



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

Energy and Telecommunications Interim Committee

60th Montana Legislature

SENATE MEMBERS

GREG LIND--Vice Chair
JERRY BLACK
VERDELL JACKSON
DON RYAN

HOUSE MEMBERS

HARRY KLOCK--Chair
DUANE ANKNEY
ROBYN DRISCOLL
BRADY WISEMAN

COMMITTEE STAFF

SONJA NOWAKOWSKI, Lead Staff
TODD EVERTS, Staff Attorney
DAWN FIELD, Secretary

MINUTES

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.**

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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November 8, 2007

Room 172, Capitol Building
Helena, Montana

COMMITTEE MEMBERS PRESENT

REP. HARRY KLOCK, Chair
SEN. GREG LIND, Vice Chair
SEN. JERRY BLACK

REP. DUANE ANKNEY
REP. ROBYN DRISCOLL
REP. BRADY WISEMAN

COMMITTEE MEMBERS EXCUSED

SEN. VERDELL JACKSON
SEN. DON RYAN

STAFF PRESENT

SONJA NOWAKOWSKI, Lead Staff
TODD EVERTS, Staff Attorney
FONG HOM, Secretary

Visitors and Agenda

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

COMMITTEE ACTION

- The Committee directed staff to draft legislation eliminating the sunset rule on USB Programs statute.

CALL TO ORDER AND ROLL CALL

00:00:22 Rep. Klock called the meeting to order at 8:02 am. The secretary took roll visually. Sen. Jackson and Sen. Ryan were excused.

AGENDA

Coal-to-Liquids Panel

00:02:07 **Chuck Kerr, President, Great Northern Properties**, gave a presentation on a development company called Great Northern Power Development Company. The company's project development team has the appropriate expertise to understand, evaluate, and build coal gasification facilities. Mr. Kerr said that the company is working on constructing a coal to synthetic gas facility in North Dakota to target synthetic natural gases and that they are trying to build a facility in Montana to do pipeline quality natural gas, coal-to-liquids, or electrical generation, or a combination of all three. He talked about CO₂ capture and sequestration and the development of synthetic gas.

00:19:50 **Paul Cartwright, Department of Environmental Quality**, talked about what is going on with the water situation in Montana. He said that the water that is used for coal-to-liquids (CTL) and for synthetic gas goes to a variety of purposes but the main ones are the chemistry and the cooling. Mr. Cartwright made reference to the slides "Water Consumption by actual and hypothetical uses and Notes for water consumption" ([EXHIBIT 1](#)) and discussed water consumption.

00:23:59 **Chuck McGraw, Natural Resources Defense Council**, said that it would be useful for the Committee to have an overall discussion about coal-to-liquids (CTL) and the issues that are associated with CTL. Mr. McGraw discussed the carbon characteristics, the climate change concerns, the need for reduction in greenhouse gases, how much coal is needed to produce carbon, and CTL plant requirements. He also discussed several areas that were unknown to CTL; i.e., is there enough coal, is there enough pore space, their concerns about limited water and the competition for water, and what are the options.

Questions

00:49:19 REP. WISEMAN asked Mr. Kerr what some of the challenges or barriers he sees with pumping carbon dioxide into the ground if he was to go forward and build a plant. Mr. Kerr said that there are challenges as to who owns the space that they are injecting carbon dioxide into, the issue of liability, finding lenders, and costs of the projects.

00:57:35 SEN. LIND asked Mr. Kerr how the Legislature can help him in developing resources responsibly. Mr. Kerr said what they have seen in the past in some cases is legislation has been passed based on an incomplete set of facts and ended up doing more harm than good. He said that his preference is that everybody understands the fact situation first, that the legislators and the industry work together to craft something that will work for everybody, as well as being able to allow for project development.

SEN. LIND asked if Mr. Kerr would be able to come back and ask for specific things that the Legislature can do to facilitate his goals. Mr. Kerr said that he is not prepared today to list what he needs, but he is prepared to come back and provide the Committee with recommendations as to changes that they would like to see.

SEN. LIND said that one of the unrecognized benefits that the people at the one plant were touting was their ability to use a tremendous variety of fuels from other sources and that Mr. Kerr commented that that was a constraint. Sen. Lind asked Mr. Kerr what he meant by that. Mr. Kerr said that most of the gasification technologies have some fuel flexibility within a narrow range; for instance, the pulp plant is using GE gasifiers, which work well on subbituminous coals but not on lignite. He explained the differences between moisture content in the different types of coals and the efficiency of gasifiers for each type of coal.

01:05:40 REP. ANKNEY asked Mr. Kerr if he would be able to access carbon sequestered plants in North Dakota? Mr. Kerr said that that pipeline is at capacity and it is unlikely that they would.

REP. ANKNEY asked if Mr. Kerr was looking at other renewables and using the Nelson Creek project to base load wind. Mr. Kerr said that when they started the CFB project in 2001, the idea was to build an interconnect from Circle down to Colstrip because that area goes across high quality, windy country. They believe that that would open up development of that area for wind development.

Public Comment

01:07:37 **BRET DONEY, Great Falls Development Authority**, said that they are an 11-county regional economic development group based in Great Falls. They are faced with a CTL proposed project by the Air Force on federal property. Mr. Doney said that that project is proposed as a private sector project that, through enhanced-use leasing, would lease Air Force land and produce jet fuel for the Air Force as well as some potential commercial projects. They look forward to working with the Committee.

Governor's Climate Change Advisory Committee

01:09:53 **RICHARD OPPER, Director of Montana Environmental Quality**, said that he would like to talk about the Climate Change Action Plan but the plan is still in its completion stage but he anticipates that it will be done by the next Energy and Telecommunications meeting. He said that a draft of the final report will be on their website. Mr. Opper talked about some of the effects of climate change in Montana.

01:31:31 **TIM GREGORI, General Manager, Southern Montana Electric Generation and Transmission Cooperative**, provided written comments to the Committee (**EXHIBIT 2**).

Questions

01:40:54 REP. LIND said that another power plant's presentation said that they had received federal support for a project that covered approximately 30% of the construction costs. He asked Mr. Gregori to explain why he had stated that the project is 100% federally funded. Mr. Gregori said that it was his understanding that they had government support and any private funds that were invested, they got a tax writeoff.

Letter from Terry Holzer, General Manager of Yellowstone Valley Electric Cooperative, Inc.

Rep. Klock asked that the letter from Terry Holzer, General Manager of Yellowstone Valley Electric Cooperative, Inc., be put into the record (**EXHIBIT 3**).

Public Comment

01:45:29 Chuck McGraw commented on a few statements made by Mr. Gregori. He said that it is important that the Committee understand that the Climate Change Advisory Committee was a stakeholder process that was designed to seek consensus and to understand the issues, to talk about them, to state their positions and views and their opinions for other members of the committee, to listen and consider what other people were saying, and hopefully to come up with consensus recommendations. The group came up with 54 recommendations and every one of those recommendations, but one, was consensus. He said that Mr. Gregori may have inadvertently given the Committee the wrong impression about a specific element of their work.

01:50:15 DAVE KELSEY, provided written comments to the Committee (**EXHIBIT 4**).

Questions

01:58:32 SEN. BLACK said that he would like to commend the committee on the great work that they have done and the recommendations that they have made. He said that he was surprised by Director Opper's comment that the committee felt that money could be made on those recommendations. He would be somewhat skeptical of that and was wondering if any analysis or estimates had been done on the costs to implement the 54 recommendations. Mr. Opper said that the answer to that is yes, but they are going to have to do more evaluations. He said that the costs of implementing the recommendations are offset by the savings in energy that will be achieved if all of those recommendations are put into play.

SEN. LIND asked Mr. Opper if the Climate Change Advisory report looks at making an attempt to quantify the impacts to either sectors of the economy or individuals. Mr. Opper said that they did not quantify that in their report. They began with the assumption that there are costs to society, and to the state of maintaining the current trajectory in terms of greenhouse gas emissions.

Public Comment on Climate Change Advisory Committee

- 02:26:26 **DONALD QUANDER, Attorney**, commented on behalf of the Montana Large Customer Group. He said that since the report is not in final form, he will not critique the report at this time, and having not been a member of the committee, he is not going to critique the process. He urged the Energy and Telecommunications Committee to take a look at the finalized report, not only its summary section but in the underlying documentation. His message is, approach this with great caution. A lot of hard work has been done by parties interested in this topic in its many forms, and a lot of useful information will have been produced that this Committee and others can make good use of.
- 02:36:32 **JOHN PRINKKI, President, Beartooth Rural Electric Cooperative, Vice-President for Southern Montana Electric**, distributed a memo he received from Bob Weiner regarding Bjorn Lomborg's article, "Turn Down the Heat of Debate to Solve Global Warming" (**EXHIBIT 5**) and an article from Amy Broadhurst on ABEC in USA Today, and "Sen. Clinton Announces Energy Plan" (**EXHIBIT 6**). He said that the approach to be used is to be cautious and not rush into studying how to solve something that is probably more attuned to a problem rather than a crisis. He said that they look forward to working with the Committee in developing legislation that they can all live with.
- 02:42:14 REP. WISEMAN said that their friends in the industry are laying the groundwork for a campaign of fear and uncertainty and doubt about the Climate Change Advisory Committee Report. He is hearing the calls to caution. He wishes that the industrial friends had had the same call to caution ten years ago when the Legislature, at their behest, wrecked the energy market in the state. He said that the Climate Change Committee is producing a report and recommendations and the assumption that somehow that was going to be a dictate that industry has to follow is ridiculous. He said that the Climate Change Committee has no legislating power, they have no executive power. All they are going to do is come out with recommendations: use less energy, save money.
- Mr. Prinkki apologized to Rep. Wiseman and said that he did not mean to criticize the Climate Change Advisory Committee. He said that he wanted to point out that there needs to be some caution on how we work with this. Mr. Prinkki said that he wants to work with everyone to help develop policy as we move forward.
- 02:46:26 SEN. BLACK said that he appreciates hearing from the industry and what their viewpoints are. These are recommendations that are made by the CCAC and need to be looked at very carefully because some may be adopted and presented to the legislative body. It is important that both sides of those recommendations are discussed and to find out other people's viewpoints. Sen. Black said that the recommendations within that report are wonderful and that undoubtedly they are going to be extremely beneficial to Montana, but some recommendations may have to be looked at more carefully than others and that is the purpose of the testimony today.

DEPARTMENT OF COMMERCE ENERGY INFRASTRUCTURE AND PROMOTIONS
DIVISION - Tom Kaiserski, Program Manager

02:48:50 Mr. Kaiserski gave a status report on the Energy Infrastructure and Promotions Division. He said that the Division's job is to promote the development of Montana's energy resources. He said that they are putting much of their effort into things that involve transmission, pipelines, etc., without losing sight of generation type technology.

Questions

03:08:09 REP. WISEMAN said that he is wondering about the proposal in play for the coal-to-liquids plant at Malmstrom Air Force Base, given that it is a federal facility. He asked Mr. Kaiserski if he was aware of what the relation of that facility would be in compliance with the air quality and water quality laws. Mr. Kaiserski said that has been discussed with the Air Force earlier, but he has not yet gotten a clear indication at this stage on how Malmstrom's status as a federal facility affects them in having to comply with state air quality rules.

Administrative Rules Update - Todd Everts, Staff Attorney, Legislative Environmental Policy Office

03:10:26 Todd Everts said that Administrative Rules that will be promulgated by the Public Service Commission (PSC) will be discussed at each meeting. He said that staff attorneys first look at whether the PSC has the statutory authority to adopt the Rules, whether the Rules are consistent and not in conflict with the authorizing statutes and other statutes, then look at whether the rules are reasonably necessary to effectuate the purpose of the statute, then takes a look at the citations. He discussed the rules that implement House Bill 681 (**EXHIBIT 7**). Mr. Everts said that the second set of rules involves the Department of Public Service Regulation adopting by reference federal pipeline safety regulations (**EXHIBIT 8**). Mr. Everts said that the last set of rules to be discussed is not a formalized set of rules but that the PSC has an obligation under HB 25 to adopt by March 31, 2008, to revamp the rules regarding carbon offset requirements and to repeal electricity supply licensing procedures. Mr. Everts said that once the PSC has formalized the rules and noticed them for proposed adoption, the Committee can review them as they stand and make comments.

Climate Change Study Update - Joe Kolman, Environmental Research Analyst

03:17:20 Joe Kolman said that the Environmental Quality Council (EQC) had decided to study the issue of climate change at the start of the interim. In September they had their first meeting on that study. They had a panel of four people who gave presentations to the Committee. On the panel were Joseph Caprio, retired MSU Professor specializing in agricultural climatology; Phillip Farnes, retired Soil Conservation Civil Engineer from Bozeman who studied snow pack in Montana; Steven Running, a University of Montana Ecology Professor and member of the IPCC Panel; James Taylor, Managing Editor of Environment and Climate News for the Heartland Institute. At the end of the presentation, EQC decided to proceed with examining the Climate Change Advisory Committee report and making recommendations and discussing where EQC might go from there and

what role they might play. He said that he will continue to work with Mr. Everts and Ms. Nowakowski to insure that there is not an overlap on the two committees between the studies of carbon sequestration and what EQC is looking at.

Questions

03:21:29

SEN. LIND said that Rep. Wiseman and he had attended the coal technology meeting last week where he learned of Montana's participation in the Interstate Oil and Gas Compact Commission. He said that Montana has signed on to the carbon capture storage regulatory framework and he would like to hear what is involved in that, how the process works, and what the implications are. Sen. Lind asked Tom Richmond if he could give a presentation on that at some future date. Mr. Richmond said that he had given a presentation at Colstrip that was prepared by their chairman for their New Orleans meeting of IOGCC. Mr. Richmond said that he would be happy to give Sen. Lind a copy of that presentation.

TERRESTRIAL CARBON SEQUESTRATION - Ted Dodge, Executive Director, National Carbon Offset Coalition

05:01:48

Mr. Dodge said that the National Carbon Offset Coalition (NCOC) is a Montana based organization and was started by the Resource Conservation Development Groups of Montana to take a look at how to develop an environmental credit market for conservation programs. NCOC believes that the carbon offsets from agricultural and forest lands represent a potential new commodity for landowners and a cost effective way to help mitigate CO₂. He said that NCOC is also an aggregate member of the Chicago Climate Exchange, the world's first and North America's only, trading system in carbon offsets. Mr. Dodge discussed NCOC's project development process, forestry projects, legislative considerations for future offsets to be done at the federal level, the need for legislative action to support terrestrial offsets, supporting the Chicago Climate Exchange protocols and standards, and creating a Montana Climate Trust.

Questions

05:26:16

SEN. LIND asked Mr. Dodge to supply the Committee with the documentation behind the 15% figure that is contained in the information provided.

SEN. LIND asked Mr. Dodge who are the entities that are purchasing the carbon offsets. Mr. Dodge said that their market consists of the members of the Chicago Climate Exchange, companies who voluntarily join the Exchange. Those companies who are members of the Chicago Climate Exchange have the ability to buy from them.

05:29:45

REP. WISEMAN asked Mr. Dodge what the soil reserve is and how that takes new carbon out of the air on a reoccurring basis. Mr. Dodge said that when you take a conventional tillage operation, you are aerating the soil and tearing up the root mass that is there and letting it decompose and releasing CO₂ at the same time. When you go to a no till situation you are not aerating the soil and the root mass that was created is still there and that is where you sequester the soils. In this state, we have research by MSU that runs somewhere between .4 to .5 metric tons per acre per year. We have a default value of .32, he said.

REP. WISEMAN asked Mr. Dodge if it regenerates every year. Mr. Dodge said that they continue to add to it. They set the estimates based on whether there are trees or not and set the amount of sequestration that would happen in a given year. They verify that that happened under contract with the landowners and then actually put that year's sequestration on the market.

REP. WISEMAN said that he understands that members of the Exchange are buying offsets against their emissions. He asked Mr. Dodge how much of what those members are paying for is new sequestration. Mr. Dodge said that they are using existing projects and new projects and when carbon comes up to \$12 to \$15 a ton, they will start to talk about new projects because it then becomes worthwhile to make that management change.

REP. WISEMAN said that he knows that grass if fed to cows and cows produce methane and that is one of the most potent greenhouse gases. He asked if that is that factored into the Exchange's calculations on grasslands. Mr. Dodge said that at this time it is not, but is simply additional soil carbon stored and there is no net metering. Rep. Wiseman asked if that refers to the root mass storage and not to the actual grass that grows. Mr. Dodge said that it is soil carbon on cropland and grassland. He said that on forestry, they are only contracting for above ground carbon and the biomass of trees.

05:34:17 SEN. BLACK asked if the Forest Service can participate and sell carbon credits for improved forestry planning and management, and does the Forest Service have to buy carbon credits for carbon relief in large forest fires. Mr. Dodge said that in regards to tribal land, permanent easements cannot be placed on Bureau of Indian Affairs (BIA) trust land, therefore, you cannot put easements on tribal lands. Mr. Dodge talked about the contracts that they have with the Nez Perce Tribe, the Fort Peck Landowners Association, and the Northern Cheyenne. Mr. Dodge said in regards to state lands, if the state is a member of the Chicago Climate Exchange, you can take those credits to the Exchange. He said that at this moment there are no credits authorized on federal lands, BIA, BLM, or forest service lands. He would be against that if it ever happened. Mr. Dodge said that he thinks it would be a subsidized credit that would be produced by the federal government using federal staff that compete with private industry.

05:40:49 REP. AKNKEY asked if there is any estimates on how much carbon is sequestered from national and state forest lands, and natural grass lands in Montana. Mr. Dodge said that he did not know but could get that information to the Committee.

Carbon Management - Dr. Steven Aumeier, Director Energy Systems and Technologies Division, Idaho National Laboratory

05:43:25 Dr. Aumeier said that he wanted to give the Committee some food for thought in thinking about how to develop energy systems by considering the approach of carbon management. He said that carbon sequestration, or CO₂ capture and sequestration, is a part of carbon management. Dr. Aumeier thought that it might be useful to consider some of the complexity of the present energy systems which can provide some insight into the opportunities to most effectively manage

carbon resources in the future. He discussed the types of energy that we need, how to take advantage or promote greater efficiency in optimizing energy production and use, and hybrid energy systems to manage carbon cycles.

Questions

06:09:44

REP. WISEMAN asked if the notion of putting a solar hot water collector in every home was ever considered, why produce electricity and ship it hundreds of miles when the sun will do it for free. Dr. Aumeier said that they consider that on the energy use side of the equation. He said that every energy extraction approach has some kind of environmental impact. Every piece of energy required that we can offset means that you put less stress on the grid, less stress on the transportation system, less stress on primary energy resources.

SURFACE VS. SUBSURFACE RIGHTS: CARBON SEQUESTRATION - Todd Everts, Staff

Attorney

06:15:42

Mr. Everts said that in the work plan, the Committee made a decision to take a look at the policy issues associated with carbon sequestration. He said that an issue that he decided to look at was surface and subsurface ownership and how that impacted the potential of carbon capture and geologic sequestration. The Environmental Protection Agency (EPA) announced on October 11 that they were going to take the lead in carbon sequestration. Mr. Everts stopped his research because he did not know what EPA was going to do to regulate geologic sequestration and carbon injection, and whether it would be regulated as a commodity or a waste product. He did however provide to the Committee an analysis of the relationships under the natural gas model in terms of who owns the pore spaces, what property rights might be affected in a natural gas storage scenario, and the use of eminent domain. Mr. Everts said that he would be happy to discuss all the elements that he has talked about in terms of legal analysis but the reason that he stopped his research was that, without knowing what the EPA is going to do, he did not know if it was efficient from a resource standpoint to continue.

Questions

06:23:47

REP. WISEMAN asked Mr. Everts if he knew what authority EPA had to regulate this issue in a state. If it is interstate commerce or if it is a commodity, how can they be involved. Mr. Everts said that under the Safe Drinking Water Act, EPA currently has the authority to regulate injection of both commodities and waste but that does not necessarily touch the state's jurisdiction on defining these interrelationships between surface and subsurface rights.

REP. WISEMAN said that it seems as if the oil industry is ahead of everybody on this because they have been pumping CO₂ into the ground for years. He asked how straightforward would sequestration be, presuming that they have already worked out issues of ownership and liability. Mr. Everts said that it may be the magnitude, that when you are talking about enhanced oil recovery, you are talking about very specific sites. When you are talking about geologic sequestration of carbon in the amounts that have been talked about in front of this Committee, you are talking about a geophysical space that is on a dimension that is larger.

UNIVERSAL SYSTEM BENEFITS PROGRAMS - Todd Everts, Legal Staff

06:39:16 Mr. Everts gave a presentation on Universal System Benefits (USB) Programs in Montana (**EXHIBIT 9**) and talked about Administrative Rules of Montana regarding the USB 42.29.101 (**EXHIBIT 10**).

Public Comment

06:57:02 **Gary Forrester, Lobbyist for Montana-Dakota Utilities Company**, provided the Committee his written testimony (**EXHIBIT 11**).

Jim Nolan, Department of Public Health and Human Services, said that they operate federal programs that help low income people, primarily the Low Income Energy Assistance Program (LIEAP) and the Weatherization Program. He said that LIEAP had been the recipient of USB funds in the past both from NorthWestern Energy and the Montana-Dakota Utilities Company. Mr. Nolan said that as the federal budget picture gets worse, they are always looking for other sources of help for people. USB has been a worthwhile program and he urges the Committee to extend the program.

Pat Harper, State Director of AARP, provided a copy of her testimony to the Committee (**EXHIBIT 12**).

Tamotu Mulitauaopele, said that he was invited to speak about Energy Share of Montana. He is not from a low income family but is a firm believer in helping people and he encourages people to get help in paying their energy bills.

Rachel Haberman, Energy Share of Montana, said that Energy Share is a private non-profit organization dedicated to helping Montanans who are facing energy emergencies. She said that USB has been a help to them in having funds available for their clients. The Energy Shared Board requests that the Legislature eliminate the sunset date. Rates are still high and there is still too much poverty in Montana. She provided written testimony to the Committee, along with some letters from some of their clients who had wanted to provide comments on how Energy Shared helped them, and thank you cards (**EXHIBIT 13**).

Gary Weins, Montana Electric Cooperative's Association, said that with regards to USBP, the cooperatives are spending well beyond the minimum obligation under the USBP law. He said that their organization supports maximum local co-op flexibility in how these funds are allocated. If the legislature decides to extend USB, they would strongly support maintaining the overall low income minimum required spending levels as they exist under current law. They support a continuation of receiving credit for USB eligible projects embedded in the wholesale power bills, which are mostly debt financed energy efficiency projects. He said that one of the key challenges that electric cooperatives face in dealing with energy efficiency is the lack of enforcement of existing Montana building energy conservation codes.

Representatives from Large Customer Groups

07:20:00 **Don Quander** said that, in addition to being counsel for the Montana Large Customer Group, he has been on the Board of Directors of Energy Share and was a part of the original working group to set the guidelines for the use of the USB Program, the Negotiated Rulemaking at DOR. He said that there are large customers and industry customers who have some trepidation about USB and some reservations that it in effect amounts to a utility tax or charge. He said that the Large Customer Group has elected to consistently support this program for renewal each and every time it has come up, and they do so now.

Deb Young, NorthWestern Energy, said that she has been involved in the Universal System Benefits Programs since the beginning. She discussed NorthWestern Energy's activities with USB Programs. She said that Appendix 4 of the Annual Report gives a historic look and an idea of where the funds go from our customers. NorthWestern Energy supports the USB rules the way that they are today, the law the way it is today, and finds it to be working well for their customers and their utility.

Questions

07:33:16 SEN. LIND asked if Mr. Beaudry could explain the \$838,000 of credits for purchases from BPA for power, and how that works. **Hailey Beaudry, Columbia Falls Aluminum**, said that Bonneville charges an incremental fee for Energy Share, not in Montana, but for Bonneville. The money is for purchases that Columbia Falls Aluminum made through Bonneville. The maximum is \$500,000, which they exceeded, and the line above is the contribution to Energy Share of Montana which is \$85,000.

07:38:58 REP. WISEMAN asked Ms. Young how NorthWestern handles its other programs, if it was a grant from NorthWestern or is it made up of USB funds. Ms. Young said separate of the LIEAP heating system that is government funded, NorthWestern Energy customers receive funding for a bill discount. She said that on Appendix 2 of the Annual Report, under the low income category, you will see "Bill assistance". That is applied in compliance with tariffs from the Montana Public Service Commission to LIEAP-qualified customers that are served by NorthWestern Energy. She said that there is a 2006 Gas USB Shortfall Recovery which covers the bill discount associated with gas discounts that exceed what they collect in gas USB as directed by the PSC.

REP. WISEMAN asked if NorthWestern Energy is moving away from alternative energy projects and more into low income energy assistance. Ms. Young said that NorthWestern Energy has sustained funding for renewable energy through the years at the direction of the Montana PSC, that they are shifting more of the overall electric USB funds than non-Large Customer dollars into low income activities.

07:42:22 SEN. LIND asked Ms. Young to expand on NorthWestern Energy's current status of the demand side management program. Ms. Young said that NorthWestern Energy has on file with the Montana Public Service Commission a recent evaluation of all of their demand side management programs, both gas and

electric. They are funding those through the default supply rates and offers a mix of, in the residential sector on the gas side, incentives for increasing insulation and installing programable thermostats in homes.

07:44:20 SEN. BLACK asked Mr. Weins how he determines that 60% of new homes are not being inspected for present building codes, and if he considers that to be a major problem with building codes. Mr. Weins said that he would have to get back to the Committee on that question. He said that he received that information from a consultant who works with their electric cooperatives.

SEN. BLACK said that NorthWestern Energy provides a service of free energy audits to their customers. He asked if any of the cooperatives have a program like that to his knowledge. Mr. Weins said that he believes that there are some that offer energy audits and that would be listed in their report.

MOTION ON USB PROGRAMS

07:47:09 REP. WISEMAN **moved** that the Committee direct staff to draft legislation eliminating the sunset rule on USB Programs statute. The motion **passed** unanimously.

UPDATE FROM PUBLIC SERVICE COMMISSION (PSC) - Commission Chairman Greg Jergeson

07:48:52 Mr. Jergeson said that the USB program is one that the PSC believes is a valuable program, and they would support its continuation. He said that there are some difficult issues to sort through on any of the USB allocation contested cases that they frequently end up with. He talked about some major issues that are before the Commission:

- NorthWestern Energy' application for a general rate increase for their distribution and transmission utility.
- PSC's decision related to Qwest's request to move certain features to the unregulated portion of their operations.
- The Doty Complaint filed by a group of telephone customers alleging that Qwest basic rates are too high and are asking for a change in those rates.

Mr. Jergeson requested that members of the ETIC Committee and staff pay attention to rulemaking when implementing HB 25 and some of the other legislation passed last session.

Questions

08:10:02 SEN. LIND said in the rate case with NorthWestern Energy, is there an application to include significant legal and other costs that have accumulated in the last year and a half with respect to the BBI proposal? Mr. Jergesen said that he can't answer whether they are rate-baseable charges because it would indicate that he had made a decision about anything being part of the rate base and the proceeding is supposed to identify what are the proper charges that would be included within their rate base.

CO2 QUESTIONS - Sonja Nowakowski, Environmental Research Analyst, LEPO

08:11:32 Ms. Nowakowski told the members that she is looking for questions from the Committee in an attempt to find out what points the Committee wanted to explore further. She said that they have focused on carbon sequestration for the last meetings. The announcement made by the EPA that they will be promulgating rules for the injection of CO2 does not indicate if they are going to address the liability question. Ms. Nowakowski asked the Committee where they wanted to take this study, which direction do they want to go from here. She discussed the topics in the work plan (**EXHIBIT 14**). She asked that the Committee look over the questions she posed and get their recommendations to her by December 21.

Committee Discussion

08:17:02 SEN. LIND said that he wanted to know if everyone on the Committee was comfortable with their level of knowledge with the IOGCC model legislation. He thinks everyone should be familiar with it. Sen. Lind said that the state has signed on to the Interstate Oil and Gas Compact Commission's recommendations and that the Committee should be involved in what that entails because there will be legislation in the next session on carbon storage.

REP. WISEMAN asked if the Committee should make model legislation a matter for the next committee meeting. Sen. Black said that he agrees, and that it should be on the agenda.

Public Comment

08:19:00 **Gary Weins** said that they appreciate keeping the USB Programs as is; however, they feel a strong need to be able to revisit USBP on a regular basis because there are so many changes happening all the time.

Tom Richmond, Board of Oil and Gas, said that the IOGCC model statute and rules are a place to start, not a place to end, and that every state was going to change it to suit their own needs. He said that they will continue to be involved with IOGCC. He said that what EPA is proposing is rules under the Safe Drinking Water Act which would put it in the UIC Program. If EPA chooses to regulate CO2 as a waste, it may rule it out of the Safe Drinking Water Act and into something like the Resource Conservation Recovery Act (RCRA), making it a RCRA waste.

08:23:00 SEN. BLACK said that he wanted to hand out an article from Professor Fred Singer on "Global Warming, Manmade or Natural," which he found interesting and might offer some balance to our testimony.

ADJOURN

08:24:00 REP. KLOCK adjourned the meeting at 4:28 p.m. The next meeting date is January 24, 2008.