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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' REPLY IN SUPPORT
OF MOTION FOR ENTRY OF AN
ORDER FURTHER DEFINING
TERMS AND SCOPE OF
PRELIMINARY INJUNCTION
ISSUED OCTOBER 13, 2021**

REPLY IN SUPPORT OF MOTION FOR ORDER
FURTHER DEFINING TERMS AND SCOPE OF
PRELIMINARY INJUNCTION

Attorney General Austin Knudsen, who took no position on the PNW Owners' Motion for Preliminary Injunction, acknowledges that the Court granted the relief sought in their Motion and that Federal Rule of Civil Procedure 65(d)(1) requires a preliminary injunction order to specifically state its terms and describe the acts restrained in reasonable detail. Yet when the PNW Owners asked for the Attorney General's position on their request in the instant motion for an order to specify the acts to be enjoined, counsel simply responded that the Attorney General opposed the motion and did not provide any specific substantive objections. (Doc. 109, at 6–7.)

In his November 18 Response, the Attorney General complains that the PNW Owners' instant motion (Doc. 107) does not precisely match their Motion for Preliminary Injunction (Doc. 37). In the only example offered, the Attorney General states that Senate Bill 266 was signed on May 3, 2021, and contends that it “is not retroactive in its effect, [so] Plaintiffs' request for an injunction going back to January 1, 2021 makes no sense.” (Doc. 115, at 2.) The Attorney General's characterization, however, is not consistent with the engrossed version of the bill signed by the Governor:

Section 6. Retroactive applicability. [This act] applies retroactively, within the meaning of 1–2–109, to actions taken by an owner on or after January 1, 2021.

2021 Montana Laws Ch. 377 (S.B. 266). The other substantive paragraph of the PNW Owners’ requested order merely identifies specific actions set forth in Montana Code Annotated § 30-14-2702(2) to be enjoined, which is consistent with the PNW Owners’ Motion for Preliminary Injunction requesting an order “against defendant Austin Knudsen, in his official capacity as the Montana Attorney General . . . [e]njoining enforcement of all of SB 266 against plaintiffs concerning Colstrip.”¹

For the reasons above and in their Motion (Docs. 107, 108), and to ensure technical compliance with Rule 65(d)(1), the PNW Owners respectfully ask the Court to enter the requested order further defining the terms and scope of the October 13 Preliminary Injunction Order. Alternatively, the Court should, at a minimum, enter an order with the language the Attorney General concedes is appropriate. (Doc. 115, at 3.)²

¹ The Attorney General also argues that “no procedural basis exists for Plaintiffs’ motion.” (Doc. 115, at 2.) But the Attorney General cites no authority to suggest this Court cannot issue a follow-on order to further define the terms and scope of a preliminary injunction to ensure technical compliance with Rule 65(d)(1), as requested. In any event, the Court could construe the PNW Owners’ motion as a motion for clarification.

² Talen’s Response does not address the PNW Owners’ current motion at all; it objects for the reasons identified in its Opposition to the PNW Owners’ Motion for Preliminary Injunction. (Doc. 112.)

DATED this 24th day of November, 2021.

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REPLY IN SUPPORT OF MOTION FOR ORDER
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PRELIMINARY INJUNCTION – 3

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REPLY IN SUPPORT OF MOTION FOR ORDER
FURTHER DEFINING TERMS AND SCOPE OF
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CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(d)(2)(E), I certify that Plaintiffs' Reply in Support of Motion for Entry of an Order Further Defining Terms and Scope of Preliminary Injunction Issued on October 13, 2021 is: printed with proportionately spaced Times New Roman text with 14-point typeface; is double-spaced; and the word count, calculated by Microsoft Office Word, is 466 words long, including footnotes, but excluding the Caption, Signature Blocks, Certificate of Service, Tables of Contents and Authorities, and Certificate of Compliance.

DATED: November 24, 2021

/s/ Harry H. Schneider, Jr.

Harry H. Schneider, Jr.

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 24, 2021

/s/ Harry H. Schneider, Jr.

Harry H. Schneider, Jr.