

MINUTES
of the
LEGISLATIVE CONSUMER COMMITTEE

May 24, 2011

State Capitol, Room 472, Helena, MT

COMMITTEE MEMBERS PRESENT

Senator Terry Murphy, Chairman
Representative Pat Noonan, Vice Chairman
Senator Mitch Tropila
Representative Mike Cuffe

STAFF PRESENT

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

VISITORS PRESENT

Dave Gibson, CenturyLink
Jerome Patton
Geoff Feiss, Montana Telecommunication Association

CALL TO ORDER

The meeting was called to order at 1:30 p.m. by Senator Murphy.

SELECTION OF CHAIR AND VICE CHAIR

MOTION: Representative Cuffe moved to nominate Senator Murphy as Chair.

VOTE: The motion passed unanimously.

MOTION: Senator Tropila moved to nominate Representative Noonan as Vice-Chair.

VOTE: The motion passed unanimously.

MINUTES OF THE PREVIOUS MEETING

MOTION: Senator Tropila moved approval of the December 9, 2010 meeting minutes.

VOTE: The motion passed unanimously

BOB NELSON PROVIDED THE FOLLOWING HIGHLIGHTS OF CASES

CURRENTLY PENDING:

NWE Energy (NWE)

D2009.9.129 Application for Electric and Natural Gas Delivery Rate Increase and ACOS and Rate Design Changes-

This case is a combined electric and gas case; this is the recent general rate application. Bob gave a brief overview of the case. This rate case was filed toward the end of 2009. NWE had requested a \$2 million increase, which is 2% for gas customers, and they also had requested changing the allocation of those costs among different classes, residential, small business, large business, industrial, etc. and so although the gas rate increase was 2% overall, they had proposed to increase residential rates 3%. Because of the proposed rate structure, the residential bill impact would have been a slight

decrease of about 3% to an increase of 13% for some customers, depending on usage patterns. On the electric side, the company requested a \$15.5 million increase, which is 7% overall. They proposed to allocate more of that to residential so there would have been a 9% increase to the residential class, and again because of the rate design, impacts would have varied from a 7% decrease to about a 14% increase. There were other parties involved in this case, the Human Resource Council District 11, NRDC, and the Large Customer Group. We filed testimony. Al Clark, who is a revenue requirement witness, recommended a 2 million dollar decrease as opposed to the requested \$15.5 million electric increase and a 3 million dollar decrease as opposed to the requested \$2 million gas increase. John Wilson filed testimony on cost of capital, return on equity, capital structure, and cost allocation rate design issues. Dr. Wilson and George Donkin filed gas testimony, opposing the inverted block structure that NWE had proposed. The commission issued an interim order that authorized an electric increase of \$12.4 million and a gas increase of \$1.4 million. We also filed testimony opposing decoupling. Our arguments there were that fixed revenues would weaken productivity incentives, decoupling abandons a rate making principle of matching, which is matching expenses and revenues all within one period of time to make sure that rates are reasonable, and that normal sales risks that competitive businesses would face would be transferred to customers. We reached a stipulation with several of the parties for the cost allocation part of the case. The agreement stipulated that residential electric rates should be increased 3.4%, so there wasn't an extra allocation of costs to residential customers, and there was actually a slight decrease to small business customers. Essentially, all gas customers got a 1% decrease. We didn't settle the inverted rate issue or the decoupling issue. The commission did approve the revenue requirement stipulation, which agreed to a 10.25% return on equity, but did contain a provision that if the commission approved decoupling, we thought the commission should reduce the return on equity. The commission approved the revenue requirement stipulation, but adjusted the return on equity from 10.25% to 10% because they did adopt a form of decoupling. The Commission approved the cost allocation stipulation. The result of this was a significant decrease

from the interim rates that were in place and the commission also required a refund of those overcollections. With respect to decoupling, the commission called this form of decoupling a modified lost revenue adjustment mechanism, and adopted it only for electric customers, not for gas customers, and only for residential and small business customers, not for all electric customers. The commission, in the order, agreed that decoupling could weaken cost control incentives, so they modified it and required continued weather normalization which leaves the risks of weather fluctuations with the company. They also required that the adjustments only be performed on a disaggregated customer class basis as opposed to companywide, and capped the amount of changes that could occur on an annual basis at 2.5%. The Commission also approved inverted block rates only for residential electric customers, not for any other electric customers and not for gas customers. We filed a motion for reconsideration at the end of December requesting reconsideration of the modified lost revenue adjustment mechanism and the inverted block rate approval. We entered into a joint stipulation with NWE and NRDC asking the commission to reverse its decision on decoupling and inverted block rates. The commission denied all of those motions for reconsideration and there was an electric rebate of \$3 million due to the overcollection during the interim period and a gas rebate of about \$1 million.

MCC v. MPSC-Cause No. DDV2011-79 Petition for Judicial Review-Subsequent to the commission's order on the motions for reconsideration, our office filed a Petition for Judicial Review here in Lewis and Clark County, that was filed at the end of January, and the Large Customer Group filed and was granted intervention in that proceeding. **NWE v. MPSC-Cause No. DDV2011-86 Petition for Judicial Review**-NWE also filed a Petition for Judicial Review in the same district and in **District XI** and **NRDC v. MPSC-Cause No. DDV2011-89 Petition for Judicial Review**-NRDC and the Human Resource Council also filed a Petition for Judicial Review. All of these Petitions for Review were consolidated and have been held in abeyance because the parties have been working on a settlement. There is a draft worked out and we are hoping to have it signed within a week or two.

Senator Tropila asked Bob to briefly define the mission statement of the Consumer Counsel and what the charge of the Legislative Consumer Committee is. This brought about several questions and answers describing what the Committee's duties were and what the Counsel's duties were. During this discussion Bob gave a brief overview of what Smart Grid is. It was determined that the Counsel would invite NWE to attend the next Committee Meeting to discuss this topic further.

D2008.4.36 NWE Petition of MCC for Investigation Concerning Compliance

with Affiliate Transaction Requirements of Order 6505e This case goes back a few years and is related to the bankruptcy period for NWE. It is a case that we filed before the bankruptcy because we were concerned with their financial situation. One of the results of that investigation was a ringfencing agreement stipulation that we entered into with the Commission and NWE. The general point of that agreement was to separate non-utility assets within a larger corporation from the utility operations so that the non-utility businesses wouldn't drag a utility operation into bankruptcy. We wanted in the future to protect the utility consumers in their financial stake in the utility company. A consent order had been entered into and we believe that NWE had violated that agreement in the way that it had refinanced its reacquisition of the Colstrip 4 interest. We thought that it had used the financial backing that was provided by the regulated utility customers to reacquire Colstrip 4 which they were holding in an unregulated operation. We filed this petition for an investigation, which the Commission processed in parallel with the request to pre-approve the re-inclusion of Colstrip 4 in rate base, which is a different case but is related to this one. In the final order, the commission agreed that there had been several violations of that order. They counted each violation as it persisted as a separate violation for each day and so they came up with 765 violations that were subject to a maximum fine of \$1000/day, so they were seeking fines of \$765,000. This was done through District Court Action. We had asked the Commission to provide more equitable relief which we thought could have included requiring the

inclusion of Colstrip 4 in rate base but the Commission rejected that remedy. We thought the \$765,000 in fines was probably insufficient to stop that kind of activity in the future because the potential benefit from doing it was much greater than the fine. The Commission issued that order in 2008. It had to go to District Court to enforce it and they ultimately entered into a settlement agreement with NWE instead of pursuing fines. NWE agreed to spend that \$765,000 of shareholder money on research and development on three projects: a Flywheel Storage Demonstration Project at the Mill Creek Generation plant, a Smart Grid Demonstration House, and the Pacific Northwest Regional Smart Grid Pilot Project.

D2008.8.95 NWE Application for Approval to Construct and Operate the Mill Creek Generating Station to Supply Regulation Service-

The general rationale for constructing Mill Creek was to provide a regulation service, or backup power, for historical load and wind generation. NWE could not provide this regulation because it had sold or lost access to its own generation through the Montana Power Generation Sale process. The projected annual revenue requirement was about 80 million dollars and there is an allocation issue regarding who is going to pay that 80 million dollar revenue requirement. NWE proposed that about 55 million would be the responsibility of retail customers and the rest would be the responsibility of wholesale customers that are regulated by the FERC. The Commission approved that resource. Our position had been that they should defer approval pending the development of potential other ways of integrating these resources that might be cheaper. As part of that approval, the Commission required the ongoing reporting of the construction process. It came on-line January 1 of this year and the Commission also required that within 90 days of the plant coming on line that there would be a compliance filing for final rate treatment for the cost of the plant. The Interim Compliance Filing was submitted last December and the net revenue requirement that was requested in the compliance filing was about 45 million dollars, which added a rate of \$7.63 Mwh to the tracking costs portion of the rate. In April, NWE proposed to change that interim level to 37.8 million dollars and that was approved. The reason for the reduction was bonus depreciation in recent Federal tax changes.

This allowed NWE to depreciate about 50% of the plant this year. The compliance filing hasn't been processed yet. There is a prehearing conference scheduled for June 1. The Commission at the prehearing conference will establish the schedule for discovery and testimony on the cost of Mill Creek.

D2010.7.77 Application for Approval of Revised QF-1 Rates- Qualified Facilities (QF) are resources that the utilities are required under Federal law, under certain circumstances, to acquire at rates that are determined by the PSC. Every year, there is a QF proceeding where the Commission examines and resets the QF rates. The Commission adopted a separate QF rate for wind. In this filing, the proposal for the wind QF rate was \$68.42/Mwh, but that does not include integration costs so those would be additional costs that would go to consumers. The reason that the Commission didn't include integration costs in the QF rate was because the QF rate was based on the NWE biennial procurement plan, and in the procurement plan NWE assumed it had to acquire a certain amount of wind and so didn't include integration costs. The Commission carried that treatment over to its QF rate docket. We have intervened in this docket. Dr. John Wilson filed testimony on our behalf and when he looked at electric generation forecasts, he concluded that costs have come down since NWE had filed its testimony and so the large QF rate increases that had been proposed weren't warranted.

D2010.5.50 NWE Annual Electric Trackers- NWE tracks on a monthly basis its electricity and gas costs and compares them to the revenue that they are receiving and then adjusts that rate the following month. Every year they file a true-up of all of those monthly filings. We get to look at their purchasing practices, what they have put in their portfolios and whether their monthly trackers have been accurate. This docket was the Annual Electric Tracker for 2010. John Wilson filed testimony in this tracker and looked at changing costs over a period of several years prior to that tracker and concluded that NWE costs had remained relatively stable but that was because various cost components had changed and offset each other. Dr. Wilson concluded that what NWE had done and included in terms of their resource

acquisition was essentially prudent. The only thing he took issue with was the way that NWE had included Colstrip 4 costs in its trackers. That was a result of the Commission pre-approving inclusion of Colstrip 4 but there never was a detailed rate case on what those costs would be. We thought that the number that they used was a mismatch to the period of time where the costs had been calculated and the result of that mismatch was a rate that was too high. A hearing was held on that proceeding and a final order was issued last month. The order rejected our position and Dr. Wilson's analysis.

D2010.12.116 NWE 2011 Tax Trackers- This is something that NWE is authorized by statute to separate from all their other expenses. As with their electric and gas commodity costs, NWE tracks this dollar for dollar on an annual basis. We typically intervene and review those filings. They are very hard to review and do anything meaningful because of the timeframe. We have a couple of weeks total to process these dockets because of the statute. In this case we did not file any testimony and the Commission approved the application as filed.

D2011.5.41 NWE Application for Preapproval of Acquisition of Spion Kop Wind Project – This is something that NWE has not actually filed but they have submitted a letter of intent indicating that they plan to file before the end of this month.

D2010.5.49 NWE Annual Gas Cost Tracker- This docket is the annual gas cost tracker. This was settled as part of the gas procurement practices docket, which is **N2010.12.11.**

D2011.3.26 - Annual Gas USBC – This tracker concerns the Universal System Benefits Charge (USBC) that is a statutorily created charge to provide public benefits, mostly energy efficiency and low income bill assistance. Those USBC rates are segregated and tracked on an annual base, so there are annual filings such as this that we review.

D2010.4.44 – NWE Annual Propane Supply Tracker – NWE has a propane utility in Townsend and so they file annual trackers to update the propane cost. In this case, we reviewed that filing and didn't file any testimony. The Commission issued an order in April finalizing the interim order which had approved the company's request.

D2011.4.33 – NWE Annual Propane Supply Tracker – This docket is the current Townsend Propane filing which was just filed at the end of last month and we were just informed yesterday that the company has identified some problems with the numbers in that filing so they have withdrawn it and will refile it later. We will review that when that is refiled.

D2010.11.110 – NWE Petition for Authority to Issue Securities – Companies have to file for approval to issue securities with the PSC and so we review those filings. In this docket we did not file any testimony or object to the request.

D2010.8.82 – MDU – General Electric Rate Application –MDU requested a 5.5 million dollar increase which is a 13% overall increase. They had proposed to allocate more of that to residential customers so the proposed residential increase was 14.5%. They also proposed to implement two new trackers, a Renewable Resource Cost Tracker and a Transmission Cost Tracker, that would provide separate recovery of these costs outside of general rate cases. We intervened and the hearing had been set for February, but was vacated at the parties' request because we had been working on a settlement with MDU. We filed testimony of Al Clark, who recommended an increase of about 650 thousand dollars as opposed to the 5 million dollar increase, based on adjustments and cost of capital recommendations made by two other witnesses in the case. We filed testimony of Jack Pous, who suggested an overall reduction of about 6.2 million dollars in depreciation expense. John Wilson provided testimony on cost of capital recommending a 9.5% return on equity. He also disagreed with MDU's proposal to allocate more cost to residential and small business customers. He recommended

that those customers were already being charged more than they should be and residential rates should not be increased as much as other class rates. He also recommended that the Commission reject the proposed trackers. The Commission issued an interim order that authorized a 2.6 million dollar increase on an interim basis which is subject to refund. We entered into a stipulation with the Large Industrial Parties and MDU, agreeing to a 2.6 million dollar increase which is 6.2% overall. It results in a 5% residential and a 5.9% small general customer increase. MDU agreed to withdraw its proposed trackers. Also in this stipulation was approval of MDU's annual power cost trackers which had been pending. The Commission has recently issued a notice of Public Satellite Hearings. These hearings are scheduled June 1st in Sidney and June 2nd in Miles City and the general hearing has not been scheduled yet.

D2010.9.90 – EWM – General Rate Increase Application –Energy West is the Great Falls gas utility. They also provide gas service in Cascade and West Yellowstone. This filing was largely the result of a prior case where they had been acquired by another company and we had entered into a settlement there. One of the requirements of that settlement was that they file a rate case; we wanted to see what their costs actually looked like after this acquisition. They filed this rate case requesting a 362 thousand dollar revenue increase and also requested implementation of straight fixed variable rate design. They requested a return on equity of about 10.7%. We filed testimony of John Wilson who recommended a 9.25% return on equity and 50/50 capital structure and Paul provided testimony recommending a 589,000 dollar decrease as opposed to the increase that they had requested. We also filed testimony of George Donkin, who agreed with the use of embedded cost studies but disagreed with several of the elements that EWM had used to allocate those costs. He still recommended larger decreases go to the small and large general service classes as opposed to the residential class. He also opposed the fixed rate variable design as economically inefficient. The Commission did issue a notice requesting additional testimony on the cost basis of the negotiated price contracts. The hearing in this case is currently set for mid July.

D2010.6.69 – EWM Annual Gas Tracker - Like MDU and NWE, EWM has monthly and annual commodity cost trackers. We conducted discovery on this annual tracker and ultimately did not file any testimony. The Commission issued an order approving the application as filed.

D2010.11.107 – Avista Electric Rate Increase Request - Avista is an electric utility operating primarily in the State of Washington but they own a dam and some facilities here in Montana so they have service to their own employees and a couple of miscellaneous customers. They filed an electric rate increase last year which was small in terms of dollars, about a 50% increase for its 19 customers, but 10 of those customers are their own employees. We looked at that filing and decided that we would not file any testimony. The Commission issued a default order approving the application as filed this month.

D2011.4.32 – Cut Bank Gas Annual Gas Tracker – Cut Bank Gas is now owned by Energy West. They own a portion of their production and also purchase a portion of their gas requirements. They also now have annual and monthly trackers and this is an annual gas tracker where they have filed for recovery of about 118,000 dollars. This application was just filed and we will be reviewing it.

D2011.2.13 – Five Valleys Gas Application for Monthly Propane Tracker True-Up - Five Valleys is a propane gas utility in the Seeley area, and they have monthly trackers. This is an application for an annual true-up. Again, this is something that we just recently intervened in and will be investigating.

D2011.5.39 – Miller Oil Co. Annual Propane Cost Tracker – Miller Oil Company is a propane distribution company in Culbertson. They filed their annual tracker in April requesting about a 9,000 dollar increase, which is 2%. We will be taking a look at this application as well.

D2011.4.35 – Sleepy Hollow Oil & Gas LLC – Application to Initiate Gas

Services – This is a new corporation which proposes to provide natural gas service in the Winifred area. This filing is an application to establish initial rates and to initiate gas service in that area. They are proposing an initial rate period of 18 months and then after that they will have established an accounting record and can file an application for permanent rate approval. The initial rate request is for \$14/MMbtu which is cheaper than the current propane service that is being offered in that area. We will be taking a look at this application as well.

D2010.4.41 – Mountain Water Company – Application to Increase Rates – MWC

is a large water utility in Missoula. They filed an application to increase their revenues by about 2 million dollars, or about 12%. We intervened in this case and filed testimony. John Wilson filed cost of capital testimony recommending a return on equity in the 7 to 10% range. He also raised issues about their refinancing of debt. Paul filed testimony recommending a 1.2 million dollar increase based on several cost adjustments and Dr. Wilson's cap structure and cost of capital recommendations. A hearing was held last December and in February we entered into a stipulation with MWC. In this stipulation we agreed to an actual capital structure, 10% return on equity, and a 1.5 million dollar rate increase. The Commission issued an interim order and in March, issued a final order that approved the stipulation.

D2011.1.8 Mountain Water Company – Petition for Declaratory Ruling and

Application for Approval of Sale and Transfer of Stock – MWC wants the Commission to declare that they do not have jurisdiction over the sale of Park Water Company stock. MWC is owned by Park Water Company, which is a company based in Los Angeles, CA. Park Water Company entered into an agreement to be acquired by merger with Western Water which is a wholly owned subsidiary of Carlyle Infrastructure Partners. Under the agreement, the Missoula Utility will remain a subsidiary of Park and Park will become a subsidiary of Western Water.

We intervened in this case and it is just in the discovery phase right now where we are submitting questions to the company. A hearing is set for August.

D2010.9.93- Wettington Water District – Application to Implement increased

rates - This utility serves in the Kalispell area. They requested about a 22% increase. We intervened and the hearing was originally set this month but Wettington has not responded to some discovery requests from the Commission staff and so the Procedural Order has been vacated and the hearing is in limbo at this point.

D2009.9.117 – Landmark Water Company – Application to Increase Rates –

This company serves in the Bozeman area. Landmark Water is requesting authority to flow through commodity cost increases from River Rock Water and Sewer District. This would result in about a 14% increase. Paul submitted testimony that suggested certain portions of the requested increase should not be included because they are base rate costs not water commodity costs, and are not appropriately included in this kind of tracker proceeding. A hearing was held last month in this case. There is no final action at this point.

D2009.12.156 – Aquanet - Application for Initial Water Rates – This utility serves

in the Billings area and has 80 customers. There was an amended application for final approval of rates. They are requesting an annual increase of 44,000 dollars which is a 91% increase. Paul filed testimony in March recommending a 39% increase as opposed to the 91%. A hearing was scheduled for last month but it was vacated and has not been held at this point.

D2010.6.60 – North Star PUD – Initial Rate Application for Water and Sewer –

This utility serves in the Helena Valley area. A procedural order was issued but the staff issued a notice suspending the procedural schedule due to discovery problems. There is no schedule for processing this case at this point.

D2010.9.98 – Treeline Springs, LLC – Application for Increased Water and Sewer Rates

– This utility serves in the Moonlight Basin area in Big Sky. They requested a 122% increase in rates, which is a 204,000 dollar increase. Paul filed testimony in this case recommending a 172,000 dollar increase. We filed a stipulation entered into with the applicant that agrees to 179,000 dollar increase. A hearing was held in late April. The stipulation was approved.

D2008.10.123 – HLH, LLC – Water Rate Increase – This utility serves in the Big Sky area. They filed a request for about a 100% increase, or 442,000 dollars in revenues. We entered into a stipulation with HLH that would have resulted in overall revenues of 338,000 dollars. The Commission originally issued an interim order approving that stipulation on an interim basis. A hearing was held last year, but when they started considering this stipulation on a final basis, the Commission determined that they didn't have adequate information to make an informed decision, so they denied the stipulation and determined to restart the entire process. The company filed a request for reconsideration and last December the Commission denied reconsideration and reestablished a procedural schedule setting a hearing for March of this year. HLH later advised the Commission that they were entitled by law to implement rate increases if the Commission doesn't act on them within nine months. HLH informed the Commission that it was self-implementing rates. They implemented rates at the level that they stipulated to with our office. At this point, no hearing date has been set. A new party has intervened and that has provided a new complication in this case. We do not know when the hearing will be held.

D2011.4.34 – AquaFlo, LLC – Application to Increase Water and Sewer Rates –

AquaFlo is requesting about a 25% increase to its 143 customers. The application was just issued and we will be intervening in this case.

TransCanada Keystone Pipeline – Major Facility Siting Act Application – This

oil pipeline is planned to come out of Canada and go down south through Montana. There is a statute that requires our office to perform Customer Rate Impact Studies

for certain developments; generation facilities and transmission facilities. We received a request from the Northern Plains Resource Council to conduct this study. Larry conducted the rate impact study. His conclusions were that there were no direct impacts on electricity consumers but there are several pump stations that may require significant transmission investment and also require significant electric consumption. He found that customers were protected from current incremental power supply costs as a result of the agreements that the companies had entered into for pricing with Keystone, that the method of transmission charges and letters of credit would protect customers from transmission cost risks, and that it is not possible to determine in advance how future load growth could affect rates because there would also be load growth occurring as a result of developments outside of the Keystone Pipeline. This report was submitted as a supplement to the Environmental Impact Study and was issued for public review and comment and a Supplemental Environmental Impact Statement was issued by the Department of State. Comments are due on the Impact Statement in June.

Roundtable Regarding Electric Energy Efficiency and Conservation Policy –

This is a docket that the Commission itself established. They have staff that was funded by ARRA and they developed a report on Energy Efficiency and Conservation suggesting some areas that the Commission might explore. The Commission asked for comments and discussion in this roundtable docket. We filed comments in March. Our comment was that the Commission should focus on cost-effective resources as opposed to strictly energy efficiency resources and that utilities have an obligation to acquire cost-effective resources, so consumer benefits should not be reduced in an effort to acquire those resources. There was also some discussion in this docket about decoupling. We commented that decoupling has not shown to be effective or necessary. Another comment that we had was that demand response should be implemented where benefits are shown but there should be a cost benefit analysis behind implementation of those technologies. There has not been anything from the Commission following on to the roundtable.

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

D2010.5.55 – Qwest - Merger of CenturyLink and Qwest – CenturyLink is a nationwide service provider that provides service in the Kalispell area. It announced in early 2010 that it was going to acquire Qwest. This required approval of the Montana Public Service Commission and many other Public Service Commissions as well as Federal agencies. We intervened in the case along with a number of other parties. We filed the testimony of George Donkin, who provided testimony that asked the Commission to deny the merger or to impose some conditions for the protection of rate payers and for the reporting of progress on the merger. We ended up entering into a settlement after the applicants decided that they agreed with all our conditions except for one. On December 15, 2010 the Commission issued its final order approving the stipulation we proposed. The closing took place on April 1, 2011.

N2011.3.25 – Southern Montana Telephone Company – This is a small provider in southwest Montana that is raising its residential and business rates under a regulatory scheme in the statutes. A small provider can give notice that it intends to raise its rates and those rates will be effective in 60 days unless 10% of the customers or our office ask the Commission to take jurisdiction and review the rates. Our office has not heard from any customers and do not believe we have a basis for filing for a review. The proposed rates are scheduled to take effect on May 27, 2011.

Financial Report

The report provided to the Committee was dated 4/30/2011. Bob stated that personal services are running behind due to the fact that we have partially filled or unfilled positions at this point. We will end the year with a significant balance in personal services. He explained that due to lower budget figures the last two years we were going to have to use about \$162,000 of our \$250,000 contingency for contract services. Our budget that was approved for this biennium increases the

contracted services fund. Bob projects that we will have a small surplus in supplies and materials and probably some surplus as well in travel. Everything else is going to be right on track.

HIRING OF EXPERT WITNESSES

Bob described the following dockets and requested hiring the following expert witnesses:

D2010.12.111 - NWE Gas Procurement: *George Donkin*

D2008.8.95 – NWE Mill Creek Compliance: *Al Clark*

D2011.1.8 – Mountain Water Company: *John Wilson*

D2011.5.36 – NWE Annual Gas Tracker: *George Donkin*

D2011.5.38 – NWE Annual Electric Tracker: *John Wilson*

D2011.5.41 – NWE Spion Kop Wind Project: *John Wilson*

MOTION: Representative Cuffe moved approval to hire the services of the expert witnesses.

Vote: The motion passed unanimously.

Counsel Staff

Bob stated we have an open economist position that we have been trying to hire. We thought we had reached a conclusion to that process and wanted to request hiring a certain individual then unfortunately he withdrew his application so we are back to looking at the existing applicant pool and trying to advertise more widely than we originally had. It is difficult to find someone with the specialized qualifications that we are looking for to do this work at the level that we require. It is a difficult position to recruit and we are still in that process. He had hoped to reset some of the other staff salaries at the time of hiring the economist.

Bob requested approval of the base salary levels outlined in his May 24, 2011 memo to the Committee.

MOTION: Senator Tropila moved approval of base salary levels effective the current pay period.

VOTE: The motion passed with a vote of 2 to 1, Representative Cuffe voting no.

Public Comments

Geoff Feiss with the Montana Telecommunication Association gave a brief overview of what was going on in Telecom issues. On the Federal level, there is a universal service reform rulemaking at the FCC. Comments have been filed and replies were filed on Monday. A number of national associations representing rural telecom providers got together and filed comments. CenturyLink did not join those comments, MTA did and the other association in Montana, MITS, concurred in the Joint National Rural Association Comments that were filed. CenturyLink, which represents 2/3 or more of the wire line lines in Montana, filed comments largely consistent with the Rural Association's and they are all really concerned about many of the recommendation in the Federal rulemaking which, if implemented as proposed, could reduce the amount of investment capability that Qwest/CenturyLink and the Rural Telecom Providers have and have been successfully investing in Montana. If the Notice of Public Rule Making were implemented as proposed, millions of dollars would go missing from the revenue streams of CenturyLink and the Rural Providers through a variety of means. They would become credit questionable. Companies would default on millions of dollars of loans that are outstanding. The FCC is continuing to move ahead with recommendations. The rural companies are still concerned and somewhat optimistic that the FCC is realizing that this universal service system is not broke and shouldn't be fixed. Mr. Feiss also described the problem that people have been having with dropped calls. They have discussed this with FCC. The FCC is not handling the situation. The

phone companies are receiving dozens of complaints from consumers and businesses about this problem and he would like to see FCC get this under control. Another issue they are having is with the Lifeline Assistance; there is a rulemaking proposal to revise the Low Income Assistance Program which provides Lifeline Assistance and, if implemented, may end up increasing the cost of telephone service in Montana and increasing the price of consumers' phone bills.

Next Meeting

The next meeting will be scheduled for late September. The specific date will be determined at a later date.

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 _____, 2011

_____, Chairman.