Service Date: November 19, 1990

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

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IN THE MATTER OF the Petition of the Conservation and Least Cost Planning Advisory Committee Requesting Certain Actions Affecting the Montana Power Company	)))))	UTILITY DIVISION DOCKET NO. 90.8.48 ORDER NO. 5516

ORDER ON PETITION

Background

On August 13, 1990 the Public Service Commission (Commission) received a petition from the Conservation and Least Cost Planning Advisory Committee (Committee).[1] The petition, in the form of a letter to Commission Chairman Howard Ellis from Committee Coordinator Gerald Mueller, asks the Commission to take the following actions:

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1 This Committee was created in 1988 to advise the Montana Power Company (MPC) on energy policy. It is made up of a representative from MPC, as well as representatives of various groups interested in energy policy in Montana.

A. Suspend MPC's default tariff and negotiated tariff options for new PURPA QF contracts greater than 1 megawatt (MW);

B. Institute a new docket for MPC on methodologies for acquiring PURPA QF resources that would be compatible with MPC's integrated least cost planning and competitive acquisition process;

C. Petition the FERC to grant MPC flexibility in scheduling construction of certain hydro upgrades.

The Committee makes these requests out of concern that its work of the last two years, absent the actions requested, may, in the short run, be in vain.

Since 1988 the Committee has considered ways in which MPC could improve, or implement, integrated least cost planning and competitive acquisition of energy resources.[2] In August of 1990, when this petition was filed, the Committee was in the final stages of preparing a report to the Commission and MPC on recommendations for implementing (or improving) integrated least cost planning and competitive acquisition.[3] The Committee's concern, as expressed in the petition, is that MPC, by acquiring numerous QF resources and by going forward with certain hydro upgrades, would "effectively foreclose the benefits of integrated least cost planning to MPC, ratepayers, the environment, and competitive suppliers for fifteen years." In other words, the Committee is concerned that MPC may be forced to make resource acquisition decisions that may not be least cost. The Committee seeks to delay those decisions until they can be made within a competitive framework, and according to a least cost plan approved by the Commission.

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[2] The focus of the Committee has been primarily on MPC's acquisition of electric energy.

[3] The report was presented to the Commission on October 22, 1990.

On August 17, 1990 the Commission issued a Notice of Opportunity to Comment on the petition. Comments in support of the petition were received from the Department of Natural Resources and Conservation, District XI Human Resource Council and, with certain qualifications, the Montana Power Company. Comments in opposition to the petition were received from Exxon, Stone Container, Sigma Consultants, Conoco, the Billings Chamber of Commerce and Kathryn Wetmore, the representative on the Committee for the Large Users Group. Additional comments containing various perspectives were received from Sam J. Bitz of the Rocky Crossing Ranch Company, Montana Wind Turbine, Owen H. Orndorff, Lee Tavenner and the Montana Consumer Counsel.

Discussion

On October 1, 1990 the Commission, on its own initiative, issued a Notice of Inquiry (NOI) seeking comments from interested persons on the merits of integrated least cost planning and competitive resource acquisition. This NOI, assigned Docket No. 90.8.49, will, among other things, begin a process whereby the Commission will consider "methodologies for acquiring PURPA QF resources that" "will be compatible with MPC's integrated least cost planning and competitive acquisition process." See Committee Request No. 2, above. Therefore, the Committee's second request has already been satisfied. In addition, the Commission takes no

action on the Committee's third request at this time. This Order will address the Committee's first request, that MPC's default tariff and negotiated tariff options for new QF contracts over one MW be suspended.

The Commission has carefully considered the Committee's request to suspend certain avoided cost tariffs. The Commission shares the Committee's concerns that the QF power acquisition process, as established by PURPA and implemented by the FERC and this Commission, may not sufficiently take into account least cost planning and competitive acquisition. Because of this concern the Commission finds that it is appropriate to take some action to protect ratepayer interests, while at the same time recognizing its duty to encourage the development of QF power.

As it has done previously, the Commission finds that it must seek a middle ground between ratepayer interests and QF interests. (See Order No. 5091a, Docket No. 84.10.64.) Therefore, those QFs that have fully negotiated contracts with MPC will, in the language of Order No. 5091a, "be able to secure those contracts under the terms and prices presently in effect." At the present time the Commission is aware of only two QFs that meet this criterion: Billings Generation, Inc. (BGI) and the Flint Creek Project.

QFs that do not have fully negotiated contracts with MPC may continue to negotiate such contracts. However, contracts for more than one MW that are signed between the effective date of this

Order and the time a final order is issued establishing new avoided cost rates, must contain a provision that requires an adjustment in the pricing terms which reflect rates that will be established in the next avoided cost docket. Pending the establishment of new rates, these contracts must contain current rates, unless other terms are mutually agreed to by the parties.

CONCLUSIONS OF LAW

The Commission has the statutory duty to supervise, regulate and control public utilities. 69-3-102, MCA.

The Commission has the statutory duty to assure that utility rates are just and reasonable. 69-3-202, MCA.

The Commission has a duty to encourage development of cogeneration and small power production. 69-3-604(2), MCA.

The provisions of this order fairly balance the interests of ratepayers, utilities, small power producers and cogenerators.

ORDER

1. MPC is directed to sign all those contracts which were fully negotiated as of October 25, 1990, subject when necessary to the Commission's determination of rates and conditions pursuant to §§ 69-3-603 and 69-3-604, MCA.

2. MPC is directed to insert in any QF contract for greater than one MW negotiated between October 25, 1990 and issuance of a final order establishing new avoided cost rates, a provision that requires an adjustment in the pricing terms to reflect, on a prospective basis, the new rates that are established.

3. The Commission will commence an avoided cost docket and will issue an order establishing new rates no later than December 31, 1991.

Done and Dated this 11th day of November, 1990 by a vote of 5 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

HOWARD L. ELLIS, Chairman

DANNY OBERG, Vice Chairman

JOHN B. DRISCOLL, Commissioner

REX MANUEL, Commissioner

WALLACE W. "WALLY" MERCER, Commissioner

ATTEST:

Ann Peck
Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.