Pursuant to Montana Code Annotated Title 69, Chapter 3, NorthWestern Corporation d/b/a NorthWestern Energy (“NorthWestern”) respectfully requests the Montana Public Service Commission (“Commission”) to approve NorthWestern’s corporate restructuring plan (“Restructuring Plan”) through which NorthWestern’s state utility operating divisions will become separate wholly-owned subsidiaries of a newly formed holding company.

NorthWestern’s Restructuring Plan serves the public interest. It separates and insulates NorthWestern’s public utility businesses in the state of Montana from those in Nebraska and South Dakota, and from NorthWestern’s other business activities. It is transparent to customers as NorthWestern’s services and rates remain the same. NorthWestern will continue to provide the highest quality service to its customers in the same manner it does today, and there will be no procedural or substantive change in how the Commission regulates those services.
Today, NorthWestern provides utility services in the states of Montana, Nebraska, and South Dakota through one entity, which owns substantially all of NorthWestern’s regulated utility assets and which is the parent company in NorthWestern’s corporate structure. After the implementation of the Restructuring Plan, NorthWestern will continue to provide the same utility services in Montana through the same entity (which will become a subsidiary of a new parent company) and in Nebraska and South Dakota through a new entity. These entities will be separate, stand-alone, first-tier subsidiaries underneath a new holding company, which was the structure that both the Commission and the Montana Consumer Counsel (“MCC”) desired in 2004.

As described below, the Restructuring Plan includes robust ring fencing measures which provide greater protection for customers than the provisions of the existing bankruptcy stipulation (“Bankruptcy Stipulation”) between NorthWestern, the Commission, and the MCC. Due to the Restructuring Plan and its enhanced customer protections, the Bankruptcy Stipulation no longer will be necessary, and NorthWestern requests that the Commission replace the Bankruptcy Stipulation with the Restructuring Plan.

**FACTS**

1. NorthWestern’s full name and address are:

   NorthWestern Corporation d/b/a NorthWestern Energy  
   11 East Park Street  
   Butte, Montana 59701

2. NorthWestern is a Delaware corporation that conducts business in the State of Montana as a public utility providing both natural gas and electric service to customers. See Mont. Code Ann. § 69-3-101.

3. NorthWestern also serves as a public utility in South Dakota providing both natural gas and electric service and in Nebraska providing natural gas service.


4. NorthWestern’s stock is listed and traded on the Nasdaq Stock Market, LLC’s stock exchange under the ticker symbol “NWE.”

5. As a public utility in Montana, NorthWestern is subject to Commission supervision, regulation, and control. Mont. Code Ann. § 69-3-102.

**BANKRUPTCY STIPULATION**

6. On July 8, 2004, NorthWestern, the MCC, and the Commission entered into the Bankruptcy Stipulation.

7. The Bankruptcy Stipulation sets forth a variety of restrictions and requirements (“ring fencing measures”) that serve to separate and insulate NorthWestern’s Montana public utility assets, facilities, and operations from risks that may be associated with any non-utility ventures.

8. The ring fencing measures include structural measures, financial measures, and affiliate and inter-corporate measures.

9. The structural measures generally require NorthWestern to maintain the ownership and control of its Montana public utility assets, facilities, and operations in its ultimate parent corporation without any direct or indirect ownership or control of such assets, facilities, or operations by a subsidiary or affiliate.

10. The financial measures generally require NorthWestern to (1) hold all owned and operated Montana public utility assets and finances separate and segregated from the ownership, risks, and operations of any subsidiaries and any affiliates that hold non-public utility assets; (2) only assume public utility debt and only use the proceeds of such debt to fund its public utility business; (3) ensure any debt pledged or secured by Montana public utility assets follows such assets through any divestitures or spin-offs; (4) ensure a proportion of any unsecured debt
used to finance Montana public utility assets follows such assets through any divestitures or spin-offs; (5) ensure a proportion of any unsecured debt used to finance non-Montana public utility assets follows such assets through any divestitures or spin-offs; (6) other than as allowed by the affiliate and inter-corporate measures, refrain from extending credit to any subsidiaries or affiliates, pledging Montana public utility assets as collateral for the use or benefit of any subsidiaries or affiliates, and guaranteeing the debt of any of its subsidiaries or affiliates; (7) ensure debt associated with non-public utility assets or activities be held at or by subsidiaries and or affiliates and be non-recourse to the parent corporation; and (8) take all measures necessary to ensure the parent corporation has its own independent corporate credit rating.

11. The affiliate and inter-corporate measures generally prevent NorthWestern from (1) providing loans, guarantees, advances, equity investments, or working capital to its subsidiaries or affiliates except as allowed by certain Limited Investment Basket Caps (as defined in the Bankruptcy Stipulation);\(^1\) and (2) recovering from Montana utility customers the costs of contracts with subsidiaries and affiliates without applying to and receiving permission from the Commission.

12. On August 24, 2004, the Commission adopted the Bankruptcy Stipulation by Consent Order, which preserved NorthWestern’s right to apply “for relief from, or for modification of, any provision of” the Consent Order and Bankruptcy Stipulation. Docket D2003.8.109, Order No. 6505e.

13. Since the Bankruptcy Stipulation, NorthWestern has successfully operated its Montana public utility business, substantially invested in additional Montana public utility

\(^1\) Based on NorthWestern’s current credit ratings, NorthWestern currently has an “unlimited cap” under the Bankruptcy Stipulation for providing loans, guarantees, advances, equity investments, or working capital to its subsidiaries or affiliates.
assets, strengthened its financial position, and demonstrated its long-term stability to the Commission. In light of these achievements, there is no need for the Bankruptcy Stipulation with the enhanced customer protections provided in the Restructuring Plan. It is long past the time for the Bankruptcy Stipulation to be replaced with much more current ring fencing measures that protect customers and are common throughout the utility industry.

**RESTRUCTURING PLAN**

14. NorthWestern provides public utility services in the states of Montana, Nebraska, and South Dakota through one entity, which owns substantially all of NorthWestern’s regulated utility assets as required by the Bankruptcy Stipulation. NorthWestern’s public utility infrastructure in Montana is physically isolated from, and not connected to, NorthWestern’s public utility infrastructure in Nebraska and South Dakota. NorthWestern’s Montana utility assets secure the obligations under NorthWestern’s Montana mortgage, but not the obligations under NorthWestern’s Nebraska and South Dakota mortgage (and vice versa).

15. NorthWestern also serves as the parent corporation in its corporate structure and owns several subsidiaries.

16. Figure 1 shows the current organizational structure of NorthWestern:

**Figure 1: Existing Structure**

---

2 NorthWestern also serves Yellowstone National Park through its Montana operations.
17. NorthWestern’s existing corporate structure subjects all of its jurisdictional operations to the risk of each other, as well as to other external factors.

18. Consistent with the purpose of the Bankruptcy Stipulation to insulate NorthWestern’s Montana public utility assets and finances from its other ventures, NorthWestern proposes to restructure its corporate organization by separating its state public utility divisions into two separate wholly-owned subsidiaries of a newly formed holding company through its Restructuring Plan.

19. Under the Restructuring Plan, NorthWestern’s Montana public utility business will be held in a separate subsidiary from its South Dakota and Nebraska public utility business.

20. NorthWestern’s Montana public utility subsidiary will retain the name “NorthWestern Corporation,” and it will hold the Montana public utility assets and debt obligations, as well as its Montana-related subsidiaries.

21. NorthWestern’s South Dakota and Nebraska public utilities subsidiary will take the name “NorthWestern Energy Prairies Corporation” and will hold its South Dakota and Nebraska public utility assets and debt obligations.

22. NorthWestern will form a corporation with the name “NorthWestern Energy Group, Inc.,” which will operate as a holding company to hold the ownership interests of all of the subsidiaries. NorthWestern’s existing shareholders’ common stock will be converted on a share-for-share basis to NorthWestern Energy Group, Inc. common stock.

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3 In this application, NorthWestern refers to the three primary entities involved in the Restructuring Plan as NorthWestern Corporation, NorthWestern Energy Prairies Corporation, and NorthWestern Energy Group, Inc. However, if the Restructuring Plan is approved, NorthWestern may implement the plan with different names for such entities.
23. Figure 2 shows the organizational structure following the execution of the Restructuring Plan:

**Figure 2: New Structure**

24. Following the corporate restructuring, NorthWestern’s outstanding debt securities related to its Montana public utility operations will remain with the Montana utility subsidiary, NorthWestern Corporation.

25. Similarly, NorthWestern’s outstanding debt securities related to its South Dakota and Nebraska utility operations will be assumed by the NorthWestern Energy Prairies Corporation subsidiary.

26. A primary component of the Restructuring Plan is to protect each jurisdiction’s utility customers through new and enhanced ring fencing measures, which will eliminate any continuing need for the Bankruptcy Stipulation. As illustrated below, the Restructuring Plan, as a whole, provides greater ring fencing protections for utility customers than the limitations (1) in the Bankruptcy Stipulation and (2) the Commission has required for other Montana utilities that restructured to form a holding company corporate structure.
<table>
<thead>
<tr>
<th>Restructuring Plan Ring Fencing Measure</th>
<th>Proposed Plan</th>
<th>Bankruptcy Stipulation</th>
<th>Energy West</th>
<th>MDU</th>
</tr>
</thead>
<tbody>
<tr>
<td>No subsidiary dividends to the parent corporation if the subsidiary’s equity capital is below 40% of its total capital, and the subsidiary must notify its respective state regulatory authority of dividends.</td>
<td>Yes.</td>
<td>No restriction based on current credit ratings, otherwise same 40% restriction.</td>
<td>Dividend restricted if equity is below 48% of total capital.</td>
<td>Dividend restricted if equity is below 45% of long-term capital.</td>
</tr>
<tr>
<td>Subsidiary public utilities will have their own debt. Subsidiary public utility debt must follow its respective public utility assets, and non-public utility debt must follow non-public utility assets.</td>
<td>Yes.</td>
<td>Yes.</td>
<td>No, but utility must have own debt.</td>
<td>Yes.</td>
</tr>
<tr>
<td>State regulatory authorities will have access to books and records of the respective subsidiary public utility and information on debt issuances of entities above the utility in the reorganized structure.</td>
<td>Yes.</td>
<td>No.</td>
<td>Yes, as to utility books and records.</td>
<td>Yes.</td>
</tr>
<tr>
<td>Subsidiary public utilities will maintain their respective books and records separate from their affiliates.</td>
<td>Yes.</td>
<td>Yes.</td>
<td>Yes.</td>
<td>No.</td>
</tr>
<tr>
<td>Subsidiary public utilities must notify their respective state regulatory authorities of any sale or transfer of their respective subsidiary utility assets over $25 million (or as otherwise required by applicable law).</td>
<td>Yes.</td>
<td>Yes.</td>
<td>No.</td>
<td>No.</td>
</tr>
<tr>
<td>The new holding company will continue using the same allocation method for common/shared expenses with respect to its public utility jurisdictions as NorthWestern used prior to the implementation of the Restructuring Plan.</td>
<td>Yes.</td>
<td>Consistent.</td>
<td>Yes.</td>
<td>No.</td>
</tr>
</tbody>
</table>

27. The new holding company structure that will exist following the execution of the Restructuring Plan is common throughout the public utility industry and will protect Montana’s customers from regulatory risk in other jurisdictions.

28. The new holding company structure also will insulate the subsidiary public utilities from any financial arrangements between the holding company and other affiliates.

29. NorthWestern’s shareholders will bear any incremental costs incurred with securing the necessary approvals for the Restructuring Plan, including any incremental costs
incurred with implementing the Restructuring Plan. NorthWestern will not seek to recover from customers any of those costs in rates.

30. No incremental financing will be required to implement the Restructuring Plan, and the resultant consolidated holding company capital structure will be the same as NorthWestern’s existing consolidated capital structure.

31. NorthWestern’s Montana rates will not change as a result of approving the Restructuring Plan.

32. NorthWestern’s public utility services and the Commission’s oversight thereof will remain unaffected by the Restructuring Plan. NorthWestern will continue providing safe and reliable electric and natural gas service to its Montana customers in the same manner as before the Restructuring Plan.

**APPROVAL OF RESTRUCTURING PLAN**

33. NorthWestern restates paragraphs 1-32 as if fully set forth herein.

34. NorthWestern seeks relief from the Bankruptcy Stipulation and Commission approval of its Restructuring Plan.

35. The attached Prefiled Direct Testimony of Crystal D. Lail and Prefiled Direct Testimony of Timothy P. Olson support the approval of the Restructuring Plan.

36. The Commission expressly allowed NorthWestern, at any time, to “make an application to the Commission for relief from, or for modification of, any provision of the Consent Order and [the Bankruptcy Stipulation] and [] accompany such application with appropriate evidentiary and legal support for whatever relief or modification it may seek in such application.” Docket D2003.8.109, Order No. 6505e, at p. 14.
37. The Commission advised it would review such an application to ensure reasonably adequate service and facilities at just and reasonable rates, and consistent with the purpose of the Consent Order. *Id.*; Mont. Code Ann. § 69-3-201.

38. Likewise, “the Commission . . . must approve any corporate reorganization of a public utility to assure generally that utility customers will receive adequate service and facilities at just and reasonable rates and that the Commission’s ability to perform its statutory functions will not be impaired.” *In the Matter of the Application of Energy West Incorporated, Energy West Montana, Inc., and Cut Bank Gas Company for Approval of Corporate Reorganization and Debt Replacement Financing*, D2016.2.17, Order No. 7478a, ¶ 61 (Sept. 13, 2016); *In the Matter of the Application of Montana-Dakota Utilities Co., a Division of MDU Resources Group Inc., for Approval of Corporate Reorganization*, Docket D2018.1.6, Order No. 7592b, ¶ 32 (Sept. 14, 2018).

39. The Restructuring Plan is in the public interest as it will further insulate NorthWestern’s Montana public utility assets and financing from its non-Montana public utility ventures, provides enhanced ring fencing measures consistent with the Consent Order, and will not add costs to Montana customers.

40. The Restructuring Plan will not harm customers as NorthWestern will continue to provide the same services at the same rates. NorthWestern’s customers will continuing receiving reliable service and facilities at just and reasonable rates.

41. The Commission’s oversight over NorthWestern’s Montana public utility operations will not change and the Commission’s ability to perform its statutory functions will not be substantially impaired.
42. The Restructuring Plan will put NorthWestern on a more even playing field with other, similarly situated, public utilities in Montana and in the region.

**RELIEF SOUGHT**

NorthWestern respectfully requests the Commission:

(1) Grant NorthWestern permanent relief from the Bankruptcy Stipulation by replacing it with the Restructuring Plan, effective upon implementation of the Restructuring Plan; and

(2) Approve its Restructuring Plan with the following ring fencing measures:

- Subsidiary public utilities may not issue dividends to the parent corporation if the subsidiary’s equity capital is less than 40% of its total capital and must provide notification of dividends;
- Subsidiary public utilities must have their own debt and such debt must follow its respective public utility assets, and non-public utility debt must follow non-public utility assets;
- Subsidiary public utilities must provide state regulatory authorities access to their books and records and provide information on debt issuances of entities above the utility in the reorganized structure;
- Subsidiary public utilities must maintain their respective books and records separate from their affiliates;
- Subsidiary public utilities must notify their respective state regulatory authorities of any sale or transfer of their respective subsidiary utility assets over $25 million (or as otherwise required by applicable law); and
• The new holding company must continue using the same allocation method 
  for common/shared expenses with respect to its public utility jurisdictions as 
  NorthWestern used prior to the implementation of the Restructuring Plan.

RESPECTFULLY SUBMITTED this 1st day of June, 2022.

By: Shannon M. Heim
Attorney for NorthWestern Energy
CERTIFICATE OF SERVICE

I hereby certify that NorthWestern Energy’s Application for Approval of Corporate Restructuring to Enhance Protections of Utility Customers in Docket No. 2022.06.___ has been e-filed with the Montana Public Service Commission and emailed to the email list below.

Date: June 1, 2022

/s/ Tracy Lowney Killoy
Tracy Lowney Killoy
Administrative Assistant

Email List:

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wrosquist@mt.gov
ben.reed2@mt.gov

Montana Consumer Counsel
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ssnow@mt.gov

NorthWestern Energy
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shannon.heim@northwestern.com
clark.hensley@northwestern.com
tracy.killoy@northwestern.com
Witness Information

Q. Please identify yourself, your employer, and your title.

A. My name is Crystal D. Lail. I am NorthWestern Energy’s (“NorthWestern” or “Company”) Vice President and Chief Financial Officer.

Q. Please describe your relevant experience and education.

A. I have been with NorthWestern since January 2003. As Vice President and Chief Financial Officer, my primary responsibilities include the
oversight of the finance organization, including accounting, financial
planning and analysis, investor relations, reporting, enterprise risk
management, tax and treasury. This responsibility includes development
and maintenance of internal controls to safeguard the financial assets of
the Company. I have a Bachelor of Science in Business Administration
and am a Certified Public Accountant.

Purpose and Summary of Testimony

Q. What is the purpose of your testimony?
A. I explain that restructuring will achieve cleaner separation between
jurisdictional utilities in terms of resources and use of financing proceeds. I
also discuss the benefit of the ring fencing provisions to Montana
customers.

Q. Please summarize your testimony.
A. The Restructuring Plan will benefit the Montana utility customers by
allowing the utility to operate as a stand-alone utility, insulated from the
risks of utilities in other jurisdictions and from the holding company.
Implementation of the Restructuring Plan alone should not result in any
changes to customer rates, capital structure, or service level of all entities
involved.
Impact of Restructuring Plan on Financial Operations

Q. Please explain how NorthWestern’s Restructuring Plan improves ring fencing provisions specifically related to financing activities.

A. The Restructuring Plan provides for separate legal entities, as initially requested by the Montana Consumer Counsel, and thus creates a legal separation for debt obligations with dividend restrictions. Under the Bankruptcy Stipulation and current legal structure, there is no legal separation between the jurisdictions NorthWestern serves and thus NorthWestern commingles funds between Montana, South Dakota, and Nebraska. Thus, while debt is secured by the underlying assets of each jurisdiction, the obligations created to finance the operations of each jurisdiction are legally the obligations of all customers.

In the proposed Restructuring Plan, through the establishment of a holding company and separate legal entities for the Montana and South Dakota/Nebraska utilities, debt that is secured by the assets in the respective jurisdictions is also serviced by the cash flows generated from the customers of the respective jurisdictions. The debt obligations of the respective jurisdiction will be limited to those customers and not shared. Furthermore, debt issued at the holding company level, if any, will be serviced only to the extent that there are cash flows streamed from the utility subsidiaries in the form of dividends.
Q. Please explain how the proposed legal structure is consistent with the prevailing practice of other similarly situated utilities.

A. A holding company structure with subordinate utility operating company(ies) is the most common legal structure due to the ring fencing protections discussed in the Prefiled Direct Testimony of Timothy P. Olson (“Olson Direct Testimony”). Most all of NorthWestern’s investor-owned peers of similar size operate in a holding company structure as noted below, due to the ring fencing protections enabled by the structure.

<table>
<thead>
<tr>
<th>Holding Company</th>
<th>Operating Company(ies)</th>
</tr>
</thead>
<tbody>
<tr>
<td>n/a</td>
<td>NorthWestern Corporation</td>
</tr>
<tr>
<td>Allete, Inc.</td>
<td>Minnesota Power / Superior Water, Light and Power / ALLETE Clean Energy</td>
</tr>
<tr>
<td>n/a</td>
<td>Avista Corp. (utility assets at parent)</td>
</tr>
<tr>
<td>Black Hills Corp.</td>
<td>Black Hills Utility Holdings Inc. (Black Hills Colorado / Iowa / Kansas / Nebraska / Black Hills Gas) Cheyenne Light &amp; Power</td>
</tr>
<tr>
<td>IDACORP</td>
<td>Idaho Power Company</td>
</tr>
<tr>
<td>MGE Energy Inc.</td>
<td>Madison Gas &amp; Electric Company</td>
</tr>
<tr>
<td>MDU Resources Group, Inc.</td>
<td>MDU Energy Capital (Montana-Dakota Utilities / Cascade / Intermountain) Centennial</td>
</tr>
<tr>
<td>Northwest Natural Holding</td>
<td>Northwest Natural Gas Company</td>
</tr>
<tr>
<td>OGE Energy Corp.</td>
<td>Oklahoma Gas &amp; Electric Company</td>
</tr>
<tr>
<td>Holding Company</td>
<td>Operating Company(ies)</td>
</tr>
<tr>
<td>-----------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>ONE Gas Inc.</td>
<td>Kansas Gas Service Company / Oklahoma Natural Gas Company / Texas Gas Service Company</td>
</tr>
<tr>
<td>Otter Tail Corp.</td>
<td>Otter Tail Power Company</td>
</tr>
<tr>
<td>n/a</td>
<td>Portland General Electric Company</td>
</tr>
<tr>
<td>PNM Resources</td>
<td>Texas-New Mexico Power Company / Public Service Co. of New Mexico</td>
</tr>
<tr>
<td>Puget Holdings LLC</td>
<td>Puget Energy dba Puget Sound Energy</td>
</tr>
<tr>
<td>SPIRE Inc.</td>
<td>Spire Alabama Inc. / Spire Gulf Inc. / Spire Mississippi Inc. / Spire Missouri Inc.</td>
</tr>
</tbody>
</table>

**Q. How does NorthWestern currently raise debt and equity to finance its operations?**

**A.** Currently, NorthWestern maintains two mortgage indentures under which the Company can issue debt. The mortgage indentures allow NorthWestern to issue debt at a lower interest rate by providing the debtholder a security interest in the assets that are under the lien of the indentures (i.e., secured debt). The Montana mortgage indenture encumbers the majority of the Montana utility assets and the South Dakota mortgage indenture encumbers the majority of the South Dakota and Nebraska utility assets. NorthWestern issues secured debt under these indentures based on the capital investments made in each jurisdiction. In other words, the ability to borrow under each indenture is based on the amount of rate base available in each jurisdiction.
Regardless of which indenture is used, with the current flat legal structure, all secured debt is issued under NorthWestern Corporation as the obligor and is supported by customers from all jurisdictions.

NorthWestern also borrows unsecured debt under its revolving credit facility to support working capital. The proceeds from this unsecured facility are shared across jurisdictions. Importantly, due to the lack of legal separation of the jurisdictions, debt investors look to the consolidated cash flows of the utilities to determine the credit worthiness of NorthWestern’s debt.

NorthWestern raises equity with NorthWestern Corporation as the issuer. The proceeds from equity issuances are shared by all the utilities. Equity investors look to the combined financial performance of the utilities to assess the risk of investing in NorthWestern.

Q. **How will the Restructuring Plan affect each jurisdiction’s access to debt and equity capital?**

A. The Restructuring Plan is not expected to affect the Montana utility’s or the South Dakota/Nebraska utility’s access to capital. If anything, the Restructuring Plan will provide better transparency for investors and could attract a broader set of investors who have more targeted investment goals. For example, given the higher carbon-free generation portfolio of
the Montana utility, Environmental, Social, and Governance-sensitive investors could find the debt issued by the Montana utility favorable. With the Restructuring Plan, each jurisdiction will continue to raise secured debt under their respective mortgage indentures; however, these will be separate legal entities with their own credit ratings. Debt investors will make investment decisions based on each jurisdiction as a stand-alone entity, while equity investors will make their investment decisions based on the consolidated entity.

Q. How will the Restructuring Plan affect each jurisdiction’s access to liquidity?

A. As mentioned above, access to liquidity is currently provided by the $450 million of revolving credit facilities maintained at NorthWestern Corporation. Each jurisdictional utility utilizes any portion of these facilities based on its need. For example, during Winter Storm Uri, in South Dakota and Nebraska we had approximately $48 million of higher natural gas supply costs, compared with approximately $10 million for the Montana utility. As a result, the liquidity needs for South Dakota and Nebraska operations utilized a disproportionately higher percentage of the facilities relative to its size.

After implementation of the Restructuring Plan, the revolving credit facility(ies) will continue to provide sources of liquidity; however, the
additional ring fencing measures would result in a fixed allocation of the availability under the working capital facilities to the operating utility subsidiaries and the holding company, ensuring adequate liquidity sources and separation amongst the entities.

Q. Please explain other considerations of a holding company structure from a financing perspective.

A. In addition to insulation of risks amongst the utilities via the legal separation of a holding company as described above, the Restructuring Plan will allow for more transparency to debt investors in terms of the financial health of each jurisdiction. The higher the visibility of the financial performance and business risks of an issuer/borrower, the more likely it is for the market to price the issuer’s securities fairly/accurately.

Q. Please describe how the proposed Restructuring Plan and ring fencing provisions protect customers generally.

A. Ring fencing separates utility customers by jurisdiction and thus the credit risks or exposures of the parent company and other jurisdictions do not impact the other. For instance, in Winter Storm Uri, utilities serving the geographic areas impacted by the storm had to raise additional debt capital. Ring fencing measures for those utilities provided for separation of the impacts of the storm from those jurisdictions where higher costs were not incurred. In addition, jurisdictions may have regulatory policy
differences and the impacts of those approaches would be limited to the customers in the relevant jurisdiction.

**Effects of Implementing Restructuring Plan on Financial Operations**

Q. Will incremental financing be required to implement the Restructuring Plan?

A. No, the Restructuring Plan is a legal process and incremental financing will not be required. The resultant consolidated holding company capital structure will be the same as NorthWestern’s existing consolidated capital structure immediately before and after the implementation as the Restructuring Plan is a legal restructuring.

Q. Will NorthWestern’s capital structure change as a result of the Restructuring Plan?

A. No. NorthWestern’s capital structure will not change as a result of the Restructuring Plan. Any future changes to capital structure and resulting impact to rates must be addressed via a rate review filing. NorthWestern would anticipate continuing to manage its rate-regulated subsidiaries’ capital structures in a similar manner as we currently do and will continue to be subject to credit covenants under the indentures. Importantly, incremental indebtedness that would impact the capital structure continues to require approval at the respective commission under the proposed ring fencing measures.
Q. Will NorthWestern’s public utility services change as a result of the Restructuring Plan?

A. No. There will be no change in NorthWestern’s day-to-day operations following implementation of the Restructuring Plan. NorthWestern Corporation (Montana) and the Prairies Sub (South Dakota and Nebraska) will continue providing safe and reliable electric and natural gas service to their customers in the same manner as before the Restructuring Plan.

Q. Will the cost of service change as a result of the Restructuring Plan?

A. No. Implementation of the Restructuring Plan will not result in any change in the cost of service as changes in rates must be requested under a separate rate review. Cost allocations of NorthWestern’s shared services will continue to be allocated on a Montana-jurisdictional basis per the Commission’s requirement, with any changes subject to the Commission’s review in a rate review filing.

Q. Why should the Commission approve the Restructuring Plan?

A. As discussed in the Olson Direct Testimony, with the Restructuring Plan, the Commission continues to have oversight as contemplated under the Bankruptcy Stipulation, with the additional protections of a true ring-fencing of the Montana utility by putting it in a separate entity and shielding the Montana customers from the other operations and obligations of the broader Company. The Bankruptcy Stipulation does not
shield the jurisdictional utilities from each other and currently allows the
Company an unlimited investment basket due to our investment grade
credit ratings.

Q. Does this conclude your testimony?
A. Yes.

VERIFICATION

This Prefiled Direct Testimony of Crystal D. Lail is true and accurate to the best
of my knowledge, information, and belief.

Crystal D. Lail
Montana Public Service Commission
Docket No. 2022.06.__
Approval of Corporate Restructuring
NorthWestern Energy

PREFILED DIRECT TESTIMONY

OF TIMOTHY P. OLSON
ON BEHALF OF NORTHWESTERN ENERGY

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<td>19</td>
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Exhibits

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<thead>
<tr>
<th>Description</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Bankruptcy Stipulation</td>
<td>Exhibit TPO-1</td>
</tr>
<tr>
<td>Merger Graphic</td>
<td>Exhibit TPO-2</td>
</tr>
</tbody>
</table>
Witness Information

Q. Please identify yourself, your employer, and your title.

A. My name is Timothy P. Olson. I am Senior Corporate Counsel and Corporate Secretary for NorthWestern Energy (“NorthWestern” or “Company”).

Q. Please describe your relevant experience and education.

A. Among other duties, I serve as the Company’s lead counsel on U.S. Securities and Exchange Commission (“SEC”) matters, responsible for legal review of all disclosures. I lead the strategy and drafting of our proxy statement, Form 8-K filings, and all officer and director Section 16 filings.

I also serve as lead NorthWestern counsel on material transactions, including over $4 billion of public and private debt and equity financings and asset acquisitions. Financings include equity offerings, secured mortgage bonds, unsecured revolving credit facilities, and a commercial paper program. Acquisitions include the Company’s transformative acquisition of eleven hydroelectric facilities in Montana, as well as renewable energy projects, natural gas reserves, and other strategic assets.
I graduated with honors from the University of Chicago with a Bachelor of Arts degree in philosophy and with honors from the DePaul University College of Law with a Juris Doctor degree.

**Purpose and Summary of Testimony**

**Q.** What is the purpose of your testimony?

**A.** I explain NorthWestern’s plan of corporate restructuring (“Restructuring Plan”) through which NorthWestern’s state utility operating divisions will become separate wholly-owned subsidiaries of a newly formed holding company. The Restructuring Plan, including enhanced ring fencing provisions, is intended to replace the existing bankruptcy stipulation (“Bankruptcy Stipulation”)\(^1\) between NorthWestern, the Montana Public Service Commission (“Commission” or “MPSC”), and the Montana Consumer Counsel (“MCC”) while providing the same or enhanced protections afforded to Montana customers. I explain the origination of the Bankruptcy Stipulation, how NorthWestern’s circumstances have changed since it was entered, and why the Commission should replace it. I explain NorthWestern’s current corporate structure and how NorthWestern plans to change it under the Restructuring Plan. I also explain the benefits NorthWestern and customers will receive with the new corporate structure.

\(^1\) Attached as Exhibit TPO-1.
Q. Please summarize your testimony.

A. As discussed in detail below, NorthWestern’s Restructuring Plan is consistent with the public interest, will cause no harm to consumers, and is being undertaken for the benefit of separating and insulating NorthWestern’s public utility businesses in the state of Montana from those in Nebraska and South Dakota, and from NorthWestern’s other business activities. There will be no change in the manner in which NorthWestern provides utility services in Montana or how the Commission regulates these services. NorthWestern will not pass any direct cost of the Restructuring Plan to customers.

Today, NorthWestern provides utility services in the states of Montana, Nebraska, and South Dakota through one entity, which owns substantially all of NorthWestern’s regulated utility assets (as required by the Bankruptcy Stipulation) and which is the parent company in NorthWestern’s corporate structure. That entity is NorthWestern Corporation. After the restructuring, NorthWestern will continue to provide the same utility services in Montana through the same NorthWestern Corporation entity (which will become a subsidiary of a new holding company). In Nebraska and South Dakota, NorthWestern will provide such services through a new subsidiary. These entities will be separate, stand-alone, first-tier subsidiaries underneath a new holding company.
NorthWestern’s circumstances have changed (improved) substantially since the Bankruptcy Stipulation was entered, and the updated ring fencing measures in the Restructuring Plan provide more protections to the Montana public utility business than what the Bankruptcy Stipulation currently provides.

**NorthWestern Bankruptcy Stipulation**

**Q.** Please describe the background of the Bankruptcy Stipulation.

**A.** I joined NorthWestern in December 2008, several years after NorthWestern emerged from its chapter 11 bankruptcy reorganization and entered into the Bankruptcy Stipulation with the Commission and the MCC. My understanding of the circumstances that caused NorthWestern to enter bankruptcy in 2003 is that NorthWestern had diversified its businesses before bankruptcy and no longer was serving strictly as a public utility. While its utility business remained strong, its other business areas struggled financially and caused the whole company to seek a bankruptcy reorganization.

NorthWestern’s chapter 11 reorganization plan was to solidify its role as a public utility and discontinue the majority of its non-utility operations. In light of NorthWestern’s bankruptcy, the Commission and the MCC had various concerns about NorthWestern’s ongoing operations. Prior to NorthWestern’s emergence from bankruptcy, the parties negotiated the
Bankruptcy Stipulation to address those concerns through the implementation of ring fencing measures in the Bankruptcy Stipulation.

Q. What is the overall purpose of the Bankruptcy Stipulation’s ring fencing measures?

A. The Bankruptcy Stipulation sets forth a variety of restrictions and requirements (ring fencing measures) that serve to separate and insulate NorthWestern’s Montana public utility assets, facilities, and operations from risks that may be associated with any non-utility ventures. The ring fencing measures contained in the Bankruptcy Stipulation fall into three categories: (1) structural measures; (2) financial measures; and (3) affiliate and inter-corporate measures.

Q. Please describe the structural ring fencing measures.

A. There are two primary structural ring fencing measures in the Bankruptcy Stipulation. First, NorthWestern must structure and maintain ownership and control of its “Public Utility” assets in the ultimate parent corporation without any direct or indirect intervention of any subsidiary or affiliate (Section 4(b)(i)). Initially, the MCC requested that the Montana public utility be placed in a utility-only subsidiary, but the parties ultimately agreed to ownership of all public utility assets by the parent corporation due to holding company restrictions that were present in the then-applicable Public Utilities Holding Company Act of 1935 (“PUHCA”). At
that time, PUHCA prevented a holding company structure to separate utilities between different jurisdictions. Approximately one year after the parties entered into the Bankruptcy Stipulation, the Energy Policy Act of 2005 repealed the holding company restrictions in PUHCA. After the repeal, a holding company structure could be used to separate jurisdictional utilities into individual operating subsidiaries as requested here.

Second, NorthWestern must provide notice to the Commission and the MCC at least 45 days in advance of any irrevocable commitment or undertaking to transfer, merge, sell, lease, encumber, or otherwise dispose of “Montana Public Utility” assets with a net book value or transaction value in excess of $5 million (Section 4(b)(ii)).

Q. How do the structural measures separate and insulate NorthWestern’s Montana public utility business?

A. These structural measures help insulate NorthWestern’s public utility business from any other potential business activities of NorthWestern by requiring that any public utility assets be held by NorthWestern in a corporate entity that is separate and distinct from any entity engaged in non-public utility business. By designating the entity in which NorthWestern must hold its public utility assets (and other measures segregating utility assets from non-utility assets), my understanding is that
the parties achieved a level of comfort that NorthWestern’s public utility assets would always be protected from any non-public utility business in which NorthWestern might engage.

Q. Please describe the financial ring fencing measures.

A. The Bankruptcy Stipulation contains several ring fencing measures that relate to the financial structure of NorthWestern as detailed below.

Separate “Public Utility.” The Bankruptcy Stipulation requires NorthWestern to hold “Public Utility” assets at the parent company, separate and segregated from other assets. (Section 4(b)(iii)(1)). This requirement protects NorthWestern’s public utility assets by building a fence around those assets and preventing any non-public utility assets from breaking through that fence.

Parent debt must be “public utility” debt. The Bankruptcy Stipulation also requires that debt at the parent corporation can consist only of “public utility” debt, the proceeds of which only can be used to fund “public utility” business. (Section 4(b)(iii)(2)). This requirement further protects NorthWestern’s public utility assets by ensuring that the parent corporation (which is the only entity that is allowed to hold the public utility assets) only can incur debt related to the public utility business and that such debt only can be used to fund the public utility business. In other words, the parent company only can borrow money for its public utility business, and the parent company only can use money it has borrowed for its public utility business. This additional fence around the public utility business ensures that the public utility is not incurring obligations to fund other businesses.
Debt must follow assets. If assets are (a) used to secure debt, or (b) financed by unsecured debt, and those assets are later divested, the proportionate share of such debt also must be divested. (Section 4(b)(iii)(3)-(5)).

Limited support by Parent. Except as permitted by the “Limited Investment Basket Caps,” the Parent cannot extend credit to, pledge “Public Utility” assets for the benefit of, or guarantee the debt of any subsidiary or affiliate. (Section 4(b)(iii)(6)).

Parent not liable for non-utility debt. All debt associated with assets other than “public utility” assets must be held at subsidiaries or affiliates and must be non-recourse to the Parent. (Section 4(b)(iii)(7)).

Independent credit rating. The Parent must have an independent credit rating. (Section 4(b)(iii)(8)).

Q. How do the financial measures separate and insulate NorthWestern’s Montana public utility business?

A. The financial measures work in a very similar fashion to the structural measures, but instead of separating assets, the financial measures separate finances. The parent entity can have only public utility debt, and public utility debt can be used only for public utility purposes. In addition, any non-public utility debt must be held by subsidiaries or affiliates and not by the parent entity, and the parent entity cannot be liable for such non-public utility debt (subject to the Limited Investment Basket Caps). These restrictions separate the finances of any public utility business from any
non-public utility business by keeping the public utility debt at the parent entity and any non-public utility debt away from the parent entity. The restrictions also prevent the parent entity from using its public utility debt to support any non-public utility business at a subsidiary or from being liable for the debt of a non-public utility subsidiary.

The requirement that the parent entity have its own independent credit rating provides protection to the public utility business by providing an ongoing independent analysis of the utility’s ability to repay its obligations.

Q. Please describe the affiliate and inter-corporate ring fencing measures.

A. The affiliate and inter-corporate ring fencing measures are as follows:

**Limited Affiliate Investment.** NorthWestern is not permitted to make investments in subsidiaries or affiliates, “except in accordance with the Limited Investment Basket.” (Section 4(b)(iv)).

**40% Equity to Total Capitalization Ratio.** In order for the Limited Investment Basket to be available, NorthWestern must maintain an equity to total capitalization ratio of at least 40%, using financial statements filed by NorthWestern with the Securities and Exchange Commission on Forms 10-Q and 10-K. “Total capitalization” includes secured and unsecured debt, plus capital leases, plus consolidated book equity. (Section 4(b)(iv)).

**Limited Investment Basket Caps.** NorthWestern may make investments in amounts not to exceed the aggregate amounts of the
Limited Investment Basket Cap, in accordance with specified threshold
credit rating levels. (Section 4(b)(v)).

**Reduction of Limited Investment Basket Cap.** The Limited
Investment Basket Cap amounts are inclusive of four specified
financial commitments of NorthWestern: (1) Colstrip 4 leases and
operating agreements, (2) intercompany support for Clark Fork and
Blackfoot, LLC, in connection with the Milltown Dam, (3) preservation
of Montana Megawatts I, LLC, assets, and (4) unregulated South
Dakota and Nebraska gas marketing operations of NorthWestern
Services Corporation.

- **Due to financial commitments.** To the extent these four
  assets/commitments are eliminated, reduced, sold, or otherwise
  disposed of, the Limited Investment Basket Cap automatically will
  be reduced, but never below $45 million, “by an amount
  representing fifty percent (50%) of the average of the maximum
  balance outstanding during each of the preceding twelve (12)
  months” with respect to such commitments. (Section 4(b)(v)).

- **Due to credit rating downgrade.** If NorthWestern’s credit rating is
downgraded, the Limited Investment Basket Cap amount will
automatically decrease to the amount applicable to the new credit
rating. NorthWestern then must act expeditiously to reduce the
amount of affiliate and inter-corporate investments to meet the new
cap. (Section 4(b)(vi)).

- **Due to decreased capitalization ratio.** If NorthWestern’s equity to
total capitalization ratio falls below 40%, the Limited Investment
Basket Cap amount will automatically decrease to $60 million.
NorthWestern then must act expeditiously to reduce the amount of
affiliate and inter-corporate investments to meet the new cap. (Section 4(b)(vii)).

**No affiliate contracts in utility rates without authorization.**
NorthWestern cannot enter into a contract with an affiliate or subsidiary and recover the costs of such contracts through utility rates paid by Montana customers unless the MPSC pre-authorizes the contract. (Section 4(b)(viii)).

**Separate accounting books.** NorthWestern must maintain separate books and accounting records for each “Public Utility” and direct or indirect subsidiary or affiliate and permit the MPSC to access and audit such books and records. (Section 4(b)(ix)-(x)).

**Q.** How do the affiliate and inter-corporate measures separate and insulate NorthWestern’s Montana public utility business?

**A.** There are several ways that the affiliate and inter-corporate measures separate and insulate the Montana public utility business.

First, the measures limit the amount of unregulated investments NorthWestern can make by placing a series of caps on such investments which are synced to NorthWestern’s credit rating. This insulates the public utility business by placing a governor on NorthWestern’s ability to make unregulated investments. NorthWestern cannot make any such investments unless it has an adequate capitalization ratio. If the ratio is sufficient, then, as NorthWestern’s credit rating improves, the investment cap increases and allows a greater amount of such investment; if the
credit rating declines, the cap decreases and reduces the amount of permitted investment (including by requiring NorthWestern to unwind prior investments to satisfy the reduced level of the new cap). This ties NorthWestern’s ability to invest in unregulated endeavors with its financial stability, as demonstrated by its capitalization ratio and credit rating. In light of NorthWestern’s strong financial performance since emerging from bankruptcy in 2004, NorthWestern’s credit rating has improved, and NorthWestern currently has an “unlimited” investment basket cap under the Bankruptcy Stipulation. In practice, NorthWestern has not been subject to this provision since returning to investment grade secured credit ratings in 2006.

Second, these measures restrict the public utility entity from transacting business with any non-utility affiliates or subsidiaries, unless the Commission first approves any such transactions. This insulates the public utility from non-public utility businesses by ensuring that any such transactions are at arms’ length and provide a benefit to utility customers. At the time of the Bankruptcy Stipulation, this measure was more applicable to NorthWestern’s operations because NorthWestern had a subsidiary that generated electricity (Colstrip) which was sold to the Montana utility. That arrangement no longer exists today, and the overwhelming majority of NorthWestern’s utility operations have been consolidated over the years into the parent entity.
Finally, the requirement to maintain accounting records for the utilities separate from one another and any affiliates or subsidiaries makes it easy to determine whether the public utilities have been separated from unregulated activities.

Q. When do the Bankruptcy Stipulation’s ring fencing measures expire?

A. My assumption is that the uncertain financial environment surrounding NorthWestern’s bankruptcy led the parties to omit a specific end date in the Stipulation. However, pursuant to the Commission’s approval of the Stipulation, the Commission retains the authority to revise or terminate the Stipulation. In the Matter of An Investigation of NorthWestern Energy’s Financial and Related Transactions, Docket No. D2003.8.109, Order No. 6505e (“Consent Order”), pp. 13-14. “NorthWestern may at any time make an application to the Commission for relief from, or for modification of, any provision of [the Bankruptcy Stipulation] and shall accompany such application with appropriate evidentiary and legal support for whatever relief or modification it may seek in such application.” Id. at 14. Further, the Commission explicitly recognized that “the Commission may dispose of any such application in the manner which appropriately effectuates the purposes and policies of 69-3-201, MCA and the purposes of this Consent Order.” Id.
Q. Has the Bankruptcy Stipulation fulfilled its intended purpose?

A. Yes, the Stipulation has fulfilled its intended purpose. The Stipulation was the end result of a petition the MCC filed with the Commission to initiate a financial investigation into NorthWestern to determine if NorthWestern’s historical financial difficulties would affect Montana customers and to establish appropriate protection for Montana customers.

At a high level, the purpose of the Stipulation was to protect customers by creating stability for the public utility. To achieve that broad goal, the MCC requested a range of specific regulatory and structural provisions, including:

- Establishing a utility-only subsidiary upon NorthWestern’s emergence from bankruptcy;
- Stricter regulation of the disposition of NorthWestern’s Montana utility properties;
- Segregating utility finances from non-utility affiliate risks and operations;
- A prohibition on inter-corporate relationships between the utility and non-utility entities;
- Restrictions on new financing involving NorthWestern’s Montana utility properties and cash management practices;
- Independent examination and verification of NorthWestern’s accounting systems; and
• Implementation of operation and maintenance service quality standards.


Ultimately, the investigation docket concluded with the parties’ agreement in the Stipulation, which addressed most of the purposes the MCC requested. As described earlier in this testimony, the Stipulation does (1) regulate the disposition of NorthWestern’s Montana utility properties; (2) segregate utility finances from non-utility affiliate risks and operations; (3) prohibit inter-corporate relationships between the utility and non-utility entities; (4) restrict public utility financing; and (5) separate utility and non-utility account records and provide for examination of those records.

But, the Stipulation did not address every MCC request. Specifically, the Stipulation did not require NorthWestern to place its Montana public utility assets and operations in a utility-only subsidiary. Instead, the Stipulation required that all public utility assets be held at the parent corporation, and that is NorthWestern’s structure today. Notably, the only reason the MCC’s utility-only subsidiary request was not adopted appears to be due to a PUHCA restriction that no longer exists.
Our proposed Restructuring Plan would place our Montana utility assets and operations in a utility-only subsidiary, as well as provide the other protections the MCC requested in the investigation docket. NorthWestern is proposing and requesting in this current docket precisely what the MCC requested in the investigation docket. And NorthWestern’s current request provides more protection for Montana customers than what the Stipulation provides.

Q. Why should the Commission relieve NorthWestern from the ongoing restrictions in the Bankruptcy Stipulation?

A. The Stipulation has served its purpose, and NorthWestern has demonstrated from its actions and commitments that it is a much different company than the one that encountered financial difficulties 20 years ago.

Today, NorthWestern is a financially stable company. NorthWestern’s strategy is focused on the core business – being a regulated electric and gas distribution, transmission, and supply investor-owned public utility.

As such, NorthWestern is a conservative enterprise focused on predictable, stable returns and reasonable growth based on core businesses. It maintains a low appetite for risks affecting its existing federal and state regulated distribution, transmission, and supply
operations, and a moderate risk appetite for disciplined growth within the utility- and energy-related industries.

It is this core strategic focus that has brought financial stability to NorthWestern and provided the opportunity for significant investment in utility infrastructure since emerging from bankruptcy. In addition, this strategic focus has changed and significantly improved the culture of NorthWestern. In recent years, NorthWestern has experienced all-time highs in employee safety, customer satisfaction, system reliability, and employee engagement. Today’s leadership team has stabilized this company in many ways. Today’s NorthWestern is not the NorthWestern from 20 years ago.

With respect to the Stipulation, NorthWestern’s focus and financial stability have resulted in credit ratings that have moved the Company to the “unlimited” level for non-utility investments under the Limited Investment Basket Caps provided by the Stipulation. In other words, the parties to the Stipulation believed there would be no concern with NorthWestern making significant non-utility investments in light of NorthWestern’s current level of financial stability. By the parties’ own agreement, since NorthWestern achieved an investment grade credit rating in 2006, the need for the Stipulation has passed. In addition, the Stipulation contains provisions that are administratively burdensome (requiring approval of South Dakota and
Nebraska financing) and duplicative to other statutes and standards (financial statements requirements).

Relief from the Stipulation was anticipated by all parties and the Commission as eventually appropriate and necessary. It is unreasonable for the Stipulation to continue into perpetuity. The energy market and Montana’s place in it has changed as much as NorthWestern’s business model and financial situation. A more financially flexible utility is necessary to both protect Montana consumers and feed innovation. The Consent Order and Montana law anticipate that the Stipulation will eventually end and provides oversight for that eventuality. See Mont. Code Ann. § 69-3-1503.

**Current Corporate Structure of NorthWestern**

Q. Please describe NorthWestern’s current corporate structure.

A. NorthWestern is a publicly held Delaware Corporation. Its shares of common stock are listed and traded on the Nasdaq Stock Market, LLC, under the ticker symbol “NWE.” NorthWestern provides natural gas and electric utility services to approximately 753,000 customers in Montana, Nebraska, South Dakota, and Yellowstone National Park in Wyoming.

NorthWestern holds all of its utility assets, with a few exceptions attributable to acquisitions, at the parent company. Jurisdictional
separations are managed through accounting according to state and federal rules. Figure 1 shows the current organizational structure of NorthWestern.

Figure 1: Existing Structure

Q. How does this relatively flat corporate structure compare to other public utilities?

A. NorthWestern seeks to implement a corporate restructuring that will result in a holding company organization. The majority of public utilities in the United States, including Montana-Dakota Utilities Co. (“MDU”) and Energy West, Inc. (“Energy West”), are organized in a holding company structure. Following repeal of PUHCA by the Energy Policy Act of 2005, the energy industry embraced the structure to protect utility assets and

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2 See e.g., In the Matter of the Application of Otter Tail Corporation Under Minnesota Statutes, Section 216B.50 to Form a New Holding Company, Order Approving Restructuring as Conditioned, Docket No. E-017/PA-08-658 (January 7, 2009). See also In the Matter of the Application of Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc., for Approval of Corporate Restructuring, Docket D2018.1.6 (2018). See also In the Matter of the Petition of Energy West, Inc., for Approval of Corporate Reorganization to Create a Holding Company Structure, Docket D2008.5.57 (2008).
provide for flexible finance options for the companies. A holding company structure is particularly valuable for utilities that operate in multiple jurisdictions, like NorthWestern, to protect one state’s customers from regulatory risk in other jurisdictions and simplify accounting oversight. The Federal Energy Regulatory Commission (“FERC”) likewise recognizes the benefits of a holding company structure because it “facilitate[s] regulatory monitoring of possible cross-subsidization between [different] lines of business” by separating the cost impacts of non-utility operations from utility costs and revenues.\(^3\)

Q. What risks does the existing flat corporate structure pose among NorthWestern’s separate jurisdictional utilities?

A. Under the corporate structure required by the Stipulation (i.e., each utility jurisdiction residing in the parent entity), there is no separation of the obligations related to each jurisdiction. The obligations that might result from one jurisdiction become the obligations of NorthWestern Corporation, which is the same entity that owns the utility assets of other jurisdictions. There is no insulation between these obligations.

For example, consider the 2021 winter storm that resulted in significant spikes in natural gas prices in certain areas of the country. If a substantial price spike occurs in one of NorthWestern’s jurisdictions, like the 2021

\(^3\) *Boston Edison Co.*, 80 FERC ¶ 61,274 at 61,992 (1997).
winter storm or a similar set of circumstances, there is a potential that such costs might not be recoverable from customers in that jurisdiction. Such a result would place pressure on NorthWestern's credit ratings and might require NorthWestern to divert funds that had been intended for infrastructure investments in other jurisdictions and instead use those funds to address liquidity needs, thereby delaying the infrastructure investments. On the other hand, under a holding company structure, the legal separation of the jurisdictions provides for separate credit ratings for each jurisdictional legal entity, which would insulate each jurisdiction from events like this. With the current flat corporate structure, there is no insulation from such an event potentially affecting another jurisdiction; whereas, the holding company structure proposed by NorthWestern, with the separate subsidiary and dividend restrictions, would provide this additional protection.

Q. Why does NorthWestern want to undergo a corporate restructuring at this time? In other words, why now?

A. The Stipulation has outlived its purpose and should be updated to reflect NorthWestern's current business model as a reintegrated utility. A holding company structure is the most common form of legal structure utilized by commissions in the U.S. to provide for appropriate customer protections with the balance of administrative ease.
As discussed above, the Stipulation contains provisions that are no longer relevant, and have not been in quite some time. As a result of its financial ability (demonstrated by its credit ratings), one of the Stipulation’s key restrictions (the Limited Investment Basket Caps) has been at the “unlimited” level since 2006. In other words, it is no longer a restriction and has had no recent practical application. This provision was noted as one of the primary purposes of the Stipulation – to isolate the Company’s public utility business from its unregulated business by limiting the Company’s ability to make unregulated investments – yet in practice by the very terms of the Stipulation the restriction has not applied since 2006.

In addition, provisions regarding financing authority in practice create additional administrative burden by bringing NorthWestern’s matters in other jurisdictions before the Montana Commission.

NorthWestern recognizes and appreciates the importance of oversight by the Commission and engagement with the MCC and has proposed a holding company structure and a Restructuring Plan that updates the current provisions and reduces administrative burden, while providing more protections than currently exist for NorthWestern’s public utility in Montana. Importantly, the Restructuring Plan provides the Montana utility-only subsidiary that the MCC requested in the financial investigation docket in 2003, but that does not exist today. This provides the added protection of isolating and insulating the Montana utility and its assets from
NorthWestern’s other utility businesses, which does not exist today. The Restructuring Plan restricts the dividends that the Montana utility-only subsidiary can pay to the new holding company, another protection that does not exist under the current structure.

Finally, a holding company structure is common with modern utilities and is the most practical structure for multi-jurisdictional utilities. The days of single jurisdiction utilities have passed. Today’s utilities serve customers in multiple states, in multiple jurisdictions. Maintaining a separate corporate entity as the locus of utility operations and properties facilitates the regulation of that utility because it enables both the utility and its regulators to focus exclusively on utility obligations and performance. When multiple and unrelated enterprises are within the same corporate structure, it is difficult for regulators as well as investors to ascertain what is really happening at any given point in time. Isolating the Montana public utility and its public utility assets in a separate and distinct corporate entity not only insulates that utility from other businesses, but it also allows its regulators to focus on their purpose of regulating that utility.

Let me illustrate with a hypothetical. Today, if NorthWestern needed to raise capital for an infrastructure investment project in South Dakota that has been approved by NorthWestern’s South Dakota regulators as necessary, reasonable, and beneficial to customers, NorthWestern would
be required to seek authority from the Montana Commission to issue
securities in connection with raising capital for that project because all of
NorthWestern’s utility operations are held by NorthWestern Corporation. In
this hypothetical, NorthWestern questions the efficiency and fairness of
seeking Montana Commission approval for a South Dakota project that
has been approved by the South Dakota regulators and does not affect its
Montana utility in any way. Similarly, the Montana Commission also might
question why it needs to expend its valuable time and reserve space on its
crowded docket for a petition unrelated to Montana utility operations.

The proposed Restructuring Plan addresses these concerns, isolates and
insulates the Montana utility in a separate corporate entity (which the MCC
requested in 2003), and provides greater protections than currently exist
under the Stipulation.

Restructuring Plan

Q. Please provide an overview of the ultimate corporate structure
sought by NorthWestern through its Restructuring Plan.

A. The Restructuring Plan is essentially a “paper” transaction so it will not
impact the day-to-day operations of NorthWestern, nor will it have any
effect on how the Commission regulates NorthWestern in Montana.

Today, NorthWestern is a relatively flat organization where all utility assets
are held in a common parent company, as illustrated in Figure 1 above.
Through the Restructuring Plan, NorthWestern proposes to hold its Montana utility assets and debt in one subsidiary and its South Dakota/Nebraska utility assets and debt in another subsidiary. To effectuate the Restructuring Plan, NorthWestern proposes to create three new corporations:

- A new holding company, referred to in the Application as NorthWestern Energy Group, Inc. This entity will be a Delaware corporation and will become the publicly traded holding company parent entity in the new corporate structure (“HoldCo”);

- A new Delaware corporation (“NorthWestern Merger Sub”) which will merge with the existing NorthWestern Corporation. Ultimately, NorthWestern Corporation will survive this merger as NorthWestern’s utility subsidiary operating in Montana. NorthWestern Corporation will continue to hold its utility assets located in Montana and related debt as a direct subsidiary of HoldCo.4

- A new South Dakota corporation, referred to in the Application as NorthWestern Energy Prairies Corporation (“Prairies Sub”), which will become the utility subsidiary operating in Nebraska and South Dakota.

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4 NorthWestern Corporation must remain as a Delaware corporation to satisfy the merger requirements of Section 251 of the Delaware General Corporate Law of the State of Delaware. 8 Del. C. § 251.
Dakota and into which NorthWestern will transfer its Nebraska and South Dakota utility assets and debt.

None of HoldCo, NorthWestern Merger Sub, or Prairies Sub currently exist. NorthWestern will create and incorporate the companies after receiving all necessary regulatory approvals.5

Through the restructuring, HoldCo will be created as a Delaware corporation, referred to in the application as NorthWestern Energy Group, Inc., and will use the NorthWestern Energy trade name. The new holding company will engage in business activities through separate subsidiaries.

After the restructuring, HoldCo will have some of the same first-tier subsidiaries that NorthWestern currently has plus two first-tier utility subsidiaries: (1) NorthWestern Corporation, which will own NorthWestern’s utility assets in Montana, and (2) Prairies Sub, which will own NorthWestern’s utility assets in Nebraska and South Dakota. NorthWestern Corporation (as the first-tier Montana utility subsidiary of HoldCo) will continue to own certain subsidiaries related to the Montana utility business.

5 In addition to approval from the Commission, approval is also required from FERC, the South Dakota Public Utilities Commission, and the Nebraska Public Service Commission.
Figure 2 below shows the proposed organizational structure after the Restructuring Plan:

Figure 2: New Structure

Q. What role will FERC play in the evaluation of the Restructuring Plan?
A. FERC will need to approve the Restructuring Plan. Along with the application before the Commission, NorthWestern has filed a petition with FERC seeking approval of the Restructuring Plan.

Q. What role will South Dakota’s and Nebraska’s state regulatory authorities play in the evaluation of the Restructuring Plan?
A. NorthWestern’s South Dakota and Nebraska state regulatory authorities will need to approve the Restructuring Plan. Along with the application before the Commission, NorthWestern has filed petitions with its South
Dakota and Nebraska state regulatory authorities seeking approval of the
Restructuring Plan.

Q. Can you please walk the Commission through the steps necessary to
implement the Restructuring Plan?

A. At a high level, the steps to implement the Restructuring Plan are as
follows:

- **Create new corporate entities:** Form HoldCo as a subsidiary of
  NorthWestern Corporation and form NorthWestern Merger Sub and
  Prairies Sub as subsidiaries of the new holding company;

- **Transfer certain assets to HoldCo and Prairies Sub:**
  - Transfer non-utility assets and non-utility subsidiaries from
    NorthWestern Corporation to HoldCo; and
  - Transfer South Dakota and Nebraska utility assets first from
    NorthWestern Corporation to HoldCo and then from HoldCo
    to Prairies Sub;

- **Merge Montana utility with a subsidiary of HoldCo:** Merge
  NorthWestern Corporation (which now holds only Montana utility
  assets) with NorthWestern Merger Sub. NorthWestern Corporation
  is the surviving entity from that merger and becomes a direct
  subsidiary of HoldCo.

A graphical illustration of these steps is provided as Exhibit TPO-2.
The Restructuring Plan occurs entirely as a legal process on paper and the transfers will occur in mere seconds. However, the preparation to implement the Restructuring Plan will take considerably longer.

Montana is NorthWestern’s largest jurisdiction with the most assets. Accordingly, to reduce expense and increase efficiency, NorthWestern has designed the Restructuring Plan so that none of the Montana public utility assets and interests (including related contracts, deeds, titles, etc.) need to be transferred. Today, those assets are held by NorthWestern Corporation, and upon implementation of the Restructuring Plan, those assets will continue to be held by NorthWestern Corporation.

Moving the South Dakota and Nebraska utility assets and interests to Prairies Sub and the non-utility assets and interests to HoldCo will take additional process. NorthWestern will need to notify or otherwise contact contract counterparties, re-title real estate interests, work with debt holders, and perform various other tasks to complete these transfers, but NorthWestern has significantly reduced the overall level of work to implement the Restructuring Plan by keeping the Montana assets and interests in place.
Q. Can you please describe the tax implications of the Restructuring Plan?

A. NorthWestern does not anticipate that the Restructuring Plan will result in a taxable event under the Internal Revenue Code.

Q. What are the impacts of the Restructuring Plan on NorthWestern’s shareholders?

A. As part of the Restructuring Plan, by operation of law, NorthWestern’s current shareholders will have their shares converted into HoldCo common stock on a share-for-share basis, and HoldCo will become the sole owner of NorthWestern Corporation’s common stock. NorthWestern will register HoldCo’s securities with the SEC.

Q. What role will shareholders play in the Restructuring Plan?

A. NorthWestern can implement the Restructuring Plan without affecting the rights and preferences of NorthWestern’s current shareholders. NorthWestern’s shareholders immediately prior to consummation of the Restructuring Plan will own the same relative percentages of HoldCo following consummation of the Restructuring Plan. Therefore, under Delaware law, the Restructuring Plan does not require the approval of NorthWestern’s current shareholders.
Q. How will NorthWestern’s Montana public utility assets be affected by the Restructuring Plan?

A. Importantly, the merger transactions contemplated under the Restructuring Plan ultimately will not result in NorthWestern transferring any of its Montana public utility assets or property to HoldCo or any other affiliate. Instead, NorthWestern will transfer to HoldCo any holding company assets, if any, as well as holding company contracts, plans, and other obligations.

Q. How will NorthWestern’s existing debt be affected by the Restructuring Plan?

A. NorthWestern’s outstanding debt securities at the time NorthWestern implements the Restructuring Plan, which have been incurred solely for its utility operations either in Montana or in Nebraska and South Dakota, will remain with, respectively, the Montana utility or the Nebraska and South Dakota utility. The debt of each jurisdictional utility operation will be allocated, and the debt of the other affiliates will remain with those entities.

NorthWestern currently has two mortgages – one mortgage secured by Montana assets and a second separate mortgage secured by assets in South Dakota and Nebraska. When the Restructuring Plan is implemented, the Montana mortgage debt secured by the Montana assets will remain with NorthWestern Corporation, and the South Dakota and
Nebraska mortgage debt secured by the South Dakota and Nebraska assets will move with such assets to Prairies Sub. In other words, utility debt will follow utility assets.

The reason the Restructuring Plan does not separate the South Dakota utility operations from the Nebraska utility operations in separate corporate entities is due to the existence of the mortgage secured by all of NorthWestern’s assets in South Dakota and Nebraska.

Q. **What role will NorthWestern’s creditors have in the Restructuring Plan?**

A. To the extent necessary, NorthWestern will provide notification of, and obtain approval for, the Restructuring Plan from certain creditors and other contractual counter-parties as required by the terms and conditions of the applicable agreements.

Q. **How are existing subsidiaries, such as Havre Pipeline Company, affected by this corporate reorganization?**

A. NorthWestern’s other current subsidiaries (as well as any of their subsidiaries) will not be affected by the merger transactions. Those current subsidiaries that are related to NorthWestern’s Montana utility operations (like Havre Pipeline Company, LLC) will continue to be subsidiaries of NorthWestern Corporation following implementation of the
Restructuring Plan. Current subsidiaries that are not related to the
Montana utility operations will become direct subsidiaries of HoldCo.

**Q.** How much will Montana customers pay to implement NorthWestern’s
corporate Restructuring Plan?

**A.** Nothing. All direct costs associated with securing the necessary approvals
for the Restructuring Plan and implementing the Restructuring Plan,
including any and all costs associated with the formation of HoldCo,
NorthWestern Merger Sub, and Prairies Sub will be borne by
NorthWestern shareholders.

**Q.** Is there a chance that NorthWestern will not implement the
Restructuring Plan, even if the Commission consents?

**A.** Yes, NorthWestern cannot complete the Restructuring Plan unless all of
its regulators approve of the plan. Even if all regulators approve, there
may be a subsequent, unknown, intervening event that obviates the need
for the Restructuring Plan.
Proposed Ring Fencing Measures

Q. What ring fencing measures does NorthWestern propose in its Restructuring Plan to replace the Bankruptcy Stipulation?

A. NorthWestern proposes the following ring fencing measures:

- No dividend if equity capital is below 40% of total capital, and utility must notify MPSC of dividends;
- Utility will have its own debt agreements and utility assets cannot secure other subsidiary debt;
- Utility debt follows utility assets and non-utility debt follows non-utility assets;
- MPSC continues to have access to all books and records of utility, parent, and affiliates;
- Utility will maintain books and records separate from affiliates, as required by FERC;
- Utility must notify MPSC of sale or transfer of utility assets over $25 million; and
- Utility will continue the existing allocation method for common/shared expenses.

Q. How do the ring fencing provisions of the Restructuring Plan differ from those of the Bankruptcy Stipulation?

A. The proposed ring fencing measures in the Restructuring Plan improve the protections of the Bankruptcy Stipulation in two primary ways. First,
consistent with the MCC’s original request in 2003, the Restructuring Plan isolates and insulates the Montana utility in a distinct, separate, utility-only corporate entity. The benefits of a utility-only subsidiary are described above.

Second, the Restructuring Plan provides a dividend restriction that does not exist in the Bankruptcy Stipulation. Today, with the “unlimited” Limited Investment Basket Cap, NorthWestern is not restricted in the amount of investments it might want to make. After the Restructuring Plan, NorthWestern will be restricted in making other investments because it must retain a certain amount of equity capital in the Montana utility subsidiary, which will be prohibited from sending a dividend to HoldCo if the Montana utility subsidiary’s equity capital is below 40% of its total capital. Today, there is no restriction; under the Restructuring Plan, there is a restriction.

The other ring fencing measures of the Restructuring Plan are virtually identical to the ring fencing measures of the Bankruptcy Stipulation. NorthWestern is requesting an increase in the threshold to sell public utility assets without Commission notification. Twenty years ago, the Bankruptcy Stipulation set the limit at $5 million. Any proposed sale above that amount requires Commission notification. NorthWestern believes that
a more appropriate threshold in today’s dollars is $25 million before requiring Commission notification.

Q. How do the enhanced ring fencing provisions in the Restructuring Plan compare to the measures the Commission imposed on MDU and Energy West for each utility’s corporate restructuring?

A. NorthWestern proposes ring fencing measures that incorporate the MDU and Energy West provisions plus some additional protection, as summarized in the table below.

<table>
<thead>
<tr>
<th>NorthWestern Energy</th>
<th>MDU</th>
<th>Energy West</th>
</tr>
</thead>
<tbody>
<tr>
<td>No dividend if equity capital is below 40% of total capital, and utility must notify MPSC of dividends</td>
<td>No dividend unless equity is below 45% of long-term capital (defined as equity + long-term debt)</td>
<td>No dividend unless equity is below 48% of total capital (defined as equity + long-term debt)</td>
</tr>
<tr>
<td>Utility will have its own debt agreements and utility assets cannot secure other subsidiary debt</td>
<td>Utility will have its own debt agreements and utility assets cannot secure other subsidiary debt</td>
<td>Initially, utility would not have its own debt; upon later refinancing of debt, utility would have its own debt and credit rating</td>
</tr>
<tr>
<td>Utility debt follows utility assets and non-utility debt follows non-utility assets</td>
<td>Utility will retain utility assets after the corporate restructure</td>
<td>Utility debt follows utility assets and non-utility debt follows non-utility assets</td>
</tr>
<tr>
<td>NorthWestern Energy</td>
<td>MDU</td>
<td>Energy West</td>
</tr>
<tr>
<td>---------------------</td>
<td>-----</td>
<td>-------------</td>
</tr>
<tr>
<td>MPSC continues to have access to all books and records of utility, parent, and affiliates</td>
<td>MPSC and MCC will have access to utility records and information on debt issuances of entities above the utility in the reorganized structure</td>
<td>MPSC will have access to all books and records of utility and any information which directly or indirectly pertains to the utility or any affiliate that exercises influence or control over the utility</td>
</tr>
<tr>
<td>Utility will maintain books and records separate from affiliates, as required by FERC</td>
<td>Not specified</td>
<td>Utility must maintain separate books and records from parent and any affiliates</td>
</tr>
<tr>
<td>Utility must notify MPSC of sale or transfer of utility assets over $25M</td>
<td>Not specified</td>
<td>Utility must notify MPSC in advance of (a) any transfer of more than 5% of retained earnings over a six-month period; (b) special cash dividend; (c) departure from schedule of regular dividends; and (d) any sale or transfer of utility assets over $1M</td>
</tr>
<tr>
<td>Continue the existing allocation method for common/shared expenses</td>
<td>Not specified</td>
<td>Continue the existing allocation method for common/shared expenses</td>
</tr>
</tbody>
</table>
Q. Will the Commission’s oversight of NorthWestern change as a result of the Restructuring Plan?

A. The Commission will continue to exercise jurisdictional oversight over NorthWestern in the same manner as it does today. The legal structure change will not impact the Commission’s regulation of NorthWestern in any way. NorthWestern will continue to be subject to the Commission’s jurisdiction and the Commission’s regulatory oversight.

Q. Can you please explain how the Restructuring Plan serves the public interest?

A. As described in more detail above, the Restructuring Plan serves the public interest by increasing the protections afforded to Montana public utility customers by isolating and insulating the Montana public utility in its own corporate entity, separate and distinct from NorthWestern’s other utility operations with restrictions that limits the ability of the Montana public utility to provide dividends that NorthWestern currently can use without limitation.

Q. Does this conclude your testimony?

A. Yes.
VERIFICATION

This Prefiled Direct Testimony of Timothy P. Olson is true and accurate to the best of my knowledge, information, and belief.

Timothy P. Olson
STIPULATION AND SETTLEMENT AGREEMENT

This Stipulation and Settlement Agreement (the “Agreement”), dated as of July 8, 2004, is by and among NorthWestern Corporation (“NorthWestern,” the “Parent Company,” or the “Debtor”), the Montana Department of Public Service Regulation, Montana Public Service Commission (“MPSC”), and the Montana Consumer Counsel (“MCC”). The Debtor, the MPSC and the MCC collectively are the “Parties” and, individually, a “Party.”

RECITALS


B. The Debtor is a publicly-traded Delaware corporation incorporated in 1923. NorthWestern and its direct and indirect energy subsidiaries form one of the largest providers of electricity and natural gas in the upper Midwest and Northwest, serving approximately 608,000 customers throughout Montana, South Dakota and Nebraska.

C. The MPSC is the primary regulatory agency for the Debtor’s retail utility business in gas and electricity transmission and distribution in Montana. The MPSC has the statutory obligation to regulate public utilities as set forth in Title 69, Mont. Code Ann.

D. The MCC is a constitutionally-established office in Montana, charged with representing consumer interests.

E. On August 13, 2003, the MCC petitioned the MPSC to initiate a financial investigation (the “Financial Investigation”) into NorthWestern Energy, a division of the Debtor, to determine if the Debtor’s historic financial difficulties would affect Montana ratepayers and to establish, if and where appropriate, protection for Montana retail consumers from further harm or risk. To that end, the MCC suggested through the Financial Investigation that the MPSC impose upon the Debtor, by MPSC order, a range of regulatory and structural provisions, including but not limited to: (1) establishing a utility-only subsidiary upon the Debtor’s emergence from bankruptcy; (2) stricter regulation of the disposition of its Montana utility properties; (3) segregating utility finances from non-utility affiliate risks and operations; (4) a prohibition on inter-corporate relationships between the utility and non-utility entities; (5) restrictions on new
financing involving the Debtor's Montana utility properties; (6) further restriction of the cash management practices of the utility; (7) independent examination and verification of the Debtor's accounting systems; and, (8) the implementation of operation and maintenance service quality standards. In addition, the MCC has specifically requested that the MPSC order the Debtor to submit a retail rate case within a specified period following the Debtor's emergence from bankruptcy to provide Montana retail consumers with any rate reductions to which they may be entitled under Montana utility law as set forth in Title 69, Mont. Code Ann.

F. The Debtor, while cooperating in providing information and documentation to the MCC in the Financial Investigation, has asserted that following the initiation of the Chapter 11 Case the Financial Investigation was stayed by operation of the automatic stay under the Bankruptcy Code. Additionally, the Debtor opposed the requested relief sought by the MCC in the Financial Investigation and asserted that the MPSC did not have statutory or other authority to enter the relief requested by the MCC. Further, the Debtor has always asserted that it is neither over charging Montana retail customers nor over earning with respect to its Montana operations such that there should be any rate reduction with respect to its base rates charged to Montana consumers.

G. Both the MPSC and the MCC entered appearances in the Chapter 11 Case and have participated in it as parties-in-interest.

H. On March 11, 2004, pursuant to Section 1125 of the Bankruptcy Code, the Debtor filed its initial disclosure statement (the "Disclosure Statement") and proposed plan of reorganization ("Plan"), which Disclosure Statement and Plan were amended by that Disclosure Statement and Plan dated as of May 17, 2004.

I. On May 7, 2004, the Debtor filed in the Chapter 11 Case a Motion for an order enforcing the automatic stay (the "Stay Motion") asserting that the continuation of the Financial Investigation violated section 362 of the Bankruptcy Code, the automatic stay provision. The MPSC and MCC disagree that the Financial Investigation in any way violates the automatic stay and affirmatively allege, among other things, that the conduct of the Financial Investigation specifically and the MPSC's jurisdiction generally are consistent with the Bankruptcy Code.

J. On May 12, 2004, the MCC filed an Objection to Debtor's Motion for an Order Approving Debtor's Proposed Disclosure Statement (the "MCC Objection"), asserting a series of deficiencies in the Disclosure Statement and outlining objections to the Debtor's Plan based in part on regulatory concerns raised in the Financial Investigation.
K. On May 12, 2004, the MPSC filed an Objection to the Debtor's Disclosure Statement (the "MSPC Objection"), asserting a series of deficiencies in the Disclosure Statement and outlining objections to the Debtor's Plan based on jurisdictional and substantive concerns.

L. The Debtor, the MPSC, and the MCC have engaged in continuing negotiations in connection with the Chapter 11 Case, the Financial Investigation, the Stay Motion, the MPSC Objection, and the MCC Objection, and each Party has evaluated the merits of the claims being made by the other.

M. To avoid considerable expense, uncertainty and delay, the Debtor, on the one hand, and the MPSC and the MCC, on the other hand, desire to compromise and settle the disagreements between them, subject to:
   (1) Bankruptcy Court approval of the Agreement;
   (2) at least a majority vote of the MPSC approving this Agreement; and
   (3) the MPSC's entry of a Consent Order that is mutually agreed upon between the Debtor and the MCC which will, among other things, resolve the Financial Investigation (except with respect to implementing the recommendations from the Transmission and Distribution Infrastructure Audit described in paragraph 4(d), below).

N. Except as expressly provided in this Agreement, the Parties intend neither to expand nor to limit the jurisdiction of the MPSC under state law. The Parties do not intend this Agreement to establish a precedent that can be used by any Party to bind any other Party in any subsequent proceeding, except a proceeding arising out of or directly related to this Agreement or the Consent Order.

**AGREEMENTS**

In consideration of the foregoing Recitals and the mutual covenants contained herein, which the parties acknowledge are good and sufficient consideration, the Parties agree as follows:

1. **Recitals.** The Recitals are an integral part of this Agreement and are incorporated by reference.

2. **Definitions.** In addition to terms otherwise defined in this Agreement, the following definitions shall apply:
   
   (a) "Agreement" means this Stipulation and Settlement Agreement binding the Debtor, the MPSC, and the MCC.
   
   (b) "Agreement in Principle" means the agreement dated May 14, 2004 by and among the Debtor, the MPSC, and the MCC initially
outlining the terms of this Agreement and approved by the MPSC at a public meeting on May 14, 2004.

(c) "Bankruptcy Code" means the Bankruptcy Reform Act of 1978, as codified in Title 11 of the United States Code, 11 U.S.C. §§ 101-1330, in effect on the Petition Date, together with all subsequent amendments and modifications.

(d) "Bankruptcy Court" means the United States District Court for the District of Delaware having jurisdiction and, to the extent of any reference under 28 U.S.C. § 157, the bankruptcy unit of such District Court under 28 U.S.C. § 151 over the Chapter 11 Case.

(e) "Bankruptcy Estate" means the estate created in the Chapter 11 Case pursuant to Section 541 of the Bankruptcy Code.

(f) "Business Day" means any day other than a Saturday, Sunday or a day that, in either Wilmington, Delaware or in Sioux Falls, South Dakota, is a legal holiday or any day designated in Bankruptcy Rule 9006(a) as a "legal holiday."

(g) "Chapter 11 Case" or "Bankruptcy Case" means the Debtor's case under Chapter 11 of the Bankruptcy Code administered in the Bankruptcy Court.

(h) "Confirmation Hearing" means the hearing to be held by the Bankruptcy Court to consider confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code, as such hearing may be adjourned or continued from time to time.

(i) "Confirmation Date" means the date on which the Bankruptcy Court enters the Confirmation Order.

(j) "Confirmation Order" means the order of the Bankruptcy Court, to be entered after notice and a hearing, confirming the Plan pursuant to the provisions of the Bankruptcy Code.

(k) "Consent Order" means the mutually agreed (between the Debtor and the MCC) to Consent Order, the form of which is attached to this Agreement as Exhibit A, proposed and submitted by the MCC and the Debtor resolving the Financial Investigation (except with respect to implementing the recommendations from the Transmission and Distribution Infrastructure Audit described in paragraph 4(d), below) requested to be approved and entered by the MPSC after Notice and a Hearing pursuant to Title 69, Mont. Code Ann.
(l) "Disclosure Statement" means the First Amended Disclosure Statement Pursuant to Section 1125 of the Bankruptcy Code for the First Amended Plan of Reorganization of the Debtor, as such Disclosure Statement was amended and approved in its final form by the Bankruptcy Court by Order dated May 26, 2004, and all related exhibits and schedules.

(m) "Effective Date" means that Business Day on or after the Confirmation Date specified by the Plan on which all conditions precedent to the occurrence of the Effective Date set forth in the Disclosure Statement or Section 11.2 of the Plan have been satisfied or waived pursuant to Section 11.3 of the Plan.

(n) "Environmental Liabilities Support Agreement" means that certain Environmental Liabilities Support Agreement dated as of November 12, 2002 by and between NorthWestern Corporation and NorthWestern Energy, L.L.C. (n/k/a Clark Fork and Blackfoot, LLC), as the same may be amended and modified from time to time.

(o) "Financial Investigation" means MPSC Docket No. D2003.8.109, the investigatory proceeding before the MPSC commenced by the MCC's petition on August 13, 2003, prior to the Petition Date, to examine the financial affairs of NorthWestern Energy, a division of the Debtor.

(p) "Independent Director" means a director deemed to be "independent" as determined by the published rules and regulations, as the same may be amended and modified from time to time, established by the New York Stock Exchange; provided, however, that an "Independent Director," at a minimum, shall be a director who has no material relationship with the Debtor (either directly or as a partner, shareholder or officer of an organization that has a relationship with the Debtor):

(i) A director who is an employee, or whose immediate family member is an executive officer, of the Debtor is not "independent" until three years after the end of such employment relationship.

(ii) A director who receives, or whose immediate family member receives, more than one hundred thousand dollars ($100,000) per year in direct compensation from the Debtor, other than director and committee fees and pension or other forms of deferred compensation for prior service (provided such compensation is not contingent in any way on continued service), is not "independent" until three years after he or she
ceases to receive more than one hundred thousand dollars ($100,000) per year in such compensation.

(iii) A director who is affiliated with or employed by, or whose immediate family member is affiliated with or employed in a professional capacity by, a present or former internal or external auditor of the Debtor is not “independent” until three years after the end of the affiliation or the employment or auditing relationship.

(iv) A director who is employed, or whose immediate family member is employed, as an executive officer of another company where any of the Debtor’s present executives serve on that company’s compensation committee is not “independent” until three years after the end of such service or the employment relationship.

(v) A director who is an executive officer or an employee, or whose immediate family member is an executive officer, of a company that makes payments to, or receives payments from, the Debtor for property or services in an amount which, in any single fiscal year, exceeds the greater of one million dollars ($1,000,000), or two percent (2%) of such other company’s consolidated gross revenues, is not “independent” until three years after falling below such threshold.

(q) “Infrastructure Audit” shall have the meaning set forth in paragraph 4(d)(i) of this Agreement.

(r) “Limited Investment Basket Cap(s)” shall have the meaning set forth in paragraph 4(b)(v) of this Agreement.

(s) “New Common Stock” means the shares of authorized common stock of the Reorganized Debtor issued pursuant to the Plan and as may be approved by the MPSC pursuant to sections 69-3-501 through 507, M.C.A., and in accordance with the terms of this Agreement.

(t) “New Incentive Plan” means the incentive plan to be established prior to the Confirmation Hearing and the entry of the Consent Order.

(u) "Notice and a Hearing" means that notice and those public hearing requirements binding on the MPSC under Title 69, Mont. Code Ann. and the Montana Administrative Procedure Act.

(v) “Operating Support Agreement” means that certain Maintenance and Operating Costs Support Agreement dated as of November 15, 2002
by and between NorthWestern Corporation and NorthWestern Energy, L.L.C. (n/k/a Clark Fork and Blackfoot LLC), as the same may be amended and modified from time to time.

(w) "Plan" means the Debtor's First Amended Plan of Reorganization Under Chapter 11 of the Bankruptcy Code dated as of May 17, 2004, and all related exhibits and schedules, subject to notice, hearing and confirmation by the Bankruptcy Court.

(x) "Post-Downgrade Limited Investment Basket Cap" has the meaning set forth in paragraph 4(b)(vi) of this Agreement.

(y) "Pre-Downgrade Limited Investment Basket Cap" has the meaning set forth in paragraph 4(b)(vi) of this Agreement.

(z) "Public Utility" has the meaning provided in Mont. Code Ann. § 69-3-101(1).

(aa) "Reorganized Debtor" means the Debtor on and after the Effective Date.

(bb) "Reorganized Debtor Charter" means the certificate of incorporation and by-laws of the Reorganized Debtor.

3. Consent Order. The MCC and the Debtor shall stipulate to the entry of the Consent Order by the MPSC, the form of which is attached to this Agreement as Exhibit A, to be filed in the Financial Investigation and entered by the MPSC following notice and a public hearing pursuant to Title 69, Mont. Code Ann. The MPSC believes, in good faith, that at least a majority of the MPSC's five Commissioners will vote to approve this Agreement and the Consent Order.

4. NorthWestern Agreement. NorthWestern agrees, and consents to be bound by the Consent Order entered by the MPSC providing for, among other things, as follows:

Rate Review.

(a) No later than September 30, 2006, based on a 2005 test year, NorthWestern shall file complete documents complying with the minimum electric and gas rate case filing standards provided in ARM 38.5.106 through 38.5.195, including any additional documentation required for interim electric and gas rate adjustments as provided in ARM 38.5.501 through 38.5.507, whether or not an interim adjustment is or has been sought. Following such filing, NorthWestern shall respond to all reasonable discovery and data requests: (i) in accordance with the requirements of ARM 38.2.3301 through 38.2.3305 and the Montana Rules of Civil Procedure as
thereby made applicable; and (ii) in accordance with any procedural schedule established by the MPSC in connection with such filing.

(b) Structural and Financial Separation of Public Utility Assets, Facilities, and Operations from Risks of Non-Utility Ventures.

NorthWestern will be subject to the following regulatory controls to separate and insulate the Public Utility’s assets, facilities, and operations from risks that may be associated with non-utility ventures in which NorthWestern is or may become engaged from time to time. These controls are commonly known as, and are referenced in the Parties’ Agreement in Principle as, “ring fencing” measures -- consisting of structural measures, financial measures, and affiliate and inter-corporate measures.

Structural Measures.

(i) NorthWestern shall structure and maintain the ownership and control of its Public Utility assets, facilities, and operations in the ultimate parent corporation (the “parent”) of whatever corporate structure NorthWestern may adopt, now or hereafter, without the intervention of any direct or indirect ownership or control of such Public Utility assets, facilities, or operations by any subsidiary or affiliate.

(ii) NorthWestern shall provide written notice to the MPSC and the MCC at least forty-five (45) days in advance of the earlier of an irrevocable commitment or undertaking on the part of NorthWestern to transfer, merge, sell, lease, encumber, or otherwise enter into any disposition transaction involving its Montana Public Utility assets or facilities having either a net book value or transaction value (whichever is greater), as reflected in NorthWestern’s records in accordance with the Uniform System of Accounts (18 C.F.R. Part 101), of five million dollars ($5,000,000) or more per transaction. The provision of such notice in accordance with this Agreement and the Consent Order shall not be deemed or construed to constitute an admission or acknowledgement by NorthWestern that the MPSC has jurisdiction over any such disposition under Montana law, and NorthWestern reserves the right to contend to the contrary in any forum or proceeding in which such issue may arise.
Financial Measures.

(iii) After the date of entry of the MPSC’s Consent Order, NorthWestern shall be subject to the following restrictions and requirements:

(1) NorthWestern shall at all times hold all owned or operated Public Utility assets at the Parent Company, separate and segregated from the ownership, risks and operations of any subsidiaries and any affiliates that have or hold assets other than Public Utility assets. In addition, finances of any public utility owned or operated by NorthWestern shall at all times be held separate and segregated from the ownership, risks and operations of any subsidiaries and any affiliates that have or hold assets other than Public Utility assets.

(2) Debt at the Parent Company will consist only of public utility debt, whether secured or unsecured, and the proceeds of all such debt will be used solely to fund operations of the Parent Company’s public utility business. This principle shall control in the event of any conflict between this paragraph and any other provision of this Agreement or the Consent Order.

(3) If Public Utility assets that are pledged or encumbered to secure debt are divested or “spun off,” the debt must follow the assets and be divested or “spun off” to the same extent as the assets.

(4) If Public Utility assets financed by unsecured debt are divested or “spun off,” then a proportionate share (to the same extent as the assets) of the debt also must be divested or “spun off.”

(5) If any of the proceeds from unsecured debt are used for purposes other than Public Utility purposes, the debt likewise must follow the assets other than Public Utility assets and if such assets are divested or "spun off" then a proportionate share (to the same extent as the assets) of the debt must be divested or "spun off."

(6) Other than as allowed by the Limited Investment Basket Caps described below in subparagraph (v) the Parent Company will not extend credit to any of its subsidiaries or affiliates, will not pledge Public Utility assets as collateral for the use or benefit of any of its subsidiaries
or affiliates and will not guarantee any debt of any of its subsidiaries or affiliates.

(7) All debt associated with assets other than public utility assets or activities will be held at or by the subsidiaries or affiliates and will be non-recourse to the Parent Company.

(8) The Parent Company will take all measures necessary to ensure that it will have its own independent corporate credit rating.

Affiliate and Inter-Corporate Transactions.

(iv) NorthWestern shall not provide loans, guarantees, advances, equity investments, or working capital to its subsidiaries or affiliates, except in accordance with the Limited Investment Basket described in subparagraph (v) below. Provided that the ratio of NorthWestern’s consolidated total book equity to its consolidated total capitalization is at no time less than forty percent (40%), NorthWestern will be permitted to provide loans, guarantees, advances, equity investments, and working capital to its subsidiaries and affiliates in an aggregate amount (the Limited Investment Basket Caps) defined below. For the purposes of this forty percent (40%) calculation, the Debtor’s consolidated book equity and consolidated total capitalization shall be as reported by NorthWestern in its quarterly and year-end financial statements filed with the Securities and Exchange Commission in SEC Forms 10-Q and 10-K, respectively. Such ratio shall be measured on a quarterly basis beginning with the first fiscal quarter ending after the Effective Date. As used herein “total capitalization” shall include NorthWestern’s secured and unsecured debt, plus capital leases, plus consolidated book equity as presented in NorthWestern’s published financial statements. The equity ratio calculation described above shall not be a basis for determining the equity component of NorthWestern's capital structure for Montana utility rate making purposes.

(v) NorthWestern may, pursuant to the Consent Order, provide loans, guarantees, advances, equity investments, and working capital to its subsidiaries and affiliates only in amounts not to exceed the aggregate amounts set forth below, in accordance with the threshold credit ratings also set forth and in accordance with the Limited Investment Basket Caps. The Limited Investment Basket Cap amounts are inclusive of, and not in addition to, those amounts NorthWestern is committed to
provide as of the date of this Agreement: (1) in accordance with the Colstrip 4 leases and operating agreements; (2) as intercompany support for Clark Fork and Blackfoot, LLC, in connection with the Milltown Dam and the corresponding Environmental Liabilities Support Agreement and Operating Support Agreement; (3) as reasonably required to preserve the present assets of Montana Megawatts I, LLC; and (4) for the unregulated South Dakota and Nebraska gas marketing operations of NorthWestern Services Corporation, provided, however, that if any of the aforementioned obligations (1) through (4) are eliminated or reduced, or if any of the aforementioned assets are sold or otherwise disposed of, the Limited Investment Basket Cap will be automatically reduced by an amount representing fifty percent (50%) of the average of the maximum balance outstanding during each of the preceding twelve (12) months, as the case may be, by NorthWestern with respect to the aforementioned obligations (1) through (4) which are eliminated or reduced, provided, however, that the Limited Investment Basket Caps shall not be reduced to less than forty-five million dollars ($45,000,000) at all times. The aggregate amounts of the Limited Investment Basket Caps are defined as the following limits and the related corporate credit rating levels:

<table>
<thead>
<tr>
<th>Criterion</th>
<th>Limited Investment Basket Cap</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Upon the Effective Date:</td>
<td>$60 million</td>
</tr>
<tr>
<td>• During any such time that NorthWestern has credit ratings of at least BBB- (Standard &amp; Poor’s) and at least Baa3 (Moody’s Investors Service):</td>
<td>$75 million</td>
</tr>
<tr>
<td>• During any such time that NorthWestern has credit ratings of at least BBB (Standard &amp; Poor’s) and at least Baa2 (Moody’s Investors Service):</td>
<td>$90 million</td>
</tr>
<tr>
<td>• Upon attainment of credit ratings of at least BBB+ (Standard &amp; Poor’s) and at least Baa1 (Moody’s Investors Service), but in no event sooner than forty-two (42) months after the Effective Date:</td>
<td>No limit</td>
</tr>
</tbody>
</table>

(vi) If NorthWestern’s corporate credit rating is downgraded by either Standard and Poor’s or Moody’s Investors Service such that NorthWestern no longer meets the criterion for the Limited Investment Basket Cap that was in effect immediately prior to the downgrade, as set forth in subparagraph (v) above (the
"Pre-Downgrade Limited Investment Basket Cap"), then, notwithstanding anything to the contrary in the Consent Order, the Limited Investment Basket Cap on the date of such downgrade automatically shall decrease to the Limited Investment Basket Cap that applies to NorthWestern's credit ratings after such downgrade, as set forth in subparagraph (v) above (the "Post-Downgrade Limited Investment Basket Cap"), and NorthWestern shall proceed as expeditiously as possible to reduce the aggregate amount of any and all loans, guarantees, advances, equity investments, and working capital to its subsidiaries and affiliates to an amount no greater than the applicable Post-Downgrade Limited Investment Basket Cap. If the aggregate amount of any and all loans, guarantees, advances, equity investments, and working capital extended to its subsidiaries and affiliates exceeds the applicable Post-Downgrade Limited Investment Basket Cap on the date ninety (90) days subsequent to the effective date of the downgrade, NorthWestern shall implement whatever course(s) of action the MPSC deems necessary through, after Notice and a Hearing, an order, to decrease the aggregate amount of any and all loans, guarantees, advances, equity investments, and working capital to NorthWestern's subsidiaries and affiliates to an amount no greater than the Post-Downgrade Limited Investment Basket Cap. Any such order shall be effective twenty (20) days after filing pursuant to 69-3-401, M.C.A., subject to NorthWestern's right to petition the appropriate Montana state court pursuant to 69-3-403, M.C.A. for injunctive relief pending any judicial review.

(vii) In the event that the ratio of NorthWestern's consolidated book equity to its consolidated capitalization at any time falls below forty percent (40%), then, notwithstanding anything to the contrary in the Consent Order, the Limited Investment Basket Cap on that date automatically shall decrease to sixty million dollars ($60,000,000) (or such reduced amount as is appropriate based on the elimination, reduction, or disposition of assets described in paragraph 4(b)(v), above) and NorthWestern shall proceed as expeditiously as possible to reduce the aggregate amount of any and all loans, guarantees, advances, equity investments, and working capital to its subsidiaries and affiliates to an amount no greater than sixty million dollars ($60,000,000) (or such reduced amount as is appropriate based on the elimination, reduction, or disposition of assets described in paragraph 4(b)(v), above). If the aggregate amount of any and all loans, guarantees, advances, equity investments, and working capital extended to its subsidiaries and affiliates exceeds sixty million dollars
($60,000,000) (or such reduced amount as is appropriate based on the elimination, reduction, or disposition of assets described in paragraph 4(b)(v), above) on the date 90 days subsequent to the date on which the ratio of Northwestern’s consolidated book equity to its consolidated total capitalization falls below forty percent (40%), Northwestern shall implement whatever course(s) of action the MPSC deems necessary and, after Notice and a Hearing, orders to decrease the aggregate amount of any and all loans, guarantees, advances, equity investments, and working capital to Northwestern’s subsidiaries and affiliates to an amount no greater than sixty million dollars ($60,000,000) (or such reduced amount as is appropriate based on the elimination, reduction, or disposition of assets described in paragraph 4(b)(v), above). Any such order shall be effective twenty (20) days after filing pursuant to 69-3-401, M.C.A., subject to Northwestern’s right to petition the appropriate Montana state court pursuant to 69-3-403, M.C.A. for injunctive relief pending any judicial review.

(viii) Northwestern shall not enter into any contract with a subsidiary or an affiliate of Northwestern where any part of the costs of such contract are, or are expected or requested by Northwestern to be, recovered through utility rates paid by Montana ratepayers, unless:

1. Northwestern first shall have made application to the MPSC upon full disclosure of all material facts for authorization to enter into such contract; and

2. The MPSC, after Notice and a Hearing, shall have authorized Northwestern to enter into such contract.

(ix) Northwestern shall maintain separate books and accounting records for each Public Utility operating within its corporate structure and for each direct or indirect subsidiary or affiliate of Northwestern.

(x) Northwestern shall permit the MPSC to audit the books and records of its Public Utility operations and, in addition, those of each direct or indirect subsidiary and affiliate, and Northwestern shall provide the MPSC and its staff full access to all such books and records upon reasonable notice.

(xi) Northwestern shall provide, subject to SEC disclosure limitations (which, if invoked as grounds for non-reporting, shall be documented by reference to the applicable SEC rule or regulation and the basis for its application in the
circumstances), quarterly reports of all transactions between
the parent and any subsidiary or affiliate.

(xii) NorthWestern shall maintain Montana Universal Service
Benefit funds collected by it in a separate and segregated
interest-bearing bank account dedicated exclusively to the
handling of such funds, and it shall account for such funds as
trust funds as provided for under Montana law.

(c) Reporting and Disclosure Requirements.

(i) NorthWestern shall provide to the
MPSC staff a complete
and detailed explanation of all accounting systems and
practices in use by NorthWestern and its direct and indirect
subsidiaries and affiliates, and it shall provide the MPSC
and MCC with current copies of all accounting manuals
and practices in use by NorthWestern and its direct and
indirect subsidiaries and affiliates. To the extent that the
accounting manuals and practices contain proprietary and
commercially sensitive information that would qualify as a
trade secret under Montana law, NorthWestern may apply
to the MPSC pursuant to Mont. Code Ann. § 69-3-105 for a
protective order using the processes and criteria outlined in
Great Falls Tribune v. Montana Public Service
Commission, 319 Mont. 38, ¶¶ 55-57, 82 P.3d 876 (2003),
or applicable MPSC administrative rules.

(ii) NorthWestern acknowledges and reaffirms its obligation to
respond to reasonable requests by the MPSC, its staff, or
the MCC, pursuant to Mont. Code Ann. §§ 69-3-102, 69-3-
106, and 69-2-203, and shall respond to all such requests in
a timely and complete manner.

(d) Transmission and Distribution Infrastructure Audit.

(i) NorthWestern has engaged voluntarily Liberty Consulting
(“Auditor”) to audit and make recommendations to
NorthWestern concerning the state of NorthWestern’s
utility transmission and distribution infrastructure within
Montana (the “Infrastructure Audit”). NorthWestern shall:

(1) Within three (3) business days of receipt, submit the
Auditor’s final report or reports containing the results
and recommendations of the Infrastructure Audit to the
MPSC;
(2) Cause the Auditor to present the findings and recommendations of the Infrastructure Audit to the MPSC at a public meeting within fifteen (15) days of receipt by NorthWestern of the final report with respect to the Infrastructure Audit; provided, however, that on or before August 1, 2004, the Debtor shall submit a report (whether final or not) containing the results and recommendations of the Infrastructure Audit to the MPSC; and

(3) Coordinate and cooperate with the MPSC and the MCC to implement appropriate recommendations of the Infrastructure Audit.

(ii) The Financial Investigation docket will remain open for the sole purpose of maintaining a procedural forum for the entry of any orders by the MPSC for the implementation of appropriate Infrastructure Audit recommendations agreed upon by the Parties.

(iii) Notwithstanding paragraph 4(d)(ii), above, if the Parties cannot agree on the implementation of Infrastructure Audit recommendations, then the MPSC, either on its own motion or upon the petition of the MCC, may commence a new proceeding to compel the implementation of any Infrastructure Audit recommendation not agreed upon by the Parties. If any such motion or petition is filed, NorthWestern reserves all rights to oppose the implementation of any recommendation of the Infrastructure Audit not agreed upon by the Parties.

(e) Corporate Governance and Management. As part of its Plan, the Debtor shall establish a new Board of Directors with at least every director but one an Independent Director. The Debtor will use its reasonable best efforts to attract and retain directors with utility energy expertise. The Debtor will provide the MPSC and the MCC, no less than fifteen (15) days prior to the Confirmation Hearing, notice of the identity of the Reorganized Debtor’s proposed board members and a summary of their experience. The Debtor will, at all times, ensure that at least one member of the Reorganized Debtor’s Executive Management Committee and one member of its Energy Supply Board work in Montana and are legal residents of Montana.

(f) Liquidity. The Debtor shall have, on or before the Effective Date, unrestricted cash on hand and/or immediately available credit
(without any closing conditions), in an aggregate amount not less than seventy-five million dollars ($75,000,000).

(g) **Withdrawal of Stay Motion.** Following execution of this Agreement, the Debtor will continue to refrain from prosecuting the Stay Motion in any way. Upon the latter of the MPSC's entry of the Consent Order or the Bankruptcy Court's entry of an Order approving this Agreement, the Debtor will withdraw the Stay Motion.

(h) **Payment of Fees and Expenses.** The Debtor agrees to pay to the appropriate entities the reasonable fees and out-of-pocket expenses of the professionals and experts retained by the MPSC, the MCC and the Montana Attorney General (including the fees of the state attorney retained by the Attorney General) incurred in connection with the Chapter 11 Case. In addition, the Debtor agrees to pay the reasonable out-of-pocket expenses incurred by the MPSC commissioners, MPSC staff, MCC and MCC staff in connection with the Chapter 11 Case. The fees and expenses of the various professionals which total approximately $2,297,768.86 as of May 31, 2004 are set forth on Exhibit B to this Agreement.

Payment by NorthWestern of the fees and expenses incurred through May 31, 2004 and any additional fees and expenses to be incurred through the Effective Date will be paid pursuant to Section 1129(a)(4) of the Bankruptcy Code and payments will be made no later than the Effective Date.

The Debtor’s undertaking under this paragraph 4(h) is to pay the specific sums certain set forth on Exhibit B or as may be otherwise agreed to by the Parties, which sums shall not be modified except by the mutual written agreement of the Parties to this Agreement.

(i) **Implementation.** If the Debtor amends the Plan for any reason, any Plan amendment shall incorporate this Agreement and the Consent Order by reference unless the Parties agree that such action is not then necessary or required. No later than forty-five (45) days prior to the Effective Date of the Plan, NorthWestern will file with the MPSC a petition for authorization to issue stock, stock certificates, and securities payable at any time more than twelve (12) months after their issue date, as described, and only as described, in the Plan approved by the Bankruptcy Court. Any petition so filed: (1) shall not be opposed by the MCC, consistent with the terms of this Agreement; and (2) will be acted upon by the MPSC within thirty (30) days of the filing of a complete petition pursuant to 69-3-503, M.C.A. In the event that the MPSC either denies the petition for authorization to issue in connection with the Plan stock, stock
certificates and securities payable at any time more than twelve (12) months after their issue date, fails to act on the complete petition within thirty (30) days of filing, or attaches conditions to the approval of such petition, NorthWestern may exercise its asserted right to contest the jurisdiction of the MPSC with respect to securities to be issued in connection with the Plan.

(j) Order Validity. NorthWestern acknowledges that the terms of this Agreement and the Consent Order are lawful and consents to the MPSC’s exercise of the authority, jurisdiction and power to enter into them. Except as specifically provided in paragraphs 4(d)(iii) and 4(i), above, NorthWestern specifically waives the right to challenge any order of the MPSC enforcing the terms of this Agreement or the Consent Order on the grounds that this Agreement or the Consent Order is or was not lawful or beyond the MPSC’s jurisdiction.

(k) Preparation of Motion to Approve Agreement. The Debtor shall prepare and file all pleadings and other documents with the Bankruptcy Court, or any other court of appropriate jurisdiction, necessary to obtain approval of this Agreement and the settlement it describes, for the purposes of satisfying the condition precedent described in paragraph 8, below. The Debtor also shall take any and all other action reasonably necessary to obtain Bankruptcy Court approval of this Agreement. Upon the request of the Debtor, the MPSC and MCC shall provide such assistance as may reasonably be required to obtain Bankruptcy Court approval.

5. MCC Agreement. The MCC agrees as follows:

(a) It will not seek MPSC review of NorthWestern’s transmission and distribution tariffed rates and charges at any time prior to September 30, 2006.

(b) Notwithstanding any practice or provision to the contrary in the MPSC’s Rules, the burdens of proof and persuasion in the rate proceeding initiated by NorthWestern’s filing set forth in paragraph 4(a) above shall be borne by any Party that is seeking to change rates from those approved by the then currently effective MPSC order.

(c) Provided all conditions in this Agreement are met, and provided that no material amendments are made to the Plan without the MCC’s approval, MCC will not object to confirmation of the Plan. The MCC reserves its right, however, to object to any Plan amendments. Nothing in this Agreement, the Consent Order, or the Bankruptcy Court order approving this Agreement shall restrict
in any way the right of the MCC to endorse, oppose, or comment upon any other plan of reorganization or any offer to purchase the Debtor or its assets, in whole or in material part.

(d) The MCC will not oppose the Debtor's efforts to refinance all or some of its secured debt, including its debtor-in-possession financing, so long as the terms (taken as a whole) of such financing are at least comparable to the terms, including interest rates, amortization, fees, covenants, and term, of the indebtedness being refinanced, and provided that the Debtor complies with Mont. Code Ann. §§ 69-3-501 through 507.

6. **MPSC Agreements.** The MPSC agrees as follows:

(a) It will not issue an order authorizing changes in NorthWestern's transmission and distribution tariffed rates and charges at any time prior to September 30, 2006. Nothing in this provision shall prevent the MPSC from reviewing and ruling on commodity rates or responding to rate filings made by NorthWestern whenever made.

(b) Notwithstanding any practice or provision to the contrary in the MPSC’s Rules, the burdens of proof and persuasion in the rate proceeding initiated by NorthWestern’s filing set forth in paragraph 4(a) above shall be borne by any Party that is seeking to change rates from those approved by the then currently effective MPSC order.

(c) Provided all conditions in this Agreement are met, and provided that no material amendments are made to the Plan without the MPSC’s approval, the MPSC will not object to confirmation of the Plan. The MPSC reserves its right, however, to object to any Plan amendments. Nothing in this Agreement, the Consent Order, or the Bankruptcy Court order approving this Agreement shall restrict in any way the right of the MPSC to endorse, oppose, or comment upon any other plan of reorganization or any offer to purchase the Debtor or its assets, in whole or in material part.

(d) The MPSC will not oppose the Debtor’s efforts to refinance all or some of its secured debt, including its debtor-in-possession financing, so long as the terms of such financing (taken as a whole) are at least comparable to the terms, including interest rates, amortization, fees, covenants, and term of the indebtedness being refinanced, and provided that the Debtor complies with Mont. Code Ann. §§ 69-3-501 through 507.
7. **No Effect on Rights of or Against Third parties.** Nothing contained in this Agreement is intended to release, limit or otherwise affect any claims that: (a) third parties may have against the Debtor or any of its related entities; or (b) the Debtor may have against third parties other than the MCC or MPSC. Without limiting the generality of the foregoing statement, nothing in this Agreement shall affect the claims of the State of Montana or any of its agencies (except the MPSC and MCC) or subdivisions in the Chapter 11 Case or any other proceeding.

8. **Conditions Precedent to Effectiveness of Agreement and Implementation of Its Terms.** This Agreement, each term, condition and provision hereof, and the respective rights and obligations of the Parties hereunder are expressly conditioned on: (i) the entry of a final, non-appealable order by the Bankruptcy Court (or, if applicable, the United States District Court for the District of Delaware or the United States Court of Appeals for the Third Circuit) under Bankruptcy Rule 9019 or any other applicable section of the Bankruptcy Code or Bankruptcy Rules approving this Agreement without modification deemed unacceptable by any Party hereto, and authorizing the Debtor to implement each and every term of the settlement described in this Agreement; and (ii) entry of the Consent Order. Entry of the order described in clause (i) of this paragraph 8 is an express condition precedent to the effectiveness of this Agreement. In the event that a final non-appealable order approving the Agreement and the settlement it describes is not entered on or before July 30, 2004, then this Agreement, and each of its terms conditions, and provisions may be voidable at the option of any Party, and if voided no Party shall have any rights or obligations hereunder. The MPSC shall act upon the Debtor’s and the MCC’s motion for entry of the Consent Order within forty-five (45) days of the Consent Order’s filing with the MPSC. The provisions of this Agreement and the undertakings of the Parties (except as otherwise provided) shall be implemented and become effective upon the Effective Date of the Plan.

9. **Reservation of Rights.** The MPSC and MCC reserve their rights, in the event that the Bankruptcy Court does not enter a final non-appealable order approving this Agreement, to re-assert arguments and positions asserted prior to this Agreement in the Chapter 11 Case, the Financial Investigation, or elsewhere, and NorthWestern shall not assert any procedural objections to the reassertion of those arguments or positions. Furthermore, if the Plan is not confirmed by the Bankruptcy Court for any reason on or before September 30, 2004, then this Agreement is voidable in its entirety at the option of the MPSC and/or the MCC. Nothing in this Agreement shall impair the Debtor’s ability to, at any time, petition the MPSC for relief from the structural measures set forth in paragraph 4(b) of this Agreement.
10. **Public Documents.** Neither this Agreement, nor the Consent Order, nor the Bankruptcy Court's order approving this Agreement shall be subject to any confidentiality agreement or assertion of privilege. These documents shall constitute public records of the Bankruptcy Court and of the MPSC.

11. **Binding on Successors and Assigns.** This Agreement and each of its provisions, if approved by the Bankruptcy Court and the MPSC and upon its becoming effective pursuant to paragraph 8 of this Agreement, will be binding upon the reorganized Debtor, its affiliates, parents, subsidiaries, officers, directors, shareholders, agents, representatives, attorneys, successors and assigns, specifically including, without limitation, any purchaser or other transferee, directly or indirectly (whether by purchase, merger, consolidation or otherwise), of all or a material portion of the reorganized Debtor's Public Utility assets. This Agreement, if approved by the Bankruptcy Court and the MPSC and upon its becoming effective pursuant to paragraph 8 of this Agreement, will be binding upon the MPSC, the MCC, their successors, officers, directors, agents, representatives, and attorneys. This Agreement, and the attached Consent Order, address discrete components on which future revenue requirements may be based, but it does not, and does not purport to, set rates with respect to the Debtor's Montana Public Utility assets.

12. **Representation By and Consultation With Counsel.** The Parties each represent and warrant that: (i) each has read and understands the terms of this Agreement and is duly authorized to enter into this Agreement and bind the Party(ies) on whose behalf each is executing this agreement (subject, with respect to the MPSC, to a vote of the MPSC and approval by at least three members of the MPSC present and voting); (ii) each has been represented by counsel with respect to the negotiation and execution of this Agreement and all matters covered by and relating to it; and (iii) each has entered into this Agreement of its own free will and for reasons of its own.

13. **Integration and Merger.** This Agreement, along with the Consent Order and all other exhibits and attachments to this Agreement and any Order of the Bankruptcy Court approving this Agreement in its entirety, embodies the entire agreement among the Parties. There have been and are no agreements, representations, or warranties, whether express or implied, written or oral, other than those set forth or provided for herein or in the Consent Order. Other than as stated herein or in the Consent Order, each Party to this Agreement warrants that no representation, promise, or inducement has been offered or made to lead such Party to enter into this Agreement and that such Party is competent to execute this Agreement (subject, with respect to the MPSC, to a vote of the MPSC and approval by at least three members of the MPSC present and voting).
14. **Amendment of Agreement.** The terms of this Agreement may only be amended or modified by a writing that has been executed by each of the Parties.

15. **Construction.** This Agreement was drafted with the assistance of counsel for all Parties. It shall not be construed in favor of or against any Party.

16. **Execution.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute but one and the same instrument. Executed signature pages may be removed from partially executed counterparts and attached to one or more other counterparts to produce fully executed counterparts. This Agreement may be executed by facsimile copy, and each signature shall be and constitute an original signature, again as if all Parties had executed a single original document. This Agreement shall be originally executed as many times as required to provide a fully executed duplicate original of such document to each Party requesting it.

17. **Continuing Jurisdiction.** The MPSC shall have exclusive jurisdiction, on its own or on the application of the MCC pursuant to Title 69, Mont. Code Ann., to enforce NorthWestern’s compliance with the Consent Order. Nothing in this Agreement shall be construed in any way to expand, diminish or limit the MPSC’s jurisdiction under state law. The Bankruptcy Court shall have jurisdiction to enforce the terms of this Agreement; provided, however, the MPSC and the MCC do not consent, by entering into this Agreement and/or the Consent Order, to the jurisdiction of the Bankruptcy Court except to the extent necessary to obtain Bankruptcy Court approval of the Agreement and, if necessary, enforcement of the Agreement’s terms.

18. **No Precedential Effect.** Except as may be expressly provided in this Agreement, the Parties intend neither to expand nor to limit the jurisdiction of the MPSC under state law. The Parties do not intend this Agreement to establish any precedent that can be used by any Party to bind any other Party in any subsequent proceeding, or otherwise, except a proceeding or action arising out of or directly related to this Agreement or the Consent Order.

19. **Choice of Law.** This Agreement shall be construed and interpreted in accordance with the laws of the State of Montana, as enacted on the date hereof and without regard to principles of conflicts of laws.

20. **Headings.** The Parties agree that the captions and headings in this agreement are inserted for convenience of reference only and are not part of, and shall not affect the interpretation of, this Agreement.
Approved as to form:
NorthWestern Corporation

By: 
Gary G. Drook
Chief Executive Officer

Approved as to form:
The Montana Consumer Counsel

By: 
Robert A. Nelson
Montana Consumer Counsel

Approved as to form:
The Montana Public Service Commission

By: 
Bob Rowe, Chairman

Approved as to form:
Paul, Hastings, Janofsky & Walker, LLP

By: 
Jesse H. Austin, III
Karol Denniston
Carolyn Chayavadhanangkur
Attorneys for NorthWestern

Approved as to form:
Duncan & Allen

By: 
John P. Coyle, Attorneys for the Montana Consumer Counsel

Approved as to form:
LaFollette Godfrey & Kahn

By: 
Brady C. Williamson
Katherine Stadler
Attorneys for the MPSC
EXHIBIT B
TO STIPULATION AND SETTLEMENT AGREEMENT

Fees and Expenses of the MPSC, MCC, and Attorney General
to be paid by the Debtor pursuant to paragraph 4(h) of the Stipulation and Settlement Agreement

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<tr>
<th>Party/Professional</th>
<th>Services through (date)</th>
<th>Fees</th>
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NorthWestern Entities

1. NorthWestern Corporation: current parent company and owns Montana, Nebraska, and South Dakota utility operations
2. Canadian-Montana Pipe Line Corporation: owns natural gas pipeline that crosses the Canadian border
3. The Clark Fork and Blackfoot, L.L.C.: owned the Milltown Dam facility in Montana (dam has been dismantled)
4. Willow Creek Gathering, LLC: owns a natural gas gathering system in northern Montana
5. Lodge Creek Pipelines, LLC: owns a natural gas gathering system in northern Montana
6. Havre Pipeline Company, LLC: owns a natural gas transmission and gathering system in northern Montana. (NorthWestern Corporation holds a 96+% ownership interest in this entity)
7. Risk Partners Assurance, Ltd.: captive insurer (for old claims related to Blue Dot and two other former subsidiaries)
8. NorthWestern Services, LLC: owned prior unregulated natural gas marketing business in SD
9. NorthWestern Energy Solutions, Inc., holds unregulated investments
Step 1: Form holding company

NorthWestern Corporation forms a new subsidiary, referred to in this presentation as NorthWestern Energy Group, Inc. This new entity will be organized in Delaware and ultimately will become the holding company parent.
Step 2: Form merger company and SD/NE utility subsidiary

NorthWestern Energy Group, Inc., forms two subsidiaries, referred to in this presentation as:

1. NorthWestern Merger Company and
Step 3a: Transfer of Certain Assets and Subsidiaries

NorthWestern Corporation transfers to NorthWestern Energy Group, Inc., all:

(a) non-utility assets,
(b) non-utility subsidiaries, and
(c) SD/NE utility assets.

After transfers, NorthWestern Corporation only holds Montana utility assets and operations.
NorthWestern Energy Group, Inc., transfers all SD/NE utility assets to NorthWestern Energy Prairies Corporation.
NorthWestern Corporation — now holding only Montana utility assets — merges with NorthWestern Merger Company. NorthWestern Corporation survives the merger.
Proposed Structure

NorthWestern Corporation holds Montana utility assets, and NorthWestern Energy Prairies Corporation holds Nebraska and South Dakota utility assets.

NorthWestern Entities

1 NorthWestern Energy Group, Inc.: proposed new holding company
2 NorthWestern Corporation: proposed owner of utility operations in Montana
3 NorthWestern Energy Prairies Corporation: proposed owner of utility operations in Nebraska and South Dakota
4 Canadian-Montana Pipe Line Corporation: owns natural gas pipeline that crosses the Canadian border
5 The Clark Fork and Blackfoot, L.L.C.: owned the Milltown Dam facility in Montana (dam has been dismantled)
6 Willow Creek Gathering, LLC: owns a natural gas gathering system in northern Montana
7 Lodge Creek Pipelines, LLC: owns a natural gas gathering system in northern Montana
8 Havre Pipeline Company, LLC: owns a natural gas transmission and gathering system in northern Montana. (NorthWestern Corporation holds a 96+% ownership interest in this entity)
9 Risk Partners Assurance, Ltd.: captive insurer (for old claims related to Blue Dot and two other former subsidiaries)
10 NorthWestern Services, LLC: owned prior unregulated natural gas marketing business in SD
11 NorthWestern Energy Solutions, Inc.: holds unregulated investments