

November 12, 2014

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E148,E228/SA-14-824

Dear Dr. Haar:

Attached are the comments of the Minnesota Department of Commerce, Division of Energy Resources (the Department or DOC) in the following matter:

The Joint Request of the Delano Water, Light, and Power Commission (the Municipal) and Wright-Hennepin Cooperative Electric Association (the Cooperative), collectively the Parties, to Modify Electric Service Territory Boundaries.

The current petition was filed on September 26, 2014 by:

Hal Becker, General Manager
Delano Municipal Utilities
P.O. Box 65
11 Bridge Ave. W
Delano, Minnesota 55328

and

Mark Vogt, CEO
Wright-Hennepin Cooperative Electric Association
6800 Electric Drive
P.O. Box 330
Rockford, Minnesota 55373

The Department recommends that the Commission **approve the requested service territory boundary transfer from the Cooperative to the Municipal; allow the Municipal to serve-by-exception three meters in the Cooperative's service territory; and allow the Cooperative to serve-by-exception one customer in the area to be served by the Municipal.** The Department is available to answer any questions the Commission may have.

Sincerely,

/s/ DALE V. LUSTI
Financial Analyst

DVL/ja
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

DOCKET NO. E228/SA-14-824

I. SUMMARY OF PROPOSAL

On September 26, 2014, the Delano Water, Light, and Power Commission (the Municipal) and Wright Hennepin Cooperative Electric Association (the Cooperative), collectively the Parties, jointly filed a request that the Minnesota Public Utilities Commission (Commission) modify the Parties' existing electric service territory boundaries.

The first request concerns the transfer to the Municipal of thirteen electric service territory areas now located within the Municipal's borders by virtue of annexation that are presently in the Cooperative's assigned electric service territory. The Parties provided their *Electric Service Territory Agreement and Bill of Sale* (Transfer Agreement), including Exhibit A which contains maps and legal descriptions of the thirteen parcels. Under this request, the affected areas permanently transfer to the Municipal; however, the Municipal is permitting the Cooperative to continue to serve one customer on a service-by-exception basis as explained in Section 1.5 of the Transfer Agreement and as shown on the map in Exhibit D.

The second request relates to an Exception Agreement between the Parties to allow the Municipal to provide service-by-exception to three meters within the Cooperative's assigned service territory. The exception accounts are identified in Attachment 1 to the Exception Agreement.

II. DEPARTMENT ANALYSIS OF *ELECTRIC SERVICE TERRITORY AGREEMENT AND BILL OF SALE*

A. *TRANSFER OF THIRTEEN PARCELS INTO THE MUNICIPAL'S SERVICE AREA PURSUANT TO THE TRANSFER AGREEMENT*

Minnesota Statutes section 216B.44, subd. (a) states:

... whenever a municipality which owns and operates an electric utility (1) extends its corporate boundaries through annexation or consolidation, or (2) determines to extend its service territory within its existing corporate boundaries, the municipality shall thereafter furnish electric service to these areas unless the area is already receiving electric service from an electric utility, in which event, the municipality may purchase the facilities of the electric utility servicing the area.

The Parties' joint petition contains the legal descriptions of thirteen parcels to be transferred from the Cooperative to the Municipal, as listed by the surveyor on the thirteen maps. Listed below is the Department's interpretation¹ of the surveyor's description of each of the thirteen parcels. The Department requests that the Parties correct any errors in the descriptions below; these descriptions are needed to update the Commission's electronic service area maps.

Exhibit A-1, City of Delano Ordinance O-14-14 dated May 18, 2004

The South Half of the Northwest Quarter of the Northeast Quarter and the Southwest Quarter of the Northeast Quarter of Section 15, Township 118, Range 25, Wright County, Minnesota. Containing 59.66 acres.

Exhibit A-2, City of Delano Ordinance O-04-23 dated August 3, 2004 Corrected Exhibit A

The Northwest Quarter of the Southeast Quarter of Section 15, Township 118, Range 25, Wright County, Minnesota.

Exhibit A-3, City of Delano Ordinance O-02-04 dated May 7, 2002

That part of the East Half of the Southwest Quarter of Section 14, Township 118 North, Range 25 West, Wright County, Minnesota which lies north of the South 430.00 feet thereof; and which lies northwesterly of the center line of County Road 16.

¹ The Department's description of the thirteen parcels utilizes the same capitalization, punctuation, etc. as shown on the maps.

Exhibit A-4, City of Delano Ordinance O-02-08 dated August 6, 2002, Parcel B

The Southwest Quarter of the Southwest Quarter of Section 14, Township 118, Range 25, except the following described tract:

That part of the Southwest Quarter of the Southwest Quarter of Section 14, Township 118, Range 25 described as follows: Beginning at the Southwest Quarter of the said Southwest Quarter of the Southwest Quarter; thence North along the West line thereof, 265.35 feet; thence Southeasterly 273.43 feet to a point on the South line of the said Southwest Quarter of the Southwest Quarter distant 62.00 feet East of the southwest corner thereof; thence West along the said South line 62.00 feet to the point of beginning.

together with

That part of the East Half of the Southwest Quarter of Section 14, Township 118 North, Range 25 West, Wright County, Minnesota that lies southeasterly of the center line of County Road 16.

together with

That part of the South 430.00 feet of the East Half of the Southwest Quarter of Section 14, Township 118 North, Range 25 West, Wright County, Minnesota that lies northwesterly of the center line of County Road No. 16 EXCEPT the following described parcels:

Parcel 1:

That part of the Southeast Quarter of the Southwest Quarter of Section 14, Township 118, Range 25 described as follows: Commencing at a point on the South line of said Section 14, 1537.3 feet East of the said Section 14; thence East along the South line, 107 feet; thence East along the South line, 107 feet; thence deflect 90 degrees left, 150 feet; thence deflect 90 degrees left, 107 feet; thence deflect 90 degrees left 150 feet to point of beginning.

Parcel 2:

That part of the Southeast Quarter of the Southwest Quarter of Section 14, Township 118, Range 25 described as follows: Commencing at a point on the South line of said Section 14, 1644.3 feet East of the said Southwest corner of said Section 14; thence East along the South line, 144.1 feet to the centerline of County Road No. 16; thence deflect 66 degrees 21 minutes left, along said centerline, 169.34 feet; thence deflect 117 degrees 39 minutes

left, 185.45 feet; thence deflect 90 degrees left, 150 feet to point of beginning.

Parcel 3:

That part of the Southeast Quarter of the Southwest Quarter of Section 14, Township 118, Range 25 described as follows: Commencing at a point on the South line of said Section 14 a distance of 1437.3 feet East of the Southwest corner of said Section 14; thence East along said South line, 100 feet; thence deflect 90 degrees left, 150 feet; thence deflect 90 degrees left, 100 feet; thence deflect 90 degrees left, 150 feet to point of beginning.

Parcel 4:

That part of the Southeast Quarter of the Southwest Quarter of Section 14, Township 118, Range 25 described as follows: Beginning at a point on the South line of said Section 14, a distance of 1397.3 feet East of the Southwest corner of said Section 14; thence West, along the South line, 130 feet, more or less, to the West line of said Southeast Quarter of the Southwest Quarter; thence North, along said West line, 150 feet; thence East, parallel with said South line 130 feet, more or less; thence deflect 90 degrees right, 150 feet more or less to said point of beginning.

Parcel 5:

That part of the Southeast Quarter of the Southwest Quarter of Section 14, Township 118, Range 25 described as follows: Beginning at a point on the South line of said Section 14, a distance of 1397.3 feet East of the Southwest corner of said Section 14; thence East along said South line, 40 feet; thence deflect 90 degrees left, 150 feet; thence deflect 90 degrees left, 40 feet; thence deflect 90 degrees left, 150 feet to point of beginning.

Exhibit A-5, City of Delano Ordinance O-04-12 dated April 6, 2004

PID# 208 200 143403

Section 14, Township 118, Range 25

Part of the Southeast Quarter of the Southwest Quarter described beginning at point on South line of Southwest corner; thence West 130 feet to the West line; thence North 150 feet, East 130 feet; thence deflect 90 degrees right 150 feet to point of beginning.

Exhibit A-6, City of Delano Ordinance O-04-13 dated April 6, 2004

PID# 208 200 143402

Section 14, Township 118, Range 25

That part of the Southeast Quarter of the Southwest Quarter of Section 14, Township 118, Range 25 described as follows: Commencing at a point on the South line of said Section 1437.3 feet East of the Southwest corner of said Section 14; thence East along said South line, 100 feet; thence deflect 90 degrees left, 150 feet; thence deflect 90 degrees left, 100 feet; thence deflect 90 degrees left, 150 feet to point of beginning. And part of the Southeast Quarter of the Southwest Quarter of Section 14, Township 118, Range 25 described as follows: Begin at a point on the South line of said Section 14 a distance of 1397.3 feet East of the Southwest corner of said Section 14; thence East along said South line, 40 feet; thence deflect 90 degrees left, 150 feet; thence deflect 90 degrees left, 40 feet; thence deflect 90 degrees left, 150 feet to point of beginning. Wright County, Minnesota.

Exhibit A-7, City of Delano Ordinance O-04-06 dated February 17, 2004

Section 14, Township 118, Range 25

Unplatted Land, PID #208 200 143400

Part of SE $\frac{1}{4}$ of SW $\frac{1}{4}$ described commencing at point on South line 1537.3 feet East of SW corner; thence East along said line 107 feet; thence def 90 degrees L 150 feet to point of beginning

AND

Section 14, Township 118, Range 25

Unplatted Land, PID # 208 200 143401

Prt of SE $\frac{1}{4}$ of SW $\frac{1}{4}$ Described commencing at point on South line 1644.3 feet E of SW corner; thence East along said South line 144.1 feet to centerline of County Road 16; thence def 62 degrees 21 minutes L along said centerline 169.34 feet; thence def 117 degrees 39 minutes L 185.45 feet; thence def 90 degrees L 150 feet to point of beginning

Exhibit A-8, City of Delano Ordinance O-04-01 dated January 20, 2004

The Northwest Quarter of the Northwest Quarter; also the East half of the Northwest Quarter, lying West of the public road known as CSAH 16, aka Delano/Watertown Road, all in Section 23, Township 118, Range 25, Wright County, Minnesota.

Exhibit A-9, City of Delano Ordinance O-04-28 dated December 21, 2004

208 200 232300

The Southwest Quarter of the Northwest Quarter of Section 23, Township 118, Range 25, Wright County, Minnesota. Containing approximately 40 acres

Exhibit A-10, City of Delano Ordinance O-06-02 dated April 4, 2006

208 200 232400

That part of the Southeast Quarter of the Northwest Quarter and the Southwest Quarter of the Northeast Quarter of Section 23, Township 118. Range 25, Wright County, Minnesota, described as follows:

Beginning at the Southwest Corner of the Southeast Quarter of the Northwest Quarter of said Section 23; thence Northerly along the West line of said Southeast Quarter of the Northwest Quarter distant 619.7 feet; thence Easterly parallel with the South line of said Southeast Quarter of the Northwest Quarter and Southwest Quarter of the Northeast Quarter 2051.9 feet more or less to the West bank of Crow River; thence Southeasterly along said river to the South line of said Southwest Quarter of the Northeast Quarter and the Southeast Quarter of the Northwest Quarter of said Section 23; thence Westerly along said South line 2313.4 feet more or less to the point of beginning. Containing 30 acres more or less.

Exhibit A-11, City of Delano Ordinance O-06-03 dated April 4, 2006

208 200 233100

The North 977.00 feet of the East Half of the Southwest Quarter of the Northwest 977.00 feet of the West half of the Southeast Quarter. All in Section 23, Township 118, Range 25, Wright County, Minnesota. Containing 59.49 acres.

Exhibit A-12, City of Delano Ordinance O-06-13 dated September 19, 2006

That part of the Northwest Quarter of the Southeast Quarter of Section 23, Township 118, Range 25, Wright County, Minnesota lying South of the North 977.00 feet,

AND

That part of the East Half of the Southwest Quarter of Section 23, Township 118, Range 25, Wright County, Minnesota lying South of the North 977.00 feet and Northerly of a line described as follows:

Commencing at the Northwest corner of the Southeast Quarter of said Southwest Quarter; thence on an assumed bearing of South 00 degrees 06 minutes 24 seconds West, along the West line of said Southeast Quarter of the Southwest Quarter, a distance of 90.90 feet to the point of beginning of the line to be described; thence South 85 degrees 53 minutes 23 seconds East, a distance of 257.38 feet; thence North 89 degrees 20 minutes 10 seconds East parallel with the North line of said Southeast Quarter of the Southwest Quarter, a distance of 1064.58 feet to the East line of said Southeast Quarter of the Southwest Quarter and said line there terminating:

EXCEPT:

That part of the Northeast Quarter of the Southwest Quarter and that part of the Southeast Quarter of the Southwest Quarter, all in Section 23, Township 118, Range 25, Wright County, Minnesota, described as follows:

Beginning at the Northwest corner of the Southeast Quarter of the Southwest Quarter; thence on an assumed bearing of South 00 degrees 06 minutes 24 seconds West, along the West line of said Southeast Quarter of the Southwest Quarter, a distance of 90.90 feet; thence South 85 degrees 53 minutes 23 seconds East, a distance of 257.38 feet; thence North 00 degrees 06 minutes 24 seconds East, parallel with the West line of said Southeast Quarter of the Southwest Quarter, a distance of 244.83 feet; thence North 13 degrees; thence North 13 degrees 39 minutes 37 seconds West, a distance of 103.98 feet; thence North 85 degrees 53 minutes 23 seconds West, a distance of 82.21 feet; thence North 00 degrees 06 minutes 24 seconds East, a distance of 108.47 feet to the South line of the North 977.00 feet of said Northeast Quarter; thence South 89 degrees 17 minutes 54 seconds West along said South line, a distance of 150.01 feet to the West line of said Northeast Quarter; thence South 00 degrees 06 minutes 24 seconds West along said West line, a distance of 349.05 feet to the point of beginning.

Contains approximately 22.30 acres.

Exhibit A-13, City of Delano Amended Ordinance 0-06-14 dated September 19, 2006

That part of the Northeast Quarter of the Southwest Quarter and that part of the Southeast Quarter of the Southwest Quarter, all in Section 23, Township 118, Range 25, Wright County, Minnesota, described as follows:

Beginning at the Northwest corner of the Southeast Quarter of the Southwest Quarter; thence on an assumed bearing of South 00 degrees 06 minutes 24 seconds West, along the West line of said Southeast Quarter of the Southwest Quarter, a distance of 90.90 feet; thence South 85 degrees 53 minutes 23 seconds East, a distance of 257.38 feet; thence North 00 degrees 06 minutes 24 seconds East, parallel with the West line of said Southeast Quarter of the Southwest Quarter, a distance of 244.83 feet; thence North 13 degrees; thence North 13 degrees 39 minutes 37 seconds West, a distance of 103.98 feet; thence North 85 degrees 53 minutes 23 seconds West, a distance of 82.21 feet; thence North 00 degrees 06 minutes 24 seconds East, a distance of 108.47 feet to the South line of the North 977.00 feet of said Northeast Quarter; thence South 89 degrees 17 minutes 54 seconds West along said South line, a distance of 150.01 feet to the West line of said Northeast Quarter; thence South 00 degrees 06 minutes 24 seconds West along said West line, a distance of 349.05 feet to the point of beginning.

Containing approximately 2.35 acres

The Parties identify on a map included as Exhibit B to the Petition, the four areas that include the thirteen annexations in this docket. The 4 areas can be described as follows:

1. Area A is composed of Annexations A-1 and A-2., and is bare ground without any existing customers.
2. Area B is composed of Annexations A-3, A-4, A-5, A-6, A-7 and A-9. This area is currently being developed residential and contains approximately 208 accounts, including 181 general service or residential, 1 small commercial, 24 street lights and two cable TV boosters. All customers in Area B are currently receiving service from the Cooperative, and have been recently notified by the Parties of the impending transfer of electric service provider responsibility from the Cooperative to the Municipal.²
3. Area C is composed of Annexation A-8, and is bare ground without any existing customers.
4. Area D is composed of Annexations A-10, A-11, A-12 and A-13, and is bare ground without any existing customers.

² The Parties notified the Department on November 7, 2014 that all customers in Area B were recently notified of the impending transfer of electric service provider responsibility from the Cooperative to the Municipal, and will file an affidavit of service with the Commission imminently.

B. *COMPENSATION*

Minnesota Statutes Section 216B.44, subd. (b) states:

The municipality acquiring the facilities shall pay to the electric utility formerly serving the area the appropriate value of its properties within the area In the event the municipality and the electric utility involved are unable to agree as to terms of the payment or exchange, the municipality or the electric utility may file an application with the commission requesting that the commission determine the appropriate terms for the exchange or sale.

The Department notes that the Parties have agreed to the compensation terms contained in the Transfer Agreement.

Thus, the Department agrees that the Parties' request to establish the thirteen annexations as part of the City's service area is consistent with Minn. Stat. 216B.44, subd. (a) and (b).

III. DEPARTMENT ANALYSIS OF *EXCEPTION AGREEMENT*

The Department notes the Parties' Exception Agreement allows the Municipal to provide service by exception to three (3) meters within the Cooperative's assigned service territory, although it does not permit the Municipal to serve any new load not specifically identified in the Exception Agreement, nor does it convey permanent service rights to the Municipal.

The Exception Agreement does not require compensation for lost revenue; however, the Parties agree that the Municipal will pay the Cooperative the original cost, less depreciation, of the overhead distribution facilities used to serve the Exception Accounts.

IV. RECOMMENDATION

The Department recommends that the Commission approve the requested service territory transfer of the thirteen parcels identified herein from the Cooperative to the Municipal, allow the Municipal to serve-by-exception three meters in the area to be served by the Cooperative, and allow the Cooperative to serve-by-exception one customer in the area to be served by the municipal.

/ja

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Comments**

Docket No. E148,228/SA-14-824

Dated this 12th day of November 2014

/s/Sharon Ferguson

| First Name | Last Name | Email | Company Name | Address | Delivery Method | View Trade Secret | Service List Name |
|-------------|-----------|-------------------------------|---|---|--------------------|-------------------|-------------------------|
| Julia | Anderson | Julia.Anderson@ag.state.mn.us | Office of the Attorney General-DOC | 1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134 | Electronic Service | Yes | OFF_SL_14-824_SA-14-824 |
| Hal | Becker | hbecker@delanomn.us | Delano Municipal Utilities | P.O. Box 65 11 Bridge Ave W Delano, MN 55328 | Electronic Service | No | OFF_SL_14-824_SA-14-824 |
| Kathleen M. | Brennan | kmb@mcgrannshea.com | McGrann Shea Carnival, Straughn & Lamb, Chartered | N/A | Electronic Service | No | OFF_SL_14-824_SA-14-824 |
| Sharon | Ferguson | sharon.ferguson@state.mn.us | Department of Commerce | 85 7th Place E Ste 500 Saint Paul, MN 551012198 | Electronic Service | No | OFF_SL_14-824_SA-14-824 |
| Burl W. | Haar | burl.haar@state.mn.us | Public Utilities Commission | Suite 350 121 7th Place East St. Paul, MN 551012147 | Electronic Service | Yes | OFF_SL_14-824_SA-14-824 |
| John | Lindell | agorud.ecf@ag.state.mn.us | Office of the Attorney General-RUD | 1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130 | Electronic Service | Yes | OFF_SL_14-824_SA-14-824 |
| Kent D. | Mattson | k.mattson@pemplaw.com | Pemberton, Sorlie, Rufer & Kershner, PLLP | 110 N Mills St PO Box 866 Fergus Falls, MN 565380866 | Electronic Service | No | OFF_SL_14-824_SA-14-824 |
| Mark F. | Vogt | N/A | Wright Hennepin Coop. Electric Assn. | 6800 Electric Drive P.O. Box 330 Rockford, MN 553730330 | Paper Service | No | OFF_SL_14-824_SA-14-824 |