

**MINUTES**

**MONTANA SENATE  
57th LEGISLATURE - SPECIAL SESSION  
COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIR DON HARGROVE**, on August 5, 2002 at 1:00 P.M., in Room 350 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Don Hargrove, Chair (R)  
Sen. Pete Ekegren (R)  
Sen. Jim Elliott (D)  
Sen. Eve Franklin (D)  
Sen. Ken Toole (D)

**Members Excused:** Sen. John C. Bohlinger, Vice Chair (R)  
Sen. Edward Butcher (R)  
Sen. Fred Thomas (R)

**Members Absent:** None.

**Staff Present:** Mary Vandebosch, Legislative Branch  
Mary Gay Wells, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SR2  
Executive Action:

*{Tape : 1; Side : A; Approx. Time Counter : 0}*

HEARING ON SB 2CONFIRMATION HEARING OF EDWARD BARTLETT AND JOHN HINES TO THE  
NORTHWEST POWER PLANNING COUNCIL HEARING

Proponents: Governor Judy Martz  
David Wheelihan, MT Electric Cooperatives Assoc.  
Tom Ebzery, Attorney, Billings

Opponents: None

**CHAIR DON HARGROVE** opened the hearing. He explained the purpose of the meeting which was for the confirmation of two appointees by **Governor Martz, Edward Bartlett** and **John Hines**, to the Northwest Power Planning Council. He asked both men to speak on their own behalf.

**Ed Bartlett** spoke first. He handed out a small pamphlet **EXHIBIT(sts01a01)** from the Northwest Power Planning Council(NPPC)on facts concerning the Columbia River Basin. The NPPC was created in 1980 as a result of federal law. The Council is made up of eight members, two from each state. In 1981, the Montana Legislature joined the other three northwest states (Idaho, Oregon and Washington) to do something positive for the region in balancing both fish and wildlife mitigation and in creating for the region an adequate, stable, economic and affordable power supply.

The **Governor** had appointed **Mr. Bartlett** to the NPPC in October 2001. He explained his career path and how it led him to be appointed to this position. He had been involved with natural resources throughout his legal career.

**Mr. Bartlett** was born in Butte, MT in 1945. He was graduated from law school in 1970. He joined the U.S. Navy in the Judge Advocate General's Corp in 1970 for four years. He joined the U.S. Attorney's office in Billings for two years. He went then to the U.S. Dept. of the Interior for five years in Billings and in Denver. He worked for two years for Atlanta Richfield in Montana. Then he joined the legal division of Montana Power Company for the next nineteen years.

**John Hines** presented his background. He grew up in Bozeman, MT. He received his Masters Degree in Economics from the University of Montana. He lived in Alaska and worked on energy issues for public interest groups. He became a consultant for World Bank and did financial analysis for developing countries. In 1989 he received an offer to work with the NPPC and started as an energy

analyst. He later became administrator for the NPPC. In March, Governor Martz appointed him to represent Montana on the NPPC.

Some issues that they have been working on since March are the sub-basin plans at the local level to develop fish and wildlife measures that would help bring back the salmon and resident fish. The Council was created to bring decision-making back to the local level. These decisions had been dominated by the federal government. They are also working on the main stem of the Columbia River. They are looking at how to change the operations of the dams to further the biological benefits for salmon and resident fish while improving the efficiency of the hydro system. On the power side, they have been working on transmission. A power plan is being developed for the region. There are two issues involving Bonneville. The first is the fact that Bonneville is in a severe financial crisis. They have lost about \$800 million over the last two years on the power side. Rates may have to be raised and/or budgets cut. The Council is working with them on this issue. The other issue is a proposal to change the way Bonneville serves their customers. It is called the Joint Customer Proposal and was proposed by cooperatives and investor-owned utilities. It would fix the amount of generation that Bonneville has. They now are obligated to serve any public customer that comes to them. This proposal would basically take them out of the new generation of power purchase regime and have them allocate with the existing resource base. This would be a significant change. They have also provided testimony on the default supplier case.

#### Proponents' Testimony:

**Governor Judy Martz** spoke of how well respected both gentlemen are by their peers. They have an excellent knowledge of the issues and they show great fairness in how they handle these issues. She knows that they both work diligently on what is the very best for Montana while still being considerate of the other states. She asked for the confirmation of both **Ed Bartlett** and **John Hines** to the NPPC.

**David Wheelihan, Executive Vice President and General Manager, MT Electric Cooperatives Assoc.** The Association represents 26 distribution cooperatives in Montana that provide power to about 400,000 customers. Eighteen of those 26 cooperatives get power from the Bonneville Power Administration. They have found that **Mr. Bartlett** and **Mr. Hines** have worked overtime in listening to their concerns. They return phone calls and ask the opinions of the cooperatives on different issues. They have made the process

an open dialogue and which is so necessary for successful outcomes.

**Tom Ebzery, Attorney, Billings.** He urged the confirmation of both men. He feels that both are very knowledgeable and are a great resource for the Power Planning Council.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**SEN. JIM ELLIOTT** inquired about the loss of the \$800 million by the Bonneville Power Plant. **Mr. Hines** responded that the loss was in two parts. Two years ago they had a renegotiation of their contract with their customer groups. The wholesale market had been going up and there was a significant number of individuals who wanted to go back on the Bonneville system. That was around 3,000 megawatts more than their system was able to produce. That forced them to go out into the market and acquire that power. It was coupled with the drought and this increased the cost considerably. The wholesale market has gone back down now and there is a significant amount of water in the rivers. This should allow them to recoup some of their losses.

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**SEN. ELLIOTT** inquired if **Mr. Bartlett** had lobbied for Montana Power Company. **Mr. Bartlett** replied that he started working for MPC in late 1981 and was in the legal department. In 1995 he worked as a part-time lobbyist for MPC. In 1997 he became the Director of Government Affairs for MPC. He lobbied at both the state and federal level.

**SEN. ELLIOTT** asked if **Mr. Bartlett** had lobbied for deregulation and for the tax on the generating facilities to be decreased from 12 percent to 6 percent. **Mr. Bartlett** replied "yes" to the first part and "no" to the second part.

**SEN. ELLIOTT** asked how **Mr. Bartlett's** viewpoint on deregulation would affect his work at the NPPC.

**Mr. Bartlett** said that his philosophy would have little effect on his work at the NPPC. The job that he does has little to do with the politics of whether or not there should be or should not be deregulation. It is not a Council topic nor a topic that comes up on a regular basis except as how it has an effect on what supply there is in the northwest and how those supplies are dealt with. He noted that in the region there is some deregulation as well as regulation. That does present a small problem but the

Council has little if anything to say about that fact. They are involved and have opinions but it is not an official Council matter. The **Governor** is an advocate of competition as he is himself to the extent that the competition has been successful and choice has been successful for many of the larger customers throughout the region. It is a good thing for the small residential customers, but he feels that things must go a bit slower in that area.

**SEN. ELLIOTT** inquired if he had said that deregulation was a success in Montana. **Mr. Bartlett** replied that he had not said that, but eventually it will be. At this time it has been a limited success for larger companies.

**SEN. EVE FRANKLIN** asked for an outline of a couple of critical issues that might be present over the next couple of years. **Mr. Bartlett** responded that there are several. One is on the main stem amendments concerning the Columbia River. The work that the Council does is within the region of the Columbia River Basin which, for the State of Montana, generally means west of the Continental Divide. The issues over the next couple of years are the sub-basin planning efforts which is a method to better determine what the needs of the region are, get attention on those and provide some money and recommendations from the Council to Bonneville to address those needs. The main stem amendment plan is part of that sub-basin or ultimately to be incorporated into it, but it has to do with how the main stem of the Columbia is operated and of the 31 hydro facilities that are in the region. The dams at Libby and Hungry Horse are the two in Montana that they are most concerned with. Operations at those two facilities are important. He would like to see the region do better concerning conservation and no rate increases for any of Bonneville's customers. That may be an impossible task.

**CHAIR DON HARGROVE** inquired if the State of Montana provides the staff and/or resources. **Mr. Hines** replied that they are entirely financed through rate-payer dollars and Bonneville is the entity that funds the Council and each of the four Council offices. They do have office space on the Capitol campus but the State is reimbursed for that space. Each state has approximately four to six staff members in their state offices. There is a central office in Portland, OR which all of the Council avails themselves of. That office is staffed with approximately 45 people.

**CHAIR HARGROVE** asked if all these individuals get along well. **Mr. Hines** said that in general there is a good working relationship. They have been working with Idaho and Washington on the main stem process. There is currently a disagreement with Oregon's governor and council members regarding the election of

Chair, but that is more of an internal disagreement. One of the Oregon council members has diverged from the other two and feels that the other council members were right.

**CHAIR HARGROVE** wanted to know what sort of strings does the State of Montana have on their positions either through the Executive Branch, the Legislature or statutes. **Mr. Hines** offered that the council members serve at the pleasure of the Governor upon confirmation of the Senate. They are influenced by comment indirectly but he was not aware of any other direction in statute.

**CHAIR HARGROVE** inquired if anything in statute would be useful? **Mr. Hines** replied that perhaps not directly upon the Council itself, but it might allow them to do their job easier. Other states, for example, have more specific statutes affecting how their hydro systems are operated and how much water can be used for downstream purposes versus how the water is used for fisheries. **Mr. Bartlett** added that they take their direction from the Governor and her interests for Montana and the region. The work though that they do is mostly in the federal system. The U.S. Fish and Wildlife Service, the Corps of Engineers and the Bureau of Reclamation are other federal agencies that they deal with almost as much as Bonneville. When they look for guidance as to what they can do statutorily, they generally look to Congress. They are also involved with river governance which the four state legislatures have also become quite involved with.

**SEN. ELLIOTT** inquired about the flow of the Kootenai River above the Libby Dam. The people of Libby feel that their fisheries have been about wiped out. Also, he wanted to know if state laws have primacy over river flow through federal dams. **Mr. Bartlett** answered that first and foremost he felt that they would have the most influence on the main stem amendment plan. In the longer term, they believe that all of the federal hydro system reservoirs can be operated much better than they are right now. In looking at Libby, when there is some discretion on what can be done, they feel that there is a better operation system available. This summer, in Libby, most of the problem has been due to flood control. The snow fall this year has been good for Montana.

**SEN. ELLIOTT** believed that the Libby Dam is the only dam on the Kootenai River. Is flood control being done for the Bonner Ferry area or is it being done upstream? **Mr. Bartlett** answered that all of the above is true. The first issue of flood control would be the reservoir itself and the immediate downstream. **Mr. Hines** said there only four dams on the whole Columbia River that can

absorb additional inflows. They are Libby, Hungry Horse, Grand Coulee and one other.

**CHAIR HARGROVE** closed the hearing.

**ADJOURNMENT**

Adjournment: 1:45 P.M.

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SEN. DON HARGROVE, Chair

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MARY GAY WELLS, Secretary

DH/MGW

**EXHIBIT**(sts01aad)