

MONTANA PUBLIC SERVICE COMMISSION UPDATE TO
THE ENERGY & TELECOMMUNICATIONS INTERIM COMMITTEE
STATUS OF DOCKETS (as of September 6, 2024)

September 10, 2024

1. NorthWestern Energy

Joint Application for Approval of Asset Purchase & Sale – Docket 2024.08.088

- On August 28, 2024, NorthWestern, Energy West Montana (“EWM”), and Cut Bank Gas Company (“CBG”) filed a joint application requesting that the Commission approve an asset purchase agreement (“Application”).
- According to the Application, on July 29, 2024, the companies entered into an agreement whereby NorthWestern will purchase the assets of EWM and CBG. The companies ask the Commission to find that NorthWestern’s purchase of the assets is in the public interest, will not result in harm to customers, and will provide a net benefit to customers.
- The Application states that while customers of EWM and CBG will become customers of NorthWestern, those customers’ rates will remain at the rates currently reflected in their respective tariffs upon closing.
- EWM and CBG provide natural gas distribution, propane, and liquified natural gas services to 33,000 customers in Montana. Upon closing, NorthWestern intends to make offers of employment to all current Montana employees of EWM and CBG and expects that most will have opportunities to remain employed with NorthWestern long-term.
- According to the Application, NorthWestern intends to hold the assets and liabilities of EWM and CBG in two newly formed subsidiaries of NorthWestern Corporation, the Montana Utility holding company. NorthWestern plans to maintain separate books and records for each subsidiary for ratemaking and regulatory purposes.

Petition Requesting Approval of RNG Interconnection – Docket 2024.08.079

- On August 2, 2024, NorthWestern filed a petition for approval of an interconnection agreement with a renewable natural gas plant to be developed at a landfill located in Missoula.
- The renewable natural gas plant is being developed by Lightning Renewables and would be capable of injecting up to 1,300 million BTU per day of renewable natural gas into NorthWestern’s natural gas transmission system.
- NorthWestern has an existing tariff that specifies terms and conditions for service provided by the natural gas transmission system. However, the tariff does not currently

address renewable natural gas, which requires additional specifications to ensure the quality of the gas and the safety of the transmission system.

- The proposed agreement between NorthWestern and Lightning Renewables would address the additional specifications NorthWestern believes are necessary.
- On August 21, 2024, the Commission publicly noticed receipt of the petition and set an intervention deadline of September 6, 2024.

Petition for Alternative Method for FERC 302 Filings – Docket 2024.07.071

- Regulations of the Federal Energy Regulatory Commission (“FERC”) implementing the Public Utility Regulatory Policies Act (“PURPA”) require NorthWestern to file with the Commission every two years data from which NorthWestern’s avoided costs can be calculated. *See* 18 C.F.R. § 292.302.
- The regulations require avoided energy cost data for blocks of purchases no larger than 100 MW during daily and seasonal peak and off-peak periods for the filing year and each of the next five years. Avoided capacity cost data must reflect NorthWestern’s plan for capacity additions and retirements and for purchases of firm energy and capacity for the next 10 years and must include estimated capacity and energy costs for each unit of planned capacity additions and firm purchases.
- The regulations allow the Commission to substitute alternative data for the data specified in the regulations if the Commission determines that avoided costs can be derived from such data.
- On July 1, 2024, NorthWestern filed a petition requesting that the Commission substitute an alternative methodology for deriving avoided cost data required by FERC’s regulations.
- NorthWestern states that FERC amended its PURPA regulations in December 2020 to allow state regulatory authorities to require avoided cost of energy rates in long term contracts with qualifying facilities (“QF”) that vary based on the time of delivery of the QF’s energy. *See* FERC Order 872.
- The Commission subsequently amended its rules in September 2022 to require contract rates based on the avoided cost of energy at the time of delivery of QF energy.
- NorthWestern requests that the Commission substitute energy price data from the Western Energy Imbalance Market (WEIM) for the avoided energy cost data required in FERC’s regulations.
- For avoided capacity cost data NorthWestern requests that the Commission substitute data based on the results of the Peaker Method for the data required in FERC’s regulations. Under the Peaker Method, avoided capacity cost data would be based on the least cost capacity resource identified in NorthWestern’s most recent integrated resource plan.

- NorthWestern also proposes to provide data on the estimated capacity contribution for various types of QF resources based on the capacity accreditation methodology used by the Western Resource Adequacy Program.
- On July 26, 2024, the Commission publicly noticed its receipt of NorthWestern’s petition and provided an intervention deadline of August 12, 2024.
- The Montana Consumer Counsel and Hydrodynamics have intervened.
- On August 26, 2024, the Commission issued a procedural order setting dates for discovery and a deadline of October 15, 2024, for parties to submit testimony and/or request additional process.

Electric and Natural Gas Rate Case – Docket 2024.05.053

- On July 10, 2024, NorthWestern filed a combined electric and natural gas rate case based on a 2023 test year.
- NorthWestern proposes to raise rates for electric service by \$69.4 million. The overall increase reflects an increase in base revenue requirements of \$156.5 million, a decrease in supply costs of \$94.5 million, and an increase in property taxes of \$7.4 million.
- NorthWestern requests cost recovery for its investments in the Yellowstone County Generating Station and asks the Commission to find those investments prudent and in the public interest.
- NorthWestern estimates the total impact of its electric service rate request will be an increase of \$9.11, or 8.28%, in the monthly bill for residential electric customers using an average of 750 kilowatt-hours per month.
- NorthWestern requests an interim electric rate increase effective October 1, 2024, which would raise the monthly bill for residential customers using an average of 750 kilowatt-hours per month by \$2.09, or 1.9%.
- NorthWestern proposes to raise rates for natural gas service by \$28.9 million, which reflects an increase in base revenue requirements of \$28.63 million and an increase in property taxes of \$0.24 million.
- NorthWestern estimates the total impact of its request to increase natural gas service rates will be an increase of \$8.84, or 16.98%, in the monthly bill for residential customers using an average of 65 therms per month.
- NorthWestern requests an interim natural gas rate increase effective October 1, 2024, which would raise the monthly bill for residential customers using an average of 65 therms per month by \$4.81, or 9.28%.
- NorthWestern’s application indicates that since its last rate case it expects to invest and place into service over \$1 billion in electric and natural gas facilities by the end of 2024.
- The Commission provided public notice of its receipt of NorthWestern’s application on July 23, 2024, and provided an initial intervention deadline of August 14, 2024.

- NorthWestern’s application is subject to the Commission’s minimum filing standards set in Mont. Admin. Rs. 38.5.101–.195. Those rules require the Commission to notify NorthWestern within 30 days of any failure to comply with the minimum filing standards and grant NorthWestern a reasonable period to supplement or correct the application.
- On August 6, 2024, the Commission issued a Notice of Commission Action identifying multiple instances where NorthWestern’s application fell short of full compliance with the Commission’s minimum filing standards. The Commission provided NorthWestern two weeks to supplement or correct the application.
- On August 9, 2024, NorthWestern filed supplemental written testimony, exhibits, workpapers, and updated Statements required by the Commission’s rules.
- On August 21, 2024, the Commission issued a second Notice of Commission Action finding that NorthWestern’s application, as supplemented on August 9, 2024, still fell short of full compliance with one of the Commission’s minimum filing standards pertaining to the results of its cost of service studies. The Commission provided NorthWestern one week to correct the remaining deficiency.
- On August 23, 2024, NorthWestern filed its response to the Commission’s second Notice of Commission Action and second supplement to its Application.
- On September 3, 2024, the Commission issued a notice finding that NorthWestern’s Application, as amended, meets the Commission’s minimum filing standards. Due to the delay in meeting the requirements, the Commission extended the deadline for parties to request intervention in the proceeding to September 6, 2024.
- To date, Montana Consumer Counsel, Montana Large Customer Group, Walmart, Federal Executive Agencies, Natural Resources Defense Council/Northwest Energy Coalition/District XI Human Resource Council (jointly), Montana Environmental Information Center (“MEIC”), Northern Cheyenne Tribe, and Renewable Northwest have filed notices of intervention.
- On August 28, 2024, MEIC filed an objection to NorthWestern’s request for interim rates. On September 5, 2024, the Commission issued a notice establishing a September 13, 2024, deadline for other parties to respond to NorthWestern’s request for interim rates and a deadline of September 20, 2024, for NorthWestern to submit its reply.

[PCCAM Annual Rate Adjustment – Docket 2023.09.081](#)

- In September 2023 NorthWestern filed its annual application to adjust electricity supply rates under its Power Costs and Credits Adjustment Mechanism (PCCAM). The application covers a tracking period of July 2022 through June 2023.
- Under the PCCAM, rate adjustments automatically take effect on October 1 each year, subject to refund after a final Commission decision.
- NorthWestern sought to recover approximately \$17.5 million in deferred costs.

- The proposed PCCAM rate adjustment resulted in a decrease in NorthWestern's electricity supply rates of approximately 4% (because the rates included recovery for a larger deferral from the prior year). A monthly bill for residential customers using an average of 750 kilowatt-hours per month would be reduced by about \$4.50 per month.
- Following the Commission's decision in NorthWestern's last electric and natural gas rate case, Docket 2022.07.078, authorizing an increase in the PCCAM base cost, NorthWestern filed a motion to amend the interim rate adjustment implemented in October 2023. Under the newly authorized PCCAM base cost, the deferred cost increased by \$2.9 million.
- In December 2023 the Commission approved NorthWestern's motion to modify the interim PCCAM rates to reflect the new PCCAM base costs. The effect of the decision was a slight increase in the PCCAM rates implemented in October 2023. For residential customers using an average of 750 kilowatt-hours per month, the increase was \$0.42, or 0.4% per month.
- The Montana Consumer Counsel intervened and recommended that the Commission deny a proposal by NorthWestern to include expenses for ammonia used at the Dave Gates Generating Station. Historically, ammonia expenses were accounted for in general rate cases.
- The Consumer Counsel recommended removing \$790,161 from NorthWestern's claimed expenses, which would reduce the rate adjustment by \$711,145 after applying the 90/10 sharing mechanism.
- In May 2024 NorthWestern filed a Notice of No Contested Issues and Motion to Vacate Hearing. The Notice stated that after reviewing NorthWestern's rebuttal testimony and related discovery responses, the Consumer Counsel had informed NorthWestern that it was no longer contesting any issues in the docket.
- On June 7, 2024, the Commission issued a Notice of Commission Action vacating the hearing.
- On August 21, 2024, the Commission issued Default Order 7923d approving the amended application.

Update of Standard PURPA Rates – Docket 2023.08.076

- In August 2023 NorthWestern filed an application to update its QF-1 tariff schedule, which provides standard rates for purchases by NorthWestern of energy and capacity from QFs under PURPA.
- FERC's regulations require utilities to offer standard rates for QFs 100 kilowatts (kW) or smaller but provide state regulatory commissions the discretion to require standard rates for larger facilities.
- The Commission's rules require Montana utilities to offer standard rates for QFs as large as 3 megawatts (MW).

- In its application, NorthWestern proposes to offer standard rates for contract lengths up to 20 years. NorthWestern’s proposed energy rates would be based on market prices in the Western Energy Imbalance Market at the time the QF’s energy is delivered, as authorized by FERC Order 872. NorthWestern proposes capacity rates that are fixed for the duration of the contract and based on the estimated costs of constructing a new natural gas peaking plant.
- NorthWestern also proposes to implement a standard, off-the-shelf contract to streamline the PPA negotiation process.
- Hydrodynamics and Greenfields Irrigation District (jointly) and the Montana Consumer Counsel have intervened.
- The proceedings have been delayed due to the resignation of one of NorthWestern’s witnesses, which resulted in NorthWestern refiling its prefiled testimony.
- A hearing is currently scheduled for October 29, 2024.

Natural Gas Cost Tracking Adjustment – Docket 2022.07.077

- In May 2023 NorthWestern filed its application to increase natural gas supply rates pursuant to its annual cost tracking adjustment mechanism.
- The application covers a tracking period from July 1, 2022, through June 30, 2023.
- The proposed rates reflect projected increases in the market price of natural gas and deferred unreflected gas costs incurred in the tracker period.
- The Commission issued an interim order in June 2023.
- The Montana Consumer Counsel intervened and subsequently provided testimony recommending the Commission disallow recovery of approximately \$11 million of fixed-price gas expenses NorthWestern incurred to hedge against volatile spot market gas prices.
- The Consumer Counsel contended the hedge-related expenses were significantly higher than average index prices, resulting in hedging losses. The Consumer Counsel argued NorthWestern over-emphasized the potential benefits of hedging.
- NorthWestern countered that it took reasonable steps to mitigate customers’ exposure to risk from increased volatility in natural gas markets, given the information available at the time of the transactions. NorthWestern also argued it reasonably implemented Commission guidelines regarding the use of hedging as part of a balanced and diverse natural gas supply portfolio.
- The Commission held a public hearing on NorthWestern’s application in February 2024.
- Post-hearing briefing was concluded in April 2024.
- On July 24, 2024, the Commission issued its Final Order 7894g. In the Order, the Commission evaluated the prudence of NorthWestern’s fixed price gas purchase during the July 2022 – June 2023 tracking period through consideration of the Commission’s

hedging guidelines. Based on testimony and evidence in the record, the Commission found that the 2022-23 purchases substantially followed the guidelines. As a result, the Commission approved NorthWestern's application.

- The Commission's Final Order states that the hedging issue raised in this proceeding has led the Commission to believe it should revisit its hedging guidelines, noting that natural gas markets have changed substantially since the guidelines were established in 2007. The Commission states its intent to review the natural gas hedging guidelines in NorthWestern's pending natural gas rate case. *See In re NorthWestern's 2024 Elec. & Nat. Gas Rate Case*, Dkt. 2024.05.053.

[Application for Waiver of CREP Requirements, on Remand - Dockets 2016.04.033 & 2017.08.065](#)

- Prior to 2021, Montana law imposed a renewable energy standard that required electric utilities to supply a percentage of their retail load with energy from renewable resources and to contract for specific amounts of renewable generation capacity with Community Renewable Energy Projects (CREPs).
- The law allowed utilities to apply to the Commission for a short-term waiver from compliance with the renewable energy standard. To grant a waiver, the Commission was required to find that a utility had taken all reasonable steps to comply but was unable to comply due to factors outside the utility's control. Additionally, utilities were not required to comply with the standard if the cost of compliance exceeded statutorily defined cost caps.
- In September 2018 the Commission issued a final order in these consolidated dockets granting a request by NorthWestern for a short-term waiver of the requirement to purchase energy and associated renewable energy credits from CREPs for the years 2015 and 2016, pursuant to Mont. Code Ann. § 69-3-2004 (2018, now repealed).
- One of the parties in the proceeding, the Montana Environmental Information Center (MEIC), petitioned for judicial review arguing that the Commission should not have approved the requested waivers because NorthWestern had not shown that it had taken all reasonable steps to comply.
- The court issued its decision on March 19, 2024, remanding the case to the Commission with instructions. *See* Litigation Status Update.
- On remand, the Commission will conduct further proceedings and issue findings on the administrative penalty NorthWestern must pay for failure to comply with the CREP requirements for the 2015 compliance year. The penalty is not recoverable from customers and must be deposited in the universal system benefits low-income energy assistance fund.
- For the 2016 compliance year, the Commission must determine whether the method NorthWestern used to calculate the cost cap, which relied on avoided cost modeling,

reasonably approximates the statutory cost cap, which was required to reflect competitive bids for the equivalent quantity of energy for the equivalent contract term from other electricity suppliers.

2. PURPA Implementation

Jawbone Petition for QF Rates, on Remand – Docket 2020.12.126

- Jawbone is an approximately 80 MW wind facility to be located near Harlowton, in Wheatland County.
- Jawbone submitted its Petition, pursuant to Mont. Code Ann. § 69-3-603, in December 2020 requesting that the Commission set avoided cost rates and terms for a contract with NorthWestern.
- The Commission conducted a public hearing in May 2021, issued a final order on October 29, 2021, and issued an order on reconsideration on January 26, 2022.
- Jawbone petitioned for judicial review of the Commission’s orders on February 25, 2022.
- On April 30, 2024, the Montana First Judicial District Court issued its Opinion and Order, which grants in part and denies in part the petition for judicial review and remands the matter to the Commission for further proceedings on two issues: (1) whether there is an appropriate basis for applying an assumption that the implied market heat rate will decline over the term of the contract; and (2) the appropriate allocation of interconnection cost to Jawbone under the Montana Supreme Court’s decision in *CED Wheatland*.

Petition to Initiate Rulemaking – Docket 2024.01.011

- In January 2024 NorthWestern Energy filed a petition to initiate a rulemaking proceeding to amend an existing Commission rule that addresses how a QF creates a legally enforceable obligation (LEO) under FERC’s PURPA regulations.
- NorthWestern stated that the Commission’s existing rule addresses LEO formation for new QFs that will be constructed but does not address LEO formation for QFs that have already been constructed.
- The Commission provided public notice of NorthWestern’s petition and an opportunity to comment.
- The Commission received comments from two existing QFs: Colstrip Energy Limited Partnership, Yellowstone Energy Limited Partnership.
- In February 2024 the Commission voted to initiate informal rulemaking proceedings pursuant to Mont. Code Ann. § 2-4-304. The Commission issued a Notice of Commission Action soliciting comments and input from interested persons and identifying several specific items on which it sought input.

- In March, the Commission received written comments from NorthWestern, Colstrip Energy Limited Partnership, Yellowstone Energy Limited Partnership, and Hydrodynamics.
- On May 9, 2024, Commission staff conducted an informal roundtable discussion with interested parties to discuss several elements of NorthWestern’s proposed rules and comments from stakeholders.
- After evaluating the informal written comments, the Commission formally proposed to amend its rules on August 16, 2024. A hearing on the proposed amendments is scheduled for September 11, 2024.

Yellowstone Energy Limited Partnership (YELP) Petition – Docket No. 2024.04.047

- On April 12, 2024, Yellowstone Energy Limited Partnership filed a petition requesting the Commission to establish terms and conditions for the sale and purchase of electricity from YELP’s facility to NorthWestern Energy.
- YELP is an existing QF located in Lockwood, Montana. The facility has a nameplate capacity of 65 MW and produces energy using petroleum coke. YELP’s current contract with NorthWestern was executed in 1991 and expires at the end of 2028.
- YELP states in its petition that it has been unable to agree with NorthWestern on certain contract terms and avoided cost rates, including the appropriate proxy resource to be used to determine the rate for capacity and the capacity accreditation method used to be used to determine NorthWestern’s capacity need.
- NorthWestern Energy and the Montana Consumer Counsel have intervened in the proceeding.
- On June 4, 2024, the Commission issued a procedural order setting a hearing date of September 25, 2024.

3. Montana-Dakota Utilities

Petition to Issue Debt Securities – Docket 2024.08.084

- Mont. Code. Ann. Title 69, Chapter 5, requires that electric or gas utilities with Montana revenue greater than \$5 million, or 5% of gross revenue, must obtain Commission authorization to issue securities and create liens on its property in Montana.
- On August 20, 2024, MDU filed a petition requesting Commission approval to issue, over a two-year period, various types of securities to obtain long-term financing in an aggregate amount not to exceed \$500 million.
- The petition states that the issuance of securities may be used to fund capital requirements, for the refunding of outstanding obligations, for public utility corporate development, and for other general corporate purposes of MDU.

- The petition further states that the requested securities issuances are consistent with the public interest, the purpose(s) of the issuances is permitted under Montana law, and the aggregate principal amount of securities outstanding and proposed to be outstanding will not exceed the fair market value of the properties and businesses of MDU.

Natural Gas Rate Case – Docket 2024.05.061

- On July 15, 2024, MDU filed an application to increase rates for natural gas service.
- MDU proposes a total increase of \$9.4 million, which would affect approximately 88,900 natural gas customers in Montana.
- The proposed rates would increase the average monthly bill for residential customers using 65 therms per month by \$8.68 per month, or 16.4%.
- MDU also requests an interim rate increase of \$8.0 million effective October 1, 2024. If approved, the interim rates would result in an average monthly bill increase of \$5.17 per month, or 10.58%, for residential customers using 65 therms per month.
- The Commission publicly noticed receipt of the application on August 5, 2024, and set an intervention deadline of August 21, 2024.
- The Montana Consumer Counsel has intervened in the proceeding.

Authority to Offer Incentives for Conversion – Docket 2021.09.116

- In September 2022 MDU filed an application for authority to offer incentives for approximately 38 customers in the Saco/Bowdoin area to convert from MDU’s natural gas service to an alternative fuel source.
- MDU stated that it does not expect to be able to reliably continue to deliver natural gas service to the customers because service is provided through a natural gas gathering system connected to wells in the Bowdoin area that MDU sold in 2015. Due to third party ownership of the gathering system and upstream gas production, MDU no longer has control over when the wells may be shut in and, hence, its ability to purchase the gas supplies needed to serve customers. MDU further stated declining pressures in the wells and gathering system create reliability risks for customers due to increased water in the gas that can freeze during severe weather.
- MDU proposed to offer customers \$10,000 to defray the cost of switching to bulk propane service or another alternative. Customers would have through the end of October 2025 to accept the offer.
- The Montana Consumer Counsel intervened in the docket.
- The Commission issued a procedural order in August 2023.
- The Consumer Counsel filed testimony in December 2023 arguing that service quality has not materially declined for customers in the Saco/Bowdoin area and that the costs of alternative services, such as propane, electricity, or fuel oil, are much higher on an

equivalent BTU basis compared to the cost of MDU's natural gas service. The Consumer Counsel recommended rejecting MDU's proposed October 2025 deadline to accept a fuel switching incentive and requiring MDU to submit regular reports of the gas field pressures feeding the Saco/Bowdoin distribution system.

- In May 2024 the Commission received a settlement agreement between MDU and the Consumer Counsel purporting to resolve all disputed issues in the proceeding. Under the terms of the agreement, customers would be eligible for up to \$10,000 to defray the cost of switching to alternative fuels and would have until September 2027 to accept MDU's offer. Thereafter, the cost of conversion would be a customer's sole responsibility.
- On June 3, 2024, the Commission issued a Notice of Commission Action vacating the hearing that had been scheduled for June 11, 2024.
- The Commission is in the process of evaluating the settlement agreement.

5. Telecommunications Regulation Modernization

Modernizing Telecommunications Regulation – Docket 2021.10.125

- The Montana Telecommunications Act was enacted in 1985 and is codified in Mont. Code Ann. Title 69, Chapter 3, Part 8.
- The Act establishes a policy of universal availability of basic telecommunications service at affordable rates and provides for an "orderly transition from a regulated telecommunications industry to a competitive market environment." See Mont. Code Ann. § 69-3-802.
- The Commission has adopted rules to implement the Act in Mont. Admin. Rs. 38.5.2701–.4200.
- As telecommunications markets have evolved over time, the Commission's regulation has responded. For example, in 2000 the Commission waived requirements for certain competitive local phone service providers to file tariffs or price lists, and in 2014 the Commission removed tariff requirements for the two former monopoly local phone companies (Citizens Telecommunications d/b/a Frontier Communications and CenturyLink).
- The Commission initiated this Docket to assess whether current technology and the state of markets for telecommunications services warrant further changes in Commission regulation and/or governing statutes.
- The Commission requested public comment on two primary issues: the appropriate level of Commission regulation given current and expected market structures and communications technologies and potential modifications to Commission regulations.
- In January 2022 the Commission received comments from several stakeholders including the Montana Telecommunications Association, Bresnan, and CenturyLink.

- This process resulted in a Commission request, and subsequent ETIC approval, for pre-introduction of what became HB 492 during the 2023 Legislative Session. HB 492 was intended as a statutory cleanup bill to repeal several obsolete provisions in Title 69, Chapter 3, related to the regulation of telecommunications services.
- After passing out of the House by a vote of 93-5, HB 492 was tabled in the Senate Business, Labor, and Economic Affairs Committee. The Committee was concerned that the bill would remove regulatory protections for the approximately 10% of customers that continue to receive only traditional landline telecommunications services.
- The Commission continues to believe that increased competition in telecommunications markets since the Montana Telecommunications Act was enacted warrant statutory changes.
- At the July 2024 ETIC meeting the Commission requested preintroduction for a bill to revise portions of the Montana Telecommunications Act, including several outdated or unused provisions in the Act.

6. Other dockets and non-dockets

Request for Information on ETAC Process – Not Docketed

- During the Commission’s business meeting on July 23, 2024, the Montana Environmental Information Center (“MEIC”) provided public comments asserting that NorthWestern Energy’s Electric Technical Advisory Committee (“ETAC”) does not comply with Mont. Code Ann. § 69-3-1208 because it is not broad-based, as required by the statute.
- MEIC also expressed concerns that NorthWestern is not complying with Commission rules that require ETAC meeting to be open to the public whenever possible.
- Subsequently, the Commission also received written public comments from Renewable Northwest and Montana Renewable Energy Association (“MREA”) expressing similar concerns.
- As a result of those public comments, the Commission sent a letter to NorthWestern on July 30, 2024, requesting a written response to the public comments. The Commission specifically requested that NorthWestern explain how its ETAC membership complies with Mont. Code Ann. § 69-3-1208. Regarding compliance with Commission rules, the Commission requested that NorthWestern

“document when [it] initiated the process of developing its next integrated resource plan, how many meetings with the ETAC have occurred in that process, how many ETAC meetings have been open or closed, in whole or in part, to the public, and the process NorthWestern used to decide whether to ETAC meetings would be open or close to the public, including how NorthWestern engaged its ETAC in that process.”

- On August 9, 2024, NorthWestern provided its written response. NorthWestern stated that it established a broad-based ETAC that complies with Mont. Code. Ann. § 69-3-1208. NorthWestern maintained that the ETAC reflects a balance of interests and expertise from consumer advocacy groups, government agencies, business concerns, and academia in areas such as residential affordability, economic development, environmental quality, regional power and transmission markets, consumer interests, and regulatory oversight.
- NorthWestern also stated that it is in the beginning stages of assembling and organizing the ETAC and a workplan for the next integrated resource plan, including meetings with stakeholders and the public.
- NorthWestern stated that the Commission’s rules allow ETAC meetings to be closed when necessary for a complete review, evaluation, or recommendation. NorthWestern explained that it initiated a new three-year ETAC meeting process in December 2023 via a Zoom call during which it engaged the ETAC about closing the upcoming March and June meetings. NorthWestern stated that the benefits of closing those meetings included ensuring that ETAC could formalize and develop a stakeholder and public engagement timeline, and ensure their recommendations are effective and well-considered before stakeholder and public engagements.
- Following receipt of NorthWestern’s response, the Commission received joint written public comments from MEIC, Renewable Northwest, and MREA expressing skepticism regarding NorthWestern’s stated justification for closing recent ETAC meetings and questioned the size and makeup of the ETAC. They requested that NorthWestern maintain a webpage that provides information regarding scheduled ETAC meetings, whether they are open to the public, meeting agendas, and non-proprietary materials provided to and discussed with the ETAC.
- The Commission plans to consider possible next steps in this matter at its business meeting on September 10, 2024.

[Investigation into the Adequacy of Infrastructure of CenturyLink – Docket 2021.12.136](#)

- In December 2021, the Commission initiated an investigation into the adequacy of legacy infrastructure operated by Qwest Corporation d/b/a CenturyLink QC.
- The investigation is based on formal and informal consumer complaints alleging that the infrastructure serving rural areas of CenturyLink’s service territory is inadequate, resulting in long service outages, inability to access 911 services, and falsely initiated calls to 911 services.
- The Commission consolidated Docket 2021.12.136 with Docket 2021.10.137, involving a request by CenturyLink for temporary waiver of performance requirements for addressing service outages.

- The Consumer Counsel requested and was granted intervention in the consolidated docket in February 2022.
- The Commission issued a Notice of Investigative Procedures that established a discovery period and a deadline for comments and requests for further process.
- On May 27, 2022, the Consumer Counsel issued discovery to CenturyLink.
- On June 3, 2022, the Commission issued a procedural order modifying previous deadlines in the case and establishing a deadline of July 29, 2022, for written comments and requests for additional process.
- On July 8, 2022, CenturyLink filed a motion requesting a 30-day continuance, in part to allow it to pursue settlement options with the Consumer Counsel.
- In August 2022 the Consumer Counsel requested a further extension because it had not yet received and reviewed certain confidential material requested in discovery.
- The Consumer Counsel submitted its comments in September 2022.
- CenturyLink responded to the Consumer Counsel's comments in October 2022.
- On November 2, 2022, the Commission directed CenturyLink to submit a proposal for resolving the service quality issues in the proceeding because CenturyLink had indicated it would consider subsidizing subscriptions to third-party provided service for rural customers that do not currently receive reasonable and adequate service from CenturyLink.
- CenturyLink submitted its proposal in December 2022.
- In February 2023, the Commission issued discovery to CenturyLink regarding several aspects of the proposal.
- The Commission held a public hearing on CenturyLink's proposal in September 2023.
- In post-hearing briefing, CenturyLink argues that the investigation has not revealed service quality issues, the service restoration requirements are no longer appropriate, and CenturyLink's proposal satisfied the Commission's request.
- On March 13, 2024, the Commission issued its final order. The Commission was not persuaded that its service restoration rules are obsolete and, in any case, modifying or repealing the rule would require a rulemaking process so findings regarding the rule in these consolidated dockets would be inappropriate.
- The Commission further found that CenturyLink does not comply with the service restoration rules and the costs required to upgrade facilities and provide sufficient staffing do not appear financially feasible. Consequently, the Commission determined CenturyLink's service is not reasonably adequate.
- Regarding CenturyLink's proposal to subsidize third-party provided service for rural customers, the Commission found the record lacked sufficient evidence that such third-party service would yield reasonably adequate services at just and reasonable rates.
- As an alternative to CenturyLink's proposal, the Consumer Counsel recommended requiring CenturyLink to apply for funding through the Broadband Equity Access and

Deployment (BEAD) Program, which is designed to upgrade the most rural areas of the country to broadband services.

- Regarding the Consumer Counsel’s recommendation, the Commission noted that BEAD funding cannot be assured and absent a waiver of the program requirement for CenturyLink to provide 25% of the cost of upgrading the network, BEAD funding may be insufficient to make the investments economical. While it declined to order CenturyLink to apply for BEAD funding, the Commission stated that such an application may be in CenturyLink’s best interest.
- CenturyLink filed a motion for reconsideration of the Commission's final order on March 22, 2024. CenturyLink asks the Commission to reconsider its decision not to accept CenturyLink’s proposal and to direct Commission staff to engage in discussions with the parties with the aim of developing a mutually acceptable resolution of the matter.
- On May 29, 2024, the Commission issued a Notice of Commission Action appointing certain Commission staff to engage in negotiations with CenturyLink. The Commission directed that negotiation be completed by July 31, 2024, and that any agreement reached would be subject to review and approval by the Commission.
- Commission staff subsequently informed the Commission that negotiations are ongoing and could not be completed by the July 31 deadline.
- On July 30, 2024, the Commission issued a Notice of Commission Action extending the deadline to August 30, 2024. On September 2, 2024, the Commission further extended the deadline to September 30.

[PURPA Section 111\(d\) – Docket 2022.09.084](#)

- The Infrastructure Investment and Jobs Act of 2021 (“IIJA”) amended Section 111(d) of the Public Utility Regulatory Policies Act (“PURPA”) to require that states consider measures to promote greater electrification of the transportation sector, including the establishment of utility rates that:
 - Promote affordable and equitable electric vehicle charging options for residential, commercial, and public electric vehicle charging infrastructure;
 - Improve the customer experience associated with electric vehicle charging, including by reducing charging times;
 - Accelerate third-party investment in electric vehicle charging; and
 - Appropriately recover the marginal costs of delivering electricity to electric vehicles and electric vehicle charging infrastructure.
- Pursuant to Section 112 of PURPA, state regulatory authorities, such as the Commission, must commence consideration of these potential measures by November 2022.
- The IIJA contains similar provisions for demand response resources/programs.
- On August 23, the Commission voted to initiate a proceeding to investigate these provisions of the IIJA. Through the proceeding the Commission will obtain information

and opinions from regulated utilities and the public relevant to the Commission's consideration of utility rates that meet IJA criteria.

- A Notice of Opportunity to Comment was issued on September 2, 2022.
- The Commission received comments from BroadbandMT in October 2022. No other comments were received.
- No further action has been taken in the docket to date.

Resource Adequacy and Risk Profiles in the Montana and Regional Electricity Supply – Docket 2022.09.087

- On August 30, 2022, the Commission voted to initiate an investigative docket on resource adequacy and risks to the electrical supply of the State of Montana.
- On September 20, 2022, the Commission issued a Notice of Investigative Docket and Opportunity to Comment.
- In the Notice, the Commission described that the purpose of the investigation is to determine the size and scope of resource adequacy issues facing Montana and the Western Region. The Commission intends to use the docket as a catalyst and a forum for ongoing discussions about resource adequacy issues.
- In October 2022, the Commission received written comments from NorthWestern Energy, Friends of 2 Rivers, Department of Environmental Quality, Colstrip Energy Limited Partnership, and the Northwest Independent Power Producers Coalition. In November 2022, the Commission received supplemental comments from Northwest Energy Coalition.
- In December 2022, the Commission hosted a two-day conference with regional regulators and other interested stakeholders focused on resource adequacy issues.
- The Commission and its staff continue to research and participate in regional planning for resource adequacy.
- In mid-January 2024 Montana and the broader Pacific Northwest experienced an extreme cold weather event that lasted for several days. NorthWestern's system set a new system peak demand record and recorded its highest sustained peak load. Market prices for wholesale electricity approached the \$1,000 per MWh cap set by the Western Electricity Coordinating Council. Just ahead of the most severe weather, a portion of the Colstrip generating plant was off-line for maintenance.
- The Commission determined that this event provided an opportunity to further examine resource adequacy and associated risks for Montana customers.
- On January 30, 2024, the Commission sent a letter to NorthWestern requesting that the Company provide a range of information regarding the operation of its system for the period January 8 – 18, 2024.

- NorthWestern provided the information on February 20, 2024, and the Commission held an informational meeting with NorthWestern on March 6, 2024.
- No further action in this matter has been taken to date.

Petition for Rulemaking regarding Consideration of Climate Impacts – Docket 2024.03.028

- On February 28, 2024, the PSC received a petition requesting the PSC to initiate rulemaking pertaining to the PSC’s consideration of adverse climate impacts from greenhouse gas emissions.
- The petition argues that Montanans have a fundamental constitutional right to a clean and healthful environment, which includes climate as part of the environmental life-support system, that greenhouse gas emissions from burning fossil fuels causes climate impacts in the state of Montana, and that the PSC makes consequential decisions that affect utility investments in fossil fuel-burning power plants.
- The petitioners ask the PSC to adopt proposed rules that make explicit the need for the PSC to consider and act on the climate consequences of its decisions.
- The petitioners also seek declarations from the PSC that: (1) the Montana Constitution imposes an affirmative obligation on the PSC to consider the harmful climate consequences of its decisions to prevent constitutional harm and protect Montanans’ fundamental right to a clean and healthful environment; and (2) the statutory and regulatory framework governing the PSC’s regulation of public utilities instructs it to make decisions in the public interest that ensure just and reasonable utility rates; these standards require the PSC to consider climate change and its harmful effects in Montana in the context of its regulatory duties.
- The petitioners comprise a group of 42 Montana organizations, businesses, and individuals.
- Pursuant to Mont. Code Ann. § 2-4-315 and Mont. Admin. R. 1.3.308, the PSC has 60 days to either deny the petition in writing or initiate rulemaking proceedings.
- On March 19, 2024, the Commission provided public notice of the petition and scheduled a public hearing to gather additional viewpoints and advice of interested persons pursuant to Mont. Code Ann. § 2-4-304.
- On April 8, 2024, the Commission held a public hearing to accept oral comments. The Commission established a written comment deadline of April 12, 2024. The Commission received over 800 written and oral comments regarding the petition.
- Based on the Petition, the Petitioners’ presentation at the public hearing, and public comments, the Commission was left with several unanswered questions.
- On April 30, 2024, the Commission issued a Notice of Extended Opportunity to Comment, which invites the Petitioners and any other interested parties to provide further written comment on the proposed rule, including but not limited to responses to

specific questions regarding the effect and implications of the proposed rule stated in the Notice. The extended deadline for comment is July 1, 2024.

- On June 11, 2024, the Petitioners filed for a Writ of Mandate in the Fourth Judicial District Court. *See* Status of Litigation Report.