

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

<b>IN THE MATTER OF THE APPLICATION BY</b>	)	<b>STAFF MEMORANDUM IN</b>
<b>OTTER TAIL POWER COMPANY AND</b>	)	<b>SUPPORT OF JOINT</b>
<b>WESTERN MINNESOTA MUNICIPAL</b>	)	<b>MOTION FOR</b>
<b>POWER AGENCY FOR A FACILITY PERMIT</b>	)	<b>SETTLEMENT</b>
<b>FOR A TRANSMISSION FACILITY AND</b>	)	<b>STIPULATION</b>
<b>ASSOCIATED FACILITIES IN GRANT</b>	)	
<b>COUNTY, SOUTH DAKOTA</b>	)	<b>EL24-015</b>

South Dakota Public Utilities Commission Staff (Staff), by and through the undersigned attorney, hereby submits this Memorandum in support of the Joint Motion for Approval of Settlement Stipulation filed on January 15, 2025, by Otter Tail Power Company and Western Minnesota Municipal Power Agency (Applicants) and Staff.

**INTRODUCTION**

On April 15, 2024, an application was filed with the PUC for a permit to construct a 345-kV transmission facility and associated facilities in Grant County, South Dakota. This proposed project, known as the Big Stone South to Alexandria Transmission Line Project (Project), originates at Otter Tail’s existing Big Stone South Substation located approximately 2 miles west of Big Stone City, South Dakota, in Big Stone Township and connects to a substation near Alexandria, Minnesota. The South Dakota portion of the Project consists of approximately 3.5 miles of transmission line beginning in Section 24, Township 121N, Range 47W, Grant County, South Dakota, extending east and south to the Minnesota border. This project “will also include upgrades to the existing Big Stone South Substation, including expansion of the existing substation site and modifications to accommodate new breaker positions and additional reactive power equipment.” Settlement Stipulation, p. 1.

The remainder of this memo will address certain issues that arose during Staff's review of this docket which Staff feels are important to highlight to the Commission. Staff has also included responses to data requests in this filing that are incorporated in the terms and conditions of the settlement and for the Commission to use in its review.

### INTERVENORS AND ROUTE CHANGE

On May 13, 2024, the Commission received a party status application from Daniel and Tamra Jurgens. The Project route, as originally filed, was set to cross the north end of the Jurgens' property. In their party status application, the Jurgens expressed that they already have two transmission lines crossing a section that "butts up to [their] property" and that they also have a line crossing the east side of their two sections. The Jurgens felt the Project would add to the burden on these two pieces of land. At the May 29, 2024 public input meeting for this project, and in discussions with the Applicants and Staff, Daniel Jurgens requested that the Project be co-located and consolidated on the same structures with the existing transmission lines that run just north of his property. For the reasons given in response to Staff's Data Request 1-26, the Applicants determined that this request was not feasible, and Applicants were unable to reach a resolution with the Jurgens despite multiple discussions (which Staff took part in).

Accordingly, on October 25, 2024, the Applicants filed supplemental testimony detailing a route adjustment which shifted the route off of the Jurgens' property. A summary of this route adjustment as well as detailed project layouts can be found in the Pre-Filed Supplemental Direct Testimony of Jason Weiers and the associated exhibits. As a result of this route adjustment, the Applicants and Jurgens were able to reach a settlement which involved the Jurgens withdrawing as a party. This settlement stipulation can be found in the Applicants' December 5, 2024, filing. On December 18, 2024, the Commission approved the settlement stipulation and the Jurgens'

withdrawal through the Order Granting Joint Motion for Approval of Settlement Stipulation Between Applicants and Intervenors; Order Granting Withdrawal of Party Status.

Because the adjustment shifted the proposed route from the south side of 146<sup>th</sup> Street to the north side, Staff had concerns about new landowners now being located within one-half mile of the project who must receive notice of the project pursuant to SDCL § 49-41B-5.2. Although Jason Weiers explained in his supplemental direct testimony that the Applicants provided certified mailed notice to the newly impacted landowners, p. 7, 246-248, Staff requested the Applicants obtain affidavits from the newly impacted landowners which state, generally, that they are aware of the proposed route and that they do not object. These affidavits were obtained by the Applicant and filed in the docket in the Applicant's November 26, 2024, filing. These affidavits resolved Staff's concerns on this point.

#### PROPOSED FLEXIBILITY AREA

Applicants originally requested a "flexibility area" in which adjustments could be made to the ROW and/or structure locations. *See* Application, p. 18.<sup>1</sup> Even though the Applicants attempted to narrowly limit the requested flexibility area, Staff is uncomfortable with the idea of a flexibility area for two main reasons. First, certain segments of the proposed flexibility area would allow the transmission line to move onto a different landowner's property that the route currently impacts without Commission review. Second, future transmission facility applications may make similar requests for a flexibility area and those applicants could attempt to broaden the desired flexibility area over time.

It is Staff's opinion that the "material change" condition approved by the Commission in recent transmission facility permits was not overly burdensome for those projects and allowed an

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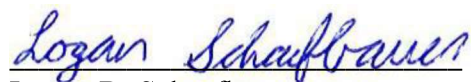
<sup>1</sup> Using page numbers as they appear on the bottom of the individual pages.

adequate amount of flexibility for locating structures within the right-of-way. Therefore, Staff advocated for a similar condition during settlement and the Applicants agreed to a condition that is consistent with past permits (condition 25). It should be noted that there is one change to the “material change” approval process in condition 25 from previous permits, where the condition now states the Commission can request further review of a “material change” in addition to Staff.

#### CONCLUSION

The issues mentioned in the preceding paragraphs comprise Staff’s concerns with the Application and those concerns were either resolved by the Applicants or addressed in the Settlement terms and conditions. Staff believes that if the Commission approves the motion for settlement stipulation and incorporates those terms and conditions into a permit, the Project will comply with the requirements of SDCL Chapter 49-41B. Therefore, Staff recommends the Commission grant the motion.

Dated this 23rd day of January, 2025



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