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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

May 1 & 2, 2008

Room 172, 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.**

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.

An electronic copy of these minutes and the audio recording may be accessed from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side column of the home page, select *Committees*, then *Interim*, and then the appropriate committee.

To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

COMMITTEE MEMBERS PRESENT

REP. HARRY KLOCK, Chair
SEN. GREG LIND, Vice Chair
SEN. JERRY BLACK
SEN. VERDELL JACKSON
REP. DUANE ANKNEY
REP. ROBYN DRISCOLL
REP. BRADY WISEMAN

MEMBERS EXCUSED/ABSENT

SEN. GREG LIND - Friday
SEN. DON RYAN - Thursday and Friday

STAFF PRESENT

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

AGENDA & VISITORS' LIST

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

COMMITTEE ACTION

The Energy and Telecommunication Interim Committee:

- approved the January 24, 2008, meeting minutes on a unanimous voice vote;
- requested a CO2 pore space ownership bill be drafted for discussion;
- requested a carbon sequestration report with findings be completed;
- approved LC4001 as a committee bill;
- requested a carbon sequestration study bill be drafted for discussion;
- requested a public power report with findings be completed; and
- instructed staff to invite the BOR regional director to meet with the ETIC.

CALL TO ORDER AND ROLL CALL

00:00:01 REP. KLOCK called the meeting to order at 8:03 a.m. The Secretary noted the roll. SEN. RYAN was absent (ATTACHMENT #3).

CLEAN COAL TECHNOLOGIES

- 00:00:55 **Bonnie Turner, Executive Director, NextGen Energy Council**, began her presentation with an explanation of the NextGen Energy Council (EXHIBIT #1). **Craig Hansen, Babcock & Wilcox**, discussed technology options to reduce or capture CO₂ (pages 7 - 10, EXHIBIT #1).
- 00:19:19 REP. WISEMAN asked what "risk premium" means. Mr. Hansen said it correlates to the level of risk associated with a project. REP. WISEMAN said it would be necessary for a company to budget a huge amount for unknowns. Mr. Hansen said that is why the first step has to be establishing government/industry partnerships to assist with the huge risk potential. He said if governments want the technology, they have to be willing to help shoulder some of the risks.
- 00:27:18 **Paul Jacobson, Evergreen Energy**, discussed technology options to reduce or capture CO₂ (pages 11 - 16, EXHIBIT #1).
- 00:36:09 **Kipp Coddington**, discussed the legal/regulatory framework for CO₂ capture and storage (EXHIBIT #2).
- 00:47:30 SEN. LIND asked what the efficiency rate of the pilot project is. Mr. Hansen said the efficiency of the proposed pre-commercial scale project would be approximately 40 to 45 percent. In response to a question from SEN. LIND about the cost of these projects, Mr. Hansen said the cost issue is the quandary because utilities can't afford to pay for the projects. He said if governments want to accelerate the process, they will have to help with funding.
- 00:49:12 SEN. LIND asked what the relative risk premium is for a wind project. Mr. Hansen said he could not answer that because his company does not have any wind energy projects. SEN. LIND asked Mr. Hansen if he personally believes that global warming exists and that human activity has contributed to it. Mr. Hansen said he personally believes that global warming is occurring and that a

broad range of energy sources and technologies are needed to address the problem, including clean coal, nuclear, wind, and solar energy.

- 00:50:38 REP. ANKNEY asked, considering recent federal legislation on carbon emissions, if power will become unaffordable if new technologies are not developed. Mr. Hansen said that is a serious concern, and that there must be aggressive testing before a regulatory regime for CO₂ can be set up because of the potential for unforeseen repercussions.
- 00:53:30 REP. WISEMAN asked about carbon cap and trade and fuel switching. Mr. Hansen said it would be risky to implement a carbon cap trading system too soon because it could negatively affect fuel switching.
- 00:57:21 SEN. JACKSON referred to Mr. Hansen's statement that CO₂ is an "unregulated pollutant" and said that he is concerned about calling natural components of air "pollutants" and said that more harm than good may be done by filling up the ground with CO₂.
- 00:58:27 REP. DRISCOLL said she was surprised that the sequestration technology was still so far out from actually being implemented. Mr. Hansen said that three scales of operation are needed, the first being a test phase. He said his company is ready now to conduct that phase but financing is needed, which is why he recommends a government/industry collaboration.
- 01:01:22 REP. WISEMAN asked Mr. Coddington to recommend a first step in addressing carbon sequestration. Mr. Coddington said a good first step would be to clarify "pore space" and suggested a pore space ownership bill. He recommended letting the federal government address injection. Regarding liability, Mr. Coddington said it would be premature to address at this point. Finally, Mr. Coddington said if Montana wishes to be bold and attract investors, it may want to consider the trust fund model.
- 01:03:44 SEN. LIND said in a capitalistic world, it should be just a matter of price when dealing with liability premiums and jurisdiction. Mr. Coddington said yes, but would be dependent on the cap and trade regulators deciding on what the price can be.
- 01:05:39 SEN. LIND asked who funds NextGen. Ms. Turner said private industry, coal companies, utilities, and associations that are interested in NextGen's work all provide funding.
- 01:06:06 SEN. JACKSON asked about the future of hydrogen and if fewer problems are associated with it. Mr. Hansen said his company has worked with hydrogen and that there are a number of possibilities for its use; but that the technology suitable for commercial use is still 10-15 years out and it will be expensive.

ETIC CARBON SEQUESTRATION STUDY

- 01:07:58 **Bonnie Lovelace, Department of Environmental Quality (DEQ)**, provided an update on the March 26, 2008, United States Senate field hearing, held in North Dakota (EXHIBIT #3). She said the main point made at the field hearing was that if coal is to be retained as a part of energy's future, carbon capture and sequestration will be necessary, and that industry will not incur the costs unless forced to. Ms. Lovelace said that she provided copies of her testimony at the hearing in the meeting materials.
- 01:14:26 **Tom Richmond, Administrator, Petroleum Engineer, Board of Oil and Gas Conservation (BOG)**, provided an update on federal developments, which included discussion of a PowerPoint slide presentation of the Ground Water Protection Council (GWPC) Workgroup recommendations for CO₂ Injection (EXHIBIT #4). Recommendations discussed by Mr. Richmond included geologic characterization; fluid movement; area of review; well construction; operation; mechanical integrity testing; monitoring, measuring, and verification; and well closure. He said more detail is available on the GWPC website. Mr. Richmond read a letter from the Environmental Protection Agency (EPA) regarding geological sequestration of carbon dioxide and proposed rules for July 2008 (EXHIBIT #5).
- 01:27:42 SEN. LIND asked Mr. Richmond how many enforcement actions the BOG has initiated in the last four months. Mr. Richmond said he did not have that information but estimated that there were a fair number of violations. He said that they are usually resolved quickly.
- 01:29:08 Ms. Nowakowski said that at the request of the Committee, she researched what other states are doing to address this issue. She provided the members with information provided by the National Council of State Legislatures (NCSL) (EXHIBIT #6).
- 01:33:50 Ms. Nowakowski discussed an additional report, "*State activities on carbon sequestration*", that provided information on the regulatory framework being contemplated by Wyoming, New Mexico, Washington, and Oklahoma (EXHIBIT #7).

BREAK

Committee Discussion and decision making

- 02:03:41 Ms. Nowakowski asked the Committee members to refer to the colored flow chart (EXHIBIT #8) and the Discussion of Findings draft report (EXHIBIT #9) to help guide discussion and decision making.
- 02:05:13 REP. KLOCK suggested that funding be addressed first. SEN. LIND thought that jurisdiction should be determined before funding decisions were made.
- 02:06:35 REP. WISEMAN suggested starting with a simple proposal to draft a bill to address pore space ownership. REP. DRISCOLL agreed with REP. WISEMAN that ownership is the place to start and noted that other states have laws in place to address ownership.

- 02:12:30 REP. KLOCK asked about law suits in other states involving mineral right owners versus pore space owners. Mr. Richmond said he was not aware of any suits but cautioned that he had concerns regarding subsurface ownership and the potential for destroying a mineral estate. He suggested that it may be wise to get a legal opinion regarding severing storage estates from surface estates.
- 02:17:07 In response to a question from REP. ANKNEY regarding surface owner rights and mineral owner rights, Mr. Richmond said that storage areas can be drilled through safely.
- 02:19:14 SEN. LIND **moved** to produce draft legislation to specify that pore space ownership goes with the surface estate. He said it would be a positive move for landowners and would promote economic development. He said he would also like additional discussion of a reporting requirement within the state GIS system.
- 02:20:56 SEN. JACKSON asked how or if the proposed legislation would affect the negotiations process for storage between the landowner and oil company. SEN. LIND said the legislation would not prevent a landowner from negotiating with oil companies for storage rights.
- 02:22:45 REP. WISEMAN asked to review current statute on who owns pore space in regards to natural gas storage, and if the law already states who owns pore space. He suggested also considering the emerging technology of compressed air storage as a way to enhance wind power.
- 02:24:36 Mr. Everts said that the issue of carbon storage ownership is undecided. Regarding natural gas storage, Mr. Everts said the preponderance of states have given ownership of pore space to surface owners. He said that Montana has allowed the use of eminent domain to create natural gas storage and surface owners have been compensated for the pore space, and that under Montana's natural gas storage laws, the mineral owner has dominance. Mr. Richmond said there is both a state and federal process for eminent domain in Montana. The assumption is that "native gas" can be stored in an abandoned gas field, that the mineral owner owns that gas, and that permission of the surface owner is not necessary to store gas. He said an issue that is unclear is gas storage in an abandoned field that is not "native gas".
- 02:28:39 Mr. Everts referred to a November 8, 2007, legal opinion previously prepared for the ETIC on the issue of ownership, and said that case law regarding surface ownership involving natural gas has been established, but that carbon is yet to be decided.
- 02:29:27 REP. ANKNEY asked if the proposed bill draft would be specific to carbon or would include other substances, and if ownership should be included in the same proposal. Mr. Everts said those decisions would be up to the ETIC.
- 02:31:17 SEN. LIND asked to use the Wyoming model to include other gases.

- 02:32:34 SEN. JACKSON asked if liability needs to be considered as part of the bill draft. Mr. Everts said not at this point, but noted that when ownership is created, a relationship is created between interested parties, creating the possibility for liability situations to occur. Ms. Nowakowski said that the Wyoming bill addresses the issue of liability and said that similar language could be included in the proposed bill draft.
- 02:35:50 SEN. BLACK asked if pore space ownership of a depleted gas field being used for storage stays with the mineral owner or if it would revert to the surface owner. Mr. Everts said that question would require additional research.
- 02:36:44 SEN. LIND's **motion passed** on a unanimous show-of-hands vote. Ms. Nowakowski said the draft legislation would be reviewed at the next meeting. Mr. Everts said that property rights considerations would be further researched.
- 02:40:07 SEN. LIND asked if there was interest in addressing jurisdiction and liability issues and said that he has concerns regarding legislation proposed by the Interstate Oil and Gas Compact Commission (IOGCC). He said that while he doesn't want to do anything that will interfere with enhanced oil recovery (EOR), a large scale carbon capture and sequestration project is much bigger than EOR, and that it may not be appropriate to put everything under BOG.
- 02:42:44 Mr. Everts said that the jurisdictional and liability issues are tied to the Environmental Protection Agency's (EPA) rule making.
- 02:51:56 SEN. JACKSON asked to describe the plugging process and permanency of the process. Mr. Richmond said that plugging has evolved and that there is different criteria used for different types of wells. He explained how concrete is used in many instances and that a plugged well can still be drilled, if need be. He said the BOG requires a bond, which is kept until the well is depleted and capped, to cover the expense of replugging a well.
- 02:58:57 SEN. LIND said that HB 3 was intended to set up the framework to take advantage of tax breaks to do EOR but that to date, it hasn't happened. He said this is an economic opportunity for the State. He asked to draft legislation to direct the BOG to work with the DEQ to draft relevant rules for tax purposes for carbon storage/sequestration.
- 03:02:52 Ms. Nowakowski said that she has been in contact with the DEQ regarding the rule making for the tax incentive issue and suggested that the Committee wait until its July meeting to see what DEQ proposes.

Committee Recommendations and Findings

- 03:04:36 Ms. Nowakowski asked what the Committee's wishes were regarding all of the information presented to date. REP. WISEMAN said that a comprehensive report containing the Committee's findings would be useful to the legislature. SEN. BLACK **moved** to have Ms. Nowakowski compile the information into a comprehensive report. The **motion passed** on a unanimous voice vote.

Public Comment

03:09:46 Mr. Coddington made several suggestions on how to encourage industrial use of CO₂ and also discussed the complexities of dealing with pore space issues.

ADMINISTRATIVE MATTERS

03:14:10 SEN. BLACK **moved** to approve the January 24, 2008, meeting minutes, as written. The **motion passed** on a unanimous voice vote.

03:15:36 Ms. Nowakowski announced that the Electricity Handbook revisions approved by the Committee in January were made, and that the Handbook has been published, including the time lines as requested by SEN. LIND. She noted that all Committee members received copies.

03:17:01 Ms. Nowakowski updated the ETIC on the Environmental Quality Council's (EQC) activities and the Montana Climate Change Advisory Council, saying that the EQC's initial recommendations have changed little since the last update and that the EQC is dedicated to conducting an in-depth look at 54 recommendations. She reported that the public comment taken online during February resulted in almost 2,000 responses and that over 600 pages of public comment is available at the Legislative Environmental Policy Office or online on the EQC website. Ms. Nowakowski said she would continue updating the ETIC on the issue.

03:23:05 Regarding the ETIC budget, Ms. Nowakowski said that 46% of budget has been expended, leaving a balance of \$15,000. She noted that the expense of the May meeting has not been deducted from the current balance.

03:23:27 After discussion, the ETIC chose July 17, 2008, as its next meeting date. The Committee will meet in Helena.

LUNCH BREAK

TELECOMMUNICATIONS PANEL

04:55:37 **Geoff Feiss, General Manager, Montana Telecommunications Association, (MTA)**, discussed a PowerPoint overview of the MTA industry (EXHIBIT #10). He distributed a large color map of MTA rural local exchange companies (RLEC) infrastructure/assets (EXHIBIT #11).

05:12:51 **Bonnie Lorang, Montana Independent Telecommunications Systems (MITS)**, discussed how rural Montana companies serve rural Montana communities with the aid of a PowerPoint presentation (EXHIBIT #12).

05:34:30 **Tom Ebzery, Qwest Communications**, discussed an overview of services offered by Qwest, specific operations in Montana, and the recent agreement reached by Qwest and the Montana Consumer Counsel that, if approved by the Public Service Commission (PSC), will lower rates for Qwest customers (EXHIBIT #13). He provided copies of the proposed agreement (EXHIBIT #14).

05:45:19 **Rob Ferris, CEO, Vision Net**, explained that Vision Net is a Montana-owned company consisting of nine independent telephone companies and that over 40% of its revenue is from out-of-state customers. Mr. Ferris said that Vision Net has over 2,000 miles of sonic cable, pays taxes in 45 of Montana's 56 counties, and provides quality jobs for many Montanans. He discussed each of Vision Net's six divisions.

05:59:24 In response to a question from REP. WISEMAN about rural communities getting "fiber to premise" service through Qwest, Cheryl Gillespie said that Qwest is integrating this service in some new structures but not in existing structures.

Overview: Wireless and Cable

06:02:08 **Sean O'Donnell, Regional Vice President & General Manager, Bresnan Communications**, gave a brief history and overview of Bresnan Communications. He noted that over the last five years, Bresnan has spent over \$200 million upgrading and adding access and services. He said that Bresnan does use fiber and in some instances, use "fiber to premise", but agrees with Qwest that coaxial cable is adequate. Mr. O'Donnell described services offered through Bresnan Communications.

06:07:30 REP. DRISCOLL asked if phone service is lost if Bresnan's server goes down. Mr. O'Donnell said it would be unlikely but not an absolute. He said a monitoring center is in place to help prevent such an occurrence.

06:15:30 **Ernie Peterson, CellularOne, Vice President**, reviewed the history of CellularOne, formerly known as Chinook Wireless. He said that CellularOne is the only GSM network in Montana and has invested millions of dollars in infrastructure in Montana and employs over 140 Montanans. The wireless industry is very dynamic and wireless products have migrated from a niche product to a mainstream item. Mr. Peterson also said that CellularOne was designated as an ETC by the PSC and can use service funds to create additional service and cell sites; and has active E-911 deployment in 12 counties.

06:26:23 **Aimee Grmoljez, Verizon Wireless**, discussed a PowerPoint presentation, national perspective of wireless business (EXHIBIT #15).

Public Comment

No public comment was given.

Committee Questions

06:43:50 REP. WISEMAN asked Ms. Grmoljez to comment of the use of cell phones while driving a vehicle. Ms. Grmoljez said that the position of Verizon Wireless is that it would support a few certain restrictions while driving.

BREAK

9-1-1 ADVISORY COUNCIL/AUDIT UPDATE

07:03:33 **Becky Berger, 9-1-1 Program Manager**, reviewed progress made in providing 9-1-1 coverage to Montana residents since 2006, and a performance audit conducted by the Legislative Audit Division, which included five program modification recommendations (EXHIBIT #16).

Committee Questions

- 07:29:23 REP. WISEMAN asked if the consolidation of PSAPs has caused problems. Ms. Berger said no. REP. WISEMAN asked if all PSAPs provide 24/7 coverage. Ms. Berger said yes.
- 07:33:24 SEN. LIND asked for more information regarding the accumulation of large reserves, such as in Yellowstone County. Ms. Berger said there are some sizable fund balances but that reserves are necessary to replace equipment and that it is a good business practice to have a reserve in place.
- 07:37:14 In response to a question from SEN. LIND, Ms. Berger said a letter was recently approved to be sent to the Legislative Audit Division (LAD) on all five of its recommendations. She said it is the intent of the Advisory Council to look at all five, but that the Council will actively work to implement recommendations 1,2,and 5; and ask to further study recommendations 3 and 4.
- 07:38:52 **Mike Wingard, LAD**, explained the LAD audit objectives and recommendations, which included a slightly different perspective of LAD's audit on the 9-1-1 program.

ADMINISTRATIVE UPDATE - PUBLIC SERVICE COMMISSION

- 07:44:01 **Greg Jergeson, Chairman, Public Service Commission (PSC)**, discussed several topics of interest to the PSC, beginning with energy issues:
- Energy Update:
- The PSC completed a final order on the Montana-Dakota Utilities (MDU) rate increase request, which included a report back to the PSC on the impact on MDU customers.
 - NorthWestern Energy (NWE) also requested a rate case and soon after filing, requested to bifurcate the case. The first part has been settled (\$10 million increase in electric rates and a \$5 million increase in natural gas rates) and the second part is yet to be decided.
 - Regarding the Two Dot Wind complaint against NWE, the PSC is recommending that a formula be created.
 - NWE is required to file an electric procurement security plan, which the PSC recently received. Public comment and review is underway and the Commission will review and provide comment also.
- Regarding telecommunications updates, Commissioner Jergeson:
- commented on the proposed Qwest settlement;
 - said that ETC designation has been granted to CellularOne (formerly Chinook Wireless) to get USBs to expand cell phone service in its territory.
- Commissioner Jergeson also updated the ETIC on the electronic filing system, saying that:
- the system is working very well and documents are readily available to the public;
 - it has improved opportunities for public access and that proceedings are streamed live to internet;

- video recordings are being made but only the audio recordings will be archived;
- a public information specialist has been hired; and
- he plans to ask the rest of the PSC to look into compressed air geological storage programs.

08:13:55 REP. KLOCK said, for the record, that he does not support the sale of Colstrip 4 and that it is his opinion that it would not be in the best interest of the state.

08:14:21 SEN. JACKSON asked about Two Dot Wind and the methodology used to determine the firming cost. Commissioner Jergeson explained the methodology used, but said the PSC wanted to verify the numbers on its own.

08:16:28 SEN. LIND asked a hypothetical question about speculation on passing through costs on carbon, and if it was likely that the costs would be rate based. Commissioner Jergeson said the cost would depend on different factors.

08:19:48 REP. WISEMAN said that he agreed with REP. KLOCK that the sale of Colstrip 4 would not be in Montana's best interest.

RECESS UNTIL 9:00 A.M. - FRIDAY, MAY 2, 2008

00:00:01 REP. KLOCK reconvened the Energy and Telecommunications Interim Committee at 9:00 a.m. SEN. LIND was excused, SEN RYAN was absent (ATTACHMENT #3).

DEMAND-SIDE MANAGEMENT

00:01:44 **Bill Thomas** discussed a PowerPoint presentation on demand-side management programs currently in operation and future developments, "*Demand Side Management and Demand Response*" (EXHIBIT #17).

00:52:49 REP. DRISCOLL asked if areas with "smart grids" have seen a noticeable change in bills. Mr. Thomas said most, but not all, have. He provided examples.

00:57:13 REP. WISEMAN asked about acquired cost of conserved power and if the same guidelines are used to determine demand side costs. Mr. Thomas said yes and no, and that savings would be a balance of the costs and benefits.

00:59:30 REP. WISEMAN asked if it is possible to reduce the effect of wintertime use. Mr. Thomas said yes, and said that lighting load is an excellent example. He said that bigger gains could be made in the commercial market and would more likely be the focus.

01:01:56 REP. ANKNEY asked if large customers have smart metering. Mr. Thomas said no, but that programs for industrial accounts are being worked on.

01:03:02 SEN. JACKSON asked how homes with solar and wind generation capabilities will be accommodated. Mr. Thomas said that most homes with solar and wind generation can be accommodated, and that a smart meter costs only about \$75 - \$100; but that the expense lies in reading the meter.

01:06:53 SEN. JACKSON asked if cooperatives can do the same. Mr. Thomas said he could not speak for them.

01:07:40 **Doug Hardy, Park Electric Cooperative, Montana Electric Cooperatives Association**, said each cooperative's capability is different and that currently, the infrastructure to do smart metering is not available. He said cooperatives do offer "net metering".

USB DRAFT LEGISLATION

01:10:02 **Todd Everts, Staff Attorney, LEPO**, reviewed the provisions of LC 4001 (eliminating the termination date for the universal system benefits charge rates, clarifying ETIC oversight authority, and amending 69-8-402, MCA - EXHIBIT #18).

01:11:47 SEN. BLACK **moved** to approve LC 4001 as a Committee bill. The **motion passed** on a unanimous voice vote.

RULE REVIEW

01:12:27 Mr. Everts reported that there was no rule making issues to discuss.

01:13:00 REP. KLOCK asked to discuss the possibility of creating a task force to further study the sequestration issue. REP. WISEMAN suggested drafting a study bill that would consider regulatory authority, liability, funding, and jurisdiction. He said it was apparent that the ETIC did not see a need for legislation at this time, and that the best next step would be to recommend to the next legislature that the next ETIC continue studying the issue of carbon sequestration. Ms. Nowakowski said a motion would be required to request a study bill. After discussion on what would be included in the study bill, REP. WISEMAN **moved** to draft a study bill draft request for continued study of carbon sequestration. The **motion passed** on a 5-1 voice vote, with REP. ANKNEY voting no.

10 MINUTE BREAK

HYDROGEN OVERVIEW

01:38:08 **Dr. R. Paul Williamson, Director, Hydrogen and Alternative Energy Research and Development, University of Montana**, presented a PowerPoint program on the important role that hydrogen could play in providing for the world's energy needs, including information specific to Montana (EXHIBIT #19).

02:13:17 SEN. JACKSON asked if it is easy to convert a vehicle from natural gas to hydrogen. Dr. Williamson said it is easy. SEN. JACKSON asked about injecting hydrogen with regular fuel to boost mileage, as has been advertised in certain articles, and if such equipment and processes work. Dr. Williamson said as a point of interest, he purchased the advertised equipment to test it out and said that he saw only a slight improvement in mileage.

02:16:04 REP. ANKNEY said that the lack of expertise, Montana's permitting process and the strong presence of environmental groups have created problems in bringing new programs and businesses to Montana. Dr. Williamson agreed and said that he has addressed this with Governor Schweitzer and the DEQ. He said the lack of expertise and lack of funding are big problems everywhere.

- 02:19:33 REP. ANKNEY asked about retention of ownership of work developed at a college or university. Dr. Williamson said that the university would retain ownership of technology developed there.
- 02:20:15 REP. WISEMAN said that he is intrigued by hydrogen but that costs appear to be prohibitive. He asked Dr. Williamson about the economic feasibility. Dr. Williamson said that factors such as supply and demand, innovation, fuel sources, for instance, would all have to be dealt with. He said it would be a very exciting but capital intense venture.

MONTANA ENERGY POLICY

- 02:27:15 SEN. JACKSON presented draft copies of "*MONTANA FUTURE ELECTRICITY ENERGY SUPPLY PLAN*", the result of a collaborative effort between REP. WISEMAN and himself (EXHIBIT #20).
- 02:47:49 REP. KLOCK said that for the record, the report was prepared by SEN. JACKSON and REP. WISEMAN on an ad hoc basis. REP. WISEMAN discussed two pages of policy considerations and analysis and statement of fact of where the State stands in terms of energy policy.

Public Comment

- 02:56:55 **Tom Ebzery, representing four utilities in the Pacific Northwest**, commented on several issues, including the proposed sale of Colstrip 4, coal reserves in Montana, and that the concept of public power has already been rejected by the voters of Montana. He discouraged further consideration of public power as state energy policy.
- 03:00:24 **Candace Payne, Southern Montana Electric (SME)**, agreed with REP. ANKNEY's comment about Montana's difficult permitting process and suggested that it be addressed as part of a state energy policy. She referred to SME's proposed Highwood generating station, and said it would be owned by Montanans and operated for the benefit of Montanans, but that road block after road block has been thrown up to thwart the process.
- 03:01:56 SEN. JACKSON said that the energy supply plan is still a rough draft and that input is welcome. He said it is the first of five drafts and that the next draft will be available at the next Committee meeting.
- 03:03:23 Ms. Nowakowski noted that while SEN. JACKSON and REP. WISEMAN are free to work on the energy supply plan independently, the Committee did not allocate funding or staff time for the work. She also pointed out that Title 90, MCA, has an energy policy development process and read from the statute.
- 03:05:44 SEN. JACKSON said that the state has no official plan in place, only policies. REP. WISEMAN said citizens are having to choose between heat and power or heat and food. He said this is the direct result of legislative choices and that there is no plan in place to fix the situation. He said his intent is to initiate discussion, not to do a major rewrite of policy.

LUNCH BREAK

ETIC PUBLIC POWER STUDY

- 04:21:29 **Mike Kadas, Montana Public Power Incorporated (MPPI)**, reported on past public power works and recent events, including a recent legislative attempt to purchase NWE, the denial of the Babcock and Brown, Inc. attempt to purchase NWE, and said that a recent poll showed that 63% of those polled supported public ownership of a utility. He said that he has received many calls over the last few months about forming a public power entity. He said it would be easy to do, would not require a rate increase, and that Montana's easy access to natural gas and electricity would provide stability to Montanans. Mr. Kadas said the opportunity remains to bring NWE under state control and to provide stable utility service, but would require commitment and action by the Montana legislature.
- 04:28:55 **Alec Hansen, Montana League of Cities and Towns**, pointed out that there are over 2,000 public utilities in the nation, and that the idea is not radical in nature. He said most people understand the concept of public power entities because of all of the electrical cooperatives operating in Montana. He commented that existing law is not conducive to public power and suggested that the 2009 legislature consider statutory changes.
- 04:31:19 **Clint Taylor, Power Manager, Troy Public Power**, gave a history of the only municipal public power entity operating in the state and explained how it is operated. He said that rates are locked in until 2011 and that the focus is to provide reliable service for the lowest possible cost.
- 04:36:26 Mr. Taylor said a feasibility study for a biomass plant has been completed and that while potential hurdles have been identified, he remains hopeful that it will become a reality. He said it would benefit everyone, as well as boost economic development in the area.
- 04:37:56 REP. ANKNEY asked for a ball park figure of what the cost of acquiring NWE would be. Mr. Kadas estimated the market cost would be approximately \$2 billion. REP. ANKNEY asked if Colstrip 4 would be part of the sale package. Mr. Kadas said yes. He discussed possible problems that could be encountered and steps that would have to be taken if such a purchase was made. REP. ANKNEY said the best solution would be to build more generation. Mr. Kadas said probably, but that it would depend on cost.
- 04:48:08 REP. WISEMAN said for full disclosure, he must state for the record that he and Mr. Kadas were college roommates at one time. He asked Mr. Kadas to discuss the major points of the 2007 bill to create a public power entity in Montana. Mr. Kadas said the bill would have allowed the State to form a public power authority to put in a bid in the private market for Montana's portion of the NWE system. It would have required the expenditure of several million dollars up front and would have provided bonding authority for use of state tax exempt bonds for the purchase. He said it would have guaranteed that all property taxes would be paid, as now, and that employees would have continued on as employees of the utility.

04:50:44 REP. KLOCK asked Mr. Taylor if he anticipated problems in 2011 when a new contract will be due. Mr. Taylor said no, because rates were raised slightly to create a reserve. He said the biomass project, if it becomes a reality, will also help offset an increase in costs.

Staff Directions

04:53:08 Ms. Nowakowski said that at the January meeting, the members were provided a packet of information on public power and asked for direction from the Committee on how to proceed, for instance, direction on future agenda items, potential draft legislation, or a committee report.

04:53:51 REP. WISEMAN said he strongly believes that constituents need to hear more about public power and that the people of Montana are not being well served by the current structure of the power market, particularly by NWE. He said that public power would provide a long-term solution and possibilities of synergies between publically-owned utilities and cooperatives. He said it would be useful to compile a compendium of what has been learned to date for presentation to the full legislature.

04:55:29 SEN. JACKSON said Montana's permitting process remains a problem and that he would like it to be an agenda item at the next meeting. He said he would specifically like information on why it is so difficult to successfully complete projects.

04:56:45 Mr. Everts said that EQC has oversight of DEQ permitting and that the Highwood generation station issue is on the EQC May meeting agenda, as well as other permitting processes. Additionally, Mr Everts said that performance audits are being done on the DEQ permitting process.

04:57:46 REP. WISEMAN said that while the permitting process is slow and can be contentious, not every project is lost due to permitting. He noted that the Roundup and Thompson Falls project troubles were due to financing issues. REP. KLOCK said that the projects' financing troubles occurred because of the slow permitting process.

04:59:21 REP. ANKNEY agreed that many companies are interested in doing business in Montana but are discouraged by the state's permitting process. He said he would like to have a representative from BPA Bonneville Power Administration at the next meeting to discuss its operation and power availability.

05:00:25 **Gale Kuntz, Montana Liaison, BPA**, said that BPA has 250 MW set aside for public utilities, which would be available to Montana if NWE was purchased by the state. She said that in July of 2007, a policy document governing how new contracts will be offered to new public entities was clarified and said that other new rules were put in place that would discourage one entity from taking all of the power.

05:03:48 After a brief discussion on what would be included in a report, it was agreed that staff would compile a report to the 61st Legislature on public power.

05:05:54 Mr. Everts introduced Hope Stockwell as the new Legislative Environmental Policy Research Analyst.

PICK/SLOAN PROJECT POWER

05:07:23 **Roger Otstot, Bureau of Reclamation (BOR) Great Plains Regions Office**, presented a PowerPoint presentation on Pick/Sloan Missouri River Basin Project (EXHIBIT #21)

05:21:53 **Pat Riley, Irrigation Development Officer, Department of Natural Resources and Conservation (DNRC)**, said that because the Pick-Sloan project is a federal project, it must be federally funded, which is difficult to get done because federal dollars are not there. He discussed several slides from a PowerPoint report on conservation, control, and use of water resources in the Missouri River Basin and the Pick-Sloan Power program (EXHIBIT #22) and said this is an economic issue, rather than a water issue. He said that if the project is to get off the ground, it must be done through a cooperative effort with the BOR.

05:44:47 SEN. BLACK provided copies of a summary of an irrigation summit meeting held in Billings in October 2006 (EXHIBIT #23) and discussed his involvement in irrigation development. He said that there is a great deal of economic development occurring in Canada through irrigation development programs and discussed several examples. He said he is concerned about the Pick-Sloan Power project and that it is key to creating a strong irrigation system and much-needed economic development in Montana. He said that the Lower Yellowstone Conservation District Development Committee has requested that Governor Schweitzer call a meeting with other governors to request federal legislation to push the Pick-Sloan Power project forward, but that to date, the response from the Governor's Office has been disappointing. He said that there is sufficient interest to push forward for a Congressional bill to finally implement the Pick-Sloan Power project.

05:59:29 After discussion on how best to assist efforts to provide support for the revival of the Pick-Sloan Project, SEN. BLACK **moved** to write a letter to the regional director of the BOR to invite him to meet with the ETIC to discuss how to re-establish Pick-Sloan Power to Montana. The **motion passed** on a unanimous voice vote. Ms. Nowakowski asked SEN. BLACK to be the point of contact.

ETIC WIND INTEGRATION STUDY

06:12:02 **Tom Kaiserski, Program Manager, Energy and Infrastructure Promotion & Development (EIPD), Department of Commerce**, discussed a PowerPoint presentation on the wind variability study conducted through Genivar (EXHIBIT #24). Mr. Kaiserski said he would have copies of the completed study at the Committee's July meeting.

ADMINISTRATIVE UPDATE

06:36:27 Mr. Kaiserski provided update activities of EIPD office (EXHIBIT #25). REP. WISEMAN discussed slides of an Iceland trip that examined geothermal opportunities (EXHIBIT #26).

06:52:36 Mr. Kaiserski concluded his update (EXHIBIT #25).

DIRECTIONS TO STAFF

06:59:20 Ms. Nowakowski read through her notes taken throughout the meeting and said that tasks she had listed include:

- two bill drafts related to carbon sequestration: one dealing with pore space and mineral estate owner dominance, that a reporting requirement be included, and that the draft be modeled after the Wyoming bill; and a second bill to direct the 2009 ETIC to study jurisdiction, liability, and cost of sequestration;
- a report of the 2007 ETIC's findings related to carbon sequestration, to be presented to the full legislature;
- to finalize LC 4001 - USB sunset elimination;
- a draft report with findings related to public power;
- to contact DEQ regarding rule making on HB 2 - clean and green bill;
- to have an update on EQC's discussion of permitting issues at the July meeting; and
- to draft a letter to the regional BOR director inviting him to the July meeting.

PUBLIC COMMENT

07:03:06 **Gary Amestoy, Amestoy Consulting**, said that he is the project coordinator for two new irrigation projects in the state (Marias River - 40,000 acres of new irrigation and Yellowstone River - 8,000 new acres) and supports the Committee's interest in this issue. He said that irrigation development is a great economic opportunity for the state and that while the Pick-Sloan water was reserved for agricultural projects, very little of it has been developed. He noted that water is becoming a very critical issue in the state and encouraged the Committee to continue its efforts to develop the use of Pick-Sloan water.

ADJOURNMENT

07:06:54 With no further business before the Energy and Telecommunications Interim Committee, REP. KLOCK adjourned the meeting at 4:07 p.m. The next ETIC meeting is scheduled for July 17, 2008, in Helena. CI0429 8217dfxa.