In the Matter of a Complaint by Larry Fagen Against Minnesota Valley Cooperative Light & Power Association, Docket No. E-123/CI-16-241

November 21, 2016, Agenda Item #5

Revised Decision Options @ 11/21/16

Claim 1: Interpretation of Minn. Stat. §216B.164 Subd. 3(f)

1) Find that Minnesota Valley did not violate Mr. Fagen's right to choose a compensation method other than the "kWh carry forward" method, and dismiss Mr. Fagen's first claim *(Minnesota Valley)*; ***OR***

2) Find the Minnesota Valley violated Mr. Fagen's right to choose a compensation method other than the "kWh carry forward" method *(Larry Fagen, Department, EFCA, Fresh Energy/ELPC, MCEA/Sierra Club, and Sam Villella)*; ***AND***

3) Deem the signed contract between Mr. Fagen and MN Valley void and cancelled. Require Minnesota Valley to present a new contract that includes an option to select compensation under Minn. Stat. § 216B.164, subd. 3(d) *(Larry Fagen)*.

Claim 4: Is an Expansion a New Installation?

4) If a DG system was installed before July 1, 2015 and expanded after that date, *the entire system* shall be subject to the 2015 legislative amendments *(Minnesota Valley)*; ***OR***

5) If a DG system was installed before July 1, 2015 and expanded after that date, *no part of the system* shall be subject to the 2015 legislative amendments *(Larry Fagen, EFCA, Fresh Energy/ELPC, and Sam Villella)*; ***OR***

6) If a DG system was installed before July 1, 2015 and expanded after that date, *only the expanded portion of the system* shall be subject to the 2015 legislative amendments.

7) Find there is no need to reach this issue.

Claim 5: Minimum bill

8) Find that this record does not support a finding that Minnesota Valley's minimum bill is ~~not~~ discriminatory as applied to Mr. Fagen ~~toward net-metered QF customers~~ (*Minnesota Valley, the Department*); ***OR***

9) Find that this record supports a finding that the minimum bill as applied by Minnesota Valley to Mr. Fagen ~~to net-metered QF customers~~ is unreasonably discriminatory and/or unreasonably discourages small power production.

9A. Find that additional information is needed before making a determination on Minnesota Valley's application of the minimum bill to Mr. Fagen. Delegate authority to the Executive Secretary to establish procedures and timelines for obtaining additional information.

9B. Find there is no need to reach this issue at this time.

Remedy and Additional Recommendations

10) Find that Mr. Fagen is the prevailing party. Require Minnesota Valley to pay Mr. Fagen's costs, disbursements, and reasonable attorneys' fees as required by Minn. Stat. § 216B.164, subd. 5 for all Claims within 30 days of Mr. Fagen submitting a claim to the Co-op. *(Larry Fagen, Department, EFCA, Fresh Energy/ELPC, and MCEA/Sierra Club)*.

10A. Find that Mr. Fagen is the prevailing party. Require Minnesota Valley to pay Mr. Fagen's costs, disbursements, and reasonable attorneys' fees as required by Minn. Stat. § 216B.164, subd. 5. Mr. Fagen shall make a filing with the Cooperative, and copy the Commission and the service list, within 30 days of the date of this Order detailing any costs for which he seeks reimbursement. Minnesota Valley shall reimburse Mr. Fagen within 30 days.
If the cooperative disputes any costs in the claim, Minnesota Valley and the customer shall attempt to resolve the issue. If the amount of reimbursement cannot be resolved, Minnesota Valley shall include, as part of its compliance filing under Option 14, a detailed explanation of the amounts it disputes and why.

11) Require Minnesota Valley to offer all existing and all future qualifying facility customers a contract that allows the customer to choose among the statutory compensation rates *(EFCA, Fresh Energy/ELPC)*.

12) Minnesota Valley shall not cancel out any of Mr. Fagen's kilowatt-hour credits carried forward at the end of the calendar year. Within 30 days of this Order, Minnesota Valley shall recalculate all of Mr. Fagen's 2016 bills as if he had been compensated under Minn. Stat. § 216B.164, subd. 3(d), or use an alternative calculation mutually agreed to.

12A. Minnesota Valley shall not cancel out any of Mr. Fagen's kilowatt-hour credits carried forward at the end of the calendar year. Within 30 days of the date of this Order, Minnesota Valley shall propose a method for remedying any harm to Mr. Fagen from the use of the kWh carry-forward method.

12B. Minnesota Valley shall not cancel out any of Mr. Fagen's kilowatt-hour credits carried forward at the end of the calendar year. Make no further determination on remedies until the Commission has received the additional information on the minimum bill issues under Option 9A and has made a determination on the merits.

13) Minnesota Valley shall not cancel out any kilowatt-hour credits carried forward at the end of the calendar year for any other customers. Within 30 days of this Order, Minnesota Valley shall recalculate the bills of all other customers who were put on the kWh carryforward method who did not specifically elect that method as if they had been compensated under Minn. Stat. § 216B.164, subd. 3(d).

13A. Minnesota Valley shall not cancel out any kilowatt-hour credits carried forward at the end of the calendar year for any other customers. Within 30 days of the date of this Order, Minnesota Valley shall propose a method for remedying any harm to other customers from the use of the kWh carry-forward method.

13B. Minnesota Valley shall not cancel out any kilowatt-hour credits carried forward at the end of the calendar year for other customers. Make no further determination on remedies until the Commission has received the additional information on the minimum bill issues under Option 9A and has made a determination on the merits.

14) Within 60 days of the date of this order, require Minnesota Valley to make a compliance filing demonstrating that it has complied with all the requirements of this Order.