

The Commission met on **Wednesday, September 29, 2010**, with Chair Boyd and Commissioners O'Brien, Pugh, Reha, and Wergin present.

The following matters were taken up by the Commission:

ENERGY AGENDA

E-015/GR-09-1151

In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota

Commissioner O'Brien moved to take the actions set forth below:

1. **ALJ's Report** -- Adopt the ALJ's Report and recommendation with modification to one or more of the following issues.
2. **Boswell 3 Emissions** -- Approve the settlement on the issue of the Boswell 3 Emissions Project, which allows a recovery of \$223 million of total Company costs associated with the Boswell 3 environmental retrofit. Minnesota Power will depreciate no more than \$223 million for regulatory purposes.
3. **Boswell 3 Operations and Maintenance** -- Approve the settlement provision that provides that \$0.844 million of the Boswell 3 operations and maintenance expense will be capitalized.
4. **Boswell 4 Operations and Maintenance** -- Approve the settlement provision that the non-recurring Boswell 4 operations and maintenance expenses of \$3.25 million will be amortized over three years.
5. **Wholesale Margins** -- Determine that appropriate wholesale margins for this rate case are \$37.7 million.
6. **Square Butte Purchase Price** -- Adopt the recommendation of the ALJ on the purchase price for the Square Butte transmission line.
7. **Square Butte CWIP** -- Determine that Construction Work in Progress (CWIP) was not included in rate base and allow CWIP in the amount of \$2,890,549 to be added to CWIP in rate base.
8. **Square Butte Terminal Upgrades** -- Determine that the \$2.56 million in terminal upgrades to support the Square Butte transmission line has been removed and is not included in the test year plant in service.
9. **Square Butte Depreciation Expense** -- Determine that the Boswell 4 depreciation expense should be reduced by \$236,409 to reflect the Commission's decision in Docket No. E015/D-10-223.

10. **Jurisdictional Cost Allocations** -- Determine that the revised jurisdictional cost allocation factors are appropriate for use in this rate case in conjunction with the revised sales forecast.
11. **Future Filing on OPEB** -- Direct the Company to address in its next rate case and provide testimony on why ratepayers should be required to continue to pay for OPEB (Other Post-Employment Benefits) expenses.
12. **Incentive Compensation** -- Determine that the appropriate test year Annual Incentive Plan (AIP) cost is \$1,713,430, an increase of \$845,248, and retain the mechanism that would provide customer refunds in the event actual AIP payouts are lower than the level approved in rates.
13. **Unamortized Rate Case Costs** -- Determine that the Company is not allowed to recover the unamortized rate case costs from the 2008 rate case.
14. **Employee Compensation** -- Approve the proposed test year base compensation of \$58,745,030.
15. **Future Filing on Employee Compensation** -- Require the Company to provide in its next rate case a list of every non-bargaining employee that contains the job title/position, base salary, bonus and incentives, and other compensation. The Company should also provide the salary surveys and the analysis done to equate MP's positions with the positions in the survey.
16. **Employee Expenses** -- Determine that the test year employee costs should be reduced by \$163,922 and by an additional \$355,022 for employee recognition events, a total of \$518,944.
17. **Employee Recognition** -- Require the Company to include employee recognition expenses in the required itemized schedule in the next rate case, in addition to the categories specified by statute.
18. **Policies on Employee Expenses** -- Require the Company to develop written policies for the inclusion in rates of employee travel, lodging, and meal expenses and implement an employee expense compliance plan to ensure that the policies are followed.
19. **Aircraft Costs** -- Determine that the allowable test year cost for aircraft cost for this rate case is \$622,051.
20. **Aircraft Cost-Benefit Analysis** -- Direct the Company to include a cost-benefit analysis on the use of corporate aircraft in its next rate case.
21. **Interest Synchronization** -- Direct the Company to make the necessary adjustments for interest synchronization to reflect the Commission's decisions in this docket.
22. **Cash Working Capital** -- Direct the Company to make the necessary adjustments to cash working capital to reflect the Commission's decisions in this docket.

23. **2010 Projected Test Year** -- Find the use of a projected 2010 test year to be reasonable for this rate case.
24. **Future Test Years** -- Continue to allow Minnesota Power to use either a historical or forecasted test year in future cases as a reasonable place to begin analysis of its revenues and expenses.
25. **Future Budgeting Detail** -- Put the Company on notice that if it continues to use a projected test year in future rate cases, the Company must budget in sufficient detail to allow appropriate analysis of its test year rate base and operating income. Failure to do so could result in denial of requested increases in their entirety.
26. **Future Cost Control Filing** -- Direct the Company to provide testimony in its next rate case about its efforts to control costs, what decreases in cost it has made, which ones are permanent and a quantification of the dollars saved as a result of those cuts.
27. **Advertising Costs** -- Adopt the OES proposal and allow \$155,482 in test-year advertising expenses.
28. **Charitable Contributions** -- Adopt the revised OES and ALJ's recommendation and allow \$443,989 in test-year charitable contribution expenses.
29. **Lobbying Costs** -- Adopt the ALJ's recommendation and exclude \$215,335 of test-year lobbying expenses.
30. **Accounting for Future Lobbying Costs** -- Require the Company to account for future lobbying expenses by assigning them to an account that makes them easily identified.
31. **Organizational Dues** -- Adopt the Company's proposal and the ALJ's recommendation, and allow \$1,109,070 in organizational dues test-year expense.
32. **Cost of Debt** -- Adopt the recommendation of the Administrative Law Judge and use the settlement cost of debt of 5.56%, including the actual cost of issuances in 2010 and 1% for the cost of variable rate debt.
33. **Cost of Equity** -- Adopt the recommendation of the Administrative Law Judge and use the settlement cost of equity of 10.38%, as recommended by the OES.
34. **Sales Volumes** -- Adopt the recommendation of the Administrative Law Judge and accept the sales volumes contained in the settlement agreement.
35. **Class Cost of Service Study (CCOSS)** -- Adopt the recommendation of the Administrative Law Judge and accept Minnesota Power's proposed Class Cost of Service Study (CCOSS) as the starting point for designing rates.
36. **E8760 Allocator** -- Adopt the recommendation of the Administrative Law Judge and accept the E8760 allocator for use in the CCOSS.

37. **Peak and Average Cost Allocation** -- Adopt the recommendation of the Administrative Law Judge and determine that Minnesota Power's peak and average method of allocating costs in the CCOSS is appropriate as recommended by the OES.
38. **CCOSS in Next Rate Case** -- Require Minnesota Power to, in its next rate case, provide a description and an explanation of each classification and allocation method used in the CCOSS and to justify why that method is appropriate and superior to alternative methods considered.
39. **Load Research Study** -- Adopt the recommendation of the Administrative Law Judge and require Minnesota Power to start a new load research study by the end of 2011 as recommended by the OES.
40. **Marginal Energy Cost Study** -- Adopt the recommendation of the Administrative Law Judge and require Minnesota Power to provide a marginal energy cost study in its next rate case as recommended by the Company and the OES.
41. **Residential Customer Charge** -- Adopt the recommendation of the Administrative Law Judge and maintain the fixed customer charge at \$8.00 for all residential customers.
42. **Residential Seasonal Customer Charge** -- Maintain the current Residential Seasonal Service Customer Charge at \$8.80.
43. **Residential Dual Fuel Customer Charge** -- Maintain the current Dual Fuel Residential Service customer charge at \$8.00.
44. **General Service Customer Charge** -- Adopt the recommendation of the Administrative Law Judge and approve the recommendation of the OES (and agreed to by the Company) to maintain the General Service customer service charge at \$10.50. This also applies to the service charges for Commercial Controlled Access and Municipal Pumping Service, which are proposed to match the General Service monthly service charge.
45. **Municipal Pumping Rates** -- Adopt the recommendation of the Administrative Law Judge and the Company's proposal for municipal pumping rates.
46. **Large Light and Power Time-of-Use Tariff** -- Adopt the recommendation of the Administrative Law Judge and require the Company to develop and propose a time-of-use tariff for the Large Light and Power customer class within 30 days of the Commission's final order in this case.
47. **Foundry, Forging, and Melting Rider** -- Adopt the recommendation of the Administrative Law Judge and approve the Company's request for a Large Light and Power Rider for Foundry, Forging and Melting Customers.
48. **Large Power Rate Design Stipulation and Settlement** -- Adopt the recommendation of the Administrative Law Judge and approve the Large Power rate design stipulation and settlement agreement.

49. **Lighting Service Rates** -- Adopt the recommendation of the Administrative Law Judge and approve the Company's request to increase the Lighting Service rates and close service under Option 3.
50. **Fuel Clause Adjustment Rider** -- Adopt the recommendation of the Administrative Law Judge and approve the agreed upon modifications to the tariff language of the Fuel Clause Adjustment Rider.
51. **CIP Expenses and CIP Rate Design** -- Adopt the recommendation of the Administrative Law Judge and approve the Company's request for recovery of \$4.6 million in Conservation Improvement Program (CIP) expenses, along with allocation of CIP expenses on a per-unit-of-energy basis and a rate design using a per-kWh rate instead of the current percentage of revenue methodology.
52. **Housekeeping Issues** -- State that the final order in this docket shall contain summary financial schedules including: a calculation of Minnesota Power's authorized cost of capital, a rate base summary, an operating income statement summary, a gross revenue deficiency calculation, and a statement of the total allowed revenues. Direct parties to work with Commission staff to prepare such schedules for inclusion in the Order, should modifications be necessary to reflect the Commission's final decision.
53. **Compliance Filings** -- Require Minnesota Power to make the following compliance filings within 30 days of the date of the final order in this docket:
- a. Revised schedules of rates and charges reflecting the revenue requirement and the rate design decisions herein, along with the proposed effective date, and including the following information:
 - i. Breakdown of Total Operating Revenues by type;
 - ii. Schedules showing all billing determinants for the retail sales (and sale for resale) of electricity. These schedules shall include but not be limited to:
 - 1. Total revenue by customer class;
 - 2. Total number of customers, the customer charge and total customer charge revenue by customer class; and
 - 3. For each customer class, the total number of energy and demand related billing units, the per unit energy and demand cost of energy, and the total energy and demand related sales revenues.
 - iii. Revised tariff sheets incorporating authorized rate design decisions;
 - iv. Proposed customer notices explaining the final rates, the monthly basic service charge, and, if approved, the expanded inclining block energy charges, the low-income rider, and/or the low-income affordability program.

b. A revised base cost of energy, supporting schedules, and revised fuel adjustment tariffs to be in effect on the date final rates are implemented.

c. A summary listing of all other rate riders and charges in effect, and continuing, after the date final rates are implemented.

d. Direct parties to work with Commission staff in preparing a calculation of the CIP CCRC based on the decisions made herein for inclusion in the final Order. Direct Minnesota Power to file a schedule detailing the CIP tracker balance at the beginning of interim rates, the revenues (CCRC and CIP Adjustment Factor) and costs recorded during the period of interim rates, and the CIP tracker balance at the time final rates become effective.

e. If final authorized rates are lower than interim rates, a proposal to make refunds of interim rates, including interest calculated at the average prime rate, to affected customers.

54. **Comments on Compliance Filings** -- Authorize comments on all compliance filings within 30 days of the date they are filed. However, comments are not necessary on Minnesota Power's proposed customer notice.

The motion passed 5-0.

Boswell 3 Tracker Balance

Chair Boyd moved to approve the settlement provision allowing the Company to capitalize the Boswell 3 tracker balance modified to capitalize the actual tracker balance reflecting recoveries during the interim rate period. Require the Company to make a compliance filing 30 days from the date of the Order in this docket showing the tracker account activity starting November 1, 2009 and the amount capitalized.

The motion passed 5-0.

Pension Costs

Commissioner O'Brien moved to determine that the test year pension expense should reflect the pension cost during the time the rates will be in effect and approve the OES' levelizing proposal with a test year pension expense of \$1,442,788.

The motion passed 5-0.

Other Post-Retirement Employee Benefits (OPEB)

Commissioner Reha moved to determine that the test year OPEB expense should be \$7,659,338.

The motion failed 2-3. Commissioners Boyd, O'Brien, and Wergin voted no.

Commissioner O'Brien moved to determine that the OPEB expense should be \$6,216,000.

The motion passed 4-1. Commissioner Reha voted no.

Current Rate Case Expenses

Commissioner Wergin moved to allow the Company to recover \$1,996,894 in rate case costs, amortized over three years, and to direct the Company to defer the amount collected in rates for rate case costs after the end of the three year amortization period for consideration in the Company's next rate case.

The motion passed 5-0.

Legal and Consulting Fees for Defense of EPA Enforcement Action

Commissioner O'Brien moved to determine that the allowable test year cost for legal and consulting expense for defense of EPA enforcement action is \$250,000.

Commissioner Pugh moved to amend the motion to include a requirement to defer unexpended amounts for consideration and possible refund in the next rate case.

The motion to amend failed 2-3. Commissioners Boyd, O'Brien, and Wergin voted no.

Commissioner O'Brien renewed his motion, which passed 4-1. Commissioner Reha voted no.

Economic Development Costs

Commissioner Wergin moved to adopt the OAG's recommendation to apportion the expenditures equally between ratepayer and shareholders and allow the Company to recover 50% of economic development costs.

The motion passed 4-1. Commissioner O'Brien voted no.

Capital Structure

Commissioner Pugh moved to adopt the recommendation of the Administrative Law Judge and use an equity ratio of 54.29% as proposed by Minnesota Power and adopted in the settlement. This results in a debt ratio of 45.71%.

The motion passed 5-0.

Future Sales Forecast Filings

Commissioner Reha moved to adopt the ALJ's recommendation and order Minnesota Power to comply with the following requirements:

- Provide all the data used in its test year sales forecasts at least 30 days prior to its future general rate case filings.

- Continue working with the OES on improving the electronic linkage between its CCOSS, forecasting, and revenue models.
- Put the Company on notice that as part of its next rate case, MP must be prepared to provide in response to discovery verification of forecast-related data MP relies on for its retail sales forecast and that is obtained by the Company from third parties.

The motion passed 5-0.

Treatment of Income Taxes in CCOSS

Commissioner O'Brien moved to adopt the recommendation of the Administrative Law Judge and require that in any future CCOSS filed in connection with a rate case, Minnesota Power calculate and assign income taxes by class based on the adjusted net taxable income by class as determined by the CCOSS, as recommended by the OES.

The motion passed 4-1. Chair Boyd voted no.

Class Revenue Apportionment

Commissioner Pugh moved to apportion the revenue requirement between the customer classes as set forth below:

MP 2009 Rate Case	Class Revenue Apportionment	% of Total Revenue	\$ Increase	% Increase
Residential	\$90.5	17.4%	\$3.4	3.9%
General Service	\$52.3	10.0%	\$2.7	5.4%
Large Light & Power	\$88.5	17.0%	\$8.1	10.0%
Large Power	\$282.0	54.1%	\$39.1	16.1%
Municipal Pumping	\$4.8	0.9%	\$0.5	12.5%
Lighting	\$3.0	0.6%	\$0.3	9.2%
Subtotal	\$521.1	100.0%	\$54.1	11.6%

The motion passed 3-2. Commissioners Boyd and Wergin voted no.

Residential Inclining Block Rates

Commissioner O'Brien moved that the Commission take the actions set forth below:

- Adopt the recommendation of the Administrative Law Judge and approve, as a pilot program, the five-tier inverted (inclining) block rate structure as proposed by the Energy Cents Coalition.
- Evaluate the effectiveness of this pilot program on an annual basis and determine in the next rate case whether it should continue.

- Require Minnesota Power to develop and propose an affordability program plan modeled on Xcel's Power On within 90 days of the Commission's final order in this case.
- Require Minnesota Power, as part of its affordability plan proposal, to propose compliance reports similar to those Xcel Energy is required to make as part of its electric utility's low income discount program.

The motion passed 5-0.

Boswell 4 Capital Projects.

Commissioner Wergin moved to determine that the Company has properly determined the test year rate base for the Boswell 4 plant additions and that no adjustment is necessary.

The motion passed 5-0.

Margin Impact Analysis Filing Requirement

Commissioner Wergin moved to take the actions set forth below:

- Adopt the recommendation of the Administrative Law Judge.
- Accept the requirement that MP file a Margin Impact Analysis with any new or amended Large Power Electric Service Agreement where the new or changed electric demand is 25 MW or greater under certain conditions as specified in detail in the multiparty agreement.
- Predicated upon the Margin Impact Analysis and any other facts deemed relevant at the time, any party to the settlement may, in lieu of requesting the filing of a new general rate case proceeding, petition the Commission for an adjustment to Minnesota Power's retail rate levels.
- Each settling party agrees not to contest such a petition on the grounds that single issue ratemaking is not lawful.
- Notwithstanding the provisions of parts (b) and (c) above, any person or party that may participate in a rate case may, under the circumstances set forth in item c above, petition the Commission for an adjustment to Minnesota Power's retail rate levels.
- The question of whether such a petition constitutes single-issue ratemaking is not currently before the Commission, and the Commission is not making any determination on that issue at this time.

The motion passed 4-1. Commissioner O'Brien voted no.

IP-6829/CN-09-1046

In the Matter of the Application of Lakefield Wind Project, LLC for a Certificate of Need for the 205.5 MW Lakefield Project in Jackson County

Commissioner Wergin moved that the Commission

1. find that the Environmental Report adequately addresses the issues identified by the Environmental Report Scoping Decision; and
2. grant Lakefield Wind Project, LLC a Certificate of Need for up to 205.5 MW for the Lakefield Wind Project and associated facilities.

The motion passed 5-0.

IP-6646/WS-09-1239

In the Matter of the Application of Lakefield Wind Project, LLC for a Large Wind Energy Conversion System Site Permit for the 205.5 MW Lakefield Wind Project in Jackson County

Commissioner Wergin moved that the Commission

1. adopt the attached Findings of Fact, Conclusions of Law and Order prepared for the 205.5 MW Lakefield Wind Project and associated facilities in Jackson County; and
2. issue the proposed LWECS Site Permit for the 205.5 MW Lakefield Wind Project Farm to Lakefield Wind Project, LLC, as amended to correct the typographical errors noted by OES staff at the hearing in this matter and to make the following changes in the substance of the site permit:
 - III.C.6 on page 12 is amended as follows: “~~On request of the Commission, t~~The Permittee shall submit a proposal to the Commission for the conduct of a noise study. Upon the approval of the Commission, the Permittee shall carry out the study. The study shall be designed to determine the noise levels at different frequencies and at various distances from the turbines at various wind directions and speeds.”
 - II.A.2 on page 2 is amended to set a 1,000 foot setback requirement for residences of participating property owners and a 1,250 foot setback requirement for residences of non-participating property owners.
 - VII.A on page 17 is amended by adding a requirement that the applicant give special attention to minimizing the impact of shadow flicker on the residences of non-participating property owners.

The motion passed 5-0.

There being no further business, the meeting was adjourned.

APPROVED BY THE COMMISSION: NOVEMBER 10, 2010

A handwritten signature in black ink, appearing to read "Burl W. Haar". The signature is written in a cursive style with a large initial "B".

Burl W. Haar, Executive Secretary