MINUTES

MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS

Call to Order: By **CHAIRMAN ALAN OLSON**, on February 7, 2005 at 3:15 P.M., in Room 455 Capitol.

ROLL CALL

Members Present:
Rep. Alan Olson, Chairman (R)
Rep. Dave Gallik, Vice Chairman (D)
Rep. Dennis Himmelberger, Vice Chairman (R)
Rep. Robyn Driscoll (D)
Rep. George G. Groesbeck (D)
Rep. Robin Hamilton (D)
Rep. Hal Jacobson (D)
Rep. Harry Klock (R)
Rep. Mark E. Noennig (R)
Rep. Diane Rice (R)
Rep. Wayne Stahl (R)
Rep. Karl Waitschies (R)
Rep. Brady Wiseman (D)

Members Excused: Rep. John Parker (D)

Members Absent: None.

Staff Present: Todd Everts, Legislative Branch
Cynthia Peterson, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. Tape stamp markers follow testimony.

Committee Business Summary:
Hearing & Date Posted:
Executive Action: HB 121; HB 389

PRESENTATION BY PACIFIC NORTHWEST ECONOMIC REGION

Matt Morrison, Executive Director of the Pacific Northwest Economic Region (PNWER), provided the committee with information on PNWER's planning initiative; PNWER's Winter Meeting held in Richmond, Virginia; and PNWER's 2005 Work Plan.
EXHIBIT(feh30a01)
EXHIBIT(feh30a02)
EXHIBIT(feh30a03)

Mr. Morrison explained how there has been a great deal of concern about the reliability of the electrical grid system, as well as concerns about terrorism. **Mr. Morrison** identified energy planning as a critical need.

Mr. Morrison spoke about the need for a common definition for "renewables," and suggested mandates for renewables are far more effective than incentives. **Mr. Morrison** also acknowledged the critical need for transmission throughout the Northwest.

Mr. Morrison pointed out that the whole nation is experiencing grid problems, and that there is tremendous opportunity in smart energy technologies. **Mr. Morrison** noted the trend toward a melding between the telecommunication and energy industries. **Mr. Morrison** emphasized that Montana is sitting on a huge pile of energy, and that if there was a way to get that energy to market, it could have a tremendous impact on Montana's economy. **Mr. Morrison** spoke about the impending creation of the Alaskan Natural Gas Pipeline.
{Tape: 1; Side: A; Approx. Time Counter: 0 - 20.8}

Questions from the Committee

REP. HAL JACOBSON, HD 82, HELENA, asked Mr. Morrison to address the possibility of the creation of a transmission line that would run from Alberta into California. **Mr. Morrison** referred to the "Northern Lights Proposal," which would be a direct-current line that would carry 3,000 plus megawatts into Oregon and Arizona. **Mr. Morrison** identified permitting as a huge issue with the proposal. **Mr. Morrison** stated the proposed transmission line is meant to be revenue neutral to ratepayers along the way.

REP. KARL WAITSCHIES, HD 36, PEERLESS, asked if Montana built a couple of coal-fired plants, whether Montana could utilize the proposed transmission line. **Mr. Morrison** agreed the hope was that Montana would utilize the transmission lines. **Mr. Morrison** suggested it would cost more to keep patching the old system,

with no excess capacity available, than it would to build a new system.

{Tape: 1; Side: B}

REP. MARK NOENNIG, HD 46, BILLINGS, asked if there were some increased safety problems. **Mr. Morrison** was not certain about safety, but added the terminals would be very expensive.

REP. DAVE GALLIK, HD 79, HELENA, asked if someone from the company wanting to build the transmission line could come and speak with the committee. The committee members agreed a presentation on the proposed project would be helpful.

EXECUTIVE ACTION ON HB 121

Motion: REP. HIMMELBERGER moved that HB 121 DO PASS.

Discussion:

REP. WAITCHIES commented that HB 121 would be hard on the co-ops.

REP. GEORGE GROESBECK, HD 74, BUTTE, expressed safety concerns for linemen.

REP. DAVE GALLIK, HD 79, HELENA, submitted to the committee copies of a letter he requested from Northwestern Energy (NWE) stating they have not experienced an increase in accidents attributable to net metering. **REP. GALLIK** suggested net metering would encourage people to become self-sufficient.
EXHIBIT(feh30a04)

REP. WAYNE STAHL, HD 35, SACO, asked Dan Flynn, International Brotherhood of Electrical Workers, if he expected an increase in accidents due to net metering. **Mr. Flynn** replied protective devices are installed, but there is nothing in the law requiring those protective devices to be maintained. **Mr. Flynn** explained how an untimely failure could cost a human life.

REP. WAITCHIES recalled testimony that a physical disconnect was needed. **Doug Hardy, Montana Rural Electric Cooperatives,** explained that the Occupational Safety and Health Administration (OSHA) requires a visual open be established before any work can be performed on a line. **Mr. Hardy** expanded that it would be easy to miss a connection especially as more lines are added on.

REP. HAL JACOBSON, HD 82, HELENA, asked if there might be a new technology on the horizon which would take care of these safety concerns. **Mr. Hardy** replied a high-cost technology would take away the economic benefits, especially on a smaller system.

Motion: REP. DRISCOLL moved that HB 121 BE AMENDED by removing the electric co-ops from the bill.

Discussion:

SEN. WISEMAN suggested striking the language beginning on Page 2, Line 22, through Page 3, Line 3. **SEN. WISEMAN** recalled the co-ops wanting to be removed from the requirements of HB 121.

Todd Everts, Research Analyst, explained how the bill would need to be amended in order to exclude the co-ops, and that the remainder of the bill would then only apply to Montana Dakota Utilities (MDU).

CHAIRMAN OLSON commented that the amendment would bring MDU into the realm of deregulation.

REP. NOENNIG recalled MDU already has a net-metering program in place, and that none of their customers are taking advantage of the program. **REP. GROESBECK** agreed.

CHAIRMAN OLSON referred the committee to Page 2 of the "Montana-Dakota Example," which outlined MDU's net metering option. **EXHIBIT(feh30a05)**

REP. WISEMAN objected to the word "subsidy" and noted the arrangements already in place should be extended to other utility customers.

Vote: REP. DRISCOLL'S motion failed 7-7 by roll call vote with REPS. DRISCOLL, HAMILTON, JACOBSON, NOENNIG, WAITSCHIES, and WISEMAN voting aye, and REP. PARKER voting aye by proxy.

CHAIRMAN OLSON noted that Fergus Electric reported 1.8 meters per mile, and NWE has 15.7 meters per mile. **CHAIRMAN OLSON** commented that he believes there is a safety issue.

REP. NOENNIG noted his experience with linemen and commented even with all the safety procedures and checks, things can go wrong.

Substitute Motion/Vote: REP. RICE made a substitute motion that HB 121 BE TABLED. The substitute motion carried 10-4 by roll call vote with REPS. GALLIK, JACOBSON, and WISEMAN voting no, and REP. PARKER voting no by proxy.

{Tape: 2; Side: A}

EXECUTIVE ACTION ON HB 389

Motion: REP. HIMMELBERGER moved that HB 389 DO PASS.

Discussion:

REP. OLSON explained his primary focus in bringing the legislation was to remove one more piece from the deregulation picture and to help NWE become a vertically integrated regulated utility.

REP. WISEMAN acknowledged REP. OLSON's reasons for bringing the bill, but was concerned about how the new generation would be included in the base rate.

Motion: REP. WISEMAN moved that HB038902 BE ADOPTED. EXHIBIT(feh30a06)

Discussion:

REP. WISEMAN explained how the amendment would strike Sections 6 and 7 from HB 389. These sections would allow the Public Service Commission (PSC) to preapprove a proposal. **REP. WISEMAN** did not believe the preapproval process would protect ratepayers. **REP. WISEMAN** suggested the timelines for building new powerplants are so long, the approval process does not allow for any protection of the ratepayer. **REP. WISEMAN** thought the easiest way to provide the protection would be for the default supplier to go to the PSC with a known quantity when it is done constructing the power plant.

REP. RICE asked REP. WISEMAN whether someone would invest in a power plant without first obtaining preapproval. **REP. WISEMAN** suggested there are weekly newspaper stories about propositions for massive investment in transmission and pipelines and, in order to protect ratepayers, the answer needs to be yes.

REP. WAITCHIES asked if people would be willing to invest in a utility to generate electricity before it is approved. **REP.**

WAITCHIES thought preapproval, at least on some level, would be needed.

REP. GALLIK cited Montana First Megawatts and Northwestern Energy as companies that invested pensions prior to PSC approval.

REP. OLSON noted the legislation states, "The commission may approve or deny, in whole or in part, an application for advanced approval of a potential investment in or acquisition or..."

REP. GALLIK stated NWE started building Montana First Megawatt without preapproval; therefore, he did not understand why anyone would suggest a company would not begin construction without first obtaining approval from the PSC.

REP. WAITCHIES thought Montana First Megawatt was small in comparison to a coal-fired plant. **REP. WAITCHIES** suggested there should be some type of preapproval to encourage investment. **REP. WAITCHIES** recalled testimony that Montana uses as much energy as it generates, and Montana will need new generation in the future in order to meet its energy needs. **REP. GALLIK** disagreed and recalled Montana uses twice as much energy as it generates. **REP. WAITCHIES** clarified that there is currently a balance between demand and what the lines can carry.

REP. WISEMAN stated the ratepayers are the ones who will pay, and that there is not enough protection in HB 389.

REP. WAITCHIES pointed out the PSC can disapprove some costs and asked that the issue be addressed.

John Fitzpatrick, NWE, stated the PSC can approve price, quantity and the terms of a contract. The PSC is not approving the concept of a plan. **Mr. Fitzpatrick** referred to the language provided on Page 10, Line 13.
{Tape: 2; Side: A; Approx. Time Counter: 12.2 - 13.6}

REP. GALLIK commented that he likes the idea of a vertically integrated utility, but not at the current time. **REP. GALLIK** believed it is too soon after the bankruptcy. **REP. GALLIK** was concerned about putting other generators in the default supply at a disadvantage.

REP. WISEMAN directed the committee to the language on Page 10, Lines 4-5, which says the PSC may not disallow recovery of incurred costs. **REP. WISEMAN** believed this language places the risk on the ratepayers of Montana.

REP. STAHL acknowledged MDU has a vertically integrated system and wondered how MDU is treated. **Commissioner Greg Jergeson, Montana Public Service Commission**, stated MDU is a classic vertically integrated, regulated electric utility, and has not been in on a rate case since 1986.

CHAIRMAN OLSON directed the committee to Page 9, Line 18, and noted there is nothing that says the PSC shall preapprove any project brought to them, but it simply says the PSC may approve or deny, in whole or in part, an application for advanced approval. **REP. OLSON** noted if the PSC makes a determination that a project is in the best interests of the ratepayer, they cannot come back later and deny the rate that was approved.

REP. WISEMAN again noted the language that says the PSC may not disallow the recovery of costs incurred. **REP. WISEMAN** also noted the preapproval may have been given in advance of all the costs being known.

REP. NOENNIG asked if it would be possible to have preapproval of a "pickup," but end up with a plant that looks more like a "Humvee." **Commissioner Jergeson** stated the language identified by REP. WISEMAN could be problematic.

Vote: Motion to adopt HB038902.ate failed 6-8 by roll call vote with REPS. DRISCOLL, GALLIK, HAMILTON, JACOBSON, and WISEMAN voting aye, and REP. PARKER voting aye by proxy.

Motion: REP. WISEMAN moved that HB038903.ATE BE ADOPTED. EXHIBIT(feh30a07)

Discussion:

REP. WISEMAN explained the amendment addresses how the costs will be included in the ratebase. **REP. WISEMAN** noted general preapproval would be changed to a very specific preapproval where the applicant would be required to disclose the specifications of the proposed project. **REP. WISEMAN** stated the purpose of HB038903.ate is to protect the ratepayer. **Mr. Everts** reviewed HB038903.ate with the committee.
{Tape: 2; Side: B}

REP. WISEMAN believed the amendment would allow a project to go forward, but it would require specific costs to go into the ratebase up front. The amendment would require costs, quantity and term to be specified to the PSC for approval.

REP. JACOBSON suggested the amendment may hold the key to a compromise and suggested action on HB 389 be postponed.

REP. NOENNIG asked why the amendment would strike (2)(c) on Page 9 and (5) on Page 10. **REP. WISEMAN** responded that the PSC would not be evaluating planning activities, but would be dealing with a specific proposal involving cost, quantity and term.

REP. WAITCHIES asked if the PSC would have to preapprove any contracts for specific electricity at a certain price before considering whether the new construction was feasible. **Mr. Everts** explained HB038903.ate specifies more in detail the information which must be contained in the application for preapproval and specifies in greater detail the things the PSC must consider before it approves or denies preapproval. **REP. WAITCHIES** asked if a preapproved rate would be necessary before anything else could be approved. **REP. WISEMAN** added that the cost figure refers to the cost of the power created by the plant.

REP. GROESBECK asked when someone goes through the application process, whether the PSC currently takes into consideration price, quantity and terms of the contract. **Commissioner Jergeson** acknowledged that was correct. **REP. GROESBECK** requested an explanation of the difference between the price the PSC takes into consideration and the cost of electrical energy in the amendment. **Commissioner Jergeson** noted the PSC has not looked at the proposed amendment, and stated he would ask PSC staff to work with the other parties to come up with approval provisions for Section 6 that would be acceptable.

Mr. Fitzpatrick believed HB038903.ate is the only amendment that comes close to where he believes the legislation should go. **Mr. Fitzpatrick** believed NWE could work with the PSC and come up with an amendment that would satisfy the concerns of both parties. **Mr. Fitzpatrick** hoped the committee would consider deferring action on HB 389.

Substitute Motion/Vote: **REP. NOENNIG moved to postpone action on HB 389 until Wednesday, February 9, 2005. The motion carried unanimously, with REP. PARKER voting aye by proxy.**

Mr. Everts distributed a pamphlet created by State Bond Council and Legislative Services Division regarding state debt, as well as a booklet on alternative energy sources. **Mr. Everts** directed the committee to Page 46 and the information contained on state debt.
EXHIBIT(feh30a08)
EXHIBIT(feh30a09)

ADJOURNMENT

Adjournment: 5:15 P.M.

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REP. ALAN OLSON, Chairman

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CYNTHIA PETERSON, Secretary

AO/cp

Additional Exhibits:

EXHIBIT(feh30aad0.PDF)