

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

**IN THE MATTER OF THE COMPLAINT BY OAK)
TREE ENERGY LLC AGAINST NORTHWESTERN)
ENERGY FOR REFUSING TO ENTER INTO A)
PURCHASE POWER AGREEMENT)**

**AMENDED
SCHEDULING ORDER

EL11-006**

On April 28, 2011, Oak Tree Energy, LLC (Oak Tree or Complainant) filed a Complaint with the South Dakota Public Utilities Commission (Commission) against NorthWestern Corporation d/b/a NorthWestern Energy (NWE). The Complaint alleges that a dispute exists between Complainant and NWE over the terms of a power purchase agreement (PPA) sought by Oak Tree for the purchase by NWE of Oak Tree's output from its Oak Tree Project (Project), a 19.5 MW nameplate capacity wind generation facility located in Clark County that is a Qualified Facility under the Public Utility Regulatory Policy Act of 1978, 16 U.S.C. § 824a-n (PURPA). The Complaint requests that the Commission exercise its jurisdiction to resolve the dispute between the Complainant and NWE, determine NWE's avoided costs over the 20 year life of the Project that it must pay Oak Tree under PURPA for electricity generated from the Project, and grant Oak Tree such other relief as is necessary for Oak Tree to obtain a PPA with NWE for electricity produced from the Project on terms consistent with the requirements of PURPA and the Commission's 1983 Order in Docket F-3365.

On May 5, 2011, the Commission electronically transmitted notice of the filing and the intervention deadline of May 20, 2011, to interested persons on the Commission's PUC Filings electronic notice list. No petitions for intervention were filed. On May 20, 2011, NWE filed its Answer to the Complaint. On September 7, 2011, Oak Tree filed a Motion to Compel. On October 13, 2011, Oak Tree filed a Supplemental Brief to Motion to Compel.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-34A, including 49-34A-93.

On October 13, 2011, Commission Counsel held a second pre-hearing scheduling teleconference with counsel for all parties participating. The parties agreed to the following amended procedural schedule for actions originally not scheduled or scheduled to occur after the date of this Order:

Oct. 28, 2011	Staff discovery served
Nov. 28, 2011	All parties responses to Staff discovery served
Dec. 16, 2011	Oak Tree direct testimony filed and served
Jan. 13, 2012	NWE direct and responsive testimony filed and served
Jan. 27, 2012	Staff testimony filed and served
Feb. 9, 2012	Oak Tree rebuttal testimony filed and served and NWE testimony responsive to Staff testimony filed and served

Feb. 16, 2012 Pre-hearing motions filed and served

A pre-hearing conference will be scheduled prior to the hearing upon the request of a party or Commission Counsel. A hearing date has not been set as of this date. As of the pre-hearing conference, it was the consensus of the parties that two days was the appropriate duration to schedule for hearing. Counsel for the parties are currently reviewing available hearing dates in March with their clients and schedules for conflicts and have agreed to advise the other parties and Commission Counsel as to workable dates as soon as possible.

It is therefore

ORDERED, that the amended procedural schedule set forth above is established and shall be followed by the parties, and all above-described documents shall be filed and served on or before the above dates unless an order modifying this schedule is approved by the Commission.

Dated at Pierre, South Dakota, this 20th day of October, 2011.

CERTIFICATE OF SERVICE	
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.	
By:	<u>Jay King</u>
Date:	<u>October 20, 2011</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

Gary Hanson

GARY HANSON, Chairman

Chris Nelson

CHRIS NELSON, Commissioner

Kristie Fiegen

KRISTIE FIEGEN, Commissioner