BEFORE THE SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

IN THI	E MATTER (OF THE C	OMPLAINT)	
BY	CONSOLI	DATED	EDISON)	STAFF'S PRE-HEARING
DEVEL	OPMENT,	INC.	AGAINST)	MEMORANDUM
NORTI	HWESTERN	CORPOR	ATION DBA)	
NORTI	HWESTERN	ENER	GY FOR)	EL16-021
ESTAB	LISHING A	PURCHA	SE POWER		
AGREE	EMENT				

STAFF'S PRE-HEARING MEMORANDUM

In accordance with the Procedural Order issued on the 19th day of August, 2016, Staff respectfully submits its pre-hearing memorandum in the above-captioned matter.

1. Background

On June 23, 2016, Juhl Energy, Inc. (Juhl) filed a Complaint seeking resolution of a dispute with NorthWestern Corporation dba NorthWestern Energy (NorthWestern) regarding the proper avoided cost for a long-term electric power purchase agreement. On August 4, 2016, the Parties filed a Joint Request for a Procedural Schedule. At its regularly scheduled meeting on August 16, 2016, the Commission established a Procedural Schedule. On October 24, 2016, Juhl submitted a request for Confidential Treatment of responses to NorthWestern Energy Discovery Requests 1-29 and 1-31. On February 1, 2016, Consolidated Edison Development, Inc. filed a Notice of Appearance and Motion to Amend Complaint based on Consolidated Edison Development, Inc.'s acquisition of Juhl Energy Inc.'s interest in the three wind energy projects that are the subject of this docket. At its regularly scheduled meeting on February 10, 2017, the Commission granted Consolidated Edison Development's motion to amend its complaint. On February 21, 2017, Consolidated Edison Development filed a motion *In Limine* to exclude the rebuttal testimony of Autumn Mueller and Luke P. Hansen. On February 27, 2017, Consolidated Edison Development filed motions of the pre-filed testimony of Ms. Maini and Mr. Thurber and to prohibit NWE from offering portions of the pre-filed

testimony of Mr. LaFave. On March 14, 2017, the Commission held a hearing regarding Consolidated Edison's motions *in limine* and issued an order denying the motions on March 21, 2017. On March 20, 2017, the Commission issued an Order For and Notice of Evidentiary Hearing. A hearing is scheduled for April 11, 2017 at 9:00 am. The marking of exhibits is scheduled to begin at 8:00am.

2. Contested Issues

The major contested issue before the Commission is what the appropriate avoided cost is in this case.

This issue includes additional contested issues that must be determined by the Commission including:

- a. What is the appropriate avoided cost model to use in this case?
- b. What are the appropriate inputs to use in that model?
- c. Was an LEO established? And if so when was the LEO established?
- d. Should a capacity credit be included in the avoided cost and if so, what is the appropriate capacity credit and what year should this begin?
- e. Should a CO2 compliance credit be included in the avoided cost and if so, what is the appropriate CO2 compliance credit?
- f. Should an adjustment for transmission network upgrade cost be included in the avoided cost and if so, what is the appropriate transmission network upgrade cost?

3. Uncontested Issues

At this time, the term of the potential Purchase Power Agreement has not been contested by either party.

4. Witnesses

Staff intends to call two witnesses at the hearing, Mr. Jon Thurber and Ms. Kavita Maini. Staff will offer the prefiled testimony of these witnesses.

5. Exhibits and Evidence

Staff's will offer the following prefiled testimonies and exhibits of Mr. Thurber and Ms. Maini as evidence at the hearing:

Mr. Jon Thurber's Prefiled Testimony

Exhibit_JPT-1-FERC Order 69

Exhibit_JPT-2- Docket F-3365 Order

Exhibit JPT-3- Docket EL11-006 Order

Exhibit_JPT-4- Juhl's Response to Commission Staff DR 1-9

Exhibit_JPT-5- Docket RM13-002 Draft Rules

Exhibit_JPT-6 – Docket RM13-002 Juhl Reply Comments

Exhibit_JPT-7 – Juhl's Response to Commission Staff DR 3-1

Exhibit_JPT-8 - Juhl's Response to Commission Staff DR 3-2

Exhibit_JPT-9 – Juhl's Response to Commission Staff DR 2-2

Exhibit_JPT-10 – Juhl's Response to Commission Staff DR 2-5

Exhibit JPT-11- NorthWestern's Response to Commission Staff DR 2-1

Ms. Kavita Maini's Prefiled Testimony

Exhibit_KM-1-Kavita Maini, KM Energy Consulting, LLC, Projects

Exhibit_KM-2- Xcel Energy, TX Tariff; Purchase of Non-Firm Energy from

Qualifying Facilities

Exhibit_KM-3-Brule and Aurora QF Location

Exhibit_KM-4-Davison QF Location

In addition to prefiled witness testimony and the exhibits listed above, Staff may file additional exhibits by April 7th, 2017 in accordance with the Procedural Order and request that the those exhibits be admitted as evidence. Staff reserves the right to use responses to data requests for cross examination.

6. Special Needs

At this time, staff has no request for special accommodations.

Respectfully submitted March 31, 2017.

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