

November 30, 2018

Daniel P. Wolf
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, E221/SA-18-705

Dear Mr. Wolf:

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

The Joint Request of the City of Buffalo and Wright-Hennepin Cooperative Electric Association to Update Electric Service Territory Records.

The petition was filed on November 9, 2018 by:

Kathleen M. Brennan
McGrann Shea Carnival Straughn & Lamb, Chartered
414 Nicollet Mall, Suite 2600
Minneapolis, MN 55402

The Department recommends that the Minnesota Public Utilities Commission (Commission) approve the service territory transfer from the Wright-Hennepin Cooperative Electric Association to the City of Buffalo, and 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. E148, E221/SA-18-705

I. BACKGROUND

Wright-Hennepin Cooperative Electric Association (the Cooperative) is an electric distribution cooperative formed pursuant to the provisions of Minn. Stat. Chapter 308A. The City of Buffalo (the City) operates a municipal utility under laws of the State of Minnesota.

II. SUMMARY OF PROPOSAL

On November 9, 2018, the parties jointly filed a petition under Minn. Stat. § 216B.44, asking the Minnesota Public Utilities Commission (Commission) to modify the parties' service territory boundaries (Petition). The Petition requests that the Transfer Area be transferred from the Cooperative's to the City's assigned service area.

III. DEPARTMENT ANALYSIS

A. *TRANSFER OF THE AFFECTED AREA FROM THE COOPERATIVE TO THE CITY*

Exhibit A to the Petition is a map and legal description that identifies the boundaries of the Transfer Area which includes approximately 99.92 acres, zero customers at the present time, and is known as Greenbriar Hills. The legal description is as follows:

The South Half of Northeast Quarter; the Northeast Quarter of Southeast Quarter of Southeast Quarter, all in Section 16, Township 120, Range 25, Wright County, Minnesota, except therefrom the following:

Exception 1:

That part of the Southeast Quarter of the Southeast Quarter of Section 16, Township 120, Range 25, Wright County, Minnesota, described as follows: Commencing at the Southeast corner of said

Section 16; thence West along the Section line 594.4 feet for a point of beginning of herein described tract; thence continuing West along said Section line 739.2 feet; thence angle right 88 degrees 20 minutes along an established fence line 590.0 feet; thence angle right 89 degrees 58 minutes 52 seconds distant 758.1 feet; thence Southerly 590.0 feet, more or less, to the point of beginning, containing 10.0 acres, more or less, subject to town road right-of-way.

Exception 2:

That part of the East Half of the Southeast Quarter of Section 16, Township 120, Range 25, Wright County, Minnesota described as follows:

Commencing at the Southeast corner of the East Half of the Southeast Quarter; thence on an assumed bearing of North 0 degrees 00 minutes East a distance of 1316.81 feet to the point of beginning; thence continue North 0 degrees 00 minutes 00 seconds East along said east line a distance of 370.72 feet; thence North 90 degrees 00 minutes 00 seconds West a distance of 235 feet; thence South 0 degrees 00 minutes 00 seconds West a distance of 370.72 feet; thence South 90 degrees 00 minutes 00 seconds East a distance of 235.00 feet to the point of beginning. Containing 2.00 acres. Subject to Public Road Easement. Together with an easement for ingress and egress to Ordorff's Pond over a one rod strip. The said one rod strip to run Westerly along the Southerly line extended of the above described tract until such extended line reaches the said pond.

Exception 4:

The Southwest Quarter of the Northeast Quarter of Section 16, Township 120, Range 25, Wright County, Minnesota.

Exception 5:

That part of the Southeast Quarter of the Northeast Quarter of Section 16, Township 120, Range 25, Wright County, Minnesota, described as follows: Beginning at the northwest corner of said

Southeast Quarter of the Northeast Quarter of Section 16; thence South 89 degrees 42 minutes 09 Seconds East, assumed bearing, along the north line of the said Southeast Quarter of the Northeast Quarter, a distance of 95.30 feet; thence South 12 degrees 51 minutes 09 seconds West, a distance of 290 feet; thence South 64 degrees 23 minutes 06 seconds East, a distance of 348.50 feet; thence South 13 degrees 14 minutes 51 seconds West, a distance of 487.32 feet; thence South 4 degrees 12 minutes 50 seconds West, a distance of 412.07 feet to the south line of said Southeast Quarter of the Northeast Quarter; thence North 89 degrees 51 minutes 01 second West along said south line, a distance of 200 feet to the southwest corner of said Southeast Quarter of the Northeast Quarter; thence North 0 degrees 08 minutes 03 seconds West along the west line of said Southeast Quarter of the Northeast Quarter, a distance of 1318.68 feet to the point of beginning.

Exception 6:

That part of the Northeast Quarter of the Southeast Quarter of Section 16, Township 120, Range 25, Wright County, Minnesota, described as follows: Beginning at the Southeast corner of said Northeast Quarter of the Southeast Quarter; thence on an assumed bearing of North 89 degrees 24 minutes 25 seconds West, along the South line of said Northeast Quarter of the Southeast Quarter, a distance of 302.10 feet; thence North 12 degrees 22 minutes 23 seconds West, a distance of 58.37 feet; thence North 52 degrees 30 minutes 29 seconds West, a distance of 160.98 feet; thence North 68 degrees 24 minutes 07 seconds West, a distance of 11.20 feet; thence North 00 degrees 00 minutes 00 seconds East, a distance of 357.55 feet; thence South 89 degrees 24 minutes 25 seconds East, a distance of 452.76 Feet; to the East line of said Northeast Quarter of the Southeast Quarter; thence South 00 degrees 00 minutes 00 seconds East, along said East line, a distance of 515.11 feet to the point of beginning. EXCEPT THEREFROM: That part of the East Half of the Southeast Quarter of Section 16, Township 120, Range 25, Wright County, Minnesota described as follows: Commencing at the Southeast corner of the East half of the Southeast Quarter; thence on an assumed bearing of North 00 degrees 00 minutes East a distance of 1316.81 feet to the point of

beginning; thence continue North 0 degrees 00 minutes 00 seconds East along said east line a distance of 370.72 feet; thence North 90 degrees 00 minutes 00 seconds West a distance of 235.00 feet; thence South 0 degrees 00 minutes 00 seconds West a distance of 370.72 feet; thence South 90 degrees 00 minutes 00 seconds East a distance of 235.00 feet to the point of beginning. Subject to public road easement. Together with an easement for ingress and egress to Ordorff's Pond over a one rod strip. The said one rod strip to run westerly along the Southerly line extended of the above described tract until such extended line reaches the said pond.

The Department noted in its review of the legal description of the Transfer Area boundary, that there was no "Exception 3" in the legal description. To ascertain whether there was a typographical error or some other reason why the legal description included Exceptions 1, 2, 4, 5 and 6, but no 3; the Department asked the Petitioner for a response. Attachment A to these Comments is a copy of the Petitioner's response. To summarize, the Petitioner stated that "The legal description provided in the joint petition is correct."

Per the Petition, it should be noted that the proposed transfer is a permanent transfer of service territory.

Per the Petition, it should be noted that the transfer of service territory will not impact any existing customers, since there are zero customers in the transfer area.

B. INTERIM SERVICE

The Department notes the parties have agreed in writing that if a customer requests service before the Commission has considered the joint Petition, the City may provide interim service to the transfer area, subject to certain conditions.

C. CUSTOMER NOTICE

The Department notes in the event a customer requests service before the Commission has considered the joint Petition, the parties will provide notice to any customer about this proceeding and file the notice with the Commission.

D. COMPENSATION

The Department notes the parties have agreed on appropriate compensation for the permanent transfer of service territory.

Thus, the Department agrees that the Parties' request to establish the Affected Area as part of the City of Buffalo's service area is consistent with Minn. Stat. § 216B.39 and 216B.44.

IV. RECOMMENDATION

The Department recommends that the Commission approve the permanent service territory transfer from Wright-Hennepin Cooperative Electric Association to the City of Buffalo. MnGeo should update the Commission's maps to reflect the service area designation as shown on the map in the Petition. Please note, the Department has been advised that Shana Neumann is now the primary MnGeo contact for PUC map updates. Shana Neumann may be contacted at shana.neumann@state.mn.us.

/ja

Lusti, Dale (COMM)

From: Kathleen M. Brennan <KMB@mcgrannshea.com>
Sent: Monday, November 19, 2018 11:03 AM
To: Lusti, Dale (COMM)
Subject: RE: E148, E221/SA-18-705

Dale,
Good morning. I have reviewed your question below with my client.

Exception 3 contained some initial comments and questions from the surveyor. Exception 3 was removed from the legal description as the survey was refined and revised, and it was not included in the annexation order. The legal description provided in the joint petition is correct.

Of course, please feel free to contact me if you have any questions or need any additional information.

Thank you,
Kaela

Kaela Brennan
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From: Lusti, Dale (COMM) <dale.lusti@state.mn.us>
Sent: Thursday, November 15, 2018 8:40 AM
To: Kathleen M. Brennan <KMB@mcgrannshea.com>
Subject: E148, E221/SA-18-705

Kaela:

Good morning.

I have a question regarding your November 9, 2018 service area filing on behalf of the City of Buffalo and Wright Hennepin. In the legal description, do you know if there is (or should be) an Exception 3? As listed in the filing there is an Exception 1, 2, 4, 5 and 6; but no 3. If there is no Exception 3, should we explain why that is the case?

Please keep me informed.

Thank you,

Dale

Dale V. Lusti
Public Utility Financial Analyst
Minnesota Department of Commerce