

Gary Hanson, Chair
Steve Kolbeck, Vice Chair
Dustin Johnson, Commissioner

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

500 East Capitol Avenue
Pierre, South Dakota 57501-5070
www.puc.sd.gov

Capitol Office
(605) 773-3201
1-866-757-6031 fax

Warehouse
(605) 773-5280
(605) 773-3225 fax

Consumer Hotline
1-800-332-1782

February 13, 2008

Mr Richard Helsper
Glover & Helsper, PC
415 8th Street South
Brookings, SD 57006

Re: Brookings Municipal Utilities

Dear Mr. Helsper:

Thank you for your February 1, 2008 correspondence. I agree with your interpretation regarding municipal annexation. After taking note of the statutes and your argument, I agree municipalities have a statutory right to annex. Municipalities also have a statutory right in SDCL 49-34A to purchase the facilities of the previous utility within the annexed area. Only when purchase price becomes an issue does it appear the Commission is involved in electric territory changes resulting from annexation.

Regardless of Commission approval authority, however, it is necessary for all utilities to file territory maps with the Commission upon any change. The Commission has been charged with electric service territory mapping. We must, therefore, have updated maps to reflect the correct boundaries. Prior to your recent data submission, our files do not reflect informational filings of several Brookings annexations and subsequent electric territory changes. We appreciate your client's complete data response. All such material submitted in accordance with Staff's request will aid the Commission in updating the Brookings Municipal Electric and Sioux Valley Electric territory maps on file.

All electric territory boundary changes other than those resulting from annexation remain under Commission regulation. It appears from the material provided by your client that three areas are currently served by Brookings Municipal Electric, yet are not annexed. Specifically, please see the description below:

- 1) Agreement for Sale of Property and Transfer of Service Territory between the City of Brookings and Sioux Valley-Southwestern Electric Cooperative, Inc.

The Agreement is a result of Brookings Resolutions 19-04 and 44-04 and is labeled A05.1. The legal description for this territory not annexed by Resolutions 19-04 or 44-04 but included in Territory Agreement A05.1 and currently being served by Brookings is:

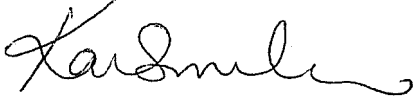
Outlot F in the SW ¼ of Section 20-T110N-R49W and Outlot G in the SW ¼, SW 1/4 of Section 20-T110N-R49W, all in the County of Brookings, State of South Dakota.

- 2) Agreement for Sale of Property and Transfer of Service Territory between the City of Brookings and Sioux Valley-Southwestern Electric Cooperative, Inc. The Agreement is a result of Brookings Resolution 38-03 and is labeled A03.3. Resolution No. 38-03 annexed the NW ¼ of Section 6-T109N-R49W except the two platted sections whereas Agreement A03.3 includes the two platted sections.

Additionally, in 1994 it appears from a November 21, 1994 Agreement that Brookings purchased an electric power line from Sioux Valley Electric. The power line is located outside city limits. As I understand it, however, the line only serves customers located in city limits in areas previously annexed. I do not therefore believe the 1994 purchase falls within Commission approval. In the event Brookings serves customers out of city limits through the use of this line or annexes additional territory served by this facility, I believe it is possible that the 1994 purchase agreement also falls within Commission approval. Please advise Staff if the line currently serves any customers located outside city limits.

Territory changes one and two above and possibly the 1994 purchase agreement fall under the Commission's authority according to SDCL 49-34A-55. I suggest we dismiss the current docket (EL07-010) and Brookings make a filing to address the above electric territory changes that do require Commission approval. Thank you for your assistance. Please advise if you agree regarding my proposed procedural plan.

Thank you.



Kara Semmler
Staff Attorney

cc. Nathan Solem