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

IN THE MATTER OF the Petition of ) REGULATORY DIVISION  
Greycliff Wind Prime, LLC to Set Contract )  
Terms and Conditions for a Qualifying ) DOCKET NO. D2015.8.64  
Small Power Production Facility )

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**NORTHWESTERN ENERGY’S OBJECTIONS TO DATA REQUESTS  
SERVED ON NOVEMBER 25, 2015 BY GREYCLIFF WIND PRIME, LLC AND THE  
MONTANA PUBLIC SERVICE COMMISSION**

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NorthWestern Corporation doing business as NorthWestern Energy (“NorthWestern”), objects in part to the data requests identified as GWP-006(a), GWP-006(c), GWP-007, GWP-010(a), GWP-010(c) and also objects to PSC-020(b), PSC-024, and PSC-025 on the grounds more particularly described below. The Montana Public Service Commission (“Commission”) and Petitioner, Greycliff Wind Prime, LLC (“Greycliff”), served data requests on NorthWestern on November 25, 2015 (collectively referred to as the “Discovery”). Procedural Order No. 7436, ¶ 8, provides a party may object “to a data request within ten (10) calendar days from service or

by the deadline to respond, whichever is earlier.” December 7, 2015 is 10 calendar days from service of the Discovery.

**GWP-006(a) and (c)**

GWP-006 asks as follows:

RE: PowerSimm Dispatch Assumptions.  
Witness: Hansen

On Page LPH-4 of NWE's response testimony, you state that “PowerSimm™ first calculates the hourly dispatch of NorthWestern's supply portfolio and then compares the Greycliff energy production to that supply portfolio. Only after this comparison is made can the value of the Greycliff wind resource be calculated.”

- (a) Please provide the hourly, monthly and annual demand levels, and the hourly, monthly and annual generator dispatch levels for NWE supply resource modeled in PowerSimm™.
- (c) Please provide the hourly, monthly and annual energy and/or capacity market prices used in the PowerSimm™ simulation for purposes of estimating avoided cost in this proceeding.

NorthWestern objects in part to subparts (a) and (c) of this data request on the basis that they seek voluminous information and therefore imposes undue expense and unreasonable burden on NorthWestern. Specifically, NorthWestern objects to the request for hourly information. Montana Rules of Civil Procedure, Rule 26(b)(2)(C)(iii) provides that the tribunal may limit discovery when it determines that “the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy, the parties’ resources, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.” Subparts (a) and (c) both seek hourly information. According to NorthWestern’s Energy Supply, for example, providing the hourly production information for the generation alone as requested will result in excess of 100 million individual pieces of data. In response to this data request, NorthWestern will be providing the monthly and annual

information, but asserts that the burden of producing the hourly information will exceed any benefit that Greycliff may gain from reviewing the granular level of detail in the hourly information.

**GWP-007**

GWP-007 asks as follows:

RE: PowerSimm Dispatch Assumptions  
Witness: Hansen

On Page LPH-7 of NWE's response testimony, you state that the "market forecasts for carbon dioxide, coal, natural gas, and electricity were also updated" for the avoided cost calculations.

Please provide the hourly, monthly and annual price series for electricity, natural gas, coal and carbon dioxide, as those series were used in external modeling and in the PowerSimm™ simulation and derivation of NWE's avoided cost estimate.

NorthWestern objects in part to this data request on the basis that it seeks voluminous information and therefore imposes undue expense and unreasonable burden on NorthWestern. Specifically, NorthWestern objects to the request for the hourly information sought in this question. Montana Rules of Civil Procedure, Rule 26(b)(2)(C)(iii) provides that the tribunal may limit discovery when it determines that “the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy, the parties’ resources, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.” According to NorthWestern’s Energy Supply, providing the hourly information as requested will result in millions of individual pieces of data. In response to this data request, NorthWestern will be providing the monthly and annual information, but asserts that the burden of producing the hourly information will exceed any benefit that Greycliff may gain from reviewing the granular level of detail in the hourly information.

**GWP-010(a) and (c)**

GWP-010 asks as follows:

RE: PowerSimm Dispatch Assumptions.  
Witness: Hansen

On Page LPH-4 of NWE's response testimony, you state that "PowerSimm<sup>TM</sup> first calculates the hourly dispatch of NorthWestern's supply portfolio and then compares the Greycliff energy production to that supply portfolio. Only after this comparison is made can the value of the Greycliff wind resource be calculated."

- (a) Please provide the hourly, monthly and annual demand levels, and the hourly, monthly and annual generator dispatch levels for NWE supply resource modeled in PowerSimm<sup>TM</sup>.
- (c) Please provide the hourly, monthly and annual energy and/or capacity market prices used in the PowerSimm<sup>TM</sup> simulation for purposes of estimating avoided cost in this proceeding.

NorthWestern objects in part to subparts (a) and (c) of this data request on the basis that they seek voluminous information and therefore imposes undue expense and unreasonable burden on NorthWestern. Please note that GWP-010 is the exact same question as GWP-006. Specifically, NorthWestern objects to the request for hourly information sought in this question. Montana Rules of Civil Procedure, Rule 26(b)(2)(C)(iii) provides that the tribunal may limit discovery when it determines that "the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues." Subparts (a) and (c) both seek hourly information. According to NorthWestern's Energy Supply, for example, providing the hourly production information for the generation along as requested will result in excess of 100 million individual pieces of data. In response to this data request, NorthWestern will be providing the monthly and annual information, but asserts that the burden of producing the hourly information will exceed any

benefit that Greycliff may gain from reviewing the granular level of detail in the hourly information.

**PSC-020(b)**

PSC-020(b) asks as follows:

RE: Facility Size Impact on Avoided Cost  
Witness: LaFave

- b. What would you propose as the avoided cost of the Greycliff facility if it were still the 20-MW configuration that had been proposed when it was a CREP?

NorthWestern objects to PSC-020 because it is not relevant and not reasonably calculated to lead to admissible evidence. Pursuant to Rule 26(b)(1) of the Montana Rules of Civil Procedure (“M. R. Civ. P.”), a party may only obtain discovery that is “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.*

This data request is irrelevant because it seeks information regarding a facility that is not at issue in this docket. Greycliff proposes to build a 26 MW project that will sell energy and capacity to NorthWestern as a qualifying facility. The avoided cost of a 20 MW project is not relevant to any party’s claim or defense nor is it reasonably calculated to lead to the discovery of admissible evidence because Greycliff’s proposed project is not 20 MW. Additionally, there are

no legal requirements that avoided cost calculations consider alternative capacity sizes for the same project. Avoided cost computations are specific to the size of each individual project. For this reason, the information sought in this data request will not lead to admissible evidence concerning the avoided cost rate proposed by NorthWestern in this docket, and therefore, is irrelevant.

#### **PSC-024**

PSC-024 asks as follows:

RE: NPV Sensitivity and Avoided Cost Calculation  
Witness: Hansen

- a. Please replace the values used for the price of energy, including the carbon price adder, in the valuation of the Hydros conducted as Exhibits\_\_(JMS-1) and (JMS-2) in Docket No. D2013.12.85, with the updated forecast of energy and carbon prices that you are using to calculate an avoided cost in this proceeding. What is the difference in NPV of the Hydros given the two different forecasts?
- b. Please replace the values used for the price of energy, including the carbon price adder, in the calculation of the avoided cost of Greycliff's output conducted in this docket, with the forecast of energy and carbon prices that Mr. Stimatz used to value the Hydros in D2013.12.85. What is the difference in avoided cost of Greycliff's output given the two different forecasts?

NorthWestern objects to PSC-024 because it is not relevant and not reasonably calculated to lead to admissible evidence. Pursuant to M. R. Civ. P. 26(b)(1), a party may only obtain discovery that is "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.*

With respect to subpart (a), this data request is irrelevant because it seeks information concerning NorthWestern's purchase of the hydroelectric facilities ("Hydros") from PPL Montana ("PPLM"). The evaluation of these facilities was not an avoided cost calculation. It was a discounted cash flow analysis that was used to determine if the price NorthWestern offered to pay PPLM for the facilities was appropriate. Plus, inputting current market information into the evaluation done for the Hydros cannot change the result of that docket and does not matter for purposes of this docket. For purposes of this docket, the Hydros are considered part of NorthWestern's portfolio and therefore are not avoidable resources for purposes of calculating avoided costs. What NorthWestern paid for these facilities under previous then-current market conditions or what NorthWestern might have paid in a fictional transaction under current market conditions will not change this fact. Thus, the information sought by this subpart will not lead to the discovery of admissible evidence on what avoided cost is appropriate for the Greycliff project, and therefore, is irrelevant.

With respect to subpart (b), this data request is irrelevant because it seeks information concerning an avoided cost calculation that is not appropriate under the law. Avoided costs must be calculated using current data. *Whitehall Wind, LLC v. Montana Public Service Commission*, 2010 MT 2, ¶ 21, 355 Mont. 15, 223 P.3d 907 (citing *Independent Energy Producers Ass'n v. California Public Utils. Comm'n*, 36 F.3d 848, 851-852 (9th Cir. 1994)) ("rates for purchases from qualifying facilities must be...based on *current* avoided least cost resource data.") (Emphasis added.). Thus, an avoided cost calculation is a prospective calculation. This question is asking NorthWestern to take information from more than two years ago and input it into the

model to determine an historical avoided cost in order to compare it to an avoided cost calculation today. It does not matter. The market has decreased and NorthWestern's supply portfolio has changed. These changes result in a correct and current avoided cost, which will not be the same as one that might have been computed years ago based on a different portfolio and a different market. Any comparison between the two will not lead to discovery of admissible evidence concerning the appropriate avoided costs under today's conditions, and therefore, is irrelevant.

### **PSC-025**

PSC-025 asks as follows:

RE: Colstrip Avoidance Methodology  
Witness: Hansen

- a. Please explain whether there were any hours, and quantify the number of such hours, when NWE's owned and contracted resources were sufficient to meet NWE customer demand before the Hydros were acquired.
- b. If the answer to subpart (a) is that there were such hours, please explain why NWE's valuation of the Hydros did not incorporate the avoided fuel-cost methodology for Colstrip Unit IV that NWE proposes to use in this docket.
- c. Please identify the number of hours when NWE's resource portfolio would have been short without the Hydros but will be long with the Hydros, and identify for those hours the lowest and highest quartile and mean price of energy during those oversupplied hours, as well as the lowest and highest quartiles and mean oversupply in MWs.

NorthWestern objects to PSC-025 because it is not relevant and not reasonably calculated to lead to admissible evidence. Pursuant to M. R. Civ. P. 26(b)(1), a party may only obtain discovery that is "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.*

This data request is irrelevant because it seeks information concerning an avoided cost calculation that is not appropriate under the law. Avoided costs must be calculated using current data. *Whitehall Wind, LLC v. Montana Public Service Commission*, 2010 MT 2, ¶ 21, 355 Mont. 15, 223 P.3d 907 (citing *Independent Energy Producers Ass’n v. California Public Utils. Comm’n*, 36 F.3d 848, 851-852 (9th Cir. 1994)) (“rates for purchases from qualifying facilities must be...based on *current* avoided least cost resource data.”) (Emphasis added.). Thus, an avoided cost calculation is a prospective calculation. NorthWestern’s supply portfolio is substantially different today than it was before NorthWestern acquired the Hydros. These differences result in a different avoided cost today. Whether NorthWestern’s owned and contracted resources were sufficient to meet customer needs before the acquisition of the Hydros or what NorthWestern’s needs during certain periods of the day were before acquisition of the Hydros does not change an avoided cost calculation reflecting today’s conditions. Additionally, the evaluation of the Hydros was not an avoided cost calculation. It was a discounted cash flow analysis that was used to determine if the price NorthWestern offered to pay PPLM for the facilities was appropriate. Thus, the information requested in this data request will not lead to the discovery of admissible evidence on what avoided cost is appropriate for the Greycliff project.

For those reasons discussed above, the Commission should sustain NorthWestern's objections to GWP-006(a), GWP-006(c), GWP-007, GWP-010(a), GWP-010(c), PSC-020(b), PSC-024, and PSC-025.

RESPECTFULLY SUBMITTED this 7<sup>th</sup> day of December 2015.

NORTHWESTERN ENERGY

By:   
Sarah Norcott  
John Alke

Attorneys for NorthWestern Energy

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of NorthWestern Energy's Objections to Data Requests Served on November 25, 2015 by Greycliff Wind Prime, LLC and the Montana Public Service Commission in Docket No. D2015.8.64 has been hand delivered to the Montana Public Service Commission and to the Montana Consumer Counsel this date. It has also been e-filed on the PSC website, emailed to counsel of record, and mailed to the remainder of the service list as follows:

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Date: December 7, 2015



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