

S T A T E O F M I C H I G A N
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of
LAKE SUPERIOR DISTRICT POWER COMPANY
for the immediate ex parte approval
to provide partial firm-interruptible
natural gas service under special contract.

Case No. U-8605

At a session of the Michigan Public Service Commission held at its offices
in the city of Lansing, Michigan, on the 10th day of February, 1987.

PRESENT: Hon. William E. Long, Chairperson
Hon. Edwyna G. Anderson, Commissioner
Hon. Matthew E. McLogan, Commissioner

OPINION AND ORDER

On October 23, 1986, Lake Superior District Power Company (Lake Superior) filed an application for authority to provide partial firm-interruptible natural gas service under special contract with Bessemer Plywood Company (Bessemer). Attached to the application was an agreement executed on October 14, 1986 between authorized representatives of Lake Superior and Bessemer.

On December 31, 1986, Northern States Power Company, Wisconsin (NSP-W) became Lake Superior's successor under the special contract as a result of a Commission-approved merger of Lake Superior into NSP-W.

NSP-W is a public service corporation organized under the laws of the state of Wisconsin, with principal offices located in Eau Claire, Wisconsin. NSP-W is authorized to do business in the state of Michigan. NSP-W is engaged, among other things, in the distribution and sale of natural gas in various counties in

the Upper Peninsula of Michigan and in Wisconsin. NSP-W's Michigan gas service territory is the same as that served by Lake Superior prior to the merger of Lake Superior into NSP-W.

Pursuant to due notice, a hearing was held on January 21, 1987 before Administrative Law Judge Arnold W. Tammen (ALJ). NSP-W and the Commission Staff (Staff) participated in the proceedings.

Settlement discussions preceded the hearing and resulted in a signed Settlement Agreement, attached as Exhibit A, between NSP-W and the Staff. The Settlement Agreement contains conditions to handle the potential impact the Bessemer special contract may have on NSP-W's gas cost recovery reconciliations. It also provides the Staff the opportunity to reopen this case if the availability of gas transportation to NSP-W's Michigan jurisdiction changes.

On January 21, 1987, NSP-W presented the testimony of Randall A. Ovaska in support of its application. Following cross-examination, the Staff indicated its support for Commission approval of the application, the special contract and the Settlement Agreement. The parties waived the provisions of Section 81 of the Administrative Procedures Act of 1969, as amended (APA).

On January 23, 1987, the ALJ issued a Report and Recommendation stating that the Settlement Agreement and application should be approved.

Both Rule 33 of the Commission's Rules of Practice and Procedure, R 460.43, and Section 78 of the Administrative Procedures Act, MCLA 24.278, provide for the disposition of matters before the Commission by stipulation and agreement. Those provisions do not relieve the Commission of its responsibility to make a

final determination that the stipulation of the parties is in the public interest.

After a review of the Settlement Agreement, the Commission finds it is reasonable and, therefore, should be approved as in the public interest.

The Commission takes this opportunity to again encourage settlements of disputes between parties. The settlement process does involve give and take, but facilitates the accomplishment of the Commission's goals, conserves scarce resources and, in the long run, improves the public's perception of the process of utility regulation.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 300, as amended, MCLA 462.2 et seq.; 1919 PA 419, as amended, MCLA 460.51 et seq.; 1939 PA 3, as amended, MCLA 460.1 et seq.; Commission Order in Case No. U-6300, and the Commission's Rules of Practice and Procedure, 1979 Administrative Code, R 460.11 et seq.

b. The application of Northern States Power Company, Wisconsin and the Settlement Agreement are just, reasonable, in the public interest and should be approved.

THEREFORE, IT IS ORDERED that:

A. Northern States Power Company, Wisconsin is authorized to provide natural gas service to Bessemer Plywood Company pursuant to the special contract dated October 14, 1986.

B. Pursuant to Rule 31 of the Commission order in Case No. U-6300, Filing Procedures, Northern States Power Company, Wisconsin shall file with the Commission Staff a conformed copy of the special contract.

C. The terms and conditions in the Settlement Agreement, attached as Exhibit A, are adopted.

The Commission specifically reserves jurisdiction of the matters herein contained and the authority to issue such further order or orders as the facts and circumstances may require.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ William E. Long
Chairperson

(S E A L)

/s/ Edwyna G. Anderson
Commissioner

/s/ Matthew E. McLogan
Commissioner

By the Commission and pursuant to
its action of February 10, 1987.

/s/ Bruce R. Maughan
Its Secretary

S T A T E O F M I C H I G A N

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
 Lake Superior District Power Company)
 for immediate ex parte approval to) Case No. U-8605
 provide partial firm-interruptible)
 natural gas service under special)
contract with Bessemer Plywood Company. }

SETTLEMENT AGREEMENT

As provided in Section 78 of the Administrative Procedures Act of 1969, as amended; MCLA 24.278; the Commission Rules of Practice and Procedure, Rule 33 - R460.43, and encouraged by the Commission policy toward settlement of contested issues, Northern States Power Company, Wisconsin ("NSP-W") and the Commission Staff ("Staff") have resolved through settlement discussions the contested issues regarding this proceeding and hereby agree as follows:

1. On October 23, 1986 Lake Superior District Power Company ("Lake Superior") filed the Application in this matter seeking Commission approval of an agreement between Bessemer Plywood Company ("Bessemer") and Lake Superior for Partial Firm-Interruptible Natural Gas Service, dated October 14, 1986 ("the Agreement"). On December 31, 1986, as the result of the Commission's approved merger of Lake Superior into NSP-W, NSP-W became Lake Superior's successor, and is currently providing the gas service previously rendered by Lake Superior in the state of Michigan.

2. Notice of Hearing was issued by the Commission on December 11, 1986 scheduling a public hearing for January 21, 1987. A copy of the Commission's Notice of Hearing was served on Bessemer.

Public hearings commenced on January 21, 1987 and were concluded as scheduled. Only NSP-W and Staff appeared and participated.

3. NSP-W presented its direct case through the testimony of Randall A. Ovaska and Exhibit A-1. Mr. Ovaska was cross-examined by Commission Staff counsel. Upon completion of the presentation of NSP-W's direct case, the Staff stated that it supported Commission approval of the Application and the Agreement, subject to the conditions set out in this Settlement Agreement.

4. Subsequent to October 23, 1986, NSP-W and the Staff have been negotiating and have successfully reached a settlement of the contested issues in this proceeding as set forth in this Settlement Agreement. It is the opinion of NSP-W and Staff that this Settlement Agreement will promote the public interest, will lead to the expeditious conclusion of this case, and will minimize the time and expense which would otherwise have to be devoted to this matter by the Commission, the Staff and NSP-W.

5. This Settlement Agreement is intended for final disposition of this proceeding, and the parties hereto join in respectfully requesting the Commission to grant prompt approval of same. Staff certifies that this Settlement Agreement is just, reasonable and in the public interest. NSP-W and Staff agree not to appeal, challenge or contest the Commission's Order in this proceeding, accepting and approving this Agreement without modification. If the Commission does not accept the Settlement Agreement without modification, the Settlement Agreement shall be withdrawn and shall not constitute any part of the record in this proceeding or be used for any purpose whatsoever.

6. This Settlement Agreement has been made for the sole and express purpose of reaching a compromise between NSP-W and Staff in this proceeding and all offers of settlement and discussions are privileged and shall not be used in any manner, nor be admissible, for any other purpose in connection with this proceeding or any other proceeding. This Agreement shall have no precedential value.

7. NSP-W and Staff agree to waive Section 81 of the Administrative Procedures Act of 1969, as amended, MCLA 24.281, as it applies to the issues in this proceeding.

8. Based upon NSP-W's evidentiary presentation and upon Staff's review of the files and all pertinent matters, Staff supports Commission approval of the Agreement, subject to the following conditions:

- 1) NSP-W shall credit the cost of gas in its GCR reconciliation proceedings in the amount of the average demand costs per Mcf incurred during the period of the Agreement times 100 Mcf per month, plus the average D-2 costs per therm times volumes billed under the Agreement;
- 2) Average demand cost calculations shall include the 100 Mcf of demand allocated to the Agreement, plus the demand allocated to the Michigan jurisdiction in NSP-W's GCR Plan and Factors cases;
- 3) If transportation of gas becomes available to the Michigan jurisdiction, Staff may request the reopening of this proceeding, and NSP-W shall not oppose such request;
- 4) Not earlier than 18 months following issuance of the Commission's approval of this Settlement Agreement, Staff may request NSP-W to file an application and supporting data to show that continued Commission approval of the Agreement is reasonable and in the public interest; and upon receipt of such request, NSP-W shall promptly file its application and supporting data as requested by Staff.

9. NSP-W agrees to Staff's conditions as set forth in Paragraph 8.

NORTHERN STATES POWER COMPANY,
WISCONSIN

Done in Lansing, Michigan this
21st day of January, 1987.

By: Harvey J. Messing
Harvey J. Messing
Its Attorney

MICHIGAN PUBLIC SERVICE COMMISSION
Staff

By: Patricia S. Barone
Patricia S. Barone
Assistant Attorney General
Its Attorney