MINUTES

MONTANA SENATE
57th LEGISLATURE – REGULAR SESSION
SUBCOMMITTEE ON ENERGY AND TELECOMMUNICATIONS

Call to Order: By **VICE CHAIRMAN ROYAL JOHNSON**, on February 2,
2001 at 4:00 P.M., in Room 317B Capitol.

ROLL CALL

Members Present:
      Sen. Royal Johnson, Vice Chairman (R)
      Sen. Don Ryan (D)
      Sen. Tom Zook (R)

Members Excused: Sen. Mack Cole, Chairman (R)
                       Sen. Steve Doherty (D)
                       Sen. Alvin Ellis Jr. (R)
                       Sen. Mike Halligan (D)
                       Sen. Bea McCarthy (D)
                       Sen. Walter McNutt (R)
                       Sen. Corey Stapleton (R)
                       Sen. Mike Taylor (R)

Members Absent: None.

Staff Present: Todd Everts, Legislative Branch
                   Misti Pilster, Committee Secretary

Please Note: These are summary minutes. Testimony and
                   discussion are paraphrased and condensed.

Committee Business Summary:
      Discussion of SB 243

Discussion:

Dennis Lopach, Northwestern Corporation, distributed additional
information in response to subsection 8-E as was discussed in a
previous meeting. He wanted to include the factor that could be
objectively demonstrated, not subjectively.

Patrick Judge, Montana Environmental Information Center,
explained the environmental aspects to be included.

SENATOR TOM ZOOK asked if "only" would be removed after "following factors." **Mr. Lopach** recommended leaving the word in because, while the intent was for a more generic form of amendment, they did not want to open the door for just any kind of consideration.

Ken Morrison, PPL, explained section 9 outlined the administration, general cost, and the acuities of the default supplier. He wanted to eliminate the section dealing with the costs associated with the energy risk management, having a concern with the issue. **Pat Corcoran, Montana Power Company,** stated he did not agree with that change and preferred the pre-existing language.

{Tape : 2; Side : A}

SENATOR ZOOK told the committee that risk management could be accomplished with interest or with the future's market.

Gary Feland, Public Service Commission (PSC), agreed the language should be left in. **Susan Good, PSC,** asked if something was left out, whether that would mean that it wouldn't be taken into consideration. **SENATOR ROYAL JOHNSON** replied that he felt the issues were plainly enumerated, as they would get administrative costs, general costs, and the cost of any energy risk management activity. **Bob Anderson, PSC,** said they did not have an attitude to disallow.

SENATOR ZOOK asked why they would hedge to increase costs because hedging is done to lower or protect costs. **Mr. Anderson** responded that when a person buys on the future's market, they take the risk themselves. With the default supplier, they assume all the risk.

Mr. Corcoran explained the definition of the Energy Risk Management Process.

SENATOR DON RYAN said the PSC's problem was the wording "must be included." He questioned the wording, and added that the possibilities would allow for risk management to be part of the process. **Mr. Anderson** stated that the word "may" would solve the problem.

Mr. Corcoran added the words "may be included" did not fit with the activities the person was being asked to perform. He said it was not speaking to their use. **SENATOR ZOOK** thought there would have to be approval with the word "may" by another body, such as

the PSC. Therefore, he was in opposition to inserting the word "may."

SENATOR JOHNSON noted that was a major problem with the bill because they were attempting to get a fixed-cost contract. Anything that didn't turn out the way the supplier had hoped in their hedging efforts would turn around to the retail customer's costs. If the market turned the other way, he hoped the customers would be given the advantages. People would be happier if the legislature developed a contract that would not expose the costumers to a great deal of risk.

Mr. Feland said you could not have it both ways in regards to hedging. He said it was important to leave the contracting of the power flexible.

SENATOR JOHNSON asked who took the risk in the current contract and how was it handled. **Mr. Corcoran** replied, with the current contract, PPL assumed all the risk.

SENATOR JOHNSON wondered what kind of problems had arisen in the past year. **Mr. Morrison** answered there was always an issue of not always having enough power to meet the full requirements of the contract, so they would then have to go out to market to purchase power. **SENATOR JOHNSON** asked if that contract allowed them to make or lose money in 2000. **Mr. Morrison** purported that the price fell below the market, so they had to go out and buy power. **SENATOR JOHNSON** inquired if they lost money on the contract. **Rae Olsen, PPL,** replied that they did not lose money overall because of the flexibility allowed to sell the surplus.

SENATOR JOHNSON questioned what the differential costs would be for a full requirement contract and a contract currently being entered upon. **Ms. Olsen** supported the concept of the portfolio approach because of the flexibility allowed.

SENATOR RYAN commented on the tremendous fluctuations of costs from day to day and the importance of allowing flexibility.

Jay Stovall, PSC, asked about margin calls. **Mr. Corcoran** explained using margin calls to hedge in prices.

Mr. Anderson cited that the default supplier demonstrated a good understanding and usage of the portfolio concept.

Mr. Corcoran stated they believed a process needed to be established which would include the PSC to determine who the information would be sent to. Decisions needed to be clarified on what to do if they would find a low price, but the price would

only be granted for five days. In that situation, they would not be able to meet the current seven day requirement for a waiting period. Therefore, they needed to have a plan in place to be able to take advantage of a situation such as that. Their concern was providing the best service possible and the lowest prices for the consumers.

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SENATOR JOHNSON questioned whether the PSC had an opportunity to read a set of rules. **Mr. Anderson** replied they had. **SENATOR JOHNSON** asked if those rules included the issues previously discussed. **Mr. Corcoran** recalled the rules addressed cost recovery as well as the method.

Mr. Anderson reported that in recent years, on the natural gas side, there was virtual deregulation and tracking regulations for activities. He expressed concern about allowing the PSC to proceed with activities without the review process and stressed the importance of using do-process.

Mr. Corcoran replied that the process almost always works. The default cannot be put at risk in the electricity marketplace for the kinds of things discussed. He asked the committee if they would be willing to assume the risk of having the costs incurred disallowed. He wanted the process to include all those involved in the activity.

Ms. Good professed that she did not want the contracts to be held in a vacuum. She wanted the PSC to work side by side with the Consumer Council.

Mr. Corcoran said the amendments stated the shelf life would be the life of the bid as compared to seven days in the original language. **Mr. Morrison** replied that he had checked with others on what they thought the shelf life would be in today's markets and they felt it would be about five days.

Mr. Feland asked about objections to the tracker system. **Mr. Corcoran** explained that there were some objections to the current tracker system because in that process, the contracts were entered into first and subject to approval at a later time.

Mr. Lopach noted that they anticipated the time line would be known once the RFP was put together and delivered to the PSC. There would have to be some period of time for evaluation and the projection as to when it would be delivered to the PSC. There would be an issue about public disclosure of bids. If they received public documents, they would probably not get bids.

That was why the word "summary" was included and so they could find a way to work with summaries and still protect confidentiality.

SENATOR JOHNSON recommended segregating the remaining amendments for the purpose of discussion. He said the subcommittee needed to be able to make a recommendation to the full committee on the amendments and entire bill.

Mr. Everts explained that the subcommittee could change words in the amendments, but cautioned that the **SB024306.ate** amendments were internally referenced to the other sections. Therefore, if one section was segregated, it would make another section meaningless.

SENATOR JOHNSON reminded the subcommittee there had been a motion on the floor by **SENATOR RYAN** when they recessed. **SENATOR RYAN** withdrew his previous motion.

SENATOR ZOOK declared that he wanted to change the "seven calendar days" to "shelf life."

Mr. Corcoran referenced subsection 7 in section 2. **SENATOR JOHNSON** asked if he wanted to use the word "shall" instead. He said that would give the flexibility to do it differently in peak periods.

Mr. Judge suggested that "shelf life" be more than a minimum of three days. **Debbie Smith, Natural Resources Defense Council,** indicated that the subcommittee should offer a definition of "shelf life" of the bid because that was not a commonly used term. **Mr. Everts** assumed they were talking about the market life of the bid.

Motion: SENATOR JOHNSON moved to **DELETE NUMBER 4 OF AMENDMENT SB024306.ATE, EXHIBIT(ens27b01).**

Discussion:

SENATOR RYAN believed it was the chairman's intent to get a five year fixed price for consumers. He wasn't sure if customers would be exposed to potentially higher prices in the long run.

{Tape : 3; Side : A}

Mr. Corcoran reiterated the process and tracking mechanism used in setting rates.

SENATOR ZOOK was having difficulty because he could see both sides. He would like to be able to get a level line for a period of time, but added that probably wasn't reality.

SENATOR RYAN proclaimed that California was in trouble partly because they had set a structure that would not allow needed flexibility.

SENATOR JOHNSON purported that if there was a fixed rate contract, the companies could distribute the electricity that was delivered to them in the desired quantity at the rate stated. Their job would be to deliver the electricity to the customers just as it was presently.

SENATOR RYAN asked how they would determine the price of power to the consumer. **SENATOR JOHNSON** responded there would be some scenarios put together that would allow for that. **Mr. Corcoran** added that was one of the options to get a fixed rate.

Vote: Motion **failed 1-2 with Johnson voting aye**.

SENATOR RYAN wondered if the 400 megawatts were the base they were trying to lock up for five years or a substantive length of time. **Mr. Corcoran** responded that it was a base for an unspecified amount of time. **SENATOR RYAN** noted that there was a base load for residential and small customers that could be figured for at least five years. **Mr. Corcoran** understood the concern of what they were trying to do.

Motion/Vote: SENATOR JOHNSON moved that **SUBSECTION 5 OF AMENDMENT SB024306.ATE BE ADOPTED. Motion carried unanimously.**

Motion/Vote: SENATOR JOHNSON moved that **SUBSECTION 6 OF THE PPL AMENDMENT BE ADOPTED, EXHIBIT(ens27b02). Motion carried unanimously.**

Motion: SENATOR JOHNSON moved that **SUBSECTION 7 OF AMENDMENT SB024306.ATE BE ADOPTED.**

Discussion:

Mr. Corcoran preferred the original language for subsection 7.

Vote: Motion **carried unanimously.**

Motion/Vote: SENATOR JOHNSON moved that **SUBSECTION 8 OF THE PPL AMENDMENT BE ADOPTED. Motion carried unanimously.**

Motion/Vote: SENATOR JOHNSON moved that **THE MONTANA POWER COMPANY AMENDMENT TO BE INCLUDED WITH SUBSECTION 8, EXHIBIT(ens27b03). Motion carried unanimously.**

Motion: SENATOR JOHNSON moved **TO STRIKE SUBSECTION 9 OF AMENDMENT SB024306.ATE.**

Discussion:

Mr. Corcoran explained that the removal of subsection 9 would remove the default supplier from ever pursuing any energy risk management powers to help lower the costs.

Vote: Motion **failed 1-2 with Johnson voting aye.**

ADJOURNMENT

Adjournment: 5:30 P.M.

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SEN. MACK COLE, Chairman

_____
MISTI PILSTER, Secretary

MC/MP

EXHIBIT **(ens27bad)**