



LEGISLATIVE CONSUMER COMMITTEE

SENATE MEMBERS

Sue Malek, Chair
Jeff Welborn, Vice-Chair

HOUSE MEMBERS

Mary Ann Dunwell
Mike Hopkins

MINUTES LOG

November 14, 2019
Room 172, State Capitol Building,
Helena, Montana

Please note: This document is a Minutes Log and provides annotation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video recording of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of the meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://legmt.gov>. On the left-side menu of the home page, select Committees, then Interim. Once on the page for Interim Committees, scroll down to the appropriate committee. The written Minutes Log, along with the audio and video recordings, is listed by meeting date on the interim committee's web page. Each of the "Exhibits" is linked and can be viewed by clicking on the Exhibit of interest. All Exhibits are public information and may be printed.

Please contact the Montana Consumer Counsel at 406-444-2771 for more information.

COMMITTEE MEMBERS PRESENT

Senator Sue Malek, Chair
Senator Jeff Welborn, Vice Chair – via phone
Representative Mary Ann Dunwell

COMMITTEE MEMBERS EXCUSED

Representative Mike Hopkins

MONTANA CONSUMER COUNSEL STAFF PRESENT

Robert A. Nelson, Consumer Counsel
Jason Brown, Staff Attorney
Paul Schulz, Rate Analyst
Jaime Stamatson, Economist
Suzanne Snow, Secretary

VISITORS PRESENT

Jenny Harbine, Earthjustice

Sign in Sheet ([Attachment 1](#))

AGENDA

([Attachment 2](#))

CALL TO ORDER

Chair Malek called the meeting to order with roll call.

([Attachment 3](#))

NORTHWESTERN ENERGY ELECTRIC RATE CASE – PSC Docket D2018.2.12

- 10:04:40 Chair Malek opened the discussion on the NorthWestern Electric Rate Case with a brief outline of the case and the introduction of both members of the panel prior to their presentation .
- 10:12:18 Robert A. Nelson, Consumer Counsel ([Attachment 4](#))
- 10:18:35 Rep. Dunwell inquired as to why NorthWestern wanted to bifurcate the filing as referenced in Mr. Nelson’s presentation.
Mr. Nelson outlined why historically costs were separated out.
- 10:23:55 Rep. Dunwell referenced an email received from a consumer regarding the NorthWestern Rate Case and the NorthWestern Energy Resource Procurement Plan. Rep. Dunwell noted that the email asked that the Consumer Counsel ensure that the residential rate payers do not have an unfair burden of payment when reviewing these cases.
- 10:25:14 Mr. Nelson continued with his presentation – bottom of page 1 – NorthWestern proposes a new rate class for new net metering customers.
- 10:55:36 Rep. Dunwell inquired about the variations in the rate increases for the different rate classes.

Mr. Nelson addressed cost allocation and how classes were treated differently during his presentation.

11:01:25 Jenny Harbine, Earthjustice ([Attachment 5](#))

5 minute Recess

11:44:43 Senator Malek called the meeting back to order with a discussion on the future of Colstrip 4 and what that would mean to ratepayers.

11:55:33 Chair Malek inquired about the large customer rates and what could be done in high demand times to lessen the load on the grid by these companies.
Mr. Nelson noted in response that the Commission would be looking at demand response programs in the near future.

12:00:40 Chair Malek expressed her concern that the Public Service Commission should not be able to conduct discovery in a particular case as referenced in Mr. Nelson's presentation.
Concerning the discovery dispute, Mr. Nelson noted that whether the Commission should function more in a judicial versus a legislative role has been a topic of interest to ETIC.

12:06:00 Chair Malek referenced an email Mr. Nelson sent to the committee regarding Qualifying Facilities (QF) cases that are before the Montana Supreme Court that included an issue based on an off the record comment by a Commissioner. Chair Malek asked if that was something Mr. Nelson could talk to the Committee about publicly.
Mr. Nelson summarized the QF appeals referenced.

12:08:59 Chair Malek asked Ms. Harbine if she could talk about decoupling.
Ms. Harbine briefly outlined the basic concept of decoupling.

12:11:38 Chair Malek referenced a conversation with a representative from the Bonneville Power Administration (BPA) regarding the potential participation of NorthWestern and BPA in an energy imbalance market. Chair Malek asked Mr. Nelson if he was familiar with this discussion.
Mr. Nelson noted that Larry Nordell, MCC's part time Economist, has been involved with those discussions.
Mr. Stamatson stated that the Northern Tier Transmission Grid is in merger discussions with the Columbia Grid. Mr. Stamatson also noted that this is an exercise in planning to comply with FERC Order 1000.

12:14:30 Chair Malek expressed her concern about the cost of transmission and the risks associated with natural gas plants. Chair Malek also noted that she would like to see energy in the form of wind development in Montana.

Public comment
None

12.20.39 Rep. Dunwell inquired about how the NorthWestern Energy Electricity Resource Procurement Plan integrates with the rate case moving forward.

Ms. Harbine noted that both cases are related. Ms. Harbine also noted that NorthWestern's assumption is that Colstrip will operate until 2042 and that if Colstrip is so critical to NorthWestern's portfolio then it should have a plan B for addressing if that critical resource is removed.

Mr. Nelson summarized the difference between the rate case and the procurement plan.

12:25:40 Chair Malek noted that during the 2019 Legislative Session there was intense pressure on Legislators to approve NorthWestern Energy buying an additional 20 percent of Colstrip 4 for one dollar. Chair Malek inquired about the risk this purchase would pass to the Montana ratepayers.

Ms. Harbine stated that Commission oversight is critical as it acts as a substitute for competition in the context of a monopoly utility.

Mr. Nelson summarized that without the Commission process questions raised regarding the addition acquisition of Colstrip assets would not be addressed in detail.

12:30:20 Rep. Dunwell inquired as to whether it is possible, without our knowledge, that NorthWestern is negotiating with the other owners of Colstrip, or plans to negotiate with other owners of Colstrip to acquire additional interests in Colstrip.

Rep. Dunwell noted for the record that the NorthWestern Energy representative at the meeting was not at liberty to address her questions but that David Hoffman of NorthWestern would respond at a later time.

12:32:09 Jenny Harbine noted that Mr. Fadie pointed out in the Committee's September meeting that NorthWestern had not modeled a scenario in which it acquired additional Colstrip interests in its resource procurement plan.

12:32:46 Rep. Dunwell stated that because Colstrip has not been modeled does not mean it will not happen.

Ms. Harbine agreed that because a scenario was not modelled does not mean that NorthWestern could not move forward and acquire additional interest in Colstrip.

Ms. Harbine also noted that in order to recover costs of that acquisition from its ratepayers NorthWestern would be subject to post hoc scrutiny by the Commission.

12:34:48 Rep. Dunwell thanked Ms. Harbine for her input.

12:35:20 Chair Malek expressed her appreciation to Ms. Harbine for requesting, in her filings, that NorthWestern disclose any kind of discussions they are having with other partners in Colstrip.

12:38:47 Chair Malek closed the discussion by stating that she appreciated how complicated these issues are and how much effort is needed to fully understand the background and various positions. Chair Malek thanked Ms. Harbine and Mr. Nelson for their presentations to the Committee.

20 Minute Recess

13:03:43 Chair Malek called the meeting back to order after a brief recess with the status of cases pending.

STATUS OF CASES PENDING

Bob Nelson briefly highlighted the cases that have seen some change in status since the Committee's last meeting. ([Attachment 9](#))

- 13:04:25 NWE – 2019.09.058 - Annual Power Costs and Credits Adjustment Mechanism Filing, filed 9/3/19.
- 13:06:02 NWE –2019.02.008 (D2019.2.8) - Petition of Grizzly Wind, LLC to Set Terms and Conditions for Qualifying Facility, filed 2/4/19.
- 13:06:47 NWE – 2019.09.067 – Petition of CED Pondera Wind, LLC, to Set Terms and Conditions, filed 9/16/19.
NWE – 2019.09.066 – Petition of CED Teton County Wind, LLC, to Set Terms and Conditions, filed 9/16/19.
- 13:09:29 NWE – 2019.10.076 – Petition of CED Wheatland County Wind, LLC, to Set Terms and Conditions, filed 10/4/19.
- 13:10:34 NWE – 2019.11.091 – Petition of Apex Solar LLC and Apex Solar II LLC, to Set Terms and Conditions, filed 11/8/19.
- 13:12:48 NWE –2019.06.034 – Petition of Caithness Beaver Creek, LLC, to Set Terms and Conditions for Qualifying Facility, filed 6/12/19.
- 13:13:10 NWE – 2019.09.059 - QF-1 Tariff Update, filed 10/4/19.
- 13:14:24 NWE – 2019.08.052 – 2019 Electricity Supply Resource Procurement Plan, filed 8/20/19.
- 13:15:25 Rep. Dunwell asked if Mr. Nelson could update the Committee on the status of MCC's comments that will be filed in this docket.
Mr. Nelson responded that the MCC has not finalized the comments.
- 13:16:20 Rep. Dunwell asked if Mr. Nelson could convey some of the consumer comments that have been received by the consumer counsel.
Mr. Nelson responded that comments received expressed a general concern about the future of Colstrip and how that is being considered in the procurement plan.
- 13:16:52 Rep. Dunwell read into the record a comment that was emailed to the Committee and noted that she has been working on her own comments, which she also read into the record.
- 13:20:40 Chair Malek stated that any comments received by the Consumer Counsel should be posted on the Committee's webpage.
- 13:21:04 Rep. Dunwell asked about the progression of this docket after the comment period closes for the energy procurement plan.
Mr. Nelson briefly outlined the process.

13:26:27 Mr. Nelson continued with the status of cases with the following docket:

NWE – 2019.11.093 - NorthWestern filed a notice of intent to submit information regarding a competitive solicitation, filed 11-18-19.

13:27:30 Chair Malek expressed her frustration that the PSC website is almost impossible to navigate.

13:28:38 Rep. Dunwell inquired if NorthWestern’s November 18, filing for competitive solicitation is a request for proposal for resources for the procurement plan.
Mr. Nelson responded that it was his understanding that the RFP would be for resources for the procurement plan.

13:28:55 Rep. Dunwell expressed her concern that NorthWestern is sending out an RFP when the comment period is still open for the resource plan.

13:33:46 Before continuing with the status of cases Mr. Nelson noted, in response to Chair Malek’s remark on navigating the PSC website that the status report has a link to the docket number on the PSC website.

13:34:14 Chair Malek requested that when NorthWestern Energy’s competitive solicitation is assigned a docket number that the Committee is emailed this information.

13:34:33 NWE –2018.07.046 – Annual Gas Cost Tracker, filed 6/3/19.

13:35:16 HPC – 2019.07.042 – Farmstead Customer Rate Adjustment, filed 7/31/19.

13:35:43 MDU – 2019.11.086 – Application for Deferred Accounting Treatment, filed 11/1/19.

13:37:04 MDU – 2019.09.064 - Annual Gas Cost Tracker, filed 9/6/19.

13:37:23 MDU – D2019.4.20- Annual Conservation Program Tracker, filed 3/29.

13:37:45 WBI Energy Transmission – FERC Docket No. RP19-165-000 – Gas Transmission Rate Increase, filed 10/31/18.

13:38:12 EWM – 2019.08.047 - Petition for Accounting Order, filed 8/7/19.

13:38:36 Cut Bank Gas – 2019.03.018 – Annual Gas Cost and USB True-Ups, filed 3/29/19.

13:38:50 Cut Bank Gas – 2019.08.048 - Petition for Accounting Order, filed 8/7/19. Consolidated with the Energy West docket 2019.08.047.

13:39:08 Williams Water Works – 2019.03.013 – Application for Purchase and Sale, filed 2/6/19. Consolidated with docket 2019.03.014

13:40:30 HLH, LLC – 2018.09.063 - Application to Increase Water Rates, filed 9/28/18.

13:40:49 North Star Development – 2010.06.060 – Application for Water and Sewer Rate Increase, filed 1/23/19.

Senator Welborn joined the meeting by phone

APPROVAL OF MINUTES OF PREVIOUS MEETINGS – September 17, 2019

13:48:05

MOTION: Chair Malek moved acceptance of the minutes.

VOTE: The motion passed unanimously on a voice vote.

PAY PLAN

13:48:44 Bob presented a request to apply the general state pay plan increases approved during the 66th Legislature in HB175 to the Consumer Counsel staff.

MOTION: Senator Welborn moved the following pay adjustment for all Consumer Counsel staff:

“Effective on the first day of the first complete pay period that includes January 1, 2020, the base salary of each employee be increased by 50 cents an hour. Effective on the first day of the first complete pay period that includes January 1, 2021, the base salary of each employee be increased by 50 cents an hour.”

VOTE: The motion passed unanimously on a voice vote.

NEXT MEETING

13:50:28 The next meeting was set for January 13, 2019

STATUS OF CASES PENDING continued

Mr. Nelson continued with the status of cases - page 7

13:52:20 CenturyLink – 2019.10.079 - Petition to Amend ARM 38.5.3302 and 3371(7), filed 10/23/19.

13:54:01 Citizens Telecommunications Co. – 2019.06.039 – Joint Application to Transfer Control of Citizens from Frontier Communications Corp. to Northwest Fiber, LLC, filed 6/28/19.

13:56:00 PSC – 2019.09.065 – Investigation into Implementing SB 244, issued 9/13/19.

13:56:55 Rep. Dunwell asked Mr. Nelson if he could go over what path the Commission is currently on with respect to cost tracking mechanisms. Mr. Nelson outlined the legislative history of SB 244.

13:59:35 Chair Malek asked for an updated status on the requirement in HB 597 to establish a hearings officer and whether this appointment would alleviate some of the burden of the small water districts.
Bob Nelson noted that HB 597 does not come into effect until July 1, 2020, but believed that the Commission is in the process of acquiring a hearings examiner that would not be limited to small water systems.

FINANCIAL REPORT

14:04:01 Bob Nelson reviewed the current budget report (dated 11-12-19), which shows a snapshot of where the agency stands at the current time, noting that some categories run a month or two ahead and some run a month or two behind.

PUBLIC COMMENT

No comment was received.

ADJOURNMENT

14:08:38 There being no further business before the Committee the meeting was adjourned by the Chair.