

Consumer braves maze, seeks NSP post

By Jim Fuller
Staff Writer

Alpha Smaby is taking the normal route in her attempt to become a consumer representative on the Northern States Power Co. (NSP) board of directors.

In so doing, Mrs. Smaby, 63, probably is the first consumer candidate for a corporate board to brave what are among the heaviest formalities and deepest mysteries of securities law and Securities and Exchange Commission (SEC) regulations to solicit proxy votes for her candidacy.

Many consumer advocates have been nominated for corporation directorships in recent years, but their nominations have been made by associates at company annual meetings, and they have not received many votes.

When an organization called the Coalition to Advocate Public Utility Responsibility (CAPUR) announced Feb. 14 that it would back Mrs. Smaby for the NSP board, most observers probably assumed that hers would be another such effort.

However, Mrs. Smaby, who served two terms in the Legislature in the

1960s, has filed a 4-page SEC form that puts her in the same class — legally — as the big time wheeler-dealer who tries to take over a corporation in a proxy fight.

From now until the May 9 NSP annual meeting, Mrs. Smaby and her supporters must weave through a maze of legal restrictions so tight that even statements made in interviews by reporters must be filed with the SEC.

Further, organizations and individuals actively engaged in helping her solicit proxies must file the 4-page SEC forms, on which they identify themselves,

describe any histories of past proxy fights, reveal their NSP stock holdings and provide other information at length.

If Mrs. Smaby and her attorney, William Mahlum, gauge her strength with any accuracy, more than 300 individuals plus representatives of about a dozen organizations will have to file the forms with the SEC.

CAPUR, which first raised Mrs. Smaby's name as a candidate, no longer is mentioned. In a recent interview, Mrs. Smaby

spoke only of a "consumer coalition" when the question of her support was raised.

It is possible that CAPUR — an organization of other organizations — could surface again if it files the required SEC statement, however.

Although apparent fear of violating SEC rules made Mrs. Smaby cautious in her statements, it was clear that the formal approach to her candidacy was chosen for reasons beyond making hers the first such consumer campaign in the country.

A major factor obviously is that a candidate in her new position must be given access to the company's list of shareholders, and even may be allowed to send a statement of her views to stockholders along with the company proxy statement. That statement is mailed to all stockholders about a month before the annual meeting. Whether the mailing privilege can be used is not yet clear, however.

The formal approach also may have the psychological effect of giving the former legislator's candidacy for the NSP board a legitimacy that it might not otherwise have in the eyes of the company's more conservative shareholders.

Mrs. Smaby, a Democrat who lost a strongly fought contest for the Minneapolis second-ward City Council seat to Republican

John Cairns in 1969, considers herself a serious candidate for the board. She is seeking to unseat any one of the present 14 directors.

As did CAPUR people earlier, Mrs. Smaby contends that the NSP board and its executives are business oriented to a degree that prevents their representing "89 percent of NSP's customers." She also maintains that 56 percent of the company's stockholders are small holders who are inadequately represented within the company.

The coalition supporting her "has found that the people in its member organizations do not feel that the NSP board of directors in any way represents their concerns," Mrs. Smaby said.

She also cited several examples of "questionable department" on the part of NSP, which she said demonstrate that the company puts its own interests ahead of the public good.

Among her accusations were "thermal pollution of the St. Croix River," chlorine discharges that have killed fish in the St. Croix, radioactive discharges into the Mississippi River and "arbitrary terminations of residential electrical service for those who were too poor to pay the electrical bills out of their limited incomes or had a legitimate dispute with the company."

She also faulted the company for land-use policies which she maintained have caused "undue hardship" for Indians on the Lac Court Orielles reservation in Wisconsin and she charged the company with "improper and flagrant use" of rights of eminent domain in the case of a proposed power plant near Henderson, Minn.

Mrs. Smaby's candidacy

may, at first, seem hopeless.

The company has 20.9 million common shares in the hands of 93,166 stockholders and 2.05 million preferred shares owned by 6,165 stockholders. Of the preferred shares, 275,000 carry three votes each.

Under normal circumstances, the great majority of shareholders of a company that has done well financially, as has NSP, will

be content to ride with present management. But Mrs. Smaby has some things going for her that most other consumer candidates for corporate directorships have not had.

Among them are her maturity and her experience in public affairs. Another is the large number of small investors who hold NSP stock. Still another is the fact that NSP has a cumulative voting system.

The cumulative system means that any shareholder may multiply the number of shares he or she owns by the number of directors to be elected and use all of those votes for one candidate.

If Mrs. Smaby's supporters cast all of their votes for her, while others spread their votes among the management nominees, she could compile a sizeable vote.

NSP officers, asked to comment on Mrs. Smaby's candidacy, said only that they have received no notice from the SEC that she has filed for a seat on their board.

"We have no further comment at this time," a spokesman said.



Alpha Smaby

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