On August 24, 2001, the Commission issued an Order² dismissing ConServe's complaint and opening an investigation to explore the potential for developing a set of criteria under which the Commission could evaluate future petitions for submetering. Further, the Commission directed the parties to file an update with the Commission within 120 days of the Order. This investigation was assigned Docket No. E-999/CI-01-1128.

On December 24, 2001, the Department of Commerce (DOC) filed the required report.

This matter came before the Commission on January 17, 2002.

FINDINGS AND CONCLUSIONS

I. The Report

The DOC took the leadership role in framing issues for comments, circulating comments by interested parties as well as convening a workgroup meeting November 20, 2001. The DOC's report summarized the DOC's conclusions, which were based on the workgroup meeting and the comments and supplementary comments received.

Parties that participated either by comments and/or workshop participation included: ConServe Corporation, Minnesota Municipal Utilities Association, Otter Tail Power Company, Xcel Energy, Consumer Intervenors (AARP, Energy CENTS Coalition, HOME Line, the Legal Services Advocacy Project, and Minnesota ACORN), Dakota Electric Association, Connexus, Minnesota Power, RUD-OAG, DOC, and Power System Engineering.

The DOC Report stated that there was significant disagreement on the fundamental issues regarding the issue of submetering.³ Due to this, the DOC concluded that there was not a sufficient foundation for participants in the workgroup to develop a set of criteria for evaluating any further petitions for submetering at this time.

² *In the Matter of the Complaint Regarding Northern States Power Company's Refusal to Allow ConServe Corporation, Park Point Apartments, and Riverwood Apartments to Convert Their Buildings to Master-Metered Commercial Service and to Submeter*, Docket No. E-002/C-00-954, ORDER DISMISSING PETITION, OPENING AN INVESTIGATION AND REQUIRING REPORTING (August, 24, 2001).

³ Basic areas of disagreement included whether the current law would allow submetering and the extent of the Commission's jurisdiction.

II. ConServe's Comments

At the Commission agenda meeting ConServe stated that it did not oppose the DOC recommendation.

III. Commission Action

The Commission recognizes the time and effort the parties put into trying to develop a set of criteria for evaluating further submetering petitions at this time. The Commission agrees with the conclusion of the DOC that given the current disagreement on fundamental issues of submetering, it is not possible, at the present time, to establish a set of criteria to evaluate further submetering petitions. For this reason the Commission will accept the report of the DOC and close this investigation.

ORDER

1. The report by the DOC of December 24, 2001, and the report's conclusion that there is insufficient foundation to develop a set of criteria for evaluating further petitions for submetering at this time, is hereby accepted.
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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