

**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	Petition Filing Number ____ Petition for Declaratory Ruling
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Pursuant to ARSD 20:10:01:34, Randall Community Water District (hereinafter “RCWD”), a South Dakota water user district as defined by SDCL Chap. 46A-9, petitions the Commission to issue a declaratory ruling determining if South Dakota law would preclude RCWD from developing and owning its own renewable energy generation system to stabilize RCWD’s future power costs.

In support of its petition, RCWD submits the following information required by ARSD 20:10:01:34:

1. The state statute in question:

The South Dakota statute applicable to this Petition is SDCL § 49-34A-42:

Electric utility's exclusive rights in assigned service area--Connecting facilities in another area. Each electric utility has the exclusive right to provide electric service at retail at each and every location where it is serving a customer as of March 21, 1975, and to each and every present and future customer in its assigned service area. No electric utility shall render or extend electric service at retail within the assigned service area of another electric utility unless such other electric utility consents thereto in writing and the agreement is approved by the commission consistent with § 49-34A-55. However, any electric utility may extend its facilities through the assigned service area of another electric utility if the extension is necessary to facilitate the electric utility connecting its facilities or customers within its own assigned service area.

The commission shall have the jurisdiction to enforce the assigned service areas established by §§ 49-34A-42 to 49-34A-44, inclusive, and 49-34A-48 to 49-34A-59, inclusive.

2. The facts and circumstances which give rise to the issue to be answered by the Commission:

RCWD is a water user district located in Lake Andes, South Dakota, servicing all of Charles Mix and Douglas Counties and portions of Aurora, Brule, Bon Homme and Hutchinson Counties for the past thirty plus years. RCWD receives all its retail power from Charles Mix Electric Association.

RCWD is seeking to develop a renewable energy source to offset the amount of retail power consumption it currently requires. 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). RCWD does not have the requisite skill, expertise or know-how to develop such renewable energy generation system and would look to contract with another entity to provide that service (hereinafter “Development Entity”). The Development Entity would design, build and fund the project. The agreement would be limited to a financing arrangement wherein RCWD will have ownership interest in the renewable energy generation system(s) once the terms of the agreement are fulfilled. The Development Entity would have no influence on the control, operation, maintenance and/or production of any of the renewable energy generation systems that would be constructed at RCWD’s locations. RCWD would consume all generated energy itself and would not offer any generated energy to any other entity or consumer for use or for sale. It is not expected for the Development Entity to be RCWD’s current power provider, Charles Mix Electric Association.

3. The precise issue to be answered by the Commission’s declaratory ruling:

Under the facts and circumstances laid out above, would the Development Entity be subject to the provisions of SDCL § 49-34A-42 or not?

Dated this 19th day of December, 2018.

/s/ Patrick J. Glover
Patrick J. Glover
patrick@meierhenrylaw.com
MEIERHENRY SARGENT LLP
315 S. Phillips Avenue
Sioux Falls, SD 57104
(605) 336-3075
Attorneys for Petitioner