
**IN THE MATTER OF THE
COMPLAINT BY JUHL ENERGY, INC.
AGAINST NORTHWESTERN
CORPORATION DBA
NORTHWESTERN ENERGY FOR
ESTABLISHING A PURCHASE
POWER AGREEMENT**

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**STAFF'S SECOND SET OF DATA
REQUESTS TO JUHL ENERGY**

EL16-021

2-2) On February 9, 2016, the Davison County Commission denied a conditional use permit for the Davison project.

- a) Given the Davison County Commission's decision, what is the current status of the Davison project?

The Davison County Wind Project is still in the process of completing various development milestones including collecting wind speed data from our onsite meteorological tower, and communicating with our local land owner partners. The Project will be resubmitting a permit application after the County has adopted their new "Wind Energy Ordinance" which is expected to be in place by 01/15/17.

- b) Please explain why the Davison project was included in the complaint submitted on June 23, 2016, when Davison County denied the project on February 9, 2016.

The Davison project was included in the complaint because it is part of the avoided cost rate discussion with Northwestern Energy as a Qualified Facility. Additionally, the project plans to re-submit an application with Davison County after they adopt their "Wind Energy Ordinance".

- c) Does Juhl Energy intend to amend the complaint and eliminate the Davison project, effectively reducing the avoided cost calculation to reflect approximately 40 MW of nameplate wind generation instead of approximately 60 MW of nameplate wind generation? Please explain.

No. We plan to design the Davison County Wind Project in accordance with Davison County's new ordinance and continue with the development of the project.

- d) Please provide justification for including Juhl's Davison county project in Mr. Schiffman's QF IN/OUT model.

As Juhl plans to continue to develop the Davison County Wind Project, and to comply with Davison County's new ordinance, when finalized, it was included in the QF IN/OUT model because it will be a qualifying facility and eligible to receive avoided cost.

- e) If each Juhl project was modeled independently from one another, would that change the avoided cost amount attributable to the projects? Please explain.

The three Juhl projects were modeled as independent projects, but with all three projects included in the NorthWestern portfolio. If each were modeled separately, meaning in sequence, one at a time, avoided cost for the first two would be moderately higher than the current estimates. By modeling all three as included in the NorthWestern portfolio together, the largest possible impact on NorthWestern's system production cost is reflected in the analysis.

- f) Referring to Juhl Energy's response to Staff data request 1-9 that a legally enforceable obligation was established on April 4, 2016, please explain how an obligation to sell power from the Davison Project existed when Juhl Energy was denied a permit necessary to construct and operate the proposed facility.

The existence of an LEO is important to establishing the date from which the obligation is incurred according to 18 C.F.R. 292.304(d)(2). The April 4, 2016 date was the date that negotiations concluded regarding avoided cost and the unresolved PPA terms, which are how RECS and Capacity Payments will be listed in the Exhibits, and the language around of the Right of First Offer.

The permits for the Davison project will be obtained prior to final Commission order in this proceeding. The project will be ready to proceed towards completion by that time. The permitting process does not affect the date of the LEO was incurred, which has to do with Juhl's commitment to sell which created a reciprocal obligation in NorthWestern to purchase energy and capacity from Juhl's Davison project. This occurred on April 4, 2016, when it became evident that further negotiations would prove unfruitful.