

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

IN THE MATTER OF THE FILING BY)	ORDER GRANTING MOTION
SUPERIOR RENEWABLE ENERGY LLC ET AL.)	TO COMPEL
AGAINST MONTANA-DAKOTA UTILITIES CO.)	
REGARDING THE JAVA WIND PROJECT)	EL04-016

On May 12, 2004, Superior Renewable Energy LLC (Superior) and its wholly owned subsidiary, Java LLC, filed a petition 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 a regularly scheduled meeting of 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 a regularly scheduled meeting of 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 a regularly scheduled meeting of August 17, 2004, the Commission granted intervention to Xcel. On September 1, 2004, the Commission received a Motion for Notice and Order and proposed Notice and Order from Superior. On September 29, 2004, the Commission received a Scheduling Proposal from MDU. On October 4, 2004, the Commission received an Answer from MDU. On October 6, 2004, the Commission received a Motion to Compel and proposed Order on Motion to Compel from Superior. On October 12, 2004, the Commission received an Objection to Proposed Filing Fee Assessment from MDU.

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.

At its regularly scheduled meeting of October 12, 2004, the Commission considered the Motion to Compel. Representatives of Superior and MDU explained that MDU has a confidentiality agreement with other parties involving a North Dakota Vision 21 Feasibility Study, which is the subject of Superior's data requests. In order for MDU to respond to Superior's Interrogatories Nos. 23 c-h and 28 c, without being in breach of this confidentiality agreement, a Commission's Order to Compel production from MDU is necessary. The Commission voted to grant the Motion to Compel. It is therefore

ORDERED, that the Motion to Compel is granted, and MDU shall respond to Superior's Interrogatories Nos. 23 c-h and 28 c within five (5) business days following the date of this order.

Dated at Pierre, South Dakota, this 27th day of October, 2004.

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: *Neldine Kalbo*

Date: 10/27/04

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Robert K. Sahr

ROBERT K. SAHR, Chairman

Gary Hanson

GARY HANSON, Commissioner

James A. Burg

JAMES A. BURG, Commissioner