

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Minnesota Department of
Commerce's Request that the Commission Adopt
Ratemaking Standards for Utility-Owned CIP
Projects

ISSUE DATE: July 16, 2013

DOCKET NO. E,G-999/DI-12-1342

ORDER DETERMINING RATEMAKING
TREATMENT OF UTILITY CIP PROJECT
COSTS AND REQUIRING FURTHER
FILINGS

PROCEDURAL HISTORY

On January 14, 2013, the Minnesota Department of Commerce filed comments recommending that the Commission adopt ratemaking standards for recovering the costs of energy-efficiency improvements to utility facilities. The Department also proposed that the Commission require all electric and natural gas investor-owned utilities to procure third-party recommissioning studies for each of their facilities and propose a timeline for completing all cost-effective improvements by January 1, 2016.

Between February 27 and May 24, 2013, the following utilities filed comments:

- Otter Tail Power Company
- CenterPoint Energy
- Minnesota Power
- Interstate Power and Light
- Minnesota Energy Resources Corporation
- Xcel Energy
- Great Plains Natural Gas Company

The Department filed reply comments on March 21 and May 24, 2013.

On June 6, 2013, the matter came before the Commission.

FINDINGS AND CONCLUSIONS

I. Regulatory Background

The Minnesota Legislature has set a goal of “achiev[ing] annual energy savings equal to 1.5 percent of annual retail energy sales of electricity and natural gas.”¹ To that end, Minnesota Statutes section 216B.241, subdivision 2, requires public utilities to develop energy conservation improvement programs (CIPs) designed to reduce energy use. Under its CIP, a utility may, for example, offer rebates to help residential customers purchase energy-efficient appliances or to encourage business customers to make energy-efficiency upgrades to their buildings. The Department of Commerce sets individual utilities’ energy-savings goals² and approves CIPs,³ while the Commission determines, under its ratemaking authority, how rebates and other CIP costs are recovered.⁴

In addition, under Minnesota Statutes section 216B.16, subdivision 6c, the Commission has established demand-side management (DSM) financial incentives to encourage utilities to aggressively pursue opportunities for energy conservation. The incentive is triggered when a utility achieves 91 percent of its savings goal and increases as the utility realizes additional savings, up to a defined maximum.⁵

II. The Department’s Proposal

Two years ago the Department learned that some utilities have used CIP funds to improve the energy efficiency of their own facilities. For example, a utility might use a CIP rebate to cover the cost of a recommissioning study to determine the feasibility of energy upgrades to its headquarters. The utility then recovers the cost of the rebate from ratepayers through base rates or a CIP rider.

The Department proposed that utilities be allowed to treat such expenditures as CIP costs as long as they can demonstrate that this treatment does not result in double recovery. However, the Department urged the Commission not to allow utilities to count the energy savings from these projects for the purpose of earning a DSM financial incentive. The Department argued that utilities do not need an incentive to reduce energy use at their own facilities because they do not make a profit from the sales.

Finally, the Department proposed that the Commission require each electric and natural gas utility to submit to the Department by November 1, 2013, a plan for procuring third-party recommissioning studies exploring potential efficiency improvements to their facilities, including a timeline that would allow all identified cost-effective measures to be completed by January 1, 2016.

¹ Minn. Stat. § 216B.2401.

² Minn. Stat. § 216B.241, subd. 1c.

³ *Id.*, subd. 2.

⁴ *Id.*, subd. 2b.

⁵ Order Approving Demand Side Management Financial Incentive Plans (April 7, 2000), *In the Matter of Requests to Continue Demand-Side Management Financial Incentives Beyond 1998*, Docket No. E,G-999/CI-98-1759.

III. The Parties' Positions

The commenting utilities supported using CIP funds for efficiency improvements to their facilities, including the condition that they demonstrate that no double recovery will occur. But the utilities opposed the Department's recommendation to exclude energy savings from these projects in calculating their DSM financial incentives, stating that the combination of CIP rebates and financial incentives allows utilities to give conservation projects a higher priority.

Finally, the utilities generally opposed the Department's request that they be required to procure third-party recommissioning studies for each of their facilities and complete all identified cost-effective measures by January 1, 2016. The utilities argued that such an undertaking is unnecessary, would be costly, and would interfere with their judgment as to how to best allocate limited resources. The utilities requested clarification of several issues if the Commission accepts the Department's proposal:

- Whether the costs of incentives, audits, and other CIP-related expenses are recoverable through CIP, while the capital costs of the actual improvements are not;
- What the Department means by "recommissioning studies" and whether energy audits might be an acceptable alternative;
- Whether the recommissioning studies or audits must be conducted by third parties;
- What information must be included in the November 1, 2013 filing;
- What the Department means by "facility" and whether this includes generation facilities; and
- How the Department will determine what constitutes a cost-effective improvement.

The Department recommended that the Commission convene a workgroup to address these issues. However, at the Commission meeting, the parties agreed that a workgroup was unnecessary and that they could instead confer informally to resolve the issues.

IV. Commission Action

A. CIP Participation by Utilities

The Commission concurs with the parties that utilities should be allowed to participate in CIP. Ratepayers will benefit from incentivizing utilities to make cost-effective energy conservation improvements to their facilities because the cost savings resulting from these improvements will be passed on to the ratepayers. The Commission therefore finds that utilities may participate in CIP projects at their own facilities and recover the associated customer and/or vendor incentives, program delivery, evaluation, marketing, and administrative costs through the CIP ratemaking process. To be recovered through the CIP ratemaking process, an expense must be approved by the Department as part of a utility's CIP. Utilities must also demonstrate that their participation in CIP will not result in double recovery of ratepayer funds.

The Commission's finding that utilities may recover certain costs through CIP does not extend to electric utility infrastructure (EUI) costs under Minnesota Statutes section 216B.1636. Like CIP projects, EUI projects involve energy conservation. However, EUI costs are subject to a separate review process.

The Commission also concurs with the Department that utilities should not be allowed to count the energy savings from their own CIP projects toward earning a DSM financial incentive. Utilities have an obligation to minimize costs and adopt efficient operations. Moreover, the purpose of DSM financial incentives is to neutralize, at least in part, the significant disincentive to conservation posed by lost energy sales. These incentives compensate utilities for a portion of sales lost to conservation and have proven to be effective tools for maximizing utility participation in conservation efforts. Here, however, there are no lost energy sales, just cost savings like those enjoyed by any utility customer who has installed efficiency improvements. There is no principled reason to treat these cost savings as lost sales for which the utility should receive a DSM financial incentive.

B. Recommissioning Studies

The Department's proposal to require utilities to explore the potential for energy-efficiency improvements to all their facilities is consistent with the Commission's statutory duty to set rates to encourage energy conservation "to the maximum reasonable extent,"⁶ and the Commission will adopt it. The Commission will require all investor-owned utilities to submit to the Department scoping plans for conducting recommissioning studies or audits.

The Commission also concurs with the parties that the utilities and the Department should work together to clarify the parameters of the scoping plans before they are filed, to ensure an efficient process. The Commission will therefore ask the Department to work with the utilities on these issues and file a report on their discussions two months before the utilities' plans are due.

ORDER

1. The Commission hereby finds that utilities may participate in CIP projects at their own facilities and that the associated customer and/or vendor incentives, program delivery, evaluation, marketing, and administrative costs may be recovered through the CIP ratemaking process if the costs are approved by the Department as part of CIP and provided a utility demonstrates that its participation in CIP does not result in double recovery of ratepayer funds. This finding does not extend to electric utility infrastructure projects governed by Minnesota Statutes section 216B.1636.
2. The Commission further finds that energy savings and net benefits resulting from utility participation in CIP projects at their own facilities shall not count toward the determination of the utility's DSM financial incentive.
3. The Commission requests that the Department work with the utilities to address issues raised by its recommissioning-study proposal, such as
 - a. what type of analysis (e.g., recommissioning, energy audits) should be used for different types of energy facilities;
 - b. under what conditions a utility will be required to contract with a third-party energy auditor or recommissioning firm to perform the recommissioning studies and audits;
 - c. the definition of a "facility" and other terms that need clarification;

⁶ Minn. Stat. § 216B.03.

- d. how a utility will demonstrate that it has already gone through a systemic process to identify energy efficiency improvements at its facilities; and
- e. the benchmarking analysis that the utility must provide.

The Department shall file a compliance report in this docket by April 15, 2014.

- 4. By June 15, 2014, each electric and natural gas investor-owned utility subject to CIP shall submit to the Department for its review and analysis a scoping plan for recommissioning studies or audits that may be appropriate. The scoping plan must include at least the following:
 - a. a list of the facilities to be studied in Minnesota;
 - b. the proposed type of analysis for each facility (e.g., an energy audit or recommissioning study);
 - c. the proposed party to conduct the analysis (i.e., utility staff or third party);
 - d. for the studies or audits that would be appropriate, a proposed schedule for completing the studies and audits, taking into account the identification of a utility's least efficient facilities, and the time and cost of the studies and audits.
- 5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary



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