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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	)	

NorthWestern Energy's Post-Hearing Response Brief

NorthWestern Corporation d/b/a NorthWestern Energy ("NorthWestern") hereby submits this *Post-Hearing Response Brief* ("Brief") in the above-captioned docket.

I. Introduction

A. Procedural History

On August 17, 2015, Greycliff Wind Prime, LLC ("Greycliff") filed a *Petition to Have Commission Set Contract Terms and Conditions Pursuant to M.C.A. § 69-3-603* ("Petition") with the Montana Public Service Commission ("Commission"). On August 20, 2015, the Commission issued a *Notice of Petition and Intervention Deadline* establishing September 3, 2015 as the date that any interested person directly affected by the Petition had to request intervention. By *Notice of Staff Action*, issued on September 9, 2015, the Commission granted intervention to NorthWestern and the Montana Consumer Counsel ("MCC").

Consistent with the procedural order in effect at the time, on November 16, 2015, NorthWestern filed testimony responding to the testimony filed by Greycliff on September 18, 2015, and providing an avoided cost calculation for the Greycliff project. The MCC also filed testimony by the required deadline. Due to project changes requested by Greycliff, including a later commercial operation date, NorthWestern provided an updated avoided cost calculation in testimony filed on March 29, 2016. On April 29, 2016, Greycliff filed rebuttal testimony. NorthWestern and Greycliff then agreed that NorthWestern could file surrebuttal testimony by May 24, 2016, which it did.

During the course of this proceeding, Greycliff filed a *Motion for Summary Judgment* ("Motion"). After the Motion was fully briefed and the Commission held oral argument, the Commission denied the Motion. Order No. 7436b, ¶ 22. In that same decision, the Commission ordered Greycliff and NorthWestern to "negotiate for at least thirty days in an effort to mutually agree to contract terms and conditions, including an avoided cost rate, beginning on the service date of this Order [January 15, 2016.]" *Id.*, ¶ 23. Over the next thirty days plus two further two-week extensions, Greycliff and NorthWestern were unsuccessful at resolving all outstanding contested issues, including the appropriate avoided cost rate for the Greycliff project.

On May 27, 2016, NorthWestern and Greycliff filed a Joint Motion Regarding Contract Terms and Conditions ("Joint Motion"). The Joint Motion identified certain contract terms and conditions that the parties were unable to resolve and requested Commission resolution of those terms and conditions.

As noticed by the Commission, the hearing in this matter commenced on May 31, 2016. At the close of the hearing, the parties agreed to submit briefing according to the following schedule: Greycliff's opening brief was due on or before June 10, 2016; intervenors' response briefs are due on or before June 24, 2016; and Greycliff's reply brief, if any, is due on or before July 1, 2016.

II. Argument

In 1978, Congress passed the Public Utility Regulatory Policies Act of 1978 ("PURPA"). After the passage of PURPA, the Federal Energy Regulatory Commission ("FERC") issued regulations that implemented the law. *See* 18 C.F.R. § 292. Notwithstanding the federal regulations, state regulatory authorities were given great latitude to resolve PURPA disputes. *FERC v. Mississippi*, 456 U.S. 742, 751, 102 S.Ct. 2126, 2133 (1982). As such, the Montana Legislature adopted statutes implementing PURPA and FERC regulations in 1983, and the Commission thereafter adopted administrative rules governing PURPA matters.

FERC regulations set forth the criteria for establishing what rate a utility must pay a Qualifying Facility ("QF"). *Id.* Specifically, 18 C.F.R. § 292.304(a) provides that "[r]ates for purchases shall: (i) [b]e just and reasonable to the electric consumer of the electric utility and in the public interest; and (ii) [n]ot discriminate against qualifying cogeneration and small power production facilities." Additionally, if a QF establishes a legally enforceable obligation ("LEO"), the QF decides if the rate it is to be paid will be the utility's avoided cost at the time the power is delivered or at the time the LEO was established. 18 C.F.R. § 292.304(d). If no LEO is established, the rate paid to the QF must be the avoided cost of the utility based on current information. *Id.*

As demonstrated below, Greycliff has not established an LEO in this case. Given that fact, the Commission must set the avoided cost rate based on current information. NorthWestern calculated avoided costs based on current information. This calculation is based on a "method [that] most cleanly and clearly represents the costs that NorthWestern can avoid by purchasing energy and capacity from Greycliff." Ex. NWE-1, p. 6. NorthWestern's calculation provides an avoided cost rate for firm energy of $43.28 per megawatt-hour ("MWh"). Ex. NWE-6. This rate includes an adjustment for carbon as Greycliff agreed to convey all environmental attributes associated with its project to NorthWestern. Ex. NWE-1, p. 8. After making necessary adjustments, the total proposed avoided cost rate for the Greycliff project is $35.65 per MWh. Ex. NWE-6. This rate is supported with substantial evidence and is appropriate based on the Commission's prior guidance and PURPA regulations.

NorthWestern disputes Greycliff's baseless assertions that the forecast it used to calculate the avoided cost rate should be replaced with a forecast that is not Montana specific and does not provide the most current information. Furthermore, NorthWestern refutes the arguments that its proposed rate should not be adjusted for certain, necessary costs related to interconnecting and integrating the project into the transmission system and to account for the fact that this project would supply an intermittent source of energy. Finally, NorthWestern provides legal support for its positions on the contract provisions that it and Greycliff were unable to resolve, as identified in the Joint Motion.

A. A random, unsubstantiated rate does not equal a utility's avoided cost.

In 2010, the Commission established a bright-line test to determine when a QF creates an LEO in Montana. In Order No. 6444e, ¶ 47, the Commission found that

> [t]o establish an LEO, a QF must tender an executed power purchase agreement to the utility with a price term consistent with the utility's avoided costs, with specified beginning and ending dates, and with sufficient guarantees to ensure performance during the term of the contract, and an executed interconnection agreement.

In this case, Greycliff has failed to create an LEO. Greycliff never submitted a signed contract to NorthWestern "with a price term consistent with [NorthWestern's] avoided costs." Contrary to the controlling authorities, Greycliff proposed a random, unsubstantiated rate that accounted for its increased costs but failed to consider NorthWestern's portfolio needs. In contrast, NorthWestern's proposed avoided cost rate is solely reflective of its portfolio needs as it should be without consideration for the QF's costs or needs.

First, avoided costs are defined as "the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source." 18 C.F.R. 292.101(b)(6). The Commission's administrative rules adopt this definition by reference. ARM 38.5.1901(1). In layman's terms, this means that a QF is entitled to the rate the utility would pay to either generate the power it needs to serve customers or purchase that power from another source. If the utility does not need the power, it would not generate or purchase it. *See Pennsylvania Electric Co. v. Pennsylvania Public Utility Commission*, 677 A.2d 831, 835 (Pa. 1996) ("PURPA *requires* utilities to make purchases from QFs when a **need** exists that QFs can fulfill.") (Italics in original; bold added). In such a "no need" situation, this means that the utility's avoided cost would be zero. Thus, there is a direct correlation between a utility's power needs and its avoided cost.[1]

Greycliff initially proposed a price term of $53.85 per MWh, which was not based on any analysis or calculation. Greycliff admitted as much at hearing. Tr., p. 34: 8-10. Greycliff justified its proposed rate by asserting that it is similar to the rate approved by

[1] Greycliff notes that its proposed avoided cost rate is "roughly the same range" as avoided cost rates for PacifiCorp approved by the Idaho Public Utility Commission. Initial Brief, p. 20, fn. 2. The Commission must ignore this irrelevant statement. Avoided cost rates set by other utility commissions for QF projects selling to other utilities are not reflective of NorthWestern's portfolio needs or its avoided costs.

the Commission in the Greenfield Wind, LLC ("Greenfield") docket (D2014.4.43). Ex. GWP-1, p. 6. The rate stipulated to in the Greenfield docket was $53.99 per MWh. Order No. 7347a, ¶ 20. Given the Commission's approval of that rate, NorthWestern signed a contract with Greenfield. Ex. NWE-1, p. 15.

It is illogical that Greycliff's random, unsubstantiated rate would be consistent with NorthWestern's avoided costs in July 2015. For one, the Greenfield project is now part of NorthWestern's portfolio. Greycliff did not adjust its proposed rate to account for the fact that Greenfield is now considered an unavoidable resource. *See* Response to Data Request PSC-011(b). It is nonsensical to argue that Greycliff's proposed rate, which is only $0.14 per MWh less than the Greenfield rate, properly accounts for NorthWestern's current portfolio needs and is therefore consistent with NorthWestern's current avoided costs.

Furthermore, negotiated rates between a utility and a QF are not necessarily reflective of the utility's avoided costs. FERC regulations provide that "[n]othing in this subpart: (1) Limits the authority of any electric utility or any qualifying facility to agree to a rate for any purchase, or terms or conditions relating to any purchase, which differ from the rate or terms or conditions which would otherwise be required by this subpart[.]" 18 CFR § 292.301(b). The parties to such a contract are thus permitted to agree to any rate so long as such rate is just and reasonable to the electric consumers of the utility and does not discriminate against the QF.

In the Greenfield case, the parties mutually agreed to a negotiated rate which NorthWestern would pay for the power purchased from Greenfield. The Greenfield rate "was not reflective of the avoided cost rates proposed by NorthWestern in that docket."

Ex. NWE-1, p. 14. The Commission found that "[t]he stipulated rate of $53.99 per MWh is not based on NorthWestern's method[]" of calculating the cost it would avoid from purchasing Greenfield's output. Order No. 7347a, ¶ 19; *see also* Order No. 7395d, ¶ 34 ("Greenfield's price was a negotiated, project-specific price for a QF based on an unapproved avoided cost method."). Therefore, the Commission should disregard Greycliff's attempted reliance on the Greenfield rate to show that its proposed rate was "consistent with the utility's avoided costs" in order to establish an LEO. A rate that is similar to the Greenfield rate does not account for NorthWestern's current portfolio, nor was the Greenfield rate reflective of NorthWestern's avoided costs.

Second, costs incurred by the QF are not properly part of the equation. Order 69, 45 Fed. Reg.12222 (Feb. 25, 1980) ("[T]he Commission believes that the basis for the determination of rates for purchases should be the utility's avoided costs and should not vary on the basis of the costs of the particular qualifying facility."). Greycliff's proposed rate includes adjustments based on costs it has incurred. It admitted as much when it stated that the rate "was based in part on the fact that again Greycliff incurred additional expenses in the [period] between its 2014 CREP proposal and its 2015 avoided cost proposal." Response to Data Request PSC-001(d). Greycliff also asserted the change in the commercial operation date "will add additional expense." *Id.* This acknowledged consideration of its costs in its proposed random, unsubstantiated rate shows that such rate was not developed to reflect NorthWestern's avoided cost and therefore cannot be consistent with such costs.

If Greycliff had earnestly set out to establish an LEO, one would have expected it to use the avoided cost calculation that NorthWestern performed for Greycliff in the

CREP waiver docket as the "price term consistent with the utility's avoided cost." Less than six months prior to Greycliff's demand letter sent to NorthWestern in July 2015, NorthWestern specifically calculated an avoided cost rate for the Greycliff project utilizing the same methodology it used for derivation of the proposed Greenfield rate. Ex. NWE-1, p. 13. The rate NorthWestern calculated was $45.01 per MWh. *Id.* Even though the ultimate rate would be different since that calculation was for a 20-MW project and Greycliff increased its project size after becoming a QF, it still would have been a more reasonable basis for purposes of establishing an LEO under the Commission's bright-line test. Use of an avoided cost calculation performed by the utility for essentially the same project would have been more "consistent with the utility's avoided cost" than a random, unsubstantiated price chosen because it was close to the rate another QF previously negotiated with the utility.

Additionally, Greycliff openly considered the rate calculated by NorthWestern in February 2015 when trying to justify the random, unsubstantiated rate it proposed to NorthWestern in July 2015. Ex. GWP-1, p. 3. When asked "[h]ow [] Greycliff arrive[d] at the contract rate in its offer to NorthWestern[,]" Mr. Walker responded "we were obviously aware of the testimony of Bleau J. LaFave in Montana Public Service Commission Docket D2015.1.8…we felt the contract rate for our generation was eminently in line with what [NorthWestern] seemed comfortable with only a few months ago." *Id.* One can only surmise that Greycliff chose not to submit a signed contract at $45.01 per MWh because that rate hindered an otherwise viable project, i.e., prevented the owners from earning a reasonable rate of return.

Greycliff attempts to justify its lack of a specific calculation on the fact that it did not have the necessary information. *See* Response to Data Request PSC-002. The Commission must reject this justification. Greycliff could have asked NorthWestern for a rate. As noted above, NorthWestern had already performed an avoided cost calculation for the Greycliff project four months earlier. Greycliff apparently did not have an issue with this calculation at that time and, as noted above, even used that calculation to support its random, unsubstantiated price of $53.85 per MWh. If Greycliff had provided NorthWestern with updated estimated production for the project, NorthWestern could have easily updated the avoided cost calculation that it had previously performed.

The evidence very clearly establishes that at the outset of this matter, Greycliff was not interested in what NorthWestern's current avoided cost rate was or in negotiating with NorthWestern. *See* Petition, Exhibit 1 ("If NorthWestern does not respond to this LEO letter or indicates disagreement that Greycliff has incurred a LEO in writing as of July 10, 2015, Greycliff will pursue any available legal remedy, including an action before the Commission to enforce the LEO and PURPA."). Greycliff "did not think it [was] necessary to ask" NorthWestern for its avoided cost rate. Response to Data Request NWE-005. Greycliff's failure to ask NorthWestern for an updated avoided cost calculation, which in this case could have been easily computed, puts the final nail in Greycliff's argument that its proposed rate is "consistent with NorthWestern's avoided costs."

Greycliff claims that the Commission's bright-line test does not require it to ask the utility for its avoided cost rate. Initial Brief, p. 7. This test does not explicitly state that a QF must ask, but in order to submit a contract "consistent with the utility's avoided costs" a QF must know what those costs are. Asking for and using such costs is necessary to pass the test. Greycliff jumps to the unfounded conclusion that by requiring a QF to ask the utility for its avoided cost, the QF must accept the rate proposed by the utility. *Id.*, at p. 8. NorthWestern never argues that Greycliff would have to accept the rate. Instead, NorthWestern's contends that had Greycliff asked, it would have received NorthWestern's avoided cost rate for the project. Once Greycliff had NorthWestern's proposed avoided cost rate, it could then decide whether to submit a contract at that rate, to challenge the utility under Montana law, and/or to submit some other rate to the utility adjusted to reflect what it believed was consistent with the utility's avoided cost.

Greycliff's argument equates to a QF being able to bind a utility irrespective of the utility's actual avoided cost for a specific project. This was not the intent of the FERC regulations providing for establishment of an LEO. FERC's comments on this matter state that such a provision was "intended to prevent a utility from circumventing the requirement that provides capacity credit for an eligible qualifying facility merely by refusing to enter into a contract with the qualifying facility." 45 Fed. Reg. at 12224. Here, Greycliff does not even give NorthWestern an opportunity to meaningfully engage in the process. It was either 'you accept what we have provided' or 'we will seek legal remedy.' The Commission must not condone this type of behavior as it violates PURPA and the Commission's own rules and orders.

Greycliff additionally claims that it would not have had access to information necessary to determine NorthWestern's current avoided cost until a contested case proceeding was pending. *See* Response to Data Request PSC-002. This assertion is incorrect. FERC regulations require an electric utility to supply information that allows for the calculation of the utility's avoided costs. *See* 18 C.F.R. 292.302(b) and ARM 38.5.1905. This regulation "is intended…to assist those needing data from which avoided costs can be derived." 45 Fed. Reg. at 12218. This supply of data is "considered [to be] the first step in the determination of such a rate." *Id.* NorthWestern, in compliance with that regulation and the Commission's administrative rule, provided such information to the Commission. *See* Docket Nos. N2013.12.84 and N2015.11.91. This information would have at least provided Greycliff with a starting point to determine if its proposed price was consistent with NorthWestern's avoided costs.

If the Commission accepts Greycliff's line of reasoning on this issue, future QFs would only need to submit a contract to NorthWestern with a random, unsubstantiated price and assert that such price is "consistent with the utility's avoided cost" in order to establish an LEO. This cavalier approach could result in QFs binding the utility at rates greater than the utility's avoided cost in violation of PURPA. The Commission must reject Greycliff's argument that it established an LEO and instead calculate an avoided cost rate for the project based on the most current information available.

B. Unlike Greycliff, NorthWestern properly calculated an avoided cost rate for Greycliff – a rate that considers NorthWestern's portfolio needs.

After Greycliff instituted this proceeding and failed to provide an avoided cost calculation reflective of the costs NorthWestern would avoid by purchasing power from the Greycliff QF project, NorthWestern performed an updated avoided cost calculation. In order to ensure that such calculation considered the needs of NorthWestern's portfolio, NorthWestern used a hybrid differential revenue requirement[2] methodology to develop the proposed costs. Ex.

[2] As described at hearing, a full differential revenue requirement methodology involves a determination of the utility's overall revenue requirement, i.e., reflective of transmission, distribution and generation assets. Tr., p. 112: 17-20. In this case, given the dynamics of NorthWestern as a utility working towards again becoming vertically

NWE-1, p. 6. As explained by Mr. Hansen, the modeling software, PowerSimm^{TM}, "models the effect of changes to NorthWestern's energy supply portfolio and allows for analysis of potential additional resources." Ex. NWE-7, p. 4. This type of modeling is called "QF in, QF out" modeling. Tr., pp. 112: 23 – 113: 1. The modeling determines when the utility is expected to be short and thus in need of energy and/or capacity and when the utility is expected to be long and thus not in need of such energy or capacity. If NorthWestern will be short and in need of power, Greycliff will receive the market purchase price. Ex. NWE-7, p. 4: 12-15. If NorthWestern will be long and not in need of Greycliff's power, Greycliff will receive either the price of the variable cost of Colstrip Unit 4 ("CU4") or the price NorthWestern receives for selling the power in the market. *Id.*, pp. 4: 16 – 5: 2.

Greycliff asserts that NorthWestern would be discriminating against it by paying it the variable price of CU4 instead of the market price in all scenarios. Initial Brief, pp. 21-24. NorthWestern's proposal is not discriminatory, but is consistent with FERC orders and ensures compliance with PURPA. First, FERC Order 69 provides that PURPA allows a QF to sell power to the utility that the utility does not need, but the rate paid to the QF "should only include payment for energy or capacity which the utility can use to meet its total system load." 45 Fed. Reg. 12219 (Feb. 25, 1980). Thus, if a utility does not need the QF power, i.e., the utility is long, PURPA does not require the utility to pay for such power. In this case, NorthWestern has offered to pay Greycliff for power when it is long notwithstanding the fact that it is not required to do so under PURPA.

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integrated, the revenue requirement was reflective of the generation/supply assets only. *Id.*, p. 112: 21-22. Since the output of Greycliff would be a supply resource, NorthWestern's differential revenue requirement analysis is appropriate because it calculates the supply resources that NorthWestern would avoid by purchasing power from Greycliff.

Second, forcing NorthWestern to pay Greycliff the market price in all scenarios would place unnecessary and unwarranted risk on NorthWestern's customers. As Mr. LaFave testified at the hearing, "NorthWestern is using its own portfolio to serve the load and it's not exposed to [the] market and [thus] customers shouldn't be re-exposed to that market under this condition." Tr., p. 105: 7-10. NorthWestern has spent years building a supply portfolio to protect customers from variable market prices. Paying the market price to Greycliff notwithstanding the state of the portfolio would unnecessarily re-expose customers to the vagaries of the market for 25 years. Since PURPA does not require NorthWestern to pay a QF for power not needed to meet total system load, then the Commission, in order to protect customers, should reject Greycliff's argument that it is entitled to market prices all the time.

Overall, NorthWestern's calculation derived a total avoided cost rate as shown in the table below. Since Greycliff has agreed to convey all environmental attributes to NorthWestern, only the "with carbon" price is shown below.

Firm Energy	$	43.28
DA Firm vs. RT price	$	(1.99)
Interconnection Network Upgrades	$	(5.40)
Transmission Network Upgrades	$	-
Capacity Value	$	1.98
Wind Generation Integration		
Regulation - 25 Year Levelized	$	(0.52)
Spinning Reserve Service (BA Tariff)	$	(0.61)
Supplemental Reserves Service (non-spin; BA Tariff)	$	(1.09)
Avoided Cost with Carbon Forecast	**$**	**35.65**

After receiving NorthWestern's avoided cost rate for this project, Greycliff hired an expert to determine an alternative avoided cost rate. Response to Data Request NWE-019. However, this alternative avoided cost rate is not derived from a proper avoided cost calculation.

Greycliff simply took its estimated production and multiplied it by a market price less deductions for regulation and reserves. Tr., p. 39: 4-14. Greycliff ineffectively asserts that this is NorthWestern's avoided cost. As shown above, avoided cost calculations must consider the utility's portfolio needs to ensure that the calculation reflects the costs that the QF allows the utility to avoid. Greycliff's alternative calculation fails to consider this essential aspect of an avoided cost calculation. For this reason alone, the Commission must reject Greycliff's proposal. Neither in its initial testimony nor in its rebuttal testimony has Greycliff presented an adequate avoided cost calculation reflecting those costs that NorthWestern will avoid by purchasing power from Greycliff. NorthWestern is the only party to the docket that provides a proper calculation of the avoided cost rate for this project.

Despite not providing a legitimate avoided cost calculation, Greycliff rejects NorthWestern's calculation. Greycliff asserts that NorthWestern's analysis does not use a fundamental forecast, double counts certain costs, was not a proper differential revenue requirement analysis, and overall violates PURPA. NorthWestern refutes each of these contentions in detail in the sections below.

But first, in summary, NorthWestern's use of market prices adjusted for delivery to Montana as forecast by the Intercontinental Exchange ("ICE") and then escalated by the Energy Information Administration's ("EIA") 2015 Annual Energy Outlook ("AEO") is appropriate as it is consistent with prior Commission direction and acceptance of the forecast and provides the most current market information. Also, NorthWestern's adjustments for necessary integration, the intermittency of wind, and network interconnection upgrade costs are necessary to ensure customers remain indifferent to the purchase of power from Greycliff. NorthWestern's proposed avoided cost rate for Greycliff does not violate PURPA by discriminating against Greycliff.

Greycliff, as a QF, is entitled to a long-term contract with NorthWestern. Essentially, as stated during the hearing, "[t]hey are looking for guaranteed money for a long period of time from NorthWestern's customers." Tr., p. 115: 21-23. NorthWestern's proposal gives Greycliff that guaranteed money, but also protects NorthWestern's customers by establishing a rate that reflects its current avoided costs.

i. Use of ICE market forecast data from January 2016 adjusted for Montana and escalated by the EIA AEO is an appropriate forecast for purposes of calculating an avoided cost rate for Greycliff.

In order to determine the status of NorthWestern's portfolio and ultimately an avoided cost rate for the Greycliff project, "[f]orward market prices were used in the model through July 2020 and then were escalated thereafter at the [EIA's] annual escalation rate from the 2015 EIA [AEO]." Ex. NWE-7, p. 7: 8-11. NorthWestern updated these market price forecasts in March to reflect January price strips. Ex. NWE-4, p. 3. For natural gas, the short-term forecast reflects the Alberta Energy Company ("AECO") hub settlement prices published by ICE. Tr., p. 111: 21-23. For electricity, the short-term forecast reflects Mid-Columbia ("Mid-C") prices published by ICE. Tr., p. 111: 16-20. In order to reflect prices for Montana, NorthWestern adjusted transmission and transportation costs from the Mid-C and AECO prices. Tr., p. 134: 14-23.

First, Greycliff claims that it was not aware of this last point until Mr. Hansen's testimony at the hearing. Initial Brief, pp. 15-16. Greycliff asserts that this "appears to have been designed to prejudice the Commission staff and the parties" and advocates that the Commission should add these costs back to the avoided cost rate. *Id.*, at pp. 16 and 20. Both claims are wholly without merit. If Greycliff had bothered to read the surrebuttal testimony of Mr. Hansen, it would have noted that NorthWestern deducted these costs to reflect Montana prices. Ex. NWE-9, p. 6:19-23. Additionally, with respect to the specific natural gas transportation costs, NorthWestern provided these in response to Data Request PSC-012(b) in December 2015. As for the transmission costs, review of the data provided in response to Data Request PSC-012(a) denotes that the Mid-C forecasts received from ICE are different from both the NorthWestern purchase and sales prices. The only thing that NorthWestern did not provide prior to the hearing was the specific dollar amount deducted from the Mid-C prices for transmission. As noted by Mr. Hansen this was simply an oversight. Tr., p. 144: 11-12. Finally, this type of adjustment to market forecasts is not a new concept for NorthWestern. *See* Order No. 7199d, ¶ 36. The Commission must reject Greycliff's attempt to add these costs back to the avoided cost calculation. These adjustments are necessary to properly account for power prices in Montana versus the region.

Next, Greycliff contends that NorthWestern erred when it updated the market price forecast from July 2015 to January 2016. Initial Brief, pp. 8-10. But because Greycliff did not establish an LEO, the Commission must use the most current information. Greycliff cites to authorities that have stated as much. *Id.*, pp. 9-10. NorthWestern avers that the January price strip is the appropriate one to use to calculate the avoided cost for this project, thereby allowing the Commission to comply with PURPA. Greycliff notified NorthWestern of a substantial change to the project in January.[3] As testified to by Mr. LaFave, "Greycliff requested a change to the project's commercial operation date from 2016 to 2018. Because of this change, Greycliff asked NorthWestern to recalculate the 25-year levelized cost." Ex. NWE-4, pp. 2: 22 – 3:1. Extending the commercial operation date to 2018 removes two years up front and adds two years at the end of the project. This change considers NorthWestern's portfolio needs over a different

[3] Greycliff attempts to blame this proceeding for the delay and change in the project's commercial operation date. Initial Brief, p. 10. Interestingly, it seems that Greycliff's motion practice created much of the delay in this proceeding.

timeframe and accounts for costs, if any, NorthWestern will avoid by purchasing power from Greycliff over that new period. Using a January 2016 price strip is appropriate given the requested change to the project and is a more accurate representation of NorthWestern's current avoided cost.

Finally, Greycliff attacks NorthWestern's use of the ICE market data because it claims such data is not a fundamental forecast since there are no actual transactions at those prices. Initial Brief, p. 13. NorthWestern disagrees with Greycliff's assertions. NorthWestern provided testimony that ICE is an appropriate forecast of Mid-C prices in the short term. Mr. LaFave testified that "ICE is what the regional community – regional companies are transacting at locally. It's giving us an indication, and it's a public indication of what prices are in the region and are very valid in [the] short-term. ICE is updated on a regular basis." Tr., pp. 118: 21 – 119: 2. Mr. Hansen agreed. He testified that in his opinion: "I view it as a fundamentals forecast as the market is the most current fundamental information." Tr., p. 142: 6-13. When questioned by Commissioner Kavulla about whether "the revenues available from ICE on average and over the long-term would present sufficient revenues to support the marginal unit coming online[,]" Mr. Hansen testified: "I suspect they would." Tr., p. 143: 12-17. Additionally, "NorthWestern accounted for variation in its forecast by performing 100 simulation reps [which] tries to explicitly look at a possible outcome, a range of possible outcomes." Tr., pp. 151: 23 – 152: 1.

This argument from a QF is not new or novel. In the 2010 QF-1 docket, NorthWestern used an ICE forecast, but with a different time period, to derive forward market prices in the short term for purposes of calculating the avoided cost rates. *See* Order No. 7108e, ¶ 59. The QF's expert witness "questioned whether forward price strips provide useful information since prices for out years in the strips are based on an insufficient number of transactions." *Id.*, at ¶ 60.

He went on to advocate for the use of a "fundamentals-based forecast, which he said reflects physical assumptions about supply and demand." *Id.* For resolution of this issue in that docket, the Commission concluded that applying the current-year's EIA AEO escalation factor to the ICE forecast adequately addressed concerns about the forecast used by NorthWestern. *Id.*, at ¶ 64. The Commission re-affirmed this conclusion when it again found that NorthWestern's use of the ICE forecast escalated by the current-year's EIA AEO was appropriate. *See* Order No. 7199d, ¶ 28. The Commission should similarly find for this docket that use of the ICE forecast escalated by the current year's EIA AEO escalation factor is the appropriate and reasonable forecast for purposes of deriving an avoided cost rate.

Instead, Greycliff advocates that the Commission should order NorthWestern to use a draft electricity price forecast from the Northwest Power and Conservation Council ("NPCC") to calculate the avoided cost rate for the Greycliff project. GWP-2, p. 41. First, if – despite NorthWestern's arguments to the contrary – the Commission believes that the NPCC forecast is the appropriate forecast, the final Seventh Power Plan forecast must be utilized in lieu of the draft forecast proposed by Greycliff. As noted above, the Commission must set avoided costs based on current information. Greycliff's recommended forecast does not reflect current market conditions.

Greycliff claims that the NPCC forecast is more appropriate because it is not biased and recognizes structural changes that are expected in future energy markets – that this forecast accounts for all known changes in the future market. Initial Brief, pp. 11-12. It asserts that NorthWestern's "methodology kept spark-spreads[4] constant throughout the forecast period,

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[4] Throughout its brief, Greycliff refers to the relationship between natural gas prices and electricity prices as the "spark-spread." This is an inappropriate or misleading use of the term "spark-spread." In the industry, a spark-spread is meant to convey how much a natural gas unit is in the money when compared to the electric price. Said differently, the spark spread is the gross margin of a gas-fired power plant from selling a unit of electricity, having

never changing. [This] approach does nothing to reflect key structural aspects of the industry, driven by changes in the generation mix." *Id.*, pp. 12-13. Interestingly, Greycliff's argument is the pot calling the kettle black. Review of the implied heat rate for the NPCC final medium annual wholesale electric price forecast confirms there is no change in the implied heat rate after 2024; it remains static for more than 10 years. If anything, this fact shows that Greycliff's argument has little merit. Also, fundamental forecasts, like the NPCC, "have historically been high." Tr., p. 152: 22.

After considering the evidence as well as prior Commission precedent accepting such forecasts, the Commission must resolve this disputed issue in favor of NorthWestern and find that use of ICE market data from January 2016 adjusted for Montana prices and escalated by the EIA AEO is the appropriate forecast for determining avoided cost rates for QFs, including Greycliff.

ii. Greycliff has not provided legally valid arguments refuting the fact that the avoided cost rate for this project is properly reduced to reflect necessary adjustments to ensure PURPA compliance.

NorthWestern's proposed avoided cost rate in this case includes several adjustments to the firm energy rate in order to ensure customers remain indifferent to the purchase of power from Greycliff. Specifically, NorthWestern reduced the firm energy rate to account for the intermittency of the project, wind integration costs, including spinning and supplemental reserves, and finally, interconnection network upgrade costs. NorthWestern also increased the firm energy rate to provide a capacity value for this project. Not surprisingly, Greycliff takes issue with only the deductions from firm energy. As argued below, the Commission must make the adjustments as provided by NorthWestern to ensure that PURPA is not violated and

bought the fuel required to produce this unit of electricity. Instead, the more appropriate term is the "implied heat rate."

customers remain indifferent. Failure to properly account for these costs in Greycliff's avoided cost rate would result in customers paying more than NorthWestern's avoided costs.

a. Because Greycliff is not a firm resource, it is not entitled to a firm energy rate. There must be an adjustment to reflect this fact.

The energy price that results from the PowerSimm™ modeling is a firm energy rate. Ex. NWE-6. Greycliff is an intermittent resource and thus is not entitled to a firm energy rate as it cannot deliver energy on a firm basis like a baseload generating unit. Tr., p. 86: 8-22. As such, there must be a deduction to account for this fact. NorthWestern proposed a deduction of $1.99 per MWh. This "deduction was calculated to estimate the forecasted real time prices that would represent the value that an intermittent resource would receive for a non-dispatchable resource." Ex. NWE-1, p. 8: 18-21. Specifically, NorthWestern calculated this deduction by "[u]sing an average of the historic difference between the Day Ahead [] firm prices and Real Time [prices]." *Id.*, at p. 8: 17-18. This calculation uses actual amounts and is not a forecast. Tr., p. 167: 18-22. This specific calculation is the most "appropriate [calculation] at this time" because "[i]t delivers to the customers real-time and it adjusts on a minute-by-minute basis. This is the value – the value of the power at that minute…." Tr., p. 90: 3-12. Also, as noted at the hearing, the Commission provides for a similar deduction for standard offer-sized QFs that provide energy from an intermittent resource. Tr., pp. 88: 24 – 89: 16; *see also* Order No. 7199d, ¶¶ 52-55.

Greycliff argues that this adjustment is not necessary because Greycliff is already obligated to pay for wind integration. Initial Brief, p. 19. These two concepts are not comparable. Tr., pp. 117: 25 – 118: 3 ("the day-ahead is a different cost structure than the integration costs that are identified in this. They are not apples – they are not the same thing."). Wind integration charges are necessary to ensure the transmission system stays balanced due to the intermittent nature of the energy supplied to the portfolio. The day-ahead versus real time adjustment reflects the idea that wind energy is not as valuable as firm energy because it is not predictable. Greycliff misguidedly blurs these lines in an attempt to discredit NorthWestern's valid adjustment.

Finally, Greycliff asserts that the calculation is inappropriate because it is biased. Initial Brief, p. 19. Greycliff's expert asserts that Powerdex prices are historically lower than the prices reported by ICE. *Id.* The historical difference between the ICE Day-Ahead firm price and the Powerdex hourly non-firm price does not exist because of bias; rather, the difference reflects the difference in value between Day-Ahead firm and Real-Time non-firm energy. The ICE index tracks the price of firm energy sold in blocks of 25 MW for all on-peak hours and all off-peak hours in a day. The Powerdex index tracks the price of energy sold on a non-firm, hour ahead basis. The hourly non-firm index is a more appropriate reflection of the value of intermittent wind energy.

b. Failure to adjust for interconnection network upgrade costs will result in customer indifference.

NorthWestern also proposed a deduction to reflect costs associated with interconnection network upgrades that would be required on NorthWestern's transmission system due to the addition of the Greycliff project. NorthWestern determined that the amount of this deduction should be $5.40 per MWh. No party has taken issue with NorthWestern's specific calculation or the amount derived. Greycliff, however, believes that a deduction for these costs as a whole is inappropriate and a violation of PURPA. Initial Brief, p. 16. Greycliff argues that NorthWestern is treating it differently than other transmission customers. *Id.*, p. 17. In support of this argument, Greycliff cites federal regulation. Specifically, Greycliff argues that 18 C.F.R. § 292.306 prohibits a state commission from ordering a QF to pay for interconnection costs unless all other customers are required to pay such costs. *Id.*

In this case, NorthWestern is treating Greycliff like all other transmission customers. Under NorthWestern's transmission tariff, all customers are responsible for the cost of interconnection network upgrades that are associated with their project. Tr., p. 94: 2-3. NorthWestern's transmission tariff requires NorthWestern to then reimburse customers for these costs. Tr., p. 94: 3-5. The distinction between a QF and other transmission customers is evident in the next step, which is necessary in order to comply with PURPA and the Commission's administrative rules. Under PURPA, a QF is responsible for all interconnection costs. PURPA additionally requires that customers remain indifferent to the purchase of power from a QF. 18 C.F.R. § 292.304. The Commission's administrative rules provide: "A qualifying facility shall be **fully responsible** for interconnection costs and shall…(c) [r]eimburse the utility for special or **additional** interconnection facilities…." ARM 38.5.1904 (emphasis added).

This issue is not new to the Commission. In Order No. 5017, ¶ 86, in Docket No. 83.1.2, the Commission held that "upgrades required for interconnection to the utility grid system, at the time that the QF interconnects, shall be the cost burden of the QF." In the Kenfield Wind Park docket, Docket No. D2010.2.18, the Commission held that

> [T]he PSC clearly requires utilities to evaluate transmission costs, such as system mitigation, associated with their avoidable generation resources or purchases. Only after incorporating those costs, along with the generation/purchase-based avoided costs, into total QF payments is it reasonable to require the QF to reimburse the utility for the QF's related interconnection costs, because only then would any net interconnection costs paid by the QF exceed the interconnection costs the utility would otherwise incur. ... **Obviously, this approach is consistent with PURPA because it holds ratepayers indifferent and contributes to minimizing the costs of service.**

Order No. 7068b, ¶ 84 (emphasis added).

Other state commissions have similarly found that such system upgrade costs are assignable to the QF. *See In the Matter of a Rulemaking to Adopt Rules Related to Small*

Generator Interconnection, Docket No. AR 521, Order No. 09-196 at 5 (Or. PUC June 8, 2009) ("Under the proposed rules, a public utility may only require a small generator facility to pay for system upgrades that are 'necessitated by the interconnection of a small generator facility' and 'required to mitigate' any adverse system impacts 'caused' by the interconnection."); *Re Pacific Gas and Electric Co.*, 24 CPUC 2d 253, 1987 WL 1497928, Decision No. 87-05-060 at Section B(3) (Cal. PUC May 29, 1987) ("Because direct interconnection costs are the QF's responsibility, it follows that the direct interconnection costs for the avoidable resource(s) should be part of avoided cost."); *Re Cogeneration and Small Power Production,* 57 P.U.R.4th 730, 1982 WL 156112, Commission Findings and Conclusions on Section 3 (Ak. PUC June 23, 1982) ("As the expanded regulation demonstrates, those transmission and distribution expenses to be included in the utility's interconnection costs would consist of only those *additional* transmission and distribution expenses incurred by the utility for interconnection with a QF.") (emphasis in original).

FERC Order Nos. 888 and 2003 require NorthWestern to provide nondiscriminatory, standardized open access and interconnection service to transmission customers. FERC Order 2003, ¶ 813, specifically provides this Commission with authority "over the interconnection and the allocation of interconnection costs." As such, FERC orders require NorthWestern to treat Greycliff as it would treat all other transmission customers interconnecting to its system, but PURPA, Commission orders and rules provide that a QF is responsible for additional interconnection costs associated with its project. If NorthWestern does not collect these costs from Greycliff, NorthWestern's customers will not remain indifferent to the purchase of power from Greycliff in violation of PURPA and the Commission's administrative rules.

c. The Commission must reject Greycliff's proposal to base the wind integration costs on NorthWestern's Schedule No. WI-1.

In order to ensure that NorthWestern's transmission system is properly balanced, there are costs associated with balancing intermittent resources. Because NorthWestern will incur these costs on behalf of Greycliff, they must be deducted from the avoided cost rate. First, "spinning and non-spinning reserves are calculated using the current Transmission System tariff required rate escalated by 2% per year providing a 25-year levelized estimated rate of $0.97 and $0.53 per MWh, for [non-spinning and spinning] reserves respectively."[5] Ex. NWE-1, p. 9: 14-18. Next, NorthWestern determined that the Dave Gates Generating Station would provide the wind integration for this project. Ex. NWE-1, p. 9: 18-20. Applying an 18% regulation percentage to the nameplate capacity results in 4.5 MW of needed regulation for this project. The resulting cost of wind integration for the Greycliff project is $0.52 per MWh. *See* Ex. NWE-6.

Greycliff suggests that the Commission should apply the wind integration rate in Schedule No. WI-1. Ex. GWP-2, p. 11. This would be inappropriate as that tariff schedule is only applicable to standard offer-sized QFs. *See* NorthWestern Schedule No. WI-1 ("Applicability: Applicable to any Wind Generator who enters into an Agreement with the Utility for the sale of electric power to the Utility under Schedule No. QF-1."). For those QFs entitled to sell power under Schedule No. QF-1, the Commission adopted the zonal methodology finding that certain factors coupled with the evidence in that docket supported such an adoption. *See* Order No.

[5] NorthWestern updated these costs later in the docket due to the change in estimated production provided by Greycliff. Exhibit NWE-6 provides the current spinning and non-spinning reserve costs.

7199d, ¶ 65. In this case, there is no evidence to suggest that the zonal methodology would be appropriate for the Greycliff project.

Notwithstanding this fact, the zonal rates provided in the Schedule No. WI-1, if applied to this project, would severely under-collect the necessary wind integration costs associated with a 25 MW project. If the Commission were to apply the zonal regulation methodology adopted for standard offer-sized QFs, the corresponding wind integration deduction would be $0.14 per MWh because the regulation percentage would be 5% instead of 18%. *See* Response to Data Request PSC-017(d). If Greycliff pays this much lower integration rate, customers are left footing the bill for the difference. This is a violation of PURPA as customers will not remain indifferent to the purchase of power from Greycliff. Therefore, the Commission must adopt the wind integration costs, totaling $2.22 per MWh, proposed by NorthWestern in this docket. *See* Ex. NWE-6.

C. Unresolved Contract Terms and Conditions

As discussed in the Joint Motion, NorthWestern and Greycliff (collectively referred to as the "Parties") were unsuccessful in resolving all contract terms and conditions. Joint Motion, p. 3. Specifically, the Parties were unable to agree on the contract terms and conditions surrounding (1) the avoided cost rate, (2) network upgrade costs, (3) wind integration costs, and (4) curtailment, including system emergencies. *Id.* In this section of the Response, with the exception of the first issue which is discussed extensively above, NorthWestern provides legal support for the contract language that it has proposed in resolution of these issues.

i. Wind Integration Costs – Commission Resolution Item No. 1

As argued above, NorthWestern's proposed wind integration and supplemental reserve costs are not and should not be based on NorthWestern's tariff schedules. In Exhibit A attached to the Joint Motion, Greycliff proposes language that applies these tariff schedules, Schedule Nos. WI-1 and CR-1, to this contract. Because Greycliff is not a QF entitled to take power under NorthWestern's tariff Schedule No. QF-1, use of these schedules is inappropriate. For these reasons and those argued above, the Commission must adopt NorthWestern's proposed language identified in the Joint Motion's Exhibit A as Commission Resolution Item No. 1.

ii. Curtailment, including System Emergencies – Commission Resolution Item Nos. 2 and 3

The first dispute under this subject is the definition of "Emergency Condition." Greycliff proposes a definition that limits an emergency condition to only those situations where the purchase of power from it or the re-sale of its power contributes to the emergency. NorthWestern's definition on the other hand mirrors FERC's definition of a system emergency. Under 18 C.F.R. § 292.101(b)(4), "'[s]ystem emergency' means a condition on a utility's system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property." The Commission should accept NorthWestern's definition of Emergency Condition in lieu of Greycliff's definition.

The next dispute concerns the right to curtail. Greycliff's proposed language prohibits NorthWestern from curtailing unless the reasons to curtail are consistent with FERC regulations and decisions. Specifically, Greycliff contends that NorthWestern should not be permitted to curtail under light loading conditions because FERC's decision in *Pioneer Wind Park I, LLC,* 145 FERC ¶ 61,215 (2013) ("*Pioneer Wind"*) states that light loading curtailment only applies to QFs that provide power on an as available basis. Initial Brief, p. 29. This argument is wrong for two reasons. FERC declaratory orders do not trump Commission rules. FERC declaratory orders are not binding law. Declaratory orders from FERC are not legal precedent until enforced by a federal district court decision. Declaratory orders "merely advise[] the parties of the [FERC's] position” on an issue. *Industrial Cogenerators v. FERC*, 47 F.3d 1231, 1235 (D.C. Cir. 1995); *see also, Idaho Power Co. v. Idaho Public Utilities Commission*, 155 Idaho 780, 788, 316 P.3d 1278, 1286 (2013). They are legally ineffectual. Thus, a FERC declaratory order does not control over a valid, applicable Commission administrative rule.

ARM 38.5.1903(1) provides that

> a utility is not obligated to make purchases from an interconnected qualifying facility: … (iii) if, due to operational circumstances, purchases from a qualifying facility will result in costs greater than those which the utility would incur if it did not make such purchases. This provision is only applicable in the case of light loading periods in which the utility must cut back base load generation in order to purchase the qualifying facility’s production followed by an immediate need to utilize less efficient generating capacity to meet a sudden high peak.

The Commission’s administrative rule does not make the same distinction that the FERC declaratory order makes. NorthWestern’s proposed language for light loading curtailment mirrors the controlling Commission’s definition found in ARM 38.5.1903(1). Notwithstanding this fact, this argument is irrelevant, as Greycliff has not established an LEO; thus, it must sell its power to NorthWestern on an as available basis pursuant to 18 C.F.R. § 292.304(d)(1).

Second, there is nothing in law that provides that a utility cannot utilize compensated curtailment. NorthWestern’s proposed language provides that it may curtail for any reason, but if the reason to curtail is not one of the reasons found in the definition of Uncompensated Curtailment, NorthWestern must pay the QF for the power not taken. NorthWestern’s proposed language concerning curtailment in Section 6.7 does not harm Greycliff and is consistent with PURPA and FERC’s regulations as well as the Commission’s administrative rules. The Commission must find in favor of NorthWestern’s proposed language for resolution of this item.

iii. Network Upgrade Costs: Transmission Service – Commission Resolution Item No. 5

As with the interconnection network upgrade costs, Greycliff disputes that it is responsible to pay for transmission service upgrade costs. NorthWestern's position on this issue is the same as its position argued above: A QF is legally responsible for payment of both interconnection network upgrade costs and transmission service upgrade costs. The language NorthWestern proposed in the Joint Motion's Exhibit A reflects this position. It should be noted that, at this time, NorthWestern does not know if there would be any transmission service upgrade costs associated with the Greycliff project. Since Greycliff is a QF under PURPA, it would not be a transmission customer. NorthWestern's Supply Function would be the transmission customer. Because Greycliff is not a transmission customer and elected to designate itself as an energy resource instead of a network resource, transmission did not complete the necessary study to determine if there would be any transmission service upgrade costs associated with this project. "NorthWestern [Supply] cannot enter the [transmission] queue for this study until a contract has been completed." Tr., pp. 120: 24 – 121:1.

This situation is similar to the factual situation in *Pioneer Wind*. In that case, "PacifiCorp [was] the transmission customer, taking delivery of the QF's output at the point of interconnection between Pioneer Wind and PacifiCorp, and with the resulting responsibility to transmit Pioneer Wind's QF output from the point of interconnection between Pioneer Wind and PacifiCorp across PacifiCorp's transmission system." 145 FERC at fn. 73. With respect to a QF's transmission service obligations, FERC stated that a QF is not required to obtain transmission service for its power but "[t]his is not to suggest that the QF is exempt from paying interconnection costs." *Id.*, at ¶ 62,168 and fn. 73. FERC went on to provide that such costs "may be accounted for in the determination of avoided costs if they have not been separately assessed as interconnection costs." *Id.* Because NorthWestern's Supply Function would be the transmission customer, it would be responsible for the interconnection costs. As a result, these costs "have not been separately assessed" to Greycliff and thus are properly included in the determination of the avoided cost rate that Greycliff is entitled to receive from NorthWestern under PURPA and FERC's regulations.[6]

Greycliff's proposed language for Section 4.3 confuses the two types of upgrades. In addition to the reasoning above, Greycliff's contention that NorthWestern's Supply Function must guarantee transmission service upgrades by the commercial operation date is not appropriate. Transmission service upgrades are the responsibility of the transmission provider, not the Supply Function of NorthWestern. Additionally, reference to curtailment in this provision is unnecessary as it is covered by other sections of the agreement. Finally, Greycliff's language provides that the facilities it owns will reimburse NorthWestern for such costs consistent with NorthWestern's large generator interconnection agreement or procedures. These documents discuss reimbursement of interconnection network upgrade costs, not reimbursement of transmission service upgrade costs.

Legally, both interconnection network and transmission service upgrade costs are properly collected from and must be paid by the QF. Greycliff is responsible for these costs. If Greycliff is not held responsible for these costs, customers will not remain indifferent to the purchase of power from Greycliff. NorthWestern's proposed language on this issue is the language the Commission must adopt as Commission Resolution Item No. 5 to avoid this PURPA violation.

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[6] Citation to *Pioneer Wind* in this case is not improper because the FERC declaratory order is not contradictory to a Commission rule.

i. Miscellaneous – Effect of PURPA – Commission Resolution Item No. 7

The parties were also unable to resolve one minor miscellaneous provision. This provision, Section 8.5, deals with the possible repeal of PURPA. Greycliff desires language in the contract that provides for no termination regardless of whether Congress repeals PURPA. NorthWestern, on the other hand, suggests language that provides the Commission the ability to order termination of the contract if PURPA is repealed. NorthWestern's language provides protection to customers in the long term. For example, if Greycliff and NorthWestern enter into a 25-year contract and, in year 20, Congress repeals PURPA, the Commission could decide to order that the contract must be terminated. This option would allow the Commission to determine if customers would benefit from termination of the contract as the utility is no longer required under federal law to purchase that power at a price that could be very high compared to the market at the time of repeal. Therefore, the Commission should adopt NorthWestern's language for Commission Resolution Item No. 7.

III. Conclusion

Greycliff did not establish an LEO. A random, unsubstantiated rate that a QF claims is "consistent with the utility's avoided costs" does not pass muster. The proper avoided cost rate must be based on current information. NorthWestern proposed such a rate in this case – a rate based on current information which properly reflects its portfolio's needs. Greycliff failed to present sufficient legal arguments to rebut NorthWestern's proposed rate. Additionally, Greycliff has not proposed a proper alternative. It performed no modeling nor did it consider NorthWestern's portfolio when calculating its proposed alternative rate. It wrongly asserts that a market price is reflective of NorthWestern's avoided costs. The Commission must reject

Greycliff's claims that it established an LEO and find that NorthWestern's proposed avoided cost rate is the rate that complies with PURPA.

Respectfully submitted this 24th day of June, 2016.

NORTHWESTERN ENERGY

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CERTIFICATE OF SERVICE

I hereby certify that one copy of NorthWestern Energy's Post-Hearing Response Brief in Docket No. D2015.8.64 has been hand delivered to the Montana Public Service Commission and 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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