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**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

| | | |
|---|---|---|
| THOMPSON RIVER CO-GEN, LLC<br>a Colorado Company,<br><br>COMPLAINANT,<br>vs.<br><br>AVISTA CORPORATION dba AVISTA<br>UTILITIES, a Washington Corporation,<br><br>RESPONDENT. | ) | CASE NO. AVU-E-05-7<br><br>DIRECT TESTIMONY<br>OF<br>ROBERT J. LAFFERTY |

FOR AVISTA CORPORATION

## I. INTRODUCTION

**Q. Please state your name, employer and business address.**

A. My name is Robert J. Lafferty. I am employed as Manager, Wholesale Marketing & Contracts, by Avista Corporation and my business address is 1411 East Mission Avenue, Spokane, Washington.

**Q. Please state your educational background and professional experience.**

A. I began my career at Avista Corporation in 1974 after graduating from Washington State University with a Bachelor of Arts degree in Business Administration and a Bachelor of Science degree in Electrical Engineering. In 1979, I passed the Professional Engineering License examination in the state of Washington. Over the past thirty-one years I have served in a variety of positions in engineering, marketing, and energy resources departments. Since March 1996, I have served in various positions in the energy resources area (electricity and natural gas) involving the planning, acquisition and optimization of energy resources. Since December 2003, I have served as Manager, Wholesale Marketing & Contracts, where my responsibilities include acquisition and management of long-term electric resources.

**Q. What is the scope of your testimony in this proceeding?**

A. My testimony will describe the appropriate approach for measuring project "net output," as defined by FERC. I will demonstrate that TRC and NorthWestern Energy have represented that the TRC project has a capacity greater than 10 aMW on many occasions. My testimony will also address the reasons why an "off-system" out-of-state PURPA project should be required to make power deliveries to the utility's electric system in

the state of Idaho. In that regard, I will discuss Avista's proposed requirements for delivery of TRC project power to Avista's electric system. I will also discuss the need for contractual assurances that TRC is, in fact, relieved of all prior obligations to NorthWestern Energy with regard to the sale of power from the project.

I am sponsoring the exhibits and schedules listed in the following table, which were prepared under my direction:

| ***Exhibit No.*** | ***Description*** |
|---|---|
| 201 | Excerpts from Thompson River Co-Gen LLC Amended Petition For Acceptance Of Initial Rate Schedule, Waivers, And Blanket Authority; FERC Docket No. ER02-298-000; December 10, 2002 |
| 202 | Excerpts from Co-Generation Power Sale Agreement Between Thompson River Co-Gen, LLC and NorthWestern Energy, LLC; Dated Sept, 12, 2002 |
| 203 | Cover Letter: NorthWestern Energy's Electric Default Supply Tracker Filing; Dated June 4, 2002/Filed June 7, 2004 |
| 204 | Excerpts from Prefiled Direct Testimony of Mark D. Thompson On Behalf Of NorthWestern Energy; Filed June 7, 2004 |
| 205 | Excerpts from materials distributed by TRC at a meeting at Avista offices on May 12, 2005 |
| 206 | Excerpts from NorthWestern Energy Form 10-K filing with the Securities And Exchange Commission For The Fiscal Year Ended December 31, 2004; Dated July 15, 2005 |
| 207 | Excerpts from Montana Air Quality Permit Application For Stationary Sources; filed by NorthWestern Energy on November 15, 2005 |
| 208 | TRC Response To Avista Production Request No. 41 |
| 209 | Transmission One-Line Diagram Illustrating Path From TRC to Avista's System |

## II. The Thompson River Co-Gen Project's Capacity Exceeds 10aMW

**Q. Please describe the TRC project as initially described to Avista on May 12, 2005.**

A. At a meeting on May 12, 2005, TRC represented to Avista that the project was a 16 MW generator that was "boiler limited" to approximately 13 megawatts. Under the TRC proposal, Avista would receive approximately 76% of the project output, or 10 aMW. TRC further represented that "surplus energy" generated by the project would be sold to NorthWestern Energy. The "surplus energy" representing approximately 18% of TRC output, or 2.4 aMW, was to be delivered to NorthWestern Energy under a proposed 20-year power purchase agreement (PPA). Thompson River Lumber Company would purchase approximately 6% of the TRC output, or 0.75 aMW.

**Q. In several instances, has the TRC project been represented as having a capacity greater than 10 MW?**

A. Yes. The TRC project has been represented as having a capacity greater than 10 MW on a number of occasions by both TRC and by NorthWestern Energy, both of whom are parties to a 10-year "Co-Generation Power Sale Agreement," dated September 12, 2002. The following is a brief summary of several statements or representations made by the parties indicating that the project output is above 10 aMW:

- TRC filed an amended petition with FERC, dated December 10, 2002, for authority to make wholesale power sales to NorthWestern Energy under a single rate schedule. [See Exhibit No. 201] In support of this petition, TRC

included the 10-year "Co-Generation Power Sale Agreement" dated September 12, 2002 as the single rate schedule for FERC approval. In its petition, at p. 3, TRC made reference to a 16 MW project, of which up to 13 MW would be sold to NorthWestern Energy:

> "Thompson, a Montana Limited Liability Corporation, proposes to own and operate a 16 megawatt ("MW") wood waste and coal fired cogeneration plant in Thompson Falls, Montana. Thompson has entered into an agreement with NWE whereby Thompson will sell no more than 13 MW of Thompson's output to NWE. The remaining 3 MW will be sold at retail to a nearby lumber mill, Thompson River Lumber Company."

- Elsewhere in this same petition, TRC referred to 12 average MW to NWE as part of NWE's default supply portfolio:

> "Thompson will sell approximately 12 average MW to NWE as part of NWE's default supply portfolio. The rate in that contract was negotiated in an arms-length transaction between Thompson and NWE. This negotiated rate forms the basis for Thompson Rate Schedule FERC No. 1."

- Section 3.5 of the 10-year "Co-Generation Power Sale Agreement" dated September 12, 2002 between TRC and NorthWestern Energy filed with FERC in Docket No. ER02-298-000 described above, refers to 16 MW as the maximum purchase obligation of NorthWestern Energy and 13 MW as the maximum delivery obligation of TRC:

> "3.5 Capacity Entitlement Amount: Except during Scheduled Maintenance Outages and Forced Outages, SELLER shall operate the Project during each hour at its maximum generating capability, consistent with Prudent

Electric Practice, and deliver all available electric output, net of station service requirements and Mill Service Requirements to BUYER at the Point of Delivery. Notwithstanding the foregoing, SELLER shall not be obligated to deliver more than 13 megawatt hours of Power to the BUYER during any hour and BUYER shall not be obligated to purchase more than 16 megawatts of Power during any hour. The Project shall be deemed unavailable to generate the Capacity Entitlement Amount during any hour when actual Project generation is less than 8.5 megawatts." [See Exhibit No. 202]

- In Section 3.8 of this same 10-year "Co-Generation Power Sale Agreement" the parties referred to the project as being capable of reliably generating 12.5 MW:

> "3.8 Successful Project Test. While it is estimated that the Project will be capable of reliably generating 12.5 megawatt hours per hour, its capabilities will not be precisely known until it is constructed. Actual Project generating capability shall be tested during a consecutive five-day period designated by SELLER prior to the Contract Operating Date ("Test Period"). SELLER may schedule as many Test Periods as it chooses prior to the Contract Operating Date. During any Test Period, the Project shall be operated at full capability during each hour in compliance with all laws, rules, regulations, approvals, authorizations, orders or other requirements of governmental or regulatory agencies of authorities."

- An excerpt from the cover letter from NorthWestern Energy's Electric Default Supply Tracker Filing with the Montana Public Service Commission filed on June 7, 2004 references, at p. 2, a 16 MW facility with net output of 12 MW:

> "Thompson River Co-gen, LLC is a 16 MW thermal generation facility located near Thompson Falls, Montana. Net output from this facility is anticipated to be approximately 12 MW." [See Exhibit No. 203]

- The Prefiled Direct Testimony of Mark D. Thompson on behalf of NorthWestern Energy filed June 7, 2004 with the Montana Public Service Commission, at p. 4, also references a 16 MW plant, with net output of 12 MW:

> "Thompson River Co-gen, LLC is a 16 MW thermal generation facility located near Thompson Falls, Montana. Net output from this facility is anticipated to be approximately 12 MW." [See Exhibit No. 204]

- As previously discussed, at the May 12, 2005 meeting with Avista, TRC distributed written materials that proposed 13.2 MW of project net output; 10 MW delivered to Avista; 2.4 MW delivered to NorthWestern Energy; and 0.79MW delivered to Thompson River Lumber Company. (Values were derived by Avista based on data supplied by TRC.) [See Exhibit No. 205]

- In NorthWestern Energy's 2004 Form 10-K as filed with the Securities And Exchange Commission, NorthWestern discusses new resources that were acquired by it, including 14 MW from the Thompson River Co-Gen project:

> "We have secured additional contracts from Thompson River Co-gen, LLC for up to 14 megawatts of base-load coal/waste-coal supply and Tiber Montana for 5 megawatts of seasonal baseload hydro supply." (see p. 10) [Exhibit No. 206]

- On November 15, 2005, TRC filed an "Application For Air Quality And Operating Permit Modifications" with the Montana Department of

Environmental Quality (MDEQ). At page 8 of the Application, TRC states that the "Maximum Rated Design Capacity" is 16.5 Megawatts/hr and that the "Average Process Rate or Process Weight" is 12.5 Megawatts/hr. [See Exhibit No. 207]

**Q. What recent representations have been made by TRC representatives?**

A. In response to Avista's Production Request No. 41, TRC states that the "estimated range of [power] delivery [to Avista] on an hourly basis is between 8.5 MW and 11.5 MW" from the project. [See Exhibit No. 208] In determining the eligibility of the project for published avoided cost rates, one must add back to those quantities the NorthWestern 4% transmission losses of approximately 0.4 aMW and Thompson River Lumber load of approximately 0.75 aMW in order to estimate the "net output" range of the project. Based on TRC's statement in response to this Production Request, the "net output" from the project would range between 9.65 MW and 12.65 MW.

In addition, TRC Witness Mr. Busch indicates, at page 6 of his testimony, that TRC has investigated the potential to increase generating capacity (estimated up to an additional 2 MW) at an estimated cost in excess of $1.3 million. This suggests that TRC could, therefore, also increase capacity in the future beyond even the above levels.

**Q. What are some of the other factors that the Company considered as part of determining the capacity of the TRC project?**

A. The Company reviewed the stated nameplate of certain equipment including the 16.5 MW steam turbine and the 17.65 MVA electric generator. The Company also

reviewed the net output test data from the TRC project, which demonstrates the performance of the combined boiler, steam turbine and electric generator equipment. Company Witness Perks has explained that the TRC project has only operated in a "testing and tuning" mode throughout its nine-month period of operation, and therefore the project output has been intermittent and variable. However, as Mr. Perks further explains, the net output level sustained by thermal generating plant equipment, even during the testing phase, for a period of 16 hours is a reasonable representation of the capacity of that thermal generating project over the period of a month. The Company reviewed daily average test data from the TRC project and found that the project was capable of operating during the testing and tuning period at net output levels greater than 10 aMW. Based on all of the above factors, the Company made the determination that the TRC project has a capacity exceeding 10 aMW.

## III. Determination of "Net Output" of a PURPA Project

**Q. How should the "net output" of a PURPA project be measured?**

A. The net output of a PURPA (Public Utility Regulatory Policy Act) project should be measured in a manner consistent with FERC methods of determining "net output." FERC has consistently defined the "net output" of a PURPA project as follows:

> "The net output of the facility is its send out after subtraction of power used to operate auxiliary equipment in the facility necessary for power generation (such as pumps, blowers, fuel preparation machinery, and exciters) and other essential uses in the facility from gross generation output."[1]

[1] *Connecticut Valley Electric Company Inc. v. Wheelabrator Claremont Co., LP et. al.*; Federal Register – February 11, 1998; 82 FERC61,116 at p.61,417 (1989)

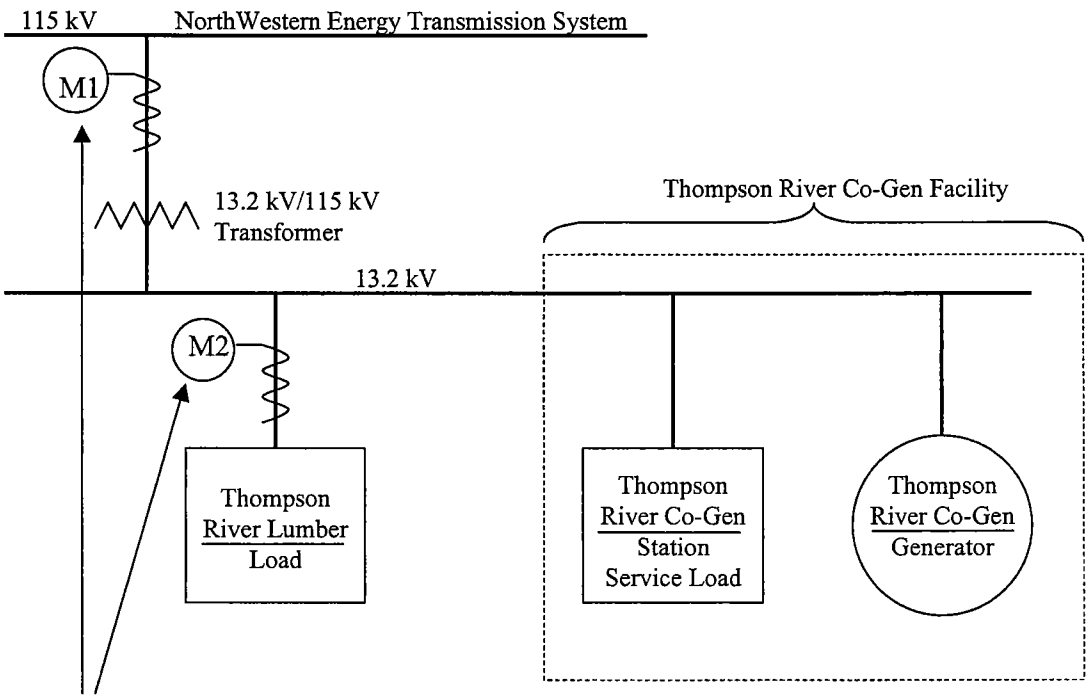
Therefore, net output is the gross generation output minus the load for equipment needed to produce the power. Other uses of power, such as the Thompson River Lumber Company load and transmission losses, are not considered in the determination of project net output.

The following electrical one-line diagram illustrates the metering arrangement to measure the net output for the TRC project. In this case, net output is determined by subtracting the Thompson River Lumber Company load from the energy delivered to the NorthWestern Energy system on an hourly basis. This formula is shown on the diagram as:

$$\textit{Net Output Measurement} = (M1 - M2)$$

This formula is consistent with the FERC definition of net output, since it will effectively measure the gross generation output minus the TRC station service load and minus any losses associated with the step-up transformer.

**Illustration 1: TRC Project One-Line**




***"Net Output" Measurement = (M1 – M2)***

**Q. Taking this definition of "net output" into account, what is the "net output" of the TRC project?**

A. The net output capacity of the project exceeds 10 aMW on a monthly basis. Company Witness Perks explains that, because this is a thermal-fired generation project, the net output capacity maintained for a 16-hour period can be sustained as well for a month long period. Company Witness Dempsey, for his part, further concludes that the levels of emissions controls contained in the Montana Department of Environmental Quality's

(MDEQ) Preliminary Determination are achievable, with generation levels above 10 aMW. Therefore, the project net output, as demonstrated by TRC's own test data, is above 10 aMW.

**Q. Does the Company pay for "delivered energy" at it's system point of delivery, or does it pay for "net output" energy, in the case of an off-system, out-of-state PURPA project?**

A. The Company pays delivered energy at its system point of delivery. The "net output," as defined by FERC, is used only to determine project size on a consistent basis, regardless of whether a project is on-system or off-system. Therefore, the "net output" determination is only used to establish a project's eligibility for certain rates that are based upon project size.

Once the rate for the project is determined, the Company then will pay that rate for all energy delivered to its system from the project. The Company does not take title to the power until it reaches its system.

## IV. Responsibility of the Project for Delivery of the Project's Output to Avista's System in the State of Idaho

**Q. Should an off-system, out-of-state PURPA project be required to make power deliveries to the utility's electric system in the state of Idaho?**

A. Yes. A PURPA project is entitled to Commission-approved rates in cases where the power from the project is delivered to the utility system in the state of Idaho. An on-system, in-state project provides power deliveries over a direct interconnection managed by the Company. The utility is not required to arrange for, or schedule, transmission to

primary or alternate delivery points. The risks and responsibilities for delivery of power to the point of interconnection is solely that of the project sponsor.

In the case of an off-system out-of-state PURPA project, there are important responsibilities that reside with the project operator, associated with securing and managing transmission, scheduling, and ancillary service functions, and providing transmission losses associated with moving power to the point of delivery at the utility company's electric system in the state of Idaho. Those responsibilities include the assumption of risks associated with that delivery of power. Accordingly, the delivery of power from the project to the point of delivery in Idaho, along with the associated cost, ultimately is the responsibility of the project operator, not the purchasing utility.

**Q. Please describe the transmission paths from the TRC project to Avista's electric system in the state of Idaho.**

A. The TRC project is interconnected with the NorthWestern Energy transmission system. TRC has indicated that the primary point of delivery of TRC power would be over NorthWestern Energy's transmission system to the Avista electric system at the Company's Burke substation located near Burke, Idaho. Exhibit No. 209 contains a simplified transmission one-line diagram that shows the TRC project interconnected to the NorthWestern transmission system and the transmission path to the Company's Burke substation. The only other interconnection between the NorthWestern Energy transmission system and the Avista transmission system is located at the Hot Springs substation in the state of Montana. If power deliveries for some reason could not be made a either Burke or Hot Springs, then TRC would need to arrange for additional transmission across the

Bonneville Power transmission system to reach the Avista electric system at some other point of delivery.

**Q. Has the TRC project demonstrated that it has acquired a firm transmission path to the Company's electric system in the state of Idaho?**

A. It is the Company's understanding that TRC has yet to execute an agreement for a firm transmission path for power deliveries to the Company's electric system in Idaho. TRC's response to Avista's Data Request No. 18 to produce evidence of having secured such a firm transmission path to the Company's system consists of only an unsigned agreement for certain services apparently provided by the NorthWestern Energy merchant function. Based on the wording of the unsigned agreement, the Company understands that it may be the case that NorthWestern Energy merchant holds a firm 10 MW path to the Company's Burke substation in Idaho for the purpose of providing transmission as well as possibly scheduling and/or shaping services for TRC. Additional coordination between TRC, Avista and NorthWestern Energy will be needed in order to arrive at agreeable terms and conditions that can be put into place to ensure firm delivery to the primary point of delivery at the Company's Burke, Idaho substation.

**Q. What is the Company's expectation concerning power deliveries when the transmission lines on either side of the primary point of delivery are out of service due to either planned or unplanned outages?**

A. As stated earlier, the Company does not have title to the power until it reaches its electric system at Burke, Idaho. Therefore, TRC is the party responsible to make

arrangements to move power to an alternate point of delivery under planned or unplanned transmission outage conditions.

Non-firm transmission to an alternate delivery point is acceptable. The Company is also willing to accept power deliveries at Hot Springs, as an alternate delivery point, if capacity is available and the Company can receive the power at that point, since it is the only other direct interconnection that the Company has with the NorthWestern Energy transmission system, even though that point of delivery is located in the state of Montana.

The Company disagrees with Mr. Thompson's testimony, at pages 12-13 of his testimony, where he appears to suggest that Avista should be responsible to re-direct transmission from TRC to the alternate point of delivery in the case of either planned or unplanned outages. TRC has title to the power until it reaches the Avista system and, therefore, as is customary, TRC should be responsible to manage changes to the transmission path and the scheduling thereof, as well as for the associated costs.

Mr. Thompson also appears to suggest, at page 13 of his testimony, that Avista should re-market the power to a buyer in Montana when a transmission path may not be available at the primary delivery point. Again, TRC has title to the power until it reaches the Company's system, and there should be no obligation on Avista's part to "re-market" power that TRC cannot deliver to Avista's system.

Transmission circumstances may occur when the Burke primary point of delivery is unavailable and at the same time non-firm transmission may not be available, or the Company cannot otherwise receive power at the alternate Hot Springs delivery point. Again, it remains TRC's responsibility to make alternative delivery arrangements to reach the Avista

system. (The most probable transmission path would be through the Bonneville Power transmission system.) TRC should have sole responsibility for arranging the path, scheduling, and paying all costs associated with power deliveries in those circumstances as well.

**Q. Are transmission and scheduling arrangements simplified by TRC's proposal to dynamically integrate the TRC project into Avista's control area?**

A. No. In fact, some very complex situations are created by such an arrangement. While dynamic scheduling may be possible under certain circumstances, the complexities should be well understood before pursuing that type of approach for such a small project. The Company has some experience with dynamic scheduling, as it has put in place several contracts based on dynamic services. Even under such an arrangement, however, TRC must keep in mind that it still has title to the power until that power reaches the Avista system.

**Q. What is meant by dynamic scheduling?**

A In order to dynamically schedule the TRC project into the Avista control area, Avista would need to receive the instantaneously metered quantity of power flowing from the TRC substation to the NorthWestern Energy transmission system, adjusted for NorthWestern transmission losses. The effect of this arrangement is that the instantaneous output of the project would appear just as any other generator interconnected directly with Avista's own electric system.

**Q. What issues would require further study, and resolution, before dynamic scheduling could be offered?**

A. What follows is a partial list of issues that would require further examination and resolution as part of the development of a contract that included dynamic path scheduling of power from TRC.

- TRC must have a firm path sufficient to handle the maximum hourly amount of power that could be generated. Based on a review of current project testing data, the Company believes that TRC would need to acquire a least a 12 MW firm path;
- TRC must have a real-time scheduler, or agent, available that can be made aware of when the Burke line goes out of service suddenly. The TRC real-time scheduler must put in place a new 12 MW path to an alternate point of delivery and schedule that path in coordination with the Avista real-time scheduler. The alternate point of delivery could be at Hot Springs, if available, or at one of the Company's many interconnections with Bonneville.
- If the alternate point at Hot Springs is not available, then the real-time scheduler must buy a 12 MW dynamic path through a another party's transmission system (such as Bonneville's) to reach the Avista system.

**Q. What might an alternative be to a dynamic interconnection with the Avista control area?**

A. The Company believes it would be much simpler for TRC, given the relatively small size of the project, to remain in the NorthWestern control area. TRC could initiate an agreement with NorthWestern Energy to act as scheduler for TRC to handle normal and abnormal transmission situations. NorthWestern Energy could also provide a limited

balancing service to allow TRC to best optimize its use of transmission. Under this approach, TRC could better optimize its use of transmission because power could be scheduled in advance. Avista would require that the Company be made a party to the balancing service contract for tracking and accounting purposes. The Company previously suggested just such an approach in its August 2005 contract proposal to TRC.

**Q. Why has the Company objected to TRC's inclusion of a specific amount of 4% for transmission losses in the proposed PURPA contract?**

A. TRC Witness Mr. Thompson indicates, at page 12 of his testimony, that TRC was simply quoting the NorthWestern Energy FERC tariff for the amount of losses on its transmission system that are required in order to deliver power to the Avista system at Burke, Idaho. However, TRC is responsible to pay for all transmission losses necessary to delivery power to the Avista electric system. While it is correct that NorthWestern Energy's FERC transmission tariff currently states that system losses are 4%, NorthWestern could file a new tariff, including changes in losses, at any time during the proposed 20-year term of a TRC PURPA contract. If the loss percentage increases, TRC should be obligated by the contract to pay the full amount. Therefore, a specific amount of losses should not be stated in a long-term contract where conditions could easily change.

**Q. Finally, is the Company satisfied that TRC has no further obligation to provide power under the 10-year "Cogeneration Power Sale Agreement" to NorthWestern Energy?**

A. TRC has represented to Avista that both TRC and NorthWestern Energy believe that the 10-year power sale agreement between them terminated on May 13, 2004.

The Company, however, simply would require that as part of the terms of any PURPA agreement, that TRC must represent and warrant that there are no ongoing obligations pursuant to the Cogeneration Power Sale Agreement between TRC and NorthWestern Energy.

**Q. Does that conclude your pre-filed direct testimony?**

A. Yes it does.

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**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

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| THOMPSON RIVER CO-GEN, LLC<br>a Colorado Company,<br><br>COMPLAINANT,<br>vs.<br><br>AVISTA CORPORATION dba AVISTA<br>UTILITIES, a Washington Corporation,<br><br>RESPONDENT. | ) | CASE NO. AVU-E-05-7<br><br>EXHIBIT NO. 201<br><br>ROBERT J. LAFFERTY |

FOR AVISTA CORPORATION

Excerpts from Thompson River Co-Gen LLC Amended Petition For Acceptance Of Initial Rate Schedule, Waivers, And Blanket Authority; FERC Docket No. ER02-298-000; December 10, 2002

(Note: Any handwritten notations or calculations are those of Avista and are for the purpose of emphasizing certain items.)

# DONEY, CROWLEY, BLOOMQUIST & UDA, P.C.

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December 10, 2002

ER02-298-002

Magalie Roman Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

~~ER03-270-000~~ ER03-270-000

Re: Docket No. ~~ER03-298-000~~, Thompson River Co-Gen, LLC and Northwestern Energy, LLC Power Sale Agreement – Amended Filing in Accordance with FERC Order No. 614

Dear Secretary Salas:

Enclosed for re-filing are an original and six copies of Thompson River Co-Gen, LLC's ("Thompson") Amended Petition For Acceptance Of Initial Rate Schedule, Waivers and Blanket Authority. The documents have been changed to comply with FERC Order No. 614 and are intended to replace the Amended Petition filed on November 12, 2002.

Attached to the Amended Petition is a form of notice of this filing suitable for publication in the Federal Register and a copy of the notice on a 3½ inch diskette. Please file stamp and return one copy of the cover letter indicating receipt using the enclosed stamped, self-addressed envelope. If you have any questions please do not hesitate to contact me.

Sincerely,

Michael J. Uda

Enc
Cc: Michelle Springer



Docket OSEC

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

Thompson River Co-Gen, LLC ) Docket No. ER02–298–000

**AMENDED PETITION FOR ACCEPTANCE OF INITIAL RATE SCHEDULE, WAIVERS AND BLANKET AUTHORITY**

On November 7, 2001, Thompson River Co-Gen, LLC ("Thompson") submitted to the Federal Energy Regulatory Commission ("Commission") a petition for acceptance of initial rate schedule, waivers, blanket authority under Rules 205 and 207 of the Commission's Rules of Practice and Procedure, and regulations § 38.205, § 38.207 and § 35.12 of the Commission's regulations. Thompson proposed to sell electric energy from its cogeneration to Montana Power Company ("MPC") at market-based rates. Subsequently, on January 16, 2002, the Federal Energy Regulatory Commission ("Commission") approved Thompson's Rate Schedule No. 1 granting Thompson permission to sell power to MPC at market-based rates.

Several events have transpired since the Commission's action approving Thompson's petition, which have prompted the filing of this amended petition. First, on January 31, 2002, the Montana Public Service Commission ("MPSC") approved the sale of MPC to NorthWestern Corporation, which subsequently renamed MPC as NorthWestern Energy, LLC ("NWE"). Second, on June 21, 2002, the MPSC rejected the Thompson-MPC contract which was to be

used to serve NWE's customers who currently are unable or unwilling to choose an alternative energy services provider. See, M.C.A. § 69-8-210. However, following the MPSC's rejection of the Thompson-MPC contract, Thompson and NWE were able, on September 12, 2002, to consummate a new agreement that now appears as Exhibit "1" to Appendix "A" to this Agreement. Third, as the Commission knows, its recent ruling in Southern Company Services, Inc., Docket No. ER00-2998-001, et al, (September 25, 2002) rejected Thompson's request for confidential treatment of the price terms and conditions in the original Thompson-MPC agreement, thus necessitating the filing of an unredacted agreement. Since the original Thompson-MPC agreement is now moot in any event, Thompson has submitted the new Thompson-NWE agreement in its entirety consistent with the Commission's decision in Southern Company Services.

For these reasons, Thompson respectfully petitions the Commission to act promptly to approve Thompson's amended Petition, accept its amended Rate Schedule, and grant the requested waivers of certain Commission regulations, consistent with the Commission's actions with respect to market based rate authorizations generally. In support hereof, Thompson respectfully states as follows:

## I. SERVICE AND COMMUNICATIONS

All communications and service related to this application should be directed to the following:

Thompson River Co-Gen LLC
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## II. DESCRIPTION OF APPLICANT AND ITS AFFILIATES

Thompson, a Montana Limited Liability Corporation, proposes to own and operate a 16 megawatt ("MW") wood waste and coal fired cogeneration plant in Thompson Falls, Montana. Thompson has entered into an agreement with NWE whereby Thompson will sell no more than 13 MW of Thompson's output to NWE. NWE, in turn, will resell that electricity to its residential and commercial customers. The remaining approximately 3 MW will be sold at retail to a nearby lumber mill, Thompson River Lumber Company.

For the Commission's edification, NWE as MPC's successor is continuing to implement the transition of its utility from a traditional vertically integrated utility to a transmission/distribution entity under Montana's Electric Restructuring and Customer Choice Act adopted in 1997. M.C.A. §§ 69-8-101 through -702. That law and others impose a continuing obligation on NWE to provide electric supply to customers that are either unable or unwilling to purchase an electric supply from the competitive retail market place. E.g., M.C.A. § 69-8-201.[1] In Montana, residential and commercial customers do not currently have the ability to choose their electricity supplier, and thus NWE is obligated to provide a reliable, affordable supply of electricity to those customers. Id.

As part of its default supply obligation, NWE has proposed to purchase power from Thompson. The MPSC will scrutinize this and other power purchase arrangements made by NWE to determine whether these transactions are just and reasonable for Montana's consumers. Id.

Partners Barry Bates and Lawrence Underwood will manage Thompson's day-to-day affairs. No other LLC members will have the right to direct, control, or manage Thompson's

[1] NWE, as the "distribution services provider," has a duty to serve these customers, referred to as the "default supply obligation." M.C.A. §§ 69-8-102(10) and 69-8-201(2).

daily activities. The LLC members are merely passive investors in Thompson. Mr. Bates and Mr. Underwood have no legal affiliation with any power company or power marketer, nor do any of Thompson's LLC members. Apart from their interest in Thompson, no members of the LLC, including the Partners, are in the business of owning generation facilities. Other than the transactions described herein, the members of the LLC do not otherwise produce or sell electricity. Nor are any members of the LLC a public utility company or a holding company of a public utility company.

## III. DESCRIPTION OF RATE SCHEDULE AND SERVICES FOR WHICH MARKET-BASED RATE AUTHORITY IS REQUESTED

### A. Sales of Capacity and Energy

Thompson will sell approximately 12 average MW to NWE as part of NWE's default supply portfolio. The rate in that contract was negotiated in an arms-length transaction between Thompson and NWE. This negotiated rate forms the basis for Thompson Rate Schedule FERC No. 1. See Appendix A. As mentioned previously, an unredacted version of the Thompson-NWE contract is attached hereto as Exhibit "1" to Appendix "A." Thompson has no current intention to sell at wholesale any electricity in the bulk electricity market. Should it wish to do so in the future, Thompson will make appropriate application at that time.

### B. Ancillary Services

Thompson does not currently propose to sell any ancillary services, including operating reserves, energy imbalance service, reactive supply voltage control, or regulation or frequency response service. If Thompson in the future should desire to sell any ancillary services, it will duly notify the Commission as required by Commission regulations.

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AND GOVERNMENTAL AFFAIRS
AVISTA CORPORATION
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1411 EAST MISSION AVENUE
SPOKANE, WASHINGTON 99220-3727
TELEPHONE: (509) 495-4316
FACSIMILE: (509) 495-8851

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

| | |
|---|---|
| THOMPSON RIVER CO-GEN, LLC<br>a Colorado Company,<br><br>COMPLAINANT,<br>vs.<br><br>AVISTA CORPORATION dba AVISTA<br>UTILITIES, a Washington Corporation,<br><br>RESPONDENT. | CASE NO. AVU-E-05-7<br><br>EXHIBIT NO. 202<br><br>ROBERT J. LAFFERTY |

FOR AVISTA CORPORATION

Excerpts from Co-Generation Power Sale Agreement Between Thompson River Co-Gen, LLC and NorthWestern Energy, LLC; Dated Sept, 12, 2002

(Note: Any handwritten notations or calculations are those of Avista and are for the purpose of emphasizing certain items.)

# CO-GENERATION POWER SALE AGREEMENT

# BETWEEN

# THOMPSON RIVER CO-GEN, LLC

# AND

# NORTHWESTERN ENERGY, LLC

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## INDEX TO EXHIBITS

A. Project Description

# CO-GENERATION POWER SALE AGREEMENT

This Co-generation Electric Power Sale Agreement, dated this 12th day of September, is between Thompson River Co-gen, LLC, a Montana Limited Liability Company ("SELLER") and NorthWestern Energy, LLC, a Delaware Limited Liability Company ("BUYER"). SELLER and BUYER are sometimes referred to herein collectively as the "Parties" and individually as "Party."

## Section 1: Definitions

As used herein, the following terms have the following meanings when used with initial capitalization, whether singular or plural:

1.2 "Affiliate" means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, "control" means the direct or indirect ownership of 50 percent or more of the outstanding capital stock or other equity interests having ordinary voting power.

1.3 "Ancillary Services" means all ancillary products associated with the generation of Power including, without limitation, spinning reserves, non-spinning reserves, reactive power and voltage control.

1.4 "Base Power" means, in respect to the Initial Term, the first 13 megawatt hours of Power delivered to BUYER in any hour and in respect to any Extended Term, the first five megawatt hours of Power delivered to BUYER in any hour.

1.5 "Base Rate" means a per annum rate equal to 125 percent of the rate announced publicly from time to time by Morgan Guaranty Trust Company of New York in New York,

3.5 Capacity Entitlement Amount. Except during Scheduled Maintenance Outages and Forced Outages, SELLER shall operate the Project during each hour at its maximum generating capability, consistent with Prudent Electric Practice, and deliver all available electric output, net of station service requirements and Mill Service Requirements to BUYER at the Point of Delivery. Notwithstanding the foregoing, SELLER shall not be obligated to deliver more than 13 megawatt hours of Power to the BUYER during any hour and BUYER shall not be obligated to purchase more than 16 megawatts of Power during any hour. The Project shall be deemed unavailable to generate the Capacity Entitlement Amount during any hour when actual Project generation is less than 8.5 megawatts.

3.6 Scheduled Maintenance Outages. Subsequent to the Contract Operation Date, SELLER shall comply with all operating, repair and maintenance standards as are required to permit the enforcement of all material warranty claims with respect to the Project or any part thereof. In consultation with BUYER, SELLER shall schedule Scheduled Maintenance Outages, including major overhauls, consistent with, Prudent Electric Practice, Project warranties and manufacturers' maintenance recommendations. Except under unusual circumstances, Scheduled Maintenance Outages shall be scheduled when requested by BUYER. To the extent that Lost Generation Hours associated with Scheduled Maintenance are less than the Scheduled Maintenance Target Amount, they shall constitute Bonus Lost Generation Hours. Lost Generation Hours in excess of 110 percent of the Scheduled Maintenance Target Amount shall constitute Excess Scheduled Maintenance Hours; provided, however, SELLER shall be allowed to carry forward up to 120 Bonus Scheduled Maintenance Hours each Year, not to exceed a total accumulation at the end of any Year of 300 Bonus Scheduled Maintenance Hours, for use in connection with future Scheduled Maintenance Outages that exceed the Scheduled Maintenance

Target Amount. In addition, from time to time, with the consent of BUYER, required Scheduled Maintenance Outages may be shifted among Years with corresponding adjustments made to the Scheduled Maintenance Outage Target Amount. Excess Scheduled Maintenance Hours that are not offset by Bonus Scheduled Maintenance Megawatt Hours, shall constitute Penalty Hours.

3.7 Forced Outages. At such times as Forced Outages occur, SELLER shall promptly determine, in its reasonable judgment, and so inform BUYER, whether such Forced Outages were reasonably attributable to Uncontrollable Forces.

3.8 Successful Project Test. While it is estimated that the Project will be capable of reliably generating 12.5 megawatt hours per hour, its capability will not be precisely known until it is constructed. Actual Project generating capability shall be tested during a consecutive five-day period designated by SELLER prior to the Contract Operation Date ("Test Period"). SELLER may schedule as many Test Periods as it chooses prior to the Contract Operation Date. During any Test Period, the Project shall be operated at its full capability during each hour in compliance with all laws, rules, regulations, approvals, authorizations, orders or other requirements of governmental or regulatory agencies or authorities. SELLER may terminate any such test prior to its completion and schedule a future Test Period. SELLER shall promptly notify BUYER as to whether it nominates any completed test as the Successful Project Test. If SELLER does not nominate a Test Period as a successful Project Test, it shall promptly schedule a future Test Period. Any Project test conducted for purposes of this Subsection shall be supervised by an independent Registered Professional Engineer reasonably acceptable to BUYER and the results of any test, nominated by SELLER to be the Successful Project Test shall be certified by such Registered Professional Engineer.

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**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

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| THOMPSON RIVER CO-GEN, LLC<br>a Colorado Company,<br><br>COMPLAINANT,<br>vs.<br><br>AVISTA CORPORATION dba AVISTA<br>UTILITIES, a Washington Corporation,<br><br>RESPONDENT. | ) | CASE NO. AVU-E-05-7<br><br>EXHIBIT NO. 203<br><br>ROBERT J. LAFFERTY |

FOR AVISTA CORPORATION

Cover Letter: NorthWestern Energy's Electric Default Supply Tracker Filing; Dated June 4, 2002/Filed June 7, 2004

(Note: Any handwritten notations or calculations are those of Avista and are for the purpose of emphasizing certain items.)

NorthWestern™
CORPORATION
d/b/a NorthWestern Energy

40 East Broadway St.
Butte, MT 59701
Telephone: 406-497-3000
Facsimile: 406-497-2535
www.northwestern.com



June 4, 2004

Ms. Kate Whitney
Administrator
Montana Public Service Commission
1701 Prospect Avenue
PO Box 202601
Helena, MT 59620-2601

RE: NorthWestern Energy's Electric Default Supply Tracker Filing:

1) Electric Supply Deferred Cost Account Balance as of June 30, 2004, and the projected Electric Cost for the 12-Month period July 1, 2004 through June 30, 2005;

2) Continued Request for Authority to Change the Electric Cost Rate Adjustment from Annual to Monthly;

3) Request for Authority to Recover Costs and Corresponding Lost Revenues Associated with Demand Side Management (DSM) Programs and Costs Associated with Tiber Montana Hydro Project and Thompson River Co-gen, LLC; and

4) Request for Authority to include Montana Public Service Commission (MPSC or Commission) and Montana Consumer Counsel (MCC) fees in the Electric Default Supply Cost.

Dear Ms. Whitney:

Pursuant to Montana law, the MPSC rules, and the Deferred Accounting Electric procedure approved by the Commission in Docket No. D2001.10.144 on June 26, 2002, NorthWestern Energy (NWE or Company) hereby transmits its annual Application for approval of electric rates which:

- Reflects rate treatment for the balance in Electric Supply Deferred Costs, for the 24-month period ending June 30, 2004; and

- Reflects the projected load, supply and related electric costs for the 12-month tracker period July 1, 2004 through June 30, 2005, including continued request for monthly electric adjustments.

The Company purchases wholesale electricity from suppliers and passes the cost directly to customers without mark-up. Annually, the Company estimates how much it will cost to purchase electricity for the upcoming annual tracker period. At the same time, the difference between revenue from the estimated electric cost and the actual electric cost for the prior tracker period is computed.

NWE continues its efforts to manage actual electric supply costs for default supply customers. NWE filed its first biennial Electric Default Supply Resource Procurement Plan in January of 2004, is in the process of submitting several supply contracts and proposed DSM activities to the MPSC for approval, and is developing Requests for Proposals for future procurement activities.

The supply costs in the 2004/2005 projection include the addition of power from two small independent projects under development within Montana and costs of new demand side management programs that reduce the default supply requirements by 1,533 MWh's during the period. Thompson River Co-gen, LLC is a 16 MW thermal generation facility located near Thompson Falls, Montana. Net output from this facility is anticipated to be approximately 12 MW. Tiber Montana hydro project is a 7.5 MW hydro generation facility located approximately 90 miles north of Great Falls in Chester, Montana at an existing dam on the Marias River. The annual output from this "run-of-river" hydro facility is estimated to average approximately 4 MW November through April only.

NWE has become aware of the possibility that Commercial Energy choice customers may return to Electric Default Supply. This filing does not reflect the addition of any of these customers in projected loads. If and when customers actually return to default supply, NWE will reflect this change in the monthly tracker filings.

NWE is proposing to include MCC and MPSC fees based on electric default supply revenues. When NWE filed its last general rate case (Docket No. D2000.8.113), the cost of service for the MPSC and MCC tax were based on test year 1999 Transmission and Distribution revenue only. The Electric Supply Buy-back Contract rates did include recovery of the MPSC and MCC fees until their expiration on June 30, 2002. Electric Default Supply rates since that time have not included recovery of the MPSC and MCC fees. NWE has been and will continue to pay these fees based on total revenue, including supply.

With this filing, NWE continues its Docket No. D2003.6.77 request for a modification of the annual electric supply cost adjustment procedure allowing more timely reflection of electric cost changes in rates by converting from annual to monthly rate changes. The monthly rate change is based on annual forecasted electric costs using the current wholesale market price of electricity on a normalized basis for the most recent 12-month forecast.

Appendix A to this letter presents a summary of the current tariff rates and the proposed rates in this filing, as well as the resulting dollar and percentage changes.

The projected Electric Supply Cost & Supply Deferred Cost increase for a typical

residential customer using 750 kWh per month will be $.52 per month or $6.24 per year on the total bill. This results in an overall 1.71% increase for supply-related costs only.

The typical bill calculation shows the combined effect of the proposed July 1, 2004 rate changes for the decreased Competitive Transition Charge for Qualifying Facilities (CTC-QF), and the increase of the BPA Residential Exchange Credit. The total effect of the Electric Supply Cost and the Deferred Supply Costs increase along with the CTC-QF and BPA Credit rate adjustments on the typical residential customer's bill is a projected increase of $.20 per month or $2.40 per year. The total overall bill increase is estimated to be .32%. The actual increase will depend on each customer's type and usage. The typical bill computations are included in Appendix B.

Other documents submitted with this filing are:

1. Application for interim and final approval of new monthly Electric supply rates;
2. Notice of Filing attached as Appendix C;
3. Notice of Interim Rate Adjustment Request; and
4. Prefiled Testimony and Exhibits of Kevin J. Markovich, Cheryl A. Hansen, William M. Thomas and Mark D. Thompson.

Given that the prior year's filing, Docket No. 2003.6.77, has not been finalized due to bankruptcy proceedings, NWE proposes that the prior filing and this year's filing be processed simultaneously under a combined procedural schedule.

Three copies of this letter and documents submitted herewith will be delivered to the Montana Consumer Counsel.

The NWE employee responsible for answering questions concerning this rate change request or for inquiries to the appropriate members of the Utility Staff is:

Mr. Patrick R. Corcoran
Regulatory Affairs Department
NorthWestern Energy
40 East Broadway
Butte, MT 59701
(406) 497-2202
pat.corcoran@northwestern.com

Applicant's attorney in this matter is:

Mr. Ross Richardson
Henningsen, Vucurovich & Richardson PC
116 W. Granite
Butte, MT 59701
(406) 723-3219
rossrichardson@qwest.net

Along with Pat Corcoran and Ross Richardson please add Nedra Chase to the official service list in this docket to receive copies of all documents. NWE also requests that all electronic correspondence related to this filing be sent to regulatoryaffairs@northwestern.com.

If there are any questions in this regard, I can be reached at (406) 497-2202.

Sincerely,

Patrick R. Corcoran

Patrick R. Corcoran
Regulatory Affairs

Enclosures

cc: Montana Consumer Counsel

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**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

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| THOMPSON RIVER CO-GEN, LLC<br>a Colorado Company,<br><br>COMPLAINANT,<br>vs.<br><br>AVISTA CORPORATION dba AVISTA<br>UTILITIES, a Washington Corporation,<br><br>RESPONDENT. | ) | CASE NO. AVU-E-05-7<br><br>EXHIBIT NO. 204<br><br>ROBERT J. LAFFERTY |

FOR AVISTA CORPORATION

Excerpts from Prefiled Direct Testimony of Mark D. Thompson On Behalf Of NorthWestern Energy; Filed June 7, 2004

(Note: Any handwritten notations or calculations are those of Avista and are for the purpose of emphasizing certain items.)

Department of Public Service Regulation

Montana Public Service Commission

Docket No. D2004.6.90

NorthWestern Energy

# PREFILED DIRECT TESTIMONY OF MARK D. THOMPSON ON BEHALF OF NORTHWESTERN ENERGY

**Q. Please state your name and business address.**

A. My name is Mark D. Thompson. My business address is 40 E. Broadway, Butte MT 59701.

**Q. How are you employed, Mr. Thompson?**

A. I am a consultant on energy supply planning and procurement. My primary engagement at the present time is with NorthWestern Energy (NorthWestern or NWE). Until May 1, 2004, I was Executive Director of Energy Supply with NWE. I received that assignment in June of 2002. For approximately six months prior to that, I was a consultant to Northwestern focused on a variety of issues related to the acquisition of The Montana Power Company (MPC). These were primarily energy supply issues, including monitoring of the initial electric default supply application to the Montana Public Service Commission (MPSC or Commission) in Docket No. D2001.10.144.

**Q. Please describe your current assignments.**

A. I advise NWE on strategies for securing energy for NorthWestern's natural gas and electric customers in Montana, South Dakota and Nebraska. While our South Dakota electric system is vertically integrated with sufficient owned generation to meet our customers' annual load requirements, the balance of our customers' energy supply in the three states is secured through contracts with third party suppliers. I develop strategies for optimizing the load resource balance for the default supply, including integrated energy services such as electric capacity, electric transmission, natural gas transportation and natural gas storage facilities.

**Q. Please describe your day-to-day work in more detail.**

A. My energy supply responsibilities are focused on two areas. The first is the reliable and efficient delivery of the energy commodities. This requires a thorough understanding of load fluctuations and transportation limitations. Beyond an understanding of customers' needs and physical utility plant that serves them, my work in this area is assisted by strong working relationships with suppliers. Finally, the ability to work with computer models that simulate resource alternatives to meet our shifting loads throughout the year, and computerized optimization scheduling systems are critical skills.

projects offer to default supply customers, and their role in the electric default supply portfolio. The agreements are included as Exhibit ___(MDT-2).

**Q. Please describe the Thompson River Co-generation project.**

A. Thompson River Co-gen, LLC is a 16 MW thermal generation facility located near Thompson Falls, Montana. Net output from the facility is anticipated to be approximately 12 MW. The facility will burn coal, with up to thirty percent of the input energy coming from wood waste from an adjacent lumber mill. State of the art emission controls are being installed and steam from the project will be delivered to the lumber mill, permitting retirement of old inefficient boilers. Construction began in December 2002 and commercial operation is anticipated for mid-year 2004.

**Q. Please explain the how the TR resource will fit into the overall energy supply portfolio.**

A. TR will be a base-load, fixed price energy resource, such as the QF or other unit-contingent contracts. This resource is anticipated to provide approximately 100,000 megawatt hours of energy per year, or less than 1.7 percent of the total annual default supply energy requirements.

**Q. Please explain the price and term of the TR contract.**

A. The contract with TR is for a term of ten years with a price of $40 per megawatt hour (MWH), with no escalation during the term. Thus, NWE will

assume no fuel risk or operational cost adjustments. The annual anticipated cost under the TR contract is approximately $4 million, or approximately 2.1 percent of the total annual cost incurred to serve the default supply. TR is compensated on an energy basis only, meaning if the unit does not perform, no payment is required. Additionally, the contract provides for TR to schedule planned outages with the Buyer and maintain the project under prudent independent power producer industry-accepted practices.

A number of these beneficial provisions were added as the contract was re-negotiated in the months following the Commission's orders in Montana Power Company's original default supply docket.

**Q. What is the opportunity for power purchases after the initial ten-year contract term?**

A. TR and NWE have committed to communicate regarding term extensions at an economically beneficial price to the Buyer. To date, TR does not have a long-term coal contract; therefore, it is reluctant to lock in prices until such costs are known. NorthWestern believes that the delay in fixing a price is to the benefit of the Buyer and believes a better price will be available, as fuel costs are known. TR will also maintain the right to bid into any competitive Request for Proposals (RFP) process issued by NWE.

**Q. Explain the economic value of the TR project to the default supply.**

A. NorthWestern structured an energy-based contract in order to avoid the fixed cost expense of capacity payments for base-load units. Many of the base-load projects proposed, including existing QF contracts, included capacity payments, which place a certain amount of performance risk on the Buyer. NWE compared the cost for TR with four larger coal facilities proposed to NorthWestern in recent RFPs. TR was competitive with all of these facilities, despite the economies of scale inherent in the larger facilities. Secondly, TR's price is in-line (within 2.5%) of Northwest Power and Conservation Council (NWPCC) price estimates for new coal-fired generation.

**Q. Was NorthWestern prudent in entering the TR contract?**

A. Yes, NWE had in hand substantial and virtually contemporaneous price information from competitive bid processes, and used this information to guide its negotiations with TR. As previously explained, the TR price closely tracked the NWPCC price for new coal generation. This "opportunity purchase" acquisition (i.e., an "opportunity" in the sense that the product was offered outside the timeframe and context of a planned RFP process) provided economic benefit to the default supply. This was substantiated by wholesale market prices available at the time. Due to the substantial price discovery and small size of the TR project, a separate competitive bid process was not warranted. In addition, NorthWestern conducted an independent, third party engineering design review to ensure that the project

was sound. NorthWestern and TR have maintained communication during the construction of the project and have conducted numerous site visits.

NWE's portfolio modeling demonstrates the value of the resource in the context of the entire portfolio. The modeling substantiates that the inclusion of TR provides a benefit by reducing the overall expected cost to the portfolio.

**Q. What other issues were considered during the acquisition review of this project?**

A. In accordance with the Default Supply Procurement Guidelines adopted by the MPSC, NorthWestern considered the economic and environmental impacts of this project. The development of the project creates over 125 construction jobs and approximately 14 permanent new jobs. In addition, the efficient steam supply will enhance the economic stability of the adjacent lumber mill, which employs over 100 persons. The project will also provide approximately $1 million in new property tax revenues over the life of the project.

In addition, the project provides certain environmental benefits. First, the steam supply from the project will offset steam currently produced by inefficient auxiliary boilers at the lumber mill, reducing fuel consumption and emissions. Secondly, the project is designed to efficiently burn wood-waste

for up to 30% of the total fuel requirements, reducing the need to burn coal, and providing additional environmental benefits.

**Q. Another contract signed at approximately the same time as TR was the Tiber Montana hydro project. Please describe that project.**

A. Tiber is a 7.5 MW hydro generation facility located approximately 90 miles north of Great Falls in Chester, Montana (in Liberty County) at an existing dam on the Marias River. The average annual output from this "run-of-river" hydro facility is estimated at 4 MW. The Bureau of Reclamation (BOR) regulates the river stage to meet downstream demands. The project qualifies as a renewable resource since it is a run-of-river hydro with no environmental or fishery issues as a result of the power generation. Construction began in December 2002 with commercial operation commencing in June 2004.

**Q. Please explain the how the Tiber resource will fit into the overall energy supply portfolio.**

A. Tiber will be a base-load, fixed price energy resource, such as the QF or other unit-contingent contracts. To assist with winter load requirements, NorthWestern agreed to a seasonal supply structure in which NWE would accept energy from the resource during November through December and January through April each year during the term of the agreement. During the other six months of each calendar year, Tiber will sell the net output to

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FOR AVISTA CORPORATION

Excerpts from materials distributed by TRC at a meeting at Avista offices on May 12, 2005

(Note: Any handwritten notations or calculations are those of Avista and are for the purpose of emphasizing certain items.)

# Thompson River CoGen, LLC

**Project Location:**

Thompson River CoGen, LLC
249 Airport Road
Thompson Falls, MT 59873

**Contact Information:**

Thompson River Co-Gen, LLC *
Attn: Mike Underwood
1610 Wynkoop St, Suite 100
Denver, CO 80202
Phone: 303-534-1119

* *Thompson River Co-Gen, LLC is a Colorado LLC.*

**TRC Project Description:**

Thompson River Co-Gen ("TRC") is a coal and biomass cogeneration facility located approximately four miles outside of Thompson Falls, Montana (on Highway 200). Project commissioned in December 2004.

**Permits**

- FERC compliant.
- Air Quality Permit in effect issued by the MT Department of Environmental Quality.
- Water Permit
- Waster Water Permit

**Energy Products**

- **Electricity.**
  - Proposed twenty-year PURPA electric energy sales agreement to Avista (Idaho service territory) for 87,600 MWHs per year. (10 MW per Hour, firm)
    - Via firming, shaping and transmission agreement with NorthWestern.
  - Surplus energy sold to NorthWestern under twenty-year PPA.
  - Electric energy sale to Thompson River Lumber under 35-year PPA.
- **Steam Sales**
  - Extraction steam sale agreement (66MM lbs) to Thompson River Lumber.
- **Fuel Supply**
  - Long-term, fixed price coal agreement with Roundup Trading International from the Bull Mountain Mine, located in Eastern Montana, which meet all permit and unit specifications.
  - Long-term coal transportation agreement with Montana Rail Link, including dedicated lease cars from Savage Companies, Inc.
  - Various waste wood supply agreements with Thompson River Lumber and other suppliers in the area.

10 MW
+ 2.4 MW
+ 0.79 MW
13.2 MW
Net Output

Thompson River Co-Gen, LLC

# Thompson River Cogeneration LLC Partners

- **Savage Companies, Inc. (41% owner) – Providing Operations & Management Services**
  - Privately Owned Diversified Business Operations since 1946
  - Over 50 Operations in 26 States, Canada, and Africa. Headquartered in Salt Lake City.
  - National Leader in Providing Materials Management and Transportation Systems and Facilities To A Wide Range of Industries
  - Extensive Experience Dealing With Utilities and Independent Power Production
  - Savage Services, Inc. has Contracted with TRC to provide cost-based O&M services.

- **Barry Bates, age 50 (25% owner)**
  - Business Owner/Developer
  - Owner - Professional Recovery Systems – Denver, CO
  - 18 Years Investment Banking Experience – Denver, CO
  - Active investor

- **Michael Underwood, age 52 (34% owner) – Managing Partner**
  - Business Owner in Denver
  - Owner - Professional Recovery Systems – Denver, CO,
  - LMU & Company – Denver, CO
  - 20+ Years Investment Banking, Mergers and Acquisition Experience - Denver, CO

# Energy Output Products

- **TRC proposes wholesale electricity contracts with Avista Corp and NorthWestern**
  - 20-year PURPA (Qualifying Facility) contract with **Avista Corp. (76% of TRC Output.)**
    - 10 MW firm, base-load contract, delivered by NorthWestern, as scheduling agent.

  $\frac{10\,MW}{.76} = 13.2\,MW$ Net Output

  - 20-year PPA with **NorthWestern** for Surplus Energy **(18% of TRC Output.)**
    - NorthWestern is the Scheduling Agent and Transmission Provider.
    - NorthWestern firms, shapes and delivers energy to Avista Corp.
    - NorthWestern purchases excess energy.

  $(.18)(13.2\,MW) = 2.4\,MW$

- **Thermal & Electric Sales to Thompson River Lumber**
  - TRC has a 45-year agreement with Thompson River Lumber (TRL) to provide the mills electric requirements. Average busbar netback of $40.00 per MWH. **(6% of TRC Output).**

  $(.06)(13.2MW) = 0.79MW$

  - TRC also provides approximately 60+ MM pounds of steam annually to TRL under a 45-year agreement, displacing less efficient boilers. (Steam sales represent approximately 15% of the total thermal energy output of TRC.)

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VICE PRESIDENT, CHIEF COUNSEL FOR REGULATORY
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FOR AVISTA CORPORATION

Excerpts from NorthWestern Energy Form 10-K filing with the Securities And Exchange Commission For The Fiscal Year Ended December 31, 2004; Dated July 15, 2005

(Note: Any handwritten notations or calculations are those of Avista and are for the purpose of emphasizing certain items.)

# UNITED STATES
# SECURITIES AND EXCHANGE COMMISSION

**Washington, D.C. 20549**

## Form 10-K/A

**Amendment No. 1**

(Mark One)

☒ ANNUAL REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

**For the fiscal year ended December 31, 2004**

**OR**

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

**For the transition period from to .**

**Commission File Number: 0-692**

# NORTHWESTERN CORPORATION

(Exact name of registrant as specified in its charter)

| **Delaware** | **46-0172280** |
|---|---|
| (State or other jurisdiction of incorporation or organization) | (I.R.S. Employer Identification No.) |
| **125 S. Dakota Avenue, Sioux Falls, South Dakota** | **57104** |
| (Address of principal executive offices) | (Zip Code) |

Registrant's telephone number, including area code: **605-978-2908**

Securities registered pursuant to Section 12(b) of the Act:

| (Title of each class) | (Name of each exchange on which registered) |
|---|---|
| None | None |

Securities registered pursuant to Section 12(g) of the Act:

**Common Stock, $0.01 par value**

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the past 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Act). Yes ☒ No ☐

As of June 30, 2004, the aggregate market value of the voting common stock held by nonaffiliates of the registrant was $753,602 computed using the last sales price of $0.02 per share of the registrant's common stock on June 30, 2004, the last business day of the registrant's most recently completed second fiscal quarter.

As of March 12, 2005, 35,614,158 shares of the registrant's common stock, par value $0.01 per share, were outstanding.

Indicate by check mark whether the registrant has filed all documents required to be filed by Section 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court. Yes ☒ No ☐

**Documents Incorporated by Reference**

None

*Electricity Supply*

*Montana*

Pursuant to Montana law, we are obligated to provide default supply electric service to those customers who have not chosen or are unable to choose their electricity supplier. In this role, we purchase substantially all of the capacity and energy requirements for the default supply from third parties. We currently have power purchase agreements with PPL Montana for 300 megawatts of firm base-load and 150 megawatts of unit-contingent on peak energy through June 30, 2007. We also purchase power from 13 "qualifying facility" contracts that The Montana Power Company was required to enter into under the Public Utility Regulatory Policies Act of 1978, which provide a total of 101 megawatts of winter peak capacity. We have secured additional contracts from Thompson River Co-gen, LLC for up to 14 megawatts of base-load coal/waste-coal supply and Tiber Montana for 5 megawatts of seasonal baseload hydro supply. These purchases account for approximately 72% of our customer load requirements on average. The remaining customer load requirements are met with market purchases. In January 2004, we submitted an Electric Default Supply Resource Procurement Plan to the MPSC, which fully details the resource requirements, analysis and identified resources to best meet current and future default supply load requirements, while mitigating market price risk. These contracted and proposed resources include conservation, baseload, gas fired dispatchable, wind and the post 2007 baseload resources. In addition, we have entered into short-term fixed price energy purchases to fulfill the default obligation and provide rate stability. For more information about our obligations as a result of deregulation in Montana during the statutory transition period, see "Utility Regulation—Montana."

The MPSC approved base-load supply, along with open market purchases, are being recovered through a monthly electricity cost tracking process pursuant to which rates are based on estimated electricity loads and electricity costs for the upcoming twelve month period and are reviewed and adjusted by the MPSC for any differences in the previous tracking year's estimates to actual information. This process is similar in many respects to the cost recovery process that has been utilized in Montana, South Dakota and other states for natural gas purchases for residential and commercial customers. The MPSC reviews our ongoing responsibility to prudently administer our supply contracts and the energy procured pursuant to those contracts for the benefit of ratepayers.

Consistent with the Resource Procurement Plan, in July 2004, we issued a Montana electric default supply request for proposal (RFP) for baseload, dispatchable, wind and other electric supply resources. Several resources were selected for contract negotiation and a number of these contracts were presented to the MPSC for advanced approval in a filing made on February 7, 2005. Our Colstrip Unit 4 division submitted an offer in the RFP to supply a certain amount of energy to the default supply. After being short-listed, the Colstrip Unit 4 Division and the default supply group commenced discussions regarding the ultimate terms of the supply arrangement. As a result of these discussions, the Colstrip Unit 4 Division agreed to offer the default supply 90 megawatts of unit contingent, baseload energy for a term of 11.5 years, commencing on July 1, 2007, at an average price of $35.80 per megawatt hour. Further procurement activities will continue, focusing on replacement of significant baseload contracts that expire in June 2007.

In addition to our Colstrip Unit 4 division, our affiliate, Montana Megawatts I, LLC (MMI), the owner of a partially constructed, 260 megawatt, natural gas-fired, combined-cycle electric generation facility, submitted numerous bids in response to the dispatchable component of the RFP. In November 2004, the default supply group notified MMI that one of its bids had been placed on the short list of offered products. After further discussions between MMI and the default supply group, MMI agreed to supply the default supply with approximately 240 megawatts of capacity from its Great Falls location for a term of 20 years (commencing no earlier than January 2007) at an all in cost per megawatt that was lower than the short-listed price. This resource is being processed in accordance with the affiliate transaction rules established by the MPSC. Upon completion of the affiliate transaction review, final acceptance by the default supply group, and approval of our internal energy supply board we will amend our February 7, 2005

Exhibit 32.2

**CERTIFICATION OF CHIEF FINANCIAL OFFICER PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of NorthWestern Corporation (the "Company") on Form 10-K/A for the fiscal year ended December 31, 2004, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Brian B. Bird, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

1) The Report fully complies with the requirements of Sections 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: July 15, 2005

/s/ BRIAN B. BIRD
Brian B. Bird
*Chief Financial Officer*

DAVID J. MEYER
VICE PRESIDENT, CHIEF COUNSEL FOR REGULATORY
AND GOVERNMENTAL AFFAIRS
AVISTA CORPORATION
P.O. BOX 3727
1411 EAST MISSION AVENUE
SPOKANE, WASHINGTON 99220-3727
TELEPHONE: (509) 495-4316
FACSIMILE: (509) 495-8851

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

| | | |
|---|---|---|
| THOMPSON RIVER CO-GEN, LLC<br>a Colorado Company,<br><br>COMPLAINANT,<br>vs.<br><br>AVISTA CORPORATION dba AVISTA<br>UTILITIES, a Washington Corporation,<br><br>RESPONDENT. | ) | CASE NO. AVU-E-05-7<br><br>EXHIBIT NO. 207<br><br>ROBERT J. LAFFERTY |

FOR AVISTA CORPORATION

Excerpts from Montana Air Quality Permit Application For Stationary Sources; filed by NorthWestern Energy on November 15, 2005

(Note: Any handwritten notations or calculations are those of Avista and are for the purpose of emphasizing certain items.)

Department of Environmental Quality

Air and Waste Management Bureau • P.O. Box 200901 • Helena MT 59620-0901 • (406) 444-3490

# MONTANA AIR QUALITY PERMIT APPLICATION FOR STATIONARY SOURCES


Montana Department of Environmental Quality
Air and Waste Management Bureau
Permitting Section Supervisor
1520 E. Sixth Avenue
P.O. Box 200901
Helena, MT 59620-0901
Phone: (406) 444-3490 FAX (406) 444-1499


*For State of Montana Use Only*

Permit Application Number _____

Application Fee Paid with Application?

☐ Yes ☐ No Amount Paid _____

AREV Facility # _____ FP ID # _____

Four complete copies of the application, any associated fees, and the affidavit of publication of the attached public notice must be mailed to the above address. Instructions for filling out this form are contained in the Instructions and Suggested Format document available from the Department of Environmental Quality (department). Some information requested in this application may not be applicable to all facilities. Please contact the Air and Waste Management Bureau if you have any questions. A final permit will be issued within 76 days of the department's receipt of a complete application barring any appeals to the Board of Environmental Review (Board).

## FACILITY NAME AND ADDRESS

Thompson River Co-Gen, LLC
*Facility Name*

8 1st Street East
*Mailing Address*

| Kalispell | MT | 59901 |
|---|---|---|
| *City* | *State* | *Zip* |

## PERMIT TYPE

☒ Air Quality Preconstruction Permit

- ☐ New Facility
- ☒ Alteration to Existing Permit # 3175-02 *Permit Number*
- ☐ Synthetic Minor (major source using federally enforceable permit conditions to avoid MACT, PSD, NSR, or Title V Operating Permit requirements)

A permit application fee and an affidavit of publication must be submitted to DEQ at the above address (for air quality preconstruction permit applications only)

| | | |
|---|---|---|
| Affidavit of Publication of Public Notice | ☐ Attached | ☒ Forthcoming |
| Permit Application Fee | ☒ Attached | ☐ Forthcoming |

☒ Air Quality Operating Permit

- ☐ Initial Air Quality Operating Permit - - New Construction
- ☐ Initial Air Quality Operating Permit - - Existing Source
- ☐ Renewal of Air Quality Operating Permit
- ☒ Modification of Air Quality Operating Permit

Name of DEQ Contact Eric Merchant

*If you have been dealing with Department of Environmental Quality personnel*

*The estimated time for the department to process and act on a correctly completed application form is 60 days. The department has 30 days to notify an applicant that their application is incomplete. The department shall make a preliminary determination within 40 days after receiving a complete and filed application. A department decision must be made within 60 days after receiving a complete application. The department decision is not final unless 15 days have elapsed from the date of the department decision and there is no request for a hearing before the Board of Environmental Review. (Different time frames apply if an Environmental Impact Statement is required or if the Major Facility Siting Act is applicable. Provisions also exist in rule for extending the time for issuing a department decision). Please refer to ARM 17.8.706(2), ARM 17.8.720 and 75-2-211 MCA.*

Stack Lining *(check one)* ☒ Metal ☐ Refractory ☐ Other *(specify)* _____

**Process Information** *(Indicate Units)*

Type of Material Processed: Combusts coal and/or wood waste biomass to produce steam and electricity

Average Process Rate or Process Weight: 12.5 Megawatts/hr

Maximum Rated Design Capacity: 16.5 Megawatts/hr

Approximate Quantities Produced *(if source is temporary)*: N/A

**Fuel/Combustion Information**

Fuel Type: Coal and/or woodwaste biomass

Heat Content (Btu rating): 8,000 to 12,500

Average Fuel Combustion Rate: 192.8 MMBtu/hr

Maximum Rated Design Capacity: Less than 250 MMBtu/hr

Sulfur Content *(%)*: ≤ 1 %

Ash Content *(%)*: Will vary with the fuel.

Draft Type *(check one)* ☐ Forced ☒ Induced ☐ Natural ☐ Combination ☐ None

Draft Control *(check one)* ☐ Barometer ☐ Sliding Door ☐ Butterfly ☐ Guillotine ☐ Other *(specify)* _____

Draft Control Location ☐ Up Pass Breeching ☐ Five Connector ☐ Other *(specify)* Unknown

**Percent Annual Thruput** *(Percent of the applicant's work done in each time frame. The percentages entered for the four time frames must add up to 100%.)*

| | | | |
|---|---|---|---|
| December - February | 25 | June - August | 25 |
| March - May | 25 | September - November | 25 |

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FOR AVISTA CORPORATION

TRC Response To Avista Production Request No. 41

**REQUEST FOR PRODUCTION NO: 41**: Please explain if the capacity limit under the transmission agreement for firm power from response to Production Request No. 39 above, is sufficient to provide for the delivery of dynamically delivered Project power to Avista on a firm basis during all hours. In your explanation, please explain how the full dynamic range of power deliveries will be accommodated under the firm transmission agreements in place between NorthWestern and Thompson River Co-Gen.

**RESPONSE**: As an industry standard associated with any combined cycle, cogeneration facility, the Project will vary in its actual delivery on an hourly basis based on fuel moisture content, ambient weather conditions, steam host requirements, and scheduled and non-scheduled outages. The estimated range of delivery on an hourly basis is between 8.5 MW and 11.5 MW, but in no case will the Project deliver power to Avista in excess of 10 average megawatts per month. This answer was prepared by Mr. Underwood, Mr. Thompson and Mr. Uda.

Respectfully submitted this 6th day of January, 2006

AVISTA CORPORATION

By Michael J. Uda
*Attorneys for Thompson River Co-Gen, LLC*

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FOR AVISTA CORPORATION

Transmission One-Line Diagram Illustrating Path From TRC to Avista's System

## Transmission One-Line Diagram Illustrating Path From TRC to Avista's System