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(Admitted to Active Practice in Montana & Colorado. Inactive in Minnesota.)

January 27, 2014

Ms. Aleisha Solem  
1701 Prospect Av  
PO Box 202601  
Helena, MT 59620-2601

Dear Ms. Solem:

Please sign the enclosed subpoena and send me two copies in the stamped return envelope so I may serve it on Mr. Smalley.

Thank you.

Cordially,

  
Russell Doty  
27/01/14 21:32 -07:00  
I approve the document 

Russell L Doty

enc.

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Greeley, CO 80634-1256  
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Fax: 206-984-4876

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

**\*\*\*\*\***

<b>IN THE MATTER OF THE PETITION OF</b>	)	
<b>JAMES T. AND ELIZABETH A. GRUBA;</b>	)	
<b>LEO G. AND JEANNE R. BARSANTI ON</b>	)	<b>REGULATORY</b>
<b>BEHALF OF THEMSELVES &amp; OTHERS</b>	)	<b>DIVISION</b>
<b>SIMILARLY SITUATED,</b>	)	
	)	
<b>Complainants.</b>	)	<b>DOCKET NO.</b>
	)	<b>D2010.2.14</b>
<b>VS.</b>	)	
	)	<b><u>SUBPOENA</u></b>
<b>NORTHWESTERN ENERGY,</b>	)	
	)	<b><u>DUCES TECUM</u></b>
<b>Defendant.</b>	)	

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THE STATE OF MONTANA PUBLIC SERVICE COMMISSION TO:

**Mr. Edward Smalley**, Seattle City Light, 700 Fifth Avenue, SMT 3644, PO Box 34023, Seattle, WA 98124-4023; Phone: (206) 386-1571

YOU ARE HEREBY COMMANDED, pursuant to ARM 38.3.3302, and at the request of Complainants' Attorney, Russell L. Doty, all business and excuses laid aside, **to appear for the following reason: (to testify at the hearing on behalf of the Complainants and to prepare pre-filed testimony)** in the above-entitled matter now pending before the Commission in the State of Montana, 1701 Prospect Av, PO Box 202601, Helena, MT 59620-2601 in the Bollinger Courtroom, on the 5<sup>th</sup> or 6<sup>th</sup> day of August, 2014, at 11 o'clock AM Mountain Time, or such other time as Complainant's Counsel indicates or to make yourself available to testify via an electronic connection at that time.

Further, you are requested to file pre-filed written testimony and exhibits by February 28, 2014; to respond (by April 11, 2014) to any discovery requests (served on Complainants by March 21, 2014) based on your testimony; to pre-file by June 20, 2014, any written testimony you have rebutting any of defendant's or intervener pre-filed written testimony that addresses issues you are testifying on; and to respond (by July 11, 2014) to any discovery requests (served on

Complainants by July 1, 2014) based on your rebuttal testimony.

If you fail to appear at the time and place required, you can be punished for contempt of court as provided by law.

**Rule 45(c). Protection of persons subject to or affected by subpoenas.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to subparagraph (d)(2) of this rule, a person commanded to produce and permit inspection, copying, testing or sampling, or any person affected thereby, may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to producing of any or all of the designated materials or inspection of the premises, or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect, copy, test, or sample, the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, and to any affected person who has served written objection, move at any time for an order to compel the production, inspection, copying, testing or sampling. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection, copying, testing or sampling commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance; or

(ii) requires in the case of a deposition or production prior to hearing or trial, a person to travel beyond the 100 mile radius provided in subparagraph (b)(2) of this rule; or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information; or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party; or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met

without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions. amd. Sup. Ct. Ord. Feb. 28, 2007, eff. Feb. 28, 2007.

**Rule 45(d). Duties in responding to subpoena.**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it, or in a form or forms that are reasonably usable.

A person responding to a subpoena need not produce the same electronically stored information in more than one form.

A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim. amd. Sup. Ct. Ord. Feb. 28, 2007, eff. Feb. 28, 2007.

**ARM 38.2.3302 SUBPOENAS FOR WITNESSES AND DOCUMENTS**

(1) Any party requiring the attendance of a witness from any place in the state to any designated place of hearing for the purpose of taking testimony of such witness in a proceeding before the commission, and any party requiring the production of books, way bills, papers, accounts, and other documents concerning material testimony or information shall make written application to the commission secretary requesting that a subpoena issue to compel attendance of such witnesses, or production of specific books, way bills, papers, accounts, or other documents. Such written application must set forth reasons supporting the issuance of the subpoena for the attendance of the witness or the production of specific books, papers, and other documents, as the case may be.

**ARM 38.2.3304 ENFORCEMENT**

(1) The commission by its counsel or the party seeking the subpoena may seek enforcement of the same by applying to a judge of any district court of the state of Montana, for an order upon any witness who shall fail to obey a subpoena to show cause why such subpoena should not be enforced.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2014.

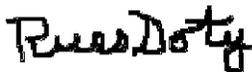
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Secretary for the Commission

CERTIFICATE OF SERVICE

I certify that pursuant to ARM 38.2.313, 38.2.1209 and the Procedural Order dated January 16, 2014, on January 27, 2014, an accurate copy of the foregoing **SUBPOENA DUCES TECUM and Data Requests C-1 through C-50 in Docket No. D2010.2.14** were served upon the parties listed below in the manner provided:

<input type="checkbox"/> XX US Mail Original+11 copies <input type="checkbox"/> Hand-deliver <input type="checkbox"/> Via Fax: <input checked="" type="checkbox"/> E-mail:	Aleisha Solem, Montana Public Service Commission 1701 Prospect Av PO Box 202601 Helena, MT 59620-2601 Email: <a href="mailto:asolem@mt.gov">asolem@mt.gov</a> <a href="mailto:dlopach@mt.gov">mailto:dlopach@mt.gov</a>
<input checked="" type="checkbox"/> US Mail or Fed X, in packet sent to Ms. Solem <input type="checkbox"/> Hand-delivery <input type="checkbox"/> Via Fax: <input checked="" type="checkbox"/> E-mail:	Laura Farkas, Montana Public Service Commission 1701 Prospect Av PO Box 202601 Helena, MT 59620-2601 Email: <a href="mailto:lfarkas@mt.gov">lfarkas@mt.gov</a>
<input type="checkbox"/> US Mail <input type="checkbox"/> Federal Express <input type="checkbox"/> Hand-delivery <input checked="" type="checkbox"/> E-mail:	Robert A. Nelson, Montana Consumer Counsel 111 North Last Chance Gulch Suite 1B Box 201703 Helena MT 59620-1703 Email: <a href="mailto:robnelson@mt.gov">robnelson@mt.gov</a>
<input type="checkbox"/> US Mail <input type="checkbox"/> Hand-delivery <input checked="" type="checkbox"/> E-mail:	Sarah Norcott, Esq., Attorney for NorthWestern Energy 208 N Montana Ave., Suite 205 Helena, MT, 59601 Email: <a href="mailto:sarah.norcott@northwestern.com">sarah.norcott@northwestern.com</a>
<input type="checkbox"/> US Mail <input type="checkbox"/> Hand-delivery <input checked="" type="checkbox"/> E-mail:	Leo Barsanti 3316 Pipestone Dr. Billings, MT 59102 Email: <a href="mailto:leoj47@msn.com">leoj47@msn.com</a>
<input checked="" type="checkbox"/> US Mail <input type="checkbox"/> Hand-delivery <input checked="" type="checkbox"/> E-mail:	Mary Wright Montana Consumer Counsel 616 Helena Ave., Suite 300 PO Box 201703 Helena, MT 59620 <a href="mailto:mwright@mt.gov">mwright@mt.gov</a>
<input checked="" type="checkbox"/> Fed X <input type="checkbox"/> Federal Express <input type="checkbox"/> Hand-delivery <input checked="" type="checkbox"/> E-mail:	Nedra Chase NorthWestern Energy 40 E. Broadway Butte, MT 59701-9394 Email: <a href="mailto:Nedra.Chase@northwestern.com">Nedra.Chase@northwestern.com</a>



Russell Doty  
 2/7/14 21:36 - 07:00   
 I approve the document

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