

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

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

DOCKET NO. 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

**REPLY 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 in response to the Commission’s request for procedural and scoping comments regarding the joint petition (“Petition”) of Interstate Power and Light Company (“IPL”) and the Southern Minnesota Energy Cooperative (“SMEC”) for approval of the sale of IPL’s Minnesota electric distribution system and assets and transfer of service rights and obligations in Minnesota to SMEC. IPL and SMEC (“Petitioners”) seek to transfer IPL’s Minnesota service territory—and associated electric distribution system—with current rights to serve more than 42,000 customers in southern Minnesota to twelve separate electric cooperatives (which jointly formed SMEC).¹ The OAG is reviewing the Petition, and intends to provide substantive comments regarding the proposed transaction pursuant to the schedule approved by the Commission.

¹ See Petition at 9.

II. THE OAG IS NOT AWARE OF DISPUTED FACTS.

After conducting a preliminary review, the OAG is not aware of any material facts currently in dispute. Therefore, while the OAG does not oppose referring the matter to the Office of Administrative Hearings for a contested case, it does not request a contested case. The OAG also notes that IPL and the SMEC cooperatives engaged the public agencies in discussions of the proposed transaction prior to filing the Petition. The result of this engagement is that much of the information that would potentially be sought in a “first round” of information requests—such as a comparison of rates paid by IPL customers and the members of each of the SMEC cooperatives—is already included in the Petition.² While this engagement has not eliminated the need for a thorough review of the Petition, or for the need to seek additional information as the agencies review the filing,³ it has streamlined much of the initial review. Continued cooperation of IPL and SMEC with the public agencies’ investigations would allow for thorough review of the proposed transaction absent a contested case.

III. THE COMMISSION SHOULD ESTABLISH A PROCESS THAT ALLOWS FOR A THOROUGH REVIEW OF THE PROPOSED TRANSACTION AND FOR PUBLIC COMMENT.

Regardless of whether the Commission initiates a contested case or not, the public agencies must review and evaluate a substantial amount of information to determine whether the proposed transaction, or some variation of the current proposal, is in the public interest. The current filing includes thousands of pages of legal and financial documentation, and additional information will likely be needed to complete a thorough review. Moreover, as noted above, the proposal affects the utility service rights of more than 42,000 Minnesota ratepayers. Accordingly, the Commission

² See *e.g.* Petition at Attachments H, K.

³ The OAG has served several information requests on IPL and SMEC for which it awaits responses.

should ensure that the process it establishes provides a sufficient period for parties to review these extensive materials and provide proper feedback.

At this time, it is unclear what schedule is sought by Petitioners. Specifically, while the Petitioners request a schedule allowing “for completion of the review of this Joint Petition that would, if possible, allow a closing by December 31, 2014,” they do not indicate the schedule needed—or, more specifically, when the Commission would need to rule on the Petition—to allow for a December 31, 2014 closing.⁴ For example, the OAG is not opposed to a schedule that allows for a Commission decision by December 31, 2014. Such a schedule would presumably require that parties file initial comments in October and reply comments in early November. If Petitioners require a final decision at some earlier point in order to close the sale by the end of 2014, though, that may be a challenge given the workload associated with addressing the numerous, important matters currently pending before the Commission. In light of these other important matters, the OAG recommends that, at a minimum, the Commission establish a schedule where initial comments are not due before August 29, 2014.

Regardless of the final schedule approved, the Commission should allow sufficient opportunity for those IPL customers who will be affected by this transaction, as well as other interested parties, to comment regarding concerns they have. 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.⁵ The OAG believes that, at minimum, a plan for holding public hearings in locations consistent with IPL’s most recent electric rate case would allow utility

⁴ Petition at 6.

⁵ See *In the Matter of the Application of Interstate Power and Light for Authority to Increase Rates for Electric Service in Minnesota*, Docket No. E-001/GR-10-276.

customers throughout IPL's electric service territory to express their opinions on the proposed transaction.

IV. CONCLUSION

The OAG has not identified any material facts that are in dispute, and therefore does not request a contested case proceeding. This matter is very important. If approved, the Petition would implicate the utility service rights of 42,000 Minnesota ratepayers. For that reason, the Commission should establish a schedule that allows for a thorough and comprehensive review of the filing by public agencies, and for potentially-affected citizens to attend public hearings to express concerns and provide other input.

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Respectfully submitted,

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s/ **Ian Dobson**

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