

Appendix K

38.5.8228 MINIMUM FILING REQUIREMENTS FOR DSU UTILITY APPLICATIONS FOR ADVANCED APPROVAL OF ELECTRICITY SUPPLY RESOURCES

(1) If a DSU utility intends to file an application for advanced approval of a power purchase agreement electricity supply resource that is not yet procured, it must notify the commission and the Montana Consumer Counsel far enough in advance of filing to accommodate adequate pre-filing communication. If the power purchase contract resource will result from a competitive solicitation, notice must be provided before the DSU utility issues a request for proposals.

(2) An application by a DSU utility for advanced approval of a power purchase agreement electricity supply resource must incorporate by reference the DSU's most recent long-term resource plan, must include the DSU's most recent three-year action plan, and must provide include, as applicable:

~~(a) a complete explanation and justification of all changes, if any, to the DSU's most recent long-term resource plan and three-year action plan, including how the DSU has responded to all commission written comments on the long-term plan;~~

~~(b) a copy of the proposed power purchase agreement, including all appendices and attachments, if any;~~

~~(c) testimony and supporting work papers demonstrating the need for the resource/electricity supply product(s) underlying the power purchase agreement;~~

~~(d) testimony and supporting work papers demonstrating that the resource/electricity supply product(s) underlying the power purchase agreement:~~

~~(i) is in the public interest;~~

~~(ii) will facilitate achieving the goals and objectives of these guidelines;~~

and

~~(iii) complies with all resource procurement guidelines in this subchapter;~~

~~(e) if the power purchase agreement resulted from a competitive solicitation, copies of:~~

~~(i) the DSU's request for proposals;~~

~~(ii) all bids received;~~

~~(iii) testimony and work papers demonstrating all due diligence and bid evaluation conducted by the DSU, including the application of bid rating mechanisms and management judgment;~~

~~(f) testimony and supporting work papers demonstrating that the price, term and quantity associated with the power purchase agreement are reasonable and in the public interest;~~

~~(g) thorough explanation and justification for any other terms in the power purchase agreement for which the DSU is requesting advanced approval;~~

~~(h) testimony describing all pre-filing communication;~~

~~(i) thorough explanation and justification for any request for a commission decision less than 180 days from the date the DSU's application is filed including a specific plan for ensuring adequate due process; and~~

~~(j) testimony and supporting documentation related to any advice received from the DSU's stakeholder advisory committee regarding the power purchase agreement or the underlying resource/electricity product(s) and actions taken or not taken by the DSU in response to such advice.~~

(a) a complete and thorough explanation and justification of all changes to the utility's most recent long-term resource plan and three year action plan, including how the utility has responded to all commission written comments;

(b) a statement explaining whether the application pertains to a power purchase agreement with an existing generating resource, a lease or acquisition of an equity interest in a new or existing generating resource, or a power purchase agreement for which approval will result in construction of a new generating resource;

(c) testimony and supporting work papers describing the resource and stating the facts (not conclusory statements) that show that acquiring the resource is in the public interest and is consistent with the requirements in 69-3-201 and 69-8-419, MCA, the utility's most recent long-term resource plan (as modified by (a)), and these rules;

(d) testimony and supporting work papers demonstrating the utility's estimates of the cost of the resource compared to the cost of each alternative resource the utility considered and all relevant functional differences between each alternative;

(e) testimony and supporting work papers demonstrating the implementation of cost-effective carbon offsets for a electricity supply resource fueled primarily by natural or synthetic gas constructed after January 1, 2007;

(f) testimony and supporting work papers demonstrating the capture and sequestration of 50% of the carbon dioxide produced by a electricity supply resource fueled primarily by coal constructed after January 1, 2007;

(g) a copy of the proposed power purchase agreement, including all appendices and attachments;

(h) a copy of any request for proposals issued in connection with acquisition of the electricity supply resource;

(i) testimony and supporting work papers comparing all bids received in connection with any request for proposals with respect to price and non price factors;

(j) testimony and work papers describing all due diligence and bid evaluation in connection with any request for proposals, including the ranking of bids and reliance on management judgment;

(k) thorough explanation and justification for any terms, other than price, quantity and contract duration, in a power purchase agreement for which the utility is requesting approval;

(l) a complete description of each aspect of the resource for which the utility requests approval;

(m) testimony and supporting documentation describing all pre-filing communication; and

(n) testimony and supporting documentation related to any advice received from the utility's stakeholder advisory committee regarding the proposed resource and actions taken or not taken by the utility in response to such advice.

AUTH: 69-8-403, 69-8-419, MCA

IMP: 69-8-403, 69-8-419, MCA

REASON: Ch. 491, L. 2007 repealed electric customer choice for small customers and eliminated the definition of and references to default supply. The change is necessary to conform the rule to the revised statutes. Additionally, the ability of a utility to request approval of rate-based assets requires revision to the minimum filing requirements.