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Attorney for Greycliff Wind Prime, LLC.

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

IN THE MATTER of the Petition of Greycliff Wind Prime, LLC To Set Terms and Conditions for Qualifying Small Power Production Facility Pursuant to M.C.A. § 69-3-603	Cause No. D2015.8.64 GREYCLIFF WIND PRIME, LLC'S PREHEARING MEMORANDUM
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**PETITIONER GREYCLIFF WIND PRIME, LLC'S
PREHEARING MEMORANDUM**

I. INTRODUCTION

Petitioner Greycliff Wind Prime, LLC, ("Greycliff"), acting by and through undersigned counsel, respectfully submits this prehearing memorandum to the Montana Public Service Commission ("Commission"). At the outset, Greycliff Wind Prime believes that: (1) it's avoided cost should be based on data available at the time that Greycliff Wind Prime, LLC incurred its legally enforceable obligation ("LEO") on or about July 2, 2015; (2) NorthWestern Corporation d/b/a NorthWestern Energy ("NWE") has proposed an avoided cost which significantly understates its actual avoided cost through various mechanisms, including

inappropriately changing the date from which its avoided cost data was compiled to January of 2016; (3) NWE has proposed reductions to its avoided cost which not only double count the costs associated with Greycliff's intermittent generation output, but also propose reductions from avoided costs for putative Network Upgrades that Greycliff has already agreed to pay, and yet NWE is also proposing to subtract that cost from Greycliff's avoided cost. NWE has undertaken these measures, many of which are a violation of the Federal Energy Regulatory Commission's ("FERC") regulations implementing PURPA.

In addition, Greycliff continues to have concerns about the fact that despite NWE's claim that it is using a differential revenue requirement analysis, Greycliff believes that NWE is not doing a differential revenue requirement analysis at all. As FERC Order 69 described that approach:

One way of determining the avoided cost is to calculate the total (capacity and energy) costs that would be incurred by a utility to meet a specified demand in comparison to the cost the utility would incur if it purchased energy or capacity or both from a qualifying facility to meet part of its demand and supplied the remaining need from its own facilities. The difference between these two figures would represent the utility's net avoided cost. In this case, the avoided costs are the excess of the total capacity and energy costs of the system developed in accordance with the utility's optimal capacity expansion plan, *excluding* the qualifying facility, over the total capacity and energy cost of system (before payment to the qualifying facility) developed in accordance the utility's optimal capacity expansion *including* the qualifying facility.

45 Fed. Reg. 12, 214, 12, 216 (1980).

What NWE appears to have done instead is to develop a price forecast based on a forward strip price of electricity, added a nominal escalator to that price over the 25-year term, and then used that as an input to the PowerSimm model. PowerSimm is not used to calculate NorthWestern's system costs with and without Greycliff. Instead, PowerSimm was used to determine when NWE was in a net purchase or sale position, and when according to

PowerSimm, NWE was in a net purchase position, NWE assigned to Greycliff the value of its electric price forecast developed using a forward strip price which is not representative at all of long-term fundamental based electric price forecasts, and if NWE was in a net sale position, rather than assuming that if NWE could resell QF power into the market and make a profit, it would instead back down Colstrip 4. That assumption that NWE would back down Colstrip 4 rather than make opportunity sales is not only economically irrational, it violates the fundamental principle of avoided cost. Moreover, it is imprudent operation of the system not to collect revenue which would go to reduce NWE's overall revenue requirement by crediting those purchases to NWE ratepayers. If that is the way that NWE actually operates its system overall, then NWE is not attempting to minimize ratepayer costs. If NWE is, in fact, not doing that in its day-to-day operations, and it is making opportunity sales, those sales should be credited to ratepayers. If not, that would be a seriously imprudent action. If NWE is deciding to discriminate against Greycliff, this would be a violation of FERC's non-discrimination policy as expressed in 18 C.F.R. § 292.304(a)(ii).

Greycliff applauds NWE for at long last proposing an avoided carbon rate, as Greycliff believes that is lawful and appropriate. However, NWE's decision to utilize a non-differential revenue requirement, inappropriately discounting purchases from a QF for firmness when the QF is already being assessed an integration charge (among others) which represents another charge for non-firmness of energy deliveries, is double-counting and inappropriate discrimination. NWE's decision to use an inappropriate forward price strip and escalate it by a nominal inflation factor is also deeply flawed. NWE's decision not to model all its resources under its optimal capacity expansion plan as part of a differential revenue requirement analysis is equally troubling. NWE's decision to reduce avoided cost by Network Upgrade costs that Greycliff has

already agreed to pay for and simultaneously reduce the avoided cost it paid Greycliff is inappropriate and violates FERC's non-discrimination policy.

When Greycliff incurred its LEO, it utilized its own prior CREP proceeding wherein NWE testified that Greycliff's project was cost-effective as well as the Commission's rationale and decision in Greenfield, which predated Greycliff's LEO by only a few months. These prices were the only known and available benchmarks for avoided cost at the time that Greycliff incurred its LEO, and these should be used as the primary basis for any determination of avoided cost, as of the date the LEO was incurred:

- (1) The Greenfield rate ultimately approved by the Commission in March, 2015 in Docket D2014.4.43, which was \$ 53.99/MWh with integration costs to be paid by the Greenfield Project and the various rates relied upon by the Commission in approving those rates.

Greycliff would accept this rate without dispute.

- (2) The posted avoided cost rate in the QF-1 Schedule which was used by NWE witness Bleau LaFave as the benchmark for cost reasonableness of Greycliff's Community Renewable Energy Project ("CREP") proposal in prefiled testimony submitted by Mr. LaFave in Docket D2015.2.18 on February 13, 2015. Mr. LaFave testified:

Q. Based upon the information you have presented, do you believe the Commission should approve the Greycliff PPA as being reasonable and in the public interest?

A. Yes. Greycliff was the least cost PPA resource resulting from a CREP RFP with a purchase price below the existing QF-1 Wind rates of \$53.14 per MWh in Off-Peak Hours and \$58.50 per MWh in On-Peak Hours established by the Commission in Docket No. D2012.1.3. (P. 189, Northwestern Energy CREP filing)

Greycliff would also accept this rate. As NWE failed to update its energy procurement plan and QF rates, as required, prior to the establishment of the LEO, the Commission should heavily consider the posted QF-1 rate.

Without paying for an expert and conducting an independent study of NWE's system and developing an independent forecast of avoided costs, these were the forecasts reasonably and publicly available to Greycliff in June and July of 2015. This was the sum and substance of the testimony of Greycliff witness Robert Stanton Walker in this docket.

Greycliff expert witness Mr. Roger Schiffman filed rebuttal testimony in this Docket and his proposal is based on information publicly available and utilized an independent forecast from the Northwest Power and Conservation Counsel which produces an avoided energy and capacity cost minus regulation and supplemental reserves of \$53.38/MWH, which does not include any of the discriminatory and frankly incomprehensible deductions made by NWE in arriving at its avoided cost forecast of cost of \$36.03 with carbon costs, including various integration, regulation, and spinning reserve costs.

In conclusion, NWE's methodology is inappropriate, discriminatory, and plainly inconsistent with a proper calculation of avoided costs. Greycliff's original avoided cost proposal of \$53.99 minus integration charges is a reasonable approximation of NWE's avoided cost over the next 25 years and should be adopted by the Commission.

II. SUMMARY OF ISSUES

The issues that divide the parties are summarized above. In general terms, the parties disagree about the appropriate way to calculate avoided costs in this proceeding, and whether NWE's adjustments are inappropriate and discriminatory.

III. CONTESTED ISSUES

Briefly, Greycliff will provide testimony and evidence supporting its calculation of avoided cost as set forth in the testimony of Robert Stanton Walker and Roger Schiffman. Greycliff will also point out where NWE's avoided cost is inaccurate and discriminatory. These differences and the approach of each party is summarized above.

IV. WITNESSES

A. Robert Stanton Walker will testify regarding the publicly available sources of NWE's avoided cost.

B. Roger Schiffman will testify regarding his critique of NWE's avoided cost methodology and results and the results of his own investigation of NWE's avoided cost.

Greycliff reserves its right to call any rebuttal witnesses that may be necessary as well as relied upon by any party in their case-in-chief or rebuttal case, if any. At present, Greycliff intends to conduct cross examination of Mr. Bleau LaFave and Mr. Luke Hanson.

V. EXHIBITS AND DISCOVERY FOR INTRODUCTION AT HEARING

1. Greycliff will introduce the direct prefiled testimony of Mr. Robert Stanton Walker and the prefiled rebuttal testimony of Mr. Roger Schiffman. Greycliff expressly reserves the right to rely on any party's prefiled testimony, testimony introduced for the first time at hearing, and any exhibits prepared by any party that may be relevant.
2. All data responses by or to any party in this proceeding;
3. Any document used for impeachment purposes;
3. Any exhibit listed as an exhibit by any party to this proceeding;
4. Any document relied upon by any party at hearing.

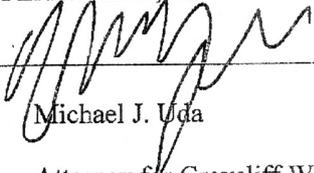
5. Greycliff further reserves the right to supplement this exhibit list with documents or evidence discovered in the course of preparing for hearing or necessary for impeachment or rebuttal.

VI. ORDER OF HEARING OR SEQUENCE OF WITNESSES

At this time, as the Petitioner, Greycliff intends to present its witnesses first and last and present oral rebuttal testimony if necessary.

RESPECTFULLY SUBMITTED THIS 27th DAY OF MAY, 2016

UDA LAW FIRM, PC

By: 

Michael J. Uda

Attorney for Greycliff Wind Prime, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served on this 27th day of May, 2016 upon the following by first class mail postage pre-paid:

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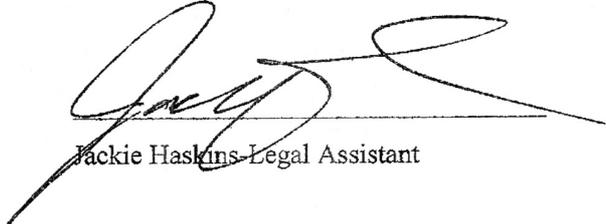
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I hereby certify an original was e-filed, and six copies of the foregoing were hand-delivered to the following:

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