

AT A REGULAR SESSION of the Public Utilities Commission of the State of South Dakota, held in its offices, in the City of Pierre, the Capital, this 13th day of October, 1977.

PRESENT: Commissioners Ecker, Klinkel and Fischer

IN THE MATTER OF THE DETERMINATION )  
OF ELECTRICAL SUPPLY BY EITHER )  
NORTHWESTERN PUBLIC SERVICE )  
COMPANY OR NORTHERN ELECTRIC )  
COOPERATIVE TO SAFEGUARD METALS )  
DIVISION, SAFEGUARD AUTOMOTIVE )  
CORPORATION. )

DECISION AND ORDER  
(F-3171)

On the 17th day of March, 1977, Safeguard Metal Casting Division, Safeguard Automotive Corporation, hereinafter sometimes Safeguard, filed with this Commission its petition for electrical service. On the 17th day of March, 1977, Northern Electric Cooperative, Inc., hereinafter NEC, filed its Affidavit of Joinder in Safeguard's petition. On the 24th day of March, 1977, Northwestern Public Service Company, hereinafter NWPS, filed its Petition to Intervene. On the 1st day of April, 1977, NEC filed its Objection to Intervene and on the same date, Safeguard filed its Objection to Petition to Intervene. On the 15th day of April, 1977, Safeguard filed its Application for Temporary Service. On the 19th day of April, 1977, NWPS filed its Objection to Application for Temporary Service. On the 9th day of May, 1977, the Commission issued its Order for and Notice of Hearing on Application for Temporary Service to be held on the 20th day of May, 1977. Said hearing was conducted and briefs thereon were filed by the parties. The Commission did not grant Safeguard's Application for Temporary Service.

On the 9th day of June, 1977, the Commission issued its Order for and Notice of Hearing on Safeguard Metal Casting Division's Application for Permanent Service to be conducted on the 18th day of July, 1977. Thereafter, on the 13th day of July, 1977, the Commission received two complaints filed by NWPS. By Order entered the 13th day of July, 1977, the Commission scheduled the hearing on said complaints to be conducted in conjunction with the hearing on Safeguard's Application for Permanent Service. On the 14th day of July, 1977, NEC filed its Motion to Dismiss the within proceeding and Safeguard entered its Joinder in Motion to Dismiss on said date. On the 18th day of July, 1977, NEC filed its Answer to NWPS's complaints. On the 20th day of July, 1977, Safeguard filed its Answer to NWPS's complaints.

On the 18th day of July, 1977, the Commission conducted the hearing on Safeguard's application for permanent service. Thereafter, and upon stipulation of counsel, the Commission ordered that briefs be filed by the various parties. Final briefs were submitted to this Commission on the 26th day of September, 1977.

The Commission has carefully reviewed the entire record in this proceeding and enters the following:

#### FINDINGS OF FACT

1.

That Safeguard Metal Casting Division is a division of Safeguard Automotive Corporation, a private corporation.

2.

That Safeguard Metal Casting Division, being responsible for operations, has the autonomy and discretion to situate the new foundry at whatever location it deems appropriate.

3.

That the officials of Safeguard Metal Casting Division have distinct and separate duties from those which they perform as officials of Safeguard Automotive Corporation.

4.

That Safeguard Metal Casting Division is an entity unto itself with respect to being responsible for all operations of the proposed new foundry, including the responsibility for contracting for electric service.

5.

That Safeguard Metal Casting Division will be contracting for electric service from NEC if this Commission determines that Safeguard Metal Casting Division is not obligated to take electric service from NWPS which, pursuant to this Commission's Decision and Order in Docket No. F-3111, has the assigned service territory wherein Safeguard Metal Casting Division desires to locate its new foundry.

6.

That Safeguard Metal Casting Division is a new customer and is not an existing customer of NWPS by virtue of its affiliation with Safeguard Automotive Corporation.

7.

That the location where Safeguard Metal Casting Division proposes to construct its new foundry operation is a location not presently being served by any electrical supplier at this time on a permanent basis.

8.

That said location is separate and apart from the existing facilities owned and operated by Safeguard Automotive Corporation and supplied with electrical service by NWPS.

9.

That the location for construction of the new foundry to be operated by Safeguard Metal Casting Division is a new location which developed after March 21, 1975.

10.

That said location is located outside of the municipal boundaries of the City of Aberdeen as those boundaries existed on the 21st day of March, 1975.

11.

That the proposed location for the new foundry is situated in the assigned service area of NWPS pursuant to this Commission's Decision in Docket No. F-3111.

12.

That the assignment of this location to NWPS was in no manner disputed whatsoever by NEC, County of Brown, Commission Staff, or any other participant in Docket No. F-3111.

13.

That, while ultimate assignment of territory between NEC and NWPS is unresolved at this time in the Aberdeen city vicinity, there is no dispute whatsoever concerning the assignment of the proposed location for the new foundry to the service territory of NWPS.

14.

That as a result of this undisputed assignment of the proposed foundry location to the service territory of NWPS, Safeguard Metal Casting Division and NEC's Motions to Dismiss this proceeding are without merit and should, accordingly, be denied.

15.

That the electric service requirements for the load of the new foundry are substantial and are in excess of 2,000 kilowatts or more.

16.

That Safeguard Metal Casting Division's contracted engineer recommended that Safeguard Metal Casting Division could reasonably and properly enter an agreement for a contracted minimum demand of 2,000 kilowatts.

17.

That Safeguard Metal Casting Division's officials will enter into such an agreement for a contracted minimum demand of 2,000 kilowatts or more.

18.

That, in addition, the new foundry will, on the basis of engineering reports and testimony before this Commission, require a contracted minimum demand of 2,000 kilowatts or more.

19.

That the electric service requirements of the load of the new foundry are such that NEC will be able to serve that load at its Aberdeen Industrial Park Substation with minor adjustments to its system at insignificant cost.

20.

That NWPS will be able to meet the electric service requirements of the load to be served at the new foundry, but that it is unclear of record the extent and magnitude of changes NWPS will be required to make to its facilities in order to adequately and reliably accommodate that load.

21.

That NEC and NWPS have adequate power supplies to serve the requirements of the proposed new foundry and that such supplies are available to each said utility.

22.

That permitting NEC to serve the electric requirements of the new foundry would serve to substantially improve and develop the electric system of NEC and would benefit NEC's system; and that permitting NEC to serve the electric service requirements of the proposed new foundry will decrease the power costs on NEC's total system by improving NEC's load factor.

23.

That NEC will benefit from serving the electric service requirements of the proposed foundry in that such service will defray the costs of transmission for NEC's members.

24.

That substantial improvement will accrue to NEC's system by permitting NEC to serve the electric requirements of the proposed new foundry due to the increased utilization of NEC's facilities in and around the Aberdeen Industrial Park.

25.

That it is not clear of record whether NWPS will improve its system by being permitted to provide electric service to the new foundry, but that it is clear that any improvement to NWPS' system would be insignificant in comparison to the improvement to the electric system of NEC if NEC is permitted to serve the electric requirements of the new foundry.

26.

Both NEC and NWPS have facilities in the proximity of Aberdeen Industrial Park which will permit each said utility to provide the electric service of the type required by the proposed new foundry.

27.

That NEC has more adequate facilities at this time to serve the proposed new foundry than does NWPS due to the lower capacity existent at NEC's facilities in and around the Aberdeen Industrial Park.

28.

That Safeguard Metal Casting Division, Safeguard Automotive Corporation prefers to receive electrical service from NEC.

29.

That Safeguard Metal Casting Division, Safeguard Automotive Corporation prefers such service to be supplied by NEC due to the substantial economic benefits such service from NEC will provide Safeguard.

30.

That Safeguard Metal Casting Division, Safeguard Automotive Corporation prefers that NWPS not be given any consideration or right to serve its proposed new foundry in the Aberdeen Industrial Park.

31.

That Safeguard Metal Casting Division's preference for NEC is great and is unequivocal.

32.

That failure of Safeguard Metal Casting Division to obtain electric service from its preferred supplier may result in relocation of the proposed new foundry, and that such relocation would be to the serious detriment of NEC, NWPS, Safeguard Metal Casting Division, and the entire Aberdeen area.

33.

That upon consideration of the factors above set forth, Safeguard Metal Casting Division shall not be obligated to take electric service from NWPS, and that Safeguard Metal Casting Division may receive electric service from its preferred supplier, NEC.

34.

That the complaints lodged by NWPS against NEC are without merit and should, accordingly, be dismissed in light of the Commission's determinations herein.

35.

That that portion of NWPS's Motion to Strike relating to ~~extra-record~~ evidence is with merit and should be granted.

#### CONCLUSIONS OF LAW

I.

That the Commission has jurisdiction over the subject matter and parties to this proceeding.

II.

That Safeguard Metal Casting Division, Safeguard Automotive Corporation is a new customer at a new location which developed after March 21, 1975, and that said location is situated outside the municipal boundaries of the City of Aberdeen as the same existed on March 21, 1975.

III.

That Safeguard Metal Casting Division, Safeguard Automotive Corporation will require electric service with a contracted minimum demand of 2,000 kilowatts or more.

IV.

That NWPS is the electric utility having the assigned service area where Safeguard Metal Casting Division, Safeguard Automotive Corporation's foundry is to be situated.

V.

That on the basis of the factors set forth in SDCL 49-34A-56, the Commission determines that Safeguard Metal Casting Division, Safeguard Automotive Corporation shall not be obligated to take electric service from NWPS, but rather may take such service from its preferred electrical supplier, NEC.

VI.

That NEC's and Safeguard Metal Casting Division, Safeguard Automotive Corporation's Motions to Dismiss should be denied.

VII.

That NWPS's complaints filed in Docket No. F-3111 and herein should be denied.

VIII.

That NWPS's Motion to Strike extra-record material should be granted.

Upon the basis of the foregoing Findings of Fact and Conclusions of Law, it is hereby:

ORDERED, that the application of Safeguard Metal Casting Division, Safeguard Automotive Corporation for permanent service be, and the same hereby is, granted in its entirety; and it is

FURTHER ORDERED, that NEC shall be the electrical supplier for the electric requirements of Safeguard Metal Casting Division, Safeguard Automotive Corporation's proposed new foundry; and it is

FURTHER ORDERED, that all previous Orders of this Commission not inconsistent herewith be, and the same hereby are, incorporated as if set forth in full herein.

BY ORDER OF THE COMMISSION:

  
JOE NORTON, Executive Secretary

(OFFICIAL SEAL)

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of the Public Utilities Commission and that I have this day served the foregoing and attached document upon all parties of record in the proceeding by mailing a copy thereof, properly addressed, to each such party, to-wit:

- Dennis Maloney, Maloney, Kolker, Fritz, Hogan & Johnson, 205 Berkshire Plaza, 405 8th Avenue N.W., Aberdeen, S.D. 57401 (atty. for Safeguard)
- M. D. Lewis, Attorney, Northwestern Public Service Company, Huron, S.D. 57350
- A. U. Haugen, Manager, Northern Electric Cooperative, Box 457, Bath, S.D. 57427
- C. W. Hyde, Attorney at Law, 321 Citizens Building, Aberdeen, S.D. 57401 (atty. for Northern Electric)
- R. M. Schutz, Siegel, Barnett, Schutz, O'Keefe & Jewett, 500 Capitol Building, Box 1269, Aberdeen, S.D. 57401 (atty. for NWPS)
- V. G. Stoa, President, Aberdeen Development Corporation, 514 1/2 S. Main St., Aberdeen, S.D. 57401
- Ms. Kathy Just, Aberdeen American News, Aberdeen, S.D. 57401

(Press - 2)

Minutes 2

Comms 3

Della

Faye

Ben

Larry 2

Legal

Docket

(all others on regular service list)

Dated at Pierre, South Dakota, this 13th day of October, 1977.

Micki Loe