



12 February 2009

Senate Bill 387

Chairman Black, members of the committee for the record my name is Tim Gregori and I am the General Manager/CEO of Southern Montana Electric Generation and Transmission Cooperative (Southern Montana Electric G&T). Southern Montana Electric G&T provides wholesale electric energy and related services to five rural electric distribution cooperatives in south central Montana and Electric City Power in Great Falls. In aggregate these systems meet the electric energy and related services needs of more than 50,000 Montanans.

Over the course of the past several years Southern Montana Electric G&T has been engaged in the development of a clean-coal technology - base load electric generation facility approximately 8 miles of Great Falls, Montana. A state of the art facility employing the industry's Best Available Control Technology to meet or exceed all existing federal and state emissions standards. Yet, despite Southern Montana Electric G&T's concerted effort to build a model facility that would demonstrate the ability to use an abundant Montana resource in a base load generation unit built by Montana Union labor for the Montana energy consumers we serve - our efforts have been materially hamstrung by the inherent uncertainty in the current environmental regulatory review and appeal process.

On May 11, 2007 the Montana Department of Environmental Quality (DEQ) issued an Air Quality Permit for HGS commensurate with a favorable record of decision on an environmental impact statement completed jointly by the United States Department of Agriculture - Rural Utilities Service (RUS) and the Montana DEQ. The May 2007 version of the air permit for HGS was subsequently appealed to the Montana Board of Environmental Review (BER). Where - after a long drawn out process the BER remanded the permit back to the DEQ for a thorough top down Best Available Control Technology (BACT) review of the facility's control equipment specific to emissions of particulate matter 2.5 microns and smaller (PM 2.5). A review that would be the first of its kind in the US and performed in the absence of promulgated rules - at either the federal or state level - establishing emission limits for PM 2.5. Furthermore, there is still no accepted test method to properly measure PM 2.5 emission at HGS even if an emissions standard was created. The DEQ re-issued the air permit for HGS on November 26, 2008 - after 17 months and 25 days of the allotted 18 months given to commence construction on HGS.

Despite this seemingly endless process in November 2008 Southern Montana Electric G&T commenced construction on HGS hoping that the long permitting and appeal ordeal had run its course and we could now focus our efforts on meeting the electric energy and related power supply needs of over 50,000 Montanans. Unfortunately - and much to Southern Montana Electric G&T's chagrin - the second version of the air permit issued in late November 2008 for HGS was soon appealed to the BER on some of the same issues raised in the initial appeal. With no end to the appeal process in sight for HGS I stand before you today asking this committee to give serious consideration to SB 387. A bill that embraces the fundamental right of an entity to follow the rules, secure its permit, and in a reasonable period of time be allowed to move forward with its efforts with predictability and assurance that the process by which it will be judged is fair and based on reason – not a process that is founded on perception and lacking a clearly defined finish line.

Chairman Black, members of the committee, when the founding fathers were crafting the system of government that has served our nation so well for over two hundred years they were most careful to put in place a system where there was a workable balance of power by which laws were to be passed, rules promulgated and challenged in a court of law if an aggrieved party felt the system had gone astray. Unfortunately, through the passage of time that process has been stigmatized in Montana and the time has come to reset our compass and balance fairness with the right to hold differing opinions. The regulatory and permitting appeal process in Montana - as it now stands - is out of balance, skewed and needs to be fixed. SB 387 is a major step in the right direction – and unless Montana wants to be known in the business world as the “land of the never ending appeal process where rules get made up as you go” this bill and others like it are sorely needed. What has happened to HGS and Southern Montana Electric G&T runs contrary to any effort to attract clean, responsible and sustainable energy development. Senator Story described the current permitting process in Montana best when he said “a permit should allow you to do something more than just hire attorneys”. Please support SB 387 and pass it out of this committee to the floor of the Senate with a solid “do pass” recommendation.

Thank you, and I would be pleased to answer any questions you may have at the appropriate time.