

JOINT SERVICE RIGHTS EXCEPTION AGREEMENT BETWEEN
NORTHERN ELECTRIC COOPERATIVE, INC.
and
DAKOTA ENERGY COOPERATIVE, INC.

This Service Rights Exception Agreement ("Agreement") is made and entered into this 2th day of July, 2020, by and between Northern Electric Cooperative, Inc. of Bath, South Dakota ("Northern") and Dakota Energy Cooperative, Inc. of Huron, South Dakota ("Dakota").

RECITALS

- (A) Dakota Energy has been granted exclusive rights to serve an area in Beadle County, South Dakota described as:
- Koester Outlot A in NE ¼ Section 3, Township 113 North, Range 64 West of the 5th P.M., Beadle County, South Dakota. See attached Plat Map marked as Exhibit B.
- (B) In 2017 pursuant to the petition of Northern and Dakota, Northern Electric Cooperative, Inc. was granted a service rights exception to serve this location for a card fueling station owned by a Mr. Todd Koester of Redfield, South Dakota. The docket number for those proceedings is EL17-023.
- (C) Since that date the above-described property has been sold to a Mr. Lenny Peterson who wishes to install grain bins at that location and to upgrade the existing service to three-phase service.
- (D) The service rights exception granted in EL17-023 to Northern Electric granted to Northern only the rights to provide single phase service to a card fueling station. Dakota reserved the right to serve any additional load or facilities.
- (E) Northern Electric by this Agreement is hereby granted a further service rights exception to the above-described location, (if approved by the Public Utilities of the State of South Dakota) to extend three-phase service to this location and to provide electrical service to all facilities located thereon without any further restrictions or limitations.
- (F) In order for Dakota Energy to extend three-phase service to this location, Dakota Energy would be required to construct four miles of three-phase line and incur three-phase construction costs of \$221,704.00. One hundred percent that cost would be assessed against Mr. Peterson. See



map attached as Exhibit C.

- (G) In order for Northern Electric to extend three-phase service to this location it would be required to construct 2,070 feet of three-phase service at a cost of \$25,000.00 with \$12,400.00 of that cost to be assessed against Mr. Peterson in aid of construction. See map attached as Exhibit C.

Based upon the foregoing recitations, the parties **NOW THEREFORE AGREE AS FOLLOWS:**

1. **Scope of Agreement.** The scope of this Agreement is limited to the following transaction:

Northern Electric will be permitted to upgrade its single-phase services to three-phase service to serve a bin site owned by Lenny Peterson at the following described location:

Koester Outlot A in NE ¼ Section 3, Township 113 North, Range 64 West of the 5th P.M., Beadle County, South Dakota.

From and after approval of this Agreement by the Public Utilities Commission, Northern Electric will be granted the right to serve the above-described location, including any structures and facilities located thereon without any further restrictions or limitations.

2. **Compensation.** The Parties agree that no monetary compensation is owed to Dakota Energy by Northern Electric for this service rights exception agreement.
3. **Lost Revenue.** The Parties agree that no additional compensation will be owed by Northern Electric to Dakota Energy in the future for lost revenue related to the transaction described in Section 1 above.
4. **Reservation of Rights.** Except specifically set forth herein, this Agreement does not modify or limit the legal rights of any Party.
5. **No Precedent.** The Parties recognize that this Agreement is the result of negotiations between the Parties and that this Agreement, and the South Dakota Public Utilities Commission's ("Commission") approval of this Agreement, does not represent any binding or legal precedent on any party in any other matter.

6. **Request for Commission Approval of the Agreement.** Coinciding with execution of this Agreement by all Parties, Northern Electric has prepared and filed a Joint Filing to the Commission by the Parties to approve this Agreement.
7. **Miscellaneous.**
- a. **Entire Agreement and Modification.** The Agreement contains the entire agreement and understandings of the Parties hereto regarding the scope of the Agreement and appropriate compensation for the transactions described in Section 1 above. All previous communications, or agreements, between the parties hereto, either verbal or written, with reference to the subject matter of this Agreement are hereby abrogated. No amendment, modification of waiver of, or consent with respect to any provision of this Agreement shall be effective unless the same shall be in writing and signed by duly appointed representatives of all Parties, and then any such amendment modification, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.
 - b. **Assignment.** None of the Parties shall assign, or sublet, this Agreement, voluntarily, involuntarily or by operation of law, without the prior written consent of the other.
 - c. **Severability.** If any provision of this Agreement shall be found invalid or unenforceable, in whole or in part, by a court of competent jurisdiction or the Commission, then such provision shall be deemed to be modified or restricted to the extent and in a manner necessary to render the same valid and enforceable, or if that is not possible, such provision shall be stricken and deleted from this Agreement, as the case may require, and extent permitted by law and with the purpose to achieve the fundamental intent of the parties.
 - d. **Choice of Laws.** This Agreement shall be construed and interpreted in accordance with the laws of the State of South Dakota and excluding any choice of law or rules that may direct the application of laws or another jurisdiction.
 - e. **Agreement Drafted Jointly.** The Parties agree that none of the Parties shall be deemed solely responsible for drafting all or any portion of this Agreement, and in the event of a dispute, responsibilities for any ambiguities arising from any provision of this Agreement shall be

shared equally among the Parties.

- f. Regulation. The Parties acknowledge that this Agreement is subject to the jurisdiction of the Commission.
 - g. Effective Date. The effective date of this Agreement is the date upon which the Agreement has been approved by the Commission.
 - h. Notice. Any notice permitted or required by this Agreement shall be made in writing and personally served or mailed (postage prepaid, return receipt requested) and shall be effective upon the date of personal service, or if by mail, upon the date of receipt.
8. Counterparts and Electronic Signatures. This document may be executed in any number of counterparts (which may be delivered by use of a facsimile machine or an e-mail which attaches a portable document format (.pdf) document), all of which when taken together shall constitute one and the same instrument and any of the Parties hereto may execute this document by signing any such counterpart. Signature pages, originals, copies or .pdf may be detached from the counterparts and attached to a single copy of this document to physically form one document.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written and the parties agree to take such additional steps and actions including execution of such instruments and other documents as are reasonably necessary to effectuate and intentions expressed hereby.

SIGNATURE PAGES TO FOLLOW

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

SEPARATE SIGNATURE PAGE

The undersigned hereby executes that certain JOINT SERVICE RIGHTS EXCEPTION AGREEMENT by and between:

- Northern Electric Cooperative, Inc.; and
- Dakota Energy Cooperative, Inc.

After this signature page is executed, the original signature page, a copy or .pdf electronic file attachment (which may be delivered by use of a facsimile machine or an e-mail which attaches a portable document format (.pdf) document) may be attached to the original or original counterpart of that JOINT SERVICE RIGHTS EXECPTION AGREEMENT to the same effect as though the signature page was so attached at the time of its execution. Original signature pages or copies thereof, may be detached from the counterparts and attached to a single copy of this document to physically form one document which may thereafter be electronically filed and shall have the same effect as an original counterpart and original signature pages.

Dated this 27th day of July, 2020.

Northern Electric Cooperative, Inc
NORTHERN ELECTRIC COOPERATIVE, INC.
By: Char Haager
Its: CEO

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF BROWN)

On this the 27th day of July, 2020, before me, the undersigned officer, personally appeared Char Haager, known to me to be the person described in the foregoing instrument, and acknowledged that s/he executed the same in the capacity therein stated and for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.



Kay Albrecht
Notary Public, South Dakota
My Commission Expires: ~~My Commission Expires~~
2/8/2024



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Dated this 27th day of July, 2020.

Dakota Energy Cooperative, Inc.
 DAKOTA ENERGY COOPERATIVE, INC.
 By: Chad Felderman
 Its: CEO/GM

STATE OF SOUTH DAKOTA)
) SS
 COUNTY OF Beadle)

On this the 28th day of July, 2020, before me, the undersigned officer, personally appeared Chad Felderman, known to me to be the person described in the foregoing instrument, and acknowledged that s/he executed the same in the capacity therein stated and for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

[Signature]
 Notary Public, South Dakota
 My Commission Expires: 5-6-26

