

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Central Minnesota Municipal Power Agency and
Midwest Municipal Transmission Group

Docket No. EL08-32-000

(Issued March 4, 2011)

Attached is the statement by Commissioner Norris, dissenting in part, to an order issued on February 15, 2011, in the above referenced proceeding, *Central Minnesota Municipal Power Agency and Midwest Municipal Transmission Group*, 134 FERC ¶ 61,115 (2011).

Kimberly D. Bose,
Secretary.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Central Minnesota Municipal Power Agency and
Midwest Municipal Transmission Group

Docket No. EL08-32-000

(Issued March 4, 2011)

NORRIS, Commissioner, *dissenting in part*:

I support the majority's decision in this order to grant Central Minnesota's request to include 100 percent of prudently incurred construction work in progress (100 Percent CWIP Recovery) in rate base, and its request for 100 percent recovery of the prudently incurred costs of transmission facilities that are cancelled or abandoned for reasons beyond the Petitioners' control (Abandoned Plant Recovery). Similar to co-owners Xcel, Great River and Otter Tail, Central Minnesota has demonstrated that the risks and challenges it faces in developing and constructing the Brookings Project merit such incentives. However, I respectfully dissent from the Commission's decision to approve the requested hypothetical capital structure of 50 percent equity and 50 percent debt for 30 years. In my view, Central Minnesota has not demonstrated how this incentive is tailored to the risks and challenges it faces in developing the project.

Before addressing the details of this proceeding, I want to offer my strong support for public power participation in joint ownership of new transmission projects. In addition to encouraging a deeper and more collaborative pool of participants in the transmission development process, public power participation can generate key support for needed transmission projects that often face difficult siting decisions by state and local authorities. Public power entities play a significant role in meeting the energy needs of consumers across the country, and it is important to have these entities at the table as we move forward to plan and develop needed new transmission infrastructure.

Clearly, public power entities have different characteristics that impact how they finance transmission projects. For example, these entities typically have access to different capital markets and have a different capital structure than other entities constructing transmission. As a result, public power entities have reasoned that their participation in developing new transmission facilities may in some instances result in these facilities getting built at lower cost.¹

¹ See, e.g., American Public Power Association January 11, 2006 Comments at 56, National Rural Electric Cooperative Association January 11, 2006 Comments at 38 in *Promoting Transmission Investment Through Pricing Reform* (Docket No. RM06-4-000).

In the instant proceeding, however, Central Minnesota asks us to ignore these different characteristics, which make it less costly for Central Minnesota to finance its investment, and to instead consider Central Minnesota as if it were similarly situated to the investor-owned utilities co-sponsoring the Brookings Project. Specifically, Central Minnesota argues that it should be allowed to use a capital structure for purposes of cost recovery that reflects the *actual* capital structures of Xcel and Otter Tail. In essence, Central Minnesota asks for an equity-like return of more than 12 percent on a significant portion of its debt-based investment that will likely cost it less than seven percent to finance – a difference of more than 500 basis points that Central Minnesota is entitled to retain on behalf of its customers. This “debt adder” of more than 500 basis points is well above and beyond any return on equity adder incentive that the Commission would grant to an investor-owned utility.

In support of its request, Central Minnesota argues that it should be granted its proposed hypothetical capital structure so as to earn a meaningful return that is comparable to surrounding MISO transmission owners.² Central Minnesota offers no record evidence, however, to support this request. In particular, it does not show how this hypothetical capital structure, when viewed in light of its actual costs to finance its portion of the Brookings Project, will produce a just and reasonable return on investment. Without any evidence to justify this level of incentive, Central Minnesota’s argument has no basis within a cost of service framework that permits transmission owners to recover their costs plus a fair return on their investment.³ Simply put, cost recovery should be based on the costs that each transmission owner actually incurs, not the costs that its neighboring transmission owners incur.

Central Minnesota’s proposal also stands in stark contrast to the hypothetical capital structure incentive that the Commission granted co-owner Great River for the same Brookings Project.⁴ While both entities have similar levels of actual equity, Great River provided evidence to *demonstrate* that it needed a 20 percent hypothetical equity level for 10 years in order to protect its financial integrity and maintain its credit rating. The majority’s decision in the instant proceeding suggests that nothing would have prevented Great River from receiving the same 50 percent hypothetical equity level for 30 years that Central Minnesota received. The decision in this order in effect penalizes Great River for not having asked for more, rather than only asking for what it needed. I am concerned about the signal this sends.

² Central Minnesota January 25, 2010 Amended Petition for Declaratory Order at 54 (Docket No. EL08-32-000).

³ *FPC v. Hope Natural Gas Co.*, 320 U.S. 591 (1944).

⁴ *Great River Energy*, 130 FERC ¶ 61,001 (2010).

While Central Minnesota also cites to reduced cash flows and the resulting downward pressure on its debt rating, it does not demonstrate how the requested hypothetical capital structure is tailored to address these risks. Central Minnesota is entitled to a return that recognizes the risk of developing the transmission project as well as the value to consumers from the investment it makes, but the Commission has a responsibility to balance this consideration against the cost impact to consumers from such investment to ensure that rates will be just and reasonable. Central Minnesota has not provided sufficient record evidence for the Commission to make this determination and grant its request for a hypothetical capital structure of 50 percent equity and 50 percent debt.

I therefore believe the Commission should have rejected Central Minnesota's hypothetical capital structure request without prejudice to Central Minnesota re-submitting a proposed hypothetical capital structure that is supported and tailored to its needs. For these reasons, I respectfully dissent in part.

John R. Norris
Commissioner