



## Energy and Telecommunications Interim Committee

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### 60th Montana Legislature

#### SENATE MEMBERS

JERRY BLACK  
VERDELL JACKSON  
GREG LIND  
DON RYAN

#### HOUSE MEMBERS

DUANE ANKNEY  
ROBYN DRISCOLL  
HARRY KLOCK  
BRADY WISEMAN

#### COMMITTEE STAFF

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

# MINUTES

July 10, 2007

Room 102, 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.**

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#### **COMMITTEE MEMBERS PRESENT**

SEN. JERRY BLACK  
SEN. VERDELL JACKSON  
SEN. GREG LIND  
SEN. DON RYAN

REP. DUANE ANKNEY  
REP. ROBYN DRISCOLL  
REP. HARRY KLOCK  
REP. BRADY WISEMAN

#### **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 Telecommunications Interim Committee:

- elected REP. KLOCK as Presiding Officer;
- elected SEN. LIND as Vice Presiding Officer;
- approved the work plan on a consensus basis; and
- approved the ETIC work plan calendar, as amended.

TAPE 1 - SIDE A

## CALL TO ORDER AND ROLL CALL

00:00:42 SEN. LIND called the first meeting of the 2007-08 Energy and Telecommunications Interim Committee (ETIC) to order at 8:37 a.m. The secretary took visual roll, all members were present (ATTACHMENT #3).

## ADMINISTRATIVE MATTERS

00:03:35 **Staff Introductions.** Sonja Nowakowski, Research Analyst, Legislative Services Division (LSD), Todd Everts, Staff Attorney, Legislative Environmental Policy Office (LEPO), and Dawn Field, Legislative Secretary, LSD, introduced themselves as staff to the 2007-08 Energy and Telecommunications Interim Committee.

**ETIC Budget Overview.** Ms. Nowakowski discussed the ETIC 2007-08 budget of \$28,000, including an overview of travel allowances for out of town meetings and compensation of expenses for legislators. She noted that the committee has the option of requesting additional funding from Legislative Council if it feels the budget is not going to be sufficient but reminded the Committee that all committees have the ability to ask for additional funds, which are allocated on a "first come, first served" basis.

**Purpose of the ETIC & Statutory Duties.** Ms. Nowakowski referred the Committee to Page 10 of the Draft Work Plan ([EXHIBIT #1](#)) and read the statutory requirements for the committee.

**Todd Everts, Staff Attorney, Legislative Environmental Policy Office (LEPO)** explained a memo outlining ETIC's authority regarding administrative rule review ([EXHIBIT #2](#)). He said that ETIC has oversight of the Department of Public Service Regulation (DPSR) and of the Public Service Commission (PSC) and that past committees have taken an active role in oversight duties. Mr. Everts reviewed a flowchart of the rule making process ([EXHIBIT #3](#)).

Ms. Nowakowski said that ETIC is also responsible for reviewing the annual summary report of Universal Systems Benefits (USB) program and that the issue will likely be on the September agenda. She noted that the current USB rates are due to expire on December 31, 2009, which ETIC may want to take into consideration when discussing its work plan.

**Legislative Guidelines for Interim Committees.** Ms. Nowakowski said that members had been provided copies of *RULES, PROCEDURES, AND GUIDELINES FOR INTERIM COMMITTEES* in a previous mailing. She discussed the requirements for holding public meetings, such as adequate public notice and allowing for public comment; and certain administrative issues relating to legislative interim committees.

**Member Responsibilities and Role.** Ms. Nowakowski said it is important that the committee members read the materials sent to them prior to a meeting in order to be prepared to discuss and deal with the issues. She asked that the members communicate with her any special requests or suggestions on how she could best assist the committee in its work.

**Staff Responsibilities and Role.** Ms. Nowakowski said that her mission, as staff, is to assist the Committee in achieving its goals and to provide the best information possible to the Committee. She said that ETIC staff will serve as an impartial and nonpolitical source of information, not only to the Committee members, but to all legislators and citizens of Montana. Ms. Nowakowski's responsibilities will include researching and writing reports, organizing and monitoring public meetings, drafting proposed legislation, organizing studies by the legislature and ETIC, arranging meetings, writing and distributing informational materials, drafting bills, and staffing session committees.

#### **ELECTION OF ETIC CHAIR AND VICE CHAIR**

00:14:08 SEN. LIND asked for nominations for Chair. SEN. RYAN nominated REP. KLOCK to serve as Chair. SEN. RYAN **moved** that nominations be closed. REP. KLOCK was elected as Chair of ETIC on a **unanimous voice vote**. REP. DRISCOLL nominated SEN. LIND for Vice Chair. SEN. RYAN **moved** to close nominations. SEN. LIND was elected Vice Chair on a **unanimous voice vote**.

#### **INTRODUCTION AND REVIEW OF INTERIM WORK PLAN OPTIONS**

00:15:50 Ms. Nowakowski explained the purpose of the Draft Work Plan (**EXHIBIT #1**) and how it will be implemented over the interim. She reviewed study topics typically studied by ETIC, how work can be divided up, and available resources. She said that the committee will have to make decisions regarding how the Committee wishes to allocate its resources and time. She also reviewed topics of interest submitted to her by Committee members. Ms. Nowakowski referred members to the Work Plan Matrix (**EXHIBIT #4**) and reviewed the background, framework, and study options for each study topic listed in the matrix.

#### **Committee Discussion and Review of Work Plan Elements**

**Study carbon sequestration.** (Work Plan Decision Matrix, Page 1, **EXHIBIT #4**) REP. KLOCK said there is significant interest in this subject area and urged committee study of it. SEN. LIND said he supported it as a prominent area of committee work and agreed that there is substantial interest in it. SEN. BLACK also agreed.

TAPE 1 - SIDE B

SEN. RYAN asked that the Environmental Quality Council (EQC) be consulted on what it is studying to make sure that duplication of efforts is avoided. He said

that ETIC must be judicious in how it allocates its time and staff's time, especially if other issues of interest to the Committee are included in the work plan, such as coal bed methane.

SEN. LIND asked to discuss the possibility of holding an out-of-town meeting. Ms. Nowakowski said that a two-day, out-of-town meeting to Colstrip, for example, would cost approximately \$5,000 and that the Committee would likely have to ask Legislative Council for additional funding to cover the cost. SEN. LIND said that he would like to see Colstrip and that if the trip is efficiently planned, it could include other study areas, such as a coal bed methane tour. SEN. BLACK and REP. KLOCK also supported the idea of an out-of-town meeting. REP. ANKNEY said that, as a ETIC member and resident of Colstrip, he would welcome members and staff. SEN. BLACK asked for member discussion on how best to allocate time and resources in order to accommodate an out-of-town meeting. Ms. Nowakowski suggested that the Committee discuss all study topics before making a decision. She said she would work with other committee staff to ensure that efforts would not be duplicated.

**Study costs/savings of wind power development.** (Work Plan Decision Matrix, Page 1, **EXHIBIT #4**). SEN. RYAN said he supports this as a study topic because of the need to have a realistic idea of the short term and long term cost effectiveness of wind energy.

SEN. JACKSON said it is important that the Committee leave time open to study new energy technology being developed such as hydrogen injection into ethanol and a planned ethanol plant that will produce ethanol from raw sewage. He agreed with SEN. RYAN's remarks about finding out the cost effectiveness of wind energy production.

SEN. LIND said he would like presentations made regarding these types of issues and on other ongoing issues in Montana, such as an update on the 9-1-1 legislation passed in the 2007 session. He said the cost and economics of producing Montana coal and examining the demand side management of the power grid in order to avoid building new generation are topics of interest to him.

**Evaluate Montana transmission systems.** (Work Plan Matrix, Page 2, **EXHIBIT #4**) Ms. Nowakowski referred members to *TRANSMISSION IN MONTANA* (**EXHIBIT #5**) for the history of and additional information regarding transmission. Ms. Nowakowski also reported on the *Energy Infrastructure Promotion and Development Division*, created in the Department of Commerce through an appropriation in HB 2 (2007 Special Session). She said the program closely mirrors HB 114 introduced in the 2007 session, which would have established a Montana transmission and pipeline authority. Ms. Nowakowski said Marty Tuttle from the Department would present an overview of the program later in the meeting.

REP. WISEMAN asked if the previous ETIC created a work product on transmission. Ms. Nowakowski said the summary notes and reports prepared by Casey Barrs, who last staffed ETIC, were available.

SEN. RYAN asked why HB 114 was tabled and what the problem was. SEN. LIND said the main concerns were the \$250,000 fiscal note and problems that have surfaced with Wyoming's transmission authority. SEN. LIND said he thought it was a bit premature for Montana to establish such an authority at this point.

TAPE 2 - SIDE A

**Evaluate Public Power in Montana.** (Work Plan Matrix, Page 2, [EXHIBIT #4](#)) SEN. RYAN said that Montana provides all of the resources used to generate power but that most of the power and profit is then shipped out of state. He said that he would like to consider establishing laws that would give Montana control over its resources. He said other states are doing this and that there may be more stability in Montana if it has more control over those resources used to generate power. REP. WISEMAN strongly supported that idea and said he disagrees with the point of view that governments can't run power companies. He said there is a publicly-owned power in Montana, known as electric cooperatives. REP. WISEMAN said his constituents don't need to be contributing to big power company profits and he would like discussion on how to get ownership and control into the hands of Montanans.

**Water Requirements for Coal Gasification and Liquefaction.** (Work Plan Matrix, Page 2, [EXHIBIT #4](#)) Ms. Nowakowski said EQC and the newly created Water Quality Interim Committee would likely take on water quality issues but that there are some overlap with ETIC. Staff from those committees could report to ETIC, if so desired by ETIC.

REP. WISEMAN said that he brought this issue forward because there has been much talk about and several proposals for coal gasification projects. He said the crucial element of how much water will be required for this process has been missing from the discussions. He said that he is not as concerned about the sources of water as he is about how much water it will take to actually operate one of these plants. Sound public policy cannot be formed until all of the facts are available and such projects should not be pursued until these facts are known. REP. WISEMAN asked if staff could research and prepare a report on water requirements for coal gasification.

SEN. JACKSON said that there is a coal gasification plant in North Dakota that could be used as a source of information. He agreed that water availability is an important issue and that groups such as the Clark Fork Task Force are trying to establish an estimate of what the future water needs of the State may be. This is a statewide concern and a long range plan is needed. REP. JACKSON said he would pass ETIC's concerns and discussion on to the work group.

REP. ANKNEY said he has a very positive outlook about coal gasification and that a plant for Montana is a realistic goal. He also agreed that water is a very important consideration but that other benefits should also be considered. REP. ANKNEY said there is only one closed water basin in eastern Montana, so water quantity may not be as critical an issue as thought.

REP. KLOCK said he was recently approached by two gentlemen who want to use coal to firm up wind power. He said he would like to have these men give a presentation to ETIC on their proposal. REP. KLOCK said that Canada, Mexico, and Brussels have built the types of plants suggested by these men and that it would be worth the Committee's time to investigate.

SEN. LIND spoke in support of REP. WISEMAN's request to study the water quantity/quality issue. SEN. RYAN said that all suggestions have been very thoughtful ideas but asked that identifying the cost effectiveness be included in all research. SEN. LIND agreed that all work should reflect economic benefits such as tax revenues and number of jobs created, as well as the financial and environmental costs.

SEN. JACKSON said that Montana does not follow good conservation practices and is not providing incentives to its citizens to practice conservation. He gave an example of a person interested in recycling different types of use oils and said that those types of programs should be eligible for a tax credit. He said that many items such as computers, wood products, building materials, and glass can be recycled but that Montana does not offer incentives to do so. SEN. RYAN said that recycling has to become a focus point in Montana. He said that USB funds may be utilized more efficiently as part of a recycling effort.

Ms. Nowakowski said she would contact EQC to see if it plans to pursue this topic to make sure that duplication does not occur.

**Telecommunication Panel Discussion.** (Work Plan Matrix, Page 3, [EXHIBIT #4](#))

REP. WISEMAN said he has found that few legislators understand the State of Montana's communication network. He said if legislators gain an understanding of this network, it could benefit taxpayers and ease future expansion efforts. The panel discussion would include what the network is, where it goes, where it comes from, and what the future outlook for the network is. REP. KLOCK agreed that a panel discussion would be beneficial.

**Any Additional Topics at Committee Discretion.** Ms. Nowakowski asked for additional topics of interest to the Committee. SEN. RYAN said telecommunication issues also relate to long distance education and perhaps the Education and Local Government Interim Committee would be interested in participating in the panel.

TAPE 2 - SIDE B

SEN. JACKSON said a paperless legislature is of interest to him and suggested that ETIC members take the lead in going paperless. He asked if there is interest in studying if the Montana Legislature could go paperless for the 2009 session. REP. KLOCK said that several legislators did go paperless in the 2007 session. Mr. Everts said LSD has looked at this issue and would provide ETIC with a report prepared by LSD. SEN. JACKSON asked if the report includes a cost savings analysis. Mr. Everts didn't recall but said that he would find out.

01:48:30

SEN. BLACK gave an update on the Montana Alberta Tie Line (MATL). He said that there has been a set back in the development and construction plans

because the U. S. Department of Energy is now requiring a full-blown Environmental Impact Study. This will delay the project up to one year and may prove to be a deal breaker. This is a discouraging turn of events for energy development in Montana, he said.

SEN. BLACK discussed Pick-Sloan power (power that was promised by the federal government to irrigators who lost land when the dams were put in years ago). The irrigation projects were not developed as planned and the Pick-Sloan power was reallocated. Most of the rural electric cooperatives use Pick-Sloan power, which is very beneficial to Montana consumers, but currently, there are several irrigation projects in Montana that could really benefit from the use of the Pick-Sloan power. He said he would provide more information on this issue.

**ETIC statutory duties.** (Work Plan Matrix, Pages 2 and 3, [EXHIBIT #4](#)). Ms. Nowakowski reminded the Committee that USBP benefits are due to sunset in December 2009 and asked if the Committee would like to dedicate any time to this issue. SEN. LIND expressed interest in pursuing this topic.

**Revise ETIC Publications.** (Work Plan Matrix, Page 3, [EXHIBIT #4](#)) Ms. Nowakowski said in the past, EQC has handled publications of the listed documents but that ETIC may wish to update, considering the changes that have occurred in Montana such as reregulation.

SEN. LIND said he would like the Committee Chair to establish a policy for proxy voting and asked that any testimony submitted to the Committee include a name and the submission date. He said that having that information makes it easier for the committee members to do followup or research a topic further.

REP. KLOCK asked for discussion on proxy votes. REP. DRISCOLL said the last committee allowed proxy voting. REP. KLOCK said he did not object to the use of proxy voting and instructed members to inform staff of who would hold his or her proxy. He agreed that having identifying information on testimony would be helpful. Regarding proxy voting, Mr. Everts stated that Senate Rules state that proxy voting is allowed if a standard proxy form is used and that a standard form could be provided to members.

#### **Public Comment on Work Plan**

02:03:54

**Greg Groepper, Energy Share of Montana**, explained the purpose of his nonprofit organization, which is to provide financial assistance to those having difficulty paying their power bills, and that the organization also works on energy conservation issues. He discussed a new program that will assist Montana senior citizens in the replacement of old and inefficient water heaters and refrigerators. Regarding the USB issue, Mr. Groepper said he has been involved in this issue for many years and is familiar with the problems associated with USB. He urged the Committee to draft a bill that would eliminate the sunset provision for electric USB and that his organization is willing to assist the Committee in whatever way is needed.



REP. DRISCOLL said she would like to see Energy Share focus more on conservation efforts. Mr. Groepper said that Energy Share has recently branched out into weatherization efforts and is working to create a funding source that would provide more than one-time emergency assistance to people.

**John Fitzpatrick, NorthWestern Energy (NWE)**, said that a wind study should also include the operational aspects of wind power because that is what drives the costs. He said that NWE has resources available to assist the Committee, if needed. Mr. Fitzpatrick also commented on SEN. RYAN's proposal to resurrect public power, saying that this is not the first time this has been brought up. Each time it has been proposed, it has been rejected either by the voters, the Legislature, or NWE; and that the ETIC should devote its time to more pressing issues. Mr. Fitzpatrick said that if the ETIC is genuinely interested in providing stable power, it should allow NWE to go about its business. The constant sales attempts and attempts to make it public power force NWE to spend millions of dollars dealing with those issues, when it could be spending that money on infrastructure in the State of Montana.

SEN. LIND disagreed with Mr. Fitzpatrick's representation, saying that the proposals referred to by Mr. Fitzpatrick were "willing seller, willing buyer" propositions that, in the event the utility doesn't get its act together, would provide an option for reliable, affordable power for Montanans.

TAPE 3 - SIDE A

**Doug Hardy, Montana Electric Cooperatives Association (MECA)**, said that his organization is willing to use its expertise and resources to assist the ETIC. SEN. RYAN asked Mr. Hardy if MECA could provide information on the cost of carbon sequestration and other projects being worked on by the cooperatives, in order to see how or if rates are being affected. Mr. Hardy said he would provide whatever information MECA has available.

SEN. LIND asked that any cost estimates include a reasonable comparison of the costs of sequestration with a national carbon tax, for example. Mr. Hardy said that the idea that the technology exists to capture carbon is a misnomer at this point, so it will be difficult to provide specific costs.

**Leo Berry, Great Northern Power Development**, said that the water concerns talked about in the coal gasification study discussion could be combined with the carbon sequestration study quite easily. He said that information on coal gasification plants in Germany and North Dakota would provide a good deal of the missing information. He suggested that industry experts provide a presentation to the Committee, rather using Committee staff time and resources to gather the information.

**Tom Richmond, Administrator and Petroleum Engineer, Board of Oil and Gas**, said that a report from the Interstate Oil and Gas Compact Commission is available. The Commission plans to finalize a model statute for CO2 capture and storage in the summer of 2007. He said that a member from the Commission could report to the Committee on the model statute. Mr. Richmond also offered to facilitate a field trip to a CO2 injection site and that he may be able to arrange



for plant officials from Saskatchewan or North Dakota to appear before ETIC. Mr. Richmond said he has discussed the underground injection control program for enhanced oil recovery with many legislators and would be happy to make a presentation and that an EPA representative could also be invited to present.

**Mark Lambrecht, Regulatory Affairs Manager, PPL Montana, Governor's Climate Change Advisory Committee member; and Big Sky Carbon Sequestration Partnership board member**, said that he is available for questioning. Mr. Lambrecht said that on behalf of PPL Montana, he would be happy to arrange a plant tour in Colstrip. He said that he would also discuss the activities of the Climate Change Advisory Committee.

**Todd O'Hair, Rio Tinto Energy America**, said the Spring Creek coal mine in Decker is currently the largest producing coal mine in Montana, and that Rio Tinto is also one of the founding members of the FutureGen program. Mr. O'Hair offered his assistance to ETIC and said that Rio Tinto has a great deal of information available on carbon sequestration and capture.

SEN. RYAN asked that all of those who gave public comment to provide their contact information to ETIC staff.

#### **Committee Discussion on Work Plan and Meeting Dates**

REP. DRISCOLL asked to discuss the work plan timeline ([EXHIBIT #6](#)). She said that the proposed meeting date of November 15 and 16, 2007, would not work for her and asked if the meeting date could be moved to November 8 and 9. SEN. LIND said that he also had a conflict with November 15 and 16.

REP. DRISCOLL suggested that the November meeting be held in Colstrip. REP. KLOCK asked Mr. Lambrecht how long a plant tour would take. Mr. Lambrecht said that a tour could be designed to fit the Committee's needs. SEN. LIND said that he would like to include a coal bed methane tour. REP. WISEMAN said that he is not clear how a Colstrip tour is germane to ETIC's work. SEN. LIND said that the Colstrip facility is the single point source of carbon dioxide in Montana and ties directly into his interest in carbon sequestration.

Mr. Lambrecht said a November meeting date in Colstrip could present travel challenges and that the Committee may wish to consider another time to visit Colstrip.

Ms. Nowakowski asked that the Committee appoint a member to ask Legislative Council for additional funding for ETIC at the Council's September meeting. REP. KLOCK said that the Committee shouldn't commit to a Colstrip visit until it knows if funding is available but that the meeting date would be changed to November 8 and 9.

SEN. RYAN discussed items he thought could be eliminated or prioritized. He said he still supports the evaluation of public power. SEN. LIND agreed and pointed out that there is a whole spectrum of public power issues that the Committee should hear about.

**TAPE 3 - SIDE B**

SEN. RYAN said, regarding the evaluation of public power, that he liked Option C (Work Plan Matrix, Page 1, **EXHIBIT #4**). He said that it would take a minimal amount of work and would be a bipartisan approach, which would help minimize the controversial nature of this issue.

REP. KLOCK said that he thought pursuing this issue would be a duplication of efforts because the PSC is also working on this issue. SEN. LIND said that the Legislature is the policy branch of government and that these types of decisions should be made by legislators.

REP. ANKNEY said that he didn't think the issue of public power was of great interest to the citizens of Montana and that other work plan issues are of greater importance. SEN. LIND said that a Mason Dixon poll of Montana voters conducted in June of 2007, indicates otherwise. He read several of the poll questions and stated that there is public interest.

REP. WISEMAN agreed, saying that consumers' July 2007, electricity bill will show that electricity prices have doubled since PPL took over. He said that the public is helpless in this situation and that interest in getting control is increasing.

SEN. JACKSON said his top priority is Montana's transmission system. He said he hopes to have detailed legislation introduced in the 2009 session to address his transmission concerns.

SEN. LIND said he is hoping to put together two brief informational sessions on demand-side management and on the benefits and costs of Montana coal. He asked if the Committee would allow him to put together an outline and a date for a committee presentation. The Committee agreed. SEN. RYAN asked if the coal discussion could be ready in time for the November meeting in Colstrip.

Several members expressed concern that the Committee was spreading itself very thin and questioned if all of the proposed work projects could be completed. SEN. BLACK said that each time the public power issue has come up, the result has been the same and that there are other more important issues before ETIC, such as transmission.

SEN. LIND asked what SEN. BLACK hopes to achieve in studying transmission issues and if he is considering the use of state tax dollars to build, subsidize, and pay for transmission lines. He asked what the citizens of Montana, as rate payers and tax payers, would get in return for their investment. SEN. LIND said that he is interested in looking at transmission and distribution with respect to reliability but that he will have to be convinced that there is a benefit to the state stepping in to facilitate transmission lines that will then send power out of state. He asked why this isn't better suited for private interests. SEN. BLACK said that transmission is a matter for private interest and pointed out that tax incentives for the creation of transmission lines were approved during the Special Session of the 2007 Legislature. He said transmission lines are necessary to promote economic development and growth of Montana's energy resources, which create

high paying jobs and a large tax base; and that his goal is to increase employment, to develop resources, and to stabilize available energy sources. Montana is sitting on tremendous reserves and has an important role to play in the growth and development of energy projects. He said there may have to be some allowances made for Montana's future energy needs but that issue could be part of the process.

SEN. LIND said his point was that all of the variables need to be considered. He asked that anyone promoting transmission projects be prepared with information on the tax impacts and benefits, revenue benefits for both the county and state, and the long-term outlook for jobs, etc. He said if Montana is going to invest great amounts of its citizens' money, he would like to know what the return on the investment is going to be.

SEN. JACKSON said SEN. LIND's questions would be answered in the course of the study. He said he would like the Committee to gather sufficient information on this topic to formulate, at the very least, a tentative plan for transmission infrastructure.

SEN. LIND asked Ms. Nowakowski who has oversight of the Energy Infrastructure Promotion and Development Program in the Department of Commerce. Ms. Nowakowski explained that HB 2 contained a \$600,000 appropriation to create the new division and that the Economic Affairs Interim Committee has oversight of Commerce. She said that ETIC will hear a report from the program director in the afternoon portion of the meeting and that the Committee may request updates at all of its meetings.

REP. KLOCK thanked Rep. Alan Olson for attending the meeting and noted that he has served as Chair and Vice Chair of previous Energy and Telecommunications Committees, as well as Chair of the House Energy Committee in the 2007 legislative session.

In response to SEN. LIND's questions about the rate of return on investments in transmission, SEN. BLACK said he wasn't certain that could be determined. He said he is of the opinion that private industry is a better choice for building transmission because it has the expertise, background, and knowledge to do it and that the role of the State is to provide oversight. REP. BLACK said that determining what the rate of return on investing Montana's money in a public power entity would be difficult to do as well and that Montanans have made it clear that they think private ownership is still the preferable manner of providing power.

SEN. RYAN responded that none of the electric cooperatives operating in Montana have gone bankrupt and that Montanans are still paying for the bankruptcy of a private business. SEN. LIND said it is much easier to figure debt financing and cost of service if worried investors are not a part of the equation. Providing reliable and affordable electricity and servicing the debt are the main priorities of a publicly owned power entity.

REP. WISEMAN said the words "providing reliable and affordable power" are golden words for the Committee. He said that his obligation is to do what he can to make sure that his constituents have "reliable and affordable power". He said the only reason that Montana's electricity rates have remained fairly stable is because there is not enough transmission capacity to export hydro power and that if large scale transmission is built, Montanans will suddenly find themselves competing with West Coast power markets and paying a much higher retail rate for power.

## **AGENCY PRESENTATIONS**

### **Public Service Commission**

04:26:16 **Greg Jergeson, Chair, PSC**, provided an outline of his discussion topics (**EXHIBIT #7**) and explained how to access the PSC eDocument search program. **TAPE 4 - SIDE A**. He discussed current and relevant energy issues, which included:

- the unanimous decision regarding the proposed Babcock and Brown Infrastructure (BBI)/NWE transaction;
- implementation of HB 25;
- updates on Montana Dakota Utilities (MDU) and Energy West Montana (EWM);
- transmission issues; and
- natural gas.

Commissioner Jergeson updated the Committee on telecommunications issues, such as the Regional Bell Operating Company (RBOC) issues relating to Qwest Telecommunications; and Federal Communications Commission (FCC) issues relating to intercarrier compensation and USF reform.

### **TAPE 4 - SIDE B**

Commissioner Jergeson discussed several miscellaneous areas of interest, including protective orders, electronic filing and improved public access, regulation of water utilities, and transportation.

### **Committee Questions**

05:01:54 REP. ANKNEY asked if the RTO 101 is available online. Commissioner Jergeson said he didn't know but would find out.

REP. DRISCOLL asked if Commissioner Jergeson or other PSC Commissioners have looked at the Committee's Work Plan. Commissioner Jergeson said that he has not had time to look the work plan over closely but that it appears that there may be some duplication of effort. Commissioner Jergeson said that the PSC will be happy to be of assistance to ETIC, if needed, in the areas of overlap.

REP. DRISCOLL asked Commissioner Jergeson to discuss his views on public power authorities and electric cooperatives. Commissioner Jergeson said he is a big believer in cooperatives and that, historically, most cooperatives and public power authorities were created because of a lack of available utilities in a particular area. He said he is not sure that the logic used in the past to establish utilities services could still be considered valid today.

SEN. RYAN asked about the July 24, 2007, PSC meeting in which the Commissioners will decide whether or not to reopen BBI's request to purchase NWE. He asked if there is the possibility of this issue ending up in court if the request is denied again. Commissioner Jergeson said if the PSC grants the motion to reopen the case, a procedural schedule will be set up to hear the new proposal. If the motion to reopen is denied, the final order can be issued and the applicants have the option of filing a motion to reconsider. The applicants cannot initiate court action until a motion to reconsider has been filed and dealt with by the Commission. Commissioner Jergeson said he doesn't know on what grounds a motion for reconsideration would be filed but that he feels the PSC is on solid legal ground in this situation.

SEN. LIND asked, while the newly proposed rules for protective orders are being contemplated, if the PSC would consider placing the protected documents, a description, and who has requested the protective order; on its webpage so citizens know what is being protected. Commissioner Jergeson said that two versions of documents come to the PSC. One is a public document with redacted information and the other is the protected document. Information that is under protective order cannot be made public and could not be posted on the website. The redacted versions are posted on the PSC website.

**Department of Commerce Tony Priete, Director, Department of Commerce,**

05:12:59

provided an overview of the Energy Infrastructure Promotion and Development Division (EIPDD). He emphasized that the Division would work closely with other agencies in order to be successful. He said he has appointed Marty Tuttle as Administrator to the new Division. Director Priete said that Mr. Tuttle will explain the new Division further.

**Marty Tuttle, Administrator, Energy Infrastructure Promotion and Development Division, Department of Commerce,** reported that the new Division became effective on July 1, 2007 and is just 9 days old. He reviewed his professional credentials and work experience. Mr. Tuttle explained a flow chart of EIPDD structure (**EXHIBIT #8**) and reviewed the Division's goals and objectives (**EXHIBIT #9**). He said that HB 114 (energy transmission bill) was used as a template to create the Division. Mr. Tuttle reported that he is drafting position descriptions and is still in the process of hiring personnel. **TAPE 5 - SIDE A** He concluded his comments by discussing infrastructure highlights listed on page 3 of **EXHIBIT #9** and by saying that the main goal of the Division is to promote responsible development of transmission in Montana.

**Committee Questions.** SEN. LIND asked if the Montana Consumer Council (MCC) is on the Division's list of stakeholders and if MCC will be kept up to date on the Divisions's activities. Mr. Tuttle said yes. SEN. LIND asked for an explanation of how EIPDD was funded and what the future may hold for the new Division, considering the program was established using one-time-only (OTO) funding. Mr. Tuttle said that is a concern but that he plans to request that the OTO designation be removed and EIPDD be made part of the base budget and permanently funded.

SEN. LIND said that Governor Schweitzer campaigned for lobbying reforms. He asked Mr. Tuttle for assurance that the positions in EIPDD would not be filled by individuals fresh out of the industry. Mr. Tuttle said he plans to hire the best applicant for the position. SEN. LIND asked if that meant he would be recruiting from Montana industries. Mr. Tuttle said he is not recruiting anywhere specifically, that his priority is doing what is best for Montana, and that he will not do anything to put the Department's integrity at issue. SEN. LIND said that it could cause public concern if individuals from the regulated industries are hired by the Division.

REP. ANKNEY commented that the Division should not discriminate and that the qualifications of the applicants are more important than their past work experience. Referring to Commissioner Jergeson's statement that the siting application process is handled by the PSC in most other states, REP. ANKNEY asked Mr. Tuttle if he thought the PSC would be better qualified to handle this process than DEQ. Mr. Tuttle said it would be difficult for him to answer that question since he has never been through a permitting process. REP. ANKNEY asked if the permitting timeline would be more efficient and decisions made more quickly if this responsibility was turned over the PSC. Mr. Tuttle said that he could not answer that question because it was beyond his purview.

#### **ADOPTION OF WORK PLAN**

05:40:11 Ms. Nowakowski said that the Work Plan Matrix would be used to make the final decisions (**EXHIBIT #4**). She suggested using a consensus approach for each study topic and that she will track the staff resources designated for each category as decisions are made.

**Revise ETIC Publications.** SEN. RYAN said that he supported Option C. After discussion, it was decided that the *Electricity Law Handbook* would be updated, with ETIC reviewing and approving the updates. It was agreed to allocate .02 FTE for this project.

**Telcom Panel Discussion.** REP. KLOCK said that he would like to have a telecom panel discussion. REP. WISEMAN asked to have the panel focus specifically on Montana's telecom network: its outlook, capacity, use, and expansion. Ms. Nowakowski said that a panel discussion would not take staff time to set up panel but a report, if required, would take staff time. SEN. RYAN said that the possibility of legislation or a white paper being needed in the future may increase staff time, but that could be discussed later in the process. REP. WISEMAN suggested allocating .01 FTE for this portion of the work plan. The committee agreed.

REP. ANKNEY asked to discuss carbon sequestration (Page 1, **EXHIBIT #4**) and said that he supports doing Option A. SEN. RYAN said that Option A would consume a great deal of staff time and resources. He said he would like to know what EQC and the PSC have planned regarding carbon sequestration. He agreed that it is an important issue but thought it could be pared down.

SEN. BLACK and SEN. LIND agreed with SEN. RYAN's concerns about staff resources being eaten up under Option A. SEN. BLACK suggested choosing Option B but adding in a meeting in a major area (from Option A). REP. KLOCK said a September meeting in Colstrip is a possibility.

SEN. LIND asked to include an examination of severed mineral rights and who owns the storage rights. **TAPE 5 - SIDE B** SEN. LIND said that HB 24 addressed this issue but was not approved, so it is still an open question.

**Administrative Rule Review:** SEN. RYAN asked Mr. Everts to estimate the time requirements necessary to complete Options B and C. Mr. Everts said Option B would require him to monitor the rules and to write a synopsis for Committee members and wouldn't take up a great deal of time. The members could review the synopsis and take action, if warranted. Under Option C, Mr. Everts would provide copies of the rules to Committee members for them to read. SEN. LIND said that he would like to choose Option B. REP. KLOCK agreed. The Committee agreed on Option B. (.03 FTE)

**Review Utility USBP reports.** REP. WISEMAN said he supported Option B. The Committee agreed on Option B. (.05 FTE)

**Monitor PSC activities.** REP. KLOCK said he supported Option B. The Committee agreed on Option B. (.02 FTE)

**Water Requirements for Coal Gasification/liquefaction.** REP. WISEMAN asked for a definitive report on how much water is required for different processes for one ton of coal and proposed allocating two weeks of staff time (.03 FTE) for research and preparation of a report. REP. KLOCK said that expert testimony could provide that information without taking staff time. SEN. LIND said that a staff report would provide a broader perspective.

SEN. JACKSON asked REP. WISEMAN to clarify how the report would be used. REP. WISEMAN said that there has been a great deal of discussion about a massive coal development in eastern Montana. A delineating factor that has yet to be answered is how much water is available. Legislators cannot make policy without having this information. Water may be a limiting factor and before launching into these projects, this must be reviewed. REP. WISEMAN said researching the North Dakota plant would be a good starting point. The Committee agreed. The Committee agreed to Option C, with changes. (.03 FTE)

**Evaluate Montana's Energy Transmission Systems.** SEN. JACKSON supported the first two bullet points in Option B. REP. DRISCOLL recommended that ETIC allocate no time for this, saying that it is a private business matter and with the creation of the new Commerce division, would be a duplication of efforts.

SEN. RYAN disagreed, and said that ETIC should keep informed on this issue, particularly if legislation is proposed. He recommended Option C and to decrease staff time to .02 FTE. REP. ANKNEY agreed that the Committee



should keep the issue in its work plan but thought the staff allocation should be left at .05 FTE. SEN. JACKSON agreed. REP. KLOCK said that the information that SEN. JACKSON is interested in could be included in Option C. SEN. BLACK suggested allocating .03 FTE. After additional discussion and input from Ms. Nowakowski, it was agreed that .03 FTE would be allocated and that IEPDD would be asked to give regular updates to the committee.

TAPE 6 - SIDE A

**Review Agency Legislation.** With minimal discussion, the Committee agreed on Option B (.05 FTE).

**Study Costs/Savings of Wind Power Development.** SEN. RYAN said he would like to get the true cost of wind and suggested a panel discussion. The Committee agreed on Option C (.15 FTE).

**Evaluate Public Power.** SEN. RYAN supported Option C, saying that PSC reports on other states and CREBS legislation could be used as good sources of information. SEN. LIND said he wasn't certain that PSC information would answer all of his questions and that he would like to include other resources, which may take additional staff time.

REP. WISEMAN proposed, regarding the three study items on Page 1 of the Work Plan Matrix, adoption of Option B (.5 FTE) for the carbon sequestration study, of Option C (.15 FTE) for the study of wind power development costs and savings, and allocating the remaining time (.10 FTE) for the study of public power. The Committee agreed.

SEN. LIND said it is his hope that there will be a true consensus carbon sequestration bill in the 2009 Legislature. He challenged all interested parties to work together to craft a consensus bill for 2009.

#### **ADOPTION OF INTERIM ETIC CALENDAR**

06:35:35 REP. KLOCK said that the next ETIC meeting would be on September 6 and 7, 2007, in Colstrip. The November meeting will be a one-day meeting on November 8, 2007. SEN. BLACK **moved** to accept the ETIC calendar, as amended by the Committee. The **motion passed** on a unanimous voice vote. Ms. Nowakowski asked if she is to move forward with plans for a Colstrip meeting. SEN. LIND said that he would like to tour coalbed methane sites in Decker on the same trip. It was decided that the tours will take place on September 6 and the business meeting will be held on September 7. REP. KLOCK said he will work with Ms. Nowakowski as a liaison with Legislative Council on the funding issue. Ms. Nowakowski asked to quickly review the Committee's work plan decisions: .5 FTE for carbon sequestration, .15 FTE for wind power cost/savings study, .10 FTE for evaluation of public power, .03 FTE for water requirements for coal gasification and liquefaction, .03 FTE for transmission, .03 FTE for review of administrative rules. .05 FTE for review of agency legislation, .02 FTE for monitoring of PSC activity, .05 FTE for USB reports, .01 FTE for telecommunications network issues, .02 FTE for revision of ETIC publications, and scheduling of presentations on demand side management and costs and benefits of Montana coal.

## **PUBLIC COMMENT**

06:50:44 **Evan Barrett, Governor's Office of Economic Development (GOED)**, handed out an informational packet used by Governor Schweitzer to promote his energy policy and projects (**EXHIBIT #10**). Mr. Barrett reviewed maps of energy projects, the "clean and green" incentives passed in the 2007 special session, and an outline of the Governor's energy policy. Mr. Barrett said that he sees a convergence of three factors - an energy crisis, a demand for cleaner energy, and the emergence of new technologies - as avenues that will provide Montana with great opportunity. Mr. Barrett said that carbon sequestration will soon be a national requirement and encouraged ETIC to study and develop a policy to deal with it. He said that energy infrastructure is important and is why the Energy Infrastructure Promotion and Development Division was created after the transmission authority bill failed. Mr. Barrett said that it was going to be an exciting two years for energy development in Montana and that he is looking forward to working with ETIC.

TAPE 6 - SIDE B

**Gene Leuwer, Director, of Rocky Mountain Development Council**, urged the Committee to support removal of the sunset clause for the USB requirement.

## **ADJOURNMENT**

07:00:52 SEN. RYAN moved to adjourn the Committee. With no remaining business before the Committee, REP. KLOCK adjourned the meeting. The Energy and Telecommunications Interim Committee will next meet on September 6 and 7, 2007, in Colstrip.

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