

**SERVICE EXCEPTION AGREEMENT BETWEEN
NORTHERN STATES POWER COMPANY
AND
SIOUX VALLEY SOUTHWESTERN ELECTRIC COOPERATIVE**

This Exception Agreement (“Agreement”) is made and entered into this December 22, 2022, by and between Northern States Power Company, doing business as Xcel Energy, with offices located at 500 W. Russell Street, Sioux Falls, South Dakota (“Xcel Energy”), and Sioux Valley Southwestern Electric Cooperative, Inc. with principal place of business at PO Box 216, Colman, South Dakota (“Sioux Valley”) (collectively, the “Parties”).

RECITALS

WHEREAS, pursuant to SDCL 49-34A-42, *et. seq.*, both Parties have electric service territory established under South Dakota law; and

WHEREAS, pursuant to SDCL 49-34A-42, the Parties have come to a mutual agreement that allows Sioux Valley to provide service by exception to a 200-amp, 1-phase commercial service which feeds 13 streetlights and is located in Xcel Energy service territory.

NOW THEREFORE, in consideration of the promises exchanged herein, the Parties agree as follows:

1. Scope of Agreement. The scope of this Agreement is limited to a service by exception at the location as specifically identified on Exhibit A and located in T101N R49W Section 12 in Minnehaha County, South Dakota. The address of this new streetlight service is 5924 E Rush Street, Sioux Falls, SD, and is currently owned by the City of Sioux Falls who has provided their approval via Exhibit B.
2. Compensation. The Parties agree that no compensation is owed to Xcel Energy by Sioux Valley for the limited right to provide the service by exception in Xcel Energy service territory.
3. Future Service Rights. The Parties acknowledge that the limited right to serve the service by exception contemplated in this Agreement does not convey permanent rights to expand service beyond the service by exception area unless agreed upon by both parties. This agreed upon service exception will remain for the life of the said service no matter the owner of the property,

unless otherwise agreed upon by both parties. Furthermore, the consent on the part of Xcel Energy is limited to the described service and will automatically terminate upon removal or abandonment of such service.

4. Compensation for Facilities. If the electric service for the service by exception needs to be upgraded in the future, Xcel Energy reserves the right to serve the upgraded service. If Xcel Energy elects to serve the upgraded service, it will (1) give Sioux Valley ninety (90) days written notice of its intent to provide service to the exception area and (2) pay Sioux Valley the net book value (original cost depreciated) of the service facilities in place in the exception area at the time of the notice. The net book value will be calculated using the average property unit cost, net of customer contributions, and the year the unit of property was initially purchased. Alternatively, if Sioux Valley serves the upgraded service, Xcel Energy will not be paid for any portion of the upgraded service by Sioux Valley.
5. Lost Revenue. The Parties acknowledge that no compensation was paid by Sioux Valley to Xcel Energy for the limited right to serve by exception and agree that no compensation will be owed by Sioux Valley to Xcel Energy in the future for lost revenue related to the service by exception in Xcel Energy service territory.
6. Reservation of Rights. Except as specifically set forth herein, this Agreement does not modify or limit the legal rights of any Party.
7. 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.
8. Request for Commission Approval of the Agreement. Coinciding with execution of this Agreement by all Parties, Xcel Energy has prepared and filed a Joint Petition to the Commission by the Parties to approve this Agreement.
9. Miscellaneous.
 - (a) Entire Agreement and Modification. This Agreement contains the entire agreement and understandings of the Parties hereto regarding the scope of the Agreement and any appropriate compensation for the Service by Exception in Xcel Energy service territory. 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 or 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 this Agreement shall then be construed and enforced to the maximum 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 of 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 signed by a duly appointed representative of both Parties.

- (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.
- (i) Counterparts and Electronic Signatures. This Agreement may be executed in counterpart, and may be executed by way of electronic signature, and if so, shall be considered an original.

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 the intentions expressed hereby.

Northern States Power Company, A Minnesota corporation
By: <u>Amy Liberkowski</u> Date: <u>12/19/2022</u>
Amy Liberkowski Regional Vice President, NSP-MN

Sioux Valley Southwestern Electric Cooperative, Inc.
By: _____ Date: _____
Tim McCarthy General Manager/CEO

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Northern States Power Company, A Minnesota corporation
By: _____ Date: _____
Amy Liberkowski Regional Vice President, NSP-MN

Sioux Valley Southwestern Electric Cooperative, Inc.
By: <u>Tim McCarthy</u> Date: <u>12/20/22</u>
Tim McCarthy General Manager/CEO