THE LAW PRACTICE OF ARVID J. SWANSON, P.C.

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October 31, 2026

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Leah Mohr, Executive Director
PUBLIC UTILITIES COMMISSION
500 E. Capitol Ave.
Pierre, SD 57501-5070

Re: File 6083-005. Lake Cochrane Improvement Association •
Docket EL26-026, In re Application for FEP PowerOn Midwest, etc.

Greetings:

Lake Cochrane Improvement Association (LCIA) notes the responsive pleading (October 29, 2026) filed by Staff Attorney Reiss on behalf of PUC Staff, supporting the opposition of PowerOn to LCIA's intervention. LCIA's appearance on behalf of its members in prior PUC matters has not, to the best of my knowledge, been previously challenged, whether by a facility applicant or the PUC's staff. Please bring this letter to the attention of the Commissioners.

If the PUC is now about to change positions – so that a non-profit corporation no longer has representational capacity to act for its members (as a matter of standing) – this is probably not the best time to do so for this case. But, if PUC Staff much prefers that the members themselves (about 200 in number) seek direct intervention in this matter, then please give the LCIA members sufficient time to do so – I expect that many will do so. The PUC should consider also the Court's holding in *Hunt v. Washington State Apple Advertising Commission*, 432 U.S. 333, at 343 (1977) (this case seems much closer than those cited by PUC Staff):

> [W]e have recognized that an association has standing to bring suit on behalf of its members when: (a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.

The members of LCIA *all* own property in the area of the proposed facility but prefer to work through LCIA. For PUC Staff to conclude there is *no* substantial threat, risk or downside to these members from the proposed presence of this facility seems presumptuous at this stage of the case. That said, if the certificate of service must be considerably extended, please advise accordingly – and please afford also sufficient time for the members to do so.

Very truly yours,
ARVID J. SWANSON P.C.

A.J. Swanson

c: Director Matt Holden
Parties of Record (COS, following)