

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

IN THE MATTER OF THE FILING BY ) ORDER DENYING TARIFF  
NORTHWESTERN CORPORATION D/B/A ) REVISIONS  
NORTHWESTERN ENERGY FOR APPROVAL )  
OF TARIFF REVISIONS ) EL05-006

On March 9, 2005, the Public Utilities Commission (Commission) received a filing from NorthWestern Corporation d/b/a NorthWestern Energy (NWE) for approval of revisions to electric tariff schedules Option N and Option L. The proposed tariff revisions would allow NWE, without prior Commission approval, to discount energy charges applicable to new customers, receiving service at new locations, with a demand of two megawatts or more in order to offer competitive rates.

The proposed revised tariffs are:

Section No. 3, 2nd Revised Sheet No. 19.1, Canceling 1st Revised Sheet No. 19.1  
Section No. 3, 1st Revised Sheet No. 21.1, Canceling Original Sheet No. 21.1.

The application was scheduled for consideration by the Commission at its April 12, 2005, regularly scheduled Commission meeting but the matter was deferred at the request of NWE. The application was again scheduled for consideration by the Commission at its regularly scheduled April 26, 2005, meeting. The application was discussed by the parties and questions by the Commission were addressed. The Commission took the matter under advisement. The matter was again discussed at the Commission's May 10, 2005, regular meeting and action was deferred.

At its regularly scheduled meeting on May 24, 2005, the Commission again considered this matter.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL 49-34A-4 and 49-34A-6. The Commission voted to deny the tariff revisions (Dustin M. Johnson, dissenting). As the Commission's final decision in this matter, it is therefore

ORDERED, that the above mentioned proposed tariff revisions are denied.

Dated at Pierre, South Dakota, this 26<sup>th</sup> day of May, 2005.

<b>CERTIFICATE OF SERVICE</b>
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: <u><i>Neilson Kolbo</i></u>
Date: <u>5/26/05</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

*Gary Hanson*  
GARY HANSON, Chairman

*Robert K. Sahr*  
ROBERT K. SAHR, Commissioner *dk*

DUSTIN M. JOHNSON, Commissioner  
dissenting

## Dissent of Dustin M. Johnson

I have chosen to dissent from the motion to deny the tariff revisions requested by NorthWestern (EL05-006) for the following reasons:

"I believe that SDCL 49-34A-8.3 provides to the Commission the power to approve exactly the kind of business development tariff that NorthWestern is seeking to establish. According to the statute, the Commission may authorize a utility "to negotiate and agree with a customer for specific rates which differ from standard rates otherwise applicable to the customer."

"SDCL 49-34A-8.3 requires that the establishment of such rates be "in the public interest." Because any rates offered by NorthWestern under the business development tariff would be required to fully cover NorthWestern's costs as well as some contribution to system costs, because such a rate would be offered to entice the development of additional large loads in South Dakota, and because the addition of new large loads would be beneficial to existing ratepayers, I believe that the establishment of a business development tariff for NorthWestern would be in the public interest.

"In several instances in the past (for both electricity and natural gas providers), this Commission has approved "flexible" rates for utility providers. There have been no instances that I am aware of in South Dakota where those rates have been used in an inappropriate manner or in ways that are not in the public interest.

"If a business development tariff had been approved by the Commission, the risk would have ultimately been borne by shareholders of NorthWestern, not by ratepayers. If a future Commission ever determined that a rate offered to a large load customer under SDCL 49-34A-8.3 did not fully cover NorthWestern's costs and an appropriate contribution to system costs, then the Commission would not allow those costs to be rolled into the rate base and/or allowable expenses that underlie the rates consumers pay for electricity.

Because the Commission has the authority to approve the tariff revisions, because there is precedence for doing so, and because such revisions would be "in the public interest" I have chosen to dissent from the motion to deny the tariff revisions requested.