would be difficult for these co-owners to justify any project that would let Colstrip to continue operate. Lebsack Declaration 9 10.

Second, it is possible that public utility commissions disapprove rate recovery for the project. This is exactly the conundrum NorthWestern currently faces as a regulated utility. In the comments submitted during the rulemaking period for the 2024 MATS Rule, NorthWestern expressly flagged this scenario as a grave area of concern. NorthWestern already planned on investing over $2.4 billion in electricity infrastructure improvements, which has spurred significant rate recovery controversy. When NorthWestern filed its comments, the Montana Public Service Commission was weighing a 28% residential electricity rate settlement that did not account for the 2024 MATS Rule. NorthWestern Comments 20 21. The Commission largely approved the settlement, allowing NorthWestern to recover for its past investments. However, to maintain the utility's health, NorthWestern filed another rate review in Summer 2024, seeking recovery of essential investments made through December 2024 to serve customers. There has been no final decision, and that filing presents no costs directly attributable to the construction of a baghouse itself.

Third, the future of EPA's GHG Rule further complicates the feasibility of such a project that the 2024 MATS Rule demands. While the Trump Administration has expressed intent to reconsider and possibly rescind the GHG Rule, it is still on the books. And as expressed by Talen Montana and NorthWestern, under this rule, Colstrip has no option but to shut down the plant by 2031. Lebsack Declaration ¶¶ 41–43.[4] This is because Colstrip cannot switch to burning natural gas instead of coal as required by the GHG Rule. Nor could Colstrip switch to natural gas to comply with the 2024 MATS Rule. *See id.* If the GHG Rule forces Colstrip to shut down, Colstrip's cost-recovery period for any technology installment would greatly decrease. While it is true that this particular concern may not materialize, it is still a financial uncertainty and a material factor that any investor must consider when deciding to commit to a project.

3. The technology is not available by July 6, 2027, and there is a significant risk that a one-year extension would be insufficient.

The 2024 MATS Rule directs all applicable facilities to comply with the new emission standard by July 6, 2027. *See, e.g.*, 40 C.F.R. § 63.9991 ("Before July 6, 2027, you must meet each operating limit in . . . this subpart . . . ."); 89 Fed. Reg. at 38508 (setting the effective date of the 2024 MATS Rule to be "July 8, 2024"); 42 U.S.C. § 7412(i)(3)(A) (directing EPA to "establish a compliance date . . . in no event later than 3 years after the effective date of such standard"). This deadline could be extended by one year by a permitting authority. 42 U.S.C. § 7412(i)(3)(B). Colstrip cannot meet the fPM emission standard of 0.010 lb/MMBtu unless it installs baghouses, a major infrastructure addition to the facility.

[4] The Lebsack Declaration includes an "Attachment B," which is a separate declaration in support of judicially staying the GHG Rule. *See West Virginia v. EPA*, No. 24-1120 (D.C. Cir.).