

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger
David C. Boyd
J. Dennis O'Brien
Phyllis A. Reha
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of Establishing an Estimate of the
Costs of Future Carbon Dioxide Regulation on
Electricity Generation Under Minnesota
Statutes § 216H.06

ISSUE DATE: November 2, 2012

DOCKET NO E-999/CI-07-1199

ORDER ESTABLISHING 2012 AND
2013 ESTIMATE OF FUTURE CARBON
DIOXIDE REGULATION COSTS

PROCEDURAL HISTORY

On October 8, 2009, the Commission issued an order estimating that utilities would incur costs for complying with anticipated regulation of carbon dioxide (CO₂) of between \$9 and \$34 per ton of CO₂.

On July 19, 2012, the Minnesota Pollution Control Agency and Minnesota Department of Commerce (the state agencies) filed their annual recommendations for revising the estimates for future costs of carbon dioxide regulation on electricity generation, as required under Minn. Stat. § 216H.06. The state agencies recommended maintaining the current estimates of CO₂ regulation costs, but did not include a recommendation regarding the year the cost range should begin to be applied.

By August 30, 2012, the following parties had filed comments regarding the state agencies' 2012 annual recommendation:

- Otter Tail Power Company
- Minnesota Large Industrial Group
- Minnesota Power
- Xcel Energy
- Interstate Power and Light Company
- Dairyland Power Cooperative
- Minnesota Chamber of Commerce

- Industrial Commission of North Dakota
- Lignite Energy Council
- Izaak Walton League of America – Midwest Office, Fresh Energy, and the Minnesota Center for Environmental Advocacy (the Environmental Organizations)

On October 18, 2012, the Commission met to consider the matter.

FINDINGS AND CONCLUSIONS

I. Positions of the Parties

A. The State Agencies' Recommendations

The state agencies recommended that the Commission retain the current estimate of the range of likely costs of CO₂ regulation at between \$9 and \$34 per ton of CO₂ emitted. The state agencies stated that they are not aware of significant changes that have occurred during the past year that warrant a re-evaluation of this recommended range of CO₂ costs.

The state agencies did not include a specific recommendation regarding the year the cost range should begin to be applied. The state agencies recommended, however, that given the passage of time, and the continued uncertainty regarding greenhouse gas regulation at the federal level, that the Commission should evaluate whether 2012 continues to be an appropriate initial effective year to apply CO₂ costs.

The agencies suggested that a conservative approach would warrant an effective date sooner than 2020, and recommended that the Commission establish an initial effective year of 2013 to ensure that potential CO₂ regulation costs are considered in utility planning processes.

B. The Commenters

The utility commenters generally supported the recommendation of the state agencies to retain the current estimate of the range of likely costs for CO₂ in 2012 and 2013, as did the Environmental Organizations.¹

The utility commenters were also largely in agreement that the Commission should postpone the effective date on which utilities should begin including the CO₂ costs in their resource planning from 2012 until 2020 or later. The utilities reasoned that any type of comprehensive federal CO₂ regulation, whether cap-and-trade or a tax, likely will be delayed significantly beyond the 2012 or

¹ Dairyland, Power Cooperative (Dairyland) however, urged the Commission to revise the range to reflect a \$0 minimum, based on the diminished likelihood of comprehensive greenhouse gas legislation in the foreseeable future, as did the environmental organizations and the Minnesota Chamber of Commerce. The Industrial Commission of North Dakota and the Lignite Energy Council did not focus on the values to be applied, but argued, as they had in previous CO₂ regulation dockets, that the values should not be applied to out-of-state facilities.

2013 date proposed by the state agencies for implementation of the application of the CO₂ values in resource planning. The utilities argued that it would be more realistic to adopt a later starting date, given the view of expert commenters -- that climate change legislation has been indefinitely delayed due to current economic and political conditions.

Dairyland argued that the application of the CO₂ cost estimates should be entirely suspended until there is greater certainty regarding the form and implementation date of comprehensive greenhouse gas regulation.

The Environmental Organizations argued that the utilities' proposals assume it will cost nothing to emit a ton of CO₂ until 2020. The Environmental Organizations disagreed, arguing that carbon-reducing government policies that are slow to be enacted only mean that the eventual costs of these emissions continue to be hidden. The Environmental Organizations urged the Commission to require the utilities to apply the state agencies' recommended carbon cost range in 2013 and each following year.

II. Commission Action

Having reviewed the state agencies' recommendations and the comments of the parties, the Commission finds the agencies' recommendation regarding the range of likely costs of regulation at between \$9 and \$34 per ton of CO₂ emitted to be reasonable for 2012. Further, the Commission finds that there is not additional state or federal legislative direction to suggest that those values should be changed for 2013.

The Commission recognized in its initial order establishing an estimate of future CO₂ regulation costs, that the Legislature directs the Commission to estimate how future regulation of CO₂ emissions will affect the cost of generating electricity.² The Commission also recognized that, given the legislative standard, it would be inappropriate to apply the proposed cost estimates to CO₂ that would be emitted before the regulations could be expected to affect electricity costs.

Having considered the issues raised by the parties, the Commission cannot accept 2013, the year suggested by the state agencies as an initial effective year to begin applying CO₂ values in resource planning, as reasonable. As there is no proposed CO₂ legislation currently under consideration at the state or federal level, it would be unrealistic to require utilities to, in the near future, begin applying the approved estimates of likely CO₂ cost estimates in resource planning at this time.

The Commission recognizes, however, that the while the costs of carbon pollution are not currently regulated, they continue to be real. And, while the regulatory environment regarding CO₂ emissions continues to be uncertain, such regulation will likely eventually occur, with concomitant costs for ratepayers. The Commission therefore concludes that to wait until 2020 or later to require utilities to begin applying CO₂ cost values in their resource planning, as proposed by the utilities, is also problematic.

² *In the Matter of Establishing an Estimate of the Costs of Future Carbon Dioxide Regulation on Electricity Generation Under the Minnesota Statutes § 216H.06*, Docket No. E-999/CI-07-1199, Order Establishing Estimate of Future Carbon Dioxide Regulation Costs (December 21, 2007).

The Commission recognizes that using a reasonable starting date for carbon cost assumptions is important to maintaining the integrity of resource planning. Recognizing, however, that there is currently no proposed federal legislation being considered, it would appear that the earliest possible time frame in which such regulation could be enacted would be 2013 or thereafter. Further, it would be highly unlikely for Congress to actually impose any such new carbon regulation costs on utilities for a period of some years after implementation of a new regulatory scheme. Accordingly, the Commission will set 2017 as the year in which utilities should begin applying the range of CO₂ values set in this proceeding in their resource planning.

It is so ordered.

ORDER

1. The Commission maintains its estimate of the range of likely costs of CO₂ regulation at between \$9 and \$34 per ton of CO₂ for 2012 and 2013.
2. Utilities shall begin applying the above range of CO₂ values in their resource planning as of 2017.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary



This document can be made available in alternative formats (i.e., large print or audio tape) by calling 651.296.0406 (voice). Persons with hearing or speech disabilities may call us through Minnesota Relay at 1.800.627.3529 or by dialing 711.