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Attorneys for Oak Tree Energy, LLC

**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**

**DOCKET NO. EL11-006
OAK TREE ENERGY, LLC'S
RESPONSE TO CHAIRMAN NELSON'S
QUESTION**

**OAK TREE ENERGY, LLC'S RESPONSE TO
CHAIRMAN NELSON'S QUESTION**

I. INTRODUCTION

Oak Tree Energy, LLC (Oak Tree), by and through counsel, hereby submits its Response to South Dakota Public Utility Commission (PUC) Chairman Nelson's question regarding whether Oak Tree would be willing to accept a rate of \$46.47/MWH for a 20 year period for the Oak Tree project located in Clark, South Dakota. At the outset, Oak Tree understands that the Chairman's calculations are an attempt to bridge the gap between Oak Tree's position and NorthWestern Energy's (NWE) position in this hearing. Oak Tree

appreciates Chairman Nelson's efforts, and believes that Oak Tree can accept the Chairman's proposal subject to a single minor modification discussed in more detail below. In summary, Oak Tree proposes to inflate the Chairman's calculations of the B&V Market estimate commencing in 2013 at 2% per year for each year of the Oak Tree power purchase agreement (PPA) with NWE which produces a rate of \$53.74/MWH over 20 years.

II. OAK TREE'S RESPONSE TO CHAIRMAN NELSON'S PROPOSAL

Oak Tree believes it will not be able to finance and build its project without a modification to Chairman Nelson's calculation. Oak Tree has attached a spreadsheet to this filing that adds inflation to the numbers used in the "B&V Market" market price calculations that are calculated in constant 2010 dollars. (Attached hereto as Exhibit "1") Oak Tree believes it would be consistent with Chairman Nelson's approach to inflate those numbers starting in 2013 and utilizing a 2% per year inflation factor for each future year of the proposed PPA. Adding inflation in this manner would produce a rate of \$53.74/MWH instead of \$46.47/MWH over 20 years. It should be noted that Mr. Lauckhart, in his testimony for Oak Tree, assumed a 2.5% inflation factor in his testimony.

Oak Tree offers this modified proposal due to uncertainties that Oak Tree cannot afford to ignore. Although it may seem that Oak Tree should know with precision exactly the PPA price that would enable Oak Tree to construct and operate its project, the Oak Tree project (like any proposed wind project) faces a number of uncertainties. For example, Oak Tree cannot with any certainty guarantee the amount of wind that will be available for generation over a period of 20 years. In addition, Oak Tree cannot be certain of the precise operation and maintenance (O&M) costs it will incur over the next 20 years in order to keep the turbines operating. For these reasons, it is customary in the power industry to build in

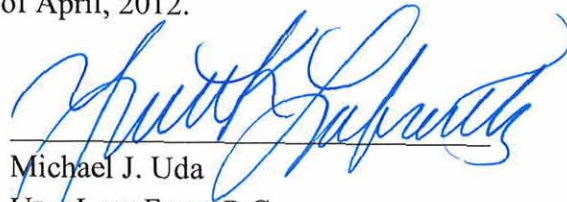
some contingency costs into the revenue stream for the project. If these contingency costs are completely eliminated when calculating a potential sale value of the generation, the owner of the wind plant would be taking considerable risk, and lenders and tax equity participants may be reluctant to fund under such circumstances.

An additional issue is the value attributable to the renewable energy credits or “RECs” assigned to the Oak Tree project’s production. Chairman Nelson’s calculations appear to reflect a “brown” power, i.e. the calculations do not include renewable attributes of the power. The Oak Tree project will also create RECs. In other forums, NWE has estimated that the levelized value of renewable attributes over a 20 year life is about \$7.50/MWH. For settlement purposes only, Oak Tree is willing to convey these RECs to NWE at no additional cost if Oak Tree will be paid an energy rate of \$53.74/MWH for each year of the proposed PPA. NWE could either use the RECs to meet the South Dakota Renewable Energy Objective or, alternatively, NWE could sell the RECs and credit the sales to its South Dakota ratepayers.

III. SUMMARY OAK TREE PROPOSAL

1. Oak Tree agrees to Chairman Nelson’s calculation with the single modification of applying 2% per year escalation to the “B&V Market” column. The result would be a PPA energy price of \$53.74/MWH in every year.
2. Oak Tree agrees to Chairman Nelson’s approach to capacity pricing and capacity amount for the PPA.
3. Oak Tree will convey the RECs to NWE.
4. This response to Chairman Nelson’s proposal is an offer to compromise pursuant to SDCL § 19-12-10 (Rule 408) and this document is submitted for settlement purposes only.

Respectfully submitted this 30th day of April, 2012.



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served electronically on this 30th day of April, 2012, upon the following:

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