BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION OF CROWNED RIDGE ENERGY STORAGE I, LLC FOR A PERMIT FOR AN ENERGY CONVERSION FACILITY	))))))	**STAFF'S OBJECTION TO PARTY STATUS APPLICATIONS AND PETITION TO INTERVENE** **EL26-014**

COMES NOW, Staff of the South Dakota Public Utilities Commission(Staff), by and through one of its attorneys, Jennie L. Fuerst, and files its opposition to the party status applications and petition to intervene of the South Dakota Rural Electric Association, East River Electric Power Cooperative, Inc., Basin Electric Power Cooperative, and any person over two miles from the project absent a unique and articulated direct interest in the above-captioned matter.

LEGAL STANDARD

In making its determination whether to grant a petition for intervention, the Commission must apply the following administrative rule and statute:

> **20:10:22:40. Application for party status.** A governmental agency or person, as specified in SDCL 49-41B-17 may be granted party status in a proceeding commenced pursuant to SDCL chapter 49-41B upon applying in writing to the commission on a form provided by the commission.
>
> Unless otherwise ordered by the commission, the application must be filed within sixty days from the date the application is filed.

ARSD § 20:10:22:40.

> **49-41B-17. Parties to proceedings under chapter.**
> The parties to a proceeding under this chapter unless otherwise provided include:
> (1) The commission staff;
> (2) The applicant;
> (3) Each municipality, county and governmental agency in the area where the facility is proposed to be sited, if timely application therefore is made as determined by the commission pursuant to rule; and

> (4) 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.

SDCL § 49-41B-17.

For ease of understanding, Staff believes the following summation of the relevant portion of the law is an accurate portrayal of how the Commission must decide these matters. In order to grant the applications for party status and the petition, the Commission, after consideration of the applications and petition, must find that:

1. The applicant/petitioner is directly interested.

ANALYSIS

Staff presents the following analysis of each of the opposed applications and petition to intervene.

South Dakota Rural Electric Association, East River Electric Power Cooperative, Inc., and Basin Electric Power Cooperative

Per their respective applications and petition, the South Dakota Rural Electric Association (SDREA), East River Electric Power Cooperative, Inc. (East River), and Basin Electric Power Cooperative (Basin) each assert interests in the above-captioned matter based on their organizational relationships with Codington-Clark Electric Cooperative (CCEC), the utility assigned to the project area. SDREA notes that CCEC is one of its members and claims the docket may set precedent affecting all SDREA members[1]; East River states that the project may affect its pecuniary interests as a wholesale supplier to CCEC[2]; and Basin asserts an interest "[b]y virtue

[1] Appl. for Party Status South Dakota Rural Electric Association. at 1.
[2] Appl. for Party Status East River Electric Power Cooperative, Inc. at 1.

of its relationship with East River, and by extension East River's relationship with Codington-Clark, Basin Electric has a direct and substantial interest in this proceeding." [3]

Under SDCL, ARSD, and case law, each petitioner must demonstrate a direct interest in the docket. The South Dakota Supreme Court has held 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."[4], 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."[5] SDREA acknowledges that it seeks to protect the interests of its members[6], not its own, and therefore presents only an indirect, third-party interest. East River and Basin likewise lack a direct interest, as neither is assigned the project territory nor under contract to provide power directly to the project; both entities participate only through contractual relationships, Basin with East River and East River with CCEC, rendering their interests indirect.

The South Dakota Supreme Court has further emphasized "that intervention is strictly procedural and 'that intervention standards are flexible, allowing for some tailoring of decisions to the facts of each case.'" [7] However, flexibility in this docket by allowing SDREA, East River, or Basin to intervene based solely on indirect interests, is not warranted in this case as it would result in cumulative evidence, duplicative representation, and unnecessary delay. In this

[3] Pet. to Intervene Basin Electric Power Cooperative. at 2:10.
[4] Jackson v. Bd. of Cnty. Comm'rs for Pennington Cnty., 76 S.D. 495, 499, 81 N.W.2d 686, 688 (1957).
[5] In re Adoption of D.M., 2006 S.D. 15, ¶ 6, 710 N.W.2d 441, 444–45.
[6] Appl. for Party Status South Dakota Rural Electric Association. at 1.
[7] In re Adoption of D.M., 2006 S.D. 15, ¶ 4, 710 N.W.2d 441, 443.

instance, exercising flexibility would not promote Commission efficiency or add substantive value to the docket.

CCEC, the electric provider whose territory the project sits in, was granted intervention on July 14, 2026, and is representing itself in this docket through counsel. Its direct interests are therefore fully represented. Each applicant and petitioner can monitor the proceeding without party status, and none will be prejudiced by the denial of intervention because their interests are adequately represented by CCEC.

Any Person over Two Miles from the Project Absent a Unique and Articulated Direct Interest

Similar to docket HP24-001 Staff recommends that a presumptive two-mile distance be considered as the standard for considering direct interest, absent consideration on a case-by-case basis if additional detail is provided by an applicant for party status articulating a direct interest that is unique from the rest of the public. Staff arrived at its two-mile recommendation based upon Staff's experience with other siting dockets, taking into consideration factors including but not limited to sound impact, safety, and exposure to construction activities such as noise and traffic.

Staff would like to note the following discrepancies between the applications listed below:

1. Dennis Thyen's party status application states that he owns land within 2 miles of the project. Based on Codington County plat maps, Staff measures this distance at 2.25 miles.
2. Paul Johnson's party status application states that he owns land within 3 miles of the project. Based on Codington County plat maps, Staff measures this distance

at 1.88 miles. According to the Codington County plat map, this land is owned by Paul and Bridget Johnson Family Trust.

3. Bridget Johnson's party status application states that she owns land within 3 miles. Based on Codington County plat maps, Staff measures this distance at 1.88 miles. According to the Codington County plat map, this land is owned by Paul and Bridget Johnson Family Trust.

Intervenors outside of 2.00 miles from the project and absent a unique and articulated direct interest.

1. Sharon L. Falk
2. Amber Beisch
3. Dennis Thyen
4. Emily Mack
5. John Hoeke
6. Ron Schmeling
7. Zach Stricherz
8. Cheryl Mack
9. Terry Foster
10. Sam Roberts
11. Darlene Cunningham
12. Wayne F. Borgheiinck
13. William Cunningham
14. Debra L. Ries
15. Nancy Ryland
16. Diane Redlin
17. Justin Alex Rude
18. Valarie Rude
19. Dalton Rude
20. Wayne Owen
21. Barbra J Rude
22. Connie L. Stricherz
23. Audrey F. Lindgren

CONCLUSION

In order to allow for the efficient and timely processing of this docket, and to prevent cumulative evidence, duplicative representation, and unnecessary delay, Staff respectfully requests that the applications for party status and petition for intervention of South Dakota Rural Electric Association, East River Electric Power Cooperative, Inc., Basin Electric Cooperative, and those of persons over two miles from the project absent a unique and articulated direct interest be denied.

Dated this 16th day of July, 2026

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