

Minnesota Public Utilities Commission
Staff Briefing Papers

Meeting Date: November 6, 2014..... ****Agenda Item # 3**

Companies: Interstate Power and Light Company (“IPL” or “Interstate”) and Southern Minnesota Electrical Coop (SMEC), together (the “Joint Petitioners”)

Docket Nos. E-001, E-115, E-140, E-105, E-139, E-124, E-126, E-145, E-132, E-114, E-6521, E-142, E-135/PA-14-322

In the Matter of a Request for the Approval of the Asset Purchase and Sale Agreement Between Interstate Power and Light Company and Southern Minnesota Energy Cooperative (the Petition)

Issues: Should the Commission hold there be public hearings on the Petition?

Staff: Clark Kaml.....651-201-2246
Jerry Dasinger651-201-2235
Jorge Alonso651-201-2258
Andrew Twite651-201-2245

Relevant Documents

IPL and SMEC Petition April 15, 2014
Office of the Attorney General (OAG) Comments May 9, 2014
Minnesota Municipal Utilities Association (MMUA) Comments May 9, 2014
Department of Commerce (Department) Comments May 12, 2014
IPL and SMEC Reply Comments May 23, 2014
Commission Order Requiring Additional Record Development June 30, 2014
Department of Commerce Reply Comments October 6, 2014
Office of the Attorney General Reply Comments October 6, 2014
MMUA Reply Comments October 6, 2014

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Statement of the Issues

Should the Commission hold public hearings on the Petition?

Minnesota Statutes and Commission Rules

Minn. Stat. § 216B.50. RESTRICTIONS ON PROPERTY TRANSFER AND MERGER.

Subdivision 1. Commission approval required. No public utility shall sell, acquire, lease, or rent any plant as an operating unit or system in this state for a total consideration in excess of \$100,000, or merge or consolidate with another public utility or transmission company operating in this state, without first being authorized so to do by the commission. Upon the filing of an application for the approval and consent of the commission, the commission shall investigate, with or without public hearing. The commission shall hold a public hearing, upon such notice as the commission may require. If the commission finds that the proposed action is consistent with the public interest, it shall give its consent and approval by order in writing. In reaching its determination, the commission shall take into consideration the reasonable value of the property, plant, or securities to be acquired or disposed of, or merged and consolidated. This section does not apply to the purchase of property to replace or add to the plant of the public utility by construction.

Background

On April 15, 2014, Interstate Power and SMEC filed a petition requesting approval of the sale of IPL's Minnesota electric distribution system and assets, and transfer of IPL's service rights and obligations in Minnesota to SMEC (the Transaction).

On April 22, 2014, the Commission issued a Notice of Schedule for Filing Procedural Comments.

On May 9, 2014, the OAG and MMUA each filed comments.

On May 12, 2014, the Department filed comments.

On May 23, 2014, Interstate and SMEC filed reply comments.

On June 30, 2014, the Commission issued an Order Requiring Additional Record Development.

In September 2014, Interstate and SMEC filed responses to the questions from the Commission and interested parties.

On October 1, 2014, Interstate a copy of the Transition Guides that were mailed to its Minnesota customers.

On October 6, 2014, the Department, the OAG, and the Minnesota Municipal Utilities Association each filed comments on the responses to the Petitioners' responses to questions.

On October 10, 2014, the Commission issues a Notice of Additional Comment Period.

Overview

The joint filing of IPL and SMEC seeks approval of an agreement for IPL to sell to SMEC all of its Minnesota electric distribution system and assets, and to transfer to SMEC its retail electric service rights and obligations in Minnesota (the Transaction). This sale and transfer is made in accordance with the Asset Purchase and Sale Agreement dated September 3, 2013, by and between IPL and SMEC, and First Amendment to Asset Purchase and Sale Agreement dated October 28, 2013, (collectively the Electric APA). This request is made pursuant to Minn. Stat. § 216B.50 and Minn. Rules 7825.1800.

Interstate Power and Light Company is a separate legal entity and first-tier wholly owned subsidiary of Alliant Energy Corporation, a public utility holding company. As of year-end 2012, IPL provided retail electric and natural gas distribution services to approximately 527,000 electric customers and 234,000 natural gas distribution customers in Iowa and southern Minnesota. IPL's Minnesota electric customers total approximately 42,600 in 84 communities.

Southern Minnesota Energy Cooperative (SMEC)¹ is an electric cooperative association organized under Minn. Stat. § 308A.01, et seq. (the Minnesota Cooperative Law). SMEC is a non-profit, tax-exempt organization under Internal Revenue Code § 501(c)(12). It was organized by the SMEC Member Cooperatives to:

Create a single counterparty to IPL to effect the Transaction.

Own, operate, and maintain the electric facilities purchased from IPL for up to three years and to establish the initial rates and terms under which service will be provided to current IPL customers (during the Three-Year Initial Period).

Coordinate the transfer and integration of IPL customers to the individual SMEC Member Cooperatives (which may vary between SMEC Member Cooperatives).

Enter into the subsequent sale transactions with the SMEC Member Cooperatives to distribute IPL's assets to the SMEC Member Cooperatives.

¹ The SMEC Member Cooperative are: Minnesota Valley Electric Cooperative, Steele-Waseca Cooperative Electric, People's Energy Cooperative, Tri-County Electric Cooperative, Freeborn-Mower Cooperative Services, BENCO Electric Cooperative, Brown County Rural Electrical Association, South Central Electric Association, Redwood Electric Cooperative, Federated Rural Electric Association, Nobles Cooperative Electric, Sioux Valley Energy.

During the terms of those power supply contracts, perform and administer the contracts with both IPL and the SMEC Member Cooperatives.

Upon completion of the Transaction:

IPL will withdraw from the provision of retail electric service in all areas it currently serves in Minnesota.

IPL will terminate and cancel its electric service tariffs in Minnesota as of the date of closing of the Transaction.

IPL will no longer be subject to the Commission's jurisdiction regarding the provision of electricity at retail in Minnesota. IPL will provide wholesale power to SMEC under the Wholesale Power Sales Agreement (WPSA) subject to regulation by FERC.

The Department recommended several modifications to the petition and requested that the Applicants provide additional information in supplemental responsive comments.

The OAG stated that benefits to ratepayers remain unclear, although some detriments are clear. The OAG stated that at a minimum, the Commission should establish a procedure that allows parties to make additional, substantive Comments on the proposed transaction.

The issues listed in the October 10, 2014, Notice of Additional Comments Period are:

- Whether the proposed transaction is consistent with the public interest.
- Are the terms and conditions of the Asset Sale reasonable?
- Is the Wholesale Power Agreement reasonable?
- Are there operational concerns that could result from the transaction?
- What will the rate impact be on current IPL customers?
- What are the benefits of the transaction?
- Are there reliability, service quality, or safety concerns that could result from the transaction?
- What entity will be responsible for filing integrated resource plans under Minn. Stat. §216B.2422?
- Will IPL or SMEC be responsible for SMEC members meeting their renewable energy standards obligation, pursuant to Minn. Stat. § 216B.1691, and how will that information be reported?
- What plans, if any, are there for the development of community solar gardens in the SMEC members' service territories?
- How will the Commission's authority over the provision of service to current IPL customers change?

Party Comments

IPL and SMEC

In reply comments the Petitioners stated that that they will take all steps needed to promptly provide a full record for the Commission including participating in public hearings.

Department of Commerce

The Department recommended that the Commission request that the Office of Administrative Hearings conduct public hearings in the same locations as IPL's current service territory and, possibly, in each of the SMEC Member Cooperative's service territories.

Office of the Attorney General

The OAG stated that, ideally, separate public hearings would be held for each group of customers who are being transferred to a specific cooperative. In IPL's most recent electric rate case, the Commission held public hearings in Winnebago, Stewartville, and Albert Lea. The OAG indicated that, at a minimum, a plan for holding public hearings in locations consistent with IPL's most recent electric rate case would allow utility customers throughout IPL's electric service territory to express their opinions on the proposed transaction.

Minnesota Municipal Utilities Association

The MMUA argued that meaningful public participation would assist the Commission in determining whether disputed issues of material fact exists, as well as providing a sound foundation from which to determine the public interest. Public input should be allowed either as a precursor to determining whether to open a contested case proceeding or as the initial phase of a contested case proceeding.

Staff Comment

If the Commission determines that public hearings should be held and asks the Office of Administrative Hearings (OAH) to hold these hearings on its behalf, the Commission may also want to provide staff, the OAH and the parties with some guidance on whether to hold 12, 3 or one public hearing and when it would like to receive a report from the ALJ on those hearings.

Commission Options

Some Commission options are:

1. Public Hearings
 - a. Determine not to hold public hearings.

- b. Determine that public hearings should be held on this issue. Request the Office of Administrative Hearings to assign an Administrative Law Judge (ALJ) to conduct these hearings, and request a report from the ALJ on the public hearings no later than February 28, 2015. The dates, times, and locations shall be set by the ALJ after consultation with the Commission's Executive Secretary and the parties.

2. Notice

- a. Require IPL to give the following notices of the evidentiary and public hearings:
 - i. Individual written notice to each customer, which may be in the form of a bill insert, and shall be served at least ten days before the first day of hearings, and
 - ii. Written notice to the governing bodies of all municipalities, counties, and local governing bodies in the area affected and to all parties in the Company's last two rate cases. These notices shall be mailed at least ten days before the first day of hearings, and
 - iii. Display advertisements in legal newspapers of affected counties and other newspapers of general circulation within the Company's Minnesota service area. These advertisements shall appear at least ten days before the first day of hearings.
- b. Require IPL to submit proposed notices for Commission approval prior to publication or service.

3. Delegation of Authority

- a. Delegate authority to the Commission's Executive Secretary to approve on the Commission's behalf:
 - i. Customer and other notices, bill inserts, and advertisements of any other kind related to this matter for the duration of this proceeding, and
 - ii. Vary time periods set forth in the Commission's Orders in this matter, and
 - iii. Establish any new processes (including deadlines) that may be necessary to facilitate resolution of this matter, or
- b. Do not delegate authority to the Commission's Executive Secretary.