



PUBLIC SERVICE COMMISSION

1701 Prospect Avenue • PO Box 202601
Helena, Montana 59620-2601
Telephone: (406) 444-6166
FAX #: (406) 444-7618
E-MAIL: gjergeson@mt.gov

EXHIBIT 7
DATE 4-20-07
SB 189

Greg Jergeson, Chairman
District 1

January 31, 2007

Senate Natural Resources and Energy Committee
Senator Greg Lind, Chair

Re: SB 189

Dear Senator Lind and Members of Committee:

As you know, SB 189 would authorize the PSC, in certain circumstances, to require a public utility to file a general rate case. This authority would give the PSC the ability to review rates when there is evidence they may be too high. The PSC frequently processes petitions from utilities, filed when those utilities contend that their rates are too low. It is, of course, the PSC's obligation to ensure, to the extent possible, that rates charged by public utilities are just and reasonable, neither too high nor too low.

It has come to our attention that some are arguing that SB 189 is unnecessary because the PSC already has the authority to review rates whenever it chooses. The statute often cited to support this argument is § 69-3-324, MCA:

Initiation of action by commission itself. The commission may at any time, upon its own motion, investigate any of the rates, tolls, charges, rules, practices, and services and after a full hearing as provided in this part make by order such changes as may be just and reasonable, the same as if a formal complaint had been made.

As the PSC noted in its written comments distributed at hearing, it is theoretically correct that the PSC has the power to force a rate review. But the reality is that this power has not, and almost certainly will not be exercised. The utilities know that. Under the authority granted by § 69-3-324 utilities will almost certainly never be subject to a rate review. SB 189 would change that, which is why they are resisting this change so vehemently.

The reason why this theoretical power will not be exercised is the great disparity in information that exists between the utilities and the PSC. To state the obvious, the PSC does not keep the books for public utilities. Overcoming the information disparity would require - especially in the case of the large utilities - a huge and costly information gathering effort that is very simply beyond the resources of the PSC. This point has been affirmed numerous times over the years by the PSC's rate analysts, and it is borne out by the fact that the Montana Consumer

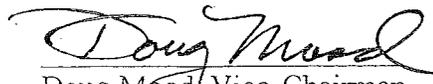
Counsel (MCC), an entity with a large consulting budget relative to the PSC, has seldom if ever forced a rate review of a large utility by filing a complaint at the PSC. The hurdles that the MCC must overcome are the same ones facing the Commission; i.e., the nearly insurmountable burden of discovery, preparing such a complaint and making such a case at the PSC.

In addition to the practical information gathering burdens just described, the utilities argue that the PSC, if it set out to review rates pursuant to § 69-3-324, MCA, would have the burden of proof. While the PSC does not concede utility arguments about the proper application of legal burdens in this context, it is nonetheless clear that utilities would make these arguments, and make it more difficult for the successful processing of a PSC initiated rate review.

SB 189 simply gives the PSC the authority periodically to require filings from utilities when there is ample evidence that their rates may be too high. Utilities readily make these filings on their own when they think they are entitled to more money. SB 189 would provide some balance to the process for the sake of the consumers. We urge your support of SB 189.

Sincerely,


Greg Jergeson, Chairman


Doug Mood, Vice-Chairman