

Denial

BEFORE THE MUNICIPAL COMMISSION  
OF THE STATE OF MINNESOTA

Robert W. Johnson	Chairman
Arthur R. Swan	Vice Chairman
Robert J. Ford	Member
Laurence Wagner	Ex-Officio Member
W. A. Nibbe	Ex-Officio Member

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IN THE MATTER OF THE RESOLUTION )	<u>FINDINGS OF FACT,</u>
OF THE BOARD OF SUPERVISORS OF )	<u>CONCLUSIONS OF LAW,</u>
THE TOWN OF BURNSIDE FOR THE INCOR- )	<u>AND ORDER</u>
PORATION OF THE TOWN OF BURNSIDE )	
MUNICIPAL COMMISSION DOCKET I-38 )	

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The instant proceeding is one of three proceedings involving the Town of Burnside and the City of Red Wing which were consolidated by the Commission for hearing. Commission Docket Numbers for these proceedings together with a description of the proceeding is as follows: C5-mt Red Wing - Burnside consolidation; I-38 Burnside Incorporation; A-1850 Red Wing annexation of Burnside. The matters came on for hearing before the Municipal Commission on July 10, 1970, August 11, 1970, August 12, 1970, August 13, 1970, and September 2, 1970. The City of Red Wing appeared by its attorney, Charles Richardson. The Township of Burnside appeared by its attorneys, Samuel H. Hertogs and Fred Burstein. The Burnside Community Development Association and the petitioners for consolidation appeared by their attorney, Richard Johnson. Northern States Power Company appeared by their attorney David McGannon and later by its attorney, Raymond A. Haik. Opportunity was also afforded interested persons not represented by attorney to make statements pertaining to the matters before the Commission.

The Commission having considered the evidence and the arguments of counsel and being fully advised, now makes the following Findings of Fact, Conclusions of Law and Order:

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FINDINGS OF FACT

1. The resolution of the City Council of Red Wing and the petition by certain property owners resident in Burnside for consolidation of the Township of Burnside and the City of Red Wing into a single new municipality were filed on April 30, 1970, and June 8, 1970, pursuant to and in compliance with Minnesota Statutes, Chapter 414, and said petition and resolution were in all respects proper in form, contents, execution and filing. The area proposed for consolidation is the entire Town of Burnside and the entire City of Red Wing. (MMC C5-mt)

2. The resolution of the Board of Supervisors of Burnside Township for the annexation of the entire unincorporated Township of Burnside with the City of Red Wing was filed on June 9, 1970, pursuant to and in compliance with Minnesota Statutes, Chapter 414, and was in all respects proper in form, contents, execution, and filing. (MMC A-1850)

3. The resolution of the Board of Supervisors of Burnside Township for the incorporation of the Township of Burnside as a village was filed on July 6, 1970, pursuant to and in compliance with Minnesota Statutes, Chapter 414, and was in all respects proper in form, contents, execution, and filing. The area proposed for incorporation is the entire Town of Burnside. (MMC I-38)

4. Due, timely, and adequate legal notices of the hearing ordered by the Minnesota Municipal Commission were properly published, served, and filed.

5. The instant proceeding came on for hearing on August 11, 1970, at which time it was consolidated with Minnesota Municipal Commission proceeding C5-mt and A-1850. Further consolidated hearings were held on August 12, 13, and September 2, 1970. The hearings were properly held by a lawful quorum of the Commission. The hearings were closed and the matter taken under advisement.

6. A Petition of the Northern States Power Company for Further Hearings was filed pursuant to Minnesota Municipal Commission Rules of Procedure 14 (a) with the Commission on December 11, 1970. The petition came on for hearing on December 23, 1970. The petition was duly denied by the Commission.

7. A Petition of the Town of Burnside for Further Hearings and a Supplementary Petition of the Town of Burnside for Further Hearings were filed pursuant to Minnesota Municipal Commission Rules of Procedure 14 (a) with the Commission on March 11, 1971. The petitions were duly denied by the Commission.

8. The Commission is concurrently issuing its order on Minnesota Municipal Commission Docket C5-mt which order consolidates the entire Town of Burnside and the entire City of Red Wing into a new City of Red Wing.

#### CONCLUSIONS OF LAW

1. The Commission duly acquired and now has jurisdiction of this proceeding.

2. The incorporation herein requested should be denied.

ORDER

IT IS HEREBY ORDERED: That the incorporation herein requested  
be denied.

Dated this 9<sup>th</sup> day of April, 1971

MINNESOTA MUNICIPAL COMMISSION  
304 Capitol Square Building  
St. Paul, Minnesota 55101

*Bruce Rasmussen*

Bruce Rasmussen  
Executive Secretary

#22380  
STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
APR 15 1971  
*Arlen J. Edvall*  
Secretary of State