

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT OF
ENERGY OF UTAH, LLC AND FALL RIVER
SOLAR, LLC AGAINST BLACK HILLS POWER,
INC.

: Docket No. EL18-038
:
: NOTICE OF DEPOSITION PURSUANT
: TO SDCL 15-6-30(b)(6)
:

Complainants Energy of Utah and Fall River Solar, LLC, (hereafter collectively “Fall River”) pursuant to SDCL 15-6-30(b)(6), name Black Hills Power, Inc., doing business as Black Hills Energy (hereafter “BHE”), as a deponent in this proceeding and respectfully request BHE designate one or more persons to testify on its behalf with respect to the following matters:

1. BHE’s discussions and negotiations with Energy of Utah and its subsidiaries SD Sun I, LLC and SD Sun II, LLC and its principal Ros Vrba about BHE’s proposed avoided cost, avoided cost methodology and avoided cost model employed for the solar generating facilities they proposed to construct.
2. BHE’s discussions and negotiations with Energy of Utah and its subsidiaries SD Sun I, LLC and SD Sun II, LLC regarding the power purchase agreements that were entered into. The witness need only to be prepared to testify about the business and commercial aspects of the discussions and negotiations and not technical matters concerning interconnection, engineering and transmission or the legal interpretation of the contract terms.
3. The general methodology, including modeling methodology, sources of information for that modeling, and computer programs and software employed in and the general parameters of BHE’s avoided cost calculations for the SD Sun I, II, and III projects, including how the methodology employed differed from the calculations done for the Fall River project. The witness will not be expected to testify about how the Planning and Risk Model operates.
4. BHE’s rationale behind the differences in calculations done for the SD Sun projects avoided cost and Fall River avoided cost.
5. BHE’s discussions and negotiations with 174 Power Global regarding
 - a. Its acquisition of SD Sun I and SD Sun II;
 - b. Changes in the proposed projects during the time 174 Power Global owned the SD Sun companies/projects;
 - c. The power purchase agreement for SD Sun II;

- d. Determination of avoided cost for the solar generating facilities commonly called SD Sun III, but only to the extent provided for in 3 above.
- e. The development of a power purchase agreement for SD Sun III.

The witness addressing the areas addressed in this paragraph need only be prepared to testify about the business and commercial aspects of the discussions and negotiations and not technical matters concerning interconnection, engineering and transmission or the legal interpretation of the contract terms.

- 6. BHE's internal discussions regarding the potential for acquiring 174 Power Global's interest in the SD Sun projects, including timelines.
- 7. BHE's discussions and negotiations with 174 Power Global regarding the potential for acquiring 174 Power Global's interest in the SD Sun projects, including the development of the contract terms governing the acquisition of the projects.
- 8. The business case and rationale behind BHE's decision to acquire the SD Sun projects including the reasoning behind the acquisition and how an acceptable purchase price was determined and the modeling that was done relating to the acquisition.
- 9. Background and history of BHE's plans and intentions for developing/constructing the SD Sun projects, including BHE's decision(s) to reduce the scope of development and/or construction of the SD Sun projects, and ultimately not develop/construct the SD Sun projects at all. The witness or witnesses should be prepared to testify regarding the general effect of inclusion of various levels of SD Sun contribution in the Fall River avoided cost modeling.
- 10. BHE's discussions and negotiations with Energy of Utah and Fall River Solar pertaining to the determination of avoided cost for the solar generating facilities they proposed to construct. The witness should be prepared to testify regarding business discussions.
- 11. BHE's process in deciding how it would calculate avoided cost for Fall River, what methodology it would use for the calculations and what modeling would be employed.
- 12. Background and history of BHE's discussions and negotiations with the counter-party to the August 16, 2018 power purchase agreement mentioned in BHE's initial response to Fall River's Discovery Request numbered 136. The witness need not be prepared to testify in depth about the discussions and negotiations between the parties that led to power purchase agreement, but should be prepared to testify about the dates indications of interest and discussions began and the milestone dates in the course of those discussions. The witness should be prepared to discuss items considered in Fall River's discovery requests 137 and 138.
- 13. Background and history of BHE's decision to seek amortization of the company's expenditures to acquire 174 Power Global's interest in the solar generating projects

referred to in these proceedings as SD Sun I, II and III, including the business case for the decision, all as set forth in BHE's Petition in South Dakota Public Utilities Commission Docket EL19-028.

The deposition(s) will be upon oral examination, under oath, conducted before a court reporter and recorded by stenographic means. To the extent areas of inquiry are confidential, involve commercially sensitive information or are governed by a non-disclosure agreement, appropriate transcript designations may be made. The oral examination will be conducted in a conference room to be designated at the Best Western Ramkota Hotel, 2111 N. Lacrosse Street, Rapid City, South Dakota, commencing at 9 a.m. on the 22nd day of August 2019, or such other time and/or location as is agreed on by the parties.

Dated this 12th day of August 2019.

TAYLOR LAW FIRM, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of August 2019, I served Notice of Deposition Pursuant to SDCL 15-6-30(b)(6) by email to the following:

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 /s/ William Taylor
*One of the Attorneys for Energy of Utah, LLC and
Fall River Solar, LLC*