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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

**PORTLAND GENERAL ELECTRIC
COMPANY; AVISTA CORPORATION;
PACIFICORP; and PUGET SOUND
ENERGY, INC.,**

Plaintiffs,

v.

**NORTHWESTERN CORPORATION;
TALEN MONTANA, LLC; AUSTIN
KNUDSEN, in his official capacity as
Attorney General for the State of
Montana,**

Defendants.

Case No. 1:21-cv-00047-SPW-KLD

**PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

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PRELIMINARY INJUNCTION – 1

L.R. 7.1(c)(1) STATEMENT

Plaintiffs have contacted counsel for Montana Attorney General Austin Knudsen. The Attorney General does not yet have a position on the preliminary injunction motion and reserves the right to object after reviewing it. Plaintiffs also informed Defendants NorthWestern Corporation (“NorthWestern”) and Talen Montana, LLC (“Talen”), about the motion, which is not directed at them.

MOTION

Pursuant to Federal Rule of Civil Procedure 65, plaintiffs Portland General Electric Company, Avista Corporation, PacifiCorp, and Puget Sound Energy, Inc. (“the PNW Owners”) respectfully move this Court for a preliminary injunction enjoining Montana Attorney General Austin Knudsen, in his official capacity, from enforcing Senate Bill 266 of 2021 (“SB 266”) against them. SB 266, enacted on May 3, 2021, amends the Montana Unfair Trade Practices and Consumer Protection Act to create two new unfair or deceptive acts or practices targeted at jointly owned electrical generation units such as the one in Colstrip, Montana (“Colstrip”), jointly owned by the PNW Owners, NorthWestern, and Talen.

The PNW Owners move this Court to enter a preliminary injunction order against defendant Austin Knudsen, in his official capacity as the Montana Attorney General, as follows:

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- 1) Enjoining enforcement of all of SB 266 against plaintiffs concerning Colstrip because SB 266 violates the Contract Clause of the United States Constitution.
- 2) Enjoining enforcement of all of SB 266 against plaintiffs concerning Colstrip because SB 266 violates the Commerce Clause of the United States Constitution.
- 3) Enjoining enforcement of Section 2(1)(b) of SB 266 against plaintiffs concerning Colstrip because Section 2(1)(b) violates the Due Process Clause of the United States Constitution because Section 2(1)(b) is void for vagueness.

This motion is supported by the concurrently filed Brief in Support of Motion for Preliminary Injunction, by the concurrently filed declarations of Ronald J. Roberts, Jason R. Thackston, Brett Greene, and Mike Johanson in support of this motion, and by the record in this matter.

DATED this 27th day of May, 2021.

HANSBERRY & JOURDONNAIS, PLLC

/s/ Charles E. Hansberry

Charles E. Hansberry
Jenny M. Jourdonnais

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Corporation, PacifiCorp, and Puget Sound
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/s/ Harry H. Schneider, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that on May 27, 2021, a copy of the foregoing document was served on the following persons:

Via ECF:

1.	<p>Dallas DeLuca MARKOWITZ HERBOLD, PC 1455 SW Broadway, Suite 1900 Portland, OR 97201 503-295-3085 Fax: 503-323-9105 Email: dallasdeluca@markowitzherbold.com PRO HAC VICE</p> <p>David B. Markowitz MARKOWITZ HERBOLD, PC 1455 SW Broadway, Suite 1900 Portland, OR 97201 503-295-3085 Fax: 503-323-9105 Email: davidmarkowitz@markowitzherbold.com PRO HAC VICE</p> <p>Gary M. Zadick UGRIN ALEXANDER ZADICK & HIGGINS PO Box 1746 Great Falls, MT 59403-1746 406-771-0007 Fax: 452-9360 Email: gmz@uazh.com</p> <p>Harry B. Wilson MARKOWITZ HERBOLD, PC 1455 SW Broadway, Suite 1900 Portland, OR 97201 503-295-3085</p>
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4.	<p>Jeffrey M. Hanson Perkins Coie 1201 Third Avenue Suite 4800 Seattle, WA 98101-3099 206-359-3206 Fax: 206-359-4206 Email: jhanson@perkinscoie.com PRO HAC VICE</p> <p><i>Attorneys for Puget Sound Energy, Inc.</i></p>
5.	<p>J. David Jackson DORSEY & WHITNEY 50 South Sixth Street Suite 1500 Minneapolis, MN 55402-1498 612-340-2600 Fax: 340-2868 Email: jackson.j@dorsey.com PRO HAC VICE</p> <p>Stephen D. Bell DORSEY & WHITNEY LLP - MISSOULA 125 Bank Street Millennium Building, Suite 600 Missoula, MT 59802-4407 406-721-6025 Fax: 406-513-0863 Email: bell.steve@dorsey.com</p> <p><i>Attorneys for NorthWestern Corporation</i></p>

6.	Via Email Only (by consent): Robert L Sterup Brown Law Firm, P.C. 315 North 24 th Street Billings, Montana 59101 Email: rsterup@brownfirm.com <i>Attorney for Defendant Talen Montana, LLC</i>
7.	Via Email Only (courtesy copy): David Dewhirst Solicitor General Stuart Segrest Assistant Attorney General 555 Fuller Ave. P.O. Box 200151 Helena, MT 59620-0151 David.Dewhirst@mt.gov SSegrest@mt.gov

DATED this 27th day of May, 2021.

HANSBERRY & JOURDONNAIS, PLLC

/s/ Charles E. Hansberry

Charles E. Hansberry
Jenny M. Jourdonnais

*Attorneys for Plaintiffs Portland
General Electric Company, Avista
Corporation, PacifiCorp, and Puget Sound
Energy, Inc.*

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