

October 27, 2014

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E221,E148/SA-14-825

Dear Dr. Haar:

Attached are the comments of the Minnesota Department of Commerce, Division of Energy Resources (the Department or DOC) in the following matter:

The Joint Request of the City of Buffalo (the City) and Wright-Hennepin Cooperative Electric Association (Cooperative), collectively the Parties, to Modify Electric Service Territory Boundaries.

The petition was filed on September 26, 2014 by:

Kent D. Mattson
Pemberton, Sorlie, Rufer & Kershner, PLLP
110 N. Mill Street
Fergus Falls, MN 56537

The Department recommends that the Minnesota Public Utilities Commission (Commission) hold the current requested service territory boundary transfer of the Rodeo Hills parcel in abeyance, until the Parties address the First Amendment with the Commission, and is available to answer any questions the Commission may have.

Sincerely,

/s/ DALE V. LUSTI
Financial Analyst

DVL/lt
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

DOCKET No. E221,E148/SA-14-825

I. BACKGROUND

On July 1, 2003, in Docket No. E221,E148/SA-03-989, the City of Buffalo (City) filed a petition under Minn. Stat. 216B.44 stating its intention to exercise its right to expand its assigned service area to include annexed areas within the assigned service area of Wright-Hennepin Cooperative Electric Association (Wright-Hennepin or the Cooperative) and asking the Minnesota Public Utilities Commission (Commission) to determine appropriate compensation to the Cooperative.

On October 16, 2003, the Commission referred the case to the Office of Administrative Hearings for evidentiary hearings. On October 26, 2004, the Administrative Law Judge filed her report and recommendations.

On April 1, 2005, the Commission issued an Order resolving all contested issues and directed the parties to complete the calculations necessary to determine the final compensation award, stating:

Determining compensation amounts due on the basis of the decisions reached in this Order requires calculations best performed by the parties. The Commission will therefore require the parties to make joint or separate compliance filings detailing the amount of the compensation award within 30 days.¹

On February 6, 2007, the Commission issued an Order determining compliance issues.

On August 8, 2008, the Minnesota Court of Appeals affirmed the Commission's Orders determining compensation in the case.

¹ *Order Determining Compensation and Requiring Compliance Filing*, Docket No. E221, E1118/SA-03-989, page 11.

On March 20, 2012, in Docket No. E221,E148/SA-12-252, the City and the Cooperative jointly filed a request that the Commission modify the Parties' electric service territory boundaries. The request concerned the seven areas annexed into the City and addressed by the Commission with regard to determining compensation in Docket No E221, 148/SA-03-989. The Parties' *Electric Service Territory Agreement and Bill of Sale* dated November 10, 2010 was attached to the petition as Exhibit 1.

On May 16, 2012, the Minnesota Department of Commerce, Division of Energy Resources (Department) filed Comments recommending approval of the requested service territory boundary transfer of the seven parcels identified in the petition, from the Cooperative to the City.

On June 22, 2012, the Commission approved the requested service territory boundary transfer.

II. SUMMARY OF PROPOSAL

On September 26, 2014, the City and the Cooperative jointly filed a request that the Commission modify the Parties' electric service territory boundaries. The request concerns the transfer of the area commonly known as Rodeo Hills from the Cooperative to the City (Petition).

The Parties' *Second Amendment to Electric Service Territory Agreement and Bill of Sale* (Second Amendment) is attached to the Petition, including a map and the detailed territory boundaries of the area to be transferred to the City.

III. DEPARTMENT ANALYSIS

A. TRANSFER OF RODEO HILLS INTO THE CITY'S SERVICE AREA

Minnesota Statutes section 216B.44, subd. (a) states:

... whenever a municipality which owns and operates an electric utility (1) extends its corporate boundaries through annexation or consolidation, or (2) determines to extend its service territory within its existing corporate boundaries, the municipality shall thereafter furnish electric service to these areas unless the area is already receiving electric service from an electric utility, in which event, the municipality may purchase the facilities of the electric utility servicing the area.

The Parties' joint petition contains the legal descriptions of the Rodeo Hills area to be transferred from the Cooperative to the City. Listed below is the legal description of the parcel to be transferred.

Rodeo Hills

The Northeast Quarter of the Southeast Quarter of Section 6, Township 119, Range 25, lying westerly of State Highway number 25, Wright County, Minnesota

AND

The Southeast Quarter of the Northeast Quarter of Section 6, Township 119, Range 25, lying westerly of State Highway number 25, except a strip of land along the North side thereof described as follows: Begin at the Northeast corner of said SE $\frac{1}{4}$ of NE $\frac{1}{4}$; thence running West on North line thereof to the Northwest corner thereof; thence South 1 $\frac{1}{2}$ rods; thence East 40 rods; thence North $\frac{1}{2}$ rod; thence East to State Highway 25, Wright County, Minnesota.

AND

The North 20 acres of the East 25 acres of the South Three-Fourths of the West Half of the Southeast Quarter of Section 6, Township 119, Range 25, except the South 5 acres, lying northerly of 8th Street Southeast.

AND

That part of the Southeast Quarter of the Southeast Quarter of Section 6, Township 119, Range 25, lying Northerly of 8th Street SE and Westerly of State Highway Number 25, Wright County, Minnesota.

The Parties notes that the transferred area contains existing customers, namely approximately 94 residential customers, 27 street light services, and 2 CATV power supply services, and also covers areas presently under development, such as 93 bare, but platted lots.

The Department notes that all customers in the Rodeo Hills parcel are currently receiving electric service from the Cooperative.

The Department notes that the Parties to not specifically address the May 1, 2013 *First Amendment to the Electric Service Territory Agreement and Bill of Sale*, other than to note its existence. Since the Department believes that the Parties never submitted the May 1, 2013 First Amendment to the Commission for approval, the Department recommends that the Commission hold the current Petition in abeyance until the Parties address the First Amendment with the Commission.

IV. RECOMMENDATION

The Department recommends that the Commission hold the current requested service territory boundary transfer of the Rodeo Hills parcel in abeyance until the Parties address the First Amendment with the Commission.

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CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Comments**

Docket No. E221,148/SA-14-825

Dated this 27th day of October 2014

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_14-825_SA-14-825
Merton	Auger	merton.auger@ci.buffalo.mn.us	City Of Buffalo	212 Central Avenue Buffalo, MN 55313	Electronic Service	No	OFF_SL_14-825_SA-14-825
Kathleen M.	Brennan	kmb@mcgrannshea.com	McGrann Shea Carnival, Straughn & Lamb, Chartered	N/A	Electronic Service	No	OFF_SL_14-825_SA-14-825
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 500 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_14-825_SA-14-825
Burl W.	Haar	burl.haar@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_14-825_SA-14-825
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Kent D.	Mattson	k.mattson@pemlaw.com	Pemberton, Sorlie, Rufer & Kershner, PLLP	110 N Mills St PO Box 866 Fergus Falls, MN 565380866	Electronic Service	No	OFF_SL_14-825_SA-14-825
Mark F.	Vogt	N/A	Wright Hennepin Coop. Electric Assn.	6800 Electric Drive P.O. Box 330 Rockford, MN 553730330	Paper Service	No	OFF_SL_14-825_SA-14-825