Senate Energy & Telecomm.Comm
Exhibit No. 27
Date 2.15.05
Bill No. SB371

Main points of the amendment to Senator Harrington's SB371

An Act:

1. **Revising USB programs for electricity and natural gas**
2. **Removing the termination date for USB funding** ***(Cobb's SB 34 extended to 2009) (Ellingson's SB365, passed by committee, also to 2009)***
3. **Defining the term "renewable resource"**
4. **Increasing a utility's annual funding requirement for low-income energy assistance** ***(From 17% to 40% for public utilities, 30% for co-op utilities) (Cobb's SB34 was 40% for both)***
5. **Increasing a large customer's annual funding requirement for low-income energy assistance**
6. **Requiring utilities to publish a plan that describes USB programs**
7. **Requiring the public service commission to adopt rules for electric USB programs**
8. **Providing the public service commission with rulemaking authority over natural gas USB program reporting requirements**
9. **Requiring the public service commission to adopt a rate for natural gas USB programs**
10. **Requiring the department of revenue to adopt rules**
11. **Creating a Montana energy assistance program** ***(To be funded under 69-8-402(5)(a))***
12. **Directing the department of public health and human services to submit an analysis of low-income energy assistance programs and customer needs to the energy and telecommunications interim committee**
13. **Revising the USB program credit review process**
14. **Expanding the allowable USB program credits for large customers**
15. **Establishing a sunset for market transformation**
16. **Changing the base year for USB program charge rates** ***(Currently is 2.4% of utility's annual retail sales revenue in Montana)***
17. **Providing that if a utility's internal programs do not satisfy annual funding provisions, then the utility shall make a payment into a state special revenue account for the difference**
18. **Revising utility and large customer USB program reporting requirements**
19. **Amending 69-3-1402, 69-3-1408, 69-8-102, 69-8-103, 69-8-402, 69-8-403, 69-8-12, 69-8-413, and 69-8-414, MCA**

Universal System Benefits Reform Laws 2/15/2005

Section	371 HARRINGTON	307 TOOLE	SUBCOMMITTEE AMENDMENTS
SECTION 1. 69-3-1402 Definitions	"Low income bill assistance and weatherization" becomes Montana energy assistance program		"Low income bill assistance and weatherization" becomes Montana energy assistance program
SECTION 2. 69-3-1408 USB Programs Natural Gas	No change to current law	PSC establishes a natural gas USB program rate based historic funding, needs, impacts, etc.	PSC establishes a natural gas USB program rate based historic funding, needs, impacts, etc.
	PSC determines funding for the Montana energy assistance program	60% of the PSC established gas USB rate goes to low income weatherization and bill assistance	PSC determines funding for the Montana energy assistance program
	PSC has rulemaking authority for natural gas USB reporting	PSC has rulemaking authority for natural gas USB reporting	PSC has rulemaking authority for natural gas USB reporting
SECTION 3. 69-8-102 Legislative Findings	Establishes MT energy assistance program as USB programs		Establishes MT energy assistance program as USB programs
SECTION 4. Definitions	"Low income customer" is defined as (a) who participates in a means-tested state or federal low-income program; or (b) whose household income is at or below 175% of FPL	No change to current law	No change to current law
		"Renewable resource" is defined	"Renewable resource" is defined
	Removes market transformation as USB program	No change to current law	Sunsets market transformation on December 31, 2010
SECTION 5. USB programs	Removes sunset date	Removes sunset date	Removes sunset date
		Electric USB rate beginning January 1,2006 is based on 2004 revenue sales and adjusted every 4 years	Electric USB rate beginning January 1, 2006 is based on 2004 revenue sales and adjusted every 4 years
	No change from current law	Increases % of revenue sales to 3%	No change from current law
	Disallows power purchases from BPA as allowable USB expenditure	Disallows power purchases from BPA as allowable USB expenditure	Allows only the BPA activities that occur in MT to be counted as credits
	Cooperative utilities may pool credits and must collectively fund MT energy assistance program at 30%	Cooperative utilities may not pool credits	Cooperative utilities may pool credits and must collectively fund MT energy assistance program at 30%

From SB 371 From SB 307 Subcommittee Amendments In Both SB 371 and SB 307

Universal System Benefits Reform Laws 2/15/2005

Section	371 HARRINGTON	307 TOOLE	SUBCOMMITTEE AMENDMENTS
	Utilities must fund the MT energy assistance program at a minimum of 30%	Utilities must fund low-income assistance programs at 30%	Public utilities must fund the MT energy assistance program at 40%
		Utilities may not count the payments made by large customers to low-income activities toward their own low- income funding requirement	Utilities may not count the payments made by large customers to low-income activities toward their own low-income funding requirement
	No change to current law	Utilities must fund renewable resource programs at 15%	No change to current law
	No change to current law	Removes large customer rate and cap	Removes large customer rate and cap
	Large customers must allocate a minimum of 30% of USB obligation to MT energy assistance program	Large customers must allocate a minimum of 30% of USB obligation to low- income assistance programs	Large customers must allocate a minimum of 30% of USB obligation to MT energy assistance program
	No change to current law	Large customer internal expenditures and activities for conservation must be cost-effective	No change to current law
		Large customers may receive reimbursement for internal use of renewable resources	Large customers may receive reimbursement for internal use of renewable resources
	By March 1st a utility must publish a plan describing that year's USB programs	No change to current law	By March 1st a utility must publish a plan describing that year's USB programs
	Before March 1st a public utility must submit a report of its previous years USB programs to **DPHHS**, DOR, ETIC, and PSC	No change to current law	Before March 1st a public utility must submit a report of its previous years USB programs to **DPHHS**, DOR, ETIC, and PSC
	Before March 1st a cooperative public utility must submit a report of its previous years USB programs to **DPHHS**, DOR, and ETIC	No change to current law	Before March 1st a cooperative public utility must submit a report of its previous years USB programs to **DPHHS**, DOR, and ETIC
SECTION 6. 69-8-403 Commission Authority	PSC shall adopt rules to implement 69-8-402, including allocations between and within USB programs.	PSC shall adopt rules to implement 69-8-402, including allocations between and within USB programs.	PSC shall adopt rules to implement 69-8-402, including allocations between and within USB programs.

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Section	371 HARRINGTON	307 TOOLE	SUBCOMMITTEE AMENDMENTS
SECTION 9. 69-8-413 Department of Revenue Authority	Department shall establish rules regarding USB	Department shall establish rules regarding USB	Department shall establish rules regarding uniform reporting requirements
NEW SECTION 10. Montana energy assistance program	Creates Montana energy assistance program, consisting of: statewide energy bill assistance program; prioritizing bill payment assistance; auto enrollment of people eligible for other federal or state assistance into LIEAP; no commingling of electric and gas funds		Creates Montana energy assistance program, consisting of: statewide energy bill assistance program; prioritizing bill payment assistance
NEW SECTION 11. DPHHS report	DPHHS shall conduct a study of the needs of Montana's low-income energy customers. The study is eligible for reimbursement from USB funding. This study must consider: the impact energy prices; the ability of low-income customers to afford energy needs ;existing assistance programs; the impact on all ratepayers ; an estimate of the affordability gap; program design and steps to improve the enrollment.		DPHHS must conduct an analysis of the affordability gap, ability of customers to pay based on various factors, bill assistance programs and recommendations to make energy affordable to low income customers.
SECTION 12. USB Credit Review Process	Changes burden of proof for challenged credit to be with entity that has claimed the credit. Allows Department of Revenue to obtain more documentation surrounding a challenged credit	Requires DOR to review credit. Establishes a credit review process with emphasis on ensuring claimant's redress and public participation. Allows DOR decision to be challenged in district court.	Changes burden of proof for challenged credit to be with entity that has claimed the credit. Allows Department of Revenue to obtain more documentation surrounding a challenged credit

From SB 371 From SB 307 Subcommittee Amendments In Both SB 371 and SB 307

Re: amd to SB371

Source: Don Quander

Thank you for receipt of the proposed bill with changes. Having not been party to the recent discussions, I will offer only a few comments, which I hope may be considered.

Industrial customers remain strongly opposed to making fundamental revisions to USB balance that has been honored and has been working as intended. We will continue to support the extension of the USB program *in its current form*, with reasonable updates as recommended by the joint Energy & Telecommunications Interim Committee in HB 141.

The revised SB 371 draft, however, significantly increases the USB tax for industrial customers, by removing agreed-upon caps, with resulting disproportionate contributions compared to cost of service. Customers such as ASiMI, Montana Resources, Smurfit-Stone Container and <u>any</u> other customer buying an average of 1 MW or more takes a hit. A tax increase by any other name....

Reserving these broader, substantive objections, however, I might simply point out that proposed Section 5, at 69-8-402 does not appear to make sense in operation. There seems to be a basic confusion about the concepts of "reimbursement" and "credits" that does not appear to work when applied to credits being carried forward---some of which already have been earned and reflected on present accounts, and could be illegally affected retroactively.

Large customers can never get a "reimbursement" that exceeds their actual universal benefits charges (payments) in a calendar year (with or without a 30% USB tax retention by the utility)---contrary to what (8)(d) appears to contemplate. The point is precisely to reduce the obligation in the next calendar year for qualifying amounts already expended *but not yet reimbursed*, so as to encourage those expenditures being made wisely, rather than on a "use it or lose it" basis.

Question: Is a required "allocation" of 30% by a customer a contribution or simply a tax retention by the utility? Why is the customer barred from directing its contribution to, e.g., Energy Share, as large customers and cooperatives presently do? This can benefit employees, families and neighbors in the area of its business. Must a mine or plant in Butte pay for a 30% electricity tax allocation for a customer in Billings, if it prefers that the money be spent in its local HRDC District? The principle of some local control/voice has earned support from industry customers and cooperatives for the program.

Many of these issues have received considerable attention and work in the Energy and Telecommunications Interim Committee over the last two years, and this seems to be be lost in the draft. We recommend that the subcommittee, and full committee, work on a bill draft from the Senate side consistent with HB 141, thus serving as a back-up, should the House bill encounter difficulty.

Don Quander

Re: and to SB371

Source: Energy Share of Montana

The amended version of SB371 being considered by the Senate Energy and Telecommunications Committee this Tuesday has a consequence that will eliminate over $100,000 annually in large electric customer energy assistance donations to low-income Montana families.

Large electric customers, since 1997, have generously donated USB funds to Energy Share of Montana. For example, Montana Tunnels annually donates between $20,000 and $47,000 to be used in Lewis and Clark, Silver Bow and Jefferson Counties. Columbia Falls Aluminum Company annually donates $85,000 to Energy Share to help low-income families in the Flathead region. Energy Share, in cooperation with local Human Resource Development Councils in these regions distributes these funds, free of any administrative charge, to families determined most in need by volunteer committees of local citizens.

The amendment to SB371 that prohibits the large electric customer from making donations "...that qualify as a universal system benefits programs expenditure" will mean at least 300 families will have no emergency assistance and probably have their power shut off as a result of these amendments. Many of these families are senior citizens on fixed incomes. I hope the present amendment is an unintended consequence. This problem can easily be remedied by restoring the language in bold caps in (c) (i) and (A) below.

69-8-402 (7) (c)

~~(ii)~~(c) ~~must~~ A large customer may receive ~~credit toward that large customer's~~ reimbursement from its utility of a portion of its universal system benefits charge for:

(i) internal expenditures and activities that qualify as ~~**A UNIVERSAL SYSTEM BENEFITS PROGRAMS EXPENDITURE, AND THESE INTERNAL EXPENDITURES MUST INCLUDE BUT NOT BE LIMITED TO:**~~

~~**(A) EXPENDITURES**~~ conservation measures that result in a reduction in the consumption of electrical energy in the large customer's facility or that result in a more efficient use of electricity at the large customer's facility; and

(ii) internal expenditures and activities that result in the production of electrical energy from renewable resources for use in the large customer's facility.

Any funding lost in this amendment could be made up by discontinuing market transformation expenditures immediately. Most low-income customers we represent cannot pay their power bill, let alone having sufficient money to purchase a horizontal washing machine or an energy efficient refrigerator. For some utilities, market transformation expenditures amount to over $500,000 annually.