Pam Bonrud, Executive Secretary  
Public Utilities Commission  
500 East Capitol Avenue  
Pierre, South Dakota  57501  

RE: IN THE MATTER OF THE FILING BY SUPERIOR RENEWABLE ENERGY LLC ET AL AGAINST MONTANA-DAKOTA UTILITIES CO. REGARDING THE JAVA WIND PROJECT  
Docket EL04-016  
Our file: 0069

Dear Pam:

Enclosed are original and ten copies of Montana-Dakota’s Answer the above-entitled docket, which please file.

With a copy of this letter, I am serving copies of the enclosure upon the service list.

Yours truly,

MAY, ADAM, GERDES & THOMPSON LLP

DAVID A. GERDES  
DAG: mw  
Enclosures

cc/enc: Service List  
Don Ball  
Douglas Schulz  
Phil Lookadoo
Answering the complaint herein, Montana-Dakota Utilities Co. ("Montana-Dakota"), states and alleges as follows:

1. Montana-Dakota admits that portion of paragraph 1 of the complaint that complainants have filed the complaint to obtain a determination from the Commission under the Public Utility Regulatory Policy Act of 1978 concerning the terms and conditions of a proposed long-term electric power purchase agreement between complainants and Montana-Dakota.

2. Montana-Dakota admits paragraphs 2, 3, 6, 9 and 25 of the complaint.

3. Montana-Dakota is without information sufficient to form a belief as to the truth of paragraph 4 and that portion of paragraph 5 of the complaint succeeding the first sentence.

4. Montana-Dakota admits that portion of paragraph 5 of the complaint that a plat showing the location of the Java Wind Project is attached as Exhibit A to the complaint. Montana-Dakota admits that portion of paragraph 7 of the complaint that complainants contend the Java Wind Project is qualified facility. Montana-Dakota neither admits nor denies the remainder of paragraph 7 as calling for a legal conclusion without adequate foundation.

5. Montana-Dakota admits that portion of paragraph 10 of the complaint that avoided costs are to be determined based on a number of factors set forth in 18 CFR § 292.304(e).

6. Montana-Dakota admits that portion of paragraph 13 of the complaint that the Commission issued its decision and order on December 11, 1982, in Docket F-3365, but Montana-Dakota
neither admits nor denies the relevance of that order to this proceeding as calling for a legal conclusion without adequate foundation.

7. Montana-Dakota neither admits nor denies the two paragraphs numbered 14 of the complaint upon the ground that the Commission's order speaks for itself.

8. Montana-Dakota neither admits nor denies paragraphs 16, 17, 18, 19, 20, 21, 22, 23 and 24, upon the ground that they are argumentative, inaccurate and do not include all facts relevant to the negotiations of the parties. For example, contrary to the impression left by paragraph 16, Superior did not attain QF status until April 15, 2004. Montana-Dakota affirmatively alleges that it negotiated in good faith with complainants, notwithstanding their insistence, both before and after QF qualification, upon compliance by Montana-Dakota with its so-called Section 133 obligation. In fact FERC eliminated that obligation as to Montana-Dakota and similarly situated utilities in 1992.

9. Montana-Dakota affirmatively alleges that it has attempted in good faith to negotiate with complainants on all aspects of the matters about which complainants now complain, but Montana-Dakota was in good faith unable to satisfy demands for information, negotiation and interconnection which were not based upon a realistic and contemporary view of the various regulations promulgated by the Federal Energy Regulatory Commission which apply to proposed transactions represented by the facts of this complaint.

10. Montana-Dakota further affirmatively alleges that upon a realistic determination of its avoided energy and capacity costs and proper recognition by complainants of their long-term responsibilities under PURPA, Montana-Dakota stands ready to discharge its responsibilities under PURPA.

11. Except as herein expressly admitted, Montana-Dakota denies all the allegations of the complaint.
Dated this 4th day of October, 2004.

MAY, ADAM, GERDES & THOMPSON LLP

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CERTIFICATE OF SERVICE

David A. Gerdes of May, Adam, Gerdes & Thompson LLP hereby certifies that on the 4th day of October, 2004, he mailed by United States mail, first class postage thereon prepaid, a true and correct copy of the foregoing in the above-captioned action to the following at their last known addresses, to-wit:

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