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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

<p>PORTLAND GENERAL ELECTRIC COMPANY; et. al, Plaintiffs, v. NORTHWESTERN CORPORATION, et al., Defendants.</p>	<p>CV-21-47-SPW-KLD STATE OF MONTANA'S RESPONSE TO PLAINTIFFS' MOTION FOR ENTRY OF AN ORDER FURTHER DEFINING TERMS AND SCOPE OF PRELIMINARY INJUNCTION ISSUED OCTOBER 13, 2021</p>
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On October 13, 2021, this Court granted Plaintiffs’ motion for a preliminary injunction, on which Attorney General Austin Knudsen took no position. (Doc. 100.) In its extensive, fifteen-page order, the Court made thirteen findings of fact and thirty-one conclusions of law. *Id.* Plaintiffs now request “entry of an order further defining terms and scope” of the injunction. (Doc. 108.)

As a threshold matter, no procedural basis exists for Plaintiffs’ motion. Plaintiffs purport to bring their motion pursuant to Fed. R. Civ. P. 65(d)(1). *Id.* at 1. But the rule does not afford parties the opportunity to file a motion for clarification or a motion to alter judgment. Rather, this provision simply requires that orders granting injunctions must: “(A) state the reasons why it issued; (B) state its terms specifically; and (C) describe in reasonable detail—and not by referring to the complaint or other document—the act or acts restrained or required.” Fed R. Civ. P. 65(d)(1). This Court’s order satisfies these requirements, and Plaintiffs are presumably not arguing that this Court violated the law when it issued the preliminary injunction they requested.

Moreover, to the extent that the preliminary injunction granted by this Court is not to Plaintiffs’ liking, this is the result of Plaintiffs’ failure

to adequately request specific relief in their original motion. (Doc. 38.) Plaintiffs requested “an order preliminarily enjoining Montana’s Attorney General—Defendant Austin Knudsen—from enforcing Senate Bill 266 (“SB 266”) against them.” *Id.* at 8. ¹ Yet their new motion sets forth three additional paragraphs Plaintiffs ask the Court to adopt. (Doc. 108 at 5.) Some of these requests do not appear at all in Plaintiffs’ preliminary injunction briefing. For example, Plaintiffs did not request an injunction dating back to “January 1, 2021.” Because Senate Bill 266, the challenged law, was not signed by the Governor until May 3, 2021, ² and is not retroactive in its effect, Plaintiffs’ request for an injunction going back to January 1, 2021, makes no sense.

Therefore, if this Court chooses to edit its order, it should do so by simply stating: “Defendant Austin Knudsen, in his official capacity as the Attorney General of the State of Montana, is enjoined from enforcing Mont. Code Ann. §§ 30-14-2701 and 30-14-2702 pending further order by the Court or entry of final judgment in this action.” That is the relief

¹Citations are to ECF-stamped pages.

²See “Bill Actions” at [http://laws.leg.mt.gov/legprd/LAW0203W\\$BSRV.ActionQuery?P_SESS=20211&P_BLTP_BILL_TYP_CD=SB&P_BILL_NO=266&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=](http://laws.leg.mt.gov/legprd/LAW0203W$BSRV.ActionQuery?P_SESS=20211&P_BLTP_BILL_TYP_CD=SB&P_BILL_NO=266&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=)
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Plaintiffs’ requested, and it “describe[s] in reasonable detail ... the act or acts restrained.” *See* Fed. R. Civ. P. 65(d)(1)(C). It also avoids providing relief beyond what Plaintiffs requested in their motion, which Defendants did not have an opportunity to address in briefing or at oral argument.

DATED this 18th day of November, 2021.

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CERTIFICATE OF SERVICE

I certify that on this date, an accurate copy of the foregoing document was served electronically through the Court's CM/ECF system on registered counsel.

Dated: November 18, 2021

/s/ Aislinn W. Brown

AISLINN W. BROWN