
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

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

DOCKET NUMBER EL18-061

PETITION OF
EAST RIVER ELECTRIC POWER
COOPERATIVE, INC.
TO INTERVENE

Pursuant to SDCL § 1-26-17.1 and ARSD § 20:10:01:15.02, East River Electric Power Cooperative, Inc. (“East River”) by its undersigned counsel files this Petition to Intervene as a party in the above-referenced matter. In support of its Petition, East River states as follows:

1. East River delivers wholesale power to our members, which include twenty-four rural electric distribution cooperatives and one municipally-owned electric system in eastern South Dakota and western Minnesota. Nineteen of these member systems provide retail electricity to consumers in South Dakota. These member systems own East River and, along with East River, are member-owners of Basin Electric Power Cooperative of Bismarck, North Dakota. Together, we form an integrated three-tiered power delivery network with Basin Electric providing generation and transmission services, East River providing transmission delivery and other services, and the member systems providing retail delivery of power.
2. On December 19, 2018, Randall Community Water District filed a Petition for Declaratory Action before the South Dakota Public Utilities

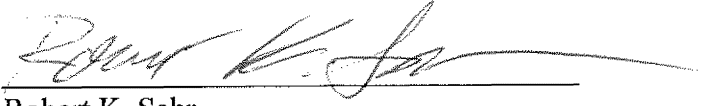
Commission (“Commission”) to provide a ruling on the application of SDCL § 49-34A-42, which is part of the “South Dakota Territorial Act” adopted by our Legislature in 1975. Under the Territorial Act, an electric utility is allowed to exclusively provide service to all new and existing customers in their respective territories unless a statutory exception is met. In Re. Montana-Dakota Utilities Co, 2007 SD 104, 740 NW2d 873; citing (In the Matter of Establishing Certain Territorial Elec. Boundaries (Mitchell Area), 281 NW 2d 65, 70 (1979)).

3. East River believes that the issues presented in the Petition directly affect East River, its member systems and their member-consumers, and Basin Electric. Matters surrounding the provision of retail service, in an integrated power delivery network, impact not only the distribution of power but also the generation and transmission components. East River requests that the Commission examine the Petition in this docket in a manner that does not result in an erosion of South Dakota’s Territorial Act,.
4. The issues presented in this docket and East River’s proposed intervention constitute matters of public interest, especially as to the preservation and integrity of the South Dakota Territorial Act and to consumer’s electricity rates. Thus, denial of this Petition would be detrimental to the public interest and is likely to result in a miscarriage of justice.

WHEREFORE, East River requests that the Commission permit its intervention and participation in this proceeding.

Dated this 4th day of January, 2019.

East River Electric Power Cooperative, Inc.

By: 

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CERTIFICATE OF SERVICE

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

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Dated this 4th day of January, 2019.

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