

Minnesota Public Utilities Commission

Staff Briefing Papers

Meeting Date: **November 8, 2012**.....** Agenda Item #5

Company: All Electric Utilities

Docket No. **E-999/CI-12-957**

In the Matter of Establishing Digital Service Area Maps Showing the Boundaries of the Assigned Service Area of Each Electric Utility in Minnesota.

Issue: Should the Commission adopt the digital electric utility service area map, showing the assigned service area of each electric utility, without prejudice?

Should the Commission take other actions?

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Relevant Documents

Commission Notice..... September 14, 2012
Dakota Electric Association comments September 28, 2012
Austin Utilities comments (multiple)..... September 28, 2012
People's Electric Cooperative comments September 28, 2012
Xcel Energy comments September 28, 2012
Minnesota Municipal Utility Association comments September 28, 2012
Interstate Power and Light comments September 28, 2012
Nashwauk Public Utilities comments September 28, 2012
Tri-County Electric Cooperative commentsOctober 1, 2012
Shakopee Public Utilities Commission commentsOctober 11, 2012

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Statement of the Issue

Should the Commission adopt the digital electric utility service area map, showing the assigned service area of each electric utility, without prejudice to any utility? Should the Commission take other actions?

Statutory Authority

Minnesota Statutes sections 216B.39 through 216B.43 address assigned electric service areas. Minnesota Statutes section 216B.39, subdivisions 1 and 2, required each electric utility to file a map or maps showing its service area to the Commission and directed the Commission to adopt a map or maps that clearly reflected those boundaries.

Minnesota Statutes section 216B.39, subdivision 3, states in part that in addition to the service area contracts between utilities provided for in subdivision 4, the Commission may on its own or at the request of an electric utility make changes in the boundaries of the assigned service areas, but only after notice and hearing as provided for in sections 216B.17 and 216B.18.

Background

The Commission is in the process of making the electric utility service area (“EUSA”) maps available in a digital format through an interactive website. All service area information received to date has been incorporated into the website, which is overseen by the Commission and hosted by the Minnesota Geospatial Information Office (“MnGeo”) – a division within the Office of Enterprise Technology that provides geographic information systems (“GIS”) services to other state agencies.

In 2004, Commission staff, the Department of Commerce (“Department”), and MnGeo began an initiative to transition EUSA maps from paper maps housed at the Department to a single digital EUSA map database that could be viewed multiple ways using GIS technology. The goal of this mapping project is to create a consistent, statewide, GIS database of EUSA boundaries as vetted by the utilities.

In 2006, Commission and Department staff, along with representatives of MnGeo, met with electric utilities, including the Minnesota Municipal Utilities Association and the Minnesota Rural Electric Association. The purpose of that meeting was to engage utilities to clarify the status of EUSA boundaries in order to ensure that the map database accurately reflected existing EUSA boundaries. Subsequently, MnGeo, working with Commission and Department staff, initiated a broad effort to collect boundary information from all electric utilities in Minnesota. This was a very large task, given the extremely large number of boundaries involved. In addition, MnGeo had to take extra measures to accommodate the varying capabilities of utilities to manage the mapping data. Given these complexities, considerable time was needed to accumulate enough data to make the database a reliable source for service area boundary information.

In 2008, utilities were provided access to all data regarding EUSA boundaries in a format reviewable by the utility. Formats for data included the digital EUSA map created from paper maps, actual paper maps, PDFs, or some other format because not all utilities had GIS capability. Again, Utilities were encouraged to review their relevant data and asked to inform MnGeo as to the status of the boundaries (e.g., did they agree or not agree that the digital boundary was accurate?).

As a practical matter, Commission and Department staff acknowledged from the inception of this mapping project that neither the paper maps nor the EUSA digital map will be 100 percent accurate. The goal has been to develop a statewide digital map database that accurately reflects the status of the boundaries based on the best available information. The EUSA boundary review included correcting misinformation regarding boundaries that have been kept to date. Misinformation could have resulted from poor scale on the original paper maps to boundaries that have not been updated for various reasons. MnGeo has received approximately 1,000 submissions to date.

The digital EUSA map was made publically available on September 14, 2012. Commission staff issued a notice on September 14, 2012, seeking comments on whether the Commission should adopt the digital electric utility service area map without prejudice in addition to the website's functionality and suggested processes to resolve service area boundary discrepancies.

Comments

Xcel Energy

Xcel Energy ("Xcel") requested that the Commission:

- Take action, without prejudice, to approve the EUSA digital map boundaries submitted to date;
- Allow sufficient time for utilities to review the map to ensure the changes are properly reflected;
- Require that unconfirmed boundaries are clearly identified and a disclaimer is placed on boundaries not yet reviewed and confirmed;
- Clarify the processes to submit remaining agreements, confirmations, and changes; and
- Clarify the procedural processes for future service area matters.

Xcel stated it had limited time to assess website functionality; therefore, provided no comments. Xcel also stated that it would like the current cooperative process to continue to confirm and/or correct service area boundaries.

Xcel has submitted over 500 changes to the EUSA digital mapping project to date and expects to complete its review in 2013. To avoid confusion by map users while the boundaries are not yet finalized, Xcel suggested that the EUSA digital map include a disclaimer that indicates that certain portions of the map are not identified as "final" and should not be relied upon by system users.

Xcel expects it will have numerous agreements to submit that will not likely fit the current filing types reviewed by the Commission – exceptions, transfers, and annexations. Xcel asked the Commission to clarify the specific process Xcel must follow to submit its correction and confirmation agreements. Xcel suggested that the Commission could use its consent calendar process to process corrections and confirmations in which there is no dispute.

Xcel expressed support to replace the 1974 paper maps with the EUSA digital map. However, Xcel requested the Commission clarify how the EUSA digital map relates to the official service area maps mandated by Minnesota Statutes section 216B.39 and filed in 1974. Xcel suggested that the statute provides flexibility to use a rulemaking or hearing and order process to adopt the new EUSA digital map.

Dakota Electric Association

Dakota Electric Association (“Dakota”) conducted a thorough review of its service area boundaries that border all its neighboring utilities with the exception of Xcel Energy, which it anticipated would be soon. Dakota recommended that the Commission adopt the EUSA digital map without prejudice and the utilities continue to work to identify, clarify, and resolve service area gaps, overlaps, and boundary disputes. Dakota stated that it will submit a future filing with Xcel to address any issues that arise in the course of its review.

Minnesota Municipal Utilities Association

Minnesota Municipal Utilities Association (“MMUA”) expressed strong support to digitalize the paper maps, but did not recommend adopting the EUSA digital map as the official map in its current form. MMUA expressed concern over declaring the map official without make all the necessary corrections.

MMUA stated that it would be prudent to make as many corrections as possible before the Commission acts upon the EUSA digital map. MMUA is currently working with its members to help facilitate this process.

MMUA stated it was very concerned about certain boundaries shown on the EUSA digital map labeled “agree with no correction” because some of these boundaries are incorrectly labeled. It is possible that municipal utilities could be disproportionately undermined by the use of outdated EUSA boundaries incorrectly designated as boundaries that have been agreed upon because those boundaries would be used as starting points in proceedings. If EUSA boundaries can be verified prior to declaring the map official, significantly fewer proceedings would be required.

MMUA commented that it believes there is significant value to utilities under the settlement conference process in Minnesota Rules 1400.6550 as described by the Office of Administrative Hearings (“OAH”) Assistant Chief Judge Eric Lipman at an informal meeting on the EUSA digital map project hosted by Commission staff on June 6, 2012. MMUA stated it is likely that many disputes can be resolved at much less cost to parties and burden on Commission resources if processes outside formal contested case proceedings are available.

Austin Utilities

Austin Utilities filed comments to notify the Commission that boundaries shown on the EUSA digital map are incorrect for Austin Utilities. Austin Utilities attached maps to its comments reflecting its current boundaries and is in territory discussions with its neighboring utility.

Alliant Energy

Interstate Power and Light Company (“IPL”) of Alliant Energy submitted comments expressing support for the Commission’s effort to make publically available maps delineating utilities’ service territories and to provide a cooperative process by which utilities can resolve any disputes over the territories represented in those maps.

People’s Energy Cooperative

People’s Energy Cooperative (“People’s”) stated it will review its record of previous agreements regarding neighboring utilities to resolve any outstanding issues, but is under the impression that a number of the areas shown as disputed have been resolved through previous correspondence with the Commission.

People’s commented on the functionality of the website. Specifically, People’s suggested shape files should be made available for importing into individual utilities’ mapping database, which would allow utilities to view the EUSA digital map with individual facilities and be able to identify boundaries with specific longitude and latitude coordinates.

Tri-County Electric Cooperative

Tri-County Electric Cooperative (“TEC”) requested that the EUSA digital map reflect changes as they are submitted by utilities. TEC noted that several of its boundaries are not accurately reflected on the EUSA digital map.

Nashwauk Public Utilities Commission

Nashwauk Public Utilities Commission (“NPUC”) informed the Commission that a service territory transfer in a Commission order, dated May 25, 2007, was not incorporated into the EUSA digital map.

Shakopee Public Utilities Commission

Shakopee Public Utilities Commission (“Shakopee”) objected to the adoption of the EUSA digital map as official due to known errors in the existing database. Despite its attempt to correct certain errors and meet with Xcel to review common boundaries, these corrections have not yet been incorporated into the EUSA digital map. Shakopee stated that while the website is a convenient tool, it should not supersede official historical records of the Commission.

Staff Analysis

As discussed in the background section, the Commission is in the process of converting the existing paper maps into a digital format. The original paper maps were prepared pursuant to section 216B.39, subdivision 2, and were subsequently updated as boundaries changed. The informal process of developing a single EUSA digital map has been an ongoing project for several years. Utilities have been asked by Commission staff to confirm boundaries with adjacent utilities and make corrections and/or confirm boundaries with MnGeo.

Due to the transition from paper maps to a digital map, and numerous corrections made to the boundaries, the Commission could make a re-determination that the EUSA digital map is the official map required under section 216B.39. In other words, it would be a reasonable action by the Commission to declare the new EUSA digital map as the official map without prejudice to utilities because the existing official map is essentially being re-issued in a different format with corrections.

Making a determination that the EUSA digital map is adopted *without prejudice* is to make it clear that the existing rights and privileges utilities have by law remain protected. Similar to the existing paper maps, knowing the EUSA boundaries in the digital map will also not be 100 percent accurate, it is necessary to make clear that declaring the digital map the official map does not prejudice any utility. Therefore, action by the Commission regarding the EUSA digital map shall be without prejudice to any utility and its position of where the EUSA boundary should be located.

Reassessing the accuracy of the EUSA boundaries is reasonable and prudent during the conversion process so the digital map is as accurate as possible even though perfect accuracy is not likely to be achieved. As discussed in the background section, some boundaries were not clear due to scale or they were simply inaccurate. Changes made to the boundaries have been technical in nature and did not attempt to resolve any disputes.

In order for all stakeholders to view the same map, the EUSA digital map was frozen in time during the comment period. However, MnGeo has been collecting submissions from utilities during the comment period. Although much progress had been made in reaching consensus of EUSA boundary locations, allowing more time is reasonable at this point in the mapping project because there appears to be a significant number of boundaries that have not been confirmed.

There are essentially three reasons why the EUSA digital map may not be ready to be adopted as the official map. First, there have been a small number of EUSA boundary changes previously approved by the Commission, but not yet reflected in the digital map. Second, some utilities (e.g., Xcel) are still working with neighboring utilities to confirm EUSA boundaries. Third, some utilities have only recently begun reviewing EUSA boundaries.

A new map reflecting the corrections and confirmations received by the Commission and MnGeo during the comment period has been made publically available and noticed in the Commission's ten-day notice for this meeting. Commission staff anticipates additional EUSA boundary confirmations and corrections to be reported by utilities for the next several months;

therefore, the EUSA digital map could continue to change to reflect these corrections unless the Commission takes action otherwise. If the Commission chooses to continue this informal process for making corrections and confirming boundaries, the process moving forward should be clear.

There are several directions the Commission could take regarding this digital mapping project. For example, decisions include how much time, if any, to allow utilities to complete review of EUSA boundaries and whether the EUSA digital map should officially replace the paper maps at this time or at a later time. The Commission's notice seeking comments also requested comments on the processes for resolving disputed EUSA boundaries and website functions and tools.

Processes for Disputes

In addition to filing directly with the Commission for resolution of a dispute, there are alternative processes available. Options provided under Minnesota Statutes sections 14.59 (informal disposition) and 14.57 (initiation; decision; agreement to arbitrate) and Minnesota Rules 1400.5950 (mediation) and 1400.6550 (settlement conference) through the OAH could be an alternative to the Commission process to resolve disputes. The final determination of EUSA boundaries would still be made by the Commission.

No commenters expressed opposition for disputes to be handled outside the formal contested case proceedings through the OAH. MMUA expressed support of using settlement conferences through the OAH as an alternative to a contested case proceeding. Using alternative processes to resolve disputes through the OAH is a viable, lower cost solution already available to electric utilities. Staff does not believe the Commission has to take action in order to encourage the use of alternative processes available through the OAH. Therefore, the decision alternatives do not address options available through the OAH.

Website Functionality

The website for the EUSA digital map is: <http://www.mngeo.state.mn.us/eusa>. Stakeholders did not have much opportunity to experiment with the functionality of the website because the website was made publically available in its current form at the start of the comment period. A few issues were raised in comments, such as labeling boundaries as agreed-upon and difficulty to differentiate between certain colors.

Although prior versions of the website were available to utilities through a password to view data, those versions differ from the version issued for the comment period. The version issued for the comment period was designed to be user-friendly to the public. An informal meeting with interested stakeholders, MnGeo, and Commission staff to further develop website functions and design could be beneficial to make adjustments to the website. Commission staff supports maintaining the ability to change the functionality of the website as needed. Future changes, if needed, could simply be part of maintaining the EUSA digital map. Therefore, decision alternatives regarding website functions are not included in the decision options.

Timeframe for Completing Corrections

Much progress has been made updating the EUSA map boundaries since utilities were first made aware of the initiative. However, it appears that the number of possible boundary adjustments is higher than anticipated. Xcel, along with other utilities, have not yet completed their boundary review. Xcel borders numerous cooperatives and municipal utilities. Xcel stated that it expects its review to be completed in early 2013. It may be reasonable to allow utilities to make corrections to the boundaries until spring of 2013.

For example, the Commission could take action at this time and establish a deadline for utilities to get their boundary corrections and confirmations to MnGeo by May 1, 2013. The EUSA digital map could be continually- updated until May 1, 2013. The map could then be frozen in time while comments are sought from utilities to determine whether the EUSA digital map accurately reflects submissions. The Commission could then make a decision as to whether to declare the EUSA digital map as the official map under section 216B.39. However, the Commission may want to take a different approach. Regardless, continuing to accept corrections to boundaries that are not in dispute is a reasonable approach to developing an accurate EUSA map. Whether and how the Commission should continue to allow corrections are included in the decision alternatives.

Declaration of Official EUSA Digital Map

The Commission could declare the EUSA digital map official without prejudice to any individual utility at this time (Decision Alternative I.A). If the Commission makes a determination that the map is official, a clear process in which to address corrections and confirmations as they come in should be established.

Part of the process could include revisiting the official EUSA digital map in the near future and make another declaration of an updated official map that incorporates additional corrections. Further, as discussed above, a date in which no further corrections under this docket could be established after which all corrections would have to go through as independent dockets. In the alternative, the Commission could leave this docket open perpetually to allow for corrections and confirmations to continue to be made and the Commission could periodically re-issue an updated official EUSA digital map.

It is possible that declaring this map official before utilities have finished their review of service territories could place a utility at a disadvantage when discussing the location of where the boundary should be if it was incorrectly identified on the EUSA digital map. Further, a utility could challenge a boundary if it had been unconfirmed and varied from the boundary as designated by the Commission as a result of the 1974 legislation. Whether the Commission declares the EUSA digital map the official map at this time or at a later time, it is in the public interest to maintain an accurate as map as possible.

Declaration of Interim EUSA Digital Map

Instead of declaring an official map at this time, the Commission could make a determination that the EUSA digital map is in an interim map and then declare the map the official map in the near future (Decision Alternative I.B). As discussed above, this project is converting paper maps to a single digital map that will have multiple functions via a website. In the process of this conversion, corrections and confirmations are appropriate. This map could be made an official interim EUSA digital map until such time when the Commission would act and declare the EUSA digital map the official map under Minnesota Statutes section 216B.39.

No Declaration

The Commission may choose not to take any action at this time and take up this matter when the remaining corrections and confirmations have been made (Decision Alternative I.D). The Commission could establish a timeframe in which to take action at a future date. Similarly, the Commission could take action that it is not making a declaration this time in order to allow for additional corrections and confirmation of EUSA boundaries (Decision Alternative I.C), which may make the Commission's intentions more transparent than taking no action.

Process for Corrections

The process moving forward for handling corrections to EUSA boundaries depends on what action, if any, the Commission takes at this time. To date, corrections have included oversights from boundary changes that have gone through the formal Commission process, oral agreements that may have been in place for a long period of time, and written agreements that have not gone through the formal Commission process.

The Commission reviews boundary changes for two primary reasons: 1) it is required to maintain a map or maps of all service territories, and 2) it is the practice of the Commission to notice all affected customers of the change in service in addition to notice under sections 216B.17 and 216B.18 pursuant to section 216B.39, subdivision 3. It is important to note that some boundary changes have not gone through the process as set forth by statute and/or Commission practice.

The Commission could view this transition period during the EUSA map conversion as a grace period to allow utilities to submit changes from the original map required by the 1974 legislation where there is mutual agreement. After the EUSA digital map has been determined to be the official map of the Commission, then utilities would be required to bring each boundary change before the Commission for approval as is the current practice. Alternatively, the Commission could process approvals for corrections in batches on its consent calendar.

A potential consequence of not requiring utilities to submit written agreements during this transition process could be lack of a record of the specific boundary alteration if a dispute arises in the future. Note that agreements prior to passage of the 1974 legislation are also not in the Commission records. Further, disputes also could be handled through an OAH process.

The following are two examples of boundary changes where the Commission has not previously acted. First, the City of Mountain Iron informed the Commission during the comment period for this docket that it had entered into an agreement with the City of Virginia in 2003 to change its service territory, among other things, but did not file the agreement with the Commission for approval. The Commission could create a separate docket for this agreement for approval or simply allow the agreement to be incorporated into the new EUSA digital map during this transition period. Second, Minnesota Power recently entered into an agreement with Lake Country Power to memorialize in writing what had been an oral agreement; this generic docket was the catalyst for entering into a written agreement and is now a separate docket (Docket No. E106, E015/SA-12-755). Because a separate docket was created, the Commission will be making a decision on this particular agreement even though affected customers will not experience a change in service.

It is very likely that a number of oral and written agreements between utilities have formed over the years, but were not filed with the Commission. If one of the goals of converting paper maps into a EUSA digital map is to create a map that is accurate as possible, allowing utilities to bring corrections and agreements forward with minimal regulatory burden would help facilitate that goal.

If the Commission is going to extend the time in which it accepts corrections to the EUSA digital map, treating all circumstances the same would be the least complicated. Therefore, whether a utility has not yet begun its review, has no written agreements of previous boundaries changes, or is still working with its neighboring utilities, that utility would not be differentiated from any other utility under this docket.

Decision Alternatives

- I. *Status of EUSA Digital Map*
 - A. Declare the EUSA digital map the official map required under Minn. Stat. § 216B.39 without prejudice to any utility.
 - B. Declare the EUSA digital map the official interim map required under Minn. Stat. § 216B.39 without prejudice to any utility.
 - C. Do not declare the EUSA digital map the official map required under Minn. Stat. § 216B.39 at this time, but allow for additional time to continue the informal process of submitting corrections and confirmations to EUSA boundaries.
 - D. Take no action.
- II. *Process to Address Future Corrections*
 - A. Continue the current informal process to confirm and correct EUSA boundaries.

1. Continue to direct utilities to submit corrections and agreed-upon confirmations until May 1, 2013, without requiring Commission approval.
2. Continue to direct utilities to submit corrections and agreed-upon confirmations until May 1, 2013, but require Commission approval for any boundary changes from the current EUSA digital map.
3. Continue to direct utilities to submit corrections and agreed-upon confirmations until the Commission closes this docket.
 - i. Corrections must be approved by the Commission.
 - ii. Corrections do not need Commission approval.

B. Do not allow additional time for corrections to the EUSA boundaries.

III. *Filings*

- A. Require all electric utilities to file with the Commission any service territory agreements not previously filed by May 1, 2013.
- B. Take no action.

Staff recommends I.C, II.A.1, and III.B.