

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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In the Matter of the Minnesota Office of the
Attorney General – Antitrust and Utilities
Division's Petition for a Commission
Investigation Regarding Criteria and Standards
for Multiyear Rate Plans under Minn. Stat.
§ 216B.16, subd. 19

ISSUE DATE: June 17, 2013

DOCKET NO. E,G-999/M-12-587

ORDER ESTABLISHING TERMS,
CONDITIONS, AND PROCEDURES
FOR MULTIYEAR RATE PLANS

PROCEDURAL HISTORY

In 2011, the Legislature enacted Minn. Stat. § 216B.16, subd. 19, authorizing the Commission to approve multiyear rate plans for rate regulated utilities, and to establish the terms, conditions, and procedures for such plans.¹ Subdivision 19 states as follows:

(a) A public utility may propose, and the commission may approve, approve as modified, or reject, a multiyear rate plan as provided in this subdivision. The term "multiyear rate plan" refers to a plan establishing the rates the utility may charge for each year of the specified period of years, which cannot exceed three years, to be covered by the plan. The commission may approve a multiyear rate plan only if it finds that the plan establishes just and reasonable rates for the utility, applying the factors described in subdivision 6. Consistent with subdivision 4, the burden of proof to demonstrate that the multiyear rate plan is just and reasonable is on the public utility proposing the plan.

(b) Rates charged under the multiyear rate plan must be based only upon the utility's reasonable and prudent costs of service over the term of the plan, as determined by the commission, provided that the costs are not being recovered elsewhere in rates. Rate adjustments authorized under subdivisions 6b [regarding conservation improvement programs] and 7 [regarding energy and emissions controls] may continue outside of a plan authorized under this subdivision.

(c) The commission may, by order, establish terms, conditions, and procedures for a multiyear rate plan necessary to implement this section and ensure that rates remain just and reasonable during the course of the plan, including terms and procedures for rate

¹ Minn. Laws 2011, Ch. 97, Sec. 12.

adjustment. At any time prior to conclusion of a multiyear rate plan, the commission, upon its own motion or upon petition of any party, has the discretion to examine the reasonableness of the utility's rates under the plan, and adjust rates as necessary.

(d) In reviewing a multiyear rate plan proposed in a general rate case under this section, the commission may extend the time requirements for issuance of a final determination prescribed in this section by an additional 90 days beyond its existing authority under subdivision 2, paragraph (f).

(e) A utility may not file a multiyear rate plan that would establish rates under the terms of the plan until after May 31, 2012.

On August 15, 2012, the Commission solicited comments regarding the appropriate terms, conditions, and procedures for multiyear rate plans.²

The Commission received substantive comments from the following entities:³

- CenterPoint Energy (CenterPoint)
- The Minnesota Large Industrial Group (MLIG), a consortium of large industrial utility customers
- The Minnesota Chamber of Commerce (the Chamber)
- The Minnesota Department of Commerce (the Department)
- The Minnesota Office of the Attorney General – Antitrust and Utilities Division (OAG)
- Minnesota Power
- Northern States Power Company d/b/a Xcel Energy (Xcel)
- Otter Tail Power Company (Otter Tail)

On April 4, 2013, the Commission met to consider the matter.

FINDINGS AND CONCLUSIONS

I. Summary

The Commission hereby establishes terms, conditions, and procedures for multiyear rate plans. The Commission clarifies the purposes of a plan, and the relationship between a multiyear rate plan, a general rate case, and other mechanisms for adjusting rates outside a rate case. The Commission also specifies the contents of an application for a multiyear rate plan, establishes ongoing reporting requirements, and provides for customer notice and opportunities to participate in the ratemaking process.

² This docket, Order Opening Investigation into Establishing Terms, Conditions, and Procedures for Multiyear Rate Plans (August 15, 2012).

³ In addition to receiving substantive comments, the Commission also received letters from various utilities clarifying their intent to file a rate case using a multiyear rate plan.

II. Regulatory Context

A. Traditional Ratemaking

B. Minn. Stat. § 216B.16 provides the framework for setting rates for regulated energy utility services provided by public utilities. Subdivision 6 states in part --

The commission, ... to determine just and reasonable rates for public utilities, shall give due consideration to ... the need of the public utility for revenue sufficient to enable it to meet the cost of furnishing the service, including adequate provision for depreciation of its utility property used and useful in rendering service to the public, and to earn a fair and reasonable return upon the investment in such property.

Thus, the Commission sets rates in a manner designed to provide the utility with a fair opportunity to recover its costs, including operating costs (“the cost of furnishing the service...”), capital costs (“adequate provision for depreciation of its utility property used and useful in rendering service...”), and financing costs (“adequate provision ... to earn a fair and reasonable return upon the investment in such property...”).

A rate case provides a forum for analyzing all of a utility’s costs and revenue opportunities simultaneously. To help ensure that the costs presented in the rate case are appropriately matched with the revenues, the Commission considers costs and revenues from the same period, known as a *test year*. As a general proposition, income and expenses arising outside the test year will not be reflected in the rate calculation.

But utilities have a variety of means to reflect changes that occur outside the test year. *Deferred accounting* permits a utility to maintain records of expenses incurred (and sometimes revenues collected) outside a test year, and to seek recovery of those expenses (or permission to return revenues) in a future rate case. And *rate riders* provide a tool for utilities to adjust rates to reflect certain ongoing changes in a utility’s cost of operations. Thus the rate a consumer pays for utility service will reflect both the utility’s *base rates* – rates established in a rate case, which do not change until the next rate case – and riders – rate adjustments that change periodically to reflect changes in a utility’s costs arising outside the rate case.

B. Multiyear Rate Plans

Minn. Stat. § 216B.16, subd. 19, provides utilities with a new tool for adjusting rates. A standard rate case establishes the base rates that a utility must charge until the next rate case; in contrast, a multiyear rate plan establishes “the rates the utility may charge for each year of the specified period of years, which cannot exceed three years....”⁴

⁴ Minn. Stat. § 216B.16, subd. 19 (a).

The statute grants new authority to utilities and the Commission. For example, the statute authorizes a utility to propose a multiyear rate plan, which initiates the multiyear rate plan process.⁵ And the statute authorizes any party to petition the Commission to adjust the plan's rates.⁶

For the Commission, the statute authorizes extending the standard rate case timeline by 90 days to facilitate review of the utility's proposal.⁷ The Commission may reject the plan; alternatively, the Commission may approve the plan as proposed or as modified, but only if the Commission finds that the plan establishes just and reasonable rates.⁸ In making this finding the Commission must apply the traditional factors applicable to ratemaking, and in particular, must determine that the rates are based only on the utility's reasonable and prudent costs of service over the term of the plan, offset by costs the utility recovers via other rates.⁹ And while a plan is in effect, the Commission may adjust the plan's rates to ensure that the rates remain reasonable.¹⁰

Finally, the statute authorizes the Commission to issue orders establishing the terms, conditions, and procedures for a multiyear rate plan necessary to implement this section and ensure that rates remain just and reasonable during the course of the plan.¹¹

III. Terms, Conditions, and Procedures for a Multiyear Rate Plan

A. When Permitted

Parties disagree about the circumstances that would warrant the use of a multiyear rate plan. For example, OAG and the Chamber argue that the Commission should not authorize a multiyear rate plan unless to recover the cost of an extraordinarily large investment, or to manage some extraordinary hardship. The Department and Otter Tail Power argue that a multiyear rate plan may become appropriate when a utility incurs the cost of a new capital project, or series of projects, that will not be recoverable as part of its current rate case. And CenterPoint opposes any restrictions on the type of costs or revenues that could justify a multiyear rate plan.

In part, these disagreements reflect different assessments of the benefits and burdens that a multiyear rate plan would generate.

A plan may promote administrative efficiency by reducing regulatory lag – that is, the period between an event justifying a rate change, and the ensuing rate change. For example, the longer the lag before a utility can begin recouping its investment in a new capital project, the greater the interest costs the utility will incur to finance that project; a multiyear rate plan may permit a utility

⁵ *Id.*

⁶ Minn. Stat. § 216B.16, subd. 19 (c).

⁷ Minn. Stat. § 216B.16, subd. 19 (d).

⁸ *Id.*

⁹ *Id.* and subd. 19 (b).

¹⁰ Minn. Stat. § 216B.16, subd. 19 (c).

¹¹ *Id.*

to begin recouping its costs, and paying down its debts, sooner. Also, if these plans succeed in reducing regulatory lag, they may reduce utilities' need for rate cases, rate riders, and deferred accounting – and the administrative costs associated with these cost-recovery mechanisms.

In addition, reduced regulatory lag may result in more gradual rate changes, making utility bills more predictable and reducing rate shock.

But multiyear rate plans can also create burdens. Anticipating costs and revenues arising years into the future creates myriad opportunities for error. In particular, it becomes increasingly difficult to ensure that all the relevant costs will be considered with the relevant revenues. Moreover, a multiyear rate plan will be challenging to evaluate and administer. The Legislature acknowledged this challenge when it granted the Commission 90 extra days in which to review a rate case containing a multiyear rate plan, and when it granted the Commission the discretion to adjust a plan's rates throughout the plan's term.

To decide which circumstances justify the use of a multiyear rate plan, the Commission must identify the circumstances that would permit a plan to generate sufficient benefits to justify the plan's burdens. Based on these considerations, the Commission is not persuaded that utilities and ratepayers should have to wait for extraordinary circumstances before pursuing the benefits of reduced regulatory lag. But conversely, the Commission cannot justify the burdens of approving, implementing, and monitoring a plan if the utility cannot identify any specific circumstance that would prompt a need to change rates over the next three years.

Consequently the Commission will embrace the middle approach. That is, the Commission will consider multiyear rate plans that are designed to recover the cost of specific, clearly identified capital projects and, as appropriate, non-capital costs. If a utility can identify a basis to begin recovering these costs within three years, the utility has satisfied the minimum standard justifying consideration of a multiyear rate plan.

B. Procedural Posture

Commentors recommend a variety of procedural contexts in which the Commission might evaluate a utility's multiyear rate plan.

CenterPoint, OAG, Otter Tail, Minnesota Power, and MLIIG recommend that the Commission consider the applications within the context of a general rate case under Minn. Stat. § 216B.16; similarly, the Department recommends that the Commission require an applicant to provide all the same information required for a rate case. This context would help create a developed record for evaluating a plan. Moreover, the statute contemplates that plans would be considered within this context: The Legislature codified its authorization for multiyear rate plans as a subdivision within § 216B.16, directed the Commission to evaluate plans according to the rate case factors, and provided an extra 90 days to evaluate plans that are filed within the context of a rate case.

However, Minnesota Power and Otter Tail also suggest that the Commission could evaluate a multiyear rate plan shortly after the conclusion of a rate case, when the factual record is still fresh.

Alternatively, Otter Tail suggests that the Commission may consider a multiyear rate plan timed not to coincide with a rate case, but with a capital project. The plan's multiyear rate adjustments would provide a vehicle to begin recovering the cost of the new plant. And when the rate plan ends, the utility could then file a rate case to shift the cost recovery to the utility's base rates.

Evaluating a multiyear rate plan will entail all the same challenges as evaluating a general rate case under Minn. Stat. § 216B.16, but with the added challenge of setting rates that will be phased in over time. A rate case will provide the best foundation for meeting these challenges. Consequently the Commission will direct each utility seeking approval of a multiyear rate plan to file the plan within the context of a general rate case.

C. Rate Changes

1. Rate Case Filed During Plan's Term

The Department recommends that the Commission require a utility seeking approval of a multiyear rate plan to agree to forgo filing a rate case throughout the plan's duration. And Xcel cites with approval the multiyear rate plan of the Public Service Company of Colorado, wherein the utility agreed to refrain from implementing any general rate increase while the plan remained in effect.

As noted above, multiyear rate plans may be burdensome to implement, yet hold the promise of providing greater rate certainty and reduced administrative costs over time. If a utility initiates a rate case before the plan expires, the parties will have incurred the burden of implementing the plan but would be deprived of the benefit. The new rate case would undermine the rate certainty promised by the plan, while consuming more administrative resources.

Consequently the Commission will accept the Department's proposal. A utility that receives Commission approval of its multiyear rate plan must delay filing a new rate case until after the plan expires. But utilities will still retain the discretion to request rate relief from the Commission under Minn. Stat. § 216B.16, subd. 19 (c).

2. Formula Rates

As noted above, the Commission will consider multiyear rate plans designed to recover the cost of capital projects and, as appropriate, non-capital costs.

The Department and OAG oppose the use of automatic formulas for the purpose of adjusting rates to reflect these new costs. They argue that formula rates would reduce a utility's incentive to operate efficiently, and would be burdensome to supervise. Instead, these parties favor fixed multiyear rates. The rate case would establish the rates to be charged in each year of the multiyear rate plan; the rates for the first year might differ from the rates for later years, but the base rates for all years would be known by the end of the rate case.

Other parties, including CenterPoint and Xcel, acknowledge the merits of fixed rates but favor the flexibility of formula rates. They argue that these rates could be more useful because they would adjust to reflect the latest data.

The Commission will decline to approve multiyear rate plans that rely on formula rates. To the extent that formula rates automatically pass through a utility's costs to ratepayers, these rates reduce a utility's incentive to manage its costs. Moreover, formula rates are unnecessary to achieve the purpose of a multiyear rate plan. Fixed multiyear rates permit prices to adjust over time to reflect anticipated changes in a utility's circumstances, yet can be established in a fact-driven ratemaking process built on a substantial evidentiary record. Consequently the Commission will direct applicants for a multiyear rate case to propose fixed rates for each year of their plan.

3. Return on Equity

Because a multiyear rate plan would provide a utility with greater rate certainty and faster cost recovery, the Chamber, the Department, and OAG argue that these utilities would face less financial risk. Consequently, these parties argue, a utility operating under a multiyear rate plan could continue to attract investors even if it offered a lower return on their investment than other utilities do. In setting a utility's rates under such a plan, OAG argues, the Commission should establish a new return on equity for each year of the plan.

On the other hand, CenterPoint argues that the Commission should continue to recognize a utility's need to offer a return on equity equal to that of comparable firms in the market. Thus, CenterPoint argues that the rate of return established in the rate case initiating the multiyear rate plan should continue to apply throughout the term of the plan.

In contrast to the positions of the other parties, MLIG argues that the Commission need not resolve these issues now, but can address them on a case-by-case basis in the context of each utility's multiyear rate plan and rate case.

The Commission generally concurs with MLIG. Establishing a utility's return on equity relies on a fact-intensive, and often hotly contested, inquiry. Consequently at this time the Commission will not attempt to establish a general rule for how the rate of return would be influenced by a multiyear plan – with one exception.

Given the challenge of determining a utility's return on equity at any given point in time, the Commission will decline to attempt forecasting this return over time. The doubtful benefits of estimating how investors might change their perception of a utility over the span of two or three years would be far outweighed by the burden of generating the estimates. Thus, the Commission will adopt CenterPoint's recommendation: When the Commission establishes a utility's return on equity in a rate case involving a multiyear rate plan, the Commission will rely on that figure when setting rates throughout the rate plan.

4. Rate Riders and Deferred Accounting

The Chamber, the Department, and OAG argue that a multiyear rate plan duplicates the function of many supplemental cost recovery tools such as riders and deferred accounting mechanisms. Like a multiyear rate plan, these tools accelerate a utility's recovery of costs, including costs incurred outside the utility's most recent test year.

Restricting the use of supplemental cost recovery mechanisms would produce three benefits, they argue: It would reduce the cost of administering the current complicated network of cost recovery mechanisms. It would make it easier for customers to understand their bills. And it would reduce the opportunity for a utility to over-recover its costs due to the combined effects of multiple cost-recovery mechanisms. Consequently the Chamber, the Department, and OAG ask the Commission to require utilities seeking a multiyear rate plan to restrict the use of – or even eliminate -- some of these tools, and to refrain from seeking new riders during the plan’s term.

While the utilities acknowledge that a multiyear rate plan will provide the opportunity to eliminate and consolidate some supplemental cost recovery tools, CenterPoint and Xcel deny that a multiyear rate plan could provide a practical substitute for all supplemental cost recovery mechanisms – especially mechanisms for recovering volatile costs beyond a utility’s power to control. The utilities recommend that the Commission consider the continued use of these tools, and the authorization of new tools, on a case-by-case basis.

In authorizing the use of multiyear rate plans, the Legislature clarified that “[r]ate adjustments authorized under subdivisions 6b and 7 [pertaining to the cost of energy, emissions controls, and conservation improvement] may continue.”¹² Consequently the Commission will decline the recommendation to consolidate or exclude consideration of supplementary cost recovery tools.

That said, where a multiyear rate plan provides opportunities to achieve administrative efficiencies, a utility should seize them. Where a utility is recovering continuing, predictable costs through riders, the Commission will direct the utility to propose recovering those costs via base rates instead. Regarding other riders and cost recovery mechanisms, the Commission will direct the utility to propose consolidating as many of them as practical in the most reasonable manner available.

Otherwise, the Commission will address petitions for riders and deferred accounting on a case-by-case basis as they arise, and will consider the status and objectives of the petition.

But each utility bears the burden of demonstrating that its multiyear rate plan will not cause the utility to recover costs already being recovered through existing rate riders. No utility may recover costs through a rider that it is also recovering through a multiyear rate plan for the same period.

5. Rates When Plan Expires

OAG and Otter Tail recommend that the Commission require a utility to file a new rate case following the expiration of a multiyear rate plan; Otter Tail reasons that this would permit the utility with a new capital project to discontinue cost recovery via a multiyear rate plan, and shift to cost recovery via base rates. Alternatively, OAG suggest that rates could revert to the rates that were in effect after the utility’s last rate case. Most commentors, however, expressed no opinion on the matter.

At this time, the Commission is less concerned with which rates a utility will charge after a plan expires than that the utility *address* the question of which rates to charge. Consequently the

¹² Minn. Stat. § 216B.16, subd. 19 (b) (discussing mechanisms for recovering the cost of conservation improvement programs (CIP), energy-related costs, and emissions controls).

Commission will direct applicants for a multiyear rate plan to explain the rates that the applicant proposes to charge after the plan expires. If the specific dollar amount of those rates cannot be provided, the utility must clearly explain the changes in costs and revenues that it proposes to include in those rates and how the utility proposes to calculate those rates. The utility may propose a new rate case under Minn. Stat. § 216B.16.

6. Commission-Initiated Rate Change

MLIG recommends that any utility filing a multiyear plan be required to acknowledge that imprudent rate increases during the plan will be subject to refund, and to waive any claim that such a decision would be barred as a form of retroactive ratemaking.

Minn. Stat. § 216B.16, subd. 19 (b), states that the rates charged under the multiyear rate plan must be based only upon the utility's reasonable and prudent costs of service over the term of the plan, offset by the costs the utility recovers by other means. Moreover, subd. 19 (a) states that the utility bears the burden of demonstrating that its rates are just and reasonable. Consistent with these provisions, subd. 19 (c) authorizes the Commission to examine the reasonableness of a utility's rates and adjust them as necessary.

Based on these statutory provisions, the Commission will adopt MLIG's recommendation. The Commission will require utilities seeking a multiyear rate plan to acknowledge that imprudent rate increases during the plan will be subject to refund, and to waive any claim that such a decision would be barred as a form of retroactive ratemaking.

D. Plan Duration

The Department argues that the Commission should decline to approve any multiyear rate plan longer than two years – at least until all parties gain more experience with this new regulatory tool.

The other parties did not express opposition to plans extending for three years – and perhaps longer. Although the statute establishing a three-year limit on multiyear rate plans, CenterPoint notes that the statute does not specify when a plan begins. If a multiyear rate plan is filed in conjunction with a rate case, CenterPoint argues that the plan should begin in the year following the rate case's test year. In contrast, MLIG and OAG argue that CenterPoint's position would effectively permit a plan to extend to four years. A multiyear rate plan is merely another part of the ratemaking process, according to OAG, and thus a plan should begin with the effective date of the newly authorized rates.

Unless parties cite a reason for doing otherwise, the Commission finds it reasonable to have a multiyear rate plan start with the effective date of newly authorized rates in a general rate case proceeding. This would provide for the plan to begin at the same time as the rate case's proposed test year.

With that understanding, the Commission will decline to adopt a blanket policy precluding consideration of three-year plans. Given the anticipated burdens of initiating a plan, the Commission is reluctant to limit the period over which the parties could hope to reap the rewards of greater price stability and lower administrative costs.

E. Content of Initial Filing

The parties offer various suggestions for items to include in an application for a multiyear rate plan. Most of these suggested items are designed to enforce the policy judgments discussed previously in this order. For example, OAG recommends that an application identify the capital and non-capital costs that the multiyear rate plan would permit the parties to recover; this recommendation is offered – and will be accepted – to ensure that the Commission approves a multiyear rate plan only when the plan is warranted.

The Commission implicitly adopted many of the parties' filing suggestions when it determined that a utility proposing a multiyear rate plan should do so as part of a general rate case. The rate case process entails extensive filing requirements, including the need for supporting testimony.

While the Commission has established the need to file a rate case, the parties disagree about the extent of the utility's duty to file distinct data regarding periods outside the rate case's test year – that is, data about the plan's second and third years. The Chamber and the OAG argue that an applicant should provide detailed financial schedules and cost projections for each year of a plan. But CenterPoint, the Department, Minnesota Power, and Xcel argue that, because a utility merely seeks rate adjustments to reflect specified costs and their corresponding revenues and savings, the information a utility would need to file to justify those adjustments may be correspondingly narrow.

The Commission concurs with this latter view. Requiring an applicant for a three-year rate plan to, in effect, file three rate cases would defeat the goal of promoting administrative efficiency. It is far from clear that the benefits of a detailed report concerning events that are years in the future will justify its cost.

Otherwise, the Commission largely concurs with the recommended filing requirements. For example, the Commission will direct an applicant to describe its plan – identifying the capital projects that warrant this extraordinary cost recovery mechanism – and explain how the plan would be consistent with the purposes of the multiyear rate plan statute. In addition, the Commission will direct the utility to design its multiyear rate plan to incorporate the anticipated revenues associated with the proposed projects.

If the applicant seeks interim rates as part of its rate case, the Commission will direct the applicant to address how the collection and possible refund of interim rates could be implemented in conjunction with the multiyear rate plan rate adjustments.

An application must propose fixed rates to be implemented for each year of the plan, and must provide information and forecasts supporting its proposal. It must not propose formula rates that would adjust automatically based on information that arises outside the context of the utility's rate case/multiyear rate plan case. An application must also identify the rates that would be charged following the expiration of the multiyear rate plan – or at least, the mechanism by which those rates would be determined.

An application must address how to restructure, consolidate, and simplify the applicant's existing rate riders and cost recovery mechanisms.

Finally, the Commission will direct each applicant for a multiyear rate plan to commit to providing appropriate notices, and to acknowledge that imprudently implemented rate increases are subject to refund. Moreover, the Commission will direct each applicant to propose a process for ensuring that if it became prudent to delay or avoid making a planned investment, the cost of that investment would be removed from the rates arising from the multiyear rate plan and refunded if already collected.

F. Public Input

The Chamber and OAG recommend that the Commission establish terms, conditions, and procedures to provide ratepayers with notice of their utility's multiyear rate plan, and provide opportunities for ratepayers to comment and participate in the ratemaking process.

Just as ratepayers are entitled to public notice when their utility files a general rate case, ratepayers are entitled to notice when their utility proposes a multiyear rate plan. The Commission will direct applicants to provide thorough information to customers via flyers inserted into customer bills. Administrative law judges must afford the public the opportunity to address these matters orally and in writing at public hearings; their comments should be included in the case record, whether presented to an administrative law judge or to the Commission. And utilities must notify the Commission and interested parties of rate changes as they occur.

These terms, conditions, and procedures will permit multiyear rate plans to be implemented in a manner that will promote the interests of utilities, ratepayers, and the public at large.

G. Reporting Requirements

Finally, the parties recommend that the Commission establish reporting requirements for utilities in multiyear rate plans.

A multiyear rate plan may identify capital projects that are not yet operational, estimate the projects' costs and in-service dates, and propose future rates designed to begin recovery of these costs as the project becomes operational. These forecasts are inherently uncertain; projects may be delayed or cancelled. Consequently the Chamber and MLIG recommend that the Commission require utilities to provide ongoing reports on the status of planned projects and, when a utility changes its plans, to propose appropriate changes to its cost recovery mechanisms.

In addition, OAG recommends that the Commission require utilities to report on the accuracy of the forecasts they offered in support of their multiyear rate plans.

The Commission will adopt these recommendations. The Commission generally monitors the operations of regulated utilities. The need for Commission scrutiny only increases when a utility asks ratepayers to bear the cost of a plant that is not even built at the time the utility proposes its rates. The Commission must have access to information that will permit the Commission to monitor the plant's progress and to evaluate whether the project remains prudent.

ORDER

1. A utility may propose a multiyear rate plan to improve the regulatory process for the recovery of –
 - A. Costs related to specific, clearly identified capital projects, and
 - B. Appropriate non-capital costs.
2. A utility may propose to implement a multiyear rate plan only as part of a general rate change subject to Minn. Stat. § 216B.16.
3. A multiyear rate plan shall not last longer than three years. A multiyear rate plan starts with the effective date of newly authorized rates in a general rate case proceeding, coinciding with the proposed test year in the rate case, unless it is demonstrated to be reasonable to do otherwise.
4. The rate of return on equity authorized and used to set rates in the general rate case in which the multiyear rate plan is approved shall be the return on equity used to set the rate adjustments in the plan itself.
5. It is presumed that interim rates will be calculated based upon the rate case test year unless it is demonstrated to be reasonable to do otherwise.

Rate Change/Cost Recovery Mechanisms

6. A utility must not file a rate case during the term of its multiyear rate plan.
7. The Commission retains discretion to examine the utility's rates and, if they are found to be imprudent, to adjust them as necessary. Imprudent rate increases implemented during the multiyear rate plan are subject to refund.
8. A utility seeking authorization for a multiyear rate plan shall not propose formula rates that are contingent upon future developments. Rather, the utility shall identify a specific price for each regulated utility service it plans to charge for each year that the plan remains in effect.
9. Regarding the rates to apply after the multiyear rate plan expires, the utility shall explain the rates that it proposes to be in effect thereafter. If the specific dollar amount of those rates cannot be provided, the utility should clearly explain the changes in costs and revenues that it proposes to include in those rates and how the utility proposes to calculate those rates. Alternatively, the utility may propose a new rate case under Minn. Stat. § 216B.16.
10. Where a utility is recovering continuing, predictable costs through riders, a utility seeking approval of its multiyear rate plan shall propose to recover those costs via base rates at the beginning of the rate case.
11. Regarding other riders and cost recovery mechanism, the utility shall design its multiyear rate plan to consolidate as many of them as practical, in the most reasonable manner available.

12. Commission will address new petitions for riders and deferred accounting on a case-by-case basis as they arise, and will consider the status and objectives of the petition.
13. A utility shall clearly show that its multiyear rate plan will not cause the utility to recover costs already being recovered through existing rate riders. No utility shall recover costs through a rider that it is also recovering through a multiyear rate plan for the same period.

Application Requirements

14. An application for a multiyear rate plan must include or be accompanied by an explanation of the following:
 - A. How the proposed plan conforms to and is consistent with Minn. Stat. § 216B.16, subd. 19.
 - B. How the proposed plan would improve the regulatory process for the recovery of costs related to specific, clearly identified capital projects and, to the extent appropriate, related non-capital costs.
15. An application for a multiyear rate plan must include or be accompanied by a description of the form of the multiyear rate plan the utility is proposing, and the purpose behind the choice, including –
 - A. The specific capital projects for which the utility seeks to recover capital costs – and, where appropriate, non-capital costs – via the plan,
 - B. The reason for the projects,
 - C. The scope of the projects,
 - D. The timing of the projects,
 - E. The non-capital costs to be recovered via the plan, and
 - F. The reason for seeking to recover the cost of the projects via a multiyear rate plan rather than via other means.
16. An application for a multiyear rate plan must include or be accompanied by the rates the utility proposes to charge in each year of the multiyear rate plan, stated in fixed (*i.e.*, dollar amount) terms, not formulas.
17. An application for a multiyear rate plan must include or be accompanied by all the information required for a general rate case, including but not limited to –
 - A. Jurisdictional financial summary,
 - B. Rate base,
 - C. Operating income,
 - D. Rate of return and cost of capital schedules, and
 - E. Other financial schedules and cost projections filed in conjunction with a general rate change as described in Minn. R. 7825.3800 to 7825.4500.

18. An application for a multiyear rate plan must include or be accompanied by testimony supporting the following aspects of the case:
 - A. The capital additions that the utility proposes for each year of the multiyear rate plan.
 - B. Depreciation lives related to capital additions in each year of the plan.
 - C. Changes expected in the lives of all depreciable assets for two years after the plan.
 - D. Directly related income and expense items for the plan's second and third years (as applicable), related solely to depreciation expense, property taxes, deferred taxes, state and federal taxes, allowance for funds used during construction.
 - E. A sales forecast.
 - F. A budget forecast.
 - G. The utility's forecasting methodology.
 - H. An analysis of the historical accuracy of the utility's short-term, medium-term, and long-term forecasts.
19. Regarding changes in rates and cost recovery to be implemented in the plan's second and third years (as applicable), an application for a multiyear rate plan must include or be accompanied by the following:
 - A. A list of the relevant categories of costs that will justify changes in the utility's rates in the second and third years of the plan.
 - B. A forecast of the changes in each cost category.
 - C. A forecast of any related offsetting revenues.
 - D. A process for filing, and a schedule for reviewing, reports that –
 - 1) compare estimated costs and revenues for the second and third years (if applicable) of the plan to the actual costs the utility incurred, and the revenues the utility recovered, during the second and third years, and
 - 2) explain the reasons for any differences to help the Commission and parties evaluate the accuracy of the cost estimates used in the multiyear rate making process.
20. An application for a multiyear rate plan must include or be accompanied by a clear explanation of the rates that are proposed to be in effect at the end of the multiyear rate plan.
 - A. If the utility cannot identify the specific dollar amounts of those rates, the utility shall clearly explain the changes in costs and revenues that it proposes to include in those rates and how it proposes to calculate those rates.
 - B. Alternatively, the utility may explain that a new rate case under Minn. Stat. § 216B.16 is necessary to establish these rates.
21. Regarding any proposal to establish new rates on an interim basis, an application for a multiyear rate plan must include or be accompanied by an explanation of how the utility proposes to collect and possibly refund interim rates in conjunction with the collection of and transition to the rates arising from a multiyear rate plan.

22. Regarding an applicant's existing rate riders, an application for a multiyear rate plan must include or be accompanied by the following:
 - A. A proposal to restructure its riders as follows:
 - 1) a proposal to recover through base rates the cost of existing riders that are likely to continue and are sufficiently predictable to support recovery through base rates,
 - 2) a proposal to consolidate as many other riders and cost recovery mechanisms as is practical, and
 - 3) a demonstration that the utility's proposals to restructure its rate riders are the most reasonable alternatives available to the utility.
 - B. Clear evidence that double recovery will not occur as a result of the way the utility proposes to handle its multiyear rate plan and existing riders, including evidence that the periods during which the utility is recovering a cost via a rider does not overlap with the period during which it is recovering the cost via base rates or the multiyear rate plan mechanism.
23. Regarding conditions for obtaining approval for a multiyear rate plan, the application must include or be accompanied by the following:
 - A. A commitment to provide the Commission, parties, and potentially interested persons with notice of the initial rate change and detailed financial information for the initial rate change at least 60 days before the proposed effective date of the initial rate change.
 - B. An acknowledgement that upward rate adjustments during the course of the multiyear plan will be subject to refund if the rate adjustment is later determined to have been imprudent, and a waiver of any claim that such refunds represent retroactive ratemaking.
 - C. A proposal for a process that ensures that if it became prudent to delay or avoid making a planned investment, the cost of that investment would be removed from the rates arising from the multiyear rate plan, and would be refunded if already collected.

Customer Notice

24. In addition to the notices that a utility must provide to seek a general rate increase, customers shall be provided with additional customer communication and opportunities to participate in the multiyear ratemaking process.
25. A utility shall fully inform its customers about its proposal for a multiyear rate plan, and the plan's effects on rates. Public hearing notices and bill inserts shall fully explain the process, the utility's proposal, the proposed duration of the plan, and how the customer can participate.
26. The administrative law judge presiding over a case for a multiyear rate plan shall offer the opportunity for public comment.
27. All oral or written comments before the administrative law judge or the Commission shall become part of the case record.

28. A utility shall provide notice of each rate change when the change becomes effective. Sixty days before the initial rate change is proposed to take effect, the utility shall provide the Commission, parties, and potentially interested persons with notice of the change and detailed financial information.

Compliance filings

29. A utility applying for or operating under a multiyear rate plan shall do the following:
- A. File annual status reports confirming that the utility has made investments according to its multiyear rate plan, and affirming that it still intends to make the future investments authorized as part of the plan.
 - B. If a project included in a multiyear rate plan is canceled or postponed, within 30 days inform the Commission and parties, file a proposal to adjust rates to stop collecting any costs related to the canceled or postponed project, and refund costs already collected.
 - C. If a utility makes some other material change in plans, file a status report promptly (*e.g.*, within 30 days of the known change).
 - D. Within 180 days after the final rate adjustment under the multiyear rate plan, make a compliance filing verifying that the rates charged under the plan were based only on reasonable and prudent costs of service.
30. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary



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