

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye  
Marshall Johnson  
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Thomas Pugh  
Phyllis A. Reha

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of Minnesota Power's Petition for  
Approval of an Affiliated Interest Transaction  
Between Minnesota Power and Enventis  
Telecom, Inc.

ISSUE DATE: July 28, 2005

DOCKET NO. E-015/AI-05-353

ORDER APPROVING CONTRACT AND  
SPECIFYING FUTURE REQUIREMENTS

**PROCEDURAL HISTORY**

On February 28, 2005, Minnesota Power (MP or the Company) filed a petition with the Commission asking that the Commission approve the Company's contract with Enventis Telecom, Inc. (Enventis), a wholly owned second-tier subsidiary of MP, to purchase from Enventis a Cisco Systems "Smartnet" Maintenance Agreement.

On April 28, 2005, the Minnesota Department of Commerce (the Department) filed comments. The Department recommended that the Commission approve the agreement for the period January 28, 2005 to January 27, 2006 and impose four conditions, including that in future requests for quotation (RFQs), MP be required to send the request to all Cisco Gold Certified Partners in Minnesota, in addition to MP's list.

On May 10, 2005, MP filed Reply Comments accepting all the conditions recommended except one: the requirement that in future RFQs, MP send request to all Cisco Gold Certified Partners in Minnesota, in addition to MP's list.

The Commission met to consider this matter on July 21, 2005.

**FINDINGS AND CONCLUSIONS**

**I. Commission Review of the Affiliated Interest Contract**

**A. Background**

The contract at issue in this matter is between MP, a public utility, and Enventis, its subsidiary. It is a maintenance contract under which MP receives 24-hour technical support and services for software and hardware systems. MP stated that maintenance on the Company's software and hardware devices is critical infrastructure support. The term of the contract is for a period of one year: January 28, 2005 to January 27, 2006.

Since the contract in question is between MP, a public utility, and Enventis, its subsidiary, it is an affiliate interest contract which must be reviewed for approval by the Commission pursuant to Minn. Stat. § 216B.48, subd. 3. That statute authorizes approval only upon the Commission's finding that the contract is reasonable and in the public interest. The statute places the burden of proof on the public utility to establish reasonableness of the contract.

### **B. The Department's Report and Recommendations**

The Department discussed several factors in assessing the contract's effect on the public interest. The Department concluded that MP has demonstrated that the contract in question is reasonable and consistent with the public interest because the proposed contract provides services at lower costs to MP than other bidders and does not appear likely to negatively impact MP financially. The Department recommended therefore that the Commission approve the proposed contract with a duration of one year as consistent with the public interest under Minn. Stat. § 216B.48, subd. 3.

The Department also recommended that the Commission impose certain conditions or requirements on the Company, as addressed in Section II of this Order.

### **C. Commission Analysis and Action**

The Commission has reviewed the record, including MP's petition and the Department's comments. The Commission finds that the proposed contract is consistent with the public interest and will therefore approve it.

## **II. Review of the Department's Forward-Looking Recommendations**

### **A. The Department's Forward-Looking Recommendations**

First, the Department recommended that the Commission require the Company in its future "Smartnet" RFQ process to send RFQ to all Gold Certified Partners in Minnesota in addition to the Company's list to increase the bidding pool size to 20 to 30 vendors.

Second, the Department recommended that the Commission require MP in all future RFQ/bidding processes to retain all the records produced during the RFQ/bidding process until the Department verified the fairness of the process.

Third, the Department recommended that the Commission require MP to demonstrate in its next rate case that costs related to new hardware under the contract at issue in this Order were necessary and optimally configured to increase IT reliability at the lowest cost.

Fourth, the Department recommended that the Commission require MP to report in its next rate case filing any hardware replacement existing at that time (with Enventis or another provider) and provide evidence to show that no depreciation expense for the associated computer hardware is proposed for recovery in rates.

## **B. MP's Response**

MP accepted all the Department's recommendations except one. The Company objected to being required to open the bidding pool to all Gold Certified Partners in Minnesota in addition to the Company's list, as discussed more fully below. And as to the retention of bidding process records, the Company clarified that it does in fact retain such records on a regular basis and has done so for the contract at issue in this docket. The Company apologized for not providing these records in response to a Department information request, which had apparently led to the Department's recommendation to require record retention in the future.

Regarding the Department's request to increase the size of the bidding pool, MP stated that sending RFQs to 30 Cisco Gold Certified Partners in Minnesota would require the Company to maintain an updated list of contact information for each Cisco Gold Certified Partner in the state, issue an RFQ to the appropriate contract person at each location, and track responses. The Company stated that this activity would entail unnecessary administrative costs. MP requested that its current methodology be permitted in the future, but if the Commission made modification, that the list of Gold Certified Partners to be solicited in the future be reduced to ten. The Company also requested that potential bidders not be limited to those located in Minnesota since the more appropriate vendor may be in Wisconsin.

## **C. Commission Analysis and Action**

The Commission finds that the Department's recommended requirements are sound and will adopt them with one modification. Although it is reasonable to increase the bidding pool in order to increase the likelihood of competition and a lower overall bid, the Commission believes that increasing the bid pool to include a minimum of ten Cisco Gold Certified Partners in addition to MP's list and removing the Minnesota-only limitation will likely achieve those objectives while keeping the administrative expenses of the bidding process at a reasonable level.

## **ORDER**

1. The Commission hereby approves MP's petition for the period of January 28, 2005 through January 27, 2006, with the following conditions:
  - a) in its future RFQs, MP shall send the request to at least ten Cisco Gold Certified Partners;
  - b) in future RFQs, MP shall retain all records produced during the RFQ/bidding process until the Department has assessed the fairness of the process;
  - c) in its next rate case, MP shall demonstrate that costs associated with the new hardware under the contract in question in this docket were necessary and optimally configured to increase IT system reliability at the lowest cost; and
  - d) when it files its next rate case, MP shall report any arrangement for hardware replacement existing at that time (with Enventis or others) and provide evidence to show that no depreciation expense for the associated computer hardware is proposed for recovery in rates.

2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

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