

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

IN THE MATTER OF NorthWestern Energy's
2012-2013 Electricity Supply Tracker

IN THE MATTER OF NorthWestern Energy's
2013-2014 Electricity Supply Tracker

REGULATORY DIVISION

Docket Nos. D2013.5.33, D2014.5.46

**PETITION FOR GENERAL INTERVENTION BY
MONTANA ENVIRONMENTAL INFORMATION CENTER AND SIERRA CLUB**

Pursuant to Montana Administrative Rules 38.2.2401 and 38.2.2403, Montana Environmental Information Center ("MEIC") and Sierra Club hereby petition for general intervention in this proceeding pertaining to NorthWestern Energy's 2013-2014 electricity supply tracker to further their conservation interests and ensure that their members are not forced to bear the unnecessary costs of operating and maintaining the highly polluting and unreliable Colstrip Unit 4.

I. PETITIONERS

Petitioners seek intervention in this proceeding to protect their direct and substantial interests in this proceeding, and the interests of approximately 5,000 MEIC members and 2,200 Sierra Club members who live and purchase utility services in Montana, many of whom are residential customers of NorthWestern Energy.

Petitioner Montana Environmental Information Center is a non-profit environmental advocate founded in 1973 by Montanans concerned with protecting and restoring Montana's natural environment. MEIC plays an active role in promoting Montana clean energy projects

and policies, including advocating for the avoidance of air, water, and land pollution associated with fossil fuel-based power plants; arguing for expansion of responsible, renewable energy and energy efficiency; and supporting policies that insulate energy consumers from fuel price risk. At the state level, MEIC leads the effort to pass policies that help expand clean, affordable, reliable and efficient energy solutions for Montana. MEIC's offices are at 107 W. Lawrence St. #N-6, Helena, MT 59601. MEIC's mailing address is P.O. Box 1184, Helena, MT 59624.

Sierra Club is a national, non-profit environmental and conservation organization incorporated under the laws of the State of California and dedicated to the protection of public health and the environment. Sierra Club's Beyond Coal campaign advances the development of energy conservation and renewable energy policies, which eliminate or reduce global climate change emissions, reduce utility bills, and generate renewable energy. Sierra Club's work includes advocating for the implementation of robust incentive programs that assist its members and utility consumers generally to generate their own renewable energy and increase energy efficiency. The Sierra Club's work includes intervening in rate cases, integrated resource planning, Public Convenience and Necessity dockets, efficiency and renewable energy dockets at public utility commissions nationwide in support of policies to reduce the impact of climate change and other air pollution by promoting clean energy alternatives and energy efficiency. Sierra Club's offices are at 85 Second Street, Second floor, San Francisco, CA 94105 and 2401 Montana Ave, Suite 4, Billings, MT 59101.

II. PETITIONERS' INTEREST, POSITION, AND RELIEF SOUGHT

MEIC, Sierra Club, and their members who are residential electric customers in NorthWestern Energy's service territory have a direct and substantial interest in this proceeding because the proposed rate increase will have economic and environmental consequences for

NorthWestern Energy ratepayers. If approved, NorthWestern Energy's application would increase residential utility bills by about 6.5%. In addition, NorthWestern Energy's attempt to burden its customers with avoidable costs associated with Colstrip Unit 4 would improperly subsidize the company's reliance on an expensive, unreliable, and highly polluting coal-fired power plant. Both of these outcomes impair the interests of MEIC and Sierra Club members. Petitioners will therefore argue that NorthWestern Energy's application to recovery costs associated with Colstrip Unit 4, particularly costs incurred during and as a result of the unit's almost seven-month outage, should be denied.

MEIC and Sierra Club intend to present expert testimony in this proceeding to demonstrate that NorthWestern Energy has not established that it prudently incurred the costs associated with Colstrip Unit 4 for which it now seeks customer reimbursement. Specifically, Petitioners believe that costs associated with Colstrip Unit 4, particularly costs associated with the unit's extended outage in 2013-14, may have been imprudently incurred because Colstrip does not provide adequate and reliable electricity supply service at the lowest long-term total cost. To the extent that NorthWestern Energy purchased replacement power from other coal-fired generating units (including other Colstrip units) during the period of the Colstrip Unit 4 outage, such power may not have represented the lowest cost option, where renewable sources of energy such as wind, solar, and hydropower may have lower costs. Further, Petitioners believe the Colstrip Unit 4 outage may have been avoided through proper maintenance and upkeep. Upon review of NorthWestern Energy's testimony and additional evidence, Petitioners will consider raising through expert testimony these and other issues relevant to the question of whether NorthWestern Energy's costs associated with Colstrip Unit 4 were prudently incurred.

III. PETITIONERS' PARTICIPATION IS IN THE PUBLIC INTEREST

Petitioners' participation in this proceeding will be in the public interest, because Petitioners have significant expertise and will provide meaningful and substantial information to the Commission and the public on issues related to the proposed cost recovery. See Mont. Admin. R. 38.2.2405. Petitioners have developed considerable familiarity with Colstrip's operations through their participation in state and federal rulemakings related to Colstrip, proceedings pertaining to Montana Department of Environmental Quality's issuance of air quality operating permits for the plant, and litigation involving Colstrip's compliance with state and federal pollution laws.¹ Sierra Club has participated in public utility commission proceedings nationwide, including proceedings pertaining to Colstrip, in support of policies to reduce the impact of climate change and other air pollution by promoting clean energy alternatives and energy efficiency. Petitioners will offer expert technical testimony on matters relevant to NorthWestern Energy's cost-recovery application. Petitioners' participation will thus contribute to greater understanding of the complex issues presented in this proceeding.

¹ See, e.g., Sierra Club v. PPL Mont., CV 13-32- BLG-DLC-JCL (Dist. Of Mont., filed Mar. 6, 2013) (MEIC and Sierra Club federal lawsuit alleging Colstrip's owners violated the Clean Air Act, 42 U.S.C. §§ 7401-7671q, and Montana's State Implementation Plan by modifying and operating the Colstrip plant over the past several years without complying with applicable permitting requirements, and without implementing best available control technology to reduce emissions, pending); In the Matter of Montana Air Quality Operating Permit Number OP0513-08 For the Colstrip Steam Electric Station, Colstrip, Montana, BER 2013-01 AQ (filed Jan. 3, 2013) (MEIC and Sierra Club administrative challenge to Colstrip's air quality operating permit, dismissed April 30, 2014 under settlement agreement by the parties requiring additional emissions monitoring); Nat'l Parks Conservation Ass'n v. EPA, Case No 12-73710 (9th Cir., filed Nov. 14, 2012) (MEIC, Sierra Club, and National Parks Conservation Association federal lawsuit challenging provisions of Montana regional haze plan affecting Colstrip, pending); MEIC v. DEQ, Case No. DV 12-42 (Mont. 16th J. Dist. Ct., filed Oct. 5, 2012) (MEIC, Sierra Club, and National Wildlife Federation state court challenge of consent order pertaining to pollution from Colstrip coal-ash waste disposal, pending).

IV. PETITIONERS' PARTICIPATION WILL NOT UNDULY BROADEN THE ISSUES

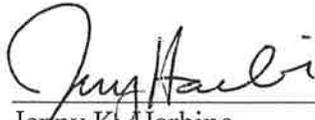
Granting of this petition for general intervention will not unduly broaden the issues in the proceeding, as Petitioners intend to limit their testimony to the operative question under MCA § 69-8-210(1) of whether NorthWestern Energy's costs due to the Colstrip Unit 4 outage were "prudently incurred." See Mont. Admin. R. 38.2.2403, 38.2.2405. Furthermore, granting Petitioners' motion will not delay the proceeding, as Petitioners motion is being filed by the deadline for intervention, and prior to the establishment of a procedural schedule.

V. PETITIONERS' INTERESTS ARE NOT ADEQUATELY REPRESENTED BY ANY EXISTING PARTY

Petitioners' participation in this proceeding should not be limited because their interests are not adequately represented by any existing party to this proceeding. Mont. Admin. R. 38.2.2406. Petitioners' position is adverse to that of NorthWestern Energy. Further, existing intervenors—Montana Consumer Council, District XI Human Resource Council, and Natural Resources Defense Council—do not adequately represent Petitioners' interests. None of these intervenors has described an interest in this proceeding that is focused on NorthWestern Energy's proposed recovery of costs associated with Colstrip. As described above, Petitioners have unique expertise regarding the Colstrip plant that will aid the Commission's consideration of NorthWestern Energy's application. Petitioners thus seek full intervention to help to ensure that the Commission and parties have the information and analysis necessary to fully assess whether NorthWestern Energy's proposed cost recovery and rate increase is in the best interests of Montana ratepayers.

For all of these reasons, MEIC and Sierra Club respectfully request that their petition for general intervention in this proceeding be granted. Petitioners request that all documents in this proceeding be served on the counsel listed below.

Respectfully submitted on this 17th day of July, 2014,



Jenny K. Harbine
Earthjustice
313 East Main St.
Bozeman, MT 59715
(406) 586-9699
Fax: (406) 586-9695
jharbine@earthjustice.org

Matthew Gerhart
Earthjustice
705 2nd Avenue, Suite 203
Seattle, WA 98104
(206) 343-7340
Fax: (206) 343-1526
mgerhart@earthjustice.org

*On behalf of Petitioners Montana Environmental
Information Center and Sierra Club*

CERTIFICATE OF SERVICE

I hereby certify that on the 17th of July, 2014, I served the foregoing Petition for General Intervention by Montana Environmental Information Center and Sierra Club by first-class mail, postage prepaid, to the applicant, Montana Consumer Counsel, and Natural Resource Defense Council/ District XI Human Resource Council.



Jenny K. Harbine