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Energy and Telecommunications Interim Committee

63rd Montana Legislature

SENATE MEMBERS
CLIFF LARSEN--Chair
EDWARD BUTTREY
ROBYN DRISCOLL
ALAN OLSON

HOUSE MEMBERS
KEITH REGIER--Vice Chair
MIKE LANG
MARY MCNALLY
TOM STEENBERG

COMMITTEE STAFF
SONJA NOWAKOWSKI, Lead Staff
TODD EVERTS, Staff Attorney
JOY LEWIS, Secretary

MINUTES LOG

Energy and Communications Interim Committee Meeting
Room 172, State Capitol
Friday, March 21, 2014

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select *Committees*, then *Interim*. Once on the page for *Interim Committees*, scroll down to the appropriate committee. The written minutes summary, along with the audio and video recordings, are listed by meeting date on the interim committee's web page.

Hard copies of the 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. CLIFF LARSEN, Chair
REP. KEITH REGIER, Vice Chair

SEN. EDWARD BUTTREY
SEN. ROBYN DRISCOLL
SEN. ALAN OLSON

REP. MARY MCNALLY
REP. TOM STEENBERG

COMMITTEE MEMBERS EXCUSED

REP. MIKE LANG

STAFF PRESENT

SONJA NOWAKOWSKI, Lead Staff
TODD EVERTS, Staff Attorney
JOY LEWIS, Secretary

AGENDA & VISITORS' LIST

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

COMMITTEE ACTION

The Energy and Telecommunications Interim Committee:

- approved September, October and November 2013 meeting minutes;
- approved Rep. Regier's motion to work with the DOR, Mr. Denowh and other parties representing prepaid wireless companies, and any other stakeholders, and try to work toward crafting a bill to bring to the committee;
- approved a motion by Sen. Driscoll to send a letter to the Consumer Counsel and request they prepare an analysis of Montana's RPS impact on customers in Montana and include the CREPs in that analysis.

CALL TO ORDER AND ROLL CALL

00:00:06 Sen. Larsen called the meeting to order. The secretary took the roll. Rep. Lang was excused. [Attachment #3](#)

FOLLOW-UP ON PREPAID WIRELESS 9-1-1 ISSUES (Tab 1)

00:01:37 Vice Chairman Regier gave an introduction of 911 prepaid issues.

00:02:58 Jon Bennion, Deputy Attorney General, gave an overview of the Attorney General's Opinion. ([Exhibit #1](#))

00:06:38 Director Mike Kadas, Department of Revenue, DOR, summarized the DOR's disagreement with the AG's decision and spoke about the fiscal impact the State will feel from this decision.

Public Comment

There were no comments.

Questions from Committee

00:08:09 Sen. Olson

00:08:42 Sen. Buttrey

00:09:17 Rep. Regier

00:09:34 Sen. Olson

00:09:51 Dir. Kadas

00:11:29 Sen. Larsen

00:11:43 Sen. Olson

00:12:43 Rep. Regier

00:13:09 Sen. Larsen asked the stakeholders to come back to the July meeting and try to come up with a solution and approach to a bill.

00:14:20 Rep. Regier

00:14:36 Dir. Kadas

00:15:25 Ms. Nowakowski

00:15:37 **Rep. Regier moved that he would work with the DOR, Mr. Denowh and any**

other parties representing prepaid wireless companies, and any other stakeholders, and try to work toward crafting a bill to bring to the committee. The motion passed on a unanimous voice vote.

AGENCY OVERVIEW PRESENTATION (Tab 6)

00:16:48 Vice Chairman Lake, Public Service Commission (PSC), commented on the process followed by the PSC in analyzing NorthWestern Energy's (NWE) proposed purchase of the dams from PPL Montana. He gave an overview of the PSC's current docket, and submitted written testimony. **(Exhibit #2)** He gave a brief overview of the Universal System Benefits program (USB), "Report on Investigation." **(Exhibit #3)** The committee also received copies of the most recent USB reports from staff. **(Exhibit #4)**

Public Comment

There were no comments.

Questions from Committee

00:33:15 Sen. Larsen

RPS SURVEY RESULTS AND ENVIRONMENTAL FOLLOW-UP (Tab 2-3)

00:33:53 Ms. Nowakowski gave an overview of the RPS surveys and results. **(Exhibit #5)** She commented on the environmental impact report and the memorandum concerning state and local taxes paid by wind and coal-fired generation. The information was requested as a follow-up to the November 2013 meeting and discussion. **(Exhibit # 6)**

Questions from Committee

00:46:04 Sen. Larsen
00:46:22 Rep. Regier
00:47:07 Ms. Nowakowski
00:48:01 Rep. Regier
00:48:38 Ms. Nowakowski
00:48:55 Sen. Larsen - Rep. Regier
00:49:23 Sen. Olson
00:52:18 Sen. Driscoll
00:53:02 Rep. Regier
00:53:36 Ms. Nowakowski
00:54:00 Rep. Regier
00:54:21 Rep. McNally
00:55:21 Sen. Olson
00:57:23 Ms. Nowakowski
00:58:05 Sen. Larsen

Public Comment

00:59:04 Kyla Maki, Montana Environmental Information Center, (MEIC) said there was information available from the Department of Health and Human Services related to asthma rates in different Montana counties, as well as information related to mercury testing. Some pollutants take a while to show up in the blood stream, but this information would be useful to the committee.

Further committee discussion

01:00:12 Sen. Larsen
01:00:32 Rep. McNally
01:00:59 Sen. Larsen summed up the committee discussion and agreement to request that staff gather additional information related to health impacts from power generation and bring it to the May meeting.
01:01:19 Rep. Regier
01:01:39 Sen. Larsen
01:01:46 Sen. Olson
01:06:02 Sen. Driscoll
01:06:23 Sen. Larsen

BREAK

01:27:52 Sen. Larsen reconvened the meeting at 10:30

RPS DISCUSSION CUSTOMER IMPACTS -- OVERVIEW (Tab 4)

01:28:13 Ms. Nowakowski gave an overview of the consumer impacts of Montana's Renewable Portfolio Standard (RPS). ([Exhibit #7](#))

01:37:04 Bob Decker, Public Policy Bureau, Public Service Commission (PSC), spoke about how RPS affects what the customer pays for electricity. He discussed how market factors, diversity, and stability weigh in when considering consumer impacts. The final factor is legislative guidance. A subset of RPS is the Community Renewable Energy Projects (CREP) requirement.

01:52:21 John Alke, spoke on behalf of Montana-Dakota Utilities (MDU) and gave an overview of where Montana-Dakota Utilities is with respect to compliance with the Montana RPS and where they are headed with future resource selections. He spoke about MDU's full compliance with the CREP requirement. ([Exhibit #8](#))

02:01:08 John Bushnell, Lead Supply Planner for NorthWestern Energy, talked about the impact of adding wind to their portfolio. He addressed the RPS survey answers they provided. He discussed CREP requirements and how they impact NorthWestern. NorthWestern Energy is opposed to expanding the RPS program.

Public Comment

02:13:21 Kyla Maki, Montana Environmental Information Center (MEIC), gave an overview of the RPS customer impacts. She discussed the costs and benefits of the RPS. She submitted written comments to the committee. ([Exhibit #9](#)) ([Exhibit #10](#))

02:24:33 Jeff Fox, Montana Policy Manager for Renewable Northwest Project spoke about the complex issues involved in assessing impacts to the consumer from the RPS.

He felt the RPS surveys were an inadequate source of information for the committee to use in making any decisions.

02:35:05 Clayton Elliott, Northern Plains Resource Council, concurred with Kyla Maki, and encouraged the creation of a fair study product that reflects costs and benefits.

02:36:47 Diego Rivas, Montana Policy Associate for the Northwest Energy Coalition, agreed with Ms. Nowakowski's assertion that the RPS reflects rate impacts rather than consumer impacts. He spoke about the Beacon-Hill Study flaws and mentioned articles written about the state of Montana's economy. **(Exhibit #11)**

02:42:40 Adam Busch, MontPIRG, talked about the natural beauty of the state and said he supports the renewable energy standard. He submitted a box of written comments to the committee **(Exhibit #12)**

02:44:11 Anita Green, MontPIRG, provided some economic facts about the RPS to the committee. She supports the renewable energy standard.

02:47:09 Michael Bowles, MontPIRG, talked about how reliable renewable energy is. He supports renewable energy.

02:48:50 Doug Hardy, on behalf of Montana Electric Cooperative Association said that he was available for questions.

02:49:07 Tessa Weyrauch, MontPIRG, spoke about protecting Montana's land. She supports renewable energy and the RPS.

02:50:13 John Fitzpatrick, NorthWestern Energy, talked about the capacity of the Dave Gates Generating Station.

02:51:18 Bryce Rowe, MontPIRG supports renewable energy and the RPS.

02:51:57 Caleb Chestnut, MontPIRG, supports renewable energy and the RPS.

02:53:37 Betsy Story, MontPIRG, supports renewable energy, the RPS, and divesting from non-renewable energy sources.

02:55:57 Emily Bruner, MontPIRG, supports the RPS and believes it will create new jobs for people in Montana.

Questions from Committee

02:57:11 Rep. Regier

02:57:31 Mr. Bushnell

02:58:19 Rep. Regier

02:58:32 Mr. Bushnell

02:58:42 Sen. Olson

02:59:18 Mr. Hardy

02:59:25 Sen. Olson - Mr. Hardy

03:01:42 Sen. Olson

03:02:34 Sen. Driscoll

03:03:51 Ms. Nowakowski

03:04:20 Sen. Driscoll

03:05:09 Sen. Olson

03:05:23 Sen. Larsen

03:05:43 Ms Nowakowski **read the motion by Sen. Driscoll to send a letter to the Consumer Counsel and request they prepare an analysis of Montana's RPS impact on customers in Montana and include the CREPs in that analysis.**

03:06:16 **Sen. Larsen called for a voice vote on the motion, and it passed unanimously. Rep. Regier acknowledged Rep. Lang's yes vote by proxy.**

LUNCH

04:12:28 Sen. Larsen reconvened the meeting at 1:15pm

RENEWABLE ENERGY CREDIT REPORTS (Tab 5)

04:12:32 Introduction -- Ms. Nowakowski gave an overview of the Renewable Energy Credit reports (REC) (**Exhibit #13**) She discussed the tracking of REC's.

04:20:13 Sen. Jim Keane, Senate District 38, gave a legislative perspective on the Renewable Energy Credit reports. He discussed the collection form and the way the information is generated.

04:26:23 Bob Decker, Public Service Commission, talked about the RPS reporting form used by the PSC, and REC reports. (**Exhibit #14**) He defined a REC as an environmental credit for a resource that produces energy in a renewable way. A REC is a credit fixed to 1 megawatt hour of energy production from a green facility. It helps fulfill compliance with RPS laws.

04:32:28 Gene Walborn, Business and Income Tax Division Administrator, Department of Revenue, spoke about the process of collecting REC reports, and that he is working with Ms. Nowakowski and Sen. Keane to rectify a reporting error for 2014. He also spoke about penalty provisions.

Public Comment

04:36:33 Jeff Fox, Renewable Northwest Project commented on the work their organization does with companies and entities that generate RECs, and REC marketers. He said to his knowledge, there has never been any scandal involving RECs. He would be happy to help get any information to the committee concerning this.

04:37:29 Doug Hardy, Montana Electrical Cooperatives Association, said that they didn't have any of the Coops who were actually using RECs to meet RPS, so there was no reporting from that. They are involved in RECs but the law doesn't require compliance in reporting.

Questions from Committee

04:38:32 Sen. Larsen

04:38:43 Sen. Olson

04:39:02 Sen. Keane

04:40:06 Sen. Olson

04:40:33 Sen. Keane

04:40:52 Sen. Larsen

04:41:07 Sen. Olson

04:42:00 Sen. Larsen invited Dept of Rev to next meeting in May in Miles City.

04:42:28 Mr. Walborn

04:42:38 Sen. Keane

GREEN SCHOOLS (Tab 7)

04:43:25 Ms. Nowakowski gave an overview of the Green Schools Report. (**Exhibit #15**)

- 04:45:43 Anya Fiechtl, CTA Architect Engineers, Billings, discussed three areas of interest and recommendations: tracking and publishing school performance data; quality schools program; and new legislation or policy adoption options.
- 04:56:19 Kelly Lynch, Community Development Division Administrator, Montana Department of Commerce (MDOC), gave an overview of the final report, "K-12 Public Schools Facility Condition Assessment", the Quick Start Program historical data, and the MDOC Quick Start Program Awards - Energy Summary Analysis report. She submitted three handouts to the committee. [\(Exhibit #16\)](#) [\(Exhibit #17\)](#) [\(Exhibit #18\)](#)
- 05:03:45 Lou Moore, Chief of the Energy and Pollution Prevention Bureau, Department of Environmental Quality (DEQ), spoke about the three components of green schools. First they are sustainable and energy efficient. Second, they have a healthy environment, and third, their curriculum reflects the energy and sustainable performance of their schools. She described DEQ's work with the Board of Investments and private performance contractors.

Public Comment

- 05:11:47 Clayton Elliott, representing the Northern Plains Resource Council and the Yellowstone Valley Citizens Counsel, supports energy efficiency in Montana schools. He outlined the cost savings that the Billings school district realized this past winter because of their conservation efforts. He encouraged Energy Star performance bench-marking in schools to measure the benefits of energy efficiency and understand the energy usage. In addition, public disclosure is very important to ensure transparency. He submitted written testimony [\(Exhibit #19\)](#)

Questions from Committee

- 05:16:16 Sen. Larsen

ALTERNATIVE ENERGY AND CONSERVATION INCENTIVES (Tab 8)

- 05:17:02 Ms. Nowakowski gave an overview of tax incentives.[\(Exhibit #20\)](#)
- 05:18:12 Lou Moore, DEQ, talked about the tax incentives available in Montana and the jobs they create. She discussed the role DEQ plays.
- 05:22:13 Diana Maneta, Executive Director, Montana Renewable Energy Association, spoke about the income tax credit for property owners to install renewable energy generation on their property. She explained the commercial or net-metering investment credit.
- 05:26:44 Gene Walborn, Department of Revenue, discussed DOR's role in the credit process. DOR relies on the expertise of the DEQ to help them with the technical aspects and any questions.

Public Comment

There were no comments.

Questions from Committee

05:29:50 Sen Larsen

INTEROPERABILITY

05:30:09 Quinn Ness, Statewide Interoperability Coordinator, ITSD and Bureau Chief of the Public Safety Communications Bureau, (PSCB), gave an overview of the statewide interoperability land mobile radio system.

Public Comment

There were no comments.

Questions from Committee

There were none.

BREAK

Sen. Larsen reconvened the meeting at 2:45 p.m.

PIPELINE SAFETY -- FEDERAL RULEMAKING (Tab 9)

05:55:22 Sam Hall, Pipeline and Hazardous Materials Safety Administration (PHMSA), gave a slide presentation and discussed the federal rulemaking that addresses enforcement of excavation damage prevention laws. ([Exhibit #21](#))

06:03:25 Michelle Slyder, stakeholders group, CHS - owner and operator of Cenex and Front Range Pipeline, Vice President of the Montana Utility Coordinating Council, talked about the need to improve the one-call law. The focus of revisions to the law will be to improve safety.

Public Comment

06:07:37 Gary Forrester, MDU Resources, talked about waiting for PHMSA to finalize their rules and said then they'll be ready to sit down and write a bill.

06:09:57 Bonnie Lorang, General Manager, Montana Independent Telecommunication Systems (MITS), said they had previously participated in the stakeholders group and there was some concern that in 2011 some changes in the federal law might bleed over to the telecom side and affect "no-dig" requirements for cooperative telephone companies. They are prepared to work with the group to help with any changes.

06:11:16 John Fitzpatrick, NorthWestern Energy, said he was the acting chairman of the group working on the law in the interim sessions 2011 and 2013. They came pretty close to having a final bill but held it up pending receipt of the final rule from the federal government.

Questions from Committee

06:12:18 Sen. Olson

06:12:28 Michelle Slyder

06:13:06 Dale Shultz, NorthWestern Energy

06:13:43 Sen. Larsen

06:14:21 Michelle Slyder

06:15:52 Sen. Buttrey
06:16:11 Ms. Nowakowski
06:17:21 Sen. Larsen

RULE REVIEW

06:17:42 Mr. Everts, Staff Attorney, mentioned the information transparency rules and simplifying the regulatory options for the small water and sewer facilities that Vice Chairman Lake reviewed. He gave an overview of the FERC ruling 146 FERC 61,193. **(Exhibit #22)**

Questions from Committee

06:24:41 Sen. Olson encouraged staff to stay abreast of the situation and report back to the committee in Miles City. Sen. Larsen acknowledged the full committees' agreement.

OTHER BUSINESS (Tab 10)

06:25:32 Sen. Larsen
06:25:49 Sen. Buttrey **moved to approve all three sets of minutes (Sept 12-13, October 21, and November 8) with the exception that September's minutes be amended to reflect the correct date of 2013. The motion passed on a unanimous voice vote.**

Power bill analysis

06:26:15 Ms. Nowakowski gave an overview and instructions on accessing the power bill analysis online.
06:29:21 Sen. Larsen
06:29:54 Sen. Olson
06:31:41 Rep. McNally
06:31:49 Ms. Nowakowski
06:32:14 Sen. Olson
06:32:33 Rep. McNally
06:33:02 Sen. Larsen

Instructions to Staff for May meeting

06:33:42 Ms. Nowakowski
06:35:25 Sen. Larsen
06:35:32 Sen. Driscoll
06:35:57 Sen. Larsen

Discussion of May agenda -- Miles City where to go for field trip

06:36:21 Sen. Olson
06:37:06 Sen. Larsen
06:38:04 Sen. Olson
06:39:36 Sen. Larsen
06:39:48 Sen. Olson

06:40:41 Ms. Nowakowski
06:41:32 Sen. Larsen
06:42:17 Sen. Olson
06:42:27 Sen. Larsen
06:42:41 Sen. Buttrey
06:42:58 Sen. Olson
06:43:45 Sen. Larsen
06:43:58 Rep. McNally
06:44:33 Sen. Larsen

06:44:50 PUBLIC COMMENT

06:44:55 Mark Lambrecht, Executive Director of the Treasure State Resource Industry Association.(TSRIA) spoke about SB 325 from the 2013 session and the insertion of language limiting use to a facility that has a nameplate capacity of 5 megawatts or less. He urged the committee to consider making a legislative change that would eliminate the limit. ([Exhibit #23](#))

06:48:01 Kyla Maki, MEIC, suggested the Tongue River Dam as a place to visit during the May meeting in Miles City.

ADJOURN

06:48:57 Sen. Larsen adjourned the meeting at 3:51 p.m.