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*Attorney for FLS Energy and Cypress Creek Renewables*

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

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IN THE MATTER of Application for Approval of Avoided Cost Tariff Schedule QF-1	UTILITY DIVISION  DOCKET NO. D2016.5.39
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**FLS ENERGY AND CYPRESS CREEK’S OBJECTIONS TO NORTHWESTERN  
ENERGY’S POST-HEARING PROVIDES**

Petitioners FLS Energy and Cypress Creek Renewables (collectively “Intervenors”) acting by and through undersigned counsel, respectfully submit this objection to NorthWestern Energy’s (“NWE”) post-hearing provides. Intervenors support the arguments and analysis offered by Intervenors Vote Solar and the Montana Environmental Information Center that these post-hearing provides, if accepted after the close of the evidentiary record, would violate the procedural and substantive due process rights of the parties to this case. If the Commission accepts, as it appears to have during the hearing of this matter, the argument of counsel for NWE that even data responses provided prior to hearing but not subject to cross-examination would be self-serving and therefore problematic from a due process perspective if they were to be included

by the Montana Public Service Commission (“Commission”) in the evidentiary record, the Commission must acknowledge the same argument applies with far more force to NWE’s post-hearing provides. These provides appear to be little more than an effort to bolster the record after the close of the evidentiary hearing in a manner that is inconsistent with the Montana Administrative Procedure Act, the Commission’s own statutory authority and rules, and the United States and Montana Constitutions.

There is no way at present for any party to this case to verify even the most basic information contained in NWE’s post-hearing provides, much less examine the assumptions and foundations therefore, which is simply inconsistent with any process required by due process of law. For this reason, Intervenor join in the objections to NWE’s post hearing provides raised by Vote Solar and the Montana Environmental Information Center, and respectfully request these post-hearing provides not be included in the evidentiary record in this matter. The evidentiary record must serve as the basis for the Commission’s decision. That record must be based on sworn testimony and must be subject to cross-examination. If the Commission were to accept these post-hearing provides without providing to the parties these essential requirements of due process, the Commission would be violating the due process rights of the parties to the case, as well as other statutory and regulatory requirements.

RESPECTFULLY SUBMITTED THIS 9th DAY OF FEBRUARY, 2017

UDA LAW FIRM, PC

By:

  
Dylan Wright

Attorney for Intervenor FLS Energy and Cypress  
Creek Renewables

**CERTIFICATE OF SERVICE**

I hereby certify that on the 9th day of February, 2017, I served the foregoing by first-class mail, postage prepaid mail on the following:

Kate Whitney, Administrator PSC 1701 Prospect Avenue Helena, Mt 59601	John Alke NorthWestern Energy 208 N Montana Ave Suite 205 Helena, Mt 59601
Al Brogan Northwestern Energy 208 N. Montana Ave Suite 205 Helena, Mt 59601	Tracy Killoy NorthWestern Energy 208 N. Montana Ave Suite 205 Helena, Mt 59601
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By:

  
Jackie Haskins-Legal Assistant