

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

IN THE MATTER OF THE COMPLAINT OF	)	ORDER FOR AND NOTICE OF
ENERGY OF UTAH, LLC AND FALL RIVER	)	EVIDENTIARY HEARING
SOLAR, LLC AGAINST BLACK HILLS	)	
POWER INC. DBA BLACK HILLS ENERGY	)	
FOR DETERMINATION OF AVOIDED COST	)	EL18-038

On September 14, 2018, Energy of Utah, LLC and Fall River Solar, LLC (Fall River) filed with the South Dakota Public Utilities Commission (Commission) a Complaint Against Black Hills Power Inc. dba Black Hills Energy (Black Hills Energy) for Determination of Avoided Cost. Fall River is developing a solar energy generating facility near Oelrichs in Fall River County, South Dakota, that will have an anticipated capacity of 80 megawatts and a design life of at least twenty years (Project). The Project is a Qualifying Small Power Production Facility as defined in the Public Utilities Regulatory Policies Act of 1978, 16 U.S.C § 824a-n (PURPA). Fall River disputes the energy and capacity price Black Hills Energy offered as its avoided cost to Fall River for the energy and capacity Black Hills Energy is obligated to purchase from the Project under PURPA.

On September 20, 2018, the Commission electronically transmitted notice of the filing and the intervention deadline of October 5, 2018, to interested individuals and entities on the Commission's PUC Weekly Filings electronic listserv.

On October 4, 2018, the Commission received Black Hills Energy's Answer to Fall River's Complaint for Determination of Avoided Costs.

On December 19, 2018, the Commission received Commission staff's (staff) Motion for Procedural Schedule.

On March 22, 2019, Fall River filed direct testimony and exhibits.

On April 9, 2019, the parties submitted a stipulated procedural schedule which was amended on April 25, 2019.

On May 7, 2019, Black Hills Energy filed direct testimony and exhibits.

On May 30, 2019, Fall River filed a Motion for Order Compelling Responses to Discovery Requests (Motion to Compel). On June 17, 2019, the Commission granted the Motion to Compel for those discovery requests enumerated in staff's memo under the column heading of granted, with the inclusion of numbers 111, 112, and 113, and the exception of number 75.

On June 25, 2019, the parties submitted a Proposed Stipulated Protective Order which was granted by the Commission on June 26, 2019. Staff filed Pre-filed Testimony and Exhibits on August 8, 2019.

On August 12, 2019, Fall River filed a Notice of Deposition Pursuant to SDCL 15-6-

30(b)(6), naming Black Hills Energy as a deponent and requesting Black Hills Energy designate one or more persons to testify on its behalf with respect to 13 inquiries. On September 25, 2019, Black Hills Energy filed a Motion to Quash Portions of Fall River's Notice of Deposition Pursuant to SDCL 15-6-30(b)(6) and for a Protective Order (Motion to Quash and Protect). The Motion to Quash and Protect specifically applied to topics 2, 5(a), 5(b), 5(c), 5(e), 6, 7, and 8 of Fall River's Notice of Deposition. On October 18, 2019, the Commission granted the Motion to Quash and Protect for topics 5(a), 5(b), 6, 7, and 8 and denied the Motion to Quash and Protect for topics 2, 5(c), and 5(e).

Black Hills Energy submitted Rebuttal Testimony and Exhibits on January 30, 2020.

The Commission has jurisdiction over this matter pursuant to PURPA, and SDCL Chapters 1-26 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 14, 2020, through April 16, 2020, beginning at 1:30 P.M. CDT, with the marking of exhibits to begin 1:00 P.M. CDT, on April 14, 2020, in Room 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 Black Hills Energy's avoided cost for the purchase of energy and capacity from the Project in a manner consistent with PURPA, FERC's implementing regulations, and the Commission's F-3365 PURPA Order.

The hearing will be a quasi-judicial adversarial proceeding conducted pursuant to SDCL Chapter 1-26. All parties will have the opportunity to appear, present evidence, cross-examine the other parties' witnesses, and exercise all other rights afforded by SDCL Chapters 1-26, 49-1, 49-41B, and ARSD Chapters 20:10:01 and 20:10:22. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights will 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 the testimony and evidence offered and received into 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 issues set forth above. The Commission's final decision may be appealed by the parties to the circuit court and the State Supreme Court as provided by law. It is therefore

ORDERED, that a hearing will be held by the Commission on April 14, 2020, through April 16, 2020, beginning at 1:30 P.M. CDT, with the marking of exhibits to begin 1:00 P.M. CDT, on April 14, 2020, in Room 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 9th day of March 2020.

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: Adam Detwiler

Date: 3/9/20

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Gary Hanson

GARY HANSON, Chairman

Chris Nelson

CHRIS NELSON, Commissioner

Kristie Fiegen

KRISTIE FIEGEN, Commissioner