

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

IN THE MATTER OF THE REQUEST BY MONTANA-DAKOTA UTILITIES CO., A SUBSIDIARY OF MDU RESOURCES GROUP INC., FOR APPROVAL OF AN ELECTRIC SERVICE AGREEMENT UNDER RATE 45 BETWEEN MONTANA-DAKOTA UTILITIES CO., A SUBSIDIARY OF MDU RESOURCES GROUP INC., AND LEOLA DATA CENTER LLC	EL-24-028 BASIN ELECTRIC POWER COOPERATIVE’S RESPONSE TO MONTANA-DAKOTA UTILITIES CO.’S OBJECTION TO PETITIONS TO INTERVENE
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COMES NOW Basin Electric Power Cooperative (“Basin Electric”), by and through its undersigned counsel, and submits its response to Montana-Dakota Utilities Co.’s Response and Objection to Petitions of FEM Electric Association, Inc., East River Electric Power Cooperative, Inc., and Basin Electric Power Cooperative.

Basin Electric meets the statutory criteria for intervention in this matter, just as it did in the companion docket of EL24-027. It has demonstrated both a direct and pecuniary interest and done so in the time frame specified by this Commission. Montana-Dakota Utilities Co. (“MDU”) protestations to the contrary are without merit.

In the current Docket, MDU seeks this Commission’s approval of an electric services agreement between itself and Leola Data Center, LLC (“LDC”). As a prerequisite to the approval of any electric services agreement, this Commission must review and determine whether the relief sought by LDC in Docket EL 24-027 is appropriate. In Docket EL24-027, LDC asked this Commission to assign MDU as its electric provider in an area already served by FEM Electric Association Inc. (“FEM”). As stated by this Commission: “[u]nder SDCL 49-34A-56, new customers at new locations that develop after March 21, 1975, and who require electric service with a contracted minimum demand of two thousand kilowatts or more are not obligated to take

electric service from the electric utility having the assigned service area where the customer is located if the Commission so determines after consideration of certain factors set forth in statute.”

See August 29, 2024 Order in EL24-027.

Given the interrelatedness of the two dockets, including the factual, legal issues, and financial implications, Basin Electric, FEM, and East River sought to intervene in both. As set forth in its Petition to Intervene in both matters, each of Basin Electric and East River will be impacted financially if the relief requested by each of LDC and MDU is granted. MDU seeks to provide service to LDC in FEM’s territory. FEM is a Class A Member of East River, which in turn, is a Class C Member of Basin Electric. *See* Basin’s Petition to Intervene at ¶¶ 3-6. There are contractual relationships between all of Basin’s Class A and Class C Members and the long-term financial viability of the parties’ respective operations are predicated upon adherence to and performance under those contracts. These statements satisfy the statutory criteria set forth in SDCL 1-26-17.1, which provides:

A person who is not an original party to a contested case and whose pecuniary interests would be directly and immediately affected by an agency’s order made upon the hearing may become a party to the hearing by intervention, if timely application therefor is made.

See also A.R.S.D 20:10:01:15.02 (establishing process for intervention by person not an original party to a docket in which an interest is claimed).

At its meeting on August 27, 2024, the Commission considered all Petitions to Intervene in Docket EL24-027. There were no objections to the Petitions. The Commission unanimously voted to grant the Petitions of MDU, FEM, East River, and Basin Electric, finding that each had met the statutory criteria for intervention. The result here should be no different as the financial implications to Basin Electric in EL24-027 necessarily carry over to this docket. In this docket, as it did EL24-027, Basin Electric seeks to protect its interest, which is a direct pecuniary interest,

in its cooperative electric system. Basin Electric is cognizant of East River's own request to intervene in this docket. It does not seek to duplicate East River's efforts; however, its interest in this matter is in no way redundant or duplicative and Basin Electric therefore respectfully requests that its interest be validated and that it be allowed to participate in this docket with all rights of a party.

Dated this 13th day of September, 2024.

CUTLER LAW FIRM, LLP
Attorneys at Law

/s/ Meredith A. Moore

Meredith A. Moore
140 N. Phillips Ave., 4th Floor
PO Box 1400
Sioux Falls, SD 57101-1400
Attorneys for Basin Electric Power Cooperative