

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

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**IN THE MATTER OF THE PETITION  
OF GEVO NET-ZERO 1, LLC TO HAVE  
KINGSBURY ELECTRIC  
COOPERATIVE, INC. ASSIGNED AS  
ITS ELECTRIC PROVIDER IN THE  
SERVICE AREA OF OTTER TAIL  
POWER COMPANY**

**AND**

**IN THE MATTER OF THE PETITION  
OF DAKOTA RENEWABLE  
HYDROGEN, LLC TO HAVE  
KINGSBURY ELECTRIC  
COOPERATIVE, INC. ASSIGNED AS  
ITS ELECTRIC PROVIDER IN THE  
SERVICE AREA OF OTTER TAIL  
POWER COMPANY**

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**JOINT MOTION FOR APPROVAL  
OF SETTLEMENT AGREEMENT  
EL24-024 & EL24-025**

**I. INTRODUCTION**

Gevo Net-Zero 1, LLC (NZ1), Dakota Renewable Hydrogen, LLC (DRH), East River Electric Power Cooperative, Inc., Kingsbury Electric Cooperative (KEC), Inc., and Otter Tail Power Company (OTP) hereby file the above-referenced Joint Motion and Settlement Agreement with the South Dakota Public Utilities Commission. The parties request the Commission adopt the attached Settlement Agreement as the settlement and resolution of all issues in this consolidated proceeding. In support of this motion, the parties submit as follows:

1. This Joint Motion is made pursuant to ARSD 20:10:01:19.
2. The Settlement Agreement resolves all of the issues in these consolidated dockets.
3. The terms of the Settlement Agreement agreed upon are fair and reasonable, and consistent with South Dakota law.

As set forth below, the parties, through their counsel, jointly request the Commission to approve the Settlement Agreement without modification for the purpose of resolving all issues related to this consolidated proceeding.

## **II. BACKGROUND**

On June 28, 2024, NZ1 and DRH filed separate petitions pursuant to SDCL § 49-34A-56 to receive permanent electric service from KEC for a sustainable aviation fuel and hydrogen production facility, respectively, facilities which would otherwise be located within OTP's exclusive service territory.

The parties, along with Commission Staff, have held several negotiating sessions to arrive at a mutually acceptable resolution of these consolidated matters. As a result, the parties have resolved all issues and have entered into this Settlement Agreement, which, if approved, will resolve all issues in this consolidated proceeding and allow for the service by KEC to the NZ1 and DRH facilities.

## **III. PURPOSE**

The Agreement has been prepared and executed by the parties for the sole purpose of resolving these consolidated dockets. The parties acknowledge they may have differing views and reasons to support and justify the Agreement, but each party deems the result fair and consistent with South Dakota law. Considering such differences, the parties agree the resolution of any single issue, whether explicit or implied by the Agreement, should not be viewed as precedent for this or future service territory exceptions under SDCL § 49-34A-56 or otherwise. In consideration of the mutual promises hereinafter set forth, the parties agree as follows:

1. This Agreement includes all terms of settlement. The Agreement is filed conditioned on the understanding that, in the event the Commission imposes any changes in or

conditions to the Agreement, the Agreement may, at the option of either party, be withdrawn and shall not constitute any part of the record in this proceeding or any other proceeding nor be used for any other purpose in this case or in any other case.

2. This Agreement shall become binding on the parties upon approval by the Commission.

3. The parties to this proceeding stipulate that the petitions and pre-filed testimony, exhibits, and any related filed workpapers be made a part of the record in this proceeding.

#### **IV. KEY AGREEMENT TERMS**

The salient term of the Agreement is set forth in Section 1. That term states that, subject to Commission approval, KEC is authorized to permanently provide electric service to the NZ1 sustainable aviation and DRH hydrogen production facilities *and* facilities “ancillary or complementary” to those facilities and which are located within the entire NZ1 owned property located outside of Lake Preston (as such property is defined as the “Project Site” in NZ1’s petition of June 28, 2024 and as similarly described in the Settlement Agreement), and that are owned by either NZ1 and/or DRH. These ancillary or complimentary facilities would include, for instance, additional corn, ethanol, sustainable aviation fuel, renewable diesel, renewable naphtha, corn oil, distiller’s grains storage facilities, warehousing, grain dryers, additional distillation capacity, hydrogen loading facilities, etc. Except for carbon capture and sequestration facilities described below, ancillary or complimentary facilities does not include facilities owned by third parties. To the extent a third party sought to build facilities on the NZ1 property, those facilities would be within the OTP service territory and otherwise subject to the parameters of the South Dakota Territorial Integrity Act.

Because of the importance of carbon capture and sequestration (CCS) to the NZ1 project, however, the Agreement contemplates that CCS-related facilities, even if owned and operated by a third party, OTP will not object to be served by KEC.

Section 3 of the Agreement provides that *[Trade Secret Data Begins] \* \* \* [Trade Secret Data Ends]*.

Last, Section 5 states that the Agreement has no other effect on the existing service territories of either KEC or OTP. Section 7 clarifies the Agreement is not intended to create legal precedent.

For the foregoing reasons, the parties respectfully request that the Commission approve the Settlement Agreement and that it allow KEC to provide electric service to the NZ1 and DRH facilities as set forth herein.

**Date: December 2, 2024**

OTTER TAIL POWER COMPANY

KINGSBURY ELECTRIC  
COOPERATIVE INC.

By: /s/ Robert M. Endris

By: /s/ Todd Wilkinson

Name: Robert M. Endris  
Title: Associate General Counsel

Name: Todd Wilkinson, Esq.

EAST RIVER ELECTRIC POWER  
COOPERATIVE, INC.

GEVO NET-ZERO 1, LLC

By: /s/ Danny Brown

By: /s/ Christian Petersen

Name: Danny Brown  
Title: General Counsel

Name: Christian Petersen  
Title: Assistant General Counsel (admitted pro  
hac vice)

DAKOTA RENEWABLE HYDROGEN,  
LLC

By: /s/ Todd J. Guerrero

Name: Todd J. Guerrero, Esq. (admitted  
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