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August 30, 2004

South Public Utilities Commission
Capitol Building
1st Floor
500 E. Capitol Ave.
Pierre, SD 57501

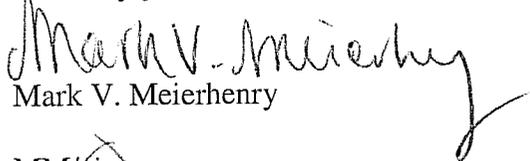
RECEIVED
SEP 01 2004
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Re: Superior Renewable Energy LLC v. Montana Dakota Utilities Co.

Dear Public Utilities Commission:

Enclosed please find the original and ten copies of Superior Renewable Energy, LLC's Motion for Notice and Order. By copy of this letter service is made on the service list.

Sincerely yours,


Mark V. Meierhenry

MM/ai

C: Bradford Moody
Linda Walsh

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

RECEIVED

SEP 01 2004

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE COMPLAINT FILED)
BY SUPERIOR RENEWABLE ENERGY LLC)
ET AL. AGAINST MONTANA DAKOTA)
UTILITIES CO. REGARDING THE JAVA)
WIND PROJECT)

Docket No. EL04-016

SUPERIOR RENEWABLE ENERGY LLC'S MOTION FOR
NOTICE AND ORDER FROM THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

Superior Renewable Energy LLC ("Superior") and its wholly owned subsidiary Java LLC ("Java") hereby submit this motion to the Public Utilities Commission (the "Commission"), and in support of this motion state as follows:

1. When a complaint or a petition has been filed with the Public Utilities Commission, Section 20:10:01:9 of the South Dakota Public Utilities Commission Administrative Rules (the "Rules") requires that the Commission forward to the respondent a statement of the complaint and a notice requiring the respondent to satisfy the complaint or answer it in writing within 20 days from the date of service of the notice or within such further time as may be specified by the commission.

2. Under Section 20:10:01:10 of the Rules, the respondent must, within the time fixed by the notice served upon it, satisfy the complaint by making reparation for the injury alleged to have been done, correcting the wrong complained of, or answering the complaint by filing the original and one copy of the answer in the office of the Commission and serving a copy on each complainant.

3. On May 12, 2004, Superior and Java filed a Complaint with the Commission and asked the Commission to resolve a dispute between Superior and Montana-Dakota Utilities Co. ("Montana-Dakota") regarding the negotiation of a long term power purchase agreement for electricity produced and sold pursuant to the Public Utility Regulatory Policy Act of 1978, 16 U.S.C. § 824a-n (2003) from the Java Wind Project, a Qualified Facility (as defined in PURPA) with, at the time of the filing of the Complaint, a design capacity of 25 megawatts located in Walworth County, South Dakota.¹ In that Complaint, Superior and Java expressly refer to Montana-Dakota as a "Respondent".

4. On May 13, 2004, the Commission electronically transmitted a notice of the Complaint and along with a deadline to intervene to interested individuals and

¹ Since the filing of the Complaint, the design capacity of the Java Wind Project has been increased to 31.5 megawatts.

entities, including Montana-Dakota. On or about May 27, 2004, Montana-Dakota petitioned the Commission to intervene in the proceeding initiated by Superior and Java. On or about June 11, 2004, the Commission granted Montana-Dakota's Petition to Intervene.

5. In spite of the requirement contained in Section 20:10:01:9 of the Rules, the Commission has not issued a notice to Montana-Dakota as a respondent requiring it to satisfy the Complaint or answer it in writing within 20 days from the date of service of the notice.

6. Since Montana-Dakota's intervention into this proceeding, it has served Superior with interrogatories. However, it has not yet satisfied the relief requested in the Complaint nor filed an answer to the Complaint with the Commission.

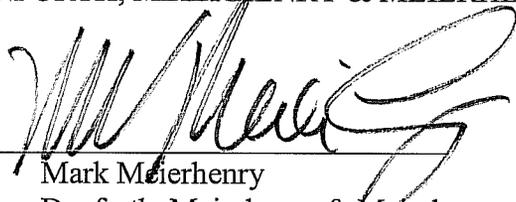
7. In order to ensure that the final order issued by the Commission in this proceeding will be binding and effective on Montana-Dakota and to enforce any relief granted by the Commission with respect to the matters raised in the Complaint, this Commission should follow the procedure set forth in Section 20:10:01:9 of the Rules.

PRAYER

Pursuant to Section 20:10:01:9, Superior and Java respectfully request that the Commission grant this motion by executing the notice and order attached as Exhibit "A" and further by serving a copy on Montana-Dakota.

Respectfully submitted,

DANFORTH, MEIERHENRY & MEIERHENRY, L.L.P.

By: 

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Attorneys for Superior Renewable Energy LLC

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

_____)	NOTICE TO
IN THE MATTER OF THE COMPLAINT FILED)	MONTANA-DAKOTA
BY SUPERIOR RENEWABLE ENERGY LLC)	
ET AL. AGAINST MONTANA DAKOTA)	Docket No. EL04-016
UTILITIES CO. REGARDING THE JAVA)	
WIND PROJECT)	
_____)	

NOTICE AND ORDER FROM THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF SOUTH DAKOTA

On August __, 2004, Superior Renewable Energy LLC and its wholly owned subsidiary Java LLC (collectively, the "Complainants") filed a motion requesting the Public Utilities Commission (the "Commission") to send a notice to Montana-Dakota Utilities Co. ("Montana-Dakota") to satisfy the above-referenced complaint or answer it in writing within 20 days from the date of service of the notice or within such further time as may be specified by the Commission.

The Commission has found that such motion demonstrated good cause and should be granted. It is therefore

ORDERED, that, pursuant to Sections 20:10:01:9 and 20:10:01:10 of the South Dakota Public Utilities Commission Administrative Rules, Montana-Dakota satisfy the relief requested in Complainants' Complaint or answer it in writing within 20 days from the date of service of the notice below.

Dated at Pierre, South Dakota this ___ day of August, 2004.

BY ORDER OF THE COMMISSION

ROBERT K. SAHR, Chairman

GARY HANSON, Commissioner

JAMES A. BURG, Commissioner

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

IN THE MATTER OF THE COMPLAINT FILED)
BY SUPERIOR RENEWABLE ENERGY LLC)
ET AL. AGAINST MONTANA DAKOTA) Docket No. EL04-016
UTILITIES CO. REGARDING THE JAVA)
WIND PROJECT)

CERTIFICATE OF SERVICE

This is to certify that on August 30, 2004, a copy Superior Renewable Energy LLC's Motion for Notice and Order from the Public Utilities Commission was forwarded to the following by United States certified mail, in accordance with South Dakota Codified Law:

Mr. David Gerdes
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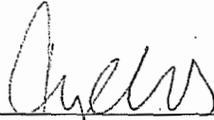
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