

Municipal Utilities' Right to Grow With Their Cities — A State Issue

Municipal electric utilities work very closely with their rural co-op colleagues on many fronts. We help each other out in times of need. We work together on large transmission and generation projects. We agree on most public policy issues, including preservation of the Power Marketing Administrations, tax credit bonds, and climate change. Unfortunately, the one issue on which we consistently disagree is municipal utilities' historic right to grow with their cities.



In recent years, electric cooperatives have unsuccessfully attempted to secure the passage of federal legislation that would have severely restricted the ability of municipal electric utilities to grow with their cities. In 2007, a similar attempt to add service territory language to the farm bill and again, Congress wisely resisted such an effort.

There is simply no need for Congress to become involved in the electric utility service territory issue. Like most issues relating to retail electric distribution service, the designation of service territories has long been governed by state law. Minnesota's municipal electric utilities have had the right to serve annexed areas since the inception of the industry more than 100 years ago. This historic right was affirmed and preserved in the 1974 state law that established the current regulatory scheme. Our law, like that of many states, provides that a municipal electric utility has the right to serve areas annexed by the city. The law also provides that the utility previously serving the annexed area must be provided with fair compensation.

Here are some important facts to remember about Minnesota's designated service territory law:

- The co-ops needed the 1974 service territory law in order to obtain funding to build the Coal Creek project, which still serves today as one of their primary sources of wholesale power. *To secure passage, they agreed to and supported the municipal annexation provision in the law.*
- The co-ops have enjoyed tremendous growth in the years since the service territory law was enacted. Their growth, which has largely come from the expansion of cities that do not own their electric service, has far outstripped that of the municipal utilities. *In fact, co-ops are the fastest-growing segment of the electric industry in Minnesota.*
- The co-ops are poised to capture much of the growth around communities served by investor-owned utilities, as well as around those communities already served by co-ops. *This has been happening for some time in the Twin Cities Metro area, and is beginning to occur in other parts of the state as well.*
- In addition to enjoying their own rapid growth, *the co-ops receive fair compensation under the law when a*

city purchases service rights following annexation.

Despite these advantages, in the past few years some cooperatives have been actively trying to deny municipal utilities their right to grow with their city boundaries.

There is a real concern that the co-ops will again take their effort to prevent municipal utilities from growing with their cities to the federal level. During conference committee deliberations on the last farm bill, cooperatives tried to introduce a provision that would have prohibited municipal electric utilities from expanding electric service into newly annexed areas once under co-op control. Although this attempt was unsuccessful, cooperatives may try to raise the issue again during the development of the current farm bill. Any such effort should be defeated.

The designation of electric utility service territory is fundamentally a state issue, fully governed by state law in Minnesota and in other states. There is no justification for Congressional involvement in the service territory issue.