

WHAT SHOULD MONTANA WANT IN THE NORTHWESTERN BANKRUPTCY?

BOB ROWE

CHAIRMAN, MONTANA PUBLIC SERVICE COMMISSION

After many years trying to achieve constructive outcomes in Montana's energy debates, I am surprised to find myself more optimistic than I have been since 1994, when Montana Power Co. began its sustained attack on responsible utility regulation, which eventually contributed to its own demise. In crisis, there may be agreement on a core set actions.

Montana was perhaps most vulnerable to harm from NorthWestern's self-inflicted meltdown in the months before a bankruptcy was filed. Thanks to good work by many, including those within NorthWestern's Montana operations working on energy supply and system maintenance, harm to customers as a result of NorthWestern's weak finances was avoided. Now, we have the opportunity to implement policies that work and to focus on what the company providing most Montanans with electricity and gas should look like.

I've been genuinely pleased that the Governor, Attorney General, Consumer Counsel and Public Service Commission have been able to coordinate our efforts so well in the bankruptcy. Legislative leadership has provided important support for this effort.

In the early part of the bankruptcy, the PSC has focused heavily on monitoring the massive amount of material generated, and participating on key motions filed with the bankruptcy court. The PSC and Montana Consumer Counsel have successfully protected monies paid into the Universal System Benefit program (about \$5 million so far) to provide assistance to low income customers and for other important purposes. We have also managed to ensure that various costs approved by the bankruptcy court may not be charged to customers without first being approved in a revenue requirements case before the Public Service Commission. And, we have managed to proceed with the PSC's investigation of NorthWestern's financial and operational structure, commenced before the bankruptcy was filed, rather than having this important PSC case stopped by the bankruptcy.

North Western is to file a plan of reorganization with the bankruptcy court in March. Montana will be best served by a plan that achieves a solid utility, sustainable over the long-term, not a

plan that produces short-term value for creditors but may not succeed over a period of years. The PSC is now focused on that plan.

The utility that comes out of bankruptcy should be customer focused. It should be utility focused. It should be Montana focused.

Sound finances

Debt should be reduced to a level appropriate for a stand-alone utility. The utility should have an investment grade rating within a reasonable time after it emerges from bankruptcy. It should be able to obtain gas and electricity at appropriate prices, and be able to manage the portfolio of supply contracts over the long-run. It should be able to invest in and maintain its distribution systems and infrastructure. The utility's financial structure should be sustainable over the long-term. Rates to customers should be just and reasonable based on the underlying costs of providing service. Non-utility debt and bankruptcy related costs should not be recovered from customers. There should be no increase in rates as a result of the bankruptcy.

High quality service

Service should not deteriorate. Investments and expenditures should be sufficient to maintain high levels of performance, and to respond to system-stressing events such as storms and fires. Efforts of front line service providers should be recognized and supported.

Good governance

The corporation should be utility-focused. Either a stand-alone or "ring-fenced" utility should be created. If the utility includes non-Montana operations, the Montana unit should have sufficient resources (including personnel) and sufficient authority to deal with the panoply of issues that affect service to customers. Over the past year I have repeatedly expressed to NorthWestern my concern that this is not currently the case. There must be adequate utility expertise on an independent board of directors, and within the utility staff.

Strong internal financial controls should be bolstered by external "ring fencing" of the utility from any non-utility operations, enforceable by the PSC. The Legislature can play an important role by clarifying that the PSC has, on the basis of a factual record, the ability to require ring fencing, something NorthWestern insists the PSC now lacks under Montana law. Ring fencing was strongly opposed by Montana Power as it pushed into new ventures a decade ago. Experience confirms that it is in both customers' and investors' interest.

Most of these objectives – sound finances, high quality service, and good corporate governance - could be achieved either by a reformed NorthWestern or by a new operator. They could probably be achieved either by a well-run and well-regulated, investor-owned operation or by something like the Montana electric cooperatives.

A customer-focused, utility-focused, Montana-focused operation will do well when its customers are well-served and satisfied. It will be a strong addition to the state's economic and civic health. It should be a goal upon which all Montanans agree.