

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

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| 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 | EL24-028 MDU’S RESPONSE AND OBJECTION TO PETITIONS OF FEM ELECTRIC ASSOCIATION, INC., EAST RIVER ELECTRIC POWER COOPERATIVE, INC., AND BASIN ELECTRIC POWER COOPERATIVE |
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On August 5, 2024, Montana-Dakota Utilities Co. (MDU) filed its petition seeking Commission approval of its electric service agreement with Leola Data Center LLC (Leola) for the provision of electric service for Leola’s intended business operations within the assigned territory of FEM Electric Association, Inc. (FEM). Thereafter and within the relevant time period, Leola, FEM, East River Electric Power Cooperative, Inc. (East River), and Basin Electric Power Cooperative (Basin) filed for intervention in this docket.

MDU has no objection to Leola’s intervention in the docket. Pursuant to law and rule, Leola has an interest in the pending proceeding in that, by the outcome of the proceeding, the Petitioner will be bound and affected with interest peculiar to the Petitioner. Thus, Leola is a proper intervenor in the docket.

With respect to the other proposed intervenors, the same cannot be said. None of them has an interest in this particular docket which is cognizable by this Commission, and they must have their intervention petitions rejected.

ARSD 20:10:01:15.02 states:

A person who is not an original party to a proceeding before the commission and who claims an interest in a pending proceeding may petition the commission for leave to intervene. The petition to intervene shall be filed with the commission within the time specified in the commission's weekly filings, public notice, or by applicable statute, rule, or order. The petition shall show service upon all parties to the proceeding. A petition to intervene which is not timely filed with the commission may be granted by the commission if granting the intervention will not unduly prejudice the rights of other parties to the proceeding or if denial of the petition is shown to be detrimental to the public interest.

ARSD 20:10:01:15.05, in relevant part, states:

20:10:01:15.05. Commission action on petition to intervene. As soon as practicable after the expiration of the time for filing an answer to a petition for intervention, the commission shall grant or deny the petition in whole or in part.

A petition to intervene shall be granted by the commission if the petitioner shows that the petitioner is specifically deemed by statute to be interested in the matter involved, that the petitioner is specifically declared by statute to be an interested party to the proceeding, or that by the outcome of the proceeding the petitioner will be bound and affected either favorably or adversely with respect to an interest peculiar to the petitioner as distinguished from an interest common to the public or to the taxpayers in general. ...

Neither FEM, East River, nor Basin is an intervenor as a matter of right or statute. In order to be granted intervention, each has the burden to show that it would be bound and affected by the outcome in a way unique to them.


This particular docket is one in which the contract between MDU and Leola is at issue. That's it, nothing more. The outcome to which an intervenor in this case would be bound is through being a party to the contract between Leola and MDU. Since none of the proposed intervenors is a party to the contract, as that is the relief requested in the docket, there is no mechanism, legal or contractual by which any of them can become party to the contract. Neither

does any of them have customers or business arrangements which rely upon the representations and promises contained within the document. None of them is a tariffed customer of MDU. None of them has any standing with respect to the contract at all. Their petitions to intervene must fail.

WHEREUPON, MDU requests that the Commission grant Leola's petition to intervene in the docket and deny the petitions to intervene of FEM, Basin, and East River.

Dated this 30 day of August, 2024.

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CERTIFICATE OF SERVICE

Brett Koenecke of May, Adam, Gerdes & Thompson LLP, hereby certifies that on the 30 day of August, 2024, he filed and served a true and correct copy of the foregoing in the above captioned matter through the Public Utilities Commission's filing system and copied the service list of EL24-028 along with the following at their last known electronic mailing address, to-wit:

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