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ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE
67th Montana Legislature

SENATE MEMBERS

Janet Ellis
Mary McNally
Keith Regier
Tom Richmond

HOUSE MEMBERS

Laurie Bishop
Denise Hayman
Christopher Pope
Derek Skees
Brad Tschida
Daniel Zolnikov

COMMITTEE STAFF

Trevor Graff - Research Analyst
Nadine Spencer - Secretary
Jameson Walker - Attorney

MINUTES LOG

January 13, 2020
Capito Building, Room 172
Helena, Montana

Please note: This document is a Minutes Log and provides annotation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video recording of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of the meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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ROLL CALL

Members Present:

Rep. Derek Skees, Chair (R)
Sen. Janet Ellis, Vice Chair (D)
Rep. Laurie Bishop (D)
Rep. Denise Hayman (D)
Sen. Mary McNally (D)

Rep. Christopher Pope (D)

Sen. Keith Regier (R)

Sen. Tom Richmond (R)

Rep. Daniel Zolnikov (R)

Members Excused:

Rep. Brad Tschida (R)

Staff Present:

Trevor Graff, Research Analyst

Nadine Spencer, Secretary

Jameson Walker, Attorney

Committee Business Summary

The Energy and Telecommunications Interim Committee (ETIC):

- Voted to draft a committee bill to amend HB 150 (2019);
- Voted to draft a committee bill to amend HB 597 (2019).

AGENDA (Attachment 1)

VISITORS' LIST (Attachment 2)

CALL TO ORDER/ROLL CALL

08:02:32 Rep. Skees called the meeting to order at 8:02 a.m. The secretary called the roll. **(Attachment 3)** Rep. Tschida was excused and gave his proxy to Rep. Skees. **(Attachment 4)**

HJ 12: Transmission Infrastructure Study

Introduction

08:05:22 Trevor Graff, research analyst, Legislative Service Division (LSD), provided an introduction and said the committee asked to take a closer look at physical and cyber security of the grid in Montana and that the panelists today will present their perspective on carrying out that effort.

Grid Resilience and Security Panel

08:05:44 Mark Reller, Montana liaison, Bonneville Power Administration (BPA).

08:13:54 Mike McCracken, BPA Kalispell District Operations and Maintenance manager.

08:17:56 Mike Normandeau, BPA power service account executive.

08:21:21 Danny Kaluza, NorthWestern Energy (NWE) director of Support Services. **(Exhibit 1)**

08:45:30 Mark Hayden, Missoula Electric Cooperative general manager; chairman, Montana Electric Cooperatives' Association Legislative Committee.

Public comment

None

Questions from the committee

- 08:53:27 Rep. Zolnikov asked Mr. Reller about the impact that the state legislature has on grid security.
- 08:54:31 Rep. Zolnikov asked Mr. Reller what the state should focus on.
- 08:55:03 Sen. Regier asked Mr. Reller what the most critical part of the aging infrastructure is. Mr. Reller redirected the question to Mr. McCracken.
- 08:57:27 Sen. Regier asked Mr. McCracken about failures in the transmission system.
- 08:58:37 Sen. Regier asked Mr. McCracken about the megawatt production at Hungry Horse Dam and Libby Dam. Mr. McCracken redirected the question to Mr. Reller.
- 09:00:58 Sen. Regier asked Mr. Kaluza about NWE's most critical level of vulnerability assets.
- 09:02:15 Rep. Pope asked Mr. Reller about developing transmission infrastructure and ways that BPA is ensuring that electricity producers will be able to export electricity out of Montana.
- 09:04:48 Rep. Skees said the topic will be on the agenda at the next ETIC meeting.
- 09:04:58 Rep. Pope asked Mr. Reller about the changing market and if it creates any resiliency issues for BPA.
- 09:07:37 Rep. Hayman asked the panelists if they contact county commissioners about where homes are built. Mr. Hayden said they do not.
- 09:12:09 Rep. Skees asked Mr. Reller if the cyber threats BPA experiences are mostly domestic or foreign. Rep. Skees asked Mr. Reller to provide the information later.
- 09:12:39 Rep. Skees asked Mr. Reller about using unmanned aerial vehicles (UAV). Mr. Reller redirected the question to Mr. McCracken.
- 09:14:22 Rep. Skees asked Mr. McCracken about the resiliency of the grid and any plans to upgrade transmission lines in the event of solar flares.
- 09:15:12 Rep. Skees asked Mr. Kaluza if most of the cyber-attacks that NWE experiences are from domestic or foreign threats.
- 09:16:22 Rep. Skees asked Mr. Kaluza about using UAV's to inspect transmission lines.
- 09:17:10 Rep. Skees asked Mr. Kaluza about upgrades to the transmission system.
- 09:17:36 Rep. Skees asked Mr. Kaluza about complications interfacing between federal, state, and private lands when responding to or fighting fires along transmission lines and anything the legislature can do to help.
- 09:21:01 Rep. Zolnikov asked Mr. Kaluza about third parties that may not be compliant with NWE's cyber security requirements.

09:23:40 Rep. Skees asked about committee action and thanked the panel members.

09:24:21 Recess

09:44:13 Reconvene

HJ 38: Study of bonding, decommissioning and remediation for energy facilities (coal facilities)

Introduction

09:44:50 Sonja Nowakowski, research director, LSD, research staff assigned to HJ 38, provided an introduction and said the committee received an overview to decommissioning and reclamation requirements for coal-fired generation in Montana. [\(Exhibit 2\)](#)

09:47:03 Ms. Nowakowski said the committee received a timeline for events in Montana, Washington, and Oregon that have impacted Colstrip. [\(Exhibit 3\)](#)

09:47:48 Ms. Nowakowski said the committee also received a snapshot of economic impacts to the state based on the closure of Colstrip Units 1 and 2. [\(Exhibit 4\)](#)

09:48:52 Ms. Nowakowski discussed the remediation of coal ash and the closure of other coal-fired power plants in Montana.

DEQ perspectives

09:53:44 Jenny Chambers, Waste Management and Remediation Division administrator, Department of Environmental Quality (DEQ), discussed remediation issues related to the closing of Colstrip Units 1 and 2.

09:56:07 Aimee Reynolds, Contaminated Site Cleanup Bureau chief, DEQ, provided a status of and updates for the remediation and future requirements for decommissioning.

10:03:13 David Klemp, Air Quality Bureau chief, DEQ, presented information on the air quality implications associated with the closure of Units 1 and 2.

Public comment

10:12:10 Mary Ann Dunwell, HD 84.

10:13:10 Anne Hedges, Montana Environmental Information Center.

10:15:37 Cody Ferguson, Northern Plains Resource Council.

Questions from the committee

10:17:58 Rep. Hayman asked Mr. Klemp about pollution reduction and where Talen Energy's former industrial customers are buying energy and if pollutants are still being emitted.

10:22:01 Rep. Hayman asked Mr. Klemp about keeping the water in the community of Colstrip safe into perpetuity. Mr. Klemp redirected the question to Ms. Chambers.

10:27:30 Rep. Zolnikov asked Ms. Chambers about surety bonds.

10:31:17 Sen. Ellis asked Ms. Reynolds about a time frame for having all of surety bonds in place for the entire remediation process.

10:36:31 Ms. Chambers commented on the time frame for meeting the financial assurance needs.

10:37:22 Sen. Ellis asked Ms. Reynolds about provisions in place for long-term remedial action.

10:41:57 Sen. Ellis asked Ms. Chambers if the surety bonds will only be used if DEQ needs to take over clean up.

10:43:01 Rep. Pope asked Ms. Chambers about the estimated cost for clean up.

10:45:49 Rep. Pope asked Ms. Chambers where the public can get information regarding the decisions that are being made by the DEQ.

10:48:22 Rep. Pope asked Ms. Reynolds about Talen and responsibility for clean up.

10:49:12 Rep. Bishop asked Ms. Reynolds about financial assurance.

10:51:21 Rep. Bishop asked Ms. Reynolds about the cost for clean up and protecting ratepayers in the future.

10:53:00 Ms. Chambers said financial assurance is the responsibility of the operator for remediation and clean up.

10:53:36 Rep. Bishop asked Mr. Klemp about the reduction in revenue from the fees paid when substances are released into the air.

10:55:15 Sen. Richmond asked Ms. Chambers about the method used for remediation of groundwater contamination.

10:56:59 Sen. Richmond asked Ms. Chambers about the clean up standard if the aquifer isn't suitable for drinking water. Ms. Chambers redirected the question to Ms. Reynolds.

10:59:02 Sen. Richmond asked Ms. Reynolds about surface water treatment.

Committee action

11:00:13 Rep. Skees said the committee will continue to receive updates.

Northwestern Energy Colstrip Unit 4 Acquisition

11:00:58 John Hines, NWE, provided information on the transaction for the purchase and sale agreement for Colstrip Unit 4. ([Exhibit 5](#))

Public comment

11:18:58 Brian Fadie, Clean Energy Program director, Montana Environmental Information Center.

11:24:16 Alan Olson, representing himself.
11:27:52 Shelby DeMars, Montana Association of Oil, Gas, and Coal Counties.
11:30:41 Bridger Mahlum, Montana Chamber of Commerce.
11:32:14 Jeff Fox, Montana policy manager, Renewable Northwest.
11:35:02 Rep. Mary Ann Dunwell, HD 84.
11:38:37 Sen. Sue Malek, SD 46.

Questions from the committee

11:43:33 Rep. Zolnikov asked Mr. Hines about the disconnect in planning and build out, in anticipation of a market shortfall, that lead to the reliability concern and cost reliance on the market.
11:45:49 Sen. Regier asked Mr. Hines about the ramification for not buying in on the transmission lines.
11:47:04 Sen. Regier asked Mr. Fadie about the power for the new 5,000 megawatts that will be coming online in the northwest.
11:48:08 Sen. Ellis asked Mr. Hines about the transaction and acquisition of Colstrip by NWE and annual increases for ratepayers.
11:51:25 Sen. Ellis asked Mr. Hines about rate increases related to maintenance and new coal contracts.
11:55:59 Rep. Skees said the committee will recess for lunch and continue the discussion this afternoon.

Recess for lunch

11:57:16 Recess
13:08:45 Reconvene
13:08:59 Rep. Skees discussed the afternoon agenda.

Next Generation 9-1-1 Grant Funding Update

Introduction

13:09:57 Ms. Nowakowski provided an introduction and requested that a committee bill be drafted to correct an error in HB 150 (2019). [\(Exhibit 6\)](#)

Funding Update

13:13:06 Quinn Ness, bureau chief, Public Safety and Communication Bureau, State Information Technology Services Division, Department of Administration, chair , 9-1-1 Advisory Council, provided a status report on the 9-1-1 grant program.

- 13:15:34 Mr. Quinn provided a summary and overview of Governor Bullock's response to FCC Commissioner Michael O'Reilly's September 9, 2019 letter regarding funding for 9-1-1 services. [\(Exhibit 7\)](#)
- 13:16:35 Rep. Hayman left the meeting.
- 13:16:46 Sen. McNally left the meeting.

Public comment

None

Questions from the committee

None

Committee action

Motion

- 13:18:54 Rep. Zolnikov moved to draft a committee bill to amend HB 150.

Discussion on the Motion

- 13:19:34 Rep. Skees said that the committee received a copy of an idea for a bill draft from Geoff Feiss, Montana Telecommunications Association. [\(Exhibit 8\)](#)
- 13:20:13 Rep. Zolnikov

Vote

- 13:20:43 The motion carried unanimously by voice vote of those present and voting. [\(Attachment 5\)](#)

Administrative Rule Review

- 13:22:35 Jameson Walker, staff attorney, LSD, discussed the proposal by the PSC to update references in the rule on pipeline safety. [\(Exhibit 9\)](#)

Public comment

None

Questions from the committee

- 13:24:06 Rep. Skees asked Mr. Walker about the need for committee action.
- 13:25:04 Recess
- 13:36:40 Reconvene

Environmental Quality Council Update

- 13:36:56 Joe Kolman, director, Legislative Environmental Policy Office, LSD, provided an overview of the agenda for the Environmental Quality Council meeting scheduled for January 15-16.

13:39:21 Mr. Kolman presented information regarding the results of a survey on interim activities that was sent to all legislators. ([Exhibit 10](#))

Questions from the committee

13:47:58 Rep. Bishop asked Mr. Kolman about the budget for interim committees.

13:49:04 Rep. Bishop asked Mr. Kolman about legislator bill draft requests during the interim.

13:50:06 Rep. Skees asked Mr. Kolman about field trips and the percentage of a committee's budget.

13:51:40 Sen. Regier asked Mr. Kolman about the wildlife location study.

Northwestern Energy Colstrip Unit 4 Acquisition committee questions continued

13:53:42 Sen. Ellis asked Mr. Hines about additional ratepayer charges for maintenance or coal contracts.

13:56:13 Sen. Ellis asked Mr. Hines if NWE will charge ratepayers for decommissioning and remediation costs at Colstrip.

13:56:35 Rep. Hayman entered the meeting.

13:56:49 Sen. McNally entered the meeting.

13:58:20 Rep. Pope asked Mr. Hines about the timeline for NWE's acquisition of Unit 4.

13:59:50 Rep. Pope asked Mr. Hines if NWE has any plans to purchase additional shares.

14:02:43 Rep. Pope asked Mr. Hines about peak capacity, resource planning, and energy alternatives like wind.

14:07:20 Rep. Bishop asked Mr. Hines about NWE's electric generation portfolio.

14:08:23 Rep. Bishop asked Mr. Hines about storage.

14:10:56 Rep. Hayman asked Mr. Hines about the contract with Rosebud Mine and the cost per ton for coal.

14:12:07 Rep. Zolnikov asked Mr. Hines about the request for proposal (RFP) and the value proposition moving forward.

14:13:54 Rep. Zolnikov asked Mr. Hines about the need for new energy sources.

14:15:08 Rep. Zolnikov asked Mr. Hines about responsibility for environmental concerns.

14:16:29 Sen. McNally asked Mr. Hines about the entity responsible for the percent clean up costs.

14:17:20 Sen. McNally asked Mr. Hines about regulatory approval for the sale from other states and the PSC.

14:18:01 Sen. McNally asked Mr. Hines about plans to acquire additional shares of Unit 4.

14:23:55 Rep. Zolnikov asked Mr. Hines about the RFP process.

14:25:50 Rep. Zolnikov asked Mr. Hines about participation by the Montana Consumer Counsel (MCC).

14:26:35 Rep. Skees asked Mr. Hines about the transaction and acquiring any ownership of the transmission lines.

14:27:45 Rep. Skees asked Mr. Hines about electrons given to Puget Sound Energy.

14:29:52 Rep. Bishop asked Mr. Hines about final liability for clean up costs at Colstrip.

14:33:12 Rep. Bishop asked Mr. Hines about going before the PSC for regulatory approval.

14:36:36 Rep. Skees thanked Mr. Hines.

Public Service Commission Study

Introduction

14:37:59 Mr. Graff provided an introduction and asked the committee to formulate 4-5 questions to send to former commissioners from the information given today.

Commission History

14:39:58 Chuck Magraw, former Montana assistant attorney general. ([Exhibit 11](#))

14:48:26 Dennis Lopach, attorney, Missoula, former chief counsel, PSC, by telephone. ([Exhibit 12](#))

Public comment

14:58:20 Steve Stancher, Kalispell.

14:59:38 Roger Koopman, PSC commissioner. District 3.

15:10:34 Randall Pinnoci, PSC commissioner, District 1.

Questions from the committee

15:15:56 Rep. Zolnikov asked Mr. Lopach about discovery.

15:19:26 Rep. Zolnikov asked Mr. Lopach about advocacy staff.

15:22:16 Rep. Bishop asked Mr. Magraw about the role of the MCC and making it more robust.

15:25:15 Rep. Bishop asked Mr. Lopach to respond to the same question.

15:26:02 Rep. Bishop asked Mr. Lopach about reducing the number of commissioners and making them district based rather than at-large.

15:28:06 Rep. Pope asked Mr. Magraw about leadership at the PSC and the right amount of advocacy.

15:31:49 Rep. Pope asked Mr. Lopach the same question.

15:33:58 Sen. Ellis asked Mr. Magraw about the difference between having an advocacy staff at the PSC versus having an active representative from the MCC participating in PSC proceedings.

15:37:00 Sen. Ellis asked Mr. Lopach the same question.

15:37:59 Rep. Zolnikov asked Mr. Magraw about active involvement by the MCC because of its ability to do discovery. Mr. Magraw redirected the question to Mr. Lopach.

15:41:10 Mr. Magraw commented on the the discovery issue.

15:42:06 Sen. Richmond asked Mr. Magraw about discovery and the structure of the PSC and if the responsibilities of the PSC have changed.

15:45:30 Mr. Lopach responded to the same question.

15:46:37 Sen. Richmond asked Mr. Lopach if the PSC needs discovery.

15:49:48 Rep. Skees asked Mr. Lopach if the PSC needs more or less regulatory authority.

15:51:19 Rep. Skees asked Mr. Lopach if historically the PSC has had the legal ability to compel discovery.

15:52:48 Rep. Skees asked Mr. Lopach if the PSC currently has the ability for discovery and where in code does it qualify what components it can ask for in that discovery.

15:55:06 Rep. Skees asked Mr. Lopach about what device or dynamic within the PSC holds the PSC accountable to private companies and individuals to help them keep the cost down to do business with the PSC.

15:56:38 Rep. Skees thanked Mr. Magraw and Mr. Lopach for their participation.

15:58:36 Recess

16:06:06 Reconvene

PSC Discovery Rulemaking

Introduction

16:06:26 Mr. Walker provided an overview of the rule filed by the PSC to conduct data requests as a method of discovery.

16:09:48 Mr. Walker said the ETIC received copy of the public comments. [\(Exhibit 13\)](#)

16:10:30 Mr. Walker discussed the administrative rule process and the committee's informal objection to the rule.

16:12:29 Mr. Walker discussed the committee options.

Montana Public Service Commission

16:18:15 Zach Rogala, legal counsel, PSC, said the rulemaking was an attempt to codify the PSC's current practice and that the practice of public interest investigation is done in every state and how to do it is the discussion today.

Public comment

16:23:24 Ann Hill, corporate counsel, NorthWestern Energy.

Questions from the committee

16:24:52 Rep. Pope asked Ms. Hill about the declaratory judgement.

16:27:47 Sen. Regier asked Mr. Rogala about the rule and what happens if it isn't changed.

16:29:53 Rep. Skees asked Mr. Rogala about the need to codify existing practice.

16:33:15 Rep. Skees asked Mr. Rogala about the PSC's power of discovery as data requests.

16:34:51 Rep. Skees asked Mr. Rogala about coming before the legislature to make a change in statute.

16:36:54 Rep. Skees asked Mr. Rogala what will happen if the committee does not take any action.

16:37:11 Rep. Skees asked Mr. Rogala about delaying the rule to bring it before the legislature.

16:40:30 Rep. Skees asked Mr. Rogala about using the power of discovery when the PSC approves a license.

16:44:36 Sen. Regier asked Mr. Rogala if all the commissioners were in favor of the rule.

16:45:19 Rep. Bishop asked Mr. Rogala if the powers of discovery he is describing are the same powers that every other state has.

16:48:05 Rep. Bishop asked Mr. Rogala about the petition and if it will move forward regardless of a decision today.

16:50:33 Rep. Pope asked Mr. Rogala about how the PSC compels discovery and what happens when someone is uncomfortable with the request.

16:52:47 Rep. Zolnikov asked Mr. Regala about getting evidence.

16:55:50 Rep. Zolnikov asked Mr. Regala about precedence and who has the burden of proof.

Committee action

16:58:36 Mr. Walker said the committee can continue its informal objection or it can do a formal objection.

16:59:24 Rep. Skees said the informal objection will expire before the next ETIC meeting.

17:00:00 Rep. Bishop asked Mr. Walker about the objections.
17:04:14 Sen. McNally asked Mr. Walker about not continuing with the objection.
17:05:43 Sen. Richmond said he recommends continuing the objection.

Motion

17:06:43 Sen. Richmond moved to formally object to the rule.

Discussion on the Motion

17:06:53 Rep. Skees
17:07:20 Sen. Richmond
17:07:43 Rep. Pope
17:09:05 Rep. Skees

Vote

17:11:33 The motion failed 5-5 by roll call vote with Rep. Skees, Rep. Tschida, Rep. Zolnikov, Sen. Regier, and Sen Richmond voting aye. Rep Tschida voted aye by proxy. ([Attachment 6](#))

17:12:47 Mr. Walker said the informal objection must be renewed at every meeting.

Motion

17:13:18 Sen. Richmond moved to renew the informal objection.

Discussion on the Motion

17:14:12 Sen. McNally
17:14:24 Mr. Walker
17:14:55 Rep. Skees
17:15:08 Mr. Walker
17:15:31 Rep. Pope
17:16:25 Rep. Zolnikov
17:18:22 Sen. McNally

Vote

17:18:43 The motion failed 5-5 by roll call vote with Rep. Skees, Rep. Tschida, Rep. Zolnikov, Sen. Regier, and Sen Richmond voting aye. Rep Tschida voted aye by proxy. ([Attachment 7](#))

PSC Update

- 17:20:00 Brad Johnson, chairman, PSC, provided an update on PSC activities.
- 17:23:06 Rep. Hayman left the meeting.

Public comment

- 17:34:16 Diego Rivas, senior policy associate, Northwest Energy Coalition.

Questions from the committee

- 17:35:11 Rep. Zolnikov asked Mr. Johnson to keep him notified on the rulemaking process.
- 17:35:34 Rep. Zolnikov asked Mr. Johnson about the number of employees the PSC needs to make the department fully functional.
- 17:37:01 Rep. Pope asked Mr. Johnson about the number of public comments the PSC received on NWE's resource plan.
- 17:38:10 Rep. Pope asked Mr. Johnson to provide a summary of the public comments.
- 17:39:23 Rep. Pope asked Mr. Johnson about the process and timeline related to the request for additional Colstrip assets by NWE.
- 17:41:26 Rep. Zolnikov asked Mr. Johnson about the public comments that the PSC received and what happens with the comments.
- 17:43:17 Rep. Skees thanked Mr. Johnson.

Public comment on matters within the jurisdiction of the ETIC

None

Other Business/Instructions to Staff

Review of Committee Budget

- 17:44:16 Mr. Graff provided an update on the ETIC budget.

Review of March Meeting Items

- 17:44:47 Mr. Graff said the 20th Air Force Wing wants to take a closer look at siting wind farms facilities near nuclear missile silos in the state.
- 17:46:18 The committee discussed adding siting of wind farms to the March agenda.
- 17:50:11 Mr. Graff said a request was sent to some of the committee members regarding the potential health hazards of siting 5G wireless on infrastructure within urban areas.
- 17:51:02 The committee discussed the 5G wireless concerns.
- 17:53:04 Sen. McNally left the meeting.
- 17:54:20 Rep. Skees said he recommends that the committee allow a robust discussion on the topic.

17:54:35 Mr. Graff provided recommendations for next steps for the PSC study.
17:55:46 The committee discussed the PSC study options.
18:01:36 Mr. Graff asked about next steps for the HJ 12 transmission infrastructure study.
18:02:11 The committee discussed the options for the HJ 12 study.
18:11:50 Mr. Graff asked about adding information on electric vehicles or energy storage to the work plan at the next meeting.
18:13:06 The committee discussed the additional work plan options.

Motion

18:16:17 Rep. Zolnikov moved to start the bill drafting process to amend HB 597 (2019).

Vote

18:21:15 The motion carried unanimously by voice vote. Rep. Tschida, Rep. Hayman, and Sen. McNally voted aye by proxy. [\(Attachment 8\)](#) Rep. Hayman and Sen. McNally gave their proxies to Sen. Ellis. [\(Attachment 9\)](#)

18:21:18 Rep. Zolnikov asked about a bill draft to allow resources to be separate from resource planning.

18:22:18 Rep. Skees asked staff about additional direction needed for the March meeting.

ADJOURNMENT

18:26:26 Rep. Skees adjourned the meeting at 6:26 p.m.