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*South Dakota*

**PUBLIC UTILITIES COMMISSION**

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April 19, 2013

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

**Re: EL13-004 – In The Matter of the Request for a Declaratory Ruling Regarding the Electric Service Territory Boundary Between Charles Mix Electric Association, Inc. and Northwestern Corporation dba Northwestern Energy**

Dear Ms. Van Gerpen:

On February 14, 2013, the South Dakota Public Utilities Commission received a filing from Charles Mix Electric Association, Inc. (CME) requesting a Declaratory Ruling regarding the Electric Service Territory Boundary between CME and NorthWestern Corporation dba NorthWestern Energy (NorthWestern) in a newly annexed area in Platte, SD.

The dispute involves the north-south territorial boundary located in southwest Platte, SD, encompassing the residential development known as "Sunset Acres." CME believes the entirety of the Southwest Quarter of the Northeast Quarter of Section 23 of Township 99 North, Range 66 West lies in their service territory, placing the boundary at the 1/16<sup>th</sup> line. NorthWestern, however, believes the boundary lies at the 1/64<sup>th</sup> line to the west, splitting the Southwest Quarter of the Northeast Quarter in half.

Upon review of the filing, Commission Staff believes NorthWestern is correct and that the boundary lies at the 1/64<sup>th</sup> line.

With Staff's filing, there are now three maps presented in this docket, all similar but none identical. The map submitted by Charles Mix and signed by both parties is the most indistinct. First of all, the boundary in question is not drawn as a straight line, and is further east at the north end than it is at the south. Second, while it is clear NorthWestern occupies more territory in Section 23 than in Section 24, the boundary in question appears to line up with the north-south boundary in Section 11, which is at the 1/16<sup>th</sup> line. The north-south boundary in Section 24, however, appears to be further west than the north-south boundary in Section 12, indicating one of those boundaries lies at the 1/16<sup>th</sup> line and one at the 1/64<sup>th</sup> line. However, both Parties agree that the boundary in both sections is at the 1/16<sup>th</sup> line, leading Staff to conclude this is merely a drawing error.

The second map, submitted by NorthWestern, was produced by Staff several years ago and is the most clear in its depiction of the boundaries. Based on this map, the boundary in question clearly lies at the 1/64<sup>th</sup> line, and

the drawing errors referred to in the map submitted by CME are not present. NorthWestern asserts that this map, produced by Staff, is the official electric service territory map. However, Staff disagrees with this assessment. The maps present on the PUC's website were produced primarily to consolidate all utilities serving in a county onto a single map for ease of reference. In the case of a territory dispute, as we have currently, Staff believes the Commission must rely on the maps submitted to the Commission by the companies with their consenting signatures, which is the map Staff has included as Exhibit A with a zoomed in view of Platte as Exhibit B. However, we would note that at the time this map was produced, Staff clearly interpreted the disputed boundary to be at the 1/64<sup>th</sup> line.

The third map falls in between the maps submitted by the Parties in terms of clarity. The disputed boundary in Section 23 is farther west from the section line than the parallel boundary in Section 24 is east of that same line, and as both Parties agree the boundary in Section 24 is at the 1/16<sup>th</sup> line, this indicates the disputed boundary is at the 1/64<sup>th</sup> line. Furthermore, the disputed boundary is noticeably further west than the north-south boundary in Section 11, and both Parties seem to agree that the boundary lies at the 1/16<sup>th</sup> line in Section 11. While Staff readily admits the map in our possession is not free of ambiguity, it depicts the boundaries more clearly than the map submitted by CME, and we believe it should be the map of record for determining this disputed boundary.

CME makes some additional points in their petition to which NorthWestern offers rebuttal. Staff has relied exclusively on the maps to formulate our opinions submitted in this letter, and would defer to the Commission as to the relevance of these additional points. We conclude noting that there is indeed a certain degree of ambiguity in the maps presented and concede that Staff's recommendation is our best estimation of where the boundary is drawn based on our examination of maps which are far from perfect.

Sincerely,

/s/ Matthew Tysdal

Matthew Tysdal  
Staff Analyst