

**STATE OF SOUTH DAKOTA
BEFORE THE
PUBLIC UTILITIES COMMISSION**

In the Matter of the Petition for Electrical Service)
by Dakota Plains Ag Center, LLC to have)
NorthWestern Energy Assigned as its) Docket No. EL16-013
Electric Provider in the Service Area of)
BonHomme – Yankton Electric)

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

The above entitled matter having come on for hearing before the Public Utilities Commission on the 27th day of April, 2016, commencing at 9:30 o'clock A.M., upon Petition of South Dakota Rural Electric Association to Intervene in the above entitled matter filed by Dakota Plains Ag Center, LLC, and the Petitioner, South Dakota Rural Electric Association ("SDREA") appearing personally and by and through its counsel, Riter, Rogers, Wattier & Northrup, LLP of Pierre, South Dakota, Dakota Plains Ag Center, LLC appearing by and through its counsel, Brett Koenecke of Pierre, South Dakota, Bon Homme-Yankton Electric Association appearing by and through its counsel, Sheila Woodward of Yankton, South Dakota, and NorthWestern Energy Corporation d/b/a NorthWestern Energy ("NorthWestern") appearing by and through its counsel, Jon Ooster of Sioux Falls, South Dakota and the Commission having considered the Petition to Intervene, all records and documents on file herein, the applicable law and the arguments of counsel, as well as comments by its staff, and good cause appearing therefore, now makes and files the following Findings of Fact and Conclusions of Law and Order:

FINDINGS OF FACT

1. Dakota Plains Ag Center, LLC (hereinafter "Dakota Plains") has filed a petition for electric service to have NorthWestern Energy as its electric provider pursuant to SDCL 49-34A-56 in the service area of Bon Homme-Yankton Electric Association (hereinafter "Bon Homme").
2. Bon Homme filed a Petition to Intervene in this matter, which was granted on April 11, 2016.
3. NorthWestern filed a Petition to Intervene, which was granted on April 11, 2016.
4. SDREA also filed a Petition to Intervene in the matter on April 22, 2016.
5. No objections were filed to the Intervention Petition of Bon Homme or NorthWestern; however, Dakota Plains filed an Opposition to SDREA's Petition to Intervene.

6. The SDREA is a statewide association comprised of local rural electric cooperatives.
7. The SDREA does not generate, transmit or distribute electricity. Its member cooperatives transmit and distribute electricity.
8. Bon Homme is a member of the South Dakota Rural Electric Association.
9. SDREA has no direct or pecuniary interest in the above-captioned matter. SDREA would be unaffected directly or financially by any decision or holding in this matter. Any effect on SDREA would be derivative through its member, Bon Homme.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the SDREA petition to intervene.
2. State statute, SDCL 1-26-17.1, on interventions in contested case hearings before agencies controls Commission consideration of the petition to intervene.
3. SDCL §1-26-17.1 limits interventions and party status to those persons “whose pecuniary interests would be directly and immediately affected by an agency's order made upon the hearing may become a party to the hearing by intervention, if timely application therefore is made.”
4. No interest of SDREA is pecuniary or rises to the level of directly or immediately affected.
5. The intervention of SDREA is not permitted by state law and is not appropriate.
6. Good cause to deny intervention to SDREA under the Commission's rules has been shown and Order should be entered denying its intervention petition.
7. That any Finding of Fact inappropriately labeled a Conclusion of Law or any Conclusion of Law inappropriately labeled a Finding of Fact shall be considered as if appropriately labeled.

Let Order be entered accordingly.

DATED this ____ day of May, 2016

BY THE SOUTH DAKOTA PUBLIC UTILITIES COMMISSION
