

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

IN THE MATTER OF THE MERGER BETWEEN)	SECOND SCHEDULING
NORTHWESTERN CORPORATION AND BBI)	ORDER
GLACIER CORP., A SUBSIDIARY OF)	
BABCOCK & BROWN INFRASTRUCTURE)	GE06-001
LIMITED)	

On June 7, 2006, Northwestern Corporation (NorthWestern) and Babcock & Brown Infrastructure Limited (BBI) filed a petition for declaratory ruling and for transaction approval if jurisdiction found. On June 19, 2006, NorthWestern and BBI filed an amendment to petition for declaratory ruling and for transaction approval if jurisdiction found. NorthWestern and BBI have entered into an agreement and plan of merger, dated as of April 25, 2006, which is pending approval of the stockholders of NorthWestern at its annual meeting to be held on August 2, 2006. In connection with this transaction a question has arisen as to whether the South Dakota Public Utilities Commission (Commission) has jurisdiction to approve the transaction. NorthWestern and BBI have filed a petition for a declaratory ruling pursuant to SDCL § 1-26-15 and ARSD 20:10:01:34. If the Commission concludes that it does in fact have jurisdiction, a second question is presented, namely, will the Commission approve the transaction.

On June 8, 2006, the Commission electronically transmitted notice of the filing and the intervention deadline of June 21, 2006, to interested individuals and entities. On June 21, 2006, the Commission received a Petition for Leave to Intervene and Provisional Request for Conditions to Approval of Merger from Missouri River Energy Services (MRES) and Petitions to Intervene from South Dakota Power Company (SD Power) and Heartland Consumers Power District (Heartland). On June 22, 2006, the Commission received a Joint Petition to Intervene from East River Electric Cooperative, Inc. (East River) and Basin Electric Power Cooperative, Inc. (Basin). At its July 11, 2006, meeting, the Commission granted intervention to MRES, SD Power, Heartland, East River and Basin. On July 11, 2006, a pre-hearing scheduling conference was held among counsel for the parties, and on July 20, 2006, the Commission issued a Scheduling Order.

On September 19, 2006, Commission Counsel held a second pre-hearing scheduling teleconference with counsel for NorthWestern and BBI, MRES, SD Power, Heartland, East River and Basin and the Commission's Executive Director participating for staff. The conference was precipitated by slippages in deadlines in the Scheduling Order due to confidentiality concerns in the discovery process. Based upon the discussion and consensus at the second scheduling conference, a draft of this order, including the following procedural schedule, was prepared and circulated by email for comment and approval by the parties. None of the parties voiced an objection to the draft order.

Procedural Schedule:

The parties shall comply with the following procedural schedule (all dates 2006):

- | | |
|------------|---|
| October 17 | Intervenors and Staff Briefs regarding jurisdiction due |
| October 24 | Reply Briefs regarding jurisdiction due |

October 31

Oral Arguments regarding jurisdiction to be held the later of 10:30 a.m., or immediately following the Commission meeting (telephonic participation permitted)

It is therefore

ORDERED, that the 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. It is further

ORDERED, that oral arguments shall be held at the time and place specified above on the issue of jurisdiction.

Dated at Pierre, South Dakota, this 26th day of September, 2006.

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>Melaine Kolbo</u>
Date: <u>9/27/06</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Robert K. Sahr

ROBERT K. SAHR, Chairman

Dustin M. Johnson

DUSTIN M. JOHNSON, Commissioner

Gary Hanson

GARY HANSON, Commissioner