

Montana Consumer Counsel

STATUS OF CASES

August 19, 2022

NORTHWESTERN ENERGY (“NWE”)

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 setting intervention deadline of 9/1/22.

[pause for questions]

NWE Application for Preapproval of Beartooth Energy Storage Agreement,
Docket [2021.11.132](#), filed 12/21/21.

NWE requests preapproval of a 20-year Energy Storage Agreement (“ESA”) with Beartooth Energy Storage, LLC for energy, capacity and ancillary services from a 50-MW, 4-hour battery facility. NWE asks the Commission to find that adding the ESA to its supply portfolio is in the public interest and that tracking associated costs through the PCCAM will result in just and reasonable rates.

- *Notice of Application and Intervention Deadline* issued 1/11/22.
- *MCC Petition for Intervention* filed 1/31/22; granted 2/7/22.
- *Order 7824* issued 2/4/22 finding Application satisfies minimum filing requirements; finding that extraordinary circumstances (i.e., “a novel technology that may require novel modeling”) justify extending the 270-day deadline by an additional 90 days; identifying four additional issues: (1) the total gross cost of the contract, including estimates of energy purchases and transmission costs; (2) the estimated impact of the ESA on the net costs of the PCCAM; (3) costs associated with the ESA that should be recovered through the generation revenue requirement instead of the PCCAM; and (4) the value of ancillary services that should be allocated to wholesale customers.
- *Procedural Order 7824a* issued 2/14/22; hearing set for 8/23/22.
- *NWE Additional Issues Testimony* filed 3/8/22; estimated annual gross cost of Beartooth project is \$6,576,925; offset by “discharging revenue” estimated increase to PCCAM Base is \$4,141,352; all costs should be recovered through the PCCAM, which no longer reflects current market conditions and needs to be re-designed; value of credits from wholesale customers will not change as a result of Beartooth project and no costs of Beartooth project should be allocated to wholesale customers.
- *MCC [Direct Testimony of David E. Dismukes](#) filed 5/3/22* recommending denial of the proposed acquisition at this time because the Beartooth project is not cost effective compared to alternatives analyzed by the RFP administrator, and elements of the proposal are premised on the addition of generating units that have not been determined to be cost effective or used and useful; recommending the Commission decline to address PCCAM design in this proceeding because there is no proposal for a new or re-designed PCCAM.
- Fourth Judicial District Court *Order* issued 5/6/22 granting Plaintiffs’ motion for summary judgment in Cause No. DV-32-2021-0000684-IJ because the preapproval statute grants an irrevocable special privilege to NWE and constitutes a “special act” in violation of Article 2, section 31 (“No ... law ... making any irrevocable grant of special privileges ... shall be passed by the legislature.”) and Article 5, section 12 (“The legislature shall not pass a special or local act when a general act is, or can be made, applicable.”).
- *NWE Motion to Suspend Procedural Schedule* filed 5/13/22.
- *Amended Procedural Order 7824b* issued 5/20/22 suspending the procedural schedule.
- *NWE Motion to Hold Docket in Abeyance* filed 5/27/22 pending the outcome of NWE’s appeal of the Fourth Judicial District Court *Order* to the Montana Supreme Court (filed 6/17/22, DA 22-0319) “or the institution of another legal avenue to proceed with the present application.”

- Broad Reach Power, LLC *Motion to Dismiss* filed 6/3/22.
- NWE *Notice of Status of Appeal* filed 6/17/22 to Montana Supreme Court, Case No. DA 22-0319.

NWE Annual PCCAM Filing, Docket [2021.09.112](#), filed 8/31/21.

Through this annual filing NWE tracks incremental electric supply power costs. It calculates an annual deferred account balance of \$19,925,599 to be amortized over 12 months. With other adjustments (which reduce the request to \$18,056,581 million), NWE calculates a typical monthly residential bill increase of \$1.85 or 2.01%. NWE also requests approval to enter certain off-system fixed price hedging transactions.

- *Notice of Application and Intervention Deadline* issued 9/7/21.
- *MCC Petition for Intervention* filed 9/28/21.
- *Procedural Order 7816* issued 11/23/21; hearing set for 4/19/22.
- MCC [Direct Testimony of David E. Dismukes](#) filed 1/21/22; recommending rejection of hedging proposal because it lacks specific details, places considerable performance risk on ratepayers, includes questionable incentives to reduce hedging losses, and the need for it is questionable at this time; also recommending a small increase to forecasted DSM spending for the 2021-2022 tracking period but removal of \$2.5 million from the forecast to better reflect historical spends during the past three tracking periods.
- *Notice of Public Hearing* issued 3/1/22.
- NWE *Rebuttal Testimony* filed 3/4/22 opposing proposed adjustment to DSM forecast and supporting hedging request to allow forward fixed-price purchase transactions at Mid-C.
- Hearing held 4/19/22.

[pause for questions]

NWE Gas Tracker, Docket [2021.07.098](#).

- August gas tracker filed 7/15/21.
 - o Gas supply rate increase from \$3.26 to \$3.49.
 - o Residential Rate from \$7.32 to \$7.55.
- September gas tracker filed 8/16/21.
 - o Gas supply rate increase from \$3.49 to \$3.78.
 - o Residential Rate from \$7.55 to \$7.83.
- October gas tracker filed 9/15/21.
 - o Gas supply rate increase from \$3.78 to \$4.33.

- Residential Rate from \$7.83 to \$8.39.
- November gas tracker filed 10/15/21.
 - Gas supply rate increase from \$4.33 to \$4.41.
 - Residential Rate from \$8.39 to \$8.47.
- December gas tracker filed 11/15/21.
 - Gas supply rate decrease from \$4.41 to \$4.24.
 - Residential Rate from \$8.47 to \$8.30.
- January gas tracker filed 12/15/21.
 - Gas supply rate decrease from \$4.24 to \$3.98.
 - Residential Rate from \$8.30 to \$7.95.
- February gas tracker filed 1/14/22.
 - Gas supply rate increase from \$3.98 to \$4.26.
 - Residential Rate from \$7.95 to \$8.23.
- March gas tracker filed 2/15/22.
 - Gas supply rate decrease from \$4.26 to \$4.20.
 - Residential Rate from \$8.23 to \$8.17.
- April gas tracker filed 3/15/22.
 - Gas supply rate increase from \$4.20 to \$4.65.
 - Residential Rate from \$8.17 to \$8.63.
- May gas tracker filed 4/15/22.
 - Gas supply rate increase from \$4.65 to \$5.65
 - Residential Rate from \$8.63 to \$9.63
- June gas tracker filed 5/13/22.
 - Gas supply rate increase from \$5.65 to \$6.65
 - Residential Rate from \$9.63 to \$10.63
- Annual Gas Tracker filed 5/31/22.
 - July gas supply rate decrease from \$6.65 to \$5.59.
 - Residential Rate from \$10.63 to \$9.55.
- *Interim Order 7842* issued 6/14/22.

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 decrease from \$5.46 to \$6.39
 - o Residential Rate from \$9.43 to \$10.35

NWE Request for Partial Waiver of In-Person Notice, Docket [2021.08.109](#), filed 8/19/21.

NWE requests a waiver of the physical “door tag” notice requirement related to termination of service and instead allow other methods of communication such as email and certified mail; NWE cites cost savings, customer security, employee safety, and the Montana Metering Upgrade Project as reasons to do so.

- *Notice of Application and Intervention Deadline* issued 9/14/21.
- *MCC Petition for Intervention* filed 10/5/21; granted 10/15/21.
- *Procedural Order 7812* issued 10/26/21.
- *Amended Procedural Order 7812a* issued 12/21/21.
- MCC [Direct Testimony of Paul R. Schulz](#) filed 1/12/22 opposing the requested waiver; noting the purpose of in-person notice is to protect the health and welfare of affected customers and none of the reasons given for the waiver support that goal; concluding that NorthWestern’s cost-benefit analysis is incomplete and does not support the requested waiver.
- *Amended Procedural Order 7812b* issued 2/3/22; hearing set for 4/5/22.
- *Amended Procedural Order 7812c* issued 2/14/22.
- *Notice of Public Hearing* issued 2/28/22.
- NWE Rebuttal Testimony filed 3/11/22 presenting a comparison to disconnection procedures in South Dakota; re-calculating potential savings in order to account for the costs of certified mail that would still be incurred; proposing two-year “pilot” during which waiver would be fully in effect for all customers, followed by a report on the effectiveness of the new methods of communication.
- Hearing held 4/5/22.
- *Amended Procedural Order 7812d* **issued 5/19/22**.
- *Final Order 7812e* **issued 7/11/22** denying NWE’s request because there is not good cause to grant either the requested waiver or a “pilot” waiver for only one utility; changes to the rule should apply evenly to all utilities and customers in Montana.

NWE Townsend Propane Annual Adjustment Filing, Docket [2022.04.053](#), filed 4/29/22.

- NWE *Amended Application* filed 5/20/22 correcting presentation errors not affecting the proposed rates.
- *Interim Order 7838* issued 5/26/22.
- *Notice of Application and Intervention Deadline* issued 6/3/22.
- *MCC Petition for Intervention* filed 6/17/22; granted 6/20/22.
- *Notice of Commission Action* issued 7/6/22 appointing a hearing examiner from Agency Legal Services in the Montana Department of Justice to administer this docket.
- *Procedural Order 7838* issued 7/26/22.
- *Order Vacating Prehearing Conference 7838b* issued 7/28/22.

NWE Application for Emergency Authority to Operate and Acquire the Sleepy Hollow Oil and Gas System, Docket [2022.04.051](#), filed 4/29/22.

- *Order to Show Cause 7833* issued 4/28/22 based on Sleepy Hollow's unresponsiveness to PSC pipeline safety staff and recordkeeping failures beginning in 2020, operational challenges due to the bankruptcy of its parent company in 2021, and its failure to bill for gas service since January 2022; ordering Sleepy Hollow to provide certain information, including information about current operations and maintenance activities, unpaid debts, and other liabilities.
- *Interim Order 7833a* issued 5/6/22 granting NWE's request to act as operator of Sleepy Hollow pursuant to Sleepy Hollow's existing tariff for a period of 90 days.
- *Notice of Application and Intervention Deadline* issued 5/13/22.
- *MCC Petition for Intervention* filed 5/24/22.
- *Procedural Order 7833b* issued 5/27/22.
- *Amended Procedural Order 7833c* issued 6/13/22.
- *Notice of Public Hearing* issued 7/7/22.
- Hearing held 7/26/22.

NWE Application for Approval of Corporate Restructuring, Docket [2022.06.064](#), filed 6/1/22.

NWE proposes to make its state utility operating divisions separate, wholly-owned subsidiaries of a newly formed holding company, and to replace the 2004 Bankruptcy Stipulation with this Restructuring Plan.

- *Notice of Application and Intervention Deadline* issued 6/14/22.
- *MCC Petition for Intervention* filed 6/28/22; granted 7/1/22.
- *Procedural Order 7854* issued 7/28/22.

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.

Havre Pipeline Annual Gas Tracker, Docket [2022.08.079](#), filed 7/29/22.

Total gas supply rate increase from \$1.5171/Mcf to \$2.8752/Mcf, effective 10/1/22.

[pause for questions]

MONTANA-DAKOTA UTILITIES COMPANY (“MDU”)

MDU Electric Tracker (Rate 58), Docket [2021.06.091](#), filed 6/16/21.

- July electric tracker filed 6/18/21.
 - o Increase of \$0.00226 secondary.
 - o Total fuel and purchased power in tariff is \$0.02241 /kWh.
- *Notice of Application and Intervention Deadline* issued 6/24/21.
- *Interim Order 7789* issued 6/30/21.
- *MCC Petition for Intervention* filed 7/8/21; granted 7/30/21.
- *Procedural Order 7789a* issued 7/30/21.
- August electric tracker filed 7/16/21.
 - o Decrease of \$0.00693 secondary.
 - o Total fuel and purchased power in tariff is \$0.01548/kWh.
- September electric tracker filed 8/18/21.
 - o Increase of \$0.00621 secondary.
 - o Total fuel and purchased power in tariff is \$0.02169/kWh.
- October electric tracker filed 9/17/21.
 - o Increase of \$0.00071 secondary.
 - o Total fuel and purchased power in tariff is \$0.0224/kWh.
- November electric tracker filed 10/15/21.
 - o Decrease of \$0.00088 secondary.
 - o Total fuel and purchased power in tariff is \$0.02152/kWh.
- December electric tracker filed 11/17/21.
 - o Increase of \$0.0386 secondary.
 - o Total fuel and purchased power in tariff is \$0.02538/kWh.
- January electric tracker filed 12/17/21.
 - o Decrease of \$0.00065 secondary.
 - o Total fuel and purchased power in tariff is \$0.02473/kWh.
- February electric tracker filed 1/17/22.
 - o Increase of \$0.00346 secondary.
 - o Total fuel and purchased power in tariff is \$0.02819/kWh.
- March electric tracker filed 2/15/22.
 - o Increase of \$0.00181 secondary.

- Total fuel and purchased power in tariff is \$0.03000/kWh.
- April electric tracker filed 3/17/22.
 - Decrease of \$0.00046 secondary.
 - Total fuel and purchased power in tariff is \$0.02954/kWh.
- May electric tracker filed 4/15/22.
 - Decrease of \$0.00316 secondary.
 - Total fuel and purchased power in tariff is \$0.02638/kWh.
- June electric tracker filed 5/17/22.
 - Decrease of \$0.00319 secondary.
 - Total fuel and purchased power in tariff is \$0.02319/kWh.

MDU Electric Tracker (Rate 58), Docket [2022.06.070](#), filed 6/16/22.

- July electric tracker:
 - Decrease of \$0.00152 secondary.
 - Total fuel and purchased power in tariff is \$0.02167 /kWh.
- *Notice of Application and Intervention Deadline* issued 6/24/22.
- *Interim Order 7844* issued 6/30/22.
- *MCC Petition for Intervention* filed 7/8/22.
- August electric tracker filed 7/15/22.
 - Decrease of \$0.00257 secondary.
 - Total fuel and purchased power in tariff is \$0.01910/kWh.
- *Procedural Order 7844a* issued 8/12/22.

MDU Gas Tracker Filings (Rate 88), Docket [2021.09.113](#), filed 9/8/21.

In this annual tracker filing, MDU seeks a residential and firm general customer increase of \$1.262/Dkt, consisting of a \$0.352/Dkt increase in current gas cost and \$0.971 increase in the unreflected cost component. Total residential rate of \$7.920/Dkt.

- *Interim Order 7807* issued 9/28/21.
- *Notice of Commission Action* issued 9/28/21 appointing a hearings examiner to be assigned by DOJ's Agency Legal Services Bureau.
- November gas tracker filed 10/8/21.
 - Increase of \$0.260/Dkt for residential and general service.
 - Total residential rate \$8.18/Dkt.

- *Initial Procedural Order* issued 10/15/21.
- *Procedural Order* issued 11/5/21.
- December gas tracker filed 11/8/21.
 - o Increase of \$0.271/Dkt for residential and general service.
 - o Total residential rate \$8.45/Dkt.
- *Amended Procedural Order* issued 11/8/21.
- *MCC Petition for Intervention* filed 11/9/21.
- January gas tracker filed 12/8/21.
 - o Decrease of \$0.534/Dkt for residential and general service.
 - o Total residential rate \$7.92/Dkt.
- February gas tracker filed 1/7/22; no adjustment requested.
- March gas tracker filed 12/8/22.
 - o Decrease of \$0.263/Dkt for residential and general service.
 - o Total residential rate \$7.65/Dkt.
- *Proposed Final Order 7807b* issued 2/15/22.
- April gas tracker filed 3/8/22.
 - o Increase of \$0.265/Dkt for residential and general service.
 - o Total residential rate \$7.92/Dkt.
- *Notice of Commission Action* issued 3/9/22 adopting *Final Order 7807b*.
- May gas tracker filed 4/8/22.
 - o Increase of \$0.829/Dkt for residential and general service.
 - o Total residential rate \$8.75/Dkt.
- June gas tracker filed 5/6/22.
 - o Increase of \$1.454/Dkt for residential and general service.
 - o Total residential rate \$10.20/Dkt.
- July gas tracker filed 6/8/22.
 - o Increase of \$0.789/Dkt for residential and general service.
 - o Total residential rate \$10.99/Dkt.
- August gas tracker filed 7/8/22.
 - o Decrease of \$1.321/Dkt for residential and general service.
 - o Total residential rate \$9.67/Dkt.
- September gas tracker filed 8/8/22.
 - o Increase of \$1.358/Dkt for residential and general service.

- Total residential rate \$11.028/Dkt.

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**.

MDU Application for an Accounting Order, Docket [2021.12.138](#), filed 12/21/21.

MDU requests deferred accounting treatment for unknown investigation and remediation costs associated with a manufactured gas plant site previously owned by MDU in Missoula, Montana. MDU expects its remediation costs to be in the range of \$265,000 to \$1,250,000.

- *Notice of Application and Intervention Deadline* issued 1/11/22; stating, "When considering MDU's Application, the Commission will evaluate whether ... (5) the recovery of the deferred costs in future rates is probable."
- *MCC Petition for Intervention* filed 1/31/22; granted 2/15/22.
- *Procedural Order 7830* issued 3/10/22; hearing set for 8/11/22.
- *Amended Procedural Order 7830b* **issued 4/29/22**.
- *MCC Testimony of Paul R. Schulz* **filed 5/6/22** not opposing MDU's *Application* under the traditional four-part test for accounting orders but opposing the addition of a fifth element to the test (i.e., that recovery of the deferred costs in future rates is probable).
- *MDU Status Update and Unopposed Request for Relief* **filed 6/20/22**.
- *Final Order 7830c* **issued 7/27/22** granting MDU's request for deferred accounting under the traditional four-part test.

MDU Conservation Program Tracking Mechanism (Rate 90), Docket [2022.03.021](#), filed 2/28/22.

- *Notice of Application and Intervention Deadline* issued 3/11/22.
- *MCC Petition for Intervention* filed 3/24/22; granted 3/31/22.
- *Procedural Order 7832* **issued 4/27/22**.

ENERGY WEST MONTANA & CUT BANK GAS COMPANY

EWM Monthly Gas Trackers, Docket [2022.04.052](#), filed 4/27/22.

- Corrected May gas tracker filed 5/26/22. Residential rate to \$8.33/Mcf.
- June gas tracker filed 5/26/22. Residential rate to \$9.53/Mcf.
- July gas tracker filed 6/28/22. Residential rate to \$8.24/Mcf.
- August gas tracker filed 7/27/22. Residential rate to \$7.86/Mcf.

EWM Annual Gas Cost Tracker, Docket [2022.06.065](#), filed 6/1/22.

EWM seeks to true up and finalize its monthly trackers for the year ending 3/31/22, reflecting an over-collection of gas costs of \$58,831 and over-refund of \$29,337 from prior year amortization, for a net over-collection of \$29,494.

- *Notice of Application and Intervention Deadline* issued 6/17/22.
- *MCC Petition for Intervention* filed 7/1/22; granted 7/7/22.
- *Procedural Order 7855* issued 8/1/22.

EWM Application to Amend Intercompany Line of Credit, Docket [2022.07.072](#), filed 6/30/22.

EWM seeks to increase its intercompany line of credit from \$10 million to \$15 million and to extend its term to 9/1/27 due to increases in the price of natural gas, short-term working capital requirements, and the seasonality of EWM's revenues; anticipates closing costs of \$19,000 potentially allocable to EWM customers.

- *Notice of Application and Intervention Deadline* issued 7/28/22.
- *MCC Petition for Intervention* filed 8/10/22; granted 8/11/22.
- *Procedural Order 7858* issued 8/11/22.

WATER UTILITIES

North Star Development Application for Water and Sewer Rate Increase, Docket [2010.06.060](#), filed 1/23/19.

This rate case application results from the Commission's notification that North Star must file for replacement of its standard rates previously approved. Following two amendments to its application, North Star requests an increase to flat rates for water from \$40/month to \$297.70/month and sewer rates from \$30.00/month to \$189.76/ month, for total rate of \$487.46/month.

- *Notice of Application and Intervention Deadline* issued 1/30/19.
- *MCC Petition for Intervention* filed 2/20/19.
- North Star amended application filed 3/25/19 based on an engineering report.
- *Notice of Commission Action* issued 4/24/19; found North Star's Application failed to satisfy minimum filing requirements because it did not report cost of net utility plant in service; allowed 30 days to refile and suggests considering operating ratio method.
- *Notice of Staff Action* issued 5/17/19 extending refile deadline to 6/22/19.
- North Star *Supplementation of Application* filed 6/21/19.
- *Notice of Application and Intervention Deadline* issued 7/24/19.
- *Procedural Order 7105d* issued 8/21/19.
- MCC [Testimony of Paul Schulz](#) filed 11/13/19; recommended overall revenue requirement of \$231,873, resulting in combined water and wastewater rate of \$49.72/month, plus \$2/1000 gallons over 10,000; removes management fee for partner no longer with North Star; adjusted rate case expense to original estimate based on imprudence of expenditures; opposed "unregulated" charge for use over 20,000 gallons; supported \$1.2 million original cost rate base with \$123,678 deduction for hay field not used for service; proposed 10 year amortization for Aqua Flo \$195,000 prepayment; explained why taxes should not be allowed for pass-through entities; recommended 2% equity capital structure and 9.8% ROE.
- Hearing held 1/29-30/20.
- *Final Order 7105f* issued 9/8/20; rebuttable presumption that utility investment was recovered through lot sales need not be applied in this case; general discussion of ratemaking principles and formulas; evidence indicates substantial portion of initial investment was recovered through lot sales and gross plant is now \$1,211,762; 55.79 acre hay ground included in rate base as it was required by DEQ permitting; approves \$26,497 depreciation expense based on non-land portion of plant; adopts 23% equity capital structure and 9.8% return on equity; affirms practice of disallowing income tax recovery for pass-through entities; rate case expense was increased 3 times from \$30,000 to \$85,000+; rate case expense was not prudently incurred and is set at \$30,000; rate case expense should be amortized over rate application time periods which is 5 years in this case; amortizes Aqua Flo \$195,000 payment over 40 years; accepts volumetric rate of

\$2.00/1000 gallons over 10,000; orders revenue requirement of \$232,201; rates of \$55.93/month + \$2.00/1000 gallons over 10,000.

- North Star *Combined Water and Sewer Service Tariff* filed 9/30/20.

North Star Petition for Judicial Review, First Judicial District Cause No. ADV-2020-1703, filed 10/2/20.

- o PSC *Motion to Dismiss* filed 10/23/20.
- o North Star *Amended Complaint* filed 11/12/20.
- o PSC *Renewed Motion to Dismiss* filed 12/28/20.
- o MCC *Motion to Intervene* filed 1/22/21.
- o *Order on Motion to Dismiss* granting dismissal issued 3/15/21.

North Star Appeal to Montana Supreme Court, Case No. DA 21-0224, filed 5/12/21.

- o North Star *Opening Brief* filed 8/19/21.
- o PSC *Answer Brief* filed 10/18/21.
- o North Star *Reply Brief* filed 10/29/21.
- o *North Star Dev., LLC v. Montana Pub. Serv. Comm'n*, 2022 MT 103, 408 Mont. 498, 510 P.3d 1232 issued 5/31/22, affirming the District Court's dismissal of North Star's *Petition for Judicial Review* because a motion for reconsideration is "a mandatory prerequisite for exhaustion of available administrative remedies before a final PSC contested case decision or order is ripe for judicial review."

Investigation of Rules, Practices, and Adequacy of Service of North Star Development, LLC, Docket [2020.09.094](#), initiated 9/1/20.

- *Emergency Order to Show Cause 7744* issued 9/1/20; recites complaints and Commission understanding of service issues; concludes that Commission has insufficient facts to determine if water shut-off on 8/30 was the result of unavoidable accident or emergency sufficient to excuse service failure; orders 9/11/20 hearing to determine whether service failure and water restrictions violate 69-3-210, whether penalties are warranted, and appropriate actions.
- *Order 7744a* issued 9/8/20; requiring filing of witness information and books and records in possession of North Star relating to several specified questions pertaining to the investigation.
- Hearing held 9/11/20.
- North Star Motion filed 9/24/20, seeking authority to impose water use restriction fines of \$50 x multiple of yearly offenses, plus \$100/1000 gallons over 22,000.
- *Final Order 7744b* issued 1/13/21; Commission found temporary cessation of service was not caused by unavoidable accident or emergency; NS has long been aware of summer water constraints and at same time reduced maintenance services; cessation of service

constitutes a violation of obligation to serve; \$1000 fine assessed, but payment suspended for one year conditioned on good faith investigation into service improvements and no cessation of service; post-hearing requests for overuse fines and inverted rates are outside hearing record; appropriate to leave docket open and broaden inquiry into long term service ability of NS and status of water rights.

- *Notice of Commission Action* issued 6/30/21; directing North Star to address certain issues by 7/7/21 and listing five additional topics for future consideration.
- *Notice of Commission Action* issued 7/28/21; directing the parties to meet and confer regarding outstanding service quality issues; stating the Commission will consider next steps if the parties cannot reach an agreement by 8/2/21.
- *Notice of Commission Action* issued 8/5/21; directing North Star to address its purported supply or delivery problem by: (a) securing two distribution pumps by 8/6/21; (b) reporting on these efforts by 8/9/21; (c) implementing an odd-even day watering schedule, which allows watering up to thirty minutes per day at ten gallons per minute, effective immediately through 9/30/21; and (d) address longer-term solutions regarding metering, supply, delivery, and notice by 4/1/22.
- *North Star Report as Directed by PSC Notice* filed 8/9/21 attesting to ordering of pumps and installation of signs advertising new watering restrictions to homeowners.
- *North Star Report* filed 8/10/21 attesting to installation of new distribution pump.
- *North Star Report on Second Distribution Pump* filed 8/18/21 stating intention to keep the even-odd watering schedule in place for the foreseeable future.
- *North Star Report on Replacement of Defective Registers* filed 9/21/21 attesting to replacement of 75 defective water meters and inability to replace 18 meters.
- *North Star Report on Progress Made in October 2021* filed 11/1/21.
- *North Star Request for Resolution of the Irrigation Water Issue* filed 11/10/21.
- *Notice of Commission Action* regarding the irrigation issue issued 11/17/21.
- *North Star Report on Progress Made in November 2021* filed 11/30/21.
- *North Star Supplemental Report on Progress Made in November 2021* filed 12/5/21.
- *North Star January Progress Report to the PSC Along With Its Response to Ben Reed's Six Questions* filed 1/31/22.
- *North Star February Progress Report to the PSC Along With Its Response to Zach Rogala's Questions* filed 2/14/22; proposing an even/odd watering restriction.
- *Notice of Commission Action* issued 3/22/22 allowing an opportunity to comment on North Star's even/odd watering restriction proposal; *Commission Request for Information letter* also issued 3/22/22 requesting information about well production, supply capabilities, the number of customers served, metered usage, and expected usage in 2022.
- *North Star Report No. 1, Report No. 2 Made in Response to Request For Information Letter, and Comments on PSC Notice* filed 3/24/22.
- *North Star Report No. 3 Made In Response to Request For Information Letter* filed 3/29/22.

- North Star additional *Comments on PSC Notice* filed 3/31/22.
- North Star *Summer of 2022 Water Use Policy* filed 5/4/22 limiting lawn sprinkling to eight hours every other day during the summer watering season.
- North Star *May 2022 Report* filed 5/19/22.
- North Star *Notice of Change in Ownership* filed 5/27/22.

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.

Moonlight Basin Water & Sewer, LLC Application to Increase Rates by Operating Ratio Methodology, Docket [2021.09.121](#), filed 9/29/21.

Moonlight Basin requests a rate increase for water and sewer services from \$51.62 to \$66.90 per month based on an operating ratio methodology.

- *Notice of Application and Intervention Deadline* issued 11/24/21.
- *MCC Petition for Intervention* filed 12/20/21; granted 12/23/21.
- *Procedural Order 7821* issued 12/23/21.
- *Amended Procedural Order 7821a* issued 2/14/22.
- *Moonlight Basin Amendment to Application and Request for Extension of Deadline* filed 3/11/22.
- *Amended Procedural Order 7821b* issued 3/14/22.
- *Moonlight Basin Notice of Submission of Revised Application Documents* filed 3/18/22.
- *Order 7821c* issued 4/21/22 approving a rate of \$57.83 per SFE per month and penalties for violations of lawn sprinkling restrictions effective 5/1/22.

[pause for questions]

Circle H Water, Inc. Operating Ratio Application, Docket [2020.07.081](#), filed 7/17/20.

Circle H has been operating with interim standard rates and was required to submit this rate application. Circle H requests that rates be increased in phases with an initial increase from \$50 to \$67.56/month for 12 months and then to \$85.12/month for a total 70% increase.

- *Notice of Application and Intervention Deadline* issued 9/8/20.
- *MCC Petition for Intervention* filed 9/18/20.
- *Procedural Order 7752* issued 10/15/20.
- *Amended Procedural Order 7752* issued 11/18/20.
- MCC [Comments](#) filed 11/25/20; stating the operating ration method (“ORM”), which includes a 25% adder to operating expenses, was intended as an alternative to a traditional rate filing after three years of “standard” rates; ORM was intended to address situations where rate base could not be established, and depreciation expense was never intended to be a component of the operating expenses under the ORM.
- MCC [Request for Additional Process](#) filed 12/9/20.
- *Proposed Final Order 7752b* issued 2/10/21 approving rate of \$31.71/month.
- *Final Order 7752c* issued 5/27/21; excluding depreciation from the ORM calculation and approving a rate of \$31.71 per month effective 4/1/21.
- Circle H *Motion for Reconsideration* filed 6/3/21; deemed denied 6/23/21.
- PSC *Staff Letter* sent 7/2/21 informing Circle H of future ratemaking options.

Wettington Water District, Inc., Application for Standard Rates, Docket [2015.10.082](#), filed 10/19/15.

Wettington requested standard tariff rate of \$50 per month.

- MCC filed [Comments](#) 11/23/15; asserting utilities must be in compliance with annual report requirement to adopt standard tariffs and while Wettington filed an annual report it is unclear that sufficient information has been provided for the PSC to appropriately analyze the Company’s financial status; PSC may deny adoption if utility has been operating pursuant to commission-approved rates and determines it would be unjust and unreasonable to approve adoption of standard rate.
- *Notice of Commission Action* issued 12/22/15: approval of partial increase to \$42.50/month, based on MCC comments and failure to meet all DEQ testing requirements.
- Procedural Order No. 7502 issued 8/2/16.
- MCC [Testimony of Paul Schulz](#) filed 9/19/16; reviewed recently filed annual reports for 2012-2015 to identify trends and changes, did not receive complete responses to data requests; several unanswered questions remain, which makes it difficult to establish just and reasonable rates; to reduce regulatory process, recommends the Commission finalize the \$42.50 rate; Wettington can apply for the \$50 rate when it has more support.

- *Notice of Commission Action* issued 2/10/17, agreeing not enough info to support \$50 rate, and continuing \$42.50 rate.
- Commission 3-year compliance letter sent 8/9/18, advising that rate filing would be due 10/1/18.
- *Order to Show Cause* issued 1/11/19, stating that Wetington has not responded to 3-year notice, and has not responded to pressure and water quality complaint notices. Wetington must respond to complaints and file rate application by 2/6/19.
- *Notice of Commission Action* issued 3/1/19, extending show cause response date to 5/30/19.
- *Notice of Commission Action* issued 11/5/19, extending show cause response date to 12/20/19.
- *Order to Show Cause 7755* issued 10/22/20, requiring filing by 11/30/20 of 2016-2019 annual reports, either a standard rate application or operating ratio method application, and confirmation that MDEQ issues have been resolved.
- Wetington request to increase rates from \$42.50/month to \$50/month received 11/30/20.
- *Notice of Application and Intervention Deadline* issued 12/21/20.
- *MCC Petition for Intervention* filed 1/8/21; granted 1/14/21.
- *Procedural Order 7755a* issued 1/21/21; PSC and MCC issued data requests in 2/21.

OTHER

ABACO Energy Services Application to Establish Service Rates, Docket [2020.07.082](#), filed 7/16/20.

ABACO seeks authority to establish service rates and terms and conditions for propane service at Big Sky Montana Mountain Village. ABACO seeks to set rates consistent with 2007 agreement with Boyne USA, Inc. Requested non-commodity revenue requirement is \$1,002,177 (64% increase) and rates are \$1.3179/gallon for Residential and \$1.1733/gallon for Commercial, plus a \$7.50/month Residential fixed charge.

- *Notice of Application and Intervention Deadline* issued 8/12/20.
- *MCC Petition for Intervention* filed 8/31/20.
- *Procedural Order 7747* issued 10/1/20.
- *Amended Procedural Order 7747a* issued 10/19/20. Hearing set 4/26/21.
- *Amended Procedural Order 7747b* issued 10/19/20. Hearing remains 4/26/21.
- MCC [testimony](#) filed 1/25/21; David Garrett recommended 9.0% ROE and capital structure of 49% debt, 51% equity for a 7.42% rate of return; Paul Schulz recommended revenue requirement of \$459,877, a \$6.50 monthly fixed charge and volumetric non-commodity rate of \$.54373 per gallon.
- [Stipulation and Settlement Agreement](#) filed 4/28/21; agreed to annual revenue requirement of \$580,000; agreed to a fixed charge of \$7.00/month and single volumetric rate of \$0.69/gallon for all customers effective 6/1/21; gas supply rate will continue to be set annually through RFP process; unless there is a material change to its customer base, ABACO agrees to not request any increase to customer charge or non-commodity rate until June 30, 2023 or later.
- *Procedural Order 7747h* issued 9/27/21.
- MCC [Comments](#) on ABACO's Propane Tariff Proposal and alternative supply tariff proposal filed 10/8/21.
- *Final Order 7747i* issued 12/2/21 approving the Stipulation and MCC's alternative supply tariff; allowing additional process on the remainder of ABACO's tariffs; and requiring ABACO to make a filing regarding the location of its facilities by 6/30/25.
- *ABACO Proposed Tariff* filed 4/8/22.
- *Order 7747j Approving Tariffs* issued 5/10/22.

ABACO Propane Cost Tracker, Docket [2022.07.075](#), filed 7/1/22.

ABACO seeks to increase the propane supply rate from \$0.94 to \$1.5356/usb during 6/1/22 through 9/30/22, from \$0.9825 to \$1.5356/usb during 10/1/22 through 12/31/22, from \$0.9825 to \$1.5356/usb during 1/1/23 through 3/31/23, and from \$0.9250 to \$1.4406/usb during 4/1/23 through 5/31/23; ABACO also seeks a \$0.0056/usb increase to reflect a \$4,455 under-collection from the previous tracking period.

- *Notice of Application and Intervention Deadline* issued 7/28/22.
- *MCC Petition for Intervention* filed 8/11/20; granted 8/15/22.
- *Procedural Order 7853a* issued 8/15/22.

PSC Investigation into Modernizing Telecommunications Regulation, Docket [2021.10.125](#).

Notice of Opportunity to Comment issued 10/28/21 inviting comments on ten specific questions and the issues of regulatory oversight by the Commission and changes to applicable rules and statutes as topics of interest.

Qwest Corporation d/b/a CenturyLink QC Petition for Temporary Waiver, Docket [2021.12.137](#), filed 12/9/21.

- *Notice of Consolidation and Opportunity to Comment* issued 2/11/22 consolidating with Docket 2021.10.136.

PSC Investigation into the Adequacy of Legacy Infrastructure Operated by Qwest Corporation d/b/a CenturyLink QC, Docket [2021.12.136](#).

- *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 2021.10.137.
- *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 PSC 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.

Air Voice Wireless, LLC Application for Designation as an Eligible Telecommunications Carrier, Docket [2022.04.048](#), filed 4/1/22.

- *Notice of Commission Action and Intervention Deadline* issued 5/6/22.
- *MCC Petition for Intervention* filed 5/20/22; granted 6/3/22.
- *Procedural Order 7840* issued 6/6/22.

[pause for questions]

QUALIFYING FACILITIES (“QFs”)

Caithness Beaver Creek, LLC (“CBC”) [Second] Petition to Set Terms and Conditions, Docket [2019.06.034](#), filed 6/12/19.

CBC petitioned for contract terms and conditions for a 60 MW wind plus 20 MW battery QF project located in Sweetgrass and Stillwater Counties claiming an LEO as of 5/2/19. CBC sought a 25-year contract with avoided cost rates of \$58.18/MWh in heavy load hours and \$38.46/MWh in light load hours for energy, leveled capacity prices of \$152.07/kWh/year, and a total around-the-clock rate of \$49.10/MWh. Note: CBC’s First *Petition to Set Terms and Conditions* was resolved by *Final Order 7628b* issued 3/28/19 (see Docket [D2018.8.52](#)).

- *Notice of Petition and Opportunity to Intervene* issued 6/18/19.
- *MCC Petition for Intervention* filed 7/1/19; granted 7/2/19.
- NWE testimony filed 8/21/19, calculating rates of \$6.75/MWh Light Load hours, and \$20.25/MWh Heavy Load hours based on the marginal cost to serve load methodology.
- MCC [Testimony of Jaime T. Stamatson](#) filed 8/21/19: noted concerns with use of Typical Meteorological Year data to model avoided cost of energy and that the model results were double recent determinations of avoided energy cost; observes that the avoided cost of capacity value used is dated and that there is a wide discrepancy in capacity contribution estimates; supports measure and pay approach for avoided cost of capacity; urges CO₂ cost estimates not be added but project owners retain the REC values; states 25-year contracts are risky for ratepayers and provides examples of 15-year term agreements.
- Hearing held 10/21-24/19.
- *Final Order 7680b* issued 12/9/19; adopts avoided energy cost methodology of hourly modeling and marginal cost to serve load; rejects NWE’s use of declining heat rate to forecast electricity prices; adopts NWE’s use of forward electricity market prices through 2015 but then uses EIA Annual Energy Outlook Henry Hub escalator to forecast; finds that including battery operation in the avoided cost models would have had minimal effects; finds that avoided sales transmission costs are moot as a result of using marginal cost to serve load methodology; avoided cost estimates should include projects upon earlier of execution of PPA or filing of petition with the Commission; CBC failed to support claimed operation of its batteries; adopts undisputed capacity value of \$176.44/kW-year; rejects both parties’ capacity contribution calculations and determines for first three years value will be 5% of 120 MW after which NWE shall true up payments if capacity exceeds 5% of nameplate and thereafter use application of SPP method to actual capacity; finds CO₂ costs already incorporated in forward market prices; finds CBC responsible for \$5.1 million network upgrade costs; approves use of OATT for ancillary service costs but requires NWE to establish standards to qualify for self-supply; sets contract length of 20 years based on need to enhance financing of “unique and unproven nature of this project”; CBC failed to establish an LEO; orders NWE to submit a compliance filing.
- *CBC Motion for Reconsideration* filed 12/19/19.
- *NWE Motion for Clarification and Reconsideration* filed 12/19/19.

- *Order on Reconsideration 7680c* issued 2/7/20; reaffirms with further explanation adoption of hourly modeling and marginal cost to serve load methodology; reaffirms with further explanation finding that battery operation had not been shown to impact avoided cost rate; modifies forward market price period from 6 years followed by energy information agency escalation rate to 4 years followed by escalation; affirms remainder of *Final Order 7680b*.

CBC [First] Petition for Judicial Review, First Judicial District Cause No. CDV 2020-290, filed 3/9/20.

- o District Court *Order on Petition for Judicial Review* issued 12/2/20: CBC incurred an LEO as of 6/12/19 despite disagreement over price terms; adoption of hourly modeling was arbitrary and capricious because prior commission criticisms of transparency had not been satisfied; using marginal cost to serve load approach was arbitrary because the commission had not explained its departure from valuing Condition 3 at market price; must include CO₂ adder of \$3.03/MWh; it was erroneous to use precedent of 4-year market forwards because CBC had presented evidence that markets are illiquid after two years; Commission ignored record evidence on transmission differentials for energy sales and must base such adjustments on historical data; Commission arbitrarily excluded batteries from the avoided cost calculation; Commission is limited to a quasi-judicial function in reviewing petitions between QFs and utilities and may only make determinations about controversies; determination regarding default capacity contribution therefore exceeded statutory authority; commission acted properly in applying interim FERC OATT rates for ancillary services; 20-year contract term affirmed.
- Commission *Order on Remand 7680d* issued 8/9/21; declining requests to re-open the record to accept new evidence on remand issues; ordering the use of market prices in “Condition 3”; declining to remove Grizzly and Black Bear Wind from the avoided cost modeling; adopting CBC’s battery modeling; ordering the use of actual, historic charges to calculate transmission basis differential; adopting NWE’s default capacity contribution and proposal to use 5-year rolling average based on the SPP method; approving a CO₂ adder of \$3.03/MWh (later corrected to \$2.25/MWh).
- *Order on Reconsideration of Order on Remand 7680e* issued 11/4/21 denying CBC’s *Motion for Oral Argument* and *Motion to Strike*; granting in part NWE’s *Motion for Reconsideration*; rejecting both compliance filings and ordering NWE to make a new compliance filing within 14 days.

CBC [Second] Petition for Judicial Review and Request for Enforcement of Court Order, First Judicial District Cause No. CDV 2020-290, filed 12/6/21.

CBC challenges the market forward curves and number of trading days used on remand, as well as a “Condition 2” error that the Commission ordered be corrected on remand.

- o *Order Setting Briefing Schedule and Oral Argument* issued 2/2/22
- o Oral argument held 4/21/22.
- o *Order on Second Petition for Judicial Review* issued 5/9/22 directing the Commission to use CBC’s eleven trading days from April 2019 that are already in the record on remand; affirming the use of NWE’s workbook to avoid the “Condition 2” error contained in CBC’s workbook.

- *Procedural Order 7680g* issued 7/13/22.

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 for 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.

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.

- *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.

- *CED Opening Brief* filed 8/2/21.
 - 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.
 - *CED Reply Brief* filed 10/20/21.
 - *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 for 2/27/23.

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 for 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 and 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.

NWE Application for Approval of QF Interconnection Procedures and Agreements, Docket [2021.08.106](#), filed 8/4/21.

NWE requests approval to implement specific procedures and agreements controlling interconnection of QFs to NWE's system.

- *Notice of Application and Intervention Deadline* issued 8/17/21.
- *MCC Petition for Intervention* filed 8/30/21; granted 9/2/21.
- *Procedural Order 7810* issued 10/6/21.
- *QF Intervenors' Motion for Reconsideration of Procedural Order* filed 10/6/21.
- *QF Intervenors' Motion to Immediately Stay Procedural Order 7810* filed 11/5/21.
- *QF Intervenors' Motion to Dismiss* filed 11/19/21.
- *Order on Motions to Dismiss and Stay 7810a* issued 1/6/22 denying both motions.
- *QF Intervenors' Motion for Reconsideration of Order No. 7810A* filed 1/18/22; deemed denied 2/7/22.
- *Amended Procedural Order 7810b* issued 2/4/22.
- *NWE Direct Testimony* filed 2/11/22.
- *QF Intervenors' Testimony* filed 3/25/22.
- *Notice of Public Hearing* issued 4/22/22.
- *Modified Procedural Order 7810d* issued 5/9/22.
- *NWE Motion to Suspend and Request for a Status Conference* filed 5/12/22.
- *Amended Procedural Order 7810e* issued 5/13/22 suspending procedural deadlines and vacating hearing.
- *NWE Notice of Withdrawal of Application* filed 6/6/22.

NWE Revisions to QF-1 Tariff based on Senate Bill 201, Docket [2021.09.111](#), filed 8/31/21.

NWE proposes that if it is subject to real and actual costs for compliance with environmental regulations and/or laws, then small QFs may elect to receive a bonus or adder provided it enters into a separate agreement to convey all RECs to NWE.

- *Notice of Application and Intervention Deadline* issued 9/10/21.
- *MCC Petition for Intervention* filed 9/24/21; granted 9/27/21.
- *Procedural Order 7815a* issued 11/23/21.
- *Procedural Order 7815b* issued 12/6/21.
- *Amended Procedural Order 7815c* issued 12/22/21.
- *Amended Procedural Order 7815d* issued 1/27/22.
- *Final Order 7815e* issued 3/17/22 finding that SB 201 cannot be applied retroactively and dismissing NEW's filing without prejudice; also finding that even if SB 201 could be applied retroactively, it is substantially aligned and consistent with the existing QF-1 CO₂ adder that was approved prior to the effective date of SB 201.
- [MCC](#) and NWE motions for reconsideration filed 3/28/22 requesting reconsideration of findings about SB 201 being consistent with the existing CO₂ adder that was approved prior to the effective date of SB 201; NWE also requested reconsideration of the dismissal itself.
- *Order on Reconsideration 7815f* issued 4/19/22 striking findings related to the existing CO₂ adder but declining to reconsider the dismissal itself.

NWE Petition for Rulemaking to Amend ARM 38.5.1902, 1903, & 1905 to Require Variable Avoided Cost Energy Rates, Docket [2021.09.118](#), filed 9/8/21.

NWE petitions the Commission to initiate a rulemaking to reflect recent changes to FERC rules allowing avoided energy costs to be calculated only at the time of delivery, resulting in more accurate avoided cost rates over the term of the contract.

- *Notice of Opportunity for Informal Comment* issued 11/22/21.
- *Procedural Order 7819* issued 12/10/21.
- MCC [Comments](#) filed 12/23/21 supporting initiation of a rulemaking proceeding to allow variable energy avoided cost rates.
- *Notice of Public Hearing on Proposed Adoption and Amendment* issued 8/4/22 proposing to incorporate current federal rules and definitions, to require that energy rates paid to QFs be calculated at the time of delivery (i.e., variable), to allow voluntary mediation between utilities and QFs, to modify the test for creation of a legally enforceable obligation, to require any party using a proprietary model to perform one additional model run for each party using that party's inputs and assumptions.

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.
- *Procedural Order 7859* issued 8/11/22; hearing set for 12/13/22.

[pause for questions]