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**BEFORE THE PUBLIC SERVICES COMMISSION
OF MONTANA**

IN THE MATTER OF NorthWestern Energy’s
Application for Interim and Final Approval of
Revised Tariff No. QF-1, Qualifying Facility
Power Purchase

Regulatory Division

Docket No. D2016.5.39

**PACIFIC NORTHWEST SOLAR, LLC’S
COMMENTS TO THE COMMISSION IN
RESPONSE TO NORTHWESTERN
ENERGY’S EMERGENCY MOTION
[CORRECTED]**

10 Pacific Northwest Solar, LLC (“PNW”) is an interested party relative to the pending
11 Motion for Emergency Suspension of the QF-1 Tariff filed by NorthWestern Energy (the
12 “Motion”). PNW appreciates this opportunity to provide comments and highlight the
13 inadequacies of NWE’s Motion, especially with regard to the extraordinary relief sought therein.
14 At the end of the day, this Commission should find that NWE has failed to carry its burden to
15 establish entitlement to emergency relief. Instead, this Commission should hear NWE’s request
16 for modification to the QF-1 Tariff on a regularly scheduled timeline.

17 **I. NWE’S MOTION OVERSTATES THE POTENTIAL UNIVERSE OF PROJECTS SUBJECT**
18 **TO THE QF-1 TARIFF.**

19 NWE uses a creative, yet not unique, approach to creating what it claims is the basis for
20 needing emergency relief. This is done in two ways: (1) by totaling the sum of all potential
21 projects across all departments (which creates a situation of duplicitous counting); and (2) by
22 creating a multiplier for “increased costs” using NWE’s own untested and one-sided version of a
23 revised avoided cost schedule. Taken together, NWE’s goal is to scare the Commission into
24 believing that solar development pursuant to QF-1 will cause “irreparable harm.” This
25 Commission should ignore such blatant attempts to misguide and look to the facts, which suggest
26 that solar development in Montana is a benefit to rate payers, not a would-be emergency.

27 The true count of potential projects is far fewer than that asserted by NWE. In its Motion,
28 NWE points to 155 MW of projects, combining the interconnection queue and power purchase

1 agreement (“PPA”) requests. NWE also points to some 75 projects that were subject to pre-
2 application reports, suggesting that many more projects are on the way. Yet, the pre-application is
3 simply a screening tool used by the utility and developers to evaluate whether a project is suitable
4 for interconnection; it is not a reliable method of evaluating potential projects from an
5 interconnection queue standpoint.¹ Despite NWE’s early assertion that FERC code of conduct
6 restricts the two departments from talking (see Motion at page 3), NWE asserts later that it knows
7 that 80 MW of the current interconnection queue are not tied to any PPA requests (see Motion at
8 page 7). Separate and apart from how that could be true, it is interesting to note that NWE fails to
9 provide any back-up for this assertion or even the MW count being put forth – instead, relying
10 upon arguments of counsel to carry the day.

11 In reality, the total number of projects (and attendant MWs) that are likely to come on line
12 are but a fraction of those currently in process. The Commission need not take PNW’s word on
13 this – NWE itself has indicated a failure rate of between approximately 60% and 90% for solar QF
14 projects in its service territory. Pursuant to correspondence that included PNW staff, NWE
15 indicated that “90% or more [projects] will just go away.” Moreover, NWE’s current Motion
16 shows that some 60% of projects in the interconnection queue are withdrawn (NWE admits that
17 just 23 interconnection requests from the 55 filed in 2015 are still active – that is a failure rate of
18 58%, and that number could continue to rise as interconnection studies progress). NWE’s
19 estimates are likely even more conservative than it would admit to. Turning to similar efforts by
20 Idaho Power (cited to by NWE), an analysis of the interconnection queue spanning many years
21 demonstrated that just “3.5% [of projects] are completed.”² Therefore, even if NWE’s total count
22 could be construed as true (which it cannot), at the end of the day **just a fraction of those**
23 **projects will actually see the light of day**, likely in range of just 28 MW (using an average of the
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25 ¹ Note too that PNW often submits pre-applications under the applicable landowner name, and
26 thereafter submits a formal interconnection request under a project name – it would appear that
27 NWE is double counting those projects in an effort to artificially inflate the total potential projects
that could come online.

28 ² Obsidian Renewables – Cypress Creek’s Opposition to Idaho Power’s Request for Relief.
Testimony of David W. Brown (UM 1725, July 18, 2015).

1 reported project failure rates). NWE cannot reasonably argue that such a paltry injection of new
2 power to the system accounts for an “emergency.”

3 In order to craft a basis for its emergency relief request, NWE also uses its own proposed
4 avoided cost rates to calculate potential increased costs for new projects. There are several
5 obvious reasons why the Commission should disregard such tactics on the part of NWE, not least
6 of which is that NWE’s proposed avoided cost rate schedule is untested and unlikely to be
7 accepted by this Commission. The Commission should not rely upon the same in determining
8 whether emergency relief is required here – that is especially true given the specious nature of the
9 proposed avoided cost rates (which are nearly half of those approved by the Commission not even
10 a year ago).

11 In sum, NWE is manufacturing a situation in order to create a semblance of dire
12 consequences should the Commission not provide emergency relief. However, when viewed
13 objectively, the real data (and admitted failure rates by NWE itself) do not support the need for
14 emergency relief and NWE has thus failed to carry its burden.

15 **II. PNW HAS REASONABLY RELIED UPON QF-1 TO INVEST IN SOLAR FACILITIES IN**
16 **NORTHWESTERN ENERGY’S SERVICE TERRITORY IN MONTANA.**

17 In addition to the underlying failures of NWE to provide adequate and reliable evidence
18 from which this Commission could rule, the relief sought by NWE is unreasonable and unfair.
19 This Commission carefully considered QF-1 and its avoided cost rate structure just months ago.
20 At that time, the Commission approved the current QF-1 Tariff, and developers like PNW have
21 reasonably relied upon that finding in investing hundreds of thousands of dollars into Montana.

22 It is also interesting to note that NWE’s request is emblematic of why this Commission
23 seeks to establish long-term rate schedules that will ultimately benefit the rate payers. NWE is
24 essentially arguing that this Commission failed to determine true avoided costs – and failed by a
25 factor of nearly 100%. In reality, NWE is simply using the historic low pricing of natural gas to
26 create a new schedule, knowing full well that these are historic lows and that, by any metric, the
27 costs of energy are expected to rise significantly in the years to come.

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1 PNW believes that the current QF-1 Tariff will establish a diverse set of solar resources
2 providing clean, renewable energy to Montana residents for years to come – to the cumulative
3 benefit of rate payers. As evidenced by NWE’s Motion itself, utilities can experience significant
4 spikes and falls in the price of power (depending on the resource), causing rate payers to face the
5 potential of erratic and unforeseen price shifts. In contrast, this Commission has established a
6 method by which NWE and its rate payers can create long-term stability in energy pricing by
7 contracting with solar QFs.

8 The benefit to developers, like PNW, of these long-term contracts is project viability,
9 which encourages developers to sink valuable resources into projects. The availability of long-
10 term contracts at specified rate schedules provides developers with an expectation that their
11 investments in a region will be well-founded, within a competitive market place overseen by the
12 Commission. Like other developers, PNW has reasonably relied upon the QF-1 Tariff in moving
13 forward with its development work in Montana – **spending countless man hours and dollars in**
14 **reliance upon the availability of current QF-1 Tariff PPAs** (which, when combined with recent
15 cost savings in equipment, make projects financeable – yet, if the new avoided cost rate schedule
16 is adopted, it is unlikely that any solar QF project would be viable, which may be NWE’s end goal
17 anyway).³ If NWE is allowed to freely stall the PPA process and undermine development efforts
18 that have only just been allowed to come to fruition in the past months, then the Commission-
19 created market place for solar development is destroyed. PNW seeks to instead continue with its
20 development in Montana, bringing rate payers reliable power at reasonable rates (and hedging
21 against the expected continuation of price fluctuations in years to come).

22 NWE misconstrues PNW’s approach to obtaining PPAs. It is true that PNW first
23 requested PPAs for a small subset of its projects in January of this year (nearly 6 months ago).
24 PNW was asked to provide draft PPAs using NWE’s standard contract form. PNW did so, and
25 provided the same to NWE – however, after several months, PNW was told that its projects did
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27 ³ Connecticut Valley Electric Company, Inc. v. Wheelabrator Claremont Company, 24 L.P.,
28 Wheelabrator Environmental Systems, 83 FERC 611236 (1998 WL 237574) (Developer’s settled
expectations).

1 not qualify under QF-1. PNW spent several weeks demonstrating that the projects did qualify for
2 the QF-1 Tariff (and in the end, NWE agreed to use the definition of “nameplate capacity” that
3 was already in the standard contract). Nothing else transpired during that time-frame with the
4 exception of a delay caused by NWE that ultimately resolved with NWE agreeing to use the
5 original language in the PPA. NWE sought to clarify several points within the PPA (at its election
6 and after several weeks of delay), and PNW was presented with a revised “standard contract.”
7 Thereafter, NWE asked PNW to confirm the updated language and – contrary to NWE’s Motion –
8 PNW did confirm that the updated language drafted by NWE was acceptable.

9 In an effort to realize its development expectations, PNW provided what it believed were
10 complete and final PPAs to NWE. PNW first provided executed PPAs using the language
11 confirmed earlier, but was then provided with a “draft final” version by NWE. PNW then spoke
12 to John Oostra again, who advised that he did not want PNW to submit executed versions but
13 rather wanted to see the unsigned version for each submitted project in order to do an internal
14 redline (to ensure that PNW had not deviated from the agreed-to language). PNW complied as
15 requested on April 29, 2016 and on May 5, 2016, providing a signature-ready PPA for each of its
16 21 projects.

17 **To date, PNW has been ready, willing and able to execute the 21 PPAs provided to**
18 **NWE** over a month ago (and started more than 6 months ago). NWE occasionally requests
19 clarification on a FERC Form 556 regarding specific coordinates of projects (which have been
20 simple typographic errors that can be and have been remedied in the span of 5 minutes). It feels as
21 though NWE is simply stalling and looking for reasons to avoid executing the PPAs. For months
22 now, **PNW has done everything asked of it in regards to the PPAs** – PNW is now waiting for
23 the PPAs to be provided back in an executed format so that PNW can continue with its
24 development of these projects. At the very least, should the Commission be inclined to provide
25 emergency relief to NWE, PNW’s requested PPAs should be excluded therefrom so that PNW can
26 realize its reasonable development expectations.

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1 Accordingly, PNW asks that this Commission permit PNW to realize its reasonable
2 expectations of development pursuant to the current QF-1 Tariff and deny NWE's Motion. Any
3 change to the current QF-1 Tariff can be dealt with in a normally-timed procedure where PNW,
4 and others, can provide comments and evidence demonstrating the lack of any need to modify the
5 rates.

6 **III. PNW REQUESTS THAT THE COMMISSION DENY THE MOTION ENTIRELY, OR IN**
7 **THE ALTERNATIVE GRANT ONLY LIMITED RELIEF.**

8 As set forth above, NWE has failed to carry its burden in establishing such dire need for
9 emergency relief, and thus the Motion should be denied in its entirety. The Commission can (and
10 will) hear NWE's request to modify the QF-1 Tariff via a regularly scheduled hearing process. In
11 the alternative, if the Commission is inclined to grant NWE's request, then PNW requests that any
12 Order granting relief from QF-1 be prospective only such that any PPA request already submitted
13 to NWE would be excluded from the ruling. In this way, the Commission would be honoring the
14 development expectations of PNW, amongst others, and operating in a manner consistent with
15 FERC-regulated bodies throughout the West. See e.g., Order No. 21332, Idaho Public Utilities
16 Commission (July 13, 1987); Colorado PUC Dec. No. C87-1690, at 37 (Dec. 16, 1987).

17 Again, PNW appreciates the opportunity to offer comments ahead of this Commission's
18 ruling on the Motion. PNW will likewise be involved in any hearing scheduled for the underlying
19 request to modify the QF-1 Tariff rates (and will reserve its comments regarding the rate schedule
20 for that separate process).

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Respectfully submitted on June 6, 2016,

/s/Ryan N. Meyer

Ryan N. Meyer
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Pacific Northwest Solar, LLC