

1 DEPARTMENT OF PUBLIC SERVICE REGULATION
2 BEFORE THE PUBLIC SERVICE COMMISSION
3 OF THE STATE OF MONTANA

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

4 _____
5
6 SECOND MOTION FOR TIMELY RULING ON PENDING MATTERS
7

8 **Procedural Background.** The first three paragraphs of the Procedural Background in
9 Complainants’ December 6, 2014 Request for a Status Conference Motion for Timely Ruling On
10 Pending Matters (accepted for filing on December 8, 2014) are adopted by reference here.

11 In response to Complainant’s December Motion, a status conference was held on January
12 14, 2015. On January 21, 2015, a Notice of Staff Action was issued indicating “... the hearing
13 officer, Laura Farkas, is in the process of issuing decisions in regard to the two pending motions
14 to strike, as well as rulings on some of the discovery motions. Those decisions are expected to be
15 issued by the first week of February.” The “Parties were reminded to follow efficient use of
16 motion practice, to avoid further delay in the proceeding.”

17 At the status conference staff suggested without objection that the full Commission
18 would address the following outstanding Complainant Motions after Ms. Farkas had ruled on the
19 other outstanding motions and a procedural schedule had been set:

- 20 1. Complainants’ April 10, 2014 Motion for a Temporary Rate Decrease;
21 2. Complainants’ April 16, 2014, Motion Asking The PSC to Require NorthWestern: a) to
22 Begin Implementing 800 Led Street Lights a Month by July 15, 2014, or to Reduce its
23 Street Lighting Tariff Energy Charge by 50%--the rate Montana Cities Would be Paying
24 if Energy Efficient Street Lights Were Installed in a Timely Manner;

- 1 b) to develop a non-metered tariff for LED street lighting as other utilities have done; and
2 c) to allow local governments to install LED street lights on poles owned by
3 NorthWestern in compliance with anti-trust law; and
4 3. Complainants' April 16, 2014, Motion Asking The PSC to certify a class action or in the
5 alternative to clarify the scope of these proceedings encompasses testimony on all
6 persons subject to NWE's ELDS-1 ownership charge and that includes all persons and
7 entities in the street lighting customer class.
8

9 On February 6, 2015, Ms. Farkas (Order No. 7084i) ruled in favor of NorthWestern
10 granting NorthWestern's April 17, 2014, Motion to Strike much of Testimony of Complainants'
11 witness Edward Smalley; and NorthWestern's April 1, 2014, Motion to Strike some of
12 Complainant's other testimony. The outstanding discovery motions were not ruled on:

13 Hence to adhere to the admonition to use motion practice, the following motion is being
14 made because none of Complainant's outstanding discovery motions have been ruled on as was
15 anticipated during the Status Conference and in the January 21, 2015 Notice of Staff Action,
16 specifically:

- 17 1. Complainants' May 12, 2014, Motion Asking the PSC to Require NorthWestern to
18 respond adequately to Complainant's third set of discovery or face sanctions.
19 2. Complainants' April 7, 2014, Motion:
20 a) to reject certain NorthWestern objections to Complainants' Data Requests because
21 they were not timely filed;
22 b) to Have Certain Admissions that NorthWestern refused to Admit, deemed admitted,
23 and
24 c) to Compel NorthWestern to respond to Certain Discovery and to impose sanctions for
25 failure to respond.

26 **MOTION**

27 **Wherefore, Complainant's respectfully thank the Hearing Officer for her partial**
28 **ruling and:**

- 29 **1) request timely rulings on their April 7 and May 12, 2014 motions;**
30 **2) request that a Notice of Staff Action or other appropriate notification be issued**
31 **indicating when rulings on those motions may be expected;**

