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September 20, 2021

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

Ms. Van Gerpen,

RE:EL21-026-In the Matter of the Agreement between the City of Vermillion and Clay Union Electric Corporation for Transfer of Annexed Service Territory

On September 13, 2021, the Public Utilities Commission (Commission) received a filing of an Agreement to Transfer Service Territory between Clay Union Electric Corporation (Clay Union) and the City of Vermillion (Vermillion). After review, it became evident to Staff that the territory subject to the agreement is to be transferred via annexation.

Staff reviewed past Commission procedures and applicable statutes regarding annexation agreements and believes this agreement does not require Commission approval. SDCL 49-34A-48 to 49-34A-54 speaks to municipal annexation and does not specifically require the Commission approve such transactions. Although annexations may change the service territory maps, the authority conferred on the Commission in regard to transfer of electric utility service rights and property due to municipal annexation is limited to price disputes for the facilities in the annexed area. (SDCL 49-34A-51).

Historically, annexations have been filed with the Commission as informational filings, with Staff then updating the GIS maps with a notation of the informational filing responsible for the service territory change. It is Staff's interpretation that the Commission serves as a repository for service territory information and unless there is specific authority in law to review and approve a territory boundary change due to a municipal annexation, there is no need to open a docket. Following past procedure that annexations be communicated to the Commission through an informational filing provides the information necessary to update the service territory maps without adding unnecessary burdens on the municipalities and affected utilities.

Based on this interpretation, Staff recommends this docket be closed and that the filing be marked as an informational filing.

Sincerely,

Amanda M. Reiss
Staff Attorney