

NorthWesternTM Energy

NorthWestern Corporation
d/b/a NorthWestern Energy
3010 West 69th Street
Sioux Falls, SD 57108-5613
Telephone: (605) 978-2900
Facsimile: (605) 978-2910
www.northwesternenergy.com

October 17, 2008

Public Utilities Commission
Capitol Building, 1st Floor
500 East Capitol Ave
Pierre SD 57501-5070

RE: Docket EL08-011

Dear Patty Van Gerpen:

Attached for filing in docket EL08-011 is a Confidentiality Agreement and Settlement Agreement/Service Rights Exception Agreement. Please file accordingly.

If anyone would have any questions, please give me a call.

Sincerely,



Sara Greff-Dannen
Corporate Counsel

cc: Brett Koenecke
Don Peterson

STATE OF SOUTH DAKOTA
BEFORE THE
PUBLIC UTILITIES COMMISSION

In the Matter of the Petition for Electrical Service) EL 08-011
by South Dakota Oilseed Processors, LLC to)
have NorthWestern Energy Assigned as its)
Electrical Provider in the Service Area of) **CONFIDENTIALITY**
Dakota Energy Cooperative, Inc.) **AGREEMENT**

This Confidentiality Agreement is made as of the 15th day of October, 2008, by and between Dakota Energy Cooperative, Inc., hereinafter referred to as "Dakota Energy" and NorthWestern Corporation, hereinafter referred to as "NorthWestern."

RECITAL

1. NorthWestern hereby states that it will, under the terms of the following Confidentiality Agreement, allow inspection and review of certain data and information claimed by NorthWestern to be of a confidential nature to the signators of this Agreement. The information sought to be reviewed is answers to Dakota Energy's interrogatories.

2. In connection with this case, Dakota Energy desires to have access to and to review certain information about NorthWestern.

3. NorthWestern submits that much, if not all, of the information Dakota Energy wishes to review is confidential, trade secrets, proprietary and/or other information which, if disclosed to competitors of NorthWestern or others, could result in irreparable damage and injury to NorthWestern.

4. NorthWestern and Dakota Energy desire to provide a means by which the information described in Recital No. 3 can be provided to Dakota Energy for review, but, at the same time, protected from disclosure which could result in irreparable damage or injury to NorthWestern.

THEREFORE, NorthWestern and Dakota Energy agree as follows:

1. For purposes of this Agreement, the following terms shall be defined in the following manner:

- (a) “Information” shall mean and include all documents, data, information, studies, computer programs, and other matters furnished in any or in response to any interrogatories or requests for information, subpoenas, depositions, or other modes of discovery that are claimed to be a trade secret or confidential in nature shall be furnished under the terms of this Agreement, as constituting trade secret, confidential, commercial, and financial information (here referred to as “confidential”), and shall neither be used nor disclosed except for the purpose of this proceeding, and solely in accordance with this Agreement. Any and all documents recorded or graphic matters of any kind of a nature whatsoever shall extend to any subsequent compilation, summary, quotation, precise, or reproduction thereof prepared at any subsequent time in any subsequent form or proceeding, in whole or in part.
- (b) “Confidential Information” shall mean and include any documents and all contents thereof which are marked “CONFIDENTIAL,” “PROPRIETARY” or so identified in some similar manner by NorthWestern.
- (c) “Use of Confidential Information and Persons Entitled to Review.” All confidential information made available pursuant to this Agreement shall be given solely to the Commission or counsel for the parties and shall not be used or disclosed except for purposes of this proceeding; provided, however, that access to any specific confidential information may be authorized by counsel, solely for the purpose of this proceeding, to those persons indicated by the parties as being their experts or advisors in this matter. For purposes of this Agreement, disclosure shall be strictly limited to the CEO and the operations manager of Dakota Energy.
- (d) “Disclose,” “make disclosure of” or “disclosure” shall mean and include the dissemination to any person, firm, corporation or other entity of the contents of a document, whether that dissemination is by means of the transmittal or transfer of the original or a copy of that document or any verbal or other dissemination of the contents of said document. No access to confidential information shall be authorized under the terms of paragraph 1(c) of this Agreement until the person and/or authorized persons, authorized by counsel to have access signs a Nondisclosure Agreement in the form that is attached and incorporated as Exhibit A. The Nondisclosure Agreement shall require the persons to whom disclosure is to be made to certify in writing that they have read this Agreement, agree to be bound by its terms. The Nondisclosure Agreement shall contain the signatory’s full name, permanent address, and employer, and the name of the party with whom the signatory is associated. This Nondisclosure Agreement shall be delivered to counsel for the providing party and the Commission at the time of review of the documents, or as soon thereafter as practicable.

2. All confidential Information and the disclosure thereof shall be subject to the following restrictions:

- (a) Dakota Energy shall not disclose any Confidential Information to anyone other than an Authorized Person(s) for the sole purpose of Dakota Energy's review and analysis of the case.
- (b) Whether NorthWestern has provided Confidential Information to Dakota Energy in hard copy or in some other form, Dakota Energy shall make no copies or reproductions of any kind or nature whatsoever of the Confidential Information so supplied.
- (c) The foregoing notwithstanding, Dakota Energy may not disclose Confidential Information to an Authorized Person(s) unless, prior to the disclosure of such Confidential Information, said Authorized Person(s) has signed a Nondisclosure Agreement.

3. Confidential Information will be marked as such and delivered to counsel.

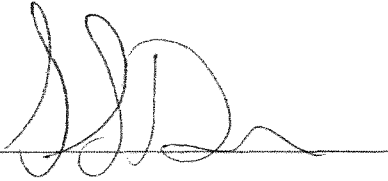
4. All persons who are afforded access to any confidential information by reason of this Agreement shall neither use nor disclose the confidential information for purposes of business or competition, or any other purpose other than the purposes of preparation for and conduct of this proceeding, and then solely as contemplated here, and shall take all reasonable precautions to keep the confidential information secure and in accordance with the purposes and intent of this Agreement. No party receiving confidential information pursuant to this Agreement may copy, microfilm, microfiche, or otherwise reproduce such confidential information without the written consent of NorthWestern. Disclosure shall not be made to any person who is in any manner employed by East River Electric Cooperative, Inc.

5. This Agreement shall in no way constitute a waiver of the rights of any party or person to contest any assertion or finding of trade secret, confidentiality, or privilege, or to appeal any determination of the Commission or assertion by a party.

6. The provisions of this Confidentiality Agreement, insofar as they restrict the disclosure and use of Confidential Information governed by this Confidentiality Agreement, shall, without the written permission of NorthWestern or further order of the Commission or, if appropriate, a court of competent jurisdiction, continue to be binding after the conclusion of the case.

WHEREFORE, the undersigned have set their hands and seals as of the first date set forth above.

NORTHWESTERN CORPORATION

BY: 

DAKOTA ENERGY COOPERATIVE, INC.

BY: 

EXHIBIT A

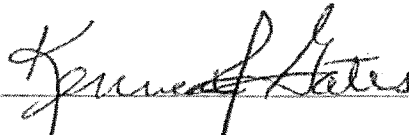
NONDISCLOSURE AGREEMENT

The undersigned executes this Nondisclosure Agreement for all purposes contemplated by NorthWestern and Dakota Energy in their Confidentiality Agreement dated October 15th 2008, as follows:

1. I certify in writing that I have read the aforesaid Confidentiality Agreement between the parties.

2. I agree to be bound by the terms of that Confidentiality Agreement and certify that I am not involved in any manner whatsoever in the provisioning, marketing, pricing or management of any regulated service, including switched access, long distance or local exchange service, by _____. I further agree that should I become so involved in the future, I will not disclose or otherwise use any information provided under the aforesaid agreement.

Dated this 15th day of October, 2008.



Printed Name: Kenneth J. Gates

Permanent Address: P.O. Box 830

Huron, SD 57350

Employer: Dakota Energy Cooperative, Inc

Name of the Party with whom
associated: _____

**SETTLEMENT AGREEMENT
AND SERVICE RIGHTS
EXCEPTION AGREEMENT**

This agreement is entered into between Dakota Energy Cooperative, Inc., 402nd U.S. Hwy. 14, Hinton, South Dakota, 57350, ("Dakota Energy"), South Dakota Oilseed Processors, ~~Inc.~~ LLC - MPO, Miller, South Dakota, 57362, ("Oilseed Processors") and NorthWestern Corporation, d/b/a NorthWestern Energy, Sioux Falls office, 3010 W. 69th Street, Sioux Falls, South Dakota, 57108 ("NorthWestern"), as follows:

1. Oilseed Processors, joined by NorthWestern, has filed a petition before the South Dakota Public Utilities Commission seeking to provide permanent electric service to the proposed Oilseed plant to be located near Miller, South Dakota. The docket number is EL08-011, seeking an order that NorthWestern provide permanent electrical service to the Oilseed plant under SDCL § 49-34A-56, the large load exception to the territorial laws. The parties desire to enter into a Service Rights Exception Agreement in lieu of proceeding to a conclusion in this docket.

2. This Service Rights Exception Agreement seeks to permit NorthWestern to provide electrical service to the Oilseed Processors plant pursuant to SDCL § 49-34A-55. This agreement will eliminate a duplication of facilities and will allow NorthWestern to provide adequate electric service to the Oilseed Processors plant.

3. The parties agree upon a service rights exception for the location of the proposed Oil Seed plant such that NorthWestern shall serve the plant as proposed and as built. Except as outlined in this paragraph, all parties reserve their rights under law as regards the electrical service rights for any new facility or service which may be developed in the future. Dakota Energy specifically does not consent in this agreement to the extension of service by NorthWestern to any customer, service, or facility at this location other than the proposed Oilseed plant. However, Dakota Energy waives any right which may exist to serve any additional electrical load created at the location as long as that load is served through the existing metering point and on the existing transformer sites created to serve the plant as proposed and as built.

4. The parties agree that, under the facts specifically applicable to the Oilseed plant, the customer's interests are best served by receiving service from NorthWestern, and the parties have thus agreed to this service rights exception to the existing territorial boundaries as set forth in the records of the Commission. This exception is not intended by the parties to indicate either party's consent to any other change in the service territories of the parties.

5. Upon approval by the Commission of this Service Rights Exception Agreement, the parties agree that the docket mentioned above may be dismissed with prejudice.

6. It is mutually agreed that this agreement states the entire agreement between the parties, incorporating and superseding all prior written or oral agreements and negotiations between the parties. This agreement is binding upon the successors and assigns of the parties.

7. The language used in this agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction shall be applied against any party. Each party acknowledges that it has been represented by counsel and agrees that this agreement shall be construed without regard to any presumption for or against the party drafting this agreement or any portion thereof.

Dated this 15th day of October, 2008.

DAKOTA ENERGY COOPERATIVE, INC.

BY: [Signature]
Its: CEO/General Manager

Dated this 17th day of October, 2008.

NORTHWESTERN CORPORATION
d/b/a NORTHWESTERN ENERGY

BY: [Signature]
Its: Corporate Counsel

Dated this 17 day of October, 2008.

SOUTH DAKOTA OILSEED PROCESSORS, INC.

BY: [Signature]
Its: CEO