



ENVIRONMENTAL QUALITY COUNCIL

Environmental Quality Council
Energy Subcommittee
December 10, 2001
Exhibit 10

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ANALYST
Todd Everts

December 7, 2001

TO: Energy Policy Subcommittee

FR: Todd Everts *TWE*

RE: Subcommittee's Request for a Comprehensive Inventory of all Significant Electricity and Natural Gas Issues, Decision, and Dates.

INVENTORY OF ELECTRICITY AND NATURAL GAS PROSPECTIVE ISSUES, DECISIONS, AND DATES

I. STATUTORY DUE DATES:

A. Electric Utility Industry Restructuring and Consumer Choice Act

- (1) **Pilot Programs:** On or before July 1, 2005, utilities must report to the PSC and TAC on the results of pilot programs for providing customer choice. 69-8-104(1)
- (2) **Electrical Energy Pool:**
 - i. The rules and tariffs to administer the pool must be developed by July 1, 2001. 69-8-110(10)
 - ii. Any cash or electrical energy remaining in the pool on June 20, 2002 may be allocated to default supply customers. 69-8-110(12)
 - iii. The electrical energy pool terminates on June 30, 2002. 69-8-110
- (3) **Transition to Customer Choice**
 - i. The transition period to full customer choice for residential and small commercial customers ends July 1, 2007. 69-8-201(1)(b)
 - ii. Large customers were allowed to choose an electricity supplier on July 1, 1998. See 2001 amendments.
 - iii. Choice of electricity suppliers as provided by the PSC for all customers on the default supply load must be available beginning July 1, 2002. 69-8-201(3)
 - iv. MDU can defer compliance with the Act until it can reasonably implement

customer choice in the state of MDU's primary service territory. 69-8-201(4)

(4) **Transition Plans**

- i. A public utility must file a transition plan with the PSC no later than one year before July 1, 2007. 69-8-202(1)
- ii. Unless waived by the public utility, the PSC must issue a final order approving, modifying, or denying the transition plan before 9 months after the date that the utility files a plan. 69-8-202(3).
- iii. On the effective date of the PSC's order on the transition plan, the public utility must remove its generation assets from the rate base. 69-8-210(1)
- iv. If a cooperative has not exempted itself from this Act, the cooperative's local governing body must adopt a transition plan on or before July 1, 2006. 69-8-301

(5) **Preparing for Customer Choice**

- i. A public utility must propose a method for customers to choose an electricity supplier before July 1, 2007. 69-8-203(1)
- ii. A public utility must educate its customers about customer choice during the transition period that ends July 1, 2007. 69-8-203(2)

(6) **Electricity Supply**

- i. The distribution services provider acting as default supply must, beginning July 1, 2002, extend any cost-based contract with the distribution services provider's affiliate supplier for a term of not more than 3 years. 69-8-210(2)
- ii. Before July 1, 2001, the default supplier must submit a proposed electricity supply cost recovery mechanism to the PSC. 69-8-210(4)
- iii. The PSC must adopt the electricity supply cost recovery mechanism before March 30, 2002. 69-8-210(4)

(7) **Rate Moratorium**

- i. A public utility is required to implement a rate moratorium on electricity supply from July 1, 2000 through June 30, 2002 for residential and small commercial customers. 69-8-211(6)
- ii. Before July 1, 2002, a public utility may accelerate the amortization of accumulated deferred investment tax credits associated with transmission, distribution, and the general plant as an adjustment to earnings if electric earnings fall below 9.5%. 69-8-211(10)

(8) **Universal System Benefits Programs**

- i. Beginning January 1, 1999, 2.4% of each utility's annual retail sales revenue in Montana for the calendar year ending December 31, 1995, is established as the initial funding level for universal system benefits programs. 69-8-402(2)

- ii. The universal system benefits charge rates must remain in effect until December 31, 2005. 69-8-402(2)
- iii. A public utility shall prepare and submit an annual summary report of the public utility's activities relating to all universal system benefits programs to the commission, the department of revenue, and the transition advisory committee. 69-8-402(9)
- iv. A large customer claiming credits for a calendar year shall submit an annual (March 1 of every year) summary report of its universal system benefits programs activities and expenditures to the department of revenue and to the large customer's utility. 69-8-402(11)

(9) **PSC Authority**

- i. Beginning on the effective date of a commission order regarding a public utility's transition plan, the commission shall regulate the public utility's retail transmission and distribution services within the state of Montana, as provided in this chapter, and may not regulate the price of electricity supply except as electricity supply may be procured as provided in this Act.

(10) **Transition Advisory Committee**

- i. Annual Report--The Committee is required to provide an annual report on the status of electric utility restructuring on or before November 1 to the Governor, the Speaker of the House, the President of the Senate, and the Public Service Commission 69-8-501(9).
- ii. Monitor and Evaluate Universal System Benefits Programs--The Transition Advisory Committee shall monitor and evaluate the universal system benefits programs and comparable levels of funding for the region and make recommendations to the 58th Legislature to adjust the funding level provided for in 69-8-402, MCA, to coincide with the related activities of the region at that time (69-8-501(14), MCA).
- iii. Evaluate Need for Universal System Benefits Programs--On or before July 1, 2002, the Transition Advisory Committee, in coordination with the Public Service Commission, shall conduct a reevaluation of the ongoing need for universal system benefits programs and annual funding requirements and shall make recommendations to the 58th Legislature regarding the future need for those programs.
- iv. Evaluate Access to Interstate Customers--On or before November 1 of each odd-numbered year, the Transition Advisory Committee shall collect information to determine whether Montana utilities or their affiliates have an opportunity to sell electricity to customers outside of the state of Montana comparable to the opportunity provided pursuant to Title 69, chapter 8, MCA, to utilities or their affiliates located outside the state of Montana. That information must be included in a report to each Legislature (69-8-501(16), MCA).

(11) **Consumer Electricity Support Program**

- i. The Department of Administration must adopt rules necessary to operate the consumer electricity support program before July 1, 2002. 69-8-701

B. Natural Gas Utility Restructuring and Customer Choice Act

- (1) **Universal System Benefits Programs** -- On or before July 1, 2002, the PSC conduct a reevaluation of the ongoing need for universal system benefits programs and annual funding requirements and shall make recommendations to the 58th legislature regarding the future need for universal system benefits programs. 69-3-1408(3)

II. MPC/NORTHWESTERN SALE OF MPC'S TRANSMISSION AND DISTRIBUTION SYSTEM

- A. PSC Action:** On November 9, 2001 the PSC issued a Procedural Order that outlined a schedule for the PSC's final decision and order concerning the MPC sale of its transmission and distribution system assets. The schedule is as follows:

<u>Action</u>	<u>Deadline</u>
Discovery	Available immediately, rolling at 3 day intervals; answers in 10 days; last discovery by Nov. 30, 2001
Answers (All dockets)	Last answers by Dec. 10, 2001
Intervenor testimony	December 21, 2001
Discovery (Sale only)	December 28, 2001
Answers (Sale only)	January 4, 2002
Rebuttal testimony (Sale only)	January 10, 2002
Hearing (Sale only)	January 16, 2002
Briefs (Sale only)	January 24 & 28, 2002
Commission Order	January 31, 2002

- B. Possible Settlement?** - There have been discussions about a possible settlement between various parties concerning the issues surrounding the sale.

jurisdiction and authority; and the PSC violated MPC's constitutional right to free speech. The PSC has answered the complaint. The parties are waiting for Judge Sherlock to issue a briefing schedule.

- C. **Single Moms Inc. v. Montana Power Company et. al.:** Single Moms filed a complaint in Federal District Court before Judge Molloy asserting, among a variety of things, that the passage and implementation of Montana's electric industry restructuring laws was unlawful, unconstitutional, and resulted in high energy bills. Single Moms have requested that Montana's electric industry restructuring laws be enjoined, that certain restructuring activities be reversed, and that damages (\$5 million, plus) be awarded. Judge Molloy has rejected Single Moms request for a temporary restraining order to restrain MPC from disconnecting gas and electrical service for non payment of bills. Single Moms have appealed Judge Molloy's decision on the temporary restraining order to the 9th Circuit Court of Appeals. Judge Molloy has set a schedule and pre-hearing documents are due in March of 2002.

IX. STATE-WIDE INITIATIVES

- A. **Referendum to Repeal of House Bill 474** - IR 117 seeks to repeal HB 474 which was approved by the Montana Legislature in the 2001 session. Over 20,510 signatures totaling 5 percent of the registered voters in 34 legislative districts was collected by Sept. 21, 2001 to qualify IR 117 for the November 2002 ballot.
- B. **Buy Back the Dams Initiative** - The initiative, called the Montana Hydroelectric Security Act, has been submitted to the Legislative Services Division and other state offices for legal review. Once that review is complete, supporters can begin to gather signatures of registered voters to place the issue on the November 2002 ballot. An initiative needs 20,510 valid signatures to qualify for the ballot. It also needs signatures from at least 5 percent of the registered voters in at least 34 of Montana's 100 House districts.
- C. **Other Initiatives????**

X. ELECTRICITY/NATURAL GAS PRICES

A. Electricity Spot Market Prices -

Weighted Average Price of Electricity traded in Mid-Columbia

	NON-FIRM				FIRM			
	ON-PEAK		OFF-PEAK		ON-PEAK		OFF-PEAK	
	Price	Volume	Price	Volume	Price	Volume	Price	Volume
12/05/01					27.34	32544	20.30	8352
12/04/01	27.08	1220	23.75	80	26.20	47904	19.64	7672
12/03/01	22.88	1328	17.85	325	27.73	31072	23.81	8416
12/02/01	22.75	694	19.67	401	24.75	800	21.00	600
12/01/01	19.65	2792	2.48	8320	28.43	37200	22.48	8320

B. Natural Gas - As of December 7, 2001, natural gas spot prices ranged from \$2.11/MMBtu to \$2.57 MMBtu.

XI. MONTANA LARGE CUSTOMER STATUS - See summary of Power supply arrangements handout.

XII. FEDERAL/REGIONAL DECISIONS AND ISSUES

A. Recent Federal Legislation - Representative Joe Barton (R-TX), Chairman of the House Energy and Air quality Subcommittee, has introduced a 125-page bill (HR 3406) entitled, "The Electric Supply and Transmission Act of 2001." The bill is designed to promote competitive electricity markets by allowing Federal regulators to mandate membership in regional transmission organizations (RTOs) and providing Federal eminent domain authority to site transmission facilities. The bill would require transmission-owning utilities to join an RTO within one year of the bill's enactment. For utilities that have not joined an RTO within the required timeframe, the bill establishes an appeal process or judicial review. Moreover, the bill provides standards for RTOs, requiring the operators of the organizations to be independent of market participants. The RTO must also conduct a cost-benefit analysis or demonstrate its ability to provide sufficient generation within its boundaries, at least 50,000 megawatts. The bill would also authorize the Federal Energy Regulatory Commission (FERC) to approve construction or expansion of transmission facilities if the project involves interstate

commerce or proves to be in the public interest. This authority would only be granted to FERC if the commission finds that the state itself is without authority to approve the siting. Additionally, the bill includes language that would allow the North American Electric Reliability Council to oversee reliability and act as an RTO watchdog. The bill would repeal the Public Utility Holding Company Act (PUHCA) and the mandatory purchase and sell requirement of the Public Utility Regulatory Policies Act (PURPA). Edison Electric Institute said it opposes mandates on RTO participation, but the utility sector was pleased with the eminent domain provisions, the PUHCA reform, and the PURPA repeal, among other things. (Source: Electric Power Daily, December 7, 2001)

- B. Federal Energy Regulatory Commission** - On December 6, 2001, the Federal Energy Regulatory Commission canceled a December 17 hearing on California's claim for \$9 billion in refunds from " power producers and placed the case on hold indefinitely. The order, signed by FERC Chairman Pat Wood and three other commissioners, took California officials and the power companies by surprise. (Source: Energy Online)
 - C. Regional Transmission Organizations** - See DEQ's report on transmission.
 - D. California** - see FERC above.
- XIII. INTERNATIONAL -- ALBERTA** -Alberta has approached Montana on possible Transmission upgrades to ship Canadian power south into Montana.