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**Morgan Lewis**  
C O U N S E L O R S   A T   L A W

**RECEIVED**

**SEP 09 2008**

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

**Michael C. Griffen**  
(202) 739-5257  
mgriffen@morganlewis.com

September 4, 2008

**VIA FIRST CLASS MAIL**

Bryce Freeman, Administrator  
Office of Consumer Advocate  
Wyoming Public Service Commission  
Hansen Building Suite 300  
2515 Warren Avenue  
Cheyenne, WY 82002

Chris Petrie, Chief Counsel  
Wyoming Public Service Commission  
Hansen Building Suite 300  
2515 Warren Avenue  
Cheyenne, WY 82002

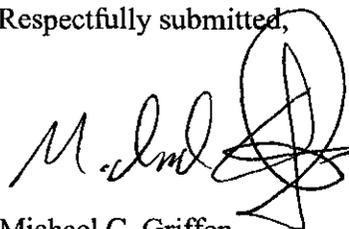
Patricia Van Gerpen, Executive Director  
South Dakota Public Utilities Commission  
Capitol Building, 1st floor  
500 East Capitol Avenue  
Pierre, SD 57501-5070

RE:   Black Hills Power, Inc.  
      Cheyenne Light, Fuel and Power Company

Dear Sir/Madam:

On behalf of Black Hills Power, Inc. ("Black Hills Power"), and Cheyenne Light, Fuel and Power Company ("CLFP"), attached please find a copy of a Renewable Energy Sales Agreement under which CLFP will sell wind-generated renewable energy to Black Hills Power at the same cost CLFP pays to procure the energy from an unaffiliated power producer. Black Hills Power and CLFP filed the agreement with the Federal Energy Regulatory Commission on August 29, 2008.

Respectfully submitted,



Michael C. Griffen  
Attorney for Black Hills Power, Inc., and  
Cheyenne Light, Fuel and Power Company

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Michael C. Griffen  
(202) 739-5257  
mgriffen@morganlewis.com

August 29, 2008

**VIA HAND DELIVERY**

Hon. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

RE: Cheyenne Light, Fuel and Power Company  
Black Hills Power, Inc.  
Docket No. ER08-\_\_\_\_\_

FILED  
SECRETARY OF THE  
COMMISSION  
2008 AUG 29 P 2:02  
FEDERAL ENERGY  
REGULATORY COMMISSION

Dear Ms. Bose:

Cheyenne Light, Fuel and Power Company ("CLFP") and Black Hills Power, Inc. ("Black Hills Power"), respectfully submit for filing with the Federal Energy Regulatory Commission ("FERC") a Renewable Energy Sales Agreement ("CLFP RESA") under which CLFP will sell wind-generated renewable energy to Black Hills Power at the same cost CLFP pays to procure the energy from an unaffiliated power producer.

CLFP and Black Hills Power are affiliates. Each is a wholly-owned subsidiary of Black Hills Corporation. CLFP is a traditional franchised public utility that serves retail customers in and around Cheyenne, Wyoming. Black Hills Power is a traditional franchised public utility that serves a small retail and wholesale electric customer base in a tri-state area in the eastern portion of the Western Electricity Coordinating Council region. Each serves its customers using mostly its own generation supplemented with some long-term purchased capacity and energy. Each has market-based rate authority granted by FERC, but neither is a "market-regulated power sales affiliate" as that term is defined in Order No. 697 and FERC's regulations.<sup>1</sup>

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1. Market-Based Rates for Wholesale Sales of Electric Energy, Capacity, and Ancillary Services by Public Utilities, Order No. 697, 72 Fed. Reg. 39,904 (July 20, 2007), FERC Stats. & Regs. ¶ 31,252 (2007), *order on reh'g*, Order No. 697-A, 73 Fed. Reg. 25,832 (May 7, 2008); 18 C.F.R. § 35.36(a)(7).

CLFP is party to a Renewable Energy Purchase Agreement with Happy Jack Windpower, LLC ("Happy Jack Windpower"), a non-affiliate ("Happy Jack Windpower REPA"). CLFP negotiated the Happy Jack Windpower REPA on an arms-length basis after having conducted a competitive solicitation for renewable energy resources. CLFP purchases renewable energy and associated environmental and renewable energy credits on a unit-contingent basis ("Renewable Energy") from Happy Jack Windpower under the long-term Happy Jack Windpower REPA. Happy Jack Windpower owns and operates a wind-powered generating facility in the vicinity of Cheyenne, Wyoming, to serve as the source of the power sold under the Happy Jack Windpower REPA. That facility recently commenced production.

CLFP and Black Hills Power have entered into the RESA to allow CLFP to provide to Black Hills Power some of the Renewable Energy it purchases from Happy Jack Windpower under the Happy Jack Windpower REPA. CLFP and Black Hills Power already coordinate the dispatch and operation of their respective systems through a Generation Dispatch and Energy Management Agreement on file with FERC.<sup>2</sup> The RESA will help the parties achieve a greater realization of economic benefits for their respective customers through the coordination of generation and the purchase of wholesale energy produced and sold by a third-party supplier.

Under the RESA, CLFP will provide Black Hills Power with Renewable Energy that CLFP will procure from Happy Jack Windpower under the Happy Jack Windpower REPA. CLFP will charge Black Hills Power only its costs of procuring that Renewable Energy from Happy Jack Windpower (including the cost of any transmission and transmission-related services). CLFP will not charge Black Hills Power a mark-up or premium for the Renewable Energy provided under the RESA.

The RESA will not give CLFP and Black Hills Power the opportunity to engage in an inappropriate or abusive affiliate transaction or to pass inappropriate costs to Black Hills Power's customers. The Happy Jack Windpower REPA, under which CLFP will procure the Renewable Energy sold to Black Hills Power, was negotiated at arms length following a competitive solicitation. CLFP will provide the Renewable Energy to Black Hills Power under the RESA on a cost pass-through basis without mark-up or premium. The arrangement will benefit the customers of CLFP and Black Hills Power customers through the coordination of generation and the sharing of wholesale energy generated by a third-party supplier and provided to CLFP and Black Hills Power at a market price.

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2. Black Hills Power, Inc., and Cheyenne Light, Fuel and Power Company, Letter Order in Docket No. ER07-943-000 (December 28, 2007).

**Compliance With FERC Filing Requirements**

CLFP and Black Hills Power provide the following information in compliance with FERC's requirements under Part 35 of its regulations:

**A. List of Documents Submitted**

CLFP and Black Hills Power submit six copies of the following documents:

1. This transmittal letter; and
2. Attachment A: Renewable Energy Sales Agreement.

**B. Communications**

CLFP and Black Hills Power request that communications regarding this filing be provided to the following:

Kenna J. Hagan  
Associate Counsel  
Black Hills Corporation  
625 Ninth Street, 6th Floor  
P.O. Box 1400  
Rapid City, SD 57709  
T: (605) 716-3961  
F: (605) 721-2550  
khagan@blackhillscorp.com

Brian G. Iverson  
VP Electric Regulatory Service  
Black Hills Corporation  
625 Ninth Street, 5th Floor  
P.O. Box 1400  
Rapid City, SD 57709  
T: (605) 721-2305  
F: (605) 721-2550  
biverson@blackhillscorp.com

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T: (202) 739-5257  
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mgriffen@morganlewis.com

**C. Effective Date and Request for Waivers**

CLFP and Black Hills Power request FERC to accept the RESA effective as of August 29, 2008. CLFP and Black Hills Power request waiver of any FERC regulations necessary to make the RESA effective as of August 29, 2008.

**Conclusion**

For the foregoing reasons, CLFP and Black Hills Power request FERC to accept the RESA effective as of August 29, 2008.

Respectfully submitted,



Michael C. Griffen  
Attorney for Cheyenne Light, Fuel and Power Company  
and Black Hills Power, Inc.

Attachment

**ATTACHMENT A**

**Renewable Energy Sales Agreement**

**RENEWABLE ENERGY SALES AGREEMENT**

**BETWEEN**

**CHEYENNE LIGHT, FUEL AND POWER COMPANY**

**AND**

**BLACK HILLS POWER, INC.**

**Dated: August 29, 2008**

**RENEWABLE ENERGY SALES AGREEMENT**

**BETWEEN**

**CHEYENNE LIGHT, FUEL AND POWER COMPANY**

**AND**

**BLACK HILLS POWER, INC.**

This Renewable Energy Sales Agreement ("Agreement") is made and entered into this 29th day of August, 2008, by and between Cheyenne Light, Fuel and Power Company ("CLFP"), a Wyoming corporation, and Black Hills Power, Inc. ("Black Hills Power"), a South Dakota corporation, referred to collectively as "Parties" and each singularly as a "Party".

WHEREAS, CLFP purchases Renewable Energy and associated environmental and renewable energy credits produced by Happy Jack Windpower, LLC ("Happy Jack Windpower"), under a Renewable Energy Purchase Agreement between CLFP and Happy Jack Windpower dated as of November 22, 2006 ("REPA"); and

WHEREAS, CLFP wishes to sell to Black Hills Power, and Black Hills Power wishes to purchase from CLFP, Renewable Energy and associated environmental and renewable energy credits on a unit-contingent basis produced by Happy Jack Windpower and purchased by CLFP under the REPA; and

WHEREAS, the Parties enter into this Agreement in order to achieve a greater realization of economic benefits for their respective customers through the coordination of generation and/or purchasing of wholesale energy.

NOW, THEREFORE, in consideration of the covenants and premises herein set forth, and other good and sufficient consideration, the Parties mutually agree as follows:

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Issued by: Brian G. Iverson  
Vice President - Electric Regulatory Services  
Issued on: August 29, 2008

Effective Date: August 29, 2008

**ARTICLE I  
TERM OF AGREEMENT**

This Agreement shall become effective at 12:00 a.m. M.P.T. on the first day that Happy Jack Windpower sells Renewable Energy to CLFP under the REPA and shall continue in full force and effect until the expiration or early termination of the REPA.

**ARTICLE II  
DEFINITIONS**

For the purpose of this Agreement, the following definitions shall apply:

2.01 "Renewable Energy" shall mean the unit-contingent renewable energy and associated environmental and renewable energy credits produced by Happy Jack Windpower and purchased by CLFP under the REPA.

2.02 "REPA" shall mean the Renewable Energy Purchase Agreement between CLFP and Happy Jack Windpower dated as of November 22, 2006.

**ARTICLE III  
SALE AND PURCHASE OF UNIT-CONTINGENT RENEWABLE ENERGY**

3.01 CLFP shall sell to Black Hills Power, and Black Hills Power shall purchase from CLFP, up to 20 MW of Renewable Energy produced by Happy Jack Windpower and purchased by CLFP under the REPA. CLFP may sell, and Black Hills Power may purchase, such other or different amounts of Renewable Energy as they mutually agree upon.

3.02 CLFP shall have a one-time option to reduce the amount of Renewable Energy sold to Black Hills Power from 20 MW to 15 MW. This option may be executed at any time during the term of this Agreement.

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Issued by: Brian G. Iverson  
Vice President - Electric Regulatory Services  
Issued on: August 29, 2008

Effective Date: August 29, 2008

**ARTICLE IV  
PRICE**

Black Hills Power shall pay CLFP for Renewable Energy actually received under this Agreement at the same rate as CLFP pays Happy Jack Windpower for Renewable Energy under the REPA. Black Hills Power also shall reimburse CLFP for all transmission and transmission-related charges CLFP incurs in connection with the Renewable Energy sold under this Agreement. CLFP shall not charge Black Hills Power a mark-up or other premium for Renewable Energy sold under this Agreement.

**ARTICLE V  
MISCELLANEOUS PROVISIONS**

**5.01 Regulatory Authorization**

This Agreement is subject to certain regulatory approvals and each Party shall diligently seek all such necessary regulatory authorization.

**5.02 Effect on Other Agreements**

This Agreement shall not modify the obligations of either Party under any other agreement between the Parties that is in effect as of the date of this Agreement, or the obligation of others not parties to this Agreement.

**5.03 Billings**

Bills for services rendered hereunder shall be calculated in accordance with applicable Schedules, and shall be issued on a monthly basis for services performed during the preceding Month.

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Issued by: Brian G. Iverson  
Vice President - Electric Regulatory Services  
Issued on: August 29, 2008

Effective Date: August 29, 2008

5.04 Waivers

Any waiver at any time by either Party of its right with respect to a default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not be deemed a waiver with respect to any subsequent default or matter. Any delay, short of the statutory period of limitation, in asserting or enforcing any right under this Agreement, shall not be deemed a waiver of such right.

5.05 Successors and Assigns

This Agreement shall inure to the benefit of and be binding upon the Parties only, and their respective successors and assigns, and shall not be assignable by either Party without the written consent of the other Party.

5.06 No Third Party Beneficiaries

This Agreement does not create rights of any character whatsoever in favor of any person, corporation, association, entity, or power suppliers, other than the Parties, and the obligations herein assumed by the Parties are solely for the use and benefit of said Parties. Nothing in this Agreement shall be construed as permitting or vesting, or attempting to permit or vest, in any person, corporation, association, entity, or power suppliers, other than the Parties, any rights hereunder or in any of the Generating Units or other assets owned by the Parties, or the use thereof.

5.07 Amendment

It is contemplated by the Parties that it may be appropriate from time to time to change, amend or supplement this Agreement. This Agreement may be changed, amended, modified or

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Issued by: Brian G. Iverson  
Vice President - Electric Regulatory Services  
Issued on: August 29, 2008

Effective Date: August 29, 2008

supplemented by an instrument in writing executed by both of the Parties after approval or acceptance for filing, if necessary, by the appropriate regulatory authorities.

5.08 Liability and Indemnification

Subject to any applicable state or federal law which may specifically restrict limitations on liability, each Party shall defend, indemnify, hold harmless, and release the other Party, and their directors, officers, and employees, from and against any and all liability for loss, damage, or expense alleged to arise from, or incidental to, injury to persons, and/or damage to property in connection with its facilities or the production or transmission of energy by or through such facilities. In no event shall one Party be liable to the other Party for any indirect, special, incidental, or consequential damages with respect to any claim arising out of this Agreement.

5.09 Regulatory Changes or Approvals.

If any regulatory agency having jurisdiction over either Party passes laws or regulations that make the obligations of this Agreement vary in any way other than that originally contemplated, then the Parties shall take such additional action as may reasonably be required to promptly comply with the change in law and obtain any additional required approvals. In the event such change or approval is not acceptable to either party, the objecting party may terminate this Agreement by three months prior written notice to the other party and after satisfaction of any and all outstanding obligations.

5.10 Governing Law

The validity, interpretation and performance of this Agreement and each of its provisions shall be governed by the applicable laws of the State of South Dakota.

Issued by: Brian G. Iverson  
Vice President - Electric Regulatory Services  
Issued on: August 29, 2008

Effective Date: August 29, 2008

5.11 Section Headings

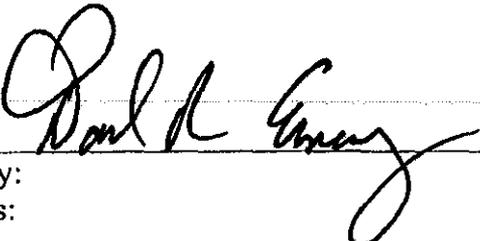
The descriptive headings of the Articles and sections of this Agreement are used for convenience only, and shall not modify or restrict any of the terms and provisions thereof.

5.12 Counterparts

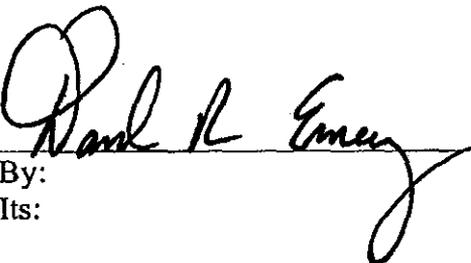
This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and attested by their duly authorized officers on the day and year first above written.

**CHEYENNE LIGHT, FUEL AND POWER COMPANY**

  
By: \_\_\_\_\_ Date: 8-29-08  
Its:

**BLACK HILLS POWER, INC.**

  
By: \_\_\_\_\_ Date: 8-29-08  
Its:

Issued by: Brian G. Iverson  
Vice President - Electric Regulatory Services  
Issued on: August 29, 2008

Effective Date: August 29, 2008