

Service Date: July 3, 2003

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF NORTHWESTERN)	UTILITY DIVISION
ENERGY, Annual Application to)	
Implement its Unreflected Gas Cost, Gas Cost)	DOCKET NO. D2003.6.66
Tracking and Gas Transportation Adjustment)	
Clause Procedures)	ORDER NO. 6491a

PRELIMINARY INTERIM ORDER

INTRODUCTION

1. The Public Service Commission (PSC) issues this preliminary interim order to allow NorthWestern Energy (NWE) to change natural gas rates (as described below) and implement a monthly tracker procedure, all to be effective July 1, 2003. A detailed interim order will follow as time permits. The interim order may modify this preliminary interim order.

FINDINGS OF FACT

2. On June 3, 2003, NWE filed before the PSC an application for approval of its annual unreflected gas cost, gas cost tracking, and gas transportation adjustment clause procedures. NWE requests increased rates for natural gas service provided to consumers in Montana, stating wholesale purchase prices have increased significantly. The effect of the proposed rates varies among customer classes, but is approximately a 45 percent increase for residential customers. NWE also proposes its annual tracker period be changed to a monthly tracker period for the purposes of more immediately reflecting the actual market price of gas in customer rates. On a preliminary interim basis the PSC determines NWE's application should be granted with the following qualifications.

3. Based on PSC Docket No. D2002.11.140, Order No. 6468c (not yet released in final form), which relates to NWE's eight-month tracker period November 1, 2002, through June

30, 2003, the most direct and reasonable approach to ensuring that default supply ratepayers are not exposed to excessive prices resulting from NWE's failure to replace the fixed price "buy-back" contract with a comparable fixed price contract mix is to reprice 8,400 MDkt at the level of \$3.50/Dkt. An allowable gas price of \$3.50/Dkt is at the high end of available fixed price supply contracts that could reasonably have been obtained via RFP or contract negotiations, consistent with NWE's own strategy based on forward prices for periods of at least two years. The \$3.50/Dkt level of allowed prices, applied to the 8,400 MDkt or 40% of the annual gas supply, are significantly above the price level of about \$3.15/Dkt for the State of Montana procurement contract for a 24-month period commencing July 1, 2002. The window of opportunity for NWE to enter such fixed price contracts at or below the \$3.50/Dkt price existed for an extended period from the summer of 2001 through the fall of 2002. The PSC finds it reasonable that NWE would have: (1) entered a two-year contract(s) commencing July 1, 2002, for 4,200 MDkt or 50% of the buy-back contract level; and (2) entered a one-year contract(s) for the remaining 4,200 MDkt commencing July 1, 2002. *See, para. 65, Order No. 6468c.*

4. NWE purchased approximately 4,840 MDkt under the replacement contract during the eight-month period in the deferred account. Actual unit costs were \$4.747/Dkt as compared to the allowable level of \$3.50/Dkt approved for ratemaking purposes. The PSC therefore disallows \$6.0 million of the \$12.9 million undercollection sought by NWE.

5. The PSC determines that contract deliveries from the two-year contract would continue at 4,200 MDkt annual supply. NWE forecasts the unit price under index contracts in this docket at \$5.05/Dkt as compared to the allowable level of \$3.50/Dkt for ratemaking purposes. If NWE's average forecast price over the next twelve months actually occurs, the \$1.55/MDkt disallowance on 4,200 MDkt would approximate \$6.51 million for the period July 1, 2003, through June 30, 2004. In the event the actual unit gas cost for the 4,200 MDkt differs from the forecast price the disallowance might increase or decrease. If the actual cost for the 4,200 MDkt is less than the allowed \$3.50/Dkt, NWE is entitled to retain the savings (because the imputed contracts are fixed price per period of contract).

6. A monthly tracker procedure is approved for NWE on an interim basis. The

beginning point of forecast gas costs will be \$5.05/Dkt applicable to the forecast for purchases not affected by the imputed \$3.50/Dkt, as discussed above. Pipeline capacity charges and credits applicable to NWE will be part of the monthly tracker. Amortization of existing under-collections shall remain at a one-year period.

CONCLUSION OF LAW

7. NWE provides natural gas service within the state of Montana and as such is a “public utility” within the meaning of § 69-3-101, MCA.

8. The PSC properly exercises jurisdiction over NWE’s rates and operations pursuant to Title 69, ch. 3, MCA.

9. The PSC may, at its discretion, within the scope of § 69-3-304, MCA, make temporary approvals of requests pending a hearing or final decision.

10. The rate levels and spread approved in this order are a reasonable means of providing interim relief to NWE. The rebate provisions of § 69-3-304, MCA, protect ratepayers until there is an interim order or final order in this docket.

ORDER

11. NWE shall implement, on an interim basis, rates designed to increase annual Montana jurisdictional natural gas revenues in accordance with this preliminary interim order.

12. NWE shall adhere to and abide by all provisions in this preliminary interim order. All rate schedules shall comply with all determinations set forth in this preliminary interim order.

13. NWE must file tariffs in compliance with this preliminary interim order.

14. Nothing in this order precludes the PSC from adopting in its interim order or final order a revenue requirement different from that contained in this preliminary interim order.

15. Any interest associated with a refund that might result from the final revenue increase granted in this order will be computed at the NWE’s approved return on equity for this interim increase.

16. Interim approval of any matters in this proceeding should not be viewed as final

endorsement by the PSC of any issues, calculations, or methodologies approved in this preliminary interim order.

17. This preliminary interim order is effective for all services rendered on and after July 1, 2003.

DONE AND DATED this 30th day of June, 2003, by a vote of 3-2 (interim order) and 4-1 (monthly trackers).

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

BOB ROWE, Chairman
(voting to dissent on monthly tracker)

THOMAS J. SCHNEIDER, Vice-Chairman

MATT BRAINARD, Commissioner

GREG JERGESON, Commissioner
(voting to dissent, except on monthly tracker)

JAY STOVALL, Commissioner
(voting to dissent, except on monthly tracker)

ATTEST:

Barbara J. Effing
Acting Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.

Dissenting Opinion of Commissioner Greg Jergeson, Except on Monthly Tracker

The only part of this order I am able to concur in is the implementation of a monthly tracker procedure. I do this because I believe that the PSC must assiduously observe the “equal protection” provisions of the U.S. and Montana constitutions, and since a monthly tractor procedure has been a long-standing provision with Montana Dakota Utilities and Energy West, it is a procedure that also must be afforded to NorthWestern Energy.

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I strongly dissent from the balance of this order. My dissent in this order is consistent with my dissent in Order No. 6468c in Docket No. D2002.11.140 and I will not repeat all of the details of my dissent here. One only needs to refer to that dissent to understand many of the detailed flaws in this order.

As the Commission majority in this case demands NWE to “replace the fixed price buy-back contract with a comparable fixed price contract,” they are demanding that NWE perform an **economic alchemy** that is impossible to achieve. The buy-back contract was priced below market. To be comparable, NWE would have to negotiate and secure, from unregulated suppliers, below market price contracts. And then the Commission majority in this case divines its authority to dictate what those below market prices are to be. It is a flight of fantasy for the Commission majority in this case to assume that any unregulated energy supplier would ever sell gas to NWE at below market prices.

The Commission majority in this case has assiduously refused to acknowledge the structural and legal limitations on the ability of NWE to negotiate favorable contract terms with unregulated energy suppliers. Those negotiations do not represent the typical willing buyer/willing seller relationship. NWE is an obligated buyer, and that, alone, makes them vulnerable to the dictates of the sellers in these relationships.

With the exception of the one item of concurrence stated above, I believe this order (6491a) Docket D2003.6.66 and the previous order (6468c) Docket D2002.11.140 are so flawed that the purported purpose to provide the consumer with rate relief will not be achieved. Therefore, I must strongly dissent from the flawed provisions of this order.