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**DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA**

IN THE MATTER OF NorthWestern) REGULATORY DIVISION
Energy’s Application for Approval)
of Corporate Restructuring) Docket No. 2022.06.064

Joint Motion to Approve Settlement

NorthWestern Energy (“NorthWestern”), the Large Customer Group (“LCG”), and the Montana Consumer Counsel (“MCC”) by and through their undersigned counsel hereby submit to the Montana Public Service Commission (“Commission”) the negotiated settlement (“Settlement”) attached as Exhibit 1. NorthWestern, the LCG, and the MCC urge the Commission to accept the Settlement because it strengthens and clarifies the ring fencing provisions proposed by NorthWestern in its application. The Settlement serves the public interest, subject to the continued jurisdiction of the Commission. The parties will make their witnesses available at the hearing to answer Commission questions regarding the settlement.

Respectfully submitted this 5th day of January, 2023.

NORTHWESTERN ENERGY

By: /s/ Shannon Heim
Shannon M. Heim
Attorney for NorthWestern Energy

LARGE CUSTOMER GROUP

By: /s/ Austin Rueschhoff
Austin Rueschhoff
Attorney for Large Customer Group

MONTANA CONSUMER COUNSEL

By: /s/ Jason Brown
Jason Brown
Montana Consumer Counsel

TERM SHEET FOR SETTLEMENT AMONG NORTHWESTERN, MONTANA CONSUMER COUNSEL, AND LARGE CUSTOMER GROUP

NorthWestern Energy (“NorthWestern”) offers the following terms of settlement to reflect the issues raised by the Large Customer Group (“LCG”) in its testimony and the Montana Consumer Counsel (“MCC”) in its testimony in Docket No. 2022.06.064 (Corporate Restructuring).

Definitions

Affiliate shall mean another person or entity that controls, is controlled by, or is under common control with the Montana Utility. “Control” as used in this definition means the direct or indirect authority, whether acting alone or in conjunction with others, to direct or cause to direct the management policies of an entity. A voting interest of 10 percent or more creates a rebuttable presumption of control.

Capital Structure shall mean, at any point in time, the sum of the Montana Utility’s Shareholder’s Equity and Debt.

Credit Ratings shall mean credit ratings provided by Standard and Poor’s (S&P) or Moody’s Corporate (Moody’s), as described in the commitments herein.

Debt shall mean, at any point in time, the sum of the Montana Utility’s “short-term borrowings” and “long-term debt” as each are reflected on the Montana Utility’s most recent quarterly balance sheet. Debt does not include imputed debt, intercompany debt, capital lease obligations, or debt-like off-balance sheet obligations.

HoldCo shall mean the holding company for which NorthWestern seeks Commission authorization in Docket No. 2022.06.064 and any successor entity.

Montana Utility shall refer to NorthWestern Corporation, the Montana-regulated electric and natural gas utility company, following implementation of the Corporate Restructuring.

Shareholder’s Equity shall mean, at any point in time, the Montana Utility’s “total shareholder’s equity” as reflected on the Montana Utility’s most recent quarterly balance sheet.

FINANCIAL PROTECTIONS

I. Credit and Capital Structure

Separate Credit Ratings. The Montana Utility will seek and maintain its own separate long-term (LT) secured debt credit ratings, and preferred stock ratings (if any). Such credit ratings will be separate from any credit ratings of HoldCo and HoldCo affiliates, and the Montana Utility will make its credit ratings available to the Commission and Commission Staff upon request.

Credit Ratings. If either S&P or Moody’s downgrades the Montana Utility’s LT secured debt credit rating for any reason, the Montana Utility will provide notice to the Commission within 30 days of such downgrade. If the Montana Utility’s LT secured debt credit rating drops to BBB for S&P or Baa2 for Moody’s, the Montana Utility will file a plan with the Commission detailing a range of options to maintain or restore the LT secured debt credit rating, or to explain actions consistent with customers’

best interests. The plan will be filed with appropriate provisions in place to protect confidential information. NorthWestern will provide notice to all parties to this settlement as soon as practicable, but no later than contemporaneously with filing the plan with the Commission. Parties reserve the right to request that the Commission commence a docket to investigate the plan and acknowledge that the Commission may, at its discretion, do so on its own.

If either S&P or Moody’s downgrades the HoldCo’s LT secured debt credit rating for any reason, the Montana Utility will provide notice to the Commission within 30 days of such downgrade. If the HoldCo provides documentation of a plan to address such a downgrade to investors, the Montana Utility will provide the Parties to this Settlement the same public materials.

Equity Capital Structure. If the Montana Utility’s Shareholder’s Equity falls below 40 percent of its Capital Structure determined on a year-end basis, the Montana Utility will, within 30 days of filing its annual report on Form 10-K with the Securities and Exchange Commission: (A) notify the Commission; and (B) provide an explanation for why Shareholder’s Equity fell below the threshold (for example, how the drop was caused by forces or events beyond control). The Montana Utility will file a plan with the Commission detailing a range of options to maintain or restore the Shareholder’s Equity to 40% or above or to explain actions consistent with customers’ best interests. The plan will be filed with appropriate provisions in place to protect confidential information. NorthWestern will provide notice to all parties to this settlement as soon as practicable, but no later than contemporaneously with filing the plan with the Commission. Parties reserve the right to request that the Commission commence a docket to investigate the plan and acknowledge that the Commission may, at its discretion, do so on its own.

II. Dividend Restriction

Dividends. The Montana Utility must notify the Commission of dividends. The Montana Utility may not issue any dividends (special, one-time, or otherwise) if the Montana Utility’s Shareholder’s Equity is 40 percent or below its total Capital Structure (determined at the end of the preceding calendar quarter).

Notwithstanding the above, if the Montana Utility’s LT secured debt credit ratings are investment grade, but below BBB for S&P and Baa2 for Moody’s, then the Montana Utility may issue dividends only if the Montana Utility’s Shareholder’s Equity is 43 percent or above its Capital Structure (determined at the end of the preceding calendar quarter). If the LT secured debt credit ratings fall below investment grade, the Montana Utility may not issue any dividends.

The table below depicts the above-described conditions under which the Montana Utility may make dividend distributions.

LT Secured Ratings	S&P	Moody’s	Equity Ratio
Investment Grade	BBB (or above) BBB-	Baa2 (or above) Baa3	40% or above 43% or above
Non-Investment Grade	BB+ (or below)	Ba1 (or below)	No Dividend

The Montana Utility shall notify the Commission of its intention to transfer more than five percent of Shareholder's Equity to its parent or any affiliates (or any combination thereof) within a three-month period, not later than 30 days prior to the initiation of any such transfer.

III. Utility Debt

The Montana Utility will have its own debt agreements separate from those of other affiliates, and the Montana Utility's assets cannot be used to secure other affiliate debt. The Montana Utility debt will follow Montana Utility assets, and non-utility debt will follow non-utility assets.

IV. Asset Transactions

The Montana Utility must notify the Commission of the sale or transfer of any of its utility assets having a net book value of over \$10 million, any part of which is included for recovery through the Montana Utility's rates.

ACCOUNTING AND COST ALLOCATION

I. Accounting Generally

Access to Books and Records. The Montana Utility will maintain separate financial books, accounts, and statements reflecting its separate assets and liabilities (inclusive of audit trails with supporting records) separate from the holding company's books and records. The financial books, accounts, and statements of the Montana Utility will be fully accessible to the Commission and its designees in Helena, Montana. The Montana Utility will maintain books and records separate from affiliates, as required by FERC.

Restructuring Costs. The Montana Utility will exclude from general rate cases, or any other method of cost recovery, all costs related to the Corporate Restructuring. The Montana Utility will continue to charge customers the Commission authorized rates subject to rate review proceedings, and customers will not be responsible for the costs of implementing the Corporate Restructuring.

II. Cost Allocation

Development of Cost Allocation Manual. NorthWestern will develop a formal cost allocation manual (CAM) and submit the cost allocation manual to the Commission within 90 days of the conclusion of the current rate review docket (Docket No. 2022.07.078). The settling parties agree that the cost allocation manual will be reviewed in the next rate review unless the Commission independently opens a docket.

The CAM will be developed in accordance with the National Association of Regulatory Utility Commissioners (NARUC) "Guidelines for Cost Allocations and Affiliate Transactions," which is incorporated and attached hereto as Attachment 1. The NARUC Guidelines indicate that a CAM contain, at a minimum, the following:

- a. An organization chart of the holding company, depicting all affiliates, and regulated entities.

- b. A description of all assets, services and products provided to and from the regulated entity and each of its affiliates.
- c. A description of all assets, services and products provided by the regulated entity to non-affiliates.
- d. A description of the cost allocators and methods used by the regulated entity and the cost allocators and methods used by its affiliates related to the regulated services and products provided to the regulated entity.

GENERAL

Montana Utility Structural Conditions and Restrictions. The Montana Utility shall accept the terms embodied in this term sheet in an order of the Commission governing the restructuring proposed in Docket No. 2022.06.064.

No Cash Pools or Commingled Funds. The Montana Utility will not participate in any cash pool operated by HoldCo or any HoldCo affiliate, and will not commingle funds with HoldCo or any HoldCo affiliate.

Montana Utility Separation. The Montana Utility will hold itself out as a separate entity from HoldCo, will conduct business in its own name (“NorthWestern Corporation d/b/a NorthWestern Energy”), and will not assume liability for future debts of HoldCo or any HoldCo affiliate.

The Montana Utility will maintain separate financial books, accounts, and statements reflecting its separate assets and liabilities (inclusive of audit trails with supporting records) separate from the holding company’s books and records. The financial books, accounts, and statements of the Montana Utility will be fully accessible to the Commission and its designees in Helena, Montana. The Montana Utility will maintain separate debt ratings from those of HoldCo and HoldCo’s affiliates.

Non-Consolidation Letter. Within 30 days of a final order in this docket, the Montana Utility will file a letter or memorandum written by counsel stating that the ring-fencing measures proposed in the settlement document all support non-consolidation of the Montana Utility’s assets with those of any affiliate in the event of, or as a consequence of, a proceeding for relief in bankruptcy. If a lender requires a non-consolidation opinion either before or after implementation of the holding company structure, the Montana Utility will file a copy of it with the Commission and provide a copy to the MCC.

Consent to Commission Approval of Mergers, Sales and Transfers. There shall be no merger, sale or transfer of ownership, consolidation, or other disposition of the Montana Utility without prior Commission approval.

Notice of Voluntary Inclusion in Bankruptcy. The Montana utility will provide contemporaneous notice to the Commission if it files for protection under Chapter 7 or Chapter 11 of the Federal Bankruptcy Code or voluntarily agrees to be included in a HoldCo or affiliate bankruptcy.

Notice of HoldCo Issuance of Debt. The Montana Utility will provide notice to the Commission within 30 days following each issuance of long-term debt by the HoldCo.

Revision of Order No. 6505e in Docket No. D2003.8.109. The parties agree that the Commission should incorporate the ring fencing provisions set forth in this agreement into an Order that will supersede Order No. 6505e and the Bankruptcy Stipulation approved therein on a going forward basis.

Access. The HoldCo and Montana Utility will continue to provide the Commission with complete and unrestricted access to all information provided by and to FERC or common stock, bond, or bond rating analysts, which directly or indirectly pertains to the Montana Utility, including any affiliate transactions between any NorthWestern entity and the Montana Utility. Such information includes, but is not limited to, opinions, reports, and presentations made to or provided by common stock analysts and bond rating analysts.

Guidelines for Cost Allocations and Affiliate Transactions:

The following Guidelines for Cost Allocations and Affiliate Transactions (Guidelines) are intended to provide guidance to jurisdictional regulatory authorities and regulated utilities and their affiliates in the development of procedures and recording of transactions for services and products between a regulated entity and affiliates. The prevailing premise of these Guidelines is that allocation methods should not result in subsidization of non-regulated services or products by regulated entities unless authorized by the jurisdictional regulatory authority. These Guidelines are not intended to be rules or regulations prescribing how cost allocations and affiliate transactions are to be handled. They are intended to provide a framework for regulated entities and regulatory authorities in the development of their own policies and procedures for cost allocations and affiliated transactions. Variation in regulatory environment may justify different cost allocation methods than those embodied in the Guidelines.

The Guidelines acknowledge and reference the use of several different practices and methods. It is intended that there be latitude in the application of these guidelines, subject to regulatory oversight. The implementation and compliance with these cost allocations and affiliate transaction guidelines, by regulated utilities under the authority of jurisdictional regulatory commissions, is subject to Federal and state law. Each state or Federal regulatory commission may have unique situations and circumstances that govern affiliate transactions, cost allocations, and/or service or product pricing standards. For example, The Public Utility Holding Company Act of 1935 requires registered holding company systems to price "at cost" the sale of goods and services and the undertaking of construction contracts between affiliate companies.

The Guidelines were developed by the NARUC Staff Subcommittee on Accounts in compliance with the Resolution passed on March 3, 1998 entitled "Resolution Regarding Cost Allocation for the Energy Industry" which directed the Staff Subcommittee on Accounts together with the Staff Subcommittees on Strategic Issues and Gas to prepare for NARUC's consideration, "Guidelines for Energy Cost Allocations." In addition, input was requested from other industry parties. Various levels of input were obtained in the development of the Guidelines from the Edison Electric Institute, American Gas Association, Securities and Exchange Commission, the Federal Energy Regulatory Commission, Rural Utilities Service and the National Rural Electric Cooperatives Association as well as staff of various state public utility commissions.

In some instances, non-structural safeguards as contained in these guidelines may not be sufficient to prevent market power problems in strategic markets such as the generation market. Problems arise when a firm has the ability to raise prices above market for a sustained period and/or impede output of a product or service. Such concerns have led some states to develop codes of conduct to govern relationships between the regulated utility and its non-regulated affiliates. Consideration should be given to any "unique" advantages an incumbent utility would have over competitors in an emerging market such as the retail energy market. A code of conduct should be used in conjunction with guidelines on cost allocations and affiliate transactions.

A. DEFINITIONS

1. Affiliates - companies that are related to each other due to common ownership or control.
2. Attestation Engagement - one in which a certified public accountant who is in the practice of public accounting is contracted to issue a written communication that expresses a conclusion about the reliability of a written assertion that is the responsibility of another party.

3. Cost Allocation Manual (CAM) - an indexed compilation and documentation of a company's cost allocation policies and related procedures.
4. Cost Allocations - the methods or ratios used to apportion costs. A cost allocator can be based on the origin of costs, as in the case of cost drivers; cost-causative linkage of an indirect nature; or one or more overall factors (also known as general allocators).
5. Common Costs - costs associated with services or products that are of joint benefit between regulated and non-regulated business units.
6. Cost Driver - a measurable event or quantity which influences the level of costs incurred and which can be directly traced to the origin of the costs themselves.
7. Direct Costs - costs which can be specifically identified with a particular service or product.
8. Fully Allocated costs - the sum of the direct costs plus an appropriate share of indirect costs.
9. Incremental pricing - pricing services or products on a basis of only the additional costs added by their operations while one or more pre-existing services or products support the fixed costs.
10. Indirect Costs - costs that cannot be identified with a particular service or product. This includes but not limited to overhead costs, administrative and general, and taxes.
11. Non-regulated - that which is not subject to regulation by regulatory authorities.
12. Prevailing Market Pricing - a generally accepted market value that can be substantiated by clearly comparable transactions, auction or appraisal.
13. Regulated - that which is subject to regulation by regulatory authorities.
14. Subsidization - the recovery of costs from one class of customers or business unit that are attributable to another.

B. COST ALLOCATION PRINCIPLES

The following allocation principles should be used whenever products or services are provided between a regulated utility and its non-regulated affiliate or division.

1. To the maximum extent practicable, in consideration of administrative costs, costs should be collected and classified on a direct basis for each asset, service or product provided.
2. The general method for charging indirect costs should be on a fully allocated cost basis. Under appropriate circumstances, regulatory authorities may consider incremental cost, prevailing market pricing or other methods for allocating costs and pricing transactions among affiliates.
3. To the extent possible, all direct and allocated costs between regulated and non-regulated services and products should be traceable on the books of the applicable regulated utility to the applicable Uniform System of Accounts. Documentation should be made available to the appropriate regulatory authority upon request regarding transactions between the regulated utility and its affiliates.
4. The allocation methods should apply to the regulated entity's affiliates in order to prevent

subsidization from, and ensure equitable cost sharing among the regulated entity and its affiliates, and vice versa.

5. All costs should be classified to services or products which, by their very nature, are either regulated, non-regulated, or common to both.

6. The primary cost driver of common costs, or a relevant proxy in the absence of a primary cost driver, should be identified and used to allocate the cost between regulated and non-regulated services or products.

7. The indirect costs of each business unit, including the allocated costs of shared services, should be spread to the services or products to which they relate using relevant cost allocators.

C. COST ALLOCATION MANUAL (NOT TARIFFED)

Each entity that provides both regulated and non-regulated services or products should maintain a cost allocation manual (CAM) or its equivalent and notify the jurisdictional regulatory authorities of the CAM's existence. The determination of what, if any, information should be held confidential should be based on the statutes and rules of the regulatory agency that requires the information. Any entity required to provide notification of a CAM(s) should make arrangements as necessary and appropriate to ensure competitively sensitive information derived therefrom be kept confidential by the regulator. At a minimum, the CAM should contain the following:

1. An organization chart of the holding company, depicting all affiliates, and regulated entities.
2. A description of all assets, services and products provided to and from the regulated entity and each of its affiliates.
3. A description of all assets, services and products provided by the regulated entity to non-affiliates.
4. A description of the cost allocators and methods used by the regulated entity and the cost allocators and methods used by its affiliates related to the regulated services and products provided to the regulated entity.

D. AFFILIATE TRANSACTIONS (NOT TARIFFED)

The affiliate transactions pricing guidelines are based on two assumptions. First, affiliate transactions raise the concern of self-dealing where market forces do not necessarily drive prices. Second, utilities have a natural business incentive to shift costs from non-regulated competitive operations to regulated monopoly operations since recovery is more certain with captive ratepayers. Too much flexibility will lead to subsidization. However, if the affiliate transaction pricing guidelines are too rigid, economic transactions may be discouraged.

The objective of the affiliate transactions' guidelines is to lessen the possibility of subsidization in order to protect monopoly ratepayers and to help establish and preserve competition in the electric generation and the electric and gas supply markets. It provides ample flexibility to accommodate exceptions where the outcome is in the best interest of the utility, its ratepayers and competition. As with any transactions, the burden of proof for any exception from

the general rule rests with the proponent of the exception.

1. Generally, the price for services, products and the use of assets provided by a regulated entity to its non-regulated affiliates should be at the higher of fully allocated costs or prevailing market prices. Under appropriate circumstances, prices could be based on incremental cost, or other pricing mechanisms as determined by the regulator.
2. Generally, the price for services, products and the use of assets provided by a non-regulated affiliate to a regulated affiliate should be at the lower of fully allocated cost or prevailing market prices. Under appropriate circumstances, prices could be based on incremental cost, or other pricing mechanisms as determined by the regulator.
3. Generally, transfer of a capital asset from the utility to its non-regulated affiliate should be at the greater of prevailing market price or net book value, except as otherwise required by law or regulation. Generally, transfer of assets from an affiliate to the utility should be at the lower of prevailing market price or net book value, except as otherwise required by law or regulation. To determine prevailing market value, an appraisal should be required at certain value thresholds as determined by regulators.
4. Entities should maintain all information underlying affiliate transactions with the affiliated utility for a minimum of three years, or as required by law or regulation.

E. AUDIT REQUIREMENTS

1. An audit trail should exist with respect to all transactions between the regulated entity and its affiliates that relate to regulated services and products. The regulator should have complete access to all affiliate records necessary to ensure that cost allocations and affiliate transactions are conducted in accordance with the guidelines. Regulators should have complete access to affiliate records, consistent with state statutes, to ensure that the regulator has access to all relevant information necessary to evaluate whether subsidization exists. The auditors, not the audited utilities, should determine what information is relevant for a particular audit objective. Limitations on access would compromise the audit process and impair audit independence.
2. Each regulated entity's cost allocation documentation should be made available to the company's internal auditors for periodic review of the allocation policy and process and to any jurisdictional regulatory authority when appropriate and upon request.
3. Any jurisdictional regulatory authority may request an independent attestation engagement of the CAM. The cost of any independent attestation engagement associated with the CAM, should be shared between regulated and non-regulated operations consistent with the allocation of similar common costs.
4. Any audit of the CAM should not otherwise limit or restrict the authority of state regulatory authorities to have access to the books and records of and audit the operations of jurisdictional utilities.
5. Any entity required to provide access to its books and records should make arrangements as necessary and appropriate to ensure that competitively sensitive information derived therefrom be kept confidential by the regulator.

F. REPORTING REQUIREMENTS

1. The regulated entity should report annually the dollar amount of non-tariffed transactions

associated with the provision of each service or product and the use or sale of each asset for the following:

- a. Those provided to each non-regulated affiliate.
 - b. Those received from each non-regulated affiliate.
 - c. Those provided to non-affiliated entities.
2. Any additional information needed to assure compliance with these Guidelines, such as cost of service data necessary to evaluate subsidization issues, should be provided.

CERTIFICATE OF SERVICE

I hereby certify that the Joint Motion to Approve Settlement in Docket No. 2022.06.064, NorthWestern Energy's Corporate Restructuring docket, has been e-filed with the Montana Public Service Commission and emailed to the email list below.

Date: January 5, 2023

/s/ Tracy Lowney Killoy
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