

Charles E. Hansbury
Jenny M. Jourdonnais
HANSBERRY & JOURDONNAIS, PLLC
2315 McDonald Avenue, Suite 210
Missoula, MT 59801
chuck@hjbusinesslaw.com
jenny@hjbusinesslaw.com
Phone: 406-203-1730
Fax: 406-205-3170

Attorneys for Plaintiffs
[additional counsel on signature page]

**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,)

-vs-)

**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-BLG-SPW-KLD

**STIPULATION REGARDING
ARBITRATION PROCEDURES
AND PENDING MOTIONS**

The following parties, Portland General Electric Company, Avista Corporation, PacifiCorp, Puget Sound Energy, Inc., NorthWestern Corporation and Talen Montana, LLC (collectively the “Colstrip Parties”), by their respective

**STIPULATION REGARDING ARBITRATION PROCEDURES
AND PENDING MOTIONS**

counsel and pursuant to the Court’s Order dated September 2, 2022 (Doc. 188), hereby stipulate as follows:

1. The Colstrip Parties hereby stipulate to engage in arbitration pursuant to the Stipulation and Order Resolving PNW Owners’ Lift Stay Motion and Establishing Terms on Which the Automatic Stay is Lifted with Respect to the Montana Lawsuit and Arbitration (Doc. 184) (hereinafter the “Bankruptcy Stipulation”). The Colstrip Parties request an order adopting paragraphs 2-7 of the Bankruptcy Stipulation as an Order of this Court.

2. The Colstrip Parties further stipulate and agree that this Court shall retain supervisory jurisdiction over the arbitration proceedings under the Federal Arbitration Act 9 U.S.C. §1 et seq.

3. In addition to the above stipulations, the Colstrip Parties have conferred and also stipulate to the following:

- a. That the arbitration shall proceed and be conducted under the Federal Arbitration Act, 9 U.S.C. §1 et al..
- b. That Montana law shall govern substantive issues in the arbitration and the outcome shall be decided applying Montana law.
- c. That the arbitration will be administered by the Judicial Arbitration and Mediation Services (“JAMS”). Procedure

**STIPULATION REGARDING ARBITRATION PROCEDURES
AND PENDING MOTIONS**

for conducting the arbitration will be governed by JAMS Comprehensive Arbitration Rules & Procedures, except where modified by the Arbitrator(s).

d. Absent exigent circumstances, the arbitration will take place in person before the Arbitrator(s).

4. The Colstrip Parties advise the Court that they have not reached agreement as to the venue for such arbitration.

5. The Colstrip Parties agree that arbitration procedures, including the necessity and scope of discovery and expert witnesses, will be decided by the arbitrator(s).

6. The Colstrip Parties stipulate that their agreement to engage in arbitration does not eliminate the need for a ruling on the Plaintiffs' Motion for Partial Summary Judgment Regarding Their Fourth and Fifth Claims for Relief on Montana Senate Bill 266 (Doc. 102). That motion has been fully briefed and is ripe for a ruling.

7. The Colstrip Parties do not have a stipulation concerning the Court's question in its September 2, 2022, Order (Doc. 188) whether the Bankruptcy Court's recent Stipulation and Order (attached to Doc. 184) moots Plaintiffs' Motion for Partial Summary Judgment challenging Montana Senate Bill 265 (Doc. 88). Portland General Electric Company, Avista Corporation, PacifiCorp, and

**STIPULATION REGARDING ARBITRATION PROCEDURES
AND PENDING MOTIONS**

Puget Sound Energy, Inc., take the position that the motion is not moot and should be decided on the current briefing. NorthWestern Corporation takes the position the Court should decide whether the motion is moot. Talen Montana LLC disagrees and takes the position that the motion is moot.

8. The Colstrip Parties do not have a stipulation concerning whether the Bankruptcy Court's recent Stipulation and Order (attached to Doc. 184) moots NorthWestern Corporation's Motion to Compel Arbitration and Appoint a Magistrate to Oversee Arbitration Procedure Negotiations (Doc. 120).

NorthWestern Corporation takes the position that its motion requesting the appointment of a magistrate judge or special master is not moot until the Colstrip Parties have resolved all issues regarding arbitration procedures. Talen Montana LLC disagrees and takes the position that it is moot. Plaintiffs take no position on mootness of that motion.

9. Talen Montana LLC has contacted the State of Montana regarding this Stipulation and the State has represented that it takes no position.

DATED this 9th day of September, 2022.

/s/ Charles E. Hansberry
HANSBERRY & JOURDONNAIS, PLLC
Charles E. Hansberry
Jenny M. Jourdonnais

**STIPULATION REGARDING ARBITRATION PROCEDURES
AND PENDING MOTIONS**

2315 McDonald Avenue
Suite 210
Missoula, MT 59801
406-203-1730
Fax: 406-205-3170
Attorneys for Plaintiffs

/s/ Dallas DeLuca
MARKOWITZ HERBOLD PC
Dallas DeLuca
David B. Markowitz
DallasDeLuca@MarkowitzHerbold.com
1455 SW Broadway, Suite 1900
Portland, OR 97201 Ph: (503) 295-3085
Fax: (503) 323-9105
*Attorneys for Plaintiff Portland General
Electric Company*

/s/ Gary M. Zadick
UGRIN ALEXANDER ZADICK, P.C.
Gary M. Zadick
#2 Railroad Square, Suite B
PO Box 1746
Great Falls, MT 59403
Ph: (406) 771-0007
Fax: (406) 452-9360
*Attorneys for Plaintiff Portland General
Electric Company*

/s/ Harry H. Schneider, Jr.
PERKINS COIE LLP
Harry H. Schneider, Jr.
Jeffrey M. Hanson
Gregory F. Miller
1201 Third Avenue, Suite 4900
Seattle, WA 98101
Ph: (206) 359-8000
Fax: (206) 359-9000
Attorneys for Plaintiff Puget Sound Energy,

**STIPULATION REGARDING ARBITRATION PROCEDURES
AND PENDING MOTIONS**

Inc.

/s/ William J. Schroeder

KSB LITIGATION P.S.

William J. Schroeder

510 W Riverside, Suite 300

Spokane, WA 99201

Ph: (509) 624-8988

Fax: (509) 474-0358

Attorneys for Plaintiff Avista Corporation.

/s/ Michael G. Andrea

AVISTA CORPORATION

Michael G. Andrea

1411 W. Mission Ave.

MSC-17 Spokane, WA 99202

Ph: (509) 495-2564

Fax: (509) 777-5468

Attorney for Plaintiff Avista Corporation.

/s/ Troy Greenfield

SCHWABE WILLIAMSON & WYATT

Troy Greenfield

Connie Sue Martin

S Bank Centre

1420 Fifth Avenue, Suite 3400

Seattle, WA 98101

Ph: (206) 407-1581

Fax: (206) 292-0460

Attorneys for Plaintiff PacifiCorp.

/s/ Robert L Sterup

BROWN LAW FIRM, P.C.

Robert L Sterup

315 North 24th Street

Billings, Montana 59101

Ph: (406) 248-2611

Fax: (406) 248-3128

**STIPULATION REGARDING ARBITRATION PROCEDURES
AND PENDING MOTIONS**

*Attorneys for Defendant Talen Montana,
LLC*

/s/ J. David Jackson

DORSEY & WHITNEY LLP

J. David Jackson

Dorsey & Whitney LLP

50 South 6th Street, Suite 1500

Minneapolis, MN 55402-1498

Ph: (612) 340-2600

Steve Bell

125 Bank Street, Suite 600

Missoula, MT 59802-4407

Ph: (406) 721-6025

*Attorneys for Defendant Northwestern
Corporation*