

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Complaint by Red River
Valley Cooperative Power Association
arising from an Assigned Service Area
Violation by the City of Barnesville and
Barnesville Municipal Power

**RECOMMENDED ORDER ON
SETTLEMENT AGREEMENT**

This matter is pending before Administrative Law Judge Barbara Case pursuant to a Notice of and Order for Hearing issued by the Public Utilities Commission (Commission) on November 24, 2020. In an Order dated March 10, 2021, the undersigned continued the contested case hearing and related deadlines to allow the parties to attempt to resolve their differences through mediation. The parties requested an extension of the continuance on March 30, 2021.

Pursuant to an April 9, 2021, Order extending the continuance, the parties were to provide a resolution agreement, if any, to the Administrative Law Judge and the Department of Commerce – Division of Energy Resources (Department) on or before April 30, 2021, the parties submitted a proposed settlement agreement to the Administrative Law Judge and the Department on April 30, 2021. The Department provided its comments recommending approval of the settlement agreement on May 6, 2021.

Sara G. McGrane and Patrick D. Messmer, Felhaber Larson, appear on behalf of RRV. James M. Strommen, Kennedy and Graven, and Christopher M. McShane, Ohnstad, Twichell, P.C., West Fargo, North Dakota, appear on behalf of the City. Katherine Hinderlie, Assistant Attorney General, appears on behalf of the Department.

Based upon the submissions of the parties, the prehearing record, and for the reasons set forth in the accompanying Memorandum,

IT IS HEREBY RECOMENDED:

That the Commission **APPROVE** the Parties' settlement agreement.

Dated: May 14, 2021



BARBARA J. CASE
Administrative Law Judge

MEMORANDUM

The Administrative Law Judge recommends that the Commission approve the Settlement Agreement, including the Mutual Release, between Red River Valley Cooperative Power Association (RRV) and the City of Barnesville and Barnesville Municipal Power (the City) executed on April 30, 2021. These agreements resolve the dispute between RRV and the City, as well as setting forth a framework for addressing changes in use and ownership of certain properties which are the subject of current disputes, along with potential broader disputes in the future.¹ As part of the agreement, the City agrees to pay \$41,850 to RRV for all past, present, and future electric service to customers to which the City is already providing service, as described in Exhibit A of the agreement.² RRV and the City also agree that the City will continue to serve existing customers at the properties identified in Exhibit B of the agreement, subject to certain conditions.³ In addition, RRV and the City agree to proceed in accordance with Minn. Stat. § 216B.44 (2020) and other applicable laws in the event of the City's intent to annex any property identified in Exhibit B.⁴

The Administrative Law Judge concludes that the settlement agreement is in the public interest and is consistent with relevant law. The settlement agreement avoids unnecessary duplication of electric utility service and promotes economical, efficient, and adequate electric service to the public in line with the policy stated in Minn. Stat. § 216B.37 (2020). The settlement also aligns with state statutory requirements regarding any potential annexation through RRV and the City's agreement to follow the process laid out in Minn. Stat. § 216B.44 and other legal requirements. Resolution of this dispute without a settlement would require substantial private and government resources. The settlement agreement is a more efficient use of resources and is in the public interest.

B.J.C.

¹ *Settlement* ¶¶ A-E.

² *Id.* ¶ 1.

³ *Id.* ¶ 2.

⁴ *Id.* ¶ 2.a.

May 14, 2021

See Attached Service List

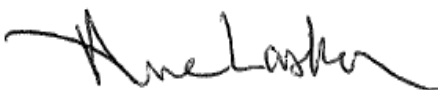
Re: *In the Matter of the Complaint by Red River Valley Cooperative Power Association arising from an Assigned Service Area Violation by the City of Barnesville and Barnesville Municipal Power*
OAH 82-2500-37202
MPUC Docket No.: E-134, E-210/C-20-770

To All Persons on the Attached Service List:

Enclosed and served upon you is the Administrative Law Judge's **RECOMMENDED ORDER ON SETTLEMENT AGREEMENT** in the above-entitled matter.

If you have any questions, please contact me at (651) 361-7881, Anne.Laska@state.mn.us, or via facsimile at (651) 539-0310.

Sincerely,



ANNE LASKA
Legal Assistant

Enclosure

cc: Docket Coordinator

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
PO BOX 64620
600 NORTH ROBERT STREET
ST. PAUL, MINNESOTA 55164

CERTIFICATE OF SERVICE

In the Matter of the Complaint by Red River Valley Cooperative Power Association arising from an Assigned Service Area Violation by the City of Barnesville and Barnesville Municipal Power	OAH Docket No.: 82-2500-37202 MPUC Docket No.: E-134, E-210/C-20-770
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Anne Laska certifies that on May 14, 2021, she served the true and correct **RECOMMENDED ORDER ON SETTLEMENT AGREEMENT** by eService, and U.S. Mail, (in the manner indicated below) to the following individuals:

Electronic Service Member(s)				
Last Name	First Name	Email	Company Name	
Case	Barbara	barbara.case@state.mn.us	Office of Administrative Hearings	
Commerce Attorneys	Generic Notice	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	
Emmil	Leon	lemmil@rrvcoop.com	Red River Valley Cooperative	
Ferguson	Sharon	sharon.ferguson@state.mn.us	Department of Commerce	
Fournier	Marc	marc.fournier@state.mn.us	Public Utilities Commission	
Hinderlie	Katherine	katherine.hinderlie@ag.state.mn.us	Office of the Attorney General-DOC	
McGrane	Sara G	smcgrane@felhaber.com	Felhaber Larson	
McShane	Christopher	cmcshane@ohnstadlaw.com	Ohnstad Twichell	
Messmer	Patrick	pmessmer@felhaber.com	Felhaber Larson	
Residential Utilities Division	Generic Notice	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	
Rietz	Mike	mrietz@bvillemn.net	City of Barnesville	
Seuffert	Will	Will.Seuffert@state.mn.us	Public Utilities Commission	
Shaddix Elling	Janet	jshaddix@janetshaddix.com	Shaddix And Associates	
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Swenson	Guy	gswenson@bvillemn.net	Barnesville Municipal Telephone Company	
Weinberg	Michelle E	MWeinberg@Kennedy-Graven.com	Kennedy & Graven	
Whitcomb	Rich	RWhitcomb@rrvcoop.com	Red River Valley Cooperative Power Association	