

Montana Consumer Counsel

STATUS OF CASES

December 6, 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.
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- *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.

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; opening brief due 12/19/22.
- *Final Order 7824c* issued 10/18/22 granting Broad Reach's *Motion to Dismiss* and denying NWE's motions to suspend and hold in abeyance because the Application relies on a statute that has been found to be unconstitutional.

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.
- *Final Order 7816b* issued 8/17/22 granting NWE's Application and its request to restart a hedging program; requiring hedging to be limited to NWE's forecasted on-peak load projected by month and to not exceed the forecasted monthly shortfall; prohibiting entering into off-system hedges more than one year in advance and hedges longer than one quarter in duration; requiring NWE to track all expenses associated with the hedging program in addition to any cost savings or losses and report on hedging every six months.
- [MCC Motion for Reconsideration](#) filed 8/29/22; deemed denied after 20 days.

NWE Annual PCCAM Filing, Docket [2022.09.083](#), filed 8/31/22.

- *Notice of Application and Intervention Deadline* issued 9/8/22.
- *MCC Petition for Intervention* filed 9/23/22; granted 9/29/22.
- *Procedural Order 7868* issued 10/5/22 (testimony was due 12/2/22).

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.
 - o Residential Rate from \$7.83 to \$8.39.
- November gas tracker filed 10/15/21.
 - o Gas supply rate increase from \$4.33 to \$4.41.
 - o Residential Rate from \$8.39 to \$8.47.
- December gas tracker filed 11/15/21.
 - o Gas supply rate decrease from \$4.41 to \$4.24.
 - o Residential Rate from \$8.47 to \$8.30.
- January gas tracker filed 12/15/21.
 - o Gas supply rate decrease from \$4.24 to \$3.98.
 - o Residential Rate from \$8.30 to \$7.95.
- February gas tracker filed 1/14/22.
 - o Gas supply rate increase from \$3.98 to \$4.26.
 - o Residential Rate from \$7.95 to \$8.23.
- March gas tracker filed 2/15/22.
 - o Gas supply rate decrease from \$4.26 to \$4.20.
 - o Residential Rate from \$8.23 to \$8.17.
- April gas tracker filed 3/15/22.
 - o Gas supply rate increase from \$4.20 to \$4.65.
 - o Residential Rate from \$8.17 to \$8.63.
- May gas tracker filed 4/15/22.
 - o Gas supply rate increase from \$4.65 to \$5.65
 - o 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.
- *Notice of Application and Intervention Deadline* issued 8/26/22.
- *MCC Petition for Intervention* filed 9/16/22; granted 9/21/22.
- *Procedural Order 7842* issued 9/26/22 (testimony was due 11/18/22).

NWE Gas Tracker, Docket [2022.07.077](#).

- August gas tracker filed 7/15/22.
 - Gas supply rate decrease from \$5.59 to \$5.46
 - Residential Rate from \$9.55 to \$9.43
- September gas tracker filed 8/15/22.
 - Gas supply rate increase from \$5.46 to \$6.39
 - 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.
 - Gas supply rate decrease from \$6.39 to \$6.07
 - Residential Rate from \$10.47 to \$10.15
- November gas tracker filed 10/14/22.
 - Gas supply rate decrease from \$6.07 to \$5.66
 - Residential Rate from \$10.15 to \$9.74
- December gas tracker filed 11/15/22.
 - Gas supply rate decrease from \$5.66 to \$5.44
 - Residential Rate from \$9.74 to \$9.52

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 Motion for Final Order* filed 8/3/22.
- Hearing Examiner's *Proposed Order* filed 8/22/22 approving *Amended Application*.
- *Notice of Commission Action* issued 9/22/22 adopting *Proposed Order*.

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.
- *Final Order 7833d* issued 10/3/22 approving NWE's acquisition of Sleepy Hollow's natural gas system.

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.

- [MCC Direct Testimony of Ralph C. Smith](#) filed 9/23/22 recommending more than two dozen ring fencing conditions, including certain dividend restrictions and the creation of a special purpose entity to maintain the bankruptcy remoteness of the Montana utility.

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.

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.

- *Notice of Application and Intervention Deadline* issued 9/1/22.
- *MCC Petition for Intervention* filed 9/16/22; granted 10/24/22.
- *Interim Order 7870* issued 10/20/22.
- *Procedural Order 780a* issued 10/24/22; testimony due 12/7/22.

MONTANA-DAKOTA UTILITIES COMPANY (“MDU”)

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

- July electric tracker:
 - o Decrease of \$0.00152 secondary.
 - o 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.
 - o Decrease of \$0.00257 secondary.
 - o Total fuel and purchased power in tariff is \$0.01910/kWh.
- September electric tracker filed 7/17/22.
 - o Increase of \$0.00505 secondary.
 - o Total fuel and purchased power in tariff is \$0.02415/kWh.
- *Procedural Order 7844a* issued 8/12/22.
- October electric tracker **filed 9/16/22**.
 - o Increase of \$0.00011 secondary.
 - o Total fuel and purchased power in tariff is \$0.02426/kWh.
- November electric tracker **filed 10/17/22**.
 - o Decrease of \$0.00172 secondary.
 - o Total fuel and purchased power in tariff is \$0.02254/kWh.
- December electric tracker **filed 11/17/22**.
 - o Increase of \$0.00088 secondary.
 - o Total fuel and purchased power in tariff is \$0.02342/kWh.

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.
- *Final Order 7832a* **issued 8/17/22**.

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**.

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.

MDU Annual Avoided Cost Update (Rate 93), Docket [2022.10.093](#), **filed 10/12/22**.

This filing updates MDU's energy and capacity payments under its avoided cost tariff.

MDU Annual Tax Tracker, Docket [2022.10.092](#), **filed 11/23/22**.

Through this annual filing MDU tracks incremental state and local property taxes. It calculates an increase in revenues of \$954,348 for electric and a decrease of \$473,869 for gas, resulting in a 1.45% increase for residential electric service and 0.39% decrease for residential gas service.

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.

- *Notice of Application and Intervention Deadline* issued 11/23/22.

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.
- September gas tracker **filed 8/29/22**. Residential rate to \$7.29/Mcf.
- October gas tracker **filed 9/30/22**. Residential rate to \$6.79/Mcf.
- November gas tracker **filed 10/25/22**. Residential rate to \$7.10/Mcf.
- December gas tracker **filed 11/17/22**. Residential rate to \$7.41/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.
- *Default Order 7855a* **issued 9/22/22**.

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.
- *Final Order 7858a* **issued 9/1/22**.

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.

- *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.

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.

Flathead Utility Company, Inc. request to approve utility sale and transfer, Docket [2022.09.086](#), filed 9/5/22.

- *Notice of Application and Intervention Deadline* issued 10/25/22.
- *MCC Petition for Intervention* filed 11/4/22; granted 11/22/22.
- *Procedural Order 7872* issued 11/28/22.

OTHER

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/usg during 6/1/22 through 9/30/22, from \$0.9825 to \$1.5356/usg during 10/1/22 through 12/31/22, from \$0.9825 to \$1.5356/usg during 1/1/23 through 3/31/23, and from \$0.9250 to \$1.4406/usg during 4/1/23 through 5/31/23; ABACO also seeks a \$0.0056/usg 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.
- *Stipulation for Propane Cost Tracker* filed 10/24/22 agreeing to remove certain administrative and legal expenses and correct the calculation of carrying costs.

Qwest Corporation d/b/a CenturyLink QC Petition for Temporary Waiver, filed 12/9/21, and **PSC 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 2021.10.137.
- *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.
- *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 Loube](#) 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.

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.
- *Final Order 7840b* issued 9/14/22.

PSC Order to Show Cause to Town of Saco Municipal Gas, Docket [2022.10.096](#), issued 10/20/22.

Based on representations of pipeline safety staff, the Commission found recordkeeping violations and ordered the Town of Saco to, within 90 days, develop a plan to cure all recordkeeping deficiencies, show that it maintains necessary equipment, and work with a third-party engineering firm to attempt to secure funding for future engineering and technical assistance.

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 setting deadlines for a NWE compliance filing reflecting the District Court Order and for parties to object.
- *NWE Compliance Filing* filed 7/25/22.
- *CBC Objection to NWE's Compliance Filing* filed 8/3/22.
- *Order on Objection 7680h* issued 10/5/22 overruling CBC's *Objection* and ordering NWE to submit a new compliance filing based on 10 PowerSimm runs and forward market data from the 11 trading days identified by CBC from 4/19 through 12/21.

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.
- *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 11/30/22.

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.

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.

- *NWE Motion to Dismiss* filed 9/2/20.
- *Order Consolidating Cases with CED Teton, DDV-2020-1367* issued 10/5/20.
- *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.
 - *Notice of Technical Workshop* issued 8/18/22; held 8/24/22.
 - NWE and CED direct testimonies filed 9/14/22.

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.
- o *Jawbone Opening Brief* filed 4/29/22.
- o MCC and NWE response briefs filed 5/31/22.
- o *Jawbone Combined Reply Brief* filed 6/17/22.
- o *NWE Notice of Filing of Proposed Order and Proposed Order on Petition for Judicial Review* filed 9/22/22.
- o 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.

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.
- [MCC Comments](#) filed 9/2/22 supporting the proposed rule amendments allowing variable avoided cost energy pricing.
- *Notice of Adoption and Amendment* published 9/23/22.

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 for 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 for ancillary services.
- *Notice of Public Hearing* issued 11/10/22.