

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

|                                            |   |                            |
|--------------------------------------------|---|----------------------------|
| <b>IN THE MATTER OF THE APPLICATION OF</b> | ) | <b>STAFF’S RESPONSE TO</b> |
| <b>OTTER TAIL POWER COMPANY FOR A</b>      | ) | <b>OTTER TAIL POWER</b>    |
| <b>FACILITY PERMIT FOR THE BIG STONE</b>   | ) | <b>COMPANY’S MOTION TO</b> |
| <b>SOUTH TO HANKINSON TO BISON 345 KV</b>  | ) | <b>EXTEND DEADLINE</b>     |
| <b>TRANSMISSION LINE PROJECT</b>           | ) |                            |
|                                            | ) | <b>EL26-028</b>            |

INTRODUCTION

On September 8, 2026, the Commission received an Application from Otter Tail Power Company (“Applicant” or “Otter Tail”) for a Transmission Facility Permit for an electric transmission line in Grant and Roberts Counties, South Dakota. Specifically, Applicant proposes to construct a new 345kV electric transmission line (“the Project”). The South Dakota portion of the Project consists of approximately 71 miles of 345 kV transmission line that runs from the existing Big Stone South Substation located west of Big Stone City, South Dakota, to the South Dakota – North Dakota border at a location northeast of New Effington, South Dakota. Additional details of the Project, as well as an interactive route map, can be found on the Commission’s website at <https://puc.sd.gov/Dockets/Electric/2026/EL26-028.aspx>.

On September 11, 2026, the Applicant filed a Motion to Extend Deadline for Commission to Render Decision on Application (Motion). Applicant expressed to Staff a desire to have this Motion heard on the October 6, 2026, Commission meeting, and Staff was willing to waive the 10-day notice requirement. The Motion requests the Commission “extend the 12-month deadline imposed by SDCL 49-41B-24 by up to an additional 12 months.” Motion, p. 2. Otter Tail further states that it “does not know whether it will need a full twelve-month extension of the deadline,” but it instead “anticipates that the Commission will enter an order at a later date setting the procedural schedule, including scheduling the hearing on the application.” *Id.* p. 2-3.

With Otter Tail filing its Application on September 8, 2026, SDCL 49-41B-24 imposes a commission decision on the application by September 8, 2027. If Otter Tail’s request to extend the deadline by up to an additional twelve months is granted, the Commission’s new decision deadline would be September 8, 2028, or sooner, depending on what the Commission determines the new deadline to be.

### ANALYSIS

Otter Tail’s Motion is clearly authorized by statute, which states: “Upon request of the applicant, the commission may extend the deadlines for commission action established in §§ 49-41B-24 and 49-41B-25.” SDCL 49-41B-24.1. The Commission is clearly given discretion by the language “may extend” in the aforementioned statute whether or not to grant the request. *Id.* Since the statutory authority is clear, we can turn to the prudence of the request.

Staff does not object to the Motion. This Motion is somewhat novel in that it was made soon after the filing of the Application rather than closer to the end of the one-year deadline prescribed by SDCL 49-41B-24. In some recent siting dockets, requests to extend the deadline have come toward the end of the one-year deadline. However, Staff acknowledges that Otter Tail’s application is prompted by SDCL 49-32-20, commonly referred to as the “right of first refusal” (ROFR) statute, which imposes filing deadlines on incumbent electric transmission owners that may not exactly align with an applicant’s preferred filing timeline.

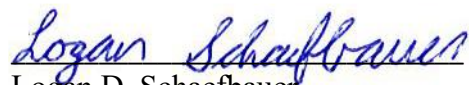
In support of the Motion, Otter Tail states it is “continuing to perform environmental and cultural surveys[]” which “may not be completed until the Spring or Summer of 2027.” Motion, p. 2. Additionally, Otter Tail states it “continues to work with landowners in obtaining access for surveys and to obtain the necessary rights-of-way for the Project.” *Id.* Staff supports the

Applicant receiving more time to work with landowners and the local governments of the proposed project area, as well as bolstering the necessary surveys for the Application.

#### REQUEST AND CONCLUSION

Though Staff does not oppose the request, there are outstanding concerns that Staff wishes to be addressed. The first issue is that if the route is modified over the course of this Application, Staff will take the position that those landowners who are newly within the project area are entitled to notice and an opportunity to intervene. The next issue is that Staff needs twelve months to assess the Application, but the Motion raises uncertainty about when Staff will have a finalized Application to begin its review. To avoid duplicative review and to avoid spending significant resources on an application that may be materially modified, Staff anticipates largely pausing its review of the Application in the potential interim extension period. For these reasons, if the Commission grants the Motion, **Staff respectfully requests the Commission include in its order a requirement for the Applicant to file a motion for a scheduling order when the Applicant is ready to proceed**, keeping in mind that Staff will be requesting twelve months prior to the Commission's decision to review the Application.

Dated this 29<sup>th</sup> day of September, 2026



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