



March 3, 2014

Ms. Kate Whitney
Montana Public Service Commission
1701 Prospect Avenue
P.O. Box 202601
Helena, MT 59620-2601

RE: Docket No. D2013.12.85
PPLM Hydro Assets Purchase
PSC Set 6 Data Requests (084-103)
UPDATED RESPONSES

Dear Ms. Whitney:

Enclosed for filing is a copy of NorthWestern Energy's updated responses to PSC Set 6 Data Requests listed below:

PSC-087	PSC-092a	PSC-093a	PSC-100c
PSC-090a	PSC-092b	PSC-093c	

A hard copy will be mailed to the most recent service list in this Docket this date. The Montana Public Service Commission and the Montana Consumer Counsel will be served by hand delivery this date. These updated data responses will also be e-filed on the PSC website and emailed to counsel of record.

Should you have questions please contact Joe Schwartzenberger at 406 497-3362.

Sincerely,

Nedra Chase
Administrative Assistant
Regulatory Affairs

NC/nc
CC: Service List

CERTIFICATE OF SERVICE

I hereby certify that a copy of NorthWestern Energy's updated responses to PSC-087, PSC-090a, PSC-092a, PSC-092b, PSC-093a, PSC-093c and PSC-100c in PSC Set 6 Data Requests (PSC-084-PSC-103) in Docket D2013.12.85, the PPLM Hydro Assets Purchase, has been hand delivered to the Montana Public Service Commission and to the Montana Consumer Counsel this date. They will be e-filed on the PSC website and served on the most recent service list by mailing a copy thereof by first class mail, postage prepaid. They will also be emailed to counsel of record.

Date: March 3, 2014



Nedra Chase
Administrative Assistant
Regulatory Affairs

Docket No D2013.12.85
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PSC-087 cont'd

UPDATED RESPONSE (March 3, 2014):

- a. As stated previously, NorthWestern no longer has its notes or materials associated with Mustang I. As is customary when a Seller enters into a Confidentiality Agreement with bidders for the potential sale of its assets, Paragraph 6 of PPL's September 2012 Confidentiality Agreement with NorthWestern required NorthWestern, as a condition of having access to PPL's confidential information, to agree to return or destroy all confidential information it obtained from PPL at any time PPL requests. PPL sent NorthWestern a letter dated February 11, 2013 requesting that NorthWestern destroy or return to PPL all Confidential Information. Consequently, we cannot demonstrate precisely how we quantified or assigned a dollar value to the environmental liabilities discussed in response to Data Request PSC-003c.

However, we do know that we included in our model certain future environmental costs. Some of these costs were based on compliance with existing laws and regulations, and our estimates of these costs were generally consistent with capital expenditures set out in PPLM's capital budgets. In addition, outside of the model, we assigned a cost of \$200 million for the future installation of Selective Catalytic Reduction (SCR) at Colstrip. However, beyond the inputs used in the modeling and the \$200 million SCR cost, we made a further allowance to accommodate for the considerable uncertainty associated with future environmental laws and regulations for coal facilities. The environmental expenses that were in the model, and the \$200 million outside of the model associated with SCR, did not totally represent the difference between the \$740 million non-conforming all hydro (plus Corette) bid and the \$400 million all asset conforming bid. Other factors that ultimately drove our \$400 million bid included negative impacts on our customers due to having excess power; regulatory risks associated with FERC market power issues; risks associated with not having complete control over the plants due to the Colstrip facilities having multiple owners; unknown but potentially very significant environmental costs associated with complying with future environmental requirements at Colstrip; and, of course, impacts on customers' bills. It was all of these factors that drove our \$400 million bid.

Ultimately, we never negotiated price issues with PPLM because we could not agree on key terms and conditions. We previously produced in discovery a

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document dated January 15, 2013, called "Project Mustang – Newfoundland "Conforming" Bid Threshold Non-Price Business Issues List." (Document No. MCC_009_00000305 in the MCC-009 folder on the CD provided February 18, 2014 with the updated response to Data Request MCC-009). This document, attached again here, was prepared by Simpson Thacher & Bartlett LLP, PPL's outside counsel. The negotiations never got past Issue No. 1, called "Restructuring." Therefore, even if NorthWestern would have been willing to increase its bid above \$400 million, the transaction's negotiations ended on Point No. 1 on the Simpson Thacher & Bartlett LLP's Issues List.

Although, in Mustang II, PPL indicated that the sale leaseback would be removed by the time a deal was closed, we had determined, in late June 2013, that we would not pursue any additional coal. First, we did not need the power. The extremely long position we would be in with the coal would have created substantial swings in rates because of the large percentage of customers' rates that would have included off-system sales credits.

In addition, we were concerned about acquiring more power than we needed, and particularly from coal, because we believed that it was going to become more difficult to sell coal off-system into the Pacific Northwest and West Coast markets. Washington Governor Inslee has clearly stated that he intends to end "coal-by-wire imports by WA utilities." California may have a similar limitation in the future.

Second, environmental risks had increased since negotiations terminated in Mustang I. For example, in March, 2013, the Sierra Club and the Montana Environmental Information Center (MEIC) sued the operator (PPL) and the owners of Colstrip, including NorthWestern, over Clean Air Act issues. On June 25, 2013, President Obama issued his Climate Change Action Plan, which will almost certainly increase the cost of coal generation. It is not possible to quantify what those costs might be and the impact of that Plan on Montana's coal facilities. In addition to these new risks, we continued to face other environmental risks associated with acquiring PPLM's thermal facilities such as the risks associated with the EPA's forthcoming coal ash regulations; future regional haze and other Clean Air Act costs; expenses related to the shutdown and remediation of Corette; other potential Colstrip litigation; and new environmental statutes and regulations. These costs cannot be quantified. In our judgment, we could not justify acquiring

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these assets and transferring these risks to our customers and/or shareholders because we could not quantify all of the environmental risks and we could not transfer these risks to PPL.

- b. As described in part a, above, NorthWestern no longer has its notes or analytic work from Mustang 1. However, similar analytical work, performed for Round Two, illustrates how negative value was ascribed to the thermal assets based on discounted cash flows from operations. Please see the model provided in response to Data Request PSC-066. The DCF results, shown in cells G2:J8 of the Valuation tab of that model, show a negative value for the thermal assets based upon discounted operational cash flows alone. As described in the response to Data Request PSC-066, this model does not include all of the risks and potential issues associated with the thermal assets as described in part a, above, and in the responses to Data Requests PSC-003c and d. These additional items would contribute significant negative valuation and are not included in the model provided in response to Data Request PSC-066.

As for the zero rate base value shown in the Round One conforming LT Rev Req Model produced in response to Data Request PSC-003b, this was done to simply include the estimated net purchase price for all of the thermal assets rather than attempting to allocate the purchase price out by ascribing a gross positive or negative value to each asset individually to equate to the bid price.

- c. We did not and could not assign a dollar value to the sale leaseback because so many of the risks associated with it could not be quantified. We included the sale/leaseback payments in our model which was approximately \$60 million on NPV basis. However, the sale leaseback required returning the asset in good operating condition and in compliance with all environmental regulations, and it also stipulated that the site had to be remediated at the end of the plant's useful life. These were obviously very significant additional risks whose costs could not be identified as we do not know what environmental requirements will be put in place in the future. As a start, we estimated that \$200 million would be required for installing Selective Catalytic Reduction (SCR) at Colstrip. However, because future environmental requirements associated with the plant are unknown but could be extremely significant, we could not define, with any precision, what those costs might be. Their potential significance, however, greatly influenced our bid for all the assets at \$400 million. Ultimately, we assigned a material

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negative value to the coal assets because of our determination that there would be more stringent and therefore more costly environmental regulation of coal facilities in the future, together with provisions in the sale/leaseback documents that would have required us to maintain the Colstrip facilities and to modify them to satisfy all future environmental laws, regardless of the economics of maintaining the facilities or modifying them. Please also see the response to Data Request PSC-087a.

- d. No, the environmental and lease-back liabilities described in the responses to Data Requests PSC-003c and d were not captured as data in the LT Rev Req model produced in response to PSC-003b due to both: (1) the difficulty in estimating the costs associated with the sale leaseback, which included the obligation to maintain and modify the Colstrip facilities to satisfy all future environmental laws and regulations, and (2) the likely inability of obtaining full regulatory recovery of these costs, especially in light of the long position our portfolio would be in with these thermal assets.

Confidential
January 15, 2013

SIMPSON THACHER & BARTLETT LLP

Project Mustang

**Newfoundland “Conforming” Bid
Threshold Non-Price Business Issues List**

Below is a summary of threshold, non-price business issues raised by Newfoundland’s markup of PPL’s proposed Purchase and Sale Agreement as part of Newfoundland’s “conforming” bid proposal. Please note, that this summary includes only threshold non-price issues, and does not represent an exhaustive list of all material issues raised by the markup. The following issues would need to be resolved before proceeding to a broader discussion of all of Newfoundland’s proposed changes.

1. Restructuring. Newfoundland requires that Sellers cause the restructuring of the assets of PPL Montana, LLC such that as of closing, the Buyer would directly own all of the non-Colstrip facilities and enter into a sub-lease of the Colstrip interests. This proposal would require the waiver of covenants contained in the Colstrip sale leaseback documents by the lease equity and lease debt (and presumably such parties would require substantial collateral in exchange for such waiver), and thus does not represent a “conforming” bid to purchase the interests of PPL Montana Holdings, LLC. While PPL is willing to help the Buyer, including with preclosing negotiation and other activities, in order to facilitate an expeditious post-closing transfer of assets or other rights from PPL Montana, LLC, Buyer must bear the risk and any out-of-pocket costs of such transfers.

Not Relevant



3. Regulatory Conditions. Newfoundland proposes a “sole discretion” standard with respect to FERC, MPSC and HSR approvals. While PPL is sensitive to Buyer’s need to obtain approvals on reasonable terms, the proposed changes give Buyer an option not to proceed even if such approvals are (or could be) obtained, which is not acceptable.
4. Closing Condition for Sellers’ Representations and Warranties. Newfoundland proposes that it would not be required to close if any of Sellers’ representations or warranties are breached in any material respect (or, with respect to any representations or warranties that contain any materiality qualification, in any respect) at either signing or closing. This standard is not acceptable and the closing condition as to “nonfundamental” Sellers’ representations and warranties should be restored to a “Material Adverse Effect” (or “MAE”) standard in the

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aggregate. In addition, the changes to the definition of the term “MAE” are not acceptable, particularly the inclusion of an MAE standard applicable to each Project on an individual basis.

5. Scope of Representations and Warranties. Newfoundland’s markup of the representations and warranties, including the removal of most MAE qualifiers and the extensive expansion of the scope of representations and warranties with minimal additional materiality qualification, is not consistent with a transaction of this type. While PPL is willing to address any legitimate concerns with the proposed scope in discrete instances, it would require significant movement back to its proposed terms. Additionally, PPL will not provide the type of “10b5” style representations and warranties proposed in the new Section 4.21 (Date Site) of the markup.
6. Employee Provisions. Newfoundland’s markup of the provisions relating to employees and employee benefits is not acceptable. PPL expects a customary allocation of risks as to employees and benefits, and expects that its Montana employees would be afforded more comparable compensation and benefits (as opposed to Buyer’s proposed standard of “not substantially less favorable” compensation and benefits) and for more than the 6-month period proposed by Buyer. Furthermore the union employees’ compensation and benefits are governed by their respective collective bargaining agreements.
7. Interim Covenants. Newfoundland’s markup of the interim covenants is not consistent with the proposed transaction. For instance, given the potential interim period of up to 18 months, the requirement that PPL not enter into any new agreements or credit support obligations that might extend beyond the unknown closing date without Buyer’s consent (which may be withheld in most circumstances in its sole discretion) is not reasonable. While PPL is willing to address any legitimate concerns of Newfoundland with any increased risks, it would require significant movement back to its proposed terms.
8. Assigned Contracts and Continuing Credit Support. While PPL understands Newfoundland’s concern with PPL’s sole control over the closing conditions with respect to obtaining necessary consents for assigned contracts and replacing continuing credit support obligations, the proposed switch to give Newfoundland sole discretion over such conditions is not acceptable. PPL is willing to work with Newfoundland to provide for a commercially reasonable process with reasonable assurances to PPL that any post-closing obligations would be limited in amount and duration.
9. Real Property Provisions. PPL is not willing to be responsible (financially or otherwise) for any title policies or commitments that Newfoundland decides to pursue with respect to the projects and will not accept the proposed closing condition with respect to such matters. PPL is willing to discuss any particular issues that arose during its ownership and to provide a customary gap indemnity affidavit in connection with any proposed commitments. Newfoundland should not be seeking protection with respect to any conditions that existed during its predecessor’s (i.e., Montana Power’s) ownership of any projects.
10. Rainbow 1603 Grant. While Newfoundland’s position is not clear in its markup (which includes the removal of the closing condition with respect to the grant), PPL requires that it receive the proceeds of such grant. Although PPL expects that the grant would be received by PPL Montana prior to closing based on the timing of the regulatory approvals, we would require the restoration of the closing condition with respect to the receipt of such grant to assure such pre-closing receipt.

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11. Coal Ash Condition. PPL will not accept the proposed closing condition with respect to post-signing coal ash regulation.

12. Indemnification. Newfoundland's markup of the indemnification provisions is not acceptable. In particular, the reduction of the de minimis amount to \$100,000, inclusion of a materiality "scrape" for all representations and warranties, and increase in the cap to 50% of the Base Purchase Price do not represent acceptable positions. PPL would expect the final terms and conditions for indemnification, coupled with any agreed expansion of its proposed scope of the applicable representations and warranties, to be substantially similar to its proposed terms.

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removed to account for the fact that some projects would not likely be expected to re-occur before 2036 and would have otherwise contributed to an average that would be higher than expected.

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PSC-092 RE Thermal CapEx vs. Hydro CapEx
Witness: John VanDaveer, part a / Mike Barnes parts a & b /
Joe Stimatz, parts c & d

In the spreadsheet provided in response to PSC-066, NWE in the “Thermal CapEx” tab lists both an “Expected Case” and a “High Case” for the Colstrip units. There appears to be only one cap-ex estimate, with no “high case” for the Hydros.

- a. Where did the cap-ex data appearing for the Thermal and Hydros come from?
- b. What specifically drives the difference between the “Expected” and “High” cases for the Colstrip units? Provide a list of the upgrades assumed in the Colstrip cap-ex forecasts.
- c. Why did NWE not try to produce other scenarios/cases of the Hydros’ required CapEx, as was the case with the Colstrip units?
- d. Did NWE consult other Colstrip co-owners’ publicly available information regarding cap-ex requirement estimates regarding Colstrip facilities (e.g., Puget Sound Energy) to check it against the cap-ex requirements assumed in the spreadsheet in response to PSC-066?

RESPONSES:

- a. On February 10, 2014, NorthWestern objected to the portion of this data request that pertains to thermal resources. NorthWestern will respond, if necessary, after the Commission has ruled on the objection.

As for the Hydros, all original backup data for the capital forecast was destroyed in accordance with the CA. The capital forecast was redeveloped from historical and forecast capital expenditures provided by PPLM. PPLM provided a specific five-year forecast for years 2013-2017 (see the response to Data Request PSC-018, parts a and b). Historical expenditures were also provided from 2008-2012 (see the response to Data Request MCC-057). Based on this information and the actual system upgrade status, a realistic capital annual aggregate amount was developed for year 2018 and escalated forward.

- b. On February 10, 2014, NorthWestern objected to this data request. NorthWestern will respond, if necessary, after the Commission has ruled on the objection.

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- c. The purpose of the DCF modeling was to provide an estimate of the value that other potential bidders would place on the assets. "Expected" and "High" cases can be useful in estimating the potential valuation effects of significant future events, such as regulatory changes, that would dramatically impact expenditures. Since the regulatory environment for the Hydros is mature and stable, the difference between any "Expected" and "High" cases that potential bidders would have developed would likely have been minor. Because of this, it was not beneficial or necessary for NorthWestern to develop such cases for the DCF analysis.
- d. On February 10, 2014, NorthWestern objected to this data request. NorthWestern will respond, if necessary, after the Commission has ruled on the objection.

UPDATED RESPONSE (March 3, 2014):

- a. **Mike Barnes response:** All of the work papers and documentation supporting the detail in the Thermal CapEx tab were destroyed in accordance with the PPL CA. As a result of that destruction, the detail is no longer available; however, generally, the 10-year capital budgets provided by PPLM for Colstrip 1-4 and Corette were used as presented for years 2014-2022. The future years were projected based on an escalation factor using the average of the 10-year capital as a basis for the starting point in 2023.
- b. All of the work papers and documentation supporting the detail referenced Thermal CapEx tab were destroyed in accordance with the PPL CA. However, if I recall correctly, there was no difference between the High Case and the Expected Case for years 2014-2022 and those values were used as presented in the PPLM 10-year capital budget documents. As indicated in the response to Data Request PSC-090a, an average capital cost was then calculated using the cost estimates from 2013 through 2022 which was then used as a starting point for 2023. Then the costs were simply escalated for years 2024-2036. The difference between High Case and Expected Case for years 2024-2036 exists simply due to adjustments that were made to the average of 2013 through 2022 to account for the fact that there were specific projects in the 10-year capital budget that would not be expected to be incurred again in 2023-2036. Once those projects were removed, an average of the remaining cost was calculated and was used as a

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starting point for 2023 and a simple escalation was used to project the future years in the Expected Case. In the High Case, those same projects were not removed and were included in the average used as starting point for 2023 and then escalated.

d. No.

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projects (Gordon Butte, Spion Kop, and Judith Gap) and weighted according to project size. The 20-year levelized cost of the wind PPA is \$43.96/MWh. This value is comparable to prices of the most competitive bids received in the 2012 CREP RFP. The wind resource costs developed and presented in Table 5-8 in Volume 1 of the 2013 Plan were not used in the PowerSimm model and were a carry-over from earlier resource work performed prior to modeling.