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OCT 27 2005

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

HAND DELIVERED

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

RE: **MONTANA-DAKOTA; SUPERIOR COMPLAINT**
Docket EL04-016
Our file: 0069

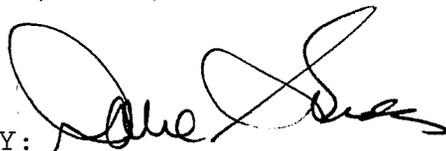
Dear Pam:

Enclosed are the original and ten copies of Montana-Dakota's Supplemental Reply to Superior's Supplemental Memo Supporting Motion for Reconsideration, which please file. Thank you very much.

With a copy of this letter service by mailing is made upon the service list. If you have any questions, please telephone me at my office.

Yours truly,

MAY, ADAM, GERDES & THOMPSON LLP

BY: 

DAG:mw

Enclosures

cc/enc: Service List

Dan Kuntz

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE FILING BY) EL04-016
SUPERIOR RENEWABLE ENERGY LLC)
ET AL AGAINST MONTANA-DAKOTA)
UTILITIES CO. REGARDING THE)
JAVA WIND PROJECT)

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OCT 27 2005

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

**MONTANA-DAKOTA'S SUPPLEMENTAL REPLY TO
SUPERIOR'S SUPPLEMENTAL MEMO
SUPPORTING MOTION FOR RECONSIDERATION**

Montana-Dakota Utilities Co. ("Montana-Dakota") supplements its response to the supplemental memorandum of Superior Renewable Energy LLC ("Superior") supporting its motion for reconsideration, as follows:

1. Montana-Dakota's application to the FERC for relief from the mandatory purchase obligation requirements under PURPA Section 210(m)(3) was dismissed without prejudice.. Upon review, Montana-Dakota has determined that it does not intend to refile the application at the present time. Therefore, Montana-Dakota by this supplemental filing advises the Commission that it no longer requests a continued deferral of this proceeding. Montana-Dakota intends to continue to negotiate with Superior regarding terms for a power purchase agreement for the electrical output from the Java facility, but Montana-Dakota agrees the Commission should establish a new procedural schedule and a new hearing date.

2. Because of the foregoing, Superior's motion for reconsideration is moot. Superior's motion for reconsideration asked that the Commission's October 5, 2005, order ("... that the deferral motion is granted and the hearing is continued until after FERC makes its ruling in Alliant Energy Corporate Services, Inc.") be reconsidered. The Alliant Energy proceeding was also dismissed by FERC without prejudice. Thus, with neither the Alliant Energy docket nor the Montana-Dakota docket pending, a further hearing deferral is no longer pending nor requested. Further, given Montana-Dakota's position that it is willing to go forward with the hearing in this matter and is not at this time refiling its application for exemption from the PURA purchase requirements, Superior's request that the Commission consider whether a contract or obligation exists under the savings clause of PURPA Section 210(m)(6) is likewise moot. The issue of whether an effective existing obligation or pending contract exists under the savings clause of Section 210(m)(6) is only relevant if

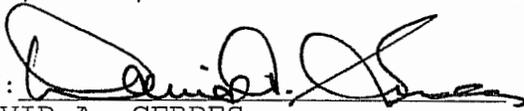
Montana-Dakota is pursuing an application for PURPA purchase exemption. Moreover, under the current state of the docket, with the matter proceeding to an avoided costs hearing (should the parties be unable to agree on a power purchase agreement), the Commission needn't consider the question of whether it has jurisdiction to take affirmative action beyond the terms of its docket F-3365 order.

CONCLUSION

Montana-Dakota proposes that the Commission simply set this matter on for hearing with an appropriate scheduling order. In considering a revised scheduling order, due regard should be given for the need to supplement discovery responses and testimony if requested by either party or staff.

Dated this 27 day of October, 2005.

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CERTIFICATE OF SERVICE

David A. Gerdes of May, Adam, Gerdes & Thompson LLP hereby certifies that on the 27 day of October, 2005, 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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