BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION BY PRAIRIEWINDS SD1, INC., A SUBSIDIARY OF BASIN ELECTRIC POWER COOPERATIVE, FOR AWIND ENERGY FACILITY PERMIT FOR THE PRAIRIEWINDS SD1 WIND FARM AND ASSOCIATED FACILITIES	**JOINT MOTION FOR APPROVAL OF DECOMMISIONING PLAN AND STIPULATION OF FINANCIAL ASSURANCE** **EL09-028**

COMES NOW, Staff of the South Dakota Public Utilities Commission (Staff) and Basin Electric Power Cooperative (Basin Electric), and hereby file this Joint Motion for Approval of Decommissioning Plan and Stipulation of Financial Assurance.

Background

The South Dakota Public Utilities Commission (SD PUC) issued an Order (Permit) on July 14th, 2010, in accordance with SDCL Chapter 49-41B that granted a wind energy facility permit to PrairieWinds SD1, subject to certain terms and conditions, for the construction of up to 165 MW wind energy facility and associated facilities (Project). Condition 40 of the Permit states:

> "[...] On or before June 1, 2021, the Applicant shall submit a Project status report, an updated decommissioning plan for the Project and financial information for Applicant [...] for the Commission's review and approval. At such time, the Commission will determine whether Applicant shall be required to provide a bond, letter of credit, guarantee or other security to assure adequate funding is available to fully perform decommissioning obligations [...]."

On June 1, 2021, Basin Electric filed a *Wind Project Decommissioning Plan* in accordance with condition 40 of the Permit. On June 1, 2021, Basin Electric also filed a project status report. Staff reviewed the filings and issued discovery to Basin Electric in order to gather additional information regarding the decommissioning plan and obtain the necessary financial information to assess the financial condition of the applicant in accordance with ARSD 20:10:22:33.01. Basin Electric's responses to Staff's discovery are attached as Exhibit 1.

Stipulation of Financial Assurance

It is hereby stipulated and agreed by and between Basin Electric and Staff that Basin Electric shall obtain financial assurance in the form of a surety bond for the purpose of fulfilling decommissioning obligations set forth in the Permit. It is further stipulated that:

1) Within 90 days of the Commission order approving this Stipulation and Joint Motion, Basin Electric shall file with the Commission a surety bond, for Commission review and approval, in the amount of $15,112,233 to cover the Project's decommissioning obligations. The bond must contain the following specific terms:
    a. The surety bond shall comply with the provisions of SDCL 49-41B-39.
    b. The South Dakota Public Utilities Commission shall be named the beneficiary. The Commission has and reserves the right to assign all or a portion of its beneficial interest to a 3rd party, pursuant to notice and hearing, in order to decommission the project in accordance with the Permit.
    c. The surety bond shall remain in full force and effect until Basin Electric's decommissioning obligation is fulfilled and the bond is released by order of the Commission.

d. The Surety may only cancel the bond if it provides the Commission with 90 days' advance written notice and Basin Electric provides a replacement security acceptable to the Commission as demonstrated through a Commission order approving the replacement security. The Surety's notice to the Commission of the bond cancellation shall not discharge the liability of the Surety for any default prior to the effective cancellation date.

e. If Basin Electric does not provide a replacement security acceptable to the Commission, the Surety shall: (1) rescind the bond cancellation, or (2) promptly arrange for the decommissioning of the Project as required per the decommissioning obligations, or (3) pay the bond beneficiary and/or the assignee(s) of the beneficiary's interest for any out of pocket costs incurred to decommission the Project, minus salvage value.

2) Basin Electric shall file an updated decommissioning cost estimate for Commission approval by June 1, 2026, and by every fifth anniversary thereafter (or more frequently if ordered by the Commission during future review of an updated decommissioning cost estimate), until the Project is decommissioned. Within 90 days of the Commission approving the updated decommissioning cost estimate, Basin Electric shall adjust the surety bond amount to align with the cost estimate approved by the Commission.

3) If Basin Electric is unable to acquire a surety bond consistent with paragraph (1), above, then Basin Electric shall, within 90 days of the Commission's order approving this Stipulation and Joint Motion, petition the Commission for approval of the company's proposed financial security that is consistent with SDCL 49-41B-39. Nothing in this

stipulation binds Staff to a specific position on the company's proposed financial security filed in accordance with this paragraph (3).

WHEREFORE, both Parties are in agreement and respectfully request the Commission grant the Joint Motion for Approval of Decommissioning Plan and Stipulation of Financial Assurance.

Dated this 12 Day of October 2021.

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