

**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 Energy Assigned as its ) Docket No. EL16-013  
Electric Provider in the Service Area of )  
Bon Homme – Yankton Electric Association )

**MOTION FOR SUMMARY JUDGMENT**

COMES NOW, the Applicant, Dakota Plains Ag Center, LLC, by and through its attorney of record and moves the Commission for an Order granting its Motion for Summary Judgment in the above-captioned matter.

The Motion is based upon the Affidavits of:

- Matthew Winsand;
- Dan Mutschelknaus; and
- Reed McKee

, and on the attachments to Affidavits:

- Attachment A – the contract between Dakota Plains and NorthWestern Energy; and
- Attachment C – the analysis of the proposed facilities and electric usages.

SDCL §49A-34-56 provides that:

“Notwithstanding the establishment of assigned service areas for electric utilities provided for in §§ 49-34A-43 and 49-34A-44, new customers at new locations which develop after March 21, 1975, located outside municipalities as the boundaries thereof existed on March 21, 1975, and who require electric service with a contracted minimum demand of two thousand kilowatts or more shall not be obligated to take electric service from the electric utility having the assigned service area where the customer is located if, after notice and hearing, the Public Utilities Commission so determines after consideration of the following factors:

- (1) The electric service requirements of the load to be served;


- (2) The availability of an adequate power supply;
- (3) The development or improvement of the electric system of the utility seeking to provide the electric service, including the economic factors relating thereto;
- (4) The proximity of adequate facilities from which electric service of the type required may be delivered.
- (5) The preference of the customer;
- (6) Any and all pertinent factors affecting the ability of the utility to furnish adequate electric service to fulfill customers' requirements."

The Affidavits, together with the attachments, show that the customer squarely meets all of the requirements and is entitled to Summary Judgment and an order from the Commission without need for an evidentiary hearing.

WHEREUPON, the Petitioner requests that the Commission grant its Motion forthwith, providing that the customer's location is completely within the territory of NorthWestern Energy, and NorthWestern shall now serve the Customer.

Dated this 27 day of May, 2016.

MAY, ADAM, GERDES & THOMPSON, LLP

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