

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

IN THE MATTER OF THE PETITION
FOR SWEETMAN CONST. CO. D/B/A
KNIFE RIVER, TO HAVE XCEL
ENERGY ASSIGNED AS ITS ELECTRIC
PROVIDER IN THE SERVICE AREA OF
SIOUX VALLEY ELECTRIC

EL25-032

**SIOUX VALLEY-SOUTHWESTERN
ELECTRIC COOPERATIVE, INC.,
EAST RIVER ELECTRIC POWER
COOPERATIVE, INC., AND
BASIN ELECTRIC POWER
COOPERATIVE’S JOINT POST
HEARING BRIEF**

Intervenors Sioux Valley - Southwestern Electric Cooperative, Inc. (“Sioux Valley Energy”), East River Electric Power Cooperative, Inc. (“East River”), and Basin Electric Power Cooperative (“Basin Electric”), by and through their undersigned counsel, hereby submit the following Joint Post Hearing Brief pursuant to the order of the Commission.

Introduction

SDCL 49-34A-56 applies only when a petitioner is a new customer at a new location. Knife River does not satisfy that threshold. Knife River is already Sioux Valley Energy’s customer, and the proposed rock-crushing plant is an expansion of the same site where Sioux Valley Energy already provides service. Knife River has the burden of proof. ARSD 20:10:01:15.01; Transcript of 4/13/2026 Hearing at 8:6-10. The Commission should therefore deny the Petition before reaching the statutory factors. Even considering the factors, the Petition should be denied.

Background

Sioux Valley Energy is the assigned electric utility for the area where Knife River's proposed quartzite rock-crushing plant would be located. Sioux Valley Energy already provides retail electric service to Knife River at its existing concrete sand washing plant within this quarry footprint. Knife River's own Petition acknowledges that "Petitioner is currently a customer of Sioux Valley Electric[.]" Knife River Petition ¶ I.B. Clark Meyer's testimony confirms such to be the case. Transcript of 4/13/2026 Hearing at 22:15-24.

Knife River now proposes to add a quartzite rock-crushing plant within the same undivided tract of land and quarry footprint where the existing concrete sand washing plant sits. The existing concrete sand washing plant and the proposed quartzite rock-crushing plant are separated by what Clark Meyer describes as a "plant road that's used in the plant," maintained by Knife River, and not open to the public. Transcript of 4/13/2026 Hearing at 24:10-21. Its Petition identifies the proposed plant by the same 911 address used for the existing concrete sand washing plant which Sioux Valley Energy now serves. The Petition also states that the existing concrete sand washing plant is nearby, and that the proposed quartzite plant is expected to use a shared driveway off 482nd Avenue (Hwy. 11). Knife River Petition ¶ I.B; Transcript of 4/13/2026 Hearing at 30:4-19.

Tellingly, when Knife River applied to Minnehaha County for a conditional use permit relative to its quarry footprint in June of 2025, it described the purpose of the application as "[e]xpansion of existing hard rock quarry." TS-14, at 7. In its cover letter

to Minnehaha County, Knife River indicated that “[t]he following information is being provided to request expansion of a quartzite quarry on Knife River property.” TS-14, at 8. “This property is adjacent to existing Knife River sand and gravel mining operations.” *Id.* Further, Knife River submitted that “[o]perations at the site will see continuation of mining quartzite rock. Quartzite materials will be drilled and blasted. The resulting rock will be crushed and screened on site utilizing permanent infrastructure.” *Id.*

Also tellingly, in its Application for Permit to Appropriate Water in South Dakota, Knife River identified the source of water supply as “Split Rock Creek utilizing same diversion point as 6388-3.” TS-14, at 563 - 365. Knife River described the proposed project as follows: “[n]ew processing plant south of existing sand plant with water recycle system. System predicted to need 766 gpm of make up water to meet needs (see attachment). This Application plus existing permit no. 6388-3 will be 1,000 gpm for 560 ac-ft.” *Id.*

Knife River nevertheless asks the Commission to assign Xcel Energy as the electric provider for the proposed plant under SDCL 49-34A-56. Its theory is that the quartzite rock-crushing plant should be treated as a new customer at a new location because it will use different equipment, perform a different function, and require electric facilities not currently in place at the existing sand washing plant. However, Knife River is the same customer, and the proposed quartzite rock-crushing plant is an expansion of the same site where Sioux Valley Energy already provides service, therefore constituting the same location.

Xcel would need to construct substantially more infrastructure to reach Knife River’s proposed plant than Sioux Valley Energy would need to construct from its existing service position. *Contrast* Ex. BLS-4 with Ex. TS-5 (showing that Xcel would need to construct substantially more infrastructure than Sioux Valley Energy); *see also* Ex. BLS-1, at 1: 25-27, 2:1 (“The Company would construct approximately 10 miles of 34.5 kV of distribution level infrastructure...”). Thus, Knife River’s request would bring duplicative facilities into Sioux Valley Energy’s assigned territory to serve an existing customer’s site expansion.

Argument

Knife River’s Petition should be denied for two main reasons. First, Knife River does not satisfy the threshold prerequisites of SDCL 49-34A-56 in that it is not a “new customer” at a “new location” who has a “contracted minimum demand of two thousand kilowatts or more.”¹ Second, even as one considers the factors enumerated in SDCL 49-34A-56, on balance, such considerations favor denial of the Petition.

I. Knife River does not satisfy the threshold prerequisites of SDCL 49-34A-56.

SDCL ch. 49-34A, the South Dakota Territorial Integrity Act (“Act”), establishes the default rule that an assigned electric utility serves the customers in its assigned service area. An “assigned service area” is the geographic area whose boundaries are established by statute, and SDCL 49-34A-42 gives each electric utility “the exclusive right to provide electric service at retail” to present and future customers in that area.

¹ SDCL 49-34A-56 also requires the new customer at new location develop after March 21, 1975, and that it is located outside municipalities as boundaries existed on March 21, 1975, both of which are not at issue here.

SDCL 49-34A-56 is a narrow exception to that default rule. It provides:

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[.]

(emphasis added).

The statute then provides factors for the Commission to consider when evaluating whether to grant a petition brought under the statute. But the Commission does not consider those factors unless four threshold prerequisites are present: (1) a new customer, (2) at a new location, (3) located outside municipalities, and (4) who requires electric service with a contracted minimum demand of two thousand kilowatts or more. SDCL 49-34A-56. Here, there is no new customer, no new location, and no contracted minimum demand of two thousand kilowatts or more.

a. Knife River is not a new customer.

In interpreting statutes, the Commission is confined to the plain meaning of the text. *In re W. River Elec. Ass'n, Inc.*, 2004 S.D. 11, ¶ 25, 675 N.W.2d 222, 230. The Act defines “customer” as “any person contracting for or purchasing gas or electric service from a utility.” SDCL 49-34A-1(3). The plain meaning of “new” is “recently created or having started to exist recently.” *New*, CAMBRIDGE DICTIONARY, <https://dictionary.cambridge.org/dictionary/english/new> (last visited May 29, 2026).

Read together, a “new customer” is a person who has not already been contracting for or purchasing electric service from a utility.

Knife River is not a new customer. In its words, “Petitioner is currently a customer of Sioux Valley Electric[.]” Knife River Petition ¶ I.C; *see also* Transcript of 4/13/2026 Hearing at 22:15-24.

Knife River’s argument to the contrary depends on treating the proposed quartzite rock-crushing plant itself as the “customer.” Its Brief consistently uses the term “new operation” or “new plant” as a substitute for “new customer,” and lists the ways the proposed plant will function differently than the existing operation to sidestep the statutory language.² But the statute does not ask whether the operation is new; it asks whether the customer—i.e., the private corporation contracting for electric service—is new. Therefore, a finding that Knife River is a “new customer” based on operational differences would require the Commission to replace the Legislature’s specifically chosen and defined term (“customer”) with a different one (“operation”) and thereby rewrite SDCL 49-34A-56. *See In re W. River Elec. Ass’n, Inc.*, 2004 S.D. 11, ¶ 25, 675 N.W.2d at 230 (“If the wording of SDCL 49-34A-42 is in need of revision to accommodate public policy changes in the utility industry, it is the responsibility of the Legislature, rather than the PUC, to change the statute.”).

² The facts Knife River relies on include: the existing sand plant will be removed; the rock-crushing plant will use different equipment; no sand-plant equipment will be used for the rock-crushing plant; there will be no intermingling of infrastructure or components; the rock-crushing plant will be treated as a separate profit center with its own P&L and asset list; the sand and rock processes differ; no utility infrastructure presently serves the proposed plant footprint; and the proposed plant may use a separate meter or electric facilities. Knife River Br. at 2–6. None of those facts qualify Knife River as a new customer at a new location.

Knife River's reliance on the Commission's 1977 Safeguard foundry decision does not change the analysis. That decision was not reviewed by the South Dakota Supreme Court on whether Safeguard was a "new customer" at a "new location." It appears in *In re Declaratory Ruling of Northwestern Pub. Ser. Co.* only as background to the subsequent provider-change dispute that was the subject of the decision. 1997 S.D. 35, ¶¶ 3-4, 560 N.W.2d 925, 926. To the extent Knife River reads the 1977 decision to mean that a separately operated facility, standing alone, creates a "new customer" or "new location," that reading cannot be reconciled with the *Northwestern* Court's interpretation of SDCL 49-34A-56.

In *Northwestern*, the Court held that "[t]he plain language of the statute indicates the legislature intended it to do nothing more than provide a new large load customer at a new location an option to be exercised prior to receipt of service." *Id.* ¶ 20. The Court also noted SDCL ch. 49-34A does not allow for provider changes based on changes in ownership, customer preference, load, rates, or the expiration of a service agreement. *Id.* ¶ 25. That construction leaves little room for Knife River's use of the 1977 Commission decision. *Northwestern* counsels against making the threshold inquiry turn on operational details. The statute does "nothing more" than give the statutory option to a new large-load customer at a new location before service begins. *Id.* ¶ 20. Knife River does not qualify under that standard.

Although not controlling, authority from other states supports the conclusion that Knife River is not a new customer. Michigan, for example, defines "customer" as the "building or facilities served" rather than the entity taking service, and the Michigan

Court of Appeals applied that definition as written. *Great Lakes Energy Coop. v. City of Petoskey*, No. 372750, 2026 WL 451022, *3 (Mich. Ct. App. Feb. 17, 2026). In other words, Knife River’s argument would prevail in Michigan because the plain meaning of customer—supplied by the intent of the Michigan Legislature—is for customer to constitute new buildings. Therefore, accepting Knife River’s argument would quietly substitute a new statute, similar to Michigan’s definition, for South Dakota’s existing and clearly written statute. Such a revision belongs to the South Dakota Legislature, not the Commission.

b. The proposed quartzite rock crushing plant is not at a new location.

SDCL ch. 49-34A does not define the term “location.” However, the South Dakota Supreme Court has. In defining the term, it first explained that “location” is a “geographical area.” *In re W. River Elec. Ass’n, Inc.*, 2004 S.D. 11, ¶ 22, 675 N.W.2d at 228. The Court elaborated, noting dictionaries define the term as “[t]he designation of the boundaries or a particular piece of land, either on the record or on the land itself”; “[a] place where something is or could be located; a site”; and, “A tract of land that has been surveyed and marked off.” *Id.* The Court then tied those definitions to Chapter 49-34A, which defines “assigned service area,” as a “*geographical area* in which the *boundaries* are established[.]” *Id.* (emphasis in original). From that definition, the Court concluded “location ... requires this ordinary geographical meaning.” *Id.* Therefore, in Chapter 49-34A, “location” refers to a bounded geographical site.

Here, the proposed quartzite rock-crushing plant is not a new bounded geographical site. The existing concrete sand washing plant and the proposed quartzite

rock-crushing plant are separated by a “plant road that’s used in the plant,” maintained by Knife River, and not open to the public. Transcript of 4/13/2026 Hearing at 24:10-21. It is part of the same Knife River property and quarry footprint where Sioux Valley Energy already serves Knife River. Its Petition identifies the proposed plant by the same 911 address used for the existing concrete sand washing plant. The Petition also states that the existing concrete sand washing plant is nearby and that the proposed quartzite plant is expected to use a shared driveway off 482nd Avenue (Hwy. 11). Knife River Petition ¶ I.B[NW2.1]; Transcript of 4/13/2026 Hearing at 30:4-19.

Moreover, it is evident that Knife River did not view the proposed plant as a new location prior to filing its Petition here before this Commission. Here, Knife River’s present position is plainly inconsistent with the position it took before other governmental authorities, namely Minnehaha County. While Knife River attempted to minimize its prior inconsistent statements by arguing that these are two different processes before two different agencies, fundamental facts do not and should not change, such as whether the plant is a new location. Accordingly, Knife River should be judicially estopped from contending in this proceeding that the proposed rock-crushing plant is a “new customer at a new location.”

South Dakota applies judicial estoppel when three conditions are present: (1) the later position is clearly inconsistent with the earlier one; (2) the earlier position was judicially accepted, creating a risk of inconsistent legal determinations; and (3) the party taking the inconsistent position would derive an unfair advantage or impose an unfair

detriment on its opponent if not estopped. *Wilcox v. Vermeulen*, 2010 S.D. 29, ¶ 10, 781 N.W.2d 464, 468. All three criteria are satisfied here.

Knife River described the purpose of its application to Minnehaha County as “[e]xpansion of existing hard rock quarry.” TS-14, at 7. In its cover letter to Minnehaha County, Knife River indicated that “[t]he following information is being provide to request expansion of a quartzite quarry on Knife River property.... This property is adjacent to existing Knife River sand and gravel mining operations.” *Id.* Knife River submitted that “[o]perations at the site will see continuation of mining quartzite rock.” *Id.* The fact that Knife River itself viewed both the existing plant and proposed plant as part and parcel of the same quarry footprint is further buttressed by its Application for Permit to Appropriate Water in South Dakota. Knife River identified the source of water supply as “Split Rock Creek utilizing same diversion point as 6388-3.” TS-14, at 563 - 365. Knife River described the proposed project as a: “[n]ew processing plant south of existing sand plant with water recycle system. System predicted to need 766 gpm of make up water to meet needs (see attachment). This Application plus existing permit no. 6388-3 will be 1,000 gpm for 560 ac-ft.” *Id.* Knife River’s statements and submission to Minnehaha County are fundamentally at odds with Knife River’s attempt here to characterize the same project as a new customer at a new location for purposes of SDCL 49-34A-56.

The remaining judicial estoppel elements are also satisfied. Knife River’s earlier position was accepted and acted upon by governmental bodies in their permitting processes. As *Wilcox* explains, judicial estoppel is concerned with the risk of

inconsistent legal determinations that arises when one tribunal accepts a party's first position and a second tribunal is later asked to accept the opposite one. 2010 S.D. 29, ¶ 10, 781 N.W.2d at 468. Here, Knife River obtained the benefit of presenting the project to county and state regulators as an expansion of its existing operation, rather than as an entirely separate undertaking, and now seeks the separate benefit of portraying that same project as a new customer at a new location in order to avoid Sioux Valley Energy's assigned service rights. Allowing that pivot would create precisely the sort of unfair advantage and unfair detriment discussed in *Wilcox*. *See id.* Knife River would gain the benefit of whichever characterization best suits the forum of the moment, while Sioux Valley Energy would be forced to defend against a position directly contrary to Knife River's own prior representations about the nature of the project. Judicial estoppel exists to prevent exactly that sort of gamesmanship. At minimum, the Commission should hold Knife River to its earlier characterization of the project as an expansion of its existing quarry operation and reject Knife River's inconsistent effort to recast it here as a new customer at a new location.

Even if the Commission does not apply judicial estoppel, it should still find that Knife River has not met the independent statutory requirement of showing a new customer at a new location.

Figure 1 shows Exhibit CM-3, revealing the proposed expansion. The map makes clear the rock-crushing plant is not at a new “location.”

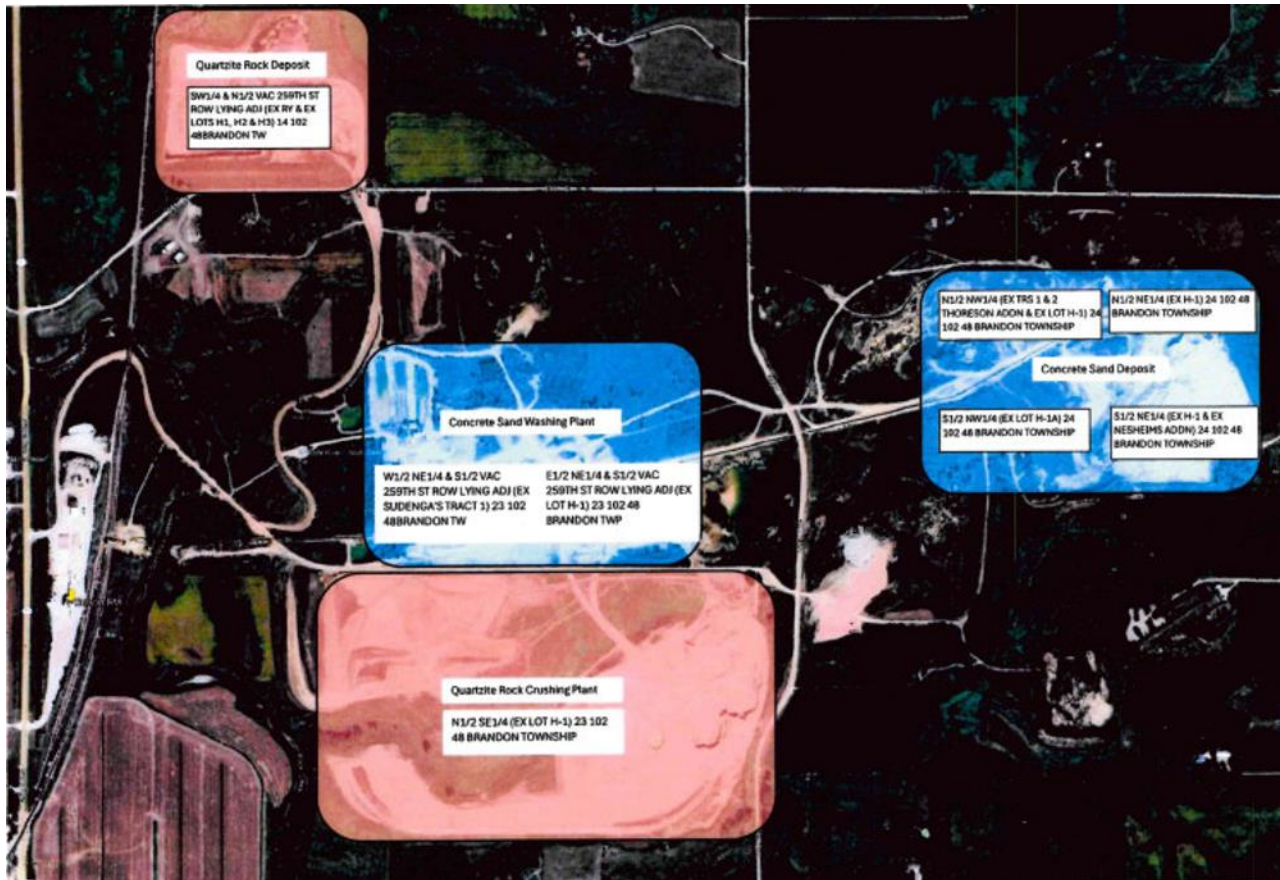


Figure 1: Ex. CM-3

Knife River argues that the proposed rock-crushing plant is a new location because it will use different equipment, perform a different function, and receive electric service through facilities not presently in place. But those facts describe a new “operation” and are irrelevant to the boundary-based geographic inquiry established by the South Dakota Supreme Court.

As the Court explained, “location” is not measured by the “level of electric service,” the “distribution system,” the “electrical lines,” the transformer, or the meter

serving the property. *In re W. River Elec. Ass'n, Inc.*, 2004 S.D. 11, ¶¶ 18-22, 675 N.W.2d at 227-29. It is a bounded geographic concept divorced from operational specifics. *Id.* ¶ 22; *see also In re Clay–Union Elec. Corp.*, 300 N.W.2d 58, 61-62 (S.D. 1980) (“...the legislative intent in enacting SDCL ch. 49–34A was to prevent this very type of service dispute by allocating each utility an exclusive franchise within *specific boundaries.*”) (emphasis added).

Joseph Rezac’s testimony shows why Knife River’s approach cannot be adopted. Mr. Rezac testified that he considered Knife River a new customer at a new location “given there had been no service to the proposed blue plant.” Transcript of 4/13/2026 Hearing at 192:22-193:12. He then acknowledged that this basis is “not in the statute” but instead came from his “general understanding.” *Id.* at 192:25-193:12. Indeed, this basis is not only absent from the statute but also rejected by *West River*. *See* 2004 S.D. 11, ¶ 22, 675 N.W.2d at 228 (“There is certainly nothing in the plain text of the statute that restricts the right to serve a ‘location’ to some ‘level of service’”).

In sum, Knife River is not a new customer at a new location. The failure to meet those threshold requirements is sufficient to deny the Petition.

c. Knife River has not shown a qualifying contracted minimum demand.

SDCL 49-34A-56 also provides the petitioner must “require electric service with a contracted minimum demand of two thousand kilowatts or more.” Thus, the statute requires a contracted minimum demand—not a projected demand, expected demand, or estimated demand.

Knife River has not shown one. Its Petition alleged that it was negotiating an Electric Service Agreement with Xcel and that the ESA “has a contracted minimum demand in excess of two thousand kilowatts.” Knife River Petition ¶ I.C. But Knife River has admitted that no contract exists. Consequently, the statutory prerequisite is not satisfied.

The Commission should give effect to the word “contracted.” If an anticipated load were enough, “contracted” would do no work in the statute. *See Faircloth v. Raven Indus., Inc.*, 2000 S.D. 158, ¶ 6, 620 N.W.2d 198, 201 (“We assume that the Legislature intended that no part of its statutory scheme be rendered mere surplusage.”). The statute would read the same as if the Legislature had required only a customer who “requires electric service with a demand of two thousand kilowatts or more.” But the Legislature specified there must be a “contracted” demand.

Knife River may argue that a final contract cannot be executed until the Commission grants the petition. That practical concern does not permit the Commission to rewrite the statute. “A contract is an agreement to do or not do a certain thing.” SDCL 53-1-1. “The object of a contract is the thing which it agreed, on the part of the party receiving the consideration, to do or not to do.” SDCL 53-5-1. “The object of a contract must be lawful when the contract is made and possible and ascertainable by the time the contract is to be performed.” SDCL 53-5-2. Knife River is unable to point to anything in this record or in the law that supports a claim that a contract with Xcel somehow falls outside the normal realm of contract law in the State of South Dakota. Moreover, there is no legally valid reason that a contract between Knife River and Xcel could not have

contained a provision under which the contract was contingent upon the Commission's approval of Knife River's Petition for Electric Service.

Knife River's admission that it has yet to contract for a minimum demand of two thousand kilowatts or more with Xcel should be as important to the Commission's analysis in this docket as Staff asserts it is in others. *See* Staff's Br. in Response to Leola Data Center, LLC's Mot. for Summ. J., at 6 – 7 (EL 24-027). At minimum, Knife River must prove a binding contractual commitment or other enforceable minimum demand obligation sufficient to satisfy the text of SDCL 49-34A-56. It has not done so.

d. A finding to the contrary would violate the policy of SDCL ch. 49-34A.

As stated above, allowing Knife River to be considered a new customer at a new location would contravene the policy of SDCL ch. 49-34A. The South Dakota Supreme Court has explained the purpose of the Act is “elimination of duplication and wasteful spending in all segments of the electric utility industry.” *Northwestern*, 1997 S.D. 35, ¶ 15, 560 N.W.2d at 927 (quoting *Mitchell Area*, 281 N.W.2d 65, 70 (SD 1979)).

This case presents the problem the Act was designed to prevent. Sioux Valley Energy already serves Knife River at this property. Yet Knife River asks the Commission to bring Xcel into Sioux Valley Energy's assigned territory to serve the same customer at an expanded site. Xcel would have to build substantially more line to reach the rock-crushing plant than Sioux Valley Energy would need to build from its existing service position. *See* Ex. TS-5. Granting the Petition would therefore invite duplicative construction inside an assigned service area, even though the incumbent utility already serves the customer at the site.

The implications of granting the Petition would reach beyond this case. If an existing customer can become a new customer at a new location by adding a separate operation on the same property, the exception will swallow the assigned service area rule. A separate meter, separate accounting, new equipment, or an unused portion of the same property would become enough to reopen provider choice. Service rights would then turn less on assigned territories and more on project design. SDCL ch. 49-34A does not permit that result. The South Dakota Legislature drew service territories by location, not by how a customer labels the next phase of its operations.

II. The factors listed in SDCL 49-34A-56 favor denying the Petition.

Because Knife River does not satisfy SDCL 49-34A-56's threshold requirements, the Commission should deny the Petition without reaching the statutory factors. However, if the Commission reaches the factors, they do not favor assigning Xcel to serve Knife River's expansion.

a. Customer preference is not dispositive.

Knife River's preference was driven primarily by perceived upfront cost differences. Transcript of 4/13/2026 Hearing at 36:9-37:10. Yet Mr. Meyer also admitted he had not seen Sioux Valley Energy's updated proposal and could not say whether his view would change if Sioux Valley Energy's rate were materially lower. *Id.* at 49:21-50:17. Thus, even if the Commission considers customer preference, the record supports giving that factor limited weight because Knife River's preference was formed without a fully developed side-by-side comparison of the alternatives available from Sioux Valley Energy. "However, simply because the customer prefers an outside

provider does not necessarily mean the customer's preference will be granted” *In re Montana-Dakota Utilities Co.*, 2007 S.D. 104, ¶ 13, 740 N.W.2d 873, 878.

- b. The facilities, proximity, and system-development factors weigh against Xcel.

Sioux Valley Energy and East River can serve Knife River’s proposed load from substantially closer existing facilities, while Xcel’s proposal requires a much longer and more complex extension into Sioux Valley’s assigned territory. Ted Smith testified that Sioux Valley Energy could serve from the existing Corson substation, approximately a mile and a half away, with two feeders and without a new substation or new transmission facilities. Transcript of 4/13/2026 Hearing at 117:7-117:16. By contrast, Xcel’s witnesses described roughly 10 miles of facilities, much of it involving rework or new construction, and the full details of that route had to be clarified only after Commissioner questioning and a late-filed map. *Id.* at 82:3-82:23, 98:10-102:4, 103:20-104:11, 206:11-212:6. Those facts favor Sioux Valley Energy under the statutory factors addressing the development of the system and the proximity of adequate facilities. They also reinforce the central policy of SDCL ch. 49-34A: preventing duplication and wasteful extension of facilities into an assigned service area where the incumbent utility is already positioned to serve. Combining factors 3, 4, and 6 show existing infrastructure favors Sioux Valley

In addition to the territorial-integrity concerns discussed above, granting the Petition would create a concrete safety problem by introducing duplicative electric systems onto the same industrial site. Sioux Valley Energy already has facilities on and around the existing Knife River operation. Transcript of 4/13/2026 Hearing at 117:22-

118:3, 151:20-152:22. If Xcel were assigned to serve the proposed rock-crushing plant, Knife River would then construct and operate its own 34.5 kV on-site distribution facilities throughout the plant while Sioux Valleys Energy's existing distribution remains in place nearby and, at points, must be crossed or worked around. *Id.* at 90:14-91:5, 119:20-120:5, 151:20-152:4. Ted Smith testified that placing two different voltage systems in close proximity on the same site creates a serious safety concern for line crews, particularly where the customer—not another utility—would own and operate the higher-voltage on-site facilities. *Id.* at 119:17-120:5. Mark Hoffman echoed that concern, explaining that unlike crossings between two utilities, this arrangement would place high-voltage facilities in the hands of a private industrial customer that does not, to his knowledge, employ trained linemen, and it is not clear that all such private facilities would be locatable through the usual utility-marking systems. *Id.* at 151:20-152:21.

This evidence matters under the statute in two ways. This is not merely duplicate construction in the abstract, but duplicate electric systems intermingled on one operating site. The intermingling of Sioux Valley Energy's existing facilities with new customer-owned high-voltage facilities affects Xcel's practical ability to furnish safe and adequate service to Knife River. The Commission need not assume an accident will occur to recognize that the statute does not favor creating avoidable on-site hazards where Sioux Valley Energy already serves the customer's existing operation and can extend service without introducing a second, overlapping electric system into the same footprint.

Conclusion

For the above reasons, Sioux Valley Energy respectfully requests that the Commission deny Knife River's Petition and allow Sioux Valley Energy to continue to serve Knife River.

Dated this 12th day of June, 2026.

/s/ Mike Nadolski

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