
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

<p>IN THE MATTER OF THE PETITION FOR A DECLARATORY RULING DETERMINING IF SOUTH DAKOTA LAW WOULD ALLOW PETITIONER TO DEVELOP AND OWN ITS OWN RENEWABLE ENERGY GENERATION SYSTEM</p>	<p>DOCKET NUMBER EL18-061</p> <p>ARGUMENT OF EAST RIVER ELECTRIC POWER COOPERATIVE, INC.</p>
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COMES NOW, East River Electric Power Cooperative, Inc. ("East River") and submits the following argument in support of Charles Mix Electric Association, Inc.'s ("CME") position that the Randall Community Water District's ("RCWD") Petition for Declaratory Ruling ("Petition") should be denied, or in the alternative, that the proposed renewable energy generation systems would constitute an unlawful intrusion into the assigned service territory of CME.

1. East River supports the brief of CME in this matter.
2. The Petition describes scenarios which may involve the generation, transmission, and distribution of electricity to retail locations within CME's assigned service territory, in violation of state law, and, therefore, should be denied. The Petitioner states:

RCWD would like to build one or more renewable energy generation systems at RCWD locations to provide energy to the buildings, operations, systems, etc. at the respective location(s).

The description above could entail a central renewable generation system--or more than one central renewable generation system--transmitting and distributing electricity to multiple retail locations within the assigned service territory of CME. This could likely entail RCWD utilizing the CME distribution system as the means to transmit and distribute the electricity to these retail locations. Such an arrangement bears a striking resemblance to energy aggregation which is not permissible under South Dakota law.

Under SDCL 49-34A-42, CME has the “exclusive right to provide electric service at retail at each and every location... in its assigned service territory.” The hypothetical, as presented, does not limit the proposal to on-site, behind-the-meter generation, but instead contemplates generating, transmitting, and distributing electricity across-the-meter onto the electrical grid and to multiple retail locations. This is a far cry from a consumer installing behind-the-meter generation at one location, complying with applicable federal and state laws, meeting utility and safety standards, and purchasing supplemental standby power from the electric utility. Additionally, regardless of whether or not these retail locations are the multiple retail locations of RCWD itself and regardless of whether the generation is self-owned, the retail delivery points are separately metered, non-contiguous locations interspersed across a wide geographic area, which is far different than self-owned, behind-the-meter generation at a single location.

Furthermore, because of the lack of adequate information in the Petition and the overly broad description of what is proposed, the Petitioner is essentially requesting the Commission to “fill-in-the-gaps” to its hypothetical question. The fear here is that the answer to the pending hypothetical, particularly with its wide-open description, may be misapplied in the real world without adequate consideration of pertinent details, like stand-by power requirements, interconnection standards, and safety considerations as well as other state and federal laws that may be implicated.

3. As noted in CME’s brief, agreements exist between CME and RCWD locations that require RCWD “to purchase from the cooperative all electric energy used on its premises.” Any determination as to the hypothetical declaratory ruling requested here should take into consideration these contract considerations as well as state law safeguards that exist to protect all electric utility consumers.

CME is a South Dakota electric utility that has an obligation to serve RCWD as a consumer within the assigned service territory of CME. CME has built out its electrical system and invested in the needed infrastructure to meet these statutory obligations to provide the necessary power to RCWD. CME, in turn, is part of a power supply network that includes East River and Basin Electric Power Cooperative (“Basin Electric”). East River and Basin Electric, as part of their long-term planning, have built their networks and secured transmission and generation to meet the needs of CME and RCWD. Especially in light of the significant electricity needs of RCWD, this investment is a sizable part of CME’s overall electrical plant. Through its agreement with CME, RCWD

has agreed to purchase all its electricity from CME, and CME has in turn taken steps to ensure the long-term, reliable delivery of electricity. The proposal in the Petition would not only violate the contractual agreement between CME and RCWD but also would transfer costs to other CME members, through stranded investment, as well as to the other members of East River and Basin Electric. The Petition, if granted, would essentially open up the “cherry-picking” of large customers, in the assigned service territory of an electric utility, and result in harm to the affected electric utility, its powers suppliers, and other consumers throughout the area and region.

For all of the foregoing reasons, East River requests that the Commission either deny RCWD’s Petition, or, in the alternative, rule that RCWD’s proposal would constitute an unlawful intrusion into the assigned service territory of CME.

Dated this 31st day of January, 2019.

East River Electric Power Cooperative, Inc.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Argument was served via electronic filing with the South Dakota Public Utilities Commission and via email on the following individuals:

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