A Report
to the
Montana
Legislature

Performance Audit

Universal System Benefits Program

Public Service Commission

Department of Revenue

May 2014

Legislative Audit
Division

13P-06

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§5-13-202(2), MCA

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Performance Audits

Performance audits conducted by the Legislative Audit Division are designed to assess state government operations. From the audit work, a determination is made as to whether agencies and programs are accomplishing their purposes, and whether they can do so with greater efficiency and economy.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Members of the performance audit staff hold degrees in disciplines appropriate to the audit process.

Performance audits are performed at the request of the Legislative Audit Committee which is a bicameral and bipartisan standing committee of the Montana Legislature. The committee consists of six members of the Senate and six members of the House of Representatives.

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May 2014

The Legislative Audit Committee
of the Montana State Legislature:

This is our performance audit of the Universal System Benefits (USB) program and the implementation and oversight of USB programs in the state's electric and natural gas utilities. We recommend the Public Service Commission more thoroughly review individual utility's USB programs and better document its decisions associated with USB activities. We recommend the Department of Revenue take steps to improve the tools available to strengthen oversight of self-directed activities of large customers. We also recommend the legislature determine if large customers' USB expenditures are meeting public purpose benefits as originally intended. Written responses from the Public Service Commission and Department of Revenue are included at the end of the report.

We wish to express our appreciation to agency and utility company personnel for their cooperation and assistance during the audit.

Respectfully submitted,

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Legislative Auditor

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Elected, Appointed, and Administrative Officials

		Term Expires
Public Service Commission	Bill Gallagher, Chairman	January 2015
	Bob Lake, Vice Chairman	January 2017
	Kirk Bushman, Commissioner	January 2017
	Travis Kavulla, Commissioner	January 2015
	Roger Koopman, Commissioner	January 2017
Department of Public Service Regulation	Justin Kraske, Chief Counsel/Administrator, Legal/Consumer Division	
	Kate Whitney, Administrator, Regulatory Division	
Department of Revenue	Mike Kadas, Director	
	Alan Peura, Deputy Director	
	Gene Walborn, Administrator, Business and Income Tax Division	
	Jim McKeon, Chief, Miscellaneous Tax Bureau	

Montana Legislative Audit Division

Performance Audit
Universal System Benefits Program
Public Service Commission
Department of Revenue

May 2014 | 13P-06 | Report Summary

Between 2007 and 2012, Montana's natural gas and electric utility customers paid $149.6 million to utility providers to support the Universal System Benefits program. Oversight by the Department of Revenue and the Public Service Commission could be strengthened to improve statutory compliance by utilities and large customers. Legislative review of statutes could improve effectiveness of large customer Universal System Benefits expenditures.

Context

In 1997, the legislature deregulated Montana's electric and natural gas industries. However, there were projects being conducted by utilities at the time that were believed to have benefits for all Montanans. In order to continue funding for these projects after deregulation, the legislature created the Universal System Benefits (USB) program. The funding mechanism for USB projects is a surcharge added to each utility customer's bill. The surcharge is collected by each utility and used to fund the utility's internal USB program. The legislature assigned oversight responsibilities for these programs to both the Public Service Commission (PSC) and the Department of Revenue (DOR).

The legislature established different USB programs for natural gas and electric utilities, each with its own funding formula and differences in how the funds can be used. Under electric USB statutes, utility customers can be identified as a "large customer" and have their USB surcharges reimbursed for internal projects that meet the intent of USB programs. Reimbursement for USB project expenses are provided by their utility. In exchange for being able to participate in internal USB programs, large customers are required to report their USB activities to DOR. Reporting these internal USB activities is the first step in a process DOR manages to allow the public to review submitted reports and challenge large customer USB expenditures. However, unless the public challenges a USB expenditure, statutes limit DOR's ability to review those same expenditures.

Statutes assign PSC oversight responsibilities for all functions of natural gas USB programs, to include approving the utility's internal USB program, approving the surcharge the utility will assess its customers, and receiving reports for USB activities. For electric USB programs, PSC is responsible for approving the utility's USB program and the surcharges assessed to customers. PSC also reviews periodic evaluations of electric utility's USB programs.

Results

Audit work found PSC has not required all regulated utilities to implement USB statutes requiring USB surcharges be assessed on all utility customers. In addition, we also identified instances where a regulated utility was allowed to fund activities not authorized by USB statutes. We make recommendations

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to the PSC to require all regulated utilities assess USB surcharges to their customers. We also recommend the PSC ensure USB surcharges are only used for purposes identified in statute and provide better documentation of decisions made regarding how those surcharges are used by utilities.

Audit analysis identified large customers who are not in compliance with statutes requiring them to report USB activities to DOR. We also found there are limitations that make it difficult for DOR to identify noncompliant large customers that did not file required reports. Statutes and administrative rules make public challenges of large customer USB expenditures difficult. DOR has only had to respond to one public challenge since the USB program was implemented. Our review of large customer records found a number of instances where it appears the expenditure does not meet USB program guidelines. We make recommendations to DOR to improve identification of large customers that have not filed their required annual USB expenditure reports.

Identifying large customers who are not in compliance with USB reporting statutes and reviewing those USB expenditures is difficult because of limitations imposed by statutes implemented during deregulation. We make recommendations to the legislature to determine if large customer USB expenditures are meeting the public purpose benefits expected of other USB funded programs.

Recommendation Concurrence	
Concur	2
Partially Concur	1
Do Not Concur	0

Source: Agency audit response included in final report.

Chapter I – Introduction

Introduction

The Legislative Audit Committee prioritized a performance audit focusing on net metering, renewable energy, and the Universal System Benefits (USB) program. Following audit risk assessment work, we determined further evaluation of the USB program was warranted primarily due to the management of USB activities being split between the Public Service Commission (PSC), the Department of Revenue (DOR), and the energy utilities providing services to Montana customers.

During audit assessment activities, it was determined PSC's role in the net metering process is limited primarily to approving a utility's tariffs and the program involves a small component of the energy market. Additional audit effort related to renewable portfolio standards also were not pursued because of an active review being conducted by the Energy and Telecommunications Interim Committee and the existence of oversight by multiple federal and regional energy organizations.

In 1997, Montana's energy utilities were restructured, which deregulated the supply of electricity and natural gas. At the time, it was acknowledged there were a number of activities that were undertaken by the state's primary utility provider, which provided societal benefits that could be negatively affected by deregulation. To ensure these activities continued in the future, the legislature established a universal system benefits program and approved a USB charge be added to natural gas and electric utility bills of all utility customers. There are differences between natural gas and electric USB programs, but both programs provide funding support for three common activities: cost-effective local energy conservation, low-income energy bill discounts, and weatherization activities. Electric USB charges also fund energy research and development, renewable energy development, and market transformation programs.

Organizational Responsibilities

USB statutes assign compliance responsibilities to both PSC, as the decision-making body of the Department of Public Service Regulation, and DOR. Each agency is assigned different responsibilities depending on whether the USB program relates to electric or natural gas utilities.

Audit Objectives

Based on audit assessment activities, two audit objectives were identified:

1. Determine whether oversight provided by the PSC and DOR ensures USB programs meet statutorily mandated purposes and are operated in compliance with state law, administrative rules, and policy.

2. Determine if existing processes ensure USB funds are spent in accordance with standards for cost-effectiveness and public purposes.

Audit Scope

Audit scope focused on PSC and DOR actions related to USB compliance requirements occurring from 2007 through 2012. We conducted an analysis of USB reports submitted by utilities and self-directing large customers. Our work associated with rural electric cooperative utilities was limited to their compliance with USB reporting statutes.

While statutes identify minimum funding levels utilities must provide to specific USB activities, flexibility is available to the PSC as it determines how remaining USB charges are to be allocated between USB categories. The PSC periodically modifies this allocation. This audit did not assess whether those allocations were appropriate or if there was a need for the legislature to revisit required funding levels identified in statutes.

Audit Methodologies

To address audit objectives, audit staff conducted the following work:

- Analyzed USB credit reports submitted by self-directing large customers to DOR.
- Examined USB-related documents retained in the PSC docket system.
- Reviewed PSC orders associated with the approval of a regulated utility's USB program.
- Interviewed agency staffs associated with USB compliance at PSC and DOR.
- Interviewed utility representatives/managers on utility USB activities and compliance.
- Evaluated compliance with state law and administrative rules.
- Reviewed documentation to assess cost-effectiveness of the use of USB funded projects.
- Interviewed agency staff at the Department of Environmental Quality and the Department of Public Health and Human Services.
- Reviewed other states' USB-type programs and contrasted those programs to Montana.
- Reviewed professional and industry publications related to USB-type programs to identify best practices and limitations associated with the oversight of such programs.

Report Organization

The remainder of the report includes additional background and addresses audit findings, conclusions, and recommendations in the following areas:

- Chapter II provides background on the development and purpose of USB programs both nationally and in Montana.
- Chapter III examines PSC's role in approving and monitoring USB activities of regulated utilities.
- Chapter IV examines DOR's role in ensuring self-directing large customers comply with annual reporting requirements.

CHAPTER II – BACKGROUND

Universal System Benefits Programs Nationwide

Nationally, Universal System Benefits (USB) programs have a variety of goals but are generally oriented toward providing societal benefits by reducing energy consumption through energy conservation, encouraging the development of renewable or alternative energy resources, or reducing the impact of energy costs on low-income citizens. Funding for these programs is generated by adding a surcharge to consumers' energy bills known as a USB charge, usually as a cost per kilowatt hour of electricity or dekatherm (1,000 cubic feet) of natural gas consumed.

Because the focus of these programs is to benefit all members of society, all ratepayers are assessed a USB fee. USB charges are normally collected by the individual utility with the funds either going into an account that is turned over to the state, a designated third-party organization, or kept by the utility to be used on approved projects. Some states allow large energy consumers to opt-out or self-direct their USB charges. In Montana, USB charges are collected by the individual utilities and used to fund internally administered USB programs or used to reimburse large customers for their USB qualified expenses.

Montana's Universal System Benefits Program

Montana's USB program was established with the passage of Senate Bills 390 and 396 during the 1997 Legislative Session, as part of restructuring Montana's electric and natural gas utilities. At the time, there was an awareness that a number of public purpose programs were supported and operated by the utilities and could be negatively affected by deregulation. Therefore, the legislature required utilities to fund these pre-existing programs at a level that existed prior to deregulation.

Differences Between Utility Providers

Each regulated utility was required to submit its proposed USB program to the Public Service Commission (PSC) for approval and have its program implemented by January 1999. Legislation established what activities were eligible for USB funding, depending on whether the utility provided electric or natural gas services. The proposals identified what activities the utility would participate in and at what overall funding level. In the case of the state's rural electric cooperatives, these utilities were allowed to comply with USB funding and activities requirements as a collective group. While each utility's USB program is unique, there are similar statutorily required USB activities each utility participates in, such as energy assistance for low-income customers.

Statutes and Administrative Rules

USB statutes are in Title 69 of the Montana Code Annotated. Natural gas USB statutes are found in §69-3-1402 and 1408, MCA, while electric USB statutes are found in §69-8-103 and 402, MCA. USB statutes related to natural gas utilities assign all responsibilities for oversight to the PSC, while USB statutes for electric utilities assign various oversight responsibilities to either the PSC or the Department of Revenue (DOR). The PSC adopted administrative rules for implementation of its oversight of natural gas USB statutes. DOR established administrative rules for implementation of its duties identified in electric USB statutes. While it would seem USB programs for electric and natural gas utilities should be the same, there are differences. Responsibilities and limitations exist in both statutes and administrative rules which will be discussed in the following sections.

Universal System Benefits Programs of Natural Gas Utilities

USB statutes for natural gas utilities are contained in the Natural Gas Utility Restructuring and Customer Choice Act. Statutes define USB programs as "public purpose programs for cost-effective local energy conservation, low-income energy bill discounts, low-income weatherization, and emergency low-income energy bill assistance." Statutes require natural gas utilities to implement a USB program, subject to the approval and oversight of the PSC. To assist the PSC in its oversight duties, statutes authorize the PSC to establish a tracking procedure to assess and revise the USB charge imposed by the individual utility on its customers. Each regulated utility is required to file with the PSC a report of its USB program activities, including funding levels, annually. Table 1 provides a summary of USB funds collected from natural gas customers of the state's three regulated natural gas suppliers.

Table 1
Natural Gas USB Collections for Regulated Utilities

	2007	2008	2009	2010	2011	2012	Total
Utility A	$ 498,794	$ 573,664	$ 726,210	$ 495,930	$ 415,599	$ 433,502	**$ 3,143,699**
Utility B	303,626	430,171	634,592	756,572	925,110	554,184	**3,604,255**
Utility C	2,159,023	2,335,989	4,284,348	3,692,703	4,268,895	3,637,830	**20,378,788**
Total	**$2,961,443**	**$3,339,824**	**$5,645,150**	**$4,945,205**	**$5,609,604**	**$4,625,516**	**$27,126,742**

Source: Compiled by Legislative Audit Division from Public Service Commission documents.

PSC administrative rules establish the minimum annual USB funding to be collected from the utility's customers must be equal to at least 1.12 percent of the utility's annual natural gas revenues from the previous year. Statutes further state that 0.42 percent of annual revenues must be used to support low-income weatherization and low-income energy bill assistance activities. The utility is allowed to offset this minimum amount by taking credit for internal programs that qualify as USB programs. Because funding for natural gas USB programs is based on a percentage of the utility's annual revenues, Table 1 shows a great deal of variability in funding each year.

Universal System Benefits Programs of Electric Utilities

Electric utility related USB statutes are contained in the Electric Utility Industry Generation Reintegration Act. Electric USB statutes stipulate allowable uses of public purpose programs including cost-effective local energy conservation, low-income customer weatherization, and low-income energy assistance similar to the USB natural gas program. However, electric USB funds can also be used to support renewable energy projects, research and development programs related to energy conservation and renewable energy activities, and market transformation programs to encourage competitive markets. One of the state's regulated electric utilities funds each of the statutorily authorized categories of electric USB activities while another electric utility participates only in local energy conservation programs, low-income weatherization, and low-income bill assistance programs. Table 2 provides total electric USB funding from the state's two regulated electric utilities that participate in the USB program.

Table 2
Electric USB Collections for Participating Utilities

	2007	2008	2009	2010	2011	2012	Total
Utility A	$ 9,410,195	$8,625,633	$9,361,817	$9,191,651	$9,367,204	$9,371,532	**$55,328,032**
Utility B	600,547	569,758	560,341	576,129	592,518	855,215	**3,754,508**
Total	**$10,010,742**	**$9,195,391**	**$9,922,158**	**$9,767,780**	**$9,959,722**	**$10,226,747**	**$59,082,540**

Source: Compiled by Legislative Audit Division from Public Service Commission documents.

Statutes set the minimum initial annual funding for electric USB programs to be collected by electric utilities at 2.4 percent of their annual electric revenues as of December 31, 1995. Statutes also require that a minimum of 17 percent of electric USB funding be used to support low-income energy and weatherization assistance programs. Funds not designated for required low-income are allocated to other USB purposes. Electric USB rates have not changed since each utility's USB program was approved by the PSC just after deregulation. Collections above or below the December 31, 1995, funding level are the result of changes in the number of kilowatt hours sold during the year. All electric utilities, including rural electric cooperative utilities, are required to provide annual reports to DOR and the Energy and Telecommunications Interim Committee by March 1 of each year.

Because electric USB collections were set based on 1995 utility revenues, there are limited changes in collections from year to year. This results in a decline in the effective value of electric USB funds over time. When compared to natural gas USB collections from Table 1, it is apparent there is greater fluctuation in the amount of natural gas USB collections each year.

Large Customers' USB Activities

Electric USB definitions identify a large customer as "a customer with an individual load greater than a monthly average of 1,000 kilowatt demand in the previous calendar year for that individual load." A large customer's USB obligation is capped at the lesser of $500,000 or $0.0009 per kilowatt hour of energy used. Statutes permit large customers to receive credits against their required USB charges by making qualifying internal expenditures, also known as self-directing their USB charges. After the large customer has implemented an internal USB program, it can request reimbursement for its costs from the USB fees it paid to its utility provider. Any cost not reimbursed by the current year's USB charges will be reimbursed into the future until all costs have been recovered. Natural gas USB program statutes do not contain provisions for large customers' self-directed programs.

Rural Electric Cooperative Utilities

Rural electric cooperative utilities (cooperatives) are unique from investor owned utilities because they are not under the regulatory control of the PSC. Statutes require cooperatives to implement USB programs, but these programs are not approved by the PSC. Statutes also permit the cooperatives to collectively pool their USB activities to meet overall group USB requirements. The effect of this practice is that not all individual cooperatives participate in all aspects of the USB program, but as a group, USB requirements are met. Individual cooperatives report their USB activities to the statewide rural electric cooperative office, which consolidates those reports and provides a single report to DOR. The average annual combined electric USB collections from the rural electric cooperatives for the years 2007 through 2012 equaled $10.6 million.

Public Service Commission Responsibilities

As indicated by the information presented so far, the PSC has a substantial role in the USB programs offered by regulated natural gas utilities. The PSC approves the utility's natural gas USB program activities and regularly reviews USB collections, adjusting the utility's USB rate as necessary to ensure the required funds are being collected from the utility's customers. As part of the rate adjustment procedure, PSC receives annual USB reports from the natural gas utilities. The PSC has a more limited role with electric USB programs with their oversight responsibilities focusing on allocating electric USB funds between the authorized expenditure categories. The PSC has no involvement in the USB program activities of cooperatives or large customers.

Department of Revenue Responsibilities

Statutes assign DOR two key responsibilities related to USB activities funded by electric utilities. First, DOR is responsible for reviewing a utility's or large customer's claims for reimbursement, referred to as credit claims, if challenged. A critical part of this challenge process is DOR's receipt of large customer annual USB expenditure reports. DOR is the only agency that receives these expenditure reports. Once these reports are received, DOR notifies the public that the annual USB reports have been received and identifies the timeline that must be met to challenge the credit claims. If a challenge arises, DOR is responsible for reviewing the challenge and issuing a decision.

Second, DOR is required to establish state special revenue accounts for use by the Department of Environmental Quality (DEQ) and the Department of Public Health and Human Services (DPHHS). If an electric utility's internal USB expenditures fail to meet their USB obligation, the difference is submitted to DOR, who deposits the funds into these special revenue accounts. In the past, deposited funds have only been provided by one electric utility. DEQ uses its special revenue funds to provide energy efficiency upgrades to public use buildings. DPHHS uses its special revenue funds to augment its low-income weatherization activities. Statutes require both agencies to confine their activities to the territories of the electric utilities that provided the funds. Between 2007 and 2012, $1.624 million was deposited into these state special revenue accounts.

Department of Revenue Administrative Rules

DOR adopted administrative rules to implement its statutory USB responsibilities. These administrative rules include definitions relating to large customers claiming USB credits for certain activities. DOR's administrative rules also relate to the challenge process. Administrative rule defines when reports must be received by DOR, what newspapers are to be used to notify the public, and timelines for initiating and responding to challenges by the public. Administrative rules restate the statutory guidance that "claimed credits shall be presumed to be acceptable unless proven otherwise." However, administrative rules state the burden of proof to challenge a credit claim lies with the challenging party.

CHAPTER III – THE PUBLIC SERVICE COMMISSION

Introduction

The Public Service Commission (PSC) is a group of elected officials from five districts representing the interests of all citizens within the state. They are each elected to four-year staggered terms and between them, the commissioners elect a chair and vice-chair to preside over meetings and give guidance to the Department of Public Service Regulation (PSR), the executive agency that supports the commission. The PSC has broad regulatory, supervisory, and investigative authority over investor-owned public utilities and ensures utilities provide adequate service at reasonable rates. The PSC's mission is to balance the long-term interests of Montana's utilities and the customers they serve.

Department of Public Service Regulation

PSR provides support services and professional analysis of issues within the regulatory oversight responsibilities of the PSC. The staff is organized into three divisions (Centralized Services Division, Legal and Consumer Division, and Regulatory Division) with 40 full-time employees. The largest division is the regulatory division, which is primarily involved in analysis of rate and service requests from the various utilities regulated by the PSC. The budget supporting the PSC is received from assessments of the companies the PSC regulates.

Regulatory Process

One of the most significant ways the PSC affects the citizens of Montana is by approving the utility rates charged by the regulated utilities. If a regulated utility proposes to change the rates it charges to its customers, it will present the proposal to the PSC. Staff at the PSR will then review the proposal to ensure there is enough information to be evaluated. Assuming the proposal is complete, staff notifies other parties that could be affected by the proposal, including the Montana Consumer Counsel (MCC). MCC's role in the rate setting process is to provide representation for consumers. After reviewing the proposal, MCC, PSR staff, or other invited parties may ask the utility to provide more information. At times, the PSC will issue "orders" providing information on how the proposal might be evaluated and timelines that will be followed. All documents and orders will be included in a unique file maintained by the PSC known as a docket. Throughout the process, a large amount of documentation is provided by the applicant and other parties.

One of the objectives of this audit was to determine if PSC's oversight ensures USB programs meet purposes identified in statutes and are operated in compliance with state law. To accomplish this task, we reviewed PSC documents associated with each regulated utility's USB program. We also reviewed documentation related to decisions issued by the PSC as it carried out its regulatory oversight of each utility's USB program. As a result, we identified two issues related to PSC's oversight role of ensuring compliance with USB statutes that can be improved upon. The following issues will be discussed in the remainder of this chapter:

- Not all utilities are assessing USB charges.
- USB charges have been used on unauthorized activities.

All Utilities Are Required to Assess USB Charges

All utilities are statutorily required to establish USB programs and collect "nonbypassable rate or charge to be imposed on a customer to pay the customer's share of universal system benefits programs costs." This requirement applies to natural gas utilities, electric utilities, and rural electric cooperatives equally. Although statutes once authorized certain electrical utilities to be exempted from USB requirements, that authority was eliminated in 2007. Natural gas USB statutes never contained waiver provisions.

Not All Utilities Are Collecting USB Charges

During review of PSC documents, we determined there are three utilities that do not assess USB charges against their customers as required by statute. However, one of those utilities was granted a waiver from implementing a USB program by the PSC in 2003. One of the utilities not implementing a USB program is a natural gas utility regulated by the PSC and currently serving approximately 130 customers. This utility's customers receive metered natural gas service directly from the utility's supply lines at a rate approved by the PSC. The other utility not implementing a USB program is a small regulated electric utility with approximately 23 customers. We found no evidence this utility applied for, or was granted, a waiver while the provision existed in statute.

When we discussed this situation with PSC staff to determine why these two utilities did not assess USB charges, staff commented the electric utility's customers are all employees of the company and therefore staff believed USB statutes did not apply. However, the utility identifies the sale of electricity to these customers as Montana revenue. For the other situation, PSC staff did not believe the natural gas utility was required to collect USB charges from these customers because they received their natural gas directly from the utility's supply lines. Upon further discussion of statutes, which state all utilities with Montana end-users are required to collect USB charges to support public purpose programs, PSC staff agreed these utilities should have collected USB charges.

The PSC is responsible for approving the USB charge utilities assess end-users. As part of its regulatory oversight, it also has an obligation to ensure utilities comply with statutes related to the USB program. If a utility chooses not to establish an internal USB program, statutes permit the utility to remit their USB funds to Department of Revenue for distribution into a state special revenue account. We estimate the average annual USB collection from the two utilities is $2,000. As a result of these two utilities not assessing the USB fee, the amount of funds used to support USB programs for low-income energy assistance or energy conservation was reduced.

Recommendation #1

We recommend the of Public Service Commission require all regulated utilities comply with statutes to assess Universal System Benefits charges on Montana customers.

PSC Has Permitted Natural Gas Utilities to Use USB Funds to Support Expenditures Not Authorized by Statutes

Natural gas USB statutes identify four categories of authorized expenditures associated with a natural gas utility's internal USB program. They are:

1. Cost-effective local energy conservation programs
2. Low-income energy bill assistance programs
3. Low-income energy bill discount programs
4. Low-income weatherization programs.

Natural Gas USB Funds Used for Research and Development

When we reviewed the proposed natural gas USB programs of Montana's three natural gas utilities, each of the programs approved by the PSC include the components as authorized by statute. However, on closer examination, we found one natural gas utility has spent USB funds on research and development (R&D) activities, which is not authorized under natural gas statutes. Table 3 on the following page shows total USB expenditures of the utility for 2007 through 2012.

Table 3
Utility C USB Expenditures
FY 2007-2012

	Total	Percent of Total
No-Interest Loans	$511,372	16.3%
Furnace/Weatherization	$1,598,927	50.8%
Low-Income Discounts	$633,447	20.2%
Corporate Donation	$72,120	2.3%
Research & Development	$327,833	10.4%
Total	**$3,143,699**	**100.0%**

Source: Legislative Audit Division analysis of Department Public Service Regulation documents.

The utility did not identify R&D activities as part of its USB proposal and the PSC did not approve R&D activities in its approval of the utility's USB program. A majority of the utility's USB expenditures were for projects in accordance with statutes; however, ten percent ($327,833) of the utility's total USB expenditures were not. Although not approved as part of its USB program, the utility disclosed its R&D expenditures beginning in its 2007 annual revenue report to the PSC. The R&D funds were used to support natural gas research activities at a federally funded research facility. During follow-up discussions, PSC staff indicated they were aware of the utility's R&D expenditures. It is unclear whether this information was relayed to the commissioners as there is no documentation trail of PSC specifically approving R&D expenditures.

USB Funds Used to Convert Propane Fuel Distribution System

In 2009, as part of a rate increase request, the same utility proposed to convert a propane fuel system it maintained in an outlying community to natural gas. The utility justified the conversion by claiming propane customers would save 44 percent on their heating costs. The utility also stated the conversion would likely increase its customer base since competitor's propane customers would have the opportunity to convert to natural gas. The utility stated it would have been unable to fund the propane conversion without using its USB R&D funds. The utility arranged to have its R&D funds returned and those funds helped offset the cost of the conversion. In addition to the cost of the propane conversion, the utility had to allocate $500 to configure each customer's propane appliances to accept natural gas.

USB surcharges are only included on natural gas bills. Propane customers do not participate in USB activities. Therefore, the utility's natural gas customers were the source of the USB R&D funds. The propane customers were the recipient of the benefits resulting from these USB funds. It is not certain the propane conversion met either the low-income or the energy conservation purposes required with USB fund expenditures. Although the utility submitted required documents with its proposal, there is no documentation addressing PSC decisions related to this USB funded activity.

USB Funds to Be Reimbursed to Natural Gas Customer

When the legislature established natural gas USB programs, it did not authorize large customers as was the case with electric USB programs. Natural gas statutes do not define large customers or identify how USB funds would be used. During the audit, we identified a natural gas utility that proposed reimbursing a natural gas customer, as if they were a large electric customer, for that customer's own expenditures. This situation occurred as part of the natural gas utility's rate increase request, with the utility identifying one of its customers as a "large customer" and proposing to give that customer all the privileges of an electric utility large customer, including reimbursing that customer for its internal expenditures.

This action was questioned by another party to the rate case, but no additional discussion of large customers is included in the docket. Although the PSC approved the utility's rate increase, its final order also did not address the large customer issue. However, by not denying that aspect of the utility's proposal, it has allowed the utility to set a precedent not authorized by the legislature. When discussing this issue with PSR staff, staff indicated that since the rate increase was approved by the commission, reimbursement of a natural gas customer as a large customer was an authorized USB expenditure by the utility. While there is ample documentation to support the rate increase, there is no documentation of the PSC approving the utility's definition of a large customer or granting that status to a natural gas customer.

The use of natural gas USB surcharges to support R&D expenditures was not in accordance with statutes. There is some question about whether the propane conversion or the reimbursement of a natural gas customer was in compliance with statutes. The PSC is statutorily responsible for the ongoing oversight and direction of natural gas USB programs. Because documentation was lacking, we could not determine the level of oversight review performed by the PSC nor were we able to determine whether the use of USB funds was authorized. This highlights a need for PSC to strengthen its internal review and approval processes.

Recommendation #2

We recommend the Public Service Commission:

A. *Ensure universal system benefits funds are used only for statutorily authorized purposes.*

B. *Document the review process used to justify final decisions issued by the Public Service Commission as they relate to the use of universal system benefits funds.*

CHAPTER IV – THE DEPARTMENT OF REVENUE

Introduction

The Department of Revenue (DOR) is statutorily responsible for implementing the Universal System Benefits (USB) program large customer credit review process. Large customers are required to pay their USB surcharge as part of their monthly bill like all other electric utility customers. However, large customers that participate in internal projects that meet USB standards are reimbursed for the cost of those projects by their utility provider. The internal expenditure is a credit against the large customer's USB obligation. Statutes require all large customers receiving reimbursement of their USB surcharges to file annual reports with DOR identifying what the project was and how much it cost.

Because USB expenditures are supposed to meet certain statutory purposes, the legislature allowed interested parties to challenge the expenditures of large customers. The challenge process begins with DOR notifying the public that large customers have filed their required annual USB reports. If a member of the public believes a large customer should not have been reimbursed its USB surcharges, the credit can be challenged. Once challenged, DOR is responsible for reviewing the expenditure and determining if the claim for USB reimbursement is consistent with statutory guidance. If DOR determines a challenge has merit, it will require the large customer to provide project documentation to confirm the project meets required USB guidelines. If DOR determines the large customer's internal USB expenditures did not meet the standards for a qualified activity, DOR will deny the credit and the large customer could be required to return the reimbursed USB funds. DOR has responded to one USB challenge since the program began.

DOR is also responsible for establishing two accounts, one of which is available to the Department of Environmental Quality (DEQ) and the other is available to the Department of Public Health and Human Services (DPHHS). These accounts are to hold payments made by utilities or large customers whose internal USB programs do not meet their minimum funding obligations. Unused funds are deposited into these state special revenue accounts and are used to support qualified USB activities administered by DEQ and DPHHS.

Large customers can also choose not to participate in these internal, or self-directed, programs. In these situations, their utility provider will use the large customer's USB charges in their own internal USB programs. Large customers are not required to use all of their USB funds immediately and can "carry over" their USB charges into the future. If a large customer's qualified USB project costs exceed the current year's USB charges, they will be reimbursed against future USB charges until the entire cost of the project is recovered. Large customers can also make donations to nonprofit organizations that provide emergency energy bill payment assistance to meet their USB obligations.

Each utility has developed its own procedures for documenting a large customer's request for reimbursement and there are no standardized procedures in place. One electric utility has developed two forms allowing large customers to reserve the current year's USB charges for a future project or seek reimbursement for a current project. The reimbursement form provides the large customer with an opportunity to identify anticipated energy savings. Anticipated energy savings are not evaluated for validity or reviewed in the future to ensure the project delivered its intended benefits. Large customers do not have to have their projects pre-approved or evaluated after they are completed.

DOR Can Improve Large Customer Reporting Compliance

Our primary audit objective was to determine if oversight provided by DOR ensures USB programs meet statutorily mandated purposes and are operated in compliance with state law, administrative rules, and policy. The second objective was to determine if existing processes ensure USB funds are spent in accordance with standards for cost-effectiveness and public purpose. To accomplish our objectives, we compared USB statutes with DOR activities and documentation. As a result of these audit activities, we make recommendations on two issues that can improve DOR's oversight effectiveness. These issues will be addressed further in subsequent sections and include:

- Not all large customers file required USB reports with DOR.
- More actions can be taken to identify large customers.

Not All Large Customers File Required USB Reports With DOR

We reviewed DOR records of all large customer reports received between 2007 and 2012. The majority of the large customers filing required reports are from one utility. However, when we compared that utility's annual USB report against the reports filed by its large customers, we found that one-third to one-half of their large customers failed to file their required reports with DOR. We were unable to accurately determine the total number of large customers that were required to report because of limitations in available information. For instance, each utility is required to report their USB activities. Utility A reports information on the total number of large customers it serves, how many of those large customers sought reimbursement for their own internal expenditures, the total amount of USB surcharges collected from those large customers, and how much of those USB surcharges were returned to the self-directing large customers. Table 4 shows how many of Utility A's large customers failed to file their annual USB reports with DOR.

Table 4
Utility A Large Customer Reporting

	Total Large Customers Reimbursed by Utility	Number of Large Customers Reporting to DOR	Nonreporting Large Customers
2007	49	34	15
2008	54	34	20
2009	50	22	28
2010	50	30	20
2011	51	38	13
2012	53	28	25

Source: Legislative Audit Division analysis of Department of Revenue documents.

Utility B only reports the total amount of USB surcharges that were collected from its large customers and how much of that total was returned as reimbursement for large customer internal activities. Comparing large customer report information with Utility B USB reports identifies noncompliance by Utility B's large customers. The amount of USB reimbursements reported by large customers does not equal the amount of reimbursements reported by the utility. The difference is unreported USB activity. Based on this comparison, we were able to determine that none of Utility B's large customers filed required annual reports in 2009, 2010, and 2012.

Rural Electric Cooperative Reporting

Rural electric cooperatives (cooperatives) provide a consolidated report of their USB activities to DOR. The consolidated report provides no information on the number of large customers serviced by cooperatives. The lack of information makes it impossible to determine how many large customers are self-directing their USB charges. However, when the large customer annual USB reports on file with DOR were analyzed, we identified two large customers of cooperatives. Given the number of customers that receive their electricity from cooperative, and the fact that cooperatives exist in nearly every part of the state, it is assumed there are other large customers who receive their electricity from cooperatives but are not filing required annual USB reports with DOR.

More Actions Can Be Taken to Identify Large Customers

In an effort to remind large customers to submit their required annual USB reports, DOR sends reminder letters to large customers who filed reports in the previous year. DOR staff acknowledged this activity does not identify all large customers required to file reports. Utility A stated it sends a reporting reminder to all large customers who received a USB reimbursement during the past year. Utility A also states it will provide information on the utility's large customers to the DOR if requested. However, DOR staff has not requested this information in the past. There is no information on whether Utility B provides similar reminders to its large customers or if it would share large customer information with DOR if requested.

Even if utilities do not offer to provide large customer information to DOR, our review of large customer USB reports identified fifteen instances where large customers that had filed in past years did not file in subsequent years. In these cases, we determined the large customer would receive future reimbursements of USB surcharges because project costs had not been completely reimbursed. We also identified situations where projects were initiated in an unreported year because the large customer's existing USB expenditure balance increased from the previous year. We also found five cases where the large customer's annual USB report identified it had been reimbursed for a project it had not reported in earlier years. DOR staff suggested one reason large customers might not file annual USB reports every year is because the large customer is being reimbursed for a prior year's project. However, statutes require the large customer to report expenditures if they claim a credit (receive a reimbursement) of their USB charges during the year.

Unreported USB Expenditures Reduce Public's Ability to Challenge Expenditures

Notification of the public of large customer USB credits only occurs if large customers report their USB expenditures as required by statute. If this notification does not happen, there will be no challenge or possible review of a large customer's USB expenditures. DOR recognizes the importance of credit and expenditure review to ensure money generated through the USB surcharge produces public purpose benefits. The challenge process is the only way for the public to verify the veracity of a large customer's claim that their expenditures met USB requirements. However, statutes state a credit is presumed correct unless an interested party challenges an expenditure.

Statutes assigned the task of collecting large customer annual USB reports, notifying the public the large customer reports have been received, and evaluating any challenges of large customer USB reports by the public to DOR. As a result of our audit work, we have identified actions DOR can take to improve the effectiveness of the process.

Recommendation #3

We recommend the Department of Revenue:

A. *Request information from electric utilities on all large customers who received a reimbursement for universal system benefits related expenditures from the utility during the previous reporting year.*

B. *Implement procedures to review and compare annual universal system benefits reports provided by utilities and large customers to identify large customers who are not in compliance with reporting statutes.*

Opportunities Exist to Re-evaluate Large Customer Self-Direct Reporting and Review Process

The prior report sections focus on improving existing processes at DOR and the Public Service Commission (PSC). The legislature established the large customer reporting and review process to allow greater oversight of reimbursements from USB collections to this group of electric energy consumers. The legislature required large customers to report their internal USB expenditures with the intent that the public would have the opportunity to question expenditures that did not appear to meet legislative USB guidelines. However, our audit work found the current large customer reporting and review process does not provide assurances that large customers are self-directing their internal USB expenditures to achieve the public purposes expected for the program.

Activities Limiting Reporting and Review Effectiveness

During our audit, we identified a number of additional activities that limit the effectiveness of the reporting and review process for large customer's internal USB programs. These activities include:

- Under current standards, DOR does not have the ability to deny a USB credit claim if a large customer does not file required reports.
- Unless an interested party challenges a large customer's USB expenditure, statutes do not require review of a large customer's USB expenditures. There has only been one challenge since the large customer USB review process was established in 1999.
- Statutes do not specifically require the interested party to provide supporting documentation on a challenge of a large customer's USB expenditure. DOR's administrative rules place the burden of proof for supporting a challenge on the party making the challenge.

- Current statutes hold the utility financially responsible for denied large customer USB credit claims if the utility approves the project. This prevents utilities from identifying possible energy conservation activities in which a large customer could participate.
- Large customers are not required to have projects pre-approved or verified after completion. Energy conservation estimates included in a large customer's USB reimbursement request are provided by the large customer and are not verified.
- The lack of standards for evaluating large customer self-directed USB expenditures makes it nearly impossible to deny large customer USB expenditures.

Evaluation Standards Affect Cost-Effectiveness Determination

Our ability to analyze large customer USB funded energy conservation projects was dependent on the amount of information included in the annual USB report on file with DOR. Although large customers are only required to provide the total cost of the project and identify the project's purpose, some reports included significantly more information. Because USB statutes require energy conservation to be cost-effective, we evaluated available projects against their ability to pay back project costs based on energy savings.

Nearly all large customers receiving a reimbursement of their USB surcharges involved an energy conservation project. According to statutes, energy conservation projects are required to be cost-effective. However, administrative rules provide little guidance on how to determine the cost-effectiveness of large customer energy conservation activities other than to state the expected benefits must exceed the expected costs over "some reasonable time period." In order to identify what a reasonable time period might be, we contacted other states, identified standards used in utility-managed programs, and reviewed taxing authority depreciation schedules to determine how they determine cost-effectiveness. For example, Oregon requires energy conservation projects to be paid back in 1-10 years. Projects that are paid off in less than one year are expected to be implemented by the large customer without reimbursement. Projects that take longer than ten years are considered to have limited conservation value and will likely be obsolete and replaced again before all savings are achieved.

During the audit, we examined large customer annual USB reports on file with DOR. When able, we determined the cost per kilowatt hour (kWh) paid by the large customer, the cost of the USB project being reimbursed, and the energy savings estimated by the large customer as a result of the USB project. Table 5 summarizes all large customer projects that could be analyzed for 2007 through 2012.

Table 5

Large Customer Project Cost-Effectiveness

Project	Cost	Energy Savings (KwH)	Percent of Current Energy Use	Energy Cost/ KwH	Energy Payback (years)
Replace Pumps/Motors	$2,810,000	661,213	0.55	$ 0.0116927	363.45
Recondition Pump	$ 53,053	156,306	0.13	$ 0.0116927	29.03
Recondition Pump	$ 82,906	26,233	0.02	$ 0.0116927	270.29
Fluid Additive	$ 1,119,514	48,500,138	41.00	$ 0.0117084	1.97
Fluid Additive	$ 1,601,458	54,930,306	46.20	$ 0.0116927	2.49
Pre-purchase Parts	$ 571,000	400,000	0.16	$ 0.0074959	190.44
Component Replace	$ 191,600	551,880	1.14	$ 0.0032891	105.55
Turn off Lights in day	$ 3,600				
Replace Air Filters	$ 79,800	913,000	0.26	$ 0.0065621	13.32
Modify Intake Pipes	$ 95,018	414,000	0.12	$ 0.0065621	34.98
Install Var. Freq. Drive	$ 150,000	2,971,000	0.83	$ 0.0065621	7.69
Light Bulb Change	$ 60,000	3,942		$ 0.0065172	2,335.47
Redirect Fuel Source	$ 55,000	27,472,849	10.10	$ 0.0065172	0.31
Install Var. Freq. Drive	$ 22,000	87,600	0.03	$ 0.0065172	38.54
Boiler Turndown	$ 25,000	18,100,205	6.60	$ 0.0065172	0.21
Replace Fuel Source	$ 10,000	267,427,480	98.00	$ 0.0065172	0.01
Replace H2O Treatment	$ 389,060	656,443	0.18	$ 0.0065319	90.74
Light Bulb Change	$ 14,000	2,321	0.00	$ 0.0067160	898.14
Compressor Upgrade	$1,000,000			$ 0.0067160	
Replace Wet Gas Comp	$8,700,000	6,120,000	2.48	$ 0.0077560	183.29
Snow Making Equip.	$ 77,610	151,499	1.15	$ 0.0839780	6.10
Light Bulb Change	$ 4,500	11,484	0.01	$ 0.0068142	57.50
Replace Instrument Dryer	$ 135,770	1,500	0.00	$ 0.0068142	13,283.05
Install Var. Freq. Drive	$ 16,231	220,000	1.76	$ 0.0174737	4.22
Compressor Replace	$ 216,127	405,838	0.11	$ 0.0067200	79.25
Motor Replacement	$ 8,694	31,473	0.30	$ 0.0902801	3.06
Install Uninterruptible Power	$ 34,026	48,333	0.01	$ 0.0006357	1,107.43
Pump Upgrade	$ 159,868	43,842	0.01	$ 0.0006357	5,736.13
Light Bulb Change	$ 2,183	41,023	0.01	$ 0.0006357	83.71

Source: Legislative Audit Division analysis of Department of Revenue documents.

As the table shows, there was significant variation in large customer project costs, estimated energy savings, and energy cost savings payback periods. We used an energy cost savings payback of 30 years since this was the maximum tax depreciation schedule. Based on this standard, only 11 of 27 projects could be considered as cost-effective. This is evident in the number of projects that produce limited energy savings at a high cost.

While there were a number of projects that appeared to have little energy conservation value, there were a number of projects that appear to be cost-effective. For example, a ski resort installed snow making equipment that would produce enough energy savings to pay off project costs in slightly more than six years. Installation of variable frequency drives on electric motors at another large customer's facility would result in energy savings that would pay off project costs in 7.6 years.

Utilities' USB Funded Energy Conservation Activities Are Evaluated

Utilities can also self-direct USB surcharges collected from their customers to achieve USB's public purposes. However, to ensure the utility's self-directed USB programs are meeting their reported energy conservation claims, certain utilities undergo an external review every five years. If the external review finds the utility's USB programs did not meet the energy conservation claims, the PSC orders the utility to refund the cost of the overstated claim to its customers. In 2013, the PSC ordered one utility to refund approximately $2.8 million to its customers after an external review found the utility had overstated the effectiveness of its USB funded energy conservation activities. USB surcharges reimbursed to large customers for customer-directed internal energy conservation activities are not included in the evaluation of the utility's energy conservation activities. USB surcharges self-directed by large customers are not evaluated.

USB Collections and Reimbursements of Large Customers

Large customers account for a significant portion of all USB surcharges collected by the regulated utilities. From 2007 through 2012, two regulated utilities collected $59.1 million in electric USB surcharges from Montana consumers. Large customers contributed $18.2 million (29.4 percent) of which $17.3 million was reimbursed back to large customers for energy conservation projects. The annual average of USB surcharges collected from regulated electric utility customers was $10.3 million with more than $3 million being collected from large customers and more than $2.9 million being reimbursed for energy conservation projects.

Improvements Needed to Achieve Legislative Goals Set at Deregulation

The legislature established the USB program in 1997 as part of the effort to deregulate Montana's energy industry. There have been a number of changes in Montana's energy industry since then. Nationwide, there has been significant movement toward reducing energy consumption as a means of reducing energy costs for consumers. The legislature recognized the effect large customers could have on overall energy consumption by allowing them to use USB surcharges to offset internal energy conservation activities. Legislators tried to create transparency and accountability in USB statutes by requiring large customers to report their USB expenditures to a public entity and developing a challenge process. However, while other USB statutes have changed over time, statutes related to large customer credit review process have not. It appears many large customers are receiving reimbursement benefits without achieving the public purpose benefits envisioned for the USB program. There is an opportunity for the legislature to review large customer USB statutes to determine if large customer self-directed USB expenditures are meeting public purposes.

Large customers represent a substantial portion of the funds available to achieve the public purposes the USB programs are intended to support. However, variations in how large customers use their USB surcharges and the lack of an effective process for reviewing those expenditures calls into question whether the large customer self-direct program is meeting its public purpose. To improve transparency and accountability of large customer USB expenditures, the legislature has three courses of action available to it.

1. The legislature can see if the steps DOR takes to improve large customer reporting expands the public's role in reviewing USB expenditures that do not appear to meet public purposes.
2. The legislature can allow large customers to continue to self-direct their USB surcharges, but strengthen the oversight of those expenditures by defining the qualifying standards that must be met, identifying how those expenditures will be evaluated and by whom, and authorizing DOR to deny credits from large customers who fail to file their annual USB expenditure reports.
3. The legislature can eliminate the large customers' ability to self-direct their USB surcharges, instead requiring them to use the energy conservation opportunities provided by their electric utility, as all other customers currently do.

Recommendation #4

We recommend the Montana Legislature determine if large customer self-directed universal system benefits expenditures are meeting the public purpose benefits expected of all other universal system benefits funded programs.

Department Responses

Public Service Commission

Department of Revenue

PUBLIC SERVICE COMMISSION
STATE OF MONTANA

Bill Gallagher, Chairman
Bob Lake, Vice Chairman
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May 2, 2014

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LEGISLATIVE AUDIT DIV.

Ms. Tori Hunthausen
Legislative Auditor
Office of the Legislative Auditor
State Capitol
P.O. Box 201705
Helena, MT 59620-1705

Dear Ms. Hunthausen:

We have received your final report on the performance audit of the Universal System Benefits (USB) program and its implementation by the Public Service Commission (PSC). Thank you for the opportunity to respond to the recommendations.

Two members of the Public Service Commission (PSC) and PSC staff who are responsible for USB program implementation have had the opportunity to review the final report and participate in the drafting of this response. However, because the final report is not yet public, the full PSC has not had the same opportunity; therefore, this response must be considered to be submitted on a conditional basis. Once the report is publicly released, it will be presented to the PSC for review and discussion. If the full PSC decides to revise this response in any way, you will receive an amended PSC response.

<u>Recommendation #1</u>

We recommend the Public Service Commission require all regulated utilities comply with statutes to assess Universal System Benefits charges on Montana customers.

Agency Response:

The PSC concurs in the auditor's recommendation and agrees with the finding that not all regulated utilities are assessing the USB charge as required by law. The PSC intends to propose legislation to the 2015 legislature that would exempt natural gas and electric utilities below a certain size threshold from complying with the USB statutes.

Recommendation #2

We recommend the Public Service Commission:

A. *Ensure universal system benefits funds are used only for statutorily authorized purposes.*

B. *Document the review process used to justify final decisions issued by the Public Service Commission as they relate to the use of universal system benefits funds.*

Agency Response to #2A:

The PSC concurs in the recommendation that the PSC should ensure USB funds are used only for the purposes authorized by law. The PSC believes it has been doing just that and does not agree with the audit finding that the PSC has permitted one of the natural gas utilities it regulates to use USB funds inappropriately. Because the natural gas USB statute does not define "cost-effective local energy conservation," the PSC exercises reasonable discretion as to which utility activities qualify. The PSC recognizes that different persons looking at the same set of facts may arrive at different conclusions.

The PSC will implement this recommendation by continuing to ensure that USB funds are used for the purposes authorized by law. As noted in our response to Recommendation #2B, better documentation of the PSC's justification for approval (or denial) of a proposed USB program will go a long way toward addressing and resolving this audit issue.

Agency Response to #2B:

The PSC concurs in the recommendation that the agency should document its review process so that its justification and reasoning for decisions relating to utilities' uses of USB funds are clear. It is important to "connect the dots" from receipt of a utility's USB-related application to the PSC's final action on USB-funded activities. If the PSC had provided better documentation of the justification for approving the USB activities discussed above, the audit report might not have included findings that the PSC had permitted inappropriate uses of USB funds. The PSC will implement this recommendation immediately in its USB-related orders and actions.

The PSC appreciates your staff's effort and professionalism during the audit.

Sincerely,

W.A. Gallagher
Chairman
Public Service Commission

Montana Department of Revenue

Mike Kadas
Director

Steve Bullock
Governor

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April 29, 2014

Angus Maciver
Deputy Legislative Auditor
Legislative Audit Division
Room 160
State Capital Building

Dear Deputy Maciver:

Thank you for the opportunity to respond to the Legislative Audit Division's performance audit of the Universal Systems Benefits Program. The department agrees with audit recommendation #3. The department is not taking a position on recommendation #4.

Recommendation #3

We recommend the Department of Revenue:

A. *Request information from electric utilities on all large customers who received a reimbursement for universal system benefits related expenditures from the utility during the previous year.*

B. *Implement procedures to review and compare annual universal system benefits reports provided by utilities and large customers to identify large customers who are not in compliance with reporting statutes.*

Concur. The department will annually request from electric utilities all large customers who received universal system benefit reimbursements as recommended. In addition, once the information is received the department will conduct a comparison of this information to identify large customers who have not complied with the statutory filing requirements.

Recommendation #4

We recommend the Montana Legislature determine if large customer self-directed universal system benefits expenditures are meeting the public purpose benefits expected of all other universal system benefits funded programs.

The department does not have an opinion on whether the large customer self-directed benefit expenditures are meeting the public purpose benefits expected from the program. The department believes that this recommendation can only be addressed by the Legislature, but does want to point out that if the Legislature determines that the large customer self-directed universal system benefits expenditures are not meeting the public purpose benefits, their decision on how to address this issue may change the responsibilities of the department.

The department would like to note a key element in identifying whether large customer self-directed benefits expenditures are meeting the public purpose benefits is to statutorily require large customers to report expenditures and cost savings data to the department. With the statutory requirement to report additional information, the department recommends that the legislature provide the department with enforcement tools, such as the application of penalties when a large customer fails to file a report and the requested information.

Thank you for allowing the department to respond to the performance audit report and the opportunity to discuss the issues with you and your staff during the exit conference. Also, please extend my gratitude to your staff for conducting the audit in a professional and fair manner.

Sincerely,

Mike Kadas

Mike Kadas
Director
Montana Department of Revenue