

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF CODINGTON

THIRD JUDICIAL CIRCUIT

<p>CODINGTON-CLARK ELECTRIC COOPERATIVE, INC.,</p> <p>Plaintiff,</p> <p>v.</p> <p>CITY OF WATERTOWN, SOUTH DAKOTA, MUNICIPAL UTILITY DEPARTMENT and THE SOUTH DAKOTA PUBLIC UTILITY COMMISSION,</p> <p>Defendant.</p>	<p>AMENDED COMPLAINT</p>
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Plaintiff, CODINGTON-CLARK ELECTRIC COOPERATIVE, INC., for its Complaint against Defendants, states:

1. This is an action for declaratory judgment.
2. Plaintiff, Codington-Clark Electric Cooperative, Inc. is a public utility doing business in Codington and Clark Counties in the state of South Dakota.
3. The name and address of Plaintiff's attorney of record is John D. Knight, 816 S. Broadway, P.O. Box 1600, Watertown, South Dakota 57201.
4. Defendant South Dakota Public Utility Commission is an agency of the State of South Dakota.
5. The South Dakota Public Utility Commission is an interested party to the extent that it regulates both Plaintiff and Defendant, City of Watertown South Dakota Municipal Utility Department.

6. Plaintiff provides electrical services to customers in Codington County.
7. Defendant, City of Watertown, through its Municipal Utility Department provides electrical and other utility services to customers in the City of Watertown, South Dakota.
8. On December 3, 1990, Plaintiff and Defendant entered into a contract entitled *AGREEMENT TO MODIFY ASSIGNED SERVICE AREA BETWEEN CODINGTON-CLARK ELECTRIC COOPERATIVE, INC., AND CITY OF WATERTOWN, SOUTH DAKOTA*, a copy of which is attached hereto and marked Exhibit "A".
9. Among other things the *AGREEMENT TO MODIFY ASSIGNED SERVICE AREA BETWEEN CODINGTON-CLARK ELECTRIC COOPERATIVE, INC., AND CITY OF WATERTOWN, SOUTH DAKOTA* dated December 3, 1990 modified the rights of the parties as set forth in SDCL Ch. 49-34 regarding the annexation by Defendant of territory served by Plaintiff.
10. The *AGREEMENT TO MODIFY ASSIGNED SERVICE AREA BETWEEN CODINGTON-CLARK ELECTRIC COOPERATIVE, INC., AND CITY OF WATERTOWN, SOUTH DAKOTA* dated December 3, 1990 expired on December 3, 1993.
11. On December 3, 1993, Plaintiff and Defendant entered into another contract entitled *AGREEMENT TO MODIFY ASSIGNED SERVICE AREA BETWEEN CODINGTON-CLARK ELECTRIC COOPERATIVE, INC., AND CITY OF WATERTOWN, SOUTH DAKOTA*. A copy of the December 3, 1993 contract is attached hereto and marked Exhibit "B".
12. The December 3, 1993 *AGREEMENT TO MODIFY ASSIGNED SERVICE AREA BETWEEN CODINGTON-CLARK ELECTRIC COOPERATIVE, INC., AND CITY OF*

*WATERTOWN, SOUTH DAKOTA* provided that the agreement was perpetual unless modified in writing by the parties.

13. On July 7, 1998, Plaintiff and Defendant entered into an *ADDENDUM TO AGREEMENT REGARDING ASSIGNED SERVICE AREA*. A copy of the July 7, 1998 addendum is attached hereto and marked Exhibit "C".
14. The July 7, 1998 addendum caused the *AGREEMENT TO MODIFY ASSIGNED SERVICE AREA BETWEEN CODINGTON-CLARK ELECTRIC COOPERATIVE, INC., AND CITY OF WATERTOWN, SOUTH DAKOTA* dated December 3, 1993 to expire on July 23, 2001.
15. On June 21, 2001, Plaintiff and Defendant entered into another *ADDENDUM TO AGREEMENT REGARDING ASSIGNED SERVICE AREA*. A copy of the June 21, 2001 addendum is attached hereto and marked Exhibit "D".
16. The June 21, 2001 addendum caused the *AGREEMENT TO MODIFY ASSIGNED SERVICE AREA BETWEEN CODINGTON-CLARK ELECTRIC COOPERATIVE, INC., AND CITY OF WATERTOWN, SOUTH DAKOTA* dated December 3, 1993 to expire on July 23, 2004.
17. On July 24, 2004, Plaintiff and Defendant entered into another *ADDENDUM TO AGREEMENT REGARDING ASSIGNED SERVICE AREA*. A copy of the July 24, 2004 addendum is attached hereto and marked Exhibit "E".
18. The July 24, 2004 addendum caused the *AGREEMENT TO MODIFY ASSIGNED SERVICE AREA BETWEEN CODINGTON-CLARK ELECTRIC COOPERATIVE, INC., AND CITY OF WATERTOWN, SOUTH DAKOTA* dated December 3, 1993 to expire on July 23, 2007.

19. On July 30, 2007, Plaintiff and Defendant entered into another *ADDENDUM TO AGREEMENT REGARDING ASSIGNED SERVICE AREA*. A copy of the July 30, 2007 addendum is attached hereto and marked Exhibit “F”.
20. The July 30, 2007 addendum caused the *AGREEMENT TO MODIFY ASSIGNED SERVICE AREA BETWEEN CODINGTON-CLARK ELECTRIC COOPERATIVE, INC., AND CITY OF WATERTOWN, SOUTH DAKOTA* dated December 3, 1993 to expire on August 1, 2022.
21. Pursuant to the *AGREEMENT TO MODIFY ASSIGNED SERVICE AREA BETWEEN CODINGTON-CLARK ELECTRIC COOPERATIVE, INC., AND CITY OF WATERTOWN, SOUTH DAKOTA* dated July 30, 2007, Plaintiff filed a *PETITION FOR APPROVAL OF ADDENDUM TO AGREEMENT REGARDING ASSIGNED SERVICE AREA* on August 2, 2007 with the South Dakota Public Utilities Commission. The *PETITION FOR APPROVAL OF ADDENDUM TO AGREEMENT REGARDING ASSIGNED SERVICE AREA* dated August 2, 2007 is attached hereto and marked Exhibit “G”.
22. The *PETITION FOR APPROVAL OF ADDENDUM TO AGREEMENT REGARDING ASSIGNED SERVICE AREA* dated August 2, 2007 was not approved by the Public Utilities Commission.
23. Instead of approving the *PETITION FOR APPROVAL OF ADDENDUM TO AGREEMENT REGARDING ASSIGNED SERVICE AREA* dated August 2, 2007, the Public Utilities Commission requested that the parties modify the *ADDENDUM TO AGREEMENT REGARDING ASSIGNED SERVICE AREA* to make their agreement perpetual.

24. Based upon the request from the Public Utilities Commission, Plaintiff and Defendant entered into a revised *ADDENDUM TO AGREEMENT REGARDING ASSIGNED SERVICE AREA* dated September 20, 2007. A copy of the September 20, 2007 addendum is attached hereto and marked Exhibit “H”.
25. The September 20, 2007 addendum provided that the *AGREEMENT TO MODIFY ASSIGNED SERVICE AREA BETWEEN CODINGTON-CLARK ELECTRIC COOPERATIVE, INC., AND CITY OF WATERTOWN, SOUTH DAKOTA* dated December 3, 1993 (hereinafter referred to as the “Agreement”) would become perpetual, subject to the approval of the South Dakota Public Utilities Commission.
26. The decision by Plaintiff to modify the Agreement to make it perpetual was based upon the request of the South Dakota Public Utilities Commission.
27. Plaintiff did not negotiate for or receive any consideration for the request by the Public Utilities Commission to make the Agreement perpetual and therefore, the portion of the *ADDENDUM TO AGREEMENT REGARDING ASSIGNED SERVICE AREA* dated September 20, 2007 that purports to make the Agreement perpetual fails for lack of consideration.
28. The provision of the *ADDENDUM TO AGREEMENT REGARDING ASSIGNED SERVICE AREA* dated September 20, 2007 that purports to make the Agreement perpetual was not intended to bind the parties to the Agreement forever.
29. The provision in the *ADDENDUM TO AGREEMENT REGARDING ASSIGNED SERVICE AREA* dated September 20, 2007 that purports to make the Agreement perpetual is void as against public policy.
30. Plaintiff has requested that Defendant agree to terminate, modify or reform the

Agreement.


31. Defendant has refused to terminate, modify or reform the Agreement.
32. Plaintiff makes no claim against Defendant, South Dakota Public Utility Commission.
33. A controversy exists between the parties hereto, who are entitled to relief under SDCL Ch. 21-1, pursuant to which Plaintiff initiated this declaratory judgment action for the declaration of the rights and liabilities of the parties to this action.

WHEREFORE, Plaintiff asks the Court to enter a Judgment as follows:

1. Determining the rights and responsibilities of the parties under the Agreement referred to herein;
2. Awarding the Plaintiff such other relief as the Court may deem just and equitable.

Dated this 15<sup>th</sup> day of July, 2025.

GREEN OVIATT LAW FIRM LLP

  
John D. Knight  
816 South Broadway  
PO Box 1600  
Watertown, SD 57201-6600  
(605) 886-5812