

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

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MAY 20 2010

TATANKA WIND POWER, LLC, )  
)  
Complainant, )  
)  
v. )  
)  
MONTANA-DAKOTA UTILITIES )  
COMPANY, a division of MDU Resources )  
Group, Inc., )  
)  
Respondent. )

PUBLIC SERVICE COMMISSION

Docket No. EL10-41-000

**TATANKA WIND POWER, LLC'S ANSWER TO  
MONTANA-DAKOTA UTILITIES COMPANY'S MOTION TO REJECT**

Pursuant to Rule 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), 18 C.F.R. § 385.213 (2009), Tatanka Wind Power, LLC ("Tatanka") hereby answers the motion to reject filed by Montana-Dakota Utilities Company ("MDU") on May 11, 2010.

**I. ANSWER TO MOTION TO REJECT THE ANSWER**

MDU's motion asserts that the April 29 answer of Tatanka should be rejected because it "presents facts that could have been included in the initial complaint or . . . reiterates arguments used in prior pleadings."<sup>1</sup> Neither assertion applies, and the motion should be denied.

As background, the answer filed by Tatanka on April 29, 2010 responded to issues raised in MDU's previous pleading: an asserted distinction between ownership and operation, an asserted requirement as to written modifications of the Amended and

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<sup>1</sup> MDU's Motion at 2.

Restated LGIA, and an asserted problem with connecting future generators to the substation. The April 29 Answer properly tied each response to MDU's prior pleading.<sup>2</sup>

The April 29 Answer did not simply rely on old evidence that could have been in the complaint or mere reiteration of previous pleadings. To the contrary, on the issue of the asserted distinction between ownership and operation, where MDU had admitted that it operated the facilities but did not own them,<sup>3</sup> Tatanka was able to identify evidence for the Commission that MDU had actually paid taxes for the parcel on which it has been arguing that it never accepted ownership.<sup>4</sup> The evidence in Exhibit I is a public document and indicates that tax payment was made with the local county treasurer on March 4, well after the complaint had been filed by Tatanka. This evidence could not have been included in the initial complaint. Further, MDU's assertions regarding its receipt of the warranty deed from Tatanka<sup>5</sup> made the warranty deed included in Exhibit I and the subsequent tax payment relevant.

Similarly, as to the April 29 Answer's section regarding written modifications on the Amended and Restated LGIA, MDU had not previously raised this argument. To provide a full record for the Commission, Tatanka felt compelled to respond.

Finally, as to the interconnection of future generators, MDU now asserts that the one-line diagram, which demonstrates the feasibility of the reconfiguration of the Tatanka substation, is "irrelevant to the issues presented in Tatanka's complaint."<sup>6</sup> The

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<sup>2</sup> See Tatanka's April 29 Answer at 2, 6, 8.

<sup>3</sup> See MDU's April 1 Answer at 4-5.

<sup>4</sup> See Tatanka's April 29 Answer, Exh. I, pp 17-20.

<sup>5</sup> MDU's April 1 Answer at 5, n.6..

<sup>6</sup> See MDU's Motion at n. 7.

one-line diagram became relevant because of MDU's assertion in its previous pleading of the difficulty of reconfiguring the substation for future generators.<sup>7</sup> The publicly available one-line diagram simply demonstrates that this assertion is contradicted by MDU's own studies.

## II. CONCLUSION

For the reasons set forth above, Tatanka respectfully requests that the Commission reject the May 11 motion of MDU and accept Tatanka's answer of April 29, 2010.

Respectfully submitted,

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Dated: May 20, 2010

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<sup>7</sup> See, e.g., MDU's April 1 Answer at 11.

**CERTIFICATE OF SERVICE**

In accordance with 18 C.F.R. § 385.2010, I hereby certify that the foregoing document was this day served, via electronic mail, upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Milwaukee, Wisconsin, this 20th day of May, 2010.

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