



## Energy and Telecommunications Interim Committee

### 65th Montana Legislature

#### SENATE MEMBERS

MARY MCNALLY--Chair  
NATE MCCONNELL  
TOM RICHMOND  
SCOTT SALES

#### HOUSE MEMBERS

DEREK SKEES--Vice Chair  
LAURIE BISHOP  
ZAC PERRY  
DANIEL ZOLNIKOV

#### COMMITTEE STAFF

TREVOR GRAFF, Lead Staff  
JAMESON WALKER, Staff Attorney  
NADINE SPENCER, Secretary

# MINUTES LOG

July 20, 2018  
Room 152, Capitol Building  
Helena, Montana

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#### **COMMITTEE MEMBERS PRESENT**

SEN. MARY MCNALLY, Chair

SEN. NATE MCCONNELL  
SEN. TOM RICHMOND  
SEN. SCOTT SALES

REP. LAURIE BISHOP  
REP. ZAC PERRY  
REP. DANIEL ZOLNIKOV

#### **COMMITTEE MEMBERS EXCUSED**

REP. DEREK SKEES, Vice Chair

## **STAFF PRESENT**

TREVOR GRAFF, Lead Staff  
JAMESON WALKER, Staff Attorney  
SONJA NOWAKOWSKI, Staff  
NADINE SPENCER, Secretary

## **VISITORS' LIST (Attachment 1)**

## **AGENDA (Attachment 2)**

### **COMMITTEE ACTIONS**

The Energy and Telecommunications Interim Committee (ETIC):

- Voted to amend LC SMW2 and put it out for public comment;
- Voted to have staff draft LC SMW3 and put it out for public comment;
- Voted to amend LC IRP2 and put it out for public comment;
- Voted to amend the draft report on decoupling and approve it as a final report;
- Voted to amend the draft report on natural gas customer choice and approve it as a final report.

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

00:00:01 Sen McNally called the meeting to order at 8:01 a.m. The secretary noted the roll. **(Attachment 3)** Rep. Skees was excused.

## **PROGRAM REVIEW: SMALL WATER AND SEWER UTILITY REGULATION**

### **Introduction**

00:00:42 Sonja Nowakowski, staff, Legislative Services Division (LSD), said the committee dedicated time in its work plan to a program review of the Public Service Commission's (PSC) regulation of small water and sewer utilities in Montana and at the May meeting decided to put two bill drafts out for public comment.

00:02:16 Ms. Nowakowski said the committee will hear from the Department of Natural Resources and Conservation (DNRC) regarding the small water and municipality rates studies it conducts.

00:03:17 Ms. Nowakowski said the PSC adopted new small water and sewer utilities rules on July 6.

### **Overview of DNRC Rate Studies**

00:04:16 Anna Miller, Conservation Resource Development Division, DNRC, provided an overview of the 2016 statewide water and wastewater rate study. **(Exhibit 1)**

00:10:12 Ms. Miller discussed the projects that were done in FY 2018.

Committee questions and discussion                      None

### **LCSMW1**

00:18:06 Ms. Nowakowski provided an overview of LC SMW1. **(Exhibit 2)**

00:20:40 Ms. Nowakowski discussed the public comments received.

## LCSMW2

00:22:14 Ms. Nowakowski provided an overview of LC SMW2. **(Exhibit 3)**  
00:25:18 Ms. Nowakowski discussed the public comments received.  
00:26:14 Sen. McNally asked Ms. Nowakowski how LC SMW2 is different from the PSC rules.

### Public comment

00:29:05 Bowen Greenwood, communications director, PSC.  
00:30:19 Leroy Beeby, independent consultant.  
  
00:30:38 Sen. McConnell entered the meeting at 8:32 a.m.  
  
00:35:40 Mac Smith, attorney, Helena, representing Holmberg Village Water Company.  
00:40:36 Jason Brown, Montana Consumer Counsel.  
00:50:03 Sen. McNally asked Mr. Brown to provide a copy of the rules. **(Exhibit 4)**

### Committee questions and discussion

00:50:19 Rep. Bishop asked Mr. Greenwood about the new rules and if the PSC feels there is a need for legislation. Mr. Greenwood redirected the question to Will Rosquist, Regulatory Division administrator, PSC.  
00:53:36 Rep. Bishop asked Mr. Rosquist about the types of rate cases the PSC is likely to see under LC SMW2. Mr. Rosquist said he will provide a letter to the committee with the information.  
00:55:19 Sen. McNally asked Mr. Rosquist about the operating ratio methodology.  
00:57:29 Sen. McNally asked Mr. Rosquist about implementing the rules and if there is a plan to review how the rules are working and make changes.  
00:58:34 Sen. McNally asked Mr. Beeby if there is any harm in waiting to see how the rules work out.

### Committee action

01:01:44 Jameson Walker, staff attorney, LSD, said agencies are required by statute to review rules biennially.  
01:02:08 Rep. Zolnikov asked Mr. Walker if all rules in law are reviewed biennially.  
01:02:42 Sen. McNally opened discussion on committee action.  
01:03:01 Sen. Richmond said he recommends that the committee do another bill draft that takes into consideration the public comments and said changes can be made to LC SMW2 to make it more explicit on the authority of the PSC to set standard rates.  
01:04:46 Rep. Bishop commented on the bill drafts and said she is in favor of continuing to work on LC SMW2.  
01:05:46 Sen. McNally commented on not having the PSC rules to look at.  
01:05:56 Sen. Richmond said the committee could decide not to pursue the current bill drafts and draft another bill that authorizes standard rates for the PSC.  
01:06:21 Sen. McNally commented on just allowing the PSC rules to operate.  
01:06:28 Sen. Richmond commented on the need for statutory support for the rules and said he supports seeing how the rules operate.  
01:07:13 Sen. McNally said the committee can continue to consider LC SMW2, not consider LC SMW1, and add a third bill.

01:07:43 Ms. Nowakowski said she will work with Sen. Richmond on LC SMW2 to make it more explicit in terms of the regulatory role of the PSC and work on LC SMW3 that would be a simplified version of LC SMW2 and gives the PSC the ability to set standard rates. Sen. Richmond agreed.

#### **Motion/Vote**

01:08:31 Sen. Richmond moved to work with staff on LC SMW2 and to have staff draft LC SMW3. The motion carried unanimously by voice vote of those present and voting.

01:08:50 Ms. Nowakowski said she will work with Sen. Richmond on the bill drafts and post them for public comment.

### **PROGRAM REVIEW: IRP & RESOURCE PLANNING**

#### **Overview of Draft**

01:09:21 Ms. Nowakowski said the ETIC requested one bill draft on IRP and resource planning be posted for public comment.

Sen. McNally left the meeting and gave the duties of the chair to Rep. Zolnikov.

01:09:56 Ms. Nowakowski provided an overview of LC IRP2. **(Exhibit 5)**

01:10:40 Ms. Nowakowski discussed the public comments received.

#### **Public comment**

01:11:18 Brian Fadie, Clean Energy Program director, Montana Environmental Information Center.

01:13:05 Diego Rivas, senior policy associate, Northwest Energy Coalition.

Sen. McNally returned to the meeting and resumed the duties of the chair.

01:13:48 Gary Forrester, Montana Dakotas Utilities (MDU).

01:15:00 David Hoffman, NorthWestern Energy (NWE).

#### **Committee questions and discussion**

01:16:01 Rep. Zolnikov asked Mr. Hoffman about applying the same meeting requirement to NWE and MDU.

01:16:49 Sen. McNally asked Mr. Forrester about the open meetings conducted by MDU.

01:19:04 Rep. Zolnikov asked Mr. Forrester about including shareholder involvement in the draft bill.

#### **Committee action**

01:20:05 Ms. Nowakowski commented on the language in the bill regarding the rules.

01:21:00 Sen. McConnell said he recommends adding language to the bill regarding the meeting location. Sen. McNally said it should be clear that the location is in the Montana service territory and not the MDU four state region.

01:21:26 Rep. Zolnikov asked if all of MDU's meetings would be in Montana for the four state territory. Sen. McConnell said it would be one meeting.

- 01:22:44 Rep. Bishop commented on the language in the bill regarding the utility's service territory.
- 01:24:44 Sen. Richmond asked Ms. Nowakowski about the language for the rules used in the bill draft.
- 01:25:38 Sen. Richmond asked Ms. Nowakowski if the PSC identified the need for statutory support for requiring meetings.
- 01:26:40 Sen. Richmond said he recommends adding language in the bill draft that requires NWE to have two public meetings in its Montana service territory and to require that MDU have at least one of its public meetings in Montana.

### **Motion**

- 01:27:26 Sen. Richmond moved to amend LC IRP2.

### **Discussion on the Motion**

- 01:27:29 Ms. Nowakowski repeated the motion.
- 01:28:06 Sen. Richmond
- 01:28:34 Sen. McNally
- 01:28:51 Ms. Nowakowski
- 01:29:39 Sen. Richmond modified his motion to include ratepayers.

### **Vote**

- 01:29:51 The motion carried unanimously by voice vote. Rep. Skees was excused.
- 01:29:59 Ms. Nowakowski said she will revise the bill and put it out for public comment.

President Sales left the meeting.

### **EQC UPDATE**

- 01:30:32 Joe Kolman, legislative environmental analyst, LSD, said the Environmental Quality Council (EQC) will meet next week and provided information on the agenda.
- 01:34:58 Mr. Kolman said the EQC decided to increase its efforts on environmental indicators and trend information and to focus on trends related to fire. He provided a digital presentation on fire related indicators that is available on the EQC web page.

### **Committee questions and discussion**

- 01:54:57 Sen. McNally asked Mr. Kolman about the status of the money that Colstrip received for transition planning. Mr. Kolman redirected the question to Ms. Nowakowski.
- 01:58:30 Sen. McNally asked Ms. Nowakowski about owners that have come forward with transition funds other than Avista and Puget Sound Energy.
- 01:58:50 Sen. McConnell said he supports continued funding for aquatic invasive species.
- 01:59:55 Rep. Bishop thanked Mr. Kolman for the digital presentation and asked if it can be available for legislators during the 2019 Legislative session orientation.
- 02:01:48 Sen. McNally thanked Mr. Kolman.
- 02:02:13 Recess

02:15:35 Reconvene

### **SJ 31: DECOUPLING**

02:15:53 Trevor Graff, research analyst, LSD, said the committee needs to approve the decoupling and natural gas customer choice reports or discuss any significant changes and put them out for public comment.

02:16:38 Mr. Graff discussed the decoupling report. [\(Exhibit 6\)](#)

#### Public comment

02:18:30 Mr. Rivas.

#### Committee questions and discussion

02:19:57 Sen. McNally thanked staff for their work and requested that the word "profit" be changed to "revenue" in the report.

#### **Motion/Vote**

02:20:40 Rep. Bishop moved to amend the decoupling report by changing "profit" to "revenue" and approve it as a final report. The motion carried unanimously by voice vote. Rep. Skees and Sen. Sales were excused.

### **HJ28: NATURAL GAS CUSTOMER CHOICE**

02:21:11 Mr. Graff discussed the natural gas customer choice draft report. [\(Exhibit 7\)](#)

Public comment None

#### Committee questions and discussion

02:22:54 Sen. McNally thanked staff for their work and requested that more information be added on energy efficiency and conservation.

#### **Motion**

02:23:49 Rep. Bishop moved to amend the draft report on natural gas customer choice and approve it as a final report.

#### **Discussion on the Motion**

02:23:55 Mr. Graff

02:24:07 Sen. McNally

#### **Vote**

02:24:18 The motion carried unanimously by voice vote. Rep. Skees and Sen. Sales were excused.

### **PUBLIC SERVICE COMMISSION UPDATE**

02:24:55 Brad Johnson, chair, PSC, provided an update regarding issues before the commission.

02:25:19 Mr. Johnson provided an update of the acquisition of Avista by Hydro One.

02:27:04 Mr. Johnson discussed the implementation of tax cuts.

02:28:41 Mr. Johnson discussed the QF process.

- 02:29:22 Mr. Johnson commented on small water and sewer utilities and the draft bills being considered by the ETIC.
- 02:30:51 Mr. Johnson discussed budget cuts that resulted from the special session.

Public comment None

Committee questions and discussion

- 02:32:41 Rep. Bishop asked Mr. Johnson about the request that was made regarding the foundation for the data in the net metering study. Mr. Johnson redirected the question to Mr. Rosquist. Rep. Bishop requested that the information be available for the final ETIC meeting in September.
- 02:35:11 Sen. McNally asked if anyone from NWE was available to respond to the request. She said it isn't acceptable that the request is still ongoing and asked Mr. Johnson about encouraging the information to become public.
- 02:37:09 Sen. McNally said she recommends that the ETIC consider drafting a letter.
- 02:37:28 Rep. Zolnikov commented on the need for net metering legislation to resolve the issue.
- 02:38:08 Sen. McNally said the data should become public in order to allow the general public to interact with the study the way it was intended. She said, with the consensus of the committee, she will work with staff on encouraging that the report becomes public.
- 02:38:50 Sen. McNally commented on the committee's action on the small water and sewer utility bills.
- 02:39:38 Ms. Nowakowski said as part of its statutory duty the ETIC has oversight over the PSC and reviews any agency legislation and approves it for drafting and pre-introduction. She said the PSC sent a memo indicating they do not plan to bring agency legislation for pre-introduction. **(Exhibit 8)**
- 02:40:45 Sen. McNally said there is still no planned legislation for the ETIC to review and thanked the PSC for their participation today.

**BPA/GOVERNOR'S OFFICE TASK FORCE UPDATE**

- 02:41:59 Mark Reller, Bonneville Power Administration (BPA), provided a highlight of some of the information contained in the Montana Renewable Development action plan. **(Exhibit 9)**
- 02:46:01 Brian DeKiep, Northwest Power and Conservation Council, gave a PowerPoint presentation on the action plan and provided an overview of the process and some of the findings. **(Exhibit 10)**
- 02:53:39 Mr. Reller provided clarification of the BPA Remedial Action Scheme (RAS) upgrade.
- 02:54:38 Mr. DeKiep continued his presentation.
- 02:58:58 Mr. Reller provided information on the agreement that BPA has with NWE.
- 03:00:23 Mr. DeKiep continued his presentation.

03:01:49 Mr. Reller said the agreement between BPA and NWE is explained in Appendix D.

Public comment None

Committee questions and discussion

03:02:25 Rep. Bishop asked Mr. DeKiep about the cost for wind in Montana versus wind in the Columbia River Gorge.

03:03:58 Rep. Bishop asked about transmission capacity and the need to build new transmission lines if Colstrip Units 1-4 have all been retired. Mr. DeKiep said it would be needed to serve NWE's system load.

03:06:24 Rep. Zolnikov commented on the importance of continuing to discuss how to export energy.

03:06:50 Rep. Zolnikov said the committee may want to consider requesting a new working group to discuss the short and long-term plans for Colstrip Units 3 and 4.

03:07:51 Rep. Zolnikov asked Mr. Reller about the cost for a developer to buy energy from BPA versus NWE.

03:09:36 Mr. Reller provided information on the Montana Intertie agreement.

03:10:10 Rep. Zolnikov commented on the importance of having a working group to discuss future plans for Colstrip Units 3 and 4. Mr. Reller said there is a recommendation in the report.

03:12:55 Mr. DeKiep said the group intends to meet every six months to review the action items. Rep. Zolnikov commented on moving forward.

03:13:59 Sen. McNally thanked Mr. Reller and Mr. DeKiep and commented on the process.

**STATUTORY ADMINISTRATIVE RULE REVIEW**

03:15:18 Mr. Walker said there is no report and there are no rules pending at the current time.

**PUBLIC COMMENT ON MATTERS WITHIN THE JURISDICTION OF THE ETIC**

03:16:11 Mr. Rivas commented on the USB reports and discussed the large customer USB report. **(Exhibit 11)**

03:22:44 Mr. Hoffman commented on the net metering study and said that NWE has complied with HB 219 (2017) in conducting the study, completing it on time, submitting it, and moving ahead with preparations for the filing of the general electric rate case in September and using the study as a component of the rate case.

03:24:54 Rep. Zolnikov asked Mr. Hoffman about access to the underlying data for the ETIC meeting in September.

03:26:49 Sen. McNally commented on HB 219 and asked Mr. Hoffman about access to the data before the rate case filing.

03:29:25 Rep. Bishop commented on the study and the quality and timing. Mr. Hoffman commented on the quality of the study.

03:31:08 Rep. Zolnikov commented on the study and the intention of HB 219.

03:34:21 Sen. McNally said it was not her understanding that the information would not be released until the rate case. She said she thought it would be a transparent process and that the data would be available for the general public to look at. Mr. Hoffman said the data will be released as soon as NWE can.

**OTHER BUSINESS/INSTRUCTIONS TO STAFF**

03:36:37 Mr. Graff provided a review of the agenda items for the September meeting.  
03:37:44 Sen. McConnell asked about the date for the meeting. Mr. Graff said it will be on September 10.  
03:38:15 Rep. Bishop asked staff about allowing time in September for the Department of Revenue to provide information on oversight of the USB issues that were discussed today. Sen. McConnell agreed.  
03:39:05 Rep. Bishop asked staff about inviting the PSC, NWE, and the Montana Consumer Counsel to provide an overview of the general rate case.  
03:40:30 Sen. McNally said it can be added as a last priority and should be geared toward educating the public about what is a rate case rather than focusing on a particular case.

**ADJOURN**

03:41:52 Sen. McNally adjourned the meeting at 11:43 a.m.

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