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South Dakota

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Patricia Van Gerpen
Executive Director
Public Utilities Commission
500 E. Capitol Avenue
Pierre, SD 57501

RE: EL21-022

Ms. Van Gerpen,

Staff of the South Dakota Public Utilities Commission hereby submits this letter for public comment in Docket No. EL21-022.

It is Staff's opinion that it is clear from the record that the structures are owned by the City of Vermillion.¹ Therefore, the question as Staff sees it is whether the structures are public service facilities for the purpose of SDCL 49-34A-57. While there is no definition of a "public service facility" in South Dakota Law, as was noted by Clay-Union Electric in response to an informal data request from Staff, 42 U.S. Code § 5122 defines a public facility as follows:

- "Public facility" means the following facilities owned by a State or local government:
- (A) Any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility.
 - (B) Any non-Federal-aid street, road, or highway.
 - (C) Any other public building, structure, or system, including those used for educational, recreational, or cultural purposes.
 - (D) Any park.

Applying the definition, specifically subsection C, Staff believes the streetlights would be considered a public service facility. Therefore, without any information to suggest otherwise, Staff believes these lights to be for the purpose of promoting the safety of the public and thus believes the structures to fall within SDCL 49-34A-57.

Sincerely,

Kristen N. Edwards
Staff Attorney

¹ If any party believes this is an unfair transfer, that issue is a matter for the circuit court.