

REQUEST FOR COUNCIL ACTION

Meeting

Date 6/27/05

AGENDA SECTION

Rochester Public Utilities

ORIGINATING DEPT:

Consent Agenda

ITEM NO.

ITEM DESCRIPTION:

Consideration of Litigation Against SMMPA as a Result of Recent SMMPA Actions

PREPARED BY:

Kathy Wilson

On December 20, 2004, in a Joint Resolution with the RPU Board, the City Council reaffirmed in their entirety the resolutions dated February 8 and February 24, 1994 regarding the City's status in future Southern Minnesota Municipal Power Agency (SMMPA) generating resources. These resolutions state, "BE IT FURTHER RESOLVED that the City of Rochester intends to contest in a court of law any attempt by SMMPA to cause Rochester to pay for any generation or transmission capacity required to satisfy the generation or transmission requirements of those SMMPA members who have elected to extend their SMMPA power sales contracts beyond the year 1999."

Recent actions by the SMMPA Board of Directors and member representatives will result in SMMPA committing to future electric base load generating capability that will be included in the wholesale rate now paid by RPU ratepayers. Based on the level of projected financing for this future generator, an annual retail rate increase of 4% to 7% for RPU ratepayers could be expected. This would be in addition to power supply costs that RPU has and will incur to serve its future electric load growth. Yet, RPU will not benefit from any of the future electric capacity since the City, in 1999, capped the amount of electric power it takes from SMMPA.

In 2004, RPU officials approached SMMPA in an attempt to resolve this unfair and inequitable treatment of RPU ratepayers. RPU worked with SMMPA staff for several months and demonstrated a new dual rate design that would accurately assign costs of electric generation between Rochester and the other SMMPA members. The goal was to allow Rochester ratepayers to pay their fair share of that amount of electric power they actually obtained from SMMPA. However, in December, 2004, the SMMPA Board of Directors officially denied Rochester's request for a new dual rate design and, instead, reaffirmed a single rate to be paid by all SMMPA members. In other words, SMMPA decided Rochester should pay the same rate as all other SMMPA members despite the fact that Rochester had capped its electric power needs and would not require any future electric generation capacity. Earlier this year, the SMMPA Board of Directors also formally approved its participation in the purchase of future electric power capacity. These two actions taken together mean Rochester ratepayers will pay more money for their electricity although Rochester isn't obligated to look to SMMPA for its future electric power needs.

Based on the previous RPU Board and Council resolutions, and analysis of future cost impacts to the RPU ratepayers, the Common Council is requested to follow through on its earlier resolutions and to instruct the City Attorney to file the appropriate lawsuit against SMMPA as a result of SMMPA's decision to cause RPU to pay for new electric generation that will not benefit RPU customers.

Council Action Requested:

A motion to direct the Rochester City Attorney to file the appropriate lawsuit against SMMPA as a result of SMMPA's decision to cause RPU to pay for new electric generation that will not benefit RPU customers and to retain all needed consultants and experts to efficiently and effectively prosecute this lawsuit.

GENERAL MANAGER:



COUNCIL ACTION:

Motion by: _____

Second by: _____

to: