

FOR BOARD ACTION

Agenda Item # 14

Meeting Date: 12/16/04

SUBJECT: Joint Board Council Resolution
RPU's Contract Rate of Delivery with SMMPA

PREPARED BY: Larry Koshire, General Manager

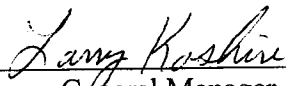
ITEM DESCRIPTION:

RPU participates on the Southern Minnesota Municipal Power Agency (SMMPA) Board in discussions regarding future Agency power resource needs. RPU and SMMPA have had discussions regarding RPU's role in these future resources. The SMMPA Board recently made a determination to continue for the time being, with a single system rate model for all members. RPU's expressed concern with this approach is that generating resources that may be added by SMMPA would be included in the single system rate. These future resources would be provided for growth of the other Agency full requirement members to no benefit of RPU.

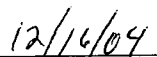
In discussing the situation with the RPU operating committee and City Attorney, it was felt appropriate to reaffirm the RPU Board and City Council resolution from 1994 stating the City's position regarding RPU's role in future generating resources.

UTILITY BOARD ACTION REQUESTED:

The Board is requested to approve a Joint Board/Council resolution reaffirming the 1994 Joint Council/Board (attached) regarding the City's status in future SMMPA generating resources.



General Manager



Date

JOINT RESOLUTION

WHEREAS, the City of Rochester is a member of the Southern Minnesota Municipal Power Agency (SMMPA) and has signed a Power Sales Contract with SMMPA by which the City receives power from SMMPA for its electrical requirements; and,

WHEREAS, in 1999, as permitted by the Power Sales Contract, the City of Rochester elected to freeze the amount of power it receives from SMMPA (commonly referred to as the Contract Rate of Delivery or "CROD") and thus to become a partial requirements member of SMMPA; and,

WHEREAS, other city members of SMMPA elected to continue to take their total power requirements from SMMPA; and,

WHEREAS, in the early 1990's, the City of Rochester Public Utility Board and Common Council became concerned that SMMPA might require the City of Rochester to pay the cost of capital expansion projects required to meet the total requirements of those SMMPA members who have elected to extend the total requirements provision of their SMMPA power sales contracts beyond 1999; and,

WHEREAS, on February 8, 1994, and February 24, 1994, the City of Rochester Public Utility Board and Common Council adopted a resolution setting forth its concern and publicly announcing its intent to contest in a court of law any attempt by SMMPA to cause the City of 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 1999. A copy of that resolution is attached and incorporated by reference; and,

WHEREAS, on December 9, 2004, the SMMPA Executive Director wrote a letter to the Rochester Public Utility General Manager and stated that SMMPA had rejected the City's proposed dual rate model (that took into consideration the fact that some SMMPA members remained total requirements members while RPU elected to become a partial requirements member) and instead reaffirmed "a single rate model for all Members;" and

WHEREAS, in light of SMMPA's December 9, 2004, letter, the Rochester Public Utility Board and City of Rochester Common Council believe it important to reaffirm in its entirety the February, 1994, resolutions adopted by the Board and Council; and,

NOW, THEREFORE, BE IT RESOLVED by the Rochester Public Utility Board and the City of Rochester Common Council that it reaffirm in its entirety the resolution dated February 8, and February 24, 1994, that is attached hereto.

BE IT FURTHER RESOLVED that the City Clerk shall send a copy of this Joint Resolution to the President of the SMMPA Board of Directors.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF
ROCHESTER, MINNESOTA, THIS _____ DAY OF _____, 2004.

PRESIDENT OF SAID COMMON COUNCIL


ATTEST: _____
CITY CLERK

APPROVED THIS _____ DAY OF _____, 2004.


MAYOR OF SAID CITY

(Seal of the City of
Rochester, Minnesota)

PASSED BY THE PUBLIC UTILITY BOARD OF THE CITY OF ROCHESTER,
MINNESOTA, THIS 16th DAY OF DECEMBER, 2004.



President



Secretary

RESOLUTION

WHEREAS, the City of Rochester is a member of the Southern Minnesota Municipal Power Agency (SMMPA); and,

WHEREAS, the City of Rochester elected to not amend its Power Sales Contract with SMMPA to extend the total requirement provision of such contract beyond the year 1999; and,

WHEREAS, the Rochester Common Council and the Rochester Public Utility Board are concerned that SMMPA may require Rochester to pay the cost of capital expansion projects required to meet the total requirements of those SMMPA members who have elected to extend the total requirements provision of their SMMPA power sales contracts beyond the year 1999; and,

WHEREAS, the Rochester Common Council and the Rochester Public Utility Board contend that the City of Rochester is not legally obligated 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.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Rochester and the Rochester Public Utility Board that Rochester's SMMPA representative will vote against any capital expenditure proposed by SMMPA designed to expand existing SMMPA generation or transmission capacity if implementation of such proposal is likely to result in the City of Rochester paying any portion of the cost of such expansion through higher rates for power purchased from SMMPA under its existing power sales contract or otherwise.

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.

BE IT FURTHER RESOLVED that the City Clerk shall send a copy of this resolution to the President of the SMMPA Board of Directors.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF
ROCHESTER, MINNESOTA, THIS _____ DAY OF _____, 1994.

PRESIDENT OF SAID COMMON COUNCIL

ATTEST: _____
CITY CLERK

APPROVED THIS _____ DAY OF _____, 1994

MAYOR OF SAID CITY

(Seal of the City of
Rochester, Minnesota)

Passed by the Public Utility Board of the City of Rochester, Minnesota this 8th day of
February, 1994.

James R. Paul
President

Hathlee Wilson
Secretary

RESOLUTION

WHEREAS, the City of Rochester is a member of the Southern Minnesota Municipal Power Agency (SMMPA); and,

WHEREAS, the City of Rochester elected to not amend its Power Sales Contract with SMMPA to extend the total requirement provision of such contract beyond the year 1999; and,

WHEREAS, the Rochester Common Council and the Rochester Public Utility Board are concerned that SMMPA may require Rochester to pay the cost of capital expansion projects required to meet the total requirements of those SMMPA members who have elected to extend the total requirements provision of their SMMPA power sales contracts beyond the year 1999; and,

WHEREAS, the Rochester Common Council and the Rochester Public Utility Board contend that the City of Rochester is not legally obligated 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.

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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.

BE IT FURTHER RESOLVED that the City Clerk shall send a copy of this resolution to the President of the SMMPA Board of Directors.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF ROCHESTER, MINNESOTA, THIS 23 DAY OF February 1994.

Dorothy B. Selby
PRESIDENT OF SAID COMMON COUNCIL

ATTEST: Carol A. Dumm
CITY CLERK

APPROVED THIS 24 DAY OF February, 1994

Oscey B. Selby
MAYOR OF SAID CITY
Attesty

(Seal of the City of
Rochester, Minnesota)

Passed by the Public Utility Board of the City of Rochester, Minnesota this 8th day of February, 1994.

Jim A. Aul
President

Harlee Wilson
Secretary