



August 19, 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
Updated response to MEIC-072c in Set 6 Data Requests (069-084)**

Dear Ms. Whitney:

Enclosed for filing is a copy of NorthWestern Energy's updated response to MEIC-072c in Docket Nos. D2013.5.33/D2014.5.46. 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 a copy of NorthWestern Energy's updated response to MEIC-072c 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. It will be e-filed on the PSC website, emailed to counsel of record, and served on the most recent service list by mailing a copy thereof by first class mail, postage prepaid.

Date: August 19, 2015



Tracy Lowney Killoy
Administrative Assistant
Regulatory Affairs

Docket Nos.
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 98014

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

William W. Mercer
Holland & Hart
P O Box 639
Billings MT 59103--0639

David A Schlissel
Schlissel Technical Consulting
45 Horace Road
Belmont MA 02478

John Alke
NorthWestern Energy
208 N Montana Ave Suite 205
Helena MT 59601

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

Montana Environmental Information Center/Sierra Club
Set 6 (069-084)

Data Requests received July 29, 2015

MEIC-072 Subject: Outage Insurance Quotes and MEIC-39
 Witness: Barnes

Please refer to Mr. Barnes' rebuttal testimony on page 11 regarding outage insurance quotes obtained on September 30, 2014 and March 6, 2015. Please also refer to Data Request MEIC-39, which stated, "Please provide all documents and correspondence in NorthWestern's possession regarding the evaluation of obtaining outage insurance for Colstrip 4."

- a. Does NorthWestern believe that the outage insurance quotes it obtained on September 30, 2014 and March 6, 2015 are documents regarding the evaluation of obtaining outage insurance for Colstrip 4? If not, please explain.
- b. Please explain why NorthWestern did not produce the outage quotes obtained on September 30, 2014 and March 6, 2015 in response to MEIC-39.
- c. Please provide all documents and correspondence in NorthWestern's possession regarding the evaluation of obtaining outage insurance for Colstrip 4 that have not already been produced in response to MEIC-39.

RESPONSE:

- a. No. The price quotes don't determine the efficacy of outage insurance, which appeared to be the information being requested.
- b. See the response to part a, above.
- c. Pursuant to ¶ 9 of Amended Procedural Order No. 7283f ("Order 7283f"), an answer to this data request will be provided no later than August 19, 2015.

Pursuant to ¶ 10 of Order 7283f, 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.*

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

Montana Environmental Information Center/Sierra Club
Set 6 (069-084)

Data Requests received July 29, 2015

MEIC-072 cont'd

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 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 documents and correspondence regarding outage insurance for Colstrip Unit 4. These documents also contain information about NorthWestern's other generating units. This information is unrelated to the discussion of outage insurance for Colstrip Unit 4. 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 issue 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. This information will be redacted for those documents produced in response to this question.

UPDATED RESPONSE (August 19, 2015):

- c. Please see the enclosed public CD. As stated in the initial response, information that is not relevant has been redacted in black. In addition, protected information has been redacted in yellow in several of these documents. Pursuant to Commission Order Nos. 7283c and 7283e, protected versions of these documents have been provided on a yellow protected CD to the Commission and the parties who have signed the appropriate non-disclosure agreements.

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 Energy
Docket D2013.5.33/D2014.5.46
Electric Tracker

Montana Environmental Information Center/Sierra Club
Set 6 (069-084)

Data Requests received July 29, 2015

MEIC-072 cont'd

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.

Pursuant to an agreement with counsel for the MEIC/Sierra Club, NorthWestern has redacted as not relevant information regarding future planned overhaul maintenance on Units 3 and 4 for the years 2015 through 2019. If this information must be produced at a future date, NorthWestern will be required to seek a protective order for such information before it can produced.

MEIC-072c
Privilege Log – Attorney/Client

Document ID	Author	Recipients	Subject	Privilege	Date
2304582	Donna Haeder	Heather Grahame	Outage Insurance and Environmental Liability insurance	Attorney/ Client	1/25/2015
2304649	Donna Haeder	Sarah Norcott	Generation Outage Proposal	Attorney/ Client; Work Product	6/22/2015
2304650	Donna Haeder	Sarah Norcott	Generation Outage Proposal	Attorney/ Client; Work Product	6/22/2015
2304651	Donna Haeder	Sarah Norcott	Generation Outage Proposal	Attorney/ Client; Work Product	6/22/2015
2304652	Donna Haeder	Sarah Norcott	Generation Outage Proposal	Attorney/ Client; Work Product	6/22/2015
2304665	Sarah Norcott	John Alke	BII quotes	Attorney/ Client; Work Product	6/29/2015