

Service Date: December 2, 2016

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

IN THE MATTER OF NorthWestern Energy’s            ) REGULATORY DIVISION  
Application for Approval of Avoided Cost Tariff        )  
Schedule QF-1    ) DOCKET NO. D2016.5.39

**RESPONSES TO DATA REQUESTS PSC-049 AND PSC-050 OF THE MONTANA  
PUBLIC SERVICE COMMISSION TO VOTE SOLAR AND MEIC**

- a. Is it your opinion that the Commission may only make a determination to change those aspects of the QF contract which NorthWestern asks to be updated or changed in its QF-1 application?
- b. Please specify what you mean by “substantial portion” at 3:5 of your additional issues testimony.
- c. What portion of the “available long term contracts” referenced on 5:6-7 of your additional issues testimony included fixed rates for energy and capacity?

**Response:**

a. No. The Montana Public Service Commission has broad authority with respect to “supervision, regulation, and control of ... public utilities,” MCA 69-3-102, and may, upon proper notice and procedure, adopt rules or standards governing QF contracts. However, such authority is limited by the right of the public to be afforded a “reasonable opportunity for citizen participation in the operation of the agencies prior to the final decision,” Mont. Const. art II., § 8, and the Commission’s procedural rules, which provide for intervention in proceedings before the Commission of “[a]ny person interested in and directly affected by the subject matter of any hearing or investigation pending before the commission,” Admin. R. Mont. 38.2.2401.

If the Commission were to expand this proceeding to consider issues other than avoided costs (such as contract length, performance standards, levelization, and annual updates), individuals and entities interested in those issues would effectively be precluded from a reasonable opportunity to participate. The Commission’s Notice of Application and Intervention Deadline for this proceeding identified only the issues presented by NWE’s application—namely, the avoided cost rates applicable to the QF-1 Tariff—and set an intervention deadline of June 10, 2016 for “[a]ny interested person who is directly affected by NWE’s filing.” Notice of Application and Intervention Deadline (May 13, 2016). Although the Commission subsequently issued a Notice of Additional Issues on October 26, 2016, the Commission provided parties a very short period of time in which to submit testimony on such additional issues. Accordingly, even if parties affected by those issues were immediately aware of the Notice, they would have had insufficient time to seek late intervention and participate in the Commission’s decision making with respect to those issues. Moreover, parties seeking late intervention must satisfy the higher bar to show good cause for late intervention, see Admin R. Mont. 38.2.2403, placing an additional and unwarranted burden on parties seeking to participate on the additional issues raised by this Commission over four months after the intervention deadline. Under these circumstances, the Commission should refrain from expanding this proceeding beyond the issues identified in its initial Notice of Application and Intervention Deadline.

b. The phrase "...fixed prices for all or a substantial portion of the contract terms" means more than 50% of the total contract price is fixed for the contract term. For example, the Interim Standard Offer No. 4 PPAs in California that facilitated a significant amount of QF development had both energy and capacity prices that were 100% fixed for the initial ten years of the 20- to 30-year term. For the subsequent years, the capacity price remained fixed (25% to 50% of the total price), with the energy price re-set to prevailing short-run costs in these years.

c. California RPS contracts since 2004 generally have rates that are 100% fixed for the full contract term.

At 8:19-27 you state that Idaho QFs must renew their contracts every two years, but capacity payments are based upon the resource deficiency year in place at first contract.

- a. Please explain how these capacity payments are calculated in Idaho.
- b. Please explain how all other QF payments are updated every two years.
- c. Please describe the biennial contract renewal process.

**Response (a. – c.):**

As an initial matter, please note that the Idaho contracting process for successive two-year contracts is for projects above the size limit for Idaho’s published avoided cost prices (i.e. for renewable QFs up to 80 MW), and in that respect is distinct from the contracting process for Montana QFs below the 3 MW size limit that are eligible for standard published prices, which is the subject of this docket. In any event, Vote Solar is aware that the Idaho commission has addressed some details of how to administer the prices in these two-year contracts in Orders 33357 and 33419 in Docket No. IPC-E-15-01. However, all details about this process may not yet be resolved. For example, there is ongoing litigation concerning whether the capacity payment rate is fixed for all successive two-year contracts at the level set in the first two-year contract, or whether it may be updated in two-year contracts after the first one (even though the resource sufficiency date does not change). See Idaho Case No. IPC-E-16-21 (Idaho Power petition for a declaratory order).

Generally, these contracts use Idaho’s “IRP Method,” in which the prices for energy and capacity are set using modeling of Idaho Power’s system based on its most recent integrated resource plan. See Idaho Power’s Schedule 73 for the process used to obtain a contract under such a rate: <https://www.idahopower.com/AboutUs/RatesRegulatory/Tariffs/tariffPDF.cfm?id=306> .

## CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of December, 2016, I served the foregoing by first-class mail, postage prepaid, and electronic mail on the following:

Will Rosquist, Administrator  
Public Service Commission  
1701 Prospect Ave.  
Helena, MT 59620-2601  
(By *Federal Express*)

John Alke  
NorthWestern Energy  
208 N. Montana, Suite 205  
Helena, MT 59601  
john.alke@northwestern.com

Al Brogan  
NorthWestern Energy  
208 N. Montana, Suite 205  
Helena, MT 59601  
al.brogan@northwestern.com

Tracy Killoy  
NorthWestern Energy  
208 N. Montana, Suite 205  
Helena, MT 59601  
tracy.killoy@northwestern.com

Joe Schwartzenberger  
NorthWestern Energy  
40 East Broadway  
Butte, MT 59701  
joe.schwartzenberger@northwestern.com

Jason Brown  
Montana Consumer Council  
111 North Last Chance Gulch, Suite 1B  
P.O. Box 201703  
Helena, MT 59620-1703  
jbrown4@mt.gov

Ryan R. Shaffer  
MEYER, SHAFFER & STEP ANS, PLLP  
305 S. Fourth St. East, Suite 101  
Missoula, MT 59801  
ryan@mss-lawfirm.com

Michael J. Uda  
Uda Law Firm, P.C.  
7 West Sixth Ave., Power Block West, Ste. 4H  
Helena, MT 59601  
michaeluda@udalaw.com

DarAnne Dunning  
Luxan & Murfitt, PLLP  
P.O. Box 1144  
Helena, MT 59624  
ddunning@luxanmurfitt.com

Eric Christensen  
Cairncross Hempelmann  
524 Second Ave., Suite 500  
Seattle, WA 98104  
echristensen@cairncross.com

Jeffrey Wagner  
Volkswind USA Inc.  
205 SE Spokane Street, Ste 306  
Portland, OR 97202  
Jeffrey.Wagner@volkswind.com

Steven J. Levitas  
FLS Energy, Inc.  
130 Roberts Street  
Asheville, NC 28801  
legal@flsenergy.com

Chris Norqual  
Cypress Creek Renewables  
3250 Ocean Park Blvd.  
Suite 355  
Santa Monica, CA 90405  
[norqual@ccrenew.com](mailto:norqual@ccrenew.com)

Ryan N. Meyer  
ElGuindy, Meyer & Koegel, PLLP  
2990 Lava Ridge Court, Suite 205  
Roseville, CA 95661  
ryan.meyer@pacificnorthwestsolar.net

  
\_\_\_\_\_  
Jenny K. Harbine