Service Date: July 28, 2005

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

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IN THE MATTER OF NORTHWESTERN ENERGY, Application for Adjustment to Natural Gas Universal System Benefits Charge	)	UTILITY DIVISION DOCKET NO. D2004.7.99 ORDER NO. 6679
IN THE MATTER OF NORTHWESTERN ENERGY, Application for Adjustment to Natural Gas Universal System Benefits Charge	)	UTILITY DIVISION DOCKET NO. D2004.12.192 ORDER NO. 6680
IN THE MATTER OF NORTHWESTERN ENERGY, Public Service Commission Investigation and Direction on Electric Universal System Benefits	)	UTILITY DIVISION DOCKET NO. D2005.6.106 ORDER NO. 6681

PROCEDURAL ORDER

NOTE: PLEASE READ CAREFULLY. PROVISIONS OF THIS ORDER MAY MODIFY PREVIOUS PSC PROCEDURAL AND SCHEDULING POLICY. THIS IS NOT A PROPOSED ORDER. RECONSIDERATION IS AVAILABLE FOR GOOD CAUSE.

Introduction

1. The Public Service Commission (PSC), itself or through delegation to PSC staff, hereby establishes the procedure and schedule to be followed in the above NorthWestern Energy (NWE or utility) dockets. Any request for reconsideration of this Order must be submitted to the PSC within 10 days of the service date above. A request for reconsideration will be scheduled for the PSC's next available business meeting following the request and the parties will be informed of the action taken. This Order is effective immediately and remains effective unless and until modified by action of the PSC.

Schedule

2. All dates listed in the following schedule are receipt dates (filing with the PSC and service on the parties) unless otherwise specified. The PSC and persons having petitioned for intervention in this proceeding may direct discovery to the utility at anytime up to and including the final date in this schedule for discovery on the utility application. The utility shall respond within ten calendar days to all discovery requests directed to the utility more than ten calendar days before the final date for discovery to the utility on the utility's application and prefiled testimony. The utility shall respond to all other discovery requests by the date for responses in this schedule.

(a) August 11, 2005: Final day for intervention in the NWE electric USB docket (D2005.6.106) as a matter of right. Intervenors in NWE gas USB dockets (D2004.7.99 and D2004.12.192) are considered intervenors in the NWE electric USB docket without further action by the intervenor or the PSC.

(b) August 18, 2005: Final day for simultaneous initial prefiled testimony by the parties. See the Notice of Investigation and Intervention Deadline for intended scope of the proceedings.

(c) August 30, 2005: Final day for written discovery (includes data requests) to parties, including on initial prefiled testimony.

(d) September 8, 2005: Final day for responses to discovery.

(e) September 20, 2005: Final day for simultaneous response testimony by the parties.

(f) September 28, 2005 (tentative): Hearing commences and continues from day to day until concluded. Reply testimony, if any, will be live at hearing. Oral argument will be at close of hearing (written briefs are not anticipated). A PSC decision will follow as soon as practical following the hearing.

3. In addition, satellite hearings and various prehearing conferences may be separately scheduled.

Ex Parte Communications

4. This proceeding is a contested case proceeding. In contested case proceedings most *ex parte* communications are prohibited. An *ex parte* communication is one between (i.e., to or from) a Commissioner and any person associated with a party in the contested case, when the communication involves the contested case or an issue in the contested case and all other parties to the contested case have not been given a reasonable opportunity to participate in the communication. PSC Commissioner receipt or conveyance of *ex parte* communications is prohibited by law. § 2-4-613, MCA. Party receipt or conveyance of *ex parte* communications is prohibited by law. Id. A few categories of *ex parte* communications, some pertaining to procedure and scheduling, may be allowed by law and are not prohibited (e.g., emergency motion for extension of time). Id. Any oral, written, electronic, or other form of communication of any kind, between (i.e., to or from) a PSC Commissioner and any person associated with any party to a contested case pending before the PSC may be or may include, inadvertently or otherwise, a prohibited *ex parte* communication. Parties and Commissioners being ever alert to this possibility, the prohibition applicable, and the corrective action necessary is extremely important in regard to any face-to-face, phone, letter, e-mail, or other encounter involving a party and a Commissioner.

Procedure

General

5. Unless otherwise stated in this Procedural Order the procedure governing this contested case is set forth in applicable provisions of: (a) Title 69, MCA, public utilities; (b) Title 2, Chapter 4, MCA, MAPA; (c) ARM Title 38, Chapter 2, procedural rules of the PSC; (d) tariffed procedures; and (e) previous Orders of the PSC bearing specifically on the procedure and issues in this docket, if any.

Service and Filing

6. Copies of all pleadings, motions, discovery requests, discovery responses, prefiled testimony, briefs, and other documents shall be filed with the PSC and served on all parties ("parties" includes the utility and all intervenors). In the case of a filing directed to the PSC, such as motions, testimony, and briefs, the original and 10 copies shall be filed. Electronic copies of all documents must be filed and served in accordance with ARM 38.2.318. Service upon the parties shall be upon each party's attorney of record and such other individuals as may be reasonably designated by the attorney of record. The parties may limit service of discovery responses to service on the party making the discovery request, the PSC (original and 10 copies, unless waiver is obtained), and parties specifically requesting service of discovery responses.

7. Service and filing by means of facsimile transmission is prohibited. Deadlines for service and filing are deadlines for the service and filing of the original and copies as required.

Intervention

8. Parties seeking to intervene must file a Petition to Intervene with the PSC. So long as the time set for intervention as a matter of right is met, intervention shall be deemed granted subject to a later ruling on standing (if necessary). In the case of late intervention, the intervenor must: (a) identify the general position that the intervenor will take if the intervention is granted; (b) demonstrate a legally protectable interest directly affected by this docket; (c) demonstrate that the intervention, if granted, will not delay or prejudice the proceeding in this docket; and (d) good cause why the request for intervention was not timely filed. Late intervention will be effective only upon action of the PSC.

Discovery

9. The term "discovery" includes all forms of discovery authorized by rules of the PSC. The term "written discovery" as used in this order includes data requests. The PSC urges

all parties to conduct discovery through the use of data requests as the preferred method of discovery.

10. The PSC directs all parties to prepare data requests according to the following guidelines:

(a) Parties must assign their data requests a request number (e.g., MCC-001). Request numbers must be consecutive regardless of the party to whom the request is directed (e.g., the PSC might direct PSC-001 through 008 to the utility, PSC-009 through 016 to an intervenor, and PSC-017 through 019 to the utility).

(b) All data requests must include at the beginning of each request a description of five words or less explaining the subject of the data request. Other identifying information, such as the witness to whom the request is submitted, exhibit number, page number, etc., may be included in addition to, but not in lieu of, the subject of the request. This requirement will help to identify all data requests and responses addressing a particular subject or group of subjects. Subject descriptions will obviously vary from one party to another. However, each party should attempt to keep descriptions consistent from one request to another.

(c) Multi-part requests may be used, each part denoted by a lower case letter (a, b, c, d, and e). Requests must be limited to five (a-e) parts. If additional parts are necessary additional requests must be made. A single part request should be denoted by the request number only.

(d) Examples of acceptable data requests are as follows:

PSC-500 RE: Purchased Gas Contracts
Witness - Doe, Page JBD-4, Lines 13-15.

Please provide the origination and expiration date for each contract.

PSC-501 RE: Bypass
Witness - Roe, Page RAR-14, Lines 11-14.

a. What risks of bypass would be avoided by the shareholders as a result of the company's proposed treatment?

b. What risks of bypass would be avoided by the ratepayers as a result of the company's proposed treatment?

11. The party receiving the written discovery or data request has five days from receipt to object. The objection and notice thereof shall be filed with the PSC and served on all parties. The PSC may dispose of objections by prompt ruling or may schedule arguments. Failure to timely object will be deemed acceptance of the request.

12. Any requesting party dissatisfied with the response to any written discovery or data request and desiring PSC action to compel, must, within five days after receipt of such response, file before the PSC and serve all parties, the objection or motion and identify the relief requested. The PSC may dispose of such objection by prompt ruling or may schedule argument. The PSC will act to either sustain or overrule the objections. If an objection is sustained, a time period will be set within which a satisfactory response must be made.

13. Submission of written discovery after the period established will be allowed by leave of the PSC only. Requests will not be permitted unless the party making the request shows good cause as to why the request was not submitted within the time period allowed.

14. Unless excused by the PSC, failure by a party to answer data requests or other discovery from any party may result in: (a) action refusing to allow the failing party to support or oppose related claims; (b) action prohibiting introduction of related matters in evidence; (c) action striking pleadings, testimony, or parts thereof; (d) action staying further proceedings until the request is satisfied; or (e) action dismissing the case, defense, proceeding, or parts thereof.

Testimony and Evidence

15. The PSC contemplates a complete identification of issues prior to the time of hearing. Introduction of new issues or data in new areas at the time of hearing will be carefully scrutinized and will be subject to disallowance unless reasonably related to issues earlier

identified in the application, prefiled testimony, or proceedings.

16. At hearing, prefiled direct, answer, and rebuttal testimony (including on additional issues) will be adopted into the record by motion of the proponent without the need of recitation by the witness. The testimony will be an exhibit and not otherwise entered into the transcript.

17. All proposed exhibits and prefiled written testimony shall be marked for the purposes of identification prior to the start of the hearing. Parties shall arrange in advance with the court reporter and presiding officer for the preferred manner of identifying exhibits.

18. When cross-examination is based on a document, not previously filed with the PSC, copies of the document must be made available to each commissioner, parties, and staff, unless good cause is shown why copies are not available. Parties introducing data requests or other discovery must have copies of each request and response available at the hearing for the court reporter, each commissioner, the PSC staff, and all parties. This last requirement may be waived if the documents to be introduced are bulky, or for other good cause, and if previous arrangements have been made with the PSC and all parties.

19. Parties may be permitted to present live rebuttal testimony only if it is in direct response to an issue raised for the first time in cross-examination or the testimony of a public witness. Such testimony will be allowed only by leave of the PSC or presiding officer.

20. Citizens and citizen groups will, in the discretion of the PSC, be allowed to make statements without having submitted prepared written testimony. In addition, if they have prepared written testimony they may read it if they desire, or they may have it adopted directly into the record.

21. The Montana Rules of Evidence in effect at the time of the hearing in this docket will govern at the hearing.

22. Any party to this proceeding having responded, itself or through agents, to written discovery from any other party or the PSC, shall have all persons authoring each response present and available as a witness at the hearing for the purposes of introduction of the discovery and cross-examination thereon. Reasonable alternatives to this requirement, such as waiver of

objection to introduction absent the author and waiver of right to cross-examine, agreed to by the parties may be accepted if approved by the PSC. Written discovery (not including transcripts of depositions on oral examination) and data requests will not be introduced at hearing unless done in accordance with applicable rules of evidence and through an appropriate witness subject to cross-examination or upon stipulation approved by the PSC.

Prehearing Motions and Conferences

23. Motions by any party, including motions to strike prefiled testimony and motions concerning any procedural matter connected with this docket, shall be raised at the earliest possible time. Prehearing motions shall be submitted on briefs unless otherwise requested by a party and approved by the PSC. If oral argument is granted, the party requesting oral argument shall, after scheduling with the PSC, notice the same for hearing before the PSC.

24. The PSC may, at any time prior to the hearing, set a prehearing conference for discussion of, among other things, the feasibility of settlement of any issues in the proceeding, the simplification of issues, the possibility of obtaining admissions of fact and documents, the distribution and marking of written testimony and exhibits prior to the hearing, and such other matters as may aid in the disposition of the proceeding or settlement thereof.

25. Nothing in this Order shall be construed to limit the legally established right of the PSC or its staff to inspect the books and accounts of the utility at any time.

Prehearing Memorandum

26. The Prehearing Memorandum shall be from each party unless the parties agree to file jointly. It shall contain a list of all issues determined to be uncontested, all issues determined to be contested, witnesses intended to be called to testify or stand cross-examination, exhibits intended to be introduced, and discovery, to date, intended to be introduced at hearing. Identified responses to data requests to be introduced at hearing will be accompanied by a proper identification of the request, the witness responsible for the response, and the issue to which it

relates. Any special needs to accommodate witness sequence or scheduling should be identified in the Prehearing Memorandum.

Open Meetings

27. All PSC meetings regarding this docket are open meetings except as otherwise required or permitted by law. Parties will not routinely be notified of PSC business meetings or work sessions that may pertain to discussion or action on matters within this docket. Notification of PSC work sessions concerning this docket will be provided to all persons requesting notification through the PSC's weekly agenda mailing list.

Done and dated this 25th day of July, 2005, by delegation to PSC staff as an Order of the PSC.

BY THE MONTANA PUBLIC SERVICE COMMISSION

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