

STATE OF SOUTH DAKOTA
BEFORE THE
PUBLIC UTILITIES COMMISSION

In the Matter of the Petition for)
Electrical Service by Dakota Plains)
Ag Center, LLC to have NorthWestern) Docket No. EL16-013
Energy Assigned as its Electric) FINDINGS OF FACT AND
Provider in the Service Area of Bon) CONCLUSIONS OF LAW
Homme–Yankton Electric Association)

The above entitled matter having come on for hearing before the Public Utilities Commission on the 27th day of April, 2016, commencing at 9:30 o’clock A.M., upon Petition of South Dakota Rural Electric Association to Intervene in the above entitled matter filed by Dakota Plains Ag Center, LLC, and the Petitioner, South Dakota Rural Electric Association (“SDREA”) appearing personally and by and through its counsel, Riter, Rogers, Wattier & Northrup, LLP of Pierre, South Dakota, Dakota Plains Ag Center, LLC appearing by and through its counsel, Brett Koenecke of Pierre, South Dakota, Bon Homme-Yankton Electric Association appearing by and through its counsel, Sheila Woodward of Yankton, South Dakota, and NorthWestern Energy Corporation d/b/a NorthWestern Energy (“NorthWestern”) appearing by and through its counsel, Jon Ooster of Sioux Falls, South Dakota and the Commission having considered the Petition to Intervene, all records and documents on file herein, the applicable law and the arguments of counsel, as well as comments by its staff, and good cause appearing therefore, now makes and files the following Findings of Fact and Conclusions of Law and Order:

FINDINGS OF FACT

1. Dakota Plains Ag Center, LLC (hereinafter “Dakota Plains”) has filed a petition for electric service to have NorthWestern Energy as its electric provider pursuant to SDCL 49-34A-56 in the service area of Bon Homme-Yankton Electric Association (hereinafter “Bon Homme”).
2. Bon Homme filed a Petition to Intervene in this matter, which was granted on April 11, 2016.
3. NorthWestern filed a Petition to Intervene, which was granted on April 11, 2016.
4. SDREA also filed a Petition to Intervene in the matter on April 22, 2016.
5. No objections were filed to the Intervention Petition of Bon Homme or NorthWestern; however, Dakota Plains filed an Opposition to SDREA’s Petition to Intervene.

6. SDREA is an organization comprised of member electric cooperatives in South Dakota and it is devoted to the protection of the interests of its member electric cooperatives and their patrons.

7. Bon Homme is a rural electric member company of SDREA, and is supportive of the intervention request.

8. The issues presented in this docket constitute matters of public interest.

9. Other member companies of SDREA and the association itself have regularly been involved in questions involving service territories of respective electric providers.

10. The members of SDREA have interests which can be implicated by the decision this Commission may enter in Dakota Plains' Application and Petition for service.

11. SDREA regularly appears and represents its member companies before the legislature and before this Commission and has previously been granted intervenor status in a number of dockets, including particularly Docket EL06-011, which involved a large load territory question.

From the foregoing Findings of Fact, the Commission now makes and files the following:

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the Petition to Intervene.

2. The rules of this Commission, and particularly ARSD 20:10:01:15.02 and 15.05, guide this Commission in its consideration of petitions to intervene.

3. SDCL 1-26-17.1 limits itself to entities who are specifically entitled to intervene but does not eliminate intervention by other parties under the general authority of the Commission's rules cited in the preceding paragraph.

4. Members of SDREA could be bound and affected by decisions or issues of law rendered herein by this Commission.

5. When members of associations such as SDREA, have interests affected by a proceeding, and where the association seeks to protect interests germane to its purposes, intervention is appropriate.

6. This Commission concludes that the intervention request of SDREA is consistent with and germane to the purposes for which SDREA was organized.

7. This Commission concludes that the Petition to Intervene of SDREA was made in good faith and will not prejudice the rights of Dakota Plains to proceed with its underlying Petition.

8. Good cause to grant intervention to SDREA under the Commission's rules has been shown and Order should be entered granting its intervention petition.

9. That any Finding of Fact inappropriately labeled a Conclusion of Law or any Conclusion of Law inappropriately labelled a Finding of Fact shall be considered as if appropriately labeled.

Let Order be entered accordingly.

DATED this _____ day of _____, 2016.

BY THE SOUTH DAKOTA PUBLIC UTILITIES
COMMISSION:

ATTEST:
