

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

IN THE MATTER OF THE COMPLAINT BY) CONSOLIDATED EDISON DEVELOPMENT, INC.) AGAINST NORTHWESTERN CORPORATION) DBA NORTHWESTERN ENERGY FOR) ESTABLISHING A PURCHASE POWER) AGREEMENT)	ORDER FOR AND NOTICE OF EVIDENTIARY HEARING EL16-021
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On June 23, 2016, Juhl Energy, Inc. filed a Complaint with the South Dakota Public Utilities Commission (Commission) seeking resolution of a dispute with NorthWestern Corporation dba NorthWestern Energy (NorthWestern) regarding the proper avoided cost for a long-term electric power purchase agreement.

On June 30, 2016, the Commission electronically transmitted notice of the Complaint and the intervention deadline of July 25, 2016, to interested individuals and entities on the Commission's PUC Weekly Filings electronic listserv. On July 19, 2016, NorthWestern filed its Answer to the Complaint. No petitions to intervene were filed. On August 4, 2016, the parties filed a Joint Request for a Procedural Schedule. At its regularly scheduled meeting on August 16, 2016, the Commission established a Procedural Schedule.

On February 15, 2017, the Commission entered an Order Granting Motion to Amend Complaint that was filed by Consolidated Edison Development, Inc. (ConEd Development) making ConEd Development the complainant based on its acquisition of Juhl Energy Inc.'s interest in the three wind energy projects that are the subject of this docket.

On February 21, 2017, the Commission received a Motion *In Limine* to Exclude Rebuttal Testimony of Autumn Mueller and Luke P. Hansen (Motion) that was filed by ConEd Development. In its Motion, ConEd Development requested that the Commission enter an order excluding from the record the Rebuttal Testimony of Autumn Mueller and the Rebuttal Testimony of Luke P. Hansen. The Motion was heard and denied by the Commission on March 14, 2017.

On February 27, 2017, the Commission received a Motions *In Limine* (Motion) that was filed by ConEd Development. In its Motion, ConEd Development requested that the Commission enter an order: (1) Prohibiting the PUC Staff from offering portions of the pre-filed testimony of Ms. Maini and Mr. Thurber; and (2) Prohibiting Northwestern Corporation from offering portions of the pre-filed testimony of Mr. LaFave. The Motion was heard and denied by the Commission on March 14, 2017.

The Commission has jurisdiction over this matter pursuant to the Public Utility Regulatory Policy Act of 1978, 16 U.S.C. § 824a-n, and SDCL Chapters 1-26, 49-13, and 49-34A. The Commission may rely upon any or all of these or other laws of this state in making its determination.

A hearing will be held by the Commission on April 11, 2017, through April 14, 2017, beginning at 9:00 A.M. CDT, with marking exhibits to begin 8:00 A.M. CDT, on April 11, 2017, in Rm. 413 of the State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota.

At the hearing, each party will be permitted to present an opening statement summarizing the evidence that such party will offer into evidence and to briefly and concisely state the issues involved in the case.

The issue at the hearing is determining the appropriate avoided cost for the Projects over the 20-year period of the proposed PPA in a manner consistent with PURPA, FERC's implementing regulations, and the Commission's PURPA Order.

The hearing will be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights may be forfeited if not exercised at the hearing. All persons testifying will be subject to cross-examination. The Commission's final decision will be based solely on testimony and evidence introduced and received in evidence at the hearing. If a party or its representative fails to appear at the time and place set for the hearing, a decision may be issued by default pursuant to SDCL 1-26-20. As a result of this hearing, the Commission will make a decision, including findings of fact and conclusions of law, on the issue set forth above. The Commission's final decision may be appealed by the parties to the Circuit Court and the Supreme Court as provided by law. It is therefore

ORDERED, that a hearing will be held by the Commission on April 11, 2017, through April 14, 2017, beginning at 9:00 A.M. CDT, with marking exhibits to begin 8:00 A.M. CDT, on April 11, 2017, in Rm. 413 of the State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 20th day of March, 2017.

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, electronically or by mail.
By: <u>Karen E. Cremer</u>
Date: <u>3/20/2017</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Kristie Fiegen
KRISTIE FIEGEN, Chairperson
Gary Hanson
GARY HANSON, Commissioner
Chris Nelson
CHRIS NELSON, Commissioner