

January 20, 2012

Teresa Conway
President & CEO
Powerex Corporation
1400 - 666 Burrard Street
Vancouver, BC V6C 2X8
Canada

Re: Montana Renewable Portfolio Standard Compliance Year 2012

Dear Ms. Conway:

I am writing to inquire into status of Powerex Corporation (Powerex) as an electricity supplier in Montana, and to give notice that Powerex may be a *competitive* electricity supplier in compliance year 2012 based on information on file with the Montana Public Service Commission (Commission).¹

The Montana Renewable Power Production and Rural Economic Development Act, also known as the Renewable Portfolio Standard (RPS), currently requires each competitive electricity supplier to "procure a minimum of 10% of its [previous year's] retail sales of electrical energy in Montana from eligible renewable resources." Mont. Code Ann. § 69-3-2004(3)(a), (5) (2011). The Montana Legislature delegated authority to the Commission to generally implement and enforce the RPS, and gave it regulatory authority over suppliers for the purpose of implementing the RPS. *Id.* at §§ 69-3-2004(6)(1); 69-3-2005(7).

An "electricity supplier" includes any corporation selling electricity to a "retail customer" in Montana "that is not a public utility or cooperative utility." Admin. R. Mont. § 38.5.8302(2)(b) (2011). A "*competitive* electricity supplier" is an electricity supplier that sells electricity to a "retail customer" with "an average monthly demand of less than 5,000 kilowatts" (KW). Mont. Code Ann. § 69-3-2003(5)(a), (16) (defining "small customer"). A "retail customer" is any customer that buys electricity for end-use purposes and "is *separately identified in a public utility's billing system* as a person or entity to which bills are sent for service to metered and/or unmetered facilities located on contiguous property." Admin. R. Mont. § 38.5.8302(2)(d) (emphasis added).

In 2006, the Commission adopted rules requiring electricity suppliers to annually report individual load by month "for each demand-metered retail customer." *Id.* at § 38.5.8302(3)(d). It also required NorthWestern Energy (NorthWestern) to report the same information "[f]or *each* electricity supplier" that uses its transmission or distribution facilities to supply electricity to retail customers in Montana (Utility

¹ Compliance with the Montana Renewable Portfolio Standard spans three years: Retail sales during an *initial year* (2011) determine the procurement obligation in the *compliance year* (2012) that must be met by March 31st of the *reporting year* (2013). Mont. Code Ann. § 69-3-2004(5)(a), (6) (2011).

Report). *Id.* at §§ 38.5.8302(3), 38.5.8301(9)(b) (emphasis added). NorthWestern filed its Utility Report on March 31, 2011, but without sufficient information to ascertain retail sales and loads for *each* electricity supplier. NorthWestern Compl. Filing., Docket N2011.1.1, Attachment 4 (Mar. 31, 2011).

Commission staff discussed the Utility Report with NorthWestern, and on May 3, 2011, the Commission authorized staff to continue working to improve the reporting process. Commn. Work Sess. Minutes, p. 109 (May 3, 2011). On June 28, 2011, the Commission directed NorthWestern to re-file its 2010 Utility Report with the name of the electricity supplier serving each choice customer. Not. of Commn. Action, Docket N2011.1.1, p. 2 (June 28, 2011). Although the Commission directed NorthWestern to file the additional information no *sooner* than September 19, 2011 to give electricity suppliers "ample notice and opportunity to seek protection" of their information, none sought protection. *Id.*; Commn. Work Sess. Minutes, p 137 (June 28, 2011).

On September 30, 2011, NorthWestern re-filed its 2010 Utility Report with the names of the electricity supplier serving each choice retail customer.² Updated NorthWestern Compl. Filing, Docket N2011.1.1, Attachment 4 (Sept. 30, 2011) (search the "PSC Document Database" by going to "Search Documents" in the "Electronic Documents" tab at <http://psc.mt.gov/>). Although Powerex last reported as an electricity supplier, Attachment 4 indicates that it was a *competitive* electricity supplier in compliance year 2010 because in 2009 it supplied electricity to Customer 1339, whose average monthly demand was 907 KW:

Unique ID	Revenue Year/Mo.	Serv. No.	Rate	Kwh	KW	Rate Description	Supplier Name
1339	200912	1	E240	324,735	835	GS-2 SUB COM CHOICE>1000 KW	POWEREX CORPORATION
1339	200911	1	E240	225,952	827	GS-2 SUB COM CHOICE>1000 KW	POWEREX CORPORATION
1339	200910	1	E240	102,192	366	GS-2 SUB COM CHOICE>1000 KW	POWEREX CORPORATION
1339	200909	1	E240	295,441	812	GS-2 SUB COM CHOICE>1000 KW	POWEREX CORPORATION
1339	200908	1	E240	263,732	971	GS-2 SUB COM CHOICE>1000 KW	POWEREX CORPORATION
1339	200907	1	E240	348,277	1,112	GS-2 SUB COM CHOICE>1000 KW	POWEREX CORPORATION
1339	200906	1	E240	392,364	1,138	GS-2 SUB COM CHOICE>1000 KW	POWEREX CORPORATION
1339	200905	1	E240	342,699	1,014	GS-2 SUB COM CHOICE>1000 KW	POWEREX CORPORATION
1339	200904	1	E240	243,487	1,002	GS-2 SUB COM CHOICE>1000 KW	POWEREX CORPORATION
1339	200903	1	E240	351,313	1,146	GS-2 SUB COM CHOICE>1000 KW	POWEREX CORPORATION
1339	200902	1	E240	244,181	844	GS-2 SUB COM CHOICE>1000 KW	POWEREX CORPORATION
1339	200901	1	E240	259,325	818	GS-2 SUB COM CHOICE>1000 KW	POWEREX CORPORATION

² NorthWestern must assign "a unique [ID] to each retail customer of an electricity supplier . . . to protect the customer's identity." Admin. R. Mont. § 38.5.8301(9)(b).

Id. As an end-user "separately identified in NorthWestern's billing system," Customer 1339 is a "retail customer." If its monthly load averaged less than 5,000 KW in 2009, Powerex was a competitive electricity supplier in compliance year 2010.

Commission staff does not expect Powerex to re-file its report for compliance year 2010 or to change how it reports for compliance year 2011 (by March 31, 2012). However, if the individual load of Customer 1339 (or any other retail customer) averaged less than 5,000 KW per month in 2011, Commission staff will expect Powerex to report as a competitive electricity supplier for compliance year 2012 (by March 31, 2013).

If Powerex did not supply Customer 1339 in 2011, or disagrees that supplying Customer 1339 makes it a competitive electricity supplier in 2012, please explain that position in writing no later than March 31, 2012. Feel free to do so in a cover letter attached to your 2011 RPS Compliance Form in Docket N2012.1.1. If Powerex does not respond to this letter by March 31, 2012, Commission staff will expect it to report as a competitive electricity supplier in 2013.

Please don't hesitate to contact me if you have any questions.

Respectfully,

A handwritten signature in black ink that reads "Jason T. Brown". The signature is written in a cursive style with a large initial "J" and "B".

Jason T. Brown
Attorney
Montana Public Service Commission
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Helena, MT 59620
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