

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 Energy

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

IN THE MATTER OF NorthWestern Energy's)	
2013 and 2014 Applications for (1) Approval of)	REGULATORY DIVISION
Deferred Cost Account Balances for Electricity)	
Supply, CU4 Variable Costs/Credits, DGGS)	DOCKET NO. D2013.5.33
Variable Costs/Credits, Spion Variable)	
Costs; and (2) Projected Electricity Supply Cost)	DOCKET NO. D2014.5.46
Rates, CU4 Variable Rates, DGGS Variable)	
Rates, and Spion Variable Rates)	

**NORTHWESTERN ENERGY'S OBJECTIONS TO DATA REQUESTS ISSUED BY
THE MONTANA CONSUMER COUNSEL ON OCTOBER 24, 2014**

NorthWestern Corporation doing business as NorthWestern Energy ("NorthWestern"), objects to data requests identified as MCC-004, MCC-005, MCC-006, MCC-007, MCC-030, MCC-068, MCC-069, MCC-070, MCC-072 and MCC-088 on the grounds more particularly described below. The Montana Consumer Counsel ("MCC") served its first set of data requests (MCC-001 to MCC-112) on October 24, 2014. Procedural Order 7283b ("Order"), ¶ 9, provides

that a party may object to a data request “no later than the deadline to respond to the data request.” The Order, ¶ 8, further provides that responses to non-voluminous discovery are due within 14 days of service. November 7, 2014 is the deadline to object to those data requests identified above.

1. Relevance Objections

Pursuant to Rule 26(b)(1) of the Montana Rules of Civil Procedure (“M. R. Civ. P.”), a party may only obtain discovery “relevant to any party’s claim or defense” and “appears reasonably calculated to lead to the discovery of admissible evidence.” The Commission adopted M. R. Civ. P. 26 in its administrative rules. *See* ARM 38.2.3301. Discovery is irrelevant if it “[has] no bearing on [the] legitimate issues” in the docket. *Henricksen v. State*, 2004 MT 20, ¶ 44, 319 Mont. 307, 84 P.3d 38. In *Henricksen*, the Supreme Court affirmed the district court’s decision to deny the State’s discovery requests for the other party’s financial documents, school transcripts or personnel records since the issue to be decided by the court involved the party’s mental and emotional states and not a claim for lost earnings or lost earning capacity. *Id.* The following data requests are objected to on these grounds.

MCC-004

MCC-004

Regarding: NWE’s Supply Portfolio
Witness: Kevin J. Markovich

Please provide a list of all off-system fixed price purchases NWE made during the last four tracker periods (2010/11, 2011/12, 2012/13 and 2013/2014), stating the name of the supplier, the month(s) of the purchases, monthly quantities in MWhs, average price paid each month, and period of the contract.

NorthWestern objects to part of MCC-004 because it is not relevant and not reasonably calculated to lead to admissible evidence. Before the Commission in this docket is NorthWestern’s electricity supply tracker. As required by law, the Commission established an

“electricity cost recovery mechanism” that permits NorthWestern “to fully recover prudently incurred electricity supply costs.” *See* Mont. Code Ann. § 69-8-210(1). In this matter, NorthWestern filed applications requesting permission to track certain electricity supply costs incurred during two tracker years.¹ Specifically, electricity supply costs incurred from July 1, 2012 to June 30, 2014. This data request seeks information during time periods not covered in this tracker. Specifically, it seeks information from the 2010/2011 and 2011/2012 tracker periods. These tracker periods have already been litigated in other contested dockets before this Commission. The Commission has already determined whether or not NorthWestern should be permitted to recover these costs in rates in those dockets. Those dockets are now closed and the rates are final. For these reasons, information that has already been reviewed by this Commission will not lead to discovery of admissible evidence regarding the two tracker periods involved in this docket. This data request seeks information that is beyond the scope of this docket. Therefore, based on the foregoing, the Commission should sustain NorthWestern’s objection to those parts of MCC-004 identified herein.

MCC-005

MCC-005

Regarding: NWE’s Supply Portfolio
Witness: Kevin J. Markovich

For each purchase identified and included in your response to MCC-4 above, please provide a list of all related off-system sales at market prices NWE made during the last four tracker periods (2010/11, 2011/12, 2012/13 and 2013/2014), stating the name of the purchaser, the month(s) of the sales, monthly quantities in MWhs, average market price(s) received each month, and period of the contract.

¹ The Commission consolidated NorthWestern’s 2013 Electricity Supply Tracker docket with its 2014 Electricity Supply Tracker docket. *See* Notice of Commission Action issued May 12, 2014.

NorthWestern objects to part of MCC-005 because it is not relevant and not reasonably calculated to lead to admissible evidence. Before the Commission in this docket is NorthWestern's electricity supply tracker. As required by law, the Commission established an "electricity cost recovery mechanism" that permits NorthWestern "to fully recover prudently incurred electricity supply costs." *See* Mont. Code Ann. § 69-8-210(1). In this matter, NorthWestern filed applications requesting permission to track certain electricity supply costs incurred during two tracker years. Specifically, electricity supply costs incurred from July 1, 2012 to June 30, 2014. This data request seeks information during time periods not covered in this tracker. Specifically, it seeks information from the 2010/2011 and 2011/2012 tracker periods. These tracker periods have already been litigated in other contested dockets before this Commission. The Commission has already determined whether or not NorthWestern should be permitted to recover these costs in rates in those dockets. Those dockets are now closed and the rates are final. For these reasons, information that has already been reviewed by this Commission will not lead to discovery of admissible evidence regarding the two tracker periods involved in this docket. This data request seeks information that is beyond the scope of this docket. Therefore, based on the foregoing, the Commission should sustain NorthWestern's objection to those parts of MCC-005 identified herein.

MCC-006

MCC-006

Regarding: NWE's Supply Portfolio
Witness: Kevin J. Markovich

Please provide a list of all off-system fixed price sales NWE made during the last four tracker periods (2010/11, 2011/12, 2012/13 and 2013/2014), stating the name of the purchaser, the month(s) of the sales, monthly quantities in MWhs, average price received each month, and period of the contract.

NorthWestern objects to part of MCC-006 because it is not relevant and not reasonably calculated to lead to admissible evidence. Before the Commission in this docket is NorthWestern's electricity supply tracker. As required by law, the Commission established an "electricity cost recovery mechanism" that permits NorthWestern "to fully recover prudently incurred electricity supply costs." *See* Mont. Code Ann. § 69-8-210(1). In this matter, NorthWestern filed applications requesting permission to track certain electricity supply costs incurred during two tracker years. Specifically, electricity supply costs incurred from July 1, 2012 to June 30, 2014. This data request seeks information during time periods not covered in this tracker. Specifically, it seeks information from the 2010/2011 and 2011/2012 tracker periods. These tracker periods have already been litigated in other contested dockets before this Commission. The Commission has already determined whether or not NorthWestern should be permitted to recover these costs in rates in those dockets. Those dockets are now closed and the rates are final. For these reasons, information that has already been reviewed by this Commission will not lead to discovery of admissible evidence regarding the two tracker periods involved in this docket. This data request seeks information that is beyond the scope of this docket. Therefore, based on the foregoing, the Commission should sustain NorthWestern's objection to those parts of MCC-006 identified herein.

MCC-007

MCC-007

Regarding: NWE's Supply Portfolio
Witness: Kevin J. Markovich

For each purchase identified and included in your response to MCC-6 above, please provide a list of all related off-system purchases at market prices NWE made during the last four tracker periods (2010/11, 2011/12, 2012/13 and 2013/2014), stating the name of the seller, the month(s) of the purchases, monthly quantities in MWs, average price paid each month, and period of the contract.

NorthWestern objects to part of MCC-007 because it is not relevant and not reasonably calculated to lead to admissible evidence. Before the Commission in this docket is NorthWestern’s electricity supply tracker. As required by law, the Commission established an “electricity cost recovery mechanism” that permits NorthWestern “to fully recover prudently incurred electricity supply costs.” *See* Mont. Code Ann. § 69-8-210(1). In this matter, NorthWestern filed applications requesting permission to track certain electricity supply costs incurred during two tracker years. Specifically, electricity supply costs incurred from July 1, 2012 to June 30, 2014. This data requests seek information during time periods not covered in this tracker. Specifically, it seeks information from the 2010/2011 and 2011/2012 tracker periods. These tracker periods have already been litigated in other contested dockets before this Commission. The Commission has already determined whether or not NorthWestern should be permitted to recover these costs in rates in those dockets. Those dockets are now closed and the rates are final. For these reasons, information that has already been reviewed by this Commission will not lead to discovery of admissible evidence regarding the two tracker periods involved in this docket. This data request seeks information that is beyond the scope of this docket. Therefore, based on the foregoing, the Commission should sustain NorthWestern’s objection to those parts of MCC-007 identified herein.

MCC-030

MCC-030

Regarding: USB Budget and Spending
Witness: N/A

Please provide a table showing the nine years Annual Budget and Expenditures for USB Programs.

NorthWestern objects to MCC-030 because it is not relevant and not reasonably calculated to lead to admissible evidence. Before the Commission in this docket is NorthWestern's electricity supply tracker. As required by law, the Commission established an "electricity cost recovery mechanism" that permits NorthWestern "to fully recover prudently incurred electricity supply costs." *See* Mont. Code Ann. § 69-8-210(1). Section 69-8-103(8), MCA, defines "electricity supply costs" to mean "the actual costs incurred in providing electricity supply service through power purchase agreements, demand-side management, and energy efficiency programs, including but not limited to (a) capacity costs; (b) energy costs; (c) fuel costs; (d) ancillary service costs; (e) transmission costs, including congestion and losses; (f) planning and administrative costs; and (g) any other costs directly related to the purchase of electricity and the management and provision of power purchase agreements." This data request seeks information that is not tracked or part of an electricity supply tracker docket. Specifically, it seeks budget and expense information for Universal System Benefits ("USB") programs. NorthWestern, in its electricity supply tracker dockets, is permitted to seek recovery of lost revenues due to USB savings that may result from demand-side management efforts, but the budget for and expenses related to USB programs are not considered "electricity supply costs." Therefore, they are not tracked in this docket and will not lead to the discovery of admissible evidence making the information irrelevant. The Commission should sustain NorthWestern's objection to MCC-030.

Notwithstanding the above, if the Commission disagrees and believes that annual budget and expense information for USB programs is relevant to this docket, NorthWestern nonetheless objects to part of MCC-030 because it is not relevant and not reasonably calculated to lead to admissible evidence. In this matter, NorthWestern filed applications requesting permission to

track certain electricity supply costs incurred during two tracker years. Specifically, electricity supply costs incurred from July 1, 2012 to June 30, 2014. This data request seeks information during time periods not covered in this tracker. Specifically, it seeks information from the last nine years. Information outside the time period involved in this docket has already been reviewed by this Commission, as noted above, in a separate docket. For these reasons, this information will not lead to discovery of admissible evidence regarding the two tracker periods involved in this docket. This data request seeks information that is beyond the scope of this docket. Therefore, if the Commission believes that USB programs' budgets and expenses are part of this docket, it should nonetheless sustain NorthWestern's objection to those parts of MCC-030 identified herein as it seeks information outside of the tracker period involved in this docket.

MCC-068

MCC-068

Regarding: Electric DSM Lost Revenues
Witness: Joe Janhunen, parts a & b /Joe Schwartzberger, parts c & d

In reference to your 2014 testimony at page WMT-31, lines 4-12, please provide for each tracker year from 2004-2014 the following information:

- a) MWhs throughput and total dollar amount that were used to set T&D rates.
- b) The actual dollar amount collected from T&D rates.
- c) MWhs used in calculating Electric DSM Lost Revenues associated with T&D.
- d) The actual dollar amount collected as DSM Lost Revenues for T&D.

NorthWestern objects to part of MCC-068 because it is not relevant and not reasonably calculated to lead to admissible evidence. Before the Commission in this docket is NorthWestern's electricity supply tracker. As required by law, the Commission established an "electricity cost recovery mechanism" that permits NorthWestern "to fully recover prudently

incurred electricity supply costs.” *See* Mont. Code Ann. § 69-8-210(1). In this matter, NorthWestern filed applications requesting permission to track certain electricity supply costs incurred during two tracker years. Specifically, electricity supply costs incurred from July 1, 2012 to June 30, 2014. This data request seeks information during time periods not covered in this tracker. Specifically, it seeks information from the tracker period starting in 2004, which would involve the 2003/2004 tracker year. These prior tracker periods have already been litigated in other contested dockets before this Commission. The Commission has already determined whether or not NorthWestern should be permitted to recover those electric lost revenues litigated in those dockets. Those dockets are now closed and the rates are final. For these reasons, information that has already been reviewed by this Commission will not lead to discovery of admissible evidence regarding the two tracker periods involved in this docket. This data request seeks information that is beyond the scope of this docket. Therefore, based on the foregoing, the Commission should sustain NorthWestern’s objection to those parts of MCC-068 identified herein.

MCC-069

MCC-069

Regarding: Electric DSM Lost Revenues
Witness: Joe Janhunen, parts a & b /Joe Schwartzberger, parts c & d

In reference to your 2014 testimony at pages WMT-31, lines 16-22 please provide a comparative table for each tracker year from 2009-2014 showing:

- a) MWhs throughput and total dollar amount that were used to set CU4 rates.
- b) The actual dollar amount collected from CU4 rates.
- c) MWhs used in calculating Electric DSM Lost Revenues associated with CU4.
- d) The actual dollar amount collected as DSM Lost Revenues for CU4.

NorthWestern objects to part of MCC-069 because it is not relevant and not reasonably calculated to lead to admissible evidence. Before the Commission in this docket is NorthWestern’s electricity supply tracker. As required by law, the Commission established an “electricity cost recovery mechanism” that permits NorthWestern “to fully recover prudently incurred electricity supply costs.” *See* Mont. Code Ann. § 69-8-210(1). In this matter, NorthWestern filed applications requesting permission to track certain electricity supply costs incurred during two tracker years. Specifically, electricity supply costs incurred from July 1, 2012 to June 30, 2014. This data request seeks information during time periods not covered in this tracker. Specifically, it seeks information from the tracker period starting in 2009, which would involve the 2008/2009 tracker year. These prior tracker periods have already been litigated in other contested dockets before this Commission. The Commission has already determined whether or not NorthWestern should be permitted to recover those electric lost revenues litigated in those dockets. Those dockets are now closed and the rates are final. For these reasons, information that has already been reviewed by this Commission will not lead to discovery of admissible evidence regarding the two tracker periods involved in this docket. This data request seeks information that is beyond the scope of this docket. Therefore, based on the foregoing, the Commission should sustain NorthWestern’s objection to those parts of MCC-069 identified herein.

MCC-070

MCC-070

Regarding: Electric DSM Lost Revenues
Witness: Joe Janhunen, parts a & b /Joe Schwartzenberger, parts c & d

In reference to your 2014 testimony at page WMT 32, lines 3-10, please provide a comparative table for each tracker year from 2012-2014 showing:

- a) MWhs throughput and total dollar amount that were used to set DGGs rates.
- b) The actual dollar amount collected from DGGs rates.
- c) MWhs used in calculating Electric DSM Lost Revenues associated with DGGs.
- d) The actual dollar amount collected as DSM Lost Revenues for DGGs.

NorthWestern objects to part of MCC-070 because it is not relevant and not reasonably calculated to lead to admissible evidence. Before the Commission in this docket is NorthWestern's electricity supply tracker. As required by law, the Commission established an "electricity cost recovery mechanism" that permits NorthWestern "to fully recover prudently incurred electricity supply costs." *See* Mont. Code Ann. § 69-8-210(1). In this matter, NorthWestern filed applications requesting permission to track certain electricity supply costs incurred during two tracker years. Specifically, electricity supply costs incurred from July 1, 2012 to June 30, 2014. This data request seeks information during time periods not covered in this tracker. Specifically, it seeks information from the tracker period starting in 2012, which would involve the 2011/2012 tracker year. This prior tracker period has already been litigated in a contested docket before this Commission. The Commission has already determined whether or not NorthWestern should be permitted to recover those electric lost revenues litigated in that docket. That docket is now closed and the rates are final. For these reasons, information that has already been reviewed by this Commission will not lead to discovery of admissible evidence regarding the two tracker periods involved in this docket. This data request seeks information that is beyond the scope of this docket. Therefore, based on the foregoing, the Commission should sustain NorthWestern's objection to those parts of MCC-070 identified herein.

MCC-072

MCC-072

Regarding: Electric DSM Lost Revenues
Witness: Joe Janhunen, part a / Joe Schwartzberger, part b

The most recent T&D rates were established on January 1, 2011 in Docket D2009.9.129, using annual base revenues for T&D of about \$228.6 million. From January 1, 2011, DSM Lost Revenues associated with T&D have been \$0.866 million from January to June 2011, \$2.307 million for the 2011-2012 tracker period, \$4.08 million for the 2012-2013 tracker period, and currently \$5.949 million for 2013-2014 tracker period; resulting in a total of about \$13.2 million in 42 months.

- a) Please provide the actual dollar amount that NWE has collected as T&D revenues during these 42 months.
- b) Also provide a complete explanation and justification for claiming that NWE has lost about \$13.2 million in T&D revenues due solely to DSM and that none of this reduction has been attributable to other factors such as behavioral changes over time that are not directly the result of the Company's DSM activities (e.g., behavioral changes such as those noted in MCC-37), or from reduced loads from non-active customers.

NorthWestern objects to part of MCC-072 because it is not relevant and not reasonably calculated to lead to admissible evidence. Before the Commission in this docket is NorthWestern's electricity supply tracker. As required by law, the Commission established an "electricity cost recovery mechanism" that permits NorthWestern "to fully recover prudently incurred electricity supply costs." *See* Mont. Code Ann. § 69-8-210(1). In this matter, NorthWestern filed applications requesting permission to track certain electricity supply costs incurred during two tracker years. Specifically, electricity supply costs incurred from July 1, 2012 to June 30, 2014. This data request seeks information during time periods not covered in this tracker. Specifically, it seeks information for the last 42 months. The last 42 months includes part of tracker year 2010/2011 and all of tracker year 2011/2012. These prior tracker periods have already been litigated in other contested dockets before this Commission. The Commission

has already determined whether or not NorthWestern should be permitted to recover those electric lost revenues litigated in those dockets. Those dockets are now closed and the rates are final. For these reasons, information that has already been reviewed by this Commission will not lead to discovery of admissible evidence regarding the two tracker periods involved in this docket. This data request seeks information that is beyond the scope of this docket. Therefore, based on the foregoing, the Commission should sustain NorthWestern's objection to those parts of MCC-072 identified herein.

MCC-088

MCC-088

Regarding: Table At FVB-15
Witness: Frank V. Bennett

Please provide versions of the table at FVB-15 reflecting actual results for each of the NorthWestern tracker periods 2010/2011, 2011/2012 and 2012/2013.

NorthWestern objects to part of MCC-088 because it is not relevant and not reasonably calculated to lead to admissible evidence. Before the Commission in this docket is NorthWestern's electricity supply tracker. As required by law, the Commission established an "electricity cost recovery mechanism" that permits NorthWestern "to fully recover prudently incurred electricity supply costs." *See* Mont. Code Ann. § 69-8-210(1). In this matter, NorthWestern filed applications requesting permission to track certain electricity supply costs incurred during two tracker years. Specifically, electricity supply costs incurred from July 1, 2012 to June 30, 2014. This data request seeks information during time periods not covered in this tracker. Specifically, it seeks information from the 2010/2011 and 2011/2012 tracker periods. These tracker periods have already been litigated in other contested dockets before this Commission. The Commission has already determined whether or not NorthWestern should be

permitted to recover certain electricity supply costs in rates in those dockets. Those dockets are now closed and the rates are final. For these reasons, information that has already been reviewed by this Commission will not lead to discovery of admissible evidence regarding the two tracker periods involved in this docket. This data request seeks information that is beyond the scope of this docket. Therefore, based on the foregoing, the Commission should sustain NorthWestern's objection to those parts of MCC-088 identified herein.

Respectfully submitted this 7th day of November, 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 Objections to Data Requests Issued by the Montana Consumer Counsel on October 24, 2014 in MCC Set 1 Data Requests in Docket Nos. D2013.5.33/D2014.5.46 has been hand delivered to the Montana Public Service Commission and to the Montana Consumer Counsel this date. They will be e-filed on the PSC website, e-mailed to counsel of record, and served on the most recent service list by mailing a copy thereof by first class mail, postage prepaid.

Date: November 7, 2014



Tracy Lowney Killoy
Administrative Assistant
Regulatory Affairs

Docket No. D2013.5.33/ D2014.5.46
Service List

Al Brogan
NorthWestern Energy
208 N Montana Ave Suite 205
Helena MT 59601

Charles Magraw
501 8th Ave
Helena MT 59601

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

Joe Schwartzenberger
NorthWestern Energy
40 E Broadway
Butte MT 59701

Tracy Lowney Killoy
NorthWestern Energy
40 E Broadway
Butte MT 59701

Sarah Norcott
NorthWestern Energy
208 N Montana Ave Suite 205
Helena MT 59601

Kate Whitney
Public Service Commission
1701 Prospect Ave
P O Box 202601
Helena MT 59620-2601

Robert A Nelson
Montana Consumer Counsel
111N Last Chance Gulch Ste 1B
P O Box 201703
Helena MT 59620-1703

Matthew Gerhart
Earthjustice
705 Second Ave. Suite 203
Seattle WA 98104

Jenny Harbine
Earthjustice
313 E. Main St.
Bozeman MT 59715

Monica Tranel
Montana Consumer Counsel
P.O. Box 201703
Helena MT 59620-1403

John W. Wilson
JW Wilson & Associates
1601 N Kent Ste 1104
Arlington VA 22209