

STATE OF SOUTH DAKOTA  
BEFORE THE  
PUBLIC UTILITIES COMMISSION

**In the Matter of the Petition by Leola Data Center LLC to have Montana-Dakota Utilities Co., a Subsidiary of MDU Resources Group Inc., Assigned as its Electric Provider in the Service Area of FEM Electric Association Inc.**

DOCKET NO. EL24-027

**REPLY IN SUPPORT OF LEOLA DATA CENTER'S  
MOTION FOR SUMMARY JUDGMENT**

COMES NOW, Leola Data Center LLC (LDC), by and through its attorney of record, William M. Van Camp, and offers this reply brief in support of its Motion for Summary Judgment. This reply brief is subject the Commission's ruling on the pending Motion to Compel Discovery filed by FEM Electric Association, Inc. (FEM), East River Electric Power Cooperative, Inc. (East River) and Basin Electric Power Cooperative (Basin), collectively referred to as the "the Cooperatives."

Certainly, if the Commission decides that the Cooperatives are able to see, review and make arguments opposing summary judgment based on the contract (Electric Service Agreement (ESA)) between LDC and Montana-Dakota Utilities Co. (MDU) or the lease between LDC and its landlord, the Cooperatives are free to do so. Those arguments will need to relate to the SDCL 49-34A-56 factors before the Commission and not a wish list of information the Cooperatives would like to see for their own, unclear, purposes.

This Commission has before it a record sufficient to grant summary judgment pursuant to SDCL 1-26-18. The brief of LDC lays out the six factors the Commission must consider in granting the service territory exception. Discovery has occurred and been ongoing. Both

between the parties and staff. Staff's brief response to the Motion for Summary Judgment does an excellent job of laying out the additional information that is in the docket through discovery and that establishes the Commission may find as a matter of law that LDC is entitled to have MDU serve its electrical needs.

Regarding the current machinations in McPherson County and the efforts of LDC to obtain a conditional use permit: First, it is not a requirement of the service territory exception sought that LDC first obtain local approval as may be necessary; Second, as is often the case parallel tracks exist in any permitting process, and lastly, the involvement of certain political parties and activists in the McPherson County permit process should give the Commission pause as to that conduct but not reason at this point to delay or deny the pending motion.

Meetings have been held, ostensibly at the behest of the local Republican Party officials. See, affidavit of counsel (WVC) at 3. The local publisher of the McPherson County Herald has a lot of concerns, none of which are within the Commissions purview in this docket. Id at 1 & 2. This was not a meeting to provide information, but clearly a meeting to opposed the LDC project. An elected official called at the December 27<sup>th</sup> meeting for a statewide moratorium on development of all types. Id at 4. The general manager of FEM was at this meeting. Id at 2 & 4. He spoke and took questions for over 20 minutes. Id at 4. Approximately minutes 56-120.

It is of interest that a party in this docket had its CEO attend and speak at a meeting gathered to oppose the local permitting efforts of LDC and now seeks nothing less than to have this Commission not grant the motion of the applicant because of the rabble having been roused. Certainly, an unfortunate goings on but not something that impacts the legal position of LDC before the Commission at this point and the pending motion.

Dated this 17<sup>th</sup> day of January, 2025.

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### CERTIFICATE OF SERVICE

William M. Van Camp hereby certifies that on the \_\_\_\_\_ day of January, 2025, he served the foregoing Reply in Support of Leola Data Center LLC's Motion for Partial Summary Judgment electronically with copies of the same to the following persons:


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