
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
SDREA TO INTERVENE

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

1. SDREA is an organization comprised of member electric cooperatives in South Dakota. SDREA is devoted to the protection of the interests of its member electric cooperatives and their customers. SDREA’s members consist of distribution cooperatives, as well generation and transmission member cooperatives.
2. Each of the distribution cooperatives in South Dakota that are members of SDREA (including Charles Mix Electric Association) is an “electric utility” as defined in SDCL § 49-34A-1(7) with assigned service areas, the boundaries of which have been established in accordance with SDCL §§ 49-34A-42 through 49-34A-44.
3. On December 19, 2018, Randall Community Water District (“RCWD”) filed a Petition for Declaratory Action before the South Dakota Public

Utilities Commission (“Commission”). Within its Petition, RCWD sets forth its proposal to “develop a renewable energy source to offset the amount of retail power consumption it currently requires.” (Petition ¶2). RCWD would like to contract with a Development Entity to develop/build one or more renewable energy generation systems for RCWD. RCWD requests the Commission to provide a ruling on the application of SDCL § 49-34A-42 to the Development Entity. (Petition ¶¶ 2 and 3)

4. SDCL § 49-34A-42 is part of the “South Dakota Territorial Act” adopted by the South Dakota Legislature in 1975. Under the Territorial Act, electric utilities are 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)).
5. SDREA has an interest in this proceeding because the outcome of the proceeding directly affects all of its member companies, including distribution and generation cooperatives. SDREA 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, which would be detrimental to member companies and to the consumers of South Dakota.
6. The issues presented in this docket and SDREA’s proposed intervention constitute matters of public interest, especially to the preservation and integrity of the South Dakota Territorial Act. Thus, denial of this Petition

would be detrimental to the public interest and is likely to result in a miscarriage of justice.

7. This Petition to Intervene is timely filed and will not unduly prejudice the rights of any other party to this proceeding.

Pursuant to ARSD 20:10:01:15.02, service upon all parties to the proceeding has been made as shown in the attached Certificate of Service filed herewith.

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

Dated this 4th day of January, 2019.

Riter, Rogers, Wattier & Northrup, LLP

By: *Darla Pollman Rogers*
Darla Pollman Rogers
Attorney for SDREA
P. O. Box 280
Pierre, South Dakota 57501
Telephone (605) 224-5825

CERTIFICATE OF SERVICE

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

Ms. Patricia Van Gerpen
Executive Director
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
patty.vangerpen@state.sd.us

Ms. Kristen Edwards
Staff Attorney
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
Kristen.edwards@state.sd.us

Mr. Eric Paulson
Staff Analyst
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
eric.paulson@state.sd.us
(605) 773-3201- voice

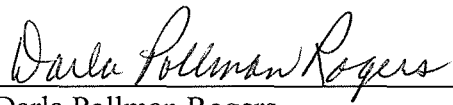
Mr. Joseph Rezac
Staff Analyst
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
joseph.rezac@state.sd.us
(605) 773-3201 - voice

Mr. Patrick J. Glover - Representing: Randall Community Water District
Attorney
Meierhenry Sargent LLP
315 S. Phillips Ave.
Sioux Falls, SD 57104
patrick@meierhenrylaw.com
(605) 336-3075 – voice

Mr. Michael J. Whalen
Michael J. Whalen Law Office, Prof. LLC
14 Saint Joseph St. Ste. 200A
Rapid City, SD 57701
mwhalen@rapidnet.com

Miles Schumacher
Lynn, Jackson, Shultz & Lebrun, PC
110 N. Minnesota Ave., Suite 400
Sioux Falls, SD 57104
mschumacher@lynnjackson.com

Dated this 4th day of January, 2019.



Darla Pollman Rogers
Riter, Rogers, Wattier & Northrup, LLP
P. O. Box 280
Pierre, South Dakota 57501
Telephone (605) 224-5825