

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

**IN THE MATTER OF THE) Docket No. GE25-001
JOINT APPLICATION OF)
NORTHWESTERN ENERGY PUBLIC) UNOPPOSED JOINT MOTION AND
SERVICE CORPORATION, BLACK) STIPULATION TO EXTEND THE
HILLS CORPORATION, AND) STATUTORY DEADLINE AND WAIVER
NORTHWESTERN ENERGY GROUP,) OF RESPONSE TIME
INC. FOR APPROVAL OF A MERGER)**

Staff of the South Dakota Public Utilities Commission (“Staff”), together with Black Hills Corporation (“Black Hills”), NorthWestern Energy Group, Inc. (“NorthWestern Group”), NorthWestern Energy Public Service Corporation d/b/a NorthWestern Energy (“NorthWestern”) (together, the “Joint Applicants”), and South Dakota Laborers Local 620, the Great Plains Laborer’s District Council, and the Laborers International Union of North America (together, “Laborers,” and collectively with the Joint Applicants and Staff, the “Joint Movants”) respectfully move the South Dakota Public Utilities Commission (“Commission”) to extend the statutory deadline for a decision by 90 days. This Motion reflects a stipulation between the Joint Movants that additional time is appropriate for intervenors to prepare Answer Testimony, and to ensure a robust evidentiary record in this matter. Consequently, Joint Movants have stipulated to waive the 180-day statutory deadline set forth in South Dakota Codified Laws (“SDCL”) § 49-34A-36 and extend it by 90 days for a Commission decision in this matter. Joint Movants have also stipulated to moving the current hearing date to the week of June 22, 2026.

Procedural Background

On October 27, 2025, Joint Applicants filed a Joint Application for Approval of Merger with the Commission. On October 30, 2025, the Commission electronically transmitted notice of the filing and the intervention deadline of November 14, 2025, to interested individuals and entities

on the Commission's PUC Weekly Filing electronic listserv. On December 3, 2025, the Commission granted Laborers' Petition to Intervene.

On January 2, 2026, Staff and the Joint Applicants filed a Motion for Approval of Procedural Schedule. At its regularly scheduled meeting on January 13, 2026, the Commission considered this matter. No party objected to establishing a procedural schedule. The Commission voted unanimously to grant the Motion for Approval of a Procedural Schedule filed on January 2, 2026, and to adopt the following Procedural Schedule:

Staff and Intervenor Testimony Due February 18, 2026

All Parties' Rebuttal Testimony Due March 11, 2026

Final Day for all parties to Send Discovery March 18, 2026

File Exhibits and Witness List. March 25, 2026

Evidentiary Hearing April 1-3, 2026

The established Procedural Schedule was developed consistent with SDCL § 49-34A-36, which directs the Commission to issue a final decision within 180 days of the initial filing in this matter.

Motion and Stipulation to Extend the Statutory Deadline for Commission Decision by 90 Days

Discovery on the Joint Applicants commenced on November 14, 2025, and has been ongoing since. On January 15, 2026, Staff conferred with Joint Applicants and identified several areas Staff sought additional or supplemental materials through the course of discovery. Since then, Joint Applicants and Staff have continued their discussions, with Joint Applicants also providing supplemental discovery responses to Staff. Joint Applicants have continued dialogue with Staff and have also attempted to develop a consensus amended procedural schedule, but given scheduling challenges for the parties, and in light of the Commission's busy docket schedule, the

parties have not yet been able to reach mutual agreement on a full revised procedural schedule, though have agreed to moving the currently-scheduled hearing to the week of June 22, 2026.

Consistent with these discussions, Joint Movants agree that good cause exists to extend the current procedural schedule. Joint Movants are working together on a full procedural schedule that includes a hearing during the week of June 22, with the intent of presenting the procedural schedule to the Commission at the February 23, 2026 open meeting.

To accommodate a new, amended procedural schedule, Joint Movants have stipulated to extend the procedural requirement, pursuant to SDCL § 49-34A-36, which otherwise requires that the Commission issue a final order within 180 days of the initial filing to July 26, 2026. Consistent with this stipulation, Joint Movants stipulate they will not object to a Commission decision issued within 90-days beyond the 180 days allotted pursuant to SDCL § 49-34A-36 on the basis that such a decision is untimely. Under South Dakota law, applicants may waive a right that is conferred by statute.¹ Indeed, in an analogous situation, the South Dakota Supreme Court has explained that “parties to a lawsuit or potential lawsuit may agree to extend a statute of limitations.”² Based on the foregoing, and particularly the parties’ mutual agreement, the Commission has the discretion to grant this Motion.

¹ “[W]aiver may occur whether the right is conferred by statute or by contract.” *Wirt v. Parker School Dist.* No. 60-4, 2004 SD 127, ¶ 19, 689 N.W.2d 901, 907 at (2004). Waiver occurs “when one in possession of any right, whether confirmed by law or contract, and with full knowledge of the material facts, does or forbears something inconsistent with the existence of the right or of his intention to rely on it” *Id.* (citing *Flugge v. Flugge*, 2004 SD 76, ¶ 18, 681 N.W.2d 837, 842 (2004))(explaining requirements for proving waiver); *see also Wirt*, at ¶ 20 (noting that the party’s voluntarily waiver of statutory protection, in that case, was not the type of waiver that would violate public policy.”)

² *See Kobbeman v. Oleson*, 1998 SD 20, ¶ 20, 574 N.W.2d 633, 639 (1998).

Because this Motion is unopposed, including Joint Movants' stipulation to extend the statutory deadline of 180 days for an additional 90 days until and including July 26, 2026, Joint Movants request that response time to this Motion be waived.

Conclusion

WHEREFORE, the Joint Movants respectfully request that the Commission grant this Motion and issue an order extending the current procedural schedule and the 180-day deadline by 90 days, and waiving response time.

Respectfully submitted this 4th day of February 2026.

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