

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

IN THE MATTER OF THE APPLICATION OF) XCEL ENERGY AND OTTER TAIL POWER) COMPANY FOR AN ENERGY FACILITY) PERMIT TO CONSTRUCT THE POWERON) MIDWEST PROJECT CONSISTING OF A 765-KV) TRANSMISSION LINE, A 345-KV) TRANSMISSION LINE, AND ASSOCIATED) FACILITIES	APPLICANTS' RESPONSE TO LAKE COCHRANE IMPROVEMENT ASSOCIATION'S APPLICATION FOR PARTY STATUS
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EL26-026

I. INTRODUCTION.

Northern States Power Company, doing business as Xcel Energy, and Otter Tail Power Company (collectively, Applicants) submit this Response to Lake Cochrane Improvement Association's (LCIA) Application for Party Status (Petition), submitted by Matthew Holden. As set forth in more detail below, LCIA has not identified any property owned within the Project's route or the expanded area where Applicants provided Notice of Public Input Meeting (Notice Area) and has failed to demonstrate it is a directly interested person. LCIA's Petition should be denied.

II. BACKGROUND.

On September 4, 2026, Applicants submitted a Facility Permit Application to the South Dakota Public Utilities Commission (Commission) for the PowerOn: Big Stone South to Brookings County to South Dakota/Minnesota Border Project (Project). On September 9, 2026, the Commission issued a Notice of Application; Order for and Notice of Public Input Meeting; and Notice of Opportunity to Apply for Party Status, in which it scheduled public input meetings for October 20, 21, and 22, 2026, and set the deadline to apply for party status by November 3, 2026.

Subsequently, LCIA submitted an application for party status on September 30, 2026. The Petition notes that LCIA is the petitioning party but is sponsored by Matthew Holden.¹ The Applicants understand that the Petition relates only to LCIA and not Mr. Holden. If Mr. Holden wishes to petition for party status in this proceeding in his individual capacity, he must file a petition on behalf of himself and demonstrate that he meets the statutory and Commission standards for an intervening party.

III. DISCUSSION.

Consistent with ARSD 20:10:01:15.04, which provides that a party may submit an answer to a petition to intervene within 15 days after service of the petition, Applicants submit this Response to LCIA's Petition.

SDCL § 49-41B-17(4) provides that, to intervene in Commission proceedings, a person (which includes corporations, associations, and private entities)² must reside in the area where the facility is proposed to be located or be directly interested:

Any person residing in the area where the facility is proposed to be sited, or any directly interested person, if timely application therefore is made as determined by the commission pursuant to rule. An application for party status in a proceeding under this chapter must contain a detailed statement of the interests and reasons prompting the application.

LCIA does not meet either standard.

A. LCIA does not reside “in the area where the facility is proposed.”

While SDCL § 49-41B-17(4) does not define the proposed area to be sited, SDCL § 49-41B-5.2 requires notice be sent to “the owner of record of any land that is located within one-half mile of the proposed site where the facility is to be constructed.” Applicants provided notice

¹ Based on a search of LCIA's South Dakota Secretary of State filings, Mr. Holden is the president of the organization.

² SDCL § 49-41B-2(11).

beyond this statutory requirement, sending Project notice to landowners within approximately one mile of the proposed transmission line right-of-way to accommodate potential future routing adjustments.³ Using Applicants' one-mile Notice Area as the "proposed area to be sited" is appropriate and reasonable in this docket.

The Applicants recognize that the Commission has permitted intervention by persons residing within two miles of the proposed project in a prior battery energy storage system docket⁴ and a carbon capture pipeline docket.⁵ Those projects involved facility-specific considerations distinct from those presented by a transmission line project. Transmission lines have been a feature of South Dakota's electric infrastructure for nearly a century and do not present the same siting considerations. Accordingly, the two-mile radius applied in those cases does not establish a generally applicable standard for transmission line permitting proceedings under SDCL § 49-41B-17(4).⁶

No LCIA property was identified in the Petition and the address listed for Mr. Holden is in Gary, more than one mile from the Notice Area. The address for LCIA is in Sioux Falls. Although the Petition states that Mr. Holden received notice via U.S. Mail from the Applicants, Applicants have not identified either LCIA's listed address or Mr. Holden's listed address on the confidential mailing lists associated with the proofs of mailing for the Notice Letter in this proceeding. Accordingly, Applicants are unaware of any basis on which either LCIA or Mr. Holden would have received a notice mailing from Applicants. LCIA therefore has not demonstrated that it

³ See Application, p. 18.

⁴ See *In the Matter of the Application of Crowned Ridge Energy Storage I, LLC for a Permit for an Energy Conversion Facility*, Docket No. EL26-014.

⁵ See *In the Matter of the Application by SCS Carbon Transport LLC for a Permit to Construct a Carbon Dioxide Transmission Pipeline*, Docket No. HP24-001.

⁶ An interested person outside of the one-mile Notice Area still has the ability to participate in the docket through submission of comments and attendance of public information meetings.

resides in the area where the Project is proposed to be sited and does not meet the first ground for intervention status under SDCL § 49-41B-17(4).

B. LCIA is not a “Directly Interested Person.”

Because LCIA does not reside within the area where the Project is proposed to be sited, it must demonstrate it is a “directly interested person” to be granted party status. Statute does not define a “directly interested person,” but Commission rules provide that the Petition must show:

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.⁷

The South Dakota Supreme Court has explained that “the interest which entitles a party to intervene must be a direct interest, by which the intervening party is to obtain immediate gain or suffer loss by the judgment which may be rendered between the original parties,”⁸ and that “one whose interest in the matter of litigation is not a direct or substantial interest, but is an indirect, inconsequential, or contingent one, cannot intervene.”⁹

LCIA is a “person” and must show it is directly interested through some interest that is “peculiar to the petitioner as distinguished from an interest common to the public.” LCIA’s stated interest is concern “of the environmental impact of the placement of a 765-kV transmission line near our homes, lake and outdoor recreation areas.” This statement falls far short of the Commission’s requirements and settled South Dakota case law. The Petition identifies only generalized concerns regarding the environmental impacts of the Project. It does not identify any

⁷ ARSD 20:10:01:15.05.

⁸ *Jackson v. Bd. of Cnty. Comm'rs for Pennington Cnty.*, 76 S.D. 495, 499, 81 N.W.2d 686, 688 (1957).

⁹ *In re Adoption of D.M.*, 2006 S.D. 15, ¶ 6, 710 N.W.2d 441, 444–45, quoting *Jackson*, 81 N.W.2d at 689.

property owned by LCIA or its members within the proposed siting area, any LCIA member residing within the proposed siting area, or any other facts demonstrating an interest peculiar to LCIA. LCIA's Petition does not meet South Dakota statute or Commission standards and should be denied.

IV. CONCLUSION.

The Applicants appreciate the opportunity to submit this response. For the reasons discussed above, the Applicants respectfully request that LCIA's Petition for party status be denied.

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