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SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

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May 8, 2006

TO: Jim Wilcox
Xcel Energy

FROM: South Dakota Public Utilities Commission

RE: **NOTICE OF COMPLAINT; DEADLINE FOR ANSWER; HEARING DATE SCHEDULED**

In the Matter of the Complaint filed by Sioux Valley Southwestern Electric Cooperative, Inc., d/b/a Sioux Valley Energy against Northern States Power Company, d/b/a Xcel Energy, Regarding Provision of Electric Service to Myrl and Roy's PavingDocket
CE06-002

You are hereby notified that the enclosed complaint as referenced above has been filed with the South Dakota Public Utilities Commission against your company. Under the Administrative Rules of South Dakota, Section 20:10:01:09, you have twenty days in which to satisfy the complaint or file an answer in writing, unless the Commission grants an extension of this time limit.

If a settlement is not reached, your answer must be filed with the Commission by the date listed below. The filing of an answer does not foreclose the settlement of the complaint if you choose to compromise or otherwise settle this matter.

A hearing for this matter is scheduled on the date and at the location also listed below. The exact time and location will be included in a future Notice of Hearing.

Please contact the following assigned Staff to keep them apprised of your progress.

Deadline to File Answer: May 30, 2006
Date of Hearing: To be determined
Location of Hearing: Pierre, South Dakota
Staff Analyst: Sara Greff
Staff Attorney: Dave Jacobson

Enclosure

cc: Alan Glover

RECEIVED

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

MAY 08 2006

IN THE MATTER OF THE COMPLAINT)
OF SIOUX VALLEY SOUTHWESTERN)
ELECTRIC COOPERATIVE, INC., DBA.,)
SIOUX VALLEY ENERGY AGAINST)
NORTHERN STATES POWER COMPANY,)
DBA., XCEL ENERGY, FOR PROVISION)
OF ELECTRIC SERVICE TO MYRL AND)
ROY'S PAVING.)

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

COMPLAINT

SIOUX VALLEY SOUTHWESTERN ELECTRIC COOPERATIVE, INC., of P.O. Box 216, Colman, South Dakota 57017, hereinafter described as "Complainant", or "SIOUX VALLEY", for its Complaint against NORTHERN STATES POWER COMPANY, of 500 W. Russell St., P.O. Box 988, Sioux Falls, South Dakota 57101-0988, hereinafter described as "Respondent", or "XCEL" or "NSP", alleges and shows to the Public Utilities Commission as follows:

STATEMENT OF FACTS

1.

SIOUX VALLEY conducts business in South Dakota as an electric utility or person as these terms are defined in South Dakota Statutes 49-34A-1 for the purpose of 49-34A-42 to 49-34A-57 inclusive.

2.

XCEL conducts business in South Dakota as an electric public utility as defined in South Dakota Statutes 49-34A-1 (the Utility Act).

3.

MYRL AND ROY'S PAVING has a quarry in the SE¼ of Section 27, Township 101 North, Range 48 West of the 5th P.M., Minnehaha County, South Dakota.

4.

The area designated as the N½SE¼ of Section 27 is XCEL's assigned service area.

5.

The area designated as the S½SE¼ of Section 27 is SIOUX VALLEY's assigned service area.

6.

The above described service areas were arrived at pursuant to a Service Area Agreement between NSP and SIOUX VALLEY on January 19, 1976, which was approved by the Commission in accordance with SDCL 49-34A-44. The Commission issued a map certifying such exclusive service areas to SIOUX VALLEY and NSP (XCEL) as described above.

7.

At all times relevant, MYRL AND ROY'S PAVING of Sioux Falls, South Dakota, is conducting a quarrying and rock crushing operation on a portion of the SE¼ of Section 27. The sixteenth line running east and west separating XCEL's assigned service area from SIOUX VALLEY's assigned service area runs through the approximate center of such quarrying and rock crushing operations.

8.

Prior to June 12, 1991, SIOUX VALLEY was providing electric service to MYRL AND ROY'S at this location. In 1991, NSP filed a Complaint with this Commission challenging SIOUX VALLEY's right to serve MYRL AND ROY'S electric service at the quarry site. On June 12, 1991, in Case #EL 91-003, this Commission determined that based on the location of the equipment being served, NSP was entitled to provide service to MYRL AND ROY'S. In doing so, the Commission adopted the majority load test and found that 59% of the load was in NSP's territory and 41% was in SIOUX VALLEY's territory.

9.

The decision of the Public Utilities Commission in EL 91-003 was appealed to the Circuit Court, Sixth Judicial Circuit, Hughes County, which upheld the decision of this Commission and the matter was subsequently appealed to the Supreme Court NORTHERN STATES POWER COMPANY against SIOUX VALLEY EMPIRE ELECTRIC ASSOCIATION No. 17793 (489 NW 2d 365). The Supreme Court upheld the decision of the Public Utilities Commission and the Circuit Court.

10.

MYRL AND ROY'S PAVING continues to operate its quarry in the SW¼-27-101-48 and this load is presently served by XCEL ENERGY.

11.

MYRL AND ROY'S has informed SIOUX VALLEY as part of their mining operation they will be adding new equipment, which will be located in SIOUX VALLEY's territory and that when this equipment is installed and operating, the majority of the load to MYRL AND ROY'S mining operation in the SE¼-27 will be located in SIOUX VALLEY's territory.

12.

SIOUX VALLEY is ready, able and willing to extend service to MYRL AND ROY'S quarry operation in the SE¼-27. Premised on the majority load test previously adopted by this Commission, SIOUX VALLEY is entitled to provide such service.

13.

SIOUX VALLEY has requested XCEL to relinquish this customer so that SIOUX VALLEY can provide exclusive service to MYRL AND ROY'S, but they have failed and refused to do so.

RELIEF REQUESTED

For the reasons stated above, SIOUX VALLEY requests the Commission to conduct a hearing pursuant to SDCL 49-34A-59 and thereafter issue an order:

1. That because of MYRL AND ROY'S decision to move the majority of its power load requirements into SIOUX VALLEY's territory and SIOUX VALLEY's willingness to serve same, that SIOUX VALLEY should be awarded the exclusive right to provide electric service to MYRL AND ROY'S in the above described quarry.
2. Compelling XCEL to remove its lines and other electric service facilities from the quarry and permitting SIOUX VALLEY to provide appropriate electric service to MYRL AND ROY'S.

Respectfully submitted.

SIOUX VALLEY SOUTHWESTERN
ELECTRIC COOPERATIVE, INC.

By: Alan F. Glover
Alan F. Glover, Attorney for
SIOUX VALLEY SOUTHWESTERN
ELECTRIC COOPERATIVE, INC.

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CERTIFICATE OF SERVICE
The undersigned hereby certifies that
this document has been served today upon

by facsimile at _____
By: _____
Date: _____
Time: _____

CERTIFICATE OF SERVICE
The undersigned hereby certifies that
this document has been served today upon
Jim Wilcox
Xcel Energy

by facsimile at 1-605-339-8204
By: SAM GRIF
Date: 5-8-06
Time: 5:03 pm