

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

**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)**

**ORDER FOR AND NOTICE OF
EVIDENTIARY HEARING**

EL24-025

On June 28, 2024, the South Dakota Public Utilities Commission (Commission) received the Petition of Dakota Renewable Hydrogen, LLC (DRH or Customer) to have Kingsbury Electric Cooperative, Inc. assigned as its electric provider. The Petition requests the Commission issue an order pursuant to SDCL 49-34A-56 allowing DRH to take electric service from Kingsbury Electric Cooperative, Inc. for its proposed hydrogen production facility to be located adjacent to, and as part of, Gevo Inc.'s proposed ethanol and sustainable aviation fuel facility east of Lake Preston, South Dakota. The Petition states that the Customer is currently within the assigned service area of Otter Tail Power Company.

On July 3, 2024, the Commission electronically transmitted notice of the filing and the intervention deadline of July 19, 2024, to interested individuals and entities on the Commission's PUC Weekly Filing electronic listserv. On August 1, 2024, the Commission issued an Order Granting Intervention to Kingsbury Electric Cooperative, Inc.; East River Electric Power Cooperative, Inc.; and Otter Tail Power Company. On October 1, 2024. This matter has been consolidated for evidentiary hearing with Docket No. EL24-024.

The Commission has jurisdiction in this matter pursuant to SDCL Chapter 1-26 and SDCL 49-34A-56. The Commission may rely upon any or all of these or other applicable laws in making its determination.

Pursuant to the procedural schedule agreed upon by the Parties and set by the Commission's order dated October 9, 2024, Order Granting Motion for Procedural Schedule and Consolidating Dockets for Evidentiary Hearing, an evidentiary hearing will be held in this matter and Docket No. EL24-024 beginning at 9:00 a.m., CST on December 9, 2024, through December 11, 2024, in Room 414¹ of the State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota.

At issue at the hearing is whether DRH may receive electric service from Kingsbury Electric Cooperative, Inc., pursuant to SDCL 49-34A-56. In making its determination, the Commission will consider all relevant factors including: whether DRH is a new customer, whether the location of DRH is a new location, whether the Customer is to be located outside municipal boundaries as the boundaries existed on March 21, 1975, and whether the Customer will require electric service with a contracted minimum demand of two thousand kilowatts or more. If the Customer meets the foregoing criteria, the Commission will consider the following factors as set forth in SDCL 49-34A-56 in determining whether to grant DRH's request to be served by Kingsbury Electric Cooperative, Inc.:

- 1) The electric service requirements of the load to be served;
- 2) The availability of an adequate power supply;
- 3) The development or improvement of the electric system of the utility seeking to provide the electric service, including the economic factors relating thereto;
- 4) The proximity of adequate facilities from which electric service of the type required may be delivered;
- 5) The preference of the customer; and
- 6) Any and all pertinent factors affecting the availability of the utility to furnish adequate electric service to fulfill the Customer's requirements.

¹ The room number may be subject to change. Parties will be notified in the event of a room change.

The hearing will be an adversary contested case proceeding conducted pursuant to SDCL Chapter 1-26. Pursuant to ARSD 20:10:01.02, the rules of civil procedure as used in circuit court apply to this proceeding except to the extent that they are in conflict with SDCL Chapter 1-26.

All Parties will have the opportunity to appear, present evidence, cross-examine the other Parties' witnesses, and exercise all other rights afforded by SDCL Chapters 1-26, 15-6, and 49-34A, and ARSD Chapter 20:10:01. All Parties have the right to be present and to be represented by an attorney. Under South Dakota Law, all entities must be represented by an attorney authorized to practice in this state.

These rights and other due process rights will be forfeited if not exercised at the hearing. All persons testifying will be subject to cross-examination. The Commission's final decision will be based solely on the testimony and evidence offered and received into evidence at the hearing. If a Party or its representative fails to appear at the time and place set for the hearing, a decision may be issued by default pursuant to SDCL 1-26-20. As a result of this hearing, the Commission will make a decision, including findings of fact and conclusions of law, on the issues set forth above. The Commission's final decision may be appealed by the Parties to the circuit court and the State Supreme Court as provided by law. It is therefore

ORDERED, that a hearing will be held by the Commission beginning at 9:00 a.m. CST on December 9, 2024, and continuing as needed through December 11, 2024, in Room 414 of the State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota. It is further

ORDERED, that all persons testifying must be personally present at the evidentiary hearing.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at (605) 773-3201 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 22nd day of October 2024.

| | |
|---|------------------------------|
| CERTIFICATE OF SERVICE | |
| The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically or by mail. | |
| By: | <u><i>Kristie Fiegen</i></u> |
| Date: | <u>22 Oct 2024</u> |

BY ORDER OF THE COMMISSION:

Kristie Fiegen
KRISTIE FIEGEN, Chairperson

Gary Hanson
GARY HANSON, Commissioner

Chris Nelson
CHRIS NELSON, Commissioner