

**Update on PSC dockets/activities**  
**Provided to Energy & Telecommunications Interim Committee**  
**May 17, 2012**

**NorthWestern Energy**

- Mill Creek (now Dave Gates) compliance filing. The PSC completed its final cost review of the Dave Gates Generating Station (DGGS) and issued its order on NWE's DGGS compliance filing in March. The PSC approved the DGGS revenue requirement of \$182.5 million, which was not contested by the parties in the case. The PSC approved on a temporary basis NWE's proposal to allocate the revenue requirement for the 60 MW of traditional regulation capacity between retail and FERC-jurisdictional wholesale customers using the "12-coincident peak" load ratio share allocation method. However, because of concerns about the appropriateness of the 12-CP method, the PSC conditioned final approval of its use on the requirement that NWE conduct a study of the relative contributions of retail and wholesale customers to the within-hour load fluctuations that drive regulation capacity needs.

- Federal Energy Regulatory Commission proceeding on DGGS. The PSC intervened in this federal case in which the FERC will determine how much of DGGS' regulation capacity is required to serve NWE's FERC-jurisdictional wholesale transmission customers and what the rate for that service will be. The hearing before a FERC administrative law judge is scheduled to begin June 11 in Washington, DC.

- Spion Kop wind project. In February the PSC voted 3-2 to grant NWE's application for pre-approval to build and operate the 40-MW Spion Kop wind project near Geysler at a cost of \$86.1 million. The PSC also put in place a performance standard to ensure that ratepayers are not at risk to pay for a shortfall in production if Spion Kop significantly underperforms its energy-output expectations. The cost of electricity from the project is estimated to be \$55.42 per MWh, compared to an average cost of the current portfolio of \$60.87 per MWh. Spion Kop should be in operation by the end of 2012.

- Battle Creek application. The PSC has begun work on NWE's request that the PSC approve rate-basing of the Battle Creek natural gas production resources that NWE acquired in 2010.

- CREP waiver petition. The PSC will act later this month on NWE's petition for a waiver from full compliance with its Community Renewable Energy Project (CREP) purchase obligation for the years 2012-2014. NWE claims it took all reasonable steps to acquire 44 MW from CREPs to meet the statutory CREP requirement, but was able to acquire only 22.6 MW due to circumstances outside its control. The PSC held a hearing on this matter in April.

- 2011 electricity supply resource procurement plan. NWE submitted its statutorily-required biennial plan in December 2011. The PSC will hold a hearing on the plan in Helena in June and will issue PSC comments on the plan later this year.

**Montana-Dakota Utilities**

- Electric integrated resource plan (IRP). MDU filed its biennial electric IRP in August 2011. Written comments on the plan have been filed by the state Department of Environmental Quality. The PSC will issue comments on the IRP later this year.

## **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.

## **Telecom**

- FCC USF and intercarrier compensation reform. The Federal Communications Commission adopted major reforms to the federal universal service fund (USF) and intercarrier compensation regimes in an order issued last November. Numerous affected parties, including state commissions, telcos and telecom industry associations, have challenged various aspects of the FCC order. The appeals will be heard by the 10th U.S. Circuit Court of Appeals in Denver. The Montana PSC recently decided to seek intervention in the 10th Circuit proceeding. In the meantime, the PSC has been working as necessary with Montana telecommunications companies to implement the order's provisions.

- FCC Lifeline/Linkup reform. In February, the FCC issued its Lifeline Reform Order which comprehensively reformed the federal Lifeline low-income telephone assistance program that provides discounts on telecommunications services. The PSC held a roundtable April 23 to facilitate discussion and resolution among telcos and other stakeholders concerning implementation issues.

## **Other**

- Denbury Green Pipeline. In March the PSC approved the application for common carrier status submitted by Denbury Green Pipeline-Montana. Denbury plans to construct and operate a pipeline to transport carbon dioxide generated by an anticipated mine-mouth coal gasification plant in Wyoming to oil wells in existing southeastern Montana oil fields for the purpose of enhanced oil recovery.

- RPS - Eligible renewable resource certification in 2012. The PSC certified NWE's Spion Kop and Black Hills Power's Silver Sage wind projects as eligible renewable resources. Still pending is MDU's petition to certify the Diamond Willow I and II and Cedar Hills wind farms as CREP resources and to certify Diamond Willow II and Cedar Hills as eligible renewable resources.

- Black Hills CREP waiver. Black Hills Power petitioned the PSC in January for a waiver from full compliance with its CREP purchase obligation (estimated to be half a megawatt) for the years 2012-2014.

- Electric City Power – waiver from RPS. ECP failed to acquire sufficient renewable energy credits (RECs) in 2010 to comply with the state's renewable portfolio standard. The PSC in January 2012 accepted ECP's settlement offer to pay a penalty of \$99,120 to the Universal Low-Income Assistance Fund.

# Presentation to Energy and Telecommunications Committee

May 17, 2012

## Renewable Portfolio Standard (RPS) Housekeeping Bill (LCet02)

### Definitions:

“Renewable energy credit” (REC)

Is currently defined as a “tradable certificate of proof”

But the Public Service Commission (PSC) does not receive physical certificates; and  
“Environmental attributes” is more accurate

Because RECs must currently be “tracked and verified” and certified as coming from an eligible resource, RECs should be “tracked and verified” and “certified” by definition;

Defining RECs this way is consistent and simplifies subsequent references to RECs  
“Community renewable energy project” (CREP)

Total *calculated* size requirements (25 MW) should apply equally to “local owners” and public utilities  
Ownership of business entities by Montana residents ( $\geq 50\%$ ) should be *direct* because:

The definition of “local owners” already implies that ownership is direct; and  
“A controlling interest” in the CREP itself may be indirect

Reporting requirements should use a May 1 deadline because:

The current March 1 deadline is not consistent with the current 3 month window to procure RECs;  
The current *de facto* March 31 deadline does not leave enough time (90-day lag) to “track and verify” RECs

Reporting requirements should apply to “electricity suppliers” (in addition to competitive electricity suppliers) because:

The PSC needs data to determine which “electricity suppliers” are “competitive”  
PSC rules already define “electricity suppliers” and require them to report data showing they are not subject to RPS

Waiver petitions need a deadline and clarification of the cost cap because:

Setting a deadline (identical to reporting deadline) will avoid procedural delay;  
PSC rules already set forth four reasons for noncompliance, including the cost cap; and  
The burden to make a cost cap showing in on the petitioner

## REC Cost Cap Bill (LCet03)

Current policy regarding the cost of compliance is inconsistent because:

A waiver is available if *electricity* is 'too expensive'  
RECs alone may be used to comply with the RPS  
But no waiver is available if *RECs* are 'too expensive'

An upper value of \$10 per REC is already implicit in the administrative penalty because:

Currently one can simply pay the administrative penalty instead of paying more than \$10 per REC  
It would be irrational to pay more than \$10 per REC

If one can show that RECs cost more than \$10, this bill would waive the penalty

## Storage Bill (LCet04)

"Eligible renewable resource" should include all electricity storage technologies because:

Reliable electric service requires two things: (1) energy supply; and (2) energy capacity

The RPS mostly recognizes "green" energy supply (wind, solar, etc.)

But the RPS also already recognizes "green" energy capacity provided by compressed air energy storage;

Storage:

Provides "green" energy *capacity* (megawatts), which is distinct from "green" *supply* (megawatt-hour);

Creates environmental attributes (RECs) distinct from those associated with energy supply

"Hydroelectric pumped storage" utilizes existing definitions of "artificial obstruction" and "watercourse" because:

Hydroelectric *supply* is only eligible if it does not require a "new appropriation, diversion or impoundment;"

Hydroelectric *capacity* would almost certainly require a new impoundment or diversion; and

Prohibiting "artificial obstruction" of "watercourses" enables these projects so long as they do not require new dams

"Renewable fraction of output"

Should be housekeeping because it clarifies existing requirement that output be "derived from" other renewables

This requirement ensures that only "green" capacity is considered eligible; but

Would be difficult to enforce without clarification

This definition utilizes RECs to determine what's eligible

## REC Price Reporting Bill (LCet05)

Current RPS only requires reporting REC prices if they are “publicly disclosed”  
But almost no REC prices are publicly disclosed  
Therefore current law is a dead letter; the exception swallows the rule  
REC prices should be publicly disclosed because:  
REC prices are the result of supply and demand;  
The demand for RECs in Montana is mostly created through the RPS; and  
Price transparency will:  
    Promote greater competition and efficiency in REC markets; and  
    Ultimately lower the cost of compliance

**Prepared by:**

Jason T. Brown  
Staff Attorney  
Montana Public Service Commission  
1701 Prospect Avenue, Helena, MT 59620  
(406) 444-6187  
[jbrown4@mt.gov](mailto:jbrown4@mt.gov)