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

IN THE MATTER OF NorthWestern Energy's)	
Application for Approval to Purchase and Operate)	REGULATORY DIVISION
PPL Montana's Hydroelectric Facilities, for)	
Approval of Inclusion of Generation Asset Cost)	DOCKET NO. D2013.12.85
of Service in Electricity Supply Rates, for)	
Approval of Issuance of Securities to Complete the)	
Purchase, and for Related Relief)	

**NorthWestern Energy's Supplement to its Objection to
Data Request MCC-011 filed on January 24, 2014**

On January 3, 2014, the Montana Consumer Counsel ("MCC") served data requests identified as MCC-001 through MCC-015 on NorthWestern Corporation d/b/a NorthWestern Energy ("NorthWestern"). Data Request MCC-011 stated, "Please provide copies of all communications (internal and external) concerning any aspect of NWE's potential acquisition of any generating properties from PPLM (or any affiliate thereof) other than the hydroelectric

properties that are the subject of this filing.” On January 24, 2014, NorthWestern filed an objection to MCC-011 asserting, among other items:

NorthWestern objects to this data request to the extent that it is overly broad; seeks the production of documents without reference to a time period or with reference to a time period that has no relevance to the matters at issue in this proceeding; calls for the production of documents that are cumulative or contain duplicative information without a specific determination as to their relevance and the need for them, especially in light of the time and expense required to gather and produce the voluminous requested documents; and imposes on NorthWestern undue expense or unreasonable burden.

Subsequent to making its objection, NorthWestern continued to analyze the emails and attachments to emails to determine how many documents might be responsive to MCC-011. As a result of this analysis, NorthWestern now knows more about the excessive burden and expense of responding to this data request. Therefore, NorthWestern submits this Supplement to its Objection to Data Request MCC-011 to provide additional details based on new information.

M. R. Civ. P. 26(b)(2)(c)(iii) provides:

On motion or on its own, the court must limit the frequency or extent of discovery otherwise allowed by these rules or by local rule if it determines that: (iii) the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

This rule applies to proceedings before the Commission pursuant to ARM 38.2.3301(1).

“[T]he subject of reasonableness is considered by weighing the annoyance and expense involved against the value of the information sought.” *State ex rel. Bankers Life & Casualty Co. v. Miller*, 160 Mont. 256, 260, 502 P. 2d 27, 29 (1972).

The burden and expense of responding to MCC-011 is extraordinary because it calls for “all communications (internal and external)” concerning “any aspect” of NorthWestern’s “potential acquisition” (underlining added) of PPLM’s generating properties “other than the

hydroelectric facilities that are subject of this filing.” This data request is extremely overbroad, and is neither specific nor tailored to solicit useful information. *The question also is not even directed at the hydro facilities at issue.* It is not clear that any additional useful information will be provided by causing NorthWestern to undertake a very time-consuming and costly effort to respond to MCC-011. To respond to a single and unfocused data request for “all” communications relating to facilities that NorthWestern does not seek to acquire, NorthWestern will need to review more than 40,000 documents, a process that will take more than 21 work days (even with 50 document reviewers) and cost more than **\$140,000**. Affidavit of Caroline Sweeney at ¶¶ 5, 6, 7 and 8.

As the Commission can see, the burden and expense of responding to MCC-011 clearly and decisively outweigh its likely benefits, especially considering the needs of the case. This docket concerns the acquisition of only hydroelectric assets, and not the other PPLM assets that are the subject of MCC-011. The parties never reached an agreement as to the value of any of the non-hydroelectric assets. The communications about those non-hydroelectric assets provide no information upon which to evaluate the Application actually before the Commission. In addition, NorthWestern has already provided in response to MCC-006 the documents and information upon which its Board of Directors relied in making the decisions regarding both the hydroelectric assets and the non-hydroelectric generating assets. In other words, the analysis upon which the NorthWestern Board relied in determining whether to make a bid on PPLM’s non-hydroelectric assets have been provided. Since these documents have been provided, there is no need to produce “all communications ... concerning any aspect of NWE’s potential acquisition” of PPLM’s non-hydroelectric properties, particularly given the cost and effort required to do so. To the extent that the Commission thinks that NorthWestern’s decisions about

non-hydroelectric generating assets may be relevant in this matter, ample information has already been provided. Additional information, especially in the form of tens of thousands of documents, is likely to only confuse the issues rather than to clarify them.

The bottom line: No government agency should force a party to spend over \$140,000 to collect documents that are not the subject of the hydro application. The data request is overbroad, unduly burdensome, and NorthWestern's objection to MCC-011 should be sustained.

RESPECTFULLY SUBMITTED this 30th day of January 2014.

NorthWestern Energy

By: 
Al Brogan
Attorney for NorthWestern Energy

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

IN THE MATTER OF NorthWestern Energy's)
Application for Approval to Purchase and)
Operate PPL Montana's Hydroelectric Facilities,)
for Approval of Inclusion of Generation Asset)
and Cost of Service in Electricity Supply Rates,)
for Approval of Issuance of Securities to)
Complete the Purchase, and for Related Relief)
)
REGULATORY DIVISION
DOCKET NO. D2013.12.85

Affidavit of Caroline Boudreau Sweeney

STATE OF MINNESOTA)
: ss
County of Hennepin)

I, Caroline Boudreau Sweeney, being first duly sworn, depose and state as follows:

1. I am the Global Director for E-Discovery & Client Technology Services for the law firm of Dorsey & Whitney LLP ("Dorsey"). One of my responsibilities is to oversee the work of LegalMine, the managed review service which Dorsey offers to help clients process, review, and produce large numbers of documents. NorthWestern Energy has retained Dorsey to assist the Company in the review and processing of documents in connection with data requests served in this matter.

2. I have over 25 years of experience in the legal technology industry and have worked for both law firms and litigation support vendors. I am a current member of The Sedona Conference Working Group on Electronic Document Retention and Production and the Association of Certified E-Discovery Specialists. In addition, I serve on client advisory boards for various legal technology vendors, have spoken at various legal industry educational events

and published articles regarding various e-discovery topics, including document review. I also regularly participate in e-discovery conferences and educational opportunities to ensure I stay abreast of the advances in this area.

3. I have been personally involved in coordinating and supervising the LegalMine efforts. The LegalMine efforts include the collection of potentially responsive documents, the review of these documents for privilege and responsiveness, as well as the preparation of these documents for production, and the creation of privilege document logs.

4. In my role at Dorsey, I regularly prepare or review budgets and schedules for similar document processing and review projects. I have prepared budgets and schedules for the work performed to date by LegalMine for NorthWestern in this matter and have checked those budgets and schedules against the actual costs and time spent.

5. I have reviewed Data Request MCC-011 and have estimated the time and costs required to (i) review the documents collected from NorthWestern related to the PPLM's thermal assets for responsiveness and privilege, (ii) create a privilege log, (iii) make any appropriate redactions, and (iv) produce the responsive documents.

6. I have determined that approximately 44,700 documents will have to be reviewed for possible production or inclusion on the privilege log if NorthWestern responds to MCC-011.

7. I estimate it will take roughly 21 workdays to complete the review, privilege log, redactions, and production provided that approximately 50 reviewers, with oversight from Dorsey attorneys, simultaneously work on review, redactions, and the privilege log.

8. My estimate of the cost to complete this work is approximately \$140,800.

9. The estimates I presented above are my best estimates and are based on my professional experience, the experience Dorsey & Whitney and LegalMine have had with similar projects for other clients, and the time and costs incurred to date in reviewing, redacting, and logging documents for this case.

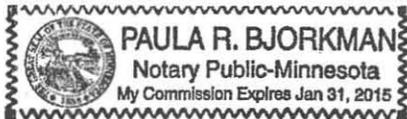
FURTHER YOUR AFFIANT SAYETH NAUGHT.

Caroline Boudreau Sweeney
Caroline Boudreau Sweeney

Subscribed and sworn to before me
this 30th day of January, 2014.

Paula R. Bjorkman

Notary Public



CERTIFICATE OF SERVICE

I hereby certify that a copy of NorthWestern Energy's Supplement to its Objection to Data Request MCC-011 filed on January 24, 2014 in Docket No. D2013.12.85 has been hand delivered to The Montana Public Service Commission and The Montana Consumer Counsel. A copy has been e-filed on the MPSC website. It will be mailed to the most recent service list in this Docket by first class mail. It will also be emailed to the counsel of record.

Date: January 30, 2014



Connie Moran
Administrative Assistant
Regulatory Affairs

Docket No D2013.12.85
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