

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye  
Marshall Johnson  
Ken Nickolai  
Thomas Pugh  
Phyllis A. Reha

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of Minnesota Power's Petition for  
Review of an Agreement Between Minnesota  
Power and American Transmission Company

ISSUE DATE: August 16, 2005

DOCKET NO. E-015/PA-04-2020

ORDER GRANTING INTERVENTION  
PETITION

**PROCEDURAL HISTORY**

On June 1, 2005, the Commission issued an Order asserting jurisdiction over the transaction between Minnesota Power and the American Transmission Company that is the subject of this proceeding.<sup>1</sup> That Order also found the record inadequate for determining whether the transaction should be approved and required further fact-finding.

On June 22, 2005, the American Transmission Company (ATC) filed a petition to intervene in this proceeding under Minn. Rules 7829.0800, claiming that its interests would be affected by the proceeding's outcome and that it could provide information helpful to resolving disputed issues.

On July 8, 2005, World Organization for Landowner Freedom (W.O.L.F.) filed an objection to intervention, claiming that ATC's petition was untimely. On July 20, 2005, ATC filed a response claiming that the Commission's June 1 Order had changed the focus of the proceeding so fundamentally that fairness required a new intervention deadline.

On August 11, 2005, the petition came before the Commission.

**FINDINGS AND CONCLUSIONS**

The Commission's rules of practice and procedure permit anyone to intervene in a case upon making one of several showings, including a showing that "the outcome of the proceeding will bind or affect the person with respect to an interest peculiar to that person, as distinguished from an interest common to the public or other ratepayers in general."<sup>2</sup> The rules also provide time lines

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<sup>1</sup> Order Asserting Jurisdiction and Requiring Further Fact-Finding, this docket.

<sup>2</sup> Minn. Rules, part 7829.0800, subp. 2.

for intervention petitions, which the Commission or its Executive Secretary may vary on its own motion or at the request of a person for good cause shown.<sup>3</sup>

Here, W.O.L.F. argues that the petition is untimely and that ATC should be forced to live with the consequences of an alleged, earlier, strategic decision to forgo intervention. ATC argues that the character of the proceeding changed so fundamentally with the June 1 Order that new intervention deadlines are appropriate and that, in any case, W.O.L.F.'s objection to intervention is untimely under Minn. Rules 7829.0800, subp. 4.

The Commission need not parse out these issues, since ATC patently meets the rules' intervention criteria, its participation as a party will benefit the process and help ensure sound decision-making, and its entry at this point in the proceeding will not prejudice any party.

First, ATC, as one of the two parties to the transaction at issue, will clearly be bound and affected by the outcome of this case differently than any member of the public or any ratepayer, thereby meeting the rules' intervention criteria. Second, as one of the two parties to the transaction at issue, ATC can provide information critical to sound analysis of the transaction and sound decision-making. Third, ATC's participation in the case will not delay or impede development of the record or prejudice any party – fact-finding has just begun and ATC has filed its initial comments on the first deadline in the procedural schedule.

The Commission concludes that even if ATC's petition were untimely, it would be necessary to vary the time lines for good cause shown under Minn. Rules 7829.3100. For all these reasons, the Commission will grant ATC's petition to intervene.

### **ORDER**

1. The petition to intervene filed by American Transmission Company on June 22, 2005 is hereby granted.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

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<sup>3</sup> Minn. Rules, part 7829.3100.