TRANSITION ADVISORY COMMITTEE
September 19, 2002
Joker's Wild, Missoula, Montana
Original Minutes with Attachments

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes and Exhibits are on file at the offices of the Legislative Services Division.

COMMITTEE MEMBERS PRESENT

Sen. Fred Thomas
Rep. Tom Dell
Rep. Roy Brown
Rep. Jim Keane
Rep. Steve Gallus
Rep. Alan Olson
Sen. Alvin Ellis
Sen. Walter McNutt
Sen. Emily Stonington
Sen. Don Ryan
Rep. Stanley Fisher
Jerry Driscoll
Pat Corcoran
Gene Leuwer
Bob Nelson
Kathie Roos
Matt Brainard
Gary Wiens (for Dave Wheelihan)
Russ Ritter
Dave Kinnard

COMMITTEE MEMBERS EXCUSED

Sen. Linda Nelson
Kathy Rice
Art Compton

STAFF MEMBERS PRESENT

Jeff Martin, Legislative Research Analyst
Todd Everts, Legislative Attorney
Robyn Lund, Secretary

AGENDA
Attachment 1

COMMITTEE ACTION

- Requested a bill draft that would set a target of 7% of the default energy supply that may come from renewable resources as defined in 90-4-102, MCA.

- Approved a draft letter to Montana's congressional delegation that asked the delegation to persuade the Federal Energy Regulatory Commission to extend the comment period on its standard market design rules and to work with the Pacific Northwest in developing a workable wholesale energy market structure in the region.

CALL TO ORDER

Roll call was taken.

MOTION/VOTE: SEN. McNUTT moved to approve minutes of the previous meeting. The motion passed unanimously.

SEN. THOMAS said that TAC member Stephen Bradley, representing Indian tribes, had passed away.

II UPDATE ON WORKING GROUP DEVELOPMENT OF DEFAULT ENERGY SUPPLY PROCUREMENT PROCEDURES BY NORTHWESTERN ENERGY

PAT CORCORAN, NorthWestern Energy, said that the default energy supply docket included a collaborative process to discuss supply issues with the stakeholders. The PSC reviewed that as part of their deliberations. They organized in May/June and discussed the role of the default supplier. The PSC sent out 14 questions to a variety of parties. They then looked at establishing default supply resources and procurement guidelines for NorthWestern Energy. An initial draft is aimed at establishing these guidelines. HB 474 set the stage with using industry accepted procurement practices. The intent of the guidelines is to provide the right level of guidance to NorthWestern Energy, the default supplier, aimed at resources planning and procurement. They are also looking at integrated least cost planning. It is the intent of the group that the guidelines would provide a specific set of instructions for the default supplier that would, if met, help them approach virtual preapproval. They are looking at having guidelines that are reasonably descriptive, but yet provide flexibility. They are pleased with the results of that group and hope to have the initial work done by the end of October.

REP. DELL said that HB 474 built a lot into it related to industry accepted standards. There is still the sense of “what are industry accepted practices?” Could MR. CORCORAN clarify if there are such standards? **MR. CORCORAN** said that there is a debate about how much of the industry accepted practices is an art versus a science. There is a lot of work that provides guidance with regard to how request for proposals and other items are done. It is from practices that have occurred over the years, particularly in the competitive market place. The industry has to make sure that they conducted the process fully and correctly. They are trying to get to a point that if the default supplier can know that if it follows these guidelines and operates within these boundaries, then the commission and the stakeholders will be looking at the same criteria to judge them. It should be more objective and that is the reason for these guidelines. The practices are out there, but they are subject to debate.

SEN. STONINGTON asked for more description about the first round of proposals. **MR. CORCORAN** said that there were guidelines and processes that they were using to perform their role. They are not on a paper someplace, but the people doing this work have that type of experience. We need to remember the environment and timetable at the time that this was done. The criticisms were with regard to the process and the lack of documentation. The guidelines speak specifically to process and ensuring the proper documentation throughout the process.

SEN. STONINGTON asked if there will be other periods of time when NorthWestern will be trying to secure contracts in a volatile wholesale market. Is this process really going to solve that problem? **MR. CORCORAN** said that is a possibility. They are focusing on the time element and on risk mitigation and management. It contemplates an annual process where they will look ahead and forecast load expectations for 10 years. If this is done correctly, they should have the opportunity to be successful with mitigating those risks. They were fully exposed when they went through the process before. There is more of an opportunity to address the problem.

COMM. BRAINARD said that price is not an issue to be second guessed, and is not a fair way to determine that a contract is prudent or not. That is why this emphasis on process is there. It is not fair to the default supplier to say that they should know what the spot market will be a year from now. The PSC has said that if there is a consistent process that is understood by everyone involved, then you can follow that process and the random prices over time will sort themselves out. Adherence to that process and transparency will allow the ratepayers to understand that the very best job has been done. The dockets are contested cases. For whatever might have been thought about industry accepted procurement practices, when it is time for a contested cases, there are interveners who interpret things differently. Rule making will involve those guidelines.

SEN. STONINGTON asked where NorthWestern is about the ability to do business in this environment. **MR. CORCORAN** said that he thought that they could get there. They are trying to figure out what they can live with and what they can't with regard to the guidelines or tools that they think they need to do the job. **SEN. STONINGTON** said that during the course of today, she hopes that NorthWestern can participate with an open mind in looking what the options are. She thinks we need a harder look at the process from a statutory review.

SEN. THOMAS said that if the PSC and utility can figure this area out and are happy with it, then that is the right avenue for this to be done, not in the legislature. **MR. CORCORAN** said that their preference is to work this out with the stakeholders and not have to worry about legislation.

SEN. ELLIS asked for a finish date. **MR. CORCORAN** said that the process is on an October/November time line.

Susan Good, PSC, said that the forums meet about every 2 weeks. The first issue was the procurement guidelines. The PSC sent out a notice of inquiry dealing with the default supplier, its role, and different procurement issues. Because this is not a formal PSC proceeding, the responses weren't required to be formal. They took this information and categorized it into each of the questions and how they answered them. There is a big question in every set which dealt with preapproval. Many people felt that preapproval would not be necessary if the guidelines were specific enough to give clear direction to the default supplier.

The next meeting is next Tuesday and will deal with the last set of questions, including integrated resource planning. They hope to have a very firmed up set of guidelines to give to the

PSC for any action they wish to take to put the guidelines into practice. In the end the responsibility stops with the PSC. The customer choice rules will be harder.

SEN. THOMAS asked about virtual preapproval. Does the PSC feel that they are answering the question of how this will be done dealing with all generation purchases? **COMM. BRAINARD** said that the concept of preapproval would create a situation where the PSC ends us managing the utility. The guidelines will provide a framework for their decision making. That is the most appropriate way to have things work out. They have no interest in micro-managing the default supplier.

SEN. THOMAS asked if the PSC will be answering the question ahead of time so that preapproval won't have to be dealt with during the session. **Ms. Good** said that there will be acceptance of the guidelines. It is the hope that NorthWestern will find those to be sufficient. At this time it doesn't appear that legislation on this area would be sought by NorthWestern or the PSC.

SEN. STONINGTON asked about the idea that if they go to preapproval, they will end up managing the utility. **COMM. BRAINARD** said that in a situation where the PSC is required to pre-approve contracts, they become the management. They would be making the risk decisions for the company. NorthWestern is the professional in this business, not the PSC. Under adequate competition we won't be looking at a default supply situation the same way that we are now. The PSC doesn't have the staff or the time to micro-manage the default supply. **Ms. Good** said that she agreed with COMM. BRAINARD. The issue is about risk, whose is it and to whom does it appropriately belong. Preapproval shifts the risk to the consumer.

SEN. THOMAS said that is true if the price is high, but if the price is low, then the consumer took the risk and they won.

REP. DELL said that risk is what it was about in the last session. They were dealing with a situation where there appeared to be a lot of inherent risk. The utilities wanted protection. Now there is a window of opportunity to recognize that reality. It is imperative that there be that flexibility and the sense of risk. This is what we should focus on.

COMM. BRAINARD said that one of the issues is that an element of risk tends to sharpen one's mind. That is the issue with the default supplier. They need some element to keep them focused. Businesses make profit because they assume risk. If they win on that risk the result is profit. On the pass through there is no element of profit.

SEN. STONINGTON said that the only party who is really at risk is the ratepayer. If it is a pass through, the utility will recover whatever it costs to buy the electricity, so the ratepayer is at risk and both the utility and the PSC are responsible to try and minimize that risk to the ratepayer. She doesn't see where the PSC or the utility is at risk.

SEN. THOMAS said that if the utility buys power at the current rate and the market drops, the risk is that the people will switch off the default supply, but the supplier will have to continue with their contract. It seems to him that if somebody comes along who can sell power at a better deal, the risk of approving that now is a good risk.

REP. KEANE said that the prescription drug industry has a built-in scenario that has a way to escalate the price. We need to remember the PSC needs to take their responsibility seriously and we need to be protected so that we don't have a scenario where we can't control the price.

SEN. McNUTT said that those protections are in place today with the annual true-up and review. **COMM. BRAINARD** said that prudency and the issue of price, and trying to second guess that, the utility will be before the commission and looking at true-up tariffs and adjusting the price over time. That sets the framework for the utility to have some comfort in their decision making. The utility has a great responsibility in all this and needs the defined process.

SEN. McNUTT said that is not just the PSC making that decision. There are interveners. There is a good safety net.

Ms. Good said that it is the job of the PSC to serve the public interest and that includes protecting ratepayers and keeping the utility healthy. They have to minimize risks on both sides.

Comm. Anderson said that it is about risk: Who has it, the probability and the size of that risk, and compensation for risk. HB 474 shifted the risk by changing the standard for what the PSC does to approve a default contract. Before SB 390 the standard was used and useful. HB 474 changed that to prudence. The prudence standard is not a hindsight standard, it is knowing how the utility made the decision and was it a reasonable decision.

Risk is a probability of something happening. That is being addressed through the guidelines. When the utility comes to the PSC for recovery, all the participants would have been involved in establishing the guidelines, the probability of there being a problem is really low.

Comm. Anderson said that it is not reasonable for government to ask an entity to take on some risk without compensation for that risk. Under current law, the company asked for recovery of transmission and distribution expenses, this is a way to compensate for that risk. Another way to compensate is to put in place a performance standard. He thinks that the Legislature should not legislate on this subject. There is process underway that will fulfill HB 474.

SEN. STONINGTON asked, what are the pitfalls in terms of incentives for energy conservation. **Comm. Anderson** said that if the company did a prudent job of procurement and they get cost recovery, if customers can conserve, the company still gets cost recovery on a gross revenue basis. **SEN. STONINGTON** said that if the company is selling 1000 kwh and they are making a profit on the transmission and distribution, then because of conservation measures the utility is only selling 800 kwh, then they don't get to collect transmission and distribution on 1000 kwh.

Comm. Anderson said that was correct. The other issue is how the company recovers its revenue requirement, which is investment on its facilities and its expenses. The company has a way to recover its revenue requirement, not necessarily based on the quantity of through put to the system. Therefore, the company has no disincentives to encouraging the customers to conserve. **SEN. STONINGTON** asked about new generation. **Comm. Anderson** said that it is dogma to say that we need new generation to relieve prices. What we need is better price signals. If you eliminate the barriers to investment, whether or not there is new generation will be determined by the environment. With good price signals, the investors will have the incentive to invest if it is needed.

SEN. THOMAS said that the market was signaling and the response was new generation. There were market signals and there were reactions to it. **SEN. STONINGTON** said that she is trying to understand how these all fit together. Whether or not we need new generation is just one side of the question. **Comm. Anderson** said that economic development is important for the state of Montana, but it is not the PSC's job.

SEN. RYAN asked if there was a 20% decrease from conservation statewide, the PSC would then raise the transmission rate to ensure full cost recovery for the service of transmission. Is that how the true-up would take place? **Comm. Anderson** said that transmission and distribution are still fully regulated. The company is entitled to recover expenses and receive a profit on its transmission if it is used and useful. The company is not at risk for the recovery of those things. **SEN. RYAN** said that since they are getting revenue based on kwh delivered per month, if there is a significant reduction in consumption, that rate to recover those costs would be something that the PSC would likely raise to meet that. **Comm. Anderson** said that the utility would file with the PSC for a rate increase. **SEN. STONINGTON** said that the impact on the ratepayer is that they will have to pay more for the energy they consume because the transmission rate will go up. **Comm. Anderson** said that was possible.

COMM. BRAINARD said that there is a certain stigma attached to energy use from fossil fuels. It doesn't benefit anybody to stigmatize energy use. We should be looking for better technology. You can end up paying more for less by conserving. In the overall scheme of things, you have some people that use more, while others are using less and it balances in the long run.

SEN. THOMAS asked about two smaller projects, Tiber Dam and Thompson Falls cogeneration project. **MR. CORCORAN** said that they are continuing to work on the needs of the default supply customers. They are looking at the need for a dispatchable project as it relates to the level of energy that is currently covered in market purchases. These two projects were part of that activity. Those are smaller base-load projects aimed at the Duke activity. They are looking at the need for demand-side management. They formed a technical advisory committee. They expect to engage that committee in helping them sort through these issues. The wind project has petitioned the PSC for qualifying facility (QF) status. NorthWestern's preference is that there would be no new QFs. They have made certain announcements with regard to the project, but it is not resolved at this point in time.

REP. BROWN asked about conservation and whether there are any incentives if a significant number of customers were to conserve energy and lower the load 10%. The PSC allows for full cost recovery, that would get allocated across all the customers, so that those who conserve would still have a lower cost. **Comm. Anderson** said that part of the default supplier's duty is to predict customer load, in doing that they have to look at conservation and how that would affect things in the future. Going forward it will either be higher or lower. **MR. CORCORAN** said that if the utility had 2 customers that used the same amount of electricity and one of those customers conserves, this causes the supply costs to drop, but the installed cost of the delivery system will remain the same. The PSC has to sort through the recovery of those costs. There are still those costs independent of what the consumer actually uses.

MR. NELSON said that even with conservation there is load growth going on to that will tend to increase the fixed recovery costs. When factors get out of balance, there is a decision that a rate case needs to be filed.

COMM. BRAINARD said that Montana Resources is a good example. The fact that they are no longer paying transmission cost caused an increase for others on the system. The loss of industry needs to be included in this discussion.

REP. FISHER asked about the pricing structure's effect on cooperatives. **COMM. BRAINARD** said that there is already a practical price differentiation between the cooperatives and the default supplier. The cooperatives are not regulated by the PSC. **REP. FISHER** asked if that will create competition. **MR. CORCORAN** said that is starting to become an issue in Billings, as the city has built into the rural area. There are instances of consumers shopping for service based on installed price. That is where territorial integrity comes into play. On the supply side, if there are cooperative customers today that want to shop the market, that cooperative will have to decide if they want to open themselves up to competition. **REP. FISHER** said that his concern is any legislation that we might consider would have to be careful to keep in mind that there are two different suppliers in the state.

John Hines, Power Planning Council, said that the topic is risk to the utility, energy suppliers and consumers. How do we mold and shape that risk to get the best outcome? The power supply prices in the region influence the market prices that are seen in Montana. A couple years ago they saw a significant probability that they may not be able to meet load right before the prices began to climb. Responding to that price increase, a significant number of new suppliers began their permitting process and the construction of new generation. Energy prices have begun to decline, and there has also been a decline in the amount of generation that will be available in the Pacific Northwest. The forecast of 3000 megawatts of new generation available by winter brought the probability of not being able to meet load in the Pacific Northwest to about 5%. With the decline in generation, the loss of load probability has increased significantly. Because the economy has been repressed, they don't see as large a probability as they would have if the economy would have maintained its growth pattern. Energy developers respond to price. If the risk isn't allocated correctly, there will be years that are superb, however, consumers are also going to be exposed to high prices. At a minimum, there should be the opportunity for the default supplier to enter long term contracts.

SEN. ELLIS said that is why he thought that new power generation in the default supply would be good for Montana. There is plenty of generation here, but the ability to export it is limited. The more generation here, the more pressure they put on this market. **Mr. Hines** said that we are transmission constrained now. Any new generation would put more price pressure in the incumbent generation in the state. That is not a bad thing up to a certain point. The regional forecast show 350 megawatts of regional generation per year in the next 30 years.

COMM. BRAINARD said that there is a problem with the financing of new generation. The industry and the financing of the industry still struggles with the risk of competition. New generation wants to have the guarantee of firm contracts. When you have an established generating facility, they can undercut. The customers in the default supply, how do you guarantee a generator 20 years of customers through the default supply and what is the proper mix. We are seeing a lot of new generation proposed that is significantly higher than what we have now.

REP. KEANE asked if all the power was not going to be used in the state, how do we develop those projects in the state. **COMM. BRAINARD** said that has been one of the ongoing problems that they are discussing. There is no way that the state can use all the electricity that we can produce here. That gives us something to export, but we have to have a way to ship that out of here. The default supply can only accommodate so much new generation. **REP. KEANE** asked if that would be an area that required legislation. **COMM. BRAINARD** said that there are significant issues of costs associated with new transmission. There is some augmentation that could be done to existing corridors. These issues that are interwoven with FERC and the RTO issues. **REP. KEANE** asked for Mr. Hines to respond. **Mr. Hines** said that a lot of the transmission is controlled beyond the borders of Montana. FERC is trying to set significant energy policy right now on the pricing of transmission. Nationwide they are trying to use a single model for it. As far as legislation, that is a federal issue. There have been some lawsuits recently clarifying the states' role, the supreme court favored jurisdiction of FERC. That doesn't mean that the state couldn't go along the line of being a facilitator or financier for transmission.

SEN. ELLIS asked if the PSC were to accept new generation, wouldn't that guarantee that the next time the default supplier has to assemble contracts they have a good environment compared to everything else. Wouldn't it also provide more incentive for aggregators to attract default supply customers creating more competition? **COMM. BRAINARD** said that part of the problem is that the new generators want to put 100% of their energy into the default supply. He recommended that they look at the competitive market place. The best result would be having some production from each plant go to the default supply while the generators are also participating in the competitive market.

SEN. STONINGTON asked about FERC's proposed new rule and its impacts on the region wide and in the state. **Mr. Hines** said that standard market design (SMD) is a FERC proposal to standardize transmission pricing and access throughout the nation. The idea of the new transmission policy is that those who need it, pay for it. If an entity wants to build a generation plant in Montana, then they will have to pay for the congestion rights or they will have to pay for the cost of the new transmission system. **SEN. STONINGTON** asked if that encourages building new generation near the load. **Mr. Hines** said that FERC is trying to use price signals that will build new transmission, take into account energy efficiency actions, or locate generation on the other side of the bottleneck closer to the load centers. They are not dictating which of those happen. He sees SEN. ELLIS' question as a financing question. If you look at the early 1990's, there was a small equity percentage that the bankers were requiring for new resource developers, they didn't have to show a complete revenue stream that paid off the remaining portion of the amortization. Bankers are now asking for a price forecast that can pay off the debt. With the price decrease and people not being able to make their payments, we are seeing the investment community significantly raise the equity portion and also requiring that an entity show a revenue stream that pays off the amortization.

SEN. ELLIS said that in the last 10 years 85% of the generation had been built by wholesale producers, 11% by regulated utilities, and the rest was government entities. What has happened to that? **Mr. Hines** said that during the 1980s almost all generation was built by integrated utilities. There is not much development going on from those parties now. The FERC orders have created tremendous uncertainty in the market now, and people are waiting to see what those rules are.

<u>III</u> <u>POLICY OPTIONS FOR RETAIL ELECTRICITY SUPPLY</u>

Matthew Brown, National Conference for State Legislatures, referred to **Attachment 2**. Mr. Brown described the characteristics of Montana's load. It is small and disbursed, mixed with cooperatives and investor-owned utilities. Montana has seen more volatility that most would like. Power prices now are near what they were in 1997. In the last 18 months, well over half of the new generation proposed nationwide has been tabled or canceled.

Montana has a lot of resources. The fact that NorthWestern Energy has bought Montana Power's system adds some flexibility that most states don't have. Corporate separation is already in place and has some advantages. Montana's experience with customer switching is very similar to most other states. The large customers switched, the small customers haven't. There are some examples that are worth looking at. Ohio has seen a significant amount of customers switching. Maine has seen some examples of some customers switching through a different type of structure.

The customer acquisition cost of $150 -200 for a marketer to get a new customer is relatively high. On the other side, customers may save 2% to 10% in energy costs. It is a small savings versus a relatively high cost to acquire that customer. In order to bring competition to the smaller customers, you have to find a way to address those issues. Marketing costs for individual customers are such that, given the economy, it is not going to make a lot of sense for customer-by-customer switching to retail competition. It is worth looking at the hurdles that the marketers need to overcome to participate in the market.

There are four broad policy options to consider. Three have to do with ways to address the retail markets and default supply. The forth addresses a number of other issues. One policy option is to find ways to stimulate the market, including incentives to jump start the retail market. The second is to recognize that retail customer choice will take longer than expected. The third is to look at ways to aggregate the load. The last option is to pull back from the idea that competitive markets are going to service the needs in Montana.

Stimulating the retail market: In Connecticut, there was a suggestion for legislation that would have given customers a check for switching. Markets haven't allowed the providers to do that. This would bribe the customers to switch. The objective is customer switching in the short term. The funding for this would come from something that looked a lot like the universal system benefit fund. A second area is to raise the default service price to encourage competition. Look at the rule for moving on or off the standard offer, so the default service is a safety net. A third option is to establish new rates for customers who have left competitive service and then come back. That makes the idea of coming back to that standard offer less of a safety net, but it does begin to create a structure where it is more attractive to move off of the utility standard offer. Another option is to offer advanced metering for different products and more information to the consumers and the providers. Real time metering is used for the largest customers. It creates a situation where a customer can adjust their usage according to signals from the market. A number of states have put in pilot metering programs.

Longer transition period: The next area is recognizing that it is going to take longer for competitive markets for small customers to develop. We need to look at ways to aggregate those customers. Oregon has the utility offer a portfolio of products and small customers can choose from those products. This is choice of product, not of provider. It is the utility who is continuing to offer these services. In Oregon, the utility has allowed other products in, selected through competition. The next option is to bid out the default supplier. The example for this comes from Maine. The state bid out the customers in different customer blocks. Those customers are now being served by the marketers with power delivery from the wires company, which is the old utility. Another approach is opt-out aggregation. Citizens can vote for the municipality, for example, to secure energy service for them. The municipality secures a price that is below the default service price. Customers would choose whether to opt-in or opt-out. Fifty-five percent of customers in the northern Ohio area are switching. The biggest fundamental issue is that this is not choice on a customer-by-customer basis.

Retreat from competitive market: The last set of options relate to putting the government in the power market. There is some information on the Buy the Dams initiative in **Attachment 2**. One issue is the exposure to risk that remains if the state were to buy the dams. What percentage of the total capacity is taken care of? Hydro resources have separate risks, but there are advantages to having more local control.

Mr. Brown said that there is value in going through a process to establish priorities in the energy area. An energy planning process look at questions and issues such as does it make sense for the state to be looking at new energy, renewable energy. The trick with an energy plan is building it so that it has some teeth. The last 2 options include the option of looking at small scale distributed generation facilities. One thing the state may want to consider is establishing distributed energy power parks. This would tie into attracting some of the industries that require high quality power.

MR. DRISCOLL asked if the states that offered the incentives, are the customers required to stay for a certain amount of time. **Mr. Brown** said that it didn't end up passing in Connecticut, but the legislation was proposed. **MR. DRISCOLL** asked if NorthWestern gave him everything free and saved him some money, is there a switching fee. **Mr. Brown** said that there generally is not, but there are some occasions where there are. **MR. DRISCOLL** asked if any of the states had done anything for the major users. He would rather spend time trying to help the major users. **Mr. Brown** said that is where a lot of the states are starting to look.

COMM. BRAINARD said that in his mind we have gone from a system of regulation that worked pretty well, to SB 390 that was supposed to provide customer choice. The majority of options go back to another form of regulation. It may be counterproductive to put government back in charge of making decisions for consumers. He thought that we were trying to provide a means for customers to get in the market. **Mr. Brown** said that the Oregon option does preclude switching, but doesn't necessarily need to. The option of bidding the default supply doesn't preclude switching. The first set of options is designed to have customers switch. **COMM. BRAINARD** said that in part of the discussion it talks about the low savings. There are a lot of people concerned about a 10% increase. The more restricted the ability of small customers to move in and out of the default supply, the less likely they are to switch. If the default supply does its job and you allow entry and exit, then you will have higher prices. The price will be high enough to encourage competition.

REP. BROWN asked why did so few people switched in Oregon? **Mr. Brown** said that the program is five months old. The people in Oregon were surprised that as many people have switched as they have, but it is not a huge number.

REP. DELL asked about the role of the PSC versus a legislative role and what works best in response to overall energy policy. The article that he read said that what works best is for the Legislature to give good policy to the PSC and then allow the PSC to be more of an activist in creating energy policy. Is the PSC more of an activist in energy policy in other states? **Mr. Brown** said that it varies a great deal. As a rule, legislatures have tried to set the good policy and stay back. The reason the commissions were created in the first place was so that they could do the detail work based on the policy that the legislature set. The trick is for the legislature to set policy that is detailed enough for the PSC to act, but that still allows flexibility. **REP. DELL** asked about micro-managing. **Mr. Brown** said that ends up being counter productive.

SEN. ELLIS said that the part that looked best was the advanced metering. He asked for more information on the pilot projects. **Mr. Brown** said that Oregon is one state that has the advanced metering. In Washington, Puget Sound Electric offers advanced metering. The time of use metering through Puget Sound has found that customers are switching from on peak to off peak times. Customers are using more energy in the off-peak than they were previously using in the on-peak. The price differential is 1 to 2 cents between on peak and off peak. Customers have an advanced meter that allows them to get feedback the next day on their usage for the previous day. **SEN. ELLIS** asked with respect to real time metering, are there any industries that are operating at off peak times only? **Mr. Brown** said that there have been places that have switched a significant amount of their production to off peak time.

MR. CORCORAN said that large customers in Montana are using advanced metering. The infrastructure costs can be spread over a larger number of customers in other areas of the country as compared to Montana. We need to use this study as guidance. He thinks that the laws on the books are good, but we need to find ways to manage the transition and promote a competitive market while at the same time protecting small customers. NorthWestern is already doing many of the things that are talked about in this study. Savings from time of use metering wouldn't be seen by the customer for approximately 4 years because of the cost of the meter. **Mr. Brown** said that the savings on the metering would depend on the spread of the on peak and off peak times. **MR. CORCORAN** said that the role of the default supplier is the re-regulation activity in Montana. We have established the role of the default supplier and it is a regulated function. That will help deal with the small consumers. What is missing is statewide energy policy. **Mr. Brown** said that statewide energy policy could make a lot of sense. What is the ultimate role of the Legislature and if the Legislature wants to set a priority on a particular approach?

Comm. Anderson said that the central issue is that if you really believe in retail competition, what are you willing to do to get there? It gets down to what the definition of default supply is. One definition is the safety net and the other is the least cost option. Unless you confront the issue of what is the default supply, and decide that it is a safety net approach, there is no way there will be retail competition in Montana.

MR. Wiens said that it is important to keep in mind that there are significant reasons in the restructuring laws that there are separate laws for cooperatives. Because cooperatives are owned by their customers, they are responsive to what they want.

SEN. STONINGTON said that this report does bring up some interesting and difficult questions. She thinks that unless we decide whether we are committed to retail competition or not, we haven't started the discussion. The legislature will have to define what the default supply is. All the consumer sees is the low price, so the political pressure will be for low price. Is the legislature willing to tell the consumer they will have to take a higher price to encourage competition? Why don't we face reality and figure out what we are going to do with the default supply? This committee is the right group to take on this issue and try to come up with a solution. If you want retail competition, what are you going to do to encourage it?

SEN. THOMAS said that we only left regulation on July 1, 2002. Competition works in everything else that is sold in America. He is not sure that the default supply mechanism is not working.

COMM. BRAINARD said that this is an issue about customer choice. Customer choice won't occur until there is a retail competitive market for residential and small business customers. This committee needs to realize that we are entering a transition to competition. The things that will have to be done in that transition are things that are necessary for the transition and will not need to be done when a competitive market is reached. It will be done in steps and this is something that has not been done before. We need to create the interface where customers can interact with it. This will come about when the market is there. We need to make a decision of in or out.

REP. KEANE asked if there was any breakdown of how many customers left for a green product in Oregon. **Mr. Brown** said that the majority left for one of the green products. There were a few that left for the time-of-use products. There were two time-of-use products that were offered, seasonal and time of day. There was another one that gave rates for a year based on year-ahead prices. **REP. KEANE** said that he was trying to get at the idea most left for green products. **Mr. Brown** said that was correct. Most left for the Green Mountain Energy which was actively marketing. **REP. KEANE** said that it seems like that product is wanted, and the company should be able to figure that in. That seems fairly straight forward rather than trying to come up with something else at the present time. To get to the competitive market it will be extremely difficult.

REP. GALLUS said that he agrees that it is too early to say that transition to competition has failed. There is a huge contradiction of providing either a bribe or punishment to make a choice. Why would you push them out of the default supply market if that supply market was their choice?

COMM. BRAINARD said that he doesn't think that we can expect the default supplier to do the pass through service forever for nothing. There are additional costs just in the service they have to provide. At some point the are going to need to make a profit. That would be down the road.

SEN. ELLIS asked about rewards for the default supplier in risks they take for the default supply. It didn't sound like anything was going to be done in that area. **Comm. Anderson** said that he wouldn't rule it out sometime in the future, but it is not an issue that is getting a lot of attention because of other important matters.

SEN. ELLIS asked how successful Energy West has been in the marketing area. **Sheila Rice, Energy West**, said that they have about 600 customers. Their specialty is in the mid to large commercial group on NorthWestern's ystem. **SEN. ELLIS** asked for her to comment about whether we have to decide what we believe in. **Ms. Rice** said that she agreed. They operate now because there is a pilot program. Don't take the opportunity away from the marketers by saying that there will be no retail choice for residential customers. Small customers will step up for choice. Energy West believes in the safety net for the default supplier. That would be the model that they would suggest be adopted. Marketers can develop products on the fly, whereas utilities cannot because they may be limited by tariffs. One example to encourage competition would be to allow marketers to bill utility charges and pay the marketer for doing the billing. Energy West likes the idea of bidding out groups and the opt-out option. Opt-out is always more successful than opt in. **SEN. ELLIS** asked if they have experimented with the any advanced metering. **Ms. Rice** said that the time of use metering has some attraction.

SEN. STONINGTON asked about legal barriers to constructing a retail market that enables her company to compete as well as they would like. **Ms. Rice** said that default supply could potentially be a barrier, but that would depend on the definition.

Comm. Anderson said that under current law the PSC could define the default supply. They could say that the default supplier is that of last resort, but there is no support for this approach. The long term outcome could be in the interest of the public, but the PSC is not going to go there.

Mr. Brown said that he was characterizing the need for incentives. He is curious how the committee looks at the idea of whether there is a need for incentives and is that an approach that the committee is looking at or is it a matter of setting up a transition to choice. There is a transition with a short and clear end point defined or there is a transition that sets up a structure and at some point, if certain triggers are net, the market will open up fully.

MR. CORCORAN said that choice is something that can be done, but we have to keep in mind the customer base in Montana in deciding what to do. NorthWestern has concerns about the risk/reward symmetry. We still need to try some of these things and give some of these things a chance to work. Incentives should be a product of the market.

SEN. STONINGTON said that we have dodged some bullets because of the rate moratorium, but that is not always going to happen. She believes the PSC was responding to political pressure to keep the price low and it put NorthWestern in the position of trying to sign contracts without a firm market. NorthWestern is acting as the middle man between the energy supplier and the PSC. This is addressed in the Maine model by having the PSC bid the default supply.

MR. DRISCOLL said that if the market goes crazy we are at risk, but if it stays down we will benefit. NorthWestern may be on the hot seat for a cash flow problem, but not for a loss of money. **COMM. BRAINARD** said that in the course of the docket he asked some questions about procurement in the old system. MPC always bought and sold electricity without constant supervision from the PSC. This is a part of the keeping everything in the system the way it ought to be. He thinks that the system is oversubscribed to base load. Some of the projects were base load facilities. We already have more base load than we need. We need to be asking at what point retailers enter the picture and pick up some of the load. Up until now the main component of transition was stranded costs. That has been resolved. There is no advantage to allowing prices to shoot up arbitrarily. Over time market forces will take effect.

Ms. Good said that the PSC has 5 commissioners. In the last year and half there has not been a single substantive vote that has taken place along party lines. The political pressure to approve the portfolio was phenomenal. The PSC followed the law precisely. The forums are looking at the same questions that we are talking about here today. These are all complex issues.

REP. GALLUS said that Mr. Brown's question was whether the committee wants him to do research on the idea of incentives. This is a question that needs to be answered.

MR. DRISCOLL asked where we will get the money.

SEN. THOMAS said that he doesn't want to "bribe" people to make them move.

REP. GALLUS agreed.

COMM. BRAINARD said that metering is one of the most critical things for promoting conservation. Depending on the cost of the meters and how that cost is distributed, a conservation income tax credit could be allowed as an incentive.

SEN. THOMAS said that would be based on a useful purpose rather than arbitrarily giving someone money.

SEN. McNUTT said that he doesn't think that incentives need to be looked at any further. The PSC is looking at some alternative metering and some other incentives.

REP. DELL said that for getting a consensus of what the committee could do, the metering could be one of those products. This would allow the consumer to take some control.

Mr. Brown asked whether you can have choice of products and not provider, choice of product and provider, et cetera. This brings up the question of to switch or not. How you select that default supplier is another approach to look at.

MR. CORCORAN said that we are all in favor of trying to figure out the right metering for customers, but there could be a huge cost to the supplier. If everybody took advantage of that, it could wipe-out the USB. We need to test the economics and look at other alternatives.

SEN. McNUTT asked about NorthWestern's green power. Is there anything that precludes a marketer from offering a green power? **MR. CORCORAN** said that it is required in HB 474. There is a product in front of the PSC for green power. They are continuing to look at wind as an appropriate part of the default supply.

SEN. THOMAS asked, whether NorthWestern will be complying with HB 474 in offering separate green power. **MR. CORCORAN** said that it would be separate from the default supply.

SEN. McNUTT said that we are talking about what we need. It's there and we are working on it. Once the green power is in place we can do a look back. He doesn't think that we should be messing with any of it right now.

Comm. Anderson said that advanced metering offers a lot. Puget Sound estimated that the cost of installing advanced metering was $30 per customer. They saw this as a way of cost management. We need to look at how to implement this in a broader concept. The press reports indicated that the PSC said "no" to new generation plants and denied the portfolio, this was incorrect. They did not disapprove anything, they determined they were not going to pre-approve the contracts. It is still NorthWestern's option to bring forward anything for approval. The PSC did not deny anything.

SEN. THOMAS said that the default supply is one of the fundamental issues in Brown's report. He asked the committee whether it wanted to pursue options presented in the report. We have just come off of regulation. The default supplier is doing its job. If the market develops in the next 5 or 10 years, if the competition happens, that is great. Why is it a problem if it doesn't happen?

Mr. Brown said that he is looking at the choices, but not changing something is fine. The next choice comes down to that you have some people who are not going to choose. How are those customers going to be handled?

MR. CORCORAN said that it is safe to say that there will be a fair amount of base load that is always going to be on the default supply. We can test the market place and provide for some stability.

SEN. RYAN said that we are going to be here in 2007 talking about what we are going to do to develop a market if we continue as we are now. What room is there for anybody to come into a competitive market? Default by definition means supplier of last resort. If NorthWestern can get a better product they can take customers away from the default supply. As they take customers from the default supply the ability for someone to contract new generation will be there. If new generation has no market because they can't get into the default supply base, there will never be new generation.

SEN. ELLIS said that it seems that we are getting the cart ahead of the horse. We have only been at choice for 2 ½ months. The rules are in place for 5 years. At that point there may be three aggregators instead of two, that would show that the market is viable. At that point you might want to look at bidding out the supply.

MR. CORCORAN said that the key is to not sit back, but rather actively participate. **SEN. STONINGTON** asked about the risk of an aggregator taking the best customers and leaving the hard to serve customers with default supply. **MR. CORCORAN** said that is happening already. That could be the end result.

Comm. Anderson said that the safety net takes care of customers who can't choose as opposed to having a low cost for everybody. It will take courage to define the default supply as the safety net approach.

SEN. McNUTT said that the PSC will not go there, neither will the legislature.

SEN. STONINGTON said that the default position of least costs sets some other parameters about what it will take for a retail market to go. **COMM. BRAINARD** said that the default supplier will eventually go to supplier of last resort. Eventually a customer will go on line and go to a group of providers, put in a credit card number, and become their customer that day. It hinges on everybody working together and getting the technology in place. We are headed down that road now.

MR. DRISCOLL asked about the safety net being for people who can't choose and what about the people who just don't want to choose. **Comm. Anderson** said that everybody will get power, but it depends what the role of the default provider is. In the long-distance telephone market they allocated all customers to different providers.

SEN. THOMAS said that right now people can leave the default supply for another provider. **MR. CORCORAN** said that under the interim customer choice rules it is limited to 10% of the default supply load. **SEN. THOMAS** said that anybody up to that amount could leave. If 10% were to leave the default supply and there was excess power because of the loss, they sell the power for less than it was bought, the rates of the remaining 90% of the default supply customers would go up to compensate. **MR. CORCORAN** said that they hope to look at whether it is appropriate to allocate a part of the cost to the customer leaving. **SEN. THOMAS** said that if that happened every 5 years, then the default supply is rolling to a safety net. **MR. CORCORAN** said that it is possible.

Mr. Brown said that the first thing he noticed is a lack of unanimity of how much the state wanted choice. He heard everybody today say that least cost was the only way to go. The safety net choice would result in a higher price and competition. The least cost is going to make it difficult for retail competition. Do you end up with a big default load and how do you handle that?

COMM. BRAINARD said that at this point you could say that the default supply is least cost. As people leave, it will become more expensive over time. HB 474 and the portfolio concept was to allow the default supplier to phase-out various supplies. The tools are there, we just need to use them.

SEN. STONINGTON said that in response to what Mr. Brown is saying, here is where we are, are there any intermediate steps to get us to the end vision. The tenor of this discussion is to stay with the status quo.

COMM. BRAINARD said that it is the wrong thing to talk about bidding out the default supply. What you are really talking about is customer dispersion. He thinks there are mechanisms that can be used to assign customers to a supplier. We have to make sure that we don't endanger the default supply, but you can assign customers to the other suppliers with the provision that for some time period there would be no impact to the customer. That supplier would have to supply energy at the same rate as the default supply. He thinks that those customers need to be able to choose if they are unhappy with the supplier they have been assigned to.

Mr. Brown said that does get to the question. Maybe there is some intermediate aggregation effort that is required. Is that something that requires legislation or can the PSC do it? **COMM. BRAINARD** said that is something that will be looked at in the forum. The issue of assigning customers may take legislation.

MS. ROOS asked why 200,000 customers can't get a better deal than one. Would we get rid of the people that can't pay? **Mr. Brown** said that 200,000 can get a better deal. The experience has been that in the open market where aggregation has happened, the marketers have been marketing to the aggregated groups. Aggregation put together by a governmental entity would be a way to address this.

SEN. THOMAS asked Ms. Rice about products that might be available to an individual customer. **Ms. Rice** said that they have 500 small and medium customers. A lot of it is timing in the market. The other factor is customer characteristics. **MR. CORCORAN** said that is part of the averaging of the cost. **MS. ROOS** said that it seems that is what happened. The high profile customers go and leaving the residential customers at the bottom.

Ms. Good said that there appears to be some barriers that preclude marketers from competing with the default supplier. She doesn't think that those barriers need a legislative remedy, but the PSC is looking at that.

MR. RITTER asked about a situation that would provide a better process for the current needs of the state. Do we have the capacity to entice outside sources to compete? **COMM. BRAINARD** said that we do not. That is an issue that transcends restructuring. The transmission hasn't expanded to accommodate the commerce. The future of markets in Montana is going to hinge on transmission. **MR. RITTER** said that we can have the ideology of competition, but until transmission is fixed it won't happen in the real world.

REP. KEANE said that when you go to Las Vegas they can tell you how much you spend by where you are from. They have had experience over the long term by profile. We have been in this for 3 months, we have not developed profiles yet. We need to identify where we are going.

REP. BROWN said that if the demand is there, there can be smaller distributed energy sources. Choice can turn into all kinds of ways that can help residential consumers.

MR. CORCORAN said that distributed generation is discussed in the report. NorthWestern gets calls daily about distributed generation. There is a ton of other things going on. There will be a lot of changes that parallel what we are doing.

SEN. STONINGTON said that she would like to ask that Mr. Brown give an assessment of what he has heard from the committee today.

Mr. Brown said that he has a few observations. Every state has been in a transition because of rate freezes, default service, transmission, etc. The transition has been long. He hasn't seen any state yet where the retail markets for the small customers has taken off. He does wonder how long the transition is going to take. He is concerned that it may take longer than some people think. There is reason to continue to think about the transition and what the goal is. There might be room to think about planning and priority setting.

SEN. THOMAS referred to the policy options in the report and asked for comments.

Mr. Brown said that there was some talk of using USB money for metering. What types of benefits is the utility getting and therefore only using USBP money for those types of activities that shouldn't already be occurring. Realtime metering may use USB money, whereas time of use metering is already being used in many states.

SEN. THOMAS asked the PSC about metering. **Ms. Good** said that it is a matter of discussion and will be addressed in Phase II, which will be completed by the first of the year.
Comm. Anderson said that competitive metering is allowed in HB 474, that is an alternative approach to getting better meters in place. The PSC promised to have a proceeding that would engage in the notion of competitive metering. However, it won't happen in the next 4 months.

Mr. Brown said that the Oregon option would be to designate NorthWestern as the default provider and require them to offer a portfolio of products and require that some of the products be from competitors.

REP. DELL said that is a good middle ground approach in terms of engaging the consumer in the process. **Mr. Brown** said that is the idea. The question is whether this would be the end or the transition to a new approach. He thinks it could go either way. **REP. DELL** asked if we could initiate a variable pricing option. This would engage the consumer in the process. He thinks that there are some worthwhile things in this list. **COMM. BRAINARD** said that this could be a dead-end because customers will be looking for choice within the default supply instead of looking at competitors. **REP. DELL** said that we need to move forward so that we are more pro-active. **COMM. BRAINARD** said that it is like having customer choice so you can go where ever, but in reality you can get everything from anywhere from one spot. **REP. DELL** said that there would be choice in terms of what the default provider offered the customer.
Mr. Brown said that Oregon has a choice of product and as a small customer you can't leave the system. There is no reason that it has to be that way. It customers are also allowed to leave, it will

likely raise the price because there is a risk that people will leave. If Montana were to take that approach, the market is already open.

SEN. THOMAS asked when Energy West products will be available. **Ms. Rice** said that it depends on the price. **SEN. THOMAS** asked if it would be this calendar year. **Ms. Rice** said that she can't say for sure.

SEN. THOMAS said that there is some interest in the option of having the default supplier provide a variety of products similar to Oregon.

SEN. THOMAS said that the next option is bidding out the default supply.

SEN. ELLIS said that he didn't think we could make that decision now.

SEN. STONINGTON said that we might want to look at these options down the road. We need to let the process work its way through and see what happens.

SEN. THOMAS said that the next option is the opt-out aggregation.

SEN. ELLIS said that there are a lot of municipalities that are already opted out.

Mr. Brown said that they would need legislation to do opt-out.

SEN. THOMAS said that opt-out means that a city puts together a power supply for all the default supply customers in the city, and everyone is part of the aggregation unless a customer opts out.

MR. DRISCOLL said that he is interested in that.

SEN. McNUTT said that would be something to do.

SEN. THOMAS said that the opt-out option would be added to the list of things to look at.

MR. Wiens said that this would impact existing power supply contracts and the customers would have to pay stranded costs.

SEN. STONINGTON said that planning and priority setting is a good goal, but the legislature has never been any good at that. It always seems to happen piecemeal. It is whether there is enough momentum to push one of the pieces through that priorities get set. It would take this group writing something and trying to put it through as a policy statement.

MR. EVERTS said that there is a state energy policy statement. It appeases all different elements of the energy spectrum. It would be more of a development of specific policies that come up. The EQC has not been active in that arena, although they have statutory authority. They have also been watching what has been going on in this committee and restructuring. The energy policy statement is 90-4-1001, MCA. **Mr. Brown** said that there were a lot of energy plans developed in the late 1980s and early 1990s. He has tried to pose it in terms of a long term identification issue. There is something which is the policy statement or there is issue identification, making sure that the state is on top of the issues as they come up. He is not certain that an energy plan makes a lot of difference, but something that identifies issues may be more help.

IV TRANSMISSION REPORT

MR. MARTIN referred to **Attachment 3**. The Transmission Subcommittee spent a lot of time looking at the complexities of the transmission system in Montana and in the region. A significant problem relates to the constraints in moving electricity out of or into the state. He said that John Hines told the Subcommittee that an effective retail energy market requires a competitive wholesale market, which in turn requires an efficient transmission system. We don't have that now. The system is operating at near capacity and congestion problems may affect delivery and lead to system failure. If Montana is going to access load centers out-of-state, the transmission systems need to be improved.

At the first meeting, Bonneville Power Administration (BPA) talked about load growth in the area with little transmission being added. The reason that BPA efforts are so important is that they account for 70% - 80% of the transmission facilities in the region. They have at least 9 projects scheduled to address transmission bottlenecks.

The Subcommittee also looked at the Federal Energy Regulatory Commission's (FERC) efforts to enhance and improve the competition within wholesale markets. FERC Order 888 required "jurisdictional" utilities to provide open and equal access to anybody who wants to use their transmission system. FERC Order 889 required that transmission owners post available capacity on the Internet. Part of the problem is that under firm capacity there might not be a lot of space available. FERC Order 2000 requested regional utilities to form Regional Transmission Organizations (RTO). One of the ultimate goals of FERC is to provide a seamless transmission system. Last July, FERC issued a new notice of proposed rule making (NOPR) on standard market design. This is the latest in FERC's attempt to develop competitive wholesale markets. FERC has concluded that even though there is open access, transmission owners are not always complying with the order. The NOPR would require any transmission owner to have an independent entity run the transmission system. Another key feature is local marginal pricing for congestion management.

Other topics included eminent domain and who would be deciding issues of new transmission in Montana, transmission between Alberta and Montana, feasibility of DC transmission lines, WAPA's study of transmission upgrades, and generator perspectives on transmission. BPA did an analysis of what transmission upgrades would be necessary if proposed generation projects came on line in Montana. There is concern about the appropriateness of the new NOPR in

Montana. The Subcommittee requested a letter be sent to Montana's congressional delegation about the concern of the new standard market design. The letter encourages postponing the November 15 filing date for comments and for FERC to work with the Pacific Northwest to hear more input from the region. See **Attachment 4**.

SEN. STONINGTON said that the Subcommittee dwindled in numbers when they were discussing the letter. They concluded that they wanted to have the letter drafted and bring it to the full TAC as a recommendation.

MOTION/VOTE: **SEN. STONINGTON** moved that TAC endorse the letter. The motion passed unanimously.

SEN. THOMAS asked if all the information that the Subcommittee collected would be stored somehow. **MR. MARTIN** said that this is a brief overview and will be included in the TAC's final report in more detail.

SEN. STONINGTON said that she would recommend that all the committee members look at the WAPA study. **MR. MARTIN** said that is available on the WAPA web site.

V PROPOSAL TO INCLUDE RENEWABLE ENERGY AS A PORTION OF THE DEFAULT SUPPLY

SEN. STONINGTON said that Mr. Brown's study outlines what is happening nationwide in terms of renewable energy portfolio standards. That would require a certain percentage in the energy supply be from renewables and would be a high priority for Montana. Fourteen states have moved in this direction. This would be an economic development move. There may be lower costs or other incentives for other kinds of energy, but this type of energy is important for a variety of reasons. We have a great resource in the state. Her proposal would be to have a statutory requirement that 7% of the energy supply come from renewable energy resources as defined in statute. See **Attachment 5**. NorthWestern already has this in the portfolio. This is affirming that it is out there and ready to come on line.

MOTION: **SEN. STONINGTON** moved the committee request a bill draft to require that 7% of default supply be from a renewable resources as defined by statute (90-4-102, MCA) by 2005.

Discussion:

REP. DELL asked Comm. Anderson how this proposal would affect rates for residential consumers. **Comm. Anderson** said that NorthWestern had a substantial portion of the portfolio in wind. With the tax credit, wind generation is cheaper than traditional generation. When the wind isn't blowing, that energy has to come from somewhere else. The cost of wind has to include ancillary services. It would not increase the portfolio price. **REP. DELL** asked, by supporting this, is it not going to have adverse effects on the consumers. **Comm. Anderson** said that he doesn't think so. There are economic and environmental benefits.

SEN. McNUTT said that this was contingent on the federal tax credit. What happens if the tax credit is not extended. **Comm. Anderson** said that the tax credit is 1.7 cents per kilowatt hour and has been extended for 2 years. He believes it will be extended, but the question is for how long. **SEN. McNUTT** asked what happens if it goes away. **Comm. Anderson** said that it will add 1.7 cents per kilowatt hour for the portion of the portfolio that is committed to wind.

MR. DRISCOLL asked if the motion was for 7% of capacity or 7% of supply.
SEN. STONINGTON said 7% of supply, not of the capacity. She is looking at the net amount of power that is generated. **MR. DRISCOLL** asked what would be used for firm power behind it. **SEN. STONINGTON** said it would have to be gas because that is how the system works. It would have to be something that could ramp up and ramp down easily.

Mr. Brown said that in Texas there is a 2000 megawatt renewable portfolio standard, of which 8 or 9 megawatts has been installed. The impact on rates has been approximately 4.5 cents per customer per month.

SEN. STONINGTON said that another idea is that if there is a concern that it would be adverse a price cap could be written in.

MR. NELSON said that he doesn't know if it would cost more. In the portfolio that was presented it wasn't one of the highest cost resources. In effect, the commission said that the process that lead to that hadn't been adequate enough, so we don't know what will come in its place. He thinks that if the economic analysis of the company puts together its resource portfolio and it indicates that renewables should be included, it would not increase the costs. The other reason to have a standard is if it is not fitting into the portfolio.

Haley Bowdry, Columbia Falls Aluminum (CFA), said that CFA has done extensive research into the 10% renewable portfolio standard. Essentially the 10% standard would close the doors at CFA. At around $30 power, it comes out that 10% costs $10 million per year, 20% costs $20 million per year. The money isn't there to pay it. The reason is that it is not possible without subsidy. Wind at 10 miles an hour is about the optimum. He argued that coal-fired generation is more efficient than wind generation. A renewable resource portfolio requirement would not be good for business development.

MR. RITTER said that he certainly would encourage the use of wind energy, but let the market drive that. He believes that the free enterprise system should drive this commodity. He doesn't think that government should put in a requirement.

SEN. ELLIS said that he agreed with MR. RITTER. It seems that the federal government has made a decision that this is an appropriate thing to do and that is why the subsidy is there. Are the contracts being offered dependant on the tax credit? **Comm. Anderson** said that it depends on the terms of the contract between the default supplier and the wind generator. He didn't know the answer to that.

REP. KEANE asked what is covered in the definition of renewable energy. **SEN. STONINGTON** said wind, solar, methane, biomass, and small hydroelectric generators. **REP. KEANE** asked how big the small hydro was. **SEN. STONINGTON** said that it was less than one megawatt.

REP. OLSON said that wind power was included in the original portfolio. If the economics are there it will get into the portfolio. Wind generation destabilized the system when WAPA looked at that in their study. He is not comfortable requiring another company that they are required to submit a certain amount of power as renewable energy. If they can make money at it, they will do it.

SEN. RYAN asked if the motion was for renewables or wind. **SEN. STONINGTON** said that it was for renewables. **SEN. RYAN** said Rep. Mood wanted biomass in the definition. After that was included he saw where someone at the federal level was trying to define biomass as any tree less than 6 inches in diameter.

MR. Wiens asked which utilities this motion applies to. **SEN. STONINGTON** said that it applies to the default portfolio and that is NorthWestern. **MR. Wiens** said that they are concerned about mandated portfolios because of contractual issues. It would lead to rate increases and harm rural customers. If their customers want renewables, they will build them.

REP. DELL asked if this has merit for diversification. **MR. NELSON** said that it is his hope that the default supplier would be doing this anyway. There needs to be a discussion of risk management and resource planning. There are people who believe that there are things that have value beyond those more concrete economic values. This is the primary motivation for renewables. **REP. DELL** said that it should be a consumer driven system where the consumer had that green option.

SEN. McNUTT said that there is a move by NorthWestern to put a green component in the system. That is a natural course of events that needs to take place. The market needs to do that.

Ms. Good said that this issue came up yesterday. One approach is disclosure, which means that a person is informed about what percentage of his power is from what kind of resource. Hopefully that will spur more inquiry into the green power that will be available, but doesn’t put more pressure on the default supplier.

Comm. Anderson said that he would like to encourage the committee to pass the motion. What you are essentially doing is taking it to the next level. In practical terms, we need to learn more. It would be a bill draft request. It would address all the questions at that point in time.

SEN. THOMAS said that he would vote no because he supports wind power. His concern is the arbitrary mandatary requirements leads to costs that are not foreseen at this point in time.

SEN. STONINGTON said that she wants to ensure the development of renewable energy resources in Montana. There are other options and some underlying purposes here. It is economic development for Montana. It is a way to state a priority. It fits into the portfolio as it exists. She would like to think that we could take this another step.

MOTION: **REP. DELL** moved to amend the motion to set statutory target of 7%, instead of a requirement.

Discussion:

SEN. STONINGTON said that would be fine.

REP. DELL said that this can make sense for diversifying. This is an area that we need to be mindful of.

REP. OLSON said if we set a target we intend to hit that target. It is the same as a requirement.

SEN. THOMAS said that this is saying that this is a target and if it can be done within the price constraints it should get done. He wouldn't think they would approve it if it drove rates up.

MS. ROOS said that we had tried to figure out how to drive rates up, but now we are worried about keeping them low. It isn't a bad thing to set a target.

MR. RITTER said that we should let the market determine where it is.

VOTE: (on amendment) Motion passed 8 to 2 with REP. OLSON and REP. BROWN voting no.

VOTE: (on amended motion) Motion passed 6 to 4 with REP. BROWN, REP. OLSON, SEN. ELLIS, SEN. McNUTT voting no.

VI SCHEDULE NEXT MEETING

MR. MARTIN said that there will be another meeting. A meeting after the election would be appropriate.

VII OTHER BUSINESS

MR. MARTIN said that there had been an indication of looking at advanced metering and an Oregon style option. Is that needed in the form of a bill draft? **SEN. THOMAS** said that was one option.

Mr. Brown said that another option the committee was interested in is the opt-out aggregation.

VIII ADJOURNMENT

There being no further business, the meeting was adjourned.

Cl2255 2311jfxb.