



July 7, 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
MCC Set 4 Data Requests (095-151)
Update to MCC-106

Dear Ms. Whitney:

Enclosed for filing is a copy of NorthWestern Energy's updated response to MCC-106 in MCC Set 4 Data Requests. 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 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 response to MCC-106 in MCC Set 4 (095-151) Data Requests 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. This updated response 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. This updated response will also be emailed to counsel of record.

Date: July 7, 2014

A handwritten signature in cursive script that reads "Nedra Chase". The signature is written in black ink and is positioned above a horizontal line.

Nedra Chase
Administrative Assistant
Regulatory Affairs

**Docket No D2013.12.85
Hydro Assets Purchase
Service List**

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NorthWestern Energy
Docket D2013.12.85
PPLM Hydro Assets Purchase

Montana Consumer Counsel (MCC)
Set 4 (095-151)

Data Requests served February 7, 2014

MCC-106 RE: Dam and Reservoir
Witness: Gary Wiseman / William Rhoads

In reference to page 26 of the Report, please identify and fully describe each liability and/or expense obligation related to Kerr Dam that may remain with NWE after the dam is sold to the Indian Tribes. Please identify each PFM and or risk reduction measures and estimated cost thereof that may be undertaken before Kerr Dam is sold to the Tribes.

RESPONSE:

Rhoads response to first sentence of request: None.

Wiseman response to second sentence of request: Please see pages 25 and 26 of the unredacted version of Exhibit __ (WTR-2.1) for a list of the PFMs for Kerr. Please see the response to Data Request MCC-108 for a general explanation of PFMs. Risk reduction measures are listed on page 27 of the unredacted version of Exhibit __ (WTR-2.1). Projected O&M budgets will cover identified risk reduction measures.

UPDATED RESPONSE (July 7, 2014):

Rhoads: NorthWestern may or may not have expenses after the license is transferred to the CSKT. However, in order to limit its exposure to the one known potential expense, NorthWestern has entered into an Agreement with the CSKT. If NorthWestern incurs any costs under the Agreement with the CSKT, the costs are shareholder and not ratepayer expenses.

See Attachments 1 and 2. Please also note that pursuant to Protective Order No. 7323, pages 8 and 9 of Attachment 1 are protected and are being provided on yellow paper to the Commission and parties who have signed the appropriate non-disclosure agreement.

June 12, 2014

The Confederated Salish and Kootenai Tribes of the Flathead Nation
P.O. Box 218
Pablo, Montana
59855

Re: Kerr Hydroelectric Project, FERC Project No 5 - Repairs of Kerr Project
Spill Gates

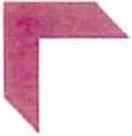
Dear Chairman Trahan:

The Kerr Hydroelectric Project, Project No 5, (“Kerr Project”) includes Kerr Dam as one component of the Kerr Project Works. Kerr Dam has 14 spill gates. The Federal Energy Regulatory Commission (“FERC”) performed a dam safety inspection on the Kerr Project on August 14, 2013 and issued a follow up dam safety inspection report on September 9, 2013, where it referenced certain spill gates catching and binding when being moved up and down due to wear on the bronze roller wheels. In subsequent correspondence between FERC and PPL Montana, LLC (“PPLM”), FERC and PPLM considered a schedule for the inspection, study, design, repair and improvement of gates 4, 5, 6 and 7 to address the catching and binding of those gates when being moved up and down (collectively, the “Kerr Gate Repairs”). The inspection, study, design and implementation of the Kerr Gate Repairs are discussed in the PPLM letter to FERC dated December 16, 2013 (Attachment 1) and subsequent correspondence among PPLM, CSKT and FERC.

PPLM, the current owner and a FERC licensee of the Kerr Project, and NorthWestern Corporation (“NWE”) entered into an agreement pursuant to which NWE will acquire the Kerr Project (the “PPLM-NWE Conveyance”) subject to certain conditions precedent, including the transfer from PPLM to NWE of the FERC license issued on July 17, 1985 for the Kerr Project (as amended, the “FERC License”). NWE and PPLM filed a joint application for necessary FERC approval of the PPLM-NWE Conveyance (“FERC Approval”) and the Confederated Salish and Kootenai Tribes (“CSKT”) filed an intervention and protest to NWE’s and PPLM’s application for FERC Approval.

On March 5, 2014, in a filing with FERC, CSKT gave formal notice of its intention to exercise its right to acquire the Kerr Project on September 5, 2015.

This letter sets forth the agreement (the “Agreement”) between CSKT and NWE regarding the sharing of costs incurred by CSKT and NWE related to the inspection, study, design and implementation of the Kerr Gate Repairs (the “Gate Repair Costs”). This Agreement does not address, affect or relate to any other rights or interests of either CSKT or NWE except as expressly provided for herein. CSKT and NWE may be referred to collectively herein as the “Parties” and singularly as a “Party.”



Sharing of Gate Repair Costs.

1.1 Subject to the terms and conditions set forth in this Agreement and provided that both the PPLM-NWE Conveyance (and accompanying transfer of the FERC License) is consummated and the conveyance of the Kerr Project from NWE to CSKT is consummated, the Parties agree that:

1.1.1 NWE shall be responsible and pay for 50% of the first \$1,700,000 incurred as Gate Repair Costs, but in no event will NWE's total responsibility under this Agreement include any amount in excess of the lesser of either 50% of total Gate Repair Costs or \$850,000 (the "Gate Repair Cap"); and

1.1.2 CSKT shall be responsible and pay for 50% of the first \$1,700,000 incurred as Gate Repair Costs and 100% of all Gate Repair Costs incurred in excess of \$1,700,000, whether or not Gate Repair Costs are incurred during the period of NWE's ownership of the Kerr Project or CSKT's ownership of the Kerr Project and whether or not the Gate Repair Costs constitute capital or noncapital expenditures.

1.2 To meet its obligations under Section 1.1 and subject to the conditions therein, CSKT shall reimburse NWE: (a) for 50% of all Gate Repair Costs, incurred by NWE prior to conveyance of the Kerr Project to CSKT up to \$1,700,000 in Gate Repair Costs incurred by NWE; and (b) for 100 % of the Gate Repair Costs incurred by NWE prior to conveyance of the Kerr Project to CSKT that are in excess of \$1,700,000. The Parties have agreed to the payment arrangements under this Section 1 in lieu of utilizing the Conveyance Price adjustment and dispute resolution mechanism pursuant to ordering paragraph (C)(3)(c) of the FERC License with respect to Gate Repair Costs. In furtherance of the foregoing, the Parties agree that: (i) NWE shall not recover from CSKT Gate Repair Costs incurred by NWE in its capacity as licensee of the Kerr Project as part of the Conveyance Price for the Kerr Project pursuant to ordering paragraph (C)(3)(c) of the FERC License; and (ii) NWE shall not recover from CSKT Gate Repair Costs paid by CSKT as part of the Conveyance Price for the Kerr Project pursuant to ordering paragraph (C)(3)(c) of the FERC License. The foregoing shall not prohibit NWE from seeking to recover from CSKT costs incurred by PPLM related to the inspection, study, design and implementation of the Kerr Gate Repairs as part of the Conveyance Price for the Kerr Project pursuant to and to the extent permitted by ordering paragraph (C)(3)(c) of the FERC License. NWE and CSKT will not take any position contrary to the provisions of this Section 1 before FERC.

1.3 To meet its obligations under Section 1.1 and subject to the conditions therein, NWE shall reimburse CSKT for 50% of any Gate Repair Costs that are incurred by CSKT after conveyance of the Kerr Project to CSKT, provided that the aggregate amount of such reimbursement shall not exceed the difference of the Gate Repair Cap less the amount of Gate Repair Costs incurred by NWE prior to the conveyance of the Kerr Project to CSKT that have not been reimbursed pursuant to Section 1.2.



1.4 Each Party shall provide the other with documentation reasonably substantiating the costs for which reimbursement is sought under Sections 1.1, 1.2 and 1.3. Reimbursements required under Sections 1.1, 1.2 and 1.3 shall be made within 30 days of receipt of invoice and requisite substantiating documentation. Undisputed amounts shall be paid pending resolution of disputed amounts. Without limiting the rights of either Party, interest shall accrue on late payments, including payments in respect of disputed amounts later determined to be owing, from the date payments first became due at an interest rate per annum equal to the rate on overnight Federal funds charged by the Federal Reserve Bank of New York plus 3% per annum. Any request for reimbursement shall be made on or before 7.5 years from the Effective Date.

1.5 NWE and CSKT agree to regularly consult and work cooperatively with each other regarding the Kerr Gate Repairs with the objective of developing a mutually acceptable plan that will ensure such repairs occur in a timely, efficient, and cost effective manner.

FERC Approval Obligations.

On January 17, 2014, CSKT submitted a "Motion to Intervene and Protest" and on March 5, 2014, CSKT submitted "Comments," with FERC in Docket No. P-5-000 in response to the joint application by PPLM and NWE for FERC Approval to the PPLM-NWE Conveyance (the "Opposition Filings"). Within three (3) business days after the date of this Agreement first written above (the "Effective Date"), CSKT agrees to file a pleading with FERC in the form of Attachment 2 that (i) withdraws the Opposition Filings, (ii) states CSKT's lack of objection to the PPLM-NWE Conveyance and (iii) supports FERC's expedited approval of the PPLM-NWE Conveyance.

NWE's Exclusive Liability.

The Parties agree that NWE's contributions towards the Gate Repair Costs contemplated in Section 1, up to the Gate Repair Cap, will be NWE's exclusive liability and exclusive payment obligation with respect to the Kerr Gate Repairs and in no event shall such liability or payment obligation exceed \$850,000. Except as provided in Section 1 and subject to satisfaction of NWE's obligation to contribute to the Gate Repair Costs, CSKT hereby waives (and shall cause its subsidiaries, instrumentalities, agencies and representatives to waive, as requested by NWE) any claim against NWE at any time under contract, permit, agreement, law or otherwise, related to the Kerr Gate Repairs.

Disputes Between Parties; Binding Arbitration; Waiver of Sovereign Immunity.

4.1 Any dispute, claim or controversy arising by and between the Parties out of or relating to this Agreement or any breach thereof (a "Claim"), shall be settled by binding and final arbitration under the Commercial Arbitration Rules ("AAA Rules") of the American Arbitration Association ("AAA"), as modified by this Section 5. Any arbitration commenced under this Agreement shall be held, and the award shall be rendered, in the State of Montana.



4.2 There shall be three arbitrators. Either Party may, by written notice to the other Party after such Claim has arisen, commence an arbitration proceeding by: (i) filing a Demand for Arbitration (within the meaning of the AAA rules) with the AAA; (ii) sending notice of the Demand for Arbitration to the other Party to the controversy; and (iii) appointing a selected arbitrator. The other Party to the Claim shall, by written notice, within twenty (20) days after the receipt of notice by the first Party, appoint a second arbitrator. When the two (2) arbitrators have been appointed as hereinabove provided, they shall agree on a third arbitrator, who shall be appointed by written notice signed by both of the previously appointed arbitrators within thirty (30) days of the appointment of the second arbitrator with a copy mailed to each Party hereto within ten (10) days after such appointment. Provided, that if any arbitrator is not timely appointed, a party may, on written request, apply to the AAA for such appointment.

4.3 No arbitrator shall be related to or affiliated with, or shall have represented in a legal capacity, any Party hereto. Each arbitrator must be an attorney admitted to practice and in good standing in any state of the United States. The arbitrators shall apply the law of the State of Montana, as provided in Section 5 below. Within sixty (60) days, or as soon as practicable thereafter, of the appointment of the tribunal, and after receiving evidence and hearing witnesses, if any, the arbitrators shall render their decision, accompanied by findings of fact and a statement of reasons for the decision. The arbitrators shall have the authority to award, in connection with a Claim, all legal and equitable remedies, enforce specific performance of any obligation created under this Agreement, and the issuance of an injunction along with attorneys' fees and costs as provided herein (the "Award"), and shall have no authority to issue any other relief inconsistent with the terms and conditions of this Agreement, including without limitation any award for punitive relief. The Award shall not exceed that which could be issued by a court of competent jurisdiction sitting in the State of Montana. The Award shall be made by decision of the majority of the arbitrators and shall be final, conclusive and binding upon the Parties. Any Award rendered herein may be entered in or enforced in the United States District Court for the District of Montana, or in the event that said court declines or otherwise lacks jurisdiction over the matter, then in any appropriate State District Court for the State of Montana, as the exclusive and sole venues (the "Enforcement Forums"); provided, however, that in the event the Enforcement Forums lack appropriate jurisdiction or otherwise decline to assume jurisdiction concerning the Award, then either Party may apply to the CSKT Tribal Court (the "Tribal Court") for the sole and limited purposes of entering the Award in the records of the Tribal Court and enforcing the same, and for no other purposes (including without limitation any judicial review of the Award or re-litigating any matters contained therein or related thereto). Any review of the arbitration decision shall be limited to enforcement of the Award and the findings of the arbitrator(s) shall not be re-litigated. The arbitration and the Award shall be governed by, and the standards of review of the Award that are applied shall not be inconsistent with, the Federal Arbitration Act, found at Title 9 of the U.S. Code. The Parties further acknowledge and agree that either Party may apply to the United States District Court for the District of Montana, or in the event that said court declines or otherwise lacks jurisdiction over the matter, then in an appropriate State District Court for the State of Montana, and seek injunctive relief so as to maintain the status quo until such time as the arbitration Award is rendered or the Claim is otherwise resolved. Each of the Parties hereby agree that this arbitration provision is valid and enforceable and therefore waive



any defense or assertion to the contrary. In any action permitted in this Section 4.3, each of the parties irrevocably (i) consents and submits to the personal jurisdiction of the Enforcement Forums; (ii) waives, to the fullest extent it may effectively do so, any objection, including any objection to the laying of venue or based on the grounds of forum non conveniens or any right of objection to jurisdiction on account of its place of incorporation or domicile, which it may now or hereafter have to the bringing of any such action or proceeding in any Enforcement Forum; and (iii) consents to service of process by first class certified mail, return receipt requested, postage prepaid or in any other manner permitted by applicable law.

4.4 The reasonable expenses of dispute resolution regarding this Agreement, whether by arbitration or judicial enforcement, including but not limited to attorneys' fees and costs, shall be paid by the losing Party, or, in the event each Party is partially successful, shall be apportioned between the Parties in the reasonable discretion of the arbitrators or judge, whichever is applicable. If any dispute is resolved by settlement between the Parties, each Party shall bear its own costs and expenses.

4.5 The Parties acknowledge that CSKT is a federally-recognized Indian tribe possessing sovereign immunity from suit and other legal proceedings. CSKT hereby waives (and shall cause its subsidiaries, instrumentalities, agencies and representatives to waive, as necessary) any defense of sovereign immunity related to a Claim. CSKT expressly submits to and consents to the jurisdiction of the United States District Court for the District of Montana or in the event that said court declines or otherwise lacks jurisdiction over the matter, then in the appropriate State District Court for the State of Montana, then to the Tribal Court as provided in Section 4.3. Nothing in this Agreement shall be deemed to be a waiver of CSKT's sovereign immunity except as expressly provided in this subsection.

4.6 The provisions of this Section 4 shall survive termination of this Agreement and shall last for so long as may be necessary to resolve any Claim.

Governing Law.

This Agreement shall in all respects be governed by, and enforced and interpreted in accordance with any applicable federal law and the laws of the State of Montana.

Waiver of Breach; Termination; Specific Performance.

The waiver by any Party to this Agreement of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provisions hereof. NWE has the right to terminate this Agreement if CSKT fails to comply with its obligations in Section 2. The Parties agree that if any of the provisions of this Agreement were not performed by a Party in accordance with their specific terms or were otherwise breached, the other Party would suffer actual, immediate and irreparable harm and injury and would not have any adequate remedy at law. In addition to any other remedy at law or in equity, each Party is entitled to specific performance by the other Party of its obligations



under this Agreement. Each Party waives any requirement for the securing or posting of any bond in connection with such remedy.

Captions and Construction; Severability.

The captions used herein as headings for the various paragraphs are for convenience only, and the Parties agree that such captions are not to be construed to be part of this Agreement or to be used in determining or construing the intent or context of this Agreement. Should any portion of this Agreement be held unenforceable or inoperative for any reason, such portion of this Agreement shall not affect any other portion of this Agreement, but the remainder shall be as effective as though such ineffective portion had not been contained in this Agreement.

Further Assurances.

Each Party shall take all actions reasonably requested by the other Party to give further assurance to and to carry out the effect of the provisions of this Agreement.

Representations and Warranties.

9.1 Each Party represents and warrants to the other Party that such Party is duly organized and validly existing and is in good standing, that this Agreement has been duly authorized and executed by such Party, that this Agreement is a valid and binding obligation of such Party enforceable in accordance with its terms, that no consent from any other person or entity is required that has not been obtained in respect of its execution and performance of this Agreement and that the execution and performance by such Party of this Agreement will not violate its organizational documents or any agreement or law to which it or its assets is subject.

9.2 This Agreement shall not constitute an admission or evidence of any fact, wrongdoing, misconduct, or liability on the part of the NWE and CSKT and its elected and appointed officials, officers, directors, employees, agents and attorneys.

9.3 This Agreement constitutes the complete and entire expression of agreement between the Parties and supersedes all prior and contemporaneous offers, promises, representations, negotiations, discussions, and communications, whether written or oral, which may have been made in connection with the Kerr Gate Repairs. Any such representations or claims are hereby disclaimed.

Amendments in Writing.

This Agreement may not be amended, supplemented or modified except by an instrument in writing signed on behalf of each of the Parties.

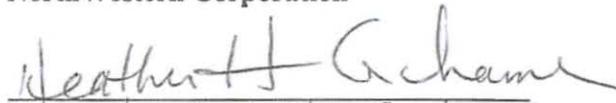


Counterparts.

This Agreement may be executed in one or more counterparts, including facsimile and electronic counterparts, which taken together shall constitute one and the same document.

Please state your agreement with the foregoing by signing where indicated below.

NorthWestern Corporation


Name: Heather H. Grahame
Title: Vice President & General Counsel

Accepted and Agreed as of the 12 day of June, 2014

**The Confederated Salish and Kootenai
Tribes of the Flathead Nation**

Name: Arnold J. J. J.
Title: TRIBAL CHAIRMAN

Pages 8 and 9 of MCC-106 Attachment 1 are protected in accordance with Protective Order No. 7323 and are being provided on yellow paper under the terms of the Order to those parties who have executed the associated non-disclosure agreement.

FEDERAL ENERGY REGULATORY COMMISSION
Office of Energy Projects
Division of Dam Safety and Inspections
Portland Regional Office
805 SW Broadway, Suite 550
Portland, Oregon 97205

FERC-KER-2099
Dkt. D2013.12.85
Data Request No. MCC-106
Attachment 2
Page 1 of 2
cc : File
FERC Ease
e-mail: GDC/JHJ/JCC/CAH

APR 2 2014

In reply refer to:
P-5-MT
NATDAM-MT00226

Ms. Carrie A. Harris
Manager, Engineering & Projects
PP&L Montana
45 Basin Creek Road
Butte, MT 59701-9704

Subject: Follow Up Items from the 2013 Dam Safety Inspection for the
Kerr Dam Hydro Project No. 0005

Dear Ms. Harris:

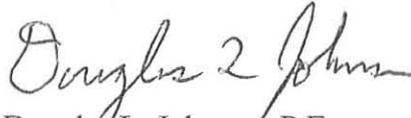
This is to acknowledge your December 16, 2013 letter providing a plan and schedule to inspect and repair the binding of spillway gates 4 through 7 at the Kerr Project, FERC No. 5. The letter was in response to our November 18, 2013 letter. Your schedule is acceptable, with the following stages noted:

- 1) Completion of an engineering analysis of the spillway bridge structure to determine the best method of gate removal by June 1, 2014,
- 2) Completion of a rehabilitation study by June 1, 2015, and
- 3) Construction to repair the gates in 2016.

Your December 16, 2013 letter also states that PPL has developed SOPs that instruct operators on how to deal with difficulties during gate operation, i.e. ordering gate operation that minimizes use of problem gates, as well as methods and tools to use if binding should occur. You indicate that you are confident that the gate can continue to be operated reliably for the next few years while the best solution to address your problem is developed. You are reminded that proper performance of the spillway gates is essential to overall project safety and failure of the gates to open or close could have serious consequences.

Thank you for your continued cooperation relative to dam safety. If you have any questions, please contact Mr. David Cummings of this office at 503-552-2713.

Sincerely,



Douglas L. Johnson, P.E.
Regional Engineer

cc: Energy Keepers, Inc.
Attn: Mr. Brian Lipscomb, CEO
110 Main Street, Suite 304
Polson, Montana 59860

Mr. Joe Durglo, Chairman
CKST Tribal Council
P.O. Box 278
Pablo, MT 59855