

Energy & Telecommunications Committee

September 8, 2020

Public Service Commission Update

Chairman Bob Lake

(DRAFT submitted September 4, 2020)

**Status of dockets**

**1. NorthWestern Energy**

CU4 Capacity Acquisition – Docket 2019.12.101

- At its business meeting on August 25, the Commission issued a new procedural order for this proceeding—Order7717i. The proceeding had been suspended since July 14, pending NorthWestern’s submission of a final purchase and sale agreement reflecting Talen’s exercise of its right of first refusal under the pre-existing agreement among the plant owners.
- The new procedural order sets a public hearing date starting December 14, 2020, with intervenor testimony due on September 25, and rebuttal and cross intervenor testimony due on November 12.

Investigation of the Impacts of COVID-19 on FCRM – Docket 2020.05.064

- Concurrent with its approval of a 4-year pilot Fixed Cost Recovery Mechanism (i.e., decoupling) in its final order on NorthWestern’s electric rate case, the Commission also initiated a separate docket to investigate the implications of the COVID-19 pandemic on implementation of the FCRM (Docket 2020.05.064).
- On July 14, the Commission granted a motion by NorthWestern to suspend implementation of the FCRM by one year due to uncertainty related to COVID-19 and the outcome of the Commission’s investigation docket. In granting the suspension, the Commission directed NorthWestern to implement “shadow accounting” that would show what the FCRM adjustment would have been had the mechanism not been suspended.
- At its business meeting on August 18<sup>th</sup>, the Commission established requirements for NorthWestern to file certain information in February 2021 to enable the Commission to determine whether further delaying the implementation is warranted.
- On August 27, NorthWestern filed a request for reconsideration and clarification regarding the timeframe for submitting the Commission-ordered information and the scope of DSM program information.
- At its business meeting this morning, the Commission \_\_\_\_\_.

NorthWestern PCCAM – Docket 2019.09.058 – no new information from August update.

NorthWestern Petition for Accounting Order for COVID-19 Costs – Docket 2020.05.066

- On May 29, 2020, NorthWestern petitioned the Commission for an accounting order to allow it to track incremental bad debt costs associated with the impacts from the COVID-19 pandemic and to make investments needed to fund pension obligations.
- If granted, an accounting order would not guarantee cost recovery, but allow NorthWestern to record expenses for inclusion in a future rate application.
- The MCC opposes granting the accounting order and on August 19 requested that the Commission allow oral arguments.
- At its business meeting on September 1, the Commission granted the MCC's request for oral arguments. The oral argument will occur on September 10<sup>th</sup>, at 10:00 a.m.

NorthWestern Update of Standard QF Rates – Docket 2019.09.059

- The Commission appointed a hearing examiner to conduct the public hearing in this proceeding in May.
- Post-hearing briefing has been completed.
- On August 24, the Montana Supreme Court issued its decision regarding the Commission's decisions in NorthWestern's last QF-1 proceeding—Docket 2016.05.039.
- The Supreme Court generally upheld a district court decision finding that the Commission arbitrarily and unlawfully calculated avoided energy and capacity costs, excluded a carbon adder, and shortened maximum contract lengths.
- However, the Supreme Court retained its stay of the district court's imposition of specific rates and contract terms and directed the Commission to consider the Supreme Court's findings when setting rates in the future.
- The hearing examiner is considering the impact of the Supreme Court decision on this proceeding before issuing a proposed order.

Commission Response to Supreme Court's QF-1 decision

- The Commission disagrees with the Supreme Court's assessment of the evidentiary record underlying the Commission's Orders in Docket 2016.05.039, and believes that the Court misstates key facts from that record in its opinion.
- At its business meeting on September 1, the Commission decided to ask the Supreme Court to reconsider several of its statements and conclusions.
- The Commission will be filing its petition for rehearing on or before September 8.

## **2. Apex Solar – Docket 2019.11.091**

- Apex Solar is an 80 MW solar qualifying facility located near Dillon, Montana. On November 13, 2019, Apex Solar filed a petition with the Commission to establish the terms and conditions of a power purchase contract with NorthWestern Energy.
- The Commission conducted a public hearing in this matter in June. Post-hearing briefing concluded on August 11.
- This matter is ready for a Commission decision. Commission staff are analyzing the record and considering potential impacts of the Supreme Court decision.
- A Commission decision in this proceeding is required by September 30 under the statutory 180 day deadline.
- Staff is currently considering the potential impacts of the Supreme Court’s QF-1 decision on this proceeding.

## **3. Montana-Dakota Utilities**

*MDU Integrated Resource Plan – 2019.07.043 – No new information from August update*

*MDU Application for Accounting Order for COVID-19 Costs – Docket 2020.05.055*

- Similar to NorthWestern, MDU requested an accounting order from the Commission authorizing MDU to track financial effects of COVID-19 and record those effects as a regulatory asset. MDU sought to track bad debt expenses, protective equipment costs, and certain operating costs and regulatory expenses.
- The Commission noticed receipt of MDU’s application on June 8<sup>th</sup> and provided an opportunity to comment or request further process.
- On June 18<sup>th</sup>, the MCC requested additional process, including an opportunity for discovery.
- The Commission established a limited procedural schedule that provides for intervention, discovery, testimony (or additional comments), and an opportunity to request a hearing.

## **4. North Star Water and Sewer**

- The Commission recently ruled on an application by North Star Water and Sewer to increase its rates for 270 customers in a subdivision near Helena. A final written order has yet to be issued in the case.
- On August 31, the Commission began receiving complaints from homeowners in the subdivision that North Star was discontinuing water service at night, from approximately

11:00 pm to 6:00 am (although some customers claim to have had no service starting at approximately 9:30 pm.

- At this time, the Commission understands that North Star's reasons for discontinuing service stem from excessive irrigation of lawns and gardens which prevents adequate recharge of water storage tanks. However, at this time the Commission has not independently verified that.
- North Star contends that its actions are authorized by a Commission rule — 38.5.2505(4), which allows a water utility to shut off water for unavoidable accidents or emergencies.
- At its business meeting on September 1, the Commission decided to issue an Order requiring North Star to appear before the Commission for a formal hearing to show good cause why the Commission should not determine that North Star's service interruptions violate Montana statutes that require utilities to provide adequate and reliable service and facilities (§ 69-3-201 MCA).
- The Commission also intends to investigate why North Star has not pursued less severe measures, such as requesting Commission authorization to impose fines for violations of irrigation restrictions, as well as the causes of any deficiency in the recharge of water storage tanks.
- The show-cause hearing is scheduled for September 11 at 9:00 am. The hearing will be conducted via Zoom and streamed through the Commission's website. The Commission will provide an opportunity for public comment at the beginning of the hearing.

## **5. Other dockets and non-dockets**

- HB 267 (Rep. Zolnikov, requires Commission Opt-Out determination for Advanced Meters).
- The Commission initiated Docket 2019.12.108 to investigate this matter and provided an opportunity to provide written comments on whether it should establish an opt-out. The written comment deadline was February 28.
- Given significant public interest in the subject, the Commission began considering whether further public input was warranted. The emergence of the Covid 19 pandemic complicated this consideration.
- At its August 11, 2020, business meeting, the Commission decided to hold several public listening sessions.
- The Commission will conduct listening sessions on Wednesday, September 23, 2020, from 11:30 a.m. to 1:45 p.m., and on Wednesday, September 30, 2020, from (tentatively) 6:00 p.m. to 9:15 p.m. The listening sessions will be conducted via Zoom.

**Status of PSC petition for declaratory ruling – no new information from August meeting**

- In April, the Commission filed a petition for declaratory ruling filed by the Commission in Lewis and Clark County, involving public records requests by several newspapers and the proper balance of the public right to know with any employee rights to individual privacy.
- All briefing is complete, the matter has been submitted to the Court for a decision.