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

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IN THE MATTER of the Petition of  
Greycliff Wind Prime, LLC To Amend or  
Repeal ARM 38.5.1902(5)

UTILITY DIVISION  
DOCKET NO. N2015.9.74

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**INTRODUCTION**

EverPower Wind Holdings, Inc. (“EverPower”), LEO Wind, LLC (“LEO”), and Hydrodynamics, Inc. (“Hydrodynamics”), acting by and through undersigned counsel, hereby submit their reply comments pursuant to the Commission’s notice of inquiry in this Docket. EverPower, LEO and Hydrodynamics specifically address their comments in response to the initial comments of NorthWestern Energy (“NWE”) and the Montana Consumer Counsel (“MCC”).

**I. RESPONSE TO INITIAL COMMENTS OF NWE**

**A. NWE’s Position that Standard Avoided Cost Rates Must be Updated More Frequently is Inconsistent with A.R.M. § 38.5.1902(5) and unfair to Small QFs.**

NWE’s response to the Commission question regarding appropriate methods for avoided cost calculation argues for more frequent updates to the avoided cost methodology approved for projects with an installed capacity of 3 MW or less (the standard offer threshold established by Commission rule, A.R.M. § 38.5.1902(5)). Although NWE’s ardor to update these avoided cost

calculations is perhaps admirable, it does raise the question of when and whether such updates should be made. A.R.M. 38.5.1902(5), in its present form, reads as follows in relevant part: “The utility shall recompute the short-term and long-term standard tariffed avoided cost rates following submission of its least cost plan filing, ARM 38.5.2001 through 38.5.2012, or procurement plan filing, ARM 38.5.8201 through 38.5.8229.”

Thus, the utilities’ long-term and short-term tariffed avoided cost rates are to be recomputed following submission of either the utility’s submission of its least cost plan or its procurement plan. Thus, while it may be permissible for the utility to recalculate avoided costs for projects larger in size than the standard offer threshold of 3 MW, it is not permissible for NWE to recalculate avoided costs more often than it publishes its plan. Doing so places a burden on what are really very small qualifying facilities (“QFs”) who do not have the resources to continually argue with NWE over the proper or improper calculation of avoided cost rates, particularly the model employed, the inputs utilized, or the assumptions made that are inherent in any avoided cost calculation. Instead, NWE’s standard rates should be calculated following submission of either its least cost plan or its procurement plan, and those rates should remain in place until the filing of NWE’s next least cost plan or procurement plan. Having standard rates in place means that these very small QFs may save considerable expense, particularly given the likelihood that any of these very small projects will have the resources to battle NWE over avoided cost methodology or avoided cost rates. The idea of the standard offer rates is to reduce transaction costs, not to increase them.

NWE should also recall that it has not always followed the Commission-approved QF-1 methodology. Whether this was an oversight, the fact is that the Commission has had to remind

NWE several times that it had not followed the precise Commission approved procedure in past QF-1 rate dockets.

**B. The Proper Methodology for Calculating Avoided Cost Rates Should Be Transparent, Replicable and Equally Accessible to all Parties and the Commission.**

NWE argues that “no method should be selected because it is simple and no method should be rejected because it is difficult to understand.” NWE Comments at p. 3. While NWE’s pithy comment may have some validity to it, insofar as it argues for a method that is accurate over one that is easy to understand and administer, any method the Commission approves should be transparent (i.e., a method which is not based upon proprietary models or inputs), replicable (i.e., verifiable in that utilizing the same inputs will produce the same results), and the model and inputs must be equally available to all parties. If NWE chooses to use a proprietary model, which others have to pay to access, it creates an unnecessary barrier to achieving the goals of transparency, replicability and accessibility. As NWE notes, there are many methods which will do a commendable job of calculating projected avoided costs, using a proprietary model that a party must pay for to get access or to use the potential inputs employed, is not a good way to promote the goals identified above.

**C. NWE’s Claim that 25-Year Contracts Pose Undue Risk to Ratepayers is Backwards at this time.**

Recognizing that avoided cost forecasting is as much art as it is science, there is no justification for claiming that, at this point in history, longer-term contracts such as 25 years pose more of a risk to ratepayers than shorter-term contracts. Utilities do not typically make investments in large generating facilities on a shorter-term basis. More importantly, with current electric prices at near historic lows, entering into longer-term contracts now will hedge against

future risk of increasing electric prices. The irony of shorter-term arrangements is that while they may more perfectly capture current energy market prices (then again, they may not, depending on the economy, changing technology, and governmental requirements), not using longer-term contracts to hedge against the risk of higher future energy prices when current energy markets are quite low relative to recent history may deprive the electric utility's ratepayers of the opportunity to lock in long-term contracts now at lesser risk. In addition, 18 C.F.R. § 292.304(d) states that a QF has the option to either sell its energy and capacity on an "available basis" or "(2) To provide energy or capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity *over a specified term*, in which case the rates for such purchases shall, at the option of the qualifying facility exercised prior to the beginning of the specified term ...". Although 18 C.F.R. § 292.304(d)(2) does not state the actor or agency that specifies the term of the agreement, it would seem plain that the developer that knows the risks, costs, and potential financing issues for its project would be in the best position to determine the length of its commitment. This seems to be the belief generally of NWE as well, hence its comment that the contact length sufficient for the QF to obtain financing "depend[s] upon the QF developer and the degree of leverage the developer intends to use." NWE Comments at 4.

#### **D. NWE Ownership of Environmental Attributes.**

NWE states that "NorthWestern should receive "all environmental attributes from the QF project, including renewable energy credits." NWE Comments at 8. The question posed was whether NWE should receive all or a portion of the renewable energy credits produced by a QF if the purchase includes the incremental cost of CO<sub>2</sub> emissions." This is a fair statement of position by NWE with two provisos: (1) renewable energy credits do not automatically belong to

the utility as they are not part of the avoided cost calculation, but rather creatures of state law designed to encourage diversification of the utility's generation portfolio to include more renewable generation; and (2) that carbon costs are included, as they were in valuing NWE's acquisition of PPL Montana's hydroelectric resource, as part of the calculation of avoided costs and not inappropriately made part of a REC calculation which does not take into account the actual value of carbon cost credits, nor should carbon cost be the subject matter of negotiations between utilities and QF's. Avoided carbon costs should be included as part of the avoided cost rate. It is not "double counting" for the utility to pay for both RECs and avoided carbon costs, as these are different programs and have different values and costs associated with each program.

## **II. RESPONSE TO MCC'S COMMENTS**

Although EverPower, LEO, and Hydrodynamics disagree with portions of the MCC's comments, they are in general agreement with much of it. In particular, EverPower, LEO, and Hydrodynamics agree with MCC's comment about the use of PowerSimm in valuing avoided costs or asset purchases:

MCC has observed in previous cases that PowerSimm is only a tool which, as is the case with all tools, depends for its usefulness on the accuracy and skill and purpose with which it is deployed. The same observation pertains to Staff's questions on this point. MCC invites the Commission's attention to Commissioner Kavulla's comment on PowerSimm in his partial dissent in Order No. 732k (slip op. at 26-28). The real question is whether, if the Commission is going to continue to base avoided cost rates on the use of this (or any other) particular tool, it ought to consider requiring NorthWestern to fund an analysis performed under the Commission's supervision and direction by an independent consultant for purposes of evaluating avoided cost. MCC recommends the Commission consider and evaluate this approach, and also consider a mechanism to allow vetting of stochastic analyses of cost projects and analytical inputs into those analyses by MCC and other interested parties. This would ensure improved levels of transparency and auditability in PURPA rate formulation before this Commission.

MCC Comments at 7.

MCC's comment and recommendation is well-taken. Opacity in calculating avoided cost rates produces unnecessary disputes and delays over discovery and accessibility to the same inputs, assumptions, and modeling. The MCC's recommendation would be a positive step toward addressing those concerns.

### III. CONCLUSION

EverPower, LEO and Hydrodynamics are grateful for the Commission's decision to inquire into its PURPA policies and implementation of PURPA in Montana. EverPower, LEO and Hydrodynamics will mostly rest on the initial comments of LEO and Hydrodynamics, many of which address issues that are not directly stated in this brief reply. EverPower, LEO and Hydrodynamics remain willing to participate and assist the Commission in addressing these important PURPA implementation issues in any future Commission proceeding or inquiry.

RESPECTFULLY SUBMITTED THIS 6th DAY OF NOVEMBER, 2015

UDA LAW FIRM, P.C.

By: \_\_\_\_\_

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