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*South Dakota*

**PUBLIC UTILITIES COMMISSION**

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April 4, 2023

Patricia Van Gerpen  
Executive Director  
South Dakota Public Utilities Commission  
500 E. Capitol Ave  
Pierre, SD 57501

RE: EL23-009-In the Matter of the Request by Lloyd Companies for a Variance from the Individual Metering Requirement in ARSD 20:10:26:03 for The Grove at Ellis Crossing in Sioux Falls

Dear Ms. Van Gerpen,

On March 23, 2023, the Public Utilities Commission (PUC) received a filing from Drew O'Brien, Development Project Manager for Lloyd Companies requesting a variance from the individual metering requirement in ARSD 20:10:26:03 for a new multi-family project (The Grove at Ellis Crossing) at 8600 W. 41<sup>st</sup> St. in Sioux Falls. In the filing, Mr. O'Brien states that the multi-family property is a new construction LIHTC Affordable Housing project and because of LIHTC regulations, the community cannot charge residents for utilities or must provide utility allowance subsidies.

In a request from Staff for more information (attached), Mr. O'Brien, on April 4, 2023, indicated the project will utilize a two centrally located water heaters that service all units. Based on this response from Mr. O'Brien, it appears this project falls under the individual metering exception set forth in ARSD 20:10:26:04(6) and no docket or request for variance is necessary.

This matter should have been reviewed pursuant to ARSD 20:10:26:04(6) and in accordance with the Commission's *Order Establishing Procedure for Consideration of Notices of Exception (6) from Master Metering Prohibition* in docket AA14-002. ARSD 20:10:26:04(6) directs, as long as a facility has central heating or cooling systems, central ventilating systems, or central water heating systems, it is excepted from the individual metering requirement and no variance need be requested. The AA14-002 process requires the Executive Director or Staff submit its analysis to the Commissioners on or before the close of the fifth business day following receipt of the notice.

Staff files this letter in accordance with the review process established in docket AA14-002. Based on the information Mr. O'Brien provided in its filing and in response to Staff's data requests indicating The Grove will utilize two centrally located water heaters that service all units. Staff determined that the multi-family property to be located at 8600 W. 41<sup>st</sup> St. in Sioux Falls qualifies under the exception to the individual metering requirement for natural gas and electric service pursuant to ARSD 20:10:26:04(6).

In accordance with AA14-002, if any of the Commissioners disagree with Staff's analysis, the Commission has the discretion to open a docket to make a formal determination on the matter if it chooses to do so within

seven business days of the receipt of the request by the Commission and on the eighth business day, the Executive Director shall cause written notice to be sent to the person providing notice.

However, because a docket has already been opened in this matter, Staff proposes this question be addressed at the April 13, 2023, Commission meeting, unless prior to that meeting, each Commissioner provides agreement in this docket that Staff's analysis is correct, and The Grove qualifies under the exception to the individual metering requirement for natural gas and electric service pursuant to ARSD 20:10:26:04(6).

Sincerely,



Darren Kearney



Amanda Reiss

South Dakota Public Utilities Commission Staff