

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayer  
David C. Boyd  
Marshall Johnson  
Thomas Pugh  
Phyllis A. Reha

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Transfer of Four  
Residential Customers Between Redwood  
Electric Cooperative and Northern States  
Power Company

ISSUE DATE: July 13, 2007

DOCKET NO. E-002, 135/SA-06-1161

ORDER APPROVING CUSTOMER  
TRANSFER

**PROCEDURAL HISTORY**

On August 14, 2006, Northern States Power Company d/b/a Xcel Energy (Xcel) filed a letter notifying the Commission that a neighboring utility, Redwood Electric Cooperative (Redwood), had erroneously extended service to a residential subdivision being developed in the city of Morton, within Xcel's assigned service area. The letter stated that the two utilities were working together to rectify the situation and would work to ensure the smooth transfer of the four customers that had been affected.

On September 13, 2006, the Commission extended the comment period on the Company's filing under Minn. Rules, part 7829.1400, at the request of the Department of Commerce (the Department). October 12, 2006, the Department filed comments recommending that the Commission permit the proposed customer transfer to proceed.

Subsequently, both the Department and the Consumer Affairs Office of the Commission received correspondence from affected customers objecting to the transfer. One customer, Brent Prouty, filed public comments in the docket. Mr. Prouty challenged the claim that the four lots were within Xcel's assigned service area and argued that even if they were, the customers should be permitted to continue to receive service from Redwood based on the following claims:

- (1) The customers have invested in dual fuel equipment that is incompatible with Xcel's system, to qualify for special conservation rates from Redwood.
- (2) The customers prefer to remain Redwood customers.
- (3) Xcel does not have a reputation for good customer service in the area, which could affect property values in the subdivision.
- (4) Mr. Prouty has found Redwood responsive to his needs and concerns as a developer, but has had difficulty dealing with Xcel.

- (5) Xcel's line workers are farther from the subdivision than Redwood's, raising reliability concerns.
- (6) Mr. Prouty was not sure what Xcel's rates would be.

Xcel and the Department filed reply comments reiterating that the utilities were confident that the subdivision lay within Xcel's assigned service area and pointing out that the Commission has consistently rejected customers' requests for exemptions from the provisions of the assigned service area statutes.

On July 3, 2007, the case came before the Commission. At that hearing Xcel clarified that Redwood had agreed to pay the full cost of converting affected customers' heating, cooling, and electrical systems to ensure compatibility with Xcel's facilities. Mr. Prouty appeared and continued to oppose the transfer.

## FINDINGS AND CONCLUSIONS

### **I. Factual and Statutory Background**

#### **A. The Service Area Statute**

In 1974 the Minnesota Legislature determined that the orderly development of economical statewide electric service required granting electric utilities exclusive service rights within designated service areas:

It is hereby declared to be in the public interest that, in order to encourage the development of coordinated statewide electric service at retail, to eliminate or avoid unnecessary duplication of electric utility facilities, and to promote economical, efficient, and adequate electric service to the public, the state of Minnesota shall be divided into geographic service areas within which a specified electric utility shall provide electric service to customers on an exclusive basis.

Minn. Stat. § 216B.37.

The Legislature recognized that service areas would require adjustment over time, especially as cities and towns with municipal utilities grew. The Legislature therefore established a procedure, codified at Minn. Stat. § 216B.44, to allow municipal utilities to acquire portions of other utilities' service areas within their city limits. The statute also carved out four exceptions to the general rule that a utility must serve every customer within its assigned service area and must not serve any customer located anywhere else:<sup>1</sup>

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<sup>1</sup> Minn. Stat. § 216B.40.

- (1) It permitted utilities to serve customers within another utility's assigned service area if the other utility consented in writing.<sup>2</sup>
- (2) It permitted utilities to serve their own utility property and facilities, even if the property and facilities were in another utility's assigned service area.<sup>3</sup>
- (3) It permitted utilities to serve buildings located within another utility's assigned service area if those buildings (a) were located on homestead property that lay at least in part within the assigned service area of the utility seeking to serve; and (b) were under construction as of April 11, 1974.<sup>4</sup>
- (4) It permitted utilities to serve very large customers located outside municipalities and within other utilities' assigned service areas, if the Commission found such service to be in the public interest after notice and hearing and consideration of six statutory factors.<sup>5</sup>

The statute also gave the Commission authority to change service area boundaries under Minn. Stat. § 216B.39, subd. 3 and under its general authority to rescind, alter, or amend any of its Orders and to reopen any of its proceedings. Minn. Stat. § 216B.25. The factors to be weighed in considering service area changes are the statutory goals of assigned service areas and the broad public interest.<sup>6</sup>

## **B. The Service Area Maps**

The Public Utilities Act went into effect in late 1974 and required the Commission to complete the process of (a) establishing assigned service areas for all electric utilities and (b) preparing official service area maps showing the boundaries of those service areas, by April 12, 1975. From a practical standpoint, this was an enormous task.

To expedite the process, the statute encouraged utilities to reach agreements on service area boundaries and to submit them to the Commission for approval and ratification. Minn. Stat. § 216B.39, subd. 4. That is how the service area boundaries between these two utilities were set.

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<sup>2</sup> Minn. Stat. § 216B.40.

<sup>3</sup> Minn. Stat. § 216B.42, subd. 2.

<sup>4</sup> Minn. Stat. § 216B.421.

<sup>5</sup> Minn. Stat. § 216B.42, subd. 1.

<sup>6</sup> *In the Matter of City of White Bear Lake's Request for an Electric Utility Service Area Change Within its City Limits and in the Matter of the Petition of Northern States Power Company for an Electric Utility Service Area Change Within the City of White Bear Lake*, 443 N.W.2d 404 (Minn. App. 1989).

The existence of multiple utilities guarantees that there will be rate differences and other perceived differences which will lead customers in individual cases to desire service from a utility other than the one assigned. The statewide need for service area stability, however, discussed below, generally precludes granting such requests. . . .

*In the Matter of the Petition of Northern States Power Company to Amend the Electric Service Area Boundary with Minnesota Valley Cooperative Light and Power Association in Montevideo, Minnesota, Docket No. E-002, 123/SA-89-1092, ORDER DENYING PETITION, AND DENYING COUNTER PETITION AND COMPLAINT IN PART (July 25, 1990).*

## **II. Commission Action**

### **A. The Service Points at Issue Lie Within Xcel's Assigned Service Area**

Because of the speed with which the statute required service areas to be set, original maps, like the ones in this case, often showed very thick boundary lines, creating confusion about where, precisely, the boundary was. As in this case, subsequent maps were more exact.

Both utilities and the Department have examined the original and subsequent service area maps of the Morton area and have concluded that the service points at issue lie within Xcel's assigned service area. The Commission concurs.

### **B. There are No Grounds for Reassigning the Subdivision to Another Utility**

As discussed above, assigned service areas exist to serve overarching public interest goals. Maintaining their integrity is fundamental to ensuring reliable, efficient, and economical electric service throughout the state. Service area boundaries can be changed only when the broad public interest requires it.

The Commission concurs with the Department that there is no general public interest requiring a reassignment of these customers from Xcel to Redwood. Further, the utilities are acting responsibly to minimize the effects of the transfer on the customers. Xcel has taken care to keep them fully informed as events unfold, and Redwood has properly undertaken to compensate them for all costs associated with converting their equipment to meet Xcel's system standards.

Finally, any remaining reliability and customer service concerns of the type raised by Mr. Prouty are more properly addressed in the context of a consumer complaint, or similar procedural vehicle designed to focus on customer-specific facts, than in a service area proceeding.

For all these reasons, the Commission will permit the proposed customer transfer to take place.

**ORDER**

1. The Commission hereby finds that the area at issue is appropriately served by Xcel and Xcel may proceed with the customer transfer discussed herein.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

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