

**ROCHESTER PUBLIC UTILITIES
BOARD MEETING MINUTES
December 17, 2009**

Members Present: Mr. Williams, Mr. Landwehr, Mr. Reichert, Mr. Hanson
Absent: Mr. Stahl
Also Present: Mr. Adkins, City Attorney

Board President Williams called the meeting to order at 4:00 PM.

1. Mr. Landwehr moved to approve the minutes of the November 24, 2009 meeting, seconded by Mr. Reichert.

All Voting "AYE"

2. Mr. Williams opened the meeting for comments from the public. No one wished to be heard.

3. The insurance quotations for 2010 were presented and discussed with the Board. Mr. Lyle Pappenfus and Mr. Darwin Olson from the C.O. Brown Agency were present during the discussion. Deductibles remain the same. An increase in premium occurred for the all risk property insurance through AIG/Lloyd's of London, but the League of Minnesota Cities Insurance Trust for liability and commercial auto insurance remained flat. RPU will be receiving a dividend from the League for approximately \$18,000. Mr. Hanson moved to approve en bloc three resolutions for insurance, seconded by Mr. Landwehr.

All voting "AYE"

BE IT RESOLVED by the Public Utility Board of the City of Rochester, Minnesota, that the Common Council of the said City is requested to approve an insurance agreement with AIG/Lloyd's of London for

ALL RISK PROPERTY INSURANCE

The insurance agreement to be for a twelve month policy period commencing December 31, 2009, and expiring December 31, 2010.

The amount of the twelve month premium effective December 31, 2009 to be FOUR HUNDRED FIFTEEN THOUSAND NINE HUNDRED FORTY THREE AND 00/100 DOLLARS (\$415,943).

BE IT RESOLVED by the Public Utility Board of the City of Rochester, Minnesota, that the Common Council of the said City is requested to approve an insurance agreement with the League of Minnesota Cities Insurance Trust for

COMMERCIAL AUTOMOBILE AND GENERAL LIABILITY INSURANCE

The insurance agreement to be for a twelve month policy period commencing December 31, 2009, and expiring December 31, 2010.

The amount of the twelve month premium effective December 31, 2009 to be ONE HUNDRED THIRTY FOUR THOUSAND ONE HUNDRED FORTY AND 00/100 DOLLARS (\$134,140).

BE IT RESOLVED by the Public Utility Board of the City of Rochester, Minnesota, that the Common Council of the said City is requested to approve an insurance agreement with the Associated Electric and Gas Insurance Services, Ltd. (AEGIS) for

EXCESS GENERAL LIABILITY INSURANCE

The insurance agreement to be for a twelve month policy period commencing December 31, 2009, and expiring December 31, 2010.

The amount of the twelve month premium effective December 31, 2009 to be ONE HUNDRED SEVENTY NINE THOUSAND THREE HUNDRED FOUR AND 00/100 DOLLARS (\$179,304).

4. The Board reviewed staff's proposal for additional blocks and the associated rates for the implementation of Water Conservation Rates as required by state law. Steps taken to date include introduction of the subject at the May 2009 Board meeting, notice to the public on the Internet, in the Post-Bulletin, and discussion of the subject at the September 29, 2009 and October 27, 2009 board meetings. A cost-of-service study was accepted by the Board at the October 2009 board meeting. With Board concurrence, the cost-of-service portion of the water conservation rates will be postponed until 2011.

Staff recommended no more than four tiers be considered for water conservation inclining block rates based on RPU's customer base. Each of the proposed inclining blocks was discussed in detail with the Board. All tiers would meet the state's criteria. Other rate assumptions for 2010 include no change to fire hydrant rates or meter charges.

Mr. Williams asked which block would get the greatest incentive for customers to lower their rates. Mr. Landwehr said he did not like the two tier approach because more tiers would create a differential that made sense. Mr. Williams said if the numbers in inclining blocks were higher, the customer would receive greater monetary incentive to conserve. Mr. Hanson said we need to make sure we don't over collect. Mr. Reichert suggested selling water at less than cost to those that conserve the most. Mr. Rovang, Senior Civil Engineer, said the state law's intent is cost of service, but not giving away water. Mr. Hanson said the education piece is important to our customers.

Ms. Parker informed the Board that the RPU marketing department plans to develop rebates and educational materials for the public including low flow toilets, showerheads, etc. Ms. Hanson, Manager of Marketing, said RPU currently has rebates for clothes

washers and other items.

The various options for inclining block rates were discussed. Some of the members suggested trying one option for a year such as the three tier rate or four tier rate. Mr. Koshire said that staff is recommending trying a two tier rate for a year and because the four tier rate is much more complex to implement. Ms. Parker said commercial irrigation rates will be increased based on which tier rate is selected by the Board. She also mentioned that the Minnesota Department of Natural Resources wants RPU to implement the rates during the first part of 2010. Mr. Rovang said the two tier rate complies with the state requirements. He also said that RPU has the lowest water rates in the region.

Mr. Williams asked for comments from the public. Mr. Ray Schmitz, Rochester, said that there are models that allow different ways to price based on your peak usage. If you are over that, you would pay the higher rate. RPU's proposed rate structure has customers paying the low rate for all tiers. Mr. Hanson said if someone is better educated, they can better conserve. People don't know how many ccfs they use. Mr. Schmitz agreed with Mr. Hanson. Mr. Reichert suggested doing simple steps first by using the two tier rate to see if it is working. Mr. Koshire said that based on Board policy, a consensus from the Board was needed so RPU could publish its rate setting intent to the public. Mr. Williams said the Board could choose either a two or three tier rate structure to include benchmarks with an educational component. This topic will be on the January 26 Board meeting agenda.

5. Mr. Cook, Manager, Work Management and Integrated Services, discussed bids received for the 2009 Minnesota Clean Diesel Grant Program Award RPU received in the amount of \$60,000. One of the bids failed to meet bid specifications and the Board was requested to reject it. Staff also expressed concern about truck delivery meeting the grant deadline and was requesting an extension. Mr. Landwehr moved to reject the bid from Altec for failure to meet bid specifications, and to approve a purchase order with Dueco as lowest responsible bidder subject to reaching an agreement on the terms and conditions of the grant with the EPA and MPCA, seconded by Mr. Hanson.

All voting "AYE"

BE IT RESOLVED by the Public Utility Board of the City of Rochester, Minnesota, to reject the bid received from Altec Industries for failure to meet bid specifications.

BE IT FURTHER RESOLVED by the Board to approve a purchase order agreement with DUECO, subject to reaching an agreement with MPCA and EPA on the terms and conditions of the grant agreement, for

One 2010 Terex-Telelect Hybrid Aerial Device
Utility Body, Cab and Chassis and Installation

The amount of the purchase order agreement to be THREE HUNDRED AND SIX THOUSAND EIGHT HUNDRED SIXTY AND 00/100 DOLLARS (\$306,860.00) plus

sales tax and DUECO being lowest responsible bidder.

6. The grading foundation and fence contract change order for the Westside Substation was discussed. Mr. Stiller, Senior Electrical Engineer, informed the Board that even with the change order, the project remains within budget. Mr. Hanson moved to approve Change Order 1, seconded by Mr. Landwehr.

All voting "AYE"

BE IT RESOLVED by the Public Utility Board of the City of Rochester, Minnesota, to approve Change Order No. 1 to the Westside Substation Grading, Foundations, and Fence contract with Alvin E. Benike Inc. for the Westside Substation Project, including changes of scope and quantities as identified on the Change Order No. 1, and the authorized amount of the contract increased by \$79,672.90. This amount is not included in the project contingency but will not increase the overall project budget. The value of the contract will increase to \$722,172.90.

7. Mr. Hensel, Director of Core Services, discussed management's request for Board approval to initiate eminent domain proceedings for the remaining piece of property required for the Westside 161 kV transmission line. Staff has been working with the property owner since July, 2009, but has not reached a settlement. The land owner is requesting compensation approximately three times more than fair market value for the 0.75 acre land in question. The other four property owners along the transmission route have settled for fair market value. Management will continue to negotiate in good faith with the landowner to reach a resolution, but requested the Board to initiate eminent domain proceedings in parallel with continued negotiations. Mr. Hensel further stated that the Minnesota Public Utilities Commission (MPUC) has issued a route permit for the transmission line which defines the precise route and prescribes the right-of-way needed for the project. Mr. Hanson moved to approve the initiation of eminent domain proceedings, seconded by Mr. Landwehr.

All voting "AYE"

WHEREAS, it is necessary for the City of Rochester to acquire certain interests in real property, in the area of the proposed Westside 161 kV transmission line project; and,

WHEREAS, the transmission line route and right-of-way are defined by the route permit (Docket No. E299/TL-07-1366) issued by the Minnesota Public Utilities Commission; and,

WHEREAS, all right-of-way for this project has been acquired with the exception of a utility easement in the SW ¼ of the SW ¼, Section 20, Cascade Township (Parcel I.D. No. 74.20.33.075985) and it may not be possible to acquire the necessary easement through a process of voluntary negotiation with owner, Badger Development III, LLC; and,

WHEREAS, the construction of the proposed transmission line will support an effective and efficient electric utility system in this area of the City, provide necessary electric services to

customers, support public safety and welfare, and constitutes a lawful and public purpose; and,

WHEREAS, construction of the project is anticipated to begin soon and therefore acquisition of such property interests is needed as soon as is legally possible.

NOW, THEREFORE, BE IT RESOLVED by the Public Utility Board of the City of Rochester, that eminent domain proceedings pursuant to Minnesota Statutes, Chapter 117 is hereby approved;

BE IT FURTHER RESOLVED that the Common Council of the said City is requested to authorize eminent domain proceedings;

BE IT FURTHER RESOLVED that the City Attorney is authorized and directed to initiate, in the name of the City of Rochester, appropriate proceedings pursuant to Minnesota Statutes, Chapter 117, including use of the 90-day "Quick Take" proceeding, in order to acquire any interests or interests in lands necessary which cannot be otherwise obtained voluntarily, needed to facilitate the construction of this electric transmission line project.

8. Mr. Hanson moved to authorize the depositories for Utility monies, seconded by Mr. Reichert.

All voting "AYE"

BE IT RESOLVED by the Public Utility Board of the City of Rochester, Minnesota, that the following banks, authorized to do business in Minnesota, are the designated depositories for demand deposit accounts and temporary investment of funds of Rochester Public Utilities, City of Rochester, Minnesota, within the limits established by the City of Rochester, for the term commencing January 1, 2010 through the 31st day of December, 2010.

US Bank
Wells Fargo

The above depositories, and any added during the term by the City Finance Director, shall pay interest at such rate or rates, per annum, as may be mutually agreed upon by the Rochester Public Utilities and the respective depository at the time such deposits and investments are made.

The depository shall pay on demand all deposits subject to payment on demand, with accrued interest, and pay on demand all time deposits with accrued interest, at or after maturity.

9. The General Manager provided the following report to the Board:

Mr. Koshire announced that the Service Center would be closed to the public on December 24 and December 31st. Employees will have the option of using furlough hours, vacation time, or electing to work.

- 10. The management and financial reports were discussed.

The payables were reviewed. Mr. Landwehr moved to approve the accounts payable report, seconded by Mr. Reichert.

All voting "AYE"

- 11. Mr. Reichert moved to adjourn the meeting, seconded by Mr. Hanson.

All voting "AYE"

The meeting was adjourned at 5:35 p.m.

Following adjournment, a closed meeting of the Rochester Public Utility Board was held to receive a communication from, and to have a discussion with, City Attorney Adkins regarding the status of the pending litigation identified as City of Rochester, Minnesota v. Southern Minnesota Municipal Power Agency, Olmsted County District Court, Case No. 55-C3-05-002712. The closed meeting occurred pursuant to Minnesota Statutes, Section 13D.05, subd. 3(b).

Submitted by:

Kathleen Wilson
Secretary

Approved by the Board:

Jerry Williams
Board President

1/26/10
Date