

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

<b>In the Matter of the Request for a Declaratory Ruling regarding the Inclusion of Energy Costs for Compensated Backdown</b>	EL12-____  <b>Petition for Declaratory Ruling</b>
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Pursuant to ARSD 20:10:01:34, NorthWestern Corporation d/b/a NorthWestern Energy (“NorthWestern”) petitions the Commission to issue a declaratory ruling that certain amounts NorthWestern is required to pay to Rolling Thunder I Power Partners, LLC (“Rolling Thunder”) in conjunction with the Titan I Wind Project may be included in the automatic adjustment of charges authorized by SDCL § 49-34A-25. NorthWestern requests that a ruling be issued prior to December 31, 2012, so the charges can be appropriately recorded in the correct account for year-end reporting.

In support of its petition, NorthWestern submits the following information required by ARSD 20:10:01:34.

**1. State statute in question**

The statute at issue is SDCL § 49-34A-25, which provides:

The commission shall permit a public utility to file rate schedules containing provisions for the automatic adjustment of charges for public utility service in direct relation to changes in wholesale rates for energy delivered, the delivered costs of fuel used in generation of electricity, the delivered cost of gas, ad valorem taxes paid, or commission approved fuel incentives. The amended rate schedules shall be filed with the commission on or before the effective date of the change in costs, and if the commission determines that the revised rate schedule is in error, the commission may within ten days of receipt thereof require by order the public utility to file a bond or other security upon such terms and conditions as the commission may require and for such purposes as contained in §§ 49-34A-17 and 49-34A-22. Such rates may go into effect on the

date of the change in costs subject to the above refund provisions. Failure of the commission to enter an order in regard thereto shall be deemed approval. The public utility may appeal such order pursuant to and in accordance with § 49-34A-62.

**2. Facts and circumstances which give rise to the issue to be answered by the Commission**

Under a Power Purchase Agreement (“Agreement”) between NorthWestern and Rolling Thunder, NorthWestern purchases the total output of the Titan I Wind Project (“Titan”) located near Ree Heights, South Dakota. NorthWestern recovers the costs of the purchases from Rolling Thunder through a Fuel and Purchased Power Adjustment pursuant to the Adjustment Clause in Section No. 3 of its South Dakota Electric Rate Tariff, attached as Exhibit A.

Section 2.4(a) of the Agreement, attached as Exhibit B, requires NorthWestern to pay Rolling Thunder for energy that would have been produced by Titan if NorthWestern directs Titan to curtail its output (“Compensated Backdown”). In June 2012, NorthWestern temporarily took its transmission line out of service for three days of scheduled maintenance and directed Rolling Thunder to curtail the output of Titan. In accordance with section 2.4 of the Agreement, Rolling Thunder billed NorthWestern \$42,998.49 for Compensated Backdown. NorthWestern seeks to recover those charges through its Fuel and Purchased Power Adjustment beginning with the February 1, 2013 Quarterly Fuel Adjustment Filing.

**3. Analysis**

SDCL § 49-34A-25 authorizes a utility to file schedules automatically adjusting rates to account for changes in the wholesale rates for energy delivered to the utility. Since its inception, the Commission has allowed the costs NorthWestern incurs pursuant to the Agreement to be recovered through the Fuel and Purchased Power Adjustment, and NorthWestern submits the Compensated Backdown costs are recoverable as costs incurred under the Agreement.

The Compensated Backdown costs are a part of the wholesale cost of the energy procured under the Agreement. Section 2.4 is an integral part of the Agreement. Had this section not been included in the Agreement, the MWH rate that NorthWestern would have been required to pay Rolling Thunder would have been higher. Without the specific means to calculate this cost as defined in the Agreement, Rolling Thunder would have included the cost in the annual MWH rate based on an estimated backdown quantity for the life of the contract. However, by including this separate calculation in the Agreement, an actual and specific dollar amount for Compensated Backdown costs can be calculated as a part of the overall cost of the power procured, and neither the parties to the Agreement nor NorthWestern's customers need to bear the financial risks associated with a potentially inaccurate estimate. This charge is a requirement of the Agreement and would not be applicable to NorthWestern if it were not for the energy received under this Agreement.

The inclusion of the Compensated Backdown charge in the Fuel and Purchased Power Adjustment is analogous to the inclusion of other outage costs. NorthWestern's Adjustment Clause (2)(II)(c) provides, "Included therein [net energy cost of energy purchased on an economic dispatch basis] may be . . . the charges as a result of scheduled outage, . . ." (See Exhibit A.) Because the Commission allows "the charges as a result of scheduled outage" to be recovered under the fuel section it should allow similar charges under the Agreement to be recovered in the Fuel and Purchased Power Adjustment. In this instance, the scheduled outage of the transmission line prevented the generator from producing power. There is no rational basis for treating Compensated Backdown costs different from other outage costs.

**4. Specific declaratory ruling requested**

NorthWestern Energy respectfully requests that the Commission issue a declaratory ruling allowing the recovery of Compensated Backdown costs through its Fuel and Purchased Power Adjustment.

Dated at Sioux Falls, South Dakota, this 16<sup>th</sup> day of November, 2012.

Respectfully submitted,

NorthWestern Corporation d/b/a  
NorthWestern Energy



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