

**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 )

STAFF'S RESPONSE TO )  
NORTHWESTERN ENERGY'S )  
APPLICATION FOR )  
RECONSIDERATION OF )  
FINDINGS AND CONCLUSIONS )  
IN FINAL ORDER ISSUED ON )  
FEBRUARY 21, 2013 )

EL11-006

**I. INTRODUCTION**

The undersigned counsel, on behalf of Commission Staff of the South Dakota Public Utilities Commission (Staff), submits its *Response to Northwestern Energy's Application for Reconsideration of Findings and Conclusions in Final Order Issued on February 21, 2013*. The Complainant in this case is Oak Tree Energy, LLC. (Oak Tree or Complainant) and the Respondent is NorthWestern Corporation d/b/a NorthWestern Energy (NWE or Respondent). Throughout this document, Oak Tree and NWE will be jointly referred to as the Parties or individually as Party. Oak Tree has brought this matter before the South Dakota Public Utilities Commission (Commission) seeking enforcement of a Power Purchase Agreement (PPA) under the Public Utilities Regulatory Policies Act of 1978 (PURPA). The Commission issued its *Final Order and Decision* on February 21, 2013. NWE filed its *Application for Reconsideration of Findings and Conclusions in Final Order Issued on February 21, 2013*, (Application for Reconsideration) on March 21, 2013. Transcript citations will refer to the December 5-6, 2012, hearing and be referenced as "TR" with the appropriate page and line number.

**II. ARGUMENT**

On March 21, 2013, NWE filed its above-referenced Application for Reconsideration. In the filing, NWE requests the Commission reconsider five findings and conclusions: Finding 23, Finding 30, Finding 31, Conclusion 7, and Conclusion 31. Staff agrees each of these findings and conclusions is in error.

## **Calculation of Levelized Costs**

NWE states that Staff's model, which the Commission relied on in its decision, fails to account for the time value of money in computing levelized costs. Staff agrees.

The obvious intent of Mr. Rounds' calculation of a "levelized cost" was to correspond with the industry standard levelized cost term, which spreads the payments evenly across the contract period. This is evident by the fact that he calculated how closely each set of annual levelized cost payments erred from the calculated annual payments over the twenty-year term. However, in those calculations, he failed to take into account the time value of money; his model essentially assumes a discount rate of 0%. The result is a number that would not be considered the levelized cost, but a simple average.

Assuming a discount rate of 7.86% was appropriate, the error produced a net present value increase of about \$3.65 million or 9.92% in 2013 dollars and \$3.71 million or 9.70% in 2014 dollars. Should the Commission choose to use a levelized cost, these values must be recalculated. It should also be noted that further changes to the avoided cost as a result of Staff and NWE's arguments below would make NWE's specific reductions of \$4.81/MWH in 2013 and \$4.89/MWH in 2014 incorrect.

## **Calculation of Capacity**

NWE asserts the Commission "overstated capacity cost by beginning escalation too early" and "mistakenly concluded" MRO accredited wind facilities at 20% of their rated capacity at the time of the LEO. Staff agrees.

With respect to the kW-year value of capacity, if the Commission is basing the value on a single capacity offer NWE received from another party, escalation should begin in 2015 rather than 2014. With respect to OTE's accredited future output and accredited capacity, Staff has been unable to find evidence that MRO accredited wind facilities at 20% of their rated capacity on February 25, 2011. Furthermore, Staff believes it is inconsistent to predict OTE's future output for the sake of accredited capacity but not for energy. As a result, we propose removing the capacity component from the levelized avoided energy cost, setting a price per kW-year, and requiring NWE to pay OTE for its actual accredited capacity.

## Load Growth Projections

NWE suggests the Commission erred in applying average load growth projections to Staff's model. Staff agrees.

Staff's model did not account for diverging average load and peak load growth rates. It was fully dependent on a NWE's peak load growth. However, Mr. Rounds assumes in his model that the divergence is accounted for by the error in load shape. TR 255:1-22.

Essentially, the MISO West load shape overshoots NWE's current energy demand, but as energy demand grows faster than peak demand, the load shape will eventually undershoot their energy demand to the point where they are roughly equal. The Commission chose to use a more accurate load shape to start, but then used the average load growth rate.

Although this gives us a more accurate starting point and a more accurate energy demand, it incorrectly distributes energy into higher cost peak blocks. As NWE points out, this results in a 151 MW difference in peak values in 2035. This 40% increase in peak load incorrectly predicts more purchases at expensive times of peak load.

### III. CONCLUSION

Staff agrees each of the five findings and conclusions noted by NWE is in error and recommends that the Commission grant NWE's *Application for Reconsideration of Findings and Conclusions in Final Order Issued on February 21, 2013*.

Dated this 11th day of April, 2013.

By: *Karen E. Cremer*

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