

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

IN THE MATTER of the Montana Public Service) DOCKET NO.
Commission's Review of Rates to Recover)
NorthWestern Energy's Electricity Supply Costs) D2017.5.39

COMMENTS ON NOTICE OF COMMISSION ACTION OF
HUMAN RESOURCE COUNCIL, DISTRICT XI AND
NATURAL RESOURCES DEFENSE COUNCIL

Human Resource Council, District XI and Natural Resources Defense Council have participated in Montana Public Service Commission proceedings, formal and informal, for nearly 40 years. Our involvement has had two basic objectives: first, the establishment of fair procedures that enable sound decision-making by the regulated utility and the Commission, second, environmentally and socially desirable outcomes that benefit customers.

It is through this lens that we consider the Notice of Commission Action (NCA) issued in the above-captioned docket. We find the NCA problematic in several important respects. We urge the Commission to step away from the course (which may lead to a cliff) it appears to be on. Specifically, we urge the Commission to withdraw the NCA and obtain stakeholder input on how to implement HB 193.

The seemingly hasty issuance of the NCA and the lack of input from interested parties may very well have led to its deficiencies. In this regard and somewhat as an aside, we are also concerned about the very compressed schedule established by the NCA, which we believe will be unmanageable for all.

To return to our main point, without hearing from anyone the Commission has embarked upon a process that, appears to us, to be fraught with difficulty and unlikely to produce a good result. For example, it is very hard to see how it is good regulatory practice to put in jeopardy the utility's ability to recover its costs "contingent" on the filing of some version of an electric rate case by the end of September of this year. Swinging a hammer may be satisfying but it may not produce good or intended results. Utility cost recovery is, of course, necessary for the provision of reliable electric service. There has been no showing or even a discussion of whether the utility has the ability to meet what seems to be an arbitrarily established deadline. Moreover the Commission's line in the sand is all the more perplexing given that NorthWestern Energy has already agreed to file an electric rate case in 2018.

Moreover, we are presently of the view that forcing a rate case filing in 2017 is ill-advised. As the Commission knows the utility is considering issues around solar and resource and

system balancing, including looking at the Energy Imbalance Market. The results of this work, which will not conclude by the time the Commission has set for a revenue requirements filing, will inform a general rate case filing and the Commission's consideration of that filing.

Indeed, we suspect that the NCA's confusing treatment of the kind of rate case NorthWestern Energy is supposed to file by the end of September reflects its hastily cobbled together nature. The NCA makes the availability of a cost tracker contingent on NorthWestern Energy filing a revenue requirements case. But, the Commission asks for comment on whether the utility should be required to file a "full electric general rate case." Here it seems the Commission gets wrapped around the axle of its own making. Requiring a "full" rate case filing in the time allotted will be even harder for the utility to accomplish (and simply may not be achievable). Of course, rate cases are about more than revenue requirements; rather they are - or should be - an integrated look at utility operations, practices, and services. So, here it seems is the conundrum the Commission finds itself in: a general rate case is much more preferable but may not be possible within the schedule the Commission has established and requiring it may make the risk of Commission overreach even greater than it already is. We also note that while rate cases have in the past been bifurcated,

that split has occurred as a matter of administrative convenience and close enough in time so that the parts were linked. In short, the NCA's effort to ensure that the utility file some form of a rate case in the near term runs the risk that the rate case will be poorly and incompletely presented by the utility, inefficiently handled by the Commission and stakeholders, and produce a result that does not benefit customers.

Finally, and of particular concern to us, is what the NCA might mean for NorthWestern Energy's energy efficiency acquisition programs. We do not pretend to know with certainty how this will all play out; what we do know is that threatening the utility's ability to recover its costs associated with efficiency acquisition will, at a minimum, make the utility less inclined than it is at present to undertake efficiency efforts and, at the worst, lead to the cessation or suspension of energy efficiency expenditures by the utility. Either way this will hurt customers.

Again, before the process set in motion by the NCA gets too far down the tracks, we urge the Commission to rethink the matter. HB 193 has become law. The Commission now has the discretion to determine whether and how NorthWestern Energy's costs should be tracked. Developing a new regulatory approach

(or, for that matter, deciding to maintain the old approach) should be done deliberately and thoughtfully. District XI and NRDC stand ready to participate in such a process.

Charles Magraw

On behalf of: Human Resource
Council, District XI and
Natural Resources Defense
Council