

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye
Ken Nickolai
Marshall Johnson
Phyllis Reha
Thomas Pugh

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of Xcel Energy's Petition for Affirmation that MISO Day 2 Costs are Recoverable Under the Fuel Clause Rules and Associated Variances

ISSUE DATE: April 7, 2005

DOCKET NO. E-002/M-04-1970

In the Matter of Minnesota Power's Petition for Approval of Revision to Rider for Fuel Adjustment to Recover Costs and Pass-Through Related to MISO Day 2

DOCKET NO. E-015/M-05-277

In the Matter of Otter Tail Power Company's Petition for Approval of Revision to Rider for Fuel Adjustment to Recover Costs and Pass-Through Related to MISO Day 2

DOCKET NO. E-017/M-05-284

In the Matter of Interstate Power and Light Company's Petition for Approval of Revision to Rider for Fuel Adjustment to Recover Costs and Pass-Through Related to MISO Day 2

DOCKET NO. E-001/M-05-406

ORDER AUTHORIZING INTERIM ACCOUNTING FOR MISO DAY 2 COSTS, SUBJECT TO REFUND WITH INTEREST

PROCEDURAL HISTORY

On December 14, 2004, Northern States Power Company d/b/a Xcel Energy (Xcel) asked the Commission to find that the costs resulting from participation in the "Day 2" operations of the Midwest Independent Transmission System Operator, Inc. (MISO) could be recovered from ratepayers through the use of Xcel's fuel clause adjustment (FCA). Xcel supplemented this request on February 11, 2005.

On February 16, 2005, Minnesota Power filed a request similar to Xcel's.

On February 17, 2005, Otter Tail Power (OTP) filed a request similar to Xcel's.

By February 25, 2005, the Commission had received comments from both the Minnesota Department of Commerce (the Department) and the Residential and Small Business Utilities Division of the Office of Attorney General (RUD-OAG).

On March 2, 2005, Xcel filed replies proposing an interim remedy, whereby the Commission would authorize Xcel to begin recovering Day 2 costs through the FCA on an interim basis, subject to refund.

On March 9, 2005, Interstate Power and Light (IPL) filed a request similar to Xcel's.

This matter came before the Commission on March 24, 2005. At the hearing the four utilities agreed to a proposed interim remedy, discussed below.

FINDINGS AND CONCLUSIONS

I. Background

A. MISO

The Federal Energy Regulatory Commission (FERC) has jurisdiction over the transmission of electricity, and the sale of electric energy at wholesale terms, in interstate commerce.¹ In 1999, FERC issued Order No. 2000 to encourage public utilities that own, operate or control interstate transmission facilities to join regional transmission organizations (RTOs).² An RTO is a voluntary association of transmission facility owners organized “for the purpose of promoting efficiency and reliability in the operation and planning of the electric transmission grid and ensuring non-discrimination in the provision of electric transmission services.”³

On May 9, 2002, the Minnesota Public Utilities Commission granted the requests of IPL, Minnesota Power, OTP and Xcel to join an RTO called MISO.⁴

MISO divides its operations into categories, including “Day 1” operations (dealing with security, outages, tariffs, transmission-line congestion and energy imbalances, billings and settlements, and market monitoring) and “Day 2” operations (implementing a competitive wholesale market for electricity, including locational marginal pricing and financial transmission rights). On

¹ 16 U.S.C. § 824.

² *Regional Transmission Organizations*, 65 Fed. Reg. 809 (January 6, 2000), FERC Stats. & Regs. ¶ 31,089 (1999), *order on reh'g*, Order No. 2000-A, 65 Fed. Reg. 12,088 (March 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000), *aff'd sub nom.* Public Utility District No. 1 of Snohomish County, Washington v. FERC, Nos. 00-1174, *et al.* (D.C. Cir. 2001).

³ 18 C.F.R. § 35.34(a).

⁴ *In the Matter of the Petition for Approval to Transfer Functional Control of Certain Transmission Facilities [of Xcel] to the Midwest Independent System Operator*, Docket No. E-002/M-00-257 ORDER AUTHORIZING TRANSFER WITH CONDITIONS; *In the Matter of Minnesota Power's Petition for Approval of Transfer of Operational Control of Transmission Facilities*, Docket No. E-015/PA-01-539 ORDER AUTHORIZING TRANSFER WITH CONDITIONS; *In the Matter of Otter Tail Power Company's Petition for Approval of Transfer of Operational Control of Transmission Facilities to the Midwest Independent System Operator*, Docket No. E-017/PA-01-1391 ORDER AUTHORIZING TRANSFER WITH CONDITIONS; *In the Matter of Interstate Power Company's Petition for Approval of Transfer of Operational Control of Transmission Facilities to the Midwest Independent System Operator*, Docket No. E-001/PA-01-1505 ORDER AUTHORIZING TRANSFER WITH CONDITIONS.

August 6, 2004, FERC approved a tariff that would, when implemented, allow MISO to initiate Day 2 market operations – especially the buying and selling of power – within the service area of its members.⁵ And on March 16, 2005, FERC authorized MISO to start Day 2 market operations on April 1.⁶

As noted above, IPL, Minnesota Power, OTP and Xcel now seek permission to recover costs related to Day 2 operations, including costs of purchasing power, through the FCA.

B. Fuel Clause Adjustments

Generally a public energy utility may not change its retail rates unless it undergoes a rate case wherein all of its costs and revenues are considered. But the Minnesota Legislature has created exceptions to this policy.

For example, statute authorizes the Commission to permit an energy utility to adjust its rates outside the context of a general rate case to reflect changes in the cost of energy.⁷ Consistent with this statute, the Commission has adopted rules to permit utilities to adjust their rates to recover fuel costs through a process called the “fuel clause adjustment” (FCA).⁸ Specifically, the FCA permits utilities an opportunity to recover the “cost of energy purchased” as recorded to Account 555 of FERC’s Uniform System of Accounts.⁹

Neither this Commission nor the FERC has ruled on the appropriate accounting treatment for RTO costs such as those associated with the Day 2 markets; the FERC has opened an investigation of this question, but has not yet announced any conclusions.¹⁰

II. Party Positions

IPL, Minnesota Power, OTP and Xcel ask the Commission to, among other things, rule that they may record MISO Day 2 operations costs to Account 555 for potential recovery through the FCA. The review of these petitions, however, will not be complete until well after MISO has begun its Day 2 operations.

⁵ *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,163, *order on reh’g*, 109 FERC ¶ 61,157 (2004).

⁶ *Midwest Independent Transmission System Operator, Inc.*, Docket Nos. ER04-961-014 and EL04-104-013, *et al.*

⁷ Minn. Stat. § 216B.16, subd. 7.

⁸ Minn. Rules parts 7825.2390 - .2920.

⁹ Minn. Rules part 7825.2400, sub. 7.

¹⁰ *Financial Reporting and Cost Accounting, Oversight and Recovery Practices for Regional Transmission Organizations and Independent System Operators*, Docket No. RM04-12-000, Notice of Inquiry (September 16, 2004).

In lieu of ruling on the merits of the petitions immediately, the Department recommends granting most of the utilities' requests on an interim basis, subject to certain conditions. Specifically, the Department recommends that the utilities be permitted to record the cost of their Day 2 power purchases to Account 555 on the condition that the utilities also record the revenues from Day 2 power sales to the same account. That is, the Department recommends that Account 555 reflect the net effect of the utilities' Day 2 transactions.

In addition, the Department recommends that this permission be granted on an interim basis; that is, the Commission should reserve the right to require the utilities to return funds recovered from ratepayers, with interest, if the Commission subsequently concludes that it should disallow recovery of these costs through the FCA. To facilitate any potential refund, the Department recommends that the Commission direct the utilities to maintain detailed records of the relevant transactions, and to provide sufficient documentation with their monthly FCA filings to permit the Department to monitor this matter.

In its reply comments Xcel largely agreed to the Department's proposal, and at hearing all the utilities agreed to the proposal.

At hearing the RUD-OAG opposed permitting utilities to begin recording Day 2 costs to Account 555 even on an interim basis. The RUD-OAG expressed concern that an interim remedy will prejudice the impending consideration of how Day 2 costs should be recovered. The RUD-OAG favored deferring the question of accounting for these costs until the underlying merits of the issues can be addressed.

III. Commission Action

Upon consideration of the parties' comments and the record of this case, the Commission finds the Department's proposal to be reasonable and will adopt it. This interim arrangement will permit the utilities to proceed with implementing the MISO Day 2 operations while protecting ratepayer interests pending determination of whether and how these costs and revenues should be recovered in the future. The Commission emphasizes that nothing in this Order prejudices any issue in the docket.

ORDER

1. From April 1, 2004, until such time as the Commission issues its final determinations in these proceedings, Interstate Power and Light Company, Minnesota Power, Northern States Power Company d/b/a Xcel Energy and Otter Tail Power Company shall do the following:
 - A. Account for costs arising from the "Day 2 Market" of the Midwest Independent Transmission System Operator, Inc., on a net basis in Account 555 of the Uniform System of Accounts.
 - B. Recover these costs through the fuel clause adjustment (FCA) subject to refund with interest.

- C. Maintain detailed records supporting the net amounts developed and provide adequate documentation with the monthly FCA filings with the Minnesota Department of Commerce to allow for proper monitoring.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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