

**SERVICE EXCEPTION AGREEMENT BETWEEN  
NORTHERN STATES POWER COMPANY  
AND  
SIOUX VALLEY SOUTHWESTERN ELECTRIC COOPERATIVE**

This Exception Agreement (“Agreement”) is made and entered into this August 23, 2023, by and between Northern States Power Company, doing business as Xcel Energy, with offices located at 500 W. Russell Street, Sioux Falls, South Dakota (“Xcel Energy”), and Sioux Valley Southwestern Electric Cooperative, Inc. with principal place of business at PO Box 216, Colman, South Dakota (“Sioux Valley”) (collectively, the “Parties”).

**RECITALS**

WHEREAS, pursuant to SDCL 49-34A-42, *et. seq.*, both Parties have electric service territory established under South Dakota law; and

WHEREAS, pursuant to SDCL 49-34A-42, the Parties have come to a mutual agreement that allows Xcel Energy to provide service by exception to six 200 amp, 1-phase residential services in Sioux Valley service territory.

**NOW THEREFORE**, in consideration of the promises exchanged herein, the Parties agree as follows:

1. Scope of Agreement. The scope of this Agreement is limited to six (6) residential sites located within the exception area more specifically identified on Exhibits A and B and located in T101N R49W Section 24 in Minnehaha County, South Dakota. Further described as:
2. Exception area. Six (6) residential sites to be served by exception by Xcel Energy and further shown on Exhibit A.
3. Existing customers. The Parties acknowledge that there are currently no existing customers of Sioux Valley’s located within the exception area that would be affected by this Agreement.
4. Compensation. The Parties agree that no monetary compensation is owed to Sioux Valley by Xcel Energy for the limited right to provide the service by exception in Sioux Valley service territory. Xcel Energy agrees to furnish service to the residential sites identified in paragraph 1 and Exhibits A and B under the terms of this agreement.

5. Future Service Rights. The Parties acknowledge that the limited right to serve by exception within the exception area as contemplated in this Agreement does not convey permanent rights to serve the exception area. In the event that Sioux Valley chooses to exercise its right to serve the exception area in the future, the Parties agree to the following:
  - a. Notice. Sioux Valley will give Xcel Energy ninety (90) days written notice of its intent to provide service to the exception area.
  - b. Compensation for Facilities. Sioux Valley will pay to Xcel Energy the net book value (original cost depreciated) of the service facilities in place in the exception area at the time of the notice referenced in Section 5 (a) (above) and any integration or re-feed costs that may be necessary as compensation. The net book value will be calculated using the average property unit cost, net of customer contributions, and the year the unit of property was initially purchased.
  - c. Lost Revenue. The Parties acknowledge that no compensation was paid by Xcel Energy to Sioux Valley for the limited right to serve by exception and agree that no compensation will be owed by Xcel Energy to Sioux Valley in the future for lost revenue related to existing or future customers in the exception area.
  - d. Agreement in Writing. The Parties will memorialize their agreement on reasonable compensation terms in writing and file the agreement with the South Dakota Public Utilities Commission (Commission).
  - e. Resolution. In the event that the Parties cannot agree on reasonable compensation terms within ninety (90) days of the notice referenced in Section 5 (a) (above), the issue of compensation will be submitted to the Commission for resolution.
  - f. Late Charges. If either party fails to make any payment(s) within thirty (30) days of the date due, additional charges shall become due and payable at a rate of interest per annum equal to the prime rate for the last day of the prior month as reported in the "Wall Street Journal" plus one and one-half percent (1½%) per month (or the maximum percentage allowed by law, whichever is lower) on any unpaid amounts. Any payments shall be applied to outstanding interest first, followed by outstanding charges due prior to any current charges due.
6. Reservation of Rights. Except as specifically set forth herein, this Agreement does not modify or limit the legal rights of any party.

7. No Precedent. The Parties recognize that this Agreement is the result of negotiations between the Parties and that this Agreement and the Commission's approval of this Agreement do not represent any binding or legal precedent on any party in any other matter.
8. Request for Commission Approval of the Agreement. Upon execution of this Agreement by all Parties, Xcel Energy will prepare a Joint Petition to the Commission by the Parties to approve the service by exception in the exception area, along with this Agreement. Upon receiving a draft of such Joint Petition, Sioux Valley shall retain the right to review the Joint Petition prior to signature of said document by a duly authorized representative. Upon the signature of the Joint Petition by the duly authorized representatives, Xcel Energy will file the Joint Petition to the Commission by the Parties, along with this Agreement.
9. Miscellaneous.
  - (a) Entire Agreement and Modification. This Agreement contains the entire agreement and understandings of the Parties hereto regarding the scope of the Agreement and any appropriate compensation for the Service by Exception in Sioux Valley service territory. All previous communications, or agreements, between the Parties hereto, either verbal or written, with reference to the subject matter of this Agreement are hereby abrogated. No amendment, modification or waiver of, or consent with respect to any provision of this Agreement shall be effective unless the same shall be in writing and signed by duly appointed representatives of all Parties, and then any such amendment, modification, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.
  - (b) Assignment. None of the Parties shall assign, or sublet, this Agreement, voluntarily, involuntarily or by operation of law, without the prior written consent of the other.
  - (c) Severability. If any provision of this Agreement shall be found invalid or unenforceable, in whole or in part, by a court of competent jurisdiction or the Commission, then such provision shall be deemed to be modified or restricted to the extent and in a manner necessary to render the same valid and enforceable, or if that is not possible, such provision shall be stricken and deleted from this Agreement, as the case may require, and this Agreement shall then be construed and enforced to the maximum extent

permitted by law and with the purpose to achieve the fundamental intent of the Parties.

- (d) Choice of Laws. This Agreement shall be construed and interpreted in accordance with the laws of the State of South Dakota and excluding any choice of law or rules that may direct the application of laws of another jurisdiction.
- (e) Agreement Drafted Jointly. The Parties agree that none of the Parties shall be deemed solely responsible for drafting all or any portion of this Agreement, and in the event of a dispute, responsibilities for any ambiguities arising from any provision of this Agreement shall be shared equally among the Parties.
- (f) Regulation. The Parties acknowledge that this Agreement is subject to the jurisdiction of the Commission.
- (g) Effective Date. The effective date of this Agreement is the date upon which the Agreement has been signed by a duly appointed representative of both Parties.
- (h) Notice. Any notice permitted or required by this Agreement shall be made in writing and personally served or mailed (postage prepaid, return receipt requested) and shall be effective upon the date of personal service, or if by mail, upon the date of receipt.
- (i) Counterparts and Electronic Signatures. This Agreement may be executed in counterpart, and may be executed by way of electronic signature, and if so, shall be considered an original.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement as of the day and year first above written and the Parties agree to take such additional steps and actions including execution of such instruments and other documents as are reasonably necessary to effectuate the intentions expressed hereby.

Northern States Power Company, A Minnesota corporation
By: <u>Amy Liberkowski</u> Date: <u>8/23/23</u>
Amy Liberkowski Regional Vice President, NSP-MN

Sioux Valley Southwestern Electric Cooperative, Inc.
By: <u>Jim McCarthy</u> Date: <u>8/17/23</u>
Tim McCarthy General Manager/CEO