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SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

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September 27, 2010

Patricia Van Gerpen
SD Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501

Re: EL10-013 – In the Matter of the Petition of TSP Sioux Falls LLC Requesting a Formal Interpretation and Decision Regarding Metering Requirements for Renovations

Dear Ms. Van Gerpen:

Earlier this month, TSP Sioux Falls, LLC (“TSP”) contacted the Commission in an attempt to determine metering requirements for a planned renovation. Upon Staff’s review of the applicable rules, it appears TSP may qualify under an exception to individual metering requirements. According to ARSD 20:10:26:04(6), the individual metering requirements do not apply:

*For multiple-occupancy buildings which have central heating or cooling systems, central ventilating systems, or central water heating systems. **However, the applicant shall notify the commission so it may determine whether the applicant's system falls within this exception or whether the applicant is required to file an application for a variance.***

The last sentence of the above rule requires the Commission to make an official determination of the exception following formal notice. Since the rule identifies the “commission,” this rule is subject to several interpretations of the Commissioners needed involvement. In past cases, it has been interpreted as only needing Staff approval. Given the clear-cut list of exemptions, that method may be the most reasonable and expeditious.

Staff would recommend the Commission determine that the electric utility systems of the building qualify as an exemption to individual metering requirements under 20:10:26:04(6). Furthermore, if the Commission agrees that official Commission determination in this matter is unnecessary, Staff would recommend the Commission direct Staff to open a rulemaking docket to remove this requirement.

Sincerely,
/S/ Brian Rounds
Brian Rounds

Cc: Mr. Roger Nikolas (electronically)