

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 Interstate Power and Light  
Company's Property Tax Reduction Filing

ISSUE DATE: September 13, 2002

DOCKET NO. E-001/M-02-494

ORDER DIRECTING REFUND AND RATE  
REDUCTION, WITH ASSOCIATED  
COMPLIANCE FILINGS

**PROCEDURAL HISTORY**

On April 9, 2002, Interstate Power and Light Company (Interstate or the Company) filed its petition for approval of a property tax rate reduction. Interstate stated that the savings to Minnesota customers was de minimis (\$24,147) and requested, therefore, that it be allowed to flow that amount to customers through the Company's Energy Supply Cost Adjustment (ESCA).

On May, 1, 2002, based on a revised property tax reduction amount from the Minnesota Department of Revenue, the Company asked that it be allowed to flow a slightly higher amount to customers through the Company's ESCA.

On May 6, 2002, the Department of Revenue filed information with the Commission confirming the Company's property tax reduction amount.

On June 10, 2002, the Minnesota Department of Commerce (the Department) filed comments, recommending approval, with some modifications and clarifications.

On June 27, 2002, Interstate filed Reply Comments.

The Commission met on July 25, 2002 to consider this matter.

## FINDINGS AND CONCLUSIONS

### **I. INTERSTATE'S REVISED (May 1, 2002) PROPOSAL**

In its revised filing, Interstate showed a total tax reduction of \$198,149. After applying a jurisdictional allocation factor (14.6769%) for the amount that Minnesota retail electric service represents of the total, Interstate identified \$29,082 as the amount to be reflected in reduced rates for the property tax reduction.

Rather than a lump-sum refund, Interstate proposed, in light of the de minimis amount at issue, to reduce its Energy Supply Cost Adjustment (ESCA) by \$0.00004 per kWh. Interstate proposed a true-up for over- or under-collection using a factor based on the over- or under-collection amount divided by the estimated sales for the subsequent four months. The Company stated that it would file a rider to its rate book spelling out the adjustment to the ESCA. The Company attached a draft of the proposed rider to its filing. The Company stated that this process would continue as long as the tax reduction continues, or until Interstate has a general rate proceeding.

### **II. DEPARTMENT OF COMMERCE COMMENTS**

Due to the de minimis nature of the amounts at issue, the Department recommended Interstate's proposed method, with some modifications and clarifications.

- Allocation to customer: The Department stated that it continues to prefer the class-cost-of-service-study method as a reasonable method of allocating the reduction to customer classes, and alternatively will support the revenue method. The Department stated, however, that due to the de minimis nature of the property tax reduction at issue in this docket it would recommend that the Commission allow Interstate to use its proposed per-kWh method. The Department also noted that since Interstate's customer classes are relatively uniform compared with other utilities, the refund will not likely be skewed to one class or the other.
- Jurisdictional Allocation: The Department recommended that the full amount of the Minnesota personal property tax reduction related to generation (\$198,149) be reflected in refund/reduced rates instead of the \$29,082 amount offered by the Company. The Department argued that this would be equitable because the full amount is paid to Minnesota and the plants largely serve Minnesota customers. If not refunded, the Department noted, the excess remains with the utility.
- Transmission and Distribution Related Property Tax Reductions: The Department interpreted the amended statute as allowing the Company to determine whether to return these amounts on a voluntary basis.
- Permanent Reduction/True-up: The Department considered the permanent rate reduction as appropriate and consistent with the Commission's decision in MP and the language of the amended statute. The Department opposed the true-up mechanism.

- Size of the reduction: Based on its recommendation that the entire generation-related property tax reduction be refunded to Minnesota ratepayers, the Department recommended the ESCA reduction of \$0.00255 per kWh .<sup>1</sup>

### **III. INTERSTATE’S RESPONSE TO THE DEPARTMENT’S RECOMMENDATIONS**

In its reply comments, Interstate generally agreed with the Department’s recommendations.

The company disagreed strongly, however, with the recommendation that Interstate be required to reduce rates for the entire \$198,149 tax reduction amount. According to the Company, the fact that the taxes are paid to the State of Minnesota based on generation assets largely serving Minnesotans has no bearing on the amount to refund.

Interstate argued that Minnesota rates should be adjusted by only \$29,082, the amount applicable to Minnesota retail operations based on how property tax costs were allocated in the last Interstate electric case. The Company noted that Minnesota ratepayers were assigned 14.6769% of the pre-reduction tax and argued that rates should be reduced by that percent as well.

As to whether unrefunded amounts would “remain with the Company”, Interstate argued that this was an improper speculation because other costs may increase. The Company noted that rates are not set based on a single issue and that beyond what was required by the statute any reduction of the Company’s rates in Minnesota would have to be based on a complete review of all cost changes since the last rate case.

### **IV. COMMISSION ANALYSIS AND ACTION**

The Commission agrees that the de minimis amount of tax reduction being returned to Minnesota ratepayers justifies Interstate’s proposal to deduct a property tax reduction factor from its ESCA. The Commission will direct Interstate to implement its proposal to deduct the property tax reduction factor from its ESCA, beginning with the October 2002 bills. The Company will also be required to include an adjustment to the ESCA on the October 2002 bills refunding the personal property tax savings retroactive to January 1, 2002. Upon completion of the refund the Company will file a compliance report with the Commission and Department, detailing the calculation of the amount to refund, the amount refunded, and the amount of any unrefunded balance. Finally, the Commission will direct the Company to file its tariff sheet for the Property Tax Reduction Rider within 15 days of the Commission’s Order in this proceeding.

The Commission will now discuss three specific issues:

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<sup>1</sup> Using Interstate’s jurisdictional calculation, this would be \$0.00004.

### **A. Jurisdictional Allocation**

The Department argued that it was appropriate to use no jurisdictional allocator at all, but instead to return 100 percent of the generation-related property tax reduction to Minnesota ratepayers. The Department reasoned that the property tax in question 1) is on property located in Minnesota, 2) is payable to the State of Minnesota, and 3) is on generation plants that largely serve Minnesota customers. Further, the Department noted, the Company is likely to keep the tax reductions related to transmission and distribution.

The Commission is not convinced by these arguments. The Commission believes that it would be inappropriate to give to Minnesota ratepayers tax savings related to taxes that were allocated to and paid by customers in other jurisdictions. The Commission, therefore, will approve the Company's proposal in this regard.

### **B. Interstate's Proposed True-up**

The Company proposed to record over and under refund amounts and true them up at the end of each year. However, the statute does not appear to seek the precision provided by a true-up. The statute simply requires a change in rates based upon the comparison of the tax payable in 2001 compared to the tax payable in 2002, rates which will remain in effect until the next rate case or further direction of the legislature. Consequently, as recommended by the Department, the Commission will not authorize a true-up mechanism in connection with this refund.

### **C. Ongoing Variance to Separate Itemization Requirement**

In this Order, the Commission is approving the Company's proposal to make an ongoing property tax adjustment to its ESCA. A logical and administratively efficient result of this would be for the Company to display one netted amount (ESCA as modified by the property tax reduction) on the bills. Since Minn. Rules, Parts 7820.3500 K and 7825.2600 require that the fuel or power adjustment clause be separately itemized on the bills, an ongoing variance to these requirements will be required to authorize the Company to combine the ESCA and the property tax reduction be as one item on its bills.

Minn. Rules, Part 7829.3200 permits the Commission to grant variances to rules if 1) enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule; 2) granting the variance would not adversely affect the public interest; and 3) granting the variance would not conflict with the standards imposed by law.

The Commission finds that the conditions for granting the variance in question exist in this case. First, not granting the variance could lead to additional and unnecessary administrative burdens for Interstate in implementing an adjustment for a de minimis amount. Second, granting the variance should not adversely affect the public interest since it is in the public interest to find an efficient method of passing the tax reduction to customers. Finally, granting the variance should not conflict with law, since the law requires the Commission to find a way to pass on the tax reduction to retail customers.

To avoid the administrative inefficiency of processing annual variance requests on this point, the Commission will grant the variance for an open-ended duration. This will allow the variance to remain in effect as long as the associated Property Tax Reduction Rider is in effect.

**ORDER**

1. Interstate shall implement its proposal to deduct the property tax reduction factor from its Energy Supply Cost Adjustment (ESCA), beginning with the October 2002 bills.
2. Interstate shall also include an adjustment to the ESCA on the October 2002 bills refunding the personal property tax savings retroactive to January 1, 2002.
3. Interstate shall include a notice to the customers calling attention to the rate change.
4. Interstate shall file a compliance report with the Commission and Department within 30 days of the completion of the refund of the retroactive portion detailing the calculation of the amount to refund, the amount refunded, and the amount of any unrefunded balance.
5. Interstate shall file its tariff sheet for the Property Tax Reduction Rider within 15 days of the Commission's Order in this proceeding.
6. Regarding jurisdictional allocation, the Company shall reduce the ESCA rate by the jurisdictional amount of \$29,082 as calculated by the Company.
7. Regarding the true-up, the Company's proposed true-up mechanism is disallowed.
8. The Commission hereby grants the Company a variance of open-ended duration from the separate itemization requirements of Minn. Rules, parts 7820.3500 K and 7825.2600 to allow the Company to combine the ESCA and property tax reduction as one item on bills.
9. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

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