

Service Date: July 3, 1996

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF the Submission of)	UTILITY DIVISION
Montana-Dakota Utility Company's)	
1995 Integrated Electric Least)	DOCKET NO. D95.9.135
Cost Resource Plan.)	ORDER NO. 5916

FINAL ORDER

BACKGROUND

1. Montana-Dakota Utilities (MDU or Company) filed its 1995 electric integrated least cost resource plan (IRP or plan) on September 15, 1995, pursuant to Section 69-3-1204, MCA and ARM 38.5.2001-2012. On October 11, 1995, the Public Service Commission (PSC) issued a Notice of Filing of Least Cost Plan, Notice of Comment Deadline and Notice of Opportunity for Public Hearing. In December 1995 the Montana Consumer Counsel (MCC) and the Department of Environmental Quality (DEQ) each submitted written comments on MDU's plan. No requests for a public hearing were received.

2. The goal of the PSC's integrated resource planning guidelines (ARM 38.5.2001-2012) is to encourage electric utilities to meet their customers' needs for adequate, reliable and efficient energy services at the lowest total societal cost, while remaining financially sound. The PSC's guidelines provide utilities policy and planning guidance; they do not require specific outcomes or mandate investments.

3. MDU's planning process involves several steps. First the Company develops a forecast of future loads and conducts separate analyses of the available demand-side and supply-side resources that could be used to satisfy those loads. Then the best demand-side and supply-side resources are integrated in order to develop a resource plan and a near term action plan that satisfies specific planning criteria. MDU develops plans from two different perspectives: the ratepayer perspective and the societal perspective. Plans developed from the ratepayer

perspective are designed to minimize the levelized average system rate while plans developed from the societal perspective are designed to minimize the present value of societal costs. For its 1995 plan, MDU selected a plan that best minimizes average system rates.

SUMMARY OF WRITTEN COMMENTS

Montana Consumer Counsel

4. According to MCC, MDU's 1995 plan lacks adequate transparency concerning how the Company designed and analyzed its demand-side resource programs. MCC used MDU's residential weatherization program as an example. MCC stated that the weatherization program fails all cost effectiveness tests. However, MDU's plan does not discuss how individual DSM measures were combined to create the weatherization program or whether the efficiency level the program is designed to achieve is optimal. Further, there is no discussion of the base efficiency level of homes that would be targeted by the program. Without such information, MCC does not believe MDU's demand-side resource analysis can be properly evaluated.

5. MCC stated that the weatherization program provides an example of the kind of information that is lacking throughout all of MDU's demand-side resource analysis. MCC asserted that MDU has failed to satisfy the technical requirements as well as the spirit and intent of the PSC's resource planning guidelines and recommended that the PSC notify MDU that its 1995 plan is deficient.

Department of Environmental Quality

6. DEQ stated that MDU's 1995 plan represents a major improvement compared to the 1993 plan. DEQ complimented MDU for considering environmental externalities, evaluating resource plans from a societal cost perspective and evaluating load growth uncertainty through high and low load growth scenarios. However, DEQ remains concerned with MDU's focus on the ratepayer perspective to select the final resource plan and action plan. DEQ also has concerns with MDU's demand-side resource and load forecasting analyses.

7. DEQ stated that the two optimal resource plans ultimately evaluated by MDU are quite similar. However, the plan that minimizes rates acquires an additional 14 MW of peak capacity, primarily because of strategic marketing programs. The rate minimization plan also

comes at an additional cost to society of \$20 million. DEQ recommended that the PSC direct MDU to minimize societal costs when selecting the final integrated resource plan and developing the action plan.

8. DEQ stated that most of MDU's DSM programs focus on strategic marketing. According to DEQ, these marketing programs represent a cost to society because they advance the need for new generation. DEQ stated that MDU's assertion that strategic marketing programs decrease the average cost to society of producing a megawatt-hour of electricity incorrectly assumes that capacity has no value.

9. Like MCC, DEQ found that MDU's demand-side analysis lacks adequate transparency. DEQ stated that MDU's plan should discuss the specific reasons for passing or failing DSM measures in the screening process. DEQ also believes that MDU should show how each DSM measure's maximum potential is derived and how administrative costs and rebates are determined. DEQ recommended that MDU address these issues in the 1997 plan.

10. In written comments on MDU's 1993 plan DEQ stated that the Company appeared to be over-forecasting. DEQ still questions whether MDU's base case forecast may be overestimated in the 1995 plan. DEQ stated that it appears that MDU manipulates some inputs in order to get results it feels are reasonable and, therefore, recommended that the Commission direct MDU to review its load forecasting methods, including a sensitivity analysis of model inputs. DEQ also recommended that the Company determine the sensitivity of its load forecast to a retail wheeling scenario, in which the Company loses and gains a large industrial customer.

11. DEQ is satisfied with how MDU reviewed and incorporated environmental externalities into the resource planning process. However the effects of environmental externalities are only incorporated into the societal cost plan while MDU's selected plan and action plan are based on the lowest average rate plan. DEQ recommended that the PSC direct MDU to consider environmental externalities in selecting the action plan.

12. MDU's 1995 plan does not include an analysis of how the transmission and distribution system could be improved. DEQ recommended that the PSC direct MDU to incorporate transmission and distribution planning, and develop the capability to calculate marginal cost-based transmission prices for the 1997 plan.

COMMISSION DISCUSSION AND DECISION

13. The PSC agrees with DEQ that MDU's 1995 plan represents a significant improvement compared to the 1993 plan. In particular the PSC appreciates the Company's efforts to incorporate a societal perspective into the planning process. The PSC also commends MDU on establishing a public advisory group that participates in the planning process. Nevertheless, further improvements in MDU's planning process are possible.

14. The PSC's resource planning guidelines are designed to promote planning from a societal perspective. Therefore, the discussion of MDU's 1995 resource planning process focuses primarily on the demand-side, supply-side and integration analyses associated with the societal cost plan, which MDU calls Plan AB.@ Aspects of the 1995 plan that are inconsistent with the Commission's guidelines are identified and MDU is asked to address these inconsistencies in its 1997 planning process.

Demand-Side Analysis

15. The PSC agrees with written comments that there is inadequate documentation of the assumptions underlying DSM program design. In addition to shortcomings identified in the comments, the PSC notes several other concerns.

16. MDU's screening process passes each program through a computer model called DSManager. Several key inputs to this computer model, such as the connected load and annual energy use for typical residential appliances, appear to be based on national averages rather than on the specific characteristics of MDU's service territory. MDU should examine whether using data specific to its service territory would significantly affect the screening results.

17. In deciding which programs to include in its integration analysis, MDU relies on two cost effectiveness tests: the Ratepayer Impact Test (RIM) and the Societal Cost Test (SCT). Based on the RIM test MDU selected nine residential programs designed to encourage consumption in off-peak times or shift consumption to off-peak periods. Based on the SCT, MDU selected five residential programs designed to reduce peak consumption and promote conservation. The RIM test attributes reduced revenues from DSM programs (due to a reduction in electricity sales) to the costs of the program. This aspect of the RIM test is inconsistent with the PSC's resource planning guidelines. However, since the RIM test was only used to select

strategic marketing programs and not conservation programs, the results of the screening analysis may not have been adversely affected.

18. The PSC questions the benefits MDU attributes to its strategic marketing efforts. The PSC's resource planning guidelines encourage utilities to engage in efficient, economic and cost effective marketing programs and to evaluate all marketing efforts consistently with the overall goal of the guidelines (ARM 38.5.2009). There is theoretical support for encouraging consumption in off peak periods if it allows existing facilities to be operated more efficiently. However, MDU's marketing efforts do not appear to have this result. The five residential strategic marketing programs that MDU includes in the integration analysis are shown in Table No. 1 along with MDU's calculated benefit-cost ratios.

Table No. 1

PROGRAM	BENEFIT - COST RATIO			
	RIM	Societal	Utility	Participant
Promote electric space heat over propane	2.07	0.0	0.0	0.52
Promote electric water heating over propane	2.14	0.0	0.0	0.53
Promote outdoor lighting	2.69	0.0	0.0	0.0
Promote interior car warmers	2.54	0.0	0.0	0.0
Promote portable electric space heaters	1.68	0.0	0.0	.27

19. Based on the benefit-cost ratios shown in Table No. 1, the residential marketing programs are cost effective using the rate impact test. However, none of the programs provide any benefits to either the utility or society, in fact there are net costs. And although the low benefit-cost ratios that result from the participant cost test may not reflect the full benefits participants would receive through the program, given that MDU cannot quantify any production cost benefits from the program induced consumption, the PSC seriously questions the

Company's decision to incur additional costs to encourage such consumption. A review of the commercial strategic marketing programs showed similar results.

20. Since MDU did not illustrate the efficiency gains it attributes to its strategic marketing programs, the PSC does not consider the programs, as currently structured, to be consistent with the PSC's IRP guidelines.

Supply-Side Analysis

21. MDU's supply-side analysis focuses on identifying the best supply-side resource alternatives. The analysis relies on a generation expansion computer model called EGEAS which identifies the best way to expand generating capability given various assumptions about future consumption and the costs of alternative power supply options. The model selects resource alternatives in order to minimize the present value of future revenue requirements.

22. MDU's base case load forecast indicates that the Company will not need additional resources until 1999, when it will require additional summer peak capacity. MDU's supply-side analysis considered various ways to satisfy its additional needs, including purchases from other members of the Mid-Continent Area Power Pool (MAPP), conventional coal fired generating plants, natural gas fired combustion turbines, pumped storage hydroelectric facilities, renewable generating technologies such as wind and solar, and life extensions or additions to existing facilities. MDU's supply-side analysis indicated that the best incremental resources are power purchases from MAPP, Turbine Ice Peak Power additions to the Company's two combustion turbines¹, new combustion turbines and compressed air energy storage units.²

23. The most obvious inconsistency between the supply-side analysis and the IRP guidelines is MDU's failure to evaluate its reserve margin. MDU maintains a 15% reserve margin as required by MAPP. However, the IRP guidelines suggest that, regardless of

¹ Turbine Ice Peak Power units use off-peak energy to make ice. The ice is then used to cool the air flowing into the combustion turbine during peak periods, for example on a hot summer day. The colder air increases the performance of the CT.

² Compressed air energy storage units use off-peak energy to compress air into an underground storage facility. During peak periods the compressed air is released through a combustion turbine. Since the air has already been compressed the CT does not have to perform this function which reduces the cost of running the CT.

participation in reserve margin pooling groups, a utility should evaluate its reserve margin as part of its least cost planning efforts (ARM 38.5.2006). Optimizing the reserve margin may become more important for utilities as the electric industry restructures because as generation sources begin to compete against one another the nature of power pools may change. MDU's projected base case load projection for 1999, plus a 15% reserve margin, only exceeds its resource capability by 0.1 MW.³ If the optimal reserve margin were less than 15% MDU might be able to defer the need to acquire additional resources.

24. Additionally, although MDU stated that it considered transmission costs associated with connecting new supply side resources to the grid, it is unclear whether siting costs were considered. It is also unclear whether the Company evaluated the risk of future environmental regulations on the cost of acquiring new supply-side resources as well as on the cost of operating existing resources.

Integration Analysis

25. MDU's integration analysis produces resource plans by combining, in various ways, the demand- and supply-side resources that passed the screening analyses. MDU developed resource plans using two different objectives. First, plans were developed with the goal of minimizing the levelized average system rate over the 20-year planning period. Another set of plans was developed to address the PSC's Order on MDU's 1993 plan by minimizing the present value of societal costs.

26. MDU stated that, in response to the PSC's order on the 1993 IRP, a 15% cost adder was used to account for environmental externalities. To be clear, the PSC's IRP guidelines do not suggest applying any cost adders to account for environmental costs. The guidelines do suggest that conservation resources should be considered cost effective up to 115% of the Company's avoidable costs. However, this guideline is designed to address market failures and market barriers that prevent both the utility and its customers from optimally investing in conservation. The guidelines encourage utilities to account for external environmental costs, both quantitatively and qualitatively, but leave the decision on how best to

³ MDU Integrated Resource Plan, Section 4, p. 18.

accomplish this to the utilities. The PSC ' s Order on MDU ' s 1993 plan did not direct the Company to implement a 15% cost adder to reflect external environmental costs.

27. In developing the lowest societal cost resource plan, MDU appears to assume that, aside from administrative costs associated with advertising and promotion, all demand-side program costs are born by participants.⁴ This assumption may be inappropriate from a societal perspective because it may not fully reflect the program ' s value to the utility or society. Further, the program costs appear to be modeled such that the participant is required to pay the full amount of the conservation measures up front.⁵ Both of these assumptions may reduce participation levels and, as a result, too little conservation would be acquired from a societal cost effectiveness perspective.

28. MDU ultimately must decide between two alternative resource plans, one developed with the objective of minimizing system average rates (Plan AA@) and the other with the objective of minimizing societal costs (Plan AB@). These two plans differ mainly in how demand-side resources are used. Plan AA@ begins by implementing strategic marketing programs in 1996. In 2000 conservation and load shifting programs are implemented and a turbine ice peak power (TIPP) unit is installed. Another turbine ice peak unit is installed in 2008.

⁴ MDU Integrated Resource Plan, Section 5, p 8. From a societal cost perspective DSM costs include utility administrative costs, customer capital costs and customer O&M costs. Utility administrative costs include advertising and promotion. Customer capital costs include expenditures by the customer "to purchase and install the equipment needed to participate in the program."

⁵ MDU Integrated Resource Plan, Section 5, p. 8. MDU states that the customer capital cost is treated as a one time cost in the year of installation.

29. In contrast, Plan AB@ begins by implementing conservation programs in 1996. No strategic marketing programs are implemented and the need to install the turbine ice peaking units is avoided. Table No. 2 shows the resources acquired under each resource plan.

Table No. 2

YEAR	RESOURCE ACQUIRED	
	Plan AA@	Plan AB@
1996	Strategic Marketing	Conservation
1999	MAPP Power Purchase	MAPP Power Purchase
2000	Conservation/load shifting/TIPP	-----
2002	Combustion Turbine	Combustion Turbine
2007	2 Combustion Turbines	2 Combustion Turbines
2008	Turbine Ice Peaking Power	Combustion Turbine
2009	Combustion Turbine	-----
2013	-----	Combustion Turbine
2014	Combustion Turbine	-----

30. Based on a comparison of the costs and average system rates of Plan AA@ and Plan AB@ from the societal perspective, MDU found that Plan "B" is about \$20 million less costly than Plan "A." The average system rates for Plan "A" and Plan "B" are about 83 mills/kwh and 84 mills/kwh, respectively. In other words, average rates would be about 0.1 cents per kwh lower with Plan "A."

31. MDU believes that Plan "A's" lower average system rate means that, compared

to Plan AB@, the average cost to society of producing a unit of electricity is also lower.⁶ MDU suggests that this results from implementing strategic marketing programs that enable the generation system to be used more efficiently. However, as discussed in the context of MDU's demand-side analysis, the strategic marketing programs do not appear to create any benefits to either the Company or to society. Further, the average costs of the two plans are not directly comparable because each plan produces a different quantity of electricity.⁷ If additional capacity is available, Plan "B's" average costs might decline if production were expanded to serve the same level of demand implicit in Plan AA.@ Absent more information, MDU's suggestion that Plan "A's" lower average rate equates to a lower average per unit cost to society is questionable.

32. MDU selected Plan AA@ as its 1995 integrated resource plan. MDU feels that ratepayers will be better off with this plan because average system rates are lower. The PSC's IRP guidelines are not intended to determine the outcome of a utility's planning process nor to mandate investment decisions (ARM 38.5.2001 (4)). MDU complied with the PSC's guidelines by producing a plan that minimizes societal costs, although certain aspects of the societal cost planning process are inconsistent with the guidelines.

33. MDU's 1995 planning process provides the PSC and the public a clearer picture (compared to the 1993 plan) of the societal impacts of the Company's choice to pursue a plan that minimizes average system rates. The indications are that society would incur significantly higher costs under MDU's selected plan, but MDU's ratepayers would only see average rates that are 0.2 cents per kwh lower over 20 years.⁸ The PSC urges MDU to reconsider whether its

⁶ MDU Integrated Resource Plan, Chapter 5, p. 40.

⁷ Average cost = Total cost/quantity demanded. If quantity demanded remains constant then increasing total cost increases average cost. Therefore, since Plan "A" has a higher total cost than Plan "B", Plan "A" would also have to have a higher quantity demanded just to keep the average costs of the two plans equal. For Plan "A's" average cost to be lower than Plan "B's", Plan "A's" quantity demanded would have to be even higher.

⁸ MDU Integrated Resource Plan, Chapter 5, p. 35. A comparison of the two plans from the ratepayer impact perspective showed that Plan "B's" average system rate was about 0.22 cents per kWh higher than Plan "A's."

ratepayers are actually better off when the Company purports to give them lower rates by urging them to use more and pay higher bills through Company-promoted measures that do not provide any utility system or societal benefits.

PSC RESPONSE

34. Although MDU's 1995 integrated resource planning process represents a significant improvement over the 1993 plan, MDU's societal cost planning process is inconsistent with the PSC's planning guidelines as follows:

1. The plan does not contain adequate documentation of the underlying demand-side resource program designs and screening criteria (ARM 38.5.2005);
2. The plan does not contain adequate documentation and analyses which address the use of rate design as a demand-side resource (ARM 38.5.2008);
3. The planning process did not involve an evaluation of an optimal reserve margin (38.5.2006);
4. The Company's strategic marketing programs do not appear to improve system efficiency and do not appear consistent with the overall goals of the PSC's integrated resource planning guidelines (ARM 38.5.2001 and 38.5.2009).

35. MDU should address these deficiencies in its 1997 planning process. In addition, the PSC agrees with DEQ that MDU should incorporate transmission and distribution planning, review its load forecasting assumptions and inputs, and analyze and discuss the potential impacts of retail competition in its 1997 planning process.

CONCLUSIONS OF LAW

1. Montana-Dakota Utilities Company is a public utility subject to the jurisdiction of the Montana Public Service Commission pursuant to title 69, Chapter 3, MCA.

2. The Montana Public Service Commission may require public utilities providing electric service to file plans for meeting the requirements of its customers (integrated least cost resource plans) in the most cost effective manner consistent with the utility's obligation to serve. § 69-3-1204 (1), MCA.

3. The Montana Public Service Commission may adopt guidelines to be used in preparing integrated least cost resource plans. § 69-3-1204 (3), MCA.

4. If integrated least cost resource plans do not meet the requirements of the Commission's guidelines, the Commission must return the plan to the utility with a list of deficiencies and a time certain to submit a corrected plan. § 69-3-1204 (3), MCA.

5. The Montana Public Service Commission has adopted integrated least cost resource planning guidelines for electric utilities. ARM 38.5.2001-2012.

ORDER

1. Montana-Dakota Utilities Company is hereby directed to incorporate the suggestions and comments made in this order into its 1997 integrated least cost resource plan.

2. This docket is hereby closed.

Done and dated this 18th day of June, 1996, by a 4-1 vote.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

NANCY McCaffree, Chair

DAVE FISHER, Vice Chair

BOB ANDERSON, Commissioner

DANNY OBERG, Commissioner
WRITTEN DISSENT ATTACHED

BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.

Dissent of Commissioner Danny Oberg
Order No. 5916
Docket No. D95.9.135

It is a bad plan that admits of no modification.

--Publilius Syrus
Maxim 469

Critics are like eunuchs in a harem: they know how its done, they've seen it done everyday, but they're unable to do it themselves.

--Brendan Behan

To see what is in front of one's nose is a constant struggle.

-George Orwell

A foolish consistency is the hobgoblin of little minds, adored by statesmen and philosophers and divines. With consistency a great soul simply has nothing to do. He may as well concern himself with his shadow on the wall. Speak what you think now in hard words and tomorrow speak what tomorrow thinks in hard words again, though it contradicts everything you said today.

-Ralph Waldo Emerson

I find that I must respectfully dissent from the majority decision. It is difficult to argue against the logic or details as outlined. The analysis is a carefully laid out critique of Montana Dakota's filing and the Commission analysis. The findings are consistent with the Commission's rules for Integrated Resource Planning as contained in the administrative rules of Montana.

Having said that, I find the conclusions reached by the Commission to criticize Montana Dakota are erroneous as they fail a common sense test. As policy makers with both judicial and legislative responsibilities the Commission must use its experience and a test of reasonableness to determine whether the utility is in substantial adherence to the intent and spirit of the law. Rules are designed to be complied with, but the strict interpretation of the laws as it applies to the specific and unique facts of Montana Dakota results in a conclusion that is nonsensical.

Integrated Resource Planning (a.k.a. least cost planning) is a substantial rewrite of the fabled regulatory compact that has been entered into by the industry and the regulator to avoid both rate shocks from new plant construction for ratepayers and lessen the risk of investment recovery for the shareholder. As part of that tradeoff the regulator also insisted on recognition of environmental and societal impacts of new plant additions. However, the clear intent of the new rules was to achieve least cost rate impacts on the ratepayer by explicitly requiring the utility to carefully consider rate impacts in resource acquisition.

Montana Dakota is a unique electric utility under the Montana Commission's jurisdiction. Unlike other major Montana utilities Montana Dakota has not been before this Commission for nearly a decade for a rate increase. While this has largely been a result of declining load and population in its service territory one must recognize prudent management to overcome the expected results of inflation and other production cost increases.

In its analysis of this case the Commission failed to ask itself some basic questions:

1. Is there a problem that needs to be cured? Has Montana Dakota or its ratepayers been experiencing rate impacts in the past from misguided resource decisions? Does it appear Montana Dakota ratepayers will be seriously jeopardized in the near future by Montana Dakota management and resource acquisition policies that will result in serious impacts? .
2. Will ratepayers be made better off or worse off by rejection of Montana Dakota's Integrated Resource Plan?
3. Is the action ordered by the Commission more adverse to ratepayers than the strategy outlined by the utility? Could it be that the proposed cure is worse than the disease itself?

4. Does a strict interpretation of the rules in its entirety make sense in the present environment or must the Commission balance other considerations to arrive at a conclusion in the public interest?

It is these broad common sense questions that lead me to the conclusion that the majority erred in criticizing Montana Dakota's plan. Those who argue that the rules must be strictly applied ignore the Commission's broader public mandate to balance conflicting policy choices and yield just and reasonable rates. It is my belief that the Commission's conclusions as entered into in this order will result in higher rates ultimately for the consumer and accomplish little in furthering the goals of the Commission's Integrated Resource Planning Rules.

I believe there is no problem at Montana Dakota that must be cured. The utility management has been able to hold rates stable, avoid costly plant acquisition through enhancements at its Lewis Plant and through cost containment. Montana Dakota deserves to be commended or at least recognized for achieving the intent least cost planning. It should not be chided and criticized for its job in protecting ratepayers and keeping itself financially sound. Nowhere in the majority order do I read of Montana Dakota's success at holding rates stable over such a long period of time and avoiding plant additions. In failing to recognize this success story, the Commission looks foolish indeed criticizing policies that have resulted in no need for rate relief. Consumers have just cause to wonder who friend and foe are. One certainly might be confused if this order is used as the guidepost.

Finally, I believe the Commission's strict constructionist interpretation ignores the economic realities of the emerging competitive market place. Former fat monopolies are currently on a painful and difficult crash diet to become least cost providers in the marketplace. They are doing this not to comply with any administrative rule, but rather as a question of survival. Efficiencies in operating are being achieved that regulators have not been able to achieve with any of their regulatory rules including integrated resource planning. In its consideration of Montana Dakota's Integrated Resource plan the Commission failed to recognize the realities of today. When adopted, no matter how well intended, integrated resource planning rules were designed to

fix a problem of the past. Now in its application of the rules, the Commission has compounded its error by failing to recognize the adverse consequences of its effect in the future as it damages the competitiveness of the utility in the marketplace. Strict adherence to Integrated Resource Plan rules without proper balancing to real world present effects and future consequences reminds of an old medical joke in which a doctor boasted "The operation was a success, but the patient died." In its application of integrated resource rules the Commission might cause rates to go up, might harm future competitiveness of the utility and presents a cure worse than the disease.

Montana Dakota's Integrated Resource Plan is in the best interest of current and future ratepayers. The Commission failed its balancing responsibilities for not recognizing in its order and should have only mildly rebuked the utility for its minor infractions of the letter of the rules.

Enforcement of rules is not solely a mechanical process. It demands that the policy maker use judgment and its knowledge to apply the rules to the bigger picture. The majority order fails in that obligation and can be considered neither reasoned nor reasonable.

Danny Oberg
Commissioner