

1                                   **UNITED STATES OF AMERICA**  
2                                   **U.S. DEPARTMENT OF ENERGY**  
3                                   **BEFORE THE**  
4                                   **BONNEVILLE POWER ADMINISTRATION**

5                                   **2012 RATE ADJUSTMENT**  
6                                   **PROCEEDING**

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**Docket No. BP-12**

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9                                   **INITIAL BRIEF**  
10                                   **OF**  
11                                   **NORTHWESTERN ENERGY CORPORATION**  
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16                                   **BP-12-B-NC-01**  
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21                                   **April 29, 2011**  
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1 **I. INTRODUCTION**

2 In accordance with § 1010.13(c) of Bonneville Power Administration's ("BPA") Rules  
3 of Procedure Governing Rate Hearings, and the applicable orders of the Hearing Officer,  
4 NorthWestern Energy Corporation ("NorthWestern") submits the following initial brief to  
5 address issues associated with the proposed transmission rates for the Montana Intertie.

6 Pursuant to the Partial Settlement Agreement for the BP-12 rate case, the BPA  
7 Administrator will establish the Montana Intertie ("IM") and Eastern Intertie ("IE") rates and  
8 consider possible revisions to the Townsend-Garrison Transmission ("TGT") rate that are  
9 consistent with the Montana Intertie Agreement.<sup>1</sup> BPA has proposed a long-term firm IM Rate  
10 of \$0.598 per kW/month, as well as short-term firm and non-firm rates, for the FY 2012-13 rate  
11 period.<sup>2</sup> BPA has proposed setting the IE-12 rate at its existing level.<sup>3</sup> In making its proposal,  
12 BPA recognized that some parties support rolling BPA's share of the Montana Intertie into the  
13 Network and setting the IM rate at zero dollars. BPA invited parties to file testimony on  
14 whether to roll in the costs of the Montana Intertie.<sup>4</sup> If the Administrator decides not to roll in  
15 the costs of the Montana Intertie, BPA Staff will propose that the Administrator not increase  
16 the IM rate above its existing level.<sup>5</sup>

17 As set forth in more detail below, NorthWestern has several concerns about BPA's  
18 transmission rate proposal and the request by other parties to roll in the Montana Intertie.  
19 Specifically, BPA should ensure that the TGT rate formula appropriately accounts for all non-

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21 <sup>1</sup> Bermejo, *et al.*, BP-12-E-BPA-35 at 3:14-17.

22 <sup>2</sup> BPA, BP-12-E-BPA-10-E01 at 27-28.

23 <sup>3</sup> *Id.* at 73; Fredrickson, *et. al.*, BP-12-E-BPA-32 at 4:3-4.

24 <sup>4</sup> *Id.* at 3:10-13.

25 <sup>5</sup> *Id.* at 3:16-18.

1 firm sales on the Eastern Intertie. Further, in response to the questions presented by BPA at its  
2 April 20, 2011, workshop, NorthWestern clarifies its position regarding its proposal to set the  
3 long-term and short-term firm IM rate to zero dollars for the FY 2012-13 rate period. Finally, a  
4 roll-in of the Montana Intertie is premature at this time because there are significant economic,  
5 legal, and policy implications that have not been adequately raised, considered, and addressed  
6 in this rate proceeding.

7 **II. TGT-12 RATE SHOULD PROVIDE A REVENUE CREDIT ASSOCIATED**  
8 **WITH ALL NON-FIRM SALES**

9 In general, BPA's revenue requirement for the Eastern Intertie is provided by revenues  
10 received from the TGT rate and from the IM rate. The owners of the Colstrip Transmission  
11 System (Avista, NorthWestern, PacifiCorp, Portland General Electric, and Puget Sound  
12 Energy, collectively the "Colstrip Parties") pay the TGT rate for firm transmission over the  
13 Eastern Intertie (the Garrison to Townsend segment). The TGT rate is calculated based upon a  
14 formula that accounts for the costs of the Eastern Intertie facilities.<sup>6</sup> The general methodology  
15 for determining the TGT rate is to divide the revenue requirement by the total firm capacity  
16 requirements.<sup>7</sup> Revenue received for non-firm use of the Eastern Intertie is credited against the  
17 monthly revenue requirement in the numerator.<sup>8</sup> The total firm capacity requirement is the sum  
18 of the firm capacity requirements of the Colstrip Parties pursuant to the Montana Intertie  
19 Agreement plus BPA's firm capacity requirement for its sales of firm capacity on the Eastern  
20 Intertie pursuant to the IM rate.<sup>9</sup>

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22 <sup>6</sup> BPA, BP-12-E-BPA-10-E01 at 70.

23 <sup>7</sup> *Id.* at 69.

24 <sup>8</sup> *Id.* at 70-71.

25 <sup>9</sup> *Id.*

1 In its proposed TGT rate schedule for FY 2012-13, BPA defined the Non-firm  
2 Transmission Charge variable (Section II.A. of the proposed TGT-12 rate schedule) in the TGT  
3 rate formula in a manner that does not collect all revenues associated with non-firm use of the  
4 Eastern Intertie. BPA's definition limits the revenue credit in the TGT rate formula to non-firm  
5 transmission under the IE rate, which is limited to capacity requested by the Colstrip Parties.<sup>10</sup>  
6 In doing so, BPA fails to account for non-firm transmission requested pursuant to the IM rate.<sup>11</sup>  
7 In its rebuttal testimony, BPA proposed a change to the Non-firm Transmission Charge of the  
8 TGT rate formula to clarify that if BPA makes non-firm sales at the IM rate, those sales will  
9 reduce the amount of revenues to be collected from the TGT rate.<sup>12</sup>

10 NorthWestern supports the intent of BPA's proposal to clarify that the Non-firm  
11 Transmission Charge includes non-firm sales pursuant to the IM rate. However, the changes  
12 proposed by BPA do not implement that intent within the context of the TGT rate formula.  
13 Specifically, to render the formula definition of NFR (Non-firm Revenues) operable, the Non-  
14 firm Transmission Charge referenced therein must be expressed as a rate (*e.g.*, dollars per kW  
15 per day). In the relevant part of the TGT rate formula, this rate is multiplied by the non-firm  
16 energy (*e.g.*, kW per day) transmitted over the Townsend-Garrison segment each month to get  
17 NFR (*i.e.*, dollars), which is then subtracted from TAC/12 (the Total Annual Costs of facilities  
18 on a monthly basis).<sup>13</sup> NorthWestern notes that, in the existing Non-firm Transmission Charge,  
19 the phrase "and revenues received there under will reduce the amount of revenue to be  
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21 <sup>10</sup> BPA defines the Non-firm Transmission Charge as "[t]his charge will be filed as a separate rate schedule, the  
22 Eastern Intertie (IE) rate, and revenues received there under will reduce the amount of revenue to be collected  
under the Intertie Charge below." *Id.* at 70.

23 <sup>11</sup> *Id.* at 28.

24 <sup>12</sup> Fredrickson, *et al.*, BP-12-E-BPA-48 at 2:6-16.

25 <sup>13</sup> BPA, BP-12-E-BPA-10-E01 at 70.

collected under the Intertie Charge below” is descriptive and has no operative effect on the TGT rate formula.

Accordingly, NorthWestern requests that BPA revise the Non-firm Transmission Charge as set forth in Section II.A. of the proposed TGT-12 rate schedule to state:

This charge will be filed as a separate rate schedule, the Eastern Intertie (IE) rate and the Montana Intertie (IM) rate for non-firm transmission service on the Eastern Intertie, ~~and revenues received there under and revenues received for non-firm transmission service on the Eastern Intertie under other rate schedules will reduce the amount of revenue to be collected under the Intertie Charge below.~~

This modification is consistent with the intent of BPA’s proposed change and is necessary to ensure that the Colstrip Parties do not pay more than their share of the costs associated with the Eastern Intertie.<sup>14</sup> This modification is also necessary to ensure that the TGT rate is consistent with the provisions of the Montana Intertie Agreement.<sup>15</sup>

### **III. NORTHWESTERN’S RESPONSES TO QUESTIONS PRESENTED BY BPA**

At its April 20, 2011, workshop, BPA presented the following questions and requested that the parties provide a response in their initial briefs.

1. *Would rolling in BPA’s share of Montana Intertie capacity or setting the IM rate at zero result in any transmission service requests in BPA’s network queue for transmission of Montana wind generation from Townsend, for delivery either between Garrison and West of Hatwai or west of West of Hatwai? Or are any*

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<sup>14</sup> Should BPA roll in the IM rate, and presumably the IE rate, BPA must revise the Non-firm Transmission Charge to reference the rate schedule applicable to non-firm transmission service on the Eastern Intertie. NorthWestern objects to the use of general language that might allow the incorporation of a rolled in rate.

<sup>15</sup> Montana Intertie Agreement at § 6(d).

1                    *such requests contingent on the construction of Garrison-Ashe? Please be as*  
2                    *specific as possible.*

3                    At this time, NorthWestern cannot speculate on whether rolling in the Montana Intertie  
4 or setting the IM rate at zero dollars for the FY 2012-13 rate period would result in any  
5 transmission service requests relating to wind generation in Montana. While NorthWestern is  
6 aware that wind generation projects are being planned in Montana, at this time, it is unclear  
7 when such projects would be constructed and become operational and the amount of  
8 transmission capacity that would be required to accommodate such projects. If these proposed  
9 projects will not require transmission service during the FY 2012-13 rate period, it is premature  
10 and unnecessary for BPA to consider an adjustment to the existing transmission rates based on  
11 this uncertain future event.

12                    Notwithstanding the above, NorthWestern notes that, at this time, neither BPA nor any  
13 party to the proceeding has provided detailed analysis or documentation regarding the present  
14 and future impacts associated with rolling BPA's share of Montana Intertie capacity into the  
15 Network rate. While BPA and certain parties have submitted testimony regarding what a roll-  
16 in means and what general economic impacts may be anticipated,<sup>16</sup> NorthWestern cannot  
17 provide a substantive response until more definitive information is provided. In order to  
18 respond, NorthWestern requests that BPA provide a redline of proposed changes to BPA's  
19 transmission tariff, rate schedules, or business practice through which BPA would offer service  
20 at a rolled in rate. Until the transmission service associated with the Network rate is identified,  
21 it is not possible to determine who is eligible to utilize the service, the purposes for which the  
22 service may be used, the duration of the service, and the other terms and conditions of service.

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24                    <sup>16</sup> Baker, *et al.*, BP-12-E-JP10-01 at 6:18-9:11; Williams, BP-12-E-NG-03 at 6:8-7:10; Apperson, BP-12-E-PC-01  
25 at 2:9-21; Fredrickson, *et al.*, BP-12-E-BPA-48 at 3:10-5:7.

1           2(a).    *Would NWE's proposal to set the firm long-term and short-term IM rate to \$0*  
2                     *for the FY-12-13 rate period indirectly result in allocation of reduced Eastern*  
3                     *Intertie costs to the TGT rate without offsetting revenues from other rates?*

4           BPA charges its customers taking service under the Montana Intertie Agreement all the  
5 costs of the Eastern Intertie, less any credits for firm and non-firm service. Even though the  
6 Montana Intertie Agreement customers pay all such costs of the Eastern Intertie, BPA has not  
7 provided them with all the Eastern Intertie's available capacity.<sup>17</sup>

8           To the extent BPA sells its available capacity, firm, on the Eastern Intertie, BPA is  
9 required by the Montana Intertie Agreement to credit its Montana Intertie Agreement customers  
10 with the megaWatt value of those firm sales (non-firm sales are credited on a dollar basis). The  
11 credit allocates a *pro rata* amount of the Eastern Intertie's costs to BPA's other customers  
12 taking firm service under the IM rate. During the FY 2012-13 rate period, a firm IM rate of  
13 zero dollars means that those customers taking service under the IM rate will not be  
14 compensating BPA for their allocated share of the Eastern Intertie's costs.

15           However, if those IM rate customers take additional transmission service from BPA  
16 beyond Garrison, BPA will receive additional new revenue. That new revenue contributes  
17 revenue towards BPA's overall transmission revenue requirement.

18           2(b).    *In general, do you support NWE rate proposal? Please explain why or why not.*

19           It is important to understand the context in which NorthWestern suggested a firm IM  
20 rate of zero dollars. With the termination of the exchange provision, BPA proposed a long-  
21 term firm IM rate of \$0.598 per kW/month for the FY 2012-13 rate period.<sup>18</sup> In making its  
22 proposal, BPA recognized that some parties support rolling BPA's share of the Montana

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24 <sup>17</sup> NorthWestern objects to BPA's interpretation of the Montana Intertie Agreement whereby those customers  
25 (such as NorthWestern) taking service under the Agreement pay the entire cost of the Eastern Intertie without  
receiving all the capacity.



1 Intertie into the Network and setting the IM rate at zero dollars. BPA invited parties to file  
2 testimony on whether to roll in the costs of the Montana Intertie.<sup>19</sup>

3 The Northwest Wind Group has strongly advocated for the termination of the IM rate.<sup>20</sup>  
4 The goal of the Northwest Wind Group is to pay only the Network rate to move power on  
5 BPA's system (including the Eastern Intertie).<sup>21</sup> NorthWestern supports efforts to increase the  
6 utilization of the Eastern Intertie, and understands the financial impacts the IM rate, as  
7 proposed by BPA Staff, has on the delivered price of power. NorthWestern observes that any  
8 reduction of the IM rate increases the probability that available transmission capacity on the  
9 Eastern Intertie will be utilized.

10 In its rebuttal testimony, NorthWestern proposed setting the firm IM rate at zero dollars  
11 for the FY 2012-13 rate period while maintaining the existing rate structure.<sup>22</sup> In doing so,  
12 NorthWestern sought to present a proposal whose structure is consistent with the existing  
13 Montana Intertie Agreement and address the concerns raised by the Northwest Wind Group  
14 regarding the impacts of the rate pancake on the Townsend to Garrison Segment. In the short-  
15 term, setting the firm IM rate to zero dollars will eliminate the rate pancake and provide  
16 additional time for consideration of the economic, legal, and policy implications associated

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18 <sup>18</sup> BPA, BP-12-E-BPA-10-E01 at 27.

19 <sup>19</sup> Fredrickson, *et al.*, BP-12-E-BPA-32 at 3:10-13.

20 <sup>20</sup> Williams, BP-12-E-NG-03. PacifiCorp also advocates eliminating the rate pancake associated with Montana  
21 Intertie facilities by reducing the IM rate to zero dollars for the FY 2012-13 rate period. Apperson, BP-12-E-PC-  
22 01 at 2:9-10.

23 <sup>21</sup> As explained in response to question (1) above, BPA and the parties to this proceeding have not fully explained  
24 the requested service, provided detailed analysis or documentation regarding anticipated impacts, and the authority  
25 by which BPA may offer the service. NorthWestern objects to BPA making a decision until the proposed service  
is fully evaluated and presented to all parties for consideration. NorthWestern believes the complexity of these  
issues, particularly since a specific proposal has yet to be identified, precludes a full and meaningful evaluation  
during this rate case. *See* Brush, BP-12-E-NC-01 at 5:17-22.

<sup>22</sup> *Id.* at 2:22-3:2.

1 with rolling in the Montana Intertie facilities. However, based on discussions at the April 20,  
2 2011, workshop, it is NorthWestern's understanding that a zero dollar firm IM rate for FY  
3 2012-13 will not satisfy the needs of affected customers. As a result, assuming a zero dollar  
4 firm IM rate for FY 2012-13 is not desired by BPA's customers, NorthWestern does not object  
5 to the proposal being disregarded in this proceeding.

6 3. *Does rolling in the Montana Intertie set a potential precedent for rolling in the*  
7 *other non-integrated network segments? How could those other segments be*  
8 *distinguished from the Montana Intertie?*

9 The Montana Intertie, like BPA's other interties, was constructed with other project  
10 owners who made significant capital investments in the project. Should BPA decide to roll in  
11 the Montana Intertie, it will establish a precedent that will affect other segments and provide a  
12 disincentive for future investment in other joint projects. First, while such requests could  
13 potentially be distinguished based on fact-specific circumstances, other parties could reference  
14 BPA's roll-in decision in an attempt to justify requests for similar action regarding other  
15 interties or segments. Second, rolling in the Montana Intertie could create a significant  
16 disincentive for other parties to initiate joint transmission projects. If a future roll-in may  
17 decrease a party's expected return on its investment, such party will be less inclined to fund or  
18 construct such a project. Because these potential impacts have not been fully explained and  
19 considered in this proceeding, NorthWestern believes that BPA should delay any decision on  
20 rolling in the Montana Intertie.

21 NorthWestern is not currently in a position to opine on the distinguishing characteristics  
22 of other interties or segments that may be impacted by a potential roll-in of the Montana  
23 Intertie. Such characteristics should be considered on a case-by-case basis in any proceeding  
24 directly implicating that intertie or segment.

1 **IV. IMPLICATIONS OF ROLL-IN HAVE NOT BEEN ADEQUATELY RAISED,**  
2 **CONSIDERED, AND ADDRESSED**

3 NorthWestern believes that it is not appropriate to consider a roll-in of the Montana  
4 Intertie in this rate proceeding. Any roll-in carries with it significant economic, legal, and  
5 policy implications that have not been adequately assessed and addressed in this rate  
6 proceeding.

7 Notably, it does not appear that BPA has considered how a roll-in of Eastern Intertie  
8 capacity and costs will impact the Montana Intertie Agreement and the TGT rate that BPA  
9 charges the Colstrip Parties. For example, in addition to eliminating the need for the IM rate,  
10 NorthWestern observes that a roll-in of available capacity on the Eastern Intertie into BPA's  
11 Integrated Network will also impact the IE rate. These impacts have not been addressed.  
12 Following termination of the IM rate, and presumably the IE rate, it is unclear how BPA will  
13 appropriately calculate and provide the Colstrip Parties with the credits derived from the  
14 megaWatt capacity benefit of firm sales and the monetary benefit of non-firm sales as required  
15 by the Montana Intertie Agreement. A failure to provide such credit would arguably constitute  
16 a breach of the Montana Intertie Agreement.

17 Further, upon a roll-in of the available Eastern Intertie capacity, it is not clear how BPA  
18 will adjust the Network rate or TGT rate to recover the costs associated with this capacity.  
19 Presumably, if Eastern Intertie costs are rolled into Network rates, BPA must adjust the  
20 Network rate to recover the costs associated with this capacity. NorthWestern assumes the roll  
21 in of Eastern Intertie capacity relates to the east-to-west capacity on the Eastern Intertie. It is  
22 equally unclear how the capacity in the west-to-east direction will be handled if Eastern Intertie  
23 capacity is rolled into the Network.

1           Nevertheless, in the event of a roll-in of Eastern Intertie capacity and costs into the  
2 Network, NorthWestern expects BPA to provide an immediate credit to the denominator of the  
3 TGT rate in an amount corresponding to the rolled in capacity; such a credit would prevent a  
4 double recovery of costs associated with this capacity. Once Eastern Intertie capacity and costs  
5 are rolled into Network rates, BPA will begin collecting those costs immediately from the users  
6 of its Network. During the FY 2012-13 rate period though, BPA Staff has indicated that,  
7 should a roll-in occur, it will recommend that Network rates not change for the FY 2012-13  
8 rate period, consistent with the settlement proposal.<sup>23</sup> The consequence of BPA Staff's  
9 recommendation being that during the FY 2012-13 rate period these new rolled in costs will be  
10 paid for by BPA from its reserves. However, if a credit is not simultaneously provided to the  
11 TGT rate for the rolled in Eastern Intertie capacity and costs, BPA will be recovering those  
12 same costs that are rolled into the Network again from the Colstrip Parties that take service  
13 under the TGT rate. This produces a result that is not fair or is discriminatory and therefore  
14 violates the Federal Columbia River Transmission System Act, which provides that: "[t]he  
15 Administrator shall make available to all utilities on a fair and nondiscriminatory basis, any  
16 capacity in the Federal transmission system which he determines to be in excess of the capacity  
17 required to transmit electric power generated or acquired by the United States."<sup>24</sup>

18           Finally, if BPA rolls the IM rate into its Integrated Network, BPA may be creating a  
19 discriminatory rate structure.<sup>25</sup> As a result of a roll-in of the IM rate, BPA will be creating  
20 several classes of customers taking service across the Eastern Intertie pursuant to two different  
21 rate methodologies. To move power on the Eastern Intertie and on the BPA Network, the  
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23 <sup>23</sup> Fredrickson, *et al.*, BP-12-E-BPA-32 at 3:13-15.

24 <sup>24</sup> 18 U.S.C. § 838d (emphasis added).

25 <sup>25</sup> *See, e.g., Id.*

1 Colstrip Parties will be paying a pancake rate, the rate for capacity allocated under the Montana  
2 Intertie Agreement on the Eastern Intertie and BPA's Network rate for additional Network  
3 capacity. However, customers purchasing any other capacity over the Eastern Intertie from  
4 BPA will pay BPA's Network rate to move power across the combined Eastern Intertie and  
5 Network. A roll-in of Eastern Intertie capacity and costs into the Network therefore creates two  
6 separate classes of customers paying rates based on different cost methodologies for service on  
7 Eastern Intertie; a result that is not fair or is discriminatory and therefore a violation of the  
8 Federal Columbia River Transmission System Act.

9 As indicated above, at this time, there has been no definitive proposal describing how a  
10 roll-in of the available Eastern Intertie capacity will occur. Until BPA provides more definitive  
11 information on how a roll-in would affect its transmission tariff, rate schedules, business  
12 practices, and the Montana Intertie Agreement, NorthWestern cannot provide a substantive  
13 response to a specific roll-in proposal. More importantly, until a specific proposal is provided  
14 by BPA for comment, NorthWestern objects to BPA deciding to roll in such capacity and costs  
15 on grounds that a decision in such circumstances violates the Administrative Procedure Act<sup>26</sup>  
16 and the Pacific Northwest Electric Power Planning and Conservation Act.<sup>27</sup> Rather than make  
17 a roll in decision now, NorthWestern continues to suggest that BPA hold workshops on the  
18 issue during the FY 2012-13 rate period to fully develop a proposal and assess all the impacts  
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21 <sup>26</sup> 5 U.S.C. § 553(b) ("General notice of proposed rule making shall be published in the Federal Register, unless  
22 persons subject thereto are named and either personally served or otherwise have actual notice thereof in  
23 accordance with law. The notice shall include – (1) a statement of the time, place, and nature of public rule  
making proceedings; (2) reference to the legal authority under which the rule is proposed; and (3) either the terms  
or substance of the proposed rule or a description of the subjects and issues involved. . . .").

24 <sup>27</sup> 16 U.S.C. § 839e(i)(1) ("In establishing procedures under this section, the Administrator shall use the following  
25 procedures: (1) Notice of the proposed rates shall be published in the Federal Register with a statement of the  
justification and reasons supporting such rates. . . .").

1 associated with such a proposal, and consider the issue during the rate case for the next rate  
2 period.

3 **V. CONCLUSION**

4 NorthWestern supports BPA Staff's proposed TGT-12, IM-12, and IE-12 rates, except  
5 as provided above with regard to the TGT-12 rate. NorthWestern opposes consideration of a  
6 roll-in of Eastern Intertie capacity and its associated costs into Network rates for the FY2012-  
7 13 rate period. BPA has not provided adequate notice or a definitive proposal supported by the  
8 necessary analysis and documentation to allow parties to adequately assess the economic, legal  
9 and policy implications associated with rolling in Eastern Intertie capacity and its associated  
10 costs into the Network for the FY 2012-13 rate period.

11 Dated this 29th day of April 2011.

12  
13 Respectfully submitted,

14 *Malcolm C. McLellan*

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**ATTACHMENT A**

**NORTHWESTERN'S EXHIBIT LIST**

NorthWestern sponsored the following exhibits, testimony, and qualification statements:

<b>Document Number</b>	<b>Title of Document</b>	<b>Date Filed</b>	<b>Status</b>
BP-12-E-NC-01	Rebuttal Testimony of Ray W. Brush, II	3/15/2011	Admitted
BP-12-Q-NC-02	Qualification Statement of Ray W. Brush, II	3/15/2011	Admitted
BP-12-E-NC-01-E01	Errata to Rebuttal Testimony of Ray W. Brush, II	4/6/2011	Admitted
BP-12-M-NC-01	Motion to Admit Evidence (data responses BPA-NC-1 through BPA-NC-4)	4/6/2011	Admitted
BP-12-E-NC-02	Affidavit of Ray W. Brush, II	4/7/2011	Admitted