

Service Date: July 7, 2017

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

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

NOTICE OF COMMISSION ACTION

1. On May 18, 2017, the Montana Public Commission (“Commission”) issued a Notice of Commission Action (“NCA”) acknowledging the passage of House Bill 193 (“HB 193”), which repealed the mandatory recovery of prudently incurred electricity supply costs for NorthWestern Energy (“NorthWestern”) contained in Mont Code Ann. § 69-8-210(1). Through this NCA, the Commission intended to initiate a process in which to develop a replacement electricity tracker for NorthWestern as a result of this change in law. In doing so, the Commission directed NorthWestern to provide supply cost information sufficient to allow the Commission to implement, on an interim basis, one of three alternatives: 1) a cost tracker with an initial base supply cost based on PowerSimm supply cost modeling for the time period July 1, 2017 to June 30, 2018; 2) a cost tracker similar or identical to NorthWestern’s current tracker, established pursuant to Mont. Code Ann. 69-8-210(1), which could serve as a starting point for establishing a modified cost tracker; or 3) any other cost tracker proposal that NorthWestern thought would be workable and consistent with the intent of HB 193. Notice of Comm’n Action (NCA), Docket D2017.5.39, 1-2 (May 18, 2017). To gain a further understanding of these initial filings, the Commission scheduled a discovery conference for June 9, 2017, “where any interested person [could] ask questions about NorthWestern’s filing.” *Id* at 2. The Commission also set a deadline for receiving comments from interested parties of June 14, 2017. *Id*. In the context of the policy objective of modifying NorthWestern’s electricity supply tracker, the Commission expressed interest in making the availability of a tracker mechanism contingent upon NorthWestern filing “a comprehensive electric supply revenue requirements case that contains a proposal for a longer-term cost tracker by September 30, 2017.” *Id*. at 2–3. The

Commission also addressed several other policy concerns that interested persons and NorthWestern might address. *Id.*

2. On May 26, 2017, Human Resource Council, District XI and Natural Resources Defense Council (“HRC/NRDC”) filed comments on the Commission’s NCA. HRC/NRDC noted that the Commission had sought little input from parties before embarking on the approach prescribed in the NCA, and questioned the appropriateness of making the availability of an electricity tracker mechanism contingent upon a full electric general rate case filing from NorthWestern. HRC/NRDC Comments 1–2. HRC/NRDC noted that several studies, which might inform a full electric general rate case, have yet to be completed and the necessary components of a full electric general rate case to be provided by NorthWestern may be hastily compiled, resulting in an inadequate final decision. *Id.* at 2–4. HRC/NRDC also expressed concern at how this approach might affect recovery of costs associated with NorthWestern’s energy efficiency acquisition programs. *Id.* at 4.

3. On May 26, 2017, NorthWestern filed a Motion for Reconsideration raising seven distinct arguments:

- I. NorthWestern is legally obligated to file the May 31, 2017, electric tracker adjustment prepared in accordance with the current tariff.
- II. The Commission should want to implement, on an interim basis, the electricity supply cost tracking adjustment that will be filed by NorthWestern on May 31, 2017.
- III. The Commission is required by law to consider changes to its tariffs in a contested case proceeding.
- IV. The process described in the NCA violates the Montana Administrative Procedure Act.
- V. NorthWestern may need more time to conduct the modeling requested by the Commission.
- VI. NorthWestern needs a reasonable period within which to prepare and file its proposal to modify the tariffed tracking procedure to implement cost sharing.
- VII. The Commission should not append a rate case filing requirement to its consideration of a modified electricity supply cost tracking procedure.

NorthWestern Mot. for Reconsideration, Request for Oral Presentation, and Brief in Support (May 26, 2017). The Commission believes arguments III through V have been mooted by events that have occurred since issuance of the NCA on May 18, 2017. *See* Notice of Staff Action 1 (Jun. 6, 2017) (explaining the purpose and scope of the discovery conference); NorthWestern Correspondence (Jun 8, 2016) (providing NorthWestern’s “projected costs for purchased power

and fuel derived from PowerSimm™ supply cost modeling for the time period July 1, 2017 to June 30, 2018”); Notice of Staff Action 2 (Jun. 9, 2017) (canceling the discovery conference scheduled for June 9, 2017); Notice of Staff Action (Jun. 12, 2017) (rescheduling the discovery conference for June 16, 2017). The Commission believes arguments I and VI are resolved by paragraphs 5 through 7 of this Order. The Commission believes argument VII, concerning the requirement to file an electricity rate case as an appendage to implementing a new tracker mechanism, will largely be resolved through additional process. *See infra* ¶¶ 20–21.

4. On June 20, 2017, the MCC filed its comments. The MCC noted as a result of the passage of HB 193, “the Commission will have discretion to continue tracking certain costs if doing so would result in just and reasonable rates.” MCC Comments 2 (Jun. 20, 2017). The MCC argued that extensive use of trackers results in single issue ratemaking, violates the “matching principle,” and avoids comprehensive rate cases. *Id.* at 2–3. The MCC recommended resolving these concerns about tracker policy through a contested case proceeding. *Id.* at 3. The MCC agreed with NorthWestern that implementation of the interim rate request contained in Docket D2016.7.52 could be resolved in a final decision and reflect whatever changes might be proposed to NorthWestern’s tracker mechanism. *Id.* at 3–4.

5. Consistent with Interim Order 7549 in Docket D2016.7.52, the Commission agrees with NorthWestern’s and the MCC’s proposed approach to implementing a new tracker mechanism:

House Bill 193 (2017) (“HB 193”) eliminates the mandatory electricity supply cost recovery mechanism, also known as a cost tracker, in Mont. Code Ann. § 69-8-210(1) effective July 1, 2017: “The commission may approve a cost-tracking adjustment for a public utility regulated under this part consistent with its regulation of public utilities under Title 69, chapter 3.” *See* 2017 Mont. Laws 359.

In Docket D2017.5.39 concerning the Commission’s Review of Rates to Recover NorthWestern Energy’s Electricity Supply Costs, NorthWestern stated that “[t]o the extent the Commission changes NorthWestern’s electricity supply cost tracking adjustment mechanism, the change in methodology can be captured in the true-up of electricity supply costs for the period July 1, 2017, through June 30, 2018.” NorthWestern Energy’s Mot. for Reconsideration, Request for Oral Presentation, and Brief in Support 5 (May 26, 2017). In the same Docket, the MCC agreed with this position regarding implement policy changes in a final true-up of these interim tracker costs: “Since the Commission can order a rebate or surcharge ‘for the amount collected [or not collected] retroactive to the date of the temporary approval,’ the final decision can be effectuated July 1, 2017 even if it is not made until next year.” Comments of the Montana Consumer Counsel 3–4 (Jun. 20, 2017)

(citing Mont. Code Ann. § 69-3-304 (2015)). The Commission agrees with NorthWestern and the MCC and will implement any policy changes to NorthWestern's electricity tracker mechanism in a final true-up of these interim tracker costs as a contested case proceeding under the Montana Administrative Procedure Act ("MAPA"). See Mont. Code Ann. §§ 2-4-102(4), 2-4-601 to -631.

NorthWestern has committed that "[b]y July 14, 2017, NorthWestern will file a proposed new cost recovery mechanism containing a cost-sharing proposal. The Commission, thereafter, will establish a schedule in a contested case proceeding, consistent with MAPA, for addressing the proposed tariff change." NorthWestern's Letter Concerning the Commission's Notice of Commission Action 2 (May 26, 2017). NorthWestern must make this filing by July 14, 2017.

Interim Order 7549 ¶¶ 16–18 (Jun. 27, 2017).

6. As indicated in Interim Order 7549, the Commission consolidates NorthWestern's filings in Docket D2016.7.52 concerning the July 1, 2017 to June 30, 2018 tracker period with the information contained in Docket D2017.5.39 and NorthWestern's proposed new tracker mechanism filing expected July 14, 2017; this will create one consolidated prospective-looking docket for addressing NorthWestern's electricity tracking mechanism. The Commission also consolidates NorthWestern's 2015-2016 Electric Supply Filings in Docket D2015.7.52 with NorthWestern's filings in Docket D2016.7.52 concerning the July 1, 2016 to June 30, 2017 tracker period, creating one backward-looking docket for addressing NorthWestern's mandatory electricity supply tracker under Mont. Code Ann. § 69-8-210(1).

7. Since NorthWestern is proposing a new tracker mechanism in which it seeks to recover its costs, it shall bear the burden of proof on these particular issues. In a contested case under MAPA, the Commission is generally "bound by common law and statutory rules of evidence." Mont. Code Ann. § 2-4-612(2). Under the statutory rules of evidence, "a party has the burden of persuasion as to each fact the existence or nonexistence of which is essential to the claim for relief or defense the party is asserting." *Id.* § 26-1-402; *Mont. Env'tl. Info. Ctr. v. Mont. Dept. of Env'tl. Quality*, 2005 MT 96, ¶ 14, 326 Mont. 502, 112 P.3d 964 ("the party asserting a claim for relief bears the burden of producing evidence in support of that claim."); see also Mont. Admin. R. 38.5.182 ("A utility filing for an increase in rates and charges shall be prepared to . . . sustain the burden of proof of establishing that its proposed charges are just and reasonable"), Mont. Admin. R. 38.5.8220 (discussing how a utility may "satisfy its burden of proof.").

8. NorthWestern notes that the rates set forth in the electricity tracker are tariffed and have the force of law that may only be changed through a contested case proceeding. Mot. at 3–4 (citing *In re Mont. Power Co. Electric Cost Portfolio as Default Supplier*, Docket D2001.10.144, Order 6382 (Mar. 26, 2002) (establishing and tariffing the electricity supply cost procedure)). NorthWestern identifies a number of Commission decisions in which fixed costs from its generating assets are recovered in the electricity tracker. Mot. at 4; *see also In re NorthWestern Energy’s Application for Preapproval of Colstrip Unit 4*, Docket D2008.6.69, Order 6925f, Finding of Fact ¶ 260 (Nov. 13, 2008) (allowing NorthWestern “to include CU4 cost of service in electric supply rates as part of its annual electric supply tracker in order to develop an all-in electric supply rate”); *In re NorthWestern Energy’s Application for Preapproval of Dave Gates Generating Station*, Docket D2008.8.95, Order 6943e pp.31 (Mar. 21, 2012) (allowing NorthWestern to track outstanding construction cost items associated with Dave Gates Generation Station until its “next general rate filing, at which time material differences would be tried up”) (emphasis added); *In re NorthWestern Energy’s Application for Preapproval of Spion Kop Wind Project*, Docket D2011.5.41, Order 7159l (Feb. 16, 2012); *In re NorthWestern Energy’s Application for Preapproval of Hydroelectric Generating Facilities*, Docket D2013.12.85, Order 7323k (Sept. 25, 2014)).

9. The Commission has previously stated that fixed rates have not been altered in a tracker proceeding. *See In re NorthWestern Energy’s 2009-2010 Electric Supply Tracker*, Docket 2010.5.50, Order 7093c (Apr. 19, 2011) (“Although both the variable and fixed CU4 rates represent ‘generation assets cost of service,’ the Commission has adjusted the former in the electric supply trackers, but not the latter”). This is in contrast to the variable costs associated with generation assets subject to preapproval, which have been routinely adjusted in annual tracker filings. *Cf. id.* (“In practice—in contrast to the CU4 variable cost section of the tracker, which changes as forecasted costs are updated in the annual tracker filing—the fixed cost section has not changed since it was approved in December 2008”).

10. The Commission will not require NorthWestern itself to propose tariff revisions in its July 14, 2017 filing which affect the base rates that were established in various pre-approval orders for electric generating assets, which together “implemented” the existing tracker statute. Mot. at 3–4. However, the Commission, in its implementation of HB 193, does wish to consider a full range of alternatives, and other parties may want to propose alterations to base

rates as part of this proceeding. The Commission believes at least three alternatives should be considered, in addition to any that parties propose:

- a) A tracker that provides for NorthWestern to continue to recover its fixed costs without any update to them, and allow the company to track its variable costs, such as fuel and purchased power costs, with a sharing mechanism to adjust the revenue earned with respect to those variable costs.
- b) A tracker that provides for NorthWestern to update its fixed costs, including updating the cost-of-service of its power generators and allowing for a reclassification of costs that are currently tracked as variable but which would more appropriately be treated as fixed, together with a tracker, if appropriate, to track volatile costs that are beyond the utility's control and a sharing mechanism for the portfolio of costs.
- c) A tracker that provides for NorthWestern to project all of its energy supply costs on a multi-year basis, allowing revenues the company collects to track to the projection, with a sharing mechanism relative to actual costs, if appropriate.

Two of the above mentioned alternatives would require NorthWestern to establish an updated base rate for electric supply costs, around which a tracker pivots and is adjusted through a sharing mechanism. In order to set an updated base rate for electric supply costs, NorthWestern would need to submit information that is similar or conforming to that provided for in Mont. Admin. R. 38.5.101 to 38.5.195. *See also In re Mont. Pub. Serv. Comm'n Investigation into Qwest Corp.*, Docket D2003.2.22, Order 6493 p. 4 (Jun. 16, 2003). There are several reasons for the Commission to establish an updated base rate for NorthWestern's electric supply costs and require NorthWestern to submit information that conforms to the requirements contained in Mont. Admin. R. 38.5.101 to 38.5.195.

11. The Commission has already expressed interest in updating the actual costs associated with the hydroelectric acquisition in Docket D2013.12.85. In Order 7476a in Docket D2016.1.8 concerning the Compliance Filing of the Hydroelectric Facilities Purchase, the Commission allowed NorthWestern "to communicate its future plans . . . [of] whether to file a general rate case." Order 7476a ¶ 26. The Commission noted this was an alternative to requiring "NorthWestern to file, with its next annual report, information that would meet the minimum filing requirement[s] contained in Mont. Admin. R. 38.5.101 through 38.5.195." *Id.* ¶ 25. The Commission examined these alternatives because it noted that the public interest would be benefited by a comprehensive examination of NorthWestern's costs "after years of piecemeal

ratemaking” and “the absence of an electric general rate case for the better part of a decade”

Id. ¶ 24. Specifically in the context of the hydroelectric facilities, the Commission noted:

[I]n all likelihood the \$4,724,421 A&G expense attributed to the hydroelectric facilities, post-Kerr, is not a reflection of NorthWestern’s actual A&G costs, as the basis for the A&G expenses evaluated in this case reflects PPLM’s costs, not NorthWestern’s. Additionally, A&G costs are generally common costs and attributing a portion of NorthWestern’s actual A&G costs, if they were available, to the hydroelectric facilities would require an allocation process, rather than precise measurement.

Id. ¶ 22. The Commission also put NorthWestern on notice that it “should be cognizant of the workforce needs that would accompany” a decision to require the filing of this information and to “plan its staff resources accordingly.” *Id.* ¶ 26.

12. In response to Final Order 7476a, NorthWestern explained in a cover letter accompanying its 2016 Electric Utility Annual Report that:

The results shown in the latest Electric Utility Schedule 27—Montana Earned Rate of Return, which is included in NorthWestern's 2016 Annual MPSC Electric Utility Report, reflect electric utility returns lower than the MPSC-authorized ROE. Nevertheless, NorthWestern does not plan to make a general electric rate filing this year. NorthWestern's 2016 Electric Schedule 27 shows an actual rate of return on average equity ("ROE") of 9.758%. After a number of typical normalizing adjustments, including weather, the adjusted ROE is 9.376%. While neither of these figures reflect precisely what an earned ROE would be in an actual electric filing, they are reliable calculations of a reasonable range. Both of these returns are significantly lower than the 10.05% ROE currently authorized for NorthWestern's consolidated Montana electric utility.

In re NorthWestern Energy's Statement of Future Plans for Electricity Utility General Rate Case, Docket D2016.12.98, Cover Letter 1 (Apr. 26, 2017). Since NorthWestern’s last electric rate case,¹ it has earned varying levels of actual rate of return on equity and adjusted return on equity as reported in Schedule 27 of its annual reports, compared to its average authorized return on equity.

¹See generally *In re NorthWestern Energy's 2007 and 2009 Electric Rate Case*, Consolidated Dockets D2009.9.129 & D2007.7.82, Final Order 7046i (Jun. 20, 2011).

NWE Sch. 27 ²	2011	2012	2013	2014	2015	2016
Consolidated Electric Utility Average Authorized Return on Equity	10.17%	10.17%	10.17%	10.14%	10.04%	10.05%
Rate of Return on Average Equity	9.84%	8.84%	9.67%	11.33%	9.89%	9.76%
Adjusted Rate of Return on Average Equity ³	10.07%	8.64%	9.71%	11.01%	10.27%	9.38%

The consolidated ROEs described in Schedule 27 of NorthWestern’s annual reports is insufficiently granular to determine whether NorthWestern is overearning on its electricity supply assets. *See infra* ¶ 21. The last time the Commission analyzed the returns the company was earning on electric generating assets in 2013, the company reported earning returns in excess of the company’s authorized return on equity.

2013 ⁴	Total	CU4	DGGS	Spion Kop	T&D
Average Authorized Allowed Return on Equity	10.17%	10.00%	10.25%	10.00%	10.25%
Adjusted Rate of Return on Average Equity	9.71%	12.35%	9.04%	14.17%	7.95%
Adjusted Rate of Return on Average Equity without LRAM	9.01%	11.48%	8.62%	14.14%	7.22%

13. While earnings on transmission and distribution (“T&D”) assets may offset any overearning on electric supply assets, the approach the Commission has taken to ratemaking for the latter in the past several years has been focused on individuated revenue requirements. *See supra* ¶ 8; *see also In re NorthWestern Energy’s Consolidated 2013-2014 and 2014-2015 Natural Gas Tracker*, Consolidated Dockets D2013.5.34 and D2014.5.47, Order 7282d ¶¶ 20–44 (Oct. 6, 2015) (describing the recovery of costs associated with NorthWestern’s natural gas production assets in in gas tracker filings rather than a general rate case and requiring NorthWestern to make a comprehensive filing within 12-months of the order). It does not seem inconsistent with that approach to re-establish a baseline, or revenue requirement, in this proceeding for electric supply, and wait for a full reexamination of the cost of service of the

²See Attach. A of this Order for more information on these figures.

³ The Commission agrees with NorthWestern that this adjusted figure may not “reflect precisely what an earned ROE would be in an actual electric filing,” Docket D2016.12.98, Cover Letter 1 (Apr. 26, 2017), and notes the ROE adjustments provided in Schedule 27 is left to the discretion of the utility. For instance, NorthWestern provides no source of generally accepted accounting principles (“GAAP”) for these adjustments. *See also* Attach. A n.1.

⁴See *In re NorthWestern Energy’s Lost Revenue Adjustment Mechanism*, Docket D2014.6.53, Data Response (DR) PSC-003(d) (Jan. 30, 2015).

consolidated utility, including generation assets and T&D, during a general rate case. *But see* MCC Comments at 3–5 (arguing that NorthWestern’s “next electric rate case should be a full general rate case”). Even with NorthWestern’s adjusted and actual average ROE being near its authorized average ROE, NorthWestern’s authorized average ROE is higher still than ROEs that the Commission has approved in recent rate cases. *See In re Montana-Dakota Utilities Co.’s 2015 Electric Utility Rate Case*, Docket D2015.6.51, Order 7433f ¶ 31 (March 25, 2016) (setting an ROE range of 9.0 to 9.5 percent).

14. The issue of generating assets’ fixed costs, which was the subject matter of the Commission’s Final Order 7476a, is related to the issue of the sharing mechanism that the Commission and NorthWestern have identified as a key feature of this proceeding. Mot. at 3 (“NorthWestern fully intends to respect the Commission’s advocacy, and will prepare and file in this docket a modified tariff to implement cost sharing”). Other jurisdictions have benchmarked key features of trackers on the underlying costs of power supply generally, including generating assets’ fixed costs, and a tracker may rely on the establishment of an appropriate baseline of those costs and expected variable costs. *See Oregon PUC, UE 180/181/184, Order 07-015*. In that proceeding before the Oregon Public Utility Commission (“Oregon PUC”), Portland General Electric Company (“PGE”) attempted to argue against the use of a deadband in a cost-sharing mechanism because “ratepayers only pay for the low embedded, fixed costs of PGE’s resources in base rates, and so should also be responsible for the higher cost of [net variable power costs (“NCPV”)]⁵ in adjustments.” *Id.* at 21. Staff for the Oregon PUC argued this problem would be resolved by examining the NCPV alongside the overall revenue requirement of the utility.

Staff takes the broader view of the Company’s costs as considered in a rate case, and argues that the Commission determines the full fixed costs, as well as the full variable costs, through consideration of normalized NVPC, in a general rate case. Therefore, Staff argues that ratepayers already shoulder the full amount of the cost of service, and a PCAM with a deadband would not shield customers from paying the full cost of the Company’s resources.

Id. (internal citations omitted). Relatedly, Citizens’ Utility Board of Oregon (“CUB”) argued that the utility’s authorized costs of equity should depend on the utility’s ability to manage risks and

⁵ PGE used a MONET model to calculate its net variable power cost (“NVPC”). NVPC is the baseline by which PGE proposed adjusting its annual update, which would allocate cost-of-service risk between rate payers and the utility on a prospective basis in an Annual Variance tariff. *Id.* at 16.

the varying levels of cost variation permitted a tracker mechanism would affect the level of risk imposed upon a utility.⁶ *Id.* at 23. The Oregon PUC agreed with its advocacy staff and CUB:

[W]e agree with Staff that the ability to absorb power cost increases depends on a utility's total rate base, and that this PCAM is narrowly tailored to suit PGE; therefore, we decline to accept PGE's arguments that a deadband should focus on a return on generation assets only. The ROE deadband should be calculated based on PGE's overall rate base. If the power cost variation is within this deadband, there will be no power cost rate adjustment.

Id. at 27.

15. NorthWestern itself has acknowledged to its investors and ratings agencies that the import of a tracker in the region may not be so much to track variable costs, but to establish the parameters of risk associated with fixed-cost assets, such as hydroelectric power generators, whose output varies and which drives the need to buy less or more energy from the open market. *In re NorthWestern's 2016 Natural Gas Rate Case*, Docket D2016.9.68, Updated Data Response (DR) LCG-026, 28 (May 5, 2017) (Describing its current tracker as unlike its peers in the Pacific Northwest and serving as a mitigant to low-water years).

16. The Commission has seen from experience how the performance of assets embedded in the base rates are closely related to the variable costs a utility incurs for energy supply, and *vice versa*. The outage of a power plant can cause variable costs to increase and even affect the so-called fixed costs. *In re NorthWestern Energy's Consolidated 2012-2013 & 2013-2014 Electricity Supply Tracker*, Dockets D2013.5.33 & D2014.5.46, Order 7283h ¶ 43 (May 13, 2016) (declining to track reductions in labor costs that resulted from furloughs during an outage at CU4 because these labor costs did not constitute electricity supply costs). Production cost modeling, meanwhile, suggests that variable costs are sensitive to output of fixed-cost assets such as NorthWestern's hydroelectric generating assets. *See In re Montana Public Service Commission's Review of Rates to Recover NorthWestern Energy's Electricity Supply Costs*, Docket D2017.5.39, NorthWestern Correspondence Concerning PowerSimm Modeling, Electric Supply PowerSimm Mean, p5, and p95 Spreadsheets (Jun. 8, 2017).

17. Additionally, there are some costs that might be regarded as appropriate to include in fixed rates, but which are today being tracked because of the broad statutory definition of "electricity supply costs." *See, e.g.* Mont. Code Ann. § 69-8-103(8)(f) (allowing

⁶ To address this concern in part, the Oregon PUC implemented an earnings test "to determine whether the utility is earning an acceptable rate of return." *Id.* at 26.

NorthWestern to recover fuel and capacity costs, “transmission costs, including congestion and losses,” demand-side management expenses, as well as “planning and administrative costs; and any other costs directly related to the purchase of electricity and the management and provision of power purchase agreements” in the electricity supply tracker). It will no longer be mandatory for the Commission to track all electricity supply costs due to HB 193’s enactment. MCC already has suggested the wholesale elimination of the tracker. MCC Comments at 2–3. If the Commission adopted that approach, or reduced the set of tracked electricity supply costs, the Commission would either have to adjust the base rates to account for these unrecovered costs or presume that the existing fixed rates were sufficient to cover those costs until NorthWestern filed a full rate case. If the former approach were presumed, such as the second alternative above would provide for (*see supra* ¶ 10(b)), it could be incongruent to reestablish fixed rates for only one category of expense without looking at all fixed costs related to electric supply.

18. NorthWestern observes it intends to file a rate case in September 2018, more than a year from now, and argues it “need[s] to complete a number of comprehensive studies which are critical to important public policy issues which the Commission needs to address to properly perform the required interclass and generation cost allocations.” Mot. at 9. The Commission has reviewed this list of studies, and does not find this argument particularly persuasive. The first two studies that NorthWestern identifies are something this Commission has asked for in proceedings dating back a decade. *In NorthWestern Energy’s 2008 Application for Avoided Cost Tariff for New Qualifying Facilities*, Docket D2008.12.146, Order 6973d ¶ 134 (May 6, 2010) (expressing concern about a lack of evidence on appropriate wind integration rates); *In re NorthWestern Energy’s Application for Preapproval of Dave Gates Generating Station*, Docket D2008.8.95, Order 6943e ¶ 94 (March 21, 2012) (requiring a study of regulation needs, including renewables integration); *In re NorthWestern Energy’s 2011 Electricity Supply Resource Procurement Plan*, Docket N2011.12.96, Comments ¶ 22 (Sept. 28, 2012) (finding NorthWestern’s resource plan had largely ignored these issues); *In re NorthWestern’s 2014 Application for Approval of Avoided Cost Tariff for New Qualifying Facilities*, Docket D2014.1.5, Order 7338b ¶¶ 24-26 (May 4, 2015) (finding the Dave Gates regulation resource “does not actually operate the way it was modeled” and that NorthWestern “does not appear to have made any substantial progress” on evaluating integration requirements). These studies have been pending for many years, and it appears unlikely that these studies are suddenly necessary in

light of their delayed occurrence. In any case, possibly none of these studies are more “important public policy issues” than the task now at hand. Mot. at 10. Moreover, an attempt to deal with all of these major issues in a single proceeding, as NorthWestern apparently intends, is possibly too ambitious. It may be wiser to resolve the important policy issue of arriving at an appropriate baseline for the newly reintegrated electric supply portfolio first, in the context of establishing a tracking and adjustment mechanism, and then deal with these other policy issues, which mainly relate to allocation of those costs to various customers, in the rate case the company intends to file. This is similar to the two-phased approach the Commission is taking in the pending natural-gas general rate case. *See In re NorthWestern Energy’s 2016 Natural Gas Rate Case*, Docket D2016.9.68, Notice of Comm’n Action (Sept. 23, 2016) (granting NorthWestern’s motion to bifurcate the revenue requirement and the rate design phases of the rate case). To the degree that certain questions that weigh on an appropriate baseline for electric supply require one of the studies that the utility has identified, that issue could be deferred.

19. Based on its current understanding the Commission therefore is inclined to require NorthWestern to provide information for electricity supply costs and generation assets cost of service in the form that would be consistent with the filing requirements contained in Mont. Admin. R. 38.5.101 to 38.5.195. *See, e.g. In re Mont. Pub. Serv. Comm’n Investigation into Qwest Corp.’s Rate of Return*, Docket D2003.2.22, Notice of Investigation (Mar. 14, 2003) (expressing concern in Qwest’s potential overearning and providing an opportunity for subsequent process). NorthWestern’s filing of this information by Sept. 30, 2017 will allow the Commission and parties to consider at least the three alternative methods of establishing a baseline rate and the accompanying bands and adjustment mechanism that together comprise a tracker. *See supra* ¶ 10; *see also* Mont. Admin. R. 38.5.106 (requiring “a test period consisting of 12 months actual experience ending *no earlier than 9 months prior to the date of filing of the data . . .*”) (emphasis added).

20. The Commission will allow NorthWestern and other parties an opportunity to be heard on this intended informational filing requirement, including but not limited to whether to exempt or add certain pieces of information. The Commission may not need all data for the electric utility. It may only need that information related to electric supply costs, but if it is burdensome for NorthWestern to provide only information relating to the costs that today appear in its Tariff Sheet 60.1, it should explain as such. Likewise, the utility may believe that certain

information included in Mont. Admin. R. 38.5.101 to 38.5.195 is not necessary or relevant to establishing a baseline for energy supply costs. If so, it should explain which part of the information requirement should not apply. Additionally, NorthWestern and other parties will be heard on whether this information is required at all. If Northwestern uses this process to assert that providing this information is unnecessary, it should provide sufficiently granular information to explain whether it is overearning on its electric generating assets. *See supra* ¶¶ 12–13.

21. In order to allow for the parties to be heard on whether to require NorthWestern to submit information that conforms to the requirements contained in Mont. Admin. R. 38.5.101 through 38.5.195 by September 30, 2017, the Commission implements the following schedule.

- a) July 14, 2017: Deadline for intervention.
- b) July 21, 2017: Deadline for comments.
- c) July 28, 2017: Oral Presentation and Argument.

The Oral Presentation and Argument will begin at 9:00 a.m. on Friday, July 28, 2017. Parties may present technical personnel to describe and explain any factual matters at the Oral Presentation and Argument. A court reporter will be present for the Oral Presentation and Argument. Participants in the Oral Presentation and Argument will not be sworn in. Shortly thereafter, the Commission will issue a final order on whether to require NorthWestern to submit information that conforms to the requirements contained in Mont. Admin. R. 38.5.101 through 38.5.195 by September 30, 2017. *See, e.g. In re Mont. Pub. Serv. Comm'n Investigation into Qwest Corp.'s Rate of Return*, Docket D2003.2.22, Final Order 6493 (June 3, 2003) (requiring Qwest to “submit information that conforms to the requirements contained in ARM 38.5.2803 through 38.5.2820 on or before September 6, 2003”). The Commission will issue a separate deadline for intervention and procedural schedule on the new tracker mechanism once NorthWestern makes its filing on July 14, 2017.

Done and dated this 22nd day of June, 2017, by a vote of 5 to 0.

BY THE MONTANA PUBLIC SERVICE COMMISSION

BRAD JOHNSON, Chairman
TRAVIS KAVULLA, Vice Chairman
ROGER KOOPMAN, Commissioner
BOB LAKE, Commissioner
TONY O'DONNELL, Commissioner

Attachment A

NWE Electric Utility PSC Annual Reports—2011–2016, Schedule 27.

	2011	2012	2013	2014	2015	2016
Total Rate Base	\$1,275,203,697.00	\$1,340,393,238.00	\$1,298,097,493.00	\$1,445,913,851.00	\$2,210,222,565.00	\$2,300,739,748.00
Net Earnings	\$100,032,421.00	\$91,872,473.00	\$101,947,470.00	\$122,440,308.00	\$165,672,819.00	\$171,046,953.00
Rate of Return on Average Rate Base	7.844%	7.407%	7.854%	8.468%	7.496%	7.434%
Rate of Return on Average Equity	9.84%	8.84%	9.67%	11.33%	9.892%	9.758%
Major Normalizing and Commission Ratemaking Adjustments						
Rate Schedule Revenues	(\$2,700,010)	(\$1,417,629)	(\$123,026)	(\$146,710)	\$4,431,011	\$9,479,097
Income Taxes Generation Tax Repair						(8,504,530)
DSM Lost Revenue		(4,884,268)	(1,875,674)			(13,433,970)
CU4 Outage disallowance						8,243,475
Modeling cost disallowance						733,515
DGGS Deferred Revenue Adjustment	2,699,852	2,300,714				
Income Tax from 2013				(3,729,470)		
Non-Allowables						
Advertising	239,884	286,584	494,673	527,288	497,458	407,678
Dues, Contributions, Other	117,859	126,015	97,936	99,844	112,831	116,169
Associated Income Tax	443,274	1,171,847	(302,334)	(127,233)	(1,615,507)	(1,612,740)
Total Adjustments	\$800,859	(\$2,416,737)	(\$1,708,425)	(\$3,376,282)	\$3,425,793	(\$4,571,306)
Revised Net Earnings	\$100,833,280	\$89,455,736	\$100,239,045	\$119,064,026	\$169,098,412	\$166,475,847
Rate Base Adjustment						
Stipulation with MCC	(\$24,264,667)	(\$23,399,000)	\$22,533,333	(\$21,667,666)	(\$20,801,199)	(\$19,936,332)
Revised Rate Base	\$1,250,939,030	\$1,216,994,238	\$1,275,564,160	\$1,424,246,185	\$20,189,420,566	\$2,280,803,416
Adjusted Rate of Return on Average Rate Base	8.061%	7.351%	7.858%	8.360%	7.723%	7.299%
Adjusted Rate of Return on Average Equity	10.069%	8.641%	9.705%	11.007%	10.273%	9.376% ¹
Consolidated Electric Utility Allowed Return on Equity						
	10.17%	10.17%	10.17%	10.14%	10.04%	10.05%

¹ The 2016 NWE PSC Annual Report showed on Schedule 27, Line 45, a 2016 Adjusted Return on Equity of 9.376% as compared to the NWE consolidated allowed return on equity of 10.05%. However, two of the adjustments made by NWE to its reported ROE of 9.758% in arriving at the reduced adjusted ROE were a \$8,050,530 negative adjustment for Deferred Revenue associated with the DGGS related to the year 2011 and a \$13,433,970 negative adjustment related to DSM lost revenue related to prior periods (see NWE PSC 2016 Annual Report, Schedule 27, Footnotes 3 & 4). In a revenue requirement proceeding for regulatory purposes, one-time prior period adjustments such as these would either not be allowed in the establishment of a prospective revenue requirement or amortized over some multi-year period. Removing those two adjustments would result in a 2016 Adjusted Return on Equity of approximately 11%.

Comparing PSC Annual Report rates of return to authorized can only provide an indication of what the utility is earning for regulatory purposes versus authorized returns. The above example illustrates this problem. There are several adjustment in NWE's Schedule 27, which if removed, would reduce the 2016 Adjusted Return on Equity. The only method which can provide an accurate measure of a utilities regulatory earnings is a full revenue requirement filing in a contested case which would undoubtedly include many additional pro-forma adjustment to historical earnings. These adjustment would have both positive and negative impacts on any proposed revenue requirements.

In addition, such a filing would also examine the allowed returns on both equity and debt in a forward looking manner. Regarding the equity return, the current consolidated 10.05% return would perhaps be reduced. In addition, the cost of debt built into NWE's current overall allowed return would certainly be reduced. The last cost of debt established for the Regulated Transmission and distribution Utility was 5.76% in 2011 (see NWE PSC Annual Report, Schedule 22). In the current NWE Gas revenue requirement case (D2016.9.68) NWE has testified its current cost of debt for ratemaking purposes is 4.67%.