

BEFORE THE SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

DOCKETS

EL24-024: 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

EL24-025: 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

**DIRECT TESTIMONY OF DARREN KEARNEY
ON BEHALF OF THE PUBLIC UTILITIES COMMISSION STAFF
November 1, 2024**

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Exhibit_DK-3: NZ1's Responses to Staff's Data Requests

Exhibit_DK-4: DRH's Responses to Staff's Data Requests

Exhibit_DK-5: East River's Responses to Staff's Data Requests

Exhibit_DK-6: Responses to Staff's Data Requests

Exhibit_DK-7: Otter Tail's Responses to Staff's Data Requests

I. **INTRODUCTION AND QUALIFICATIONS**

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Q. State your name.

A. Darren Kearney.

Q. State your employer and business address.

A. South Dakota Public Utilities Commission, 500 E Capitol Ave, Pierre, SD, 57501.

Q. State your position with the South Dakota Public Utilities Commission.

A. I am a Staff Analyst, which is also referred to as a Utility Analyst.

Q. What is your educational background?

A. I hold a Bachelor of Science degree, majoring in Biology, from the University of Minnesota. I also hold a Master of Business Administration degree from the University of South Dakota.

Q. Please provide a brief explanation of your work experience.

A. I began my career in the utility industry working as contract biologist for Xcel Energy, where I conducted biological studies around various power plants, performed statistical analysis on the data collected, and authored reports in order to meet National Pollutant Discharge Elimination System (NPDES) permit requirements.

After two years of performing biological studies, I then transitioned into an environmental compliance function at Xcel Energy as a full-time employee of the company and became responsible for ensuring Xcel's facilities maintained compliance with the Oil Pollution Act of 1990. This involved writing Spill Prevention Control and Countermeasure (SPCC) plans and also ensuring Xcel's facilities maintained compliance with those plans. I was also responsible for the company's Environmental Incident Response Program, which involved training Xcel employees on spill reporting and response, managing spill cleanups, and mobilizing in-house and contract spill response resources.

I was in that role for approximately three years and then I transitioned to a coal-fired power plant at Xcel and became responsible for environmental permitting and compliance for the plant. Briefly, my responsibilities involved ensuring that the facility

1 complied with all environmental permits at the plant, which included a Clean Air Act Title
2 V Air Permit, a Clean Water Act NPDES permit, and a hazardous waste permit. I also
3 drafted reports on the plant's operations for submission to various agencies as required
4 by permit or law. After three years at the power plant, I left Xcel Energy to work for the
5 South Dakota Public Utilities Commission (PUC or Commission).

6
7 I have been at the PUC for over eleven years now. During my employment with the
8 PUC, I worked on a variety of matters in the telecom, natural gas, and electric industries.
9 The major dockets that I have worked on are energy conversion facility siting,
10 transmission siting, pipeline siting, wind/solar energy facility siting, energy efficiency
11 programs, PURPA avoided cost disputes, and electric service rights exceptions. I also
12 work on matters involving the Midcontinent Independent System Operator (MISO),
13 specifically wholesale electricity market issues, transmission cost allocation and regional
14 transmission planning. I also attended a number of trainings on public utility policy
15 issues, electric grid operations, regional transmission planning, electric wholesale
16 markets, and utility ratemaking.

17
18 My resume is provided as Exhibit_DK-1.

19
20
21 **II. PURPOSE OF TESTIMONY**

22
23 **Q. On whose behalf was this testimony prepared?**

24 A. This testimony was prepared on behalf of the Staff of the South Dakota Public Utilities
25 Commission.

26
27 **Q. Did Staff participate in discovery?**

28 A. Yes. Attached to my testimony are the following exhibits that provide the responses
29 Staff received to our data requests:

30
31 Exhibit_DK-3: NZ1's Responses to Staff's Data Requests

32 Exhibit_DK-4: DRH's Responses to Staff's Data Requests

33 Exhibit_DK-5: East River's Responses to Staff's Data Requests

34 Exhibit_DK-6: KEC's Responses to Staff's Data Requests

Exhibit_DK-7: Otter Tail's Responses to Staff's Data Requests

Q. What is the purpose of your direct testimony?

A. The purpose of my direct testimony is to highlight certain facts the Commission may want to consider when determining whether to grant the Petitions for Electric Service (Petition or Petitions) from Gevo Net-Zero 1, LLC (NZ1) and Dakota Renewable Hydrogen, LLC (DRH) that request the Commission allow Kingsbury Electric Cooperative, Inc. (KEC) be assigned as their electric service provider.

I also provide my analysis of the six factors under the large load statute (SDCL 49-34A-56).

III. THE LARGE LOAD STATUTE

Q. What statute were the NZ1 and DRH Petitions filed under?

A. The relevant statute is SDCL 49-34A-56. The full text of the statute is provided below for reference.

49-34A-56. Large new customers not required to take service from assigned utility--Notice and hearing by commission--Factors considered.

Notwithstanding the establishment of assigned service areas for electric utilities provided for in §§ 49-34A-43 and 49-34A-44, new customers at new locations which develop after March 21, 1975, located outside municipalities as the boundaries thereof existed on March 21, 1975, and who require electric service with a contracted minimum demand of two thousand kilowatts or more shall not be obligated to take electric service from the electric utility having the assigned service area where the customer is located if, after notice and hearing, the Public Utilities Commission so determines after consideration of the following factors:

- (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;
- (6) Any and all pertinent factors affecting the ability of the utility to furnish adequate electric service to fulfill customers' requirements.

Q. Is it your opinion that SDCL 49-34A-56 is a customer choice statute for loads greater than 2 MWs?

1 A. In part it is a customer choice statute. However, it is not a pure customer choice statute
2 in the sense that the large load customer can choose their electric supplier at will. The
3 statute clearly identifies other factors the Commission must consider, beyond customer
4 preference. In my opinion, if the Legislature wanted the large load customer to have the
5 ultimate say as to who their electric service provider is, no matter what the
6 circumstances are, then they wouldn't have listed the other factors that the Commission
7 must consider.

8
9 **Q. In your opinion, why are other factors included for Commission consideration in
10 addition to customer preference?**

11 A. The laws that established the original electric service territory boundaries are SDCL 49-
12 34A-43 and SDCL 49-34A-44. The initial boundaries were to be set at a line equidistant
13 between the electric lines of the adjacent electric utilities. However, in cases where that
14 method was not feasible or the adjacent utilities agreed upon a different method or
15 boundary location, the Commission could modify the boundaries as needed. In those
16 cases, specific factors were provided for Commission consideration including: 1) the
17 elimination or avoidance of the duplication of facilities, 2) the ability of the utility to
18 provide adequate electric service, and 3) the efficient and economical use and
19 development of the electric system.

20
21 Based on the factors considered when establishing the initial boundaries, it is clear to
22 me that the Legislature was concerned about the duplication of facilities, the ability for
23 customers to receive reliable electricity, and the efficient and economical use of the
24 electric system. It is my opinion that the factors beyond customer preference were
25 included in the large load statute (SDCL 49-34A-56) to ensure the large load customer
26 had the ability to receive reliable electric service in an efficient and economical way,
27 while also preventing the unnecessary duplication of facilities that existing customers
28 may need to pay for.

29
30
31 **IV. NZ1 AND DRH ELIGIBILITY UNDER THE LARGE LOAD STATUTE**

32
33 **Q. One of the requirements for NZ1 and DRH to be eligible for the large load statute
34 is that they must be a new customer. Are NZ1 and DRH new customers?**

1 A. Yes. It is my opinion that both NZ1 and DRH are new customers.

2

3 The Electric Service Agreement provided as Exhibit 4 to NZ1’s Petition identifies that
4 NZ1 is the customer that would take service from KEC. NZ1’s Petition¹ clarified that
5 “NZ1 is a Delaware wholly-owned, special purpose subsidiary of Gevo, Inc. (“Gevo”)”
6 and that “NZ1 proposes to construct, own, and operate a low-carbon, 62 million per year
7 sustainable aviation and related renewable fuels plant (“NZ1 Facility”) on approximately
8 245 acres of undeveloped land it owns just east of Lake Preston on US Highway 14.”
9 Further, according to Christopher Ryan’s prefiled testimony², “Gevo Corp formed NZ1 as
10 limited liability company on August 9, 2021.”

11

12 Since NZ1 will be the customer that takes service from KEC and NZ1 is a special
13 purpose subsidiary of Gevo that will specifically own and operate the future NZ1 Facility,
14 it is my understanding that NZ1 is a new customer.

15

16 The Electric Service Agreement provided as Exhibit 3 to DRH’s Petition identifies that
17 DRH is the customer that would take service from KEC. DRH’s Petition³ clarified that
18 “DRH is a South Dakota wholly-owned, special purpose subsidiary of Zero6 Energy, Inc.,
19 a Minnesota-based renewable energy developer, owner, and operator” and that “DRH
20 will be the on-site provider of hydrogen to the proposed NZ-1 Lake Preston facility.”

21

22 Since DRH will be the customer that takes service from KEC and DRH is a special
23 purpose subsidiary of Zero6 Energy, Inc. with the specific purpose of supplying
24 hydrogen to the NZ1 Facility, it is my understanding that DRH is a new customer.

25

26 **Q. Does Otter Tail dispute that NZ1 and DRH are new customers?**

27 A. No. It is my understanding that the new customer requirement is not at issue for NZ1
28 and DRH.

29

30

¹ Gevo Net-Zero 1, LLC’s Petition for Electric Service. Page 2.

² Pre-filed Direct Testimony of Christopher Ryan on Behalf of Gevo Net-Zero 1, LLC. Page 1, lines 9-12.

³ Dakota Renewable Hydrogen, LLC’s Petition for Electric Service. Page 2

1 Regarding NZ1, in response to Staff's Data Request 1-16 in Docket EL24-024⁴, Otter
2 Tail stated that it does not dispute that NZ1 is a new customer.

3
4 Regarding DRH, in response to Staff's Data Request 1-16 in Docket EL24-025⁵, Otter
5 Tail stated that it does not dispute that DRH is a new customer.

6
7 **Q. One of the requirements for NZ1 and DRH to be eligible for the large load statute**
8 **is that they must be at a new location. Are the NZ1/DRH facilities at a new**
9 **location?**

10 A. Yes. The NZ1 Facility and the DRH hydrogen plant will be located in the assigned
11 service territory of Otter Tail as shown in Exhibit 2 of NZ1's petition. In response to
12 Staff's Data Request 1-15, Otter Tail identified that there are no electric loads being
13 served within the property shown in Exhibit 2.⁶

14
15 **Q. Does Otter Tail dispute that the NZ1/DRH facilities will be at a new location?**

16 A. No. It is my understanding that the new location requirement is not at issue for the
17 proposed NZ1 and DRH facilities.

18
19 Regarding NZ1, in response to Staff's Data Request 1-17 in Docket EL24-024⁷, Otter
20 Tail indicated the company does not dispute that the location to be served by KEC is a
21 new location.

22
23 Regarding DRH, in response to Staff's Data Request 1-17 in Docket EL24-025⁸, Otter
24 Tail indicated the company does not dispute the location to be served by KEC is a new
25 location.

26 .
27 **Q. One of the requirements for NZ1 and DRH to be eligible for the large load statute**
28 **is that they must be located outside municipalities as the boundaries thereof**
29 **existed on March 21, 1975. Are the proposed NZ1/DRH facilities located outside**
30 **municipalities as the boundaries thereof existed on March 21, 1975?**

⁴ Exhibit_DK-7, Page 38 of 81.

⁵ Exhibit_DK-7, Page 78 of 81.

⁶ Exhibit_DK-7, Page 37 of 81.

⁷ Exhibit_DK-7, Page 39 of 81.

⁸ Exhibit_DK-7, Page 79 of 81.

1 A. Yes. Exhibit 1 of NZ1's Petition shows that the Gevo parcel is located outside Lake
2 Preston's municipal boundaries. In order to verify that the municipal boundaries were
3 correctly identified in Exhibit 1 of NZ1's Petition, I looked up the Gevo parcel and Lake
4 Preston municipal boundaries on the Kingsbury County MapNet⁹. Attached as
5 Exhibit_DK-2 to my testimony is the map showing Gevo's parcel located outside of Lake
6 Preston's municipal boundaries that I obtained from the Kingsbury County MapNet.

7
8 Since Lake Preston's municipal boundaries could have changed since March 21, 1975, I
9 wanted additional confirmation from NZ1 and DRH that the location of their facilities will
10 be outside the municipal boundaries as they existed back in 1975. In response to Staff's
11 Data Request 2-3 in Docket EL24-024¹⁰, NZ1 confirmed that their facilities will be
12 located outside of Lake Preston's municipal boundaries as the boundaries thereof
13 existed on March 21, 1975. In response to Staff's Data Request 2-3 in Docket EL24-
14 025¹¹, DRH confirmed that their facilities will be located outside of Lake Preston's
15 municipal boundaries as the boundaries thereof existed on March 21, 1975.

16
17 I am not aware of any information contesting that that the NZ1/DRH facilities are located
18 outside of Lake Preston's municipal boundary as it existed on March 21, 1975.

19
20 **Q. Does Otter Tail dispute that the NZ1/DRH facilities will be located outside Lake
21 Preston's municipal boundary as the boundary thereof existed on March 21, 1975?**

22 A. No. It is my understanding that the municipal boundary requirement is not at issue for
23 the proposed NZ1 and DRH facilities.

24
25 Regarding NZ1, in response to Staff's Data Request 1-3 in Docket EL24-024¹², Otter
26 Tail indicated the company does not dispute that NZ1's facilities will be located outside
27 of Lake Preston's municipal boundaries as the boundaries thereof existed on March 21,
28 1975.

29

⁹ Kingsbury County MapNet accessible at: <https://www.1stdistrictmapnet.com/>.

¹⁰ Exhibit_DK-3, Page 5 of 24.

¹¹ Exhibit_DK-4, Page 11-12 of 28.

¹² Exhibit_DK-7, Page 3 of 81.

1 Regarding DRH, in response to Staff's Data Request 1-3 in Docket EL24-025¹³, Otter
2 Tail indicated the company does not dispute that DRH's facilities will be located outside
3 of Lake Preston's municipal boundaries as the boundaries thereof existed on March 21,
4 1975.

5
6 **Q. One of the requirements for NZ1 and DRH to be eligible for the large load statute**
7 **is that they must require electric service with a contracted minimum demand of**
8 **two thousand kilowatts or more. Will NZ1 have a contracted minimum demand of**
9 **two thousand kilowatts or more?**

10 A. Yes.

11
12 In its Petition, NZ1 states "[a]t commercial operation, the NZ1 Facility will have firm,
13 electric demand of approximately 40-45 MW, with a 90% load factor."¹⁴ In addition,

14 **[begin confidential]** [REDACTED]

15 [REDACTED]
16 [REDACTED] **[end confidential]**.

17
18 I will note that the Electric Service Agreement doesn't specify a minimum demand that
19 NZ1 must meet each month. Given this, I asked NZ1 to identify NZ1's contracted
20 minimum demand and where that can be found in the Electric Service Agreement (see
21 Staff's Data request 2-2 to NZ1¹⁶). In response to that data request, NZ1 stated:

22
23 **[Begin confidential]** [REDACTED]

24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]
29 [REDACTED]
30 [REDACTED]
31 [REDACTED]
32 [REDACTED] **[End**

33 **confidential]**
34

¹³ Exhibit_DK-7, Page 43 of 81.

¹⁴ Gevo Net-Zero 1, LLC's Petition for Electric Service. Page 4.

¹⁵ Gevo Net-Zero 1, LLC's Petition for Electric Service - Exhibit 4: Electric Service Agreement, page 2.

¹⁶ Exhibit_DK-3, Page 5 of 24.

1 It is my opinion that a demand of 40-45 MW with a 90% load factor would easily meet
2 the 2 MW demand requirement in statute. However, if NZ1 amends the Electric Service
3 Agreement with KEC as noted in NZ1's response to Staff's Data Request 2-2, that would
4 clearly meet the statutory requirement.

5
6 **Q. Will DRH have a contracted minimum demand of two thousand kilowatts or more?**

7 **A.** Yes.

8
9 In its Petition, DRH states: "[o]nce fully operational, DRH expects to have a retail load of
10 approximately 20-25 MW with a 90% load factor."¹⁷ In addition, **[begin confidential]**

11 [REDACTED]
12 [REDACTED] **[end**
13 **confidential]**.

14
15 I will note that the Electric Service Agreement doesn't specify a minimum demand that
16 DRH must meet each month. Given this, I asked DRH to identify DRH's contracted
17 minimum demand and where that can be found in the Electric Service Agreement (see
18 Staff's Data Request 2-2 to DRH¹⁹). In response to that data request, DRH stated:

19
20 **[Begin confidential]** [REDACTED]

21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 **[End confidential]**

29
30 It is my opinion that a demand of 20 MW with a 90% load factor would easily meet the 2
31 MW demand requirement in statute. However, if DRH amends the Electric Service
32 Agreement with KEC as noted in DRH's response to Staff's Data Request 2-2, that
33 would clearly meet the statutory requirement.

34

¹⁷ Dakota Renewable Hydrogen, LLC's Petition for Electric Service, Page 4.

¹⁸ Dakota Renewable Hydrogen, LLC's Petition for Electric Service - Exhibit 3: Electric Service Agreement, page 2.

¹⁹ Exhibit_DK-4, Page 11 of 28.

1 **Q. Does Otter Tail dispute that the NZ1/DRH facilities will have a contracted minimum**
2 **demand of two thousand kilowatts or more?**

3 A. No. It is my understanding that the contracted minimum demand requirement is not at
4 issue for the proposed NZ1 and DRH facilities.

5
6 Regarding NZ1, in response to Staff's Data Request 1-4 in Docket EL24-024²⁰, Otter
7 Tail stated:

8
9 *Otter Tail does not contend that the contracted minimum demand will be*
10 *less than 2 MWs. However, Otter Tail has not yet seen documentation*
11 *establishing a contracted minimum demand.*

12
13 Regarding DRH, in response to Staff's Data Request 1-4 in Docket EL24-025²¹, Otter
14 Tail offered the same response.

15
16 **Q. Are you aware of any facts that would call into question NZ1's and DRH's**
17 **eligibility to use the large load statute?**

18 A. At the time of writing this testimony, I am not aware of any facts that would call into
19 question the eligibility for NZ1 and DRH to use the large load statute. However, I have
20 not reviewed Otter Tail's testimony and I reserve the right to amend my testimony should
21 Otter Tail's testimony deviate from their responses to Staff's Data Requests and new
22 facts come to light.

23
24

25 **V. ANALYSIS OF THE SIX FACTORS**

26
27 **Q. SDCL 49-34A-56(1), the first factor, requires the Commission to consider the**
28 **electric service requirements of the load to be served. How do you think about**
29 **this factor?**

30 A. At first, I read this factor as intended to verify that the large load does have a minimum
31 demand of 2,000 kilowatts or more. Which, as noted earlier, I find that both NZ1 and
32 DRH do meet that requirement based on the current fact set. However, after reading

²⁰ Exhibit_DK-7, Page 4 of 81.

²¹ Exhibit_DK-7, Page 44 of 81.

1 through the Petitions for Electric Service from NZ1/DRH, I believe other unique electric
2 service requirements, beyond just demand, that are desired by NZ1/DRH would also fall
3 under this factor for consideration by the Commission.
4

5 **Q. What are the unique electric service requirements desired by NZ1/DRH?**

6 A. To my knowledge, there is one unique electric service requirement that is important to
7 NZ1/DRH and that is to receive energy from the future Kingsbury County Wind Fuel LLC
8 (KCWF) wind project in a way that works, both physically and contractually, for NZ1 to
9 produce sustainable aviation fuel and other products with a low carbon intensity²² and
10 for DRH to produce green hydrogen as an input to NZ1's processes.²³
11

12 **Q. Please explain the electric service requirement of NZ1/DRH as it relates to
13 receiving energy from KCWF?**

14 A. From a physical perspective, Mr. Christopher Ryan explains the need for the KCWF to
15 be directly connected to the NZ1/DRH loads in his prefiled testimony.²⁴ Essentially, in
16 order for NZ1 to qualify for certain credits under the State of California Low Carbon Fuel
17 Standard (LCFS) there needs to be a direct connection between the renewable
18 generator and the NZ1 load.
19

20 From a contractual perspective, Mr. Christopher Ryan indicated the need for flexibility
21 related to documents and the ability to negotiate provisions that are critical to the
22 financing parties for NZ1, DRH, and KCWF.²⁵
23

24 **Q. Is KEC able to meet the electric service requirement for NZ1/DRH to receive
25 energy from KCWF?**

26 A. Yes. Exhibit 5 to NZ1's Petition for Electric Service²⁶ shows how KCWF generation and
27 the NZ1/DRH loads will be directly connected at the proposed Kingsbury County
28 Substation. Further, NZ1's Petition²⁷ explains the arrangement that KEC, Basin Electric,
29 and East River were able to come up with to meet the renewable energy needs of

²² Gevo Net-Zero 1, LLC's Petition for Electric Service, Page 3.

²³ Dakota Renewable Hydrogen, LLC's Petition for Electric Service, Page 5.

²⁴ Pre-filed Direct Testimony of Christopher Ryan on Behalf of Gevo Net-Zero 1, LLC. Page 4:74-82 and Page 5:83-84.

²⁵ Exhibit DK-3, Page 3 of 24. (Staff's Data Request 1-6 to NZ1).

²⁶ Gevo Net-Zero 1, LLC's Petition for Electric Service – Exhibit 5, Page 5.

²⁷ Gevo Net-Zero 1, LLC's Petition for Electric Service, Page 6.

1 NZ1/DRH. In short, Basin Electric will enter into a 20-year wholesale power purchase
2 agreement with KCWF and set the point of delivery as the NZ1 Facility substation. The
3 renewable energy credits associated with KCWF generation will be sold directly from
4 KCWF to NZ1 for a 20-year term under a separate agreement.

5
6 Since NZ1/DRH are requesting KEC to be assigned as their electric service provider, the
7 above arrangement must meet the physical and contractual electric service
8 requirements of NZ1/DRH for NZ1 to qualify for credits in a LCFS market. Otherwise, I
9 question why NZ1/DRH would request the Commission to have KEC be assigned as
10 their electric supplier.

11
12 **Q. Can Otter Tail meet the electric service requirement for NZ1/DRH to receive energy
13 from KCWF?**

14 A. In response to Staff's Data Request 1-6(a)²⁸ in Docket EL24-024 Otter Tail stated:

15
16 [Begin confidential] [REDACTED]
17 [REDACTED]
18 [End confidential]
19

20 Otter Tail's response didn't explain how the company would meet the physical and
21 contractual renewable energy requirements for NZ1/DRH. However, Since Otter Tail
22 [begin confidential] [REDACTED] [end
23 confidential], Otter Tail may not be able to meet the renewable energy electric service
24 requirement for NZ1/DRH. I will note that some of the [begin confidential] [REDACTED]
25 [REDACTED] [end confidential] were highlighted by
26 NZ1 in response to Staff's Data Request 1-6 to NZ1²⁹.

27
28 **Q. What opinion do you have on the first factor, regarding the consideration of the
29 electric service requirements of the NZ1/DRH loads?**

30 A. First, as noted earlier, it is my opinion that electric service requirements of NZ1 and DRH
31 will meet the minimum demand threshold and are eligible under the large load statute.
32 Second, NZ1, DRH, and KCWF were able to work with KEC, East River, and Basin to

²⁸ Exhibit_DK-7, Page 8 of 81.

²⁹ Exhibit_DK-3, Page 3 of 24. (Staff's Data Request 1-6 to NZ1).

1 meet NZ1's/DRH's renewable energy electric service requirements, whereas they were
2 unable to do so with Otter Tail.

3
4 **Q. SDCL 49-34A-56(2), the second factor, requires the Commission to consider the**
5 **availability of an adequate power supply. How much generation capacity is**
6 **needed to serve the NZ1/DRH loads?**

7 A. It is my understanding that the total capacity required to serve the NZ1/DRH load on a
8 firm basis would be the coincident demand of NZ1/DRH.³⁰ As stated in their Petitions,
9 both NZ1 and DRH have a coincidence factor of 95%. If the full 65 MWs of load for both
10 NZ1 and DRH show up on the system with the 95% coincidence factor, then I estimate
11 the generation capacity KEC would need to cover the new load is 61.75 MWs.³¹
12 Factoring in a summer Planning Reserve Margin (PRM) estimate of 16% on top of the
13 load, then I estimate KEC would need ~72 MWs of capacity to cover the NZ1/DRH
14 loads.³²

15
16 Keep in mind that these numbers are estimates, however it gives the Commission an
17 idea on the amount of capacity that will be needed to cover the NZ1/DRH loads.

18
19 **Q. Does KEC have the generation capacity available to serve the NZ1/DRH loads?**

20 A. As the Commission is aware, KEC is a member of East River and East River delivers
21 wholesale power to its members that it purchases from Basin Electric. Therefore, Basin
22 would be the entity ultimately covering KEC's capacity needs for the NZ1/DRH loads.

23
24 First, a disclaimer. Basin did not intervene in these dockets and the analysis in my
25 testimony is based on responses to Staff's data requests from KEC and East River. If
26 Otter Tail were to contest the adequacy of Basin's power supply, then Basin would need
27 to intervene and provide the Commission with the facts as it relates to their capacity
28 position and what generation would be used to serve the NZ1/DRH loads.

30 Exhibit_DK-5, Page 2 of 292. (Staff's Data Request 1-3(c) to East River).

31 $65 \text{ MWs} \times 0.95 = 61.75 \text{ MWs}$

32 $61.75 \text{ MWs} \times 0.16 = 9.88 \text{ MWs}$, $61.75 \text{ MWs} + 9.88 \text{ MWs} = 71.63 \text{ MWs}$

In Staff's Data Request 1-3(b) to East River³³, I asked for Basin's current capacity position and reserve margin. East River responded:

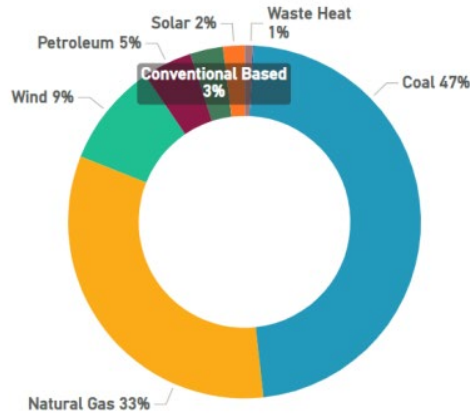
According to the 2024 SPP Resource Adequacy Report Basin has a total capacity of 4,216 MW, a net Peak Demand of 3,482.4 MW, a resource adequacy requirement of 4,004.7 MW and an excess capacity of 211.3 MW resulting in a LRE planning reserve margin of 21.1%. See page 17 of the report. A hyperlink to the report is provided below.

<https://www.spp.org/documents/71804/2024%20spp%20june%20resource%20adequacy%20report.pdf>

The 2024 SPP Resource Adequacy Report is a public report on SPP's website, and the chart below showing Basin's capacity position is taken from that public report.

BASIN ELECTRIC POWER COOPERATIVE

Capacity Summary	
Capacity Resources (MW)	3,231.3
Firm Capacity Purchases (MW)	893.1
Deliverable Capacity Purchases (MW)	91.6
Firm Capacity Sales (MW)	0.0
Deliverable Capacity Sales (MW)	0.0
External Firm Power Purchases (MW)	0.0
External Firm Power Sales (MW)	0.0
Confirmed Retirements (MW)	0.0
Total Capacity (MW)	4,216.0
Demand Summary	
Forecasted Peak Demand (MW)	3,724.1
Internal Firm Power Sales (MW)	0.0
Internal Firm Power Purchases (MW)	3.7
Controllable and Dispatchable DR (MW)	238.0
Net Peak Demand (MW)	3,482.4
Requirements Summary	
Resource Adequacy Requirement (MW)	4,004.7
Excess Capacity (MW)	211.3
Deficient Capacity (MW)	0.0
LRE planning reserve margin (%)	21.1
Planning Reserve Margin (%)	15.0



At the point in time Basin reported its load and capacity position to SPP for the 2024 Resource Adequacy report it had 211.3 MWs of excess capacity that could theoretically serve the NZ1/DRH load. However, I suspect Basin's capacity position will change by the time the NZ1/DRH loads are connected to the system.

Q. Why do you suspect Basin's capacity position will change?

A. There are a number reasons why Basin's capacity position will change. First, SPP is in the process of changing how it calculates the PRM. In the chart above, the PRM was

³³ Exhibit_DK-5, Page 2 of 292.

1 15% and it is my understanding that the summer PRM will increase to 16% starting in
2 2026.³⁴ Further, SPP will also establish a new winter PRM of 36%.³⁵ The change in
3 PRM (for both summer and winter) will impact Basin's resource adequacy requirement
4 (i.e. the amount of capacity needed to cover its net peak demand plus the PRM).
5 Second, it is my understanding that SPP is considering a revision to its capacity
6 accreditation methodology for generating resources. This could change the amount of
7 total capacity Basin has available to cover its resource adequacy requirement. Third, the
8 electric industry is generally planning for higher levels of load growth, and I would expect
9 Basin is in a similar position. If high levels of load growth are realized on Basin's
10 system, then that would increase the net peak demand Basin would need to cover.
11 Examples of load growth include the NZ1/DRH loads and data center loads. Third,
12 Basin could construct or procure additional generation prior to NZ1/DRH connecting to
13 the system. An example of this would be Basin entering a power purchase agreement
14 with KCWF. This would increase the amount of resources Basin has on its system to
15 cover their resource adequacy requirement.

16
17 **Q. If Basin's capacity position will change, does that mean KEC won't have access to**
18 **an adequate power supply?**

19 A. No. Basin may have plans in place to construct new generation or procure additional
20 generation to cover the expected load growth on their system. Unfortunately, Basin
21 didn't intervene in these cases, so I wasn't able to obtain additional information as to
22 how Basin will specifically cover the capacity needs for NZ1/DRH beyond the power
23 purchase agreement with KCWF.

24
25 In any event, I would expect that Basin would make efforts to avoid being short on
26 capacity since SPP could penalize Basin if they don't have the capacity available to
27 cover their resource adequacy requirement.

28
29 **Q. Has Basin constructed or procured additional generation to cover the NZ1/DRH**
30 **loads?**

³⁴ Refer to: <https://www.spp.org/news-list/spp-board-approves-new-planning-reserve-margins-to-protect-against-high-winter-summer-use/>.

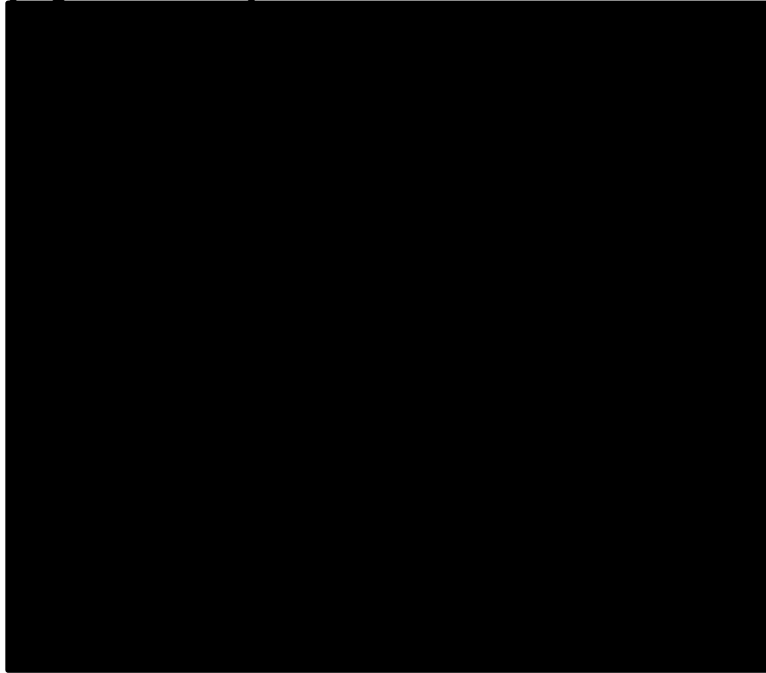
³⁵ Ibid.

1 A. Not that I am aware. NZ1's Petition indicated Basin is working with KCWF on a power
2 purchase agreement, however that will cover only a portion of NZ1/DRH's load from a
3 resource adequacy perspective.
4

5 **Q. Does Otter Tail have generation capacity available to serve NZ1/DRH loads?**

6 A. In Staff's Data Request 1-8 to Otter Tail³⁶, I asked Otter Tail to provide their current
7 capacity position, reserve margin and what effect serving the NZ1/DRH loads would
8 have on the two. Below is the capacity position Otter Tail provided. My takeaway from
9 Otter Tail's response is that they are similarly situated to Basin as it relates to serving a
10 new, large load customer.
11

12 [Begin confidential]



[End confidential]

13
14
15
16

17 **Q. Does Otter Tail dispute that KEC has access to a reliable supply of power to serve**
18 **the NZ1/DRH loads?**

19 A. As of the time of writing my testimony, I am not aware of Otter Tail disputing KEC's
20 ability to fulfill NZ1's/DRH's electric demand requirements.³⁷
21

³⁶ Exhibit_DK-7, Pages 28-29 of 81.

³⁷ Exhibit_DK-7, Page 35 of 81. (Staff's Data Request 1-13 to Otter Tail).

1 **Q. What opinion do you have on the second factor, regarding the availability of an**
2 **adequate power supply?**

3 A. If Basin plans for new load appropriately, I believe KEC will have access to an adequate
4 power supply to serve the NZ1/DRH loads. When it comes to serving large loads, I
5 believe most utilities would be in a similar position as Basin. Ultimately, I didn't see
6 anything in Basin's 2024 capacity position or Otter Tail's 2024 capacity position that
7 would lead me to conclude that one utility is better positioned to serve the NZ1/DRH
8 loads over the other utility.

9

10 **Q. SDCL 49-34A-56(3), the third factor, requires the Commission to consider the**
11 **development or improvement of the electric system of the utility seeking to**
12 **provide the electric service, including economic factors relating thereto. Will KEC**
13 **need to develop or improve the electric system to provide service to NZ1/DRH?**

14 A. Since the NZ1/DRH loads will be connected directly to an East River substation, KEC
15 will not need to improve their electric distribution system. East River, on the other hand,
16 will need to upgrade their transmission system to serve the new load.

17

18 **Q. What transmission system upgrades does East River plan to make to serve the**
19 **NZ1/DRH load?**

20 A. East River's proposed transmission upgrade plan was included as Exhibit 5 to NZ1's
21 Petition and as Exhibits 5-1 through 5-4 to DRH's Petition. As summarized by East
22 River in response to Staff's Data Request 1-2(a) to NZ1³⁸: "The plan includes the rebuild
23 of facilities along with a conversion from 69 kV to 115 kV for three sections of the East
24 River system from the Carpenter substation to the Kingsbury County substation (across
25 the road from the project location), Arlington substation to Kingsbury County substation,
26 and VT Hanlon substation to Kingsbury County substation."

27

28 **Q. The third factor also instructs the Commission to look at the economic factors**
29 **related to the development and improvement of the electric system. What**
30 **economic factors did you review?**

31 A. In my mind, the main economic factors associated with the development or improvement
32 of the electric system are: 1) the cost of the transmission/distribution system upgrades

³⁸ Exhibit_DK-3, Page 1 of 24.

1 needed to serve the large load and 2) how those costs will be recovered by the utility
2 that plans to serve the large load.

3
4 **Q. What is the cost of East River’s proposed transmission upgrade plan?**

5 A. According to NZ1’s Petition,³⁹ the estimated cost of East River’s transmission upgrade
6 plan is **[begin confidential]** [REDACTED] **[end confidential]**.

7
8 **Q. Will NZ1/DRH be responsible for the entire cost of the proposed transmission
9 buildout?**

10 A. No. For the distribution portion of the proposed Kingsbury County substation, NZ1 and
11 DRH will be responsible for those costs and that is being recovered through a
12 contribution in-aid of construction (CIAC). The amount that will be directly assigned
13 through CIAC to NZ1 and DRH, on a load-ratio basis is **[begin confidential]**
14 [REDACTED] **[end confidential]**. The KCWF will also cover a portion of the Kingsbury
15 County substation costs through a CIAC amount of **[begin confidential]** [REDACTED]
16 **[end confidential]**.

17
18 **Q. Who will pay for the portion of East River’s proposed transmission upgrade plan
19 that isn’t recovered through a CIAC from NZ1, DRH, or KCWF?**

20 A. It is my understanding that **[begin confidential]** [REDACTED] **[end confidential]** of the
21 remaining cost will be includable in SPP and may be allocated to customers in
22 accordance with the SPP tariff, and **[begin confidential]** [REDACTED] **[end
23 confidential]** of the remaining cost will be recovered through East River and KEC rates
24 at cost.

25
26 **Q. Will East River’s customers be responsible for the entire amount of the
27 transmission upgrade plan that is includable in SPP?**

28 A. For 115-kV transmission lines, the SPP tariff cost allocation is one-third to the regional
29 rate and two-thirds to the zonal rate. As such, East River’s customers will only be
30 responsible for their share of the regional rate and their share of the zonal rate for the

³⁹ Gevo Net-Zero 1, LLC’s Petition for Electric Service, Page 10.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Exhibit_DK-5, Pages 276-277 of 292. (Staff’s Data Request 2-1 to East River).

⁴³ Ibid.

1 Upper Missouri Zone (UMZ) pricing zone. The total annual transmission revenue
2 requirement (ATRR) for load in the UMZ pricing zone, including the UMZ's share of the
3 region-wide allocated amount, would increase approximately [begin confidential] [REDACTED]
4 [REDACTED] [end confidential]. I should note that SPP is still completing a benefits test to
5 see if East River's 115-kV transmission upgrade plan qualifies under the tariff for the
6 SPP regional/zonal cost allocation.⁴⁵

7
8 **Q. Will NZ1/DRH pay for their use of the transmission system, which includes the**
9 **SPP allocated costs and any remaining costs directly recovered through East**
10 **River's/KEC's rates?**

11 A. I believe so. In response to Staff's Data Request 1-10 to East River⁴⁶, East River stated:

12
13 *NZ1 will pay for its share of the transmission system buildout which is*
14 *included in the rate recovery of system-wide costs. The cost is recovered*
15 *on both the demand and energy charges.*

16
17 **Q. What is the amount of increased revenues East River expects to receive from**
18 **NZ1/DRH's use of the transmission system?**

19 A. East River expects the transmission revenue from new load on their system to be
20 approximately [begin confidential] [REDACTED] [end confidential]. The new load
21 includes the 65 MW NZ1/DRH load and 15 MW of additional expected large load growth.

22
23 **Q. In its Petition to Intervene and Comments, Otter Tail States: "Otter Tail's load in**
24 **the SPP zone pays SPP tariff charges meaning that Otter Tail customers must**
25 **help to pay for this potentially excessive buildout through pancaked rates." Do**
26 **you share Otter Tail's concern that East River's proposed transmission buildout is**
27 **excessive?**

28 A. I would agree that at first blush East River's transmission upgrade plan seemed like a
29 substantial amount of investment needed to serve the NZ1/DRH loads. However, after
30 gathering additional information I do not agree with Otter Tail's concern that East River's
31 proposed buildout is potentially excessive.

⁴⁴ Exhibit_DK-5, Pages 278-279 of 292. (Staff's Data Request 2-5 to East River).

⁴⁵ Exhibit_DK-5, Pages 277-278 of 292. (Staff's Data Request 2-4 to East River).

⁴⁶ Exhibit_DK-5, Page 7 of 292. (Staff's Data Request 1-10 to East River).

⁴⁷ Exhibit_DK-5, Page 280 of 292. (Staff's Data Request 2-6 to East River).

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Q. What additional information led you to not agree with Otter Tail’s concern?

A. The following is a list of additional information that I considered when I formed my opinion that I don’t share in Otter Tail’s concern that the proposed East River transmission upgrade plan is potentially excessive.

- 1) East River plans to construct many of the transmission upgrades identified in their proposed plan (at a cost of **[begin confidential]** ██████████ **[end confidential]**) even if East River does not end up serving the NZ1/DRH loads.⁴⁸
- 2) East River completed a load connection transmission study for the NZ1/DRH loads that supports the proposed upgrade plan.⁴⁹
- 3) East River’s proposed transmission upgrade plan is included in SPP’s 2024 Integrated Transmission Plan (ITP) and was vetted through the SPP stakeholder process.⁵⁰
- 4) If Otter Tail believes the proposed buildout is excessive and takes issue with their customers having to pay for that buildout through SPP transmission rates, Otter Tail can challenge the inclusion of costs associated with the proposed buildout in East River’s ATRR at FERC.⁵¹
- 5) In order for Otter Tail to serve the NZ1/DRH load, Otter Tail would have needed to construct **[begin confidential]** ██████████ ██████████ **[end confidential]**.⁵²

The information listed above was obtained through discovery and supports my opinion that the proposed East River build out is not excessive. Due to the prefiled testimony deadline for Staff and Intervenor I was not able to review Otter Tail’s testimony prior to submitting my testimony. Since I have not had the opportunity to review Otter Tail’s testimony before forming my opinion, I reserve the right to amend my testimony if Otter Tail presents new information that I am not aware of currently.

⁴⁸ Exhibit_DK-5, Pages 3-5 of 292. (Staff’s Data Request 1-5 to East River). AND Exhibit_DK-3, Pages 1-2 of 24. (Staff’s Data Request 1-2(b) to NZ1).
⁴⁹ Exhibit_DK-5, Page 5 of 292. (Staff’s Data Request 1-6 to East River).
⁵⁰ Ibid.
⁵¹ Exhibit_DK-7, Pages 31-32 of 81. (Staff’s Data Request 1-10 to Otter Tail).
⁵² Exhibit_DK-7, Pages 5-6 of 81. (Staff’s Data Request 1-5 to Otter Tail).

1 **Q. Has KEC or East River made any investment to date in order to serve the NZ1/DRH**
2 **loads?**

3 A. KEC has not made any investments to date.⁵³ East River indicated they have costs
4 assigned to the project including labor, design, land acquisition, and have ordered long
5 lead time equipment.⁵⁴ East River did not quantity the costs they have incurred to date.
6

7 **Q. What opinion do you have on the third factor regarding the development or**
8 **improvement of the electric system of the utility seeking to provide the electric**
9 **service, including economic factors relating thereto?**

10 A. East River will need to make substantial investment in their transmission for KEC to
11 serve the NZ1/DRH loads. Similarly, Otter Tail would need to make a substantial
12 amount of investment in their transmission system if they were to serve the NZ1/DRH
13 loads.⁵⁵
14

15 It is my opinion that KEC and Otter Tail appear similarly situated as it relates to the
16 investment needed in the transmission system to serve the NZ1/DRH loads. Further, I
17 find that East River's proposed transmission upgrades went through the proper planning
18 processes and that many of those upgrades will be constructed even without the
19 NZ1/DRH loads coming to fruition. Since many of East River's proposed transmission
20 upgrades will be completed no matter what, it is my opinion that the incremental buildout
21 needed for East River to serve the NZ1/DRH load would likely be less than the buildout
22 Otter Tail would need to make.
23

24 **Q. SDCL 49-34A-56(4), the fourth factor, requires the Commission to consider the**
25 **proximity of adequate facilities from which electric service of the type required**
26 **may be delivered. Are there existing facilities near the proposed NZ1/DRH plant**
27 **site that can meet the NZ1/DRH demand requirements?**

28 A. Not that I am aware of.
29
30

⁵³ Exhibit_DK-6, Page 5 of 57. (Staff's Data Request 1-10 to KEC).

⁵⁴ Exhibit_DK-5, Page 7 of 292. (Staff's Data Request 1-12 to East River).

⁵⁵ Exhibit_DK-7, Pages 5-6 of 81. (Staff's Data Request 1-5 to Otter Tail).

1 Otter Tail has an existing 41.6 kV transmission line that runs next to the Gevo parcel;
2 however, it doesn't have the capacity available to serve the NZ1/DRH loads. Otter Tail
3 indicates it would need to construct [begin confidential] [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED] [end confidential].⁵⁶ In total, Otter Tail would
7 need to construct about [begin confidential] [REDACTED]
8 [end confidential] to serve the NZ1/DRH load.

9
10 KEC has a distribution line across US Highway 14 from the Gevo site that serves
11 existing rural residences; however, that line also doesn't have the capacity available to
12 serve the NZ1/DRH loads. In order for KEC to serve the load, East River will need to
13 construct a new 115-kV line from the Carpenter substation to the NZ1 plant site, a new
14 115-kV line from the Arlington substation to the NZ1 plant site, and a new 115-kV line
15 from the Lake County substation to the NZ1 plant site, as well as substation
16 improvements to incorporate the new lines to the existing system. In total, East River
17 will need to construct about 132 miles of new 115-kV transmission line to serve the
18 NZ1/DRH load.⁵⁷ East River notes that a large portion of the new line mileage would be
19 constructed even without the NZ1/DRH load as those lines are included in East River's
20 long-range plan for rebuild and upgrade.⁵⁸

21
22 **Q. Do you have an opinion on the fourth factor?**

23 A. Both Otter Tail's and KEC's existing facilities in the immediate vicinity to the NZ1 plant
24 site are not able to serve the NZ1/DRH load. Investment in new transmission from
25 distant substations will need to be made by both Otter Tail and East River to serve the
26 load. In my opinion, both Otter Tail and KEC are similarly situated to serve the
27 NZ1/DRH load in terms of the proximity to adequate facilities to serve NZ1/DRH.

28
29 **Q. SDCL 49-34A-56(5), the fifth factor, requires the Commission to consider the**
30 **preference of the customer. Do you have anything to add for Commission**
31 **consideration on this factor?**

⁵⁶ Ibid.

⁵⁷ Gevo Net-Zero 1, LLC's Petition for Electric Service – Exhibit 5.

⁵⁸ Exhibit_DK-3, Pages 1-2 of 24. (Staff's Data Request 1-2 to NZ1).

1 A. It is clear through NZ1's Petition and DRH's Petition that they prefer to have KEC as
2 their electric supplier. As such, I have nothing to add on this factor.
3

4 **Q. SDCL 49-34A-56(6), the sixth factor, requires the Commission to consider any and**
5 **all pertinent factors affecting the ability of the utility to furnish adequate electric**
6 **service to fulfill customers' requirements. How do you think about this factor?**

7 A. This final factor is broadly written and appears to be a catch-all for any additional factors
8 that might have a material impact on the desired utility's ability to serve the large load
9 customer. In my mind, additional factors may include: 1) the utility's ability to acquire the
10 funds needed to build out the infrastructure to serve the load, 2) the utility's operations
11 and maintenance history, 3) the reliability of the system that the utility will use to serve
12 the load, and 4) the utility's experience with large loads.
13

14 **Q. Are you aware of any contested issues that would fall under the sixth factor?**

15 A. No. In an attempt to narrow the issues, I asked Otter Tail through discovery to identify,
16 with specificity, any and all factors affecting the ability of KEC to furnish adequate
17 electric service to NZ1/DRH that they plan to raise at hearing. At the time of their
18 response, Otter Tail indicated they didn't plan to raise any factors regarding KEC's ability
19 to furnish adequate electric service.⁵⁹ Should Otter Tail raise any new issues in their
20 testimony, I reserve the right to supplement my testimony if needed.
21

22 **Q. Did you review information that may be relevant under the sixth factor?**

23 A. Yes. I reviewed information regarding the reliability of East River's system and
24 information on the funding sources to be used for East River's proposed transmission
25 upgrade plan.
26

27 Regarding reliability, East River provided SAIDI/SAIFI/CAIDI reliability metrics for their
28 transmission system.⁶⁰ East River's reliability metrics didn't jump out at me as being
29 problematic.
30

31 Regarding the ability for the utility to obtain funding to complete the transmission
32 upgrades required to serve the load, NZ1's Petition and DRH's Petition summarized that

⁵⁹ Exhibit_DK-7, Page 35 of 81. (Staff's Data Request 1-13 to Otter Tail).

⁶⁰ Exhibit_DK-5, Page 3 of 292. (Staff's Data Request 1-4 to East River).

1 the non-CIAC portion of East River's build out will be funded by long-term Rural Utility
2 Service (RUS) loans. In addition, the Petitions identified KEC and East River have
3 access to other sources of funding beyond the RUS loans.⁶¹ As of the time of writing my
4 testimony, I am not aware of concerns around the ability of KEC or East River to obtain
5 the funding needed to serve the NZ1/DRH load.

6
7 **Q. Do you have an opinion regarding the sixth factor the Commission must**
8 **consider?**

9 A. At the time of writing my testimony, I have not seen any information that would call into
10 question the ability of KEC to furnish adequate electric service to the NZ1/DRH loads.

11
12
13 **VI. CONTESTED ISSUE**

14
15 **Q. Does Otter Tail contest NZ1/DRH's request to have KEC be assigned as their**
16 **electric supplier?**

17 A. No.⁶²

18
19 **Q. If Otter Tail does not contest NZ1/DRH's request to have KEC be assigned as their**
20 **electric supplier, why did Otter Tail intervene in this matter?**

21 A. I have not had the opportunity to review Otter Tail's pre-filed testimony yet. However, it
22 is my understanding that Otter Tail wants to ensure the Commission's final decision
23 narrowly tailors the large load exemption to the NZ1 and DRH loads. In order to ensure
24 the company's service territory is protected, Otter Tail does not want the large load
25 exception tied to the platted parcel.⁶³ If a future load shows up on the platted parcel that
26 will be owned by a third party, Otter Tail wants retain their ability to serve that load.

27
28 **Q. Is it NZ1/DRH's intent to have the large load exemption applied to the parcel,**
29 **where any future loads owned by a third-party can be served by KEC without**
30 **additional Commission approval?**

⁶¹ Gevo Net-Zero 1, LLC's Petition for Electric Service, Pages 10-11; Dakota Renewable Hydrogen, LLC's Petition for Electric Service, Pages 9-10.

⁶² Exhibit DK-7, Page 2 of 81. (Staff's Data Request 1-2 to Otter Tail).

⁶³ Gevo Net-Zero 1, LLC's Petition for Electric Service - Exhibit 2.

1 A. No. It is my understanding that NZ1's and DRH's request is limited to their individual
2 load on the 245-acre parcel.⁶⁴ However, NZ1 and DRH would like the ability for KEC to
3 serve any future plant expansions at the facilities under their ownership without needing
4 future Commission approval.
5

6 **Q. Do you have an opinion on this matter?**

7 A. I agree with Otter Tail's request for the Commission's final decision to be narrowly
8 tailored to the NZ1/DRH loads and not be broad, where any future third-party can be
9 served by KEC. I also understand NZ1's and DRH's desire for the Commission's final
10 decision to allow KEC to serve future plant expansions that are under their ownership. I
11 find both requests reasonable, and I believe the parties should be able to develop
12 language agreeable to Otter Tail, NZ1, and DRH that can be recommended to the
13 Commission for inclusion in its final decision, should the NZ1/DRH Petitions be granted.
14

15 **Q. If the parties can't agree on language, do you have a recommendation for the**
16 **Commission on how to address this matter?**

17 A. One option the Commission could consider is limiting KEC's service rights to the terms
18 of the Electric Service Agreements (ESA) that KEC entered with NZ1 and DRH.
19

20 Using NZ1's ESA with KEC as an example:
21

22 **[begin confidential]**

23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]
29 [REDACTED]
30 [REDACTED]
31 [REDACTED]
32 [REDACTED]
33 [REDACTED]
34 [REDACTED]
35 [REDACTED]
36 [REDACTED]

⁶⁴ Exhibit_DK-3, Page 6 of 24. (Staff's Data Request 2-4 to NZ1).

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[end confidential]

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Based on the language of the ESA provided above, and if the Commission were to limit KEC's service rights for NZ1 to the ESA, I believe KEC's service rights would:

- 1) be specific to the Gevo Net-Zero 1, LLC, legal entity,
- 2) be limited to NZ1's refinery and appurtenant facilities,
- 3) be flexible enough for NZ1 to locate their facilities on the refinery site as needed, and
- 4) would allow future amendments to the ESA for an increase in load that is specific to the ESA customer (i.e. NZ1).

1 In short, it appears the language of the ESA narrowly tailors KEC's service rights and
2 allows for future NZ1 load growth, addressing both Otter Tail's and NZ1's/DRH's
3 requests.

4
5 If Otter Tail is concerned about NZ1/DRH being able to transfer or assign the ESA to
6 another third-party entity, the Commission could add a condition to their order that any
7 transfer or assignment of the ESA must be approved by the Commission.

8
9 Finally, the ESA between DRH and KEC contains similar language; therefore, I believe
10 limiting the large load exception to DRH's ESA would address Otter Tail's concern for
11 the DRH load.

12
13 **VII. STAFF'S RECOMMENDATION**

14
15 **Q. Do you have a final recommendation for the Commission?**

16 A. I am withholding my final recommendation to the Commission until I review Otter Tail's
17 testimony. However, I will note that the eligibility of NZ1/DRH to qualify under the large
18 load statute is not contested. Further, as noted throughout my testimony, I believe that
19 both KEC and Otter Tail are similarly situated under the six factors the Commission must
20 consider to serve a new load the size of NZ1/DRH.

21
22 **Q. Does this conclude your testimony?**

23 A. Yes. However, I reserve the right to amend my testimony through supplemental
24 testimony, rebuttal testimony or at the evidentiary hearing if needed.