

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION OF CROWNED RIDGE ENERGY STORAGE I, LLC FOR A PERMIT FOR AN ENERGY CONVERSION FACILITY	EL26-014 RESPONSE TO STAFF’S OBJECTIONS TO APPLICATION FOR PARTY STATUS OF EAST RIVER ELECTRIC POWER COOPERATIVE, INC.
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COMES NOW, East River Electric Power Cooperative, Inc. (“East River”), by and through its undersigned counsel, and pursuant to SDCL § 49-41B-17 and A.R.S.D. 20:10:01:15.02, submits the following response to Staff’s Objection to its Application for Party Status and in further support of its Application for Party Status in the above-captioned proceeding.

Crowned Ridge Energy Storage I, LLC (“Crowned Ridge”) seeks a facility permit to construct and operate a 120-megawatt battery energy storage system (“BESS”) to store excess energy in Codington County, South Dakota. The proposed BESS is located in the service territory of Codington Clark Electric Cooperative (“CCEC”), which is a member of East River. If a permit is granted and the facility is constructed, Crowned Ridge will enter into a Battery Energy Storage System Station Service Agreement.

East River Has a Direct Interest in EL26-014

As correctly stated in Applicant’s Response, party status before the Commission is governed by statute, with further guidance from Commission rules and case law. As required by A.R.S.D. 20:10:01:15.02, East River timely filed an application for party status in the docket. A.R.S.D. 20:10:01:15.05 articulates actions available to the Commission on petitions to intervene. It provides in part:

A petition to intervene shall be granted by the commission if the petitioner shows that the petitioner is specifically deemed by statute to be interested in the matter involved, that the petitioner is specifically declared by statute to be an interested party to the proceeding, or *that by the outcome of the proceeding the petitioner will be bound and affected either favorably or adversely with respect to an interest*

peculiar to the petitioner as distinguished from an interest common to the public or to the taxpayers in general. (emphasis added)

East River clearly falls into the last category of the rule.

East River is a person, per the definition in SDCL §49-41B-2(11). As stated in its Application, East River has a direct interest based on East River wholesale power contract with Basin Electric Power Cooperative, Inc. (“Basin Electric”) and CCEC. East River purchases power from Basin Electric and sells it wholesale to CCEC; the proposed project is in the service territory of CCEC and would affect East River’s pecuniary interests. This interest is peculiar and not common to the public.

The “favorably or adversely” requirement is satisfied because the Commission’s decision will have a direct financial consequence for East River. Granting the permit would allow the project to proceed, creating station service load in CCEC’s service territory and resulting in wholesale power sales that directly affect East River’s financial interests. Denying the permit would prevent that load from materializing and would eliminate the associated wholesale power sales. In either event, East River’s pecuniary interests are directly affected by the outcome of this docket. That interest is unique to East River’s contractual and wholesale power supply role and is distinct from any interest held by the public or taxpayers generally.

Staff also notes in its Objection that CCEC was granted intervention on July 14, 2026, and that the interests of East River “are adequately represented by CCEC.” CCEC represents CCEC, not East River. Although East River and CCEC are part of the same cooperative system and their interests are often aligned, they are separate legal entities with separate governing boards, separate contractual obligations, and separate pecuniary interests. CCEC is not governed by East River, and CCEC holds only one director position among East River’s twenty-two voting directors. It therefore does not control East River, cannot bind East River, and cannot be expected to waive,

compromise, or advance positions on East River's behalf. Likewise, East River cannot bind CCEC. What may be advantageous for CCEC as the distribution cooperative serving the project area may not fully protect East River's interests as a wholesale power and transmission supplier. For that reason, CCEC's participation does not eliminate East River's direct and distinct interest in this docket, nor does it provide an adequate substitute for East River's own party status.

Staff notes that per case law, the Commission has "flexibility" in allowing interventions. South Dakota case law not only gives the Commission flexibility in granting or denying interventions, it also directs that the standard for construing intervention statutes is to be liberal in favor of the intervenor. *See In re Adoption of D.M.*, 710 NW2d 441 (SD 2006). Staff argues that flexibility in this docket of allowing South Dakota Rural Electric Association ("SDREA"), East River, or Basin Electric to intervene "is not warranted as it would result in cumulative evidence, duplicative representations, and unnecessary delay". East River disagrees with Staff's assertions in this regard. East River will work cooperatively with Intervenor CCEC (its member), and with Basin Electric and SDREA if their applications for party status are granted, to ensure East River's intervention will not result in cumulative evidence, duplicative representations, or unnecessary delay.

Applicant (Crowned Ridge) Response

Applicant Crowned Ridge Energy Storage I, LLC does not oppose the applications of East River, Basin Electric and SDREA. East River concurs with the Applicant's analysis of East River's Application and does not oppose the applications of Basin Electric and SDREA either. East River requests the Commission to grant its Application for Party Status.

DATED this 27th day of July, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of July, 2026, a true and correct copy of the foregoing Response to Staff's Objections to Application for Party Status of East River Electric Power Cooperative, Inc. was served via e-mail upon the following:

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