

SARAH NORCOTT
NorthWestern Energy
208 N. Montana, Suite 205
Helena, Montana 59601
Tel. (406) 443-8996
Fax (406) 443-8979
sarah.norcott@northwestern.com

AL BROGAN
NorthWestern Energy
208 N. Montana, Suite 205
Helena, Montana 59601
Tel. (406) 443-8903
Fax (406) 443-8979
al.brogan@northwestern.com

*Attorneys for NorthWestern Corporation
d/b/a 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 (1) Approval of Deferred Cost) REGULATORY DIVISION
Account Balances for Electricity Supply, CU4)
Variable Costs/Credits, DGGGS Variable)
Costs/Credits; and (2) Projected Electricity Supply) DOCKET NO. D2013.5.33
Cost Rates, CU4 Variable Rates, DGGGS Variable)
Rates, and Spion Kop Variable Rates)

**NorthWestern Energy's Reply to the
Montana Consumer Counsel's Opposition to
Defer and Consolidate Proceedings**

NOW COMES NorthWestern Energy ("NorthWestern") and respectfully submits this *Reply to the Montana Consumer Counsel's Opposition to Defer and Consolidate Proceedings* ("Reply") for the Montana Public Service Commission's ("Commission") consideration when deciding NorthWestern's Motion to Defer Proceedings and Consolidate this Docket with the 2014 Electricity Supply Tracker Docket ("Motion").

I. Procedural Background

In order to promote administrative economy, NorthWestern does not reiterate the applicable procedural background for this matter in its Reply, but points the Commission to the procedural background section of NorthWestern's Motion for a review of the applicable procedural history.

II. Argument

The Commission should reject the arguments set forth in the Montana Consumer Counsel's ("MCC") Opposition. The MCC's main argument for opposing NorthWestern's Motion is that it suggests that the lost revenue adjustment mechanism may be a policy issue decided in this docket. MCC Opposition, p. 2. The MCC's Opposition, however, fails to recognize that the lost revenue policy issue is not an issue within the Commission's jurisdiction at this time and therefore cannot be an issue in this docket. As the Commission is well aware, in the last electric tracker order, Order No. 7219h in Docket No. D2012.5.49, the Commission held that recovery of lost revenues in future proceedings would require NorthWestern to show that such recovery was reasonable and in the public interest. *See* Order No. 7219h, ¶78.

NorthWestern appealed this decision to the Second Judicial District Court in Butte, Montana. This appeal is still pending. As such, the Commission is precluded from discussing this issue until resolution of the appeal by the Court. *See Montana Consumer Counsel v. Public Service Commission*, 168 Mont. 177, 178, 541 P.2d 769, 769 (1978) (holding that because an appeal was taken challenging a Commission order's legality, interpretation, and scope, the Commission had no jurisdiction over the "matters which are of issue in the appeal" pending resolution of the appeal.) NorthWestern agrees that the lost revenue policy issue is an important topic for

discussion, but believes that it should be addressed at the appropriate time and in the appropriate docket. Again, given the appeal, now is not the appropriate time or docket for such a discussion.

Additionally, the MCC indicates that the Commission could schedule a hearing in this docket within a few months. MCC Opposition, p. 2. NorthWestern believes that such a schedule is impractical especially if the lost revenue policy issue is raised. To date, NorthWestern has received and responded to three data requests from the Commission on its initial filing. The Commission has not issued a procedural order. Thus, there is still a great deal of procedure that needs to take place before a hearing can be held. Certainly, this procedure will require more than a few months to complete.¹ This case is still in its infancy. NorthWestern's 2014 electricity supply tracker will be filed in May of 2014. The most efficient and practical processing of these two dockets is to handle them together in one docket.

Finally, the MCC argues that the Commission should not defer this docket because unless the Commission takes up this issue as soon as possible, "an economic burden [may be] placed upon" customers. MCC Opposition, p. 2. If the MCC believed that this policy issue needed immediate attention, it had the opportunity to raise it in NorthWestern's 2012 electric supply tracker docket. It did not do so. The MCC also did not raise this policy issue in the 2010 or 2011 electric supply tracker dockets. In fact, the MCC did not file any testimony in the 2011 docket. Based on the MCC's inaction on this issue in previous recent electric supply tracker dockets, NorthWestern questions the sincerity of MCC's argument in this case.

¹ Even under the most optimistic schedule, in order to allow sufficient time to ask discovery on all prefiled testimony, the earliest a hearing could be scheduled is four months from this week. Assuming a procedural order would issue in one week, there would be 2 weeks for discovery on NorthWestern's application followed by 2 weeks for each remaining "normal" deadline. This schedule does not account for additional issues or the lost revenue policy discussion -- either of which would clearly extend the schedule.

Based on the foregoing reasons, the Commission should reject the arguments in the MCC's Opposition and grant NorthWestern's Motion.

III. Conclusion

In order to facilitate administrative efficiency and help the Commission manage its contested case agenda, NorthWestern hereby requests that the Commission defer the proceedings in this docket and consolidate this docket with the 2014 Electricity Supply Tracker that will be filed in May of 2014.

Respectfully submitted this 24th day of March, 2014.

NORTHWESTERN ENERGY

By: 
Sarah Norcott
Al Brogan
Attorneys for NorthWestern Energy

CERTIFICATE OF SERVICE

I hereby certify that a copy of NorthWestern Energy's Reply to the Montana Consumer Counsel's Opposition to Defer and Consolidate Proceedings in Docket D2013.5.33 Electric Tracker will be hand delivered to the Montana Public Service Commission (PSC) on this day and e-filed electronically on the PSC website. It will also be hand delivered to the Montana Consumer Counsel and mailed via first class mail postage prepaid to the service list.

Date: March 24, 2014



Tracy Lowney Killoy
Administrative Assistant
Regulatory Affairs

**Docket No. D2013.5.33
Electric Filing
Service List/Mailing Labels**

**Kate Whitney
Administrator
Public Service Commission
1701 Prospect Ave
Helena MT 59620-2601**

**Robert Nelson
Montana Consumer Counsel
PO Box 201703
Helena MT 59620-1703**

**Al Brogan
NorthWestern Energy
208 North Montana Suite 205
Helena MT 59601**

**Dr. Thomas Power
920 Evans Ave
Missoula MT 59801**

**Joe Schwartzberger
NorthWestern Energy
40 East Broadway
Butte MT 59701**

**Tracy Lowney Killoy
NorthWestern Energy
40 East Broadway
Butte MT 59701**

**Charles Magraw
501 8th Ave
Helena MT 59601**

**Sarah Norcott
NorthWestern Energy
208 North Montana Suite 205
Helena MT 59601**

**Monica J. Tranel, Esq.
TRANEL LAW FIRM, P.C.
Great Northern Town Center – Empire Block
30 W. 14th Street, Suite 204
Helena, Montana 59601**