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Attorneys for Juhl Energy, Inc.

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

**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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* **REQUEST FOR CONFIDENTIAL**
* **TREATMENT OF RESPONSES TO**
* **NORTHWESTERN ENERGY**
* **DISCOVERY REQUESTS 1-29 and 1-31**
*
* **EL16-021**
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**JUHL ENERGY, INC.'S REQUEST FOR CONFIDENTIAL TREATMENT OF
RESPONSES TO NORTHWESTERN ENERGY DISCOVERY REQUESTS**

Complainant Juhl Energy, Inc. (hereinafter "Juhl") hereby respectfully requests the South Dakota Public Utilities Commission ("Commission") issue an order regarding confidential

labeled as “Confidential”. PMRG does not own the data, and the software and data license agreement it entered into with ABB/Ventyx precludes disclosure of confidential information. PMRG is attempting to obtain a release from ABB/Ventyx, or consent to release the data subject to a Non-Disclosure Agreement. PMRG will provide the requested data to NorthWestern as soon as resolution of these issues is achieved with ABB/Ventyx.

Juhl’s expert Roger Schiffman has obtained consent from ABB/Ventyx to release the data sought pursuant to NorthWestern discovery request 1-29 subject to this request for confidential treatment of this data. Juhl needs the Commission to issue an order approving Juhl’s request for confidential treatment in order to share the information sought by NorthWestern in discovery request 1-29 with NorthWestern and the Commission. Confidential treatment is sought for all data provided pursuant to NorthWestern discovery request 1-29. ARSD 20:10:41(1).

NorthWestern discovery request 1-31 is sort of a catch all, and also requests input values from PROMOD:

- I-31 To the extent not required in response to other data requests, provide input values and assumptions for PROMD market simulation for each item identified in Figure 1 of Mr. Schiffman’s testimony including Natural Gas Prices, Near-Term New Entry, Coal Prices, Environmental Policies/Costs, Plant Retirements/Retrofits, Renewable Energy, Capital Costs for New Entry, Transmission Costs & Additions, Demand Forecast, Regional Market Issues.**

In responding to NorthWestern discovery request 1-31, Juhl’s response was as follows:

PMRG is in possession of a fundamental assumptions workbook provided by ABB/Ventyx describing its Reference Case Assumptions. The spreadsheet is labeled as “Confidential”. PMRG does not own the data, and the software and data license agreement it entered into with ABB/Ventyx precludes disclosure of confidential information. PMRG is attempting to obtain a release from ABB/Ventyx, or consent to release the data subject to a Non-Disclosure Agreement. PMRG will provide the requested data to NorthWestern as soon as resolution of these issues is achieved with ABB/Ventyx.

Mr. Schiffman has also obtained consent from ABB/Ventyx to release the information requested by NorthWestern discovery request 1-31 subject to this request for confidential

treatment of this data. Juhl needs the Commission to issue an order approving Juhl's request for confidential treatment in order to share the information sought by NorthWestern in discovery request 1-31 with NorthWestern and the Commission. Confidential treatment is sought for all data provided pursuant to NorthWestern discovery request 1-31. ARSD 20:10:41(1).

Under ARSD 20:10:01:41(2), Juhl seeks confidential treatment of the information to be produced under NorthWestern discovery requests 1-29 and 1-31 for the duration of this proceeding. Juhl requests that the information produced pursuant to these discovery requests be returned to Juhl following the completion of this proceeding.

Pursuant to ARSD 20:10:01:41(3) the contact person regarding the confidentiality request is:

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As required by ARSD 20:10:01:41(4), Juhl states that the statutory or common law grounds and any administrative rules under which confidentiality is requested is ARSD 20:10:01:39(4), (5) and (6). The information sought is proprietary and may only be lawfully obtained from ABB/Ventyx by obtaining ABB/Ventyx's permission and by paying a fee. The information sought is the intellectual property of ABB/Ventyx, and commercial value could be derived from it without compensation if it were to be publicly available. Without an order from the Commission, ABB/Ventyx will not agree to allow the information to be released to the Commission or NorthWestern.

The foregoing statement also satisfies the requirements of ARSD 20:10:01:41(5), in that the information sought is the intellectual property of ABB/Ventyx, is commercially and widely

sold, and commercial value could be derived from the information were it to be released publicly. Without a Commission Order, ABB/Ventyx will not agree to release the information requested by NorthWestern discovery requests 1-29 and 1-31.

WHEREFORE, Juhl Energy respectfully requests the Commission order that the information sought by NorthWestern by discovery requests 1-29 and 1-31 be considered confidential and protected from public disclosure by ARSD 20:10:101.

RESPECTFULLY SUBMITTED THIS ^{27th} DAY OF OCTOBER, 2016

By: William Taylor
William Taylor

By: Michael J. Uda
Michael J. Uda