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OFFICE OF ENERGY MARKET REGULATION

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**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

In Reply Refer To:
NorthWestern Energy Public Service
Corporation
Docket No. QM25-1-000

Issued: January 8, 2025

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Reference: Termination of Mandatory Purchase Obligation

On November 15, 2024, NorthWestern Energy Public Service Corporation (NorthWestern) submitted an application (Application) pursuant to section 210(m) of the Public Utility Regulatory Policies Act of 1978 (PURPA)¹ and section 292.310(a) of the Commission's regulations² to terminate the requirement under section 292.303(a) of the Commission's regulations³ to enter into new contracts or obligations to purchase electric energy and capacity from any small power production qualifying facility (QP) with a net capacity greater than five megawatts (MW)⁴ in Southwest Power Pool, Inc. (SPP) in its South Dakota service territory. Pursuant to authority delegated to the Director, Division

¹ 16 U.S.C. § 824a-3(m).

² 18 C.F.R. § 292.310(a) (2024).

³ *Id.* § 292.303(a).

⁴ Order No. 872 revised section 292.309(d) of the Commission's regulations (18 C.F.R. § 292.309(d)) such that small power production facilities with a net power production capacity greater than five MW will be presumed to have nondiscriminatory access to markets. See *Qualifying Facility Rates and Requirements*, Order No. 872, 172 FERC ¶ 61,041, at P 625, *order on reh'g and clarification*, Order No. 872-A, 173 FERC ¶ 61,158 (2020).

of Electric Power Regulation – Central, under section 375.307 of the Commission’s regulations,⁵ the Application is granted, effective November 15, 2024.

NorthWestern states that in 2016 the Commission granted its application to terminate the requirement to enter into new contracts or obligations to purchase energy and capacity from small power production QFs and cogeneration QFs in SPP with a net capacity greater than 20 MW.⁶

NorthWestern states that it relies on section 292.309(g) of the Commission’s regulations,⁷ which establishes a rebuttable presumption that SPP satisfies the criteria of section 292.309(a)(2)(i) of the Commission’s regulations, and also that SPP’s Integrated Marketplace satisfies the criteria of section 292.309(a)(2)(ii) of the Commission’s regulations.⁸ NorthWestern asserts that the Commission has determined that QFs in SPP have nondiscriminatory access to transmission and interconnection services pursuant to an open access transmission tariff and found that SPP operates a competitive market that satisfies the criteria of section 292.309(a)(2)(ii) of the Commission’s regulations. NorthWestern states that, consistent with the requirement in section 292.310 of the Commission’s regulations, it identified potentially-affected QFs in its service territory, listed in Attachment 1 of the Application.⁹

Notice of the Application was published in the *Federal Register*, 89 FR 92,122 (Nov. 15, 2024), with interventions and protests due on or before December 6, 2024. RWE Clean Energy, LLC filed a timely motion to intervene. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure,¹⁰ RWE Clean Energy, LLC’s timely motion to intervene serves to make it a party to this proceeding.

NorthWestern’s Application to terminate the requirement to enter into new contracts or obligations to purchase electric energy and capacity from small power production QFs in SPP with a net capacity greater than five MW, in its South Dakota service territory, is hereby granted, effective November 15, 2024, the date of the filing of the Application.

⁵ 18 C.F.R. § 375.307.

⁶ Application at 2 (citing *NorthWestern Corporation*, 157 FERC ¶ 62,192 (2016)).

⁷ 18 C.F.R. § 292.309(g).

⁸ *Id.* § 292.309(a)(2)(i)–(ii).

⁹ *Id.* § 292.310; Application at 12-13, Attachment 1.

¹⁰ *Id.* § 385.214.