

MINUTES
of the
LEGISLATIVE CONSUMER COMMITTEE

September 28, 2011

State Capitol, Room 405, 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

Heather Voeller, Secretary

Paul Schulz, Rate Analyst

Mary Wright, Attorney

VISITORS PRESENT

Cathy Duncan, Legislative Fiscal Division

Gary Duncan, Public Service Commission

Pat Corcoran, NorthWestern Energy

Blain Nichols, NorthWestern Energy

Bill Thomas, NorthWestern Energy

June Pusich-Lester, NorthWestern Energy

George Horvath, NorthWestern Energy

Dan Flynn, IBEW

CALL TO ORDER

The meeting was called to order at 1:00 p.m. by Senator Murphy.

**LETTER TO THE FCC FROM PUBLIC SERVICE COMMISSION AND
LEGISLATIVE CONSUMER COMMITTEE**

Senator Murphy gave a brief summary of why this letter had been drafted. As chairman of the Committee, Senator Murphy wanted approval of all committee members before he signed the letter.

MOTION: Representative Cuffe moved approval of Senator Murphy signing the letter on behalf of the committee.

SECOND: Senator Tropila seconded the motion.

VOTE: The motion passed unanimously.

MINUTES OF THE PREVIOUS MEETINGS

May 24, 2011 Meeting

MOTION: Senator Tropila moved approval of the May 24, 2011 meeting minutes.

SECOND: Representative Noonan seconded the motion.

VOTE: The motion passed unanimously.

June 24, 2011 – Telephone Conference Call Committee Meeting

MOTION: Representative Noonan moved approval of the June 24, 2011 meeting minutes.

SECOND: Representative Cuffe seconded the motion.

VOTE: The motion passed unanimously.

NORTHWESTERN ENERGY PRESENTATION

Pat Corcoran, Vice President of Government and Regulatory Affairs for NWE introduced the NWE employees who were present and going to give presentations. Blain Nichols – Manager of Distribution System Infrastructure Project (DSIP); George Horvath – Manager of Distribution Engineering for the western half of Montana and who oversees the Operation side of Smart Grid; June Pusich-Lester – Engineer ; Bill Thomas – Customer side.

Mr. Corcoran gave a brief summary of the DSIP project. The Distribution System is the backbone part of NWE's system. NWE is getting to the point where they are dealing with aging infrastructure facilities across Montana. From a distribution standpoint, the backdrop of this project goes back as early as 2004. NWE was just coming out of bankruptcy and as part of that bankruptcy proceeding, there was an audit conducted by an independent third party. The audit looked at the distribution system. They came up with a series of recommendations that NWE should be doing as a company. Those recommendations led NWE to take a look at how the information was gathered and how they could better gather the information relative to those systems. The new data that was collected allowed NWE to start to get a better understanding of the distribution system operations. Within the last couple of years, NWE has started a major effort in developing a technical plan for this project. NWE is dealing with aging infrastructure before it becomes a problem and focusing on the utility of the future. At the same time that the DSIP is going on NWE is working on the Smart Grid Project. NWE received a grant and is one of the two utilities in Montana to be a part of the Pacific Northwest Regional Smart Grid Demonstration Project. NWE's project is a small project and is costing roughly \$4 million. What the project does is to start looking at Smart Grid technologies and looking at the things that would be done in the home to provide customers the tools they need.

Blain Nichols, Project Manager for DSIP, gave a brief overview of the project and an update on where NWE is in 2011 since they have implemented the project. Mr. Nichols stated that it was important to note that the DSIP is in addition to NWE's normal base plan. He explained that this project was developed to be a proactive

way to address the emerging issue of aging infrastructure and to build a foundation for future technology. NWE feels that while they are doing all this work it makes sense that the system they are replacing is ready to except new technology down the road and also to make sure they have communications to these pieces of equipment. A big part of the Electric System goal is to add additional capacity back into the system to allow for growth in the future. Also with this project NWE is looking at maintaining reliability over the long-term and improving it for their rural customers. The biggest change in the gas system in regards to DSIP is the Distribution Integrity Management Plan (DIMP) which is required by DOT. NWE had to come up with a way to manage its distribution system and look for risk and probability to see if there is any component that was of concern. If there was such a concern, then NWE would put more focus on that particular component. They are still in the data collection part of this DIMP. DSIP is a 7 year project totaling \$367 million. The Phase-In Plan will take place from 2011 to 2012. The Main Production Phase will be from 2013 to 2017.

George Horvath, Manager of Distribution Engineering for the western half of Montana, gave the definition of Smart Grid according to the Department of Energy (DOE); a smart grid is an electricity delivery network modernized using latest IT technologies to meet key defining functions. The Pacific Northwest Smart Grid process touches five states, Washington, Oregon, Idaho, Montana and Wyoming. There are 11 utilities involved, NWE being one of them. This project is going to cost \$4.2 million which NWE is sharing 50/50 with DOE. The regional timeline for this project is 5 years. Phase 1 which was the design phase took the first 6 months of 2010. Phase 2 which is the build out phase is where NWE currently is and that is estimated to take 24 months starting at the middle of 2010 and going to the middle of 2012. NWE is hoping that Phase 3, which is the data collection phase, will be ready for August 2012. They are estimating that Phase 3 will take approximately 2 years and that by August of 2014 they will be in Phase 4 which is the cost benefit analysis and reporting phase. There are two distribution project locations for Montana, the City of Helena (urban area) and the Town of Philipsburg (rural area).

Bill Thomas, Manager of Regulatory Support Services, spoke regarding issues on the customer side of the meter. NWE is hoping that this project will be able to provide customers with more information and ways to control usage. There is a notion in the utility business that if you provide customers more information about how they use energy particularly the amount at the time of day and the price, the customer can be motivated to change the manner in which they use their energy. With Smart Grid, NWE is going to try to send information to the selected customers about their energy use and the cost at the time of day and install gadgets in their home that will automatically alter the amount of electricity that is used during the day and which devices can be programmed to cycle themselves on and off a few more or many times in a hour depending on when the price is low, medium or high. This is called “time of use pricing” and “time of use energy consumption”. NWE will gather the information and use the internet to achieve two way communications from the home and back to the home. For the target homes, there will be hardware installed, and there will be a website that the customers will go to to operate their system and to learn and monitor changes in price. Also, NWE will take steps to gather this data and watch the devices and evaluate how they perform. NWE will be installing “smart meters” at the test sites that will be able to be read every five minutes; this will allow them to offer different pricing. However, NWE will only be monitoring every hour.

June Pusich-Lester, Smart Grid Engineer on the project, spoke about the work they have done and where they are with the project. NWE is hoping to have this project under way by the end of 2011. They have started recruiting in the Helena area; they sent out 1200 postcards and are hoping that 200 people will sign up for the project. With this project, NWE will be monitoring 200 homes and 2 state offices for a 24 month period. In the middle of 2014 NWE will start the Cost Benefit Analysis and Reporting to quantify smart grid costs and benefits.

BOB NELSON PROVIDED THE FOLLOWING HIGHLIGHTS OF CASES

CURRENTLY PENDING:

D2009.9.129 - NWE - Application for Electric and Natural Gas Delivery Rate

Increase and ACOS and Rate Design Changes- MCC filed a Petition for Review as did the other major parties in the case. The Commission subsequently issued a Notice of Commission Action on June 3, 2011 accepting a settlement agreement in the case. The agreement involved removing the approval of a decoupling mechanism, going back to the lost revenue adjustment mechanism, and removing the approval of the inverted block rate design. It also restored the return on equity to 10.25%, while the company agreed to an additional \$650,000 reduction. This agreement was filed with the district court and Judge Reynolds approved the settlement on June 16, 2011. On June 30, 2011, the Commission issued its order accepting the agreement and also implementing the \$650,000 rate reduction.

D2008.8.95 – NWE - Application for Approval to Construct and Operate the Mill

Creek Generating Station to Supply Regulation Service- This case involves the construction of Mill Creek now known as the Dave Gates Generating Station. The Commission earlier had approved the construction of this plant. As part of the approval, the Commission required a revenue requirement filing within 90 day of the online date of commercial operation to update the cost. The revenue requirement filing was submitted and a Procedural Order was issued June 3, 2011. A hearing has been set for November 9, 2011. MCC reviewed the filing and one of the issues in the preapproval case was the allocation of the cost of the plant as between the state jurisdictional customers and the wholesale jurisdictional, or FERC, customers. NWE had proposed one allocation and we had proposed another. The Large Customer Group (LCG) argued at the time that it was premature to decide an allocation. The Commission ended up in its order agreeing with the LCG. In this case, the allocation issue has arisen again. Dr. Wilson filed testimony addressing the allocation issue. NWE's methodology basically assigns 80% of the cost responsibility to the state retail customers. This testimony concludes that that allocation is not in line with transmission network usage. Dr. Wilson recommended that NWE conduct a study to quantify the customer class responsibility for those

regulation requirements. In the meantime, regulation costs should be based on electricity use in all hours rather than limited peak amounts. The result of Dr. Wilson's recommendation would be to reduce the retail customer responsibility to about 48% of the traditional regulation requirement, which is set at 60MW. Retail customers are on the hook for all of the difference between 60 and the plant capacity of 105 because the difference is related to wind generation and regulating wind. MCC also filed response testimony responding to the LCG witness. The testimony disagrees with LCG's suggestion that the Commission again defer its final resolution of cost allocation pending a FERC decision. The testimony also points out that in our view the LCG recommendations are discriminatory and would subsidize those customers. Also, the allocation that LCG is proposing is based on a 150MW plant capacity. LCG claims that "traditional" regulation requirements are 45MW so they are only going to want to pick up a portion of the 45 and they claim that the overall plant is capable of producing 150MW. MCC on the other hand agrees with NWE that "traditional" requirement is 60MW and the total capability is 105MW.

ER10-1138-000 – NWE - FERC Docket - This is the FERC docket that relates to Dave Gates Generating Station. NWE has filed for approval of rates at FERC. At the time of the Committee's last meeting we were in settlement discussions at FERC with respect to this docket. The Settlement Judge recommended termination of settlement proceedings and issued a Procedural Schedule, setting a Hearing for January 2012. FERC is anticipating an initial order around May 2012.

N2010.6.57 – NWE – 2009 Electric Default Supply Resource Planning and Procurement Plan – NWE is required to file a resource plan every two years. MCC had filed comments which were discussed in the last meeting. The Commission held a public meeting in July to discuss all of the parties' comments. No Commission comments or orders have been issued in this case.

D2011.5.38 – NWE – Annual Electricity Supply Cost Tracker - This is the annual review of the monthly trackers. This was filed June 2, 2011 and is for the historic period of July 2010 to June 2011, and also projects costs through June 2012. There were some major changes in this filing, but the net result is a relatively small

deferred account of a 3.8 million dollar under collection, so the net impact is about a .5% increase on a “typical” bill which is 750/kwh. The Commission requested some additional information from NWE with respect to lost revenues and how they are treated for recovery in the tracker process. We conducted discovery and reviewed the information that NWE filed. We did not file testimony in this docket. A hearing is set for January 2012.

D2010.7.74 – NWE – Monthly Trackers

August Tracker - Filed July 15, 2011. Residential Commodity rate increase to \$.061258/kwh (0.39%) \$1.4 million annualized revenue required.

September Tracker – Filed August 15, 2011. Residential Commodity rate decrease to \$.061090/kwh (0.27%) \$1 million annualized revenue required.

October Tracker – Filed September 15, 2011. Residential Commodity rate decrease to \$.060819/kwh (0.44%) \$1.6 million annualized revenue required.

D2011.5.41- NWE - Application for Preapproval of Acquisition of Spion Kop

Wind Project –NWE is requesting preapproval of a 40MW wind facility consisting of 25 1.6MW turbines. The total cost is estimated at about \$86 million. Compass Wind is responsible for the construction and the initial operation. When it comes online, NWE has an agreement to acquire the project. In the alternative, if it doesn't come online in its entirety by the end of 2012, there is a power purchase agreement. MCC intervened in June and Dr. Wilson filed testimony on our behalf. He states that the energy from this resource is more expensive than non-wind purchases and fossil-fuel generation costs. In fact, the cost is about \$54/mwh plus \$15 of regulation costs, or about \$69/mwh. The company's imbedded cost right now is in the \$60 to \$61 range. Dr. Wilson concludes, however, that this project is the lowest cost renewable project that was reviewed as part of the bids that NWE requested, and NWE needs renewable energy credits. However, Dr. Wilson suggests that the Commission review and study Invenergy's claim that they were excluded from bidding and could have bid something cheaper. Dr. Wilson also proposes a 60% debt ratio, as opposed to NWE's requested 52%, and that the ROE with respect to the project be set at 9.5%. Another recommendation is that this resource and all the other resources should be rolled in on an intergrated basis in a general rate case

and become part of the total company's cost of capital. The Commission issued a procedural order and a hearing is set for December 14, 2011.

D2011.7.57 – NWE – Petition for Declaratory Ruling - This petition was filed in July. NWE requested a declaratory ruling that curtailment language that they have in proposed QF contracts complies with FERC and PSC rules. NWE seeks to curtail deliveries when supply exceeds load. They explained that their hourly load varies from 430MW to 1200MW and at times they have more energy than they need and are purchasing from QFs at times when they could purchase much cheaper energy or not have to purchase at all. We did not file comments in this docket and the Commission issued an order on September 13, 2011 rejecting the proposed declaratory ruling. NWE filed a motion for reconsideration and the time for filing that has been extended. We are looking at joining NWE in their request for reconsideration.

D2011.6.53 – NWE - Petition for Short-Term Waiver from Full Compliance with Community Renewable Energy Project Purchase Requirements – This relates to the RPS standards. As part of these requirements, there is a 50MW Community Renewable Energy requirement. This is a statewide standard. NWE's portion of that is 44MW. They have been looking at ways to fulfill that requirement and they claim that they haven't found a way without exceeding cost caps. Notice of this petition was issued on July 25, 2011 and we have intervened. The hearing is set for February 2012.

D2011.6.54 – NWE – Avoided Cost Compliance Filing QFLT-1 – This is an annual compliance filing for the year ending June 30, 2012. These are QFs that have been in place since before restructuring. For the most part, these agreements do not affect us because settlement of the restructuring dockets fixed the cost for power from those QFs. MCC intervened in August but typically we do not file testimony.

D2011.8.68 – NWE – Petition of Hydrodynamics to Set Terms and Conditions for Flint Creek – This is also QF related. This petition concerns a dam that

Montana Power owned that was getting very old and required a lot of maintenance, so they took it out of service and it is now owned by Granite County which has refurbished it and is having Hydrodynamics get it operational again. They are operating it as a QF project and the output is going back to NWE. The main issue raised in this filing is NWE's desire to curtail deliveries under certain circumstances. NWE denies that its last proposed contract to Hydrodynamics included any curtailment provisions. We intervened and the petitioner's additional testimony was just recently filed. We are still in the discovery phase.

N2010.12.111 – NWE – Natural Gas Biennial Procurement Plan – The gas utility files these plans every two years to provide information on what their plans are for providing the natural gas commodity. We have made substantial progress and have come to an agreement with NWE regarding how it should proceed with gas acquisition. This is the first biennial plan that they have filed since the agreement. After review, we filed comments at the end of May and stated that most of the hedging strategy that they described in the procurement plan reflected the stipulation that we had entered into. We supported those parts of their procurement plan. The one concern that we had was with regard to NWE's interest in acquiring and rate basing gas properties. They started to do this with a property called Battle Creek. We were concerned that Battle Creek has turned out to be much more expensive than market purchases, and wanted to discuss with NWE the conditions under which they were going to purchase additional gas properties. We have been engaged in some informal discussions with NWE and have some more planned within the next month. This is not a contested case, there have been no Commission comments issued in this docket at this point.

D2011.5.36 – NWE – Annual Gas Cost Tracker - This was filed in May of this year for the historic period July 2010 to June 2011 and for projected costs through June 2012. The residential rate went from \$9.54 to \$8.47, based on last year's annual projections versus this year's annual projection. Because NWE has monthly trackers, there has been a smoother progression than that. MCC intervened in this docket in August. The Commission set the hearing for February 16, 2012.

D2010.7.75 – NWE – August Gas Tracker – Filed in July 2011, shows gas cost increase from \$5.15 to \$5.16 and Residential Rates from \$8.47 to \$8.50.

D2011.7.58 – NWE – September Gas Tracker – Filed in August 2011, shows gas cost decrease from \$5.16 to \$5.12 and Residential Rates from \$8.50 to \$8.45.

D2011.7.58 – NWE – October Gas Tracker – Filed in September 2011, shows gas cost decrease from \$5.12 to \$4.99 and Residential Rates from \$8.45 to \$8.33.

D2011.3.26 – NWE – Annual Gas USBC Tracker – This was filed in March 2011 and concerns low income assistance. There was an overcollection of \$188,980 for calendar 2010. We intervened and the hearing is set for February 2012.

D2011.6.45 – NWE – Annual Propane Supply Tracker – Filed in June 2011. NWE is claiming they had an undercollection of about \$86 thousand. This will result in a “Typical Bill” increase of 16% in the summer and 14 % in the winter. We have intervened in this case and a hearing was set for the end of February 2012.

D2010.8.82 – MDU – General Electric Rate Application – Filed in August 2010. A hearing was held June 29, 2011. A final order was issued August 2, 2011. In the order, the stipulation that we had entered into with MDU and a couple of other parties was approved.

D2011.6.47 – MDU – Annual Electric Cost Tracker – Filed June, 2011. This docket concerns the tracker that on a monthly basis adjusts for purchase costs and also for fuel costs for MDU’s own generation. This is the annual tracker that finalizes and reviews the monthly trackers. An interim order was issued June 29, 2011. There has not been a procedural order yet in this docket.

D2011.6.47 – MDU – August Electric Cost Tracker – Filed July 2011. Decrease of \$0.23/kwh primary – total fuel and purchased power in tariff is \$0.01901/kwh

D2011.6.47 – MDU – September Electric Cost Tracker – Filed August 2011.

Increase of \$0.66/kwh primary – total fuel and purchased power in tariff is \$0.02123/kwh

D2011.6.47 – MDU – October Electric Cost Tracker – Filed September 2011.

Increase of \$0.17/kwh primary – total fuel and purchased power in tariff is \$0.02227/kwh

N2011.8.70 – MDU – Biennial Electric Integrated Resource Plan – Filed August 2011. Included in this plan is a load forecast and demand and supply-side analysis. MDU is looking at constructing some combustion turbines between 2012 and 2014 and also adding 100MW of wind by 2020. They are also planning to develop a 25MW demand response program by 2015. Comments are due in this docket at the end of October and we will be reviewing that and submitting comments at that time.

D2010.9.92 – MDU – Annual Gas Cost Tracker – This was filed in September last year and has not been finalized as of yet. There has not been any hearing or testimony filed.

D2011.9.77 – MDU – Annual Gas Cost Tracker – Filed September 2011. This is MDU's annual gas cost tracker for this year. They are proposing a \$0.23/dk decrease for residential and general service customers with a slight increase in their unreflected account. There are no monthly changes for MDU because their gas commodity cost has been stable enough that they haven't filed for monthly changes.

D2010.9.90 – EWM – General Rate Increase Application – Since the last meeting there has been some additional testimony filed. Mr. Donkin has filed testimony on our behalf concerning cost allocation between customer classes as a result of some additional issues that were identified by the Commission. Mr. Donkin believes that there were some mistakes identified in EWM's studies and that rates of return for customer classes have been misstated. The design day used by EWM and incorporated by Mr. Donkin is significantly greater than design day load shown in EWM's data responses which over allocates costs to residential and small

commercial customers so Mr. Donkin's recommendation at that point was that these studies not be used to allocate costs in this docket. The hearing was held July 13, 2011 and no order has been issued yet.

D2011.3.29 – EWM – July Gas Tracker – Filed June 2011. Residential rate decrease to \$6.47/Mcf

D2011.3.29 – EWM – August Gas Tracker – Filed July 2011. Residential rate increase to \$6.52/Mcf

D2011.3.29 – EWM – September Gas Tracker – Filed August 2011. Residential rate decrease to \$6.29/Mcf

D2011.9.76 – EWM Annual Gas Tracker - This was filed in September 2011 for the yearly period ending March 2011. EWM is proposing a decrease of \$273,574 for unreflected amounts. They are proposing no change to their projected gas costs, again indicating that the gas market has become much more stable than it had been in prior years. The residential rate has decreased for EWM to \$6.22/mcf.

D2011.4.32 – Cut Bank Gas Annual Gas Tracker – This is Cut Bank Gas's annual tracker for the period that ends December of 2010, and requests recovery of a \$118,000 under collection. We intervened in this case and the hearing is set for January 2012. .

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 May 2011 requesting about a 9,000 dollar increase, which is 2%. We intervened and reviewed the filing and determined we would not file any testimony. The Commission issued a final order in July approving the application as it was filed.

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. They filed a supplemental

application in June 2011 proposing an increase of \$.00097/cf. The Commission issued a procedural order and set a hearing for December. We conducted an audit and reviewed the company's filing and determined that we did not see a need to file any testimony. In September, the Commission issued a default order approving the requested increase.

D2011.7.66 – Havre Pipeline Company (HPC) – Application to decrease rates to Rural Farmstead Customers – This application was filed in July 2011 to decrease rates to rural farmstead customers. The total rate in this case would be about \$2.84/mcf. We reviewed the filing and determined that we would not intervene.

D2011.4.35 – Sleepy Hollow Oil & Gas LLC – Application to Initiate Gas Services – This application was filed by a new corporation which proposes to provide natural gas service in the Winifred area. They are proposing an initial rate period of 18 months. An Interim Order was issued by the Commission in July 2011 approving the application on an interim basis.

D2011.6.46 – Electric City Power – petition for Short-Term Waiver of Compliance with Montana Renewable Portfolio Standard (RPS) – This petition was filed in May 2011. We did not intervene or participate in this docket. The hearing was recently held. As a competitive supplier, Electric City is also subject to RPS requirements that are set out by Montana statute.

D2011.1.8 Mountain Water Company (MWC) – Petition for Declaratory Ruling and Application for Approval of Sale and Transfer of Stock – MWC is owned by Park Water Company (PWC), which is a company based in Los Angeles, CA. PWC 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 MWC will remain a subsidiary of PWC and PWC will become a subsidiary of Western Water. MWC asked the Commission to disclaim jurisdiction over the sale of PWC's stock to Carlyle, or decline to exercise jurisdiction or to approve the sale. We intervened and filed testimony of Dr. Wilson. He testified that Carlyle plans to retain the existing MWC management, that they intend to increase their investment

and that the PSC should monitor the investment activity to avoid the possibility of excessive cost for the consumers. Also he pointed out that Carlyle apparently intends to exit this business after building up the market value of MWC, and suggested that the Commission require more specific information on the assumptions that Carlyle had made about its assumed investment and how it would increase the value of its operation. There has also been discussion about whether the City of Missoula had a right of first refusal to purchase MWC. We did not take a position on that but did suggest that if the Commission intended Missoula to have such a right of first refusal, it should be made more clear than it had been in the past. Most importantly, Dr. Wilson suggested that the Commission adopt some ring-fencing provisions that would provide consumer protection in the future with respect to the intercompany relationships of MWC and its parent companies. On September 14, the Commission issued an order on the petition for declaratory ruling, declining to issue that ruling and finding that the Commission does have jurisdiction over the sale and transfer of PWC Stock based on MWC status as a regulated subsidiary of PWC and as a public utility. A hearing was held in this case September 26 and September 27.

D2011.9.81 – MWC – Annual Power Cost Tracker – This was filed in September 2011. MWC proposes an adjustment of \$171,099 which is about a 1% bill increase for their customers. The Commission issued an interim order approving the increase on an interim basis and consolidating this issue with the next general rate filing for MWC.

D2011.4.34 – AquaFlo – Application to Increase Water and Sewer Rates – This application was filed in April 2011. The Commission issued a procedural order setting a hearing for January 2012. We are currently in the discovery phase of this docket.

D2009.12.156 – Aquanet – Application for Initial Water Rates – This application concerns a subdivision in Billings and was filed in 2009. An amended application was filed in September of 2010 requesting an increase of 91% from initial rates. This increase would result in a monthly flat rate of about \$96. During discovery, the

applicant modified its calculation to a 105% increase or \$103 flat rate. We reviewed the filing, conducted a discovery audit, and filed a stipulation with Aquanet on August 19 of this year. If that stipulation is approved it will result in an \$80 flat rate or about a 60% increase which would be increased somewhat if a hearing is required to be held in Billings. An interim order was issued by the Commission in September approving the stipulated amounts on a temporary basis.

D2009.9.117 – Landmark Water Company – Application to Increase Rates – The Commission has issued a final order that finalized the rates that had been approved in an interim order, and those are rates that we had suggested and agreed with in testimony that Paul Schulz filed in February of this year. We filed a motion for clarification of that order, requesting clarification of certain comments that the Commission made about how future Landmark Water Company filings would be processed and also requesting that reference to the interim order be corrected in that docket. The Commission did issue an order correcting the reference to the interim order but has not commented at this point on our request for clarification.

RM10-23-000 – FERC – Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities – This was a notice of proposed rulemaking that FERC issued in June 2010. In July of 2011 FERC issued a final order, Order Number 1000, which has generated quite a bit of interest and comment in the electric industry. The order requires each jurisdictional utility to join with other utilities in its region to agree on how to plan for regional needs and find solutions that are better and more cost effective or more reliable than those that had been emerging from individual utility planning efforts. The order also requires that the utilities in a region agree on procedures for selecting transmission projects for cost allocation. The utilities also have to agree on how the costs will be allocated for projects that are selected for cost allocation. It is likely that NWE will continue as they have in the past to participate in the Northern Tier Transmission Group (NTTG). This order, unless it is amended or changed, will be effective on October 11, 2011. The jurisdictional utilities must make compliance filings with respect to the order within twelve months, or by October 11, 2012. There will be a lot of activity towards making those compliance filings. In addition to the requirements of the utilities

cooperating with each other in their region, this order also establishes a process where each regional group has to agree with adjacent planning groups or regions on how those groups will evaluate transmission projects and how they will allocate costs. Ultimately, each jurisdictional utility will have to make a compliance filing by April 2013. Part of the standards that the utilities have to comply with are that the cost allocation methodologies have to insure that those allocations are roughly commensurate with benefits. Also the order requires that no costs may be assigned to parties that do not receive any benefits. However, FERC has maintained that a regional party that is deemed to benefit from a project may be assigned costs that it doesn't agree to. A large number of requests for rehearing have been filed. The NTTG filed a request for reconsideration and we participated in that request and will be participating in the efforts to comply with whatever the final rule is. We have representation through Larry Nordell on the NTTG Steering Committee, their Management Committee, and their Cost Allocation Committee. The American Public Power Association's (APPA) request for rehearing states that FERC's concerns here seem to be somewhat misplaced because the utilities through the Integrated Resource Planning (IRP) process that they all have in place already have to plan for things like renewable resources and demand side management as part of their IRP process.

ER-11-4081-000 – FERC – Midwest Independent Transmission System

Operator (MISO) – We recently joined with several other consumer advocate offices from Indiana, Iowa, Minnesota, Missouri and Wisconsin to file a protest to the MISO filing. MISO is an organization of transmission owning entities in the Midwest including the area that affects MDU. In this filing, we recommended rejection of MISO's resource adequacy construct and recommended that FERC order MISO to resume discussions with stakeholders and the states to develop a simpler construct which is more appropriate to the characteristics of the MISO region. Although MISO's proposal includes several concessions designed to limit potential harm, creating a construct which relies on a centralized auction process as its key feature will likely increase costs to customers, harm existing bilateral markets and lead to FERC interference with the long-standing rights of states to make their own long-term resource planning decisions.

Financial Report

The report provided to the Committee was dated 9/1/2011 for the end of August. Bob pointed out for most of the categories we run a month behind. Bob stated that we are right on target in almost all of the categories and he does not see anything that is a cause for concern at this point.

HIRING OF EXPERT WITNESSES

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

D2011.6.45 – NWE Annual Townsend Propane Supply Tracker: *George Donkin*

D2011.9.77 – Annual MDU Gas Cost Tracker: *George Donkin*

D2011.9.76 – Annual EWM Gas Cost Tracker: *George Donkin*

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

SECOND: Senator Tropila seconded the motion.

VOTE: The motion passed unanimously.

Public Comments

There was no public comment.

Next Meeting

The next meeting will be scheduled for December.

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.