



BECK, CHRISTENSEN, GUBBRUD & HAUGLAND  
ATTORNEYS AT LAW

O. G. BECK, DEC  
11932 - 1990

JOHN D. GUBBRUD\*

CHARLES B. HAUGLAND\*

MATTHEW R. METZGAR\*

WAYNE W. CHRISTENSEN  
OF COUNSEL

\*LICENSED IN IOWA AND SOUTH DAKOTA

OFFICES  
102 WEST SECOND  
P.O. BOX 97  
ALCESTER, SOUTH DAKOTA 57001  
605/934-2140  
FACSIMILE 605/934-2551

800 CENTRAL AVENUE  
P.O. BOX 312  
HAWARDEN, IOWA 51023  
712/552-1544  
FACSIMILE 712/552-1545

REPLY TO: ALCESTER

December 1, 1995

RECEIVED

DEC 1 1995

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Martin C. Bettmann  
Staff Engineer  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, South Dakota 57501-5070

Re: Request for Approval of Stipulation and Amended Judgment. Docket EL95-034

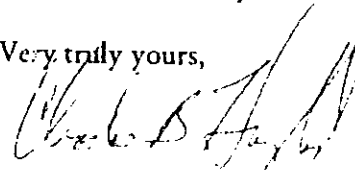
Dear Mr. Bettmann:

I am sending this letter in my capacity as city attorney for the City of Alcester, Union County, South Dakota, based upon a faxed communication that you had with John D. Gubbrud, my partner, concerning a substitution of responsibility for providing street lights in a newly annexed subdivision for the City of Alcester.

From previous actions of the City Council of the City of Alcester, I can tell you that the City of Alcester has no objections to the Stipulation between Lincoln-Union Electric Company and MidAmerican Energy regarding substitution of responsibility for providing and maintaining street lighting in this area. The City of Alcester's main concern is that adequate service be given and we believe that either Lincoln-Union or MidAmerican Energy would certainly have the capabilities of providing adequate service to the residents of that subdivision.

I trust this letter satisfies your request of December 1. Should you need anything further from the City of Alcester, please feel free to contact us at your convenience.

Very truly yours,



Charles B. Haugland  
For the Firm

CBH/lj

pc: Pete Larsen, Mayor  
Mike Kezar, Finance Officer  
City Council Members

01732N  
S. SOUTH DAKOTA



# South Dakota Public Utilities Commission

State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota, 57501-5070



December 1, 1995

VIA FAX: (605)934-2551

Mr. John D. Gubbrud  
Beck, Christensen, Gubbrud & Haugland  
102 West Second  
Alcester, SD 57001

RE: Request for Approval of Stipulation and Amended Judgement. Docket  
EL95-034.

Dear Mr. Gubbrud:

By letter dated November 16, 1995, the Commission received a request for approval of an Amendment to Judgement re: Street Lighting 3rd Phase Numsen Addition - City of Alcester. Commission Staff has reviewed the submittal and everything appears to be in order with one exception. Normally in matters such as this we ask and the Commission has required that some form of acknowledgement or agreement be submitted by the customer affected by the agreement. A simple letter from the customer(s) agreeing to the proposed agreement will suffice.

We would like to place this on the agenda for approval at the next regular Commission meeting scheduled for December 12, 1995. Therefore, a prompt reply would be appreciated.

Please feel free to call me at (605)773-6347, if you have any questions concerning this letter.

Sincerely,

Martin C. Bettmann  
Staff Engineer

CC by Mail : Gordon Crawford, Lincoln-U  
Carolyn M. Zellmer, MidAmr  
Camron Hoseck, Staff Attor

*Docket  
Copy*

Capitol Office  
Telephone (605)773-3201  
FAX (605)773-3309

Transportation  
Warehouse Division  
Telephone (605)773-5260  
FAX (605)773-3225

Consumer Hotline  
1-800-332-1782

TDY Through  
Relay South Dakota  
1-800-877-1113

Ken Stofferahn  
Chairman  
Jim Burg  
Vice-Chairman  
Laska Schoenfelder  
Commissioner

Willson Bullard Jr.  
Executive Director

Edward R. Anderson  
Harlan Best  
Martin C. Bettmann  
Charlie Bolle  
Sue Cichos  
Karen E. Cremer  
Marlette Fischbach  
Shirleen Fugitt  
Richard Gallup  
Paulette Gates  
Lewis Hammond  
Tammy Hendrx  
Lent Hook  
Camron Hoseck  
Dave Jacobson  
Bob Knadle  
Jim A. Konechne  
Tern J. Lesmeister  
Terry Norton  
Gregory A. Rislav  
Lori L. Waldner  
Steven M. Wegman  
Rosalyn Ailts Wiest

DO NOT WRITE  
15-334

**BECK, CHRISTENSEN, GUBBRUD & HAUGLAND**  
ATTORNEYS AT LAW

O. G. BECK, DEC.  
(1932 - 1990)

JOHN D. GUBBRUD\*  
CHARLES B. HAUGLAND\*

MATTHEW R. METZGAR\*

WAYNE W. CHRISTENSEN  
OF COUNSEL

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FACSIMILE 712/552-1545

REPLY TO: ALCESTER

November 14, 1995

Rolayne Wiest  
General Counsel  
S.D. Public Utilities Commission  
500 East Capitol  
Pierre, South Dakota 57501

RECEIVED  
NOV 15 1995  
SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Amendment to Judgement re: Street Lighting 3rd Phase Numsen Addition - City of Alcester

Dear Ms. Wiest:

Pursuant to our discussion on November 13, 1995, enclosed is the following:

1. Original Stipulation and Amendment to Judgement, duly executed by the appropriate officials of Lincoln-Union Electric Company and MidAmerican Energy Company.
2. Copy of MidAmerican Energy Company transmittal letter, dated November 6, 1995.
3. Copy of my letter to MidAmerican Energy Company, dated October 23, 1995, with attachments:
  - a. Judgement and Decision of Electric Mediation Board, dated March 21, 1972.
  - b. Agreement of Assigned Service Areas, dated January 1, 1976.
  - c. Letter of Midwest Power, dated September 20, 1995.

We trust that upon review of the above enclosures you will arrange for the South

UN-5001-241-8  
Rolayne Wiest, General Counsel  
South Dakota Public Utilities Commission  
November 14, 1995  
Page 2

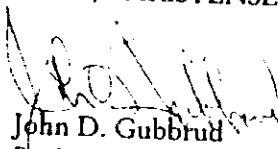
Dakota Public Utilities Commission to approve the Stipulation and Amendment of Judgement to permit Lincoln-Union Electric Company to provide street lighting within the 3rd Phase of Numsen Addition to the City of Alcester.

If you have any questions or comments or need additional information regarding this matter, please feel free to contact either this office or the Manager of Lincoln-Union Electric Company.

We appreciate your prompt attention to this matter.

Very truly yours,

BECK, CHRISTENSEN, GUBBRUD & HAUGLAND

  
John D. Gubbrud  
Project Attorney for  
Lincoln-Union Electric Company

JDG/jas  
enc.

pc: Lincoln-Union Electric Company Attn: Gordon Crawford, Manager  
MidAmerican Energy Company Attn: Carolyn M. Zellmer, Legal Assistant

State of South Dakota )  
 )ss  
County of Union )

Before South Dakota  
Public Utilities Commission

IN THE MATTER OF AMENDMENT  
OF TERRITORIAL AGREEMENT OF

Lincoln-Union Electric Company,

and

MidAmerican Energy Company.

**STIPULATION AND AMENDMENT  
OF JUDGEMENT**

WHEREAS, the South Dakota Public Utilities Commission (SDPUC), as successor to the South Dakota Electric Mediation Board (EMB), and;

WHEREAS, by virtue of Judgement and Decision of the EMB, dated March 21, 1972, Iowa Public Service Company, known as Midwest Power, now known as MidAmerican Energy Company (MidAmerican), was awarded the sole right to supply electrical energy for purposes of street lighting in Numsen Addition to the City of Alcester.

NOW THEREFORE, in consideration of mutual covenants contained herein, the parties hereto stipulate and agree to amend said Judgement and Decision as follows:

1. Lincoln-Union Electric Company (Lincoln-Union) and MidAmerican hereby stipulate and agree that Lincoln-Union may provide electrical energy for purposes of street lighting to the recently platted Third Phase of Numsen Addition to the City of Alcester. A copy of the plat map is hereto attached and marked Exhibit "1" and by this reference incorporated herein.

Such Third Phase of Numsen Addition is all located within the certified territory of Lincoln-Union pursuant to a certain Agreement Establishing Assigned Service Areas, dated January 29, 1976, duly filed with the South Dakota Public Utilities Commission.

2. That in all other respects the Judgement and Decision relating to the electrical service to Numsen Addition shall remain in full force and effect.

That the parties hereby respectfully request the South Dakota Public Utilities Commission to authorize and approve this Stipulation and Amendment.

LINCOLN-UNION ELECTRIC COMPANY

By: Gordon Crawford  
Gordon Crawford, Manager

MIDAMERICAN ENERGY COMPANY

By: H. J. Jones  
DISTRICT MANAGER

2-31-76  
699



BLOCK 9 AND LOTS 1,2 AND 7-10 OF BLOCK 10 OF NUMSEN ADDITION, BEING  
 A PART OF TRACT 3 IN THE NE 1/4 OF THE NW 1/4 AND IN THE NW 1/4  
 OF THE NE 1/4 OF SECTION 27, T95N, R49W OF THE 5th P.M.,  
 CITY OF ALCESTER, UNION COUNTY, SOUTH DAKOTA

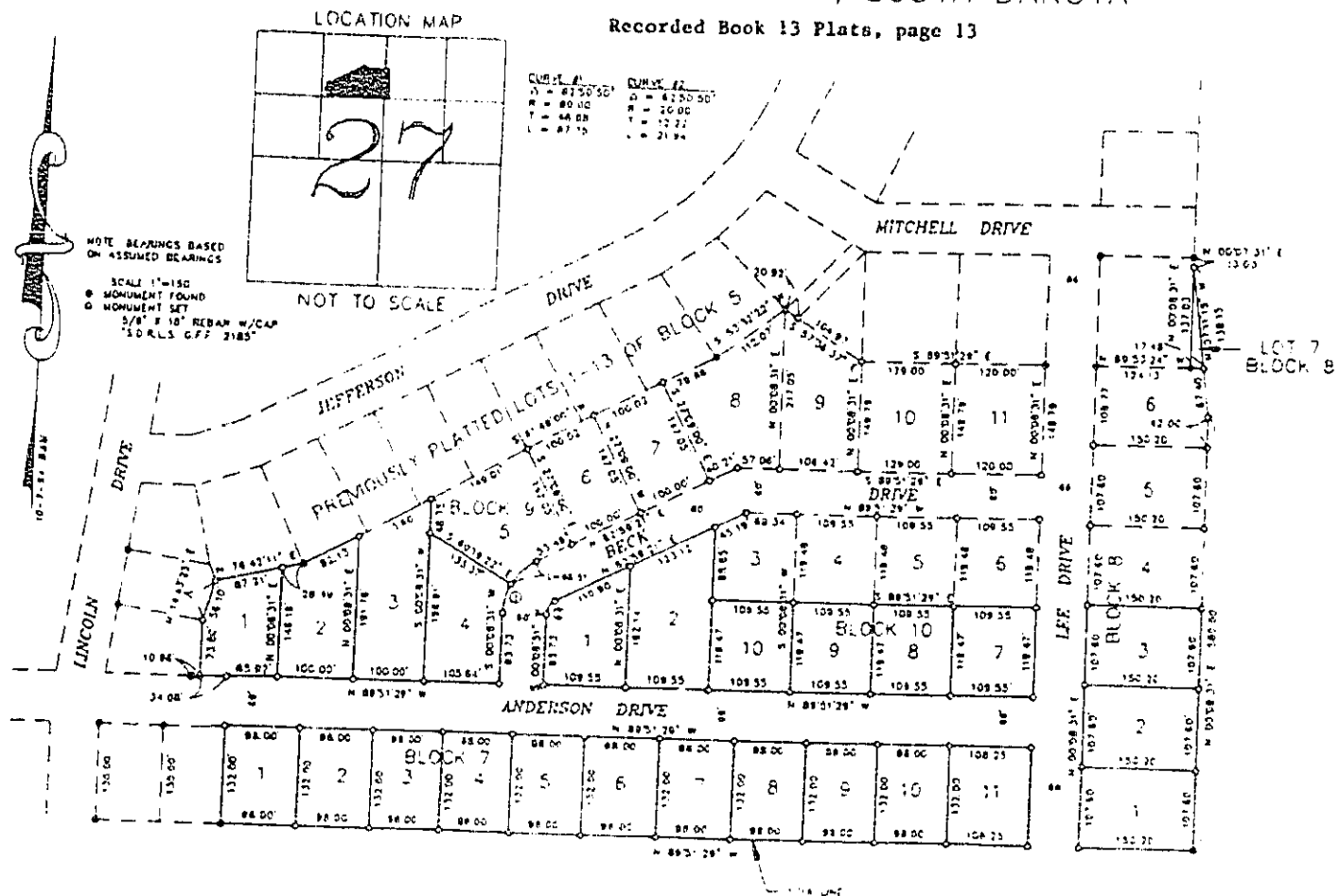


EXHIBIT "1"



MidAmerican Energy Company  
401 Douglas Street  
PO Box 778  
Cedar City, Iowa 51102-0078  
712 277 7500 Telephone

November 6, 1995

NOV 11 1995

Mr. John D. Gubbrud  
Beck, Christensen, Gubbrud  
& Haugland  
102 West Second  
Alcester, SD 57001

RE: Street Lighting in Third Phase of Numsen Addition - Alcester, South Dakota

Dear Mr. Gubbrud:

Enclosed you will find a fully executed Stipulation and Amendment of Judgment between Lincoln-Union Electric Company and MidAmerican Energy Company. I have retained a copy for our files.

Would you please provide me with a copy of the South Dakota PUC's response when you receive it. Thank you!

Very truly yours,

A handwritten signature in cursive script that reads "Carolyn M. Zellmer".

Carolyn M. Zellmer  
Legal Assistant

Enc.



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ATTORNEYS AT LAW

O. G. BECK, DEC.  
(1932 - 1990)

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CHARLES B. HAUGLAND\*

MATTHEW R. METZGAR\*

WAYNE W. CHRISTENSEN  
OF COUNSEL

\*LICENSED IN IOWA AND SOUTH DAKOTA

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HAWARDEN, IOWA 51023  
712/552-1544  
FACSIMILE 712/552-1545

REPLY TO: ALCESTER

October 23, 1995

MidAmerican Energy  
Attn: Attorney Gary Johnson  
401 Douglas Street  
Sioux City, Iowa 51101

Re: Street Lighting in Third Phase of Numsen Addition - Alcester, South Dakota

Dear Gary:

After our discussion on October 19, 1995, and pursuant to the terms of the Stipulation approved by the former South Dakota Electric Mediation Board on March 21, 1972, (copy enclosed), Iowa Public Service, a predecessor to MidAmerican Energy Company, was granted "the sole right to supply electrical energy to the City of Alcester for the purpose of lighting the street and thoroughfares in all of Numsen Addition" within the City of Alcester, South Dakota.

Your local representative, Mr. Dennis Jones, and Area Superintendent, Mr. Berg, have indicated that your company will agree to forgo the right to supply street lighting within the certified territory served by Lincoln-Union Electric Company in the Third Phase of development of Numsen Addition (copy of their letter enclosed).

You will observe from the plat of this property that all of the Third Phase is within the Lincoln-Union service area per Agreement Establishing Service Areas (copy of Agreement enclosed).

We trust that upon review you can get the appropriate company official to sign the Stipulation and return it to this office for filing with the South Dakota Public Utilities Commission.

It is recognized that this is a relatively minor matter. Out of abundance of caution, I am of the opinion that for Lincoln-Union to provide any form of street lighting within the city limits of Alcester, this Stipulation needs to be executed and forwarded to the PUC for their

Received  
11-13-95



IT IS FURTHER ORDERED that Lincoln-Union Electric Company is granted the sole right to serve Lots 1, 2, 3, 4 and 6, Block 1; Lots 1 through 12, inclusive, Block 3; Lots 1 through 3, inclusive, Block 5; and Lots 1 and 2, Block 6, all in Humsen's Addition to the City of Alcester, Union County, State of South Dakota; and Tract 1 and Tract 2, of Alcester Industrial Tracts, in the South Half of the Northwest Quarter of Section 27, Township 95, Range 49, Union County, State of South Dakota.

IT IS FURTHER ORDERED that neither of the electric suppliers who are parties to this action, their successors or assigns, hereafter, shall attempt to invoke or exercise any easements, prescriptive rights or related rights, which would prevent the other electric supplier hereto, its successors or assigns, from constructing needed electric facilities and improvements for the purpose of serving the electric needs of those consumers in the above described areas.

Dated this 21st day of March, 1972.

  
CHAIRMAN, SOUTH DAKOTA ELECTRIC  
MEDIATION BOARD

0-11-12

Copy for John P. Schulz  
L. W. Project Attorney

STATEMENT OF AGREEMENT  
IN THE MATTER OF THE ESTABLISHMENT  
OF ASSIGNED SERVICE AREAS

This Agreement, made this 29<sup>th</sup> day of January, 1976, by and  
between IOWA PUBLIC SERVICE COMPANY of Sioux City, Iowa, and LINCOLN-UNION  
ELECTRIC COOPERATIVE of Alcester, South Dakota, pursuant to SDCL 49-34A.

Recitals

South Dakota Compiled Laws 49-34A-44 provides that:

"...On or before July 1, 1976, the Commission shall, after notice and hearing, establish the assigned service area or areas of each electric utility and shall prepare or cause to be prepared a map or maps to accurately and clearly show the boundaries of the assigned service area of each electric utility."

South Dakota Compiled Law 49-34A-43 provides that:

"...Contracts between electric utilities, which are executed on or before July 1, 1976, designating service areas and customers to be served by the electric utilities approved by the Commission shall be valid and enforceable and shall be incorporated into the appropriate assigned service areas. The commission shall approve a contract if it finds that the contract will eliminate or avoid unnecessary duplication of facilities, will provide adequate electric service to all areas and customers affected and will promote the efficient and economical use and development of the electric systems of the contracting electric utilities..."

South Dakota Compiled Laws 49-34A-42 provides that:

"Each electric utility shall have 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 and 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; provided, that 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 parties to this agreement are each an "electric utility" as that term is defined in SDCL 49-34A-1(7).

Iowa Public Service Company and Lincoln-Union Electric Cooperative acknowledge that both electric utilities operate electric systems, portions of which lie in the same general geographical area and, pursuant to SDCL,

SOUTHEAST OF BERESFORD TO SOUTHEAST CORNER ALCESTER

- ✓ 1. Beginning at the Center Sec. 9-T95N-R50W;
- ✓ 2. East  $\frac{1}{2}$  mile;
- ✓ 3. South 1 mile;
- ✓ 4. East  $1 \frac{3}{4}$  miles;
- ✓ 5. North  $\frac{1}{2}$  mile;
- ✓ 6. East 1 mile;
- ✓ 7. South  $\frac{1}{2}$  mile to the center of Sec. 13, T95N, R50W;
- ✓ 8. East  $\frac{1}{2}$  mile; then South  $\frac{3}{4}$  mile;
- ✓ 9. West  $\frac{1}{2}$  mile;
- ✓ 10. South  $1 \frac{1}{2}$  miles to center Sec. 25, T95N, R50W;
- ✓ 11. East  $2 \frac{3}{4}$  miles;
- ✓ 12. South  $\frac{1}{2}$  mile;
- ✓ 13. East  $\frac{1}{2}$  mile;
- ✓ 14. South  $\frac{3}{4}$  mile;
- ✓ 15. East  $\frac{3}{4}$  mile;
- ✓ 16. North 1 mile plus 410 feet;
- ✓ 17. West to Church Street in Alcester, South Dakota.

EAST OF BERESFORD ALONG NORTH AND EAST SIDE OF ALCESTER AND BIG SPRINGS LINE

- ✓ 1. Beginning at the Northwest corner of the Northeast Quarter of Sec. 9, T95N, R50W;
- ✓ 2. East  $\frac{3}{4}$  mile;
- ✓ 3. South  $\frac{1}{2}$  mile;
- ✓ 4. East  $1 \frac{1}{2}$  miles;
- ✓ 5. South  $\frac{1}{2}$  mile to center of Sec. 11, T95N, R50W;
- ✓ 6. East  $1 \frac{3}{4}$  miles;
- ✓ 7. South  $\frac{3}{4}$  mile;
- ✓ 8. East  $\frac{1}{2}$  mile;
- ✓ 9. South  $\frac{1}{2}$  mile;
- ✓ 10. West  $\frac{1}{2}$  mile;
- ✓ 11. South  $\frac{3}{4}$  mile;

- ✓46. East  $\frac{1}{2}$  mile;
- ✓47. South  $\frac{1}{2}$  mile;
- ✓48. East  $\frac{1}{2}$  mile;
- ✓49. North  $\frac{1}{2}$  mile;
- ✓50. East approximately 1  $\frac{3}{4}$  miles to Big Sioux River in Sec. 29, T94N, R48W.

BIG SPRINGS AND NORTH

- ✓1. Beginning  $\frac{1}{2}$  mile South of Northwest Corner of Sec. 35, T94N, R49W;
- ✓2. North  $\frac{3}{4}$  mile;
- ✓3. West  $\frac{1}{2}$  mile to center Sec. 27, T94N, R49W;
- ✓4. North  $\frac{1}{2}$  mile;
- ✓5. East  $\frac{1}{2}$  mile; North  $\frac{1}{2}$  mile; East  $\frac{1}{2}$  mile;
- ✓6. North  $\frac{1}{2}$  mile;
- ✓7. East  $\frac{1}{2}$  mile;
- ✓8. North  $1\frac{1}{2}$  miles;
- ✓9. West  $\frac{1}{2}$  mile;
- ✓10. North  $3\frac{1}{2}$  miles to center Sec. 26, T95N, R49W;
- ✓11. West  $\frac{1}{2}$  mile;
- ✓12. North  $\frac{3}{8}$  mile;
- ✓13. West  $\frac{3}{4}$  mile;
- ✓14. Plus an additional  $\frac{1}{16}$  mile;
- ✓15. North to North line of Sec. 27, T95N, R49W.

2640'  
 2310'

WEST SIDE OF HUDSON AREA

- ✓1. Beginning at Big Sioux River in Sec. 16, T95N, R48W;
- 2. West on  $\frac{1}{2}$  Sec. line to West  $\frac{1}{2}$  Corner of Sec. 16, T95N, R48W;
- ✓3. North  $\frac{3}{4}$  mile;
- ✓4. East  $1\frac{3}{4}$  miles;
- ✓5. North  $\frac{3}{4}$  mile;
- ✓6. West  $\frac{1}{2}$  mile;
- ✓7. North  $\frac{3}{4}$  mile;
- ✓8. East  $\frac{1}{2}$  mile;
- ✓9. North  $\frac{1}{2}$  mile;
- X ✓10. East  $\frac{1}{2}$  mile to Northeast Corner of Sec. 3, T95N, R48W;

01132155118

FAIRVIEW AREA

- ✓1. Beginning at Big Sioux River on the North-South center line of Sec. 15, T97N, R48W;
- ✓2. South to a point  $\frac{1}{2}$  mile North of the South  $\frac{1}{2}$  corner of Sec. 15, T97N, R48W;
- ✓3. East approximately  $1\frac{1}{2}$  miles to the Big Sioux River.





A MIDWEST RESOURCES UTILITY  
221 LINCOLN STREET SW, PO BOX 126  
LESAURE, IOWA 51201  
712-545-7361

rec. 9-21-95  
ghe

September 20, 1995

Mr. Peter Larson  
Mayor of Alcester  
P.O. Box 137  
Alcester, SD 57001

Dear Mr. Larson:

MidAmerican Energy has been requested to extend a street lighting system into the newly platted portion of the Numsen Addition.

This newly platted portion is wholly within the service territory of Lincoln-Union Electric, as agreed upon by Lincoln-Union and MidAmerican and as shown by service territorial maps on record with the South Dakota Public Utility Commission.

Our lighting tariff allows us to serve only within our designated service territory. It is in the public interest to avoid duplicate facilities whenever possible, keeping congestion and construction confusion to a minimum, and help hold down rates.

For these reasons, we feel that it would not be in the interest of the City of Alcester, the rate payers, or either of the involved utilities, for us to extend our facilities to service the lighting requirements requested.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Eric Berg'.

Eric Berg  
Crew Supervisor

cc: Lincoln-Union Electric Co.  
Dennis Jones  
Mike Sweeney