

Minnesota Public Utilities Commission

Staff Briefing Papers

Meeting Date: August 24, 2017* **Agenda Item #8**

Company: Northwestern Wisconsin Electric Company

Docket No. E-016/GR-17-506
In the Matter of Northwestern Wisconsin Electric Company's Application for Authority to Change its Rates and Rules in Minnesota to Conform to its Rates and Rules in Wisconsin

Issue: Should the Commission approve Northwestern Wisconsin Electric Company's request to change its rates and rules in Minnesota?

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Relevant Documents

Northwestern Wisconsin Electric Company - Application..... June 26, 2017
Minnesota Public Utilities Commission – Notice of Comment Period July 3, 2017
Minnesota Public Utilities Commission - Approval of Customer Notice July 12, 2017
Minnesota Department of Commerce - Comments..... July 24, 2017

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August 7, 2017

Statement of the Issue

Should the Commission approve Northwestern Wisconsin Electric Company's request to change its rates and rules in Minnesota?

Background

On June 26, 2017, Northwestern Wisconsin Electric Company (NWEC or the Company) filed a request to increase its rates by \$2,029 or 2.668% per year, effective August 15, 2017. The Company said that it would not implement new rates until it receives an order authorizing it to do so from the Minnesota Public Utilities Commission (Commission or MPUC).

The Company made this request in this docket so that if it is approved, the Company's Minnesota rates and rules will conform to the Company's recently approved Wisconsin rates and rules. On June 20, 2017, the Company received permission from the Wisconsin Public Service Commission (WPSC) to increase the Company's Wisconsin rates effective July 1st, 2017. (A copy of the WPSC's June 20, 2017 Order was included in the Company's application.)

Because NWEC has 103 Minnesota customers, the Company's petition qualifies for the small electric utility exemption from MPUC rate regulation, pursuant to Minn. Stat. § 216B.16, subd. 12a.

Relevant Minnesota Statutes and Commission Rules

Minn. Stat. § 216B.16, subd. 12a. Exemption for small electric utility franchise.

- (a) An electric utility, operating as such in a bordering state and having fewer than 200 customers in Minnesota, is exempt from this section if the utility:
 - (1) charges Minnesota customers the same rates as those charged to customers in the bordering state;
 - (2) provides 60-day notice to the Commission of rate increases for its Minnesota customers;
 - (3) provides individual, written notice of rate increases to its Minnesota customers;
 - (4) provides the Commission with schedules of rates and tariffs charged in the bordering state and revenues by class under the former and proposed rates; and
 - (5) maintains an up-to-date tariff book with the department.
- (b) The Commission may initiate an investigation under section 216B.17, on its own motion or upon customer complaint with respect to the utility's rates and practices in Minnesota.

Minn. Rules, Part 7820.5500. Amount of Late Payment Charge.

Subpart 1. **Calculation.** A late payment charge imposed by a utility must be calculated as follows in subparts 2 to 4.

Subpart 2. **Minimum delinquent amount.** The utility shall not assess a late payment charge until the delinquent amount exceeds \$10.

Subpart 3. **Finance fee.** The utility may impose a finance fee no greater than 1-1/2 percent per monthly billing period on the delinquent amount.

Subpart 4. **Minimum finance fee.** The utility may impose a minimum finance fee no greater than \$1.

Minn. Rules, Part 7829.3200. Other Variances.

Subpart 1. **When granted.** The Commission shall grant a variance to its rules when it determines that the following requirements are met:

- A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- B. granting the variance would not adversely affect the public interest; and
- C. granting the variance would not conflict with standards imposed by law.

Subpart 2. **Conditions.** A variance may be granted contingent upon compliance with conditions imposed by the commission.

Subpart 3. **Duration.** Unless the Commission orders otherwise, variances automatically expire in one year. They may be revoked sooner due to changes in circumstances or due to failure to comply with requirements imposed as a condition of receiving a variance.

Northwestern Wisconsin Electric Company's Petition

In addition to the \$2,029 requested rate increase, NWECC's petition included the following:

1. A variance request to Minn. Rules, part 7820.5500, subp. 2, which states that "the utility shall not assess a late payment charge until the delinquent amount exceeds \$10." NWECC explained that to exempt the first \$10 for Minnesota customers would be an excessive administrative burden because it would require the Company to apply different late penalty criteria to its 103 Minnesota customers than apply to its 13,584 Wisconsin customers.

2. A request that the waiver granted in Docket E-016/AA-92-1187 regarding the methodology for calculating automatic adjustments for recovering fuel costs (Power Cost Adjustment Clause) continue to be authorized.
3. Variance requests to the following Minnesota Rules that cover rate change procedures and the provision of financial information in rate increase applications:
 - 7825.3500C Description and Purpose of Change in Rates
 - 7825.3900 Jurisdictional Finance Summary Schedule
 - 7825.4000 Rate Base Schedules
 - 7825.4100 Operating Income Schedules
 - 7825.4200 Rate of Return, Cost of Capital Schedule
 - 7825.4300C Procedures for Cost and Revenue Allocations
 - 7825.4400A Annual Report
 - 7825.4400B Schedule Showing Development of Income

Department of Commerce Comments

In its July 24, 2017 comments, the Minnesota Department of Commerce (the Department or DOC) noted that, with a Minnesota customer count of 103, NWECC meets the criterion for an exemption under Minn. Stat. § 216B.16, subd. 12a(a) of having a maximum of 200 customers. Additionally, NWECC has provided copies of its Wisconsin rates and tariffs, provided the Commission with a 60-day notice of the proposed increase, and stated that upon Commission approval, the Company will submit new tariff pages to update its tariff book.

The DOC concluded that NWECC's filing met the requirements for an exemption from Minn. Stat. § 216B.16 and, because of that exemption, the Company is also exempt from the filing requirements for a rate change set forth in Minn. Rules pts. 7825.3100 to 7825.4500.

Consequently, the DOC determined that the Commission does not need to grant a variance to Minn. Rules pts. 7825.3500C, 7825.3900, 7825.4000, 7825.4100, 7825.4200, 7825.4300C, 7825.4400A, and 7825.4400B as requested by NWECC. The Department position that a variance is unnecessary is consistent with the Commission's April 25, 2013 Order in NWECC's last rate case filing (in Docket No. E-016/GR-13-167).

Similarly, the Commission does not need to address the issue of the waiver granted in Docket No. E-016/AA-92-1187 regarding the methodology for calculating automatic adjustments through the Power Cost Adjustment Clause, since the exemption from the requirements of Minn. Stat. §216B.16 also exempts NWECC from the requirements of Minn. Rules pts. 7825.2400 (specifying the methodology for calculating automatic adjustments).

Regarding the requested variance to Minn. Rules, part 7820.5500, subp. 2 for late payment charges, the Department pointed out that Minn. Rules, part 7830.4400 allows the Commission to grant a variance to its rules under the following conditions:

- Enforcement of the rule would impose an excessive burden on the applicant or others affected by the rule;
- Granting the variance would not adversely affect the public interest; and
- Granting the variance would not conflict with standards imposed by law.

Since applying different late payment criteria to NWEC's 103 Minnesota customers and the 13,584 Wisconsin customers would impose an excessive administrative burden, the Department recommended that the variance to Minn. Rules, part 7820.5500, subp. 2 be approved.

Finally, the Department recommended that Northwestern Wisconsin Electric Company's proposed change in rates be approved.

Staff Comment

Staff agrees for the most part with the Department's analysis and recommendation. Staff believes they are consistent with one exception with the Commission's decisions in NWEC's last three rate requests in 2013,¹ 2012² and 2007.³

In its April 25, 2013 Order, in Docket No. E-016/GR-13-167, the Commission said:

With respect to the Company's request for a variance to Minn. R. 7820.5500, subp. 2, for late payment charges, the Commission will approve the variance for so long as the provision for late payment charges remains in effect in the Company's tariffs, making the following findings:

1. Enforcement of the rule would impose an excessive administrative burden on the Company, by requiring it to apply different late payment criteria to its Minnesota customers than to its Wisconsin customers.

¹ Order Granting Rate Decrease And Variance, In the Matter of Northwestern Wisconsin Electric Company's 2013 Application for Authority to Change its Rates and Rules in Minnesota to Conform to its Rates and Rules in Wisconsin, Docket No. E-016/GR-13-167 (April 25, 2013)

² Order Granting Rate Increase And Granting Requested Variance, In the Matter of Northwestern Wisconsin Electric Company's Application for Authority to Change its Rates and Rules in Minnesota to Conform to its Rates and Rules in Wisconsin, Docket No. E-016/GR-12-42 (March 16, 2012)

³ Order Granting Rate Increase And Granting Variance, In the Matter of Northwestern Wisconsin Electric Company's Petition for Authority to Change its Minnesota Electric Rates and Rules to Conform with Existing Wisconsin Rates and Rules Docket No. E-016/GR-07-504 (June 20, 2007)

2. The public interest would not be adversely affected, as there is no minimum late payment charge.
3. Varying the rule would not conflict with standards imposed by law, and is consistent with the Commission decision regarding implementation of rates for Minnesota customers arising from the Company's last rate case. [footnote omitted]

The Commission also said

With respect to the Company's request for a variance to rate case filing requirements, Minn. Stat. § 216B.16, subd. 12a(a) exempts small electric utility franchises from the rate change procedures provided that it meets the requirements of Minn. Stat. § 216B.16, subd. 12a(a). Based on the Department's recommendation, the Commission finds that Northwestern has met all of the requirements of Minn. Stat. § 216B.16, subd. 12a(a), and is exempt from the filing requirements in Minn. R., Parts 7825.3500C to 7825.4400B. Accordingly, it is not necessary for Northwestern to request, nor for the Commission to grant, a variance to Minn. R., Parts 7825.3500C to 7825.4400B as long as the Company remains exempt from section 16 of Minn. Statutes, Ch. 216B, pursuant to the provisions of Minn. Stat. § 216B.16, subd. 12a.

However, staff notes there is one exception. In the April 25, 2013 Order, the Commission did not adopt the Department's recommendation that no action was needed on the Company's request for an extension of the rule variance covering the Company's calculation of its monthly fuel clause adjustments. The Commission said:

Finally, the Commission granted a variance to the "current period" rule -- Minn. R. 7825.2400, subp. 13 -- for calculating monthly adjustments to the Company's Power Cost Adjustment clause in its December 15, 1992 order in Docket No. E-016/AA-92-1187. The Commission will extend the variance for as long as the method the Company is currently using to calculate the Power Cost Adjustment clause remains in effect in its Wisconsin tariffs. This will allow the Company to continue using one month of fuel and power costs for its monthly fuel and power cost adjustments, and allow the Company to keep its Minnesota rates and tariffs consistent with its rates and tariffs in Wisconsin.

In the briefing papers in the 2013 rate case, staff said

Northwestern was initially granted this variance in 1992. In the Commission's December 15, 1992 Order, the Commission adopted the Department's recommendation and approved the variance to Minn. Rule, part 7825.2400,

subpart 13. In its recommendation, the Department explained that it was reasonable to let Northwestern calculate its automatic adjustment for changes in its power costs using one month of fuel and power costs rather than the average of two months which is required by Minnesota Rule, part 7825.2400, subpart 13 because

Enforcement of the Commission's rules would impose an excessive administrative burden on the Company by requiring it to compute a different adjustment for only 95 customers in Minnesota. Because the total fuel expenses collected over time is the same regardless of whether the Company uses one month or two months of costs, the public would not be adversely affected. Finally, the variance would not conflict with any standards imposed by law.⁴

Staff believes the Commission should allow Northwestern to continue using one month of fuel and power costs for its monthly fuel and power cost adjustments. This will allow Northwestern to keep its Minnesota rates and tariffs consistent with its rates and tariffs in Wisconsin.⁵

The Commission could authorize this variance to continue by extending the requested rule variance for the same reasons given in the December 15, 1992 Order. Alternatively, the Commission could adopt the Department's reasoning and recommendation and find that a variance is not needed because Northwestern qualifies for an exemption from section 16 of Minn. Laws, Ch. 216B. The Department's argument appears to be based on the theory that because of Northwestern's small utility exemption, Northwestern is exempt from Minn. Stat. § 216B.16, subd. 7.⁶ Subd. 7 (of section 16) allows the Commission to approve automatic fuel clause adjustment mechanisms for individual utilities. Another theory is that because Northwestern's Power Cost Adjustment Clause rider is a tariffed rate approved by the WPSC, it should be approved because the rider is the schedule of rates charged in the bordering state.

⁴ Order, In the Matter of a Petition by Northwestern Wisconsin Electric Company (Northwestern of the Company) for Approval of a Variance to Minnesota Rules, part 7825.2400, subpart 13, Docket No. E-016/AA-92-1187, December 15, 1992, pp. 2-3

⁵ This issue does not appear to have been addressed in the staff briefing papers or the Commission's March 16, 2012 Order in the last rate case. Staff believes this was an oversight.

⁶ Minn. Stat. § 216B.16, subd. 7. Energy and emission control products cost adjustment. Notwithstanding any other provision of this chapter, the commission may permit a public utility to file rate schedules containing provisions for the automatic adjustment of charges for public utility service in direct relation to changes in: (1) federally regulated wholesale rates for energy delivered through interstate facilities; (2) direct costs for natural gas delivered; (3) costs for fuel used in generation of electricity or the manufacture of gas; or (4) prudent costs incurred by a public utility for sorbents, reagents, or chemicals used to control emissions from an electric generation facility, provided that these costs are not recovered elsewhere in rates. The utility must track and report annually the volumes and costs of sorbents, reagents, or chemicals using separate accounts by generating plant.

Staff believes both alternatives would accomplish the same thing.

Staff notes that on December 18, 2001, the Commission granted Northwestern a variance from the annual reporting requirements in the automatic adjustment rules. This variance has no expiration date. (Docket No. G,E-999/AA-00-1027)

Consistent with prior orders in previous NWECE rate cases, the Commission may want to order the Company to file updated tariff sheets within ten (10) days of the Commission's Order in this proceeding and to verify that all of NWECE's Minnesota customers have been notified of the rate increase.

Decision Alternatives

Change in rates

1. Approve the proposed change in rates. (NWECE, DOC)
2. Do not the proposed change in rates and require that existing rates remain in effect.

Late payment charges on amounts less than \$10

3. Grant the requested variance to Minn. Rules, part 7820.5500, subp. 2 with a duration as long as the rates established in this proceeding remain in effect. (NWECE, DOC)
4. Do not grant the requested variance and require the Company to comply with Minn. Rules, part 7820.5500, subp. 2.

Rate change procedure rules and provision of financial information in rate increase applications rules

5. Grant the requested variance to
 - a. Minn. Rules, part 7820.3500C. (NWECE)
 - b. Minn. Rules, part 7825.3900. (NWECE)
 - c. Minn. Rules, part 7825.4000. (NWECE)
 - d. Minn. Rules, part 7825. 4100. (NWECE)
 - e. Minn. Rules, part 7825.4200. (NWECE)
 - f. Minn. Rules, part 7825.4300C. (NWECE)
 - g. Minn. Rules, part 7825.4400A. (NWECE)
 - h. Minn. Rules, part 7825.4400B. (NWECE)

6. Take no action. (DOC)

Fuel and Purchased Power Current Period

7. Grant Northwestern's request for an extension of the variance to the "current period" rule⁷ for calculating monthly adjustments for its Power Cost Adjustment Clause for as long as
 - a. the rates established in this proceeding remain in effect, (NWECC) or
 - b. the method Northwestern is currently using to calculate the Power Cost Adjustment Clause remains in effect in the Company's Wisconsin tariffs, (Staff) or
8. Find that Northwestern does not need a variance to the "current period" rule, and the Commission does not need to address the Company's request, as long as the Company is qualified for the small electric utility exemption, pursuant to Minn. Stat. § 216B.16, subd. 12a. (DOC)

General Housekeeping

9. Require the Company to file updated tariff sheets within ten (10) days of the Commission's Order in this proceeding. (Staff)
10. Require the Company to submit a compliance filing verifying that all of its customers have been notified of this change in the rates using the Commission-approved customer notice. (Staff)

⁷ Minn. Rules, part 7825.2400, subpart 13. Automatic Adjustment of Charges. Definitions. Current period. "Current period" is the most recent two-month moving average used by electric utilities in computing an automatic adjustment of charges. Upon approval of the commission, a self-billing utility may use a longer period, not to exceed 12 months, provided that the provision contains a settlement procedure.