

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

NorthWestern Colstrip 370 Pu LLC) Docket Nos. ER26-129-000 and
ER26-411-000
(Not Consolidated)

**MOTION TO INTERVENE OUT-OF-TIME, COMMENTS, AND PROTEST OF
THE MONTANA PUBLIC SERVICE COMMISSION**

The Montana Public Service Commission (Montana) moves to intervene out-of-time and identify three (3) significant concerns with two related Federal Power Act (FPA) Section 205¹ filings² submitted by NorthWestern Colstrip 370 Pu LLC (NW Colstrip).

First, NW Colstrip, and its corporate parent, NorthWestern Corporation d/b/a Northwestern Energy (NorthWestern) will likely violate Montana State law by illegally transferring Puget Sound Energy's 370 megawatts of the Colstrip Generating Station (generation assets) from NorthWestern to NW Colstrip, a shell corporation formed specifically to hold the generation assets, without Montana's authorization.³

¹ 16 U.S.C. § 824d.

² On October 14, 2025, NW Colstrip filed a Cost-Based Rate Tariff, Docket No. ER26-129-000 (Short Term Tariff). On October 31, 2025, NW Colstrip filed an Edison Electric Institute (EEI) Master Power Purchase and Sale Agreement and Confirmation, Docket No. ER26-411-000 (Long Term Agreement; together with the Short Term Tariff, the Filings). See *Northwestern Colstrip 370Pu LLC*, Cost-Based Rate Tariff Filing, Docket No. ER26-129-000 (October 14, 2025); *Northwestern Colstrip 370Pu LLC*, Edison Electric Institute Master Power Purchase and Sale Agreement and Confirmation, Docket No. ER26-411-000 (October 31, 2025).

³ See Mont. Pub. Serv. Comm'n., *In re the Transfer of Ownership and Sale of the Flathead Utility Company and Request to Adopt Rates*, Dkt. 2022.09.086, Order No. 7872b ¶ 21, (Mar. 22, 2023) (finding that [Montana] has jurisdiction over and must approval any sale or transfer of a public utility, its assets, or utility obligations); see also Mont. Pub. Serv. Comm'n., *In re NorthWestern Energy's, Energy West Montana, Inc's, and Cut Bank Gas Company's Joint Application for Approval of the Purchase and Sale of Assets and Associated Relief*, Dkt. 2024.08.088, Order No. 7981d, ¶ 42 (May 20, 2025) (considering NorthWestern a public utility and asserting authority over a proposed transaction); MCA §§ 69-3-101 and 69-3-102 (defining public utilities and vesting Montana with "full power of supervision, regulation, and control of such public utilities").

Second, Puget Sound will transfer to NorthWestern (who will assign to NW Colstrip) the generation assets without first receiving the Federal Energy Regulatory Commission's (FERC) authorization in violation of FPA Section 203.⁴

Third, both the Short Term Tariff and the Long Term Agreement (described below) seek authorization to sell energy and capacity from the same generation assets NW Colstrip neither legally owns nor controls without FPA Section 203 approval, in violation of FPA Section 205.

Montana agrees with several issues raised in Montana Environmental Information Center's pleadings,⁵ some of which are repeated here.

Montana respectfully requests that FERC reject the Filings and commence an investigation under the FPA to determine whether the Puget Sound to NorthWestern (and subsequent assignment to NW Colstrip) violate FPA Section 203.

I. Background

NorthWestern is a public utility under Montana law. Montana exercises its authority to review and approve the sale or transfer of public utility assets.⁶ On July 30, 2024, NorthWestern Energy announced that it would acquire Puget Sound Energy's 370-megawatt share of the Colstrip Plant (the generation assets). On March 29, 2025, a bill was introduced in the Montana House of Representatives that would have modified the

⁴ 16 U.S.C. § 824b(a)(1)(A) ("No public utility shall, without first having secured an order of the Commission authorizing it to do so—sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof a value in excess of \$10,000,000.").

⁵ *Montana Environmental Information Center*, Motion to Intervene and Protest, Docket No. ER26-411-000 (Nov. 21, 2025); *Montana Environmental Information Center*, Motion to Intervene and Protest on NW Colstrip's Cost-Based Rate Tariff, Docket No. ER26-129-000 (Nov. 4, 2025); *Montana Environmental Information Center*, Answer in Support of Intervention and Protest, Docket No. ER26-129-000 (Nov. 25, 2025).

⁶ See *infra*, Section II. A.

definition of “public utility” to exclude “a legally separate entity established by a public utility that owns or controls electric generation...” – NW Colstrip.⁷ The bill ultimately died in the Montana Senate Standing Committee on May 22, 2025.⁸ Nevertheless, Northwestern has assigned the agreement to purchase the Puget Sound Energy share to NW Colstrip.⁹

On October 14, 2025, and October 31, 2025, respectively NW Colstrip submitted the Short Term Tariff and the Long Term Agreement to the Commission under Section 205 of the FPA for approval of a short-term cost-based rate and a long-term power purchase agreement. These rates are based on an underlying transaction whereby NorthWestern will acquire the rights to the generation assets and assign these rights NW Colstrip. NW Colstrip now asks the Commission for approval to make short-term cost based rates and long term sales under FPA Section 205. NorthWestern has not sought approval for the transaction from FERC under FPA Section 203 or from the Montana Commission.

Concerned about changing representations made by NorthWestern regarding the generation assets and the transfer of utility property under Montana law, Montana began correspondence with NorthWestern on November 5, 2025, and was unable to reach a resolution. Montana now files these comments.

⁷ H.B. 911, 69th Leg., Reg. Sess. (Mont. 2025), <https://legiscan.com/MT/bill/HB911/2025>.

⁸ *Id.*

⁹ Motion for Leave to Answer and Answer of Northwestern Colstrip 37Pu LLC, Docket No. ER26-129-000, at 11-12 (Nov. 18, 2025) (NW Colstrip Answer, Docket No. ER26-129-000).

II Comments¹⁰

A. NorthWestern and NW Colstrip likely Violate Montana State Law

NorthWestern is a public utility under Montana Law.¹¹ Montana has authority over the sale and transfers of assets or utilities,¹² which flows from the unique status of public utilities and Montana’s “full supervision, regulation and control of such public utilities.”¹³ In 2023, Montana found that it “has jurisdiction over and must approve any sale or transfer of a public utility, its assets, or utility obligations.”¹⁴ Again, in 2025, while approving a transfer of assets of Energy West Montana and Cut Bank Gas Company to NorthWestern, Montana explained that it had authority to review and approve the transaction.¹⁵ The attempt in 2025 to carve out entities like NW Colstrip from Montana’s jurisdiction failed.

NorthWestern now intends to purchase – and has already assigned – the rights to the generation assets to NW Colstrip. Since NorthWestern is a public utility under Montana law, and NorthWestern has already assigned the utility generation assets to NW Colstrip without permission from Montana,¹⁶ NorthWestern is likely in violation of Montana law.

¹⁰ If the Commission does not grant Montana’s motion to intervene out-of-time, then these comments should be considered a protest under Commission Rule 211, which does not require Montana to be a party. See 18 C.F.R. §§ 385.211(a)(1), (2) (2024).

¹¹ See Mont. Code § 69-3-101.

¹² Mont. Pub. Serv. Comm’n., *In re the Joint Application of NorthWestern Corp. and BBI*, Dkt. 2006.6.82, Order 6754e 23-24, 32 (Aug. 1, 2007) (“The Commission’s Authority over sales and transfers of assets or utilities can be inferred from the unique status of public utilities”).

¹³ Mont. Code § 69-3-102. See also Mont. Code § 69-8-421(1)(a), allowing for preapprovals; the allowance of preapprovals indicates that approval is required at some point during the transaction.

¹⁴ See Mont. Pub. Serv. Comm’n., *In re the Transfer of Ownership and Sale of the Flathead Utility Company and Request to Adopt Rates*, Dkt. 2022.09.086, Order No. 7872b ¶ 21, (Mar. 22, 2023).

¹⁵ Mont. Pub. Serv. Comm’n., *In re NorthWestern Energy’s, Energy West Montana, Inc’s, and Cut Bank Gas Company’s Joint Application for Approval of the Purchase and Sale of Assets and Associated Relief*, Dkt. 2024.08.088, Order No. 7981d, ¶ 42 (May 20, 2025) (Internal citation omitted).

¹⁶ NW Colstrip Answer, Docket No. ER26-129-000 at 12.

NorthWestern and NW Colstrip are attempting an end around Montana law by proceeding at FERC under FPA Section 205. Prior to the Filings, NorthWestern made compliance filings in the Montana Commission proceeding in Docket 2022.11.102 indicating that the generation assets would contribute to meeting NorthWestern's capacity obligations under the Western Resource Adequacy Program or would otherwise contribute to serving retail customers' peak demands and ensure adequate and reliable service. *See* Mont. Pub. Serv. Comm'n, *NWE 2023 Elec. Integrated Res. Plan*, Docket No. 2022.11.102 (filed Apr. 28, 2023). Montana believes NorthWestern acquired the generation assets from Puget Sound and subsequently assigned them to NW Colstrip without the required Section 203 filing hoping to avoid state- and federal-level scrutiny regarding ownership and the associated state law violation.

As discussed below, NorthWestern uses the assignment to claim that the Commission's jurisdiction under Section 203 has not yet been triggered; that is, the assignment itself does not cause NorthWestern to violate Section 203 yet.¹⁷ But this assignment was engineered to avoid Montana regulation, stop-gapped with a last-minute attempt at legislative change. First, NorthWestern creates what it describes as an affiliate not regulated by Montana, NW Colstrip.¹⁸ Then, NorthWestern assigns purchase rights to NW Colstrip prior to the transaction.¹⁹ Had the legislation passed, once the transaction occurs, NorthWestern could have asserted that NW Colstrip is not a public utility and is not subject to Montana regulation. But it failed. Consequently, in assigning the right to

¹⁷ NW Colstrip Answer, Docket No. ER26-129-000 at 12.

¹⁸ NW Colstrip Transmittal Letter at 2, Docket No. ER26-129-000 (October 14, 2025).

¹⁹ NW Colstrip Answer, Docket No. ER26-129-000 at 12.

purchase to NW Colstrip, NorthWestern has effectuated the transfer of utility property and is likely subject to the regulation of Montana.

In addition to alerting FERC about these activities, Montana anticipates opening an investigatory docket to examine the facts and circumstances concerning Northwestern's unusual and unregular behavior.

B. Puget Sound, NorthWestern and NW Colstrip's Transactions will Violate FPA Section 203

In relevant part, Section 203 requires public utilities to file for Commission approval before they "sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of \$10,000,000."²⁰ Subsection (B) applies when a public utility merges or consolidates its jurisdictional facilities with those of another entity, provided the facilities involved exceed \$10,000,000 in value.²¹ Subsection (D) applies when a public utility acquires an existing generation facility valued at more than \$10,000,000 that is used for interstate wholesale sales subject to Commission ratemaking jurisdiction.²² The valuation is the market value of the facilities, which the Commission rebuttably presumes to be the market price of the transaction.²³ Assignment can trigger 203 jurisdiction if the thing being assigned is subject to the Commission's 203 jurisdiction.²⁴ The Commission will decide on a complete

²⁰ 16 U.S.C. § 824b(a)(1)(A).

²¹ 16 U.S.C. § 824b(a)(1)(B).

²² 16 U.S.C. § 824b(a)(1)(D).

²³ 18 C.F.R. § 33.1(b)(3)(i); *Transactions Subject to FPA Section 203*, Order No. 669, FERC Stats. & Regs. ¶ 31,200, P 116 (2005).

²⁴ See *D.E. Shaw Plasma Power, L.L.C.*, 102 FERC ¶ 61,265, 61,823 (2003) (considering assigned veto rights under Section 203 and disclaiming jurisdiction not because of the assignment but because of the specific assigned right in question.).

application under Section 203 in 180 days.²⁵ If parties to a transaction are unclear as to whether Section 203 applies to the transaction, they have three options. First, they can file a declaratory order from FERC, who can claim or disclaim jurisdiction.²⁶ Second, they can request approval out of an abundance of caution if Section 203 authority may be implicated.²⁷ Finally, they can proceed and hope that Section 203 authorization is not required.

NW Colstrip seems to have chosen to roll the dice as Montana was unable to find any evidence that Puget Sound, NorthWestern or NW Colstrip seeks FERC's Section 203 authorization to dispose of or acquire the generation assets.

NW Colstrip offers arguments designed to avoid addressing the Section 203 issue. First, it argues that considering whether it has violated Section 203 improperly expands the scope of the Short Term Tariff filing.²⁸ Montana fails to see how determining whether NW Colstrip legally acquired the generation assets is irrelevant. NW Colstrip cannot sell power from a generator it does not own or to which it has no contractual rights. This is not a scenario where an asset owner has a Section 203 application pending with FERC while it proceeds with a rate filing under Section 205.²⁹ Nor is it similar to the recent decision in *Idaho Power Co.*, where the Commission approved a Section 205 rate when the applicant in question filed for the rate, the Section 203 approval, *and relevant state approval*

²⁵ 18 C.F.R. § 33.11(a).

²⁶ *Conowingo Power Company, et al.*, FERC Docket Nos. EC95-7-000, EL95-14-000 (Dec. 6, 1994) (indicating the appropriate vehicle for disclaimer of jurisdiction is a declaratory order).

²⁷ FERC, May I Now? Update on When FERC Authorization is Needed for Transfers of Public Utility Assets and Equity Interests in Public Utilities, Hugh E. Hilliard et. al., *Energy Law Journal* Vol. 44.2, p. 162 (Nov. 2023) (citing *Big Beau Solar, LLC*, 181 FERC ¶ 62,112 (2022)). The second option is usually the preferred to the first, as FERC is on a 180-day clock to decide.

²⁸ NW Colstrip Answer, Docket No. ER26-129-000 at 7.

²⁹ NW Colstrip Answer, Docket No. ER26-129-000 (citing *Atl. City Elec. Co. et al.*, 76 FERC ¶ 61,306 at 3 (1996)).

concurrently.³⁰ There is no pending Section 203 application or state approval process of which Montana is aware. Ownership of the generation assets is relevant here.

Second, to avoid Section 203 scrutiny, NW Colstrip argues that the generation assets are worth “zero dollars,” well below the \$10 million threshold. As evidence, NW Colstrip cites failed attempts to sell the generation assets in 2019 and 2020.³¹ Of course the world changed drastically since then. The One Big Beautiful Bill has eliminated future renewable production tax credits.³² Federal subsidies and recent technological advances in Artificial Intelligence (AI) are prompting major investment in data centers and the generation resources needed to serve their load.³³ And, these data centers want reliable power 24 hours a day, seven (7) days a week; the Department of Energy has issued orders to prevent the closure of coal and gas plants that were scheduled for retirement.³⁴ Add to this the recent relaxation of environmental rules applicable to coal plants and you have a major sea change in the value of operational coal generation. As MEIC pointed out, NorthWestern reported to its shareholders and the public that sales under the Long Term Agreement will amount to close to \$30 million per year.³⁵ Considering these recent changes in the industry and the magnitude of revenue NW Colstrip now expects to receive from energy and

³⁰ *Idaho Power Co.*, 193 FERC P 61,094 P. 9 (2025).

³¹ NW Colstrip Answer, Docket No. ER26-129-000 at 10-11 and n.23.

³² One Big Beautiful Bill Act, Pub. L. No. 119-21, 139 Stat. ___ (2025).

³³ U.S. Dep’t of Energy, Letter re Large Loads (Oct. 2025), <https://www.energy.gov/sites/default/files/2025-10/403%20Large%20Loads%20Letter.pdf>, at 2.

³⁴ See e.g., U.S. Dep’t of Energy, Emergency Order No. 202-25-3 (May 23, 2025); U.S. Dep’t of Energy, Emergency Order No. 202-25-7 (Aug. 20, 2025), U.S. Dep’t of Energy, Emergency Order No. 202-25-9 (Nov. 18, 2025); U.S. Dep’t of Energy, Emergency Order No. 202-25-04, (May 30, 2025).

³⁵ MEIC Protest, Docket ER26-129-000 at 4 and n.12.

capacity sales, NW Colstrip must recognize that reliance on failed attempts to sell the generation assets in 2020 as evidence that the assets have no value today is misguided.

Common sense dictates that the generation assets have significant value. NW Colstrip conveniently avoids addressing Northwestern's statement that ownership of the generation assets is the economic equivalent of constructing a \$700 million natural gas plant.³⁶ Energy Capital Partners, and Javelin Global Commodities recently sought and received Section 203 approval to purchase the Gavin Coal plant in Ohio; while that plant is much larger and the purchase price is confidential, the transaction indicates that a zero dollar valuation for operating coal plants is not market-based.³⁷ Considering this information, NW Colstrip should have sought prospective Commission approval under Section 203, or sought a disclaimer of jurisdiction through a declaratory ruling.

Lastly, NW Colstrip offers its most questionable argument yet; that by assigning its generation asset rights to NW Colstrip **before** it acquired those assets from Puget Sound, the assignment to NW Colstrip is "outside the scope of FPA Section 203."³⁸ It appears that NorthWestern's strategy all along has been to avoid FERC and state scrutiny of this transaction. Regardless of whether the assignment or the physical transfer of the generation facilities triggers the Commission's jurisdiction, NorthWestern (in the assignment case) or NW Colstrip (in the physical transfer case), at least one of those entities engaged in an unrelated transaction over the cost threshold which would have required Section 203 approval. The timing of the assignment will not avoid Section 203 review.

³⁶ MEIC Protest, Docket ER26-129-000 at 4.

³⁷ *Darby Power, LLC et. al.*, 192 FERC ¶ 61,073 (2025)

³⁸ NW Colstrip Answer, Docket No. ER26-129-000 at 12.

C. NW Colstrip Cannot Fulfill Section 205 Filing Requirements.

When filing for rate approval under Section 205, applicants are required to provide certain information so that the Commission can appropriately analyze the filing. Included in this information is the requirement that the applicant provide a summarization of “the circumstances which show that all requisite agreement to the rate schedule or tariff or the filing thereof, including any contract embodied therein, has in fact been obtained.”³⁹ First, Montana has not approved of the transaction, nor has NW Colstrip requested approval, so NW Colstrip cannot demonstrate that the requisite agreement has been obtained.

Second, the transaction is or will be subject to approval under Section 203 of the FPA as described above, which will not be obtained by December 31, 2025 closing date. If Section 203 approval is required, it is a condition precedent to closing.⁴⁰ Because NW Colstrip has not applied for Section 203 authorization, it cannot demonstrate that approvals are underway or likely, and so it cannot satisfy the filing requirements of Section 205.

III. Motion to Intervene Out-Of-Time

Montana respectfully moves to intervene out-of-time, consistent with Commission precedent. Montana staff corresponded several times with NorthWestern to address concerns raised in this proceeding, but with no success.⁴¹ Consequently, Montana is compelled to intervene, comment and protest here.

³⁹ 18 C.F.R. § 35.12(a).

⁴⁰ Ex. 1, Colstrip Units 3 and 4 Interests Abandonment and Acquisition Agreement by and between NorthWestern Corp. and Puget Sound Energy, Section 3.5 (d), *Montana Environmental Information Center*, Motion to Intervene and Protest on NW Colstrip’s Cost-Based Rate Tariff, Docket No. ER26-129-000 (Nov. 4, 2025).

⁴¹ See Letter from Montana to NorthWestern re: FERC Docket ER26-129 (Nov. 5, 2025); Letter from NorthWestern to Montana re: Acquisition of additional Colstrip shares (Nov. 7, 2025). Both letters are attached as Exhibit 1 and 2 to these comments, respectively.

The Commission grants petitions to intervene out of time for good cause shown when the parties' interests are not adequately represented by others in the proceeding, intervention will not prejudice any party and will not disrupt the proceeding.⁴² No disruption will occur at this stage of the proceeding, and Montana agrees to accept the record as it stands. Montana, the Commission responsible for balancing the interests of rate payers and utilities and enforcing Montana regulatory law, has a direct and substantial interest that cannot be represented by any other party. As the state regulatory authority, Montana has a right to participate in this proceeding afforded by Rule 214(a)(2), but the timeliness of this request requires Montana to explain why it meets the standards in Rule 214(b).⁴³ Montana's status as a state commission provides an interest which will be directly affected by the outcome of the proceeding as the contemplated filing directly affects Montana's jurisdiction. Montana's participation is in public interest.

IV. Conclusion

NorthWestern and NW Colstrip have employed a strategy to violate Montana law and avoid FERC scrutiny of transactions subject to Section 203. For the reasons stated above, Montana respectfully requests that FERC reject the Filings and initiate an investigation. Montana will do the same.

⁴² 18 C.F.R. § 385.214(d); see, e.g., *Midwest Indep. Transmission Sys. Operator, Inc.*, 99 FERC ¶ 63,011 at P 3 (2002) (granting motion to intervene filed after hearing order and prior to first hearing date); *Californians for Renewable Energy, Inc.*, 96 FERC ¶ 61,203 (2001) (granting late motion to intervene that was filed after the issuance of a hearing order and prior to evidentiary hearing of party accepting the record). *Valley Link Transmission Maryland, LLC, et al.*, 191 FERC ¶ 61,113 (2025) (finding that late intervention was not prejudicial in part because the Commission had not yet issued orders, and that any prejudice was outweighed by the strong interest movant had in the proceeding).

⁴³ 18 CFR § 385.214(d)(1)(v).

Respectfully submitted,

/s/ Jeff Welborn

Jeff Welborn
President, Montana Public Service
Commission

/s/ Jennifer Fielder

Jennifer Fielder
Vice President, Montana Public Service
Commission

/s/William D. Booth

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CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon each person listed on the official service list compiled by the Secretary in this proceeding.

Dated at Madison, Wisconsin, this 3rd Day of December, 2025.

Respectfully submitted,

/s/Orrie Walsvik

Orrie Walsvik

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Montana Exhibit 1

Montana Public Service Commission



Jeff Welborn, President
Jennifer Fielder, Vice President
Randall Pinocci, Commissioner
Dr. Annie Bukacek, Commissioner
Brad Molnar, Commissioner

November 5, 2025

Mr. Charles Lane
Director of Regulatory Affairs
NorthWestern Energy
208 North Montana Avenue, Suite 200
Helena, MT 59601

Re: Federal Energy Regulatory Commission Docket ER26-129

Dear Mr. Lane:

On July 30, 2024, NorthWestern Energy announced that it would acquire Puget Sound Energy's 370 megawatt share of the Colstrip Plant. According to the announcement, together with the previously-announced acquisition of Avista's 222 megawatt share, NorthWestern Energy will own 55% of the Colstrip Plant beginning on January 1, 2026.

Following NorthWestern Energy's announcement of its acquisition of Puget Sound Energy's 370 megawatt share of the Colstrip Plant, NorthWestern Energy submitted multiple compliance filings in Docket 2022.11.102 indicating that the Colstrip Plant capacity to be acquired from Puget Sound Energy would contribute to meeting NorthWestern Energy's capacity obligations under the Western Resource Adequacy Program or would otherwise contribute to serving retail customers' peak demands and ensure adequate and reliable service.

On October 14, 2025, NorthWestern Colstrip 370pu LLC ("NorthWestern Colstrip") submitted a filing with the Federal Energy Regulatory Commission ("FERC") requesting approval of a cost-based rate tariff ("Filing"). The Filing states that NorthWestern Colstrip is a special purpose subsidiary of NorthWestern Group, Inc. and is not regulated by the Montana Public Service Commission. According to the Filing, NorthWestern Corporation will acquire Puget Sound Energy's 370 megawatt share of the Colstrip Plant and, once acquired, the 370 megawatt share of the Colstrip Plant will be held 100% by NorthWestern Colstrip, which will be effectuated through an assignment from NorthWestern Corporation.

The Commission has consistently exercised authority over mergers, sales, and transfers of utilities and utility property. See *In re the Joint Application of NorthWestern Corp. and BBI*, Dkt. 2006.6.82, Order 6754e ¶¶ 19-32 (Aug. 1, 2007). Based on the information above, it appears that NorthWestern Energy intends to transfer property that it has characterized as utility property.

Please clarify whether NorthWestern Energy intends to seek approval from the Montana Public Service Commission prior to effectuating the transfer of its 370 megawatt share of the Colstrip Plant to NorthWestern Colstrip.

If NorthWestern Energy does not consider this transaction to constitute a transfer of utility property requiring Commission approval, please provide a comprehensive explanation supporting that position.

Please submit your response by November 7, 2025.

Sincerely,

/s/ Will Rosquist

Will Rosquist
Regulatory Division Administrator
Montana Public Service Commission



Montana Exhibit 2



November 7, 2025

Will Rosquist
Regulatory Division Administrator
Montana Public Service Commission
1701 Prospect Avenue
P O Box 202601
Helena MT 59620-2601

via email: wrosquist@mt.gov

Re: Acquisition of additional Colstrip shares

Mr. Rosquist,

NorthWestern Corporation d/b/a NorthWestern Energy (the “Montana Utility”) respectfully submits this response to your letter dated November 5, 2025, requesting clarification regarding the acquisition of Puget Sound Energy’s 370 megawatts of the Colstrip Generating Station (the “Puget Share”). Your inquiry raises important questions about the regulatory treatment of the transaction and the implications for Montana Utility customers.

As explained in greater detail below, the Montana Utility does not currently own and is not acquiring the Puget Share at this time, and thus will not be seeking Commission review of the transaction. Directly transferring the Puget Share to NorthWestern Colstrip 370Pu LLC (“Colstrip 370Pu”), a non-utility subsidiary of NorthWestern Energy Group, Inc. (“NorthWestern Group”), ensures local operational control of Colstrip to secure its long-term viability while shielding customers from costs or liabilities tied to the Puget Share, mitigating the financial impacts on NorthWestern Group, and maintaining flexibility for future integration.

As noted in your letter, the Montana Utility entered into the agreement to acquire the Puget Share (the “Puget Agreement”). However, the NorthWestern Group Board approved assignment of the Puget Agreement from the Montana Utility to Colstrip 370Pu on October 29, 2025, for the mutual benefit of customers and the companies.¹ As a result, Colstrip 370Pu will acquire the Puget Share of Colstrip on January 1, 2026, and the Montana Utility will not acquire, hold, or operate the Puget Share at closing. As a result, this transaction is not analogous to

¹ The Puget Agreement contains a clause permitting assignment to affiliates of the Montana Utility.



cases cited in your letter and not covered by any relevant statutes. Therefore, there is no basis for the Commission to assert jurisdiction over the transaction.

The intent is for Colstrip 370Pu to sell energy at wholesale pursuant to FERC jurisdiction until such time as Montana Utility customer load requires the addition and Commission authorizes cost recovery of the Puget Share. To that end, Colstrip 370Pu entered into a 21 month contract with Mercuria Energy America, LLC for the sale of all of the output of the Puget Share. As FERC has exclusive jurisdiction over wholesale energy transactions, Colstrip 370Pu filed for FERC approval of the contract on October 31, 2025.

Neither the Puget Share nor the Puget Agreement has ever been used to serve Montana customers, placed in rate base, or recovered through Montana rates. The transfer of ownership will occur directly between Puget Sound Energy and Colstrip 370Pu, which is not a regulated public utility. Colstrip 370Pu operates outside the Montana Utility's ring-fencing and is not subject to Commission jurisdiction. This structure is consistent with the Commission's 2023 order authorizing corporate restructuring, which established ring-fencing around the Montana Utility and noted merchant generation must occur in a subsidiary outside the utility. *See Order 7854b, Dkt. No. 2022.06.064, para. 49.* Additionally, as the Puget Share purchase price is zero, neither the acquisition of the Puget Share nor the assignment of the Puget Agreement triggers the notice provision in that order. *See Order 7854b, para. 27* (requiring notice to the Commission if the Montana Utility sells or transfers "utility assets having a net book value of over \$10 million, any part of which is included" for rate recovery). As a result, the assignment of the Puget Agreement does not require notification to the Commission and is not subject to Commission review.

The original decision to acquire the Puget Share was driven by a desire to obtain majority ownership of the Colstrip Plant which will provide enhanced control over the operations and ultimate retirement of the facility. This enhanced control is vital to ensuring the viability of the Montana Utility's existing share and the soon to be acquired share of the plant currently owned by Avista (the "Avista Share"), both of which are needed for reliability. By consolidating ownership within entities affiliated with NorthWestern Group, the company reduces the risk that regulatory or legislative decisions outside of Montana will affect the availability or performance of this critical resource.

As noted in your letter, at the time of executing the Puget Agreement, the Montana Utility anticipated acquiring the Puget Share and therefore included it in capacity forecasts submitted to the Western Power Pool and the Commission. These filings reflected the intended transfer of the Puget Share at the time, not a determination of capacity need. The capacity forecasts submitted in April 2024



demonstrated long capacity balances through Winter 2034–35, even before the addition of the Puget Share. Subsequent analysis during the planning cycle for the 2026 Integrated Resource Plan (IRP) confirmed the Montana Utility can meet its Western Resource Adequacy Program (WRAP) obligations and peak demand requirements without the Puget Share.

By contrast, the 2023 IRP identified the acquisition of Avista’s 222 megawatt share of Colstrip (the “Avista Share”) as necessary to support anticipated load growth and maintain reliability. The Avista Share will enter the Montana Utility’s portfolio on January 1, 2026, serving Montana Utility customers and creating excess capacity that allows market sales.² The Montana Utility has filed updated capacity forecasts with WPP removing the Puget Share, and will file updates with the Commission as required once they are finally accepted by WPP. As a result, contrary to the statement in your letter, the Puget Share is not necessary to meet WRAP obligations, serve peak demands or ensure adequate and reliable service by the Montana Utility in 2026.

Holding the Puget Share in Colstrip 370Pu preserves the ability to transfer the resource into the Montana Utility portfolio when customer need is demonstrated and cost recovery of the associated operations and maintenance (O&M) costs is determined. While the O&M for the Avista Share is not yet in rates either, the need for that share is clear, and the Montana Utility has submitted a filing to address these costs until they are incorporated in rates in future proceedings. Acquisition of the Puget Share, while fundamental to protecting our customers interests in the existing share owned by the Montana Utility, also exposes NorthWestern to a heightened risk of unrecoverable expenses and potential disallowances. A utility is not required to provide benefits to customers or acquire and operate assets without a reasonable opportunity to recover the associated costs.

Holding the Puget Share outside the Montana Utility relieves customers of responsibility for any costs or liabilities associated with the asset prior to it being required to meet utility load, while allowing the company an opportunity to offset O&M costs through wholesale sales. This structure aligns with the Commission’s 2023 restructuring order, which established ring-fencing requirements to insulate ratepayers from financial risks tied to merchant generation. It also complies with NorthWestern’s obligations to its shareholders and honors its commitment to preserve the long-term viability of the Colstrip Plant.

² The Montana Utility will also assign the Avista share to a wholly owned subsidiary, NorthWestern Colstrip 222Av, LLC (“Colstrip 222Av”) to preserve certain contractual rights. Colstrip 222Av is a direct subsidiary of the Montana Utility and will be on the utility side of the Montana ringfencing and that share will be reported and operated as a utility generation asset and will be subject to Commission jurisdiction.



Acquiring the Puget Share in Colstrip 370Pu also provides flexibility for future utility integration if and when customer need is demonstrated, while maintaining a vital local generation resource at no additional cost to customers. The flexibility to serve Montana load from outside the Montana Utility is growing in importance in the face of base load generation retirements in other jurisdictions and lack of regulatory certainty regarding service to new large loads. While prospective large load customers and the Montana Utility have a strong desire to develop large customer bundled service, significant analysis is required before such customers can be added to the Montana Utility's load, and there is no certainty that the Commission will agree with the Montana Utility's approach to serving those customers. Additionally, existing large customers currently receiving energy supply on a choice basis have expressed a strong interest in the long-term viability of the Colstrip Plant to meet ongoing needs in the state for reliable base load generation. Acquiring the Puget Share in Colstrip 370Pu outside the Montana Utility's ring-fencing, in Colstrip 370Pu, provides maximum flexibility to deploy this resource in a way that assists existing large loads and facilitates economic development without impacting current utility customers. This approach supports the continued operation of Colstrip as a reliable baseload resource for Montana and reinforces NorthWestern's commitment to maintaining local control over critical energy infrastructure in the face of shifting external regulatory pressures.

In summary, the structure of this transaction reflects a deliberate approach to balancing long-term reliability, customer protection, and regulatory clarity. The Montana Utility has determined that the Puget Share is not currently needed to meet customer demand and has taken steps to ensure its acquisition does not impose financial risk on customers. Assigning the Puget Agreement to Colstrip 370Pu insulates customers from costs and liabilities, maintains flexibility for future utility integration when justified by resource need, and secures operational control of Colstrip to support its continued reliability.

We appreciate your engagement on this matter and remain available to provide more information or clarification as needed.

Regards,

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