



## Energy and Telecommunications Interim Committee

### 61st Montana Legislature

#### SENATE MEMBERS

JERRY BLACK--Vice Chair  
RON ERICKSON  
VERDELL JACKSON  
CLIFF LARSEN

#### HOUSE MEMBERS

ROBYN DRISCOLL--Chair  
DUANE ANKNEY  
TONY BELCOURT  
HARRY KLOCK

#### COMMITTEE STAFF

SONJA NOWAKOWSKI, Research Analyst  
TODD EVERTS, Staff Attorney  
DAWN FIELD, Secretary

# MINUTES

September 10, 2010

Room 102, State Capitol  
Helena, Montana

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

An electronic copy of these minutes and the audio recording may be accessed from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side column of the home page, select *Committees*, then *Interim*, and then the appropriate committee.

To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

#### **COMMITTEE MEMBERS PRESENT**

REP. ROBYN DRISCOLL, Chair  
SEN. JERRY BLACK, Vice Chair

SEN. RON ERICKSON  
SEN. VERDELL JACKSON  
SEN. CLIFF LARSEN

REP. DUANE ANKNEY  
REP. TONY BELCOURT  
REP. HARRY KLOCK

#### **STAFF PRESENT**

SONJA NOWAKOWSKI, Research Analyst  
TODD EVERTS, Staff Attorney  
DAWN FIELD, Secretary

#### **AGENDA & VISITORS' LIST**

Agenda, Attachment #1.  
Visitors' list, Attachment #2.

## **COMMITTEE ACTION**

The Energy and Telecommunications Interim Committee:

- approved the July 28, 2010, minutes as written and the July 29, 2010, meeting minutes, as corrected;
- approved LC6001 - revise energy policy review process;
- did not approve LC6002 - increase Montana's renewable portfolio standard;
- approved LC6003 - revise the renewable portfolio standard to include hydroelectric facility expansions;
- approved LC6004 - extend the sunset for wireless 9-1-1 funding;
- approved sending a letter to the FCC regarding concerns about the negative effects of the Commission's proposed universal service reforms in Montana; and
- did not approve LC6010 - revising Montana's energy policy.

## **CALL TO ORDER AND ROLL CALL**

00:00:01 REP. DRISCOLL called the last meeting of the 2009-2010 Energy and Telecommunications Interim Committee (ETIC) to order at 8 a.m. The secretary took roll, all members were present (Attachment 3). REP. DRISCOLL said that the members received copies of LC6000 - revising Montana's energy policy - as presented at the July meeting (**EXHIBIT 1**) and of LC6010 (**EXHIBIT 2**), which included the amendments that the ETIC agreed to prior to the committee vote not to pursue LC6000. She noted that amendments and additional changes that she was proposing in language are highlighted and that the ETIC would have an opportunity later in the meeting to reconsider the bill draft.

## **REVIEW OF DRAFT LEGISLATION AND FCC LETTER**

### **LC6001 -- Revise energy policy review process**

#### **Staff overview -- Ms. Nowakowski**

00:01:56 **Sonja Nowakowski, Research Analyst, Legislative Services Division (LSD)**, said public comment was taken in August on LC6001, LC6002, LC6004, and the draft letter to the Federal Communications Commission (FCC) regarding universal service reforms on investment and economic development in Montana. She reviewed the public comment received regarding the proposed bill drafts and letter. Ms. Nowakowski then reviewed the provisions of LC6001 (**EXHIBIT 3**).

#### **Public comment**

No public comment was given. Ms. Nowakowski briefly reviewed written public comments received. She asked for direction on what changes, if any, need to be made; and if the ETIC wished to move forward with the draft.

#### **Committee questions and executive action**

**SEN. JACKSON moved to approve LC6001 (EXHIBIT 3), as written.** He volunteered to sponsor the bill. **The motion passed on a unanimous voice vote.**

#### **Potential selection of bill sponsor**

It was noted that SEN. JACKSON is opposed in the upcoming election, so SEN. ERICKSON was appointed as the back-up sponsor.

## LC6002 -- Increase Montana's renewable portfolio standard

### Staff overview -- Ms. Nowakowski

00:08:30 Ms. Nowakowski reviewed current renewable portfolio standards (RPS) requirements, the provisions of LC6002 (**EXHIBIT 4**), and public comment received.

### Public comment

**John Fitzpatrick, NorthWestern Energy (NWE)**, said NWE's position is that it is premature to increase renewable portfolio standards, considering the current economic conditions and outlook. He discussed a report prepared by the Edison Electric Institute (EIE): *Post-Recession Outlook for the Economy and the Energy Industry* (**EXHIBIT 5**). Mr. Fitzpatrick also discussed a report on electricity prices, which included information on actual costs, electricity supply proposals, feasibility studies/price forecasts, and avoided cost calculation (**EXHIBIT 6**). He said that NWE does not oppose increasing its renewable energy portfolio but believes it is premature to bring the concept before the 2011 Legislature.

00:21:05 **John Alke, Montana Dakota Utility (MDU)**, reported on MDU's compliance with Montana's current "15 percent by 2015" standard and said MDU's position is that it is unwise to consider expanding that standard at this time. Mr. Alke provided a handout detailing MDU's compliance with the current standard and discussed MDU's Diamond Willow wind farm (**EXHIBIT 7**) and the potential impact LC6002 could have on MDU.

00:34:40 **Ben Brouwer, Energy Program Manager, Montana's Alternative Energy Resources Organization (AERO)**, spoke in support of LC6002. He discussed the advantages of committing Montana to a stronger renewable portfolio standard and said that such standards would bring long-term price certainty. He also encouraged the ETIC to seriously consider reinstating the community renewable standards.

00:36:52 **Doug Hardy, Montana Electric Cooperatives Association (MECA)**, referred to the Flathead Electric Cooperative's landfill gas project and said that because Flathead is nearly all hydro with some biomass (methane gas), if LC6002 became law, the Flathead project would have to back off hydro to incorporate other renewables.

### Committee questions and action

00:37:33 SEN. LARSEN referred to LC6003, page three (**EXHIBIT 8**) and said that if adopted, LC6003 would change the definition and hydro would become a much bigger player. **Todd Everts, Staff Attorney, LSD**, affirmed SEN. LARSEN's statement. SEN. LARSEN said that the ETIC is trying to make hydroelectricity a more relevant part of renewable standards and while he appreciates the concern of the people who testified, LC6003 changes the nature of some of the arguments.

00:39:23 SEN. ERICKSON, referring to the comments made by Mr. Brouwer, AERO, asked Mr. Fitzpatrick if the costs of fossil fuels and electrical generation will go

up faster or slower than the cost for alternatives. Mr. Fitzpatrick referred to his report (EXHIBIT 7) and said that NWE believes that conventional sources of generation will continue to be much cheaper than renewables for the foreseeable future. SEN. ERICKSON asked if NWE's calculations take into account cap and trade or any other kind of carbon tax. Mr. Fitzpatrick said no.

- 00:42:25 SEN. JACKSON said that he was happy to see Mr. Fitzpatrick's report on electricity costs. He said he would like to know the true cost of renewable energy, taking into consideration the subsidies, the costs of integration, and other costs, and if NWE factored those issues into its calculations. Mr. Fitzpatrick said NWE did not but that the best information he has on wind generation is for the Judith Gap wind farm. He discussed the Judith Gap operation and said that federal subsidies are an important part of bringing down the costs of renewable energy.
- 00:45:15 REP. ANKNEY asked about the impact on an average customer's power bill, should the "20 by 20" RPS be enacted. Mr. Fitzpatrick said it would be difficult to say exactly but predicted that the impact would be less for NWE than for MDU, and would result in a significant cost increase to the people of Montana.
- 00:51:01 **SEN. ERICKSON moved to approve LC6002.** He discussed the importance of the Legislature in thinking and planning ahead for Montana's future energy needs and his long-term concerns about climate change, economics, and the role of renewable energy sources in Montana's future. **He moved to amend LC6002 to include the community renewables.** He asked Ms. Nowakowski to suggest the appropriate language to add community renewables back into LC6002.
- 00:54:26 Ms. Nowakowski said staff would need additional direction from SEN. ERICKSON before such language could be suggested. SEN. ERICKSON said he would like to continue to increase the required renewable amount proportionately. Ms. Nowakowski said that would require that 100 megawatts of community renewables from January 1, 2020 through December 31, 2024; and 125 mw from 2025 on into the future.
- 00:56:35 Ms. Nowakowski said that the amendment language would closely mimic subsection (4) on pages 2 and 3 and would be added in subsection (5). She discussed the changes.
- 00:58:14 SEN. JACKSON said that he could not support the amendment or the bill. He discussed his objections and concerns.
- 01:03:20 **SEN. ERICKSON'S motion to amend LC6002 failed on a 4-4 roll call vote. SEN. BLACK, SEN. JACKSON, REP. ANKNEY, and REP. KLOCK voted no (ATTACHMENT 4).**
- 01:04:00 The ETIC discussed SEN. ERICKSON's original motion to approve LC6002. REP. ANKNEY said he could not support the bill.
- 01:07:21 SEN. JACKSON discussed his concerns.

- 01:08:40 REP. BELCOURT said that he could not support the bill at this time because of the current economic conditions, particularly on Montana's reservations.
- 01:09:31 SEN. LARSEN spoke in favor of LC6002 and said the ETIC has a responsibility to put the bill before the full Legislature, in order to give the issue a bigger forum.
- 01:10:24 SEN. BLACK said he could not support the bill.
- 01:12:24 **SEN. ERICKSON's motion to approve LC6002 failed on a 3-5 roll call vote. SEN. BLACK, SEN. JACKSON, REP. ANKNEY, REP. BELCOURT, and REP. KLOCK voted no (ATTACHMENT 5).**

### **LC6003 -- Revise RPS to include hydroelectric facility expansion**

#### **Staff overview -- Ms. Nowakowski**

- 01:13:10 Ms. Nowakowski reviewed the provisions of LC6003 (**EXHIBIT 8**) and public comments received. She noted that, based on recommendations from the PSC, the ETIC may wish to consider changing the rulemaking date from June to September.

#### **Public comment**

No public comment was given.

#### **Committee questions and action**

- 01:17:44 In response to a question from SEN. JACKSON about a biomass bill, Ms. Nowakowski said ETIC could request a committee bill to do take care of the biomass definition change and explained the options available.
- 01:19:46 **SEN. LARSEN moved to amend LC6003 by changing the rulemaking authority date to September 30, 2011, as recommended by staff. The motion passed on a unanimous voice vote.**
- 01:21:11 **SEN. LARSEN moved to approve LC6003 as amended.** SEN. ERICKSON said that because LC6002 failed, he had to oppose LC6003. He discussed his reasons.
- 01:22:21 SEN. JACKSON spoke in support of LC6003.
- 01:23:17 **The motion passed on a 6-2 roll call vote, SEN. ERICKSON and REP. DRISCOLL voted no (ATTACHMENT 6).**

#### **Potential selection of bill sponsor**

- 01:24:21 REP. BELCOURT will sponsor the bill.

### **LC6004 -- Extend sunset for wireless 9-1-1**

#### **Staff overview -- Ms. Nowakowski**

- 01:25:03 Ms. Nowakowski reviewed the provisions of LC6004 (**EXHIBIT 9**) and public comment received. She noted that REP. KLOCK has volunteered to carry LC6004.

### Public comment

No public comment was given.

### Committee questions and action

- 01:26:18 **Becky Berger, 9-1-1 Advisory Committee, Department of Administration (DOA)**, responded to committee questions regarding 9-1-1 services, how funding is collected and reallocated, and the status of 9-1-1 services on tribal lands.
- 01:36:27 **REP. KLOCK moved to approve LC6004 as a ETIC committee bill. REP. DRISCOLL moved to amend the bill by taking out the sunset date.**
- 01:37:50 Ms. Berger said that because the 9-1-1 Advisory Council has submitted resolutions of support for the current form of LC6004, the DOA could not support an amended version. REP. DRISCOLL withdrew the amendment.
- 01:39:09 **REP. KLOCK's motion to approve LC6004 passed on a unanimous voice vote.**

### Potential selection of bill sponsor

REP. KLOCK will sponsor the bill.

### FCC letter

#### Staff overview -- Ms. Nowakowski

- 01:41:02 Ms. Nowakowski reviewed the issue, saying that Geoff Feiss, Montana Telecommunications Association (MTA) had requested that the ETIC send a letter to the Federal Communications Commission (FCC) regarding concerns about proposed rulemaking and changes and the potential impact on investments to rural broadband in Montana (**EXHIBIT 10**). Ms. Nowakowski said that two letters of public comment (in support of sending the letter) were received (**EXHIBIT 11 - Southern Montana Telephone Company and EXHIBIT 12 - 3 Rivers Telephone Cooperative**).

### Public comment

No public comment was given.

### Committee questions and action

- 01:42:21 SEN. JACKSON asked Mr. Feiss to summarize why the letter is needed. **Geoff Feiss, General Manager, MTA**, explained how the Commission's proposed universal service reforms are a threat to current and future broadband facilities.
- 01:44:55 **SEN. BLACK moved to send a letter from the ETIC. The motion passed on a unanimous voice vote.** It was agreed the letter would be signed by committee members in the afternoon.
- 01:45:30 **BREAK** until 10:10 a.m.

## **AGENCY OVERVIEW PRESENTATION**

- 02:12:00 **Kate Whitney, staff attorney, Public Service Commission (PSC)**, updated the ETIC on current cases and issues before the PSC:
- NWE general electric and gas rate case hearing in September;
  - NWE construction is on schedule at the Mill Creek gas-fired generation plant;
  - MDU electric general rate case for a \$5.5 million increase;
  - Energy West rate case filed last week for a \$362,000 increase;
  - hearing on the pending acquisition of Qwest by Centurylink;
  - last week's roundtable discussion to consider Federal Energy Regulation Commission's (FERC) proposed rulemaking regarding transmission planning and cost allocations; and
  - consideration of two rulemaking matters: to streamline regulatory requirements for small water utilities and to better define "passenger transportation" for motor carriers.

## **UPDATE ON TRANSMISSION LINE DEVELOPMENT**

### **Overview -- Ms. Nowakowski**

- 02:16:36 Ms. Nowakowski updated the ETIC on the Mountain States Transmission Intertie (MSTI) **(EXHIBIT 13)**.
- 02:22:38 Ms. Nowakowski updated the ETIC on the Montana Alberta Tie Transmission Line (MATL) **(EXHIBIT 14)**.

### **Public comment**

- 02:26:30 John Fitzpatrick, NWE, clarified that NWE's preferred alternative route for the MSTI has been changed significantly by the DEQ in the EIS process.

### **Committee questions and discussion**

- 02:28:16 SEN. BLACK reported that construction on the MATL in Montana is proceeding well. He said that the majority of affected land owners have reached an agreement regarding easements through their land but that one parcel will have to go through condemnation proceedings due to landowner concerns. He said that an open house was held in Shelby that addressed most landowner questions and concerns.

## **ADMINISTRATION MATTERS**

### **Rulemaking report**

- 02:30:19 Mr. Everts said there was no rulemaking activity to report on, other than those already discussed by Ms. Whitney, PSC.

### **Minutes**

- 02:30:42 SEN. ERICKSON asked to make a correction to the July 29 minutes on page 15, at time stamp 6:57:10. He said that Doug Hardy, MECA, offered to arrange a tour of the gasification plant under construction at Beulah, North Dakota, not Great Falls. **SEN. ERICKSON moved to approve the July 29, 2010, meeting minutes as corrected. The motion passed on a unanimous voice vote.**

### **Budget Update**

02:32:14 Ms. Nowakowski reported that the ETIC would complete its work under budget and that the LSD budget for the next biennium may contain a slight increase for ETIC.

### **Staff Evaluation**

Ms. Nowakowski distributed staff evaluation forms and asked the members to complete the form and turn it in to Susan Fox, Executive Director, or to Dawn Field, ETIC secretary.

02:34:30 REP. DRISCOLL recessed the ETIC for lunch.

### **LUNCH BREAK**

04:04:41 REP. DRISCOLL reconvened the meeting at 12:13 p.m.

### **ENERGY POLICY WRAP-UP**

04:04:52 **SEN. ERICKSON moved to approve LC6010 (EXHIBIT 2).**

### **Public comment**

There was no public comment given.

**The motion failed on a 4-4 roll call vote. SEN. BLACK, SEN. JACKSON, REP. ANKNEY, and REP. KLOCK voted no (ATTACHMENT 7).**

### **"MONTANA'S ENERGY POLICY REVIEW" DRAFT REPORT**

04:06:17 Ms. Nowakowski reviewed the draft report, including changes made at the previous two meetings. She noted that because the Committee did not reach consensus on energy policy, the report would reflect that and that the current form of the report is what the finalized version would look like. She reviewed several minor corrections.

04:10:28 **SEN. JACKSON moved to approve the draft report, "Montana's Energy Policy Review". The motion passed on a unanimous voice vote.**

### **PUBLIC COMMENT**

04:10:49 Ms. Nowakowski said that Interoperability Montana (IM) provided a summary of key decisions made at the August 10, 2010 meeting (**EXHIBIT 15**). She said that if the members had questions, she would submit them to IM.

### **INTERIM WRAP-UP**

Ms. Nowakowski reminded the members to complete the staff evaluation. The ETIC thanked the staff for its work.

### **ADJOURNMENT**

04:13:01 With no further business before the Energy and Telecommunications Interim Committee, REP. DRISCOLL adjourned the final meeting of the ETIC at 12:20 p.m.

Draft