

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

IN THE MATTER OF the Joint Application of
NorthWestern Corporation, Black Hills
Corporation, and NorthWestern Energy Group,
Inc., for Approval of Merger

Regulatory Division
Docket No. 2025.10.078

PRE-FILED DIRECT TESTIMONY OF

BENJAMIN J. OTTO

ON BEHALF OF

“JOINT ENERGY ADVOCATES”

including

**MONTANA RENEWABLE ENERGY ASSOCIATION,
NW ENERGY COALITION, and
RENEWABLE NORTHWEST**

Filed February 9, 2026

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EXHIBITS

- BJO-1: Letter to NorthWestern and Black Hills Energy re: Follow-up to Meet-and-Confer
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1 **I. INTRODUCTION AND WITNESS QUALIFICATIONS.**

2 **Q: Please state your name.**

3 **A:** Benjamin J. Otto.

4 **Q: On whose behalf are you testifying?**

5 **A:** I am testifying on behalf of NW Energy Coalition (NVEC), Renewable Northwest
6 (RNW), and Montana Renewable Energy Association (MREA), three organizations in
7 which I have been involved for many years. Collectively, in this docket, NVEC, RNW,
8 and MREA are referred to as the “Join Energy Advocates.”

9 **Q: What are your qualifications?**

10 **A:** I am a Senior Policy Associate for NVEC with responsibility to advocate for affordable,
11 reliable and clean energy in Idaho and Montana, along with expansion of regional
12 transmission infrastructure and energy markets. I hold a Juris Doctor from Lewis and
13 Clark Law School and a Master’s of Environmental Studies and Law from Vermont Law
14 School. For seventeen years I have worked for public interest organizations in Idaho and
15 the Northwest as a clean energy attorney and advocate. During that time, I have engaged
16 in many resource planning efforts, general rate cases, and other regulatory proceedings
17 where I have developed expertise in utility operations and financing. My main area of
18 focus is how those factors influence utility procurement of clean energy and transmission
19 resources, as well as the pursuit of energy efficiency programs and other efforts to help
20 customers control energy bills. Most relevant to this docket, from 2018-2019 I
21 participated in the proposed merger of Avista and Hydro One and helped negotiate an
22 ultimately unsuccessful settlement of that case. That experience taught me that
23 understanding the new entities’ intentions for the finances of the local utility, as well as

1 for future procurement and customer-facing programs, is an essential part of determining
2 whether the merger will not harm and will promote the public interests of utility
3 customers.

4 **II. RECOMMENDATIONS AND SUMMARY OF TESTIMONY.**

5 **Q: Please summarize your testimony and recommendations.**

6 **A:** A common theme among the Joint Energy Advocates is a focus on the potential impacts
7 to Montana customers and the independent clean energy industry in the state that arise
8 from the proposed merger. The Joint Applicants claim the merger into a “combined
9 company will help to stabilize customer rates while improving funding opportunities for
10 long-term investments.” Direct Testimony of Brian B. Bird at BBB-16:20-22. This is a
11 laudable outcome. But without evidence of how the merged company will stabilize rates
12 and support long term investment, this is just a promise and not the evidence the
13 Commission needs to decide if the merged utility will better serve the public than
14 NorthWestern does today.

15 The Joint Applicants have identified the appropriate standard of review: whether
16 the merger will result in no-harm to customers and promote the public interest beyond the
17 status quo. Joint Application for Approval of Merger at 2. These standards have
18 independent meaning; otherwise the Commission would not regularly apply both when
19 assessing potential mergers.

20 Customers, as well as potential providers of generation and transmission services,
21 can be harmed by the merger in several ways: increasing rates, rising utility financing
22 costs, inadequate resource planning, and the loss or diminishment of current utility
23 programs that NorthWestern offers. Because the public has an ongoing interest in safe,

1 adequate, affordable, and reliable utility service, the Commission's inquiry must extend
2 to the new entity's intentions for future financial and operational decisions because these
3 are the primary factors that could lead to future rate increases for Montanans.

4 Indicia of a merger being in the public interest include energy rates that stabilize
5 or decline, increased service quality, improved customer-facing programs, greater
6 transparency and analytical rigor in resource planning, and investments in Montana's
7 infrastructure as needed to increase reliability and access. Unique to Montana, the public
8 also has a constitutional right to a stable climate which necessitates a reduction in fossil
9 fuel pollution and protection of environmental quality.

10 Promises of future actions are not facts available today to meet the Joint
11 Applicants' burden of proof. Even promises to comply with Commission processes and
12 standards for future decisions about resource investments, efficiency programs, or
13 customer bill assistance does not amount to evidence. Promises to comply with the law
14 are the basic ticket to entrance. To determine no harm and public interest, the
15 Commission must be able to determine, now, with some level of confidence, that future
16 actions of the utility will at least maintain, and ideally enhance, service quality and that
17 the merger will not cause rates to increase.

18 The Applicants have not supplied the Commission with adequate evidence to
19 establish the proposed merger meets even the most fundamental of these standards. Such
20 evidence could include plans for integration of operations and management, forecasted
21 savings, or capital expenditures to support reliability and growth. The Joint Applicants
22 present none of these things. Merely saying those issues will be addressed in the future

1 does not build the record this Commission needs to determine if the transaction, on the
2 facts that exist today, meets the standard.

3 Accordingly, I recommend that the Commission determine this Application is
4 incomplete because it lacks evidence that the merger will not harm customers and
5 because the Joint Applicants have provided *no evidence* that the merger will do any of the
6 things they promise it will: improve NorthWestern's access to capital, decrease
7 borrowing costs, and control operating costs. Further, the Joint Applicants must establish
8 that the merger will advance the public interest beyond the status quo today by, for
9 example, improving resource planning, customer-facing programs, and protecting the
10 public interest in a healthy, stable environment. Alternatively, I recommend that the
11 Commission extend the timeline and process in this docket to build an adequate record
12 and assess whether approving this Application will not harm Montana customers and will
13 promote the public interest.

14 **Q: Please summarize the interests of the Joint Energy Advocates.**

15 **A:** First, the NVEC has an interest in ensuring the proposed merger will not harm customers
16 and will promote the public interest. NVEC is particularly focused on electric bills,
17 programs to help customers pay those bills, and programs to help customers reduce those
18 bills through energy efficiency. The Joint Applicants tout that combining different
19 utilities in different areas will uncover best practices and synergies. For example, Mr.
20 Bird testifies the merger into a "combined company will help to stabilize customer rates
21 while improving funding opportunities for long-term investments." Bird Test., BBB-
22 16:20-22. This is a laudable outcome. But without evidence of *how* the merged company
23 will stabilize rates and support long term investment, this is just a promise and not the

1 evidence the Commission needs to decide if the merged utility will better serve the public
2 than NorthWestern does today, or even if it will maintain the current standard of service.

3 MREA is a member of the NWECA, and I have worked with them for many years.
4 As described further in the Motion to Intervene in this docket, MREA is a network of
5 renewable energy and energy efficiency stakeholders with over 700 members. MREA's
6 members operate under, and are economically affected by, utility policies governing
7 distributed generation, net energy metering, interconnection, energy efficiency, demand
8 response, energy storage, and other customer-sited and clean energy resources. Decisions
9 regarding utility resource planning, procurement, program design, and customer-facing
10 tariffs directly influence market access, business viability, and customer adoption of these
11 technologies. The Joint Applicants propose a new overarching corporate structure in
12 which NorthWestern Energy will be a subsidiary of a larger parent company. How this
13 parent company intends to influence the decisions and operations of NorthWestern
14 Energy is relevant to MREA's assessment of the potential impacts to resource planning,
15 DER integration, clean energy procurement, demand-side programs, interconnection
16 processes, and the treatment of customer-sited resources.

17 Because the proposed merger will shape how the merged utility develops and
18 administers these policies, MREA's members and the customers they serve will be
19 materially affected. MREA is concerned that the Joint Applicants have not demonstrated
20 that the proposed merger will result in no harm to Montana customers, particularly with
21 respect to clean energy planning, distributed energy resource integration, and customer
22 program development.

1 This lack of information could harm Montana customers because, as the Joint
2 Applicants state, growing energy demands provide financial justification to investors and
3 shareholders for the merger. MREA members are poised to propose projects to meet
4 Montana's needs. Supporting the development of Montana's cost-effective, reliable, and
5 local energy resources to serve customers is part of the duty of a public utility.
6 NorthWestern Energy is a primary buyer of generation in the state. Having some inkling
7 of its future plans and intentions in this area are essential to determine if this merger will
8 result in a future utility that is superior to today's NorthWestern Energy as the Joint
9 Applicants assert will be the case. The Commission cannot determine whether the merger
10 satisfies the public interest and no harm standards without understanding how the new
11 corporate parent intends to operate and make planning and program decisions. Absent an
12 available plan for integrating NorthWestern Energy into the newly merged entity,
13 examples from other utilities and states that are within the overarching corporate structure
14 are relevant to these questions.

15 RNW is also a member of the NWECA, and I sit on the RNW Board of Directors.
16 As described further in the Motion to Intervene, RNW is a nonprofit renewable energy
17 advocacy organization that promotes the socially and environmentally responsible
18 expansion of the electricity systems in Montana, Oregon, Washington, and Idaho.
19 Through its direct engagement with NorthWestern and the Commission, RNW is keenly
20 aware of historical planning and procurement deficiencies within NorthWestern Energy,
21 as well as material risks arising from an increasing share of thermal generation, markets
22 development, and lack of avenues by which customers might procure clean energy which

1 will be borne by Montana's customers insofar as the risks continue unaddressed through
2 the merger.

3 RNW is concerned by the lack of information in the Joint Application and
4 Testimony about how NorthWestern Energy and the new parent company intends to
5 invest in Montana's energy resources. RNW engages in utility resource plans and
6 procurement processes, including NorthWestern's. Through that engagement, RNW has
7 visibility about the clean energy procurements that are planned to meet reliability and
8 load growth needs across the region as well as developments in transmission expansion
9 and regional market development. NorthWestern relies on transmission and regional
10 customers to buy and sell power for the benefit of Montanans, and this is expected to
11 grow in the future. As I have observed across the region, adding clean energy, expanding
12 transmission access, and improving market functions are proven strategies to control
13 costs, access adequate supplies, and increase reliability.

14 A common theme among the Joint Energy Advocates is a focus on the potential
15 impacts to Montana customers and the independent clean energy industry in the state.
16 Absent a formal plan for integrating NorthWestern Energy into the newly merged entity,
17 examples from other utilities and states that are within the overarching corporate structure
18 are relevant to understand the merged entity's plans to invest in NorthWestern's
19 infrastructure to enable Montana's electricity sector. Without an integration plan or
20 evidence of future plans and intentions, neither the Joint Energy Advocates, nor the
21 Commission, can determine if the merger will not harm customers and will be in the
22 public interest.

III. THE COMMISSION SHOULD ASSESS WHETHER THE MERGER WILL BOTH NOT HARM CUSTOMERS AND WHETHER IT IS IN THE PUBLIC INTEREST

Q: What standard of review should the Commission apply in this docket?

A: I have reviewed prior Montana Commission orders reviewing utility mergers as well as the Joint Application. My reading is the Montana Commission has applied three general standards when considering the acquisition or merger of a Montana utility by an outside entity, all of which depend on the facts of the specific merger. *See* Docket No. D2006.6.82, Final Order 6754e (Aug. 1, 2007). Because the Commission has expressly declined to adopt any one standard, they all must have independent meaning and applicability which must be evaluated according to the evidence before the Commission. Here, such evidence is lacking.

Currently, it appears that NorthWestern is providing adequate service. While we may disagree about the type, scale, and timing of resource decisions and customer-facing programs, it appears NorthWestern is meeting established reliability metrics. Because the status quo is one of adequacy, the applicable standards are whether the merger will harm customers and whether the merger is in the public interest. The Commission should analyze these two standards independently.

The Commission's Final Order rejecting Babcock and Brown's attempted acquisition of NorthWestern in 2007 is informative to my understanding of these tests. That Order indicates the Commission sought "to assure generally that utility customers will receive adequate service and facilities, that utility rates will not increase as a result of the sale or transfer, and that the acquiring entity is fit, willing, and able to assume the

1 service responsibilities of a public utility.” Docket No. D2006.6.82, Final Order 6754e, at
2 57.

3 To me, this leads to a logical threshold question: will the merger result in utility
4 rate increases, either to recover the acquisition costs or actions that cause Northwestern’s
5 current cost of capital to increase or access to capital to decline? The utilities must
6 provide evidence of the merged utilities’ financial and operational plans to enable the
7 Commission to make this determination.

8 I also observe the standard asks whether the acquiring utility is “fit, willing, and
9 able” to be a public utility serving Montana customers. This prong assesses the merged
10 utilities’ plans and intentions to provide affordable, reliable service to Montanans,
11 including at least maintaining and more appropriately expanding programs and incentives
12 to help customers use energy efficiently and affordably. Public utilities also have a duty
13 to serve, so the merged utilities must provide sufficient and competent evidence of future
14 investment plans to meet this duty.

15 Based on my experience working in utility regulation, the burden is always on the
16 applicant to furnish sufficient evidence to prove that the proposed merger will meet the
17 requisite standard. Beyond the Avista and Hydro One merger I worked on, many
18 proposed mergers in our region have been unsuccessful due to a lack of information
19 about future plans and benefits. For example, the Texas Pacific proposed acquisition of
20 Portland General Electric in 2005 was rejected by the Oregon Public Utilities
21 Commission because discovery revealed that the proposed transaction posed too much

1 risk to customers.¹ It is essential that the Commission view the proposed transaction in
2 this proceeding with scrutiny and that the Joint Applicants provide details of their plans
3 for the merged utility, and how the utility practices of each individual utility will operate
4 together. Without the requisite information sought by the various parties in this
5 proceeding through discovery, it will not be possible to determine whether the proposed
6 transaction meets the requisite Commission standards for merger approval.

7 **Q: How do the Joint Energy Advocates determine whether a merger will not harm**
8 **customers?**

9 **A:** The Joint Energy Advocates interpret the no harm standard as the merger will not result
10 in Montana customers being worse off compared to where they currently stand given the
11 financial and operational stability and trajectory of NorthWestern today. Customers as
12 well as potential providers of generation and transmission services can be harmed in
13 several ways: increasing rates, rising utility financing costs, inadequate resource
14 planning, and the loss or diminishment of current utility programs that NorthWestern
15 offers. Because the public has an ongoing interest in safe, adequate, affordable, and
16 reliable utility service, this inquiry must extend to the new entity's intentions for future
17 financial and operational decisions because these are the primary factors that lead to
18 future rate increases for Montanans.

19 The Joint Applicants opened this door when Mr. Bird testified that "[o]n a
20 combined basis, we will have added scale that will make us a financially stronger, more
21 resilient utility that delivers long-term value to customers, employees, and our

¹ In the Matter of Oregon Electric Utility Company, LLC, et al., Docket No. UM 1121, Order No. 05-114 (3/10/2005), available at <https://apps.puc.state.or.us/orders/2005ords/05-114.pdf>.

1 communities.” Bird Testimony, BBB-11:13-16. To better understand the potential scale
2 and timing of these purported benefits, in JEA-008 and other data requests the Joint
3 Energy Advocates requested information about the merged entities’ plans for grid
4 modernization, resource investments, and customer-facing programs. The Joint
5 Applicants objected by claiming all of this is not relevant. The Joint Applicants cannot
6 open the door by asserting that the merging of utilities outside of Montana with
7 NorthWestern into a single entity will benefit the public and then refuse to provide
8 evidence of those benefits.

9 The Joint Applicants have provided promises that the new entity will not harm
10 customers because future decisions will be overseen by the Commission. That baseline
11 promise to comply with the law is not evidence that the new entity is ready, willing, and
12 able to assume the duties of a public utility in Montana. I have participated in many
13 utility rate case dockets. Rate increases are driven by the investments the utility makes
14 and how they operate on a day-to-day basis. Those investments will impact customers.
15 The utility will either seek to recover them from customers, or they will finance them
16 through operations, which thereby affects the capital available for other utility needs and
17 the overall cost of borrowing. Either way, without evidence of how the merger will
18 impact the new entity’s investment plans, access to capital, and borrowing costs, the
19 Commission does not have the information needed to determine potential harm to
20 customers.

21 It is reasonable to look at least five years ahead to match the realistic timespans
22 for resource planning and acquisition decisions that are the primary drivers of reliability
23 and affordability in customer rates. Only this forward-looking assessment can determine
if the merger will not cause harm to customers going forward. Accordingly, I recommend

1 that the Commission determine this application is incomplete without adequate evidence
2 that the merger will improve NorthWestern's access to capital, decrease borrowing costs,
3 and control operating cost increases into the future. Alternatively, I recommend that the
4 Commission extend the timeline and process in this docket to build an adequate record
5 and ensure that approving the Application will not harm Montana customers.

6 **Q: How do the Joint Energy Advocates determine whether the proposed merger will be**
7 **in the public interest?**

8 **A:** The Joint Energy Advocates interpret the public interest standard as going beyond doing
9 no harm to providing some improvement over the status quo. Examples of improving the
10 public interest include energy rates that stabilize or decline, increased service quality,
11 improved customer-facing programs, greater transparency and analytical rigor in resource
12 planning, and investments in Montana's infrastructure as needed to increase reliability
13 and access. Unique to Montana, the public also has a constitutional right to a stable
14 climate which necessitates the reduction of fossil fuel pollution and the protection of
15 environmental quality. My experience in many utility rate cases shows me that
16 controlling utility capital costs and borrowing expenses is a primary way to manage
17 rising power bills, which is in the public interest. Likewise, continually assessing
18 customer-facing programs and incorporating best practices used by other utilities can
19 help customers save energy, which benefits everyone by reducing the need for costly new
20 infrastructure. Assessing how the merged entity will change, or not, NorthWestern's
21 finances, investment needs, and customer-facing programs is essential to determining if
22 the merger will be in the public interest.

1 The Joint Applicants tout the benefits of lower costs of capital and opportunities
2 to expand their business as a primary benefit of the merger. For example, Mr. Bird
3 testifies the merger into a “combined company will help to stabilize customer rates while
4 improving funding opportunities for long-term investments.” Bird Testimony, BBB-
5 16:20-22. This is a laudable outcome. But the Joint Applicants have not produced an
6 integration plan or any analysis of scale and timing of those benefits or how they will
7 accrue to Montanans.

8 Regarding resource planning and ensuring reliable, affordable service for
9 NorthWestern customers, I have reviewed Kyle Unruh’s testimony filed on behalf of
10 RNW in NorthWestern’s most recent rate review (Docket No. 2024.05.053), as well as
11 the Commission’s Order in that docket. These documents constitute examples of where
12 NorthWestern’s current practices could be improved by applying industry best practices
13 and a larger corporate footprint able to negotiate better prices and services from vendors.
14 In that Order, moreover, the Commission found that NorthWestern’s resource assessment
15 process did not meet the standards required by Commission rules. Docket No.
16 2024.05.053, Final Order 7968t, ¶ 88 (Dec. 24, 2025). The Commission also agreed
17 with RNW that NorthWestern’s application lacked necessary data and critiqued the
18 “volume of data requests required to fill the gaps in the Application.” *Id.*, ¶ 99. The
19 Commission’s Order in Docket No. 2024.05.053 is instructive for discerning the type of
20 information necessary to ensure utility decisions serve the public interest.

21 The Joint Energy Advocates continue to observe that NorthWestern—through
22 either its resource planning practices or through other programs it could pursue, such as
23 voluntary clean energy targets, and clean energy procurement programs—currently has

1 no means by which it or its customers may elect to procure or gain access to clean energy
2 resources. Considering a growing share of thermal generation in NorthWestern's
3 electricity mix, the Joint Energy Advocates view this absence of options, combined with
4 poor planning and procurement practices revealed in NorthWestern's most recent rate
5 review, as particularly risky for Montana's customers, given the multiple, concurrent
6 economic, reliability, and regulatory risks borne by thermal generation. Left unresolved,
7 planning and procurement deficiencies will continue to manifest in substantial risks to
8 Montana's customers.

9 To serve the public interest, the Joint Applicants should provide evidence that
10 substandard practices, like those revealed in Docket No. 2024.05.053, will be resolved
11 and the resulting merged utility will properly plan, procure, and mitigate risks for its
12 customers, commensurate with peer utilities in the region.

13 **Q: In addition to controlling utility borrowing costs and improving access to capital,**
14 **how else could a merger impact the public interest?**

15 **A:** The public also has an interest in the stable, ongoing operation of utilities' programs to
16 help them conserve energy and manage bills. Based on my experience in utility
17 conservation programs, without state mandates, the depth, breadth, and ambition of utility
18 efficiency and conservation plans is driven by corporate policies of the utility. Ensuring
19 the acquiring utility has the interest, capacity, and intention to maintain and enhance
20 customer-facing efficiency and bill assistance programs is necessary to ensure no harm
21 and promote the public interest. Similarly, the public has an interest in ensuring the utility
22 has access to the capital needed to maintain and enhance a cost effective and adequate
23 energy system.

1 Mr. Bird touts several ways the combined companies will be “Better Together”
2 including identifying “best practices to improve service”, “influencing vendors” to
3 “acquire goods and services at lower costs”, and the ability to “combine our financial
4 positions to have more flexibility” which will lead to lower costs. Bird Testimony, BBB-
5 11:15-23. Energy efficiency programs are especially implicated in these claims. My
6 nearly two decades of work on energy efficiency programs has taught me that identifying
7 best practices from other utilities is the primary way to drive innovation and
8 improvement for customer-facing programs. NorthWestern’s current residential
9 efficiency programs rely on outside vendors for goods and services. Efficiency is a
10 unique financial issue as well because it requires substantial upfront investments to
11 unlock a long stream of energy savings for customers. The Joint Energy Advocates
12 appreciate Mr. Bird’s goals and aspirations. But this Commission needs facts and
13 evidence to determine whether these hopes will in fact result in public interest benefits.

14 A mere suggestion of future benefits is not a factual record on which the
15 Commission can assess this Application. Accordingly, I recommend that the Commission
16 determine this application is incomplete without adequate evidence the merger will
17 advance the public interest beyond the status quo today by improving finances, resource
18 planning, customer facing programs, and protecting the public interest in a healthy, stable
19 environment. Alternatively, I recommend the Commission extend the timeline and
20 process in this docket to build an adequate record and assess whether approving this
21 Application will be in the public interest.
22

**IV. APPLICANTS HAVE NOT MET THE BURDEN OF PROOF AND
ADDITIONAL INFORMATION IS RELEVANT**

Q: Do the Joint Applicants carry the burden of proof to establish the proposed merger will not harm customers and promote the public interest?

A: Yes, based on the applicable Montana statutes, Commission rules, and prior orders, the Joint Applicants absolutely have the burden of proof in this docket. It is my understanding that the Joint Applicants have the burden of establishing the proposed merger will not cause rates to increase and the acquiring entity is ready, willing, and able to assume the duties of a public utility serving Montana customers. The Joint Applicants must establish this through evidence in the record to enable the Commission to make an informed decision.

Q: The Joint Applicants state they will provide detailed information on the potential benefits to customers in future Commission proceedings. Is that a reasonable position for assessing whether approving this merger application now will serve the public interest?

A: No, I do not believe so. I have engaged in many utility planning efforts that provide a foundation for, and trajectory of, future utility investments so that stakeholders and regulators can forecast future rate impacts. This is a normal and important ongoing function of utility regulation. These forecasts are not specific but rather help determine the scale and timing of expected energy costs. The ability to forecast the cost of an essential service is part of the public interest, especially when customers cannot shop around for other options.

1 There must be some level of detail about how the Joint Applicants' actions
2 because of the merger will do no harm and serve the public interest so the Commission
3 can determine the likelihood and scale of those benefits occurring to Montanans.
4 Promising to build a future record after the merger has occurred does not create the
5 factual record the Commission needs in this docket to decide now whether the merger
6 will not harm customers and whether it will be in the public interest.

7 **Q: Are the plans and intentions of Black Hills Energy's operations in other states**
8 **relevant to meeting the standard of review and the burden of proof?**

9 **A:** Yes. To determine if this new ownership structure will do no harm and serve the public
10 interest going forward, it is relevant to know Black Hills Energy's plans and intentions
11 for the finance and operation of the combined business. While the Joint Applicants
12 attempt to describe the merger as one of equals, in truth, NorthWestern will become a
13 subsidiary of a new parent company. NorthWestern stockholders will receive 0.98 shares
14 for each share of Black Hills Energy. Black Hills Energy executives will hold a majority
15 of the parent company's board seats. While close, this is not a merger of equals, so the
16 plans, intentions and practices of the controlling subsidiary are relevant to the
17 Commission's determination here.

18 The public interest is in the ongoing, stable operation of the utility, so Black Hills
19 Energy's practices in operating other utility assets in other jurisdictions is relevant to the
20 Commission's assessment of how they will influence the operations of NorthWestern in
21 the future. As I have observed many times dealing with utilities serving multiple states,
22 corporate behavior tends to extend across the corporation and does not stop at state
23 borders. This was a primary consideration during my experience in the Avista and Hydro

1 One merger in Idaho. And the Commission has similarly looked at the acquiring utilities'
2 actions in other states as relevant evidence of potential utility actions in Montana.

3 The Joint Applicants opened this door when Mr. Bird testified that “[o]n a
4 combined basis, we will have added scale that will make us a financially stronger, more
5 resilient utility that delivers long-term value to customers, employees, and our
6 communities.” Bird Testimony, BBB-11:13-16. To better understand the potential scale
7 and timing of these purported benefits the Joint Energy Advocates requested information
8 about the merged entity’s plans for grid modernization, resource investments, and
9 customer-facing programs. The Joint Applicants objected by claiming all of this is not
10 relevant. The Joint Applicants cannot open the door by stating the combination of
11 utilities outside of Montana with NorthWestern into a single merged entity will benefit
12 the public and then refuse to provide evidence of those benefits.

13 **Q: Please explain further the types of information you are seeking and your efforts to**
14 **learn more from the Joint Applicants.**

15 **A:** After reviewing the Application and testimony filed by the Joint Applicants, the Joint
16 Energy Advocates propounded several data requests seeking additional information. *See*
17 JEA-001 - 024. The Joint Energy Advocates sought information related to the Joint
18 Applicants’ assertions that the proposed merger into a larger corporate entity will benefit
19 NorthWestern customers. Other intervenors propounded data requests seeking similar
20 information. As the Commission can see in the record, the Joint Applicants have refused
21 to provide much of the requested information.

22 Unfortunately, in response to many data requests propounded by the Joint Energy
23 Advocates, the Joint Applicants objected to providing any information beyond what

1 NorthWestern does today and Black Hills Energy's current, extremely small Montana
2 customer base. Because the Joint Applicants pointed to the advantages to Montanans that
3 could arise from combining with a utility that serves other states, the Joint Energy
4 Advocates believe some facts about the timing and scale of these benefits, and how they
5 will accrue to customers in Montana is relevant and important. In fact, because the scale
6 of Black Hills Energy's operations in Montana are currently insignificant and the Joint
7 Applicants acknowledge they have no available planning documents relating to the
8 merger, the only way that the public and the Commission can adequately evaluate the
9 potential advantages the combined companies may bring is by reviewing Black Hills'
10 operations in other states, or through a complete integration plan for the merged entity.
11 Indeed, Black Hills Energy's operations outside Montana is critical to determining
12 whether the proposed merger will result in harm to Montana utility customers.

13 Attempting to come to an agreement on the Joint Applicants' failure to
14 meaningfully respond to our data requests, we met with the Joint Applicants to discuss
15 our needs and their responses. Attached as exhibit BJO-1 is a letter we provided to the
16 Joint Applicants attempting to clarify the types of information we are seeking and why
17 such information is relevant to the Joint Energy Advocates' assessment of the
18 Application. The Joint Energy Advocates look forward to receiving the information
19 requested in our data requests and assessing it to further develop our positions on the
20 proposed merger. However, unless and until this information is provided, neither the
21 Joint Energy Advocates nor the Commission have the information necessary to assess
22 the Joint Applicants' claims.

V. CONCLUSION

Q: Please summarize your conclusions and recommendations.

A: A common theme among the Joint Energy Advocates is a focus on the potential impacts to Montana customers and the independent clean energy industry in the state that may result from the proposed merger. The Joint Applicants claim the merger into a “combined company will help to stabilize customer rates while improving funding opportunities for long-term investments.” Bird Testimony, BBB-16:20-22. This is a laudable outcome. But without evidence of how the merged company will stabilize rates and support long term investment, it is merely a promise and not the evidence the Commission needs to decide if the merged utility will better serve the public than NorthWestern does today.

The Joint Applicants have identified the appropriate standard of review: whether the merger will result in no-harm to customers and promote the public interest beyond the status quo. Joint Application for Approval of Merger at 2. The Commission should analyze the proposed merger to determine if both standards are met.

Customers as well as potential providers of generation and transmission services could be harmed in several ways by the proposed merger: increasing rates, rising utility financing costs, inadequate resource planning, and the loss or diminishment of current utility programs that NorthWestern offers. Because the public has an ongoing interest in the safe, adequate, affordable, and reliable utility service, this inquiry must extend to the new entity’s intentions for future financial and operational decisions because these are the primary factors that lead to future rate increases for Montanans.

Examples of improving the public interest include energy rates that stabilize or decline, increased service quality, improved customer-facing programs, greater

1 transparency and analytical rigor in resource planning, and investments in Montana's
2 infrastructure as needed to increase reliability and access. Unique to Montana, the public
3 also has a constitutional right to a stable climate which necessitates a reduction in fossil
4 fuel pollution and protection of environmental quality.

5 Promises of future actions are not facts available today to meet the Joint
6 Applicants' burden of proof. Nor are promises to comply with Commission processes and
7 standards for future decisions about resource investments, efficiency programs, or
8 customer bill assistance. Promises to comply with the law are the basic ticket to entrance.
9 To determine no harm and public interest, the Commission must be able to determine,
10 now, with some level of confidence, that future actions of the utility will at least
11 maintain, and really enhance, service quality and that the merger will not cause rates to
12 increase.

13 The Joint Applicants have not supplied the Commission with adequate evidence
14 to establish the proposed merger meets the standard, such as plans for integration of
15 operations and management, forecasted savings, or capital expenditures to support
16 reliability and growth. Merely saying those issues will be addressed in the future does not
17 build the record this Commission needs in this docket to determine if the transaction, on
18 the facts that exist today, meets the standard.

19 Accordingly, I recommend that the Commission determine this Application is
20 incomplete without adequate evidence that the merger will not harm customers by
21 improving NorthWestern's access to capital, decreasing borrowing costs, and controlling
22 operating costs. Further, the Joint Applicants must establish that the merger will advance
23 the public interest beyond the status quo today by, for example, improving resource

1 planning, customer-facing programs, and protecting the public interest in a healthy, stable
2 environment. Alternatively, I recommend that the Commission extend the timeline and
3 process in this docket to build an adequate record and assess whether approving this
4 Application will not harm Montana customers and will promote the public interest.

5 **Q: Does this conclude your testimony?**

6 **A:** Yes.

7
8 *I, Benjamin J. Otto, verify that my foregoing pre-filed testimony is true*
9 *and accurate to my best knowledge, information, and belief.*

10 /s/ Benjamin J. Otto

CERTIFICATE OF SERVICE

I certify that on February 9, 2026, a true and accurate copy of the foregoing Pre-Filed Direct Testimony of Benjamin J. Otto was e-filed with the Commission served on the following by email:

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DATED this 9th day of February, 2026.

By: /s/ Melissa Hornbein