

## The Right of Municipal Utilities to Grow with their Cities

Minnesota municipal electric utilities have had the right to serve the citizens and businesses within annexed areas since the inception of the industry more than one hundred years ago. This historic right was affirmed and preserved in the 1974 law that established the current regulatory scheme. Municipal utilities right to grow with their cities:

- provides a municipal utility's only real source of growth. The inability to serve all citizens and businesses in the city represents lost revenue to the municipal utility and to the city;
- ensures that all city residents receive the municipal service from a utility they already own, to which they are entitled as citizens of their cities; and
- ensures that all customers receive the same service and price throughout the city.

Minnesota law recognizes the fundamental truth that cities grow because families and businesses want city services and other benefits of being located within the city. Cities are the driving force behind economic growth and cities work hard to attract development. It is only proper that cities provide these services (including electric service) in annexed areas as growth occurs.

The long-standing right of municipal utilities to grow with their cities was affirmed in the 1974 Minnesota law establishing service territories for all the state's electric utilities. The 1974 law was the result of a landmark compromise between investor-owned (IOU), cooperative, and municipal utilities. The law gave co-ops a market guarantee for their planned \$1 billion Coal Creek project and has provided them with a



revenue stream to support numerous other large projects over the years. The law also preserved the right of municipal utilities to grow with their cities. The cooperatives enthusiastically supported the passage of this legislation.

The 1974 law has worked very well for the electric cooperatives. It preserved the co-ops' customer base in the 1980's when they were troubled with rising costs and high rates. The Minnesota Public Utilities Commission (PUC) decisions concerning compensation paid for service territory purchased by a municipal utility have resulted in increasing awards to co-ops. Today, cooperatives not only receive full reimbursement for facilities, payment for any reintegration costs, and payment for lost revenue from existing customers, they are even provided compensation for future customers not in existence at the time that the municipal utility begins serving the area. Compensation paid to cooperatives now amounts to more than \$16 million.

Cooperatives have been afforded many new growth opportunities because of the service territory law and the compromise that made it possible. They have retained huge service territories within which they have cultivated substantial growth, particularly in the Twin Cities metro area and around many non-public power cities in greater Minnesota. The co-ops have benefited from new, incorporated urban area within their service territories that is five times the size of the area absorbed by municipal electric utilities after annexation. This has resulted in kilowatt-hour sales and new customer acquisition growth rates for cooperatives that are higher than those of other types of utilities in the state. In fact, the co-ops' customer base has virtually doubled since the enactment of the service territory law in 1974.

In the past few years, however, cooperatives have been actively trying to deny municipal utilities their right

to grow with their city boundaries. A growing number of co-ops have pursued increasingly extreme positions in negotiations, demanding ever higher levels of compensation. Several cooperatives have even forced municipals to resort to time consuming and expensive action before the PUC or before the district courts. There is growing evidence that these actions represent a coordinated attempt to obstruct municipal growth as much as possible and to discourage municipal utilities from pursuing their rights. For example, it was recently revealed that in 2005 Minnesota cooperatives received \$1.3 million from the “service territory integrity fund” of the National Rural Cooperative Finance Corporation (CFC), a national fund expressly created to fight service territory takeovers.

Municipal utilities are also concerned about efforts to use state law governing

such issues as annexation and land use planning as a vehicle for dealing with the service territory issue before the legislature. Any effort to link proposed changes in annexation law to changes in statutory language protecting municipal utilities’ right to grow with their cities should be defeated.

The landmark service territory law of 1974 has allowed Minnesota’s electric cooperatives to protect their power plant investments, to greatly expand their business, and to secure generous compensation for municipal acquisitions. This law was passed as a result of a compromise with the municipal utilities, whose only requirement was that they be allowed to grow with their cities. The co-ops now want to end this arrangement without proving a need to change. It’s time they honored the compromise they wanted in the first place. It’s time they kept their word.

Municipal utilities cannot forego the essential right to grow with our cities, which has been recognized since the inception of the industry more than one hundred years ago. Serving all citizens and businesses in our cities is what municipal utilities are all about. From a long-term perspective denying municipal utilities this fundamental right is the same thing as denying their right to exist. We remain willing to work to resolve these problems to make the law easier to administer for all parties by defining municipal utilities rights and by adding a formula for reasonable compensation to state law. As custodians for our citizens’ rights, cities and municipal utilities insist that the right to grow with our cities be affirmed.