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HAND DELIVERED

Patricia Van Gerpen
Executive Director
Public Utilities Commission
500 East Capitol Avenue
Pierre, South Dakota 57501

RE: **NORTHWESTERN/BBI TRANSACTION**
Docket GE06-001
Our file: 0230

Dear Patty:

Enclosed are original and 10 copies of NorthWestern's Opposition to the Motion for Continuance of Heartland and SDPC with Certificate of Service. Please file the enclosure. With a copy of this letter I am sending copies of the enclosure to counsel of record by both first class mail and electronic means where possible.

Yours truly,

MAY, ADAM, GERDES & THOMPSON LLP

BY: 

DAG:mw

Enclosures

cc/enc: Service List

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

IN THE MATTER OF THE MERGER)	DOCKET NO. GE06-001
BETWEEN NORTHWESTERN)	
CORPORATION AND BBI GLACIER)	NORTHWESTERN'S OPPOSITION
CORP., A SUBSIDIARY OF)	TO THE MOTION FOR
BABCOCK & BROWN)	CONTINUANCE OF HEARTLAND
INFRASTRUCTURE LIMITED)	AND SDPC

NorthWestern Corporation ("NorthWestern") opposes the motion for continuance of Heartland Consumers Power District ("Heartland") and South Dakota Power Company ("SDPC"), as follows:

1. The motion for continuance is premature, is based upon presently irrelevant factors resolved by the second scheduling order, and is an attempt to unnecessarily extend these proceedings beyond that which is reasonably necessary for the Commission to resolve the jurisdiction issue.

2. The motion is premature because the parties are still on schedule under the second scheduling order. The deposition of NorthWestern's controller, Kendall Kliever, was taken on September 27, 2006, in Sioux Falls. Counsel for Heartland and SDPC has requested a second deposition, being that of Brian Bird, NorthWestern's Vice President and Chief Financial Officer, which has been scheduled for October 13. Nothing has prevented counsel for Heartland and SDPC from performing the fundamental legal research necessary to respond to NorthWestern/BBI's initial brief, which was served and filed on September 14, 2006. That research, into the basic question presented by the pleadings, could have been accomplished at any time after NorthWestern's petition was filed.

3. In his affidavit counsel for Heartland and SDPC suggests that delays by NorthWestern exclusively delayed progress through the schedule established by the first scheduling order. While it can be argued that delays occurred because of inaction from time-to-time by both parties, nothing constructive can be accomplished by debating over whose delay was the most egregious. Those arguments are moot and were resolved by the entry of the second scheduling order. For example, NorthWestern promptly and timely made its July 21 production and in that production suggested that

the parties could file written data requests. To this date no written data requests have been received from anyone except Commission Staff. They were promptly answered. It is unfortunate that the parties could not reach agreement on a confidentiality agreement until late August, but that issue has been resolved by the entry of the second scheduling order. As stated above, the parties at this point are still within the second scheduling order.

4. Counsel for Heartland and SDPC complains that Mr. Kliever's deposition taken on September 26, 2006, was declared in its entirety to be confidential pending review of the transcript. This came about as the result of an agreement immediately before the deposition commenced which was reached by Heartland/SDPC counsel (Mr. Taylor's law partner) and NorthWestern counsel, along with counsel for East River and Basin Electric. Once the deposition transcript was reviewed, it was concluded that two words in the transcript were confidential, and the remainder of the transcript could be available to the public. The deposition transcript was received on October 4 and the confidentiality determination was made on October 6.

5. Opposing counsel complains about what is characterized as NorthWestern's insistence on a confidentiality agreement. It is submitted that this Commission as a matter of custom and practice routinely works with confidentiality agreements and the practice represents an imposition on neither the Commission nor the parties. Once the confidentiality agreement was entered into in this proceeding, it has not served as any impediment whatsoever to progress toward resolution of the issues.

6. The Commission has historically shown a great deal of flexibility in resolving matters before it in a timely fashion. The issues in this docket present no great impediment to resolution. It is submitted that NorthWestern has made all relevant information available, and it has been available since at least August 24, when Staff's data requests were answered and available as to confidential material to all parties signing a confidentiality agreement (NorthWestern counsel emailed Mr. Taylor on August 25 that NorthWestern would agree to all his demands concerning content of the confidentiality agreement). For Heartland and SDPC to wait until this past week to engage the services of an expert speaks louder than anything else as to where responsibility, if responsibility must be assigned, for delays

rests. It is submitted that this matter can and should be resolved under the current scheduling order.

7. In an effort to keep this matter on schedule, NorthWestern would agree to extend the due dates for briefs by two days to give counsel for Heartland and SDPC additional time to complete his submission. This would mean Intervenors/Staff briefs would be due October 19 and NorthWestern/BBI brief would be due October 26.

WHEREFORE NorthWestern prays that the Commission deny the motion for continuance, or in the alternative, extend the due dates by two days as suggested in this submission.

Dated this 13th day of October, 2006.

MAY, ADAM, GERDES & THOMPSON LLP

BY:  for

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CERTIFICATE OF SERVICE

Michael F. Shaw of May, Adam, Gerdes & Thompson LLP hereby certifies that on the 13th day of October, 2006, he mailed by United States mail, first class postage thereon prepaid, a true and correct copy of the foregoing in the above-captioned action to the following at their last known addresses, to-wit:

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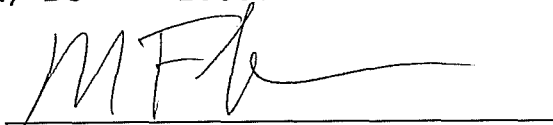
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