

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

IN THE MATTER OF the Petition of ) REGULATORY DIVISION  
Crazy Mountain Wind, LLC for )  
Declaratory Ruling ) DOCKET NO. D2014.1.7

**DECLARATORY RULING**

**BACKGROUND**

1. On January 15, 2014, Crazy Mountain Wind, LLC (Crazy Mountain) filed a *Petition for Declaratory Ruling* (Petition) with the Montana Public Service Commission (Commission); it filed an *Errata* with the *Affidavit of Martin Wilde* on January 16, 2014. On January 17, 2014, Crazy Mountain filed a *Motion for Expedited Consideration*.

2. On January 21, 2014, the Commission issued a *Notice of Petition for Declaratory Ruling and Opportunity to Comment*. The Commission received *Comments* from the following entities: Diana's Great Idea, LLC; Engwis Investment Company, Ltd. and R. F. Building Company, LLP; NorthWestern Corporation; Rock Creek Ranch, Ltd.; and Wild Eagle Ranch, LLC. Crazy Mountain filed *Response Comments* on February 19, 2014.

3. In its Petition, Crazy Mountain presented legal questions pertaining to Section 69-3-2003 of the Montana Code Annotated, which defines "community renewable energy project" (CREP) in part as "an eligible renewable resource . . . in which local owners have a controlling interest."

4. Crazy Mountain requested "a declaratory ruling by the Commission that: (1) Local owners have a controlling interest if, over the life of the [purchase power agreement], the local owners demonstrate they own a majority of voting interests, equity interests, and income interests from the project; and (2) That an ownership structure that permits a tax equity investor to receive the vast majority of income interests in the first 10 years of the project will qualify as a CREP so long as the owners eventually will have accumulated a majority interest in the voting, equity, and income rights of the CREP at the end of the term of the PPA." Pet. pp. 10-11.

**CONCLUSIONS OF LAW**

5. The Commission "shall provide by rule for the filing and prompt disposition of petitions for declaratory rulings as to the applicability of any statutory provision. . . ." Mont. Code Ann. § 2-4-501 (2013). "A declaratory ruling or the refusal to issue such a ruling shall be subject to judicial review in the same manner as decisions or orders in contested cases." *Id.*; Admin. R. Mont. 1.3.229(2) (2014).

6. The Commission has adopted the Attorney General's Model Procedural Rules governing declaratory rulings. Admin. R. Mont. 38.2.101. "A party may seek a declaratory ruling from the agency when doubt exists as to how a statute or rule administered by an agency affects the party's legal rights." *Id.* at 1.3.226.

7. A "community renewable energy project" is, in relevant part, "an eligible renewable resource that is interconnected on the utility side of the meter in which local owners have a controlling interest and that is less than or equal to 25 megawatts in total calculated nameplate capacity."

8. The Commission declines to issue the declaratory ruling sought by Crazy Mountain; instead, the Commission declares that under Section 69-3-2003 of the Montana Code Annotated, an eligible renewable resource does not qualify as a CREP unless "local owners have a controlling interest" at the time of its interconnection and at any point thereafter.

DONE AND DATED this 25th day of February, 2014, by a vote of 4 to 1.  
Commissioner Kavulla dissenting

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

/s/W.A. (BILL) GALLAGHER  
W.A. (BILL) GALLAGHER  
Chairman

/s/BOB LAKE  
BOB LAKE  
Vice Chair

/s/ KIRK BUSHMAN  
KIRK BUSHMAN  
Commissioner

/s/TRAVIS KAVULLA  
TRAVIS KAVULLA  
Commissioner

/s/ROGER KOOPMAN  
ROGER KOOPMAN  
Commissioner

ATTEST:

Aleisha Solem  
Commission Secretary

(SEAL)

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 3rd day of March 2014, a true and correct copy of the foregoing has been serviced by placing the same in the United States Mail, postage prepaid, to the service list in the PSC's master file which can be viewed at 1701 Prospect Avenue, Helena, MT 59601:

/s/Aleisha Solem  
PSC Paralegal-Commission Secretary