

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

In the Matter of the Complaint by Juhl Energy, Inc., against NorthWestern Corporation d/b/a NorthWestern Energy for Establishing a Purchase Power Agreement	Docket No. EL16-021 NORTHWESTERN ENERGY'S ANSWER TO JUHL ENERGY'S COMPLAINT
---	---

COMES NOW NorthWestern Corporation d/b/a NorthWestern Energy ("NorthWestern") and answers the Complaint filed with the Public Utilities Commission ("Commission") by Juhl Energy, Inc. ("Juhl") and served on NorthWestern on June 29, 2016 ("Complaint"). ARSD § 20:10:01:02.03 requires that pleadings filed with the Commission include statements of fact and law set forth in numbered paragraphs. Portions of the Complaint combine multiple allegations of fact and law in a single paragraph, some of which are not numbered. NorthWestern has attempted to answer each of Juhl's allegations. However, to the extent the Complaint contains allegations requiring a response, NorthWestern denies each allegation except for those specifically admitted below.

I. INTRODUCTION

1. Juhl included two unnumbered paragraphs under a Roman numeral heading, **I. Introduction**. NorthWestern admits that Juhl filed the Complaint; that Juhl has requested power purchase agreements ("PPAs") for three prospective generation facilities that, if built as represented, would be small power production qualifying facilities ("QFs") pursuant to the Public Utilities Regulatory Policy Act of 1978, as amended ("PURPA"); that the statutes, rules, and cases cited by Juhl speak for themselves; and that Juhl disputes NorthWestern's calculation of NorthWestern's avoided cost. NorthWestern denies all other allegations in the Introduction.

II. COMPLAINT AND RESPONDENT

2. Juhl included numbered paragraphs 1 and 2 under a Roman numeral heading **II**.

COMPLAINT AND RESPONDENT. On information and belief, NorthWestern admits that Juhl's address is shown in paragraph 1. NorthWestern admits that C T Corporation at the address listed is NorthWestern's Registered Agent for service of process and that NorthWestern maintains a corporate office at 3010 W. 69th Street, Sioux Falls, SD 57108. Future documents in this matter should be sent to the following individuals:

Jon Oostra
Corporate Counsel
NorthWestern Energy
3010 W. 69th Street
Sioux Falls, SD 57108
Jon.Oostra@northwestern.com

Al Brogan
Corporate Counsel
NorthWestern Energy
208 N. Montana Avenue
Suite 205
Helena, MT 59601
Al.Brogan@northwestern.com

Pamela A. Bonrud
Director Government and Regulatory Affairs
NorthWestern Energy
3010 W. 69th Street
Sioux Falls, SD 57108
Pam.Bonrud@northwestern.com

Bleau LaFave
Director Long Term-Resources
NorthWestern Energy
3010 W. 69th Street
Sioux Falls, SD 57108
Bleau.LaFave@northwestern.com

III. BACKGROUND FACTS

3. NorthWestern admits that Juhl has represented that it is an independent developer of power projects but NorthWestern lacks information or belief regarding the scope of Juhl's activities sufficient to admit or deny that Juhl scope of operation is throughout the Midwest and West, and therefore denies the same. NorthWestern admits that it and Juhl have engaged in negotiations regarding projects for which the applicants are identified on respective Federal Energy Regulatory Commission ("FERC") Forms 556 as Aurora County Wind, LLC, Brule County Wind, LLC, and Davison County Wind, LLC. Based on line 7a of the respective FERC Forms 556, NorthWestern denies that each project will have a nameplate capacity of 20 MW or less. Based on line 11 of the respective FERC Forms 556, NorthWestern denies that each project will have a commercial operation date prior to December 2018.
4. NorthWestern lacks information or belief regarding the legal descriptions of the project locations sufficient to admit or deny the allegations in paragraph 4, and therefore denies the same.
5. NorthWestern lacks information or belief regarding the Juhl agreements, if any, with the landowners of the three sites sufficient to admit or deny the allegations in paragraph 5, and therefore denies the same.
6. NorthWestern denies that if the locations of the projects are as represented in paragraph 4, they all will be located within NorthWestern's service territory. NorthWestern admits that it is a public utility. NorthWestern admits that PURPA, and applicable regulations implementing PURPA, speak for themselves.
7. NorthWestern admits that the respective FERC Forms 556 were attached to the Complaint

and that Juhl previously provided these FERC Forms 556 to NorthWestern. NorthWestern lacks information or belief regarding whether Juhl has previously provided copies of these FERC Forms 556 to the Commission sufficient to admit or deny the allegations in paragraph 7, and therefore denies the same.

8. NorthWestern denies the allegations in paragraph 8.
9. NorthWestern admits that Section 201(a) of PURPA speaks for itself.
10. NorthWestern admits that 16 U.S.C. 824a-3(b) provides that NorthWestern may not be required to pay a QF a rate which exceeds the incremental cost to it of alternative electric energy.
11. NorthWestern admits that the Commission issued an order on December 14, 1982 in Docket No. F-3365, *In re Cogeneration and Small Power Production* (“Order”). NorthWestern denies that all conclusions and findings in that order remain in effect today, unchanged by subsequent orders of the Commission.
12. NorthWestern admits that the Order speaks for itself.
13. NorthWestern admits that the Order, at various parts quoted Mr. Luis C. Bernal of Whitfield A. Russell and Associates, who provided testimony on behalf of Commission advocacy staff, and that the Order speaks for itself.
14. NorthWestern admits that the Order speaks for itself.
15. NorthWestern admits that it and Juhl began communicating in October 2015, that the parties exchanged numerous proposals. NorthWestern admits that estimates of long-term avoided costs changed during the period from October 2015 through April 2016 as the underlying electricity and natural gas market changed. NorthWestern admits that Juhl offered a price at which NorthWestern could purchase the output of the projects, but denies

that the price reflects a reasonable estimate of NorthWestern's long-term avoided costs and the remaining allegations in paragraph 15.

16. NorthWestern admits that that it and Juhl exchanged contract language during March and April and that no agreement has been reached. NorthWestern lacks information or belief regarding Juhl's expectations and anticipations sufficient to admit or deny the remaining allegations in paragraph 16, and therefore denies the same.
17. NorthWestern denies the allegations set forth in paragraph 17.
18. NorthWestern admits that Juhl filed the prefiled testimony of Roger Schiffman when it filed the Complaint at the Commission. NorthWestern denies the remaining allegations in paragraph 18. As prefiled testimony is not a part of the Complaint and not statements of fact and law, NorthWestern will respond to and refute Mr. Schiffman's testimony at the appropriate time during this proceeding.
19. NorthWestern denies that its avoided cost of energy is \$47.29/MWh, that any estimated value of carbon costs should be added to the true avoided cost of energy, and that a payment of \$1.78/MWh is an appropriate capacity payment for the proposed projects.
20. NorthWestern admits that it and Juhl have negotiated in good faith. NorthWestern denies the remaining allegations in paragraph 20.

WHEREFORE NorthWestern Corporation d/b/a NorthWestern Energy prays as follows:

1. That the Commission establish a procedural schedule which provides for discovery on Juhl's Complaint and prefiled testimony, response testimony by NorthWestern, discovery on NorthWestern's testimony, reply testimony by Juhl, discovery on reply testimony, hearing, briefing, and oral argument; and

2. Such other and further relief as the Commission deems just and reasonable.

DATED at Sioux Falls, South Dakota, the 19th day of July, 2016.

**NorthWestern Corporation d/b/a
NorthWestern Energy**

A handwritten signature in dark ink, appearing to read "Jon M Oostra", is written over a horizontal line.

Jonathan M. Oostra
3010 West 69th Street
Sioux Falls, SD 57108
(605) 978-2940

Jon.Oostra@northwestern.com

Attorney for NorthWestern Corporation d/b/a
NorthWestern Energy