



# Energy and Telecommunications Interim Committee

PO BOX 201706  
Helena, MT 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

## 58th Montana Legislature

### SENATE MEMBERS

ROYAL JOHNSON  
DON RYAN  
EMILY STONINGTON  
FRED THOMAS

### HOUSE MEMBERS

DANIEL FUCHS  
DAVE GALLIK  
GARY MATTHEWS  
ALAN OLSON

### COMMITTEE STAFF

MARY VANDENBOSCH, Research Analyst  
TODD EVERTS, Staff Attorney  
REBECCA SATTLER, Secretary

# MINUTES

March 25, 2004

Room 102, State Capitol  
Helena, Montana

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

### COMMITTEE MEMBERS PRESENT

SEN. ROYAL JOHNSON  
SEN. DON RYAN  
SEN. FRED THOMAS

REP. DAVE GALLIK  
REP. GARY MATTHEWS  
REP. ALAN OLSON

### COMMITTEE MEMBERS ABSENT

SEN. EMILY STONINGTON  
REP. DANIEL FUCHS

### STAFF PRESENT

MARY VANDENBOSCH, Research Analyst  
TODD EVERTS, Staff Attorney  
CYNTHIA A. PETERSON, Secretary

### VISITORS

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

## **COMMITTEE ACTION**

- Minutes of the January 29, 2004, and January 30, 2004, meeting of the Energy and Telecommunications Interim Committee (ETIC) were approved.
- Include the following provisions in LC 4, a bill requested by the ETIC: Continue the Universal System Benefits (USB) charge on electricity customers for two years, the low-income assistance floor will be raised from 17 percent to 25 percent, uniform reporting will be established for all programs, and expenditures for renewables must be cost-effective.

## **CALL TO ORDER**

The March 25, 2004, meeting convened at 8:24 a.m. and was called to order by Energy and Telecommunications Interim Committee Chairman Rep. Alan Olson.

- **Roll Call**

The secretary noted the roll (Attachment 3).

- **January 2004 Minutes**

Sen. Thomas moved the minutes of January 29, 2004, and January 30, 2004, be approved. The motion carried unanimously.

## **POTENTIAL FOR COST-EFFECTIVE IMPROVEMENTS IN ENERGY EFFICIENCY**

- **Tom Eckman, Northwest Power and Conservation Council**

Tom Eckman, Manager, Conservation Resources, Northwest Power and Conservation Council (NPCC) , gave a power point presentation to the ETIC regarding effective residential, commercial, and industrial energy conservation measures (EXHIBIT 1).

Sen. Thomas requested clarification about Montana's overall household consumption of energy, and Mr. Eckman explained on a per-unit consumption basis, the average Montana citizen or household uses less than other states in the region. Mr. Eckman believed this is primarily a function of space and water heating saturation relative to other states, and that Montana primarily uses natural gas or propane. In this regard, Montana seems to be more consistent with the Eastern part of the United States than the Northwest region.

Mr. Eckman summarized by identifying lighting as having the largest potential for energy savings, as well as replacement of older model refrigerators, weatherization of manufactured homes, and replacement of existing manufactured homes with new homes that meet high-efficiency energy standards.

Sen. Royal Johnson stated he was not familiar with the NPCC and asked about the structure and purpose of the organization. Mr. Eckman explained the Council was established in 1980 by

special legislation passed during the Carter administration. The legislation authorized Oregon, Washington, Idaho, and Montana to establish an interstate compact.

Rep. Gary Matthews mentioned there are tax incentives for replacing old appliances, and Mr. Eckman agreed there are state income tax incentives, but the conservation tax credit in Montana does not apply to appliances.

Sen. Fred Thomas noticed funds are being focused in conservation and renewable energy projects, such as solar and wind projects, and wondered whether conservation or renewable energy projects provided the quicker payoff. Mr. Eckman replied conservation projects would provide the quicker payoff without the production tax credit afforded to wind projects by the federal government.

Chairman Olson asked how the ETIC could channel information presented by Mr. Eckman out to the public and asked what is being done to make the public aware of conservation measures. Mr. Eckman replied there is a large national campaign to heighten public awareness and that program includes the Energy Star program for appliances.

***(Tape 1; Side B)***

Mary Vandenbosch wanted to know what part of Montana is included when NPCC does its plans and forecasts. Mr. Eckman explained they include west of the Continental Divide 75 airline miles if it is served by a public utility.

**POTENTIAL FOR DEMAND SIDE MANAGEMENT**

• **Joe Schwartzenberger, NorthWestern Energy**

Joe Schwartzenberger, NorthWestern Energy (NWE), provided an overview of the demand side management activities included in NWE's 2004 Default Supply Plan (EXHIBIT 2). Mr. Schwartzenberger emphasized the Demand Side Management (DSM) guidelines are clear that NWE should strive for steady, sustainable investments.

Rep. Gary Matthews asked if the Default Supply Plan considered the one percent growth factor. Mr. Schwartzenberger recalled the rate as being more in the range of .06 percent for the first ten years.

**UPDATE FROM GOVERNOR'S TASK FORCE**

• **John Hines**

Mr. John Hines, Chairman, Governor's Task Force, provided an update to the ETIC on residential building code activities, ring-fencing, and one particular bankruptcy issue.

Mr. Hines explained that when the Task Force began working on short-term solutions for low-income affordability issues associated with rising energy costs, the Task Force focused on obtaining additional funds for low-income bill assistance. Members of the Task Force also recognized the need for longer-term more durable solutions. Residential Building Codes were

identified as one area that would provide a longer-term solution to energy costs. The Task Force was provided ideas from Mr. Eckman on how the Building Codes could be upgraded to provide additional energy savings. The Task Force discussed updating the Building Codes with the Department of Labor, and Mr. Hines reported the process of updating the Building Codes has begun. The Task Force is undertaking a more vigorous analysis of updating the Building Codes with assistance from Mr. Eckman and the Department of Environmental Quality (DEQ). Mr. Hines projected the Task Force will be able to provide the ETIC with a report on what they believe will be a proper setting for a new Building Code.

Mr. Hines explained ring-fencing as a set of mechanisms to provide financial protection for ratepayers by isolating a utility from potential negative impacts created by affiliates associated with the company. An affiliate would be any financial link, whether up, down, or cross-wise, that is part of the corporate chain. Mr. Hines explained the Task Force believes it is necessary to provide the ETIC with recommendations for proposed legislation. Mr. Hines cautioned there will be a tremendous amount of detail involved in providing the ETIC with recommendations, and the Task Force is attempting to avoid unintended consequences.

The Task Force also recognized the need for clarification of the Public Service Commission's (PSC) authority. The PSC currently believes it has authority on some issues, but would still like clarification through statutory change. Areas identified as needing clarification include (1) making sure the PSC has the ability to approve inter-company transactions; (2) the authority to approve assets transfer sales; and (3) the ability to review security issuances.

Mr. Hines identified another issue as being the application of ring-fencing, and the Task Force is only considering applying ring-fencing to energy utilities and not to any other type of regulated utility in the state. One path would be to broaden the PSC's general authority, and the other path would be to broaden the authority, but the ability to implement that authority would be provisioned upon specific triggering mechanisms. The Task Force is contemplating the second application and trying to determine what the appropriate triggering mechanisms should be.

Mr. Hines felt a substantial amount of work is left to be done on ring-fencing and was hopeful a decision could be made on ring-fencing at the next meeting of the Task Force on April 23, 2004.

In addressing NWE's bankruptcy, Mr. Hines explained the Task Force is concerned about the valuation of NWE. Mr. Hines felt this issue is key, and the Task Force will be looking at the valuation issue.

Sen. Johnson wanted to know if ring-fencing was in place when The Montana Power Company (MPC) owned the generation and distribution of power in Montana. Sen. Johnson particularly wanted to know about Touch America and understood that Touch America was an independent subsidiary and was not the responsibility of MPC. Mr. Hines believed that was correct, but pointed out that with the transition from MPC to NWE, the PSC felt it had some authority, but SB 390 raised into question the ability of the PSC to review the sale of the generation assets. Therefore, it was felt by some parties that SB 390, in that particular instance, removed the PSC's authority.

Sen. Johnson asked if the bankruptcy of Touch America would have been the responsibility of MPC shareholders. Mr. Hines agreed that was his understanding. Sen. Johnson felt that was not the general understanding at the time. Mr. Hines explained his understanding was the financial problems with Touch America were impacting MPC and visa versa. Therefore, the two companies were integrated to a certain extent. Mr. Hines suggested the easiest way to look at this would have been the stock, which included MPC, had been devalued, and one of the original impetuses for them going into the Touch America regime was that they felt the utility company itself, and the way it was being provided a financial rate of return, was bringing down the overall value of the company. However, the reverse was actually the outcome, and Touch America was actually bringing down the value of the utility company.

Upon request from Sen. Johnson, Commissioner Bob Rowe commented in the early 1990s the PSC attempted to go forward with affiliate interest policies designed to separate different lines of business and ensure that transactions between the two lines were transparent and did not shift risk. MPC aggressively argued that what the PSC was doing was anti-business and that under Montana law, the PSC did not have the appropriate authority. SB 390 provided a specific prohibition on the PSC from either requiring the sale of the generation assets or prohibiting the sale of the generation assets. Therefore, the PSC was taken out of the game. There was also a grant of authority to adopt fairly narrow affiliate interest rules concerning Touch America. The PSC took that authority as far as they could, but the district court in Butte found the PSC had gone farther than it had been expressly authorized under SB 390. The relationship between MPC and Touch America flipped, and Touch America became the parent. The argument was made by Mr. John Alke, representing Touch America/MPC, was that Touch America was so fundamentally weak that if the utility assets were not sold to NWE, Touch America would bring down the utility operation. In the background, there is substantial uncertainty not only about the PSC's authority to order not only ring-fencing policies, but also the lack of clarity on the PSC's authority to review sales of utility assets. Commissioner Rowe felt the PSC is operating in a very unclear area and legislation would be very helpful.

#### **PUBLIC COMMENT ON MATTERS WITHIN COMMITTEE'S JURISDICTION**

There was no public comment.

#### **UPDATE ON NORTHWESTERN BANKRUPTCY**

- **NorthWestern Energy/NorthWestern Corporation**

John Fitzpatrick, introduced Roger Schrum, Vice President, Corporate Communications and Human Relations, NorthWestern Corporation. Mr. Fitzpatrick and Mr. Schrum provided an update on NorthWestern's bankruptcy and presented written testimony (EXHIBIT 3).

#### ***(Tape 2; Side A)***

Rep. Matthews asked about future plans for Montana First Megawatts, and Mr. Fitzpatrick explained NorthWestern is planning to sell the project. Mr. Schrum added clarification by

saying it is more likely NorthWestern will scrap the project and sell the turbines on site, and many non-utility assets are being sold while NorthWestern is in bankruptcy in order to bring cash in to help reduce debt.

Mr. Schrum gave the ETIC a blueprint of the Plan of Reorganization filed by NorthWestern on March 11, 2004, and continued the presentation contained in Exhibit 3.

Sen. Johnson stated during negotiations NorthWestern asked their secured creditors to take half as much money in equity as they have currently in debt. Mr. Schrum explained there are 14 different classes of creditors. Secured debt holders will receive 100 percent, and that debt will be retained. The unsecured bond holders and the subordinated trust preferred holders are the class that will receive equity for debt. Sen. Johnson noted NorthWestern could not emerge from bankruptcy unless the debt for equity is accepted. Mr. Schrum replied once the disclosure statement is approved at the May 17, 2004, hearing, NorthWestern can begin solicitation of all creditor classes for the plan. Mr. Schrum predicted an August confirmation hearing. Mr. Schrum explained it is NorthWestern's plan to work with the creditors to come up with an agreeable solution.

Sen. Johnson wondered if NorthWestern would sell any parts of its system once it emerges from bankruptcy. Mr. Schrum responded NorthWestern is not contemplating selling any part or all of the system, and the plan is to take all of the utility assets in South Dakota, Nebraska, and Montana, but has no plans to sell any other parts of the business.

- **Jim Screnar, Montana Attorney General's Office**

Mr. Screnar explained they are at a critical stage in the bankruptcy process now that the disclosure statement and plan have been filed. Creditors have a right to review the plan and file objections. The disclosure statement must provide the creditors with adequate information to vote intelligently on the plan. Unimpaired creditors will not be allowed to vote, and the time for impaired creditors to object is May 3, 2004, and the hearing will be held May 17, 2004. The State of Montana has a financial advisor that also represents the PSC and the Consumer Counsel. Mr. Screnar has not received any information about the plan from the financial advisor. Mr. Screnar explained the "cram-down process" to the ETIC and what will happen if one class of impaired creditors accepts the plan, but others do not, and added the "cram-down rules" are very complicated. Mr. Screnar spoke about the Toston Dam qualifying facility (QF) contract and explained that stream of revenue is important to the State because it pays for the bonds for the dam and the revenue also pays for improvements to other dams. NWE is in default on this contract, but has continued to make payments on the use of the dam post-petition. Mr. Screnar stated there are other QF contracts in existence, and some of them are involved in litigation due to environmental issues. Mr. Screnar explained the environmental claims at Milltown Dam have been listed as unimpaired, which means the State should be paid in full. However, if the stipulation is not agreed to, it will be necessary for the state to file a claim, and it will then become an impaired creditor. The next step will be to review the disclosure statement and determine whether it provides adequate information. From the QF contract side and environmental claim side, the state does not have a right to vote on the plan at this point.

Sen. Johnson wanted to know what amount of money the Toston Dam would be in danger of losing, and Mr. Screnar thought the amount was \$40 million. Sen. Johnson wanted to know if there was a way NWE could get away from its responsibility and, if it was successful, who would be responsible. Mr. Screnar replied the division of environmental claims is two-fold and consists of pre-petition environmental claim issues and post-petition environmental claims. Pre-petition claims can be placed in a special class and would need to be voted on as an impaired claim. In addressing Milltown Dam, Mr. Schrum explained NWE has an agreement with ARCO to cap NWE's liability claims at \$10 million, and they should have a complete agreement shortly. The largest share of responsibility for cleanup of the Milltown Dam will fall to ARCO.

Sen. Ryan inquired about the "cram-down process." Mr. Screnar explained if all the impaired creditors vote for the plan, there is no "cram-down process." If one of the classes does not vote for the plan and the rest do, then it will be necessary to go to the "cram-down process." Mr. Screnar explained the "cram-down process" reflects the idea as depicted by its name.

Sen. Ryan explained Toston Dam was picked up by NWE prior to the sale of MPC and wanted to know where the \$40 million goes. Mr. Screnar explained the money goes to the bond which was required to build the dam, as well as for other building purposes. Sen. Ryan asked if it would be fair to say that the QF contract that NWE has on the Toston Dam is a pass-through tax picked up by utility payers in the default supply when they figure their utility bill since the Toston QF contract is built into the rates. Mr. Screnar agreed, but revenue from that contract also goes to benefit people outside the rate-paying district.

Mr. Fitzpatrick explained part of the revenue from Toston Dam is used to pay the principal and interest to cover the cost of building the facility, and part of the money goes into the departmental budget and is primarily used for the rehabilitation and repair of other water projects owned and operated by the State of Montana.

Rep. Dave Gallik wanted to know why the reorganization plan does not address the Toston Dam. Mr. Screnar replied it addresses the Toston Dam in the sense that it talks about the QF contract, but in the plan, the debtor has not made the decision to object or affirm those contracts. Mr. Screnar explained there have been negotiations concerning this issue, and the issue is very complicated. Rep. Gallik was curious if the contract is not affirmed, whether the \$40 million would be placed upon the ratepayers.

Commissioner Rowe explained from the outside, his assumption would be that NWE would consider challenging the QF contracts as potentially delaying NWE's emergence from bankruptcy. Commissioner Rowe also felt there would also be an economic component, as well as other issues.

Todd Everts provided the ETIC with "Broadwater Power Project Fact Sheet" (EXHIBIT 4).

Rep. Matthews asked Commissioner Rowe to provide an example of what the cost is to the ratepayer on the QFs. Commissioner Rowe explained the QFs are part of the portfolio going forward, and they produce power, and have value. The out-of-market price of the contracts was agreed to by Consumer Counsel and NWE at the time of the sale, and that charge appears on the monthly bill. NWE will argue that by not converting that charge, they will forego a substantial amount of income. Commissioner Rowe's assumption is that if the contracts were

somehow terminated or nullified in the bankruptcy, the Consumer Counsel or another party would bring the issue before the PSC.

***(Tape 2; Side B)***

Sen. Johnson wondered if NorthWestern's bankruptcy gives them the opportunity to continue, or not continue, the QF contracts. Mr. Bob Nelson, Montana Consumer Counsel, responded that statement was correct.

Rep. Gallik had been informed the current Creditors' Committee is made up of individuals or entities that have purchased the position from the initial creditor; therefore, the creditors have changed. Mr. Schrum replied the Creditors' Committee is comprised of nine individuals, and the majority hold unsecured debt. There are four representatives on the Creditors' Committee that hold about 60 percent of the unsecured debt. Mr. Schrum felt the Creditors' Committee has remained stable since it was formed. Commissioner Rowe added there are a number of creditors on the committee known as "vultures," and that was not necessarily bad.

- **Bob Rowe, Public Service Commission**

Commissioner Rowe submitted a presentation to the ETIC (EXHIBIT 5). Commissioner Rowe noted filing of the Bankruptcy Plan is a key milestone since it lets creditors and interested parties look specifically at what is being proposed by the parties. The PSC has submitted to NorthWestern's bankruptcy team a series of proposals for language in the terms of the plan and disclosure statement. The disclosure statement is critically important in providing context. Commissioner Rowe submitted an op-ed article he wrote after the Bankruptcy Plan was submitted (EXHIBIT 6). Commissioner Rowe noted that NWE has assured the PSC that the bonuses sought by NWE will not be recovered by ratepayers and gas and electricity will continue to flow. Commissioner Rowe cited the PSC's concerns as sound utility finances, high-quality service, and good corporate governance through both internal and external means, and having a company that is viable over the long term (EXHIBIT 7). Commissioner Rowe felt ring-fencing would be critical to avoid cost or risk shifting. Commissioner Rowe also felt the PSC should have enforceability rather than having to return to the bankruptcy court. Commissioner Rowe felt the next couple of months would be critical, and the PSC will need to decide its position on NorthWestern's Disclosure Statement.

Sen. Thomas asked about the Creditors' Committee and wondered if that committee looked at alternative proposals, what kind of impact it could have on the time frame for completion of the bankruptcy. Commissioner Rowe's sense was the Creditors' Committee focused on getting a new board in place, clearing up finances, and getting NorthWestern out of Chapter 11, and leaving large areas of decision making to a new board of directors. Any third party that may be interested in acquiring the assets is free to speak with members of the Creditors' Committee. Chairman Rowe commented the main thing a third party has to offer to the Creditors' Committee is more cash. Mr. Schrum added any third-party bid would start an auction process. The Creditors' Committee's main concern is that the process move forward as quickly as possible.



Commissioner Rowe explained the Creditors' Committee will vote on the plan, but the ultimate decision is up to the judge. Mr. Screnar added the Creditors' Committee oversees the process, and it behooves the Debtor to work closely with the Creditors' Committee. If the Creditors' Committee rejects the plan, the case could be dismissed, the bankruptcy could be converted to Chapter 7, other plans could be considered from other interested parties, and a bidding process could be started, or a trustee could be appointed.

On the Toston Dam issue, Sen. Thomas asked where the \$40 million value was arrived at. Mr. Screnar offered to send the information to Sen. Thomas. Sen. Thomas asked if the QFs were going to be evaluated by the court, and Commissioner Rowe explained the QFs were an important part of the sale from MPC to NWE to substantially reduce the claim of QF costs. The concern of the PSC was if the QFs were terminated or renegotiated through the bankruptcy process, what would happen to the competitive transition charge. NWE's initial position was NWE would continue to have the right to receive the payment. Mr. Nelson added this has a huge potential impact, and that they are reviewing this complicated issue. The Consumer Counsel has not taken a position, but has indicated a strong interest to NWE in taking a look at rejection or modification of the QF contracts. Commissioner Rowe stated this was the most sensitive interest in the State intervention.

Rep. Gallik wanted to know if NorthWestern's non-utility subsidiaries were what got NWE into financial trouble in the first place, why ring-fencing is not in place. Commissioner Rowe felt good internal controls are needed up front, so a company makes smart decisions. External controls, such as ring-fencing, also need to be in place. Commissioner Rowe did not feel there was a disagreement about the appropriateness of ring-fencing, but identified the disagreement as being what the ring-fencing should look like. Commissioner Rowe would like to see something that would require reporting to come to the PSC, as well as provide for the ability of the PSC to review transactions and adopt ring-fencing review. NorthWestern's position is that Montana law does not require PSC review and approval. Ultimately, the Legislature will have to resolve this issue.

Sen. Johnson asked how many Committee Chairmen have served on the Creditors' Committee. Commissioner Rowe responded there has only been one Chairman serving. Sen. Johnson was interested in what kind of debt was charged against Expanets. Mr. Schrum stated most of the investment was in terms of equity, and there was actually very little debt. Mr. Schrum stated they expect to receive in terms of net proceeds between \$60 - \$70 million in cash in addition to relinquishment of debt.

- **Bob Nelson, Montana Consumer Counsel**

Bob Nelson, Montana Consumer Counsel, has been participating in the bankruptcy process, and the Montana Consumer Counsel has requested modifications in the draft orders to assure the PSC has the authority to determine what the impact will be to ratepayers. Generally, NorthWestern has been agreeable to those modifications. Montana Consumer Counsel's goals are to see a financially viable entity emerge and adequate service guaranteed with just and reasonable rates. Mr. Nelson would like to ensure Montana ratepayers are insulated from the effects of the bankruptcy process. Therefore, Montana Consumer Counsel would like to make sure the plan for reorganization does not assume unrealistic revenues that may not materialize. Mr. Nelson spoke about a separate but parallel financial investigation proceeding before the PSC which was established because they were interested in the financial situation of NWE

before the bankruptcy petition was filed to ensure the PSC and the State have some say with the regulatory process. The general recommendations were:

- (1) there be a utility-only subsidiary established;
- (2) restrictions on distributions of regulated assets;
- (3) segregation of utility finances from non-utility operations with separate accounting systems and disclosure requirements related to utility subsidiary dividends that might be paid up to the parent corporation;
- (4) conditions placed on utility financing; and
- (5) establishment of a rate case to ensure revenues coming out of the bankruptcy are sustainable.

The Montana Consumer Counsel's position is the PSC does have authority to regulate and the trigger for that authority should be the establishment of a potential impact on rates and services. Mr. Nelson thought it would be wise to have clarification of the PSC's authority.

Rep. Gallik asked if the ring-fencing strategies were currently available under Montana Law. Mr. Nelson's opinion was the strategies are currently available. Mr. Schrum did not agree, and stated NWE has proposed a structured ring-fencing philosophy and will continue to discuss this issue with the Montana Consumer Counsel and the PSC.

Mr. Gallik asked Mr. Schrum to identify which areas NorthWestern specifically feels are not currently provided for in Montana law. Mr. Schrum stated he would be glad to provide specific information to the ETIC at its next meeting.

Rep. Gallik was concerned about the amount of money NorthWestern estimated it was going to expend on expert witnesses and attorneys during the bankruptcy proceeding and where the money would come from if it is not passed onto the consumer and NWE has detached itself from its non-utility subsidiaries. Mr. Nelson responded primarily costs will be picked up, at least prior to the emergence of NorthWestern from bankruptcy, by the creditors writing off the value. The Montana Consumer Counsel will not allow any of those costs to be recovered through rates. Montana Consumer Counsel is also wary of any "hangover" costs being passed on through rates.

***(Tape 3; Side A)***

In addressing the jurisdiction of the PSC over NorthWestern, the written testimony of Dr. John W. Wilson, filed with the PSC on behalf of the Montana Consumer Counsel (EXHIBIT 8) was provided to the ETIC.

Sen. Thomas requested a scenario where the results of the bankruptcy action would drive rates up. Mr. Nelson felt valuation would be key and noted the PSC will continue to be the rate setting authority and currently has the ability to set rates in bankruptcy court. Mr. Nelson did not feel there would be any interference by the bankruptcy court with the PSC's ability to review rates. After the company emerges from bankruptcy, there are concerns that if the valuation is set too high, or there is an assumption of revenue generation that is unrealistically high, there may be an indirect impact on rates, as well as the provision of reliable services.

Sen. Thomas asked if the PSC will determine if the valuation is recoverable and chargeable within Montana rates. Mr. Nelson agreed stating the PSC will determine what revenues can be generated through the utility operations, and it is Mr. Nelson's understanding NWE will be a pure utility operation. Therefore, the amount of money NWE can generate will be based on what the PSC views as the regulated valuation.

Commissioner Rowe reiterated a plan that does require a rate increase has to come to the PSC, and almost all utility bankruptcies have resulted in rate increases. The first short-term objective was to make sure there was no rate increase as a result of the bankruptcy. It is common for financially distressed utilities to cut costs to offset declining revenues.

Commissioner Rowe felt it is important to monitor the current maintenance level and ongoing investment in the system. In Montana, rates are set on a rate base that depreciates and an acquirer of the assets, with very small exceptions, is not allowed to adjust rates based on what they pay. Commissioner Rowe stressed keeping all these things in balance will be critically important, and keeping rates low and service high will be dual goals.

Chairman Olson encouraged Mr. Fitzpatrick to submit something to the ETIC at its June meeting on NWE's stand on ring-fencing.

Rep. Matthews identified Montana Dakota Utilities (MDU) as a utility with a great deal of experience in ring-fencing. Chairman Olson commented he would like to receive information on ring-fencing from MDU.

Sen. Johnson asked who from the State of Montana is responsible for oversight of the Broadwater project. Mr. Screnar replied the Department of Natural Resources and Conservation is the state agency responsible for the project and provides a financial printout to the Governor and the Legislature.

## **UNIVERSAL SYSTEMS BENEFITS**

- **Mary Vandenbosch, Summary of Comments Received**

Ms. Vandenbosch reminded the ETIC that the draft workbook was put out for public comment and those comments were due on February 23, 2004. Ms. Vandenbosch submitted a summary of the written comments (EXHIBIT 9). Chairman Olson had requested anyone not meeting the comment deadline to attend the meeting and provide their comments at that time. Ms. Vandenbosch reviewed Exhibit 9 with the ETIC.

- **Questions and Discussion**

Chairman Olson referred the ETIC to the Option on page 5 of the Universal System Benefits Programs Workbook (EXHIBIT 10), and solicited discussion from the members.

Sen. Johnson recalled that in November, the ETIC suggested extending the benefits to 2009, and it had been an unanimous vote. Chairman Olson agreed and recalled one of the reasons the USB was going to be extended with a sunset provision was to ensure the Legislature would take the time to review the program periodically. Sen. Johnson agreed and suggested

extending the USB until 2007 would allow the 2005 Legislature to follow up. Sen. Johnson felt the issue should be looked at every two years.

Sen. Johnson moved the USB extension be moved through 2007.

Rep. Gallik wanted to know who would look at the issue, what the process would be, and in what context the USB issue would be looked at. Sen. Johnson replied he hoped the USB issue would be left with the Energy and Telecommunication Committee to work out the details and extend the deadline.

Rep. Gallik agreed the ETIC is the proper place for the issue. Sen. Johnson withdrew his motion, and Chairman Olsen requested the ETIC to wait until the end of public comment to make motions and take final action.

Rep. Matthews thought it would not make much difference because the issue will be raised every session and agreed it should be reviewed every session.

***(Tape 3; Side B)***

Sen. Thomas would like the ETIC to consider recommending to the next Legislature that more USB dollars go toward low-income customers for bill assistance and conservation. In particular, both Sen. Thomas and Sen. Ryan thought updating appliances, such as refrigerators, would be worthwhile.

Rep. Gallik asked Sen. Thomas if it would be appropriate to first make a determination as to whether there is proper oversight for the low-income dollars. Rep. Gallik felt there might not be an ability to go back and see where the dollars were spent. Sen. Thomas thought reports would be available from the Low-Income Energy Assistance Program (LIEAP), which would contain information showing where within LIEAP the money is being spent. Ms. Vandenbosch reminded the ETIC that reports on USB expenditures were provided to the ETIC.

Rep. Matthews recalled there are approximately 80,000 people who are eligible for assistance, but LIEAP is only covering 20,000 with assistance of 50 percent of their energy costs. Rep. Matthews agreed with Sen. Thomas that the amount should be increased.

Sen. Thomas felt the question is where to come up with the money. Sen. Thomas's recommendation would be to look at the renewables and conservation allocations. Sen. Thomas would like to recommend to the Legislature that the allocation be increased from 17 percent, and particularly look at the renewable sector that is funded now. Sen. Thomas asked the ETIC to keep in mind there has been a 70 percent increase in natural gas bills. Sen. Thomas does not want to focus only on bills, but also on conservation within the homes, so less assistance is needed.

Rep. Gallik agreed he would like to find more funds for low-income households, but did not agree that it should be at the expense of the renewables. Rep. Gallik would like to ensure that the money from the USB that is earmarked for low-income households is actually going to those households and providing the most bang-for-the-buck. In addition, Rep. Gallik thought there could be other places where additional funds for USB could be found and identified.

Sen. Thomas did not believe they should eliminate renewables, but felt conservation provides the best bang for the dollar. Sen. Thomas would like to see the emphasis in conservation and felt some of the renewable projects are not providing a good payback to society as a whole.

Chairman Olson agreed and noted the payback on insulation is recovered in only seven years. Jim Nolan, Department of Public Health and Human Services, explained that with current funding, LIEAP is able to meet approximately 50 percent of a household's energy bill. The discount from NWE is 30 percent of the net bill. There are about 85,000 that are potentially eligible for fuel bill assistance, and they anticipate serving approximately 20,000 of those households.

Rep. Gallik submitted Sen. Stonington's proxy and comments supporting renewable energy resources (EXHIBIT 11). Rep. Gallik stated that until he can be convinced they are getting the most bang-for-the-buck out of low-income assistance, it would be tough for him to raid the renewable side of the USB. Specifically, Rep. Gallik is concerned that there is no oversight or uniform approach to the funding priorities of the various entities for low-income programs, and the PSC has not formally evaluated or reviewed the low-income programs or funding allocations of the investor-owned utilities since their initial program allocations were approved in late 1999. In addition, there is no oversight or approval of what constitutes an appropriate funding allocation among the various low-income program options for electric cooperatives or large customers. The Department of Revenue (DOR) plays a passive role in the administration of the USB statutory directives and is required to accept any report which claims an internal credit as valid, unless there is an objection and grounds for further review. Therefore, without the oversight and uniform approach, and without the PSC having formally evaluated and reviewed the low-income programs, Rep. Gallik believed it was premature to throw more money into the program. Rep. Gallik pointed out that the electric cooperatives have spent most of their USB funds on outreach for LIEAP, followed by arrears in forgiveness and payments of uncollectibles, with almost no funding of regular bill payment assistance in the form of discounts. Rep. Gallik would need more oversight and a uniform approach before he would be comfortable putting more money into low-income assistance, and commented he would oppose any attempt to move more money into low-income assistance.

Sen. Thomas thought the DOR was in charge of oversight of the USB program. Rep. Gallik replied the DOR plays a role in the administration of the statutory directives, but the PSC has not formally evaluated or reviewed any of the low-income programs. Rep. Gallik felt it would be appropriate for the PSC to conduct a review.

Ms. Vandenbosch clarified DOR has authority over the credit for expenditures and has rule-making authority. DOR chose to have the program operate so the credit would be assumed valid until it is proven otherwise. The PSC has broad authority over utilities, and it has to approve the rates for regulated utilities and the allocation of USB funds. The PSC does not have clear express authority to look at how program funds are spent, and that authority lies with DOR.

Rep. Gallik would like the bill to clarify the PSC should have some oversight and there should be a uniform approach to the funding priorities of the various entities for low-income programs. Rep. Gallik was trying to get at being able to tell where the money is actually going and if it getting to the source of the problem. Rep. Gallik was emphatic sufficient oversight is lacking and felt it would be appropriate to have the PSC provide oversight.

Chairman Olson directed Rep. Gallik to MDU's report (EXHIBIT 12) and asked Rep. Gallik if he felt the report was sufficient. Rep. Gallik replied he was not saying the report was insufficient, but he would like to see how MDU's report lines up with the co-ops and NWE. Rep. Gallik would like to adopt a uniform approach for comparison.

Sen. Thomas identified key areas as how long to extend the USB program, the allocation of USB and where it is going, and the calculation that generates the revenue and whether it should be modified.

The ETIC asked for public comment to assist them in reaching a decision, and limited each person testifying to three minutes.

- **Public Comment**

Gary Wiens, Montana Electrical Cooperatives Association, understood Rep. Gallik's concerns and agreed there should be oversight by elected persons. Mr. Wiens pointed out that each report submitted to the statewide office, and then passed on to DOR, are thoroughly inspected by the trustees of each cooperative, all of which are elected by the customers. Mr. Wiens felt this was a good system of accountability. Mr. Wiens explained the program was established with local control in mind, as well as the principal understanding that no one knows their customer needs better than the local co-ops. LIEAP Outreach money was spent on one-time assistance, and USB reports list all expenditures, and the reports are very reliable.

Charles Magraw, Renewable Northwest Project and Natural Resources Defense Counsel, asked the ETIC to keep in mind that renewable resource projects are not meant to be cost effective, but rather are designed and promoted to break down market barriers. These projects are good for society and promote Montana's and the nation's energy independence. In addition, the projects the ETIC is discussing are not representative of what is currently in the program. Many of the projects in the program are for schools, fire houses, and low-income. NWE is the only entity that has a renewable resources operation, and that operation costs approximately \$1 million annually. Mr. Magraw noted this represents a minimal amount on an individual monthly bill. Mr. Magraw agreed the low-income pool should be increased, but felt there were other means to provide that increase.

Pat Callbeck Harper, AARP Montana, submitted written testimony (EXHIBIT 13). Ms. Callbeck Harper also submitted written testimony on behalf of Mary Caferro, Working for Equality and Economic Liberation (EXHIBIT 14).

Bob Rowe, Commissioner, Montana Public Service Commission, stated the original weatherization and low-income discount programs were the product of contested cases of the PSC in the late 80s. Commissioner Rowe directed the ETIC to slides 12, 13, and 14 of Exhibit 5. Commissioner Rowe stated the PSC does have a role in oversight, but the role is limited.

***(Tape 4; Side A)***

John Walden, National Center for Appropriate Technology (NCAT) testified they strongly support renewables and low-income assistance. Mr. Walden felt renewables should be looked at in the long term, as well as the short term. Mr. Walden pointed out that other industrialized

countries are embracing renewables. Mr. Walden asked the ETIC to realize that some projects realize payback within ten years.

Patrick Judge, Montana Environmental Information Center (MEIC), was resistant to shortening the extension of the USB time line. In addition, MEIC is opposed to framing the issue as low-income versus renewables. Mr. Judge felt renewables have very significant benefits and felt there may be other ways to stay true to the current programs supported by USB and provide additional assistance to low-income customers. Mr. Judge recommended implementing a stakeholder round-table process such as the one that led to the development of HB 509 or the procurement guidelines. Mr. Judge felt there is a host of other issues besides those identified by Ms. Vandembosch in the notebook and suggested the process should slow down and people should be encouraged to come to the table and attempt to reach an agreement. Mr. Judge reviewed all other USB charges in the nation, and they all have a renewable energy component.

Rep. Matthews asked how many states in the nation have a similar USB charge. Mr. Judge replied most of the states have a USB charge that was part of deregulation legislation, and 15 states have a USB charge.

Krista Partridge, KEMA-XENERGY, the contractor that provides home energy audit services for NWE, voiced support for conservation and renewable energy programs in the USB. Ms. Partridge felt demand is still strong and this past winter caused an increase in business and requests for information. Ms. Partridge felt the program should be continued.

Matt Leow, Montana Public Information Research Group (MontPIRG) agreed with Sen. Thomas that natural gas rate increases are causing a lot of people trouble in paying their bills. However, Mr. Leow did not feel the problem could be solved by taking money from renewables, and identified volatile fossil fuel prices as the problem, and named renewables as the answer to those prices. Mr. Leow indicated taking money from renewables would be exactly the wrong action to take. Mr. Leow also took exception to the idea that there is no benefit to the general society from renewable projects since renewable projects can also mean cleaner air and water. Renewable projects can also reduce peak demand, which results in lower rates for everyone. Mr. Leow suggested raising the rate from 2.4 to 3 percent and having large customers pay the same rate as small customers. Mr. Leow felt large customers currently pay a disproportionate rate. In addition, Mr. Leow suggested applying the 17 percent minimum for low-income programs to large customers, as well as small customers.

Gene Leuwer, Executive Director, Rocky Mountain Development Council, suggested that in regard to the sunset provision, some permanence be established for low-income households. Mr. Leuwer urged the ETIC to consider an adjuster in the amount of funds available by funding the program on the prior year's growth revenue for the electric side. Mr. Leuwer agreed with Sen. Johnson that ongoing discussion makes sense and reviewing funding levels and reflecting on the current effectiveness of programs is a good idea. In addition, Mr. Leuwer felt Mr. Eckman pointed out where great opportunities for conservation exist in the current low-income delivery system. LIEAP applications in Mr. Leuwer's area are up 17 percent, and Energy Share expenditures are up 70 percent. Large customers have voluntarily been very generous to Energy Share. The records of expenditures made through the Human Resource Development Council (HRDC) system are very detailed and are available to the ETIC.

Rep. Matthews asked if Energy Share still funds 10 to 15 percent of LIEAP. Mr. Leuwer's understanding is 14 percent of the low-income USB ends up being allocated to Energy Share, and there may be people on LIEAP who also receive benefits from Energy Share. A local committee of volunteers decide which Energy Share applications are awarded. Many times, people who receive Energy Share assistance do not qualify for LIEAP because of the federal guidelines, which contain a provision for the past year's income.

Rachel Haberman, Energy Share of Montana, presented a fact sheet on Montana's Poor and the Need for Low-Income Energy Assistance (EXHIBIT 15). Ms. Haberman commented bill assistance has increased dramatically this year as compared to last year and, in some cases, people are paying as much for one month's rent as they are for one month's heat. Ms. Haberman supports the ETIC's early bill draft request to reauthorize USB. Ms. Haberman would support eliminating the sunset provision for low-income to make it consistent with gas USB. Ms. Haberman read an e-mail from a co-worker pleading for more funding for energy assistance.

Sen. Thomas asked if Energy Share files an annual report with the PSC or the Governor. Ms. Haberman believed all the PSC Commissioners receive a copy of their annual report. Upon further question from Sen. Thomas, Ms. Haberman stated no one had requested a copy of Energy Share's annual report within the past sixty days. A copy of the report is also made available to the utility companies.

- **Committee Action**

Chairman Olson commented there are people who need help, and there is an opportunity to provide these people with weatherization and other conservation measures. Chairman Olson had been told the cheapest kilowatt is the one that is not used. Chairman Olson thought insulation and energy-efficient appliances would provide more bang for the buck. Chairman Olson noted one person's wind generator worth \$38,000 would pay his utility bill for over twenty years or insulate ten people's homes. Chairman Olson was not certain placing an additional tax on the utility bill to fund low-income assistance would be a wise move and thought reallocating the renewables over to low-income and weatherization would be a better move. In addition, Chairman Olson agreed with Sen. Johnson that the sunset should be extended to 2007 in order to force the Legislature to look at the USB Program. Chairman Olson encouraged the utilities and co-ops to educate the public about where the money is coming from and where it is going.

Rep. Gallik commented only NWE has a renewable program and it is worth \$1 million. The NWE renewable subcommittee of the USB Committee has suggested \$48,000 for residential solar electricity, \$194,000 for fire halls, \$248,000 for schools, \$200,000 for senior centers. Rep. Gallik feels it is a horrible message for the ETIC to state it does not support having a renewable component in the USB program. Rep. Gallik felt the ETIC should support renewables at every level. Rep. Gallik would like to see fair and detailed specific reporting.

Rep. Matthews reminded the ETIC that MDU customers have had one increase in electrical charges in the last 15 years. Rep. Matthews would be in favor of eliminating renewables and raising the amount of funding that goes to low-income consumers.



Sen. Johnson referred the ETIC to page 7 of Exhibit 10, and noted MDU did not place any funds in market transformation or renewable resource projects. Sen. Johnson suggested the ETIC set the percentages for the allocation of USB funds in advance.

Rep. Gallik reads the current statute as containing no percentages, except the minimum of 17 percent, and noted there is no requirement that anything goes to renewables. Rep. Gallik wondered if the ETIC would want to insert a state-wide perspective on the local control.

Ms. Vandenbosch clarified MDU has leftover money that is submitted to the state for use on USB programs. Ms. Vandenbosch noted MDU spent \$100,000 on a fuel cell project. Ms. Vandenbosch pointed out the table on page 7, Exhibit 10, is for 2002.

Sen. Johnson felt it would be appropriate to set the percentages now, and let the next ETIC revise the percentages if needed. Sen. Johnson felt it would always be necessary to have a committee provide oversight.

Sen. Thomas suggested leaving renewables in the statute and raising the threshold for the funds going to low-income assistance. Sen. Thomas felt this would draw on all other allocations and not just renewable resources. Sen. Thomas felt strongly low-income assistance should be the priority.

Rep. Gallik felt the ETIC should decide whether to implement a statewide system or use local control. Rep. Gallik felt the ETIC should not have the philosophy of local control throughout the USB statute, except for just one part. Rep. Gallik suggested maintaining the current level of local control they have now and letting them add in as much money as they want toward low-income assistance and not requiring them to place money in renewables.

Sen. Thomas felt more commonality is needed in local control and would like to see a minimum amount set for low-income assistance. Sen. Thomas agreed with Rep. Gallik that uniformity is important, and suggested raising the minimum for low-income assistance from 17 percent to 50 percent. Rep. Gallik felt 50 percent was too high without having the specifics of how the money would be spent and would like to see the uniform reporting requirements in place before increasing the amount. Sen. Thomas pointed out these are recommendations to the Legislature in 2005. Currently, there are 80,000 that could use assistance, but only 20,000 receive assistance.

***(Tape 4; Side B)***

Sen. Johnson asked for clarification of "local control." Rep. Gallik replied the statute provides that each utility, along with the large customers, has the ability to determine how to spend their USB funds. Sen. Johnson felt the local control in the statute should be left, but the question is whether they should change the percentage allocated to low-income. Sen. Johnson suggested raising the percentage to 25 percent.

Chairman Olson suggested he would be willing to back off on renewables to the point that the renewables are cost-effective and would be able to pay for themselves within a seven- to ten-year range.

Sen. Thomas thought approximately 32 percent of the USB is going to low-income in FY 2003, and a large part of that money is from the money returned from the wind project. Sen. Thomas asked the ETIC to note doubling 17 percent would result in a total of 34 percent, which is not much of an increase. Sen. Thomas thought they should consider raising the percentage even higher.

Rep. Gallik was concerned about Chairman Olson's suggestion of requiring renewables to quantify themselves within seven to ten years and thought it would handcuff MDU with regard to their fuel cell project. Chairman Olson explained he was looking at allocation of a scarce resource and people cannot afford to pay their power bills. Chairman Olson would like to see the money put in conservation measures for low-income assistance. Rep. Gallik felt the ETIC should not be able to tell people in other parts of the state how they can spend their USB money. Chairman Olson argued he is hearing from his constituents that power bills are too high, and the ETIC needs to set direction for the USB program because people do not feel the money is being spent where it is needed.

Sen. Thomas moved the ETIC request a draft to recommend to the next legislative session that the USB Program be extended an additional two years, and the low-income assistance percentile be changed from 17 percent to 34 percent. Sen. Thomas commented he is not making the motion to change the funding calculation currently on the electrical side. Sen. Johnson amended the motion to change the percentage from 34 percent to 25 percent. Sen. Thomas reminded the ETIC this is simply a recommendation to the Legislature, and if the ETIC does not set the percentage high enough, it could end up with no expansion for low-income.

Sen. Johnson's amendment passed by roll call vote (EXHIBIT 16) with Rep. Fuchs, Rep. Ryan, and Sen. Stonington voting by proxy.

Rep. Gallik amended Sen. Thomas's motion to include uniform detailed-specific reporting of the method by which the low-income funds are expended. Sen. Johnson felt Rep. Gallik's motion should specifically contain what he would like to see in the reporting. Rep. Gallik's explained the intent of his amendment would be to provide uniformity in reporting. Rep. Gallik's amendment carried unanimously, with Rep. Fuchs and Sen. Stonington voting by proxy.

Sen. Thomas restated his motion as amended stating the USB Program will be continued for two years, the low-income assistance floor will be raised to 25 percent, and uniform reporting will be established for low-income assistance.

Chairman Olson moved the motion be amended to include that expenditures for renewables must be cost-effective, and requested Todd Everts to draft the correct language. Sen. Thomas stated he would like to see the specific language before voting. Rep. Gallik stated he would like to see the specific language since there could be a discrepancy in what is viewed as "cost-effective."

Chairman Olson's amendment carried with Sen. Fuchs and Sen. Ryan voting yes by proxy, Rep. Gallik voting no, and Sen. Stonington voting no by proxy.

Rep. Gallik clarified that the uniformity in reporting requirement should apply to all programs and not just to low-income assistance. The ETIC members all agreed.

Rep. Gallik felt the deadline should be extended to 2009 and expressed concern about the direction the ETIC was taking.

Sen. Thomas's amended motion that the USB Program be continued for two years, the low-income assistance floor will be raised to 25 percent, uniform reporting will be established for all programs, and expenditures for renewables must be cost-effective, carried with Rep. Fuchs and Sen. Ryan voting yes by proxy, Rep. Gallik voting no, and Sen. Stonington voting no by proxy.

## **UPDATES**

- **Todd Everts, Environmental Quality Council Energy Policy Subcommittee**

Todd Everts, Legislative Services Division, reported the Environmental Quality Council Energy Policy Subcommittee met on March 9, 2003. The subcommittee heard panel discussion on theories and opportunities for the development in the areas of hydrogen, ethanol, and bio-diesel. At its next meeting, the subcommittee would like to continue to analyze the ethanol tax incentive structure, and take a close look at Nebraska's per-gallon production incentive for ethanol. The subcommittee requested language be drafted to expand the renewable resource grant and loan program to include alternative energy resources. They also wanted to have the State Bond Counsel help develop a how-to bonding program.

Upon inquiry from Sen. Johnson, Mr. Everts explained there are always issues associated with what is a general obligation bond, what is a revenue bond, and what the liability means to the state. The subcommittee is aware of the issues that will come up before the Legislature, so the subcommittee would like the State Bond Counsel to come in and explain in detail how the bonding mechanisms work. The subcommittee will then generate a small pamphlet for legislators that outlines the ramifications involved in terms of bonding for energy projects.

- **Todd Everts, Federal Energy Legislation**

Todd Everts, Legislative Services Division, reported the general consensus is not much will happen with energy legislation at the federal level, and many people feel the legislation will stall.

- **Bob Rowe, Public Service Commission**

Commissioner Rowe discussed his power point presentation with the ETIC, submitted as Exhibit 5, and the testimony of Dr. Wilson, submitted as Exhibit 7, and cautioned Dr. Wilson's testimony is just one side of the story, and NWE's testimony will tell their side. Commissioner Rowe submitted a memorandum entitled "A Hit, A Foul, and a Strike for the Joint Board in the Portability Referral" (EXHIBIT 17).

Sen. Johnson had a question about slide 40 of Commissioner Rowe's presentation and what happens to the \$505,606 for low-income. Commissioner Rowe explained each local exchange carrier has a program to basically reduce the rate paid by an eligible low-income telephone subscriber, and the PSC sets the amount of the discount, and local carriers make that discount available to eligible customers.

Rep. Matthews commented he thought the number of people on budget billing for MDU seemed low and wondered how it compared to other states. Commissioner Rowe did not know how the number compared to other states, but felt while budget billing is encouraged, most people are more comfortable seeing their actual monthly consumption. As a result of this past heating season's high energy rates, they are experiencing an increase in requests for budget billing.

Rep. Gallik wondered why utilities will disallow budget billing if someone has not paid their bill on time. Rep. Gallik felt the opposite should be true. Commissioner Rowe could not directly answer Rep. Gallik's question, but stated he would find out why that is the case.

- **Staff and Committee Members--Other**

Ms. Vandebosch submitted a copy of the Montana Department of Labor and Industry's response to Chairman Olson's letter of February 25, 2004 (EXHIBIT 18). Ms. Vandebosch mentioned that both the Bonneville Power Administration (BPA) and NPCC have projected an energy surplus for the Northwest.

Ms. Vandebosch reminded the ETIC that gas procurement is included in the ETIC's work plan and whether there was another way to conduct gas procurement that might provide more certainty. In June the PSC ordered NWE to establish a Gas Procurement Advisory Committee, and NWE did not form the committee. A roundtable discussion in December involved presentations from the major gas utilities on how they procure gas supply and how they would like to do it in the future. Ms. Vandebosch was curious whether the ETIC would still like to address the issue of gas procurement.

Ms. Vandebosch submitted a paper entitled "One Ring-Dingy Too Many?" which provided an update on new developments at the federal level to reduce unwanted phone calls and faxes (EXHIBIT 19).

Sen. Johnson commented USB is being based on 2.4 percent of the 1995 revenues, and in order to increase the revenues to be used in USB, it would be a good idea to figure out the revenues in 2003 and what percentage of that total revenue would provide the same income for these benefits as currently provided. Sen. Johnson suggested this could be set so if there was a 4 percent revenue increase, the USB could take advantage of that increase. Sen. Johnson felt the reverse could also be true if there were a decrease in revenue. Sen. Johnson thought this methodology would make more sense and felt it should be considered.

Chairman Olson suggested an informational comparison in revenues be presented at the next meeting.

Rep. Gallik was under the assumption the 2.4 percent continued to go up as revenues for the utilities went up. Rep. Gallik agreed with Sen. Johnson's suggestion. Sen. Johnson felt the issue should be studied.

## **OTHER BUSINESS**

- **Budget**

Ms. Vandebosch submitted a status report on the ETIC's budget and added with two members absent at the March meeting, the ETIC's budget is on track (EXHIBIT 20).

- **Confirm Date and Location of Next Meeting**

The next meeting of the Energy and Telecommunications ETIC meeting will be June 9-10 in Colstrip, Montana.

- **Confirm Agenda Items for Next Meeting**

The ETIC received a draft of agenda items (EXHIBIT 21) and Chairman Olson asked that additional agenda items be relayed to Ms. Vandebosch as soon as possible. Ms. Vandebosch will add USB to the agenda, and the ETIC agreed Ed Weber would stay on the agenda.

## **ADJOURN**

The March 25, 2004, meeting of the Energy and Telecommunications ETIC adjourned at 4:10 p.m.

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