

**STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION**

Beverly Jones Heydinger	Chair
Nancy Lange	Commissioner
Dr. David C. Boyd	Commissioner
Betsy Wergin	Commissioner
Dan Lipschultz	Commissioner

DOCKET NO. G-001, G-011/PA-14-107

In the Matter of a Request for Approval of the Asset Purchase & Sale Agreement Between Interstate Power and Light Company and Minnesota Energy Resources Corporation. **COMMENTS OF THE OFFICE OF THE ATTORNEY GENERAL - ANTITRUST AND UTILITIES DIVISION**

I. INTRODUCTION

The Office of the Attorney General - Antitrust and Utilities Division (“OAG”) submits the following comments regarding the Joint Request (“Petition”) by Interstate Power and Light Company (“IPL”) and Minnesota Energy Resources Corporation (“MERC”) for approval of the sale of IPL’s Minnesota gas distribution system. IPL and MERC (“Petitioners”) seek Commission approval of the transfer by IPL of assets and service rights and obligations to MERC. The Petition was made pursuant to Minn. Stat. § 216.B.50 and Minn. Rule, part 7825.1800.

The OAG recommends that should the Commission approve the transaction, it do so only with conditions to protect the interests of ratepayers. Specifically, the OAG recommends that the Commission take the following actions to ensure that the sale is consistent with the public interest:

1. Maintain the current rates for IPL’s gas customers until a rate case is filed authorizing a change in rates;

2. Separately identify the costs associated with setting rates between IPL's former customers and MERC's current customers for at least five years;
3. Maintain IPL's current obligation to remediate contaminated manufactured gas plants located in Minnesota and deny the Petitioner's request to transfer the obligation to MERC;
4. Incorporate the level of deferred taxes currently reflected in IPL's Minnesota jurisdictional reports into the rates for former IPL customers by amortizing it over a period of five years; and,
5. Conduct public hearings in IPL's service territory to allow ratepayers to meaningfully participate in the process.

II. SUMMARY OF PETITION

On February 4, 2014, IPL and MERC filed the Petition with the Minnesota Public Utilities Commission to approve the sale of IPL's Minnesota gas operations, service territories, and service rights and obligations pursuant to an Asset Sale and Purchase Agreement. The sale price is estimated at \$9.4 million subject to adjustments at the time of closing, which represents the book value of IPL's Minnesota properties.¹ IPL serves approximately 10,600 customers, primarily located in southern Minnesota. IPL's customers and service territory would be combined with MERC's gas operations in Minnesota, which currently serves approximately 214,000 customers, including communities near IPL's service areas.² According to the Petitioners, the combination of IPL's distribution and gas supply operations with MERC's will not result in any disruptions or create any other transitional problems.³ The Petitioners request that, upon approval, MERC's tariffs, including its rates and service obligations, apply to the former IPL Minnesota customers.

IPL has not requested a rate increase in its Minnesota gas jurisdiction in more than 18 years, purportedly due to the limited size of IPL's service territory and the cost of seeking a rate case relative to the number of customers. The Petitioners contend that IPL customers enjoyed

¹ Petition at 8

² Petition at 2.

³ Petition at 12.

substantial benefits by avoiding rate increases over the past 18 years, resulting in the lowest rates of any Minnesota gas utility. As part of the request for approval, the Petitioners propose that IPL's current customers be transitioned to MERC's rates and tariffs in effect on the date of closing.⁴ The transition would result in substantially higher rates for former IPL customers. For example, the OAG estimates that the transition of IPL's residential customers to MERC rates would increase their average annual charges by 45.18%. The Petitioners argue that a rate increase for former IPL customers through the proposed transaction would be more efficient than waiting to incorporate the new customers after MERC's next rate case. MERC asserts that it would incur additional (but unspecified) billing costs to accommodate different rates for former IPL customers if the rates are not adjusted in conjunction with the transaction.

The sale, as currently proposed, would also transfer the obligation for cleanup of IPL's former manufactured gas plant ("FMGP") site in Austin to MERC. IPL currently recovers costs of \$494,017 for the Austin FMGP annually, and the current estimate for the remaining cleanup costs is up to \$4 million.⁵ Under the proposed transaction, MERC would be responsible for the first \$3 million for cleanup and 50% of any further costs. IPL would retain the obligation for cleanup of five other FMGP sites in Albert Lea, Fairmont, New Ulm, Owatonna, and Rochester, with total liability of approximately \$1.8 million.⁶ Another provision of the transaction requires MERC to pay IPL, beginning four years after the closing of the transaction, the difference between MERC's revenue recovery minus the costs for the cleanup of the Austin FMGP site adjusted for other costs and obligations. The proposal would immediately result in increasing rates for all existing MERC customers by approximately \$2.23 per year because the Austin FMGP costs would be spread across

⁴ Petition at 16.

⁵ Petition at 17

⁶ Petition at 19.

MERC's entire customer base.⁷ According to the Petitioners, the transaction meets the requirements of Minnesota law as "consistent with the public interest" and should be approved.

III. LEGAL STANDARDS

Minn. Stat. § 216B.50 requires a utility to seek approval from the Commission to sell any assets worth more than \$100,000. The Commission will approve the sale if it is "consistent with the public interest."⁸ The public interest standard "does not require an affirmative finding of public benefit," but rather a finding that the transaction is compatible with the public interest.⁹

The Commission has "exclusive control" to set utility rates.¹⁰ The Commission must set rates that are "just and reasonable," and are "not unreasonably preferential, unreasonably prejudicial, or discriminatory."¹¹ The procedures for changing rates are codified in Minnesota Statutes section 216B.16.

IV. ANALYSIS

A. PETITIONERS HAVE NOT DEMONSTRATED THAT INCREASING RATES WITHOUT A COMPREHENSIVE RATE CASE IS CONSISTENT WITH THE PUBLIC INTEREST.

The Petitioners propose to substantially increase the natural gas rates for more than ten thousand IPL customers without filing a rate case. The proposal would also immediately increase the rates of more than two hundred thousand MERC customers who would take on the added expense of IPL's FMGP in Austin. Without a general rate case filing, the Commission does not have the information necessary to make an informed decision about whether the proposed rate increases are just and reasonable. Increasing rates outside of a rate case does not conform with the Commission's historic treatment of property acquisition matters and is not consistent with the

⁷ Petition at 17.

⁸ Minn. Stat. § 216B.50, subd. 1.

⁹ *In the Matter of N. States Power Co., a Minnesota Corp., and ITC Midwest LLC for Approval of a Transfer of Transmission Assets and Route Permit*, Docket No. E-002/PA-10-685, 2010 WL 5462980 (2010).

¹⁰ *Computer Tools & Eng'g, Inc. v. N. States Power Co.*, 453 N.W.2d 569, 572 (Minn. Ct. App. 1990); Minn. Stat. § 216B.03

¹¹ Minn. Stat. § 216B.03.

public interest. If the Petitioners believe it is necessary to increase rates for customers, they should seek an increase by filing a rate case.

1. The Procedures for a Rate Case Provide the Commission with the Information Necessary to Make an Informed Decision.

The Minnesota Public Utilities Act details the comprehensive procedures used for changing rates by filing a rate case in Minnesota Statutes section 216B.16. When proposing a rate change, the utility bears the burden of proving that the rate change is just and reasonable.¹² The utility must provide evidence to support the rate change by filing a cost-of-service study, as well as “statements of facts, expert opinions, substantiating documents, and exhibits,” and details about its energy conservation plan.¹³ Once the Commission has established utility rates, “no public utility shall . . . by any device whatsoever, or in any manner, charge, demand, collect, or receive from any person a greater or less compensation for any service rendered . . . than that prescribed in the schedules of rates.”¹⁴ By crafting such a detailed procedure for ensuring that rate increases are just and reasonable, the legislature clearly intended for those procedures to be used when utilities request rate increases. Instead, the Petitioners ask the Commission to implement a rate increase outside of a rate case and without any input from ratepayers because it will be less complicated for MERC to administer.¹⁵

Utilities are required to seek increased rates only in a rate case for good reason. The procedures ensure that the Commission has the information from all parties necessary to make an informed decision about whether rates are just and reasonable. The Petitioners argue that the

¹² Minn. Stat. § 216B.16, subd. 4.

¹³ Minn. Stat. § 216B.16, subd. 1; Minn. R. 1825.4300.

¹⁴ Minn. Stat. § 216B.06.

¹⁵ When asked to provide the legal authority to request rate increases outside of a rate case, Petitioners were initially unable to identify any specific authority to do so. See Response to OAG IR 002. “[A]s a creature of statute, the [Commission] has only the powers provided by the legislature.” *In re Excelsior Energy, Inc.*, 782 N.W.2d 282, 289 (Minn. Ct. App. 2010). “[A]ny reasonable doubt about the existence of a power in the commission should be resolved against the exercise of such power.” *Id.* See also n.**Error! Bookmark not defined.**

Commission should disregard the well-established ratemaking process because the proposed shortcut would be easier and cheaper to administer. Instead of providing the Commission with the information required to decide whether the proposed rate increase is just and reasonable, MERC would increase the rates of IPL's residential customers by potentially more than 45% and shift FMGP cleanup costs of almost \$4 million onto MERC customers without the benefit of a contested hearing or the opinions and analysis of the many experts who would provide the testimony necessary to evaluate the rate increase request.

For example, the initial filing in MERC's recent rate case comprises four volumes, including testimony and exhibits from 14 company witnesses.¹⁶ Additional testimony was filed by many interveners, including the OAG. In comparison, the filing in this case is made up of fewer than 40 pages and is accompanied by only a handful of exhibits. The record contains no expert testimony or analysis. Rather than making a considered determination with input from many sources, the Commission would have to rely on the Petitioners' assurances that the rate increase is just and reasonable. In addition, permitting an increase outside of a rate case could open the door for other utilities to seek similar advantages in the future and create a dangerous precedent for increasing rates without applying the procedural safeguards of Minnesota Statutes section 216B.16. While it may be financially advantageous for utilities to find creative ways to increase rates, the OAG doubts that establishing such a process would be in the interest of ratepayers or protect their right to due process. Instead of sidestepping the statutory mechanisms, the proper procedure for the Petitioners to increase utility rates is to file a new rate case.

¹⁶ *In the Matter of the Application of Minnesota Energy Res. Corp. for Authority to Increase Rates for Natural Gas Serv. in Minnesota*, Docket No. G011/GR-13-617.

2. The Commission's Historical Preference is to Increase Utility Rates Through a Rate Case.

The Commission has not historically increased rates through property acquisition dockets. When the OAG asked the Petitioners for the legal authority to increase rates outside of a rate case, they initially identified a twenty-six-year-old case in which the Commission ordered a purchasing utility to *decrease* rates of customers acquired by the transaction.¹⁷ Specifically, the Petitioners note that in the 1988 sale of Bigfork Valley Electric to Minnesota Power and Light, the Commission found that “if the sale is approved, Bigfork’s customers will become customers of [Minnesota Power] at the applicable existing MP rates.”¹⁸ The Petitioners conveniently fail to include the very next sentence in the Commission’s Order: “This is likely to result in rate reductions of up to 45% for Bigfork’s residential customers and 30% for other customers.”¹⁹ The Commission approved the sale and the altered rates only after it had concluded that the sale would not increase rates for either the Bigfork customers who would be joining MP or the customers that MP already served.

Consistent with the Bigfork case cited by the Petitioners, the Commission has periodically approved rate *reductions* in the context of property acquisitions. In *In the Matter of a Petition by N. Minnesota Utilities for Approval of a Proposed Acquisition of Natural Gas Distrib. Facilities from the City of Warroad, Minnesota and of an Increase in Demand Units*, the Commission noted that approving the sale and moving the Warroad customers to Northern Minnesota Utilities would reduce their rates by nearly \$200 per year based on average usage, and reduce firm customer rates

¹⁷ Petitioners’ Response to OAG IR 002.

¹⁸ *In the Matter of the Joint Petition for the Approval of Minnesota Power and Light Company’s Purchase and Bigfork Valley Elec. Service Company’s Sale of Utility Prop.*, Order Approving Transfer of Utility Property and Service Area, Docket No. E-014,013/PA-88-34, at 3.

¹⁹*Id.*

by approximately 23 percent.²⁰ In both of these cases, the Commission approved rate changes in the context of property acquisitions only when the proposal would *reduce* the rates of all customers. Those situations could not be more different from the Petitioners' proposal, which would *increase* rates for both the new customers and MERC's existing customers.

Petitioners also provided a copy of a thirty-five-year-old case in which the Commission permitted a utility to increase utility rates in a property acquisition docket on the day these Comments were filed.²¹ Based on its limited opportunity to review the case, the OAG concludes that the matter only further demonstrates why the Commission should deny the Petitioners' request to increase rates for IPL customers.

*In In the Matter of the Joint Petition of Minnesota Power and Light Co. and Rainy River Improvement Co. Requesting an Order Authorizing the Purchase of all of the Electric Utility Property of Rainy River by Minnesota Power and Light, Rainy River and Minnesota Power and Light ("MP&L") requested authorization for MP&L to purchase Rainy River's entire electric system and expand its service area to include Rainy River's customers.*²² The Commission initially approved the transaction, but withdrew its approval when it determined that doing so would increase rates and ordered MP&L to submit alternative rate proposals.²³ Rather than increase the Rainy River customer's rates directly, the Commission ordered MP&L to phase-in their rates over a

²⁰ Docket No. G-007/PA-92-348.

²¹ *In the Matter of the Joint Petition of Minnesota Power and Light Company and Rainy River Improvement Company Requesting an Order Authorizing the Purchase of all of the Electric Utility Property of Rainy River by Minnesota Power and Light*, E-018, E-015/SA-78-1032. See also Supplemental Response to OAG IR 002 (April 4, 2014) (copies of three PUC orders provided to OAG by MERC on April 7 are attached as Exhibits A, B, and C).

²² *In the Matter of the Joint Petition of Minnesota Power and Light Company and Rainy River Improvement Company Requesting an Order Authorizing the Purchase of all of the Electric Utility Property of Rainy River by Minnesota Power and Light*, E-018, E-015/SA-78-1032.

²³ *In the Matter of the Joint Petition of Minnesota Power and Light Company and Rainy River Improvement Company Requesting an Order Authorizing the Purchase of all of the Electric Utility Property of Rainy River by Minnesota Power and Light, Order Partially Rescinding Previous Order*, E-018, E-015/SA-78-1032 (1979).

period of three years utilizing a series of riders.²⁴ In reviewing and approving the Rainy River sale, the Commission never considered increasing rates immediately at any time.²⁵

In addition, the Rainy River sale is distinguishable from the matter at hand for several reasons. First, the Commission only approved the Rainy River sale after hearing testimony that acquiring Rainy River would actually *decrease* the cost of service for MP&L's entire system.²⁶ In contrast, the Petitioners in this case have not established that purchasing IPL's assets would reduce MERC's cost of service, and no testimony has been introduced to that effect. Second, while the Commission did ultimately approve a limited phase-in of rates, it appears that at the time the Commission rescinded its prior approval of the Rainy River Sale, MP&L had already included the Rainy River assets in rate base in its ongoing general rate case.²⁷ The Commission thus had the opportunity to consider the Rainy River assets in the context of MP&L's general rate case. In this case the Commission would have no similar opportunity, as MERC's ongoing rate case does not include the IPL assets.²⁸ Third, the Rainy River sale regarded significantly lower increases in rates than the Petitioners have proposed in this case. Rainy River residential customers would have seen increased average annual charges of 21.4%, while commercial and industrial customers would have increases of up to 64%. As the OAG discusses below in Section C, under the Petitioners' proposal, IPL's residential customers would see average annual charges increase by 45.18%, while some commercial and industrial customers could have increases of more than 150%. Fourth, the

²⁴ *In the Matter of the Joint Petition of Minnesota Power and Light Company and Rainy River Improvement Company Requesting an Order Authorizing the Purchase of all of the Electric Utility Property of Rainy River by Minnesota Power and Light*, Order Concerning a Phase-In of Rates, E-018, E-015/SA-78-1032 (1980).

²⁵ *Id.*

²⁶ *Id.*

²⁷ *In the Matter of the Joint Petition of Minnesota Power and Light Company and Rainy River Improvement Company Requesting an Order Authorizing the Purchase of all of the Electric Utility Property of Rainy River by Minnesota Power and Light*, Order Partially Rescinding Previous Order, at 2, E-018, E-015/SA-78-1032 (1979) (“[O]ne issue in the currently pending MP&L general rate case, Docket No. E-015/GR-78-514, is the propriety of inclusion of certain facilities related to this petition in MP&L's rate base.”).

²⁸ *In the Matter of the Application of Minnesota Energy Resources Corporation for Authority to Increase Rates for Natural Gas Service in Minnesota*, Docket No. G011/GR-13-617.

Commission held public hearings before originally approving the Rainy River sale, and only approved the phase-in after soliciting comments from all parties to the sale and to MP&L's ongoing rate case.²⁹ Although the OAG recommends them, there have been no public hearings in this matter thus far, and the parties to MERC's pending rate case will not have the opportunity to present their comments. For all of these reasons, the Rainy River asset sale does not support the Petitioners' proposal to increase IPL customers' rates immediately.

Rather than relying on a thirty-five-year-old docket, the OAG believes that a more recent Commission decision involving MERC asset purchases demonstrates the Commission's preferred method for transitioning customers between utilities. In 2006, MERC purchased the assets of Aquila, Inc. and began to provide natural gas distribution service to additional customers in Minnesota.³⁰ After the sale, MERC continued to operate the two divisions purchased from Aquila as separate divisions, Peoples Natural Gas and Northern Minnesota Utilities.³¹ Critically, the Commission ordered that the new divisions maintain the *same rates, terms and conditions that they had under Aquila*.³² In addition, MERC agreed that the rates would remain under the Aquila tariffs until MERC filed a new rate case, which MERC agreed to delay as part of the sale.³³ MERC operated the divisions separately for more than four years, until they were consolidated in its 2010 rate case.³⁴ MERC should follow the same process in this purchase and keep the IPL customers separate until they can be integrated by a rate case. MERC's recent experience in charging multiple

²⁹ *In the Matter of the Joint Petition of Minnesota Power and Light Company and Rainy River Improvement Company Requesting an Order Authorizing the Purchase of all of the Electric Utility Property of Rainy River by Minnesota Power and Light*, Order Concerning a Phase-In of Rates, E-018, E-015/SA-78-1032 (1980).

³⁰ *In the Matter of the Sale of Aquila, Inc.'s Minnesota Assets to Minnesota Energy Res. Corp.*, Docket No. G-007,011/M-05-1676, at 3.

³¹ *Id.* at 9 ("MERC will continue delivering services through divisions organized as PNG and NMU.").

³² *Id.* at 9.

³³ *Id.* at 9.

³⁴ *In the Matter of the Application of Minnesota Energy Res. Corp. for Authority to Increase Rates for Natural Gas Serv. in Minnesota*, Docket No. G-007,011/GR-10-977, at 36.

rates as part of a merger should also minimize any claimed burden the company faces in administering the IPL customers separately from current customers.

3. The Danger of Over-Recovery in this Case can be Avoided by Requiring Rates to be Increased Through a Rate Case.

The specific facts of this case also demonstrate why the Commission should be hesitant to approve rate increases outside of rate cases. In response to Department discovery requests, IPL stated that it believes a rate case for its Minnesota customers would establish a revenue deficiency of less than \$1 million.³⁵ The OAG is concerned that converting the IPL customers to MERC's proposed rates would generate revenues for MERC in excess of this claimed deficiency, as summarized in Table 1. Based on the data provided in Attachment F to the Petition, the OAG estimates that IPL's annual non-gas revenues are approximately \$3.521 million.³⁶ In comparison, if the IPL customers were converted to the rates that MERC has proposed in Docket 13-617, MERC would receive non-gas revenues of approximately \$5.275 million.³⁷ Accordingly, transferring IPL customers to the rates that MERC has proposed in its pending rate case would result in increased revenues of approximately \$1.7 million from IPL customers, which is approximately \$750,000 more than IPL's own estimated revenue deficiency.³⁸

³⁵ Response to DOC IR No. 5, Schedule A.

³⁶ The OAG reached this estimate by calculating an average monthly bill for IPL customers using the average usage, customer charge, and volumetric rates provided by the Petitioners. The OAG reached its revenue estimate by multiplying the average monthly bill by the customer counts provided by the Petitioners in Attachment F. 2013. Response to DOC IR No. 5, Schedule A.

³⁷ The OAG reached this estimate by applying the customer counts from Petitioners' Attachment F to the rates that MERC has proposed in Docket No. 13-617.

³⁸ The OAG received additional discovery from the Petitioners on April 2 in response to discovery requests that were served on March 12. The late discovery responses provided additional financial data, but the OAG has identified several unexplained discrepancies both within the late discovery responses and between the discovery responses and the Petitioners' initial filing. At this time the OAG cannot reconcile the differences between the discovery responses and other information, and has requested clarification from the Petitioners through information requests served on April 7, 2014.

In addition, MERC contends in its discovery responses that it has reduced its proposed customer charge in Docket No. 13-617 to \$9.50 from its initial request of \$11.00. Response to OAG IR 010-011. The OAG believes that it is premature to incorporate this assertion into its analysis because MERC has not yet filed testimony regarding this concession. Additionally, the OAG is unable to analyze the proposed customer charge modification because MERC

Table 1
Change in Revenue Recovery

Customer Class	Customer s	Annual Revenue (w/o Gas Costs) Using IPL Current Rates	Annual Revenue (with Gas Costs) Using IPL Current Rates	Annual Revenue (w/o Gas Costs) Using MERC's Proposed Rates	Annual Revenue (with Gas Costs) Using MERC's Proposed Rates
Residential	9411	\$ 2,258,377.15	\$ 6,786,724.20	\$ 3,278,774.52	\$ 8,323,670.00
C&I < 1,500	1192	\$ 891,454.82	\$ 3,083,644.59	\$ 1,242,169.59	\$ 3,684,422.39
C&I > 1,500	10	\$ 35,612.36	\$ 129,221.92	\$ 37,437.40	\$ 41,725.00
SVI – Sales	48	\$ 220,374.82	\$ 1,800,275.48	\$ 570,023.81	\$ 2,104,996.77
LVI – Transportation	2	\$ 115,800.91	N/A	\$ 147,500.29	N/A
TOTALS	10663	\$ 3,521,620.06	\$ 11,799,866.20	\$ 5,275,905.61	\$ 14,254,814.16
Incremental rate difference (w/o Gas Costs) =					\$ 1,754,285.56
Incremental rate difference (with Gas Costs) =					\$ 2,454,947.96

Even assuming that IPL’s claimed revenue deficiency is fully adopted without a single adjustment, IPL customers would pay approximately \$750,000 in excess of the deficiency if converted to MERC rates. This estimate does not even account for the claimed efficiency gains that Petitioners believe justify their proposal. While the OAG recognizes that the calculations discussed herein are estimates, they nonetheless illustrate why the Commission has historically been hesitant to increase rates outside of a rate case. The Commission does not have sufficient information on which to make a determination regarding the proposed rate increase. The Petitioners have simply not provided the type or breadth of information the Commission needs to conduct a comprehensive analysis and make an informed decision on whether the proposed rate increases are just and reasonable. The Petitioners’ attempt to increase rates while avoiding the ratemaking process should be denied. If MERC wishes to increase rates, it may do so by filing a rate case.

has not provided an accompanying modified revenue requirement or distribution charge. For this reason, the OAG’s analysis is based upon MERC’s originally proposed customer charge of \$11.00.

B. PETITIONERS HAVE NOT DEMONSTRATED THAT IT IS CONSISTENT WITH THE PUBLIC INTEREST TO INCREASE MERC CUSTOMERS' RATES TO PAY FOR IPL'S FMGP OBLIGATIONS.

IPL is responsible for cleanup costs at six FMGP sites in Minnesota – Albert Lea, Fairmont, New Ulm, Owatonna, Rochester, and Austin. The Petition seeks authorization to transfer the cleanup obligation for the Austin site to MERC while the other sites will continue to be IPL's obligation to remediate as needed. The Austin FMGP began producing manufactured gas in 1905 and continued until about 1935.³⁹ IPL was not the only owner of the site while it was producing manufactured gas, but it held the site from 1924 to 1947. IPL customers have already paid approximately \$8.6 million for remediation of the six FMGP sites, and currently pay approximately \$500,000 each year. The remaining cleanup costs of the Austin FMGP are estimated at up to \$4 million.⁴⁰ Under the Petitioners' proposal those costs would be shifted onto all of MERC's ratepayers, who would be subjected to a rate increase of \$2.23 per year without going through a rate case.⁴¹

The OAG opposes the transfer of cleanup obligations for IPL's FMGP site located in Austin. The Petitioners have not demonstrated that it is consistent with the public interest to either allow IPL to shift its FMGP liabilities to MERC or to increase the rates to MERC's entire customer base outside of a rate case. The rate case procedures established in Minnesota Statutes section 216B.16 ensure that ratepayers' due process interests are protected. Without the information and analysis provided by all of the parties who participate in a rate case, the Commission cannot make an informed decision about whether increasing rates for more than 200,000 ratepayers is consistent with the public interest.

Additionally, the proposed transaction would shift costs onto MERC customers in order to

³⁹ Response to OAG IR 101, Attachment A.

⁴⁰ Response to DOC IR 3, Attachment C.

⁴¹ Petition at 17–18.

clean up a manufactured gas plant from which they have never benefited. It is equitable for IPL to bear the cost of remediating the Austin site because IPL owned the plant while it produced manufactured gas (for eleven years from 1924 to 1935).⁴² In contrast, MERC never owned the site during production. The cleanup costs would be shifted further from the customers and service area that originally incurred the costs if they were to become MERC's customers' responsibility. Additionally, the Petitioners have agreed that the costs of the other five FMGP sites will remain IPL's responsibility, but have not demonstrated why the Austin plant should be treated differently. The OAG believes that responsibility for remediation of the Austin site should also remain with IPL. MERC's customers should not be subjected to an increase of rates outside of a rate case in order to indemnify IPL for its cleanup obligations.

C. PETITIONERS HAVE NOT DEMONSTRATED THAT THE PROPOSED RATE DESIGN CHANGES ARE CONSISTENT WITH THE PUBLIC INTEREST.

The proposed transaction would not only significantly increase IPL customers' rates, but would also alter rate design. The Petitioners claim that the rate increase is necessary to avoid delay, disruption, and the expense of filing a rate case to integrate the IPL customers into MERC's existing customer base, but provide no analysis of the effects such a change would have on rate design. Based on the data in the Petition, the OAG believes that the proposed rate changes will have a significant impact on rate design that is not consistent with the public interest.

The Petitioners provided an illustrative comparison of IPL's current rates and the interim MERC rates that were approved by the Commission in MERC's ongoing rate case.⁴³ In order to provide the Commission with an expanded and more detailed portrait of the rate consequences of the utilities' proposal, the OAG separately analyzed the customer charge, the distribution charges, and the total annual bill, as well as comparing IPL's current rates to MERC's approved interim

⁴² Response to OAG IR 101, Attachment A.

⁴³ Docket No. G011/GR-13-617.

rates and proposed rates in Docket 13-617. Table 2 below provides the results of OAG’s review of customer charges.

**Table 2
Customer Charge Comparison**

Customer Class	IPL Current	MERC Interim	% Change to MERC Interim	MERC Proposed	% Change to MERC Proposed
General Service - NNG Residential	\$ 5.00	\$ 9.59	91.80%	\$ 11.00	120.00%
General Service - NNG C&I < 1,500	\$ 5.00	\$ 16.36	227.20%	\$ 18.00	260.00%
General Service - NNG C&I > 1,500	\$ 5.00	\$ 39.49	689.80%	\$ 45.00	800.00%
SVI - NNG Sales	\$ 14.00	\$ 169.26	1109.00%	\$ 165.00	1078.57%
LVI - NNG Transportation	\$ 100.00	\$ 197.47	97.47%	\$ 295.00	195.00%

As shown above, applying MERC customer charges to current IPL customers would result in dramatic increases for all customer classes. Residential customers, which make up the vast majority of IPL’s customer base, would see an increase of 91.80% to MERC’s interim rates, and an increase of 120% to MERC’s proposed rates. Small C&I customers would see increases of more than 200%, while large C&I customers would see increases of 60% to 800%. Incredibly, Small Volume Interruptible customers would see customer charge increases of more than 1000%. Increases of this magnitude are unheard of and would clearly constitute rate shock.

Table 3 below provides the results of the distribution charge analysis, which include the volumetric non-gas distribution charge, the Conservation Cost Recovery Charge (“CCRC”) and the Gas Affordability Program (“GAP”) charge.

Table 3
Distribution Charge Comparison

Customer Class	IPL Volumetric Charge	MERC Interim Volumetric Charge	\$ Change to MERC Interim	% Change to MERC Interim	MERC Proposed Volumetric Charge	\$ Change to MERC Proposed	% Change to MERC Proposed
General Service NNG Residential	\$0.21349	\$0.24450	\$ 0.03101	14.53%	\$ 0.25670	\$0.04321	20.24%
General Service NNG C&I < 1,500	\$0.21349	\$0.23064	\$ 0.01715	8.03%	\$ 0.25639	\$0.04290	20.09%
General Service NNG C&I > 1,500	\$0.21349	\$0.21194	\$ (0.00155)	-0.73%	\$ 0.19535	\$(0.01814)	-8.50%
SVI - NNG Sales	\$0.06200	\$0.14174	\$ 0.07974	128.61%	\$ 0.13871	\$0.07671	123.72%
LVI - NNG Transportation	\$0.06199	\$0.06186	\$ (0.00013)	-0.21%	\$ 0.07676	\$0.01477	23.83%

Converting IPL customers to MERC’s interim or proposed rates would result in a wide disparity of rate changes. Only IPL’s ten Large C&I and two Large Volume Transportation customers could possibly expect a volumetric rate decrease. The rest of IPL’s customers would see unreasonably large volumetric rate increases. Residential customers would see distribution charge increases of more than 14% under MERC’s interim rates, and more than 20% under MERC’s proposed rates. Volumetric charge increases of this scale are not consistent with the public interest, especially given that the Petitioners have provided no justification for the increases other than the convenience of avoiding a general rate case. Due process should not be sacrificed for Petitioners’ convenience.

The overall impact on the average annual customer bills, summarized in Table 4, demonstrates the consequences of the Petitioner’s proposal even more clearly.

Table 4
Average Annual Bill Comparison

Customer Class	IPL Current Annual Bill	MERC Interim Annual Bill	\$ Change MERC Interim	% Change MERC Interim	MERC Proposed Annual Bill	\$ Change MERC Proposed	% Change MERC Proposed
Residential	\$ 239.97	\$ 321.19	\$ 81.22	33.85%	\$ 348.40	\$ 108.43	45.18%
C&I < 1,500	\$ 747.86	\$ 939.44	\$ 191.58	25.62%	\$ 1,042.09	\$ 294.22	39.34%
C&I > 1,500	\$ 3,561.24	\$ 3,949.70	\$ 388.46	10.91%	\$ 3,743.74	\$ 182.50	5.12%
SVI - Sales	\$ 4,591.14	\$12,142.99	\$7,551.85	164.49%	\$11,875.50	\$ 7,284.35	158.66%
LVI - Transportation	\$57,900.46	\$58,951.19	\$1,050.73	1.81%	\$73,750.15	\$15,849.69	27.37%

Table 4 provides analysis of the difference between IPL customers' current average annual bill and the average annual bills customers would face under MERC's interim and proposed rates. Using the customer data provided in Attachment F, the OAG estimates that an IPL residential customer's average bill without gas is approximately \$239.97 per year. Under MERC's interim rates, that annual bill would be \$321.19, an increase of more than 33%. Under MERC's proposed rates, the annual bill would increase even more, to \$348.40 per year, 45% greater than their current bill. On top of this, IPL customers would also pay increased fuel costs under MERC rates.⁴⁴

Not only would the proposed transaction significantly increase costs for most customer classes, it would shift cost recovery between classes. For example, under MERC's proposed rates residential and Small C&I customers would be subject to a volumetric rate increase of approximately 20%, and Small Volume Interruptible customers would see a volumetric rate increase of more than 120%. But Large C&I customers would see a volumetric rate *decrease* of more than 8%. It appears that the proposal would significantly change the proportion of costs paid by each class because each class would see rate changes of different magnitudes.

⁴⁴ Petition, Attachment F. For example, residential customers' current gas cost of \$0.57079 per therm would be increased to \$0.62256 per therm.

These changes are not supported by any cost allocation analysis from Petitioners. In order to determine a just and reasonable allocation of rates between customer classes, the Commission must consider, among other factors, the cost of service, ability to pay, tax consequences, and ability to pass on rate increases in order to ensure that rates are just and reasonable.⁴⁵ Petitioners have not submitted a class cost of service study or discussed any non-cost factors to justify changes to rate design.⁴⁶ Without this analysis, Petitioners cannot substantiate the significant changes they propose to the cost allocation of IPL customers.

D. RATES INCREASES FOR FORMER IPL CUSTOMERS SHOULD BE LIMITED AFTER MERC ACQUIRES THE IPL ASSETS AND CUSTOMERS.

The OAG believes that the Commission should approve the proposal only with the condition, among others, that IPL customers' rates are unchanged. The OAG recognizes that if such a condition is imposed MERC may request full consolidation of the IPL customers into MERC rates in its next rate case, creating a likelihood of rate shock at that time. The Commission will have the opportunity to consider how the former IPL customers' rates should differ from the rates of the larger MERC customer base at that time. As a preliminary recommendation, the OAG recommends that if IPL customers' rates are increased following MERC's next rate case, the increases should be phased-in gradually over a period of time in order to prevent rate shock.

Based on the limited record at this time, the OAG believes that it would be reasonable to limit any rate increases to no more than three percent annually for five years following the sale until the rates meet MERC's allowed rates. In MERC's current rate case, OAG witness John Lindell presented testimony analyzing MERC's actual operating and maintenance expenses and

⁴⁵ *St. Paul Area Chamber of Commerce v. Minnesota Pub. Serv. Comm'n*, 251 N.W.2d 350, 357 (Minn. 1977).

⁴⁶ The OAG requested IPL's most recent CCOSS, but the Petitioners have been unable to produce it. See OAG IR 003-009.

recommended a 2.2 percentage annual increase in operating and maintenance expense.⁴⁷ The Commission employed a similar approach when it phased-in rate increases over several years in *In the Matter of the Joint Petition of Minnesota Power and Light Co. and Rainy River Improvement Co. Requesting an Order Authorizing the Purchase of all of the Electric Utility Property of Rainy River by Minnesota Power and Light*.⁴⁸ By limiting former IPL customers' future increases to no more than three percent per year over the next five years, former IPL customers' rates would gradually catch up to MERC's other customers while helping to ensure the affected customers do not suffer from rate shock.

E. THE PETITIONERS HAVE NOT DEMONSTRATED THAT IT IS CONSISTENT WITH THE PUBLIC INTEREST TO DEPRIVE IPL CUSTOMERS OF THE BENEFIT OF DEFERRED TAXES.

Deferred taxes are recorded by a utility to recognize the payment of taxes by customers based on book income, while the utility pays taxes based on taxable income. The primary difference between book income and taxable income is depreciation expense, which is accelerated for tax purposes but not for book purposes. IPL's deferred taxes, which are essentially early payments of income taxes from ratepayers to the utility, will be lost as a result of the proposed transaction, and the IPL customers would lose the benefit of the early tax payments they have made.

IPL reported deferred taxes for its Minnesota jurisdiction for the years 2010 through 2012 and projected 2013 as follows:

⁴⁷ See *In the Matter of the Application of Minnesota Energy Res. Corp. for Authority to Increase Rates for Natural Gas Serv. in Minnesota*, Lindell Direct Testimony at 19, Docket No. G011/GR-13-617.

⁴⁸ *In the Matter of the Joint Petition of Minnesota Power and Light Company and Rainy River Improvement Company Requesting an Order Authorizing the Purchase of all of the Electric Utility Property of Rainy River by Minnesota Power and Light*, E-018, E-015/SA-78-1032. See also Exhibits A, B, and C.

- 2010 \$6.5 million
- 2011 \$9.4 million
- 2012 \$5.1 million
- 2013 \$5.0 million

These deferred taxes are recorded in accounts 282 and 283 in accordance with Federal Energy Regulatory Commission (“FERC”) accounting requirements and are also reported by IPL in its Annual Jurisdictional Reports (“AJR”) each year.⁴⁹

The Commission has expressed concerns about the loss of deferred taxes in other dockets. In *In re Minnegasco, Div. of Arkla, Inc.*, Minnegasco proposed to exchange its properties in South Dakota for Midwest’s properties in Minnesota.⁵⁰ The Commission took deferred tax losses “into full account in weighing the detriments against the benefits of the proposed exchange.”⁵¹ While the Commission ultimately approved the sale despite the deferred tax loss, the Commission carefully noted that the sale would be denied “if the tax-related losses are sufficient, either by themselves or in conjunction with other considerations, to outweigh the benefits of the exchange.”⁵² Moreover, the Commission has raised concerns about deferred tax losses in previous IPL asset sale dockets. Specifically, when IPL sought to sell transmission assets to ITC Midwest LLC, the Commission approved the sale only after the parties reached a settlement ensuring that a significant deferred tax loss was offset by an Alternative Transaction Adjustment.⁵³

⁴⁹ IPL has not reported deferred taxes for FERC account 190 in its Annual Jurisdictional Reports but now claims that there is an offsetting amount of \$2.4 million in account 190 for 2013. Response to OAG IR 107. This offset would reduce the 2013 \$5 million deferred taxes to approximately \$2.7 million.

⁵⁰ *In re Minnegasco, Div. of Arkla, Inc.*, Docket No. G-008, 010/PA-93-92, 1993 WL 597808, at *1 (1993).

⁵¹ *Id.* at *3.

⁵² *Id.* Of particular note, Commissioner Kitlinski issued a vigorous dissent, arguing that the property sale should be denied because the Midwest customers would lose the benefit of deferred taxes, as well as the advantage of Midwest’s lower rate of return, lower cost of capital, and use of low cost stock options. *Id.* at *10 (Kitlinski, dissenting).

⁵³ *In the Matter of the Joint Petition for Approval of the Transfer of Transmission Assets of Interstate Power and Light Company and ITC Midwest LLC*, Docket No. E-001/PA-07-54, at 180 (2008).

IPL's customers in Minnesota have prepaid IPL's income taxes by \$5 million as of December 31, 2013. Unlike its previous asset transfer docket, where it accounted for deferred tax loss through an Alternative Transaction Adjustment, IPL has proposed no method for ensuring that its customers retain the benefit of the deferred taxes IPL has accumulated on their behalf. It is not consistent with the public interest to deprive IPL customers of the benefit of the prepayments they have made. In order to protect this benefit for IPL customers, the OAG recommends that the balance of deferred taxes in 2013 of \$5 million be incorporated into the IPL customers' rates over a period of five years. Spreading out the \$5 million in deferred tax loss over five years will ensure that IPL customers are not deprived of the benefits of their prepayment.

F. THE COMMISSION SHOULD ORDER PUBLIC HEARINGS SO THAT RATEPAYERS HAVE THE OPPORTUNITY TO VOICE THEIR CONCERNS.

The Commission should order public hearings on the Petitioner's proposal as permitted by Minnesota Statutes section 216B.50. The OAG does not anticipate that holding public hearings will resolve the issues that have been raised in its Comments or excuse the Petitioners from filing a rate case in order to increase rates. Rather, the Commission should hold public hearings because it would provide the best opportunity for ratepayers to comment on the concerns raised by the OAG and other parties and to bring additional concerns to the Commission's attention.

V. CONCLUSION & OAG RECOMMENDATIONS

The proposed sale of assets and the transfer of IPL ratepayers to MERC's rates and tariffs would increase the rates for both IPL's former customers and MERC's customers throughout Minnesota. From the limited financial data provided by the Petitioners, the OAG has determined that residential customers would see a customer charge increase of 120%, a volumetric rate increase of more than 20%, and an average annual bill increase of more than 45%. Such a dramatic increase creates a substantial risk of rate shock. Additionally, MERC's entire customer base would have be

subject to increased rates due to the shifting FMGP costs from IPL to MERC. These increases depart from the Commission's precedent on asset purchases by increasing rates outside of a rate case. The Petitioners have not followed the procedures required by Minnesota Statutes section 216B.16, provided a class cost of service study, or presented any expert testimony that the Commission would normally rely upon to set rates. The Petitioners have also failed to demonstrate that increasing rates outside of a rate case is consistent with the public interest, or that the proposal would result in rates that are just and reasonable.

At this time, the OAG recommends that should the Commission approve the Petition it do so only with conditions to protect both IPL and MERC ratepayers against unjustified rate increases. Additionally, the OAG urges the Commission to conduct public hearings to allow ratepayers to weigh-in on the proposed sale. While the Petitioners have determined that the proposal is in their best interests, ratepayers have had no opportunity to voice their concerns. Accordingly, the OAG recommends that the Commission impose the following conditions if the asset transfer is approved:

1. Maintain the current rates for IPL's gas customers until a rate case is filed authorizing a change in rates;
2. Separately identify the costs associated with setting rates between IPL's former customers and MERC's current customers for at least five years;
3. Maintain IPL's current obligation to remediate contaminated manufactured gas plants located in Minnesota and deny the Petitioner's request to transfer the obligation to MERC;
4. Incorporate the level of deferred taxes currently reflected in IPL's Minnesota jurisdictional reports into the rates for former IPL customers by amortizing it over a period of five years; and,

5. Conduct public hearings in IPL's service territory to allow ratepayers to meaningfully participate in the process.

Dated: March 27, 2014

Respectfully submitted,

LORI SWANSON
Attorney General
State of Minnesota

/s/Ryan Barlow

IAN DOBSON
Assistant Attorney General
Atty. Reg. No. 0386644
(651) 757-1432 (Voice)

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ATTORNEYS FOR OFFICE OF THE
ATTORNEY GENERAL-ANTITRUST AND
UTILITIES DIVISION

COMMISSION
ORIGINAL

BEFORE THE MINNESOTA PUBLIC SERVICE COMMISSION

Katherine E. Sasseville
Roger L. Hanson
Lillian Warren Lazenberry
Richard J. Parish
Juanita R. SatterleeChairman
Commissioner
Commissioner
Commissioner
Commissioner

RECEIVED

MAY 17 1979

OFFICE OF HEARING
EXAMINERS

Docket No. E-018, E-015/SA-78-1030

In the Matter of the Joint Petition of
Minnesota Power & Light Company and
Rainy River Improvement Company
requesting an Order Authorizing the
Purchase of All the Electric Utility
Property of Rainy River by Minnesota
Power & Light.

ORDER PARTIALLY RESCINDING
PREVIOUS ORDER

On February 27, 1979, the Public Service Commission (hereinafter "Commission") issued an Order adopting the Report of the Hearing Examiner issued January 17, 1979. The Hearing Examiner's Report recommended approval of the joint petition of Minnesota Power & Light Company (hereinafter "MP&L") and Rainy River Improvement Company (hereinafter "Rainy River") for the purchase of all the electric utility equipment of Rainy River by MP&L and the revision of MP&L's assigned service area so as to incorporate the existing assigned service area of Rainy River.

Subsequent to the adoption of the Examiner's Report, two matters came to the Commission's attention which have caused it to rescind that portion of its Order of February 27, 1979, approving the purchase of all the electric utility equipment of Rainy River by MP&L:

(1) The Commission's original understanding in approving and adopting the Report of the Hearing Examiner was that the joint petition, if approved, would have no economic impact to the MP&L ratepayers. Upon further discussion of the joint petition, it became apparent that this original understanding is incorrect. The Commission notes that one issue in the currently pending MP&L general rate case, Docket No. E-015/GR-78-514, is the propriety of inclusion of certain facilities related to this petition in MP&L's rate base. Obviously, there is a potential economic impact to MP&L's ratepayers although unknown at this time. Because the potential economic impact of this joint petition is unknown at this time, in particular as to how it may affect MP&L's ratepayers and the current ratepayers on the Rainy River system, the Commission feels it to be in the interests of the ratepayers of the joint petitioners to rescind this portion of its order of February 27, 1979.

(2) A second reason for rescinding its previous order is the inadequate notice which was given of the hearing in this proceeding held on January 4, 1979, in International Falls. The published notice of the hearing simply refers to an application for verification of the service area for Rainy River Improvement Company for the purpose of future purchase by Minnesota Power & Light Company. While the notice refers to a transfer of service areas from Rainy River to MP&L, it significantly does not mention that part of the petition requesting the authorization

of the purchase of all the electric utility equipment of Rainy River by MP&L.

For the foregoing reasons, the Commission has determined it necessary to rescind that portion of its Order of February 27, 1979, authorizing the purchase of all the electric utility equipment of Rainy River by MP&L. That portion of the Commission's Order of February 27, 1979, authorizing the transfer of Rainy River's service area to MP&L is reaffirmed. By subsequent notice, the Commission will schedule further hearings in this matter so as to afford the joint petitioners and potentially interested persons an opportunity to be heard.

WHEREFORE IT IS HEREBY ORDERED that:

ORDER

1. The Commission's Order of February 27, 1979, adopting the Examiner's Report of January 17, 1979 is hereby rescinded with respect to that portion of the order authorizing the purchase of all the electric utility equipment of Rainy River by MP&L. That portion of the Commission's Order of February 27, 1979, authorizing the transfer of Rainy River's service area to MP&L is hereby reaffirmed.
2. By subsequent notice, the Commission will schedule further hearings on the joint petition relating to the purchase of Rainy River's electric utility equipment by MP&L.
3. This order is effective immediately.

BY ORDER OF THE COMMISSION

/s/ STEPHEN A. FINN
Acting Secretary

SERVICE DATE: APR 17 1979

(S E A L)

STATE OF MINNESOTA }
COUNTY OF RAMSEY } SS

AFFIDAVIT OF SERVICE

E. Marie Swanson, being first duly sworn, deposes and says:

That on the 17 day of April 1979, (s)he served the attached
ORDER RESCINDING PREVIOUS ORDER - - MP&L - - RAINY RIVER IMP. CO.

Docket No. E-018 - 015 / SA-78-1032

by depositing in the United States Mail at the City of St. Paul, a true and correct copy thereof, properly enveloped with postage prepaid

by personal service

to all persons at the addresses indicated below or on the attached list:

James Habicht
Minnesota Power & Light Co.
30 West Superior Street
Duluth, Minnesota 55802

Rainy River Improvement Co.
International Falls, Minn. 56649

Claude Franke, G. M.
North Star Electric Cooperative
Baudette, Minnesota 56623

Dick DeLong - PSC-79-058

All Commissioners

Barry Crothers

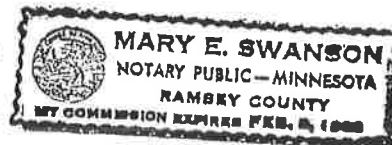
Cliff Swedenburg

Bob Carlson - 2

Subscribed and sworn to before me

this 17 day of April 1979

Mary E. Swanson



CAPSULE SUMMARY

PETITION FILED _____ AGENDA NO. 44 DOCKET NO. E-018, E-015/SA-78-1032

PETITIONER Minnesota Power & Light Company

ADDRESS Rainy River Improvement Company

COMMISSION SUPPORT USE ONLY	
Informal Order	<input type="checkbox"/>
Ex Parte Order	<input type="checkbox"/>
Order After Report of H. E.	<input type="checkbox"/>
Order After Oral Argument	<input type="checkbox"/>
Other	<input checked="" type="checkbox"/>

I. IN THE MATTER OF

the joint petition of Minnesota Power & Light and Rainy River Improvement Company Requesting an Order Authorizing the Purchase of All of the Electric Utility Property of Rainy River by Minnesota Power & Light Company.

II. INVESTIGATION FINDINGS AND RECOMMENDATION:
(Include economic impact)

This order partially rescinds the Commission's Order of February 27, 1979, adopting the Hearing Examiner's Report. The Examiner had recommended approving the petition which requested an order approving the purchase of all electric utility equipment of Rainy River by MP&L and the revision of MP&L's assigned service area so as to incorporate the existing assigned service area of Rainy River. This order rescinds that portion of the order authorizing the purchase of Rainy River's electric utility equipment by MP&L but reaffirms the transfer of Rainy River's service area to MP&L.

III. PRECEDENTS (A. Applied B. Considered C. Set)

Minn. Stat. §§ 216B.25, .40, .50 (1978).

IV. INVESTIGATED BY _____ DIV. _____ DATE _____

REVIEWED BY Rod Wilson DIV. A.G. DATE 4/2/79

PETITION: APPROVED DENIED HELD REMANDED

Recorded: 4/2/79 By: SAF

COPY DISPOSITION	
1 - Case File	
2 - Division	
3 - Reg. Policy	

26

EXHIBIT B

26

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Roger L. Hanson
Leo G. Adams
Katherine E. Sasseville
Juanita R. Satterlee
Lillian Warren-Lazenberry

Chairman
Commissioner
Commissioner
Commissioner

In the Matter of the Joint
Petition of Minnesota Power
and Light Company and Rainy River
Improvement Company Requesting
an Order Authorizing the Purchase
of all of the Electric Utility
Property of Rainy River by
Minnesota Power and Light

Docket No. E-018,E-015/
SA-78-1032

ORDER ADOPTING
EXAMINER'S REPORT

FINDINGS AND CONCLUSIONS

Minnesota Power and Light Company (MP&L) and Rainy River Improvement Company (Rainy River) filed a joint petition with the Public Service Commission, now the Public Utilities Commission (the Commission) requesting authorization from the Commission for the purchase of all electric utility equipment of Rainy River by MP&L. By its Order dated February 27, 1979, the Commission approved the revision of MP&L's present assigned service area so as to incorporate the present existing service area of Rainy River.

On July 25, 1979 a hearing was held in International Falls for the purpose of taking evidence on the instant petition. On August 22, 1979, Hearing Examiner Richard DeLong issued his report recommending that the Commission grant the request of the joint petitioners.

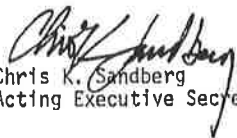
After due deliberation of the Examiner's Report and the record and file herein, the Commission concludes it should adopt the Findings and Conclusions of the Examiner as its own and will authorize the purchase of all electric utility equipment of Rainy River by MP&L.

However, the Commission notes that customers of Rainy River will incur substantial rate increases as of January 1, 1981, when they will be subject to MP&L's schedule of rates under bond in its current general rate case. Because of the potentially severe billing impact to some customers, the Commission will require a proposal from MP&L for alternative methods of incrementally phasing-in the billing impact or other proposals to mitigate what would otherwise be a sudden and dramatic rate increase. Also, the Commission will order MP&L (if it has not already begun such an effort) to inform Rainy River customers as soon as possible of the pending takeover in service and the resulting billing impacts.

ORDER

1. The Examiner's Findings and Conclusions are hereby adopted as the Commission's Findings and Conclusions.
2. MP&L is hereby authorized to purchase all electric utility equipment of Rainy River as set forth in the joint petition, with that purchase taking place on December 31, 1980, subject to MP&L filing with the Commission an executed copy of the Final Memorandum of Agreement and Understanding among Boise Cascade Corporation, Rainy River Improvement Company, and Minnesota Power and Light concerning the purchase of property herein.
3. MP&L shall file with the Commission proposals for mitigating the billing impact on Rainy River customers within 30 days of the service date of this Order.
4. MP&L is also ordered to inform Rainy River's customers of the pending-acquisition and the resultant billing impacts. MP&L shall file with the Commission the steps it is taking to inform Rainy River's customers within 30 days of the service date of this Order.
5. MP&L shall file with the Commission accounting journal entries recording the transactions involved herein within 15 days of those consummated transactions.
6. This Order shall be effective immediately.

BY ORDER OF THE COMMISSION


Chris K. Sandberg
Acting Executive Secretary

SERVICE DATE: AUG 19 1980

(S E A L)

STATE OF MINNESOTA)
COUNTY OF RAMSEY } ss

AFFIDAVIT OF SERVICE

Elaine Wachholz, being first duly sworn, deposes and says:

That on the 19 day of Aug., 1980, (s)he served the attached Rainy River Improvement Co.

Docket No. E018, E015/SA-78-1032

by depositing in the United States Mail at the City of St. Paul, a true and correct copy thereof, properly enveloped with postage prepaid

by personal service

to all persons at the addresses indicated below or on the attached list:

James Habicht, Atty.
MP&L
30 West Superior St.
Duluth, MN 55802

Rainy River Improvement Co.
International Falls, MN 56649

Claude Franke, G.M.
North Star Electric Coop
Baudette, MN 56623

Dick DeLong, H.E.

Diane Hunt
Office of Consumer Services
Metro Square Bldg.
St. Paul

Jean Dawson

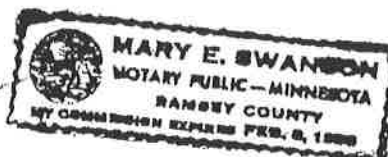
Commission
Legal
Utilities
Harty, Sandberg, McMillen,

Elaine Wachholz

Subscribed and sworn to before me

this 19 day of Aug., 1980

Mary E. Swanson



Approved of Record

12-16 1980

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Roger L. Hanson
 Leo G. Adams
 Katherine E. Sasseville
 Juanita R. Satterlee
 Lillian Warren-Lazenberry

Chairman
 Commissioner
 Commissioner
 Commissioner

Secretary

In the Matter of the Joint
 Petition of Minnesota Power
 and Light Company and Rainy
 River Improvement Company
 Requesting an Order Authorizing
 the Purchase of all of the
 Electric Utility Property of
 Rainy River by Minnesota
 Power and Light

Docket No. E-018, E-015/
 SA-78-1032

ORDER CONCERNING A PHASE-IN
 OF RATES FOR CUSTOMERS OF
 RAINY RIVER IMPROVEMENT COMPANY

PROCEDURAL HISTORY

On August 19, 1980, the Minnesota Public Utilities Commission (the Commission) issued an Order authorizing Minnesota Power and Light (MP&L) to purchase all electric utility equipment of Rainy River Improvement Company (Rainy River) on December 31, 1980. This Order also required MP&L to file with the Commission proposals for mitigating the billing impact on Rainy River customers that will accompany the acquisition by MP&L.

MP&L filed its response to the Commission Order on September 18, 1980, which included a plan to phase-in the increase in rates necessary to bring current Rainy River customers up to MP&L rate levels. This response was also introduced into the record as Petitioner's Exhibit No. 39 in the MP&L general rate case, Commission Docket No. E-015/GR-80-76 (Hearing Examiner's Docket No. PSC 80-122-GD). The Commission solicited comments on MP&L's proposed phase-in plan from all parties in Docket No. E-018, E-015/SA-78-1032 and Docket No. E-015/GR-80-76. Responses were received from Hibbing Taconite, Duluth International Airport, the cities of International Falls and South International Falls and the County of Koochiching, the Department of Public Service, and MP&L. Oral presentations were made before the Commission on November 17, 1980, by representatives of MP&L and the City of International Falls; the latter spoke on behalf of the City of South International Falls and the County of Koochiching also.

After due deliberation of the record herein, the Commission finds and concludes as follows.

FINDINGS AND CONCLUSIONS

The "Rainy River Phase-in Credit" submitted by MP&L would provide lower rates to current Rainy River customers than to other MP&L customers from January 1, 1981 until such time as the final ordered rates in MP&L, E-015/GR-80-76 went into effect, at which time both customer groups would pay the same level of rates. The credit would be in the form of a rider to the applicable MP&L rate schedule, giving a uniform reduction of 0.479¢ per Kwh to customers currently on the Rainy River system. The resulting revenue loss would be made up by increasing the rates proposed under bond for all customers by 0.005¢ per Kwh.

The Department of Public Service indicated that it had no particular problem with the MP&L proposal, but that it would be reasonable to place less of the increase into effect on January 1, 1981 than proposed by MP&L in order to lessen the impact on Rainy River space-heating customers. Hibbing Taconite stated that MP&L's existing customers should not be affected in any way by MP&L's acquisition of another company (unless the acquisition results in economies of scale leading to reduced costs and therefore lower overall revenue requirements); any losses or inadequate profits on Rainy River operations should be borne by MP&L stockholders. The City of International Falls, along with the City of South International Falls and the County of Koochiching, proposed that the increase be phased-in over a five year period in order to lessen the hardship on present Rainy River customers, especially senior citizens and landlords. The City of International Falls stated that the rate increase would have a drastic effect on the city's budget, forcing it to reduce other municipal services.

The Commission finds that customers of Rainy River will incur substantial rate increases as of January 1, 1981 if they are subject to MP&L's schedule of rates under bond in its current general rate case. Although the increase from Rainy River rates to MP&L rates is not as great as earlier estimates indicated due to recent increases in the Rainy River purchased power adjustment, the increase is still significant. The Commission notes that, using September 1980 as a base, an average Rainy River residential customer bill would rise by about 34%; under the phase-in plan submitted by MP&L, this average bill would rise by 21.4%. These increases would be larger if a base month with a lower purchased power adjustment were used for comparison. The impacts on individual Rainy River customers vary with rate schedule and usage levels; some commercial and industrial customers could have increases

of up to 64% even under MP&L's phase-in plan. The Commission concludes that a phase-in plan must be adopted to lessen the immediate burden of the rate increase on Rainy River customers.

The Commission finds that statements made at the oral presentation of November 17, 1980 by counsel for MP&L, along with testimony of Company witnesses in MP&L, E-015/GR-80-76, show that the retail cost of service for the MP&L system will decrease with the acquisition of Rainy River. Company testimony in the general rate case states that the test year revenue deficiency would be reduced by approximately \$2 million if Rainy River had been on the MP&L system for all twelve months of the test year rather than for the four months it will actually be on the system in the test year. The Commission concludes that the acquisition of Rainy River will provide significant benefits to the entire MP&L system. The Commission further concludes that it is appropriate that current Rainy River customers directly receive some part of the benefits which will result from the acquisition, in order to mitigate the otherwise harsh billing impacts of being subjected to MP&L's standard rate schedules.

Therefore the Commission will order that MP&L rates be phased in to current Rainy River customers in three increments, to be effective on January 1, 1981, January 1, 1982, and January 1, 1983 respectively. This plan will lessen the immediate billing impact on current Rainy River customers while still placing them on standard MP&L rate schedules in a reasonable amount of time.

The first increment, to become effective on January 1, 1981, shall be in the form of a credit rider to the MP&L standard rates, in the amount of a deduction of 1.0¢ per Kwh for all kilowatt hours billed. MP&L will be ordered to refile its proposed rate schedules which were to take effect on January 1, 1981 in MP&L, E-015/GR-80-76, so as to recover the revenues which would have been collected in the absence of the credit rider. The Commission notes that its credit of 1.0¢ per Kwh, which is slightly more than twice that submitted in the MP&L phase-in plan, should give an average Rainy River residential customer an increase over current rates of approximately 10% (depending on the base period used). Such an increase compares reasonably to the 10% average increase received by current MP&L residential customers under bond in the pending general rate case. The larger first year credit will also

help curb the sharp increases to be received by some commercial and industrial customers of Rainy River. The Commission notes that current MP&L customers will still receive lower rates under bond as of January 1, 1981 than those they are currently paying under bond; thus current MP&L customers will still receive a major part of the system benefits from the Rainy River acquisition.

The second increment, to become effective on January 1, 1982, shall decrease the amount of the phase-in credit such that Rainy River customer rates will be increased by half of the distance between MP&L standard rates and the first increment Rainy River rates. MP&L will be ordered to file new lower rates for its current MP&L customers to reflect the decreased phase-in credit. The new rates and rider are to be computed so as to generate the overall revenue level established by the Commission in MP&L, E-015/GR-80-76. As of January 1, 1983, Rainy River customers are to be served on MP&L standard rates.

The City of International Falls owns and maintains its municipal street lighting system. Some confusion existed as to the rates MP&L planned to charge the city for street lighting. The Commission understands that MP&L now proposes to apply the general service rate with a 20% discount to reflect savings from city ownership and maintenance. The Commission will accept such a rate for the purposes of this Order but will order further study to be done on its appropriateness. The phase-in credit is to apply to this rate.

ORDER

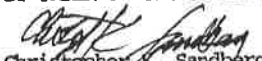
1. MP&L shall phase in the rates to be charged to current Rainy River customers in three increments, the first to be effective on January 1, 1981, the second on January 1, 1982, and the third on January 1, 1983. As of January 1, 1983 the full MP&L standard rate schedules shall apply to current Rainy River customers.
2. Within seven days of the service date of this Order, MP&L shall file a rider to its standard rates for Residential, General Service, Large Light and Power, Reddy Lite, and Municipal Pumping Service to apply to customers within the area currently served by Rainy River. The rider shall provide for a deduction from the applicable MP&L rate schedule of an amount equal to 1.0¢ per Kwh billed.

3. Within seven days of the service date of this Order, MP&L shall refile its proposed suspended rate schedules which were to take effect on January 1, 1981 in MP&L Docket No. E-015/GR-80-76, so as to increase all rates to recover the revenue which would have been collected in the absence of the phase-in credit. Along with this filing MP&L shall submit the calculations used to determine the increase amount.
4. Within seven days of the service date of this Order, MP&L shall file a separate municipal lighting schedule for the City of International Falls which is calculated to reflect a 20 percent discount to the standard General Service rate. The Rainy River phase-in credit shall apply to this schedule.
5. The Rainy River phase-in credit is to be shown as a separate line item on the bills of customers receiving the credit.
6. MP&L shall prepare and send a bill insert to current Rainy River customers explaining the change in rates they will receive on January 1, 1981 and the phase-in credit. The Company shall file a copy of the notice with the Commission.
7. On or before November 20, 1981, MP&L shall file with the Commission for its review and approval a new Rainy River phase-in credit and new standard rate schedules to go into effect on January 1, 1982. The Company shall submit the calculations used to arrive at the new credit and rates and shall file a report detailing the amount of money actually credited to former Rainy River customers up to that time.
8. On or before November 20, 1982, MP&L shall file with the Commission for its review and approval the new standard rate schedules to go into effect on January 1, 1983, and the calculations used to arrive at the new rates.
9. On or before January 31, 1983, MP&L shall file a report to the Commission detailing the amount of money actually credited to former Rainy River customers over the life of the phase-in credit program and all monies collected from the surcharge.
10. In its next general rate case, or earlier if the Commission so orders, MP&L shall conduct a study of its municipal lighting schedule for the City of International Falls to determine whether the rate properly reflects the ownership and maintenance responsibilities of the Company and the City.
11. This Order shall be effective immediately.

SERVICE DATE: DEC 16 1980

(S E A L)

BY ORDER OF THE COMMISSION


Christopher K. Sandberg
Acting Executive Secretary

In the Matter of the Joint Petition
of Minnesota Power and Light
Company and Rainy River Improvement
Company Requesting an Order
Authorizing the Purchase of all of
the Electric Utility Property of
Rainy River by Minnesota Power
and Light.

MPUC Docket No. E-018, E-015/
SA-78-1032

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MINNESOTA PUBLIC UTILITIES COMMISSION



December 19, 1980

To: Parties in Minnesota Power and Light Company
Docket No. E-015/GR-80-76

From: Christopher K. Sandberg
Acting Executive Secretary

A handwritten signature in cursive script, appearing to read "Chris K. Sandberg".

Re: Dates for Exceptions and Replies

Because of the considerable delay in the release of the Hearing Examiner's Report, the deadlines for Exceptions and Replies to Exceptions are hereby extended.

Exceptions must be received by the Commission by close of business December 31, 1980. Replies must be received by the Commission by noon, January 6, 1981.

The Oral Argument will take place as scheduled on January 7, 1981.

I am enclosing a copy of the Commission's recent Order in the Rainy River case for your information.

CKS:lp

Enc.

AMERICAN CENTER building • kellogg and ROBERT STS • SAINT PAUL, MN 55101