

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

EL 11-006

Answer

NorthWestern Corporation d/b/a NorthWestern Energy (NorthWestern), for its Answer to Oak Tree Energy LLC's (Oak Tree) Complaint, states and alleges as follows:

1. NorthWestern denies each and every matter, allegation, and thing in the Complaint except as expressly admitted below.
2. NorthWestern admits that portion of paragraph 1 that Oak Tree has filed the Complaint to obtain a determination from the Commission under the Public Utility Regulatory Policy Act of 1978 (PURPA) concerning the negotiation of a proposed long-term electric power purchase agreement between Oak Tree and NorthWestern.
3. NorthWestern admits paragraphs 2, 3, and 9 of the Complaint.
4. NorthWestern is without information sufficient to form a belief as to the truth of paragraph 4.
5. NorthWestern admits that portion of paragraph 5 of the Complaint that is a legal description of the location of the Oak Tree Project. NorthWestern Energy neither admits nor denies the remainder of paragraph 5 in that it is without sufficient information to know whether or not Oak Tree has secured the necessary contracts and property rights from landowners and whether or not those contracts typically run for a period of 20 years.

6. NorthWestern denies the first sentence of paragraph 6. (See Exhibit A.) Exhibit A is a map depicting NorthWestern's service territory in relation to the legal description of the Oak Tree Project set forth in paragraph 5 of the Complaint by Oak Tree. NorthWestern admits the second sentence of paragraph 6.

7. NorthWestern admits that portion of paragraph 7 of the Complaint that Oak Tree contends that the Oak Tree Project is a qualified facility (QF). NorthWestern neither admits nor denies the remainder of paragraph 7 as calling for a legal conclusion without adequate foundation.

8. NorthWestern admits that portion of paragraph 8 of the Complaint that Oak Tree contends Section 210(a) of PURPA requires NorthWestern to purchase electricity from QF's. NorthWestern denies the rest of paragraph 8 as the proposed Oak Tree Project is not within NorthWestern's service territory.

9. NorthWestern admits that portion of paragraph 10 that avoided costs are to be determined based on a number of factors set forth in 18 CFR § 292.304(e).

10. NorthWestern admits that portion of paragraph 11 that the Commission issued an Order on December 11, 1982, in docket F-3365; however, NorthWestern denies Oak Tree's characterization of the December 11, 1982 Order in docket F-3365.

11. NorthWestern neither admits nor denies paragraph 12 of the Complaint; the Commission's December 11, 1982 Order in docket F-3365 speaks for itself.

12. NorthWestern neither admits nor denies paragraphs 13, 14, and 15 of the Complaint upon the grounds that they are argumentative, inaccurate, and do not include all facts relevant to the negotiation. For example, the impression left by Oak Tree in paragraph 14 of the Complaint is that NorthWestern declined to continue negotiations with Oak Tree in a letter dated

March 10, 2011. (See Exhibit 12 to the Complaint.) Plain reading of NorthWestern's March 10, 2011 correspondence clearly states that "NorthWestern would be interested in any discussions that would add cost effective renewable resources to our portfolio that would maintain or reduce the costs to our customers." (*Id.*)

13. NorthWestern affirmatively alleges that it has negotiated in good faith with Oak Tree on all aspects of the Oak Tree Project. NorthWestern was in good faith able to satisfy the demands for information that Oak Tree requested.

14. NorthWestern affirmatively alleges that a wind facility is not comparable to other dispatchable facilities and currently the company is not in need of additional generation resources to meet customer demands. Currently, NorthWestern is selling excess generation to the open market. (See Exhibit B, Affidavit of Dennis Wagner.)

15. NorthWestern affirmatively alleges on information and belief that Oak Tree has nondiscriminatory access to other comparable competitive quality wholesale markets.

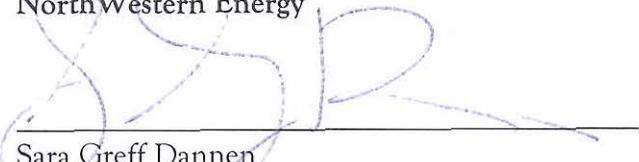
16. NorthWestern affirmatively alleges that its filed tariff Rates 73 and 74 for avoided costs have been properly filed, reviewed, and approved by the South Dakota Public Utilities Commission. (See Exhibit C.)

WHEREFORE Defendant NorthWestern Corporation d/b/a NorthWestern Energy prays as follows:

1. That the Complaint be dismissed on the merits and with prejudice; and
2. That NorthWestern Energy recover its costs and disbursements together with such other and further relief as the Commission deems just and equitable.

Dated at Sioux Falls, South Dakota, this 20th day of May, 2011.

NorthWestern Corporation d/b/a
NorthWestern Energy



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Certificate of Service

Sara Greff Dannen, counsel for NorthWestern Corporation d/b/a NorthWestern Energy, hereby certifies that on this 20th day of May, 2011, a true and correct copy of the foregoing Answer was served upon the following by electronic mail:

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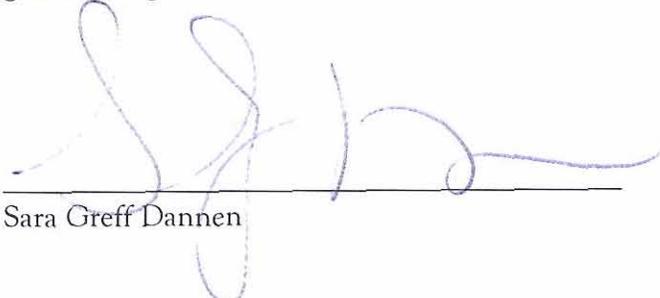
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