



208 N. Montana Ave., Suite 104
Helena, MT 59601
Telephone: 406-449-8333
Facsimile: 406-449-8331
Email: dennis.lopach@northwestern.com

September 19, 2003

To: Montana Public Service Commission
Montana State Legislature Energy and Telecommunications Interim Committee

From: Dennis Lopach

RE: NorthWestern Corporation's Continued Funding and Protection of USB Programs

Commissioners, Legislators and Respective Staff:

Tuesday, NorthWestern Corporation ("NorthWestern") CEO Gary Drook addressed you in a joint session of the Commission and Committee and presented you with information concerning NorthWestern's recent bankruptcy filing. In that presentation, Mr. Drook reiterated NorthWestern's intention and commitment to emerge from bankruptcy by returning to its roots: the provision and delivery of energy to its Montana, South Dakota and Nebraska customers.

During that joint session yesterday, Mr. Drook responded to several important questions posed by your members, including a question by Senator Johnson concerning the protection of the USB funds NorthWestern collects and expends. As Mr. Drook informed you, it is NorthWestern's position that it is merely a conduit for the USB Programs, and that the funds collected on its behalf therefore do not constitute part of the bankruptcy estate. NorthWestern informed the bankruptcy court of this position in one of its First Day Motions that it sought, and ultimately received from the Court, authorization to continue the program, including bringing current and remaining current on all obligations to customers, vendors and contractors.

As a result of this Order, NorthWestern will continue to collect USB funds, account for such collection, and pay expenditures to the USB Programs as it has historically done. However, as NorthWestern advised the Public Service Commission in its Response to Petition to Segregate USB Funds filed in Docket No. D2003.8.114, the creation of a separate escrow account or a bank account to hold USB funds would be difficult and not practical. As explained more fully in that Response, the funds collected and expended for USB programs are not evenly distributed throughout a year, such that in some months' expenditures exceed

revenues, while in other months revenues exceed expenditures. Because USB funds have historically been placed in NorthWestern's general accounts, NorthWestern has historically made up any revenue deficit from its general accounts in order to fully and timely fund expenditures. Full segregation of USB funds into a separate bank or escrow will result in either (1) a delay in the payment of expenditures until collected revenues are sufficient to make these payments or (2) additional expenses associated with maintaining letters of credit or other similar variable funding systems from which the program can periodically borrow to pay expenditures during those times of the year when revenues are not sufficient to meet payment obligations, resulting in a reduction of overall funding for the program. Moreover, the revenue-expenditure lags present in the gas USB funds are even more pronounced than those for the electric USB funds because the current gas USB rates simply do not generate sufficient revenue to cover the low income discounts. Finally, the bankruptcy court has already authorized the retention of certain NorthWestern bank accounts and has required the closure of others. Before NorthWestern could set up a new bank or escrow account for the USB funds, it would have to seek and obtain permission from the bankruptcy court.

While the notion of setting up a separate escrow account for USB funds initially sounds easy to implement, such actions would have effects on the administration of the USB programs of which Mr. Drook was not advised or aware prior to his presentation to you on Tuesday. Creation of such an escrow account is not necessary to protect these funds from the bankruptcy estate: NorthWestern has acknowledged in bankruptcy filings that these funds are not part of the bankruptcy estate, already maintains a separate, detailed account for all USB funds collected and expenditures made, and has now obtained authorization of the bankruptcy court to continue to make such collections and expenditures.

Should any of you have any questions concerning the treatment or protection of USB funds, please do not hesitate to contact me or Pat Corcoran.

Cc: Don Quander
Greg Groepper