



Jason S. Keil
Manager – Regulatory Affairs

625 Ninth Street
Rapid City, SD 57701

January 29, 2016

Ms. Patricia Van Gerpen
Executive Director
South Dakota Public Utilities Commission
500 East Capital Avenue
Pierre, SD 57501

RE: In the Matter of the Consideration of Standards to Govern Avoided Cost Determinations (RM13-002)

Dear Ms. Van Gerpen:

Black Hills Power, Inc. d/b/a Black Hill Energy (“BHE”) appreciates this opportunity to submit comments regarding the above referenced docket for consideration by the South Dakota Public Utilities Commission (“SDPUC” or “Commission”).

On September 25, 2013, Commission Staff requested that the Commission open a rulemaking docket for the purpose of considering, on a statewide basis, the proper standards that should govern avoided cost determinations. Staff requested that comments be filed by December 3, 2013. On October 16, 2013, the Commission issued an Order to Proceed and Request for Comments from Interested Persons. On October 22, 2013, the Commission issued an Order Establishing Comment Schedule requiring initial comments to be filed by December 3, 2013, and responsive comments to be filed by January 10, 2014. Comments were received by the Commission. On January 29, 2014, the Commission issued an Order to Proceed Regarding LEO Creation Rules and Establishing Comment Deadline requesting comments by March 1, 2014, and directing Staff to recommend a set of rules. On November 5, 2015, Staff filed a set of rules for consideration by interested parties and the Commission, recommending the Commission set a schedule to take comments and make a final decision.

In response to Staff’s recommended set of rules, BHE requests that clarification be provided to the following:

Section 20:10:40:01

(2) “Legally enforceable obligation,” an obligation that the qualifying facility will sell and the affected public utility will purchase energy or capacity or both for a specified term in

which the rates for purchase shall, at the option of the qualifying facility, be based on either the avoided costs calculated at the time of delivery or the avoided costs calculated at the time the obligation is incurred;

It is BHE's assumption, but seeks clarification, that the meaning of "time of delivery" is that the avoided costs, as defined in 20:10:40:01 (1), would be calculated after-the-fact based on actual production data of the utility. The term "time the obligation is incurred" means that the avoided costs, as defined in 20:10:40:01 (1), would be calculated at some point-in-time prior to the QF and the utility entering into an agreement for the purchase of the QF energy. BHE also seeks clarification of when that point in time occurs – is it when the QF is first proposed, when the QF agreement is signed, or when the QF begins commercial operation?

BHE appreciates the opportunity to provide comments in this matter and looks forward to participating in this proceeding. Questions or requests for further information can be directed to the undersigned at 402-880-6312 or jason.keil@blackhillscorp.com.

Respectfully submitted,

/s/ Jason S. Keil

Jason S. Keil
Manager – Regulatory Affairs
Black Hills Power, Inc. d/b/a Black Hills Energy