

Service Date: April 11, 2014

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 )  
Purchase ) DOCKET NO. D2013.12.85

**STATEMENT OF DISSENT**

In its action sustaining an objection to Data Request PSC-136(e)<sup>1</sup>, the Commission has defaulted to the side of less information, rather than more information, with the unfortunate consequence that the Commission and intervening parties in this proceeding are denied access to the Confidential Information Memorandum (CIM) which was authored by PPL Montana, LLC (PPL) and used by NorthWestern Energy (NorthWestern) before the utility decided to dismiss a resource alternative to the hydroelectric dam purchase (the Hydros).

Evidently at the core of the Commission’s action is the misplaced idea that the PPL thermal assets have nothing to do with the proceeding at hand. This is a mistake of law and a blindness to the facts of this case. Any pre-approval case concerns not just the resource for which pre-approval is sought, but the other resources that the utility considered, and discarded, before arriving at its preferred resource. Pre-approval applications must include “testimony and supporting work papers demonstrating the utility’s estimates of the cost of the resource compared to the cost of each alternative resource the utility considered and all relevant functional differences between each alternative.” Admin. R. Mont. 38.5.8228(2)(d) (2014). The pre-approval statute charges the Commission with the important duty of ensuring that the utility “evaluates the full range of cost-effective electricity supply” resources. Mont. Code Ann. §§ 69-8-421(6)(c)(ii), § 69-8-419(2)(b).

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<sup>1</sup> PSC-136(e) asks: “Please provide all Confidential Information Memoranda that were provided to NorthWestern for the purpose of evaluating the PPL thermal assets. If a complete, updated version is available that represents conditions and attributes following May 6, 2013, that version alone will suffice.”

NorthWestern offered testimony about this particular resource. *See* Test. of Brian. B. Bird pp. 6-12 (Dec. 20, 2013). In just the past two weeks, an intervenor has filed testimony opining on the merits (or lack thereof) of the resource in question. *See* Test. of Thomas M. Power pp. 35-45 (Mar. 28, 2014). The Commission seems to be standing on the proposition that asking discovery about resources that are discussed at length in witnesses' testimony is somehow irrelevant. This posture makes little sense.

The Commission clearly has an interest in reviewing the primary source document which describes how PPL marketed thermal assets, their capital and operations and maintenance requirements, their value in the context of the Northwest electricity market, etcetera. Not only are such questions about the thermal assets relevant *per se*, since the thermal assets' relative value to the Hydros *is* an issue in this proceeding, it is also relevant because it would allow a comparison to the other CIM, which describes the hydroelectric assets and was the foundation for many of the assertions NorthWestern presents to the Commission about the value and future needs of the Hydros.

The Commission's staff explained clearly to commissioners why this information was needed. Troublingly, the staff was ignored. The Commission, in purposefully depriving itself of material evidence in this proceeding, is impairing its ability to do the thorough job the public expects it to do.

I therefore DISSENT with the Notice of Commission Action.

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Travis Kavulla, Commissioner (dissenting)

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Roger Koopman, Commissioner (dissenting)