BEFORE THE 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 Permit to Construct Approximately	)	
9.5 miles of 115 kV Transmission Line	)	**EL08-016**

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 June 12, 2008, all responses submitted by the Applicant to the Staff's data requests, the presentation and proceedings from the Commission Public Hearing at Chancellor, 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 9.5 mile 115 kilovolt (kV) line ("Project" or "Chancellor Line Tap") to allow Southeastern Electric Cooperative, Inc. ("Southeastern"), to serve the expansion of the Poet Biorefining-Chancellor Ethanol Plant ("Ethanol Plant") as well as other future load growth in Turner and Lincoln Counties.

The Project would run from the Virgil Fodness 230/115/69 kV Substation located in Section Two (2), Township Ninety-nine (99) North, Range Fifty-one (51) West in Lincoln County, South Dakota to East River's Chancellor Substation located in Section Twenty-six (26), Township Ninety-nine (99) North, Range Fifty-two (52) West in Turner County, South Dakota.

2. PURPOSE OF FACILITY

The Ethanol Plant receives electric service from Southeastern. Southeastern 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 Southeastern.

The Project will provide the electrical transmission service necessary to meet the growing electrical demand for the Ethanol Plant expansion and future estimated load growth in Turner and Lincoln Counties.

3. DESCRIPTION OF FACILITY AND SITE

The transmission line will originate at the Virgil Fodness 230/115/69 KV Substation located in Section 2, T99N, R51W, in Lincoln County, South Dakota. The line will be constructed as a single 115 kV circuit using single wooden pole structures. From the Virgil Fodness Substation, the line will cross 274th Street to the west side of the north south quarter line. The transmission line will continue south and run along the west side of the quarter line for one half mile, and then west along the north side of the quarter line to 468 Avenue. The line will then turn south proceeding for one half mile along the east side of 486th Avenue. The line will then turn west and proceed for two and one half miles on the south side of 275th Street. The line will cross to the north side of 275th Street at that point. The line will continue west on the north side of 275th Street for one and one half miles. It will then turn south and proceed along the east side of 464th Avenue for two miles. It will then turn west again and proceed one and three quarters miles on the north side of 277th Street to a point directly across from East River's Chancellor substation where the line will then cross the road to the south and enter onto the substation property.

4. DEVIATIONS FROM DESCRIBED CENTERLINE

Applicant does not anticipate a need to deviate from the specific location of the centerline of the 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 Chancellor Line Tap is $1,470,000.

Applicant will utilize its internal work force 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

The Ethanol Plant is presently served directly off East River's 69,000 volt (69 kV) transmission network. With the expansion of the Ethanol Plant from 6 MW to 16-20 MW, plus the other cooperative load growth on the west side of Sioux Falls, a new 115 kV transmission circuit is needed to increase transmission capacity and reliability to the Ethanol Plant and to other cooperative customers in the area. Initially the line will only be used to serve the Ethanol Plant, but in the future it will be used to convert portions of East River's existing 69 kV transmission network on the west side of Sioux Falls to 115 kV, similar to what East River did with its transmission network on the east side of Sioux Falls.

A delay or termination of the construction of the transmission line would limit East River's ability to reliably serve cooperative customers and could result in a negative economic impact to the area. Also, as this line is one part of a significant infrastructure investment in the Cooperative's electric delivery system in the growing area of Sioux Falls, South Dakota and delays or termination of this Project could result in economic loss to the region.

7. ALTERNATIVE SITES

Final siting of the transmission line needs to meet the needs of the immediate consumer, the Ethanol Plant, as well as the expected consumer growth in the rural area west of Sioux Falls.

An option of leaving the existing system at its current 69 kV voltage level and increasing the capacity by reconductoring/rebuilding portions of the existing system and adding additional 69 kV tie lines and sources was considered. This option was ruled out due to the lack of new high voltage sources available between the two existing major delivery points and the density of new distribution substations that would be required to serve the projected load during normal and emergency conditions.

An option to convert the existing system to a 115 kV voltage level to increase the overall capacity of the system and, where needed, reconductor sections of lines which have smaller conductors and thermal loading limitations was considered. This option was ruled out as the amount of the existing system that would need to be converted to maintain the necessary backup tie lines and sources was not practical. In addition, converting the system does not provide the additional lines that will allow for additional substations to serve new loads as Sioux Falls expands to the west.

Selection of the final route for the Project provides greater capacity to the area, and provides additional lines in the area that can have new distribution substations served from them. It meets the immediate needs of the Ethanol

Plant and fits into the long range plans of East River to meet the growing needs of the area west of Sioux Falls. Project alternatives are discussed in Section 2.8 of the Application.

The Applicant believes the Project represents the best alternative in terms of meeting customer, landowner, legal and regulatory concerns, while minimizing impacts 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 Sections 2.9 to 2.10 of the Application.

The 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 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 level to slightly rolling plains composed of glacial drift. A topographic map of the Project is provided as Exhibit 5.

b. **Geologic Features.** The Project is located in the James River Lowland ecoregion, comprised of glacial till over Cretaceous Pierre Shale and Sandstone of Niobrara Formation.

c. **Economic Deposits.** There are no commercially important sources of coal, oil and gas, or metals in the region. East River is not aware of any geological deposits within the transmission line route.

d. **Soil Type.** The soil types in the area of the Project are of Mollisols (Argiustolls, Haplustolls, Natrustolls).

e. **Potential for Erosion and Sedimentation.** It is not anticipated that the construction of this transmission line will cause erosion or sedimentation problems during construction and in the future. Areas that are disturbed by construction equipment are expected to recover with native vegetation after the construction equipment is permanently removed.

f. **Seismic Risks, Subsidence Potential, and Slope Instability.** The 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 route, and it is not anticipated that any geological constraints will impact the Project.

h. **Hydrology.** Impacts to surface water from the 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 Project are anticipated.

i. **Effect on Current Planned Water Uses.** The 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 the Project.** The transmission line will not require consumptive use of or discharge to any surface water body or groundwater.

k. **Aquifer Use by the Project.** 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 the Project.** No water storage, reprocessing, or cooling will be required for the construction or operation of the transmission line.

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

n. **Effect on Terrestrial Ecosystems.** The Project follows existing roads except for approximately one mile in Section 11 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 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 and some urban development. The transmission line involved in the Project is located on road/public ROW, cropland, and urban areas. Wildlife in this area is made up of species adapted to agricultural and urban areas such as deer, rabbits, raccoons, geese, ducks, songbirds and others.

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 the transmission line is located on road/public ROW, croplands, and urban areas. 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 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 Project corridor:

- 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 100 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 100 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 the U.S. Environmental Protection Agency and applied by licensed professionals. 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 a 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.

t. **Health and Welfare.** The alignment for the transmission line will minimize changes and impacts to the existing environment by following existing property boundaries, paralleling section and county roads, siting in areas with compatible land use and minimizing the need to cross environmentally sensitive or significant features. The Application demonstrates that the Project will not have a significant 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.

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 route parallels property or road ROW lines. The 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 transmission line is compatible with the present land uses of the surrounding area. The majority of the 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 shall 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 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 Project area for the purpose of constructing and maintaining the transmission line.

g. **Radio and Television Interference.** The Project is not expected to cause any radio or television interference. If it is determined that the presence or operation of the Project may be causing a problem, the Applicant will investigate the concern and correct these problems caused by the Project, in accordance with the Federal Communications Commission (FCC) rules regarding operation of such facilities.

h. **Aesthetics.** There are no unique aesthetic resources in the area that would be impacted by this Project.

10. TIME SCHEDULE

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

11. COMMUNITY IMPACT

a. **Forecast of Socioeconomic Impact.** East River believes that the Project will have minimal, if any, impact, on housing, land values or the labor market. East River bases this, in part, on our long history with similar facilities crossing similar rural routes in South Dakota and Minnesota. The physical aspects of the 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 route that should cause heightened concern.

This Project will provide additional electrical infrastructure in the area to serve the Ethanol Plant. It would not be possible for the Ethanol Plant to expand without an upgrade to the electrical system. The facilities also will be available to serve future electrical needs in the rapidly expanding area of Sioux Falls. Together these will provide significant social and economic benefit to the area.

East River anticipates that the Project will have minimal, if any, demand on public services and does not foresee the need for any extension or expansion of public services within the affected areas due to the Project.

b. **Property and Other Tax Impacts.** The Applicant believes that the 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 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 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 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 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 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 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.** The transmission line is sited along ROW and property lines. As such there are no anticipated impacts to cultural resources as a result of the Project.

East River engaged Cultural Heritage Consultants to conduct a Class III archaeological investigation of the Project. Subsequently the Cultural Heritage Consultants recommended that a determination of "No Historic Properties in the Area of Potential Effects" be made regarding the Project.

The Cultural Heritage Consultants' report and recommendation were forwarded to the South Dakota State Historical Society. Subsequently in a response dated February 25, 2008, the South Dakota State Historical Society concurred.

12. EMPLOYMENT ESTIMATES

The Applicant will utilize approximately 30 employees from its existing work force supplemented by up to four workers employed for the construction season to construct the Project. Once the Project is completed there will be no new employees residing 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 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. See Section 14.f. below for re-vegetation requirements.

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 private 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. Any waste material and personal waste from the construction activities shall be removed and disposed of properly.

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.** One primary basic structure type will be used for the transmission line. This structure type is a single pole wooden structure configured with three side mount insulators supporting the three

phase conductors and one suspension shoe mounted at the top of the structure supporting the shield wire. See Exhibit 8 in the Application. The height of the poles is dependent upon clearance of other objects and will range between 65 feet and 95 feet in height.

Where the Applicant does not have landowner permission, the poles will be placed in close proximity to the outer edge of the public ROW with the three side mount insulators mounted on the side facing the road ROW.

The project will cross under Western's 230 kV transmission line three times. A single pole structure utilizing a wooden crossarm will be used at these crossings to maintain the required clearance from both the ground and Western's transmission line.

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

c. **Conductor Configuration.** The Project will utilize a 795 MCM conductor with a 3.8 extra high strength overhead shield wire using 300 foot ruling spans.

d. **Reliability and Safety.** The transmission line will be designed and constructed in full compliance with all applicable National Electrical Safety Code electrical performance and safety codes and, as a result, would not present significant impacts posed by safety or electrical hazard to the general public. See the Applicant's Response to PUC Staff's Data Request 1-28 and Exhibit 27 for information on electric magnetic fields or EMF.

e. **Right-of-Way or Condemnation Requirements.** Applicant has contacted all the affected landowners for the Project. All easements for the Project have been obtained except for two possible additional easements. Contact with the owners of affected properties will be ongoing. East River personnel will meet with two landowners for the purpose of obtaining easements for East River's poles once the location of the poles are determined.

Where private easements were not obtained, the transmission line will be installed in the public ROW. No condemnations are anticipated.

f. **Necessary Clearing Activities.** Four large trees located on private property will have to be removed. The landowner, who has agreed, has been informed and understands the need for removal for safety and reliability reasons.

g. **Configuration of Underground Facilities.** No underground facilities will be required as a part of the Project. Existing overhead distribution lines will be placed underground to allow ROW clearance for the 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 of law 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 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 by the Application, all responses submitted by the Applicant to the Staff's data requests, the presentation and proceedings from the Commission Public Hearing at Chancellor, 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 Applicants 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.

Applicant has contacted all the affected landowners for the Project. All easements for the Project have been obtained except for two possible additional easements. East River personnel will meet with two landowners for the purpose of obtaining easements for East River's poles once the location of the poles is determined. The Applicant shall not deviate from the intent of the private easement, where a private easement is being used for the Project.

For all of the land parcels adjacent to the line route, East River will take into consideration both the road approaches used by the landowners and the visual impact of the line, as well as other design criteria, in the design of the line

and the placement of the poles. This includes the properties belonging to landowners Christensen, parcel 17, and Peterson, parcel 20, who both appeared at the August 7, 2008, meeting in Chancellor and the property owned by Hermansons, parcel 26, who did not appear at the meeting.

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 northwest quarter of Section 19, R51W, T99N for which a private easement to site one half mile of transmission line was given after the Applicant filed its original permit application as well as any other lands that private easements are granted to the Applicant for its use in this Project. 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. 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 Applicant 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, website, and phone number.
- Contact person within the company including name 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 Thousand Dollars ($20,000) to comply with the requirements of SDCL 49-41B-38.

Date: September 19, 2008

East River Electric Power Cooperative, Inc.

By: _____
Jim Edwards
Assistant General Manager-Operations

Date: 9-19-08

South Dakota Public Utilities Commission

_____
By: Karen E. Cremer
Staff Attorney