

**MINUTES**  
of the  
**LEGISLATIVE CONSUMER COMMITTEE**

December 3, 2009

State Capitol, Room 405, Helena, MT

**COMMITTEE MEMBERS PRESENT**

Senator Terry Murphy, Chairman  
Representative Pat Noonan, Vice Chairman  
Senator Joe Tropila  
Representative Tom Berry

**STAFF PRESENT**

Robert A. Nelson, Consumer Counsel  
Mary Wright, Attorney  
Larry Nordell, Economist  
Paul Schulz, Rate Analyst  
Mandi Shulund Hinman, Secretary

**VISITORS PRESENT**

Bill Thomas, NorthWestern Energy  
George Horvath, NorthWestern Energy  
Bonnie Lorang, Montana Independent Telecommunications Systems  
Geoff Feiss, Montana Telecommunications Association  
Chuck Evilsizer, Ronan Telephone Company and Hot Springs Telephone Company  
Jeremy Ferkin, CenturyLink  
Patrick Hogan, 360 Networks  
Laurence Walchuk, Hot Springs Telephone Company

## **CALL TO ORDER**

The meeting was called to order by Senator Murphy.

## **MINUTES OF THE PREVIOUS MEETING**

**MOTION:** Representative Berry moved approval of the September 3, 2009 meeting minutes.

**VOTE:** The motion passed unanimously.

## **Bill Thomas and George Horvath, Co-Leaders of NorthWestern Energy's team assigned to the SmartGrid Regional Project**

Mr. Thomas and Mr. Horvath attended the meeting to provide an overview of the SmartGrid Regional Project (SmartGrid) that NorthWestern Energy (NWE) is participating in and to give an update on energy efficiency matters at NWE. A handout was provided. Mr. Thomas began by saying that SmartGrid can be a confusing term and definitions tend to vary but he will be discussing SmartGrid in terms of software and hardware on the utility side of the meter and automation and exchange of information on the customer side of the meter to achieve a more efficient operating system by getting more from the existing system without additional, traditional capital upgrades. SmartGrid is much more a software project than it is an equipment and hardware project and it is possible to pick and choose among different SmartGrid applications depending on what is appropriate for the system and for the customers. NWE hopes to achieve a higher level of reliability in the operation of the system and if done right, reduce costs in the long run below what they otherwise would have been and in turn, customer satisfaction should increase as a result of better, more reliable service. However, anytime technology and computing power are used and digital communications are added, technology is more relied upon so problems are more than likely to arise but NWE hopes that more problems will be solved than created. Utilities across the country contemplated

how to gain initial experience with SmartGrid and were forming individual projects preparing to go their own way. The American Recovery and Reinvestment Act (ARRA) made funding available that brought many individual utilities in the Pacific Northwest Region together and as a larger group they presented an application for stimulus funds to the Department of Energy. Bonneville Power Administration (BPA) was the main force behind this action, but due to certain restrictions on BPA to apply for stimulus funds BPA employed contractor Battelle Laboratories to submit the application. Twelve utilities, including NWE, in fifteen distinct locations across the Northwest are involved in this project and it is expected that roughly 112 megawatts of assets will be controlled by this project. A five year plan for the project is that it will be built in two years, in operation for two years, and evaluated for results and recommendations for the future during the last year. Five technology infrastructure partners have been selected and will provide various expertise to the project. The value of SmartGrid is being able to do more with existing assets, infrastructure and supply resources and tying them all to a two-way communication system allowing near real time computing and better hoped for cost effectiveness which brings greater value to the customer. A total of \$178 million will be spent by Battelle Laboratories and the utilities and an estimated 1,500 jobs will be added at the peak of the project. The stimulus exercise will research new technologies, update the infrastructure and boost reliability. Money must be spent upfront to buy, build, and research before a valid and responsible cost benefit analysis can take place. NWE's aim in this project is to demonstrate and test the technology and because NWE's budget level does not allow for a fully controlled experiment, NWE's Board of Directors has authorized \$4.2 million to be spent on this project, which would be a 50/50 cost shared with the Department of Energy stimulus funds. NWE will test locations in Helena and Philipsburg and are expecting to recruit up to 200 homes and some state government facilities on the Capitol Complex. The \$4.2 million will be watched closely during those first two years and the number of test homes may increase. Customer components included in SmartGrid are Home Area Networks, Demand Response Programs, Distributive Generation and Smart Meters, which are digital electronic meters that perform many functions, including measuring power

and transmitting that information through radio transmitter receivers that will communicate with the utility control center and with devices in the home. NWE expects to introduce web-based services to provide additional functionality such as allowing the customer to operate and control temperatures in the home from a website while away from home. An in-home display will be introduced and NWE currently has many market entrants operating these kinds of devices and only the best will end up being used. A wireless programmable thermostat is another device that will be introduced.

Mr. Horvath stated that he and Bill welcome the opportunity to share their current vision of the SmartGrid Project and that he will be discussing NWE's side of the meter and what SmartGrid will be doing for the distribution network. NWE constantly monitors real time control on the transmission system but the distribution system needs to be updated by adding communication and computing elements to be able to better monitor the system and acquire performance equal to that of the transmission system. Two important pieces to this will be automatic post outage circuit reconfiguration and restoration, where power can be restored remotely by control switches out on the circuits, and outage management which would allow NWE to know of an outage before the customer can even make the call. Two critical pieces in processing data and communication to the many systems needed for the project are remote meter reading and voltage control optimization. Representative Berry asked if the stimulus funds have been approved and asked if NWE's ultimate goal is to put this project through their whole system. Mr. Thomas said that the stimulus funds have been approved and that is the ultimate goal but figures there will be a 10 year process of learning and working and making mid-course corrections in getting to that point. Senator Murphy asked if other utilities around the country have moved to time of use pricing and/or other components similar to this project. Mr. Thomas said that there are utilities that have gone this way, some finding success and some finding failure, but all use and testing will help this project in creating time of use pricing systems and communication and better metering. Senator Murphy asked if there were any expectations for what will happen with utility cost of

operation and if so, how customers will be affected. Mr. Thomas said that costs will increase, but a question NWE hopes to answer is will costs increase less than they otherwise would have. Representative Berry asked how the twelve utilities participating were chosen. Mr. Thomas said that they were chosen through a competitive process. BPA indicated that they wanted to execute a regional project and through Battelle, elected to open up a process where projects were submitted by utilities for consideration by BPA and Battelle. Representative Noonan asked why Phillipsburg and Helena were chosen as test sites. Mr. Horvath said that NWE wanted to test an already strong urban area. Helena seemed ideal that way, and for the rural circuit NWE felt that the Georgetown Lake feeder out of Philipsburg would work well because it is long and rural and provides obstacles needed for the testing. Bob Nelson asked Mr. Thomas about the overall costs of roughly \$170 million for 60,000 customers, and the costs discussed during today's presentation of roughly \$4 million for 200 customers. Mr. Thomas said that there will be substantial start up costs to get this project started but once the infrastructure is in place, the number of customers served can increase and unit costs will come down. However, since start up costs and the initial number of customers are yet to be determined, any current figures would be misleading and would more than likely change in the future. Also, throughout the region, things will be done that NWE will not be doing, such as using hybrid vehicles, so looking forward, the answers lie in scale and unit costs and upfront costs that will help in figuring how to ultimately build out over the long run and drive unit costs down the correct way, avoiding additional capital spending and investment in the future that will not help obtain additional gains. Larry Nordell asked Mr. Thomas if any focus had been put toward large and commercial customers in terms of big gains and if so, any resistance small customers may give. Mr. Thomas said the big gains will not come from the customers but from the efficiencies gleaned from the utility distribution system and NWE does not have many large customers anymore. Mr. Thomas and Mr. Horvath thanked everyone for the opportunity to be at the meeting today.

## **Public Comments**

### **Geoff Feiss, General Manager of the Montana Telecommunications Association (MTA)**

MTA represents cooperatives and privately held companies in Montana providing telecommunication services throughout the state. Mr. Feiss wanted to address the Broadband Stimulus Program being implemented throughout the country, particularly with regard to how it is being implemented in Montana. Bresnan Communications applied for \$70 million of stimulus funds and that application was exclusively endorsed by Governor Schweitzer. Mr. Feiss stated that this application threatens to overbuild existing telecommunication network infrastructure and the effects on consumers of such overbuild, if funded, are significant. If a fully funded tax payer provided network is duplicating existing networks, the existing networks and those employees would be placed at a disadvantage. On 12/2/2009 a number of CEO's from telephone companies and cooperatives addressed this issue before the American Recovery and Reinvestment Act (ARRA) subcommittee and the bottom line is that there is great concern throughout Montana regarding stimulus money going to build that which already exists. The white paper is a study that Governor Schweitzer used in defense of his recommendation exclusively for Bresnan's application, correctly describes the very real and gripping economic circumstances and challenges facing residents of Indian country, however there is nothing in the Bresnan proposal or the white paper that inspires any confidence that those problems will be materially addressed by the \$70 million dollar overbuild of existing networks. The Public Service Commission (PSC) wrote a letter expressing their concern about the consumer ramifications of the Bresnan application and Governor Schweitzer's endorsement of that application. Mr. Feiss asked the Committee to write a letter to the Secretaries of the Department of Agriculture and Department of Commerce in opposition to overbuild applications as part of the federal stimulus program.

**Bonnie Lorang, General Manager of Montana Independent Telecommunications Service (MITS)**

MITS members are not restricted to cooperatives but do include rural telephone cooperatives that provide both landline and wireless service across Montana. Ms. Lorang said that MITS concurs with the statements made by Mr. Feiss and are also concerned about the impacts on Montana providers and consumers if projects such as the Bresnan proposal to overbuild existing infrastructure receive funding. Ms. Lorang provided handouts, including the white paper that Mr. Feiss referred to, and reminded the committee that Governor Schweitzer and his administration based their recommendation of Bresnan's application on this white paper that identified the Bresnan application as the only Tier 1 priority funding for broadband in Montana. The existing carriers have invested in their networks using traditional mechanisms such as Rural Utility Service (RUS) loans and have committed to use the loans for broadband and both the companies and the loans would be jeopardized by the \$70 million used to fund a competing company.

**Patrick Hogan, 360 Networks (360)**

360 is a fiber optic based communications company operating primarily west of the Mississippi river and has extensive fiber and equipment in the ground in Montana. 360 echoed what Mr. Feiss and Ms. Lorang said, that the \$70 million application by Bresnan that is supported by Governor Schweitzer is an inefficient use of tax payer dollars and would provide money to a private firm to construct a fiber optic network in Montana that duplicates existing networks. Also, the fully tax payer funded network that Bresnan has applied for would threaten the employment of existing providers and would put pressure on existing providers to invest in telecommunications upgrades, costing the consumer more.

**Jeremy Ferkin, Vice President and General Manager of CenturyLink**

CenturyLink represents roughly 90 employees in the Flathead Valley and just over 60,000 customers in Montana, and annual capital salaries and benefits spent in the Flathead Valley is about \$20 million. Most of that investment helps provide broadband service to 98.4% of the customers, which shows that CenturyLink has invested heavily in the communications infrastructure of the network. Centurylink also assists in building fiber in the Flathead Valley. The core concern of Centurylink is that the Bresnan application could result in disadvantageously taking away any incentive for other companies to invest, ultimately eliminating jobs in Montana.

**Laurence Walchuk, Hot Springs Telephone Company (HSTC)**

Mr. Walchuk is a board member of Hot Springs Telephone Company, a phone company that serves 800 customers. Mr. Walchuck said in the area that HSTC serves, there is not enough business for two companies so if Bresnan were awarded the stimulus money, HSTC would more than likely lose customers to Bresnan. Mr. Walchuck added that although competition is healthy, rates in the HSTC area are already some of the lowest in the state.

**Chuck Evilsizer, Attorney for Ronan Telephone Company (RTC) and HSTC**

Mr. Evilsizer supported the comments that had already been made and added that RTC supports and also requests that the committee take action against the Bresnan application because the National Telecommunications and Information Administration (NTIA), the agency at the Department of Commerce that administers the grant program, is scheduled to award the grants possibly as soon as mid December.

Representative Berry asked if the folks making public comments agreed with the broadband plan section of the white paper, particularly the statistics regarding Tribal

lands on page 7. Mr. Ferkin said that regarding the Salish Kootenai Tribe, CenturyLink provides fiber connectivity to every tribal facility on their Tribal properties and the statistics in the white paper do not represent reality. In most cases the Tribal and rural communities that CenturyLink serves as independents are better served than many large cities in the US. Mr. Feiss added that it appears that the white paper was created in 2005 and no public comment period was given where the record could have been corrected. Ms. Lorang added that she was surprised when she first read the white paper, which was attached to Bresnan's application. Senator Tropila asked if anyone had voiced their concerns to the Governor's Office and/or Congressional staff. Ms. Lorang said the Congressional staff was made aware of the concerns and that there was an opportunity prior to the Governor making a recommendation on the applications when the NTIA and the RUS asked for a recommendation of projects and people were give roughly a week to do so. Comments were filed by MITS, MTA and many other entities expressing similar concerns discussed today. All comments went unanswered and recommendations came out stating that the Bresnan application was identified as the only Tier 1 project for funding in Montana.

Bob Nelson added that as a general observer his reaction is very sympathetic toward the comments heard today. Bob has not spoken with the Governor's office or with Bresnan but the comments made today raise several good points that should be taken into consideration in the granting of the stimulus funds. From the perspective of the Montana Consumer Counsel (MCC), Bob's reaction would be that broadband and advanced services are not regulated in Montana and MCC's responsibilities are prescribed by law and to a large extent do not go into broadband or advanced services. That issue plus the fact that this topic has not been discussed with the Governor's office and that MCC has not been involved in broadband applications because of that more narrow view of MCC responsibilities would raise the question of appropriateness of MCC's involvement. Ms. Lorang said that in terms of what is regulated and what is not, something to consider is that the companies are about evenly split between regulated companies and cooperatives. Mr. Evilsizer added that

he appreciates Bob's perspective but if Bresnan were going to build this middle mile network of fiber, some of that would be used for regulated services. Bob said that if it is the desire of the Committee that MCC prepare comments reflecting the Committee's concerns or interest in Bresnan's application and distribution of those grant monies MCC indeed would do that. Bob recognized that broadband could potentially affect regulated services but questioned whether any proposals to regulate broadband service in Montana will be seen in the future. Senator Murphy asked Bob if MCC were to file a letter on behalf of the committee, would the letter mirror the comments of the PSC. Bob said that the comments would probably be similar to the PSC letter but he would be interested in trying to determine what connection the PSC made between the issues and regulated service in Montana. The PSC stated that they recognize the issues are not subject to their regulatory authority but that the PSC has to stay current with the provisions of these services because the integration with regulated services is necessary for the complex system to work. Bob believes that MCC would have to draw some kind of conclusion about why MCC was interested. One point that was not mentioned today was that Bresnan asked for a waiver of the requirement in the grant process stating that recipients of the funds agree not to sell the facilities for at least 10 years. All Committee members endorsed MCC writing a letter on behalf of the Committee supporting the comments and testimony heard today. Bob said he could have a draft ready by 12/4/2009.

MOTION: Senator Tropila moved approval to have Bob to submit such a letter on behalf of the consumer committee.

VOTE: The motion passed unanimously.

### **BOB NELSON PROVIDED THE FOLLOWING HIGHLIGHTS OF CASES**

#### **CURRENTLY PENDING:**

##### **NorthWestern Energy**

**D2009.9.129 Application for Electric and Natural Gas Delivery Rate Increase and ACOS and Rate Design Changes-**This application was filed on 10/16/2009.

NWE is requesting a roughly \$2 million increase in gas revenues and have submitted an allocated cost of service proposal and a rate design proposal asking to institute an inverted block rate structure. Because of that inverted block rate structure, the impact on the residential bill of the \$2 million increase would range from about -3% to about 13% depending on individual customer usage. On the electric side, NWE requested a roughly \$15.5 million increase and again because of the inverted block proposal the impact on the residential bill would range from about -7% to about 14% increase, depending on the usage. On 11/13/2009 the PSC issued a finding that NWE's application failed to comply with PSC filing requirements. The requirements the PSC found deficient related primarily to marginal cost information for the allocated cost of service part of the filing. There had been some debate on this issue that was recently resolved with NWE agreeing to extend the 9 month deadline for the PSC decision by 3 months and NWE will re-file some of the allocated cost of service information by mid January, rather than re-filing the whole case. In the mean time MCC is still doing analysis and putting together data requests.

**D2009.5.62 Annual Electric Tracker-**This filing is the annual review and true-up of the monthly trackers. This is the most recent tracker but it has been consolidated with the prior year tracker. MCC filed testimony of Dr. John Wilson on 9/18/2009. Dr. Wilson concluded that for the tracking period ending June 2008 NWE's requests and supply costs were generally reasonable and observed that components of the overall supply costs have remained stable. Dr. Wilson discussed the lost revenue claims that NWE had made related to the inclusion of Colstrip 4 and also discussed in-house labor costs related to real time scheduling and NWE's proposal for hedging, specifically using fixed for float swaps on the electric side. Subsequent to filing Dr. Wilson's testimony, MCC had discussions with NWE and ultimately agreed to a stipulation that was filed 12/2/2009. The stipulation states that NWE's supply costs were generally reasonable, the lost revenue claim of \$170,000 split 50/50, and

also agreed on the in-house labor costs that NWE would recover. Also in the stipulation, NWE withdrew the fixed for float swap hedging proposal, which will be discussed more in the future. A hearing is currently scheduled for 1/13/2010.

**D2009.7.98 Monthly Electric Trackers**-Costs in the NWE electric trackers are fluctuating somewhat but remain relatively stable.

**D2008.12.146 Application for Approval of Avoided Cost Tariff for New Qualifying Facilities**-This is a QF rate application relating to new QF's that are coming on line. A hearing was held on 11/12/2009 and parties are currently in the briefing stage.

**D2009.11.151 Petition for Declaratory Ruling Certifying Turnbull Project as a Community Renewable Energy Project**-NWE has entered into an agreement with Turnbull Project, a small hydro project located in an irrigation canal west of Fairfield. This filing is part of NWE's renewable portfolio standard requirement that requires that a portion of NWE's renewables come from community projects. In this petition, NWE is asking that the PSC rule that the Turnbull Project qualifies as a community renewable project. Bob believes that a primary issue here is whether local ownership is involved since Turnbull Hydro is owned by several participants, with some Montana entities wholly owned by Idaho residents.

**D2009.7.99 Monthly Gas Trackers**- Similar to the electric trackers, the gas trackers are also fluctuating somewhat but remain in the \$8.50 a dekatherm range, which is significantly better than a few heating seasons ago.

**D2008.12.142 Propane increase and Annual Tracking Adjustment for Townsend**-Since the last meeting the PSC issued Final Order 6968b on 9/11/2009 granting the requested changes, which due to the recent decrease in propane prices, turned out to be less than what had been originally requested.

**Montana-Dakota Utilities (MDU)**

**D2009.9.108 Annual Gas Cost Tracker**-This is MDU's annual gas cost tracker. Like NWE, MDU files annual true-ups and this one was filed on 9/10/2009. This case has been consolidated with the prior year tracker and MCC has intervened.

**D2008.9.112 November Gas Cost Tracker**-MDU's rates are roughly \$6.00 a dekatherm, about 25% lower than NWE.

**N2009.9.122 Biennial Electric Integrated Resource Plan**-These are filed every two years by MDU and have been in place since the restructuring of Montana Power Company (MPC). MDU was never subject to the restructuring but because of that they have been continually subject to the integrated resource plan filing requirements that were in place prior to the restructuring. After reviewing the filing, MCC did not take exception and chose not to file comments.

**D2009.6.87 Electric Cost Trackers**-Unlike NWE, MDU has more company owned integrated resources; therefore only a small portion of purchases from MISO and fuel costs for their own plant are tracked here, so costs are much lower than NWE.

### **Williston Basin Interstate Pipeline (WBIP)**

**WBIP v. FERC, U.S. Court of Appeals, D.C. Circuit, No. 06-1145**-WBIP is an Interstate Pipeline that is a sister corporation of MDU and is responsible for much of the costs that MDU flows through to its customers, which is why MCC is so active in WBIP cases before the FERC. This case began as a rate case but one issue remained pending. When MDU built a pipeline to the eastern part of its system, it entered into an agreement with customers served by that pipeline on cost and how those costs would be allocated. In the rate case, FERC repudiated that agreement and said WBIP had to charge open access rates and file tariffs under FERC's open access requirements. MCC became concerned because that meant a portion of revenues potentially would not be flowed back as credits to MDU's customers because WBIP then would lose the rights to resell capacity that was not being used,

and customers would have the right to resell that capacity and retain those annual revenues. There was a dispute about exactly how much those revenues could be, some calculations showed as high as \$700,000, with Montana standing to get roughly 30%. MCC participated in this case, which was appealed to Federal Circuit Court. FERC's decision was sustained on 10/30/2009.

### **Energy West Montana**

#### **D2008.3.27 Joint Application of Energy West and Cut Bank Gas for Approval of**

**Acquisition of Cut Bank Gas By EWM**-MCC entered into a stipulation with Cut Bank Gas (CBG) and Energy West (EWM) agreeing to this transfer with certain conditions. Final Order 6907b was issued 11/2/2009 approving that stipulation, finding that the acquisition would likely result in increased assurance of adequate service and would not harm consumers.

#### **D2009.5.66 Application to Convert Cascade Propane System to Natural Gas**

**and Adjust Rates**-MCC did not oppose this application because it appears it will result in substantial benefits to consumers being served by this line. The PSC issued Default Order 7003a on 10/20/2009 approving that application.

**D2000.10.176 Monthly Gas Trackers**-EWM's rate is currently in the \$6.00 range and remains about 25% lower than NWE's rates.

### **Five Valley Gas**

**D2008.8.97 Application to Increase Rates**-MCC entered into a stipulation with Five Valley Gas (FVG) that reduced their revenue request from \$38,000 to roughly \$24,000. A hearing was held on 9/30/2009 and the PSC issued Final Order 6957b on 10/21/2009 approving that stipulation.

### **Havre Pipeline Company**

**D2009.8.106 Application to Decrease Rates to Rural Farmstead Customers-**

MCC entered into an agreement with Havre Pipeline Company (HPC) for a methodology to calculate changes in service costs to their customers along the pipeline, which had been applied here, resulting in a rate decrease. The PSC issued Default Order 7028 on 9/30/2009 approving that agreement.

**Mountain Water Company**

**D2009.9.127 Annual Power Cost Tracker-**This filing pertained to Mountain Water Company's (MWC) electric costs, which was approved on an interim basis, and will be included in MWC's next general rate case.

**Wettington Acres Water District**

**D2008.7.85 Wettington Acres Water District Application to Implement Increased Rates-**MCC is reviewing this application. The PSC issued Interim Order 6991 on 5/4/2009 and a hearing is currently set for 1/13/10.

**Utility Solutions, LLC**

**D2005.11.163 and D2005.11.164 Utility Solutions, LLC Amended Application to Increase Water and Sewer Rates-**Utility Solutions, LLC (US) is a water and sewer utility that provides service to areas in the Bozeman area. This case is interesting because US provides service to an unregulated water district and to their own regulated customers. These dockets are applications to increase water and sewer rates to their own regulated customers by roughly 100%. MCC is involved in both cases.

**D2009.11.152 Consolidated Petition for Declaratory Rulings and Application for Approval of Transfer of Assets-**This application was filed on 11/30/2009 and is to transfer assets to the water district that US provides unregulated service to and in

turn, that water district would provide service to currently regulated customers. US is asking the PSC for a Declaratory Ruling that this transaction is not subject to PSC jurisdiction and that the regulated customers would no longer be regulated by the PSC. Bob believes significant costs could be at stake so MCC is reviewing this application.

### **Virginia City**

**D2009.4.52 Virginia City Sewer**-Municipal utilities are normally not regulated by the PSC but this was a complaint to the PSC by the customers. MCC did not file testimony in this case.

### **Landmark Water Company**

**D2009.9.117 Landmark Water Company**-Landmark Water Company (LWC) filed an application to increase water rates. MCC has intervened and is reviewing this application.

### **PSC Dockets**

#### **N2009.4.49 Consideration of Adoption of Energy Independence and Security Act of 2007 Standards Regarding Integrated Resource Planning, Energy Efficiency, Rate Design Modifications, SmartGrid Investments and SmartGrid Information**

**Information**-These topics are federal standards that the PSC was required to consider. MCC filed comments, stating that the PSC was not required by this federal law to further consider those standards and requirements because they already had, in other proceedings. Some, such as IRP and Energy Efficiency Expenditures, are naturally considered on an ongoing basis in some individual utility dockets. NWE and MDU also filed comments that were similar to MCC's. A workshop was held 11/30/2009 and the PSC so far has not issued their findings.

**Request for Comments on Proposed ARMs to Implement HB 294**-On 10/8/2009 the PSC issued a Notice of Intent to Engage in Rulemaking on rules for preapproval of natural gas production resources, which would implement HB294 from the 2009 legislative session. MCC submitted comments suggesting a very minor change of considering the impact of the acquisition on future rates. Otherwise the rules were very similar to rules the PSC adopted for consideration of preapproval of electric utility resources.

## **FERC**

Bob said that MCC and several state commissions are participating in filing joint comments in a FERC docket regarding transmission planning and cost allocation process improvement under FERC Order 890. All parties are participants in the Northern Tier Transmission Group Steering Committee, which also includes NWE. The comments will make three general points that the current sub-regional planning process is now yielding viable transmission plans, cost allocation within this Northern Tier Transmission Group is based on well established principals, and strategic initiatives are currently enhancing transmission planning processes. The purpose of the comments is to inform FERC that these issues are being addressed in the Northwest in collaboration among all of the stakeholders and that FERC does not need to impose its own ideas and solutions. The comments will be filed in the next few days.

## **MARY WRIGHT PROVIDED THE FOLLOWING HIGHLIGHTS OF TELECOM CASES CURRENTLY PENDING:**

**D2008.9.111-Investigation of Compliance with ETC Designation Requirements, Alltel Communications, Inc**-The PSC started this proceeding to investigate Alltel's failure to follow certain conditions originally imposed on Western Wireless, which has since been acquired by Alltel. A hearing was held 7/16/2009 and the PSC issued Final Order 6969d on 11/24/2009, finding that Alltel was not following the

conditions in question but gave them an additional three years to comply by building out to achieve 98% coverage in its service territory. The PSC included other conditions as well and stated that if Alltel does not live up to their obligations the PSC will consider terminating their ETC status so they would no longer receive USB funds.

**D2009.5.74-Verizon, AT&T, and Sprint Petition for Waiver of Regulations Requiring the Filing of Tariffs or Price Lists for Intrastate Interexchange**

**Services-**This is a filing by Verizon, AT&T and Sprint (IXC's), three large interexchange carriers, for a waiver of the Montana statute requiring them to file price lists and/or tariffs with the PSC when these carriers change their rates. MCC intervened but did not file testimony. A hearing was held on 11/30/2009 and briefs and a final order are pending.

**N2009.8.113-Southern Montana Telephone Company Application for Authority to Increase Rates-**

Southern Montana Telephone (SMT) is a small telecommunications provider that filed for a rate increase with the PSC on 8/25/2009. With small telecommunications providers the PSC does not actually obtain jurisdiction over these cases unless MCC or customers ask for a review of the proposed rates within 60 days. No request for review was submitted and the new rates took effect on 11/1/2009.

**Financial Report**

The report provided to the Committee is dated 12/1/2009. Personal services appears low because a full time position is being funded by half time and options for this position will be reviewed after the first of the year. The biennial financial audit report was provided to the Committee. The report was clean and no recommendations or findings were given by the auditor.

**HIRING OF EXPERT WITNESSES**

MOTION: Representative Noonan moved approval to hire the services of George Donkin to work on Docket D2009.9.121-MDU Annual Gas Cost Tracker.

VOTE: The motion passed unanimously.

Bob informed the committee that there were some cases that MCC is choosing not to work on in order to shepherd resources and one of them, unfortunately, pertains to Mill Creek. The PSC is looking at the ongoing Mill Creek construction process and costs. MCC is not actively reviewing the quarterly reports submitted by NWE.

Bob informed the committee that he was recently elected to the Executive Board of the National Association of State Utility Consumer Advocates (NASUCA). Senator Tropila congratulated Bob on his appointment.

The next meeting will be set for the beginning of March.

**Adjournment**

There being no further business to come before the Committee, the meeting adjourned.

Respectfully submitted,

\_\_\_\_\_, Robert Nelson, Consumer Counsel

Accepted by the Committee this \_\_\_\_ day of \_\_\_\_\_, 2010

\_\_\_\_\_, Chairman