



Energy and Telecommunications Interim Committee

61st Montana Legislature

SENATE MEMBERS

JERRY BLACK--Vice Chair
RON ERICKSON
VERDELL JACKSON
CLIFF LARSEN

HOUSE MEMBERS

ROBYN DRISCOLL--Chair
DUANE ANKNEY
TONY BELCOURT
HARRY KLOCK

COMMITTEE STAFF

SONJA NOWAKOWSKI, Research Analyst
TODD EVERTS, Staff Attorney
DAWN FIELD, Secretary

MINUTES

November 9 & 10, 2009
Capitol

Room 102, State
Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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COMMITTEE MEMBERS PRESENT

REP. ROBYN DRISCOLL, Chair
SEN. JERRY BLACK, Vice Chair - via polycom telephone
SEN. RON ERICKSON
SEN. VERDELL JACKSON
SEN. CLIFF LARSEN
REP. DUANE ANKNEY
REP. TONY BELCOURT
REP. HARRY KLOCK

STAFF PRESENT

SONJA NOWAKOWSKI, Research Analyst
HELEN THIGPEN, Staff Attorney
DAWN FIELD, Secretary

AGENDA & VISITORS' LIST

Agenda, Attachment #1.
Visitors' list, Attachment #2.

COMMITTEE ACTION

The Energy and Telecommunications Interim Committee:

- approved the changes and revisions made to *The Electricity Law Handbook* and *Understanding Energy in Montana*; and
- approved the September 24, 2009, meeting minutes, as written.

CALL TO ORDER AND ROLL CALL

00:00:10 REP. DRISCOLL called the meeting to order at 9:30 a.m. The Secretary took roll, all members were present, SEN. BLACK participated via conference call (ATTACHMENT #3).

ENERGY POLICY: REDUCING REGULATIONS THAT INCREASE RATEPAYERS' ENERGY COSTS

Presenters and ETIC members based their remarks on a document prepared by Sonja Nowakowski, Research Analyst, LSD, that listed Governor Schweitzer's energy policy statement on reducing regulations that increase ratepayers' energy costs, a draft ETIC energy policy statement, findings, and other background information (EXHIBIT #1).

00:01:11 **Greg Jergeson, Chair, Montana Public Service Commission (PSC)**, said that the PSC adopted a statement in support of upholding the provisions of HB 25 (2007 Legislature - "reregulation" bill) on a 4-1 vote. He also discussed a Texas study, sponsored by AARP, that analyzed the impact of deregulation in a specific area of Texas on ratepayers due to deregulation and a synapse study conducted by the National Association of Utility Commissioners. Included in the discussion was a map illustrating how carbon allowances might be distributed nationwide under a carbon dioxide cap-and-trade scenario (EXHIBIT #2).

00:13:17 **Robert Nelson, Montana Consumer Counsel**, said that the statutory purpose of regulation is to avoid costs that don't produce net utility service benefits and that regulatory policy should be held to a clear cost benefit standard, even though benefits may be difficult to quantify. He said that the MCC supports HB 25 but that it is not a cure all, and that the objective of the bill was to achieve lower cost power. Mr. Nelson pointed out that the ETIC is dealing with several prominent environmental topics related to energy efficiency and cautioned the committee that a cost benefit analysis would be necessary before promoting any particular type of energy.

00:25:14 **Gary Wiens, Montana Electric Cooperatives Association**, said that written comments have been submitted. He said that there is concern about various regulation proposals that, if imposed, would cause rate increases. Mr. Wiens reviewed several specific concerns and said that the best action by the legislature would be to allow cooperatives to continue having local control, in order to continue to provide low and stable rates.

00:29:10 **John Fitzpatrick, NorthWestern Energy (NWE)**, discussed NWE's view of the federal government's proposed cap and trade legislation proposal, saying that it is the consumer who will pay and will result in a wealth transfer from Montana to

the East Coast. Mr. Fitzpatrick said that tax collections are also another form of regulation and that the cost ripples through to the rate payer.

Public comment

- 00:32:16 **Anne Hedges, Montana Environmental Information Center (MEIC)**, discussed the structure of federal environmental regulation and how it can affect states' abilities to adopt standards.
- 00:35:49 **Chuck Magraw, Natural Resources Defense Council (NRDC) and Renewable Northwest Project (RNP)**, underscored why a government enacts laws and regulations.
- 00:38:47 **Matt Leow, Northern Plains Resource Council (NPRC)**, discussed the impacts of deregulation and said that legislator, can shape Montana's electricity supply and prices. He also discussed the universal systems benefits (USB) programs.

Committee questions and discussion

- 00:43:50 REP. BELCOURT asked Commissioner Jergeson to expand on his comments regarding the negative benefit that Utah and Wyoming will receive. Commissioner Jergeson responded.
- 00:44:58 SEN. JACKSON said that there are some with the opinion that the federal government knows best and asked Mr. Wiens if he agrees with that opinion. Mr. Wiens said that the federal government does have a role and gave the example of government mandated energy efficiency standards. He also discussed examples in which he felt federal intervention was not needed or was inappropriate.
- 00:47:17 SEN. JACKSON asked for more information on how electric cooperatives are set up to deal with "green" energy. Mr. Wiens said that all of the cooperatives offer alternative energy to customers, that it is a higher-cost energy, and that while he could not give a specific number, only a small percentage of customers are using alternative energy options.
- 00:49:41 **Doug Hardy, Central Montana Coop**, responded to SEN. JACKSON's question also, saying that each cooperative offers different alternative energy programs. He discussed several of the programs and said that the cost typically ranges from a quarter of a cent to half a cent per kilowatt hour.
- 00:51:31 SEN. ERICKSON said that a report from the National Academy of Sciences regarding climate change emphasized the difficulty of determining what the real costs are. He said the question for legislators to consider is the cost-benefit analysis and asked Mr. Nelson what advice he would give legislators. Mr. Nelson said there will never be a perfect knowledge of the issue and recommended that legislators be very careful in weighing the information given them, particularly in considering whether the people offering the information have a public or private interest.

- 00:55:12 SEN. ERICKSON asked Mr. Magraw to discuss the question of how best to use data to craft regulations. Mr. Magraw said that, as policy makers, legislators have to assemble as much information as possible from as many different reputable sources as possible and make the best decisions they can.
- 01:00:19 Ms. Hedges agreed and added that the Environmental Protection Agency (EPA) does do cost benefit analyses, and that federal regulation will trump state regulation, unless state regulations exceed federal regulations.
- 01:01:55 In response to a question from REP. DRISCOLL, Ms. Hedges said that the federal government does not always know best but that the federal government does have access to resources and information that states may not.
- 01:05:20 **BREAK** from 10:35 a.m. to 10:57 a.m.
- 01:27:26 SEN. BLACK said that he attended a very interesting synergy symposium in Wyoming and that he would provide copies of the information to other committee members.
- 01:28:23 **Sonja Nowakowski, Research Analyst, LSD**, introduced Helen Thigpen as the staff attorney sitting in for Todd Everts.

NORTHWESTERN ENERGY INFRASTRUCTURE STAKEHOLDERS GROUP

- 01:28:58 SEN. LARSEN explained that the NWE energy infrastructure stakeholder group is made up of a wide spectrum of participants, all of whom need to know more about what consumers and rate payers have at risk, what can be gained, and how to make producers and transmitters more successful. He said that the group will meet monthly until May 2010.
- 01:31:29 **Bob Rowe, Chief Executive Officer, NWE**, introduced other NWE executives participating in the stakeholder group and reviewed the objectives and goals of the group (EXHIBIT #3).
- 01:44:02 **Curtis Pohl, Vice President, Retail Operations, NWE**, discussed the issues to be studied by the NWE stakeholders group (EXHIBIT #3) and distributed a document listing four different investment scenarios (EXHIBIT #4).
- 01:52:24 **John Carmody, NWE**, concluded NWE's discussion of the stakeholder group (EXHIBIT #3).

Committee questions and discussion

- 02:02:20 SEN. JACKSON asked about the causes of power pole failure. Mr. Carmody explained the causes of above ground failure and below ground failure.
- 02:03:47 SEN. JACKSON asked about safety issues, such as when trimming a tree located close to a power line. Mr. Carmody responded.
- 02:07:32 REP. BELCOURT asked that tribal governments be included in the NWE stakeholder group.

- 02:07:57 SEN. ERICKSON asked about the smart grid pilot project to be conducted in Helena. Mr. Carmody said that a pilot project is to be conducted in the Capitol complex area and will test the distribution automation component of a smart grid system.
- 02:12:57 SEN. ERICKSON asked how residential and business customers will be involved. Mr. Carmody explained how the pilot project will be carried out and said that NWE is hopeful that many customers will opt to participate.
- 02:15:43 SEN. BLACK asked about the projected cost savings that could be achieved using the smart grid system and the number of customers who would be involved. Mr. Carmody explained.
- 02:20:41 Ms. Nowakowski pointed out to committee members that a letter of response has been received from Marie Garrison, MOVE MSTI, (EXHIBIT #5), who addressed the ETIC at its September meeting.
- 02:21:38 **Lunch Break**
- 03:32:07 REP. DRISCOLL reconvened the ETIC at 1:02 p.m.

ENERGY POLICY: INCREASING THE SUPPLY OF LOW-COST ELECTRICITY WITH COAL-FIRED GENERATION

Panelists and ETIC members based their discussion on a document prepared by Ms. Nowakowski that listed Governor Schweitzer's energy policy statement on coal, a draft ETIC energy policy statement, findings, and recommendations from other states, and other background information (EXHIBIT #6).

- 03:32:24 **Gordon Criswell, Director, Environmental Science and Engineering, PPL Montana**, presented information via a PowerPoint presentation on the availability of coal in Montana, the economic benefits of developing coal resources, clean coal technology, and more (EXHIBIT #7).
- 03:45:41 **Tom Power, Economist, University of Montana**, discussed a PowerPoint presentation, which included discussion points on the perspective of the electric utility boardroom, economic concerns, and the hidden costs and unpriced consequences of energy production and use (EXHIBIT #8).
- 04:05:27 **Doug Hardy, Montana Electric Coops**, spoke generically on the behalf of electric cooperatives. He said that as the obligation of load needs have increased, cooperatives have looked to the economical value of coal. He discussed coal technology and possible future projects, saying that coal must be kept in the picture and that the next generation of coal will be much more environmentally compatible.
- 04:13:25 **Gary Forrester, Montana Dakota Utilities (MDU)**, reviewed MDU's plans to add more wind and coal power. He said that MDU is waiting for the federal government to finalize regulations before investing large sums of money.

04:16:01 **John Fitzpatrick, NWE**, discussed NWE's future energy development perspective, noting that it needs additional base load power supplies and additional renewable resources to comply with Renewable Resource Portfolio for 15% of retail sales by 2015. He provided several details on how compliance will be achieved.

Public comment

04:18:29 **Ellen Pfister, NPRC, ranch owner/operator**, read into the record her statement and concerns about the increasing cost of power and of being caught in the middle of economic war between two electric cooperatives (EXHIBIT #9).

04:29:40 **Anne Hedges, MEIC**, passed out a report on Montana's generation by fuel type which, she said, supports MEIC's claim that coal is not a low-cost resource (EXHIBIT #10).

04:41:45 **Brad Molnar, Commissioner, PSC**, related details regarding an energy conference he attended in Europe, including projected statistics on world pollution levels. He also discussed a projected shortage of base load electricity in the United States and said Montana will have to be protected from other high cost areas that will likely pursue Montana's power supply. He said that coal may not be the cleanest or most economical source of power but may be all that is available, and that care must be taken to make sure that the resources and people of Montana aren't sacrificed in the development of energy projects.

04:48:26 **Todd O'Hair, Rio Tinto Energy America**, said that Rio Tinto operates the largest coal mine in Montana and is the third largest coal producer in the United States. He said that Rio Tinto supports certain forms of cap and trade efforts and said he is asking for ETIC support of increased coal production. Mr. O'Hair discussed statistics relating to energy production and energy costs, both locally and globally, and said that coal is likely to be a major and growing source of energy for the foreseeable future.

Committee questions and discussion

04:55:46 REP. BELCOURT asked, regarding regulatory requirements, what Mr. O'Hair's number one priority would be. Mr. O'Hair said that Montana's regulatory process is very unpredictable and litigious. He said that many projects are put on hold due to those concerns, rather than financial concerns.

04:57:32 REP. BELCOURT asked for details regarding Rio Tinto's partnership with the Big Sky Carbon Sequestration project. Mr. O'Hair said that he did not have exact figures available and that the technology is still in the infancy stage but that Rio Tinto has committed approximately \$10 million to the FutureGen project for a zero emission coal-fired facility. He said that his opinion is that coal needs to be addressed through technology and not excluded.

04:59:12 SEN. JACKSON asked for details on Rio Tinto's support for certain cap and trade proposals. Mr. O'Hair explained the company's global presence, its commitment to reduce CO2 emissions. He also discussed Rio Tinto's concern about the lack

of regulatory scheme in the United States and said until something is in place, it will continue to cause havoc with investors.

05:08:06 SEN. LARSEN asked that Mr. Criswell make available the research source cited in his presentation. Mr. Criswell said he would try to obtain the information for the committee. *(The report was provided at a later time and is available in the ETIC meeting files (EXHIBIT #34).)*

05:08:47 SEN. ERICKSON asked Mr. Power to comment on Mr. O'Hair's statement that it is regulation and litigation that are stopping coal-fired plants from being built. Mr. Power responded with his opinion, indicating that it is not the threat of lawsuits, but economic factors, that are holding up construction of new coal-fired plants.

05:13:03 SEN. ERICKSON asked Mr. Criswell to comment on the costs of new IGCC plants and the cost of capturing carbon in Colstrip facilities. Mr. Criswell said that it is too early to discuss specific costs but that PPL is participating in a research project in North Dakota on potential methods. SEN. ERICKSON asked when research results will be available. Mr. Criswell said that the initial part of the study will be completed in 2009 and will eventually lead to a demonstration project.

05:15:03 REP. ANKNEY asked if boardrooms throughout western America are decreasing the amount of coal in their portfolios. Mr. Powers said that is currently the case but that factors such as research, regulation, or increases in natural gas prices could change that status. REP. ANKNEY asked several more questions about the use of coal and its future. Mr. Powers responded.

05:20:25 SEN. LARSEN asked Mr. Power if big banks are taking a stand on the issue of carbon principles. Mr. Powers said yes, and that other significant institutions are also putting themselves in a position to sell carbon offset credits. SEN. LARSEN asked Mr. Power to discuss the possibility that the need for coal will eventually be eliminated. Mr. Power responded with a detailed discussion.

05:26:40 REP. DRISCOLL asked Mr. Power if he was addressing the ETIC as an economist or a radical environmentalist. Mr. Power said he considered himself a rational environmentalist and explained his position. REP. DRISCOLL and Mr. Power discussed carbon principals and the likelihood of utilities and/or investment firms investing in new coal plants in the future, considering the impact of carbon regulations.

05:30:42 **BREAK** from 3:01 to 3:21 p.m.

FEDERAL GREENHOUSE GAS REDUCTION EFFORTS

05:50:37 **Chuck Magraw, NRDC**, provided a detailed PowerPoint presentation on what types of green house gas reduction mechanisms exist, the advantages and disadvantages of each, other elements and issues associated with green house gas reduction efforts, as well as cap and trade and cap and dividend (EXHIBIT #11).

- 06:21:12 **David Hoffman, PPL Montana**, discussed PPL's involvement in the issue of greenhouse gas reduction. He discussed three different key provisions in each of proposed federal legislation and read aloud seven core principles for green house reduction in the United States, written by Sen. Jay Rockefeller.
- 06:29:33 **Dave Galt, Montana Petroleum Association (MPA)**, provided copies of his statement and updated the ETIC on his work since May 2009 on the issue of green house gas reduction (EXHIBIT #12). Mr. Galt also passed out copies of a supplement to his comments (EXHIBIT #13).
- 06:41:22 **Kyla Wiens, MEIC**, discussed a cap and dividend policy that would reduce emissions but minimize impacts to household incomes (EXHIBIT #14).

Public comment

- 06:54:17 **Doug Hardy, on behalf of Montana Electric Cooperatives Association**, said that he remains very involved with the issue of federal greenhouse gas reduction efforts. He discussed examples of how the proposed federal legislation would impact Montana electric cooperative customers.

Committee questions and discussion

No committee questions or discussion.

PUBLIC COMMENT

- 06:57:54 No public comment was given.
- 06:58:12 REP. DRISCOLL recessed the ETIC until 8:00 a.m., November 10, 2009.

DAY 2 - TUESDAY, NOVEMBER 10, 8:00 A.M.

- 00:00:04 REP. DRISCOLL reconvened the ETIC at 8:00 a.m.. The Secretary took roll, SEN. BLACK was in attendance via polycom telephone.

AGENCY OVERVIEW PRESENTATION

- 00:00:59 Greg Jergeson, Chairman, Public Service Commission (PSC) reported on a number of different items under the purview of the PSC:
- NWE's recent rate case filing and review of staff recommendations;
 - open dockets concerning qualifying facilities and permitting issues;
 - information technology update on connecting PSC proceedings to YouTube;
 - details regarding a grant from the Department of Energy to enable the PSC to deal with emerging issues as stimulus grant funding;
 - PSC attendance at the OMS cost allocation regional planning process for Midwest Independent System Operator (MISO) management issues;
 - Commissioner Ken Toole attending regional meetings for analysis and understanding for western interconnect;
 - stimulus grant funding for smart grid demand side management project;
 - awaiting congressional and FCC decisions regarding major telecommunications issues;

- stimulus funds to be used to create broadband access to rural and other areas of America and the opinion of the PSC that the Governor's ranking of the Bresnan application was in error; and
- PSC rules relating to the 2009 bill to allow utility companies to acquire their own natural gas resources.

00:16:42 SEN. JACKSON, SEN. BLACK, SEN. ERICKSON, and REP. BELCOURT questioned Commissioner Jergeson in great detail regarding the PSC's difference of opinion with Governor Schweitzer's decision to award Bresnan Communications the stimulus grant funding for extension of broadband access to rural Montana. Commissioner Jergeson reviewed the grant application process and the reasons why the PSC disagreed with the Governor's decision. SEN. BLACK commented that he would like to hear from other applicants to get their side of the story.

00:30:25 REP. DRISCOLL suggested that the ETIC discuss sending a letter stating its opinion on the recommendation regarding Bresnan. SEN. ERICKSON said that, for the record, he was uncomfortable sending a letter because the committee had heard only the PSC's position.

ENERGY POLICY: PROMOTING ALTERNATIVE ENERGY SYSTEMS

Panelists and ETIC members based their discussion on a document prepared by Ms. Nowakowski that listed Governor Schweitzer's energy policy statement on alternative energy, an draft ETIC energy policy statement, findings, and examples from other states' energy policies (EXHIBIT #15).

00:32:04 **Ben Brouwer, Energy Program Manager, Alternative Energy Resources Organization (AERO)**, discussed a PowerPoint presentation on distributed generation in Montana (EXHIBIT #16). He also passed out list of policy recommendations (EXHIBIT #17).

00:51:36 **Lee Tavenner, Solar Plexus, Missoula**, discussed small hydro and other renewable energy sources. Topics included the impact of policy in development of renewable energy programs; the status of renewable energy projects in Montana; problems and limitations of current policy; and new ideas, such as "feed in tariff".

01:00:55 **Ross Holter, Flathead Electric**, used a PowerPoint presentation to discuss a landfill gas to energy project in Flathead County (EXHIBIT #18).

01:15:49 Doug Hardy, Montana Electric Cooperative, discussed the philosophy and policy of the cooperatives regarding alternative energy programs, including safety concerns and cost effectiveness. He also asked to clarify his comments from the previous day's meeting regarding his discussion of the proposed federal greenhouse gas regulations, specifically the costs contained in the Waxman-Markey bill.

01:20:32 Gary Forrester, MDU, explained a joint project between MDU and the City of Billings on a landfill project and an alternative energy system project using sewage effluent to generate power.

Public Comment

01:22:50 Ben Brouwer, AERO, read a letter from Geoff Walton, Whistle Creek Ranch, Big Timber, in support of adopting policies that encourage the widespread development of home power systems, such as the wind turbine and solar panel system he installed on his ranch, with the assistance of Park Electric Cooperative (EXHIBIT #19).

01:24:03 **Claire Witcomb Red Lodge**, read a statement on the need for cooperatives to do more to promote alternative and renewable energy sources. Ms. Witcomb said there is a need for stronger conservation practices and standardization of policy for net metering, and that energy independence should be a choice for customers.

01:26:03 **Sheryl Brill, Red Lodge**, said that electric cooperatives need to do more to promote energy efficiencies, conservation, and production. She urged cooperatives to move away from coal and toward clean renewable energy. She discussed problems encountered by cooperative customers in trying to become more energy efficient and said that the cooperatives need to be more flexible and to provide more assistance to members trying to improve their energy efficiency and independence.

Committee Questions and discussion

01:30:59 SEN. ERICKSON asked about feed in tariffs and net metering. Gary Forrester, MDU, said that they are technical subjects and would prefer that an expert explain them to the Committee. He offered to provide expert presentations on both issues at a future ETIC meeting. **Ron Devlin, NWE**, said that he did not have the information and would provide it to ETIC staff for distribution to the committee members. Mr. Hardy said he was not prepared to answer the question in detail but could say it would depend on how rates are designed and who is paying for what costs. REP. DRISCOLL said Ms. Nowakowski could work with the utilities and get the information and email it to ETIC members.

01:38:51 REP. BELCOURT asked about interconnect problems associated with alternative energy systems. Mr. Hardy explained interconnect issues between cooperatives and how most efforts to standardize interconnect have been successful.

01:45:34 SEN. JACKSON asked for additional financial details on the Flathead Electric landfill project. Mr. Holter explained the 15-year payoff schedule. SEN. JACKSON asked about wind and solar projects. Mr. Holter said that his cooperative doesn't have good wind prospects and discussed the status of solar projects within the cooperative. He said that tax credits would help.

01:52:06 SEN. LARSEN, referring to the list of policy suggestions submitted by Mr. Brouwer, asked which ones would be of most value to consumers. Mr. Brouwer

said that the first two listed are top priorities. He also discussed other items on the policy list.

OVERVIEW OF THE WESTERN STATES ENERGY AND ENVIRONMENTAL SYMPOSIUM

- 01:55:38 SEN. BLACK provided an overview of the Western States Energy and Environmental Symposium via teleconference and discussed several key points of the symposium.
- 02:01:35 Ms. Nowakowski distributed a letter from the PSC and a map relating to the Bresnan Communication application for broadband stimulus funds (EXHIBIT #20). She said she would contact Bonnie Lorang, Montana Independent Telecommunications Systems (MITS), to see if she could be present at the afternoon portion of the meeting.
- 02:02:32 **BREAK** until 10:30 a.m.

NATIVE AMERICAN RESOURCE PARTNERS

- 02:26:17 REP. BELCOURT discussed how efforts of tribal governments could benefit state efforts and programs and what is being done in Indian Country. He introduced Native American Resource Partners Chief Executive Officer, John Jurrius.
- 02:27:52 **John Jurrius, President, CEO, Native American Resource Partners (NARP)**, said that access to capital is the biggest barrier to development of tribal projects and that working with tribal nations to find corporate partners in order to build capacity is the goal of NARP. He provided a detailed explanation of NARP using a PowerPoint slide presentation (EXHIBIT #21).

Public comment

- 03:03:31 There was no public comment given.

Committee questions

- 03:03:43 SEN. JACKSON asked Mr. Jurrius about pollution concerns in the Four Corners area, as discussed in his presentation. Mr. Jurrius explained how recent court decisions have delayed permits and halted work.
- 03:05:35 REP. ANKNEY asked if NARP is actively talking to other tribes in Montana and Wyoming. Mr. Jurrius said he has met with every tribal and has made headway with several.
- 03:06:51 SEN. ERICKSON asked Mr. Jurrius, regarding ownership issues, to compare his model versus the model the Crow Tribe is using in its coal gasification project. Mr. Jurrius said that he is not familiar with the deal the Crow made with the Australian company so could not comment but did discuss several NARP projects located on other Montana Reservations.
- 03:13:46 REP. BELCOURT asked Mr. Jurrius to comment on the potential impact of proposed cap and trade restrictions. Mr. Jurrius said that he would provide information on that issue to REP. BELCOURT.

OTHER BUSINESS

Review of draft handbooks

- 03:15:38 Ms. Nowakowski said that revisions to the *Electricity Law Handbook* were not significant and briefly reviewed the changes (EXHIBIT #22). She said that the revisions to *Understanding Energy in Montana*, a Department of Environmental Quality (DEQ) publication (EXHIBIT #23), were more substantial and asked Jeff Blend, DEQ, to comment.
- 03:17:29 **Jeff Blend, DEQ**, reviewed the history of the handbook and provided an overview of the revisions made to the *Understanding Energy in Montana* handbook, saying that the changes were prepared by DEQ and ETIC staff.
- 03:22:54 **REP. KLOCK moved to approve the changes and revisions to both handbooks, and move forward with final production for both.** SEN. ERICKSON asked that a section on smart grid and that definitions for smart grid and integrated gasification defined cycle be added to the definitions section in the *Electricity Law Handbook*. Ms. Nowakowski agreed.
- 03:24:56 SEN. LARSEN said that a glossary of terms would be useful in both documents. He asked how distribution of the handbooks is done and how many copies are printed. Ms. Nowakowski explained.
- 03:27:36 SEN. JACKSON suggested that ETIC members should record their suggestions for revisions as work is done throughout the interim, in order to make the next round of revisions easier and more thorough. Ms. Nowakowski agreed that would be helpful. **REP. KLOCK revised his motion to include the suggestions. The motion passed on a unanimous voice vote.**

Approval of September 24, 2009, written meeting minutes

- 03:30:30 **SEN. ERICKSON moved to approve the September 24, 2009, written minutes. The motion passed on a unanimous voice vote.**
- 03:30:55 Ms. Nowakowski asked that members refer to the energy policy development summary from the September meeting (EXHIBIT #24). She said that she also prepared a summary of the three energy topics discussed at this day's meeting and asked that the members study the summary and be prepared discuss them at the January meeting (EXHIBIT #25). She suggested that the members review the summary over the lunch hour and that they would make their decisions on which policy statements to bring forward for further study and possible legislation in the afternoon portion of the meeting.
- 03:42:01 **LUNCH BREAK** - REP. DRISCOLL recessed the ETIC for lunch at 11:44 a.m.
05:02:19 REP. DRISCOLL reconvened the ETIC at 1:04 p.m.

Public comment

- 05:02:34 No public comment was given.

Committee discussion on policy statements

05:03:06 The ETIC discussed the energy policy development summary from the September meeting for each of the three study topics (EXHIBIT #24), and agreed on changes and revisions.

05:50:44 Ms. Nowakowski summarized their changes and revisions for each topic with the following:

Rebuilding and extending transmission lines

Montana recognizes the need for new transmission lines in the state, while noting that the need for new transmission lines may be mitigated by focusing on energy efficiency, distributed energy, demand response, and smart grid technologies.

Montana urges developers and utilities to increase the capacity of existing lines in existing corridors and maximize the potential of existing lines. When new transmission lines are developed in Montana, developers should work closely with affected local governments in the preliminary stages of development.

If companies build transmission lines that allow for the export of Montana-generated electricity, the costs of those lines should be borne entirely by the transmission customers who will benefit from the lines not by Montana customers who will not benefit.

Montana should strengthen its level of participation in regional transmission efforts and organizations, recognizing that endeavors to improve the management of the transmission grid often require a broad, regional approach.

Wind integration

The State of Montana encourages the testing and application of new and innovative technologies, such as compressed air energy storage, batteries, flywheels, hydrogen production, smart grid, smart garage, and intra-hour balancing services, to address wind integration.

Geographic diversity and regional planning in the siting of future wind development can mitigate firming needs and ensure that the economic benefits of wind are shared across the state.

Montana recognizes that there are areas of the state where large-scale, commercial-industrial wind development may not be appropriate. Montana encourages developers and regulators to closely review potential impacts to landscapes, wildlife, and existing land uses, including recreation and agriculture, while advancing development.

Montana recognizes that contracts between small-scale qualifying facilities and utilities require qualifying facilities to pay the cost of integrating its power, and the state is committed to providing the lowest-cost firming resources available to encourage renewable development.

Maximizing state land use for energy generation

In pursuing energy development on state lands, the state must continue to weigh its overall management responsibilities (fiduciary and multiple-use), as mandated by the Montana Constitution and state law.

BRESNAN BROADBAND STIMULUS FUNDING DISCUSSION

- 05:56:33 Ms. Nowakowski reminded members that they had been informed earlier in the meeting on the issue (EXHIBIT #20). She said that Bonnie Lorang, Montana Independent Telecommunications Systems (MITS), Geoff Feiss, Montana Telecommunications Association (MTA), and Bresnan Communications executives were present for questioning, as well as PSC Commissioner Greg Jergeson. She noted that an email questioning approval of the Bresnan application was received from Rep. Julie French, HD 36 (EXHIBIT #26).
- 05:57:51 **Geoff Feiss, General Manager, MTA**, distributed a packet of information (EXHIBIT #27).
- 05:58:39 **Cory Swanson, Bresnan, Shawn Beqaj, Bresnan, Sean O'Donnell, Senior Vice President, Bresnan**, introduced themselves
- 06:00:16 REP. BELCOURT asked a number of questions regarding Bresnan Communication's successful application to extend broadband access in rural Montana. Question topics included Bresnan facilities located on reservations; the question of Bresnan's commitment to maintain and service equipment after the ten-year contract expires; Bresnan investments to date in Montana infrastructure and its commitment to Montana consumers; and the claim of duplication of services already being provided by cooperatives. Mr. Swanson, Mr. Beqaj, and Mr. O'Donnell responded.
- 06:11:18 SEN. ERICKSON asked Geoff Feiss, MTA, to discuss the other 14 proposals and what they would do for "last mile" and community centers. Mr. Feiss discussed his position and said that stimulus funding was intended to build "last mile" broadband access but that his opinion is that the Bresnan proposal will not do that. He said the question is, should taxpayer money be used to fund duplication of existing networks. Mr. Feiss referred to a fact sheet he handed out (EXHIBIT #27) and said that his judgement is that jobs would be lost and that the growth of the subsidized network would come at the expense of others. He said that there has been a lack of transparency in the process and had not been allowed to view other applications, so could not comment directly the other applications.
- 06:18:42 REP. BELCOURT referred to an October 27, 2009, letter sent by the PSC to the Honorable Gary Locke, United States Department of Commerce (EXHIBIT #20) and asked Commissioner Jergeson to comment. Commissioner Jergeson summarized the PSC comments made to the Department of Commerce and said that, for example, the community of Pryor will not receive broadband access under the Bresnan proposal, which is one of the reasons why the PSC objected to the Bresnan proposal.
- SEN. JACKSON asked that an article, written by Mr. Feiss and published in the November 4, 2009, issue of *Queen City News*, be entered into the record (EXHIBIT #28).

- 06:22:26 SEN. ERICKSON asked when a final decision is to be made. Commissioner Jergeson said that comments were due in late October but that he was not certain when a final decision would be issued.
- 06:24:21 **Bonnie Lorang, MITS**, said that October 28th was the deadline by which providers had to respond. However, she said, entities such as MITS, MTA, or PSC, that file comments or policy statements or recommendations may be considered in a different light and, if submitted, might still be considered. She said it would be much appreciated if the ETIC wrote a letter raising its concerns about the Governor's recommendation. She said that she anticipated that an announcement would come by mid-December and would encourage comments to be filed in order to give federal agencies a sense of what is going on in Montana. REP. DRISCOLL asked Commissioner Jergeson if he thought the ETIC should write a letter addressing the concerns discussed at the meeting. Commissioner Jergeson said he thought that input from states would be welcome and that any input should be submitted sooner, rather than later because of time constraints.
- 06:30:05 **Helen Thigpen, Staff Attorney, LSD**, pointed out that the ETIC would be unable to take formal action on this issue because it was not published on the meeting agenda. Ms. Nowakowski said that the committee could direct staff to draft a letter and could review the letter through a conference call or at a later meeting. She recommended using a conference call, properly noticed, as the best avenue for pursuing the issue, should the ETIC choose to do that.
- 06:34:16 SEN. ERICKSON did not support pursuing the issue further, saying that he would like to hear from the Governor's Office. REP. DRISCOLL agreed and said that ETIC members should write individual letters if they wished to continue looking into the matter.
- 06:35:50 **BREAK** During the break, Bresnan Communications provided additional handouts on the issue (EXHIBIT #29).

UNIVERSAL SYSTEM BENEFITS (USB) PROGRAM

Overview

- 06:52:44 Ms. Nowakowski provided a detailed overview of the USB program using a PowerPoint presentation (EXHIBIT #30). She noted that the members received a copy of the 2008 report, as well as a comment from DPHHS, in a previous mailing.

Montana Electric Cooperatives, MDU, and NWE

- 07:04:24 Gary Wiens, Montana Electric Cooperatives Association, said that the cooperatives have supported USB and making it a permanent program.
- 07:07:30 Gary Forrester, MDU, said that MDU also supports the USB program.
- 07:08:09 **Rachel Haberman, Energy Share Montana**, discussed a PowerPoint presentation explaining the Energy Share of Montana program (EXHIBIT #31)

and provided an Energy Share of Montana 2008-2009 Annual report pamphlet (EXHIBIT #32).

Public comment

07:13:40 **Bob Decker Executive Director, Policy Institute, Helena**, discussed a report he prepared (EXHIBIT #33) based on the USB report and said that he had provided it to Ms. Nowakowski. He said his report contains recommendation on how to improve the USB program, and he discussed several of them with the ETIC.

ETIC questions and comments

07:18:53 REP. BELCOURT asked why MDU returned money to the state. Mr. Forrester explained the course of events that led to a lawsuit being filed, the involvement of the PSC, and the eventual District Court decision for MDU. REP. BELCOURT asked Commissioner Jergeson to respond. Commissioner Jergeson affirmed Mr. Forrester's statement, saying that the PSC chose not to appeal the District Court's decision.

07:21:17 REP. BELCOURT asked how irrigation fits into NWE's customer base. **Mike Pichette, NWE**, explained. REP. BELCOURT said he is still not clear on the issue and asked Ms. Nowakowski to clarify. Ms. Nowakowski said that the 2001 Legislature added language dealing with irrigation and how a utility can dedicate funds.

07:31:34 SEN. JACKSON asked several question regarding the MDU lawsuit. Ms. Nowakowski explained how the money was reverted to DPHHS and DEQ for weatherization projects. After additional discussion and comments from Commissioner Jergeson on the PSC's decision to accept the District Court ruling, SEN. JACKSON asked to receive a copy of the report referenced by Mr. Decker. He also asked that USB be added to the January agenda.

07:34:28 SEN. BLACK asked if all cooperatives participate in the USB program. Mr. Wiens said that he was not certain that Big Horn Electric participates because it is not a part of the pool.

PUBLIC COMMENT

07:36:00 **Rep. Brady Wiseman, HD 65, Bozeman**, addressed ETIC on the subject of energy policy. He encouraged the ETIC to sort through the differences between economic development and energy policy and said that the real policy issue is how Montana's people and businesses are going to get needed power. He suggested that the ETIC consider:

- how to create uniform net metering standard for the state;
- how to solve the problem of small wind developers getting on the grid; and
- how to establish feed in tariffs and other options.

He said that it will take imagination, creativity, and courage to craft an energy policy that will truly benefit the citizens of the state, which is the most important work before the ETIC at this moment. Rep. Wiseman also discussed a statewide

generation cooperative as the best solution to keep affordable power rates available to citizens and that outside entities should have to come second in line.

OTHER BUSINESS

Review of January energy policy issues

07:41:41 Ms. Nowakowski said that she will put out the next call for public comment for increasing efficiency and conservation and efficiency in new construction and that background information will be posted on the ETIC website. She said that the January meeting agenda will focus on these issues and asked the members contact her with ideas or suggestions for speakers or relevant information. She said that there would be a follow up report on the USB issues in January. Additionally, Ms. Nowakowski said that there would be follow up information regarding proposed federal legislation on greenhouse gases. REP. BELCOURT asked for information regarding how LEIAP funds are administered and additional information on USB.

07:47:20 Ms. Nowakowski said that the ETIC will also review the Governor's report on climate change and energy supply recommendations in January.

Summary of November policy issues

07:48:04 Ms. Nowakowski referred to a summary of the November public comment received to date (EXHIBIT #25) and said it would be reviewed at the January meeting. She asked that the ETIC members study them and provide comments and recommendations.

07:49:01 SEN. BLACK said that he has remaining concerns about Bresnan Communications receiving the stimulus funds. REP. BELCOURT said he would call SEN. BLACK later in the week to discuss what he knows. REP. DRISCOLL said that additional information will be provided through email. Ms. Nowakowski said that Bonnie Lorang left her contact information, should the committee wish to write letters. *(Ms. Nowakowski email the contact information to members after the meeting.)*

ADJOURNMENT

07:52:38 With no further business before the Energy and Telecommunications Interim Committee, REP. DRISCOLL adjourned the meeting at 3:54 p.m.. The next meeting is scheduled for January 14, 2009, in Helena, Montana.

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