

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

| | |
|---|-------------------------|
| IN THE MATTER OF THE COMPLAINT FILED) | ORDER CANCELLING |
| BY SUPERIOR RENEWABLE ENERGY LLC ET) | HEARING |
| AL. AGAINST MONTANA-DAKOTA UTILITIES) | |
| CO. REGARDING THE JAVA WIND PROJECT) | EL04-016 |

On May 12, 2004, Superior Renewable Energy LLC and its wholly owned subsidiary, Java LLC, (Superior) filed a complaint (Complaint) requesting the Commission to settle a dispute regarding the long term purchase price of electricity generated from a Qualified Facility pursuant to the Public Utility Regulatory Policy Act of 1978.

On May 13, 2004, the Commission electronically transmitted notice of the filing and the intervention deadline of May 28, 2004, to interested individuals and entities. On May 27, 2004, the Commission received a Petition to Intervene from Montana-Dakota Utilities Co. (MDU). At its regularly scheduled meeting on June 8, 2004, the Commission granted intervention to MDU. On June 15, 2004, the Commission received a Petition to Intervene Out of Time from MidAmerican Energy Company (MidAmerican), on June 17, 2004, the Commission received a late-filed Petition to Intervene from NorthWestern Corporation (NorthWestern), and on June 18, 2004, the Commission received a late-filed Petition to Intervene from Black Hills Power, Inc. (BHP). At its regularly scheduled meeting on June 22, 2004, the Commission granted intervention to MidAmerican, NorthWestern and BHP. On July 16, 2004, the Commission received a late-filed Petition to Intervene from Northern States Power Company d/b/a Xcel Energy (Xcel). At its regularly scheduled meeting on August 17, 2004, the Commission granted intervention to Xcel.

By its Second Amended Order for and Notice of Procedural Schedule and Hearing dated January 5, 2005, the hearing in this matter was scheduled to begin on March 21, 2005. In response to the joint motion of the parties at the commencement of the hearing, the Commission voted unanimously to grant the request for continuance, and on March 21, 2005, the Commission issued an Order Continuing Hearing continuing the hearing until the further notice from the Commission. The parties subsequently notified the Commission that they had failed to reach a settlement and requested the hearing in the matter be rescheduled. The Commission determined that the earliest dates on which a four day hearing could be scheduled was August 2-5, 2005. The hearing was to begin on August 2, 2005. On July 21, 2005, the Commission received a Motion for Continuance from Superior. At its regularly scheduled meeting of July 28, 2005, the Commission voted unanimously to grant the Motion for Continuance.

By its Second Order for and Notice of Rescheduled Hearing Following Continuance dated August 18, 2005, the hearing in this matter was scheduled to begin on November 2, 2005. On September 16, 2005, the Commission received a Deferral Motion from MDU. On September 27, 2005, the Commission received a Response to Deferral Motion and a Request for Affirmative Relief from Superior. On September 29, 2005, the Commission received a Motion to Lodge Decision from Superior. On October 3, 2005, the Commission received an Affidavit of Jeff Ferguson on behalf of Superior, Commission Staff's Response to MDU's Deferral Motion, and MDU's Reply to Superior's Comments on the Deferral Motion and Request for Affirmative Relief.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26 and 49-34A, specifically § 49-34A-26, ARSD 20:10:01, 16 U.S.C. Chapters 12 and 46, particularly §§ 824a-3 and 2601-2645 and 18 C.F.R. Part 292.

By its Order dated November 4, 2005, the hearing in this matter was scheduled for December 13-16, 2005. The Commission has been advised by the parties that they have reached a settlement in this matter so the hearing is cancelled. This matter will be rescheduled for disposition at the Commission meeting on December 20, 2005. It is therefore

ORDERED, that the hearing scheduled for December 13-16, 2005, is cancelled.

Dated at Pierre, South Dakota, this 12th day of December, 2005.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: Alaine Kalls

Date: 12/12/05

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Gary Hanson
GARY HANSON, Chairman

Robert K. Sahr
ROBERT K. SAHR, Commissioner

Dustin M. Johnson
DUSTIN M. JOHNSON, Commissioner