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

IN THE MATTER OF THE)	
COMPLAINT BY CONSOLIDATED)	
EDISON DEVELOPMENT, INC.)	NORTHWESTERN
AGAINST NORTHWESTERN)	ENERGY'S PREHEARING
CORPORATION d/b/a)	MEMORANDUM
NORTHWESTERN ENERGY FOR)	
ESTABLISHING A PURCHASE)	EL16-021
POWER AGREEMENT)	

I. Background

Procedural History

On June 23, 2016, Juhl Energy, Inc. ("Juhl") filed the Complaint initiating this docket. On June 24, 2016, Juhl filed Exhibit 1 to the Prefiled Testimony of Roger Schiffman. On June 30, 2016, the South Dakota Public Utilities noticed the filing. On July 19, 2016, NorthWestern Corporation d/b/a NorthWestern Energy ("NorthWestern") filed its answer to the Complaint. On July 29, Juhl filed the Prefiled Direct Testimony of Corey Juhl. On August 19, 2016, the Commission issued a Procedural Scheduling Order. On October 17, 2016, NorthWestern filed its

Response testimony. On January 10, 2017, PUC Staff filed the Direct Testimony of Jon Thurber and the Direct Testimony of Kavita Maini. On February 1, 2017, Consolidated Edison Development, Inc. (“ConEd”) filed a Notice of Appearance with an included Motion to Amend Complaint and an Amended Complaint. ConEd represented that it had acquired Juhl’s interest in the proposed QF projects.¹ The parties entered into a Stipulation Allowing Amended Complaint. On February 15, 2017, the Commission issued an Order Granting Motion to Amend Complaint. Subsequently, the caption in this matter reflected ConEd as the complainant. On February 10, 2017, NorthWestern filed the Rebuttal Testimonies of Luke P. Hansen and Autumn M. Mueller, which responded to issues raised by PUC Staff’s testimony and ConEd filed the Rebuttal Testimony of Roger Schiffman. On February 21, 2017, ConEd filed a Motion in Limine to Exclude Rebuttal Testimony of Autumn Mueller and Luke P. Hansen. On February 27, 2017, ConEd filed Motions in Limine seeking to prohibit PUC Staff from offering the testimony of Jon Thurber and Kavita Maini and to prohibit NorthWestern from offering portions of the Bleau LaFave’s Response Testimony, which had been filed in October. On March 14, 2017, the Commission heard argument on ConEd’s motions in limine; On March 21, the Commission issued its Order Denying Motions *In Limine*. On March 20, 2017, the Commission issued an Order For and Notice of Evidentiary Hearing. The hearing is scheduled to commence at 9:00 am CDT on April 11, 2017, with marking of exhibits to begin at 8:00 am.

¹ The date at which ConEd acquired the proposed QF projects is unclear. In his supporting affidavit, Corey Juhl states, “In November 2016, Consolidated Edison Development, Inc., a New York corporation registered to do business in South Dakota, acquired Juhl Energy, Inc.’s interest in the subject wind energy projects. However, in the Notice of Appearance and Motion to Amend Complaint, ConEd stated that it “moves to amend the Complaint in this matter to reflect the fact in December 2016, it acquired Juhl Energy, Inc.’s interest in the three wind energy projects that ate the subject of the above captioned avoided cost litigation.

II. Uncontested Issues

The parties undertook extended negotiations prior to the filing of the Complaint. That NorthWestern bargained in good faith is uncontested.

III. Contested Issues

The overarching contested issue in this matter is the incremental cost of energy and capacity that NorthWestern can avoid by purchasing the output from ConEd's proposed QF projects in Aurora, Brule, and Davison counties. Contested issues that are subsidiary to the overarching issue include the following:

- What method should NorthWestern use to determine the incremental cost of energy that it can avoid by purchasing energy from the proposed QF projects;
- What method should NorthWestern use to determine the incremental cost of capacity that it can avoid by purchasing capacity from the proposed QF projects;
- For what amount of capacity should NorthWestern compensate the proposed QF projects; and
- How should the increased transmission costs that purchasing the output from the proposed QF projects imposes on NorthWestern affect the costs that NorthWestern can avoid?

IV. Witnesses

NorthWestern will identify the witnesses that it intends to call at the hearing in the Witness and Exhibit Lists that are required to be filed on April 7, 2017. NorthWestern reserves the right to call any witness to rebut testimony by witnesses of other parties that is offered at the hearing and was not part of prefiled testimony.

V. Exhibits and Evidence

NorthWestern will identify the evidence that it intends to introduce into evidence in in the Witness and Exhibit Lists that are required to be filed on April 7, 2017. NorthWestern will request that the following data request responses be admitted into evidence:

NorthWestern's Response to Commission Staff Data Request ("CSDR") 1-16 (including supplemental response

NorthWestern's Initial Response to CSDR 4-24 (including attached 2016 Electricity Resource Plan)

NorthWestern's Response to CSDR 8-1 (including documents in folder 8-1)

NorthWestern's Response to CSDR 8-2

In addition, NorthWestern reserves the right to use data responses for cross-examination.

VI. Special Needs

NorthWestern makes no request for special accommodations for witnesses.

Respectfully submitted this 31st day of March, 2017.

**NORTHWESTERN CORPORATION,
d/b/a NORTHWESTERN ENERGY**

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