

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

In the Matter of the Petition of Minnesota Power for Approval of Rider for Distributed Generation Service and Rider for Standby Services

ISSUE DATE: November 7, 2005

DOCKET NO. E-015/M-04-2030

ORDER APPROVING TARIFF RIDER AND RELATED DOCUMENTS

**PROCEDURAL HISTORY**

On August 1, 2001, Minnesota Statutes § 216B.1611 became effective. Subdivision 2 of that statute directed the Commission to establish standards for terms under which an electric utility would interconnect with a customer's plant that uses certain "clean" fuels to generate up to ten megawatts (MW) of power for use on-site by the customer, with any unused electricity sold to the utility. The statute refers to such plants as "distributed generation" (DG).

On September 28, 2004, the Commission issued its ORDER ESTABLISHING STANDARDS in Docket No. E-999/CI-01-1023, *In the Matter of Establishing Generic Standards for Utility Tariffs for Interconnection and Operation of Distributed Generation Facilities under Minnesota Laws 2001, Chapter 212*. The Commission directed retail electric public utilities to file tariffs consistent with the new standards.

On December 27, 2004, Minnesota Power proposed terms under which it would interconnect with and support the operations of a DG customer.

By June 30, 2005, the Commission had received comments from the Minnesota Department of Commerce (the Department) and collectively from CenterPoint Energy, Frauenschuh Power Development, Hennepin County's Department of Environmental Services, the Institute for Local Self-Reliance, the Izaak Walton League of America's Midwest Office, Korridor Capital Investments LLC, the Minnesota Chamber of Commerce, and The Minnesota Project (collectively, the DG Coalition).

On August 4, 2005, Minnesota Power filed reply comments.

This matter came before the Commission on September 29, 2005.

## **FINDINGS AND CONCLUSIONS**

### **I. Background**

Most electricity is generated at large power plants, then transmitted long distances to where it is needed. In contrast, distributed generation refers to the practice of generating electricity with multiple, dispersed power plants, typically located closer to the customer being served. Many benefits have been attributed to distributed generation, including reducing the demand on long-distance transmission lines, enhancing reliability, ameliorating environmental consequences and increasing customer choice.

The potential for these benefits would be lost, however, if the process of connecting small generators to the electric grid proved too dangerous, or the process of negotiating such connections proved too burdensome. To avoid this outcome, the Legislature directed the Commission to establish parameters for interconnection that would balance the needs of the utility and its ratepayers with the needs of the small generators. Utilities would then propose tariffs establishing standardized terms for interconnection consistent with the Commission-approved parameters. Minn. Stat. § 216B.1611, subd. 2.

As noted above, the Commission adopted appropriate standards on September 28, 2004, and directed utilities to file distributed generation tariffs that conformed to the standards. Minnesota Power's response to that order is the subject of the current docket.

### **II. Minnesota Power's Proposal**

Minnesota Power's filing contained the following documents:

- A DG "rider" (that is, terms for an optional service offered to customers who accept some other "basic" tariffed service) establishing terms governing the relationship between Minnesota Power and a DG customer.
- A model electric service agreement establishing terms, based on customer-specific information, under which a DG customer would pay Minnesota Power for providing energy and generating capacity.
- A model interconnection agreement.
- A model power purchase agreement establishing terms under which Minnesota Power would pay a DG customer for providing energy and generating capacity.
- A model nondisclosure agreement, protecting Minnesota Power's interest in keeping the facts underlying the capacity and energy payments confidential.
- A "standby rider" revising terms under which Minnesota Power would supply temporary

service in the event a customer's generator proves to be inadequate to meet the customer's needs.

### **III. Analysis and Commission Action**

At hearing the Department joined Minnesota Power in recommending the adoption of Minnesota Power's revised proposal of August 4, 2005, as revised and clarified.

The Commission appreciates the efforts of all parties in fashioning workable policies for removing unwarranted impediments to DG development. Having reviewed the record of the case and the arguments of all parties, the Commission will adopt the recommendation of the Department and Minnesota Power. Specifically, the Commission will adopt Minnesota Power's revised proposal as revised and clarified below.

#### **1. The Distributed Generation Rider**

##### **A. Calculation of Payments to DG Customers**

In its ORDER ESTABLISHING STANDARDS, the Commission concluded that the rates a utility pays to the DG customer "should reflect the value of the distributed generation to the utility, including any reasonable credits for emissions or for costs avoided on the generation, transmission and/or distribution system."<sup>1</sup> To the extent that a customer helps the utility avoid costs for energy (such as fuel), capacity (such as generation, transmission or distribution plant), or the costs of complying with legal mandates to use renewable sources of energy, or helps a utility earn a premium by selling electricity generated using renewable sources, the customer should receive the benefit. In this manner, customers will receive the appropriate incentives for developing distributed generation.

But the magnitude of these benefits will change based on changing circumstances. To ensure that the DG customer realizes and can benefit from up-to-date information, the Department recommended that Minnesota Power annually file the following:

- An updated energy payment schedule if different from the previous year's.
- An updated capacity payment schedule if different from the previous year's.
- An updated renewable resource credit schedule if different from the previous year's.
- The average tradable emissions credit for the previous year.
- A discussion and support of any and all changes in the schedules.

Minnesota Power agreed to this recommendation, proposing a filing date of December 15. At hearing, however, the Department proposed an annual filing date of January 31 to coordinate with the filing schedules of other utilities.

No party objected to the proposal that Minnesota Power make an annual compliance filing, or to

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<sup>1</sup> ORDER ESTABLISHING STANDARDS, Attachment 6, Item 4.

the proposed January 31 filing date. The Commission finds the proposal provides a reasonable way to inform current and future DG developers about the financial consequences of their developments. It will be approved.

### **B. Disclosure of Avoided Energy and Capacity Costs**

While the DG Coalition supports having Minnesota Power make annual compliance filings, it expressed frustration with the utility's intention to keep much of the contents confidential. Potential DG customers need to know this information to evaluate whether or not to develop a project, the Coalition argued.

Minnesota Power defended its desire to keep certain information confidential, arguing that widespread dissemination would hurt the utility's interests. For example, parties that bid to provide energy and capacity to Minnesota Power could exploit knowledge of the utility's avoided costs when making future bids. Also, Minnesota Power notes that disclosure of the avoided capacity cost would be of limited use to a DG customer because it would merely reflect Minnesota Power's system capacity costs. In contrast, Minnesota Power will pay capacity credits to a DG customer based on an individualized assessment of the capacity costs that the specific DG project permitted the utility to avoid.

At hearing, however, Minnesota Power agreed to disclose its filed avoided energy and capacity costs to potential DG customers upon written request. In addition, Minnesota Power agreed to modify its confidentiality and non-disclosure agreement to provide for disclosure of confidential information to parties other than the DG customer (such as the customer's investors), similar to Minnesota Power's model power purchase agreement. That agreement includes the following language:

No party hereto shall disclose any information regarding any part of this Agreement except to the extent that disclosure is [legally required or] required for purposes of obtaining financing, or upon written consent of all parties to this Agreement.... This provision shall not prohibit disclosure to third party consultants and professional advisors provided such third parties enter into and agree to be bound by a non-disclosure agreement containing terms which the other party in its sole discretion deems to be sufficient to protect its interests hereunder. If such agreement contains terms identical to this Paragraph, it shall be considered sufficient.

No party objected to Minnesota Power's proposal. The Commission finds that this proposal appropriately balances the utility's interests with the needs of potential DG customers. It will be approved.

### **C. Avoided Cost for Energy from Renewable Sources**

As the ORDER ADOPTING STANDARDS notes, where a utility has an obligation to acquire

electricity from renewable or otherwise environmentally sound sources (“green power”)<sup>2</sup> and the utility relies on a DG customer’s generator to fulfill that obligation, the DG customer should be compensated at the utility’s avoided cost of meeting its green power needs. The Commission found as follows:

*A DG customer who installs a renewable DG facility should be paid the avoided cost of “green power” to the extent that installation of the DG facility allows the utility to avoid the need to purchase “green power” elsewhere....<sup>3</sup>*

The Department and the DG Coalition argued that Minnesota Power should provide a schedule of its avoided “green power” costs, as well as a general explanation of how Minnesota Power developed the schedule. Minnesota Power initially expressed uncertainty about how to calculate such avoided costs, but during the hearing the utility agreed to the proposal’s adoption.

As with the energy and capacity cost issues, a potential DG customer will want to know the amount of credit available for helping the utility avoid “green power” costs. And by disclosing Minnesota Power’s method for calculating these avoided costs, interested parties may assure themselves of the method’s soundness, or alternatively may inform the Commission of the method’s shortcomings. The Commission finds the proposal reasonable and will adopt it.

#### **D. Delivery Charge**

The ORDER ESTABLISHING STANDARDS provides for a utility to charge a DG customer for  
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- a. *Energy and capacity.*
- b. *Scheduled maintenance service (energy, or energy and capacity, supplied by the utility during scheduled maintenance of the customer’s non-utility source of electric energy supply).*
- c. *Unscheduled outages (energy, or energy and capacity, supplied by the utility during unscheduled outages of the customer’s non-utility source of electric energy supply).*
- d. *Supplemental service (electric energy, or energy and capacity, supplied by the utility to the DG customer when the customer’s non-utility source of electricity is insufficient to meet the customer’s own load).*

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<sup>2</sup> For example, many utilities need to acquire green power to serve the needs of customers that order green power from the utilities’ tariffs. Also, Minnesota Statutes § 216B.1691 directs Minnesota’s investor-owned electric utilities, generation and transmission cooperatives, and municipal power agencies to make good faith efforts to obtain enough electricity from qualifying renewable energy technologies to represent 10% of total retail electric sales by the year 2015.

<sup>3</sup> ORDER ESTABLISHING STANDARDS, Attachment 6, Item 8.e.

*e. Other services deemed necessary.*<sup>4</sup>

Within the category of “other services deemed necessary,” Minnesota Power proposes to assess a “delivery charge” on certain DG customers generating a megawatt or more of electricity. According to the utility, the charge is designed to recover the costs of distribution, transmission and ancillary service incurred by Minnesota Power that are not recovered elsewhere. These costs might include the cost of scheduling, system control and dispatch; reactive supply, voltage control and regulation; and frequency response services. Minnesota Power does not propose a specific fee for these services, but rather proposes to calculate the charge for each applicable customer individually depending on the costs the customer imposes on the system.

Minnesota Power states that the delivery charge is designed to ensure that each DG customer bears its own costs and is not subsidized by other ratepayers. Minnesota Power acknowledges that the charge is prompted in part by a lack of familiarity with DG service and customers; the utility may be able to standardize this charge in the future as it gains greater experience with the costs of supporting distributed generation. And where a customer imposes no additional costs on the system, Minnesota Power states that the customer will pay no delivery charge.

While the Department initially questioned the basis for the delivery charge, the Department has agreed to support Minnesota Power’s proposal for the present, with the understanding that the Department may seek to review the charge in the future. To facilitate such a review, the Department and Minnesota Power agree that the utility should provide information about how the delivery charge gets applied. Specifically, these parties agree that Minnesota Power should do the following as part of its annual compliance filing:

- Review and modify the delivery charge, as appropriate,
- Identify the charge’s application and the characteristics that result in the customer incurring the charge.
- Show that the costs recovered by the charge are not being recovered elsewhere.

No party opposed this proposal.

The Commission finds the proposed resolution reasonable. All parties are gaining knowledge and familiarity in this developing area of the electric industry. With the benefit of experience and data, the Commission will be better able to evaluate the delivery charge in the future, as necessary. The Commission will authorize Minnesota Power to assess the delivery charge, and will direct the utility to report on its experience as proposed.

## **E. Service Charge**

Minnesota Power also proposes a monthly “service charge.” The charge is designed to recover Minnesota Power’s incremental cost of meter operation and maintenance, meter reading, customer billing, customer accounting and customer services.

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<sup>4</sup> *Id.*, Attachment 6, Item 3.

The Department concludes that it is appropriate for Minnesota Power to charge a fee to recover the cost of any additional meters required for DG service. But the Department questioned whether Minnesota Power's estimate of those costs – based on the utility's system average cost of meter reading, operations and maintenance – is reasonable. Because Minnesota Power would be installing new meters, the Department would expect them to be cheaper to operate and maintain than the average meter on Minnesota Power's system. In addition, both the Department and the DG Coalition questioned Minnesota Power's need to recover additional costs for "customer services," given that all DG customers will already be paying a customer service charge as part of their base rates.

Minnesota Power argued that its system average costs of meter reading, operations and maintenance represent its best estimate of the meter costs for this new service. And while Minnesota Power acknowledged that DG customers would already be paying a customer charge, it justified recovery of additional customer charges on the grounds that the cost of providing DG service is akin to the cost of serving a whole new customer.

According to Minnesota Power, the service imposes significant new demands on utility resources. For example, it requires a utility to calculate not merely the energy and capacity that the utility supplies to the customer, but also the energy and capacity that the customer supplies to the utility. Minnesota Power will incur costs for annual rate updates, manual billing, customer communications, tracking and reconciliation obligations, and reporting. Given all these new duties and costs, Minnesota Power argued that it is not accurate to assume that existing revenues will offset them all. Moreover, Minnesota Power argued that it would not be appropriate for existing revenues to be used for distributed generation because that would result in a subsidy to distributed generation service.

At hearing the Department and Minnesota Power proposed a settlement of this issue. Acknowledging a lack of familiarity with DG service, these parties support permitting Minnesota Power to assess a service charge for the present with the condition that Minnesota Power would file a report evaluating the charge as applied. This report would include Minnesota Power's explanation and itemization of costs for DG customers and non-DG customers to document that the service charge recovers only incremental customer costs for DG-related services. The parties propose that Minnesota Power would file this report at the same time that the Commission re-evaluates its policy exempting generators of 60 kilowatts (kW) or less from paying standby charges.<sup>5</sup> No party opposed this proposal.

The Commission finds the proposed resolution reasonable. As noted above, all parties are gaining knowledge and familiarity in this developing area of the electric industry. With the benefit of experience and data, the Commission will be better able to evaluate the service charge in the future, as necessary. The Commission will authorize Minnesota Power to assess the service charge, and will direct the utility to report on its experience as proposed.

## **2. Process and Technical Documents**

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<sup>5</sup> See ORDER ESTABLISHING STANDARDS at 20-22.

The Commission's ORDER ESTABLISHING STANDARDS includes the following attachments:

- A "Proposed Interconnection Process for Distributed Generation Systems,"
- A statement of "Distributed Generation Interconnection Requirements."
- A "General Interconnection Application" form.
- An "Engineering Data Submittal" form.
- A "Proposed Interconnection Agreement."

These documents set forth the minimum standards for a small "Generation System" to interconnect with the "Area Electric Power System" or "Area EPS." The Area EPS is defined as the entity that serves the "Local EPSs" such as distributed generators, and typically has primary access to public rights-of-way. Within an electric utility's service area, the Area EPS is the electric utility.

In the interest of facilitating the DG process, the Department recommends that Minnesota Power post these documents on its World Wide Web site but substitute the more familiar "Minnesota Power" for the less familiar label "Area EPS." Minnesota Power agreed to post these process and technical documents on its Web site, but resisted the Department's suggestion to substitute its name for "Area EPS" throughout the documents. At the hearing, however, Minnesota Power agreed to the Department's proposal and no party opposed it.

Additionally, the Department recommended that Minnesota Power amend its rider to 1) indicate where to find the documents on Minnesota Power's site on the World Wide Web, and 2) inform people who lack access to the Web how to obtain copies of the documents from the company. Minnesota Power initially suggested that there are better ways to inform potential DG customers, but at the hearing Minnesota Power agreed to the Departments' proposal; again, no party opposed it.

The Commission finds the Department's proposals will help reduce needless barriers to development of DG projects. They will be approved.

### **3. Annual DG Interconnection Report**

Minnesota Statutes § 216B.1611, subdivision 4(b), states as follows:

Every electric utility shall file with the commissioner a distributed generation interconnection report for the preceding calendar year that identifies each distributed generation facility interconnected with the utility's distribution system. The report must list the new distributed generation facilities interconnected with the system since the previous year's report, any distributed generation facilities no longer interconnected with the utility's system since the previous report, the capacity of each facility, and the feeder or other point on the company's utility system where the facility is connected. The annual report must also identify all applications for interconnection received during the previous one-year period, and the disposition of the applications.

The DG Coalition argues that this information will provide a baseline for evaluating whether the new DG tariffs and policies are actually achieving the result of promoting distributed generation.

Consequently, the Coalition asked the Commission to order utilities to file these reports immediately, and to provide access to the reports via the Commission's site on the World Wide Web. But the Coalition did not direct these remarks to Minnesota Power specifically.

Minnesota Power claims to have already fulfilled the reporting requirements of § 216B.1611, and the Department corroborates this assertion. At hearing the Department also stated its intention to post utilities' annual DG interconnection reports on the Internet.

Given that the DG Coalition did not ask for any additional remedies as regards Minnesota Power filings, the Commission will accept the Department's offer to post the reports on its website and will decline to take any additional action regarding this matter.

#### **4. FERC Order No. 2006**

On May 12, 2005, the Federal Energy Regulatory Commission (FERC) issued Order No. 2006, its final rules standardizing agreements and procedures permitting a generator producing up to 20 MW of electricity to interconnect with a utility's electrical grid.<sup>6</sup> The Department suggested that the Commission seek comments from any interested party regarding how FERC's decision affects current proceedings before the Minnesota Commission.

Minnesota Power supports the Department's suggestion, but argues that the scope of those comments transcends the scope of the current docket. Consequently, Minnesota Power recommends that this matter be addressed in a separate docket. The Department agreed with this suggestion, and no party opposed it.

Given the close relationship between the subject of Order No. 2006 and various Minnesota dockets, the Commission finds the party's recommendation reasonable. The Commission will therefore open a new docket for the purpose of receiving comments on how this new federal order affects ongoing Commission proceedings.

The Commission will so order.

#### **ORDER**

1. Minnesota Power's revised distributed generation proposal of August 4, 2005, is approved as revised and clarified herein.
2. Minnesota Power shall make a rate compliance filing by January 31 of each year, and shall include the following:
  - A new energy payment schedule if different from the previous year's.
  - A new capacity payment schedule if different from the previous year's.

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<sup>6</sup> *In re Standardization of Small Generator Interconnection Agreements and Procedures*, Docket No. RM02-12-000 Final Rule (May 12, 2005).

- A new renewable resource credit schedule if different from the previous year's, along with the guidelines used to develop the credits.
  - The average tradable emissions credit for the previous year.
  - A discussion and support of any and all changes in the schedules.
3. As part of its annual rate compliance filing, Minnesota Power shall do the following:
    - Review and modify as appropriate the DG rider's delivery charge.
    - Identify the charge's application and the characteristics that result in the customer incurring the charge.
    - Show that the costs recovered by the charge are not being recovered elsewhere.
  4. Upon written request Minnesota Power shall disclose the amount of the credits it offers DG customers for permitting Minnesota Power to avoid the costs of energy and capacity. It is understood that the capacity credit figure merely reflects Minnesota Power's overall capacity costs, and that MP will calculate each DG project's capacity credits individually.
  5. Minnesota Power's confidentiality and non-disclosure agreement shall provide for disclosure of confidential information to parties other than the DG customer (such as the customer's investors), similar to Minnesota Power's model power purchase agreement.
  6. Concurrent with the Commission's re-evaluation of its policy exempting generators of 60 kilowatts or less from paying standby charges, Minnesota Power shall file a report re-evaluating its service charges. This report shall include Minnesota Power's explanation and itemization of costs for DG customers and non-DG customers to document that the service charge recovers only incremental customer costs for DG-related services.
  7. Minnesota Power shall substitute "Minnesota Power" for the words "Area EPS" throughout the process and technical documents identified in the ORDER ESTABLISHING STANDARDS.
  8. Minnesota Power shall include in the DG rider a reference to the location of the process and technical documents on its World Wide Web site, and also provide contact information for potential customers that do not have access to the World Wide Web.
  9. The Department shall make the annual DG interconnection reports available via the World Wide Web.
  10. The issue of how the Federal Energy Regulatory Commission's Order No. 2006 affects current proceedings before the Minnesota Commission will be addressed in a separate docket.
  11. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

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