

SERVICE TERRITORY EXCHANGE AGREEMENT BETWEEN WEST RIVER ELECTRIC ASSOCIATION AND BLACK HILLS POWER INC., d/b/a BLACK HILLS ENERGY

This Territory Exchange Agreement (“Agreement”) is made and entered into this February 23, 2024, by and between West River Electric Association, with offices at 1200 W Fourth Ave. Wall, SD 57790 and 3250 East Highway 44, Rapid City SD, 57703, (“West River Electric Association”), and Black Hills Power Inc., d/b/a Black Hills Energy with a principal place of business at 7001 Mt Rushmore Road, Rapid City, SD 57702, (“Black Hills Energy”) (collectively, the “Parties”).

RECITALS

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

WHEREAS, the Parties agree to adjust the service territory line defined and depicted in our “Electric Service Territory Boundary Agreement (EL18-044) between Black Hills Energy and West River Electric Association” dated October 17, 2018, on file with the South Dakota Public Utilities Commission.

NOW THEREFORE, the Parties agree as follows:

1. Scope of Agreement. The scope of this Agreement is limited to the following transaction:

- a. The Parties agree to a new service territory line in Sections 32 and 33 of T2N R8E in Pennington County, South Dakota, as depicted and described in Exhibits A and B.
- b. The Parties agree that the change in service territory boundary lines will transfer territory from West River Electric Association to Black Hills Energy AND from Black Hills Energy to West River Electric Association, as noted in number 1a. above.

2. Compensation. The Parties agree that no monetary compensation is owed to West River Electric Association by Black Hills Energy or to Black Hills Energy by West River Electric Association for this service territory exchange.

3. Lost Revenue. The Parties agree that no additional compensation will be owed by West River Electric Association to Black Hills Energy or by Black Hills Energy to West River Electric Association in the future for lost revenue related to the transactions described in Section 1 above.

4. Reservation of Rights. Except as specifically set forth herein, this Agreement does not modify or limit the legal rights of any Party.

5. No Precedent. The Parties recognize that this Agreement is the result of negotiations between the Parties and that this Agreement, and the South Dakota Public Utilities Commission’s (“Commission”) approval of this Agreement, does not represent any binding or legal precedent on any party in any other matter.

6. Request for Commission Approval of the Agreement. Coinciding with the execution of this Agreement by all Parties, West River Electric Association has prepared and filed a Joint Filing to the Commission by the Parties to approve this Agreement.

7. 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 appropriate consideration for the transactions described in Section 1 above. All previous communications, or agreements, between the Parties hereto, either verbal or written, with reference to the subject matter of this Agreement are hereby repealed. 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 approved by the PUC Commission in accordance with SDCL 49-34A-55, 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 approved by the Commission.
- 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. All notice(s) shall be sent to the addresses listed on top of page one.

- 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.

Signature:

Richard Johnson: 
CEO/General Manager of West River Electric Association

Signature:

Mike Pogany: 
General Manager of Black Hills Power Inc., d/b/a Black Hills Energy