



April 1, 2015

Ms. Kate Whitney
Utility Division
Montana Public Service Commission
1701 Prospect Avenue
PO Box 2022601
Helena, Montana 59620-2601

**Re: Docket Nos. D2013.5.33/D2014.5.46 Electric Tracker
MEIC Set 4 Data Requests (044-059)
Responses to MEIC-044, MEIC-050, MEIC-056&c and MEIC-057
Updated response to MEIC-058d**

Dear Ms. Whitney:

Enclosed for filing is a copy of NorthWestern Energy's voluminous responses to MEIC Set 4 Data Requests in Docket Nos. D2013.5.33/D2014.5.46 and an updated response to MEIC-058d. It will be hand delivered to the Montana Public Service Commission and the Montana Consumer Counsel this date. It will also be mailed to the service list in this docket, e-filed on the PSC website, and emailed to counsel of record.

Should you have questions please contact Joe Schwartzberger at (406) 497-3362.

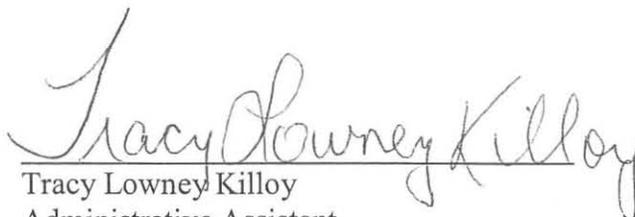
Sincerely,

Tracy Lowney Killoy
Administrative Assistant

CERTIFICATE OF SERVICE

I hereby certify that NorthWestern Energy's responses to MEIC-044, MEIC-050, MEIC-056 parts b and c, and MEIC-057 and its updated response to MEIC-058d in MEIC Set 4 (044-059) Data Requests in Docket Nos. D2013.5.33/D2014.5.46 have 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: April 1, 2015


Tracy Lowney Killoy
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Docket Nos.
D2013.5.33/D2014.6.46
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NorthWestern Energy
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Electric Tracker

Montana Environmental Information Center/Sierra Club
Set 4 (044-059)

Data Requests received March 11, 2015

MEIC-44 Subject: 2013 Unit 4 Generator Overhaul
 Witness: Mike Barnes

- a. Please provide all documents in NorthWestern Energy's possession that discuss the Unit 4 generator overhaul conducted in May and June of 2013. This request is limited to documents that were created from May 1, 2013 to January 23, 2014.
- b. Please provide copies of all documents in Northwestern Energy's possession that assess or evaluate the performance of Siemens and/or its personnel during the May/June 2013 Unit 4 overhaul.

RESPONSE (April 1, 2015):

- a. NorthWestern objects in part to this data request because it seeks irrelevant information. 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 that "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.*

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, the applications pertained to electricity supply costs incurred from July 1, 2012 to June 30, 2014. In Order No. 6925f in Docket No. D2008.6.69 ("Order"), the Commission granted NorthWestern the right to include its interest in Colstrip Unit No. 4 ("CU4") in rate base as an electricity supply resource. Additionally, in that Order, ¶¶ 260-61, the Commission permitted NorthWestern to track costs from CU4 incurred in a tracker year. NorthWestern's applications in this docket include requests to track the following variable costs related to CU4: fuel costs, property taxes, demand-side

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.

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MEIC-44 cont'd

management lost revenues, and carrying costs. This docket also includes a request to recover certain replacement power costs resulting from an outage at CU4 that occurred in the second half of 2013.

This data request seeks information that is not relevant or reasonably calculated to lead to discovery of admissible evidence because the request seeks documents that discuss the Unit 4 generator overhaul conducted in May and June of 2013. The issues in an electricity supply tracker docket involve requests to recover electricity supply costs that have been incurred during a tracker period. With respect to the replacement power costs incurred during the tracker period involved in this docket, the Commission must determine if the costs were prudent. In order to determine if the replacement power costs were prudent, the Commission must look to see what NorthWestern knew or should have known at the time the costs were incurred. In response to this question, NorthWestern has copies of the daily outage reports and the May 2013 Owners' meeting minutes that were provided by PPL during the May and June 2013 planned overhaul. These reports, however, contain information about other work performed on the unit during the overhaul, work which is unrelated to the generator work performed on the unit. This information is unrelated to the outage that occurred in 2013. Thus, some of the information sought in this data request unequivocally has nothing to do with, nor does it have any legitimate bearing on, the outage at CU4 or the other issues in this docket. As such, it will not lead to admissible evidence regarding the outage or what NorthWestern knew or should have known with respect to the outage, and therefore it is not relevant and the Commission should sustain NorthWestern's partial objection.

Without waiving said objection, see the daily outage reports and the May 2013 Owners' meeting minutes responsive to this request in the "MEIC-44" folder on the attached CD. Please note that the not relevant information described above has been redacted. Additionally, PPL Montana has informed NorthWestern that if the above partial objection is overruled and NorthWestern is required to produce unredacted versions of the attached reports, it will claim confidentiality as to the information.

- b. See the FM Global report provided in response to Data Request MCC-017.

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MEIC-50 Subject: Root Cause Analysis
 Witness: Mike Barnes

Provide copies of the e-mails or other documents in which Northwestern Energy or its employees or consultants commented on or addressed the root cause analysis provided in response to MEIC-9.

RESPONSE (April 1, 2015):

NorthWestern objects to part of this data request because it seeks irrelevant information. For the applicable legal standard for this objection, please see the response to Data Request MEIC-44. This data request seeks information that is not relevant or reasonably calculated to lead to discovery of admissible evidence because the request seeks copies of documents or emails where NorthWestern has discussed or commented on the root cause analysis. The issues in an electricity supply tracker docket involve requests to recover electricity supply costs that have been incurred during a tracker period. With respect to the replacement power costs incurred during the tracker period involved in this docket, the Commission must determine if the costs were prudent. In order to determine if the replacement power costs were prudent, the Commission must look to see what NorthWestern knew or should have known at the time the costs were incurred. Contained within the documents where NorthWestern discusses or commented on the root cause analysis there are other matters discussed which are unrelated to the outage that occurred in 2013. Thus, some of the information sought in this data request unequivocally has nothing to do with, nor does it have any legitimate bearing on, the outage at Colstrip Unit 4 or the other issues in this docket. As such, it will not lead to admissible evidence regarding the outage or what NorthWestern knew or should have known with respect to the outage, and therefore it is not relevant.

Without waiving said objection, see the public version of emails and attachments responsive to this data request in the "MEIC-50" folder on the CD attached to Data Request MEIC-44. Pursuant to Commission Order No. 7283c, protected versions of these emails and attachments have been provided on the attached yellow protected CD to the Commission and the parties who have signed the appropriate non-disclosure agreement. Please note that the not relevant information described above has been redacted in both the public and protected versions. Headings have been left unredacted to show that the body of the discussion is irrelevant to the issues in this docket.

Several emails that are responsive to this data request have been identified as privileged. Attached is a privilege log documenting those emails that have not been produced based on this claim. See also the responses to Data Requests MCC-015 and MCC-018.

MEIC-50
 Privilege Log – Attorney/Client and Work Product

Document ID	Author	Recipients	Subject	Privilege	Date
2089950	David Kinnard	Sarah Norcott Cc: Heather Grahame, Al Brogan	Email chain discussion on whether the Root Cause Analysis is protected, confidential information	Attorney/Client; not waived because of the Common Interest Doctrine	10/30/2014
2089945	Sarah Norcott	Heather Grahame	Email with attachments of draft responses to MEIC Sets 1 and 2	Attorney/Client and Work Product	10/24/2014
2089906	Sarah Norcott	Al Brogan, Heather Grahame, Colleen Harper, Patrick Corcoran	Email chain discussion on whether the Root Cause Analysis is protected, confidential information	Attorney/Client and Work Product	10/13/2014
2090155	Sarah Norcott	Steve Bell Cc: Joshua Frank, Mike Schon, Heather Grahame, Al Brogan	Email chain discussion on whether the Root Cause Analysis is protected, confidential information	Attorney/Client	10/30/2014
2090153	Sarah Norcott	Ryan Flynn	Email chain discussion on whether the Root Cause Analysis is protected, confidential information	Attorney/Client; not waived because of the Common Interest Doctrine	10/30/2014
2090151	Sarah Norcott	Gwen Vashro	Email chain discussion on whether the Root Cause Analysis is protected, confidential information	Attorney/Client; not waived because of the Common Interest Doctrine	10/30/2014

Document ID	Author	Recipients	Subject	Privilege	Date
2090149	Sarah Norcott	Heather Grahame Cc: Gwen Vashro	Email chain discussion on whether the Root Cause Analysis is protected, confidential information	Attorney/Client; not waived because of the Common Interest Doctrine	10/30/2014
2090145	Sarah Norcott	Roberta Stauffer, Colleen Harper, Joe Schwartzberger, Heather Grahame, Al Brogan	Email with attachment discussing documents responsive to MEIC-3	Attorney/Client	10/30/2014
2090141	Mike Barnes	Sarah Norcott, Roberta Stauffer	Email discussing draft responses to MEIC data requests	Work Product	10/23/2014
2090100	David Kinnard	Sarah Norcott	Email chain discussion on whether the Root Cause Analysis is protected, confidential information	Attorney/Client; not waived because of the Common Interest Doctrine	11/11/2014
2090099	David Kinnard	Sarah Norcott	Email chain discussion on whether the Root Cause Analysis is protected, confidential information	Attorney/Client; not waived because of the Common Interest Doctrine	11/10/2014
2090095	David Kinnard	Sarah Norcott	Email chain discussion on whether the Root Cause Analysis is protected, confidential information	Attorney/Client; not waived because of the Common Interest Doctrine	11/5/2014

Document ID	Author	Recipients	Subject	Privilege	Date
2090094	David Kinnard	Sarah Norcott	Email chain discussion on whether the Root Cause Analysis is protected, confidential information	Attorney/Client; not waived because of the Common Interest Doctrine	11/5/2014
2090093	David Kinnard	Sarah Norcott	Email chain discussion on whether the Root Cause Analysis is protected, confidential information	Attorney/Client; not waived because of the Common Interest Doctrine	11/4/2014
2090092	David Kinnard	Sarah Norcott	Email chain discussion on whether the Root Cause Analysis is protected, confidential information	Attorney/Client; not waived because of the Common Interest Doctrine	11/3/2014
2090091	David Kinnard	Sarah Norcott Cc: Heather Grahame, Al Brogan	Email chain discussion on whether the Root Cause Analysis is protected, confidential information	Attorney/Client; not waived because of the Common Interest Doctrine	11/3/2014
2090085	David Kinnard	Sarah Norcott	Email chain discussion on whether the Root Cause Analysis is protected, confidential information	Attorney/Client; not waived because of the Common Interest Doctrine	10/28/2014
2089977	Sarah Norcott	David Kinnard Cc: Heather Grahame, Al Brogan	Email chain discussion on whether the Root Cause Analysis is protected, confidential information	Attorney/Client; not waived because of the Common Interest Doctrine	11/10/2014

Document ID	Author	Recipients	Subject	Privilege	Date
2089976	Sarah Norcott	Marian Durkin, David Meyer, Ryan Flynn, Sarah Wallace, Steve Secrist, Jay Dudley, Loretta Mabinton, David Kinnard Cc: Heather Grahame, Al Brogan	Email discussing whether the Root Cause Analysis is protected, confidential information	Attorney/Client; not waived because of the Common Interest Doctrine	11/10/2014
2089974	Sarah Norcott	Marian Durkin, David Meyer, Ryan Flynn, Sarah Wallace, Steve Secrist, Jay Dudley, Loretta Mabinton, David Kinnard Cc: Heather Grahame, Al Brogan	Email, with Root Cause Analysis attached, discussing whether it is protected, confidential information	Attorney/Client; not waived because of the Common Interest Doctrine	11/5/2014
2089973	David Kinnard	Sarah Norcott Cc: Heather Grahame, Al Brogan	Email chain discussion on whether the Root Cause Analysis is protected, confidential information	Attorney/Client; not waived because of the Common Interest Doctrine	11/5/2014
2089970	Sarah Norcott	Sarah Wallace, Ryan Flynn Cc: Heather Grahame	Email chain discussion on whether the Root Cause Analysis is protected, confidential information	Attorney/Client; not waived because of the Common Interest Doctrine	11/4/2014

Document ID	Author	Recipients	Subject	Privilege	Date
2089963	David Kinnard	Sarah Norcott Cc: Heather Grahame, Al Brogan	Email chain discussion on whether the Root Cause Analysis is protected, confidential information	Attorney/Client; not waived because of the Common Interest Doctrine	10/31/2014
2089962	David Kinnard	Sarah Norcott Cc: Heather Grahame, Al Brogan	Email chain discussion with attachment on whether the Root Cause Analysis is protected, confidential information	Attorney/Client; not waived because of the Common Interest Doctrine	10/31/2014
2089956	Sarah Norcott	Steve Bell Cc: Joshua Frank, Mike Schon, Heather Grahame, Al Brogan	Email chain with attachment discussing draft responses to MEIC data requests	Attorney/Client	10/30/2014
2089954	Sarah Norcott	Ryan Flynn Cc: Heather Grahame	Email discussing whether the Root Cause Analysis is protected, confidential information	Attorney/Client; not waived because of the Common Interest Doctrine	10/30/2014

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Montana Environmental Information Center/Sierra Club
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Data Requests received March 11, 2015

MEIC-56 Subject: NorthWestern Energy's Response to MEIC-35, Attachment 1
 Witness: Mike Barnes

Please refer to NorthWestern Energy's Response to MEIC-35, Attachment 1:

- a. Provide the conclusive root cause assessment that PGE needed, according to statements made on page 13.
- b. Provide copies of any correspondence between NorthWestern Energy, its office or employees and any other Colstrip Unit 4 owner(s) that addressed the root cause of the July 1, 2013 Unit 4 generator event.
- c. Provide copies of any correspondence between NorthWestern Energy, its office or employees and Siemens that addressed the root cause of the July 1, 2013 Unit 4 generator event.

RESPONSE (March 25, 2015):

- a. NorthWestern is not in possession of, nor is NorthWestern aware of, any conclusive Root Cause assessment completed for PGE or by PGE.

RESPONSE (April 1, 2015):

- b. See the responses to Data Requests MCC-015 and MCC-018.
- c. See the response to Data Request MEIC-3.

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Montana Environmental Information Center/Sierra Club
Set 4 (044-059)

Data Requests received March 11, 2015

MEIC-58 Subject: NorthWestern Energy's Response to MEIC-3
 Witness: Mike Barnes

- a. Specify the month by month costs of furloughing Colstrip employees during the Colstrip Unit 4 outage.
- b. Specify whether part or all of the cost of this furloughing was covered by the insurance from FM Global.
- c. If only part of the cost of furloughing Colstrip employees was covered by the insurance from FM Global, specify how much of this cost NorthWestern Energy has paid or will have to pay.
- d. Provide copies of any reports or other correspondence from FM Global concerning the root cause of or the costs of the Colstrip Unit 4 outage.

RESPONSE (March 25, 2015):

- a. The result of the furlough was a cost savings over keeping the employees on site. These employees were considered surplus employees during the outage, but were needed once the unit was back in service. The Collective Bargaining agreement with the union allowed for a furlough to be initiated for up to 90 days. The furlough arrangement in the Collective Bargaining agreement allowed for what amounts to an unpaid involuntary leave; they did not earn wages during the furlough, but maintained their benefits.
- b. See the response to part a, above.
- c. See the response to part a, above.
- d. See the response to part a, above.

UPDATED RESPONSE (April 1, 2015):

- d. See the response to Data Request MCC-017.