

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

IN THE MATTER OF the Application of) REGULATORY DIVISION
NorthWestern Energy for Hydro Assets) DOCKET NO. D2013.12.85
Purchase) ORDER NO. 7323h

ORDER

PROCEDURAL HISTORY

1. On December 20, 2013, NorthWestern Corporation doing business as NorthWestern Energy (NorthWestern) filed its *Application for Hydro Assets Purchase* (Application) with the Montana Public Service Commission (Commission). The Commission issued a *Notice of Application and Intervention Deadline and Initial Procedural Schedule* on December 23, 2013.
2. On December 27, 2013, the Commission issued Data Request PSC-001, which asked NorthWestern to provide the Confidential Information Memorandum (CIM) of PPL Montana, LLC (PPLM) referred to in testimony attached to the Application.
3. On January 3, 2014, the Montana Consumer Counsel (MCC) issued Data Requests MCC-009 and MCC-010, which asked NorthWestern to “provide copies of all communications” with PPLM, to identify all meetings with PPLM and the people involved, and to “provide copies of all notes and other documents related to those meetings.”
4. On January 10, 2014, NorthWestern filed a *Motion for Protective Order of Confidential Information and Brief in Support* (First Motion), as well as the *Affidavit of Ron Norman*. In its First Motion, NorthWestern explained that the CIM contains “confidential and proprietary information developed by PA Consulting at the request of PPL[M],” and sought protection of the following “four categories” of information in the CIM:
 - (1) Outputs from PA Consulting’s analysis and modelling;
 - (2) inputs for PA Consulting’s analysis and modelling;
 - (3) market projections and expert statements and conclusions made by PA Consulting’s energy market experts; and
 - (4) information PA Consulting has licensed from third parties and agreed under

license terms to not publish.

1st Mot. p. 2 (Jan. 10, 2014); Or. 7232d ¶ 5 (Jan. 23, 2014).

5. On January 23, 2014, the Commission issued *Protective Order 7323d* granting NorthWestern's First Motion. *Id.* at ¶ 14.

6. On January 24, 2014, NorthWestern objected to Data Requests PSC-001 "In the event that the Commission [did] not grant" its First Motion. NorthWestern also objected to MCC-009 and MCC-010. On February 3, 2014, the MCC filed a *Response to Objections and Motion to Compel*.

7. On February 6, 2014, the Commission found NorthWestern's objection to Data Request PSC-001 to be moot, in part because it had granted NorthWestern's First Motion, and overruled NorthWestern's objections to Data Requests MCC-009 and MCC-010 in part (to the extent they were not narrowed by the MCC). *See* Notice of Commn. Action p. 4 (Feb. 10, 2014).

8. On February 18, 2014, NorthWestern filed a *Motion for Protective Order of Confidential Report and Management Presentation in MCC-009 and MCC-010 Responses and Brief in Support* (Second Motion), as well as the *Affidavit of Ron Norman*. In its Second Motion, NorthWestern explains that its review of communications and meeting notes "identified a series of documents" that contain "confidential and proprietary information developed by PA Consulting at the request of PPL[M]," and seeks to protect the same "four categories" of information described in its First Motion. 2d Mot. p. 2-3 (Feb. 18, 2014); *see supra* ¶ 4.

9. On February 20, 2014, the Commission published notice of the Second Motion in its weekly agenda.

FINDINGS OF FACT

10. The "four categories" of information NorthWestern seeks to protect in its Second Motion are identical to the "four categories" of information for which NorthWestern sought, and was granted, protection in its First Motion. *Compare* 2d Mot. p. 3 *with* Or. 7323d ¶ 5. Revealing the information for which NorthWestern seeks a protective order in its Second Motion would necessarily negate the protection granted in *Protective Order 7323d*.

CONCLUSIONS OF LAW

11. NorthWestern may submit the “four categories” of information for which it seeks protection in its Second Motion in accordance with *Protective Order 7323d*; information submitted in accordance with *Protective Order 7323d* must be treated as confidential pursuant to Title 38, Subchapter 50 of the Administrative Rules of Montana. Or. 7323d ¶ 15.

DONE AND DATED this 4th day of April, 2014 by a vote of 5 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

W. A. GALLAGHER, Chairman

BOB LAKE, Vice Chairman

KIRK BUSHMAN, Commissioner

TRAVIS KAVULLA, Commissioner

ROGER KOOPMAN, Commissioner

ATTEST:

Aleisha Solem
Commission Secretary

(SEAL)