

**Update on PSC dockets/activities**  
**Provided to Energy & Telecommunications Interim Committee**  
**July 16, 2012**

**NorthWestern Energy**

- Federal Energy Regulatory Commission proceeding on Dave Gates Generating Station. The PSC intervened in this federal case in which the FERC will determine how much of DGGs' regulation capacity is required to serve NorthWestern Energy's FERC-jurisdictional wholesale transmission customers and what the rate for that service will be. The hearing before a FERC administrative law judge was held June 11-14 in Washington, DC. The FERC ALJ will issue her decision in the case in September. An adverse ruling could impair NorthWestern's ability to recover more than \$30 million of capital costs and millions of dollars in operating costs.

- Community Renewable Energy Project (CREP) waiver petition. NorthWestern applied for a three-year waiver from compliance with this part of the Renewable Portfolio Standard. The PSC granted NorthWestern a one-year waiver from full compliance with its CREP purchase obligation for 2012, but denied the utility's request for a waiver for 2013 and 2014. In a 4-1 vote, commissioners agreed the utility faced circumstances beyond its control that prevented it from meeting the requirements for 2012. However, the PSC determined in its order issued last month that because NorthWestern failed in 2011 to issue a competitive solicitation to acquire CREPs that could have been online in 2013 or 2014, it did not take all reasonable steps for those years. NorthWestern could face fines in excess of \$500,000 annually, beginning in early 2014, until it complies with the law.

**Montana-Dakota Utilities**

- Diamond Willow and Cedar Hills petition. MDU requested in March that the PSC certify the Diamond Willow 2 and Cedar Hills wind generation facilities as eligible renewable resources, and certify the Diamond Willow 1, Diamond Willow 2, and Cedar Hills wind generation facilities as CREPs. The PSC unanimously issued an order last week certifying the Cedar Hills wind farm in North Dakota as an eligible renewable resource and as a CREP. However, the PSC denied the request to certify Diamond Willow 2, which is located in close proximity to Diamond Willow 1 in Fallon County, as a distinct eligible renewable resource. The PSC determined that Diamond Willow 2 is a part of Diamond Willow 1, which had previously been certified as 19.5 MW eligible renewable resource. In the order, the PSC amended the certification of Diamond Willow 1 to include the 10.5 MW Diamond Willow 2. The requests to certify Diamond Willow 1 and 2 as CREPs were denied because, as a 30-MW eligible renewable resource, Diamond Willow 1 is too large to meet the statutory size requirement for CREPs.

**Energy West, Inc.**

- Refinancing/waiver of ring-fencing requirements. In March, Energy West, Inc., requested the PSC authorize: (1) the refinancing of the outstanding \$17.6 million balance on its current line of credit with Bank of America, which expires on June 27; (2) the issuance of \$15 million in new unsecured debt securities pursuant to an amended Note Purchase Agreement with Allstate Insurance and CUNA Mutual; and, (3) a waiver of certain of the ring-fencing requirements that were ordered by the PSC when it approved the company's corporate reorganization in 2009. The PSC held a hearing on this matter in Great Falls on May 11. In June, days before the Order was to be voted upon and issued, Energy West petitioned the PSC re-open the record in order to consider an amended financing facility and a proposed corporate restructuring plan. The PSC granted the request. A hearing on the amended application will be held July 19 in Helena.

# Renewable Portfolio Standard (RPS) Contradictions

<b>Cost Cap Waivers</b>	
<b>Cost Cap</b>	<b>Penalty</b>
<p>A restructured utility “<b>is not obligated</b> to take <i>electricity</i> from an eligible renewable resource unless the eligible renewable resource has demonstrated through a competitive bidding process” that doing so is not too expensive.<sup>1</sup></p>	<p><b>Except as provided through a waiver</b>, a public utility that is unable to meet the RPS “<b>shall pay</b> an administrative penalty, assessed by the commission. . . .”<sup>2</sup></p>
<p><b>Petition</b><sup>3</sup></p> <p>A public utility may petition for a waiver if “full compliance would cause the public utility to exceed the <b>cost caps</b>”<sup>4</sup></p>	

<b>Reporting Deadlines</b>	
<p>A public utility shall submit annual reports demonstrating compliance “<b>by March 1</b> of the year following the compliance year.”<sup>5</sup></p>	<p>A public utility “has until <b>3 months</b> following the end of each compliance year to purchase renewable energy credits for that compliance year.”</p>

<sup>1</sup> Mont. Code Ann. § 69-3-2007(1).

<sup>2</sup> Mont. Code Ann. § 69-3-2004(10).

<sup>3</sup> A petition “must demonstrate that the public utility . . . has undertaken all reasonable steps to procure *renewable energy credits*. . . .” Mont. Code Ann. § 69-3-2004(11).

<sup>4</sup> Admin. R. Mont. 38.5.8301(4); *see also* Mont. Code Ann. § 69-3-2006(2) (giving PSC authority to “define the process by which waivers from full compliance with [the RPS] may be granted.”).

<sup>5</sup> Mont. Code Ann. § 69-3-2005(6).