

Montana Consumer Counsel

STATUS OF CASES

July 31, 2023

NORTHWESTERN ENERGY (“NWE”)

NWE Gas Tracker, Docket 2022.07.077.

- August gas tracker filed 7/15/22.
 - o Gas supply rate decrease from \$5.59 to \$5.46
 - o Residential Rate from \$9.55 to \$9.43
- September gas tracker filed 8/15/22.
 - o Gas supply rate increase from \$5.46 to \$6.39
 - o Residential Rate from \$9.43 to \$10.35
- [*Interim Order 7860c* in Docket [2022.07.078](#) issued 9/28/22 approving base rate increase; total residential rate from \$10.35 to \$10.47]
- October gas tracker filed 9/15/22.
 - o Gas supply rate decrease from \$6.39 to \$6.07
 - o Residential Rate from \$10.47 to \$10.15
- November gas tracker filed 10/14/22.
 - o Gas supply rate decrease from \$6.07 to \$5.66
 - o Residential Rate from \$10.15 to \$9.74
- December gas tracker filed 11/15/22.
 - o Gas supply rate decrease from \$5.66 to \$5.44
 - o Residential Rate from \$9.74 to \$9.52
- January gas tracker filed 12/16/22.
 - o Gas supply rate decrease from \$5.44 to \$5.81
 - o Residential Rate from \$9.52 to \$10.12
- February gas tracker filed 1/16/23.
 - o Gas supply rate decrease from \$5.81 to \$5.49
 - o Residential Rate from \$10.12 to \$9.81
- March gas tracker filed 2/15/23.
 - o Gas supply rate decrease from \$5.49 to \$4.87

- Residential Rate from \$9.81 to \$9.19
- April gas tracker filed 3/15/23.
 - Gas supply rate decrease from \$4.87 to \$4.15
 - Residential Rate from \$9.19 to \$8.47
- May gas tracker filed 4/14/23.
 - Gas supply rate decrease from \$4.15 to \$3.15
 - Residential Rate from \$8.47 to \$7.47
- June gas tracker filed 5/15/23.
 - Gas supply rate decrease from \$3.15 to \$2.15
 - Residential Rate from \$7.47 to \$6.47
- Annual Gas Tracker Application filed 5/31/23
 - Gas supply rate decrease from \$2.15 to \$2.87
 - Residential Rate from \$6.47 to \$7.15
- *Interim Order 7894* issued 6/27/23.
- *MCC Notice of Intervention* filed 7/5/23.
- *Procedural Order 7899* issued 7/7/23.

NWE Gas Tracker, Docket 2023.07.068.

- August gas tracker filed 7/13/22.
 - Gas supply rate increase from \$2.87 to \$3.07
 - Residential Rate from \$7.15 to \$7.34

NWE Townsend Propane Annual Adjustment Filing, Docket 2023.05.034, filed 4/28/23.

- *Interim Order 7887* issued 5/23/23.
- *Notice of Application and Intervention Deadline* issued 5/25/23.
- *MCC Notice of Intervention* filed 6/12/23.
- *Procedural Order 7887a* issued 6/21/23.

NWE Application for Approval of an Advanced Metering Opt-Out Tariff, Docket 2022.06.067, filed 6/9/22.

NWE proposes to replace its “voluntary bypass program,” which allows consumers to keep their existing meter, with an opt-out tariff that would require an upfront fee of \$75 per service, plus a monthly fee of \$15 to have NWE read their meter (or \$5 to self-read the meter), and require installation of a new, non-communicating digital meter.

- *Notice of Application and Intervention Deadline* issued 6/17/22.
- *MCC Petition for Intervention* filed 7/1/22; granted 7/15/22.
- *Procedural Order 7857* issued 8/2/22.
- [MCC Direct Testimony of David E. Dismukes](#) filed 10/7/22 recommending waiver of all opt-out fees given the unreasonable cost estimates presented by NWE and the small number of customers affected; that opt-out customers should be encouraged but not required to participate in budget billing; and that no opt-out fees should be approved until NWE's Montana Meter Upgrade Project is complete and more accurate information regarding opt-out costs becomes available.
- *Notice of Public Hearing* issued 12/12/22.
- Hearing held 1/31/23 – 2/1/23; during closing arguments NWE moved for a 90-day stay of the proceedings; MCC opposed.
- *Notice of Commission Action* issued 2/21/23 denying NWE motion for stay and setting briefing schedule.
- *Final Order 7857a* issued 7/24/23, agreeing with MCC that opt-out customers should have the option of either a non-communicating meter or retaining their existing meter; allowing a meter self-reading option as initially proposed by NWE; declining to approve any opt-out fees until the smart meter rollout is complete and actual costs are known; requiring revised tariffs to be filed within 30 days.

NWE Integrated Resource Plan, Docket 2022.11.102.

- *Notice of Filing Integrated Resource Plan* filed 11/23/22 stating NWE will delay filing a final plan until 3/31/23 to allow for consideration of comments from the Electric Technical Advisory Committee.
- *Updated Notice of Filing Integrated Resource Plan* filed 3/13/23 notifying the Commission of a 4/28/23 filing of the plan.
- *Montana Integrated Resource Plan* filed 4/28/23.
- *Notice of 2023 IRP and Opportunity for Public Comment* issued 5/26/23.
- *Notice of Listening Sessions* issued 7/21/23

NWE Application to Increase Retail Electric and Natural Gas Utility Service Rates, Docket 2022.07.078, filed 8/8/22.

NWE requests:

- an increase of \$170,953,381 or 22.4% for electric services, resulting in a typical monthly residential bill increase of \$22.76 or 25.6%;
- an increase of \$22,992,291 or 14.8% for gas services, resulting in a typical monthly residential bill increase of \$7.57 or 11.1%;
- a return on equity of 10.6% for both electric and gas;

- creation of a “Reliability Rider” to track and recover costs for new electric assets as of their in-service date (including the Yellowstone County Generating Station);
 - a redesigned PCCAM with annual adjustments to the PCCAM Base (*see* Docket 2021.04.047), no cost sharing for capacity contracts, and monthly supply rate adjustments;
 - a redesigned decoupling mechanism for transmission, distribution, and fixed generation costs applicable to all customer classes;
 - an update to the step-down ratemaking treatment for its natural gas production assets;
 - escalating revenue requirements for business technology and wildfire mitigation programs;
 - continued retail rate crediting of wholesale revenues;
 - approval to record regulatory assets for Sleepy Hollow and natural gas acquisitions under \$3 million;
 - approval to capitalize demand-side management costs and record an associated regulatory asset;
 - approval of NWE’s proposed depreciation rates, class allocations, rate design, and tariff revisions; and
 - waiver of certain rules and regulations.
- *Notice of Application and Intervention Deadline* issued 8/12/22.
 - *MCC Petition for Intervention* filed 8/25/22; granted 9/13/22.
 - *Procedural Order 7860b* issued 9/14/22; hearing set 4/10/23.
 - *Interim Order 7860c* issued 9/28/22 granting a \$29,356,124 increase for electric service and \$1,727,788 increase for gas service effective 10/1/22 and spread evenly on a percentage basis across all customer classes.
 - On-site audit on 10/11/22 – 10/13/22.
 - *MCC Direct Testimonies of [Ralph C. Smith](#), [David J. Garrett](#), [David E. Dismukes](#) and [George L. Donkin](#)* filed 12/19/22, recommending a revenue increase on the electric side of \$66,703,068 and an increase on the gas side of \$6,657,629 based on a recommended ROE for both electric and gas of 9.0%; recommending rejection of the Reliability Rider and the proposed adjustments to the PCCAM; recommending cancelling the FCRM pilot and denying the Wildfire Mitigation and Business Technology rider proposals; proposing an alternative jurisdictional cost of service methodology and credit; recommending that DSM costs continue to be recovered through the PCCAM subject to sharing.
 - *Amended Procedural Order 7860q* issued 1/30/23; hearing set 4/11/23.
 - *[MCC Cross-Intervenor Testimony of David E. Dismukes](#)* filed 3/6/23, recommending adoption of the Company’s ECOSS, recommending against a minimum system study or zero-intercept study for the next NWE rate case; . A Regulatory Stakeholder Process as proposed by NRDC should not be established. Complicated regulatory issues should be decided through an evidentiary process in front of the Commission.
 - *Notice of Public Hearing* issued 3/24/23.
 - *[Joint Motion to Approve Settlement and Stipulation and Settlement Agreement](#)* filed 4/3/23; electric revenue increase of \$81,906,631 and gas increase of \$18,210,987; ROE of 9.65%

for electric and 9.55% for gas; no Reliability Rider; NWE may request a one-time base PCCAM update and prudence review to recover O&M expenses for YCGS after it is placed into service; any capital cost recovery will be addressed in the next general rate case; additional wildfire mitigation cost may be deferred up to certain amounts for recovery in next rate case; no business technology rider; FCRM is cancelled; no regulatory asset for DSM costs, which will continue to be recovered through the PCCAM; no acquisition premium for Sleepy Hollow; NWE will file a comprehensive JCOSS in its next rate case; Exhibit C to Stipulation filed 4/5/23; Exhibit D to Stipulation filed 4/7/23.

MONTANA-DAKOTA UTILITIES COMPANY (“MDU”)

MDU Application to Increase Retail Electric and Natural Gas Utility Service Rates,
Docket 2022.11.099, filed 11/4/22.

MDU requests an increase of \$10,499,415 or 15.2% over current rates and a 19.2% increase for residential customers based on an ROE of 10.5%.

- *Notice of Application and Intervention Deadline* issued 11/23/22.
- *MCC Petition for Intervention* filed 12/14/22; granted 12/22/22.
- On-site audit on 2/15/23 – 2/17/23.
- *Procedural Order 7876* issued 1/13/23; hearing set 6/20/23.
- *Interim Order 7876a* issued 1/25/23; interim rates effective 2/1/23.
- [MCC Direct Testimonies of Mark E. Garrett, Dr. David E. Dismukes, Dr. J. Randall Woolridge and David J. Garrett](#) filed 4/7/23, recommending an increase of \$4,729,691 or 6.8% over current rates and a 6.2% increase for residential customers based on a 9.1% ROE and certain changes to MDU’s depreciation study; accounting for loss of revenue due to closure of Sydney Sugars plant in April 2023; recommending no increases to fixed customer charges.
- [MCC Cross-Intervenor Testimonies of Mark E. Garrett and Dr. David E. Dismukes](#) filed 5/19/23; responding to the revenue allocation proposals in the *Direct Testimony of Kevin C. Higgins* on behalf of Denbury Onshore, LLC; calculating additional adjustments related to the amortization of retired plant costs and load growth expected to offset the loss of revenue from the Sydney Sugars plant closure; recommending an increase of \$3,556,380.
- *Notice of Public Listening Sessions and Public Hearing* issued 5/26/23 listening sessions held 6/13/23 in Helena and 6/15/23 in Miles City.
- *Stipulation and Settlement Agreement* filed 6/12/23 agreeing to an overall base revenue requirement increase of \$6,100,422; an ROE of 9.65% and the capital structure proposed by MDU; accepting depreciation rates proposed by MCC’s witness; MDU withdraws its request for recovery related to the Heskett IV gas turbine; revenue increase includes \$1.2 million of revenue attributable to annual amortization and return related to retired coal plant deferrals without any agreement as to the starting balance, amortization period or carrying costs; RTO transmission costs will continue to be recovered through base rates and will include offsetting wholesale sales revenues and renewable energy credits; property tax tracker base reset as proposed by MDU.
- *Amended Procedural Order 7876e* issued 6/13/23 vacating hearing.
- *Notice of Listening Session* issued 7/13/23; listening session held 7/25/23 in Sydney.

MDU Electric Tracker (Rate 58), Docket 2023.06.055.

- *Annual Tracker Application* filed 6/16/23, July electric adjustment:
 - o Increase of \$0.00017 secondary.
 - o Total fuel and purchased power in tariff is \$0.02236 /kWh.
- *Interim Order 7895* issued 6/27/23.
- *Notice of Application and Intervention Deadline* issued 7/5/23.
- August electric tracker filed 7/17/23:
 - o Increase of \$0.00102 secondary.
 - o Total fuel and purchased power in tariff is \$0.02338 /kWh.
- *MCC Notice of Intervention* filed 7/24/23.

MDU Gas Tracker Filings (Rate 88), Docket 2022.09.088, filed 9/8/22.

In this annual tracker filing, MDU seeks a residential and firm general customer increase of \$0.847/Dkt, including a \$1.229/Dkt increase in current gas cost and \$0.390 decrease in the unreflected cost component. Total residential rate of \$11.875/Dkt.

- *Interim Order 7863* issued 9/28/22.
- *Notice of Application and Intervention Deadline* issued 9/29/22.
- November gas tracker filed 10/7/22.
 - o Decrease of \$2.599/Dkt for residential and general service.
 - o Total residential rate \$9.276/Dkt.
- *MCC Petition for Intervention* filed 10/12/22; granted 10/19/22.
- *Procedural Order 7863a* issued 10/19/22; testimony was due 11/30/22.
- December gas tracker filed 11/8/22.
 - o Decrease of \$0.382/Dkt for residential and general service.
 - o Total residential rate \$8.894/Dkt.
- January gas tracker filed 12/8/22; no adjustment requested.
- *Default Order 7863b* issued 1/6/23.
- February gas tracker filed 1/6/23.
 - o Decrease of \$0.593/Dkt for residential and general service.
 - o Total residential rate \$8.301/Dkt.
- March gas tracker filed 2/8/23.
 - o Decrease of \$0.379/Dkt for residential and general service.
 - o Total residential rate \$7.922/Dkt.

- April gas tracker filed 3/8/23.
 - o Decrease of \$1.282/Dkt for residential and general service.
 - o Total residential rate \$6.640/Dkt.
- May gas tracker filed 4/7/23; no adjustment requested.
- June gas tracker filed 5/8/23.
 - o Decrease of \$0.414/Dkt for residential and general service.
 - o Total residential rate \$6.226/Dkt.
- July gas tracker filed 6/8/23; no adjustment requested.
- August gas tracker filed 7/7/23.
 - o Increase of \$0.756/Dkt for residential and general service.
 - o Total residential rate \$6.982/Dkt.

MDU Conservation Program Tracking Mechanism (Rate 90), Docket 2023.03.027, filed 3/31/23.

- *Notice of Application and Intervention Deadline* issued 5/11/23.
- *Procedural Order 7891* issued 6/1/23.
- *MCC Unopposed Petition for Late Intervention* filed 6/1/23.

MDU Application to Offer Incentives for Conversion in the Saco/Bowdoin Area, Docket 2021.09.116, filed 9/15/21.

MDU seeks to implement a phased incentive program to provide declining reimbursements for conversion costs for certain customers to convert to alternative fuel sources, and for authority to impose special terms and conditions on customers wishing to continue to receive regulated natural gas distribution service in the Saco/Bowdoin area. Note: MDU's previous *Application for Authority to Discontinue Regulated Natural Gas Distribution in the Saco/Bowdoin Area* filed 9/18/18 was withdrawn by MDU on 12/4/19 (*see* Docket 2018.09.057).

- *Notice of Application and Intervention Deadline* issued 3/28/22.
- *MCC Petition for Intervention* filed 4/22/22; granted 9/2/22.

ENERGY WEST MONTANA & CUT BANK GAS COMPANY

EWM Monthly Gas Tracker, Docket 2023.04.029.

- April gas tracker filed 3/10/23. Residential rate to \$5.68/Mcf.
- May gas tracker filed 4/11/23. Residential rate to \$4.77/Mcf.
- June gas tracker filed 5/10/23. Residential rate to \$4.80/Mcf.
- [July gas tracker filed 6/1/23 in Docket 2023.06.048; residential rate to \$4.57/Mcf].
- August gas tracker filed 7/11/23. Residential rate to \$5.40/Mcf.

EWM Annual Gas Cost Tracker, Docket 2023.06.048, filed 6/1/23.

EWM seeks to true up and finalize its monthly trackers for the year ending 3/31/23, reflecting an over-collection of gas costs of \$717,799 and over-recovery of \$73,935 from prior year amortization, for total proposed decrease of \$791,734.

- *Notice of Application and Intervention Deadline* issued 7/13/23.
- *MCC Notice of Intervention* filed 7/24/23.

EWM Application for Approval of Gas Cost Hedging for West Yellowstone, Docket 2023.06.057, filed 6/29/23.

EWM requests approval of a gas cost hedging plan for its West Yellowstone division, which is served by liquified natural gas. EWM proposes to use financial instruments to stabilize a portion of expected winter gas purchases for West Yellowstone each year.

WATER UTILITIES

High Quality H2O Application to Decrease Water Rates, Docket 2021.06.081.

High Quality requests a 29% residential rate decrease from \$45 per month to \$32 per month, and a commercial rate decrease from \$625 per month to \$600 per month based on an operating ratio methodology.

- *Staff Advisory Letter* issued 6/2/21 notifying High Quality H2O that its standard rates would expire on 7/1/21 (*see* Docket D2018.3.13).
- High Quality H2O *Letter* filed 6/28/21 requesting extension to file a rate application until 12/1/21.
- *Notice of Staff Action* issued 7/23/21 granting extension until 12/1/21.
- High Quality H2O *Letter* filed 11/18/21 requesting a second extension to file a rate application until 3/2/22.
- *Notice of Staff Action* issued 2/11/22 granting extension until 3/31/22.
- High Quality H2O *Application to Decrease Water Rates Pursuant to Operating Ratio Methodology* filed 4/1/22.
- *Notice of Application and Intervention Deadline* issued 5/13/22.
- *MCC Petition for Intervention* filed 5/24/22; granted 6/17/22.
- *Procedural Order 7843* issued 7/7/22.
- [*MCC Testimony of Paul R. Schulz*](#) filed 8/19/22 recommending a residential rate of \$18.33 per month and a commercial rate of \$254.61 per month, and a refund to customers of \$60,375 over the next four years due to excessive standard rates being charged since 10/1/18.
- *Final Order 7843* issued 6/12/23 accepting High Quality's proposed hourly rate and number of hours spent on utility management by utility owners, but without the 25% adder applied to other expenses; agreeing with MCC's adjustment to shared office rental expense; agreeing that consumers overpaid under the standard rates for four years and ordering a refund of \$60,375 (i.e., \$16.77 per month per connection) to consumers over a period of four years; approving residential rate of \$24.43 per month and a commercial rate of \$339.25 per month.

Aquanet, Inc. Application for Standard Rates for Sundance Subdivision, Docket 2021.09.115, filed 9/14/21.

Aquanet requests approval to charge standard rates effective 7/31/21 when it intends to begin offering water services in the Sundance Subdivision.

Aquanet, Inc. Application for an Interim Rate Request for Linlee Lake Estates, Docket 2022.09.085, filed 9/1/22.

Aquanet requests approval to increase rates for water and wastewater service from \$80 per month to \$140 per month effective 12/1/22, a 75% increase.

- *Notice of Application and Intervention Deadline* issued 10/28/22.
- *MCC Petition for Intervention* filed 11/15/22; granted 11/30/22.
- *Procedural Order 7874* issued 12/29/22.
- *Aquanet Unopposed Request to Withdraw Application and Set Interim Rate of \$80/Month* filed 1/26/23.
- *Final Order 7874a* issued 2/27/23; required Aquanet to file a rate application by 6/30/23.
- *Aquanet Unopposed Request for Extension to File Rate Application* filed 5/19/23 requesting an extension to file a rate application until 8/30/23.
- *Order 7874b Granting Extension of Time* issued 6/15/23.

Flathead Utility Company, Inc. Operating Ratio Methodology Request for Rate Increase, Docket 2023.03.024, filed 3/26/23.

Flathead requests water rate increases of 15% for the Hilltop Terrace Subdivision (to \$29 per month) and 18% for the Country Estates Subdivision (to \$30 per month), and initial rates of \$60.00 per month for the Ashley Trail Subdivision.

- *Amended Application* filed 4/11/23.
- *Notice of Application and Intervention Deadline* issued 5/1/23.
- *MCC Petition for Intervention* filed 5/15/23.
- *Procedural Order 7892* issued 6/5/23.
- *Amended Procedural Order 7892a* issued 6/15/23.
- *Amended Procedural Order 7892b* issued 7/27/23.

OTHER

ABACO Propane Cost Tracker, Docket 2023.05.035, filed 5/8/23.

ABACO seeks to decrease the propane supply rate from \$1.5278 to \$0.90/usg during 6/1/23 through 9/30/23; from \$1.5278 to \$1.12/usg during 10/1/23 through 12/31/23; from \$1.5278 to \$1.12/usg during 1/1/24 through 3/31/24; and from \$1.4328 to \$1.12/usg during 4/1/23 through 5/31/23.

- *Notice of Application and Intervention Deadline* issued 5/23/23.
- *Interim Order 7888* issued 5/23/23.
- *MCC Notice of Intervention* filed 6/8/23.
- *Procedural Order 7888a* issued 6/9/23.

Qwest Corporation d/b/a CenturyLink QC Petition for Temporary Waiver, filed 12/9/21, **and Commission Investigation into the Adequacy of Legacy Infrastructure Operated by CenturyLink**, Docket 2021.12.136.

- *Notice of Consolidation and Opportunity to Comment* issued 2/11/22 consolidating with CenturyLink QC Petition for Temporary Waiver in Docket 2021.12.137.
- *Notice of Commission Action and Intervention Deadline* issued 12/10/21 initiating an investigation of service complaints related to outages and access to 911 services in rural areas.
- *MCC Petition for Intervention* filed 1/31/22; granted 2/3/22.
- *Notice of Consolidation and Opportunity to Comment* issued 2/11/22 consolidating with Docket 2021.12.137.
- *Order on Investigative Procedure 7825* issued 2/17/22.
- [MCC Comments](#) filed 2/25/22 requesting additional process.
- *Order 7825a* issued 4/5/22 granting CenturyLink's *Unopposed Request for Extension of Time* to respond to Commission data requests.
- *Order 7825c* issued 5/23/22 resetting deadlines for discovery and to request additional process.
- *Order 7825d* issued 6/3/22 resetting deadlines for discovery and to request additional process.
- *Amended Procedural Order 7825e* issued 8/3/22 extending the deadline for comments or to request additional process.
- *Amended Procedural Order 7825g* issued 9/8/22 extending the deadline for comments or to request additional process.
- [MCC Comments and Request for Further Process](#) filed 9/23/22 recommending denial of CenturyLink's Petition because it has not shown good cause to waive

ARM 38.5.3371(7)(b), which generally requires 90% of out of service trouble reports to be cleared within 24 hours, excluding Sunday.

- [*Affidavit of Robert Loubé*](#) filed 9/30/22 in support of MCC's *Comments*.
- *Notice of Commission Action* issued 11/3/22 ordering CenturyLink to file a proposal within 45 days based on the principles of a stipulation in Wyoming that temporarily subsidized third party-provided service (e.g., satellite service) for certain eligible customers.
- *CenturyLink Proposal for Resolution of Investigation and Petition for Temporary Waiver* filed 12/19/22.
- *Procedural Order 7825h* issued 1/31/23.
- *CenturyLink Request for Extension of Time* filed 3/13/23.
- *Amended Procedural Order 7825i* issued 7/12/23; hearing set 9/11/23.
- *Amended Procedural Order 7825j* issued 7/28/23.

QUALIFYING FACILITIES (“QFs”)

CBC [Third] Petition to Set Terms and Conditions, Docket 2021.12.134, filed 12/1/21.

CBC petitions for contract terms and conditions for two 50 MW wind plus 30 MW battery QFs located in Stillwater and Sweet Grass Counties. It claims an LEO as of 11/17/21 and entitlement to a 20-year contract with capacity rates of \$26.72/kW-month and energy rates of \$55.72/MWh (including a CO₂ adder of \$5.18/MWh) and \$55.17/MWh (including a CO₂ adder of \$5.20/MWh).

- *Notice of Petition and Opportunity to Intervene* issued 12/14/21.
- *MCC Petition for Intervention* filed 12/22/21; granted 1/12/22.
- *Procedural Order 7823* issued 1/12/22; hearing set 4/27/22.
- *Amended Procedural Order 7823a* issued 1/24/22.
- MCC [*Intervenor Testimony of Jaime T. Stamatson*](#) filed 2/18/22 addressing the proper methodology for calculating avoided energy and capacity costs, avoidable costs related to CO₂ emissions, and avoidable costs related to ancillary services.
- *Notice of Public Hearing* issued 3/8/22.
- Hearing held 4/27/22 – 4/28/22.
- *Final Order 7823g* issued 6/16/22 ordering a compliance filing from NWE.
- NWE and CBC motions for reconsideration filed 6/27/22.
- NWE *Compliance Filing* filed 6/30/22 calculating a capacity rate of \$19.91/kW-month; and energy rates of \$13.44/MWh for low load and \$21.66/MWh for high load hours for CBC’s first project, and \$12.44/MWh for low load and \$20.33/MWh for high load hours for CBC’s second project.
- *Order on Reconsideration 7823h* issued 8/18/22 granting in part the NWE and CBC motions for reconsideration.

CBC [Third] Petition for Judicial Review, First Judicial District Cause No. BDV-2022-764, filed 9/15/22.

CBC challenges the Commission’s inclusion of certain resources in NWE’s resource stack; selection of proxy unit; methodology for determining CBC’s capacity contribution; valuation of energy in long hours; use of a declining heat rate; transmission basis differential; avoidable CO₂ costs; and treatment of network upgrade costs.

- o *Judicial Review Petition Briefing Order* issued 10/26/22.
- o Minute Entry issued 12/5/22 resetting oral argument 3/21/23.
- o MCC *Response Brief* filed 1/6/23 addressing issues related to unneeded QF energy and avoidable CO₂ costs.
- o *Order on Additional Evidence Motion* issued 1/10/23; oral argument reset 5/8/23.
- o Oral argument held 5/8/23.

- *Judicial Review Petition Order* issued 7/17/23 agreeing with inclusion of certain resources in NWE's resource stack as of the LEO date; affirming use of the marginal cost to serve load methodology; affirming zero valuation for CBC's unneeded energy; reversing reliance on expert testimony based on material that should have been disclosed; affirming use of NWE's transmission basis differential; affirming rejection of a carbon adder; reversing capacity rate based on an AERO because Commission failed to consider NWE's next planned unit; affirming use of ELCC to calculate CBC's capacity contribution; affirming previous assignment of network upgrades in prior CBC docket.

Consolidated Edison ("CED") Petitions to Set Terms and Conditions, Docket 2019.10.076, filed 10/4/19.

CED filed petitions for three QF projects. For Wheatland Wind, a 73 MW wind project in Wheatland County, CED sought a 25-year contract with an around-the-clock energy rate of \$43.23/MWh, a capacity rate of \$2.22/MWh in all hours, and a CO₂ adder of \$6.27/MWh beginning 1/1/28.

- *Notice of Petition and Opportunity to Intervene* issued 10/10/19.
- *MCC Petition for Intervention* filed 10/24/19.
- *Procedural Order 7702* issued 10/31/19.
- *NWE Intervenor Testimony* filed 12/23/19: Proposes avoided energy cost of \$15.86/MWh, avoided capacity cost of \$10.70/MWh for on-peak production, integration costs of (\$12.43)/MWh, and interconnection network upgrade costs of \$(159.91)/MWh, for total avoided cost of \$(156.48)/MWh off-peak and \$(145.78)/MWh on-peak. Asserts that new 230 kV line costing \$237 million would be required for interconnection.
- [*MCC Testimony of Jaime Stamatson*](#) filed 12/23/19: supports hourly version of PowerSimm to calculate avoided energy costs; accepts Wheatland's assumed avoided capacity cost value of \$176.40/kw-year; recommends Wheatland retain all renewable energy credits to account for all environmental attributes, including speculative CO₂ costs; supports a 15 year contract length as reasonably long-term while minimizing ratepayer risk; supports using NWE's Open Access Transmission Tariff ("OATT") to calculate ancillary service costs.
- Hearing held 2/10/19 – 11/20/19.
- *Final Order 7702b* issued 4/22/20 finding the price terms proposed by CED were substantially higher than any recent avoided cost determinations, were not consistent with NWE's avoided costs, and no LEO was established; listing several factors that may have contributed to the divergence; NWE failed to adequately address questions related to PowerSimm dispatching resources out of merit so it cannot be relied upon to develop avoided costs in this case; similarly rejects CED's proposed proxy for calculating avoided cost, so neither party has met a burden of proof; determines a reciprocating internal combustion engine ("RICE") unit should be used to determine avoided costs; avoided energy cost is \$24.18/MWh; adopts 5% capacity factor resulting in \$11.04/MWh capacity payment in on-peak hours; rejects CO₂ cost adder as unsupported and speculative; QF is

responsible for project network upgrade costs; NWE's OATT should be used to calculate ancillary service costs; adopts 15 year contract length.

- *CED Motion for Reconsideration* filed 5/1/20.
- *NWE Motion for Reconsideration* filed 5/4/20 regarding uncompensated curtailment provisions.
- *Order on Reconsideration 7702c* issued 7/13/20 affirming finding that no LEO was established but finding that "affirmative determination" of NWE's avoided cost at time of contract tender would be reasonable; estimates CED's avoided cost request in September 2019 was 42% higher than costs and affirms finding of no LEO; CED's use of PowerSimm results suffer from same criticism it levels at NWE's use of those results; reaffirms use of proxy method as most supported in record; reverses recognition of light and heavy load hours and sets energy costs solely on fuel and variable O&M costs of the proxy; substitutes buildout of DGGS for a RICE and adopts CED's gas price forecast; calculates avoided energy cost of \$24.99/MWh for 15 year contract; affirms 5% capacity contribution; reaffirms CO₂ cost treatment and interconnection cost findings; reaffirms 15 year contract length.

CED Complaint and Petition for Judicial Review, First Judicial District Cause No. ADV-2020-1292, filed 8/11/20.

CED claims the Commission set unreasonable and unlawful terms and conditions for the contract between CED and NWE.

- o *NWE Motion to Dismiss* filed 9/2/20.
- o *Order Consolidating Cases with CED Teton, DDV-2020-1367* issued 10/5/20.
- o *Order Denying Motions to Dismiss* issued 10/5/20.
- o *Order on Petitions for Judicial Review* issued 4/19/21 reversing the finding of no LEO based on *MTSUN, LLC v. Mont. Dept. of Pub. Serv. Regulation*, 2020 MT 238, 401 Mont. 324, 472 P.3d 1154; affirming the energy and capacity rates set by the Commission; affirming the decisions regarding network upgrades, ancillary services, contract length, and uncompensated curtailment; and reversing the decision regarding CO₂ costs because the Commission conceded this issue on appeal.

CED Appeal to Montana Supreme Court, Case No. DA 21-0250, filed 5/24/21.

- o *CED Opening Brief* filed 8/2/21.
- o Commission, NWE, and MCC response briefs filed 10/1/21; MCC argued that QF projects should not cost ratepayers more than they would otherwise pay for power and that the evidence supported a 15-year contract length for CED.
- o *CED Reply Brief* filed 10/20/21.
- o *CED Wheatland Wind, LLC v. Mont. Dep't of Pub. Serv. Regulation*, 2022 MT 87, 408 Mont. 268, 509 P.3d 19 issued 5/10/22, reversing the decision to assign all network upgrade costs to CED and ordering a "proportionality analysis" on remand; remanding the calculation of energy rates based on the proxy method to allow

parties to present their own estimates based on the proxy method; affirming the Commission's decisions regarding ancillary services and contract length.

- *Procedural Order 7702d* issued 7/28/22; hearing set 2/27/23.
- *Notice of Technical Workshop* issued 8/18/22; held 8/24/22.
- *Notice of Public Hearing* issued 2/7/23.
- Hearing held 2/27/23 – 2/28/23.

Jawbone Holdings, LLC Petition to Set Terms and Conditions, Docket 2020.12.126, filed 12/30/20.

Jawbone petitions for contract terms and conditions for an 80 MW wind project located near Harlowton. It claims an LEO as of 12/21/20 and entitlement to a 25-year contract with a capacity rate of \$6.29/MWh and an energy rate of \$38.76/MWh (including a CO₂ adder of \$2.25/MWh).

- *Notice of Petition and Opportunity to Intervene* issued 1/5/21.
- *MCC Petition for Intervention* filed 1/15/21; granted 1/22/21.
- *Procedural Order 7768* issued 1/22/21. Hearing set 5/10/21.
- NWE testimony filed 3/3/21, calculating rates of \$24.67/MWh off-peak and \$35.54/MWh on-peak.
- [MCC Testimony of Jaime T. Stamatson](#) filed 3/3/21: it is preferable to calculate avoided cost of energy based on marginal cost to serve load methodology; capacity contribution should be based on 5% of nameplate; Jawbone should retain its RECs to compensate for CO₂ values; 25-year contract is risky, and 15-year contracts are shown to be sufficient; agrees that ancillary service costs should be based on NWE's FERC tariffs.
- Hearing held 5/10/21 – 5/11/21.
- *Final Order 7768a* issued 10/29/21; finding NWE's avoided cost of energy in "Condition 3" is zero; using the four-year forward market price forecast and transmission basis differentials proposed by NWE; holding Jawbone responsible for currently unknown transmission upgrade costs; approving rates only for firm transmission service; approving a CO₂ adder of \$2.25/MWh and a 20-year contract length; and setting other miscellaneous contract terms.
- *Jawbone Motion for Reconsideration* and *NWE Motion for Reconsideration and Clarification* filed 11/8/21.
- *Order on Reconsideration 7768b* issued 1/26/22 denying both motions for reconsideration.

Jawbone Petition for Judicial Review, First Judicial District Cause No. CDV 2022-161, filed 2/25/22.

Jawbone challenges multiple findings in *Final Order 7768a*, including decisions related to the avoided cost of energy and interconnection costs.

- o *Judicial Review Petition Briefing Order* issued 3/28/22.

- *Jawbone Opening Brief* filed 4/29/22.
- MCC and NWE response briefs filed 5/31/22.
- *Jawbone Combined Reply Brief* filed 6/17/22.
- *NWE Notice of Filing of Proposed Order and Proposed Order on Petition for Judicial Review* filed 9/22/22.
- Oral argument held 9/29/22.
- *Jawbone Motion for Disqualification, Notice of Filing of Proposed Order and Proposed Order on Petition for Judicial Review; and PSC Notice of Filing of Proposed Order and Proposed Order on Petition for Judicial Review* filed 10/13/22.
- *Jawbone Motion for Oral Arguments* filed 11/17/22.
- *Order on Motion for Oral Arguments* issued 11/18/22.

Colstrip Energy Limited Partnership’s Petition to Set Terms and Conditions,
Docket 2022.07.073, filed 7/1/22.

CELP petitions for contract terms and conditions for the 42 MW coal refuse-fired Rosebud Power Plant located near Colstrip, MT. It claims an LEO as of 4/29/22 for a capacity rate of \$27.30/kW-month with variable energy rates.

- *Notice of Petition and Intervention Deadline* issued 7/13/22.
- *MCC Petition for Intervention* filed 7/28/22; granted 8/3/22.
- *NWE Motion to Dismiss* filed 7/28/22; CELP response brief filed 8/4/22; *NWE Reply Brief* filed 8/9/22.
- *Procedural Order 7859* issued 8/11/22; hearing set 12/13/22.
- *Order 7859a on Motion to Dismiss* issued 8/23/22 denying *NWE Motion to Dismiss*.
- [*MCC Intervenor Testimony of Jaime T. Stamatson*](#) filed 9/16/22 proposing to use locational marginal prices in the western energy imbalance market for energy rates; to use an aeroderivative turbine as the proxy resource for capacity rates; and to use NWE's Open Access Transmission Tariff (“OATT”) for ancillary services.
- *Notice of Public Hearing* issued 11/10/22.
- Hearing held 12/13/22 – 12/15/22.
- [*MCC Response Brief*](#) filed 2/22/23 addressing ancillary service costs.
- *Final Order 7859i* issued 5/19/23; finding CELP created an LEO on 4/29/22; approving YCGS as a proxy to set avoided capacity payments and a locational marginal price in the western energy imbalance market to set avoided energy payments; a contract length of 18.5 years; and use of the OATT to set ancillary service charges.
- *Order 7859j on Join Motion for Extension of Time* issued 5/26/23.

Trident Solar, LLC Petition to Set Terms and Conditions, Docket 2023.01.013, filed 1/24/23.

Trident petitions for contract terms and conditions for an 80 MW solar project with a 40 MW battery located near Three Forks, MT. It claims an LEO as of 9/29/21 and requests a 20-year contract with a capacity rate of \$186,153.96/MW-year (escalated for actual inflation until Trident's actual commercial operation date) and a fixed energy rate of \$28.70/MWh around the clock.

- *Notice of Petition and Intervention Deadline* issued 1/30/23.
- *MCC Petition for Intervention* filed 2/13/23; granted 2/21/23.
- *Procedural Order 7881* issued 2/23/23; hearing set 5/24/23.
- *Notice of Public Hearing* issued 4/27/23.
- NWE and Trident *Notice of Settlement & Unopposed Motion to Vacate Hearing* filed 5/23/23.
- *Order 7881c* issued 5/23/23 granting *Motion to Vacate Hearing* and directing NWE and Trident to file a settlement and proposed contract within 60 days.
- *Order 7881d Granting Motion for Extension of Time* issued 7/21/23.