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

In the Matter of NorthWestern Energy's Application For) REGULATORY DIVISION
(1) Unreflected Gas Cost Account Balance and Projected)
Cost; and (2) Gas Transportation Adjustment Clause) DOCKET NO. D2013.5.34
Balance)

and

In the Matter of NorthWestern Energy's Application For)
(1) Unreflected Gas Cost Account Balance and Projected) DOCKET NO. D2014.5.47
Cost; and (2) Gas Transportation Adjustment Clause) (consolidated)
Balance)

PREHEARING MEMORANDUM

I. Background

On May 31, 2013, NorthWestern Corporation d/b/a NorthWestern Energy ("NorthWestern") filed an Application for: (1) Unreflected Gas Cost Account Balance and Projected Gas Cost; and (2) Gas Transportation Adjustment Clause Balance. ("2013 Gas

Tracker”), to which the Commission assigned Docket No. D2013.5.34. On July 18, 2013, NorthWestern filed supplemental testimony in the 2013 Gas Tracker that (1) reduced the level of lost revenues to be recovered through the Lost Revenue Adjustment Mechanism (“LRAM”) and provided updated actual information for the natural gas market, supply, and costs for the months that had been estimated in the original filing. On November 27, 2013, the Montana Consumer Counsel (“MCC”) filed the testimony of George L. Donkin that responded to the 2013 Gas Tracker Application (“Donkin 2013 Testimony”). On December 19, 2013, the Commission issued a Notice of Additional Issue (“NAI”) that directed NorthWestern “to respond to the recent Commission Findings of Fact ¶40-79 in Order No. 7219h involving true-up of lost revenues and the lost revenue adjustment policy that may be applicable to the natural gas tracker application and proceeding.” In the NAI, the Commission suspended the procedural schedule in the docket. On April 23, 2014, the Commission and NorthWestern entered into a Settlement Agreement that provided in pertinent part:

11. Additionally, for purposes of settling this matter, the parties agree as follows:
 - a. The Commission agrees not to raise the lost revenue policy issue as an additional issue in the 2013 or 2014 supply tracker dockets.
 - b. Within 60 days after NorthWestern has amended its Petition, the Commission agrees to open a separate docket (“Docket”) that will address the lost revenue policy issue for both electric and natural gas efficiency programs. When opening the Docket, the Commission agrees not to express any opinions about the lost revenue policy issue as it pertains to NorthWestern.
 - c. NorthWestern agrees that if the Commission opens the Docket as is required by paragraph 11 (c) [sic] above and NorthWestern files an appeal of the decision in that Docket, NorthWestern will not challenge the Commission’s authority to initiate that Docket or assert that the opening of that Docket by the Commission in and of itself was a procedural due process violation.

The Commission opened the Docket (Docket No. D2014.6.53) on June 16, 2014.

On March 14, 2014, NorthWestern moved the Commission to defer proceedings in the 2013 Gas Tracker and to consolidate the docket with the 2014 natural gas tracker when NorthWestern filed it (“Consolidation Motion”). On May 29, 2014, NorthWestern filed an Application for (1) Unreflected Gas Cost Account Balance; and (2) Gas Transportation Adjustment Clause Balance (“2014 Gas Tracker”), to which the Commission assigned Docket No. D2014.5.47. On June 11, 2014, the Commission granted NorthWestern’s Consolidation Motion. Subsequent to June 11, 2014, all filings in Docket Nos. D2013.5.34 and D2014.5.47 (“Consolidated Gas Tracker Dockets”) were made in Docket No. D2013.5.34.

On December 5, 2014, NorthWestern filed supplemental testimony that (1) provided updated actual information for the natural gas market, supply, costs, and DSM savings and related lost revenues for the months that had been estimated in the 2014 original filing; (2) corrected information related to natural gas production properties, including royalties, and DSM and related lost revenues; and (3) responded to the NAI. On March 18, 2015, the MCC filed testimony of George Donkin that repeated the Donkin 2013 Testimony and responded to the 2014 Gas Docket, including the December 2014 supplemental testimony (“Donkin 2014 Testimony”). On April 24, 2015, NorthWestern filed testimony rebutting the Donkin 2013 Testimony and the Donkin 2014 Testimony.

II. Uncontested Issues

NorthWestern believes that all issues, except those identified as contested issues, are uncontested.

III. Contested Issues

The contested issues in this docket involve LRAM and utility-owned production assets. In each category, they are as follows:

LRAM

1. Whether the Commission should reserve a decision on LRAM issues until after it has issued a final order in Docket No. D2014.6.53; and
2. Whether lost revenues for the purposes of the LRAM should include lost revenues attributable to USB programs for 2012-2013 and future tracker periods;

Utility-owned Production Assets

3. Whether final rates for Battle Creek production approved by the Commission in a prior revenue requirements case should be changed retroactively; and
4. Whether the current interim rates for Bear Paw and Devon production, which are being collected subject to refund, should be revised prior to a revenue requirements case.

In addition to the issues raised in testimony, the MCC appears to be raising new issues in its responses to data requests. These issues are not properly before the Commission. As the Commission's administrative rules state, "The exchange of information among parties pursuant to data requests is the primary method of discovery in proceedings before the commission." ARM 38.2.3301(2). Data requests are not intended and should not be used to raise issues beyond the scope of the parties' advocacy as contained in their testimony. When a party introduces a new or expanded issue in a data response, NorthWestern has no opportunity to identify a party's position, conduct discovery on that position, narrow the issue, or rebut it. Such a process would violate even the most minimal construction of due process. Consequently, NorthWestern has not identified any of these items as contested issues in these Consolidated Gas Tracker Dockets.

IV. Witnesses

NorthWestern intends to call the following witnesses to testify at the hearing:

1. Michael H. Baker;
2. Faith DeBolt;
3. Patrick J. DiFronzo;
4. Marjorie R. McRae ;
5. Joe Schwartzenberger (Joe Schwartzenberger will adopt and sponsor the testimony of William M. Thomas in addition to his own testimony); and
6. John M. Smith.

These witnesses are listed in alphabetical order, not the order in which they may be called.

NorthWestern intends to have its witnesses address all of their prefiled testimonies at the time they are called to the stand initially. NorthWestern reserves the right to call any witness to rebut testimony by witnesses of other parties that is offered at the hearing and was not part of prefiled testimony.

V. Exhibits and Evidence

NorthWestern intends to introduce into evidence the following:

1. The prefiled direct testimony, prefiled supplemental testimony, and prefiled rebuttal testimony of each of the witnesses identified above, as appropriate;
2. All exhibits attached to the prefiled testimonies of each witness; and
3. Any document needed for impeachment.

NorthWestern does not intend to introduce any data responses, but reserves the right to use data responses for cross-examination.

VI. Special Needs

NorthWestern requests the following accommodations for witnesses:

1. that Michael H. Baker, Faith DeBolt, and Marjorie R. McRae be permanently excused by the earlier of adjournment or the close of business on May 20, 2015.

Respectfully submitted this 12th day of May 2015.

NORTHWESTERN ENERGY

By:  _____
Al Brogan
Ross Richardson

Attorneys for NorthWestern Energy

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of NorthWestern's Prehearing Memorandum in Docket Nos. D2013.5.34/D2014.5.47 will be hand delivered to the Montana Public Service Commission and Montana Consumer Counsel and also e-filed with the Montana Public Service Commission. It will also be served upon the following persons by postage prepaid via first class mail as follows:

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DATED this 12th day of May 2015.


