

TRANSITION ADVISORY COMMITTEE

November 16, 2001

Room 317, State Capitol Building

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	Art Compton
Rep. Tom Dell	Pat Corcoran
Rep. Stanley Fisher	Gene Leuwer
Rep. Jim Keane	Bob Nelson
Rep. Steve Gallus	Dave Kinnard
Rep. Alan Olson	Kathy Rice
Sen. Alvin Ellis	Dave Wheelihan
Sen. Walter McNutt	Stephen Bradley
Sen. Emily Stonington	Jerry Driscoll
Sen. Don Ryan	
Rep. Roy Brown	

COMMITTEE MEMBERS EXCUSED

Sen. Linda Nelson
Matt Brainard
Russ Ritter
Kathie Roos

STAFF MEMBERS PRESENT

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

VISITOR'S REGISTRATION

Attachment 1

AGENDA

Attachment 2

COMMITTEE ACTION

- ? Approved minutes for August and October meetings.
- ? Appointed USBP subcommittee

- ? Appointed Transmission subcommittee
- ? Agreed to provide travel reimbursement for certain non-legislative members of the Committee

I CALL TO ORDER

Roll call was taken, see **Attachment 3**.

II MONTANA POWER AUTHORITY UPDATE

Lt. Governor Ohs said that we need to start the discussion about transmission. There are a lot of exciting things on the table where transmission is concerned. A study needs to be started so that the people involved can understand this issue. The Montana Power Authority (MPA) has authority until HB 474 is voted on in the next November election. MPA has some resources that can help with the discussions about transmission. He also has thought that there are some private individuals who could be hired to do an in-depth study of where Montana is with transmission. He feels that there needs to be some cooperation between the groups that are working on the energy issue to put the study on transmission together.

SEN. STONINGTON agreed that there needs to be an objective look at where Montana is. She asked about the discussions that he has had with his peers about the kind of planning that needs to be done and who would be the right entity to do that planning? **Lt. Gov. Ohs** said that there are a lot of proposals out there. The market place will take care of most of the issues on the generation side. However, none of it is going to go forward if there aren't some frank discussions and a plan developed to deal with the bottlenecks are for transmission, both in-state and out-of-state. There are many resources in the state. There are also some private companies that will focus on this type of planning.

REP. FISHER asked if MPA is able to do any planning with HB 474 being voted on in November 2002. **Lt. Gov. Ohs** said that HB 474 is in effect until it is voted on. Anything that MPA does is within the law at this time. The problem is with bonding authority because the referendum has cast a cloud over any bonding that MPA may wish to issue.

SEN. THOMAS asked if, when HB 474 was put together during the session, the focus of MPA was generation. **Lt. Gov. Ohs** said that was correct. **SEN. THOMAS** said that generation would be taken care of by the private sector. The only area to focus on is transmission. We need to start to know what Montana has and doesn't have. **Lt. Gov. Ohs** said that the information is out there. There also needs to be planning about where Montana should go with transmission. It will take a long time to get transmission to where it needs to be. Technology will enter into how these issues are dealt with, but there needs to be some action.

III PROPOSED ENERGY GENERATION PROJECTS

! Continental Energy, Silver Bow Project

Dan Rapkoch, Continental Energy Services (CES), said that the Continental Energy proposal is moving forward. It was originally proposed in January 2001 and filed with the DEQ under the Major Facility Siting Act. In June 2001, CES filed for water and air quality permits and initiated an environmental impact statement.

Mr. Rapkoch referred to **Attachment 4**. CES was an independent subsidiary of Montana Power Company (MPC), but is now privately held by CES. The ownership of CESACQ owns generation in Texas, western Washington and Pakistan. CESACQ has offices in Butte, MT, New York City, and Easton, Maryland.

The Silver Bow project proposes a 500 megawatt combined cycle natural gas fired power plant. The design calls for 3 turbine generating units and 2 steam generating units. This plant is the most efficient power plant that can be designed at this time. It is a base load unit to provide power to the grid. Site preparation and construction are anticipated in 2002. Construction of the plant will require up to 700 workers. Completion of the facility is anticipated for the latter half of 2004. 25 permanent jobs will be needed to operate the facility.

The purpose of the project is to provide electric energy to the state of Montana, but excess electricity will be sold on the western power grid. Electricity generated will be sold as cost-based power.

About 5 years ago Butte/Silver Bow county purchased the Silver Lake water distribution system. Water from this system is used for the ASiMI facility. The county has water rights to approximately 16 million gallons of water and the water is available for industrial development. CES is anticipating the use of 4 million gallons of water per day that will be supplied by the Silver Lake system. CES is also anticipating the use of 85 million cubic feet of natural gas per day. The gas will be provided by the MPC transmission system. Upgrades to this transmission system will be needed. CES and MPC are working together to get those done.

Electricity from this project will be connected to the MPC electrical transmission system through the Silicon Mountain Industrial Park substation. CES and MPC are working on an inter-connection study. This study will be available by the end of the year.

CES has had some challenges and concerns over the last year. There have been some delays with the permitting process. Some of those delays have affected future costs of the operation. CES is working with DEQ to get the problems solved and get the permitting process completed as quickly as possible. CES did an environmental impact statement to ensure that their plan would meet Montana regulations and that all questions would be answered as to what the impacts would be. The public comment period should take place the first part of December.

SEN. STONINGTON said that some questions came up at the WAPA meeting about right of way issues on gas pipelines. Are there any issues with that? **Mike Enterline, CES**, replied that MPC is

pursuing the pipeline upgrade issues. Right of way has been pursued across the affected area. There are some places where MPC has not achieved permission for right-of-way. **SEN. STONINGTON** asked how the right of way issue may impact the project in terms of gas supply. **Mr. Enterline** said that CES anticipates that those issues will be resolved in a timely fashion. MPC continues to work with landowners along the pipeline path.

REP. DELL asked for more detail about the delays with the permitting process. **Mr. Enterline** said that CES had put together a statement as far as the process. Some of the delay is related to information-gathering.

MR. WHEELIHAN asked how much of the energy would be sold in Montana versus out of Montana? For the energy sold out of Montana, are there transmission issues? **Mr. Enterline** said that the primary focus will be to sell power in Montana. From a transmission standpoint, CES is connecting to the MPC system, so there is transmission capability within the state. Depending on where the energy is trying to get to, there may be bottlenecks. It is difficult to know what will be available when the plant is on line. The larger issue is the part of the generation that will not be sold in Montana. There are bottlenecks in the transmission system to get electricity to the west. There are projects being looked at to alleviate those bottlenecks.

SEN. STONINGTON asked what work is planned between now and 2004 to improve transmission capacity. **Mr. Enterline** said that Bonneville Power Administration (BPA) has some things on the drawing board to eliminate the Hatwai bottleneck (eastern Washington near the Idaho border).

SEN. STONINGTON asked for more detail about the project to open the Hatwai bottleneck. **Gail Kuntz, BPA**, said that the project to open up the Hatwai bottleneck is the Coulee Bell 500 KV upgrade. That project is presently ninth in a group of transmission projects that BPA is working on. That upgrade is scheduled for 2004. However, BPA didn't receive the bonding authority that they were hoping for in the last legislative session. This could cause delays in the transmission project. **SEN. STONINGTON** asked what the upgrade is proposed to be. **Ms. Kuntz** said that it is an upgrade on an existing facility.

SEN. THOMAS asked if the financing that BPA was seeking an appropriation or authority from the Congress. **Ms. Kuntz** said that it was a borrowing authority. Currently, BPA has a line of credit with the U.S. treasury. At the rate that BPA is slated to be borrowing against that credit, it will run out in 2004. BPA wants to increase the line of credit.

SEN. STONINGTON asked why, even if Hatwai is upgraded, does it still back up into Montana farther east. **Ms. Kuntz** said that one of the things that everyone is looking at is the RTO concept, which may happen in 2004 if everything goes well. Part of the reason that transmission gets backed up is that what is available is non-firm transmission capacity, but the generators are marketing a firm product. There is an uncertainty with non-firm capacity.

SEN. STONINGTON asked how CES is doing their energy planning for the new construction in light of the uncertainty of non-firm transmission capacity. **Dick Cromer, CES**, said that they don't have the transmission problem solved. They can't successfully finance a project without knowing what the future is with transmission and the market. They are working with MPC to establish an inter-connection study in order to determine what impacts the project will have on the transmission system. The challenge is to convince lenders that the transmission issues will be solved by 2004.

REP. KEANE asked if the financing would be dependant on the transmission issue being solved. **Mr. Cromer** said that he wouldn't use those words. **REP. KEANE** asked if CES had discussed with MPC a contract gas price. **Mr. Cromer** said that MPC will provide transmission service for the gas supply, but is not a prospective supplier for that gas. Most of the gas supply will be coming from Canada. It is too soon to commit to a price for that gas. **REP. KEANE** asked if that was contingent on the financing. **Mr. Cromer** said that CES wouldn't get a fuel contract until they had financing lined up.

REP. FISHER asked if CES was looking for customers, such as the Columbia Falls Aluminum plant. **Mr. Cromer** said that CES has talked with some industrial customers and with Flathead Electrical Cooperative. **REP. FISHER** asked if the rate from CES would be competitive. **Mr. Cromer** said that the rates will be competitive.

REP. GALLUS asked if the project would have cooling ponds. **Terry Webster, CES**, said that they are planning to use the water for irrigating in the summer to avoid the phosphorous issue. **REP. GALLUS** asked whether they may be able to attract industrial consumers to the Butte area and possibly save on transmission costs. **Mr. Cromer** said that the reason the plant was located there in the first place was to be close to what could become a major industrial development area. They also want to be considered a major contributor to the Butte/Silver Bow area.

SEN. ELLIS said that more recent gas turbine technology allows electricity to be produced at \$15/megawatt. Is the technology better than that now in relation to the cost of gas? **Mr. Cromer** said that the plant that they are planning to build is as efficient as possible for today's technology. **SEN. ELLIS** asked if the plant was to go on line in stages. **Mr. Cromer** said that the plant will come on-line in full production.

MR. WHEELIHAN asked why it was decided to sell the power under a cost-based pricing philosophy. **Mr. Cromer** said that they want the project to be successful. CES is planning to sell the power at a rate that would produce a reasonable profit.

SEN. RYAN asked, with the cost-based rate, would that mean that all the consumers, industrial and residential, would be paying the same price. Would the long-term contracts be based on any fluctuations in the price of gas? **Mr. Cromer** said that they recognize that fuel prices will vary. The

idea will be to get the customers to pay for the fuel price. Fuel is the only variable under a cost-based price. Prices will fluctuate as fuel prices fluctuate.

! *Comanche Park Project*

Mike Schmechel, Comanche Park, said that the project was started near Broadview early in 2001. At that time the prices were quite high. They looked for a site that already had all the infrastructure that was needed. The project will have one or two, 80 to 100 megawatt coal fired generating plants. The smaller plants are an answer to distributing generation without requiring new transmission capability. There is abundant water on the site. There is access to Burlington-Northern Santa Fe (BNSF) railroad.

The project is important for Montana because it would have the ability of providing long-term stable power rates. Coal-fired plants require more capital and provide a lot of jobs. These plants provide taxes and a job base for local communities. The plants are also an economic stimulus for the state. The employment of new clean coal technology negates many of the environmental concerns that have been a problem in the past.

Black Hills Corporation is similar to what MPC was a few years ago. Black Hills has an independent energy unit, a electric utility unit, and communications unit. They are a financially strong company. They will have 1,000 megawatts of independent energy on-line by the end of 2002.

The plants can be on-line as soon as 2004. The smaller units don't require as much time for permitting, transmission, et cetera and there is not a lot of technology that has to be upgraded. All of this will allow things to move quickly.

REP. DELL asked if coal is more dependable than gas in terms of the predictability of cost.

Mr. Schmechel said that their concern with gas is that over the last 15 years hardly anyone in the western part of the United States has built new base load generation. Base load generation is typically going to be hydro, nuclear, or coal because it does have the dependable, cheap fuel supply. There is a niche for gas. In the last 15 years, however, there has been a lot of gas plants built and that adds to the volatility of pricing with gas plants.

SEN. THOMAS asked if the plant in Gillette will meet Montana's clean air and water standards as it is now. **Mr. Schmechel** said that it would.

SEN. STONINGTON asked what the anticipated construction costs are. **Mr. Schmechel** said that the construction cost for small coal is higher than it is for large facilities. They anticipate the costs to be about \$1300/kilowatt for installed capacity. The estimated costs for both units are between \$250 and \$300 million.

SEN. RYAN asked how much power has to be sold in order to make the plant efficient.

Mr. Schmechel said that the plants are designed as base load plants that run 24 hours per day, 7 days per week. They will need a contract for 90% availability.

SEN. STONINGTON asked if Comanche Park is in negotiations with MPC about transmission capacity and inter-connection. **Mr. Schmechel** said that they have already submitted their inter-connection application, have had formal meetings, and have done the preliminary study.

SEN. STONINGTON asked what they are finding in terms of capacity for transmitting out of that location. **Mr. Schmechel** said that they don't expect transmission problems. The reason that that site was selected was that the Rockies substation was built to off load MPC's portion of the power from Colstrip 1, 2, 3, and 4. When Colstrip 4 didn't get rate based, the power from it bypassed that substation. Therefore, that site can handle 200 megawatts of additional generating capacity on the Montana power grid. **SEN. STONINGTON** asked if that was in-state transmission. **Mr. Schmechel** said that it would be hard to purchase new transmission lines. The approach that they are taking is distributed generation, smaller plants sited where they can get into the grid. **SEN. STONINGTON** asked if Comanche Park is trying to sell in state, where is the customer base going to be. **Mr. Schmechel** said that they are trying to get into the default supply portfolio.

REP. BROWN asked if the plant will be built if it is not included in the default supply portfolio. **Mr. Schmechel** said that they will continue to try to get into the portfolio. If Comanche Park doesn't get into the default portfolio, it would be hard to find other customers with the existing transmission system. There are other markets, perhaps with the cooperatives.

! Bull Mountain Project, Roundup

Joe Dickey, FGS & Associates, said that the people involved in the company are all very experienced in the energy area. Weir International is a mining consultant and was hired by the bank to do the work on the mine where the plant will be located. Sargeant and Lundy is the engineer that is doing the design of the project. Lorenzen Engineering is working on the permitting team.

The Bull Mountain Mine is located just north of Billings and southeast of Roundup. Over the summer, 26,000 acres of the land that the mine is located on was purchased. None of the mine is on federal or state property. There is also a 35 mile right-of-way going from the mine for transmission and rail line.

The Mammoth seam has 400 million recoverable tons of coal. The mine plan calls for 9 million tons per year. There is an additional 350 million tons that are believed to be on the site, but has not been proven out to the same degree. The work to prove those tons is underway. The coal has a high heat rate, low sulfur, and low ash content, all of which helps in the design of the mine. This will be a deep mine, rather than a surface mine. The mine will employ about 250 people. The mining costs are just under \$14/ton.

A conveyer will transport coal to the plant, located about 4,000 feet from the mine. Construction is expected to take place next year. The mine will be in service by mid-fall next year.

The power plant is a mine-mouth facility. There will be two 350 megawatt units. The plant will be using technology that has proven reliability and will be one of the cleanest coal plants in Montana. The capacity is there for 3 additional units in the future. There is an agreement with the mine to dispose of the ash back into the mine. For the long term there will be no permanent underground storage for the ash and waste products. The plant will use 400 gallons of water per minute from each of three wells. The air coolant condensers will significantly cut down on the need for water.

The plant design is fairly well along. Some geotechnical work is complete for both the power plant and the rail line that is going to the facility. The construction costs are expected to be \$875 million for the plant. Permitting activities were started in July 2001. The construction permit is anticipated in March 2001. The first unit should be on line by October 2005, the second unit by June 2006.

The transmission system is being evaluated. The studies show that there could be additional capacity with the addition of the units. MPC is also working on the transmission studies. Two 230 KV lines from the plant will go directly to the Broadview substation and already have right-of-way to get there. There have also been discussions with one of the cooperatives in the area to possibly connect into that grid. There is hope that RTO West can facilitate transmission.

The permitting is underway. The Roundup facility will be the cleanest coal plant in Montana.

SEN. STONINGTON asked if the 500 KV line can't operate at its full capacity because of the possibility of loss at Colstrip, so would this provide support in the midsection of the line.

Mr. Dickey said that the studies look at contingency situations that might occur on the system. For example, if the 2 large units are lost, the voltage on the end of the line is lost. That will cause an instability of the line, which could cause the loss of the system. To keep that from happening, the studies try to determine the maximum amount of load that can flow through the 500 KV system, so that if the 2 largest units are lost there will not be an instability and loss of the rest of the system. That limits the amount of power that can flow through the system.

SEN. ELLIS asked, if it is going to cost more to mine the coal than other mines in the state, with the heat value being 20% higher than other coal, how can the price for generated electricity be less. **Mr. Dickey** said that no transportation costs offsets the higher cost of mining. The higher heat rate means that it takes less coal to get the same amount of electricity.

SEN. RYAN asked about getting on to the MPC transmission system. With all the companies trying to get on the system, if there is no new transmission built, will that drive up the costs to the people on the default supply because the cost to get on the system will be higher? **Mr. Dickey** said that it

shouldn't because transmission costs are regulated as a cost-based commodity. There will actually be more availability of transmission by the addition of this plant.

REP. BROWN asked if there was an actual number for the constraint on the 500 KV line that will be taken away by the addition of the plant. **Mr. Dickey** didn't know the number of megawatts, but there is approximately a 600 megawatt constraint on that system.

! Great Northern Properties Development

Clark Fritz, Kiewit Mining, referred to **Attachment 5**. Mr. Fritz said that Great Northern Properties (GNP) has teamed up with Kiewit Mining to do power plant development. The target area is the GNP reserves in eastern Montana. They are working to solve the transmission issue. The coal reserves are well suited for power generation, the task is getting it out of the state. There has been mining in Montana since 1969, so that aspect is something that they are familiar with.

IV MPC DEFAULT ENERGY SUPPLY PORTFOLIO

Bill Pascoe, MPC, referred to **Attachment 6**. Mr. Pascoe said that MPC proposed portfolio has a total supply cost of about 4 cents per kilowatt hour, which means a rate increase of about 20% to the average residential customer. This is better than they thought that they would be able to do. Default supply customers are going to need about 1,040 megawatts at the time of the winter peak in 2003/2004. In addition to that they plan to have 87 megawatts of reserves. New Montana generation projects are going to provide 328 megawatts, which is about 30% of the portfolio. Of that amount 150 megawatts comes from the NorthWestern plant in Great Falls, 100 megawatts comes from the Rocky Mountain Power Project, 10 megawatts comes from a co-generation plant in Thompson Falls, and 5 megawatts comes from Tiger Dam, the rest is from wind power.

Existing Montana generation will make up 552 megawatts of the portfolio, a little less than half. Of that amount, 2 megawatts comes from the Milltown dam, and 100 megawatts comes from qualifying facility contracts. This generation will be part of the base load power. QF contracts were entered into a number of years ago and are currently priced at well above the market value at 6 cents. PPL-Montana will supply 450 megawatts.

Market purchases will make up the rest of the portfolio. The entire portfolio is between \$36 and \$37 per megawatt hour delivered into the transmission system.

Except for a \$4.50 service charge, everything else that a residential customer pays is by the kilowatt hour. The current cost of electricity is 2.6 cents per kilowatt hour. The total bill is 6.7 cents per kilowatt hour. There was a rate decrease in February 2000, due to proceeds that were left over from the sale of the generation plants. He referred to page 3 of Attachment 6.

MR. WHEELIHAN asked what caused the decrease in the transmission rate. **Mr. Pascoe** said that transmission rates are regulated by FERC and the Montana PSC.

REP. KEANE asked if there had been any discussion about helping the consumers to benefit by conservation. **Mr. Pascoe** said that conservation is not included in the portfolio at this time, but that is still an option. Conservation programs are funded through the Universal Systems Benefits Programs (USBP). MPC is open to discussions about whether all the conservation that should be done is getting done and what to do to improve that. **REP. KEANE** asked if the portfolio was a fixed cost or would it vary month to month. **Mr. Pascoe** said that there are portions of the portfolio that will be filled with short-term purchases. However, it is a relatively small portion of the portfolio and therefore the average cost of the portfolio is not very sensitive to those changes. **REP. KEANE** asked if there are fixed increases over the five-year period. **Mr. Pascoe** said that the pricing in the contracts, for the most part, is fixed. The average cost of the portfolio is steady over the next 5 years.

REP. BROWN asked, if conservation programs are only in the USBP, is MPC assuming that the referendum on HB 474 will fail. **Mr. Pascoe** said that USBP charges extend through 2003, even without HB 474. There could be future legislation to consider what should be done with the USBP. MPC is an advocate of continued USBP funds.

SEN. RYAN asked if the wind energy in the default supply portfolio is part of the blended rate or a choice for the consumer. **Mr. Pascoe** replied that the cost of wind power will be blended into the rate paid by all default supply customers. There is an obligation to do something for customers who want more than the blend and are willing to pay more to get their power from a renewable resource.

SEN. STONINGTON asked for the status of the wind energy contracts. **Mr. Pascoe** said that they are getting closer all the time. They are hoping to have an announcement in the next few weeks.

SEN. STONINGTON asked if the Rocky Mountain Power Plant in Hardin has not been constructed yet, how can they be promising to sell power at a certain cost if they haven't finalized their own financing? **Mr. Pascoe** replied that construction has not yet begun on the Rocky Mountain Power project, nor has it begun on any of the new Montana generation projects. Each project is in a different stage of development. They expect that Rocky Mountain Power will be on line in the second quarter of 2003. What makes it possible to bring that on line so quickly is that they are not building a brand new power plant, they are bringing in used equipment and assembling it into a power plant.

SEN. THOMAS asked what has been done to fill the gaps before the new generation comes on line. **Mr. Pascoe** said that because the projects won't be on for about 1 year after the start of the new transition period, MPC has signed a 1-year contract with Duke Energy for 111 megawatts that bridges most of the supply.

SEN. STONINGTON asked, if Montana First (NorthWestern Corp.) is financed and has fixed cost payments, how can they afford to turn it on and off. **Mr. Pascoe** said that MPC makes a fixed payment to Montana First every month and then fuel is variable. Their fixed costs are covered through that fixed payment.

REP. DELL said that he is concerned about the integrity of the portfolio in terms of financing of new generation falling through. What happens if an element of the portfolio is put at risk?

Mr. Pascoe said that if one or more of the projects that are included in the portfolio don't come on line, MPC will go back to the market place and look at all of the alternatives that are available. That power supply may be more expensive, but it also may be less expensive. **REP. DELL** asked if that would be something that would cause MPC to have to go back to the PSC. **Mr. Pascoe** said that it would.

MR. WHEELIHAN asked if the 111 megawatts that will be used as a bridge factored into the 4 cents. **Mr. Pascoe** said that it is factored into the first year costs.

V UPDATE OF SALE BETWEEN MPC AND NORTHWESTERN CORP.

Commissioner Bob Anderson, PSC, said that last month MPC and NorthWestern Corp. filed a petition with the PSC asking for expedited treatment of the sale. The PSC and Large Customer Group said that it was not a reasonable schedule because the case is tied to two other dockets, a portfolio case and a stranded cost case. They said that it was not reasonable to do all of the cases on the same calendar. MPC made its stranded cost filing at the same time that it made the portfolio filing. Then MPC made another petition to the PSC for an expedited procedural schedule, asking for a December 31 decision from the PSC. The PSC noticed it to the parties. The parties responded that there was not enough time to go through the process, respecting due process rights. The PSC was unanimous in believing that the December 31 deadline was unreasonable and that a decision by March would be an efficient procedural calendar. After negotiations with the parties, January 31 was agreed on and a procedural schedule was issued. The PSC will do what it can to accommodate the schedule.

There were some questions raised about why the PSC should care about the business plan of Touch America, which is not a regulated company. The PSC's job is to balance the interests of utility customers and the utility. The answer that MPC's attorney gave was that if the sale isn't closed, then customers are going to be exposed to the balance sheet of the entire company, including Touch America. The finances of the combined balance sheet would put those customers at some financial risk. This played a factor in the PSC accepting the January 31 schedule.

SEN. STONINGTON asked why the customers would be exposed to the full business filings.

Comm. Anderson said that the balance sheet of the combined company was shaky. If Touch America can't pay its bills, that could affect the ability of the utility part of the company to pay its bills.

SEN. STONINGTON asked about the relationship of the stranded cost filing to the sale. **Comm. Anderson** replied that is for the parties to develop. It is part of the case because the legislative Consumer Counsel and the large customer group assert that there is a relationship. That matter will have to be heard by the PSC. **SEN. STONINGTON** asked, when there is a filing and the PSC makes a judgement on the sale, is the PSC looking at the long-term benefit to the consumer of electricity and the long-term financial impact of that sale on transmission and distribution rates. **Comm. Anderson** said that is something that the PSC looks at.

REP. KEANE asked what would happen if MPC stock continues to fall and some other entity saw a big windfall if they bought the company at \$3.50 per share. How would that affect what happens to the rate base? **Comm. Anderson** replied that if that were to occur, that entity would have to make a filing to the PSC. **REP. KEANE** asked if they would have to appear before the PSC. **Comm. Anderson** said that is correct. Any transfer of utility property that is dedicated to service to customers requires approval by the PSC.

SEN. ELLIS asked if most of the stranded costs were with generation and not with distribution. **Comm. Anderson** said that stranded costs are associated with generation. There are 3 types of stranded costs specified in statute: regulatory assets, qualifying facilities, and hydro-thermal generators. The Consumer Counsel and the large customer group assert that there is a linkage because if NorthWestern is the buyer, they could be obligated for some portion of those stranded costs.

SEN. THOMAS asked if most of the analysis of the sale has already been done. **Comm. Anderson** said that approval of the sale has been applied for and some testimony has been filed. Under due process requirements, the parties have the right to do discovery on that testimony. That has not been done yet. After the discovery, the parties will then file their testimony. Discovery may be done on that testimony and rebuttal testimony may be filed.

VI DRAFT COMMITTEE WORK PLAN FOR INTERIM

! Work Plan and Budget

JEFF MARTIN, Staff, summarized the draft work plan, see **Attachment 7**. The draft work plan contains a number of elements, some being statutorily required. A tentative schedule is also included.

MR. MARTIN said that the Environmental Quality Council (EQC) is undertaking a study of energy issues related to generation, transmission, etc. If TAC can coordinate with the EQC it may save the Committee some time.

TAC is statutorily required to submit an annual report by November 1. The Committee may want to add a discussion about the sale of the transmission and distribution property to NorthWestern, including some background on why the procedural schedule ended up as it did. The Committee is also required

to do an evaluation of effective competition. There are a number of criteria listed in the work plan. The Committee may also propose legislative recommendations to promote electric utility restructuring and retail choice. Other duties are to monitor and evaluate USBP and evaluate access to interstate customers by Montana generators.

Activities that the Committee may want to consider are listed in the work plan. These are activities such as the historical summary of restructuring at the federal and state level, tracking federal legislation on energy policy and the role of FERC, looking at the conditions that lead to the emergence of a competitive market and any impediments.

The Committee may want to consider transmission as a priority for the rest of the interim. Under this task the Committee would look at how transmission works in general and the organizational framework of how transmission systems would be operated through an RTO or some other method. They would also be look extensively at the role of Bonneville Power Administration and other public and private entities trying to upgrade the transmission infrastructure. The Committee may also want to look at the transmission of electricity from Alberta and British Columbia. Some points that were raised in the Western Area Governors' Report are the cost of financing new infrastructure, what the capacity requirements will be, and the siting of new transmission. This task should be coordinated with the EQC because they will be looking at the transmission issue as well.

TODD EVERTS, Staff, referred to a memo about options for USBP, **Attachment 8**. There are 2 statutory requirements that the Committee must act on. One of those is to make a recommendation to the next Legislature regarding an adjustment in funding for USBP. The second requirement is a determination of need for USBP. These 2 requirements are hold overs from SB 390 (1997 Session). The memo outlines 3 options. The first option is to make a determination as a committee to defer the recommendation of need until just before the termination date of the program. However, the recommendation for the funding level may not be deferred. The second option is to set up a process to determine whether USB Programs are needed. To do that the Committee will have to work in conjunction with the PSC. A notice of inquiry could be sent with public comment following that. Then the PSC could make recommendations to the Committee and the Committee could then make a formal recommendation to the next Legislature. The third option would be for the Committee to create a subcommittee to take public comment and panel discussions.

SEN. THOMAS asked if a subcommittee could do any of the options. **MR. EVERTS** said that it could.

SEN. THOMAS said that he would recommend to the Committee that they establish a subcommittee to get public input, PSC input, and to follow what is being done with low-income assistance, irrigators, conservation, and renewable projects.

REP. DELL asked if HB 474 overturned, what would be the implications for USBP.

MR. EVERTS said that HB 474 extended the termination date for the funding mechanism for USBP from 2003 to 2005. There is also USBP money specifically allocated to agriculture programs in HB 474. This portion would be discontinued.

SEN. STONINGTON asked how the agriculture portion of the USB funds has been applied to date. **MR. CORCORAN** said that he would find out.

MR. EVERTS said that the Department of Revenue has rule making authority over the credit allocation for USBP.

MR. CORCORAN said that probably the majority of the USBP activity dealing with agriculture would take place next year.

MOTION: SEN. STONINGTON moved to adopt the second option of collecting information, but without establishing a subcommittee.

DISCUSSION:

SEN. STONINGTON said that there is not yet a competitive market. MPC supports continuation of USBP. There is support for continuation of the program, the issue will be at what level.

SEN. RYAN said that he agreed with the second option. There are some concerns about USBP by farmers and ranchers. For that reason the Committee needs to look at it, but going with a more involved option may lead to more politicalization of the USBP.

SEN. THOMAS said that the other thing to consider is if people want to know what they are voting on with the HB 474 referendum. He would like to see a subcommittee to deal with the USBP issue.

REP. DELL said that he agrees with **SEN. RYAN** in the sense that he thinks that right now the USBP is up in the air in terms of HB 474. The irrigation portion was a significant issue. We need to see how that plays out and let the next session deal with it after the fact. He agrees that the second option is the best choice.

REP. BROWN said that the people who need the USBP funds need to have it in place before the next session because plans need to be made ahead of time. He thinks that this issue does require high level examination. If the Committee only does a low key look right now, it may not make the public aware of the fact that repealing HB 474 will mean that USBP will not be extended.

REP. OLSON agrees that a thorough examination option would be better. Some of the criticism of HB 474 was that there wasn't sufficient public involvement.

SUBSTITUTE MOTION/ VOTE: SEN. STONINGTON moved that a subcommittee be appointed. Motion passed unanimously.

SEN. ELLIS said that some states are enacting legislation to allow transmission upgrades without securing rights-of-way. This may be something that should be considered for the next session.

SEN. ELLIS said raised another question. BPA gave the aluminum plants a sweetheart deal so that the state could make aluminum. Is it good policy for those companies to not make aluminum with the cheap power, but instead resell that power at a profit? It is not good policy for the state. This is also something that should be considered.

SEN. THOMAS said that would be added to the work plan. It is part of finding out where Montana is, what the state has and doesn't have.

REP. GALLUS said that the aluminum power topic came up at the Columbia River Governance Committee meeting. He thought that through an administrative rule, BPA took care of this issue. BPA now has language in their contracts to prevent that from happening.

Haley Bowdry, Columbia Falls Aluminum, said that the contract with the sell-back ended on October 1, 2001. There is no more selling of the power. BPA went to the aluminum companies because they were short of power and asked the aluminum companies to forgo the power that was contracted for the following year. **SEN. ELLIS** said that he had received a study about BPA and how they were going to pay their obligations to the government. Who made the ruling and by what authority did they do that? Does it affect all of the aluminum companies? **Mr. Bowdry** said that there are 10 companies and that it does affect them all. The reason that was in the contract was that BPA was above market rate and was trying to get customers. **SEN. THOMAS** said that this subject will be added to the work plan in Item 8.

SEN. STONINGTON said that she would like to look at how energy planning for the state is done. It seems that almost all of the energy planning for Montana has been at the advice of experts who all have a vested interest in the outcome. She doesn't have confidence that the right questions are being asked. She would like to talk about hiring an energy consultant, with no vested interest, to offer ideas about things that should be looked at.

SEN. THOMAS said that it's a good idea to think about how that would fit into the work plan.

SEN. ELLIS suggested that the NCSL might be an entity to consider asking to help with an independent study.

SEN. STONINGTON said that time is passing and she would like to have the Committee decide when it would be possible to this.

It was agreed to come back to the discussion about the work plan.

VII STATUS OF SALE OF MPC TRANSMISSION AND DISTRIBUTION PROPERTY TO NORTHWESTERN

PAT CORCORAN, MPC, said that the Tier 2 filing that has been submitted will hopefully be the final stage. It deals with the transition or stranded costs for MPC. Those transition costs consist of generating facilities, regulatory assets, and qualifying facilities. There were no stranded costs associated with the sale of the generation facilities. Milltown was not part of the sale and is addressed in the filing. The regulatory assets are worth approximately \$61 million and were also covered by the sale proceeds. This leaves no transition costs associated with the regulatory assets. The qualifying facilities consist of contracts associated with 100 megawatts of power and some contracts run for the next 30 years. These contracts are very high priced. The cost of those contracts, from \$33 up to \$60 per megawatt hour, is treated as a transition cost in the filing. There is still \$60 million that needs to be offset. The PSC and the parties will review all of the categories of transition costs.

MR. MARTIN asked how the contract price of energy for qualifying facilities is determined. His understanding was that it was based on the avoided cost of the utility for not building additional generation and buying from other energy sources. The federal government determined how the contract price would be calculated based on avoided cost. **MR. CORCORAN** said that is generally correct. These contracts were entered into in the 1980s. The federal government established the concept of avoided costs. Those costs were determined by the avoided cost during a time period that was much different than today.

SEN. ELLIS asked if escalated costs meant that the contract says that MPC should pay more this year than last year. **MR. CORCORAN** said that was correct. Today the costs are in the \$60 range, but they escalate upwards to the \$150 range.

SEN. THOMAS asked if the contracts go another 30 years. **MR. CORCORAN** said that the majority of the contracts run at least 25 more years and some run 30 years. **SEN. THOMAS** asked if some of the contracts were longer than 30 years. **MR. CORCORAN** said that some were. He will provide further information at the next meeting. **SEN. THOMAS** asked how much the qualifying facilities make up on the portfolio currently. **MR. CORCORAN** said that it is roughly 100 megawatts.

SEN. ELLIS said that the 100 megawatts is more than 20% of the default need at night.

REP. BROWN said that the difference is based on what the projected market price will be over time. If there is another period of time where the market prices are high, is there an adjustment mechanism for the transition costs that goes on customers' bills? **MR. CORCORAN** said that a one-time settlement and determination of those transition costs has to be determined as part of the filing. MPC's

proposal is setting those market price projections for the next 30 years, establishing a competitive transition charge for each annual year for the next 30 years based on those projective market prices.

SEN. STONINGTON asked if the PSC has to approve the total value of stranded costs and how they are going to be repaid over the next 30 years. **MR. CORCORAN** said that is correct. **SEN. STONINGTON** asked what else is included in the filing dealing with stranded costs.

MR. CORCORAN said that the PSC will review all 3 components of transition costs.

SEN. STONINGTON asked if the PSC has to prove that it is a legitimate accounting for the money.

MR. CORCORAN said that is correct.

MR. CORCORAN said that MPC is in the process of responding to discovery and providing additional data for the default supply filing. The PSC will be conducting discovery on all 3 filings. The intervening parties then have until December 21, 2001, to file intervening testimony. The PSC will then move to a schedule that is focused on the sale only. The PSC will then move toward issuing a final order, on the sale only, by the end of January 2002. MPC will continue to work on settlement opportunities with the parties. They want to get this taken care of as soon as possible.

SEN. STONINGTON asked what was meant by settlement opportunities. Is it possible for MPC to come to agreement with the parties and resolve it? **MR. CORCORAN** said that was correct. The idea would be to work out the settlement with the parties and present an organized settlement to the PSC for its approval.

VIII NORTHWESTERN CORP. PROJECT TO DEVELOP GAS TURBINE GENERATION IN GREAT FALLS

Dennis Lopach, NorthWestern Corp., said that the groundbreaking ceremony for the natural gas plant was on November 5, 2001. Phase I is an 80 megawatt simple cycle gas generator. The target is to have Phase I on line by July 2002, which is when the contract with MPC is triggered. Phase II, which is a second simple cycle generator is hoped to be on line by August or September 2002. Phase III, which is the retrofit to combined cycle status and adding a steam generating facility to produce an additional 90 megawatts, is hoped to be on line in the summer of 2003.

As far as fitting into the default supply portfolio, the project can run anywhere in the load curve. In the filing with the PSC for approval of the contract, it was explained that this can go from off to on in 10 minutes. It is a very valuable resource for the default supplier. NorthWestern thinks it can meet any of the needs that can be anticipated at this point.

SEN. ELLIS asked if NorthWestern had tried to secure a contractor for the gas needs.

Mr. Lopach said that under the contract, MPC can manage the gas supply or allow NorthWestern to manage it.

SEN. RYAN asked, if Phase I doesn't come on line by July 2001, is NorthWestern under obligation to supply the power through other contracts or does that problem fall to MPC.

Mr. Lopach thinks that there is a 3-month period where MPC assumes the risk and then it falls on NorthWestern.

ACTION: **SEN. THOMAS** appointed the Subcommittee for USBP. The members of that subcommittee are REP. DELL, as Chair, REP. FISHER, REP. KEANE, SEN. McNUTT, SEN. ELLIS, MR. LEUWER, COMM. BRAINARD, MR. HARDY, and MR. CORCORAN.

IX **AGGREGATION OF CITIES AND TOWNS FOR THE PURCHASE OF ELECTRICITY**

Alec Hansen, Montana League of Cities and Towns (MLCT), said that there are 23 cities and towns in the program with a load of 63 million kilowatt hours. School districts were brought in later with 45 districts and a load of 70 million kilowatt hours. The program was started in April of 1999, and was renewed July 1, 2000. In the first 15 months of the program, with only 22 cities in the program, the estimated savings were \$115,000. Mr. Hansen pointed out that street lights are not in the program at the present time. The price differential in the first 15 months of the program was 1.45 mills.

In July 2000, the contract was renewed and the school districts included. At that time, the market price was considerably higher than the regulated rate, but they reserved the right to return to the utility service. They purchased a 2-year contract at a rate 0.65 mills below MPC rates. They expect to save \$82,000 with that rate over 2 years. The schools will save approximately \$91,000.

There are not a lot of administrative costs associated with the program. The administrative costs may be close to 5%. It is a voluntary program. The cities and towns that are interested sign agreements that authorize MLCT to buy power for them.

Current contracts for both schools and cities and towns remain in effect until June 30, 2002. At this time, they expect to go to the market by the end of the year and see if they can find a price that is lower than what the default rate is expected to be. They have seen a significant reduction in the market price of electricity since April.

Street lights may be added to the program if there is an increase in the rate for street lights. This would add volume to the market loads. Street lights are an attractive load because they are off-peak and predictable.

The hope is that the program will attract a price that is far enough below the default rate that it will make the program worth continuing. If the cities and towns can't make this work, he doesn't know who can. Residential consumers are most likely not going to go out into the market anytime soon. There are real possibilities for savings with the program. However, there is uncertainty and a lot of work that must be done.

REP. FISHER asked how the billing was handled. **Mr. Hansen** said that the billing is done through the existing system. **REP. FISHER** asked if the university systems were participating in the program. **Mr. Hansen** said they would like to look at the university system and there will most likely be some contact made.

SEN. THOMAS asked if any school can participate. **Mr. Hansen** said that they are working on cities and towns in the MPC territory that aren't covered by another utility. **SEN. THOMAS** asked if they can beat the default price by going to the market, will they go there. **Mr. Hansen** said that they will see an increase in price no matter what they do. They are talking about saving money as compared to the default rate.

SEN. ELLIS asked why there is reluctance to put street lights on the program. **Mr. Hansen** said that MPC has variable rates. They have a subsidized rate for street lights. There is nothing that MLCT could buy that would meet the rate. However, if there is an increase in the rate for street lights and they could buy power at less than the new rate, they will add street lights to the program.

SEN. THOMAS asked if the cities have looked at a conservation program with the street lights. **Mr. Hansen** said that they would like to own them. They have done work with MPC and others in the past, and there are some really promising ideas, such as bacterial generation from sewage. There could be tremendous savings potential.

SEN. THOMAS asked if a school district that is not in the program now could join the program. **Mr. Hansen** said that they could. The program is open for future contracts. The only problem is that the load data has to be analyzed and that may take a while.

SEN. STONINGTON asked, if over time the program is not doing as well as the default supplier, why is it so difficult to come back under the default supply. **Mr. Hansen** said that it won't be difficult to come back. It is his understanding that MPC wants the people on the default supply to be signed up for a certain amount of time.

MR. CORCORAN said that HB 474 sets up the adjusted customer choice rules going forward. Today there are tariffs that allow customers to move to the competitive market. The rules for how customers will have opportunities to participate in the competitive market have yet to be established. HB 474 made those rules a requirement of the PSC. **Mr. Hansen** said that there had been some discussion about people who are on the default supply might have to be there for 5 years.

SEN. THOMAS said that, under SB 390 rules, if someone left the default system, they couldn't come back. HB 474 allows the schools and cities the ability to come back to the default system.

SEN. STONINGTON asked if the program would become as good as MPC is at brokering energy. **Mr. Hansen** said that was correct. This is a good load, that is the key to making the program work and save money.

MR. CORCORAN said that the importance of this is that it allows the customers to have the opportunity to choose, which was the original basis for SB 390.

SEN. THOMAS said that one thing that MLCT did that was different than the industrial customers was that MLCT had a fixed contract that protected the people on the program.

Mr. Hansen said that this is a complicated issue. If the default supply rate is too low, then there is no incentive for competition. If the rate is too high, then there is competition. Where the default rate falls, what the margin is between that and the market price, and how effectively loads can be managed, those are the keys to making it work.

X **REPORT ON THE WESTERN AREA POWER ADMINISTRATION (WAPA)**

REP. BROWN said that the workshop, hosted by WAPA, was held in Billings on October 19. The purpose of the meeting was to identify sites for new generation projects and new transmission projects in Montana and the Dakotas. They have funding for a \$250,000 study. The study is supposed to be completed by summer 2002.

There were approximately 100 people at the meeting representing all perspectives. The situation always comes down to the transmission problems. Many of the existing lines have very little capacity. They want to look at the western system and its various bottlenecks, for example the east-west inter-tie at Miles City. They also talked briefly about the eastern system and North Dakota bottlenecks. The main thing that he saw from the meeting is that there won't be a lot of the proposed generation projects funded until the transmission problems are solved.

SEN. STONINGTON said that the meeting was a scoping meeting. They were asking all the interested parties what areas need to be looked at, what potential projects should be looked at, and what questions need to be asked. The results of the meeting will be on the WAPA web site by the end of November.

The study will look at what-if scenarios for 5 potential power plants on the eastern side of the inter-tie line and 5 sites on the western side. The what-if scenarios are going to be things like, if the plant is a 350 megawatt plant and they have a customer on Los Angeles, how will the plant get the power to the customer. What are the transmission constraints to get it there? Who would they have to tie into? What is the technology that is needed to upgrade transmission to make it happen? WAPA is going to try to answer how to get power to the major markets or to a specific customer load. WAPA is also going to look at the regulatory aspects, who owns the lines, how are they governed, etc. The study will

also consider the cost of upgrading the transmission for the potential 10 sites. There was a lot of discussion at the meeting about the reality of constructing new transmission lines in today's market and what that would mean.

Participants also talked about what the study is not going to do. There was some talk about OASIS and that they are not proposing to replace OASIS. They also are not replacing the need for a system impact study. They are not going to provide any information at sufficient detail for somebody wanting to build a plant to take the study to the bank. It is not a marketing study.

SEN. STONINGTON feels that the study will help the region to at least look at the transmission issue, but it is not going to answer the question of, is it possible.

REP. BROWN said that the web site is www.wapa.gov/ugp/study. That site will provide updates of what is going on with the study.

MR. MARTIN asked if they were going to put together a study plan. **SEN. STONINGTON** said that the study plan will be done by the end of November.

REP. DELL commented that he had thought that there would be more information in terms of the transmission. **SEN. STONINGTON** said that the meeting was an exercise in scenarios. She thinks that not even the power plants that are wanting to come on line know the actual capability of getting into the grid. There is some capacity in some of the lines that exist in Montana today, but as far as getting power out of Montana, the firm capacity is all purchased.

SEN. RYAN asked, since Montana is in the western grid and the Dakotas are in a different grid, was anything brought up about how the federal government is going to look at transmission. **SEN. STONINGTON** said that inter-tie can transmit 200 megawatts across the tie. It is only operating at about 150 megawatts currently. Inter-tie barriers were put in for national security reasons and the question is whether they are needed now and what it would take to get rid of them. The impression that she got was that where the transmission really needs to occur is to the northwest.

REP. BROWN added that part of the scope of the study is to look at the AC/DC system in Miles City. In Miles City power has to be switched from AC to DC and back in order to get across the system.

SEN. RYAN said that there had been a lot of new generation developed in the Dakotas. Are they looking at getting the transmission capacity up so that they can ship across Montana?

SEN. STONINGTON said that they are asking that question, but for that market they are looking mostly at Minneapolis.

XI REPORT ON THE ANNUAL MEETING OF THE MONTANA ELECTRIC COOPERATIVE ASSOCIATION (MECA)

MR. WHEELIHAN, MECA, said that the meeting was held in October and had a record turnout. There was a panel discussion of the energy issues that the Legislature dealt with during the 2001 session. A representative from the Northwest Power Planning Council, Attorney General McGrath, Rep. Forrester, and Rep. Mood gave their views of what transpired during the session. That was followed with trying to look ahead at some of the unresolved issues and some of the things that will be dealt with during the Interim. There was a panel that dealt with TAC and EQC issues. They looked at the financial picture for the cooperatives. There was also a panel discussion on regional and national energy issues.

XII LITIGATION REPORT RELATED TO RESTRUCTURING AND REGULATORY AUTHORITY

MR. EVERTS referred to **Attachment 9**. There are 3 lawsuits. PPL-Montana versus the PSC is before Judge Molloy. The PSC has moved to dismiss and they are waiting on Judge Molloy to decide to dismiss the lawsuit or to continue on the merits of the case. The second case is MPC versus the PSC. MPC has filed its complaint before Judge Sherlock in state district court. The parties are waiting for Judge Sherlock to issue a briefing schedule. The third case is Single Moms Inc. versus MPC and other parties. That case is before Judge Molloy. Single Moms Inc. is asking that some of the restructuring laws be reversed and also for damages of \$5 million. Judge Molloy recently rejected Single Moms' request for an order to restrain MPC from disconnecting gas and electrical service for those people who can't pay their bills. Single Moms has appealed that rejection to the Ninth Circuit Court of Appeals. Judge Molloy has set a schedule. Documents for that briefing schedule are due in March.

SEN. THOMAS asked for the status of the legislators being individually sued. **MR. EVERTS** said that has been turned over to the Attorney General. There were 88 legislators that were singled out in the Single Moms lawsuit. The Attorney General is trying to dismiss that lawsuit based on legislative immunity.

REP. GALLUS asked about the billion dollar lawsuit that was filed by the stockholders.

MR. EVERTS said that these lawsuits are related to restructuring issues. He will include the billion dollar lawsuit at the next meeting.

XIII OTHER BUSINESS

SEN. THOMAS brought the discussion back to the work plan. He referred to the work plan (Attachment 7). He stated that the Committee needs to weed out some of the tasks. Starting at the

end, Nos. 11, 10, 7, 6, and 5 are things that need to be done. No. 5 deals with transmission and TAC needs to work with the EQC on this issue.

MR. EVERTS said that the EQC is just getting educated on the issues. He will keep the Committee informed on what the EQC is doing. It is an educational process.

MR. MARTIN said that the information that the EQC is developing is going to be valuable to TAC. A mechanism for trading information between the committees needs to be figured out.

REP. KEANE said that there needs to be more focus on transmission. There is going to have to be some policy from the Legislature dealing with how transmission develops.

SEN. THOMAS suggested that a subcommittee be established to deal with transmission issues.

REP. FISHER said that one of the big problems that transmission is going to have in building new lines is the DEQ. TAC should work with the DEQ to find out what it will take to get a DEQ approval for a transmission line and then work from there.

SEN. ELLIS said that transmission is expensive. Prior to this time it was always paid by the end user. Now we need to know who is going to pay for the new transmission. That may be part of the reason that FERC came out with the single RTO idea. The funding for transmission is critical.

REP. FISHER said that he had been told that it would be the responsibility of the people who need the new lines. Since the transmission lines are still regulated, he would think that the PSC would be able to assess the charges for that.

SEN. THOMAS said that the financing issue is included in the work plan.

MR. MARTIN said that the idea of who is going to pay for the transmission should be added to the cost discussion.

SEN. ELLIS said that the PSC shouldn't do it because we are talking about out-of-state customers that are going to be using Montana's resources. It shouldn't be assessed to Montana customers when the need is to transmit power out of Montana.

MOTION/VOTE: REP. KEANE moved that a subcommittee for transmission issues be established. Motion passed unanimously.

SEN. THOMAS said that No. 1 will be followed, but there probably won't be any recommendations made.

REP. DELL said that the report that will supplement things from the NCSL presentation would be useful. There are other reports that were used last session. The Committee could use those instead of making new reports.

SEN. THOMAS said that the committee will not focus on No. 1. The next item is the national energy legislation and policy. This will be followed, but the nation has other things that they will be working on more than restructuring at the federal level. He would encourage the Committee to not spend a lot of time on this.

MR. WHEELIHAN said that a subcommittee on transmission will need to track federal legislation because there is a tremendous amount of proposals out there now that affect transmission.

SEN. THOMAS said that tracking federal legislation would be added to transmission as a requirement.

SEN. ELLIS referred to the earlier discussion about Item 1. NCSL has a book available on what happened in California and what should be learned from that. **MR. MARTIN** responded that he does have that book available. Some members may have gotten that book at the meeting in Big Sky. There is also the CBO analysis of what happened in California on the web site.

SEN. THOMAS asked that a copy of the NCSL report be sent to committee members.

SEN. THOMAS said that item 3, market structure and competition, needs to be tracked. Item 8, other substantive issues, will all need to be followed. Real time metering should be added.

MR. WHEELIHAN said that he would be happy to provide information about metering to the Committee.

SEN. THOMAS said that would be worked in at the next meeting. Also a report from **SEN. ELLIS** about the Denver NCSL meeting should be worked into the next meeting.

MR. MARTIN said that there was discussion about a legal analysis of the impact if the referendum on HB 474 passes.

MR. EVERTS said that the Committee wants a legal analysis of what would happen if HB 474 is repealed. Is there anything else that needs to be included? **SEN. THOMAS** said that he would like an analysis of what it does and doesn't do. **MR. EVERTS** said that he could do a legal analysis of the way the statute will look if the referendum passes. Is **SEN. THOMAS** asking for an impact analysis?

REP. FISHER said that would be asked in the end anyway. He would like to have something to give to the voters when they ask what it would mean to pass the referendum.

MR. EVERTS said that it would be written in draft form for the Committee's approval so that it is not a stand-alone staff document.

SEN. STONINGTON said that she would prefer that it not be speculative about the impacts, but simply a legal analysis of the changes.

SEN. THOMAS said that the facts should speak for themselves.

REP. DELL said that he would like to see what it undoes, how it pulls things in reverse in terms of the legal aspects. It needs to be kept legal, without speculation.

MR. EVERTS said that it would be done.

SEN. STONINGTON brought up the idea of having an independent study done.

SEN. ELLIS said that his preference would be to go with people involved with NCSL, since the Committee belongs to that service anyway. It would avoid some of the extra expense.

REP. DELL said that he has a lot of respect for NCSL. They have a far better handle on it, independent of politics, than any other organization that has come forth. NCSL is an independent organization.

SEN. STONINGTON said that she also has respect for NCSL. They probably have the kind of independent expertise that could look at Montana's study plan and where the state is in this transition. She would like a confirmation that the state is on the right track or to have them raise some other questions that need to be addressed. She would like to have a reality check.

SEN. THOMAS said that the idea of having some outside counsel could be good.

MR. EVERTS suggested that the Subcommittee meet the day before the full TAC meeting in order to save money.

After some discussion, it was decided to hold the next TAC meeting and the Subcommittee meetings in January.

MR. MARTIN said that the budget is included in the work plan and was based on the meeting schedule that was adopted in June 2001. The current total is \$42,500 for the budget. It will have to be recalculated to consider new contributions and the expense of subcommittees. He suggested that the budget be recommended as a general fund appropriation in the next Legislature.

MR. MARTIN provided corrections to the minutes from the previous two meetings. Kathy Rice will be added to the attendance. **REP. GALLUS** was excused from the October meeting.

MOTION/VOTE: **REP. DELL** moved to adopt both sets of minutes as corrected. Motion passed unanimously.

MR. MARTIN said that there had been some discussions about travel reimbursement for non-legislative members.

MOTION/VOTE: **SEN. ELLIS** moved for that reimbursement. Motion passed unanimously.

SEN. THOMAS said that another issue that had been asked about was Coal Bed Methane (CBM) as a source of energy. **MR. EVERTS** said that the EQC has a subcommittee to deal with CBM. That doesn't preclude other committees from learning about the issue.

SEN. ELLIS said that he attended a meeting about CBM in Billings. He was impressed that CBM mining affects a water resource. This water is put into ponds, some with drains, and some water goes into the Tongue River. There are 1,600 gallons of water per minute going into the Tongue River. There are some irrigation problems with the sodium in that water.

SEN. THOMAS said that it may be possible to tie CBM information into a committee meeting by holding the meeting in an area where the Committee could view the mining.

MR. MARTIN said that a tour could also include a visit to Colstrip. The EQC had a similar tour earlier in the year and it was a great learning opportunity for them.

SEN. ELLIS said that either the June or September meeting may be a good time to go.

SEN. STONINGTON said that there are also proposals for CBM development in the Bozeman area. The set of issues there are different than they are in eastern Montana because it is in a residential area.

ACTION: **SEN. THOMAS** appointed the Transmission Subcommittee. Members are **MR. WHEELIHAN**, as Chair, **SEN. RYAN**, **SEN. STONINGTON**, **REP. BROWN**, **REP. OLSON**, **REP. GALLUS**, and **SEN. THOMAS**.

SEN. THOMAS asked if the issue of excess power is in the work plan. **MR. EVERTS** said that the EQC subcommittee will be putting together a State of the State Report of facts on supply and demand of generation. That should take that question into account.

SEN. ELLIS asked if the report would include not only what can be generated in Montana, but the fact that the full amount is never generated. **MR. EVERTS** said that the past reports have shown that.

SEN. ELLIS asked if the report was specific to ownership. **MR. EVERTS** said that the report has not been put together yet, but if it is based on past reports, there was a table that showed ownership.

SEN. STONINGTON thought that it would be interesting to ask the whole group, generators, distributors, coops, et cetera, whether there is, in fact, a net production of energy in Montana. **SEN. THOMAS** said that there is a net production, but the net is already contracted out to other places.

MR. MARTIN said that he would revise the work plan to incorporate the things that were added at this meeting. He would also highlight the priority of the items that were selected. Transmission and USBP will be the two significant issues that will be dealt with this interim.

SEN. THOMAS said that there are other issues that are just as significant.

There being no further business the meeting was adjourned at 5:05 p.m.

CI2255 1339jfxa.