

NEWS RELEASE
MONTANA PUBLIC SERVICE COMMISSION

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PSC grants partial CREPs waiver

HELENA - The Montana Public Service Commission on Thursday granted NorthWestern Energy a one-year waiver from full compliance with the state's renewable energy purchase requirements, but denied the utility's request for a waiver for 2013 and 2014.

The utility had requested a three-year waiver from 2012 to 2014.

In a 4-1 vote, commissioners agreed the utility faced circumstances beyond its control that prevented it from meeting the requirements for 2012. Yet the commission determined that the utility could have taken steps in 2011 to meet the requirements for 2013 and 2014.

"Planning for power generation is a lengthy process," said Vice Chair Gail Gutsche. "Northwestern Energy is responsible for taking all reasonable steps and making adequate preparation to comply with the Community Renewable Energy Projects (CREPs) standard. The bar is high, and they failed to meet it for 2013 and 2014."

The Montana Renewable Power Production and Rural Economic Development Act, known as the Renewable Portfolio Standard, or RPS, requires public utilities to procure at least 15 percent of their retail sales of electrical energy from eligible renewable resources by 2015. In addition, public utilities must purchase both the renewable energy credits and the electricity output from community renewable energy projects, or CREPs, that total at least 50 megawatts. NorthWestern's share of that obligation is estimated to be 44 megawatts.

The law defines a CREP as a renewable resource of not more than 25 megawatts in nameplate capacity that is locally owned, located in Montana or delivering power from another state to Montana, and that produces electricity from any combination of wind, solar, geothermal or certain sources of water power, methane gas, biomass, hydrogen or compressed air storage.

On June 30, 2011, NorthWestern Energy filed a petition for a waiver from full compliance with the CREP purchase requirement. The Public Service Commission held a public hearing on the petition on Feb. 15, 2012 after receiving testimony from the Montana Consumer Counsel and the Natural Resources Defense Council.

The utility contended that it took all reasonable steps to acquire CREPs to meet its obligation, but was only able to acquire 22.6 of the 44 megawatts it needed. NorthWestern reported that two other, small hydroelectric projects could be online and CREP-eligible by the end of this year. If so, the utility's total CREP capacity would increase to 25.055 megawatts.

NorthWestern conducted two formal solicitations seeking to acquire CREPs, including one in 2008 and one in 2009. The utility determined in 2011 that it was unlikely that additional CREPs could be developed and operating before the beginning of 2012.

The Commission found that to acquire a CREP in 2013 and 2014, a reasonable step would have been to begin another competitive solicitation after it had determined that respondents to previous requests were

inadequate. Commissioner Bill Gallagher, who voted no, said he supported granting a waiver for 2012, but not the commission's finding for the 2013 and 2014 waiver requests.

"I was in favor of giving them the waiver, but just for the one year," Gallagher said. "Going beyond and detailing in the Order specifically why we denied the waiver two or three years in the future was unnecessary. Sometimes 'no' is enough."

Chairman Travis Kavulla disagreed. "It would have been illogical to accept NorthWestern's argument that planning happens on a long time-line, but then fail to consider whether NorthWestern's lackadaisical approach in 2011 jeopardized their compliance in 2013 and 2014. The utility asked us to decide that question, and we did."

Commissioners Brad Molnar and John Vincent joined Commissioners Gutsche and Kavulla in voting to issue the order.

The utility has until Dec. 31, 2013, to fulfill its CREP obligation for 2013. If it does not comply, it could face a penalty equal to \$10 per megawatt-hour, which would be paid by NorthWestern's shareholders.