



Energy and Telecommunications Interim Committee

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59th Montana Legislature

SENATE MEMBERS

GLENN ROUSH--Chair
JEFF ESSMANN
DAVE LEWIS
GREG LIND

HOUSE MEMBERS

ALAN OLSON--Vice Chair
ROBYN DRISCOLL
HARRY KLOCK
GARY MATTHEWS

COMMITTEE STAFF

CASEY BARRS, Lead Staff
TODD EVERTS, Staff Attorney
DAWN FIELD, Secretary

MINUTES

January 19, 2006

Room 137, State Capitol
Helena, Montana

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

COMMITTEE MEMBERS PRESENT

SEN. GLENN ROUSH, Chair
REP. ALAN OLSON, Vice Chair

SEN. JEFF ESSMANN
SEN. DAVE LEWIS
SEN. GREG LIND

REP. ROBYN DRISCOLL
REP. HARRY KLOCK
REP. GARY MATTHEWS

STAFF PRESENT

CASEY BARRS, Lead Staff
TODD EVERTS, Staff Attorney
DAWN FIELD, Secretary

AGENDA & VISITORS' LIST

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

COMMITTEE ACTION

The Energy and Telecommunications Interim Committee:

- approved the November 22, 2005, minutes as written;
- approved sending a letter to Governor Schweitzer urging his participation in and support of regional efforts to help shape federal transmission corridors in the State of Montana;
- approved drafting a bill for the creation of a transmission infrastructure authority in the State of Montana; and
- approved drafting a bill to allow NorthWestern Energy to acquire generation facilities.

PART ONE - MORNING MEETING

CALL TO ORDER AND ROLL CALL

00:00:01 SEN. ROUSH called the meeting to order at 8:30 a.m. The secretary noted the roll, REP. KLOCK was excused and all other members were present ([ATTACHMENT #3](#)).

APPROVAL OF MINUTES

REP. OLSON **moved** to approve the November 22, 2005, meeting minutes as written. The **motion passed on a unanimous voice vote.**

THE BOZEMAN ENERGY FORUM: A LOOK BACKWARD AND A LOOK FORWARD

00:01:47 **Hal Harper, Governor's Office**, reported that energy experts from across the nation attended the summit and as a result, Governor Schweitzer has formulated a general policy for energy development:

- To create jobs and economic growth for Montana, including transmission facilities that contribute to the energy independence of the nation; to provide long term, sustainable, and affordable energy for Montana's businesses, industries, and families; and for enhancing state and local tax revenues.
- To develop Montana's energy resources in a manner that minimizes environmental impacts, maximizes conservation, and provides transition to new forms of energy.
- To sensibly develop Montana's energy resources, in combination with efforts to provide lower cost and reliable power to Montana citizens and businesses in order to increase Montana's competitive position in expanding businesses, manufacturing, and industrial opportunities.
- To be on the cutting distributed generation of clean energy development and in developing all of Montana's energy resources, especially coal.
- To provide for adequate environmental controls for standard coal-fired generating plants, maintenance of overall water and air quality, development of power generation from IGCC and other advanced technologies, development of advanced coal-to-liquid technologies, and sequestration of carbon through various methods.

- To accentuate renewable forms of energy such as wind power, biodiesel, ethanol, power generated from seed oil, and solar energy; and contribute to the national energy needs.
- To make a national impact on energy dependence through appropriate development of transmission corridors and lines by relying predominantly upon private sector initiatives whenever possible.

Mr. Harper provided copies of the statement Governor Schweitzer provided to the Federal Energy Regulatory Commission (FERC) in response to the federal government's announcement of plans to establish energy corridors and transmission lines ([EXHIBIT #1](#)). Mr. Harper said the Governor is very concerned that the federal government consider input from Montana businesses and citizens when planning transmission corridors and that he wishes to facilitate "appropriate" development through the use of private sector initiatives to site these lines whenever possible.

Mr. Harper said the desire for clean and renewable energy development is both market and socially driven and that although Montana can't solve the energy independence problem alone, it can significantly contribute it.

Mr. Harper said the Governor thinks that the citizens of Montana have suffered from the effects of energy deregulation and must again commit to developing affordable power. Included in these efforts are consideration of reintegrating Montana's energy generation, transmission and distribution systems; possible re-regulation of energy prices; and establishing public or quasi-public power entities in addition to the current private/cooperative energy structure.

Mr. Harper said that the Governor is committed to assisting individuals with energy costs through programs such as *Warm Homes*, *Warm Hearts*, and that the Youth Conservation Corps has already weatherized many Montana homes. Through executive order, the Governor allocated \$2.5 million to be placed into LIEAP funds for immediate use by Montana citizens to assist with energy needs.

Mr. Harper said that the Governor recognizes that some areas of Montana are more appropriate for energy development than others and will abide by a "good neighbor" policy in developing energy resources.

Mr. Harper said more specific energy policy will be released from the Governor as it becomes available and that the Governor looks forward to working with the Committee and the Legislature on this issue.

00:12:05 SEN. LEWIS asked if the Governor has a specific plan for the possible re-regulation of energy prices. Mr. Harper said that a full range of options will be considered to ensure that Montana's energy is secure, reliable, and affordable.

00:13:11 REP. OLSON asked what authority the State of Montana has to question the siting of transmission lines on federal lands and how the Governor's Office plans to work with the federal agencies involved. He said it would be to the benefit of Montana to work with the federal government, rather than fight it. Mr. Harper

said that the Governor does not wish to fight the federal government but that he must be certain that the federal government knows Montana's position on energy development. He said the Governor wants to make sure that the federal government works through the existing protocols from the Western Governor's Association and with state agencies that know what is going on in Montana, and especially to listen to Montana citizens.

REP. OLSON asked about the possible vertical integration of the NWE utility business. Mr. Harper clarified that the comments he made were his own and not those of the Governor. He said he believes it should be considered as an option.

REP. OLSON said the Governor did not support his 2005 bill to vertically integrate NWE and asked if the Governor had changed his mind. Mr. Harper said it is the policy of the administration to look at any proposal that will achieve the objectives outlined in the Governor's policy for energy development.

00:16:44 SEN. ROUSH said he would like the Governor to provide information to the Committee on a regular basis on what progress is being made on his proposals. Mr. Harper said the Governor wants to work with the Committee and that the Committee would have the opportunity to review and comment on any proposal coming from the Governor.

LC 4144 - REGULATED TELECOMMUNICATIONS DRAFT BILL

00:19:43 **Tom Ebzery, representing Qwest Telecommunications,** said Qwest is one of nine regulated telecommunications companies operating in Montana. Mr. Ebzery:

- provided a list of Montana telecommunications companies ([EXHIBIT #2](#));
- reviewed the main points of discussion regarding the status of the telecommunications industry in Montana at the November 22, 2005, ETIC meeting and the history of House Bill 539 (2005 session);
- explained the main points of LC 4144 - the regulated telecommunications draft bill ([EXHIBIT #3](#)) and said it mainly addresses promotions;
- said a change is needed because competition in the telecommunications market has dramatically increased with the entry of cable and internet companies offering telecommunications services and the rapid advances of cellular telephone service;
- said regulated companies need to be able to compete in promotions at the same level as deregulated companies;
- explained the steps a regulated telecommunications company must take to launch promotional services;
- explained vertical services, the competitive nature of the telecommunications business, and predatory pricing prohibitions; and
- distributed a table outlining the status of retail regulation in Qwest territory ([EXHIBIT #4](#)).

Mr. Ebzery said he supports the bill draft, that he will continue to work with the stakeholders, and would like Committee support. He said he would like to have

the bill approved on a consensus basis before introduction in the 2007 Legislature.

- 00:32:54 REP. DRISCOLL asked what Qwest's response is to the Public Service Commission's charge that it collected \$90 million more from Montana rate payers than it was authorized to collect. Mr. Ebzery said that Qwest disagrees with the PSC opinion and that the issue is pending in the Montana Supreme Court.
- 00:33:57 SEN. ROUSH referred to page 12 of LC 4144 ([EXHIBIT #2](#)) and asked if the intention of subsection (6) is to keep Montana competitive. He said in his opinion, there is already a lot of competition for telecommunications services in Montana. Mr. Ebzery disagreed, saying that promotional packages benefit consumers and that the regulated telecom companies are being shut out of this opportunity because of the tedious steps a regulated telecommunications company has to take.

PUBLIC COMMENT ON TELECOMMUNICATIONS

- 00:38:03 **Kate Whitney, Public Service Commission (PSC)**, provided a brief analysis of HB 539 ([EXHIBIT #5](#)), as presented in the 2005 Legislature and said that the PSC has similar concerns about LC 4144. Ms. Whitney discussed the specific concerns of the PSC, as listed in the exhibit. She concluded by stating that the PSC feels that deregulation of the telecommunications industry is premature at this time.
- 00:41:18 **Mary Wright, Attorney, Montana Consumer Counsel (MCC)**, provided copies of a statement from the MCC regarding LC 4144 ([EXHIBIT #6](#)). Ms. Wright discussed the specific issues of the MCC regarding deregulation of the telecommunications industry in Montana.

TAPE 1 - SIDE B

- 00:47:02 REP. MATTHEWS asked for further explanation of the Competitive Local Exchange Carriers versus Incumbent Local Exchange Carriers (number 1 of [EXHIBIT #6](#)). Ms. Wright said that the Federal Communications Commission (FCC) conducts an annual national survey of the number of land lines served by Competitive Local Exchange Carriers and Incumbent Local Exchange Carriers, such as Qwest. The most recent survey indicates that in Montana, Qwest and other competitors (incumbent carriers) serve 96% of the land lines, leaving only 4% served by Competitive Local Exchange Carriers. The MCC is of the opinion that the 4% rate will not provide the level of competition necessary to protect consumers in the absence of regulation. REP. OLSON asked a Qwest representative to respond. **Rick Hayes, Qwest**, said that Qwest's position is that the FCC report is out of date and does not accurately reflect what is going on in the market, such as the emerging entry of cable and internet companies in the telecommunications industry.
- 00:48:55 SEN. LEWIS said many consumers are dropping land line telephone service and using cellular services only. He asked if the basis of Qwest's position is that in

order for it to stay competitive, it must be able to compete with cellular market; and said that he didn't understand why that would be a problem. Ms. Wright said it is a problem for several reasons, for instance, the MCC acknowledged that other technologies are coming into the market that are giving competition but the extent of the competition is not known. This Committee and the Legislature is being asked to give Qwest considerable pricing freedom that will sweep away the controls that have been working for a long time. That is why the MCC has asked the PSC for an investigation of the state of competition in Montana. Another problem is that, according to Qwest's own numbers, it is earning over 47% on equity when it is lawfully authorized to earn only 12%. That means that Qwest's basic residential and business service is overpriced and that the market isn't as competitive as Qwest is claiming.

REP. OLSON asked if that is the issue before the Supreme Court. Ms. Wright said the issue before the Court is the Commission's authority to call Qwest in for a rate hearing regarding their overearning.

00:51:39 SEN. ESSMANN said that in the Billings area, Bresnan is offering to bundle local and long distance telephone services with cable and internet services for a very competitive price. He asked if the MCC's position is to allow a specific market to be deregulated, if it is determined that competition exists. Ms. Wright said that current law provides for gradual deregulation to the extent that competition exists. In a market such as Billings, it is likely that there is strong enough competition to protect consumers. There are many areas in Montana where that level of competition does not exist.

00:53:23 REP. OLSON asked, regarding competition from Qwest, which regulated companies the MCC is concerned about. Ms. Wright said she hasn't seen the list (EXHIBIT #4) but pointed out that the only places in Montana where there is vigorous competition is in areas where cooperatives, for example, have overbuilt Qwest exchanges. Ms. Wright said that is not the case in most Montana communities.

00:55:09 REP. OLSON said that if there are concerns that Qwest is taking an unfair share of the markets, it must be determined who Qwest is competing with and who needs to be protected. Ms. Wright said it is the consumers who need protection. There must be an investigation to get the facts and information on the market before taking further deregulatory steps.

00:57:11 REP. OLSON asked Ms. Whitney to explain the PSC's concern that Qwest is undermining other carriers and to list the carriers she was referring to. Ms. Whitney said in the 2005 Legislative Session, a Competitive Local Exchange Carrier (180 Communications) from Billings testified to its concern that Qwest might use discount pricing to undercut 180 Communication's efforts to compete with Qwest in the Billings area and that 180 Communications did not have the resources to match the discounted prices that Qwest could offer. REP. OLSON said that HB 539 would have allowed Qwest one regulated line and that any subsequent lines would be deregulated. He noted that LC 4144 regulates all lines and asked if that would make a difference to the PSC. Ms. Whitney said

the biggest objection by 180 Communications was to the section dealing with promotions that allowed discounted pricing. REP. OLSON asked if any of 180 Communication's services are regulated by the PSC. Ms. Whitney said that 180 Communications is a regulated carrier but that the PSC has waived tariff filing requirements and annual report requirements for Competitive Local Exchange Carriers. REP. OLSON said that in essence, 180 Communication's pricing is not regulated but that it supports regulation of Qwest's pricing authority. Ms. Whitney said that Qwest has 96% of market and other carriers have the remaining 4%.

SJR 36: DISTRIBUTED ENERGY GENERATION

- 01:00:30 **Casey Barrs, Research Analyst, Legislative Environmental Policy Office (LEPO)**, distributed a statement from Northwestern Energy explaining its view on distributed generation ([EXHIBIT #7](#)), a bibliography of the sources and experts drawn from to date for information on distributed generation ([EXHIBIT #8](#)), and draft report on distributed energy generation in Montana ([EXHIBIT #9](#)). Mr. Barrs said the draft report is a very broad overview of distributed energy generation and is meant to guide the Committee in choosing the direction and scope of the study. He reviewed regulatory issues contained in Section II, market issues in Section III, technical issues in Section IV, and suggestions on how to use the draft report in conducting the study.
- 01:06:38 SEN. ESSMANN said that in his opinion, the best opportunities to develop distributed generation would fall within the service areas of the electric cooperatives because they are the best suited to address safety and technical issues. He suggested focusing on safety and technical issues and also on research to see if there are other distributed generation models being used successfully in other states. He said if it is determined that Montana is pioneering a model for distributed generation, it may be appropriate at that time to allocate funding for research and development. He suggested setting aside an appropriation of one-time money and to spend the money over a period of five to ten years. He also suggested that the money be allocated to a cooperative that is in close proximity to an area that has easy access to technical expertise, such as Montana State University. SEN. ESSMANN said that if the technical issues are resolved in a cooperative setting, it would create fertile ground for the growth and development of a distributed energy generation system and would be a good opportunity for small business development.
- 01:12:22 REP. OLSON said that he would like more time to study the report. He agreed that cooperatives could be a good tool in pursuing distributed energy generation but said that his constituents and Montana rate payers are most concerned with "least cost". He said that new technology is expensive Montana may not have the population base to pay for it. REP. OLSON suggested exploring the distributed generation model in an urban area because of the increased ability to pay for it.
- 01:16:36 SEN. LEWIS commented that it is an interesting process that must be considered and that there are major pluses for rural areas. He pointed out the success of the wind energy project in Wheatland County, saying that between the property

tax revenue and the impact money it received, the County has benefitted greatly. He agreed that the costs are being exported to the other rate payers in the service area but said that an argument may be made, from the public policy perspective, that the costs are worth the benefits gained.

- 01:18:35 SEN. LIND also agreed that cost is important but said that it is the details of the costs that are most critical. He said that the cost competitiveness of these activities is going to be impacted by who pays transmission costs. If transmission costs are significantly less from a distributed generation model, that must be a consideration.
- 01:19:29 REP. OLSON said that the Wheatland County wind project came in at a very reasonable price. He agreed with SEN. LIND that transmission costs do have a large bearing but pointed out that consumers will pay regardless because the transmission system cost is spread out through the utility.
- 01:20:54 SEN. LIND agreed that distributed generation should pay its fair share but said that he was referring mostly to new generation and who would benefit and who would pay. If those costs are spread across everyone, then Distributed generation may be a little more cost-effective.

TAPE 2 - SIDE A

- 01:22:09 SEN. ROUSH said there are many issues to be considered, but in his opinion, the most important one is safety, both for the public and the producer. He said that financing is also a critical issue.
- 01:26:41 Mr. Barrs listed the suggestions he heard from Committee members during the discussion:
- to research other state's model for distributed generation;
 - funding for research and development, involving the university system,;
 - to focus on urban areas
 - to focus on trying to understand long term, broader economic benefits to the state and the consumers that might off set cost issues; and
 - a thorough examination of safety and cost issues.
- Mr. Barrs said the Committee could focus on any of these areas for the next few months.
- 01:29:22 SEN. ROUSH referred to data sheets comparing Montana to other states on renewable energy (back of [EXHIBIT #9](#)) and said that it would be very difficult to compare Montana to any of the states because of the lack of energy development in Montana. He suggested that staff review other rural states similar to Montana that have wind farms to see what impact they have had.
- 01:31:33 SEN. LIND supported SEN. ESSMAN's suggestion to look at technical aspects because that issue seems to be a major stumbling block.
- 01:32:06 SEN. ESSMANN said research and development should focus only review on what engineering solutions there are for the interconnection issue for utilities or

cooperatives and resolving the safety concerns. He said as a member of two cooperatives and of the Legislature, he would not presume to submit that the Legislature should make a business decision that the boards of the cooperatives are already charged with making. A cooperative's board must be able to exercise its judgement on what is best for its members.

- 01:33:51 REP. OLSON recommended using large stationary users of power for testing distributed generation and said he would like input from the large customer group. REP. OLSON said that HB 509 from several sessions ago had provisions in it mandating that industrials who had left the default supply could not come back to the default supply. He said these are some of the people who are at the mercy of the markets and if distributed generation becomes a reality, these people would definitely benefit.
- 01:34:54 SEN. ESSMANN said that the report mentioned combined heat and power project research and asked that more research be done to find out if there are any incentives for a co-gen situation. Mr. Barrs said it was his understanding that incentives for CHP (combined heat and power) are lacking, compared to other types of renewables.
- 01:35:48 Mr. Barrs asked for confirmation that SEN. LIND wished to pursue a legislatively mandated and funded research and development pilot project. SEN. LIND said that the Legislature must promote and pursue addressing safety issues regarding interconnection, and involve those who work on the lines, the cooperatives, and the distributing entities. He said input is needed from all to determine the best options on how to proceed.
- 01:38:38 SEN. ROUSH asked the Committee members to inform Mr. Barrs of their ideas and concerns and to keep in mind that the Committee must begin making decisions soon.
- 01:40:40 Mr. Barrs said he would prepare a list of options to pursue and would mail it to members. He said the members could provide comments and direction after review.

PANEL DISCUSSION OF TRANSMISSION ISSUES IN MONTANA AND THE REGION

TAPE 2 - SIDE B

- 01:59:45 **Neil Parekh, Pacific Northwest Economic Region (PNWER)**, presented a power point presentation ([EXHIBIT #10](#)) and discussed issues such as:
- PNWER major issues of tourism, Homeland security, border issues;
 - background of PNWER's involvement in regional energy planning;

- PNWER's evaluation of future capacity deficits, congestion in regional electric grid, obstacles to multi-jurisdictional corridor siting,
- the goals of the bi-national regional energy planning initiative;
- PNWER action steps taken to date;
- plans for the future;
- partners and stakeholders;
- a review of PNWER's interest in energy planning;
- proposed resource acquisitions by 2010; and
- creating a market for Montana.

02:18:57

Alan Davis, Senior Advisor, NorthernLights Transmission, presented a power point presentation on the proposed NorthernLights transmission project, which is a multi-state high voltage direct current (HVDC) transmission grid ([EXHIBIT #11](#)). Mr. Davis' discussion included:

- an overview of NorthernLights;
- the NorthernLights vision, project details, and operating principles;
- an explanation of HVDC technology; **TAPE 3 - SIDE A**
- the advantages of the NorthernLights transmission route;
- plans for future expansion of the NorthernLights transmission line;
- submission to Federal Energy Corridor Process;
- the current status of project and projected time line for completion;
- benefits to Montana and how NorthernLights is working with the State of Montana; and
- contact information for the NorthernLights Transmission project.

02:42:25

Scott Powers, Bureau of Land Management (BLM), explained how the 2005 federal Energy Policy Act of 2005, specifically Section 368, mandated that federally sited transmission corridors be established. Mr. Powers explained how the federal legislation has impacted Montana and what the BLM is doing to implement West Wide Energy Corridors (WWEC) ([EXHIBIT #12](#)). Mr. Powers reviewed:

- the directives of the Act;
- what an energy corridor is;
- the requirements of the federal legislation;
- the benefits of designated energy corridors;
- the implementation and planning requirements of Section 368;
- specific details and projected time line of the project; and
- a summary of the corridor project.

02:55:26

Julia Souder, Western Regional Coordinator, United States Department of Energy (DOE), provided a presentation on federal energy policy and projects ([EXHIBIT #13](#)). Ms. Souder's discussion included:

- an overview of the Office of Electricity Delivery and Energy Reliability and its mission;
- examples of specific activities;
- a public scoping strategy and approach;
- an explanation of Section 368 - Energy Corridors and Section 1221: National Interest Electricity Transmission Corridors (NIETC) Designation;

- objectives of NIETC designation, related concerns, and projected time line for completion;
- Section 1813: Indian Lands Rights-of-Way;
- accomplished EPACT Deliverables; and
- contact information for Ms. Souder.

TAPE 3 - SIDE B

- 03:10:43 SEN. LIND asked Mr. Davis to provide a map of NorthernLight's proposed transmission route through Montana. Mr. Davis said he would provide the map after the lunch break. SEN. LIND asked for discussion about the coexistence of AC lines with DC lines. Mr. Davis said it can be done but in order to prevent a physical event, such as an avalanche, from causing problems to the multiple lines, there must be a physical separation of the lines.
- 03:12:37 SEN. LIND asked how an avalanche would be dealt with and if there would be the capability to convert the DC power to AC and immediately shift it to alternate transmission lines. Mr. Davis said electricity travels at the speed of light so any occurrence within the system happens instantaneously. One of the reasons construction is limited to only 3,000 megawatts in one line is the reliability criteria. The system can only handle the 3,000 megawatt instantaneous stress at one time. That is part of the criteria that governs how much or what size is built and the criteria is set by the Western Electricity Coordinating Council. Mr. Davis explained that a DC system has three phases on a single tower and that the system will still operate if one phase is lost.
- 03:15:09 SEN. LIND asked for a detailed analysis of the benefit to the tax base of Montana, regionally and statewide. Mr. Davis said a detailed assessment hasn't been done and would not be completed before the 2007 Legislature but that he could provide some qualitative data.
- 03:15:56 SEN. LIND asked Mr. Davis to explain the specific types of support that would be needed by NorthernLights. Mr. Davis said the siting process is difficult and that support from the Committee members and the Legislature, the Governor, other states, and the federal government is needed; and all would have to be willing to work together to achieve this. He said there would also have to be cooperation with the commercial end of the issue to help market the output. He said there is a possibility or "branding" the power as a Montana product.
- 03:17:28 SEN. ESSMANN said at the end of the process, there will be a programmatic Environmental Impact Statement (EIS), affecting multiple jurisdictions. He said there are always potential critics who may choose to litigate on the grounds the process was inadequate. He asked Mr. Powers if he has considered filing an action for declaratory judgement to litigate the issue, just to save time. Mr. Powers said that this course of action has not been considered.
- 03:18:50 REP. OLSON asked Mr. Powers to explain the difference between a project-specific EIS and a programmatic EIS. Mr. Powers said a project-specific EIS is a very thorough examination of the potential impacts of a specific project. A

programmatic EIS is a more generalized, long-term look at a project but is specific enough to be effective. He said that the possible litigation areas, such as the Endangered Species Act, are being focused on in order to minimize possible lawsuits or protests. He said internal working groups have been established to focus on the best strategies, as well as to establish a common set of best management practices, to be applied by each agency when addressing a site-specific application within a given corridor.

- 03:20:27 REP. OLSON said that a site-specific EIS is done once the right-of-way is established before the power line is built and the programmatic EIS is an overview that tells all of the things that must be done for an actual line. Mr. Powers said a programmatic EIS should lead to a logical conclusion. Mr. Powers said he hopes the BLM will be able to environmental assessments, rather than an EIS for each individual project.
- 03:21:25 REP. OLSON said there has been discussion on the need for energy corridors to match up between the various agencies. He asked how many other agencies in other states have signed on as cooperative members of the WWEC project. Mr. Powers said to date, the California Energy Commission and some of the local government entities have signed on as formal cooperators in the process. REP. OLSON said he hopes that Montana would sign on a cooperator on and asked if Mr. Powers has heard from Montana regarding signing on as a cooperator. Mr. Powers said that there has been no official word but that he has had discussions with Tom Ring. REP. OLSON said the State of Montana must be an active participant in the siting process because of the potential impact a corridor could have on the state. He said the administration must be encouraged to be a full participant.
- 03:23:51 SEN. LIND asked Ms. Souder if Texas is exempt from FERC backstop permitting authority from an eminent domain standpoint. Ms. Souder said that regarding corridor issues, that is correct. Ms. Souder said Texas has a very unique relationship with Congress and with FERC.
- 03:24:51 SEN. LIND said that Mr. Parekh had stated that he does not see the load growth in Montana to meet the needs of the proposed generation. He asked Mr. Davis to help him understand what the benefit to the Montana consumer would be. Mr. Davis said that Montana originally had the benefit of low-cost power and would have again, because Montana would be exporting power with ample supply left over to service Montana consumers. If new generation isn't built in the state, the result is more people competing for scarcer resources. The opportunity to create more supply with low-cost resources should provide a huge benefit to Montana rate payers.
- 03:28:33 SEN. LIND asked Mr. Davis if long-term contracts should be locked in if new generation is built. Mr. Davis said he did not want to speak for generators but that in general, long-term contracts are what it takes to get new generation built.
- 03:29:23 SEN. LIND requested that Mr. Davis provide some of the tax base information prior to the 2007 Legislature. Mr. Davis said it would be developed through the

permitting process and that the information would be provided as it becomes available through the permitting process.

- 03:29:56 Mr. Parekh clarified that the study referenced in his presentation, NWE is expected to have a deficit of 1,000 megawatts in 2010.
- 03:30:22 SEN. ROUSH asked if there has been any consideration of including gas pipeline in the energy corridors. Ms. Souder said that Section 368 of the Federal Energy Act includes hydrogen, natural gas, oil, and electricity transmission on federal lands but that Section 1221 allows only for electricity transmission and distribution.
- 03:32:34 SEN. ROUSH said Montana has little money available for travel or education. Ms. Souder said NCSL has money available for legislators and that she may be able to provide some assistance to legislators for specific needs.

PART TWO - AFTERNOON PORTION OF MEETING -- SEN. ROUSH reconvened the Committee at 1:18 p.m.

PUBLIC SERVICE COMMISSION UPDATE

- 00:00:02 **Greg Jergeson, Public Service Commissioner,** updated the Committee regarding issues of interest to the PSC and:
- invited the Committee to attend an upcoming workshop on smart metering;
 - asked Committee members to review NorthWestern Energy's (NWE) supply procurement plan, as presented to the PSC;
 - reported that the PSC is receiving a great deal of mail and phone calls from Montana natural gas customers, voicing their distress about the large increases in their utility bills and demanding that the PSC take action;
 - discussed recent press reports about NWE's rates being the highest in the nation and related issues, such as the effect of HB 642, the PSC's recent decision to reduce the amount of NWE's request for a rate increase and **TAPE 4 - SIDE A** the PSC's recommendation that the 2007 Legislature repeal HB 642;
 - discussed regional issues for PSC, such as FERC's requirement that regional FERC state commission joint boards meet to examine and report to Congress on security constrained economic dispatch:
 - ▶ Commissioners Schneider and Jergeson are Montana's representatives,
 - ▶ the first meeting was disturbing because there was discussion to include economic dispatch in the whole region in so that low cost resources could be dispatched into more expensive regions,
 - ▶ Montana's Commissioners feel there is a need to protect the native load and are nervous about the agendas of regional efforts and what they are trying to get,
 - ▶ Montana's Commissioners are dedicated to staying vigilant and have filed email comments suggesting that FERC and MISO do no

harm to Montana and have received pledges of alliance back from Virginia and North Carolina; and

- discussed telecommunications issues, saying that it must be understood that the competitiveness of the industry must develop on the backbone of access through the common carriers and that the Commission struggles with the issue of deciding how common carriers should be compensated for the use of its infrastructure.

- 00:26:40 SEN. ROUSH said that he has heard from many of his constituents about high natural gas rates and complaints that the Legislature and PSC won't take action. Commissioner Jergeson said the public must understand the authority of the PSC and what it can and cannot do.
- 00:29:10 REP. MATTHEWS asked about the option of using average billing for NWE customers and asked if Commissioner Jergeson had a percentage of NWE customers who have used this option. Commissioner Jergeson said he didn't have a figure but estimated that many customers do use the option of average billing. He explained that average billing is a good tool for consumers to use to help manage their expenses and that he anticipates that more consumers will use this option with increasing utility prices.
- 00:32:12 REP. OLSON said currently NWE's bills are unbundled bills and must list out the different costs, such as transmission and distribution. He asked if property taxes are a line item that should also be listed out on the bills. Commissioner Jergeson said that property taxes are not a line item and do not have to be listed on bills. REP. OLSON commented that it is not just natural gas customers who are suffering with large utility bills. Commissioner Jergeson agreed and discussed how the petroleum markets have influenced the price of natural gas.
- 00:35:19 SEN. LEWIS said the price of natural gas has dropped tremendously on a national level and asked how long it will be before Montana consumers will benefit from that price drop. Commissioner Jergeson said that there will be some reflection of the price drop in the next billing cycle. He explained how the gas companies manage their supply and how those management decisions affect prices.
- 0:40:13 REP. OLSON asked what effect the gas-fired turbine generation activity has had on the on the natural gas markets. Commissioner Jergeson said that there is no doubt that the gas-fired generation has constituted the bulk of demand for natural gas and has driven that market to the level that it is at. He said there is a need for policy makers to look at this.
- 00:41:37 REP. OLSON asked if there has been any discussion to restore the Fuel Use Act, as enacted in the 1970s. Commissioner Jergeson said no.

MULTI-STATE COMPACT DEALING WITH REGIONAL ENERGY POLICY

00:43:00 REP. OLSON asked to withdraw this item from the agenda due to recent discussions. He said that he would recommend dialog with surrounding states on permitting, siting, and other related issues, before moving forward.

DISCUSSION OF AGENDA ITEMS

00:45:04 SEN. ROUSH asked to discuss Montana being involved with the regional issue of federally-sited transmission lines going south through Montana. He said he thought it appropriate for the Committee to draft a letter to the Governor urging support for this project and that he would like to have the Governor respond personally before the Committee at the April meeting, if possible. He said the Western Governor's Conference is also discussing this issue. He said that Montana needs to work together with the federal agencies to make this project become a reality.

00:47:01 REP. MATTHEWS agreed with SEN. ROUSH's suggestion, saying that the Governor's Office has already commented on many of the energy issues facing Montana. He **moved** to send a letter to the Governor urging support for Montana to be an active participant in the effort to create energy corridors. REP. OLSON said that Montana needs to be a cooperative partner in the DOE/BLM corridor siting process. It will be of great economical benefit to Montana and is an issue that Montana must not be left out of. He asked that a draft of the letter be sent out to Committee members before mailing the letter to the Governor. Mr. Barrs agreed.

00:50:38 REP. MATTHEW's **motion passed** on a 7-1 voice vote with SEN. LIND voting no and with REP. OLSON voting yes by proxy for REP. KLOCK ([ATTACHMENT #4](#)).

00:51:49 REP. OLSON said barriers to transmission, as exist in Washington State for example, are the best reason to develop distributed generation because new transmission doesn't have to be built into those areas, creating a considerable cost savings.

TAPE 4 - SIDE B

01:13:01 Mr. Davis provided a topographic map of the NorthernLights transmission line route, as requested by SEN. LIND. Mr. Davis he also provided a copy of the WECC transmission map to see how it interacts with the rest of the grid.

01:13:22 REP. OLSON asked if an electronic copy of the maps are available. Mr. Davis said yes but that because the maps are a very large file, they are difficult to use. SEN. ROUSH said copies of the maps would be available for viewing at the LEPO office.

SJR 39: AN ENERGY PLANNING AND COORDINATING ENTITY FOR Montana

01:15:06 Mr. Barrs recapped results of a survey on a planning and coordinating entity for Montana. Mr. Barrs reviewed the aggregate data from the public respondents to

the survey (EXHIBIT #14), completed in December. He noted that nine key respondents felt differently and much less supportive of a planning and coordinating entity than the public survey respondents. Mr. Barrs reviewed the responses from each of the nine key respondents:

- North West Power & Conservation Council (EXHIBIT #15);
- Montana Public Service Commission - majority opinion (EXHIBIT #16);
- Montana Public Service Commission - minority opinion (EXHIBIT #17);
- Montana Energy State Office (EXHIBIT #18);
- NorthWestern Energy (EXHIBIT #19);
- Bonneville Power Administration (EXHIBIT #20);
- Montana Environmental Information Center (EXHIBIT #21);
- Large Customers (EXHIBIT #22); and
- Montana Petroleum Association (EXHIBIT #23).

- 01:24:07 REP. MATTHEWS said after considering the information, he has a growing concern that moving forward on establishing a planning and coordinating entity may not be the appropriate course of action.
- 01:24:57 REP. OLSON agreed with REP. MATTHEWS, saying that there were good intentions behind bringing this issue forward, but that after reading the surveys and having discussions with interested parties, it would be best to step back and rethink the issue. He suggested pursuing an alternative approach of creating a transmission infrastructure authority, which would facilitate and coordinate transmission needs, work on transmission assessments, and work with neighboring states and with the various entities involved in trying to promote energy development projects in Montana. REP. OLSON said that many surrounding states have already implemented this model successfully and that he would like Montana to consider it. He said it would be important to involve federal and state agencies and the surrounding states in implementing such a model.
- 01:28:30 SEN. ESSMANN commented that there is interest in creating an information clearinghouse and that the PNWER initiatives, as discussed by Mr. Parekh, would likely fulfill part of the role of a clearinghouse entity for planning purposes. He said that there is a need for an ongoing analysis of the needs of transmission and that there are still issues within the state that must be considered. REP. ESSMANN said he supported REP. OLSON's recommendation to create a transmission infrastructure authority.
- 01:30:56 SEN. LIND asked REP. OLSON if he planned to pursue his suggestion for creating a transmission authority infrastructure through the Energy and Telecommunications Interim Committee or through another means. REP. OLSON said it is his intention to work through the Committee with public participation.
- 01:32:11 REP. MATTHEWS commented that the PNWER organization has proven to be a valuable resource many times over the years and that Montana should seriously consider paying dues.

- 01:33:16 REP. OLSON **moved** to proceed through the Committee with a Committee bill to set up a transmission infrastructure authority in place of SJR 39. SEN. LIND asked what the process would be for crafting legislation for such a bill. REP. OLSON said he envisioned using draft legislation from the 2005 session but using additional information obtained from Texas, Minnesota, and South Dakota. He said the bill would be drafted as a Committee bill to present to the 2007 Legislature. SEN. LIND asked if the bill draft would include a funding proposal to provide state funds directly or indirectly for the siting, permitting, and construction of a transmission facility. REP. OLSON said the 2005 bill draft contained a bonding segment that was amended out. He noted that other states do have this provision. He said that the final version of the 2005 transmission infrastructure authority bill included a statutory appropriation of \$300,000 for staffing and other expenses and was administratively attached to the Department of Commerce. Under this bill draft, the transmission infrastructure authority's duties would be to facilitate and coordinate transmission infrastructure needs within the state, to work with other states, to work with other entities, state agencies. REP. OLSON recommended that the transmission infrastructure authority be administratively attached to the Department of Environmental Quality.
- 01:37:20 SEN. ROUSH asked that the bill be drafted and be discussed at the next ETIC meeting in April. REP. OLSON agreed. Mr. Everts said he could have a bill draft prepared for the next meeting. He said that he would research transmission infrastructure authorities in other states and present a menu of options. Once the Committee has chosen the elements it wishes to have in the bill draft, he will draft the bill based on those choices.
- 01:39:05 REP. OLSON said he would provide information to Mr. Everts and Mr. Barrs in time to draft the bill and that the information would also be provided to all of the Committee members, so that everyone could participate in the drafting of the bill.
- 01:40:06 REP. MATTHEWS said the Governor has appointed Evan Barrett to the PNWER group and that PNWER would be a big part of the issue. He suggested including Mr. Barrett in the drafting process in order to eliminate potential problems. SEN. ROUSH supported the suggestion. REP. DRISCOLL asked for copies of the amended version of the 2005 bill for review. Mr. Everts said he would provide copies to the members. SEN. ROUSH asked that comments or ideas be provided to Mr. Everts and Mr. Barrs as soon as possible. He said that public input would be taken also.
- 01:42:47 REP. OLSON said the primary reason for his motion was to make the creation of a transmission infrastructure authority a part of the Committee's work plan and that it must be voted on in order to make it a part of the work plan. SEN. LIND requested that the 2005 amended bill draft be given to him electronically. Mr. Barrs asked for clarification on if the public comment period was to occur before or after the April meeting. SEN. ROUSH suggested allowing comment before the April meeting. Mr. Everts said that typically a legislative interim committee will not finalize its bill drafts until its last meeting, usually in the September before the upcoming legislative session. This allows for ample public comment and time for changes, if needed. **REP. OLSON restated his motion to craft a bill draft for**

the Committee action addressing the Montana transmission infrastructure authority.

01:45:10 REP. OLSON's **motion passed on a unanimous voice vote.** REP. KLOCK ([ATTACHMENT #4](#)) and SEN. LEWIS ([ATTACHMENT #5](#)) voted yes by proxy vote, as given to REP. OLSON.

PUBLIC COMMENT

01:46:05 **Doug Hardy, Manager of Park Electric Cooperative and representative of MECA,** referred to the issue of distributed generation as discussed earlier by the Committee. He commented on SEN. ESSMAN's suggestion to involve electrical cooperatives in the research of distributed generation. He said that, should the Committee decide to fund research to work with the IBW and MSU on ways to interconnect distributed generation in the most cost effective way, his cooperative would be willing to serve as part of the research. They are in an interconnect with a couple of distributed generators right now and have been for years. Mr. Hardy said that there may be a couple of other cooperatives that also would participate in the research and if so, thought it would not change the economies of scale of the research because a lot of it would be fixed costs. He didn't think that such a small project would result in great economic benefit and cautioned the Committee not to be overly hopeful. He suggested that in discussion of including the cooperatives, the Committee take into consideration the size of the distributed generation project. If the Committee is considering large wind farms, it doesn't matter if it is in cooperative country or investor-owned country because either way, it will have to be hooked into transmission, which presents different obstacles than hooking into small distributed generation. Distributed generation is really two separate issues, when looking at either a very small project at a service site or more meaningful generation that would interconnect on a grid on a larger scale.

01:48:09 SEN. ESSMANN said the Committee has directed Mr. Barrs to research other states' models on distributed generation and would not make a motion to move ahead with his idea of involving a cooperative until Mr. Barrs had completed his research.

01:48:55 **Candace Payne, Southern Montana Electric Generation and Transmission,** said that progress is being made:

- SME is working toward a complete application followed by issuance by the DEQ of a preliminary determination in conjunction with the draft EIS;
- the EIS contractor has completed the initial analysis of the alternative study by SME for fulfilling the future needs of its members;
- the final report on the biological impacts has been submitted to the EIS contractor and is being assessed;
- the cultural resources report has been completed;
- the noise report has been completed;
- the draft EIS is scheduled to be issued for public review on February 28, 2006, but is subject to completion of review and drafting of the EIS sections previously mentioned;

- the air quality permit application is in progress and should be completed soon;
- mercury emissions negotiations with the MEIC are ongoing and while challenges have been encountered, work will continue;
- a solid waste management plan is in progress, even though there is no legal requirement to provide one; and
- SME's contract for prospective bidders for boiler was approved and can be sent out.

TAPE 5 - SIDE A

01:54:44 **Don Quander, Holland and Hart Law Firm**, said that the Montana-Alberta Tie Line (MATL) has filed for a major facility siting application. He said his clients would like to express appreciation for the cooperation received to date from the DEQ and the DOE.

INSTRUCTIONS TO STAFF AND ADJOURN

01:58:03 SEN. ROUSH asked for member comment on SJR 36 to direct staff. SEN. ESSMANN said, based upon the information in the draft report, the technical issues are the first threshold that must be passed.

01:59:38 Mr. Barrs said that he would integrate all of the member's requests into his research and would follow up with a mailing to make certain that all are in agreement of the path of the study.

02:01:03 SEN. ROUSH said the gas-fed electric generator at Basin is online and that he would like a report made to the Committee at the April meeting. He said he would also like an update on the Centennial plant in Hardin.

02:02:35 **Gary Forrester, MDU Resources**, today is the starting date for coal delivery to the Centennial Power plant. The plant will come online with natural gas and slowly convert to coal. It will reach full capacity at approximately 125 megawatts.

02:04:13 REP. OLSON asked Mr. Forrester to report at the next meeting of the ETIC. Mr. Forrester said a representative of Centennial Power would report to the Committee at the April meeting.

02:05:33 SEN. LIND said he was curious about the transmission issues related to this plant. He asked if there were any problems moving power from Hardin to BC Hydro. Mr. Forrester said that would be addressed in the April presentation.

02:06:19 **Alan Davis, representing Powerex**, said Powerex is marketing the power out of the Hardin plant. He said Powerex is able to trade around the transmission issues in Montana because of its resource base.

02:07:03 REP. OLSON said he has heard a lot of discussion recently about the energy issues related to NWE. NWE is forced to go to the markets to buy power for its customers. REP. OLSON **moved** to draft a committee bill for the Committee's

review to allow NWE to own, lease, or acquire generation assets in order to make it a vertically integrated utility. He said he would like use the 2005 bill as the basis and said there is more support for the bill now than there was in 2005. **REP. OLSON's motion passed on a voice vote**, with REP. KLOCK and SEN. LEWIS voting yes by proxy to REP. OLSON.

02:10:48 Mr. Barrs said the April meeting might be an opportune time to meet with the Canadian consulate in Denver. He said he would coordinate a meeting if the Committee wished to pursue it. SEN. ROUSH said he would like to extend an invitation to the Governor and his staff to attend also. He said there are MLAs from Alberta who also might like to meet with the ETIC.

02:14:48 REP, MATTHEWS suggested to Mr., Barrs that he contact Mark Bisom in the Department of Commerce for contact information for the MLAs.

ADJOURNMENT

02:16:28 With no further business before it, the Energy and Telecommunications Interim Committee was adjourned at 3:35 p.m. The next meeting is scheduled for April 20 and 21, 2006 in Helena.

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