

LAW OFFICES
MAY, ADAM, GERDES & THOMPSON LLP

503 SOUTH PIERRE STREET
P.O. BOX 160
PIERRE, SOUTH DAKOTA 57501-0160

DAVID A. GERDES
CHARLES M. THOMPSON
ROBERT B. ANDERSON
BRENT A. WILBUR
TIMOTHY M. ENGEL
MICHAEL F. SHAW
NEIL FULTON
BRETT KOENECKE
CHRISTINA L. FISCHER
BRITTANY L. NOVOTNY

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OF COUNSEL
WARREN W. MAY
THOMAS C. ADAM

GLENN W. MARTENS 1881-1963
KARL GOLDSMITH 1885-1966

TELEPHONE
605 224-8803

TELECOPIER
605 224-6289

E-MAIL
dag@magt.com

HAND DELIVER

Patricia Van Gerpen
Executive Director
Public Utilities Commission
500 East Capitol Avenue
Pierre, South Dakota 57501

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JUN 20 2006

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

RE: **IN THE MATTER OF THE CONSIDERATION OF THE NEW PURPA
STANDARDS**

Docket NO: EL06-018

Our file: 0044

Dear Patty:

Enclosed are the original and ten copies of Comments of the South Dakota Electric Utility Companies in the above-entitled matter. Please file the enclosure.

Yours truly,

MAY, ADAM, GERDES & THOMPSON LLP

BY: 

DAG:mw

Enclosures

cc/enc: Bob Miller
Pam Bonrud
Barb Zar
Jim Wilcox
Geoff Simon
Kevin Kouba
Gus Skovgaard

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JUN 20 2006

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE CONSIDERATION) DOCKET NO. EL06-018
OF THE NEW PURPA STANDARDS)

Comments of the South Dakota
Electric Utility Companies

The South Dakota Electric Utility Companies, whose members are NorthWestern Energy ("NorthWestern"), Montana-Dakota Utilities ("Montana-Dakota"), Xcel Energy ("Xcel"), Otter Tail Power ("Otter Tail"), Black Hills Power ("Black Hills"), and MidAmerican Energy ("MidAmerican"), offer the following comments in response to the South Dakota Public Utilities Commission ("Commission") order dated June 5, 2006. In opening EL06-018, the Commission requests comment on how it should proceed with its consideration of five new federal standards established in the Public Utility Regulatory Policies Act ("PURPA") of 1978 through passage of the Energy Policy Act of 2005 ("EPAct 2005").

The Commission poses six questions in EL06-018, seeking comment from interested persons or entities on how it should proceed in considering the new PURPA standards. The collective response from the SDEUC on behalf of its members is as follows:

Question 1: Which electric utilities operating in South Dakota are affected by the standards and are subject to the Commission's jurisdiction?

It is our contention that any operating electric utility in South Dakota would be affected by these standards, whether it is an investor-owned, rural cooperative, or municipal electric provider. However, those utilities that come under the Commission's jurisdiction are defined in SDCL § 49-34A-1(12). It is appropriate for the Commission to determine how the PURPA standards in question from passage of EPAct 2005 would apply to the respective business practices of those utilities in South Dakota.

Question 2: Should the Commission open a docket for each utility or open a generic docket encompassing all of the affected utilities?

It is our recommendation to the Commission that the public interest would be better served if it were to open one generic docket encompassing all affected utilities rather than opening individual dockets for each affected utility. This approach would be the most expedient and provide the most suitable format for consideration of the new PURPA standards.

This is not to imply, however, that it would be appropriate to adopt only generic standards that would be applicable to all utilities in that docket. In some cases generic standards may be appropriate. In other cases it may be necessary to recognize that there are differences between the utilities that may make generic standards unworkable.

Question 3: Should the Commission combine all of the standards, some of the standards, or have separate dockets on each standard?

We would be supportive of combining all the standards into one docket for Commission consideration. Again, this approach would be the most expedient and provide a suitable format for public input.

Question 4: Should the Commission hold evidentiary hearings with direct testimony and cross-examination?

We suggest that the Commission consider utilizing a "paper hearing" format. It is anticipated that the general issues can be addressed through the submission of written comments and that a formal evidentiary hearing would not be needed until, and unless, the Commission were to determine it wants to enact one or more of the new PURPA standards it is being asked to consider. Utilizing a "paper hearing" approach should allow sufficient interplay between the Commission, affected utilities, and other public interests. If the Commission should decide, based upon issues raised

by parties in the "paper hearing" that evidentiary hearings are necessary, it could still decide to hold evidentiary hearings related to those issues. Use of the "paper hearing", if workable, would provide the most expedient approach to considering the new PURPA standards.

Question 5: If the Commission decides to implement any of the standards, should it do so through rulemaking?

Yes, we support the use of the rulemaking process to implement any of the standards if the Commission decides to do so. The rulemaking process allows substantial public input that will be important to developing the Commission's approach in implementing any standards it desires to enact.

Question 6: With respect to the net metering standard, should the Commission find it is not required to consider this standard given that the Legislature has already considered net metering in a past legislative session?

Our collective opinion is that the net metering standard does not require additional Commission consideration due to action taken by the South Dakota Legislature. Language related to consideration of net metering was specifically removed from proposed legislation by the Legislature this past session.

Respectfully submitted this 20th day of June, 2006.

MAY, ADAM, GERDES & THOMPSON LLP

BY: 

DAVID A. GERDES

Attorneys for South Dakota Electric
Utility Companies

503 South Pierre Street

P.O. Box 160

Pierre, South Dakota 57501-0160

Telephone: (605)224-8803

Telefax: (605)224-6289