

LAW OFFICES
MAY, ADAM, GERDES & THOMPSON LLP
503 SOUTH PIERRE STREET
P.O. BOX 160
PIERRE, SOUTH DAKOTA 57501-0160

THOMAS C. ADAM
DAVID A. GERDES
CHARLES M. THOMPSON
ROBERT B. ANDERSON
BRENT A. WILBUR
TIMOTHY M. ENGEL
MICHAEL F. SHAW
NEIL FULTON
BRETT KOENECKE

SINCE 1881
www.magt.com
October 4, 2004

OF COUNSEL
WARREN W. MAY
GLENN W. MARTENS 1881-1963
KARL GOLDSMITH 1885-1966

TELEPHONE
605 224-8803
TELECOPIER
605 224-6289
E-MAIL
dag@magt.com

HAND DELIVERED

Pam Bonrud, Executive Secretary
Public Utilities Commission
500 East Capitol Avenue
Pierre, South Dakota 57501

RECEIVED
OCT 04 2004
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

RE: IN THE MATTER OF THE FILING BY SUPERIOR RENEWABLE ENERGY
LLC ET AL AGAINST MONTANA-DAKOTA UTILITIES CO. REGARDING
THE JAVA WIND PROJECT
Docket EL04-016
Our file: 0069

Dear Pam:

Enclosed are original and ten copies of Montana-Dakota's Answer
the above-entitled docket, which please file.

With a copy of this letter, I am serving copies of the enclosure
upon the service list.

Yours truly,

MAY, ADAM, GERDES & THOMPSON LLP



DAVID A. GERDES
DAG:mw

Enclosures

cc/enc: Service List
Don Ball
Douglas Schulz
Phil Lookadoo

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

RECEIVED

OCT 04 2004

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE FILING BY) EL04-016
SUPERIOR RENEWABLE ENERGY LLC)
ET AL AGAINST MONTANA-DAKOTA) **MONTANA-DAKOTA'S**
UTILITIES CO. REGARDING THE) **ANSWER**
JAVA WIND PROJECT)

Answering the complaint herein, Montana-Dakota Utilities Co. ("Montana-Dakota"), states and alleges as follows:

1. Montana-Dakota admits that portion of paragraph 1 of the complaint that complainants have filed the complaint to obtain a determination from the Commission under the Public Utility Regulatory Policy Act of 1978 concerning the terms and conditions of a proposed long-term electric power purchase agreement between complainants and Montana-Dakota.

2. Montana-Dakota admits paragraphs 2, 3, 6, 9 and 25 of the complaint.

3. Montana-Dakota is without information sufficient to form a belief as to the truth of paragraph 4 and that portion of paragraph 5 of the complaint succeeding the first sentence.

4. Montana-Dakota admits that portion of paragraph 5 of the complaint that a plat showing the location of the Java Wind Project is attached as Exhibit A to the complaint. Montana-Dakota admits that portion of paragraph 7 of the complaint that complainants contend the Java Wind Project is qualified facility. Montana-Dakota neither admits nor denies the remainder of paragraph 7 as calling for a legal conclusion without adequate foundation.

5. Montana-Dakota admits that portion of paragraph 10 of the complaint that avoided costs are to be determined based on a number of factors set forth in 18 CFR § 292.304(e).

6. Montana-Dakota admits that portion of paragraph 13 of the complaint that the Commission issued its decision and order on December 11, 1982, in Docket F-3365, but Montana-Dakota

neither admits nor denies the relevance of that order to this proceeding as calling for a legal conclusion without adequate foundation.

7. Montana-Dakota neither admits nor denies the two paragraphs numbered 14 of the complaint upon the ground that the Commission's order speaks for itself.

8. Montana-Dakota neither admits nor denies paragraphs 16, 17, 18, 19, 20, 21, 22, 23 and 24, upon the ground that they are argumentative, inaccurate and do not include all facts relevant to the negotiations of the parties. For example, contrary to the impression left by paragraph 16, Superior did not attain QF status until April 15, 2004. Montana-Dakota affirmatively alleges that it negotiated in good faith with complainants, notwithstanding their insistence, both before and after QF qualification, upon compliance by Montana-Dakota with its so-called Section 133 obligation. In fact FERC eliminated that obligation as to Montana-Dakota and similarly situated utilities in 1992.

9. Montana-Dakota affirmatively alleges that it has attempted in good faith to negotiate with complainants on all aspects of the matters about which complainants now complain, but Montana-Dakota was in good faith unable to satisfy demands for information, negotiation and interconnection which were not based upon a realistic and contemporary view of the various regulations promulgated by the Federal Energy Regulatory Commission which apply to proposed transactions represented by the facts of this complaint.

10. Montana-Dakota further affirmatively alleges that upon a realistic determination of its avoided energy and capacity costs and proper recognition by complainants of their long-term responsibilities under PURPA, Montana-Dakota stands ready to discharge its responsibilities under PURPA.

11. Except as herein expressly admitted, Montana-Dakota denies all the allegations of the complaint.

Dated this 4th day of October, 2004.

MAY, ADAM, GERDES & THOMPSON LLP

BY: 

DAVID A. GERDES
Attorneys for Montana-Dakota
503 South Pierre Street
P.O. Box 160
Pierre, South Dakota 57501-0160
Telephone: (605)224-8803
Telefax: (605)224-6289

CERTIFICATE OF SERVICE

David A. Gerdes of May, Adam, Gerdes & Thompson LLP hereby certifies that on the 4th day of October, 2004, he mailed by United States mail, first class postage thereon prepaid, a true and correct copy of the foregoing in the above-captioned action to the following at their last known addresses, to-wit:

MICHELE FARRIS/KEITH SENGER
STAFF ANALYSTS
PUBLIC UTILITIES COMMISSION
500 EAST CAPITOL
PIERRE, SD 57501

KAREN E. CREMER
STAFF ATTORNEY
PUBLIC UTILITIES COMMISSION
500 EAST CAPITOL
PIERRE, SD 57501

MARK V. MEIERHENRY
DANFORTH, MEIERHENRY & MEIERHENRY, L.L.P.
315 SOUTH PHILLIPS AVENUE
SIOUX FALLS, SD 57104-6318

SUZAN M STEWART
SENIOR MANAGING ATTORNEY
MIDAMERICAN ENERGY COMPANY
PO BOX 778
SIOUX CITY IA 51102-0778

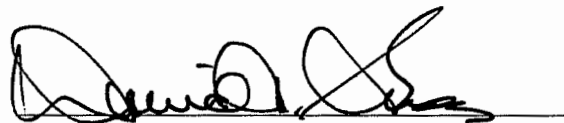
ALAN D DIETRICH
VICE PRESIDENT - LEGAL ADMINISTRATION
AND CORPORATE SECRETARY
NORTHWESTERN CORPORATION
125 SOUTH DAKOTA AVENUE SUITE 1100
SIOUX FALLS SD 57104

STEVEN J HELMERS
SENIOR VICE PRESIDENT AND GENERAL COUNSEL
BLACK HILLS CORPORATION
PO Box 1400
RAPID CITY SD 57709-1400

CHRISTOPHER B CLARK
ASSISTANT GENERAL COUNSEL
NORTHERN STATES POWER COMPANY
D/B/A XCEL ENERGY
800 NICOLLET MALL SUITE 3000
MINNEAPOLIS MN 55402

M. BRADFORD MOODY
ATTORNEY AT LAW
WATT BECKWORTH THOMPSON & HENNEMAN LLP
1010 LAMAR SUITE 1600
HOUSTON TX 77002

LINDA L. WALSH
ATTORNEY AT LAW
HUNTON & WILLIAMS LLP
1900 K STREET NW
WASHINGTON DC 20006

A handwritten signature in black ink, appearing to read "David A. Gerdes", written over a horizontal line.

David A. Gerdes