

**Exh. DCG-7  
Docket UE-200115  
Witness: David C. Gomez**

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

**In the Matter of the Application of**

**DOCKET UE-200115**

**PUGET SOUND ENERGY**

**For an Order Authorizing the Sale of All  
of Puget Sound Energy's Interests in  
Colstrip Unit 4 and Certain of Puget  
Sound Energy's Interests in the Colstrip  
Transmission System**

**EXHIBIT TO  
TESTIMONY OF**

**David C. Gomez**

**STAFF OF  
WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION**

*Montana PUC, NorthWestern Energy's Second Updated Response to MEIC-015 of  
August 7, 2020*

**October 2, 2020**



**Report of Key Performance Indicators (KPI)  
for the years 2015 - 2019**

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**July 2020 Board Meeting**

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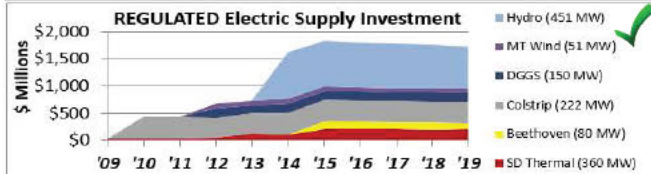
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**Value (owned supply to meet retail customer load)**



(Top & Middle) Continued investment in our energy supply portfolio, including the significant addition of the hydros in 2014 and Beethoven in 2015, has helped narrow the planning reserve margin shortfall we have in Montana (estimated at ~ negative 46% today). We have also added small hydro additions and Two Dot Wind in 2018. These generating resource additions will continue to provide rate stability (a physical hedge) for our customers and should continue to provide a reasonable return to our investors. The decrease from 18 to 19 was the retirement of many small oil/gas peaker plants in South Dakota.



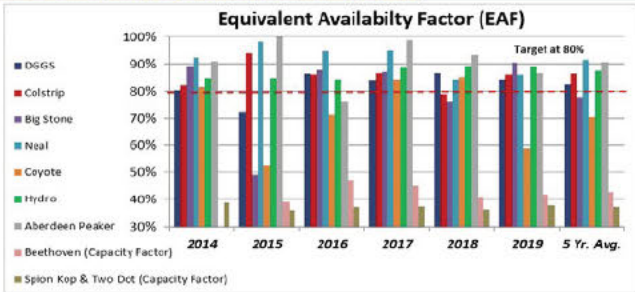
(Bottom) While we would like to continue to evaluate reserves opportunities to reach our targeted 50% owned production. The Montana PSC objected to NWE pursuing additional acquisitions until an updated resource plan was filed. We did file a gas IRP in 2020 and is pending commission comments.



**Excellence (recovery of supply costs)**

March 2016: the MPSC disallowed \$8.2M of replacement power costs from 2013 Coslstrip outage and \$1.3M of costs related to portfolio modeling previously recovered through supply tracker.

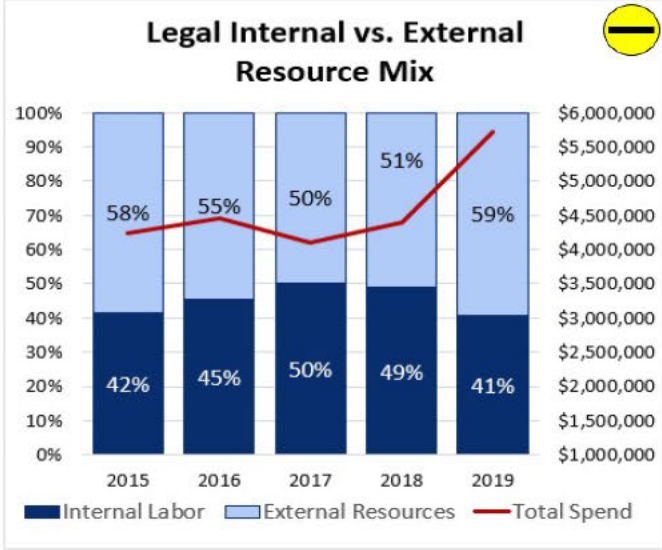
**Excellence (owned generation availability factor)**



Equivalent availability factor (EAF), or the % of time the facility is available to run regardless of whether or not it is being called to run, is considered a good indicator of reliability and asset performance. Our wind resources (Spion Kop & Beethoven) displays capacity factor rather than EAF as this is a better indicator of performance on wind generation with both producing at, or better than, expected.

Colstrip, Neal, Aberdeen Peaker, DGGs and Hydro have produced EAF's over 80% in the past years.

**Value (add cost effective internal resources to reduce external resources expense)**



The Legal Dept. has added and developed significant internal expertise over the last several years, resulting generally in an increased percentage of the Company's legal work being handled in-house and considerable savings on outside counsel expenses. The outside counsel expenses in 2019 were higher than expected due to new and/or unanticipated matters arising after the budget was approved, such as Project Latte (\$241,154), and Colstrip-Westmoreland Bankruptcy (\$214,851). Other matters were resolved under budget, thereby reducing the Legal Dept.'s 2019 over budget amount to \$45,000.



**NorthWestern Energy • Board of Directors**

Presented To: Operations Committee

Purpose:  Approval Requested

Presented By: John Hines

Discussion Item

Date: July 28, 2020

Information Item

Confidential • Limited Distribution

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**Agenda Item: Energy Supply & MT Government Affairs**

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**Additional Documents Included:**

- In Operations Committee Agenda Item # 05-2020 Fue Gas Heater Failure

**Desired Outcome**

Update Board on key activities and risks in energy supply and government affairs

**Executive Summary of Significant Updates Since Last Meeting**

***MT Generation***

#### ***Colstrip Unit 4***

##### ***– Planned Maintenance Outage***

The Unit 4 outage has been delayed and rescheduled for September 11 through November 13. This outage is necessary for critical maintenance work and requires importing approximately 500 workers. Risks associated with the COVID-19 pandemic could impact schedule. I am meeting with local and statewide elected officials to discuss this situation.

##### ***– Additional Unit 4 Acquisition***

The regulatory process experienced a setback on July 13 when the MPSC placed a stay on the procedural schedule because the purchase and sale agreement that includes Talen, PSE and NWE has yet to be finalized. Talen has been extremely slow and difficult to negotiate with since they provided notice that they were exercising their right of first refusal. The key issue delaying execution is how the vote sharing agreement should reflect Talen and NWE's incremental shared interest in Unit 4.



#### ***Colstrip Unit 4 – Rescheduled Outage - Detailed Background***

The spring 2020 overhaul outage for Unit 4 has been delayed and rescheduled for September 11 through November 13 due to COVID-19 concerns. This outage is necessary for critical maintenance work and requires importing approximately 500 workers. Owners want to conduct the overhaul work in a manner safe for the community and workers.

The unit is typically overhauled every 3 years but it has been 4 ½ years since the last overhaul. Talen intends to conduct this overhaul barring any unforeseen circumstance. The following considerations were evaluated for rescheduling this maintenance.

- The delay provided some time for the safe planning and execution of an overhaul amid the COVID-19 pandemic. As the unit was originally scheduled for overhaul near the beginning of the pandemic, not much was known about the virus at that time and it was prudent to delay the outage until more was learned about maintaining the safety of Colstrip residents and providing safe working and living conditions for workers.
- Scheduling in the fall coincides with anticipated relief from market pricing that is usually higher in the summer.
- While it was prudent to delay until this fall to help ensure the safety of the community, the safety of the employees at Colstrip, and the safety of contractors needed to execute the overhaul, further delay could result in a forced outage(s) that are more prolonged and more costly.

- The unit was offline for a few weeks this spring to address some issues that couldn't wait until fall. Many critical components are still in immediate need of maintenance and delaying the overhaul past this fall is not prudent.



**NorthWestern Energy • Board of Directors**

Presented To: **Operations Committee**

Presented By: **Heather Grahame**

Date: **July 28, 2020**

Purpose:  **Approval Requested**

**Discussion Item**

**Information Item**

**Confidential • Limited Distribution**

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**Agenda Item: Legal Department Update**

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**Additional Documents Included:**

- **None**

**Desired Outcome**

Provide an update to the Board concerning activities in the Legal Department, the Regulatory Affairs Department, Federal Government Affairs, Contracts, Risk Management, and South Dakota and Nebraska Government Affairs.

**Executive Summary of Significant Updates Since Last Meeting**

Regulatory:

*CU4 Capacity Acquisition*

- NorthWestern filed an Application for Pre-Approval with the MPSC for the acquisition of 185 MW on February 5, 2020. On April 24, 2020 NorthWestern filed a supplemental application for approval of 92.5 MW, instead of 185 MW, to reflect Talen Montana, LLC's ("Talen") exercise of its right of first refusal. NorthWestern filed corrected testimony on July 2, 2020. On July 14, 2020, the Commission suspended the procedural order in the docket until an updated purchase and sale agreement is provided reflecting Talen's exercise of its right of first refusal.

*PCCAM*

- On September 3, 2019, NorthWestern made its annual PCCAM filing for the July 1, 2018 - June 30, 2019 tracker period. The MCC and MEIC proposed

disallowing approximately \$6.6 million in replacement power costs for the CU4 outage; the MCC also claimed that NorthWestern should not recover an additional \$3.4 million or so relating to a prorated application of the former deadband and QF sharing provisions in the PCCAM. A hearing was held June 24-25 2020. Briefing will be completed in August and we expect a decision in the 4th Quarter of 2020.

**II. REGULATORY**

**\*FERC 203 Application**

On June 24, 2020, NorthWestern and Puget Sound Energy filed a joint petition with FERC seeking authorization for the proposed transaction whereby NorthWestern will acquire a portion of Puget's ownership interests in Colstrip Unit 4. The application demonstrates that the proposed transaction is consistent with the public interest and will not result in any market dominance by NorthWestern if the transaction is completed. FERC noticed the filing setting a comment deadline of August 24, 2020.

granted NorthWestern's motion at the July 14, 2020 work session, but required shadow accountings to reflect what would have occurred had the program not been delayed.

Next Steps: Provide shadow accountings to the Commission.

#### **PCCAM Annual Filing (2019.09.058)**

On September 3, 2019, NorthWestern filed its annual PCCAM filing for the July 1, 2018 - June 30, 2019 tracker period. NorthWestern requested an approximately \$23 million surcharge to reflect an increase in market prices and CU4's reduced operations due to an air permit compliance issue. The MCC and MEIC assert that the MPSC should disallow approximately \$6.6 million in replacement power costs for the CU4 outage. The MCC also argued that the MPSC should not allow NorthWestern to recover, approximately, an additional \$3.4 million due to a prorated application of the former deadband and QF sharing provisions in the PCCAM. A hearing was held June 24-25, 2020. Briefing will be completed in August and we expect an MPSC order in the fourth quarter of 2020.

Next Steps: File opening brief with the MPSC on July 27, 2020.

### **CU4 Capacity Acquisition (2019.12.101)**

On February 5, 2020 we filed an application for pre-approval of our acquisition of Puget Sound Energy's 25% ownership interest in Colstrip Unit 4. NorthWestern filed supplemental testimony on April 24, 2020 reflecting Talen's exercise of its right of first refusal and reduction in the size of NWE's acquisition from 185 MW to 92.5 MW. NorthWestern filed corrected testimony on July 2, 2020 reflecting certain corrections including:

- The net present values of the different portfolios. When compared to alternatives other than relying on the market, the 92.5 MW Capacity Acquisition results in a \$30.3M benefit to customers (instead of \$45.9M) in the first five years and a \$56.7M benefit to customers in 20 years (instead of \$41.6M). When compared to relying on the market, the addition of the 92.5 MW results in \$14M benefit (instead of \$19.5M).
- A revenue requirement and corresponding PCCAM offset of \$8.7M instead of \$7.4M.
- An increase in the expected revenue generated from the PPA between Puget and NorthWestern from \$4.5M to \$7.2M.

On July 14, 2020, the Commission suspended the procedural order in the docket until an updated purchase and sale agreement is provided to reflect Talen's exercise of its right of first refusal.

Next steps: Finalize and provide updated purchase and sale agreement.



### **III. COLSTRIP UPDATE**

#### **Talen's Pension Claim**

In October, 2017 Talen claimed that it has contributed approximately \$20 million more to the Colstrip employees' pension than its proportionate share during the 18 years in which it operated the plant. NorthWestern's share would be approximately \$2.5 million. The non-Talen Owners retained a third-party actuarial firm to review Talen's claim. On May 24, 2018, Talen proposed to "sectionalize" the pension (essentially carving out the portion attributable to Units 3 and 4) and to amortize its claimed overpayment attributable to Units 3 and 4 such that it would be repaid over a course of ten years.

Outside counsel, along with a third-party actuary for the non-Talen Owners worked with Talen to obtain information to substantiate its claimed over-contribution. The third-party actuary has opined that Talen's claim is reasonable, and the cost of further evaluating it could well exceed any benefit to be gained. In the Colstrip Units 3 and 4 budget for 2020, Talen included a significant increase in pension contribution, driven in part by Talen's plan to fully fund the pension by the end of 2025 and to repay it for the over-

contribution. Talen's latest numbers reflect the over-contribution has been paid down to approximately \$10.5 million, with NorthWestern's share being \$1.5 million.

The non-Talen Co-Owners have continued to work with joint outside counsel and Talen. Following a March 11, 2020 meeting with Talen, a draft term sheet was submitted in April addressing the pension issues, including repayment of the claimed over-contribution and the date by which the pension plan would be fully funded. After discussion among the non-Talen Co-Owners and a series of questions to Talen and its actuaries, in June, the non-Talen Co-Owners submitted their collective response and question to Talen's April term sheet. We are awaiting Talen's response.

Next Steps: Upon receipt of Talen's response we will evaluate the same, and continue discussions to arrive at an agreed upon term sheet, to be followed by an agreement putting those terms into effect.

### **Coal Supply Agreement**

Five of the six Colstrip Co-Owners entered into a new Coal Supply Agreement (the "Non-Talen CSA") with Westmoreland Rosebud Mining, LLC (WRM) dated December 5, 2019, which became effective on January 1, 2020. Talen was the only Co-Owner that did not enter into the new CSA. After entering some temporary, short-term coal purchases, Talen entered into a Coal Supply Agreement with WRM on March 6, 2020 (the "Talen CSA"). Under the Non-Talen CSA, we have rights under its "Most Favored Nations" clause to enter into a new or revised agreement with WRM with terms no less favorable than those in the Talen CSA. Following evaluation of the Talen CSA, we determined that while economical, the Talen CSA might make sense for a merchant generator, like Talen but that, for a regulated utility that does not sell on the open market, it would not result in any savings on the coal price and could increase the cost. For this and other reasons, we declined to exercise our Most Favored Nations' rights. Of note, the other non-Talen Co-Owners each arrived at the same conclusion to not exercise their Most Favored Nations' rights.

Next Steps: While the Most Favored Nations' rights remain, in the event of Talen or another Co-Owner entering a new or modified coal supply agreement, we anticipate no further action at this time and this matter will be removed from the next Legal Dept. Update.

### **AOC Financial Assurance Requirements**

In 2012 Talen, as Operator of the Colstrip Plant and the Montana Department of Environmental Quality (DEQ), entered into an Administrative Order on Consent (AOC)



concerning groundwater impacts from the plant’s processing ponds. The AOC established a process for Talen in which it must characterize the plant’s ponds, identify clean-up criteria, and propose remedies – all overseen by the DEQ. Starting in 2017 and continuing through the present, Talen has submitted plans for remediation and closure of the process ponds, which include the Plant Site Area (for which owners of all four units are responsible) and for the Unit 3 and 4 Effluent Holding Ponds (for which owners of Units 3 and 4 are responsible). As part of this process, the DEQ required financial assurances to make sure Talen completed the approved work. As the DEQ approves plans, the amount of financial assurance increases due to the estimated cost of the remediation and closure of the ponds, and will decrease as work is completed. Each Co-Owner has submitted bonds for their respective share of the financial assurance. Presently, we have submitted bonds as follows:

Area/Plan	NorthWestern Bond
Plant Site Remedy & Closure	\$6,359,398.00
Unit 3&4 EHP Remedy & Closure	\$16,477,510.00
Total	\$22,836,908.00

Next Steps: Talen and the other Owners will continue working with DEQ as the remedies and closure plans are implemented and updated to keep the financial assurance current.

**Non-Talen Colstrip Units 3 and 4 Owners (Puget Sound Energy, Avista, Portland General, PacifiCorp)**

In late September, 2018 we received copies of letters addressed to Talen, from each of the other non-Talen Owners (Puget Sound Energy, PacifiCorp, Portland General Electric and Avista). These four letters were nearly identical to one another and, referencing “changes in [the] regulatory life of the Colstrip units,” sought significant additional detail concerning capital projects at Colstrip to justify the projects from a financial and prudence standpoint. Additionally, at the same time, we became aware that these same four non-Talen Owners had jointly retained counsel to advise and represent their joint interests in Colstrip Units 3 and 4. In May, 2019 the Washington legislature enacted a statute, mandating Washington electric utilities to “eliminate coal-fired resources from [their] allocation of electricity” on or before December 31, 2025. Three of the Co-Owners of Colstrip are Washington electric utilities, namely Puget Sound Energy, Avista, and PacifiCorp. We have been working to address these issues with the Co-Owners in light of NorthWestern’s existing and substantially longer (2042) depreciable life for Colstrip Unit 4.



In December 2019, we entered into agreements with Puget to acquire its 25% interest in Unit 4 (185MW) along with a commensurate interest in the Colstrip Transmission System. These acquisitions are subject to a number of conditions precedent, including regulatory approval by the Montana PSC of the acquisition of the additional interest in Unit 4, which is underway as discussed above. The other Co-Owners expressed concern over our transaction with Puget, and asked questions regarding the transaction's implications on the plant's future operations and decision-making. The other Co-Owners threatened intervention in both our and Puget's regulatory approval processes for the transaction. Talen did intervene in our approval docket, in order to address keeping certain information confidential. At the present, no Co-Owner, except Talen, has intervened in our regulatory proceeding. On the other hand, Avista, Portland General, and PacifiCorp have all intervened in Puget's regulatory proceeding.

Under the Ownership and Operations Agreement, each Project User has a right of first refusal to be executed by April 9, 2020, on our transaction with Puget. On April 8, 2020 Talen exercised its right of first refusal, and on April 9, 2020 we also exercised. Our exercise was designed to put NorthWestern in a position to retain half the transaction and acquire a 12.5% interest (92.5MW) in Unit 4. Talen has also asserted that it is entitled to acquire an interest in the Colstrip Transmission System as part of its exercise under the right of first refusal on Unit 4. Both Puget and we dispute this assertion, because Talen is not a co-owner of the Colstrip Transmission System and the Ownership and Operations Agreement for the Colstrip plant expressly excludes the Transmission System. Talen continues to push its claim that it should have a right to acquire an interest in the Colstrip Transmission System. On July 8, 2020 Talen served its arbitration demand, seeking to resolve its claim in arbitration as required by the Ownership and Operations Agreement. NorthWestern, along with Puget and Talen have all engaged outside trial counsel to represent them in the anticipated arbitration.

As part of Talen's exercise of its right of first refusal, the agreement anticipating the shared vote of Puget and NorthWestern needed to be adapted to reflect the sharing of the vote among Puget, NorthWestern and Talen. Talen and NorthWestern had differing views on how that adaptation would work for issues related to the interests in Unit 4 each would acquire. This became an issue for Puget's state regulatory approval, in part due to concerns of the other co-owners on how voting under the Ownership and Operations Agreement might be affected. In late June, we and Talen came to a high-level understanding to resolve the issues. On July 9, 2020, the Washington Utilities and Transportation Commission suspended the procedural schedule, pending resolution of the vote sharing issues. On July 14, 2020, the Montana Public Service Commission suspended the procedural schedule in the Montana docket as well. We are working with Talen and Puget to finalize the terms of the vote sharing agreement, among Puget, NorthWestern and Talen.

Next Steps: We will continue to pursue the transactions with Puget, the vote sharing agreement modifications, and oppose Talen's efforts to acquire an interest in the Colstrip Transmission System, including defending our position in the arbitration. While the transaction with Puget is a step towards resolution of the issues regarding regulatory life of Colstrip, we anticipate that once the transaction with Puget is either closed or terminated, we would continue regular discussions with other Co-Owners to discuss further steps or alternatives to mutually resolve the issues surrounding the parties differing views on Colstrip.