

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

**MONTANA ENVIRONMENTAL INFORMATION CENTER AND SIERRA CLUB'S
MOTION TO COMPEL RESPONSES TO DATA REQUESTS**

Intervenors Montana Environmental Information Center and Sierra Club (collectively, "MEIC") move the Commission for an order compelling NorthWestern Energy to fully respond to data requests MEIC-1, 2, 3, 6, 8, 9, 12, 13, 14, and 17. If the Commission chooses not to order NorthWestern to produce the requested documents, MEIC moves the Commission for an order barring NorthWestern from using any information it has failed to produce.

In this proceeding, NorthWestern seeks to recover, among other things, the cost of replacement power resulting from the extended Colstrip Unit 4 outage. According to NorthWestern, the Commission's prudence review of the replacement power costs should involve asking "What caused the outage?" and "Could the outage have been prevented?" NorthWestern Energy's Reply to MEIC/Sierra Club's Response to Objections at 6 (Nov. 21, 2014). Many months into this proceeding, NorthWestern has not produced critical documents relating to the causes of the outage and whether it could have been prevented—two of the central issues in this case.

NorthWestern attempts to justify its failure to provide critical information on the grounds that Siemens, which is not a party to this proceeding, alleges that the information is confidential. Yet in the more than two months since MEIC requested the allegedly confidential information,

neither Siemens nor NorthWestern has moved for a protective order. Moreover, given NorthWestern's acknowledgment that the Commission must review the causes of the outage and whether it was preventable, NorthWestern knew or should have known that parties would request documents concerning the cause of the outage, and thus NorthWestern should have addressed Siemens' confidentiality concerns at the outset of this case. At the very least, NorthWestern and Siemens should have been prepared to promptly file a motion for a protective order when intervenors requested information concerning the causes of the outage and steps taken to end the outage. NorthWestern's failure to timely resolve these confidentiality issues has needlessly delayed this proceeding. To prevent further delay, MEIC's motion should be granted.

BACKGROUND

On September 29, 2014, MEIC requested basic information concerning what caused the Colstrip Unit 4 outage and what steps were taken to bring Unit 4 back online. NorthWestern's deadline for responding to MEIC's request was, at the latest, October 29, 2014. *See* Mont. R. Civ. P. 34(b)(2)(a) (a party "must respond" within 30 days after service of request for production of documents).¹ However, more than two months after MEIC's request, NorthWestern still has not provided documents and information responsive to data requests MEIC-1, 2, 3, 6, 8, and 9.

On October 6, 2014, MEIC submitted its second set of data requests to NorthWestern, and asked additional questions concerning the causes of the outage and the steps taken to end the outage and bring the unit back online. NorthWestern has not responded to MEIC-12, 13, 14, and 17, which were contained in MEIC's second set of data requests. The 30-day deadline for responding to MEIC's second set of data requests has long since passed.

¹ Because MEIC served its first set of data requests before the Commission finalized the Procedural Order in this docket, NorthWestern applied the 30-day deadline for discovery responses established by the Montana Rules of Civil Procedure rather than the Commission's standard 14-day deadline for responding to data requests.

NorthWestern has not objected to answering MEIC-1, 2, 3, 6, 8, 9, 12, 13, 14, and 17. Instead, NorthWestern stated that it was not producing the requested information because it contains information considered confidential by a contractor, Siemens, which is not a party to this proceeding. NorthWestern stated on October 31, 2014, that “Siemens has advised NorthWestern that it intends to file a motion for protective order (Motion) regarding certain information... .” NorthWestern Response to Data Request MEIC-2. NorthWestern responded similarly to MEIC-1, 3, 6, 8, 9, 12, 13, 14, and 17. However, as of December 5, 2014, neither Siemens nor NorthWestern has filed a motion for a protective order.

Commission rules “encourage[] providers to make requests for protection of confidential information at the earliest possible time in a proceeding, including in anticipation of a proceeding if the provider knows that claimed confidential information will be submitted in the proceeding.” Admin. R. Mont. 38.2.5007(9). Here, NorthWestern certainly was aware that information regarding the cause of the Colstrip Unit 4 outage and the company’s actions to repair the Unit would be requested in the course of the Commission’s investigation of the prudence of costs incurred as a result of the outage. Thus, NorthWestern should have made efforts to protect any such information that either it or Siemens considers confidential at the outset of this proceeding. NorthWestern’s failure to do so has unnecessarily delayed this proceeding.

Counsel for MEIC have conferred several times with counsel for NorthWestern regarding these data requests. MEIC sent letters to NorthWestern on November 4 and December 2 to attempt to resolve the disputes over the data requests in question. *See* Exhibits A and B. Counsel for MEIC spoke by telephone with counsel for NorthWestern on November 10 and December 2. Despite MEIC’s repeated efforts to avoid having to file a motion to compel, NorthWestern has still not produced information that goes to the heart of this case.

Data requests MEIC-1, 2, 3, 6, 8, 9, 12, 13, 14, and 17 and NorthWestern's responses to these requests are attached as exhibit C to this motion.

LEGAL STANDARD

Parties may issue discovery requests “regarding any non-privileged matter that is relevant to any party’s claim or defense . . . The information sought need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.” Mont. R. Civ. P. 26(b)(1). “The purpose of discovery is to promote the ascertainment of truth and the ultimate disposition of the lawsuit in accordance therewith.” *Murphy Homes, Inc. v. Muller*, 2007 MT 140, ¶ 67, 337 Mont. 411, 426, 162 P.3d 106, 117. Discovery is designed to put parties on an equal footing regarding information, as discovery works by “assuring the mutual knowledge of all relevant facts gathered by both parties which are essential to proper litigation.” *Id.*

A party must respond fully to a properly issued discovery request unless the party properly presents an objection. Mont. R. Civ. P. 26(c). A party may not refuse to answer simply because a question is objectionable; a party must properly and timely present an objection in order to excuse failing to answer a discovery request. Mont. R. Civ. P. 37(d)(2). In response to a motion to compel discovery, a tribunal may order a party to produce the requested documents and may also impose sanctions. Mont. R. Civ. P. 37(a), (d).

ARGUMENT

I. NORTHWESTERN MUST PRODUCE THE REQUESTED DOCUMENTS BECAUSE NORTHWESTERN DID NOT TIMELY AND PROPERLY MOVE FOR A PROTECTIVE ORDER.

NorthWestern has not provided any legitimate reason for failing to respond to MEIC's data request within the requisite timeframe. NorthWestern has not filed any objections to MEIC-

1, 3, 6, 8, 9, 12, 13, 14, and 17. Any objection would be meritless, because these requests seek information relating to the causes of the outage and the steps taken to end the outage—precisely the information that NorthWestern concedes is relevant to the Commission’s prudence review of the replacement power costs. *See* NorthWestern Energy’s Reply to MEIC/Sierra Club’s Response to Objections at 6 (Nov. 21, 2014).

It is also undisputed that as of December 5, 2014, no party has moved for a protective order regarding the information sought in MEIC’s data requests. The Commission’s October 22, 2014 procedural order established the procedure for protecting such information. The order provides that “[i]f a data request asks for trade secret information, the responding party must file a motion for a protective order as soon as practicable, but no later than the deadline to respond to the data request.” No party has moved for a protective order for the requested outage and repair information. Instead, NorthWestern has simply refused to produce the requested information.

Absent a timely objection or motion for a protective order, the discovery rules and the Commission’s procedural order require NorthWestern to respond to MEIC’s discovery requests. Because NorthWestern has not properly sought to protect or otherwise withhold the information requested in MEIC-1, 3, 6, 8, 9, 12, 13, 14, and 17, the Commission should order NorthWestern to immediately produce the information.

II. MONTANA LAW DOES NOT ALLOW NORTHWESTERN TO AVOID DISCLOSING RELEVANT INFORMATION MERELY BECAUSE OF A CONTRACT TO KEEP THE INFORMATION CONFIDENTIAL.

NorthWestern has suggested that it is contractually prohibited from meeting its disclosure obligations in this docket, as “Siemens and PPLM entered into an agreement whereby PPLM is permitted to disclose information provided to it by Siemens to an unaffiliated third party on a need-to-know basis only if that party agrees not to disclose the information.” NorthWestern

Energy's Reply to MEIC/Sierra Club's Response to Objections, at 9 n.5 (Nov. 18, 2014). To begin, NorthWestern has not asserted, much less proven, that any contract between PPLM and Siemens to protect confidential information binds NorthWestern. NorthWestern's discovery responses contain no information to support the claim that NorthWestern has a contractual obligation to protect the information MEIC requested in discovery.

But even if PPLM's contractual commitment could be construed to extend to NorthWestern, such a private agreement cannot prevent disclosure of information to which MEIC is entitled under the Commission's regulations. *See* Admin. R. Mont 38.2.3301 (providing for discovery pursuant to Montana Rules of Civil Procedure); Mont. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any non-privileged matter that is relevant to any party's claim or defense.").

NorthWestern's refusal to produce information based solely on a non-disclosure contract is an attempt to evade the Montana Supreme Court's ruling that a party

must support its claim of confidentiality by filing a supporting affidavit making a prima facie showing that the materials constitute property rights which are protected under constitutional due process requirements. The claimant's showing must be more than conclusory. It must be specific enough for the PSC, any objecting parties, and reviewing authorities to clearly understand the nature and basis of the public utility's claims to the right of confidentiality.

Great Falls Tribune v. Montana Pub. Serv. Comm'n, 2003 MT 359, ¶ 56, 319 Mont. 38, 54-55, 82 P.3d 876, 886. The Court made clear that a claim of confidentiality must be "more than conclusory." *Id.* A contract that does nothing more than state that information is confidential and must be protected is conclusory, and lacks the detail required by the *Great Falls Tribune* decision to support granting protection from disclosure.

While we appreciate that Siemens requested that NorthWestern not disclose confidential information, in the absence of a motion for a protective order either by NorthWestern or Siemens, NorthWestern has no legitimate basis for failing to comply with the Commission's discovery deadlines.

III. IN THE ALTERNATIVE, THE COMMISSION SHOULD BAR NORTHWESTERN FROM PRESENTING ANY EVIDENCE IN RELIANCE ON THE INFORMATION WITHHELD.

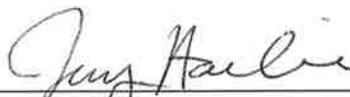
Unless and until NorthWestern produces the requested information, it should be prohibited from relying on it in this proceeding. Despite refusing to produce information about the cause of the outage, NorthWestern had no qualms about selectively citing a passage from a "root-cause analysis" it has refused to produce. In its Reply, NorthWestern quoted from the Root Cause Analysis, a document that intervenors requested but which NorthWestern has refused to produce. NorthWestern Energy's Reply to MEIC/Sierra Club's Response to Objections at 6 (Nov. 21, 2014).

The discovery rules prohibit NorthWestern's blatant attempt to selectively quote passages from a document it fails to produce. "If a party fails to provide information requested in accordance with these rules or fails to disclose information regarding opinions of a witness as required by Rule 26(b)(4), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless." M. R. Civ. P. 37(c)(1). Pursuant to Rule 37(c)(1), the Commission should issue an order that NorthWestern is barred from using any information that intervenors requested but which NorthWestern has failed to produce concerning the causes of the outage and the steps taken to end the outage.

CONCLUSION

For the forgoing reasons, MEIC respectfully requests that the Commission order NorthWestern to immediately provide all information and documents responsive to data requests MEIC-1, 2, 3, 6, 8, 9, 12, 13, 14, and 17. In the alternative, MEIC requests that NorthWestern be barred from using, at all stages of this proceeding, all information requested by intervenors but not produced concerning the causes of the outage and steps taken to end the outage.

Respectfully submitted this 5th day of December, 2014.



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

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of December, 2014, I served the foregoing "Montana Environmental Information Center and Sierra Club's Motion to Compel Responses to Data Requests" by first-class mail, postage prepaid, to the following:

Kate Whitney
Administrator
Public Service Commission
1701 Prospect Ave.
Helena, MT 59620-2601
(via Federal Express)

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Monica J. Tranel
Montana Consumer Counsel
P.O. Box 201703
Helena, MT 59620-1703

Sarah Norcott
Al Brogan
NorthWestern Energy
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Jenny K. Harbine

Exhibit A



November 4, 2014

Sarah Norcott
Al Brogan
NorthWestern Energy
208 North Montana, Suite 205
Helena, MT 59601

RE: Docket Nos. D2013.5.33, D2014.5.46
NorthWestern Energy's Response to MEIC Set 1 Data Requests, MEIC-001 to MEIC-011

Dear Ms. Norcott and Mr. Brogan:

This letter constitutes our attempt to confer with NorthWestern Energy to obtain answers to data requests to which NorthWestern either did not respond or for which NorthWestern failed to produce responsive documents without legitimate justification. In particular, we are writing in order to obtain answers and/or documents responsive to Data Requests MEIC 1, 2, 3, 4, 6, 8, 9, and 10, which MEIC submitted to NorthWestern on September 29, 2014.

- **Data Request MEIC-1.**

Data Request MEIC-1 asked for NorthWestern to “provide a detailed description of the events leading up to the Colstrip Unit 4 tripping off line.” NorthWestern answered by referring to its response to MEIC-9, in which NorthWestern identified a document—the “Root Cause Analysis”—that describes the events leading up to Colstrip 4 tripping off line. Although the Root Cause Analysis is responsive to MEIC-1, NorthWestern did not produce the Root Cause Analysis because it is “still trying to determine if this document can be publicly disclosed.”

NorthWestern had 30 days, an ample amount of time, to determine whether the Root Cause Analysis was public or confidential. Moreover, if the document is claimed as confidential, NorthWestern could have filed an appropriate motion and provided the document subject to a non-disclosure agreement. Indeed, MEIC contacted NorthWestern on August 22, 2014, indicating its willingness to enter into any non-disclosure agreements necessary for MEIC to obtain confidential information in this docket.

For all these reasons, we request that NorthWestern immediately either produce the Root Cause Analysis or file an appropriate motion seeking relief from the Commission.

- **Data Request MEIC-2**

Data Request MEIC-2 asked NorthWestern to “provide any outage report(s) prepared by or for the Company for the Colstrip Unit 4 outage that lasted from July 1, 2013 to January 23, 2014.” NorthWestern answered that it “has many emails responsive to this request” regarding

work performed by Siemens. But NorthWestern did not produce the emails because “Siemens has advised NorthWestern that it intends to file a motion for protective order (Motion) regarding certain information that is included within the emails.”

NorthWestern does not state that it is bound by a non-disclosure agreement with Siemens to protect information claimed as confidential by Siemens. As a result, we are not aware of a legal basis by which NorthWestern may refuse to produce responsive information on the ground that a third party may file a motion for a protective order. Moreover, both NorthWestern and Siemens had 30 days to file any appropriate motions in response to MEIC’s first set of discovery requests. It is not permissible for NorthWestern and Siemens to fail to file a motion for a protective order within the 30-day period for responding to discovery and to then fail to produce responsive information.

We request that NorthWestern immediately either produce the responsive emails or make an appropriate motion seeking relief from the Commission.

- **Data Request MEIC-3**

Data Request MEIC-3 asked NorthWestern to provide copies of material used in presentations regarding the Colstrip Unit 4 outage and that contains certain information. NorthWestern produced documents from which information was redacted because Siemens allegedly plans to file a protective order. For the reasons discussed above in relation to MEIC-2, we request that NorthWestern immediately either produce the redacted information or make an appropriate motion seeking relief from the Commission.

- **Data Request MEIC-4**

Data Request MEIC-4 asked NorthWestern to provide copies of material used in presentations regarding the Colstrip Unit 4 outage and which contained information on certain subjects. NorthWestern provided information on a CD, but redacted “information that is not responsive to this data request.”

Once NorthWestern identifies a document responsive to a data request, NorthWestern should produce the document in its entirety, subject to any claims of confidentiality. We request that in the future NorthWestern produce the entirety of all responsive documents without redacting any non-confidential information.

- **Data Request MEIC-6**

Data Request MEIC-6 asked NorthWestern to “provide a detailed description of the actions taken to bring Colstrip unit 4 back on line after the events of July 1, 2013.” NorthWestern identified several emails responsive to the request, but NorthWestern declined to produce them because Siemens allegedly plans to file a motion for a protective order.

For the reasons provided above regarding MEIC-2, we request that NorthWestern immediately either produce the information responsive to MEIC-6 or make an appropriate motion seeking relief from the Commission.

- **Data Request MEIC-8**

Data Request MEIC-8 asked, “Did the scheduled maintenance in May and June 2013 cause or contribute to Colstrip unit 4 tripping off-line in July 2013?” NorthWestern referred to its response to MEIC-9, which states that a Root Cause Analysis was performed but that NorthWestern is not producing it because it is still trying to determine whether it is public.

NorthWestern’s answer is not responsive to the question, which calls for a yes or no answer. To the extent that NorthWestern takes the position that it cannot answer the question until determining whether the underlying document on which its answer would be based is public, we again note that NorthWestern should have made its confidentiality determination during the 30 days it had to respond to MEIC’s first set of data requests.

We request that NorthWestern immediately answer the question in a public data response or make an appropriate motion seeking relief from the Commission.

- **Data Request MEIC-9**

Data Request MEIC-9 asked whether “any outside consultants or companies investigated what caused the event that led Colstrip unit 4 to trip off-line on July 1, 2013,” and if so, to produce the final reports. NorthWestern identified a responsive report, the “Root Cause Analysis.” NorthWestern declined to produce the responsive document, however, because it is “still trying to determine if this document can be publicly disclosed.”

For the reasons provided above regarding MEIC-1, we request that NorthWestern immediately either produce the Root Cause Analysis or file an appropriate motion seeking relief from the Commission.

- **Data Request MEIC-10**

Data Request MEIC-10 quotes a passage from Commissioner Travis Kavulla’s dissenting opinion that stated that “\$11,135,466 represents the ‘Commission staff’s best guess, given the information available at present, of the incremental cost of the outage, beyond the ordinary fixed and variable costs of CU4 that could have been expected were the plant operational.’” MEIC-10 then asked NorthWestern to “state whether NorthWestern agrees with the statement quoted above.” NorthWestern responded that “NorthWestern does not have access to the other estimates made by the Commission staff and thus cannot determine if this is the best.”

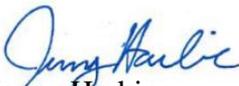
NorthWestern’s answer is non-responsive. The quoted language does not state or imply that there are other estimates made by Commission staff. Instead, the quoted language states that the estimate the Commission staff conducted represented their best guess—it did not state or imply that they conducted worse estimates.

MEIC requests that NorthWestern immediately respond to Data Request MEIC-10 and state whether NorthWestern agrees that \$11,135,466 represents the incremental costs of the outage, beyond the ordinary fixed and variable costs of CU4 that could have been expected were the plant operational.

Further, MEIC expeditiously served its initial data requests to ensure an adequate opportunity to evaluate the need for additional data requests following review NorthWestern's responses. To preserve that opportunity while MEIC and NorthWestern endeavor to resolve these discovery issues, we intend to seek an extension of the November 12 deadline to serve data requests. We hope that NorthWestern will join us in requesting the Commission extend that deadline to at least 12 days after NorthWestern provides all of the information requested in MEIC's first and second set of data requests.

Please do not hesitate to call me at (406) 586-9699 should you wish to discuss these matters.

Sincerely,



Jenny Harbine

Exhibit B



December 2, 2014

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

RE: Docket Nos. D2013.5.33, D2014.5.46

Dear Ms. Norcott:

We write to follow-up on our letter sent on November 4, 2014 informing you of your failure to provide documents responsive to MEIC's data requests. In the month since we sent our letter, you have failed to produce the requested documents. As a result, this letter is to notify you of MEIC's intention to move the Montana Public Service Commission to compel production of information that NorthWestern has conceded is responsive to questions in the first and second sets of MEIC's data requests. NorthWestern has not filed any objections to MEIC-1, 2, 3, 6, 8, 9, 12, 13, 14, and 17, but has still failed to produce responsive documents. NorthWestern asserted that the responsive documents contain information considered by Siemens to be confidential. MEIC will file its motion on December 5, 2014, unless Siemens or NorthWestern has filed a motion for a protective order by that date.

As you know, on September 29, 2014, MEIC requested basic information concerning what caused the outage and what steps were taken to fix the problem that caused the outage. NorthWestern's deadline for responding to MEIC's request was, at the latest, October 29, 2014. *See* Mont. R. Civ. P. 34(b)(2)(a) (a party "must respond" within 30 days after service of request for production of documents). However, more than two months after MEIC's request, NorthWestern still has not provided documents and information responsive to data requests MEIC-1, 2, 3, 6, 8, and 9. Similarly, NorthWestern has not responded to MEIC-12, 13, 14, and 17, which were contained in the second set of data requests MEIC served on October 6, 2014. This delay significantly limits MEIC's ability to understand the causes of the outage and the repair plan, and significantly hinders MEIC's ability to issue follow-up data requests.

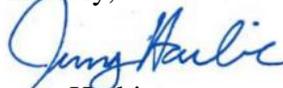
NorthWestern stated that it has not produced the requested information because it contains information considered confidential by a contractor, Siemens, which is not a party to this proceeding. However, the Commission's October 22, 2014 procedural order established the procedure for protecting such information. The order provides that "[i]f a data request asks for trade secret information, the responding party must file a motion for a protective order as soon as practicable, but no later than the deadline to respond to the data request." No party has moved for a protective order for the requested outage and repair information. NorthWestern has suggested that it is contractually prohibited from meeting its disclosure obligations in this docket, as "Siemens and PPLM entered into an agreement whereby PPLM is permitted to disclose information provided to it by Siemens to an unaffiliated third party on a need-to-know basis only

if that party agrees not to disclose the information.” NorthWestern Energy’s Reply to MEIC/Sierra Club’s Response to Objections, at 9 n.5 (Nov. 18, 2014). To begin, NorthWestern has not asserted, much less proven, that any contract between PPLM and Siemens to protect confidential information binds NorthWestern. But even if *PPLM’s* contractual commitment could be construed to extend to NorthWestern, such a private agreement cannot prevent disclosure of information to which MEIC is entitled under the Commission’s regulations. *See* Admin. R. Mont 38.2.3301 (providing for discovery pursuant to Montana Rules of Civil Procedure); Mont. R. Civ. P. 26(b)(1) (“Parties may obtain discovery regarding any non-privileged matter that is relevant to any party’s claim or defense.”). While we appreciate that Siemens requested that NorthWestern not disclose confidential information, in the absence of a motion for a protective order either by NorthWestern or Siemens, NorthWestern has no legitimate basis for failing to comply with the Commission’s discovery deadlines.

Furthermore, Commission rules “encourage[] providers to make requests for protection of confidential information at the earliest possible time in a proceeding, including in anticipation of a proceeding if the provider knows that claimed confidential information will be submitted in the proceeding.” Admin. R. Mont. 38.2.5007(9). Here, NorthWestern certainly was aware that information regarding the cause of the Colstrip Unit 4 outage and the company’s actions to repair the Unit would be requested in the course of the Commission’s investigation of the prudence of costs incurred as a result of the outage. Thus, NorthWestern should have made efforts to protect any such information that either it or Siemens considers confidential at the outset of this proceeding. NorthWestern’s failure to do so has unnecessarily delayed this proceeding.

To prevent further delay, MEIC intends to file a motion to compel production of the requested information unless a motion for a protective order is filed by December 5, 2014. Please do not hesitate to contact me if you would like to discuss this matter further in advance of that date.

Sincerely,



Jenny Harbine

Exhibit C

NorthWestern Energy
Docket D2013.5.33/D2014.5.46
Electric Tracker

Montana Environmental Information Center/Sierra Club
Set 1 (001-011)

Data Requests received September 29, 2014

MEIC-1 Subject: Colstrip 4 Outage Cause
 Witness: Mike Barnes

Please refer to the direct testimony of Kevin J. Markovich, page 9, lines 9-14. Please provide a detailed description of the events leading up to Colstrip Unit 4 tripping off line.

RESPONSE:

In order to fully respond to this data request, NorthWestern needs to refer to the Root Cause Analysis. See the response to Data Request MEIC-9 for more information regarding the Root Cause Analysis.

NorthWestern Energy
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Electric Tracker

Montana Environmental Information Center/Sierra Club
Set 1 (001-011)

Data Requests received September 29, 2014

MEIC-2 Subject: Colstrip 4 Outage Cause
 Witness: Mike Barnes

Please provide any outage report(s) prepared by or for the Company for the Colstrip Unit 4 outage that lasted from July 1, 2013 to January 23, 2014.

RESPONSE:

NorthWestern has many emails responsive to this request. However, information contained within these emails discusses the repair process performed by Siemens. Siemens has advised NorthWestern that it intends to file a motion for protective order (Motion) regarding certain information that is included within the emails in NorthWestern's possession. Siemens indicated the Motion will be forthcoming. NorthWestern will provide an updated response to this data request to reflect the Commission's order regarding that Motion.

NorthWestern Energy
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Electric Tracker

Montana Environmental Information Center/Sierra Club
Set 1 (001-011)

Data Requests received September 29, 2014

MEIC-3 Subject: Colstrip 4 Outage Cause
 Witness: N/A

Please provide copies of the material used in any presentations to the Company's Board of Directors (and all committees or subcommittees thereof) or to the Company's President, CEO or CFO which addressed any of the following subjects:

- a. the Colstrip Unit 4 trip of July 1, 2013 or the cause(s) of that trip.
- b. the Colstrip Unit 4 outage which began on July 1, 2013 and lasted until January 23, 2014.
- c. The events or problems which prevented or were preventing the return of Colstrip Unit 4 to service following the July 1, 2013 trip.

RESPONSE:

See the attached CD. Please note that information that is not responsive to this data request has been redacted. Additionally, information that Siemens plans to protect (see the response to Data Request MEIC-2) or that discusses the Root Cause Analysis (see the response to Data Request MEIC-9) has been redacted in yellow. NorthWestern will provide an updated response to this data request to reflect the Commission's order on the Motion.

NorthWestern Energy
Docket D2013.5.33/D2014.5.46
Electric Tracker

Montana Environmental Information Center/Sierra Club
Set 1 (001-011)

Data Requests received September 29, 2014

MEIC-6 Subject: Colstrip 4 Outage Cause
 Witness: Mike Barnes

Please refer to the direct testimony of Kevin J. Markovich, page 9, lines 12-14. Please provide a detailed description of the actions taken to bring Colstrip unit 4 back on line after the events of July 1, 2013.

RESPONSE:

Details are provided under three separate actions: determine extent of damage, plan and approval of a repair, execution of plan.

The actions taken to determine the extent of the damage are detailed in the Root Cause Analysis.

The actions taken to plan and approve a repair are detailed in the following:

- 7/11/13 1:05 email from Neil Dennehy;
- 7/16/13 2:20 email from Neil Dennehy including an attached Word file that includes the repair recommendation and request for authorization for the repair on Colstrip Unit 4 Generator; and
- 7/17/13 Owners meeting minutes records the unanimous approval of a repair plan to return the unit to service.

These are two of the emails responsive to Data Request MEIC-2 that contain information that Siemens plans to protect. Additionally, the Owners meeting minutes also contain information that Siemens plans to protect. NorthWestern will update this response to reflect the Commission's order addressing Siemen's Motion.

The actions taken to execute the repair plan are detailed in the following:

- 8/21/13 8:17 email from Neil Dennehy; and
- Shift repair reports.

These documents contain information that Siemens plans to protect. NorthWestern will update this response to reflect the Commission's order addressing Siemen's Motion.

NorthWestern Energy
Docket D2013.5.33/D2014.5.46
Electric Tracker

Montana Environmental Information Center/Sierra Club
Set 1 (001-011)

Data Requests received September 29, 2014

MEIC-8 Subject: Colstrip 4 Outage Cause
 Witness: Mike Barnes

Did the scheduled maintenance in May and June 2013 cause or contribute to Colstrip unit 4 tripping off-line in July 2013? Please produce all documents relied upon and/or supporting the response.

RESPONSE:

In order to fully respond to this data request, NorthWestern must refer to the Root Cause Analysis. See the response to Data Request MEIC-9 for more information regarding the Root Cause Analysis.

NorthWestern Energy
Docket D2013.5.33/D2014.5.46
Electric Tracker

Montana Environmental Information Center/Sierra Club
Set 1 (001-011)

Data Requests received September 29, 2014

MEIC-9 Subject: Colstrip 4 Outage Cause
 Witness: Mike Barnes

Have any outside consultants or companies investigated what caused the event that led Colstrip unit 4 to trip off-line on July 1, 2013?

- a. If yes, please produce all final reports from such outside consultant(s) and/or company/companies.

RESPONSE:

Yes, a Root Cause Analysis was completed collectively by independent outside consultants Ronald A. Halpern of Generator Consulting Services, Inc. and Robert Ward of Ward Electric Service Corporation.

- a. PPL, NorthWestern, and the other Owners of Unit 4 are still trying to determine if this document can be publicly disclosed. A determination should be made by November 7, 2014. Once a determination is made, NorthWestern will update this response.

NorthWestern Energy
Docket D2013.5.33/D2014.5.46
Electric Tracker

Montana Environmental Information Center/Sierra Club
Set 2 (012-032)

Data Requests received October 6, 2014

MEIC-12 Subject: Resolving the Colstrip 4 Outage
 Witness: Mike Barnes

Please provide a detailed list of the events that actually represented the critical path of returning Colstrip Unit 4 to service following the July 1, 2013 trip and the date(s) for which each such event actually represented the outage critical path.

RESPONSE:

The critical path for recovery of Unit 4 returning to service was the rebuild of the generator core iron and installation of the rewind kit. The rebuild or replacement rotor was not part of the critical path since a critical spare rotor was available to be placed into service once the core was rebuilt and rewound. Siemens provided the timeline for the core rebuild and rewind. This timeline is found in an email from Neil Dennehy dated 8/21/13 at 8:17am (generator repair, restack, and rewind schedule timeline chart). This email contains information that Siemens plans to protect from public disclosure. Once the Commission has acted on the Motion for Protective Order filed by Siemens, NorthWestern will provide this email in response to MEIC-2.

NorthWestern was not provided a step by step accounting by which each line item in the schedule was completed; instead, we were sent emails that detailed work accomplished in last shift and work anticipated to be completed during the next shift (MEIC-2 daily reports – will be produced after the Commission acts on Siemens’ Motion for Protective Order) during the rebuild of the core and the subsequent rewind. We were also kept apprised of the status of the schedule relative to the overall plan for repair. When reviewing the Siemens schedule, it is important to recognize that once the core was rebuilt and rewound, the generator had to be reassembled.

The following represents critical milestones and completion dates

Core Section delivery - Scheduled [REDACTED] - Completed [REDACTED]
Core Section installation – Scheduled [REDACTED] – Completed [REDACTED]
Rewind installation – Scheduled [REDACTED] – Completed [REDACTED]
Unit on Turning Gear – Scheduled [REDACTED] – Completed [REDACTED]

Dates have been redacted from this response as Siemens has indicated that this information is considered confidential and will file a Motion for Protective Order with the Commission. NorthWestern will file updated responses to this data response in accordance with the Commission’s order regarding Siemens’ Motion for Protective Order.

NorthWestern Energy
Docket D2013.5.33/D2014.5.46
Electric Tracker

Montana Environmental Information Center/Sierra Club
Set 2 (012-032)

Data Requests received October 6, 2014

MEIC-13 Subject: Schedule for Fixing the Colstrip 4 Outage
 Witness: Mike Barnes

Provide each schedule prepared by or for the Company on or after July 1, 2013 and through January 23, 2014 which projected the date when Colstrip Unit 4 was forecast to return to service and the key repairs or equipment replacements that would be required before the Unit could return to service.

RESPONSE:

See the response to Data Request MEIC-6 – specifically, the email and attachment from Neil Dennehy on 7/16/13 2:20 where Neil forecasts a return to service in early February 2014 and the email and the file attached in the 8/21/13 8:17 email from Neil Dennehy (generator repair, restack, & rewind schedule timeline chart). In that email the Operator estimates the forecast date for returning to service. These emails will be provided once Siemens' Motion for Protective Order has been acted on by the Commission.

NorthWestern Energy
Docket D2013.5.33/D2014.5.46
Electric Tracker

Montana Environmental Information Center/Sierra Club
Set 2 (012-032)

Data Requests received October 6, 2014

MEIC-14 Subject: Repair Plan for Colstrip 4 Outage
 Witness: Mike Barnes

Please refer to the direct testimony of Kevin J. Markovich, page 9, lines 10-12 referring to a “repair plan.” Please produce:

- a. the repair plan;
- b. communications dated July 19, 2013 from the owners of Colstrip Unit 4 indicating that they concurred in the repair plan;
- c. all communications, including e-mails, sent between July 1, 2013 and July 19, 2013, from NorthWestern to any owner of Colstrip Unit 4 regarding the causes of the July 1 event that led Colstrip Unit 4 to trip off-line.
- d. all communications, including e-mails, sent between July 1, 2013 and July 19, 2013, to NorthWestern from any owner of Colstrip Unit 4 regarding the causes of the July 1 event that led Colstrip Unit 4 to trip off-line.
- e. all communications, including e-mails, sent between July 1, 2013 and July 19, 2013, from NorthWestern to any owner of Colstrip Unit 4 regarding the “repair plan” for Colstrip Unit 4.
- f. all communications, including e-mails, sent between July 1, 2013 and July 19, 2013, to NorthWestern from any owner of Colstrip Unit 4 regarding the “repair plan” for Colstrip Unit 4.

RESPONSE:

- a. See the response to Data Request MEIC-6, specifically the email and attachment from Neil Dennehy dated 7/16/2013 at 2:20 p.m. Please note that this email contains information that Siemens plans to protect. It will be produced after Siemens’ Motion for Protective Order is acted on by the Commission.
- b. There are no communications dated July 19, 2013; however, see the response to MEIC-6, specifically the meeting minutes from the 7/17/13 Owners Meeting where unanimous approval was given to execute the repair plan. Please note that this document contains information that Siemens plans to protect. It will be produced after Siemens’ Motion for Protective Order is acted on by the Commission.
- c. There are none.
- d. There are none.
- e. There are none.

NorthWestern Energy
Docket D2013.5.33/D2014.5.46
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Montana Environmental Information Center/Sierra Club
Set 2 (012-032)

Data Requests received October 6, 2014

MEIC-14 cont'd

f. There are none.

NorthWestern Energy
Docket D2013.5.33/D2014.5.46
Electric Tracker

Montana Environmental Information Center/Sierra Club
Set 2 (012-032)

Data Requests received October 6, 2014

MEIC-17 Subject: Shift Reports During Colstrip 4 Outage
 Witness: Mike Barnes

Provide copies of any Colstrip Unit 4 shift reports for any part of the period beginning on 12:01 am on July 1, 2013 through the Unit's return to service on January 23, 2014.

RESPONSE:

Please see Attachments 1 and 2. These attachments contain examples of shift reports received once a day from PPL regarding Unit 4. Per an agreement with counsel for MEIC/Sierra Club, NorthWestern is only providing two of the 207 shift reports as all other shift reports show the exact same quantitative status for Unit 4 as the two shift reports provided in response to this data request.

NorthWestern also received twice daily shift reports from PPL as the repair work was being completed by Siemens. These shift reports contain information that Siemens plans to protect. NorthWestern will produce these shift reports in response to Data Request MEIC-2 once the Commission has acted on Siemens' Motion for Protective Order.

From: [Barnes, Michael](#)
To: [Stauffer, Roberta](#); [Norcott, Sarah](#)
Subject: FW: COLSTRIP STATUS REPORT: Units 3 & 4 - January 21, 2014 @ 0400
Date: Tuesday, October 28, 2014 3:36:37 PM

Sara / Bobbi

This is a Colstrip Status report from the Plant on Jan 21, 2014 (near the end of the outage – note states the Unit 4 is in start-up) - I will send you one in the next couple of minutes from the beginning of the outage. All daily status reports in-between show the same quantitative status for Colstrip Unit 4.

Mike

From: Whiteman, James L [mailto:JWhiteman@pplweb.com]
Sent: Tuesday, January 21, 2014 3:43 AM
To: Francis, Arthur; Brad Holmes; Brian Gallagher; Cathey, Ryan William; Perez, Cheri; Claire Locke; Colvin, Lawrence G; Boltz, David; Delinski, Christopher; Dennehy, Neil J; Dunn, Russell D; Earl Shepard; Ed Odom; EPLUW, RealTime; EPLUW, Trading; Evan Sorrell; Galetti, Gary J; Tingley, Gary; Healy, John P; Hoerner, Joseph; Jacobs, Josh; Kenneth Santman; Mattern, Kim; Lewis, Kathryn M; Barkell, Lisa A; LoadOffice-OPRELLO-list-@pse.com; Oathes, Lori; Mackenzie Martin; Mark Smith; Staples, Max; Barnes, Michael; CASHELL, MICHAEL R; Jones, Michael; Morrison, Donald J; Mallowney, Debra D; Realttime; PPLMT, Owner Status; PacifiCorp Generation Desk; PacifiCorp Real Time; Puget Real Time Traders; Roberts, Roberta J; Roberts, Rod; Shahan, Robin L; Avalos, Salvador; Sanders, Cindy L; Semmens, Michael K; Simonich, Pete J; Spear, Rosemarie; Malick, Steve; Stevens, Mark R
Subject: COLSTRIP STATUS REPORT: Units 3 & 4 - January 21, 2014 @ 0400

COLSTRIP STATUS REPORT Units 3 & 4 January 21, 2014 @ 0400		
	Unit 3	Unit 4
Available Load (MW)	██████████	0
Actual Load	█	0
Yesterday's net Gen (MWH)	████	0
Yesterday's Hrly Avg. (MWN)	████	0
Stack Opacity (%)	████	Off-line
Last Synchronized	████████████████████	06-29-2013 @ 16:10
Reduction – Reason and Expected return to service/full load:	████████████████████ █	Startup in progress
Forced:		

Scheduled:		
Startup delays:		
Projected outages or load reductions:		

Contact the CSES Shift Supervisor at **406-748-5086** for additional information.

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From: Barnes, Michael
To: Norcott, Sarah; Stauffer, Roberta
Subject: FW: COLSTRIP STATUS REPORT Units 3 & 4
Date: Tuesday, October 28, 2014 3:38:45 PM

Sara / Bobbi

This email below is the as promised daily status report showing the quantitative values for Colstrip Unit 4 as near the end of the outage (earlier email).

Mike

From: Wells, Jonathan R [mailto:JRWells@pplweb.com]
Sent: Wednesday, July 03, 2013 4:19 AM
To: Francis, Arthur; 'Brad Holmes'; Perez, Cheri; 'Claire Locke'; Colvin, Lawrence G; Boltz, David; Dennehy, Neil J; Dunn, Russell D; 'Earl Shepard'; 'Ed Odom'; Elias, Lance E; EPLUW, RealTime; EPLUW, Trading; 'Evan Sorrell'; Galetti, Gary J; Tingley, Gary; Healy, John P; 'Janice Brown'; Hoerner, Joseph; Jacobs, Josh; 'Kenneth Santman'; Mattern, Kim; Lewis, Kathryn M; Barkell, Lisa A; Oathes, Lori; 'Mackenzie Martin'; 'Mark Smith'; Staples, Max; Barnes, Michael; CASHELL, MICHAEL R; Jones, Michael; Morrison, Donald J; MULLOWNEY, Debra D; Realtime; PPLMT, Owner Status; 'PacifiCorp Generation Desk'; 'PacifiCorp Real Time'; 'Puget Real Time Traders'; Roberts, Roberta J; Roberts, Rod; Shahan, Robin L; Avalos, Salvador; Sanders, Cindy L; Semmens, Michael K; Simonich, Pete J; Spear, Rosemarie; Malick, Steve; Stevens, Mark R
Subject: COLSTRIP STATUS REPORT Units 3 & 4

COLSTRIP STATUS REPORT		
Units 3 & 4		
July 3, 2013, @ 04:00		
	Unit 3	Unit 4
Available Load (MW)	██████████	0
Actual Load	██	0
Yesterday's net Gen (MWH)	██████████	0
Yesterday's Hrly Avg. (MWN)	██	0
Stack Opacity (%)	██	0
Last Synchronized	████████████████████	06/29/2013 @ 16:10
Reduction – Reason and Expected return to service/full load:	██████████	Generator Problems
Forced:		
Scheduled:		
Startup delays:		
Projected outages or load reductions:		

Contact the CSES Shift Supervisor at 406-748-5086 for additional information.

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