

IN THE SUPREME COURT OF THE  
STATE OF MONTANA

Case No. DA 23-0575

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RIKKI HELD; LANDER B., by and through his guardian Sara Busse; BADGE B., by and through his guardian Sara Busse; SARIEL SANDOVAL; KIAN T., by and through his guardian Todd Tanner; GEORGIANNA FISCHER; KATHRYN GRACE GIBSON-SNYDER; EVA L., by and through her guardian Mark Lighthiser; MIKA K., by and through his guardian Rachel Kantor; OLIVIA VESOVICH; JEFFREY K., by and through his guardian Laura King; NATHANIEL K., by and through his guardian Laura King; CLAIRE VLASES; RUBY D., by and through her guardian Shane Doyle; LILIAN D., by and through her guardian Shane Doyle; TALEAH HERNÁNDEZ,

Plaintiffs and Appellees,

vs.

STATE OF MONTANA, GOVERNOR GREG GIANFORTE, MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY, MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, and MONTANA DEPARTMENT OF TRANSPORTATION,

Defendants and Appellants.

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***Unopposed Motion by NorthWestern Corporation  
for Leave to File Amicus Curiae Brief***

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NorthWestern Corporation d/b/a NorthWestern Energy (“NorthWestern”) respectfully submits this unopposed motion to the Court for leave to file a brief as *amicus curiae*, pursuant to Mont. R. App. P. 12(7). If granted, NorthWestern’s brief would be generally in support of Appellants.

## **I. STATEMENT OF INTEREST**

NorthWestern is the largest electric utility in Montana. NorthWestern currently services over 300,000 residential electric accounts, comprising the great majority of residential electricity demand in the state. NorthWestern is also the largest supplier of electricity to the commercial, industrial, and public sectors in the state. NorthWestern is committed to responsible transition to clean energy sources, and over 60% of its nameplate electrical generation capacity in Montana is carbon-free. This is one of the highest percentages for any utility in any state.

NorthWestern has many projects that are subject to environmental review under the Montana Environmental Protection Act. NorthWestern also has an ownership or operational interest in several facilities that were specifically named by the district court as being related to “fossil fuel activities” implicated by the constitutional challenge to Mont. Code. Ann. § 75-1-201(2)(a) (“MEPA Limitation”). *See, e.g.*, Findings of Fact (“F.o.F.”) 265(g)(Colstrip Steam Electric Station); 265(i)(Laurel Generating Station). NorthWestern is also party to an appeal pending before the Court related to the permitting of the Laurel Generating

Station, in which the constitutionality of the MEPA Limitation is an issue. *See* Cause No. DA 23-0225.

Finally, many of the District Court's findings and conclusions relate to a vision for a future energy grid that NorthWestern would be tasked with implementing. NorthWestern is subject to many state-mandated procedures and requirements related to cost and reliability of service that would be affected if the MEPA Limitation is invalidated. NorthWestern therefore has a strong interest in both the disposition of the appeal and the reasons and principles the Court articulates for its judgment.

## **II. REASONS WHY A BRIEF FROM NORTHWESTERN WOULD BE DESIRABLE**

NorthWestern takes climate change seriously and is committed to taking aggressive action to reduce the greenhouse gas emissions from its operations, consistent with its statutory obligations to provide on-demand, reasonable cost energy for vital heating, cooling, lighting and other services. In May 2023, NorthWestern publicly filed a detailed Integrated Resource Plan addressing the achievability and tradeoffs associated with various clean energy transition scenarios. NorthWestern thus approaches proposed amicus participation from the perspective that thoughtful consideration and action to address climate change is a worthwhile endeavor, when coupled with consideration of other basic human needs and rights.

NorthWestern is unique among the parties and the amici granted to date in the high degree to which its activities are regulated at the federal and state level through public processes that balance many competing policy objectives. As the principal electricity provider in Montana, NorthWestern can shed important light for the Court on the benefits provided by the MEPA Limitation in various permitting contexts, as well as the consequences of its potential invalidation.

### **III. PARTIES WHOSE POSITION NORTHWESTERN SUPPORTS**

NorthWestern generally supports the position of Appellants, although its position may diverge in select respects.

### **IV. PROPOSED DATE FOR AMICI CURIAE BRIEF**

NorthWestern requests a filing date of February 23, 2024 (ten days after Appellants' briefs are due), the same filing date granted to amicus NTEC.

### **V. PARTIES' POSITIONS REGARDING NORTHWESTERN'S MOTION**

NorthWestern contacted counsel for Appellees and Appellants regarding the motion. Appellants support the motion. Appellees do not oppose the motion.

### **CONCLUSION**

For the foregoing reasons, NorthWestern respectfully requests the Court grant leave for NorthWestern to file a brief as *amicus curiae*, on or before February 23, 2024.

DATED this 2<sup>nd</sup> day of February, 2024.

/s/ F. Matthew Ralph

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 16(3) of the Montana Rules of Appellate Procedure, I certify that this Motion is printed with a proportionately spaced Times New Roman text typeface of 14 points; is double spaced; and the word count calculated by Microsoft Word 2016, is not more than 1,250 words, excluding certificate of service and certificate of compliance. Dated this 2<sup>nd</sup> day of February, 2024.

/s/ F. Matthew Ralph

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Attorney for NorthWestern Energy

## **CERTIFICATE OF SERVICE**

I, Frederick M. Ralph, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed to the following on 02-02-2024:

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