

3. On August 5, 2024, Data Center filed its Petition for Electric Service to have Montana-Dakota Utilities Co. (“Montana-Dakota”) assigned as its Electric Provider in the Service Area of FEM (the “Petition”).

4. On October 4, 2024, FEM, East River, and Basin served joint discovery requests on Data Center (the “Joint Discovery Requests”). Those Requests specifically sought information related to the factors set forth in SDCL § 49-34A-56. Among other requests, the Joint Discovery Requests sought information regarding Data Center’s electrical service requirements for its planned Data Center and related facilities, including peak, monthly usage, and other projections. The discovery requests also requested Data Center’s lease, construction of the facility, and the electrical service agreement (“ESA”) between Data Center and Montana-Dakota. Data Center responded to the Joint Discovery Requests on November 7, 2024. *See* Exhibit A, a true and correct copy of Leola Data Center LLC’s Answers to East River Electric Power Cooperative, Inc.’s, Basin Electric Power Cooperative’s and FEM Electric Association, Inc.’s Joint First Set of Interrogatories and Request for Production of Documents.

5. On November 25, 2024, Data Center provided supplemental responses to the Joint Discovery Requests. *See* Exhibit B, a true and correct copy of Leola Data Center LLC’s Answers to East River East River Electric Power Cooperative, Inc.’s, Basin Electric Power Cooperative’s and FEM Electric Association, Inc.’s Joint First Set of Interrogatories and Request for Production of Documents.

6. On December 3, 2024, Intervenors served discovery on Montana-Dakota. Montana-Dakota responded on January 6, 2025. *See* Exhibit C, a true and correct copy of an excerpt of Montana Dakota’s responses to East River’s Basin’s and FEM’s First Set of Data

Requests to MDU.

7. On December 11, 2024, Intervenors served a second set of discovery requests on Data Center. Data Center responded on December 26, 2024. *See* Exhibit D, a true and correct copy of Data Center’s Responses to Intervenors’ Second Data Requests.

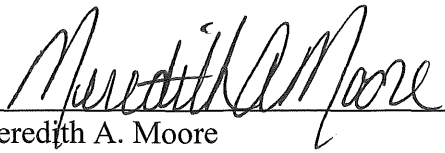
8. Counsel for Intervenors and Data Center did communicate regarding the sufficiency of Data Center’s discovery requests. In these conversations, Data Center’s counsel advised that his client would not agree to produce a complete copy of the Electrical Services Agreement (“ESA”) between Data Center and Montana-Dakota and that his client would not produce any response or documentation establishing the estimated interconnection upgrade costs to be paid by Data Center. *See* Exhibit D, Pages 1 and 2, Objection and Responses to Requests 1-4 and 1-5. Intervenors also requested a copy of all data requests Data Center received from any party, including Staff, and Data Center’s responses to those requests. Data Center produced copies of the responses made to Staff, but in redacted form, indicating that it would not release such information pending an order to compel its release by the Commission. *Id.* at Exhibit D, Page 1, Objection and Response to Request 1-1.

9. South Dakota Codified Law § 49-34A-56 sets forth criteria for the Commission’s consideration in determining whether to assign an alternate service provider to provide services to the applicant. Those criteria include information relating to the electric service requirements of the load to be served, development or improvement of the electric system, including economic factors, and other pertinent factors affecting the ability of the utility to furnish service to the applicant. *See generally* § 49-34A-56. Intervenors have requested, but not received in discovery, information relevant to electric service requirements, economic factors and costs associated with developing the electric system seeking to provide service, and other details

relating to the size and servicing of the applicant's load. *See* Rule 56(f) Affidavit, Exhibits A – D. There has been no indication that the information does not exist; in fact, Intervenor's know it does exist because the information either hasn't been provided or has been redacted from what information has been provided. As such, further discovery will allow Intervenor's to receive and review this information and determine applicability of the criteria set forth in SDCL § 49-34A-56.

10. Intervenor's have also sought information related to Data Center's lease of the land on which it seeks to construct its facility. Only a redacted lease agreement has been provided. A prerequisite to applying the criteria set forth in SDCL § 49-34A-56 is establishing the existence of a new customer. At this time, it is unknown if Data Center will obtain the necessary permitting at the county level to construct its facility. Data Center's application for a conditional use permit for the data center came before the McPherson County Zoning Board of Adjustment on December 10, 2024. The Board of Adjustment approved a moratorium on data center conditional use permits until an ordinance could be adopted. The Board later approved a one mile set back requirement and discussed a data center template ordinance. According to Data Center's application, there are at least two dwellings 800 feet and 1,355 feet away from the proposed data center. It was reported that the Board of Adjustment would discuss the data center ordinance again on January 14, 2025. *See* Rule 56(f) Affidavit, Exhibit E, a true and correct copy of the Minutes of Proceedings before the McPherson County Zoning Board and Board of Adjustment for December 10, 2024 (Unapproved). Depending upon the court of action the Board takes, the Data Center may not be built, in which case, Data Center's request for relief would be rendered moot.

Dated this 9th day of January, 2025.


Meredith A. Moore

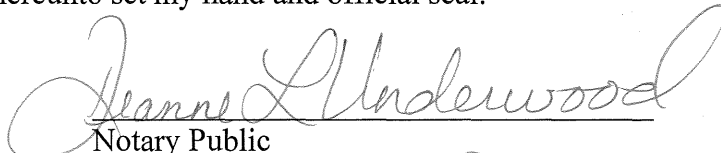
STATE OF SOUTH DAKOTA)
 : SS
COUNTY OF MINNEHAHA)

On this, the 9th day of January, 2025, before me, the undersigned officer, personally appeared Meredith A. Moore, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(SEAL)




Notary Public
My Commission Expires: 8-25-30