

PLEASE TYPE OR PRINT CLEARLY

EL 96-012

RECEIVED

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

COMPLAINT

Complainant(s): (The party filing the complaint)		Respondent(s): (The person or Company complained against)	
Name	D. Adams	Contact Person	Tara Placette
Address	1904 1/2th Ave	Company	Black Hills Electric Corp
City, State, Zip	Rapid City SD 57701	Address	PO BOX 112
Work Phone	605 347-3470	City, State, Zip	Custer SD 57728
Home Phone	605 418-4180	Work Phone	605 623-4461
Cellular Phone		Cellular Phone	
Fax		Fax	605 623-3147

If the Complainant is represented by an attorney, please list the attorney's name, address, telephone number and fax number below: If Complainant is not represented by an attorney, please leave blank: 731 St. Joe St. Rapid City SD 57701

Jerry D Johnson of Banks Johnson & Colbath 341-2400

The facts giving rise to my complaint:

Please see Exhibit A.

NOTE: Please attach additional pages, if necessary, to explain your situation. Also enclose copies of any bills or other documents which may pertain to your complaint.

RESOLUTION REQUEST

I ask that the Public Utilities Commission grant the following relief. (What do you think the Commission should do to solve this problem?)

Blank lines for relief request.

NOTE: Please attach any additional pages, if necessary.

VERIFICATION

Signature must be witnessed by a notary public.

David Adams, Elender Adams, 5/31/96, Complainant's Signature, Date

State of South Dakota, County of Pennington

On this 31 day of May 1996, before me personally came and appeared David Adams, Elender Adams known to me to be the individual described herein and who executed the foregoing instrument, and who duly acknowledged to me that he/she executed same for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal. Notary Public Signature of Notary Public

(SEAL) My commission expires: 7/27/97

EXHIBIT A

The facts giving rise to my complaint:

Rodney and Keri Johnson, as well as Dan and Glenda Adams, originally purchased a 40-acre parcel of land. That land was then replatted into two 20-acre parcels. The parcel owned by the Johnsons is described as Lot 1 of Eagles Nest Subdivision. The parcel owned by the Adams is described as Lot 2 of Eagles Nest Subdivision. In an effort to obtain electrical service for those parcels, contact was made with Black Hills Electric Coop around the first part of March 1996 when Rod and Keri Johnson met with Tom Plooster at the property. Mr. Plooster explained the standard policy of Black Hills Electric Coop as follows: Black Hills Electric Coop would absorb \$4,000 for each new service on a residential dwelling. If both parties were to develop at approximately the same time, there would be an \$8,000 allowance for the new installations. If the installation costs were in excess of a total of \$8,000 for both homes, the property owner would be expected to pay the excess amount.

At this first meeting, Mr. Plooster was shown the planned locations of the two homes. The property was then walked and a route picked for the placement of an overhead power line to serve those home sites. At that time, Mr. Plooster was also advised that the final stages of replatting the land would be finalized in the next few weeks. Mr. Plooster asked to be contacted closer to the start of development so that the actual location of the overhead power line could be finalized.

Upon completion of the replatting, the undersigned met with Mr. Plooster on April 4, 1996, at 10:30 a.m., to discuss proceeding with the installation of the overhead power line. At that time, Mr. Plooster indicated that there would be no need for any cash deposit or cost to either party beyond the \$8,000 allowance provided that we clear a 10-foot centerline pathway through the tree line and did some development on the property. We agreed to make development improvements, including the clearing of a 10-foot centerline pathway, and requested that Mr. Plooster place the sites on the schedule for the installation of the overhead power line.

It was at this meeting that Mr. Plooster for the first time presented to us two documents: the first was a power easement form, and the second was a state electrical inspection form. Mr. Plooster completed both forms and asked that we sign them. It was noted that the power easement form contained a statement which allowed Black Hills Electric Coop to automatically extend power to any potential customer surrounding these parcels. The form further indicated that the power easement was for the entire 40 acres (two 20-acre parcels) of land. We expressed concern to Mr. Plooster over granting this type of an easement since it allowed Black Hills Electric Coop complete discretion as to where it felt appropriate to place such an easement across the property. Mr. Plooster was advised that the 40 acres to the west of this property were for sale and that we were concerned with the aesthetic impact of an overhead power line being placed across the hay meadow on our property and in front of the picture windows of our homes. We then inquired as to the possibility of granting only an underground easement to service the property to the west. Mr. Plooster advised that if we did not want the whole 40 acres subject to an easement, then it was up to us to have a specific easement dedicated through a land surveyor

at our expense. Further, Mr. Plooster advised that Black Hills Electric Coop would not entertain any ideas of underground power to the property to the west. In rereading the easement document, it was noted that a provision immediately following the legal description stated that a power line could be extended in likeness to the one placed to our homes. Therefore, we asked Mr. Plooster about the possibility of placing underground power to our home sites in lieu of an overhead power line which would then require that any easement to the west be limited to an underground line as well. Mr. Plooster strongly disagreed with this idea and proceeded to withdraw from the discussion of underground power and any easement to the west. He stated that he would not make any adjustments to Black Hills Electric Coop's standard easement form and that underground power was not cost effective. He then stated that there was no need to proceed with the power installation to our lots until we signed the easement form. Mr. Plooster then ended the meeting.

Mr. Plooster was contacted once again, but he indicated he was not going to put any more time into our electrical needs until he was given the easement he wanted. He once again indicated that he would not consider any underground power easement for the property to the west. Rod Johnson then called the general manager at Black Hills Electric Coop, Dan Hutt. Mr. Hutt indicated that if an underground power easement would go to the west the cost differential for what would be expended in placing overhead lines and the cost of an underground line would have to be paid by us and not the property owner to the west.

We feel that our concerns are valid and have offered a reasonable alternative to an easement for an overhead electrical line to service the property to the west. In talking with an attorney, Jerry D. Johnson, of Banks, Johnson, & Colbath, in Rapid City, it appears that Black Hills Electric Coop is violating its duty under SDCL 49-34A-2 to provide *adequate, efficient, and reasonable service*. Further, they are violating SDCL 49-34A-3 which states that "no public entity may, as to rates or service, ... or subject any person to any *unreasonable prejudice or disadvantage*." We feel that Black Hills Electric Coop is placing us at an unreasonable disadvantage by conditioning the provision of electrical service to our property with the requirement that we grant an overhead line easement to the property to the west which could seriously damage the aesthetic value of our property. The Public Utilities Commission is requested to enter an order requiring Black Hills Electric Coop to provide us with service and that if an easement has to be provided in conjunction with that service, that it be an easement for underground power line the location of which is to be determined by us.

Rod and Keri Johnson
Dan and Glenda Adams

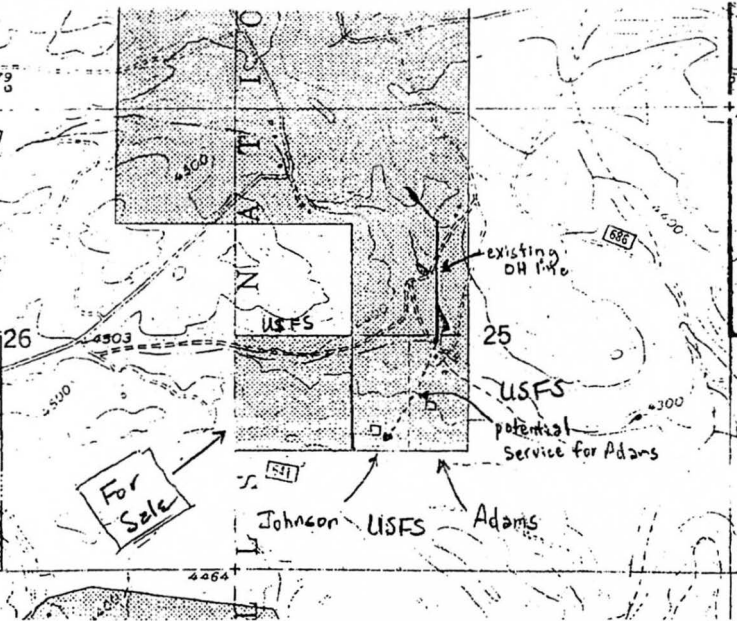
P. 05/05

FAN NO. 605 873 3147

MIY-10-86 FRI 02:43 PM BLACK HILLS ELECTRIC

579

119



For Sale

existing OH line

potential service for Adams

Johnson

USFS

Adams

26

25

681

686

4464

U- 410- 04-0

To
Steve Wegman

From
Dan Adams

In Reference to
Black Hills Electric Coop
Every thing OK

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

IN THE MATTER OF THE COMPLAINT OF DAN) AND GLENDA ADAMS, RAPID CITY, SOUTH) DAKOTA, AGAINST BLACK HILLS ELECTRIC) COOPERATIVE, INC. REGARDING AN) EASEMENT)	ORDER DISMISSING COMPLAINT AND CLOSING <u>DOCKET</u> EL96-012
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On June 3, 1996, the Public Utilities Commission (Commission) received a formal complaint from Dan and Glenda Adams (Adams), Rapid City, South Dakota, against Black Hills Electric Cooperative, Inc. Custer, SD (Black Hills) concerning an easement and the conditions thereof which Black Hills Electric Cooperative was seeking from Adams in providing electric service to their property. Staff indicated that the parties had resolved all the issues raised in the complaint without the necessity of the matter proceeding further.

On September 4, 1996, at its regularly scheduled meeting, the Commission reviewed this matter. The Commission has jurisdiction over this matter pursuant to SDCL 49-34A-2, 49-34A-4, 49-34A-6, 49-34A-9, and ARSD 20.10.01.07.01 and 20.10.01.08.01. As Adams and Black Hills have resolved all the issues complained of by Adams, Commission Staff recommended that the Commission dismiss the complaint and close the docket. It is therefore

ORDERED, that the complaint be dismissed and that docket EL96-012 be closed.

Dated at Pierre, South Dakota, this 16th day of September, 1996.

CERTIFICATE OF SERVICE
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail in properly addressed envelopes, with charges prepaid thereon.
By: <u><i>William Kado</i></u>
Date: <u>9/17/96</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Kenneth Stofferahn
KENNETH STOFFERAHN, Chairman

James A. Burg
JAMES A. BURG, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner