



PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

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

July 15, 2020
8:00 AM
State Capitol, Room 172

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ROLL CALL

Members Present in Helena:

Rep. Derek Skees, Chair (R)
Sen. Keith Regier (R)
Rep. Brad Tschida (R)
Rep. Daniel Zolnikov (R)

Members Present Remotely:

Sen. Janet Ellis, Vice Chair (D)
Rep. Laurie Bishop (D)

Rep. Denise Hayman (D)
Sen. Mary McNally (D)
Sen. Tom Richmond (R)

Staff Present:

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

Committee Business Summary

The Energy & Telecommunications Committee:

- Voted to accept the proposal from the PSC to amend language in 69-3-331, MCA and to work with staff on a committee bill draft.

Agenda (Attachment 1)

Call to Order/Roll Call

08:00:33 Rep. Skees called the meeting to order at 8:00 a.m. The secretary called the roll. **(Attachment 2)**

08:02:09 Trevor Graff, research analyst, Legislative Services Division (LSD), discussed the procedure for the meeting.

HJ 12: Transmission Infrastructure Study

Introduction

08:03:15 Mr. Graff said at the last meeting the ETIC asked for a continued discussion of transmission infrastructure. He said today the committee will hear from experts regarding the transmission system as well as energy development and interconnection in that system. **(Exhibit 1)**

Grid Capacity and Energy Development

08:04:42 Bill Pascoe, Pascoe Energy Consulting.

08:06:32 Rep. Tschida entered the meeting.

08:15:02 Brian Dekiep, Montana senior energy analyst, Northwest Power and Conservation Council. **(Exhibit 2)**

08:48:48 Andrew McLain, director, Transmission Market Strategy and FERC compliance officer, NorthWestern Energy (NWE). **(Exhibit 3)**

09:08:16 Joe Stimatz, Asset Optimization manager, NWE. **(Exhibit 4)**

09:23:47 Rep. Skees discussed the meeting process.

Public comment

09:24:29 Randall Pinocci, Public Service commissioner, District 1.

Questions from the committee

- 09:32:24 Rep. Skees said the committee will keep on schedule and begin the 5G agenda item at 11:00 a.m. He asked that the committee keep its questions related to the transmission infrastructure study.
- 09:33:26 Sen. Regier asked Mr. Stimatz about the energy imbalance market (EIM).
- 09:34:55 Sen. Regier asked Mr. Stimatz how the \$900 million in benefits was spread out between the utilities.
- 09:35:56 Sen. Regier asked Mr. Stimatz if NWE anticipates a monetary benefit by joining the EIM.
- 09:37:09 Sen. Regier asked Mr. Pinocci about the high-performance power line (ACCC conductor) and where it is being used.
- 09:39:26 Rep. Hayman asked Mr. Pascoe about the future of the EIM in Montana.
- 09:41:34 Rep. Hayman asked Mr. Stimatz the same question.
- 09:45:13 Rep. Hayman asked Mr. Stimatz if participation in the EIM would allow the state to cover peak hours in a more cost-effective way by avoiding a more expensive delivery system.
- 09:47:22 Rep. Bishop asked Mr. Dekiep about the difference in expense that can result from a lack of coordination in western markets and if the way the expense is incurred by the utility, potentially be passed on to ratepayers.
- 09:48:39 Rep. Bishop asked Mr. Dekiep if the current state of the market in Montana is on track to keep costs low or if there are additional things the state can do.
- 09:51:26 Sen. Richmond asked Mr. Pinocci about the difference in cost for the ACCC conductor versus a steel cable.
- 09:53:02 Sen. Richmond asked Mr. Pinocci about using ACCC conductor cable in Montana's climate.
- 09:56:02 Sen. Richmond commented on the ACCC conductor cable.
- 09:56:26 Rep. Zolnikov said companies can bid on projects through the request for proposal process (RFP).
- 09:57:29 Sen. Ellis asked Mr. Stimatz about joining the EIM and the number of hours, in a year, that NWE can participate in the EIM with their current energy generation makeup.
- 10:01:39 Sen. Ellis asked Mr. Stimatz about NWE's ability to participate in the EIM and what the utility is anticipating doing to reduce its load.
- 10:03:48 Sen. Ellis asked Mr. Stimatz who to contact at NWE and asked Mr. Graff for contact information for the panelists.
- 10:04:28 Rep. Skees asked Mr. Stimatz what the cheapest power on the EIM is historically, based on generation.
- 10:06:16 Rep. Skees asked Mr. Stimatz if there is a way for participants in the EIM to know which electrons are green.

- 10:08:15 Sen. McNally asked Mr. McLain about NWE's plans for potential transmission expansion.
- 10:10:32 Rep. Pope asked Mr. Pascoe about Montana's wind resource and the future use of the Colstrip transmission system (CTS).
- 10:15:13 Rep. Pope asked Mr. Pascoe about the price sensitivity of Montana's export power.
- 10:17:35 Rep. Pope asked Mr. McLain about pricing for a CTS line for an export developer if the lines are owned by NWE in the future.
- 10:22:02 Rep. Pope asked Mr. McLain about the 7,000-megawatt wind development planned for Montana.
- 10:23:20 Rep. Pope asked Mr. Dekiep if Montana should be collaborating with other state legislatures on transmission.
- 10:25:29 Sen. Regier asked Mr. Stimatz if the reason NWE wants to join the EIM is because of the renewable energy generation it has in its portfolio.
- 10:27:08 Rep. Skees thanked the panelists for their participation.

Recess

- 10:27:37 Recess
- 11:00:38 Reconvene

5G Communications Development in Montana

- 11:00:57 Mr. Graff said today the committee will discuss the health aspects of 5G communication development in Montana. He also provided a review of the discussion on 5G during the 2019 legislative session.
- 11:02:45 Dr. Eric Swanson, University of Pittsburgh, discussed the health effects of 5G radiofrequency radiation. ([Exhibit 5](#))

Public comment

- 11:18:24 Mr. Pinocci.

Questions from the committee

- 11:22:07 Sen. Ellis asked Mr. Swanson why he thinks 5G receives so much attention.
- 11:25:04 Sen. Ellis asked if staff can provide an update on the other legislative interim committee that is discussing broadband.
- 11:25:52 Mr. Graff said the Economic Affairs Interim Committee is working on a broadband connectivity report and revisions to SB 269 (2019). He said he will provide more information for the ETIC.
- 11:26:54 Rep. Skees said the information can be emailed to the committee and decide later if it wants to make a motion on having a discussion.
- 11:27:10 Sen. Regier asked Mr. Swanson what "G" stands for and what it means.

- 11:28:12 Rep. Bishop asked Mr. Swanson about the timeline for 5G availability in Montana and if the state will benefit from additional studies on the technology.
- 11:31:10 Sen. Richmond asked Mr. Swanson about 5G frequency and how it compares to other uses like Wi-Fi.
- 11:34:30 Rep. Skees asked Mr. Swanson about health concerns regarding 5G and if the FCC regulates the distance where a small cell 5G can be installed.
- 11:36:46 Rep. Skees asked Mr. Swanson about conflict of interest and if he derives any revenue from 5G.
- 11:37:51 Rep. Skees asked Mr. Swanson about the Federal Communications Commission's guidelines on the non-thermal effects of pulsed radio frequency on human health and the environment.
- 11:40:09 Rep. Skees asked Mr. Swanson about insurance risk and 5G.
- 11:42:36 Rep. Skees asked Mr. Swanson about risk and proximity to cell phone towers.
- 11:45:59 Rep. Bishop requested that an article be submitted into the record regarding insurance company risk. [\(Exhibit 6\)](#)

Lunch

- 11:47:38 Recess for lunch
- 13:00:54 Reconvene

Energy Storage in Montana Impacts

- 13:01:15 Rep. Zolnikov said he may have a conflict of interest because of his work consulting with energy companies.
- 13:01:39 Mr. Graft introduced the panel discussion on energy storage projects in Montana.
- 13:02:09 Mark Klein, Broad Reach Power. [\(Exhibit 7\)](#)
- 13:10:06 Carl Borgquist, Absaroka Energy, said Randy Hardy will provide a perspective on what is happening in the northwest.
- 13:11:56 Mr. Hardy.

Public comment

- 13:26:30 Brian Fadie, Montana Environmental Information Center.

Questions from the committee

- 13:30:08 Rep. Hayman asked Mr. Fadie about NWE's request for proposals and plans for energy storage.
- 13:32:32 Rep. Hayman asked Mr. Klein about factoring in the cost of transmission of solar energy using NWE transmission lines.

13:35:33 Rep. Hayman asked Mr. Klein if Broad Reach Power has been in negotiation with NWE for the transmission function.

13:36:17 Rep. Hayman asked Mr. Klein about her concern that Broad Reach Power does not have an agreement with NWE on the transmission line for the project.

13:38:06 Sen. Ellis asked Mr. Klein what interconnection means in terms of the planning process.

13:40:34 Sen. Ellis asked Mr. Klein if there needs to be a transmission line manager or owner before there is an interconnection.

13:41:13 Sen. Ellis asked Mr. Klein if Broad Reach Power is concerned that NWE does not have storage included in their long-term plan.

13:42:57 Sen. Ellis asked Mr. Borgquist about the current status of the Gordon Butte Pumped Storage project.

13:47:05 Sen. Ellis asked Mr. Borgquist if Absaroka Energy put in a bid for the RFP process to NWE.

13:47:53 Sen. Ellis asked Mr. Borgquist about waiting to begin construction on the pumped storage project.

13:50:12 Sen. Ellis asked Mr. Hardy about building the project.

13:51:21 Rep. Bishop asked Mr. Hardy if NWE takes a greater ownership share of the Colstrip transmission line, and the prices go up, how that would impact the movement of energy to the western market.

13:55:32 Rep. Pope asked Mr. Hardy about pump storage.

13:58:34 Sen. Richmond asked staff to provide information on “clean and green” incentives and when the property tax rate changes, on existing transmission lines, for power carried from renewable energy projects.

14:00:10 Sen. Regier asked staff to also look at what political entities would be affected.

Public Service Commission Study

14:00:54 Mr. Graff said the committee asked for a bill draft creating a consumer information advocate at the Public Service Commission (PSC).

14:01:25 Mr. Graff discussed the bill draft. [\(Exhibit 8\)](#)

14:03:53 Rep. Skees asked Rep. Zolnikov about the bill draft.

14:07:50 Rep. Skees commented on the need to change the Montana constitution.

Public comment

14:08:18 Tony O'Donnell, PSC commissioner, District 2.

14:09:30 Mike Green, Crowley Fleck PLLP, representing Montana Dakota Utilities.

Questions from the committee

- 14:14:29 Rep. Hayman commented on her concerns and said she does not support the bill draft.
- 14:15:36 Sen. McNally asked Mr. Graff if there are any other states that have two separate consumer advocate functions.
- 14:17:02 Sen. McNally asked Rep. Zolnikov about the issues and what the bill draft is trying to accomplish.
- 14:17:44 Sen. McNally said she recommends changing the existing statute and asked Rep. Zolnikov for his opinion.
- 14:20:13 Sen. Regier asked Rep. Zolnikov about fees and funding for the consumer advocate.
- 14:20:50 Rep. Zolnikov commented on the bill draft and trying to make the process work better.
- 14:21:48 Rep. Skees opened discussion on committee action and asked Mr. Graff about next steps.
- 14:22:20 Mr. Graff said in order to move the bill draft forward the ETIC will need to make a motion to put the bill draft out for public comment.
- 14:22:41 Rep. Skees said without a motion the bill will stay in the committee.
- 14:23:03 Rep. Zolnikov commented on future decisions made by the PSC and their power to say “no” when they do not have enough information.
- 14:24:06 Recess
- 15:14:21 Reconvene

PSC Update

- 15:15:07 Bob Lake, chairman, PSC, provided an update on PSC activities.
- 15:16:36 Mr. Lake provided information on PSC activity due to COVID-19.
- 15:20:25 Mr. Lake provided information on dockets related to NWE.
- 15:30:41 Mr. Lake provided information on dockets related to Montana Dakota Utilities.
- 15:33:52 Mr. Lake discussed additional docket and non-docket activity.
- 15:35:19 Mr. Lake discussed implementation of HB 267, HB 467 and HB 597.
- 15:36:52 Mr. Lake said in June the PSC initiated docket 2020.06.067 to solicit comments regarding the use of hearing examiners in commissioners’ proceedings.
- 15:37:20 Mr. Lake said the PSC is requesting that the ETIC consider two bills for the 2021 Legislative Session.

Public comment

- 15:38:23 Mary Fitzpatrick, Billings.

15:42:06 Joan Kresich, Northern Plains Resource Council; Yellowstone Bend Citizens Council.

15:44:33 Tivan Bovington, CEO, Sacajawea L&C.

Questions from the committee

15:46:13 Rep. Hayman asked Mr. Graff to provide a copy of Mr. Lakes testimony. **(Exhibit 9)**

15:46:53 Sen. McNally asked Mr. Lake about the timeline for the docket related to NWE's acquisition of Colstrip Unit 4.

15:48:55 Sen. McNally asked Mr. Lake about the ability to have adequate time for discovery and public comment.

15:50:37 Sen. McNally asked Mr. Lake about NWE's resource procurement plan.

15:53:34 Sen. McNally said she is concerned about the data model that NWE is using and asked Mr. Lake how the PSC plans to have the utility use better data when it evaluates the request for proposals.

15:55:55 Sen. McNally discussed her concerns.

15:57:32 Rep. Pope asked Mr. Lake about the findings in the report and push back from the PSC for the utility to make corrections.

16:00:40 Rep. Pope asked Mr. Lake about the report that will be released from the Department of Environmental Quality on remediation at Colstrip, and if the PSC intends to hold a public hearing on the costs that ratepayers will be required to pay for cleanup.

16:02:23 Rep. Pope asked Mr. Lake about the leadership change at the PSC and what it means going forward. He also asked about the lawsuit filed by the PSC regarding media requests for public records.

16:04:24 Rep. Pope asked Mr. Lake about the allegations made against the PSC and if the internal issues are being addressed.

16:06:27 Rep. Pope said the PSC is a public agency and asked Mr. Lake if the PSC will come forth with a public report outlining what happened, what was wrong with what happened, and any changes that will be made inside the PSC as a result.

16:07:55 Sen. Ellis asked Mr. Lake for an update on the lawsuit.

16:09:23 Sen. Ellis asked Rep. Skees about the lawsuit and if a date has been set for the court appearance.

16:11:26 Sen. Ellis asked Rep. Skees if the case has been assigned to a court and if a hearing date has been set.

16:12:18 Rep. Skees asked Mr. Lake about the court date. Mr. Lake redirected the question to Zachary Rogala, legal counsel, PSC.

PSC Legislative Proposals

- 16:16:23 Mr. Graff said the PSC provided information on its legislative bill proposals. He said the ETIC is not endorsing the proposals but giving the PSC the ability to start drafting the legislation with staff. **(Exhibit 10)**
- 16:17:31 Robyn Arnold, policy analyst, Department of Public Service Regulation, discussed the proposal amending SB 244 (2019).
- 16:19:51 Ms. Arnold said the PSC requests the repeal of MCA 69-3-401 through 405 regarding judicial review.

Public comment

None

Questions from the committee

- 16:22:36 Sen. Regier asked Ms. Arnold if the PSC was unanimous on both proposals.
- 16:23:08 Sen. Ellis asked about the proposal to repeal sections of Title 69. She asked if Jameson Walker, staff attorney, LSD, could provide a side by side comparison of what is in the Montana Administrative Procedure Act (MAPA) and Title 69.
- 16:24:47 Mr. Walker said he will email the information to the committee.
- 16:25:31 Sen. Ellis said she would like an interpretation of what is permitted in the statute. Mr. Walker said he will provide the information.
- 16:27:03 Sen. Ellis said under Title 69 any aggrieved party can file a complaint in a PSC rate case and asked Mr. Walker if that was also true under MAPA. Mr. Walker said he will find out.
- 16:28:46 Rep. Zolnikov commented on his concerns regarding the changes proposed by the PSC.

Committee Action

- 16:31:07 Rep. Skees asked Mr. Graff about needing approval from the ETIC in order to allow the PSC to start drafting the legislative proposals.

Motion

- 16:32:12 Rep. Zolnikov moved to allow the PSC to draft the two legislative proposals as committee bills.

Discussion on the Motion

- 16:32:17 Rep. Skees
- 16:32:22 Mr. Graff
- 16:32:32 Sen. Ellis said she would like to vote on the legislative proposals separately.
- 16:32:46 Rep. Zolnikov withdrew his motion.

Motion/Vote

- 16:32:55 Rep. Zolnikov moved to accept the proposal from the PSC to amend language in 69-3-331, MCA and work with staff on a committee bill draft. The motion carried unanimously by voice vote. (Rep. Hayman voted no - see timestamp 16:33:38)
- 16:33:38 Rep. Hayman said she votes no on the previous motion.

Motion

- 16:34:04 Rep. Zolnikov moved to accept the proposal from the PSC to repeal 69-3-401 through 405, MCA and work with staff on a committee bill draft.

Discussion on the Motion

- 16:34:24 Sen. Ellis said she would like to see the information from Mr. Walker before voting on the proposal.
- 16:34:52 Rep. Skees
- 16:35:02 Mr. Graff
- 16:35:24 Rep. Skees
- 16:35:32 Rep. Zolnikov withdrew his motion.
- 16:35:36 Rep. Skees said the committee can vote on the proposal tomorrow after Mr. Walker provides the information.

Administrative Rule Review

- 16:36:06 Mr. Walker said there are no new rules for the ETIC to review. He provided an update on the rule related to small generator interconnection.

Public comment

- 16:37:20 Mr. Bovington.

Questions from the committee

None

Public Comment on Matters Within the Jurisdiction of the ETIC

- 16:40:37 Mr. Bovington.
- 16:44:56 Roger Koopman, PSC Commissioner District 3. ([Exhibit 11](#))

Questions from the committee

- 16:49:30 Without objection, Rep. Skees opened committee questions and discussion on the legislative proposals from Mr. Koopman.
- 16:49:59 Rep. Zolnikov commented on the proposals.
- 16:50:40 Sen. McNally asked Mr. Koopman about the proposal to reinstate the Power Costs and Credits Adjustments Mechanism (PCCAM) deadband.

- 16:56:32 Rep. Hayman asked Mr. Koopman about the proposal regarding reform of election of PSC commissioners.
- 17:04:27 Rep. Bishop asked Rep. Skees about taking committee action on the proposals and putting them into bill draft form.
- 17:05:29 Rep. Skees asked Mr. Koopman about the proposal to reform PSC commissioners.
- 17:08:42 Rep. Skees asked Mr. Koopman about talking to the other commissioners regarding his concerns in order to try and get a consensus.

ADJOURNMENT

- 17:11:35 Rep. Skees adjourned the meeting at 5:11 p.m.