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June 6, 2014

Patricia Van Gerpen
Executive Director
Public Utilities Commission
Capitol Building, 1st floor
500 E. Capitol Ave.
Pierre, SD 57501-5070

Re: In the Matter of the In the Matter of the Transmission Permit for the Big
Stone South to Ellendale Project (SD PUC Docket No. EL13-028)
Our File No.: 13054.000

Dear Ms. Van Gerpen:

Tom Welk asked me to respond to Commissioner Nelson's inquiry during the May 20, 2014 Public Input Hearing. Specifically, Commissioner Nelson asked "[s]o would it be correct that if a landowner wanted the line moved to the section line, you'd have to get a county variance?" (page 168, lines 6-9). We understand this inquiry to be specific to Brown County. Accordingly, in Brown County, a variance would be required where a landowner desires to have the Project constructed or erected closer to an improved public road than the applicable setback limitations require.

Pursuant to SDCL 31-18-2, thirty-three feet (33') on either side of the center line of all section line right-of-ways are dedicated to the public. Much of the Project's route in Brown County is located on property zoned "Ag Preservation." Pursuant to Section 4.0606 of Title 4 of the Brown County Ordinance, for property zoned "Ag Preservation," "[a]ll structures shall be set back not less than one hundred (100) feet from all improved public roads measured from road right-of-way." As such, a variance will be required if a landowner wanted a structure within one hundred thirty-three feet (133') of the center line of an improved public road.

A variance may be sought from the Brown County Planning and Zoning Board, pursuant to the County's zoning ordinances. (Sections 4.23, 4.24). A variance from the required setbacks will be granted "where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Title would result in unnecessary and undue hardship." (Section 4.0102).

Best regards,

BOYCE, GREENFIELD, PASHBY & WELK, L.L.P.

Gregg S. Greenfield

Cc: Thomas Welk, Jason Sutton, Jennifer Smestad, Dan Kuntz