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SOUTH DAKOTA
PUBLIC UTILITIES COMMISSION

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August 8, 2008

Patricia Van Gerpen
SD Public Utilities Commission
500 E. Capitol Ave
Pierre, SD 57501

VIA ELECTRONIC FILING ONLY

Re: EL08-010

Dear Ms. Van Gerpen

Enclosed for filing in the above referenced docket please find a completely executed Stipulation. Commission Staff, with this filing, requests Commission approval of the Stipulation. Further Commission Staff recommends the Commission grant the siting permit requested by East River Electric Power Cooperative, Inc. according to said Stipulation entered into by both parties.

Thank you,

Kara Semmler

Kara Semmler

cc. Bob Sahr

RECEIVED

AUG 0 8 2008

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

In the Matter of the Application of	)	**STIPULATION**
East River Electric Power Cooperative, Inc.	)	
for a Construction Permit to Build a	)	
115 kV Overhead Electric Transmission Line	)	
to Serve the TransCanada Keystone Pipeline	)	
Pump Station #20	)	**EL08-010**

It is hereby stipulated and agreed by and between East River Electric Power Cooperative, Inc. ("Applicant" and "East River") and the Staff of the South Dakota Public Utilities Commission ("Staff"), that the following Findings of Fact and Conclusions of Law, and an appropriate Order consistent with said Findings and Conclusions may be adopted by the South Dakota Public Utilities Commission ("Commission") in the above-captioned matter. In support of its Application, the Applicant does hereby offer this Stipulation, the Application filed April 1, 2008, all responses submitted by the Applicant to the Staff's data requests, the presentation and proceedings from the Commission Public Hearing at Groton, South Dakota, documentary evidence, and any other part of the Commission record in this matter. Staff offers no answering testimony or exhibits conditioned upon the Commission accepting the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. INTRODUCTION

East River Electric Power Cooperative, Inc. is a consumer-owned, regional power supply cooperative headquartered in Madison, South Dakota. It transmits wholesale electricity to 21 member electric distribution systems in Minnesota and South Dakota. These member systems, in turn, distribute electricity to approximately 86,000 consumer accounts.

Applicant is proposing to build a new 13 mile 115 kilovolt (kV) line ("Project" or "Crandall Line Tap") to allow Lake Region Electric Association ("Lake Region"), to serve a pump station for the TransCanada Keystone Pipeline as well as other future loads that Lake Region may serve in the area.

The proposed Project would run from Western Area Power Administration's ("Western") Groton substation located south of Groton, South Dakota to the pump station being constructed by TransCanada 9 miles southwest of Andover, South Dakota in Day County.

2. PURPOSE OF FACILITY

The pump station is located in the certified service area of Lake Region, and TransCanada has requested electric service from Lake Region for the pump station. Lake Region is a member/owner of Applicant and has an "All Requirements" contract with Applicant for Applicant to provide all the power and energy requirements of Lake Region.

The proposed Project will provide the electrical transmission service necessary to meet the electrical demand for the pump station and other loads that may develop in the area.

3. DESCRIPTION OF FACILITY AND SITE

The proposed 13 mile 115 kV transmission line will originate at Western's Groton Substation (Exhibit 1) located in the SW¼, Section 18, T122N, R60W in Brown County. The line will be double circuited with an existing East River 69 kV line for approximately 0.75 of a mile running east to the point where the proposed 115 kV line turns south. The line would then be constructed as a single 115 kV circuit using a single wooden pole structure. From where the line turns south, it will run south along the east side of 407th Avenue for 1 mile in private Right of Way ("ROW"). The line will then turn east along the south ROW line of 140th Street for 1 mile in private ROW, then south along 408th Avenue approximately 1.25 miles in private ROW, then continuing south in public ROW for approximately 2.25 miles, then continuing south for 0.5 mile in private ROW, and then east along 144th Street for approximately 5.5 miles in private ROW. The line will then terminate at a new East River substation constructed adjacent to the pump station site.

4. DEVIATIONS FROM DESCRIBED CENTERLINE

Applicant does not anticipate a need to deviate from the specific location of the centerline of the proposed Project. However, based upon actual conditions encountered during construction, such as the need to avoid underground utilities, poles may need to be adjusted slightly.

5. ESTIMATED COST OF FACILITY

The estimated total cost of the Crandall Line Tap is $1,930,000.

Applicant will either utilize its internal work force or contract with private transmission line contractors to construct the Project. Cost estimates for the Project are based on construction cost histories accumulated during recent construction projects.

6. DEMAND FOR THE FACILITY

TransCanada has informed Applicant that the Keystone Pipeline will initially operate at 435,000 barrels per day (BPD) but will ultimately be operated at 591,000 BPD. At the initial operation of 435,000 BPD, the pump station will have two 5,000 Horse Power (HP) electric drive pumps and will have an estimated peak demand of 7.8 MW and annual energy usage of approximately 50,000 MWH. At the ultimate operation of 591,000 BPD, the pump station will have four 5,000 HP electric drive pumps and will have an estimated peak demand of 15 MW and an annual energy usage of approximately 87,000 MWH's.

If this facility is not constructed or is delayed, then TransCanada will not be able to operate their pipeline facility until this Project or a similar project would be completed.

7. ALTERNATIVE SITES

Due to the location of the pump station in relation to existing high voltage sources in the vicinity of the Project and the magnitude of the load and the size of motors it will utilize, evaluation by the Applicant showed the need to serve the load from Western's Groton Substation, a 115 kV source.

Selection of the final route for the Project took into account separation from existing electric facilities, cooperation of landowners, topographic features, cost, environmental concerns and regulations and engineering design considerations. A discussion of the alternative line route evaluation is provided in Section 2.8 of the Application. Applicant believes the proposed Project represents the best alternative in terms of meeting customer, landowner, legal and regulatory concerns, while minimizing impact to the environment and existing land use.

8. ENVIRONMENTAL FACTORS AND PHYSICAL ENVIRONMENT

Applicant has provided environmental information as part of its Permit Application. The existing environment and estimates of changes and impacts to the existing environment are found in section 2.9 to 2.13 of the Application.

The proposed line route for the Project will minimize changes and impacts to the existing environment by following existing property boundaries and road rights of way. The Application demonstrates that the proposed Project will have an insignificant impact on all factors evaluated. It is not anticipated that this Project will create any significant direct, cumulative or synergistic hazards to the health and welfare of human, plant or animal communities.

a. **Topography.** Regional topography is generally characterized by rolling hills and plains. Topographic maps of the Project are provided in Exhibit 2 of the Application.

b. **Geologic Features.** The proposed Project is located in two ecoregions, the Glacial Lakes comprised of glacial lakes deposits and the Drift Plains comprised of glacial till over Cretaceous Pierre Shale and Fox Hills Formations.

c. **Economic Deposits.** There are no commercially important sources of coal, oil and gas, or metals in the region.

d. **Soil Type.** The soil types in the area of the Project are of Mollisols (Argiaquolls, Calciaquolls, Endoaquolls, Haploborolls, Natriborolls).

e. **Potential for Erosion and Sedimentation.** It is not anticipated that the construction of this transmission line will cause erosion or sedimentation problems during the construction and in the future.

f. **Seismic Risks, Subsidence Potential, and Slope Instability.** The electric transmission line involved in the Project will be designed and constructed to meet utility standards. As a result, no issues relating to seismic risks, subsidence, and slope instability have been identified. Any potential difficulties due to seismic activities, subsidence and slope instability will be avoided through proper design and construction.

g. **Geological Constraints.** No geological constraints have been identified along the transmission line routes, and it is not anticipated that any geological constraints will impact the Project.

h. **Hydrology.** Impacts to surface water from the proposed Project would be insignificant. As this Project does not involve any new roads, grading, filling, deforestation, or significant vegetation removal, there will be no changes to the current drainage patterns. Construction would be conducted in accordance with a plan for control of sediment and erosion. After construction, no direct, indirect, or cumulative impacts to surface water quality resulting from the proposed transmission line facilities are anticipated.

i. **Effect on Current Planned Water Uses.** The proposed transmission line will not use either municipal or private water and therefore will have no impacts on any planned water uses by communities, agriculture, recreation, fish, or wildlife.

j. **Surface and Groundwater Use by Proposed Facility.** The proposed transmission line will not require consumptive use of or discharge to any surface water body or groundwater.

k. **Aquifer Use by Proposed Facility.** The proposed transmission line will not require the use of groundwater as a source of potable water supply or process water.

l. **Water Storage, Reprocessing, and Cooling by Proposed Facility.** No water storage, reprocessing, or cooling will be required for the construction or operation of the proposed transmission line.

m. **Deep Well Injection Use by Proposed Facility.** No deep well injection would be required for the construction or operation of the proposed transmission line.

n. **Effect on Terrestrial Ecosystems.** The proposed Project follows existing roads and should have no adverse long term impact on the vegetation and wildlife composition within the Project area. No permanent service road will be required that would result in vegetation removal and unauthorized access. Vegetation removal or habitat loss resulting from pole and anchor placement is insignificant. The transmission line will not displace or adversely affect wildlife or aquatic species. The Project will not impact ecologically unique or sensitive habitats including wetlands and aquatic habitats.

o. **Effect on Wildlife.** The proposed Project should have minimal impact and disruption of any wildlife within the Project area. It should also only cause an insignificant, if any, change or loss of any wildlife habitat or vegetation in the area.

The area around the Project is dominated by agricultural lands. The transmission lines involved in the Project are located on road/public ROW, cropland, and pastures. Wildlife in this area is made up of waterfowl and pheasants.

The Project does not involve any new roads, grading, or deforestation. Vegetation clearing will be restricted to areas immediately around the poles. As a result, the Project should not impact wildlife composition, abundance, or habitat.

p. **Effect on Vegetation.** The impact to vegetation in the Project area should be minimal. As stated in 2.12.1 of the Application, the transmission line is located on road/public ROW, croplands, and pastures. The Project does not include any new roads, buildings, grading, water uses, or other

changes to the land that may have a long term negative impact to vegetation. Also, the Project should not cause any future erosion problems which could impact vegetation.

Construction of the Project will have a short term impact on vegetation as a result of vehicle and equipment accessing the structures, material delivery, structure assembly and erection, and stringing of conductors and static wire. Also, there will be some vegetation removal to maintain adequate safety clearances with the overhead lines.

q. **Effect on Aquatic Ecosystems.** The proposed Project should not adversely impact any aquatic ecosystems. The Project does not directly change or impact any wetlands, streams, or rivers. Also, the Project does not require any new roads, grading filling, or other changes to the existing terrain that could cause erosion or sedimentation problems or would change any existing drainage patterns.

r. **Water Quality.** This Project should not impact any wetlands, streams or rivers. The Project will comply with all applicable federal, state and local rules and regulations required for alteration of wetlands, streams, or rivers resulting from the Project. The following are specific measures that would be taken to protect water quality in the proposed Project corridor:

- Best management practices would be implemented to minimize erosion and sedimentation, runoff, and surface instability during construction.

- Construction would be conducted to minimize disturbances around surface water bodies to the extent possible.

- Current drainage patterns in areas affected by construction will be maintained.

- Staging areas for project-related construction equipment would be located in areas that are not environmentally sensitive to control erosion.

- Staging and laydown yards for project-related construction would be established at least 59 feet from waterways or wetlands, if permitted by topography. No vegetation would be cleared between the yard and the waterway or wetland.

- Construction equipment would not be serviced within 25 feet of waterways or wetlands. Equipment would not be fueled within 100 feet of the waterways or wetlands.

- Any spills of fuels or other hazardous materials during construction or system maintenance would be promptly contained and cleaned up.

- Any herbicides used in ROW maintenance would be approved by U.S. Environmental Protection Agency and applied by licensed professions. Application of herbicides would be limited to the extent necessary for regular maintenance of the transmission line.

s. **Air Quality.** No significant or long-term impacts to air quality will occur as a result of this Project. Construction traffic may generate some local dust for short duration. However, the use of construction vehicles involved in this Project will be short term at each part of the Project. The Project will comply with all federal, state and local air quality standards and regulations.

9. LAND USE

a. **Existing Land Use.** The Project is compatible with the existing agricultural land use in the area. The entire length of the proposed route parallels property/road ROW lines. The proposed route does not require any new cross-country ROW. Impacts to land uses adjacent to the transmission line will be minimized by using single wooden poles.

b. **Homes and Persons Displaced.** There will be no homes or persons displaced as a result of the construction, operation, or maintenance of the transmission facilities that are part of this Project.

c. **Land Use Compatibility.** The proposed transmission line is compatible with the present land uses of the surrounding area. The majority of the proposed transmission line traverses private land that is zoned agricultural. The addition of the power line to the area would have minimal direct or indirect impacts on the already linear features of the landscape, as existing roads, fencing and power lines transect the area. Construction would temporarily alter the area.

d. **Effect on Land Use.** The land in the public and private ROW can be used for the same purpose as prior to this Project. The land will be subject to the restrictions as stated in the easements. These restrictions include that trees and structures that might interfere with the safety, operation or maintenance of the line may not be permitted in the ROW.

e. **Noise.** The noise levels from the Project are comparable to the existing noise environment and will not have a significant impact on humans or the environment.

f. **Local Land Use Controls.** The proposed Project will comply with all applicable zoning requirements. No existing land use controls by any of the governing bodies restrict the use of the land within the proposed Project area for the purpose of constructing and maintaining the transmission line.

10. TIME SCHEDULE

The current estimated time schedule for the Project is to start construction in the fall of 2008 and complete construction by May 2009.

11. COMMUNITY IMPACT

a. **Forecast of Socioeconomic Impact.** This project will provide additional electrical infrastructure in the area to serve the pump station and would be available to serve future electrical needs. No other significant socioeconomic impacts to the local communities and governmental facilities or services are anticipated as a result of this Project.

b. **Property and Other Tax Impacts.** The Applicant believes that the proposed Project will not have any dollar value impact on property taxes. For personal property used in the distribution and transmission of electricity such as with the proposed Project, rural electric cooperatives pay a two percent gross receipts tax. This tax is in lieu of other taxes including property taxes. A prorated share of this tax is paid to the individual counties and ultimately distributed to local school districts. So, while the facilities themselves will not directly increase property taxes, the increased sales to customers served by this line will increase the overall gross receipts tax paid and bring tax benefits to the area and the state.

c. **Forecast of Agricultural Impacts.** The transmission line in the Project is sited along ROW and property lines. As a result, the Project is not expected to interfere with agricultural operations or result in the loss of croplands. Should damage occur to crops during construction of this Project, landowners are reimbursed for damages as a normal part of easement costs.

d. **Forecast of Population and Community Impacts.** The proposed transmission Project is not expected to impact the population, income, housing, land values, labor market, or the occupational distribution of the region. Applicant bases this, in part, on our long history with similar

facilities crossing similar rural routes in the State of South Dakota and Minnesota. The physical aspects of the proposed facilities are like other 69 kV and 115 kV lines which already cross this state with little or no economic impact. The land use and characteristics are typical for such a build, and there is nothing unusual in the proposed route that should cause heightened concern.

e. **Forecast of Transportation Impacts.** No significant direct, indirect, or cumulative impacts are expected to the transportation systems of cities, counties, and the state as a result of the Project. Short-term impacts may include minor traffic delays caused when wires are strung across roadways. Any such short-term roadway closings would be scheduled with appropriate authorities and marked clearly, and detour routes would be provided as necessary. Construction of the proposed Project would be expected to cause only insignificant and temporary adverse transportation effects to public access as a result of roadway congestion from work vehicles.

f. **Forecast of Cultural Resource Impacts.** Prior to the public meeting, held by the Public Utility Commission on May 12, 2008 for this Project, a Level III Cultural Resource Survey was conducted for the Project's line route as it existed at that time and a determination was made that there will be no adverse impacts. (See Exhibits 15 and 16 submitted with the Applicant's response to the PUC staff's data request 1.) Following the public meeting a Mr. Nierman, who owns property adjacent to the Project but had declined to provide an easement on property owned by both he and his wife, did agree to provide a private easement for their land along 407th St. in both Sections 17 and 20 of T122N, R60W of Brown County. East River has commissioned a Level III Cultural Resource Survey for the land involved in these new easements.

East River will provide to the PUC staff a copy of the completed new Level III Cultural Resource Survey when it is received as well as the response from the South Dakota State Historical Preservation Office.

12. EMPLOYMENT ESTIMATES

Applicant intends to hire an external contractor to construct the transmission line. It is anticipated the contractor will have between 10 and 24 employees working on the Project during various construction phases. In addition, Applicant will have one or more of its employees at times reviewing the construction work for safety and quality of workmanship. DGR Engineering, an engineering firm hired by Applicant to provide transmission line design and right-of-way acquisition functions for the Project, will also have from time to time a member of their engineering staff on the construction site to review quality of workmanship. Once

the Project is completed there will be no new employees that will reside in the area as a result of the Project.

13. FUTURE ADDITIONS AND MODIFICATIONS

At this time, Applicant does not anticipate any future additions or modifications to this Project that would need to be approved under this permit application.

14. TRANSMISSION DESIGN AND CONSTRUCTION

a. **Vegetation Clearing.** The proposed Project is located in public and private ROW. Some vegetation may need to be cleared to provide adequate clearances to the transmission line. Applicant annually trims vegetation away from its transmission lines for this purpose. It is expected that some additional vegetation will be removed for the Project.

b. **Soils.** Any soils removed during borings for the transmission line structures would be used for backfill. Any remaining material would be spread and mounded near the base of the transmission line structures. After construction is complete, any compacted soil would be tilled, and the area would be reseeded with native grasses.

c. **Herbicides and Sterilants (Weed Control).** It is Applicant's policy to use mechanical and manual methods to clear the ROW. However, where the use of mechanical or hand methods are impractical, the selective use of herbicides may be necessary. In these instances, the appropriate Federal and state agencies will be notified, only approved herbicides will be used, and all recommended precautions will be taken.

d. **Construction Site Access.** All line segments are either built in ROW with easements that allow access for construction and maintenance purposes, or are built in public ROW along public roads that provide access for construction and maintenance purposes.

e. **Waste Disposal.** Vegetation that may be removed from the ROW and debris resulting from the work will be disposed of in a manner approved by local authorities.

f. **Restoration and Re-vegetation.** Those areas requiring re-vegetation will be reseeded with vegetation recommended by the Soil Conservation Service.

15. INFORMATION CONCERNING TRANSMISSION FACILITIES

a. **Configuration of Poles.** Six basic structure types would be used for the transmission line. The height of the poles, dependent upon clearance of other objects, will range between 65 feet and 95 feet in height.

1. A single pole wood pole structure configured with three horizontal line post insulators that are staggered supporting the three phase conductors and one suspension clamp mounted at the top of the structure supporting the shield wire.

2. A single wood pole structure with six horizontal line post insulators that will support a 69/115 kV double circuit transmission line. The shield wire will be supported with a suspension clamp at the top of the structure.

3. A single wood pole structure configured with three horizontal line post insulators mounted on one side will be utilized for small angles. The shield wire will be supported with a suspension clamp.

4. A single wood pole structure configured with a three horizontal line post insulators for supporting the three phase conductors. The middle and bottom insulators would be mounted at the same height to obtain additional ground clearances. The shield wire will be suspended from the top of the structure with a suspension clamp.

5. A single wood structure with suspension/strain insulators utilized to support the phase conductors for large angles. The shield wire will be supported with deadend clamps at the top of the pole.

6. A three pole wood structure with suspension/strain insulators to support the phase conductors on large angles. The shield wire will be supported on one of the wood poles with deadend clamps. This structure will be utilized to transition from a vertical configuration to a horizontal (flat) configuration when crossing an existing transmission line at the Groton substation.

b. **Line Switches.** No line switches will be installed in this Project.

c. **Conductor Configuration.** The Project will utilize a 477 MCM Aluminum Conductor Steel Reinforced conductor with a 3.8 extra high strength steel shield wire using 300 foot ruling spans.

d. **Reliability and Safety.** The proposed transmission line will be designed and constructed in full compliance with all applicable NESC electrical

performance and safety codes and, as a result, would not present significant impacts posed by safety or electrical hazard to the general public.

e. **Right-of-Way or Condemnation Requirements.** All easements for the transmission line have been obtained. Where private easements were not obtained, the transmission line will be installed in the public ROW. No condemnations are anticipated.

f. **Necessary Clearing Activities.** Only minor tree clearing at one location along the route of the Project will be required.

g. **Configuration of Underground Facilities.** No underground 115 kV facilities will be required as a part of the proposed Project. Existing overhead distribution lines will be placed underground to allow ROW clearance for the proposed line.

CONCLUSIONS OF LAW

1.

The Commission has jurisdiction over the subject matter and parties to this proceeding pursuant to SDCL Chapter 49-41B and ARSD 20:10:22. Subject to the findings made on the four elements of proof under SDCL 49-41B-22, the Commission has authority to grant, deny or grant upon such terms, conditions or modifications of the construction, operation or maintenance of the Project as it may deem appropriate.

2.

To the extent that any of the above made findings of fact are determined to be conclusions of law or mixed findings of fact and conclusions of law the same are incorporated herein by this reference as a conclusion as if set forth in full.

3.

Administrative rules have the force of law and are presumed valid. *Feltrop v. Department of Social Svcs., 559 NW2d 883, 884* (SD 1997). An administrative agency is bound by its own rules. *Mulder v. Department of Social Svcs., 675 NW2d 212, 216 (SD 2004).*

4.

The proposed transmission line is a "transmission facility" as defined in SDCL 49-41B-2.1.

5.

The Applicant's Permit Application, as amended and supplemented by responses to Staff data requests, complies with the applicable requirements of SDCL Chapter 49-41B and ARSD 20:10:22.

6.

The Project as defined herein will comply with all applicable laws and rules, including all requirements of SDCL Chapter 49-41B and ARSD 20:10:22.

7.

The Project, if constructed in accordance with the terms and conditions of this permit, will not pose a threat of serious injury to the environment nor to the social and economic condition of inhabitants or expected inhabitants in the siting area.

8.

The Project, if constructed in accordance with the terms and conditions of this permit, will not substantially impair the health, safety or welfare of the inhabitants in the siting area.

9.

The Project, if constructed in accordance with the terms and conditions of this permit, will not unduly interfere with the orderly development of the region with due consideration having been given the views of governing bodies of affected local units of government.

10.

The Commission has the authority to revoke or suspend any permit granted under the South Dakota Energy Permit Act for failure to comply with the terms and conditions of the permit pursuant to SDCL 49-41B-33.

11.

East River will be the permitted owner of the Project.

12.

The burden of proof on the parties on which they have the burden is by the preponderance of the evidence.

13.

The Commission concludes that it needs no other information to assess the impact of the Project to determine if Applicant has met its burden of proof.

14.

The Commission concludes that the Application and all required filings have been filed with the Commission in conformity with South Dakota law. All procedural requirements required under South Dakota law have been met. All data, exhibits, and related testimony have been filed.

15.

The Commission concludes that the Application is supported the Application, all responses submitted by the Applicant to the Staff's data requests, the presentation and proceedings from the Commission Public Hearing at Groton, South Dakota, documentary evidence, and any other part of the Commission record in this matter.

16.

The Commission concludes that the Application, as amended and supplemented, is legally and procedurally appropriate and complete. All formatting and time requirements have been complied with. All public hearing requirements have been met.

17.

The Applications have met their burden of proof pursuant to SDCL 49-41B-22 and are entitled to a permit as provided in SDCL 49-41B-24, subject to the following:

STIPULATE TO THE FOLLOWING TERMS AND CONDITIONS

1.

The Applicant has or will obtain all governmental permits that may be required by any township, county, state or federal agency or any other

governmental unit for construction activity covered by that permit. Copies of any permits obtained by the Applicant shall be sent to the Commission.

2.

The Applicant shall not deviate from the intent of the private easement, where a private easement is being used for the Project. For landowners, Mr. and Mrs. Alan Nierman, the Applicant will minimize any impact of the Project on the views from their home and on access to their property.

3.

In order to ensure compliance with the terms and conditions of this permit pursuant to SDCL 49-41B-33, it is necessary for the enforcement of this Order that all employees, contractors and agents of the Applicant, to the extent of its interest, involved in this Project be made aware of the terms and conditions of this permit.

4.

The Applicant shall ensure that its employees, contractors and agents involved in ROW negotiations and acquisitions, ROW clearing, line construction and ROW and line maintenance understand fully and comply with the terms and conditions of this permit.

5.

The Applicant shall complete the Level III Cultural Resource Survey for the land in the easements provided by Mr. and Mrs. Alan Nierman. A copy of the Survey results and the response to the survey made by the South Dakota State Historical Preservation Office shall be provided to the PUC staff. In order to avoid impacts to known archeological sites, Applicant will comply with the conditions set forth in the Findings of Fact. In addition, if during construction, the Applicant or its agents discover what may be an archaeological resource, the Applicant or its agents shall immediately cease work at that portion of the site and notify the Commission and the State Archaeologist. If such an archaeological resource is discovered, the Application shall develop a plan that is acceptable to the State Archaeologist to salvage, avoid or protect the archaeological resource. If such a plan will require a different route than that approved by the Commission, the Applicant must seek Commission approval for the new route before proceeding with any further construction.

6.

In order to mitigate interference with agricultural operations during and after construction, the Applicant shall locate all structures, to the extent feasible and prudent, to minimize adverse impacts and interferences with agricultural operations, shelterbelts and other land uses or activities. The Applicant shall take appropriate precautions to protect livestock and crops during construction. The Applicant shall repair all fences and gates removed or damaged during construction or maintenance unless negotiated with the landowner or designee. The Applicant shall be responsible for the repair of private roads and lanes damaged when moving equipment or when obtaining access to the ROW.

7.

The applicant shall provide each landowner across whose property the Project is to be constructed with the following information;

- A copy of the Commission's Order.
- Detailed safety information describing (a) reasonable safety precautions for existing activities on or near the ROW; (b) known activities or uses that are presently prohibited within the ROW; and (c) other potential dangers or limitations within the ROW.
- Construction/maintenance damage compensation policies and procedures.
- The Commission's address and phone number.

The Applicant shall also comply with all other terms and conditions as set forth in the Findings of Fact.

8.

The terms and conditions of the permit shall be made a uniform condition of construction, subject only to an affirmative written request for an exemption addressed to the Commission. A request for an exemption shall clearly state which particular condition should not be applied to the property in question and the reason for the requested exemption. The Commission shall evaluate such requests on a case-by-case basis.

9.

If the presence or operation of the Project causes interference with radio, television, or any legal communication device, the Applicant shall take all appropriate action to minimize any such interference and make a good faith effort to restore or provide reception levels equivalent to reception levels in the

immediate areas just prior to construction of the Project. This mitigation requirement shall apply to homes or other structures in place at the time of construction but shall not apply to any dwellings or other structures built after construction of the Project approved in this Permit that have been completed.

10.

Before commencing construction, the Applicant shall furnish an indemnity bond in the amount of Five Thousand Dollars ($5,000) to all affected Counties and Townships for a total of Twenty Five Thousand Dollars ($25,000) to comply with the requirements of SDCL 49-41B-38.

Date: August 7, 2008

East River Electric Power Cooperative, Inc.

By: _____
Jim Edwards
Assistant General Manager-Operations

Date: August 8, 2008

South Dakota Public Utilities Commission

Kara Semmler

By: Kara Semmler
Staff Attorney