

Service Date: December 12, 2017

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

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

**NOTICE OF ADDITIONAL ISSUES**

On July 14, 2017, NorthWestern Energy (“NorthWestern”) filed its Power Costs and Credits Adjustment Mechanism Proposal with the Montana Public Service Commission.

On July 7, 2017, the Commission issued a separate Notice of Proposal, Intervention Deadline, and Initial Procedural Schedule (“Notice”) addressing NorthWestern’s PCCAM Proposal setting August 9, 2017 as the intervention deadline. On August 8, 2017, WINData, LLC (“WINData”) filed its Second Application for General Intervention. On August 9, 2017, the Montana Consumer Counsel (“MCC”) filed its Petition for Intervention. On August 11, 2017, NorthWestern filed its Objection to WINData, LLC’s Second Application for General Intervention. The Commission granted WINData’s Second Application for General Intervention on August 24, 2016. See Order 7563 ¶ 11 (Aug. 24, 2017). On September 1, 2017, the Commission issued a Notice of Staff Action granting intervention to MCC and acknowledging the intervention status that had been provided to WINData in Order 7563.

On September 21, 2017, the Commission issued Procedural Order 7563a setting deadlines for discovery, pre-filed testimony, additional issues and pre-hearing memoranda. The Commission also set a hearing date of March 12, 2018, continuing day to day as necessary. On November 8, 2017, the Commission issued a Notice of Staff action granting MCC’s request for extension of all remaining deadlines except the hearing date which remained March 12, 2018. See Notice of Staff Action (Nov. 8, 2017). On December 12, 2017, the Commission held a regularly scheduled work session to discuss and act on whether to identify additional issues, establish additional process as necessary, and to consider creating an advocacy staff.

During the 2017 legislative session, Montana’s Legislature enacted, and the governor signed into law, House Bill 193 (HB 193), which terminated a mandatory electric supply

tracking mechanism. The legislation passed primarily based on representations that NorthWestern Energy should not be entitled to a dollar-for-dollar pass-through mechanism now that it had become a vertically re-integrated utility. Instead, the bill's supporters, including the Commission, contended that given the return NorthWestern is now in a position to make on its electric supply portfolio, it was appropriate for the company to assume some greater measure of business risk associated with its electric supply function, instead of being allowed to use a dollar-for-dollar tracker to shift most of that risk to consumers. This proceeding implements the policy of the Legislature and at its conclusion the Commission hopes to make a dispositive determination on the future of NorthWestern's energy supply tracking mechanism, or if any should exist at all.

However, at this point in the proceeding, the Commission is concerned that the range of options currently proposed by parties falls short of the range of alternatives it would be reasonable to consider in order to reach a determination in the public interest. NorthWestern has proposed an option that it purports mirrors a tracker used by Montana's other electric utility, Montana-Dakota Utilities, but it appears to contain numerous, significant differences. *Compare* Fuel & Purchased Power Cost Tracking Adjustment Rate 58, Vol. No. 4, 2<sup>nd</sup> Rev'd Sheet No. 43.3 *with* Test. Crystal Lail (July 14, 2017) and Test. Kevin Markovitch (July 14, 2017). Additionally, NorthWestern has said in answer to discovery that it has not considered alternative examples of power cost adjustment mechanism (PCCAM) design in the region, even though these states' programs were held up as examples the Commission would consider during the Commission's legislative testimony in support of HB 193. Data Response (DR) PSC-010 (Oct. 25, 2017). MCC, meanwhile, has advocated terminating the tracker altogether when the Commission adopts rates, probably in mid-2019, resulting from NorthWestern's September 2018 general rate case filing. Direct Test. George Donkin 5–23 (Nov. 27, 2017). MCC offers no solution, other than retaining the existing tracker, for the period of approximately two full years during which the general rate case will be processed. *Id.* at 22–23. In short, there is no evidence that any witness to this proceeding has examined nearby states' PCCAM designs, especially those associated with utilities in hydro-heavy regions, to evaluate whether an alternative PCCAM would be better suited, or whether a risk-sharing mechanism that incorporates a deadband, would be appropriate.

The Commission therefore directs parties to consider alternatives for a PCCAM that incorporates risk-sharing features common to other utilities in the region, to be applied starting July 1, 2017, the enactment date of HB 193.<sup>1</sup> Alternative PCCAM proposals should include an evaluation and recommendation of:

- Categories included and excluded from PCCAM, and their treatment from July 1, 2017 until such costs are captured within a general rate case
- Appropriate base costs, net of credits associated with the electricity supply function
- A sharing mechanism that equitably apportions risk to investors and consumers

The Commission looks to parties' understanding of other PCCAMs in the region, as well as innovative proposals parties may have to incent company performance and the equitable assumption of risk, to inform an alternative PCCAM design. The design of a PCCAM should ensure equitable risk sharing, and should also be designed to avoid or mitigate potential gaming that could result from an underestimate of base costs or an overly complex segregation of cost categories. The Commission offers the following questions and concerns on these items, as the proceeding has developed so far.

### **1. Cost Categories**

This proceeding has already seen a measure of debate about which cost categories should be included in a PCCAM. NorthWestern suggests that the nearly two dozen cost categories of the *status quo* tracker be rolled into three categories, which differ from one another with respect to how costs over or under the base costs are shared between the utility and its customers. Test. Markovitch at 4–19. After a general rate case, several categories of costs in the *status quo* tracker would be rolled into the revenue requirement of a general rate case. Direct Test. Joe Schwartzenberger 13 (July 14, 2017).

MCC, meanwhile, argues for the preservation of the *status quo* tracker and its attendant categories from July 1, 2017 until whenever rates are established from the general rate case, probably in the middle of 2019. Test Donkin at 23. After that time, all the costs would be embedded in the revenue requirement established in the general rate case. *Id.* at 22. If the Commission decides to adopt a PCCAM, MCC recommends excluding a number of categories of

---

<sup>1</sup> NorthWestern has previously conceded that back-dating the application of the PCCAM that may be established in this proceeding would be appropriate. Interim Order 7549 ¶ 17 (Jun. 27, 2017) (citing NorthWestern Energy's Mot. for Reconsideration, Request for Oral Presentation, and Brief in Support 5 (May 26, 2017)).

costs from the PCCAM, such that the remaining categories account for only slightly more than half of the total base costs from NorthWestern's PCCAM proposal remain. *Id.*, Ex. \_\_ (GLD-2).

At present, parties appear to agree conceptually that certain costs should not be incorporated within a PCCAM, however the proposals would continue to recover them through the *status quo* tracker or NorthWestern's PCCAM proposal until they were captured in a general rate case. Parties should consider alternative treatments for such categories as are excluded from PCCAM, *e.g.*, an earnings test or a deadband to measure whether the revenue associated with immediately excluding a cost category from the PCCAM would drop the company below a fair return, or capitalizing certain costs such as DSM that have been made since July 1, 2017.

## 2. Base costs

An essential feature of any ratemaking is a set of base costs from which actual costs will inevitably diverge. PCCAM is no different, though it would be limited to the cost categories that are included. Base costs are a function of the assumed volumes and assumed prices at those volumes of particular items that fall within a PCCAM. Currently, the *status quo* tracker incorporates essentially all the items associated with electricity supply by NorthWestern and projects volumes for each. However, these projections lack much relevance, because the costs associated with actual volumes and prices are trued up annually to exact costs.<sup>2</sup>

NorthWestern and MCC have analyzed the price and volume data available from the *status quo* tracker to inform a reasonable estimate of base costs within a PCCAM. However, it is not clear that the parties have understood the supply needs represented as PCCAM cost categories to be a function of the production that consumers should reasonably expect from rate-based facilities. The purpose of PCCAMs 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." Notice of Comm'n Action (NCA) ¶¶ 15–16 (July 7, 2017). Parties should evaluate those facilities' production based on how they were proposed for Commission pre-approval, as well as how they are currently operating, in order to arrive at a proposal to estimate the amount of production from them that allocates the risk of production equitably to the utility who made representations about the value of the facility's production and

---

<sup>2</sup> The single exception is for rate-based assets, which appear in the spreadsheets filed in support of the *status quo* tracker but which have separate revenue requirements that have been established in individual pre-approval dockets for those assets. *See* NCA ¶¶ 8–9 (Jul. 7, 2017).

the consumers who receive service from them. The remaining need for power that is not expected to be supplied from such assets may form a more appropriate base of costs for a PCCAM. This proceeding is not designed to be a general rate case, although the Commission has indicated that it would potentially use the additional issues process to garner a better understanding of this issue, which it now does. NCA 2 (Aug. 30, 2017). Parties should review the concerns the Commission has earlier expressed about this inter-relationship between PCCAM costs and rate-based assets' operation and, where appropriate, make recommendations.

### 3. Deadbands & Sharing Bands

Other jurisdictions have extensively considered the concept of deadbands and sharing mechanisms within a PCCAM. The testimony so far in this proceeding is undeveloped with respect to these important issues, when compared to other jurisdictions' consideration of the same. *See In re Portland General Elec. Co.*, UE 180/181/184, Order 07-015 (Or. P.U.C. Jan 12, 2007); *WUTC v. Pacific Power & Light Co.*, Docket UE-140762, Order 08 (Wash. Util. & Transp. Comm'n Mar. 25, 2015); *In the Matter of the Petition of Avista Corp. for Continuation of the Company's Energy Recovery Mechanism*, Docket No. UE-060181, Order 03 (Wash. Util. & Transp. Comm'n Jun. 16, 2006); *WUTC v. Avista Corp.*, Docket No. UE-011595, Fifth Supplemental Order (Wash. Util. & Transp. Comm'n Jun. 18, 2002); *WUTC v. Puget Sound Energy, Inc.*, Docket No. UE-130617, Order 11 (Wash. Util. & Transp. Comm'n Aug. 7, 2015); *WUTC v. Puget Sound Energy, Inc.*, Docket No. UE-011570, Twelfth Supplemental Order (Wash. Util. & Transp. Comm'n Jun. 20, 2002).

Neither the MCC nor NorthWestern include in their testimony any discussion of a commonplace feature of many PCCAMs in the region: the deadband. This feature establishes a band around the base costs of a PCCAM. If actual costs fall within the deadband, no tracking adjustment occurs. The Commission desires testimony on this issue, including on how a reasonable deadband might be calculated, *e.g.*, should a figure be calculated based on the utility's recent years of income, and whether the band would be symmetric or asymmetric.<sup>3</sup>

For a sharing band of actual costs that are higher or lower than the base costs, NorthWestern advocates the dollar-for-dollar tracking of certain costs, as occurred with the

---

<sup>3</sup> For example, responding to a proposal from the consumer advocate, Oregon's PUC adopted an asymmetric deadband for Portland General Electric for reasons concerning the effect of replacement costs associated with hydroelectric generation's volatility. *In re Portland General Elec. Co.*, UE 180/181/184, Order 07-015 p.23 (Or. P.U.C. Jan 12, 2007).

*status quo* tracker. It advocates a 90%/10% for other cost categories. Test. Markovitch at 19. MCC points to conceptual concerns about the concept of cost-sharing mechanisms altogether. Test. Donkin at 28–29.

NorthWestern provides little support for its sharing mechanism, other than to argue “the support for NorthWestern’s proposed 90/10 sharing ratio was provided by the Commission itself” in legislative testimony. DR PSC-003 (Sept. 22, 2017). In fact, the Commission submitted for the legislature’s consideration an exhibit referencing multiple PCCAMs as examples that could be adopted in a regulatory proceeding should HB 193 pass. *Revise Utility Electric Cost Recovery on H.B. 193 Before the S. Comm. on Energy and Telecomm.*, 2017 Leg., 65 Sess. at Ex. ens58a01 p. 11 (Mont. 2017).<sup>4</sup> In any case, NorthWestern retains the burden in this proceeding to demonstrate that, for its particular circumstances, the sharing bands and the categories to which they are applied are reasonable. Parties are invited to offer additional support for the appropriateness of a particular selection, or none at all, of a sharing band.

#### **4. Update to Base Costs**

If a PCCAM is adopted, NorthWestern proposes not to annually update them, but to update them in the 2018 general rate case. DR PSC-028 (Oct. 25, 2017). The Commission questions whether adopting base costs for a PCCAM now, only to re-litigate the issue in the coming general rate case, would unduly add transaction costs to the establishment of a PCCAM, if any is adopted. The Commission therefore asks for testimony on whether the next general rate case, for the purpose of implementing PCCAM, should be considered the one filed in September 2018, or the one following? If the matter is once again litigated in the 2018 rate filing, should the base costs established in this proceeding serve as a presumptive, although rebuttal, base cost in that proceeding? Meanwhile, what are the disadvantages were the base costs to be updated regularly, either by use of a production cost model or by using, for certain costs, a proxy of marginal electricity supply costs such as the biennially established QF-1 rate? If the costs are updated regularly, should that update be limited to only certain cost categories and how should the update be accomplished?

---

<sup>4</sup> Available at <<http://leg.mt.gov/bills/2017/Minutes/Senate/Exhibits/ens58a01.pdf>>

**5. True Up**

The Commission desires testimony in support of whether a true-up from actual costs would occur on a monthly or only on an annual basis.

**6. Hedging**

In recognition of the fact that the utility may be asked to assume some measure of the risk currently placed on consumers relative to the management of the utility's power portfolio, the Commission requests testimony on whether the Commission should terminate the stipulation resulting from Docket No. D2014.7.58, and allow NWE to engage in hedging practices, if those hedging gains or losses would result in gains or losses to the company's shareholders and not consumers under a PCCAM.

**7. Other Matters Necessary to the Resolution of the Proceeding**

To the degree that the topics above give rise to other matters that parties consider necessary or appropriate for the Commission to consider in the public interest, parties are asked to file relevant testimony accordingly.

BY THE MONTANA PUBLIC SERVICE COMMISSION

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