

STATE OF SOUTH DAKOTA  
BEFORE THE  
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

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

DOCKET NO. EL25-032  
**XCEL ENERGY'S POST HEARING  
BRIEF**

**INTRODUCTION**

Northern States Power Company, doing business as Xcel Energy, submits to the South Dakota Public Utilities Commission this Post Hearing Brief *In the Matter of the Petition for Sweetman Construction Co., doing business as Knife River, to have Xcel Energy Assigned as its Electric Provider in the Service Area of Sioux Valley Electric.*

Under South Dakota Law, the Commission may assign an electric provider other than the one statutorily assigned, for new customers at new locations located outside municipalities as those boundaries existed on March 21, 1975, who require a contracted minimum demand of two megawatts, after notice and hearing and consideration of the following six factors:

- (1) The electric service requirements of the load to be served;
- (2) The availability of an adequate power supply;
- (3) The development or improvement of the electric system of the utility seeking to provide the electric service, including the economic factors relating thereto;
- (4) The proximity of adequate facilities from which electric service of the type required may be delivered;
- (5) The preference of the customer;
- (6) Any and all pertinent factors affecting the ability of the utility to furnish adequate electric service to fulfill customers' requirements.<sup>1</sup>

The Commission should grant Knife River's Petition because it meets each requirement of SDCL § 49-34A-56, and the factors support assigning Xcel Energy to serve Knife River's new rock crushing plant.

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<sup>1</sup> See SDCL § 49-34A-56.

## **I. KNIFE RIVER MEETS THE THRESHOLD STATUTORY REQUIREMENTS OF SDCL § 49-34A-56**

### **A. Knife River's Load will Meet or Exceed 2 MW**

It is undisputed that Knife River's new rock crushing plant's electric needs are expected to be about 13 MW, which far exceeds the minimum 2 MW requirement under SDCL § 49-34A-56.<sup>2</sup>

### **B. Knife River's New Rock Crushing Plant is Outside Municipalities**

It is undisputed that Knife River's new rock crushing plant is located outside of the municipalities as those boundaries existed on March 21, 1975.<sup>3</sup>

### **C. Knife River's Rock Crushing Plant is a New Location**

Knife River's proposed rock crushing plant is at a new location under SDCL § 49-34A-56. Knife River is building the proposed rock crushing plant on "essentially bare ground" with no existing electric services at the location.<sup>4</sup>

Sioux Valley and East River's arguments that the proposed site is not a new location under SDCL § 49-34A-56 because it is part of Knife River's existing sand plant and currently shares a 911 address are without merit. The new rock crushing plant will be located on a parcel with a different legal description<sup>5</sup> that currently has no infrastructure and will process a different material – metamorphic quartzite instead of sand – using a different process and different equipment.<sup>6</sup> None of the infrastructure from the existing sand plant will be used by the rock crushing plant, and the single conveyor that currently crosses the legal description of the new rock crushing plant will be decommissioned this summer.<sup>7</sup> The two facilities will not overlap.

East River's testimony at the hearing that the entire property owned by Knife River is a single quarry strains credulity as the quarry is thousands of feet away from the new rock crushing facility.<sup>8</sup> Further, the Commission found that a new foundry intended to serve an existing manufacturing plant in the same industrial complex constituted a

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<sup>2</sup> Hearing Transcript at 20:4-9; Ex. CM-1 (Meyer Direct Testimony) at 101-103.

<sup>3</sup> Hearing Transcript at 134:6-8; JR-2 (Rezac Direct Testimony) at 6:12-15.

<sup>4</sup> CM-1 (Meyer Direct Testimony) at 39-48; CM-4 (Meyer Rebuttal Testimony) at 8-21.

<sup>5</sup> Hearing Testimony at 32:5-10.

<sup>6</sup> CM-1 (Meyer Direct Testimony) at 57-86.

<sup>7</sup> Hearing Transcript at 32:11-19, 33:9-12.

<sup>8</sup> CM-4 (Meyer Rebuttal Testimony) at 8-21.

new location.<sup>9</sup> If a foundry on the same industrial complex constitutes a new location, then Knife River's rock crushing plant, which is unrelated to the existing sand plant and will be located on a separate legal parcel, must be as well.

#### **D. Knife River is a New Customer**

As it has throughout this proceeding, Xcel Energy relies on Knife River's representation that it is a "new customer" under SDCL § 49-34A-56.<sup>10</sup>

## **II. THE FACTORS SUPPORT GRANTING KNIFE RIVER'S PETITION**

An analysis of the six factors under SDCL § 49-34A-56 supports granting Knife River's Petition.

#### **A. Xcel Energy has an Adequate Power Supply**

Xcel Energy has an adequate power supply to serve Knife River's new rock crushing plant – whether the service Xcel Energy provides is interruptible or not – without degrading service to its other customers.<sup>11</sup>

#### **B. Xcel Energy Will Improve the Power Supply if it Serves Knife River's Rock Crushing Plant**

As Xcel Energy witness Brad Sylliaasen testified, if Xcel Energy serves Knife River's new rock crushing plant, it will be able to update some of its existing infrastructure that it does not otherwise have plans to update.<sup>12</sup> These updates will be revenue justified<sup>13</sup> and will provide additional operation flexibility and reliability.<sup>14</sup> This factor weighs in favor of granting Knife River's Petition.

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<sup>9</sup> See *In re Determination of Electrical Supply by Either Northwestern Public Service Company or Northern Electric Cooperative to Safeguard Metals Division, Safeguard Automotive Corporation*, F-3171 (1977).

<sup>10</sup> Ex. STK-1 at 20-26.

<sup>11</sup> Hearing Transcript at 89:15-18, 96:22-98:3, 104:15-105:5 (Sylliaasen testifying Xcel Energy has adequate power supply); see also *id.* at 18:5-8 (Meyers testifying he is comfortable that Xcel Energy has adequate power supply); 189:24-190:4 (Q: Do you have any doubt that Xcel has access to adequate power supply? A. (Rezac) I do not have any doubt. Q. I should have finished that. With the means to service this facility? A. Yeah. I have no doubt.”).

<sup>12</sup> Hearing Transcript at 105:15-106:3; Ex. BLS-4.

<sup>13</sup> Hearing Transcript at 103:8-12; Ex. STK-1 at 15-26.

<sup>14</sup> Hearing Transcript at 79:17-24; 93:24-96:5.

### **C. The Proximity of Adequate Facilities is a Neutral Factor**

The proximity of adequate facilities is a neutral factor in this case because both Sioux Valley and Xcel Energy would need to build facilities to serve Knife River's new rock crushing plant.<sup>15</sup> The difference in the distance between the existing facilities is insignificant. Xcel Energy would need to build approximately 2 miles of new line and upgrade approximately 8 miles of existing line, all of which is revenue justified under the existing tariffs.<sup>16</sup> Sioux Valley would need to build a little more than a mile transmission line extension.<sup>17</sup> The difference between the two is insignificant, and this factor is neutral.<sup>18</sup>

### **D. Knife River Prefers to have Xcel Energy Serve its New Rock Crushing Plant**

SDCL § 49-34A-56 is a statute of customer choice,<sup>19</sup> and it is undisputed that Knife River prefers to receive service from Xcel Energy.<sup>20</sup> Sioux Valley and East River's contrary opinions and complaints regarding their decision not to provide Knife River with all available options are irrelevant.<sup>21</sup> This factor weighs in favor of granting Knife River's Petition.

### **E. Granting Knife River's Petition will not Result in Duplicative Services**

Granting Knife River's Petition will not result in duplication of services. Both Sioux Valley and Xcel Energy would need to construct new facilities to serve the new rock crushing plant.<sup>22</sup> It is not a duplication of services for Xcel Energy to "cross into" Sioux Valley's territory. If that was the standard, then petitions under SDCL § 49-34A-56 could never be granted because it requires an electric provider other than the one assigned to that territory.<sup>23</sup> Additionally, Staff witness Rezac testified the he believes there is no risk of duplication of services if Xcel Energy serves Knife River's

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<sup>15</sup> JR-2 (Rezac Direct Testimony) at 11:1-8.

<sup>16</sup> Hearing Transcript at 94:25-95:9, 103:8-12; Ex. STK-1 at 15-26.

<sup>17</sup> Ex. TS-7 (Smith Direct Testimony) 133-40.

<sup>18</sup> JR-2 (Rezac Direct Testimony) at 11:26-32.

<sup>19</sup> Hearing Transcript at 191:23-92:3; SDCL § 49-34A-56(5) (Listing customer choice as a factor).

<sup>20</sup> CM-1 (Meyer Direct Testimony) at 107-109.

<sup>21</sup> Hearing Transcript 141:20-143:25.

<sup>22</sup> Hearing Transcript at 18:18-19:6, 89:6-14, 154:12-21 (Hoffman admitting existing facilities insufficient to serve new rock crushing plant).

<sup>23</sup> See SDCL § 49-34A-56 ("Notwithstanding the establishment of assigned service areas for electric utilities provided for in §§ 49-34A-43 and 49-34A-44...").

new rock crushing plant.<sup>24</sup> This factor weighs in favor of granting Knife River's Petition.

#### **F. There are no Legitimate Safety Concerns if Knife River's Petition is Granted**

Contrary to the allegations of intervenors Sioux Valley Electric and East River,<sup>25</sup> there are no added safety concerns if Xcel Energy serves Knife River's new rock crushing plant. Staff, Xcel Energy, and Knife River do not have any concerns that Xcel Energy can safely provide electric service.<sup>26</sup> First, there are no legitimate concerns about Xcel Energy and Sioux Valley's lines crossing. Xcel Energy manages a large distribution system across eight states, and its field employees are trained to identify their own system and that of third parties.<sup>27</sup> Xcel Energy has "trained, qualified linemen who know what is" Xcel Energy's.<sup>28</sup> Sioux Valley also has trained linemen<sup>29</sup> who are experienced with dealing with intermingling utility lines,<sup>30</sup> and Sioux Valley can provide them with further training if needed.<sup>31</sup> As noted by Commissioner Hanson, in parts of the United States high voltage lines cross each other, which Sioux Valley witness Ted Smith admitted is "typically" a safe practice.<sup>32</sup>

Second, Knife River is experienced with managing on-site electrical distribution at other facilities,<sup>33</sup> and Sioux Valley and East River could not identify any safety concerns or violations at the sites where Knife River already manages its on-site electrical distribution.<sup>34</sup>

Thus, safety considerations are not a relevant factor here.

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<sup>24</sup> Hearing Transcript 196:1-24, 199:5-200:4.

<sup>25</sup> Hearing Transcript at 119:10-120:5, 151:15-152:22; Ex. TS-8 (Smith Rebuttal Testimony) at 36-38.

<sup>26</sup> Hearing Transcript 106:23-107:4 (Q: There's no real material safety concern from where you're sitting? A: (Sylliaasen) From my perspective, absolutely not. We have trained, qualified linemen who know what's ours."); 201:22-25. ("Q: Are you comfortable with Xcel's method of handling this? A: (Rezac) I am, yeah.").

<sup>27</sup> Hearing Transcript 106:4-107:4.

<sup>28</sup> Hearing Transcript at 106: 23-107:4; 136:8-137:15.

<sup>29</sup> Hearing Transcript at 106:23-107:4 (Sylliaasen: "And I will not speak for Sioux Valley, but I happen to know some of them and I believe they would be the exact same situation.").

<sup>30</sup> Hearing Transcript at 136:8-137:15.

<sup>31</sup> Hearing Transcript at 136:8-24.

<sup>32</sup> Hearing Transcript at 138:7-24.

<sup>33</sup> Hearing Transcript at 28:5-22.

<sup>34</sup> Hearing Transcript at 124:12-15.

