



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

## Energy and Telecommunications Interim Committee

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### 62nd Montana Legislature

#### SENATE MEMBERS

ALAN OLSON--Chair  
VERDELL JACKSON  
JIM KEANE  
CLIFF LARSEN

#### HOUSE MEMBERS

TONY BELCOURT--Vice Chair  
ROBYN DRISCOLL  
HARRY KLOCK  
AUSTIN KNUDSEN

#### COMMITTEE STAFF

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

June 29, 2012

**TO:** Energy and Telecommunications Interim Committee (ETIC)

**FR:** ETIC staff

**RE:** Rural Electric Draft Legislation (LCet01)

At the May meeting, ETIC members directed staff to work with rural electric cooperative stakeholders on revisions to draft legislation and post that legislation for public comment. The draft includes a number of proposed, new regulations for generation and transmission cooperatives and distribution cooperatives. Attached is the public comment received on the draft. The draft bill was out for public comment for the month of June.

A request for comment was posted on the ETIC Listserv and notice was also sent out on Newslinks. The ETIC received limited public comment. The comments received are attached.

Additional comment may come in after the mailing deadline. Staff will include any additional comments received in your July meeting folders.

Sonja Nowakowski

CI0429 2180slxe.

**Written Comments  
Of the Montana Electric Cooperatives' Association  
LCet01**

Montana Electric Cooperatives' Association, which represents 24 electric distribution cooperatives and three generation and transmission cooperatives (G & Ts) serving more than 400,000 Montanans, supports LCet01 as drafted.

This draft legislation was thoroughly vetted among our member cooperatives and received overwhelming support in a vote of our association's board of directors on June 1, 2012.

In essence, this bill codifies in state statute many provisions that already have been voluntarily endorsed by all electric distribution cooperatives that are members of MECA. In addition, where feasible given the timing on development of this legislation, two of the four generation and transmission cooperatives in Montana have at their respective annual meetings this year voluntarily adopted accountability standards that generally mirror this draft bill. The board of directors of a third G & T has recommended it to its membership for adoption at its next annual meeting in March, 2013. In addition, all the boards of directors of the distribution co-op members of the fourth G & T (Southern Montana Electric Generation and Transmission Cooperative) have recommended their G & T, whether Southern or a different wholesale power cooperative they may join in the future, adopt the standards.

MECA supports this legislation because it epitomizes the second cooperative principle of democratic member control. Although no legislation can be written to prevent any and all problems from occurring, we believe this proposal is a serious effort in that direction.

In our view, this legislation provides a meaningful and effective means by which retail electric distribution cooperatives, which are members of G & T cooperatives, can be assured of a stronger voice in major decisions by the G & T. These are decisions that directly affect member-owners of local distribution cooperatives. The bill specifically requires that these major decisions, which are defined in the bill, must receive the approval of 2/3 of a majority of the individual member distribution cooperative boards of directors before the proposed energy contract or energy project can move forward.

Moreover, the bill provides greater assurance that individual member distribution cooperative boards of directors will have access to information vital to voting on major power contract or generation development investments of the G&T. This information must be provided prior to the required 2/3 vote. The information specifically includes access to vital load forecasting information, summaries of which will also be made available to individual distribution co-op members. The bill further provides opportunity for independent financial studies of rate impacts and projected costs of similar energy contract or energy projects and requires these studies to be considered by the G & T board prior to the 2/3 vote. Member distribution cooperatives may request those studies.

Finally, we are pleased that the bill helps ensure that individual electric cooperative boards of directors will have authority, subject to provisions in existing law, in deciding who represents their co-op on the G & T's board of directors and that trustees and managers from these distribution co-ops can attend all G & T board meetings with the opportunity for full participation by distribution co-op trustees.

## Nowakowski, Sonja

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**From:** Arleen Boyd [arleenboyd@montana.net]  
**Sent:** Friday, June 01, 2012 11:35 AM  
**To:** Nowakowski, Sonja  
**Cc:** robertsystop@aol.com; pathoffman@vcn.com; david peterson; Dan Dutton; Dick Nolan; Laurie Beers  
**Subject:** Re: ETIC -- Rural Electric Cooperatives

Thank you Sonja. The unanimous vote was to send the revised language to the MECA legislative committee. As a member of the negotiating group I voted yes to send the language to the voting MECA Legislative Committee despite my recognition and statement that the original language from your committee requiring unanimous approval of generation commitments by G&T member systems would protect Beartooth going forward into a reorganized Southern while the proposed 2/3 requirement would not. The one negative vote in the MECA Legislative Committee session was Beartooth, which did not recommend approval of "the revised bill that is attached" for that reason. There are many good provisions in the bill.

Arleen Boyd

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**From:** "Nowakowski, Sonja" <[snowakowski@mt.gov](mailto:snowakowski@mt.gov)>  
**Date:** Friday, June 1, 2012 11:15 AM  
**To:** Terry Holzer <[tholzer@yvec.com](mailto:tholzer@yvec.com)>, Scott Sweeney <[fergusmgr@ferguselectric.coop](mailto:fergusmgr@ferguselectric.coop)>, Arleen Boyd <[arleenboyd@montana.net](mailto:arleenboyd@montana.net)>, David Kelsey <[dave\\_kelsey2@hotmail.com](mailto:dave_kelsey2@hotmail.com)>, "[treco@rangeweb.net](mailto:treco@rangeweb.net)" <[treco@rangeweb.net](mailto:treco@rangeweb.net)>  
**Subject:** ETIC -- Rural Electric Cooperatives

Greetings,

It is my understanding that Southern distribution co-ops unanimously recommended to the MECA Legislative Committee approval of the revised bill draft that is attached. The MECA Legislative Committee and MECA Board met Friday and the bill was again approved, with one dissent.

With that, the bill will go out for public comment. Here is a copy of the notice that I will post:

The Energy and Telecommunications Interim Committee of the Montana Legislature is seeking public comment through June 29 on draft legislation in response to questions raised about rural electric cooperatives related to transparency, organization, and decision-making processes.

Questions about the regulation of rural electric cooperatives in Montana were brought to the committee following Southern Montana Electric Generation and Transmission's October 2011 decision to file Chapter 11 bankruptcy. The ETIC instructed staff to work with rural electric cooperatives to fine-tune proposed legislation and to post the legislation for public comment in advance of a July meeting.

The draft legislation is now available on the ETIC Web site at [www.leg.mt.gov/etic](http://www.leg.mt.gov/etic). Click on the link to the July 16-17 meeting to read the document, which is title "LCet01".

The ETIC will meet July 16-17 in Billings to review and discuss the public comments it receives and to consider whether to revise the legislation and bring it before the 2013 Legislature.

Public comments should be submitted to Sonja Nowakowski, ETIC staff, at [snowakowski@mt.gov](mailto:snowakowski@mt.gov) (put rural electric in the subject line) or to Legislative Services Division, Attn. Sonja Nowakowski, P.O. Box 201704, Helena, MT 59620-1704.

For more information, contact Sonja Nowakowski at 406-444-3078.

## Nowakowski, Sonja

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**From:** Scott Sweeney [fergusmgr@ferguselectric.coop]  
**Sent:** Friday, June 01, 2012 11:42 AM  
**To:** Nowakowski, Sonja  
**Subject:** RE: ETIC -- Rural Electric Cooperatives

Sonja,

Fergus Electric is very satisfied with the bill that MECA approved this morning. Thank you for working closely with MECA and thank Alan Olson for his support to the co-ops.

Sincerely,  
Scott Sweeney

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**From:** Nowakowski, Sonja [<mailto:snowakowski@mt.gov>]  
**Sent:** Friday, June 01, 2012 11:15 AM  
**To:** 'Terry Holzer'; 'Scott Sweeney'; 'arleen boyd'; 'dave\_kelsey2@hotmail.com'; 'treco@rangeweb.net'  
**Subject:** ETIC -- Rural Electric Cooperatives

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For more information, contact Sonja Nowakowski at 406-444-3078.

## Nowakowski, Sonja

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**From:** CHERYL HOVLAND [montanamamap@msn.com]  
**Sent:** Tuesday, June 05, 2012 11:16 AM  
**To:** Nowakowski, Sonja  
**Subject:** Rural Electric

Recently MECA submitted proposed language to the ETIC. While agreeing with much in the proposal, BEC voted against it contending that the document needs to include a clause, omitted from the final draft, that would allow cooperatives who belong to a G&T to opt out of major energy projects that are not in the best interests of BEC members. In the absence of this clause, BEC could be forced in the future to again participate in a project like Southern's Highwood generation plant.

Please include language that protects members from bad decisions such as the Highwood mess by including this very important clause (opting out) in the language.

--Cheryl Hovland

## Nowakowski, Sonja

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**From:** Rick Higgins [rickhigg@gmail.com]  
**Sent:** Thursday, June 14, 2012 7:34 AM  
**To:** Nowakowski, Sonja  
**Subject:** rural electric

Sonya,

I am a Beartooth Electric Coop member and customer. After reviewing the proposed LCet01 draft legislation on the ECTIC web site, I would suggest a change in wording in Sec. 2, 35-18-318, paragraph 1. The sentence that reads "...operation of a nuclear power generating facility", should be changed to delete the word "nuclear" and replace with "any".

Thank you.

Rick Higgins