

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

**IN THE MATTER OF THE COMPLAINT BY OAK)
TREE ENERGY LLC AGAINST)
NORTHWESTERN ENERGY FOR REFUSING)
TO ENTER INTO A PURCHASE POWER)
AGREEMENT)**

**ORDER DENYING MOTION TO
ALLOW ELECTRONIC
TESTIMONY**

EL11-006

On April 28, 2011, Oak Tree Energy, LLC (Oak Tree) filed a complaint against NorthWestern Corporation d/b/a NorthWestern Energy (NWE). The dispute involves a proposed wind generation project located in Clark County, South Dakota (Project). Oak Tree alleges that the project is a "Qualified Facility" under PURPA and that NWE refuses to enter into a purchase power agreement. On May 5, 2011, the Commission electronically transmitted notice of the filing and the intervention deadline of May 20, 2011, to interested persons on the Commission's PUC Filings electronic notice list. No petitions for intervention were filed. On May 20, 2011, NWE filed its Answer to the Complaint. On February 28, 2012, Oak Tree filed a Motion to Allow Electronic Testimony. On March 2, 2012, NWE filed its Pre-hearing Motion to Strike requesting that portions of Oak Tree's witnesses' pre-filed testimony be stricken. On March 5, 2012, Oak Tree filed its pre-hearing motions including an Omnibus Prehearing Motion requesting an order finding that: (i) Oak Tree's long term (20 year) avoided cost forecast is the basis for rates for the Oak Tree wind project; and (ii) Oak Tree has incurred an LEO. In addition Oak Tree filed a Motion to Exclude some of NWE's witnesses' pre-filed testimony. On March 7, 2012, NWE filed its response regarding Opposition to Oak Tree's Pre-hearing Motion. On March 8, 2012, Oak Tree filed its response to NorthWestern Pre-hearing Motions.

At its March 9, 2012, ad hoc meeting, the Commission considered Oak Tree's Motion to Allow Electronic Testimony. Finding that a sufficient exigency did not exist to justify telephonic testimony in this instance where a party to the case objected, the Commission voted unanimously to deny Oak Tree's Motion to Allow Electronic Testimony.

The Commission has jurisdiction in this matter pursuant to 16 U.S.C. Chapter 12, § 824a-3, 18 C.F.R. Part 292 and SDCL Chapters 1-26, 49-13, and 49-34A, including 49-34A-93. It is therefore

ORDERED, that Oak Tree's Motion to Allow Electric Testimony is denied.

Dated at Pierre, South Dakota, this 14th day of March, 2012.

CERTIFICATE OF SERVICE

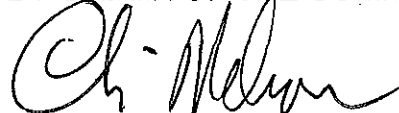
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: _____

Date: 3-14-12

(OFFICIAL SEAL)

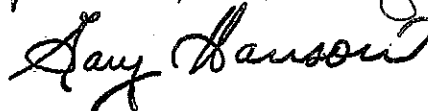
BY ORDER OF THE COMMISSION:



CHRIS NELSON, Chairman



KRISTIE FIEGEN, Commissioner



GARY HANSON, Commissioner