



10 June 2008

**RE: Board of Environmental Review (BER) Decision to Remand Highwood Generation Station Air Quality Permit for Further Particulate Review**

Chairman Shockley, members of the committee, for the record my name is Tim Gregori and I am the General Manager/CEO of Southern Montana Electric Generation and Transmission Cooperative (Southern Montana Electric G&T). Southern Montana Electric G&T provides wholesale electric energy and related supply services to five rural electric distribution cooperatives in south central Montana, and a select number of commercial customers served by the City of Great Falls through its PSC licensed supply arm Electric City Power. Collectively, these entities meet the electric energy needs of approximately 66,000 Montanans.

**Background:**

On 12 May 2008 Southern Montana Electric G&T shared with you the frustration we have had over the course of the past several years as we worked with great resolve to put in place an affordable, reliable and clean source of electric energy and related services to backfill the electric supply shortfall left in the wake of the Bonneville Power Administration's (BPA's) unilateral decision to begin curtailing service to Southern Montana Electric G&T effective 1 July 2008. Twenty (20) days from today Southern Montana Electric G&T will experience a significant decline in its right to purchase from BPA - this purchase right will be fully extinguished by September 2011.

As was stated in the context of our previous testimony in October 2004, under guidelines developed by the United States Department of Agriculture Rural Utilities Service (RUS), Southern Montana Electric G&T completed an extensive analysis of suitable supply alternatives capable of meeting the future wholesale power requirements of the member systems it serves. The conclusion reached in that structured Alternative Evaluation Study was that the best long term solution to meet the energy supply needs of the member systems served by Southern Montana Electric G&T is the construction of a 250 MW coal-fired electric generation facility near Great Falls, Montana. The key assumptions used in that Alternative Evaluation Study are revisited on a monthly basis to ensure that the results of this analysis remain valid and our most review conducted during the month of May once again found that the conclusions reached in the Alternative Evaluation Study are more profound today than when the study was first compiled in October 2004.

Unfortunately, even though Southern Montana Electric G&T continues to make measurable strides in bringing its project to the point construction should begin before its air permit expires - the project remains at a stand still as the air permit languishes in the grips of the proceeding fostered before the Montana Board of Environmental Review (BER). The stigma that has been placed on the air permit by the BER and the subsequent review process continues to erode at Southern Montana Electric G&T efforts to proceed with certainty before the financial community. This frustration is underscored by the fact that it is near certain that BER review will resume once the permit is re-issued and the debate will start all over again.

**BER and DEQ Activities:**

As Southern Montana Electric G&T moved from milestone to milestone in the development of HGS it has consistently followed the rules and worked proactively with the DEQ, RUS and others to make HGS a facility that Montana can point to as a model for energy development. Is HGS the “perfect solution” – no, in my opinion a “perfect” solution does not exist - but HGS does represent the Best Available Control Technology that can be financed at this time using conventional financing standards. Southern Montana Electric G&T believes without doubt that HGS represents a proven base load facility, state of the art design, technologically sound and above all – financeable.

Unfortunately, despite its many accomplishments Southern Montana Electric G&T has reached the point that the delays before the BER are taking a serious toll on our ability to demonstrate project viability and secure financing. On 30 May 2007 – almost thirteen months ago, the Montana DEQ issued the Air quality permit for HGS. Shortly thereafter the permit was appealed to the Montana BER where the status of the permit remains in limbo as Southern Montana Electric G&T and the MDEQ attempt to navigate final language articulating the findings of the BER. The appeal process before the BER has been frustrating for all involved and it would be premature at this time to comment on an order that everyone is still attempting to sort out. However, setting aside the matter of what the order issued by the BER may state - it does seem appropriate to comment on the process that the final order set in motion – not only as it relates to Southern Montana Electric G&T’s HGS – but for any entity that may be considering Montana as a place to do business.

Southern Montana Electric G&T continues to deal with the vocal opponents to its project, and although we may not agree with their position, we respect their right to an opinion that differs from ours. However, the time has come for the review process yields something other than perpetual review. Southern Montana Electric G&T is not questioning the need for regulation, review and scrutiny – all are essential elements to the process of assurance. But there is a time when review breaches the limits of due process and the rules start to be made up as you move along – and when that happens there is only one word to describe the process – broken.

The combination of an unreasonably delayed BER proceeding where the rules and schedules appear to change with the wind – a proceeding that has already consumed 13 of the 18 months Southern Montana Electric G&T was given to commence construction,

together with the position that the clock must keep ticking while our permit languishes before the BER - is inherently unfair. Particularly since Montana law allows up to three years to commence construction (keep in mind we were given 18 months) and federal law allows an extension of a permit deadline by showing reasonable cause. Yet in our case we were given 18 months to commence construction with no provision to stop the clock during the appeal process, and if our permit expires during the review process – we have been told we get the pleasure to start the entire affair all over again.

As the fate of Southern Montana Electric G&T's air quality permit awaits clarity in the hands of the DEQ it is our sincere hope that the message Montana sends to the many entities that have a keen eye focused on this issue is that the regulatory process in Montana is fair, thorough, and thoughtful – and not an endless quagmire that can be manipulated into a system where the rules get made up as you move along.

- Explain escalations in the cost of energy and the impact on economy.

Mr. Chairman, members of the committee, Southern Montana Electric G&T has been both trusting and respectful of the process by which it has sought approval for its project and clearance to put Montana Union Labor to work building a state of the art facility that Montana can be proud of. Our need for reliable, affordable and clean electric energy increases every day and the time has come to send a clear message to those who want to continue to call this great state we live in home – that Montana has a regulatory process that is fair and with a defined finish line. Furthermore, we should all share the hope that Montana be known as a state that if you play by the rules - labor, industry and the environment can exist in harmony. The energy supply problem facing Montana and the region is very complex, but there is one value that we should all find acceptable - good public policy and regulatory review should have no bias, slant or favorites – and above all the rules should not change in the middle of the game.

Thank you and I will be available to answer questions at the appropriate time.

