



## Energy and Telecommunications Interim Committee

### 63rd Montana Legislature

#### SENATE MEMBERS

CLIFF LARSEN--Chair  
EDWARD BUTTREY  
ROBYN DRISCOLL  
ALAN OLSON

#### HOUSE MEMBERS

KEITH REGIER--Vice Chair  
MIKE LANG  
MARY MCNALLY  
TOM STEENBERG

#### COMMITTEE STAFF

SONJA NOWAKOWSKI, Lead Staff  
TODD EVERTS, Staff Attorney  
JOY LEWIS, Secretary

# MINUTES LOG

Energy and Telecommunications Interim Committee  
State Capitol, Room 137  
8:30 a.m. Monday September 8, 2014

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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Hard copies of the exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

### COMMITTEE MEMBERS PRESENT

SEN. CLIFF LARSEN, Chair  
REP. KEITH REGIER, Vice Chair

SEN. EDWARD BUTTREY  
SEN. ROBYN DRISCOLL  
SEN. ALAN OLSON

REP. MIKE LANG  
REP. MARY MCNALLY  
REP. TOM STEENBERG

### STAFF PRESENT

SONJA NOWAKOWSKI, Lead Staff  
TODD EVERTS, Staff Attorney  
JOY LEWIS, Secretary

### AGENDA & VISITORS' LIST

Agenda, ([Attachment 1](#)).  
Visitors' list, ([Attachment 2](#)).

## **COMMITTEE ACTION**

The committee agreed to adopt the Renewable Portfolio Standard revised draft report.

## **CALL TO ORDER AND ROLL CALL**

00:00:15 Chairman Larsen called the meeting to order and reviewed the agenda. The secretary took the roll. ([Attachment 3](#))

## **REVIEW OF RPS REPORT AND PROPOSED DRAFT LEGISLATION -- TAB 1**

### **Lcet01 -- RPS Cost/benefit Tracking**

00:01:15 Ms. Nowakowski, staff researcher, LSD, gave an overview of the draft legislation, Lcet01. ([Exhibit 1](#))  
00:03:35 Sen. Larsen

### **Public Comment**

00:03:57 John Fitzpatrick, Northwest Energy, referenced a letter he sent to the committee on September 3, 2014 and said he was available for questions. ([Exhibit 2](#))  
00:04:29 Gary Forrester, Montana Dakota Utilities, said MDU does not see the need for the proposed legislation.

### **Committee Questions and Executive Action.**

00:05:34 Sen. Larsen  
00:05:52 Ms. Nowakowski  
00:06:05 Sen. Olson acknowledged there was no interest in pursuing the legislation.

### **RPS Report and Findings and Recommendations -- Tab 2**

00:06:34 Ms. Nowakowski, gave an overview of the RPS report and the findings and recommendations. She also reviewed the changes made in the report by the committee in the July 18, 2014 meeting and referenced some public comment included in committee member packets. ([Exhibit 3](#)) ([Exhibit 4](#))  
00:09:51 Sen. Larsen

### **Public Comment**

There was none.

### **Committee Questions and Executive Action**

00:10:24 Sen. Olson moved to adopt the RPS draft report.  
00:10:40 Sen. Larsen called for a voice vote. The motion carried unanimously.

## **ADMINISTRATIVE MATTERS -- TABS 4 & 7**

### **Rule Review**

00:11:25 Mr. Everts informed the committee that he had nothing new to report.  
00:11:35 Sen. Larsen  
00:11:48 Rep. Regier asked where the minutes were from the July 18, 2014.

- 00:12:14 Ms. Nowakowski said they are still being finalized and would be emailed as soon as they were complete.
- 00:12:31 Sen. Larsen and Ms. Nowakowski reviewed the minutes approval process.

### **Budget Review**

- 00:12:58 Ms. Nowakowski gave a quick update on the budget review.
- 00:13:36 Sen. Larsen
- 00:13:40 Sen. Driscoll talked about combining an interim committee meeting with the Pacific Northwest Economic Region (PNWER) meeting taking place in July of 2015 at Big Sky, Montana.
- 00:14:17 Sen. Larsen concurred.

### **Staff Evaluation**

- 00:16:04 Ms. Nowakowski encouraged committee members to fill out the evaluation form. [\(Exhibit 5\)](#)
- 00:16:40 Sen. Larsen recessed the meeting 8:53 a.m.

### **Break**

- 01:25:51 Sen. Larsen reconvened the meeting at 10:02 a.m.

### **PSC UPDATE**

- 01:26:03 Kirk Bushman, PSC Commissioner, gave an update on 4 topics:  
! Community Renewable Energy Project or CREP laws, and he said the PSC was unable to come up with any alternatives or solutions for the CREP laws;  
! Montana Dakota Utilities submission for a gas rate increase;  
! CenturyLink's petition for a waiver of the tariff filing requirements; and  
! EPA rule 111d.  
He also talked about the hydro docket and read the motion made by chairman Gallagher. [\(Exhibit 6\)](#)
- 01:45:02 Sen. Larsen
- 01:45:08 Sen. Olson and Commissioner Bushman discussed the timing and the process of the motion and further public involvement,
- 01:46:36 Rep. Regier and Commissioner Bushman discussed the Kerr Dam transfer and any economic impact on the public and a timeframe for the dam's transfer.
- 01:50:10 Sen Buttrey and Commissioner Bushman discussed the cap on the debt at a 30-year fixed rate of 4.25%.
- 01:54:11 Sen. Larsen

### **Public Comment**

- 01:54:47 **John Fitzpatrick**, NorthWestern Energy, assured the committee that the 30-year fixed rate will remain the same.

### **ETIC Questions and Discussion**

- 01:55:30 Sen. Buttrey
- 01:56:23 Sen. Larsen
- 01:56:46 Todd Everts, staff attorney, LSD, clarified the confirmation of the fixed rate.

01:56:59 Sen. Buttrey clarified that the cap is 4.25%.  
01:57:16 Sen. Larsen

**Committee action**

01:57:43 Sen. Larsen acknowledged that no further action was needed.

**STATUTORY DUTIES: HYDROELECTRIC DEVELOPMENT UPDATE -- TAB 3**

01:58:07 Tim Davis, Water Resources Division Administrator, Department of Natural Resources and Conservation, gave an overview of the "Survey of Power Generation Capacity" report that looked at the hydro feasibility at state-owned water storage projects. [\(Exhibit 7\)](#)

**ETIC Questions and Discussion**

02:02:19 Sen. Olson and Mr. Davis discussed the Tongue River Dam and run-of-the-river generation in relation to Northern Cheyenne water users.  
02:03:45 Rep. Regier and Mr. Davis discussed the rehabilitation hydro account's ability to continue growing from year-to-year and the availability of the money for large projects.  
02:05:24 Sen. Larsen  
02:05:35 Rep. Regier  
02:05:50 Sen. Larsen  
02:06:17 Sen. Larsen and Mr. Davis talked about the 24 state-owned dams including one with hydropower capability and most of the remaining dams providing irrigation, and a few providing water to municipalities.

**Public Comment**

There was none.

**Further discussion**

02:07:22 Sen. Olson and Mr. Davis talked about the Melstone storage project.

**STATUTORY DUTIES: GEOTHERMAL RESEARCH UPDATE**

02:08:30 John Metesh, Bureau of Mines and Geology, BMG, gave a geothermal research update on two large projects:  
! Project 1 - heat pump demonstration using mine waters in Butte; and  
! Project 2 - State Geological Survey Contribution to the National Geothermal Data System (NGDS).  
He talked about the BMG's involvement in the Yellowstone Compact and the protection of geothermal resources in the park. [\(Exhibit 8\)](#)  
02:18:15 Sen. Larsen

**Public Comment**

There was none.

**ETIC Questions and Discussion**

02:18:31 Sen. Olson and Mr. Metesh discussed the temperature spike on the graph.  
02:19:27 Rep. Lang and Mr. Metesh discussed the cost of the project and the funding

mechanisms.

02:20:26 Rep. Regier and Mr. Metesh talked about using the project as a springboard for other projects.

02:22:16 Sen. Larsen and Mr. Metesh discussed the science being developed by BMG, and how it will be used in other locations.

02:24:11 Sen. Buttrey commented on how the technology is in use already and referenced CTA Architect's new building in Great Falls, utilizing geothermal technology.

02:24:48 Sen. Larsen pointed out that the meeting was two hours ahead of schedule.

02:25:41 Sen. Olson suggested a two-hour lunch break.

02:25:58 Sen. Larsen recessed the meeting at 11:00 a.m. for lunch.

## Lunch

04:25:32 Sen Larsen reconvened the meeting at 1:00 p.m.

## REVIEW OF STRANDED 9-1-1 PROPOSED DRAFT LEGISLATION -- TAB 5

### LCet02 -- Distribution of Funds to Counties

04:25:53 Ms. Nowakowski, gave an overview of the LCet02 draft legislation that addresses the 10 million dollars currently in the wireless 911 account. She asked the committee for more clarification on the fund allocation. **(Exhibit 9)** She reviewed the public comments received from Missoula County, Mid-Rivers Communication, Montana Independent Telecommunications System, (MITS) and the Montana Telecommunication Association (MTA). **(Exhibit 10)**

04:33:27 Sen. Larsen

### Public Comment

04:33:45 **Bonnie Lorang**, General Manager, MITS, referenced comments filed in August and urged the committee to consider the consumer needs for E911 access prior to sweeping wireless provider funds to the Public Safety Answering Point or PSAP account. She said access to 911 is critical and building the requisite infrastructure is expensive. She said that MITS believes that expanding the definition of "allowable costs" will go a long way toward increasing access to 911 in rural and remote areas.

04:37:27 Sen. Larsen

04:37:45 **Chris Lounsbury**, Director of the Office of Emergency Management, Missoula County, said that Missoula has gaps in coverage caused by different cell phone providers using different technology. Missoula County has some concerns with expanding the definition of "allowable costs" but there are areas where the county can reach a consensus.

04:39:08 **Mark Baker**, Attorney representing AT&T wireless, said that AT&T, along with Verizon wireless, has not sought cost recovery from the stranded funds and they oppose expanding the definition of allowable cost recovery.

04:40:36 **Mark Staples**, representing Verizon wireless, supports the use of the stranded funds for 911 purposes. He said that the laws in place supports this as well but if the committee is considering parameter changes then it might be better to give the money back to the customer in lowered fees.

04:42:21 Sen. Larsen

04:42:32 **Susan Bomstad**, President of the Montana chapter of the Association of Public

Safety and Communication Officials, (APCO), supports the funds being used for 911 purposes.

04:44:00 **Cheryl Wood**, Associate Director for the Montana Association of Counties, said that the intent and purpose of the funds should remain clear. They were collected for a purpose and should be used for enhancing 911 operations and public safety operations.

#### **Committee Questions and Executive Action**

04:45:29 Sen. Larsen

04:45:52 Rep. Regier, Ms. Nowakowski, and Chris Lounsbury discussed the number of 911/PSAP jurisdictions (62) that exist in the state.

04:47:18 Rep. McNally and Ms. Nowakowski discussed the five versus two year sweep on the stranded funds.

04:47:59 Sen. Olson addressed the comments from MidRivers and MITS and talked about the issue of access to 911. He admitted that the bill needs a tremendous amount of work, and he encouraged the telecommunication companies to consider expansion of their networks. He said that he will not support the bill as it stands

04:54:25 Sen. Driscoll questioned Sen. Olson about the wireless service he referenced earlier concerning eastern Montana.

04:55:19 Rep. Steenberg and Ms. Lorang discussed the continued dialogue with stakeholders but the conversations don't include Verizon and AT&T.

04:58:15 Sen. Larsen and Sen. Olson addressed the problem of distribution to the rural areas that need the money to do a buildout for 911.

05:04:01 Sen. Larsen

05:04:35 Rep. Steenberg commented on the confusion with definition of "allowable costs" and how that is hanging up the process of distribution. He encouraged Verizon and AT&T to come to the table with other stakeholders and help facilitate the process.

05:06:14 Sen. Larsen

05:06:35 Rep. Lang asked about where the future will lead us in terms of new technology and trying to plan for it.

05:07:32 Ms. Lorang commented on satellite versus cell tower and thinks that satellite technology is still down the road but cell towers on wheels can address public safety.

05:09:07 Mr. Lounsbury commented that it's going to most likely be a hybrid of both.

05:10:24 Sen. Buttrey talked about the service he gets or doesn't get in his travels across the state.

05:11:24 Sen. Larsen said the money is in a safe place at the time, and he doesn't want to short circuit the process with a hasty decision. He asked that the interested stakeholders form a task force and craft a bill to bring to the Legislature in January 2015.

05:14:00 Sen. Olson suggested that Verizon and AT&T work with their partners and come up with a viable solution.

05:16:06 Mr. Baker said his company continues in its efforts to expand the network in Montana and one of the major impediments is acquiring bandwidth. The issue before the committee is "stranded costs" and shouldn't be confused with the issue of infrastructure expansion.

05:18:08 Sen. Olson and Mr. Baker discussed the cost of recovery and definition of allowable costs tied to the Code of Federal Regulations or the CFR to specifically

encourage the build out of E911 services. Mr. Baker said AT&T supports the draft bill as it stands now but not the expansion of allowable costs. Sen. Olson reiterated that using the stranded funds for buildout of E911 is of no use if there is no cell coverage in a specific area. Mr. Baker said that statewide cell coverage is a separate topic.

- 05:22:28 Mr. Staples reiterated Mr. Baker's previous words that described the issue as complex and very expensive.
- 05:24:55 Sen. Larsen explained that the committee doesn't need to produce a bill for the next session. It can wait.
- 05:26:05 Rep. Regier said he agreed with Sen. Olson and recommends that the stakeholders get together and hammer out a bill that a legislator could carry.
- 05:26:50 Sen. Olson agreed with Rep. Regier.
- 05:26:55 Sen. Larsen
- 05:27:19 Rep. Lang agreed with the idea of waiting for a group to bring forth a viable bill.
- 05:28:09 Sen. Larsen drew the conclusion that the committee wasn't ready to take any action on the bill draft, and he said the committee will take it up again in future interims.

#### **FOLLOW-UP TO 111D RULEMAKING -- TAB 6**

##### **Letters to Legislative Council and EQC**

- 05:28:53 Ms. Nowakowski gave an overview of the letter the committee sent to the Legislative Council and to the EQC. **(Exhibit 11)**
- 05:31:33 Sen. Larsen talked about the Legislative Council's positive response to the subcommittee idea.
- 05:32:24 Sen. Buttrey wondered who the subcommittee appointees would be.
- 05:32:55 Sen. Larsen said he would be happy to accept requests, as well as Sen. Brenden from the Republican side.
- 05:33:14 Ms. Nowakowski clarified when the choices would be made at the end of the 2015 session, and after the interim committees members were picked.

##### **Bison Engineering Analysis**

- 05:33:53 Debbie Skibicki, Bison Engineering, gave a slide presentation about the EPA's proposed Clean Power Rule 111(d) and an overview of the rule. **(Exhibit 12)**
- 05:52:02 Sen. Larsen

##### **Discussion of Letter**

- 05:52:26 Vice-Chairman Regier discussed his draft letter opposing the EPA rules, and the letter received in opposition to his letter from five Montana legislators. **(Exhibit 13)**
- 05:55:42 Sen. Larsen invited Dave Klemp to speak.
- 05:56:18 Dave Klemp, Department of Environmental Quality, DEQ, addressed the EPA Clean Power Rule and discussed how the target was established.
- 05:59:06 Sen. Larsen

##### **Committee Discussion**

- 05:59:27 Rep. McNally and Mr. Klemp discussed the October 16, 2014 deadline for comments.

06:01:41 Rep. Regier and Mr. Klemp discussed the seven or nine states that plan to object to the rule, and the eight or nine that plan to continue with the rule.

06:02:48 Sen. Olson asked Mr. Klemp if the agency had written any comments during the comment period. Mr. Klemp replied that there were none at this time but the department was preparing comments. Sen. Olson asked if the administration plans on challenging the rule. Mr. Klemp answered that he couldn't speak for the administration. His agency is digging in technically to see what sort of flexibility they have, and they are seeking regulatory certainty and clarity.

06:05:25 Sen. Olson talked about Ms. Skibicki's power point building Block #4, or energy efficiency and the loss of coal revenues to the tax infrastructure if the rule is implemented. He said the committee should formulate a letter opposing the rules as they stand.

06:15:03 Sen. Larsen asked Sen. Olson if he was putting this in the form of a motion.

06:15:15 Sen. Olson so moved.

06:15:22 Sen. Larsen invited public comment.

### Public Comment

06:15:46 **Kyla Maki**, Montana Environmental Information Center, said that during the discussion concerning the EPA rules it was assumed that the rules would have a very negative effect on Montana's economy but what was not discussed was what the rules intended to address. She said that the rules address the dramatic and increasing costs of climate change on Montana's as well as the national economy and the trend to move toward renewables in the state is already happening. She is against sending the letter to the EPA and says it is premature in nature.

06:24:49 **Mark Lambrecht**, Executive Director, Treasure State Resource Industry, said his organization has contracted with Bison Engineering to prepare its comments. He offered any help with a letter the committee might draft to the EPA. He commented on some points that Ms. Maki made concerning the discount for coal and coal being more expensive than Judith Gap energy.

06:26:47 **Mark Ourada**, Vice-President, American Coalition for Clean Coal Electricity, took issue with a point Ms. Maki made concerning the Supreme Court ruling that the EPA had authority to regulate greenhouse gases. He feels the rule is legally not defensible.

06:34:08 **Doug Hardy**, Montana Electrical Cooperatives Association, talked about the effects the EPA ruling will have on cooperatives around the country. He said they are more than willing to work with any stakeholders on a state plan.

06:38:38 **Gary Forrester**, Montana Dakota Utilities, gave an overview of the services his company offers in eastern Montana. He talked about how the company might reach 6% efficiency level by burning natural gas instead of coal. He contends that the EPA rules will end up costing the ratepayers more money down the road.

06:45:08 Sen. Larsen submitted Commissioner Travis Kavulla's written statement.  
[\(Exhibit 14\)](#)

### Committee action

06:45:48 Sen. Olson moved that the committee craft a letter that would include comments made by Commissioner Kavulla from his written statement, and a number of other issues and send it to the EPA.



06:47:24 Rep. Regier asked if it would be a letter of concern or a letter opposing the rules.  
06:47:54 Sen. Olson said it would be a letter of concern bordering on opposition.  
06:51:15 Sen Larsen asked for a roll call vote.  
06:52:07 Sen. Olson's motion failed, 4-4. ([Attachment 4](#))

## **ENERGY RESOURCE DEVELOPMENT: LOOKING TO 2015**

06:52:39 Dave Galt, Executive Director, Montana Petroleum Association, gave an overview of private and state land oil production. He submitted written testimony to the committee. ([Exhibit 15](#))  
07:01:36 Sen. Larsen and Mr. Galt discussed the secondary recovery conducted by Denbury Resources in Powder River County.  
07:06:01 Rep. Regier and Mr. Galt discussed the reason for the drop off in permits and the discrepancy in permit drop-off and production increases.  
07:09:06 Sen Larsen  
07:09:32 Mark Lambrecht, Executive Director, Treasure State Resource Industry, sitting in for Bud Clinch, Montana Coal Council, discussed the overall flat or decreasing outlook for coal in the next couple of years due to low natural gas prices, the closure of coal mines, transportation issues, and other regulations. He submitted written testimony to the committee. ([Exhibit 16](#))  
07:13:40 Sen Larsen  
07:14:09 Jeff Fox, Renewable Northwest, gave a slide presentation of renewable energy resource development in Montana. He submitted written testimony to the committee. ([Exhibit 17](#))  
07:25:32 Sen. Larsen

### **Public Comment**

07:25:54 Gary Wiens, Assistant General Manager, Montana Electric Cooperatives' Association, said that the major barrier to wind development is the availability of transmission capacity. He said there is no demand for existing wind generation due to a large oversupply and building more transmission capacity would have a negative economic impact on cooperatives.

### **ETIC Questions and Discussion**

07:29:20 Sen. Larsen asked for questions  
07:29:30 Sen. Olson said that it is interesting to note that some of Montana's neighboring states, that do not have a "required" renewable portfolio standard, are out-performing us.  
07:29:57 Sen. Larsen

### **Committee action**

There was none.

## **INTERIM WRAP-UP**

07:30:38 Sen. Larsen invited comments from the committee or staff.

07:30:58 Sen. Olson said that serving on this committee has been a pleasure. He thanked Sen. Larsen for doing an excellent job as Chairman.  
07:32:06 Sen. Larsen  
07:32:13 Rep. McNally appreciated working with Sen. Olson and thanked him for his leadership.  
07:32:47 Sen. Buttrey thanked everyone for the opportunity to serve on the committee.  
07:33:25 Rep. Regier said he gained good experience working with the committee members.  
07:34:24 Sen. Larsen said it was an interesting and a great experience chairing the committee and he thanked everyone.

**PUBLIC COMMENT**

There was none.

07:37:08 Sen. Larsen adjourned the meeting.

**ADJOURN at 4:12 p.m.**