

Service Date: August 19, 2005

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 for Approval of	)	
Monthly Gas Cost Tracker True-Up, Projected	)	DOCKET NO. D2005.5.87
Gas Costs, and Gas Transportation Balance	)	ORDER NO. 6685

**PROTECTIVE ORDER**

On May 25, 2005, NorthWestern Energy (NWE) filed before the Public Service Commission (PSC) a motion for protective order to govern certain information expected to be filed in this NWE gas cost tracker proceeding. On June 7, 2005, the PSC denied NWE's motion, without prejudice, on the basis of non-compliance with PSC protective order rules, ARM 38.2.5001 through 38.2.5030, primarily ARM 38.2.5007(3) through (4)(a)(iv). *See, July 20, 2005, Notice of Commission Action on Motion for Protective Order.* On July 25, 2005, NWE filed a renewed motion for protective order. NWE's renewed motion is proper in form and includes information as required by and in compliance with ARM 38.2.5007(3) through (4)(a)(iv).

In its renewed motion NWE requests protection of information relating to: detailed monthly costs, volumes, location of delivery, and the identity of parties associated with NWE purchases of natural gas, including the monthly invoices related to the above information; detailed monthly customer load volumes associated with default supply; storage and transportation utilization; the costs, volumes, location of delivery, and identity of parties associated with NWE requests for proposals or other negotiations for the provision of natural gas; and NWE's or NWE's purchase program administrator's evaluations of the parties from whom NWE purchases or may purchase natural gas. NWE argues that the identified information is trade secret in accordance with § 30-14-402, MCA. In its renewed motion NWE also requests special terms and conditions, proposing "confidential business information" be a basis for issuance of a protective

order and proposing a "market participant" / "market participant representative" concept to more strictly control access to confidential information.

In response to NWE's renewed motion, the Great Falls Tribune (Tribune) submitted comments in opposition, including in regard to NWE's request for special terms and conditions. The Tribune argues NWE's renewed motion rolls back recent public-access gains related to PSC protective orders and, through request for special terms and conditions, eliminates any real scrutiny of NWE's energy procurement practices.

The PSC determines NWE has shown good and sufficient cause in fact and law that the information for which protection is requested is entitled to protection from uncontrolled public disclosure pursuant to § 69-3-105, MCA, as trade secret as defined at § 30-14-402, MCA. The PSC does not agree that such protection of the identified information is in conflict with current law on protection of trade secrets. The PSC grants NWE's request for a protective order and hereby orders that information submitted in accordance with this order be treated as "confidential information" under the terms of this order and PSC protective order rules, ARM 38.2.5001 through 38.2.5030. The PSC denies NWE's request for special terms and conditions. The PSC agrees, at least given the nature of this particular NWE case and the particular information for which NWE requests protection, there is no justification for approving NWE's proposed special terms and conditions. The PSC determines the standard protections for trade secret information are sufficient protections in this case.

Done and dated this 16th day of August, 2005, by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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GREG JERGESON, Chairman

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BRAD MOLNAR, Vice-Chairman

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DOUG MOOD, Commissioner

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ROBERT H. RANEY, Commissioner

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THOMAS J. SCHNEIDER, Commissioner

ATTEST:

Connie Jones  
Commission Secretary

(SEAL)

NOTE: There is no reconsideration of the granting of a protective order. There is a procedure to challenge the provider's claim of confidentiality. See ARM 38.2.5008. Reconsideration of a denial of a protective order is available in accordance with ARM 38.2.4806.

Montana Public Service Commission  
Protective Orders and Protection of Confidential Information

## Nondisclosure Agreement

(7-26-00)

ARM 38.2.5012

Docket No., D2005.5.87 Order No. 6685  
Order Action Date: August 16, 2005

I understand that in my capacity as counsel or expert witness for a party to this proceeding before the commission, or as a person otherwise lawfully so entitled, I may be called upon to access, review, and analyze information which is protected as confidential information. I have reviewed ARM 38.2.5001 through 38.2.5030 (commission rules applicable to protection of confidential information) and protective orders governing the protected information that I am entitled to receive. I fully understand, and agree to comply with and be bound by, the terms and conditions thereof. I will neither use nor disclose confidential information except for lawful purposes in accordance with the governing protective order and ARM 38.2.5001 through 38.2.5030 so long as such information remains protected.

I understand that this nondisclosure agreement may be copied and distributed to any person having an interest in it and that it may be retained at the offices of the provider, commission, consumer counsel, any party and may be further and freely distributed.

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Typed or Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date of Signature

Business Address:

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\_\_\_\_\_  
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\_\_\_\_\_  
Employer

\_\_\_\_\_  
Party Represented

