

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

BEFORE THE SOUTH DAKOTA  
PUBLIC UTILITIES COMMISSION

RECEIVED  
DEC 30 2004  
SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

\* \* \* \* \*  
In the Matter of the Filing by  
Superior Renewable Energy, LLC,  
et al against Montana-Dakota  
Utilities Co. Regarding the Java  
Wind Project.  
\* \* \* \* \*

EL04-016  
HEARING  
(November 30, 2004)

BEFORE: Chairperson Robert K. Sahr  
Commissioner Gary Hanson  
Commissioner James Burg

APPEARANCES: Mr. John Smith  
Public Utilities Commission  
Pierre, South Dakota  
  
Attorney for the Commission.  
  
Ms. Karen E. Cremer  
Public Utilities Commission  
Pierre, South Dakota  
  
Attorney for the Commission Staff.  
  
Mr. Brett M. Koenecke  
May, Adams, Gerdes & Thompson  
Pierre, South Dakota  
  
Attorney for Montana-Dakota Utilities.

PROCEEDINGS: The above-entitled matter came on for hearing  
on the 30th day of November, 2004, commencing  
at the hour of 3:05 p.m. at the Holiday Inn  
City Centre, Sioux Falls, South Dakota.

1           CHAIRPERSON SAHR: Next is EL04-016. This is the  
2 matter of the filing by Superior Renewable Energy, et al,  
3 against Montana-Dakota Utilities Company regarding the  
4 Java Wind Project. And the question today is shall the  
5 Commission grant Superior's motion to shorten time for  
6 responses to discovery requests and to extend discovery  
7 cutoff date.

8           MR. KOENECKE: Mr. Chairman.

9           CHAIRPERSON SAHR: Yes, Mr. Koenecke.

10          MR. KOENECKE: If I might, I would like to announce  
11 we have settled the matter between ourselves in the  
12 telephone discussions that continued through earlier this  
13 afternoon. We are going to ask the Commission to set the  
14 discovery deadline as February 25th. That is one week  
15 after the Staff testimony is due in this matter. And  
16 that would give us all a chance to look at Staff's filed  
17 testimony, filings and discovery requests which were  
18 necessary in the time period before the hearing which is  
19 to start I believe on March 20th, if I recall correctly.

20          And with respect to the motion to shorten the time  
21 for responses to the recently propounded discovery from  
22 Superior, we have agreed that we'll file our answers on  
23 Monday, the 13th of December. That shortens the time  
24 period by two or three days, depending on how you read  
25 the code when you were served with notice. They were

1 propounded on the 15th, and we've agreed that we can  
2 answer those -- those discovery requests by then. And I  
3 believe that fully states the agreement between the  
4 parties. Thank you.

5 CHAIRPERSON SAHR: Thank you. Mr. Meierhenry, do you  
6 have anything to add? Mr. Meierhenry, are you on the  
7 line? I will take that as a no. We can't track who is  
8 on the line at this point in time. And I will ask for a  
9 little help from the people on the conference call. Can  
10 you hear us in Sioux Falls?

11 UNIDENTIFIED VOICE: We can hear you, Bob.

12 CHAIRPERSON SAHR: Thank you very much. I think we  
13 had a drop. I noticed there was a beep during the last  
14 proceeding, and maybe that is what happened. I will look  
15 to Staff. Have you had the ability or someone else had  
16 the ability to take a look at this and maybe discuss with  
17 the parties?

18 MS. CREMER: I did talk to Mr. Moody 1:30 or so, and  
19 he did say that they had settled in exactly the manner  
20 that Mr. Koenecke has stated.

21 CHAIRPERSON SAHR: I'm comfortable that we could go  
22 ahead and take action on this. Certainly if something  
23 needs to be taken care of after the fact, we can look at  
24 it at that point in time, but I don't know there is any  
25 reason to hold this over. So I guess I will see if there

1 are any questions from the Commissioners.

2 COMMISSIONER HANSON: No.

3 CHAIRPERSON SAHR: Seeing none, then I will move that  
4 -- are we going to dismiss this or grant the motion?

5 MS. CREMER: I suppose you could withdraw the --

6 MR. KOENECKE: Amend the scheduling order.

7 MS. CREMER: Or issue that we do a new procedural  
8 order.

9 CHAIRPERSON SAHR: Okay. I'm going to then go ahead  
10 and move that we take no action on Superior's motions,  
11 but that we have the scheduling order amended to reflect  
12 the agreement between the parties.

13 COMMISSIONER HANSON: Second.

14 COMMISSIONER BURG: Concur.

15 (End of proceedings at 3:10 p.m.)

16

17

18

19

20

21

22

23

24


25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF SOUTH DAKOTA            )  
  :SS                    CERTIFICATE  
COUNTY OF MINNEHAHA            )

I, Kerry Lange, Court Reporter in the above-named County and State, certify that the above-entitled proceedings were reported by me, and the foregoing Pages 1 - 4, inclusive, are a true and correct transcript of my stenotype notes.

Dated at Sioux Falls, South Dakota, this 28<sup>th</sup> day of December, 2004.

  
\_\_\_\_\_  
Kerry Lange