

CASE NO. 2008-545,207

FILED FOR RECORD  
DISTRICT CLERK LUBBOCK CO  
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2008 DEC -1 AM 11:16  
Barbara Ducey

REPUBLIC POWER PARTNERS, LP,

*Plaintiff,*

v.

WEST TEXAS MUNICIPAL POWER  
AGENCY, and HIGH PLAINS DIVERSIFIED  
ENERGY CORPORATION,

*Defendants.*

2008 DEC 1 11:16 AM

IN THE DISTRICT COURT OF

LUBBOCK COUNTY, TEXAS

237TH JUDICIAL DISTRICT

**STIPULATED FACTS**

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff Republic Power Partners, LP and Defendants West Texas Municipal Power Agency and High Plains Diversified Energy Corporation submit the following stipulated facts pursuant to Texas Rule of Civil Procedure 166a(c):

1. The West Texas Municipal Power Agency ("WTMPA") is municipal power agency and municipal corporation created under Chapter 163 of the Texas Utilities Code.
2. The WTMPA is comprised of the cities of Brownfield, Floydada, Lubbock and Tulia (the "Cities").
3. The WTMPA was originally created in 1983 by the cities of Brownfield, Crosbyton, Floydada, Lubbock, Plains, and Tulia and was recreated in 1986 to include only the Cities.
4. As a municipal power agency and municipally-owned utility under the Texas Utilities Code, the WTMPA provides electric service to residential, commercial, and industrial customers within its service area.

5. The WTMPA is obligated to provide for the reliable and adequate supply of electric energy for the service, including economic development, of the Cities.

6. The WTMPA currently satisfies its obligations to supply electric energy to the Cities under a wholesale power sales contract with Xcel Energy ("Xcel"), which requires Xcel to supply the WTMPA's full requirement of electric energy until 2019.

7. Xcel has advised the WTMPA that it will not be able to supply WTMPA's requirements for electric energy after 2019.

8. Extensive renewable energy resources exist in the High Plains region of Texas that the WTMPA serves, including wind, solar, and biomass energy sources.

9. The development of renewable energy sources in the High Plains region, along with the development of traditional electric generation fuels, including clean coal and natural gas, will provide balanced and reliable sources of electricity; however, the development and construction of electric generation facilities and infrastructure is expected to take approximately five to six years.

10. Facilities capable of generating electricity to replace the electricity currently provided by Xcel must be built and online in advance of 2019.

11. To satisfy its obligation to serve its member cities, the WTMPA has entered into a Development Agreement with Republic Power for the development of additional sources of renewable and traditional electric energy generation, together with the required transmission facilities, in the High Plains region served by the WTMPA (the "Project")

12. The Development Agreement is a public-private agreement to jointly plan, finance, acquire, construct, own, operate, and maintain electric facilities.

13. The Development Agreement achieves economies of scale in providing electric energy to the public.

14. The WTMPA has created a local government corporation ("High Plains Diversified Energy Corporation") to aid and act on its behalf in the performance of the WTMPA's rights and responsibilities under the Development Agreement.

15. Republic Power and the WTMPA have expended, and will continue to expend, substantial financial resources and efforts in connection with the Development Agreement.

16. The WTMPA requires, as a prerequisite to continued development of the additional energy sources contemplated in the Development Agreement, that Republic Power obtain a declaratory judgment confirming the WTMPA's legal authority to participate in the activities set forth in the Development Agreement.

Respectfully submitted,


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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document has been forwarded by certified mail in accordance with Texas Rule of Civil Procedure 21(a), to counsel indicated below on this 26th day of November, 2008.

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