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**ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE**  
**67th Montana Legislature**

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**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

May 21, 2020  
Zoom Video Conference

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### ROLL CALL

**Members Present Remotely:**

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. Brad Tschida (R)  
Rep. Daniel Zolnikov (R)

**Staff Present Remotely:**

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

**Committee Business Summary**

The Energy & Telecommunications Interim Committee (ETIC):

- Voted to begin work on a bill draft to resolve the issue related to the sunset date for the Office of Public Instruction's funding for the e-rate program;
- Voted to begin work on a bill draft to create a consumer advocacy group housed within the PSC.

**Agenda (Attachment 1)****Call to Order/Roll Call**

- 13:03:38 Rep. Skees called the meeting to order at 1:03 p.m. The secretary called the roll. [\(Attachment 2\)](#)
- 13:05:34 Trevor Graff, research analyst, Legislative Services Division (LSD), provided information on the procedure for public comment.

**Public Service Commission Study**

- 13:07:04 Mr. Graff said the committee will take the next step in its discussion of utility regulation in the state and look at advocacy staffs in other states. He said Bob Nelson will also provide information on the role and function of the Montana Consumer Counsel (MCC).
- 13:07:55 Mr. Graff discussed the report the committee received earlier in the interim on the state case studies of consumer counsels. He said there are several different structures among the states. [\(Exhibit 1\)](#)

**Montana Consumer Counsel Perspectives**

- 13:12:34 Rep Skees said the MCC will provide perspectives on its role with the Public Service Commission (PSC) and their joint role in representing the monopoly power operators in Montana and the consumers.
- 13:13:16 Mr. Nelson provided information on his background. He said Paul Schulz, utility rate analyst, MCC, is available for questions.
- 13:14:42 Mr. Nelson discussed the office of the MCC.
- 13:15:53 Rep. Tschida entered the meeting.
- 13:20:20 Mr. Nelson discussed MCC activities and how the MCC interacts with the PSC processes.

**Public comment**

None

**Questions from the committee**

- 13:32:59 Sen. Ellis asked Mr. Graff about the study and the references to get additional information.

- 13:35:15 Sen. Ellis asked Mr. Nelson about the MCC staff and budget.
- 13:36:23 Rep. Hayman asked Mr. Nelson how increases and decreases in the budget have historically impacted the MCC's work.
- 13:38:28 Rep. Zolnikov asked Mr. Nelson about his recommendations for changing the current model.
- 13:41:42 Rep. Zolnikov asked Mr. Nelson about an internal PSC advocacy group.
- 13:43:21 Rep. Zolnikov said the goal should be to do things properly and keep from going to court.
- 13:43:41 Rep. Skees asked Mr. Nelson about funding.
- 13:45:22 Rep. Skees asked Mr. Nelson about oversight by the Legislative Consumer Committee.
- 13:47:07 Rep. Skees asked Mr. Nelson if the MCC must adhere to the open meeting laws in Montana.
- 13:47:24 Rep. Skees asked Mr. Nelson about the legislature's power to appoint and approve members of the MCC and the methods used to pursue what is good for the consumer versus control by others.
- 13:49:03 Rep. Skees asked Mr. Nelson to provide his opinion on the PSC assertion of the right of discovery and if it impedes the MCC's work for the Montana consumer.
- 13:51:12 Rep. Pope asked Mr. Nelson if he feels that the MCC is successful in representing the consumer interests in Montana.
- 13:54:31 Sen. Ellis asked Mr. Nelson about funding from state special revenue accounts.
- 13:56:03 Rep. Tschida commented on funding for the MCC and said it is a well-managed organization.
- 13:58:03 Sen. McNally asked Mr. Nelson about the role of the Legislative Consumer Committee.

### **Utility Sector Updates**

- 14:00:26 Brian Bird, NorthWestern Energy (NWE), provided information on how COVID-19 has impacted their business.
- 14:12:23 Cory Fong, Communications and Public Affairs director, Montana Dakota Utilities Resources Group, provided a company overview and discussed the impacts and response on utility electric and natural gas from COVID-19. ([Exhibit 2](#))
- 14:26:17 Gary Wiens, Montana Electric Cooperatives' Association, provided information on the electric co-ops and discussed the financial impact of COVID-19.
- 14:29:32 Mr. Wiens discussed the effects of the disconnect moratorium.
- 14:31:01 Mark Johnson, Flathead Electric Cooperative manager, provided information on how COVID-19 has impacted their co-op.

- 14:36:01 Gretchen Boardman, Big Flat Electric Co-op general manager, discussed the impacts from COVID-19.
- 14:40:22 Geoff Feiss, Montana Telecommunications Association (MTA), provided information on the MTA and discussed the impacts from COVID-19 and the response by its members.

### **Public comment**

None

### **Questions from the committee**

- 14:48:05 Rep. Hayman asked Mr. Bird about the percentage of impacts related to commercial and industrial accounts versus residential accounts.
- 14:49:48 Rep. Hayman asked Mr. Bird if NWE will go after the ratepayers to backfill its lost revenue.
- 14:50:42 Rep. Hayman asked Mr. Bird about the recovery process for bad debt expense.
- 14:51:51 Rep. Hayman asked Mr. Bird if NWE must go before the PSC in order to get approval for going after the bad debt.
- 14:52:10 Rep. Hayman asked Mr. Bird about the amount of bad debt expense.
- 14:52:45 Rep. Bishop asked Mr. Feiss about increases in demand post COVID-19 and potential federal government investments to buildout broadband.
- 14:56:00 Rep. Tschida asked Mr. Bird about decreases in the amount of energy use by business, industrial, and residential consumers and about the amount of revenue lost by NWE by the forced closure of businesses that were deemed non-essential.
- 15:00:53 Rep. Pope asked Mr. Johnson about how they deal with scams.
- 15:02:30 Rep. Pope asked Mr. Feiss how the telecommunications industry is engaging in and dealing with telephone scams.
- 15:05:03 Rep. Pope said the committee is interested in knowing how it can engage and assist in the process.
- 15:05:39 Rep. Skees thanked the participants.
- 15:06:22 Recess
- 15:11:09 Reconvene

### **Administrative Rule Review**

- 15:11:31 Jameson Walker, staff attorney, LSD, said the work on the annotations from the 2019 laws is almost complete. He discussed the rule pending from the PSC amending rules pertaining to small generator interconnection. [\(Exhibit 3\)](#)

### **Public comment**

None

### **Questions from the committee**

- 15:15:48 Rep. Skees asked Mr. Walker if there is an old definition for “premises” in the rule.
- 15:16:16 Rep. Skees asked Mr. Walker if the definition for “premises” in the new section of the administrative rules will conflict with other references to the word “premises” that are already in code.
- 15:17:09 Rep. Skees asked Mr. Walker about the language in the rule regarding aggregate nameplate capacity.
- 15:17:47 Sen. Ellis asked Mr. Walker about the time frame for the public comment period.
- 15:18:37 Rep. Hayman asked Mr. Walker if “premises” expands the opportunity to have more than one net metering system up to 50 kW.
- 15:19:31 Mr. Walker said in the rule notice the PSC indicates that they will accept written comments no later than 5:00 p.m. on June 5.
- 15:19:50 Rep. Skees asked Mr. Walker if the PSC meeting on June 2 will be held in person or online.
- 15:20:27 Mr. Graff said Robyn Arnold, PSC, is available for questions.

### **PSC Update**

- 15:21:29 Brad Johnson, chairman, PSC, provided an overview of activities.
- 15:22:14 Mr. Johnson discussed the adjustments made to office operations because of COVID-19.
- 15:25:55 Mr. Johnson discussed the open dockets on NWE.
- 15:29:29 Mr. Johnson provided information on the investigation and violations by Energy West related to a residential gas explosion in Great Falls.
- 15:30:18 Mr. Johnson discussed activities related to implementation of legislation from 2019.

### **Public comment**

None

### **Questions from the committee**

- 15:33:41 Rep. Hayman asked Mr. Johnson about the reason why the PSC changed its decision that NWE’s application for the purchase of Colstrip Unit 4 was deficient and who they talked to.
- 15:37:22 Rep. Hayman asked Mr. Johnson if he talked to the mayor of Colstrip.
- 15:38:17 Rep. Hayman asked Mr. Johnson about the legality of talking to an entity that is an intervener on an active case in front of the PSC.
- 15:40:26 Rep. Pope asked Mr. Johnson why the PSC reversed its decision regarding NWE’s deficient application.

- 15:47:29 Sen. McNally asked Mr. Johnson who the PSC consulted with before reversing its decision.
- 15:51:18 Sen. McNally asked Mr. Johnson about the public's perception of the decision.
- 15:53:34 Sen. McNally said there is a significant public trust issue when it appears that the PSC is not doing its due diligence and requiring utilities to submit the appropriate documentation. She said she will be filing an information request for documents related to the time period when the PSC changed its decision.
- 15:55:55 Rep. Skees asked that additional questions focus on new concerns and not the concerns already expressed by the committee.
- 15:56:45 Rep. Bishop asked Mr. Johnson about the process for collecting the full evidentiary record and if there is any intention to reset the clock once the full evidentiary record is in place to allow everyone to have full open access to the information.
- 15:59:13 Rep. Bishop asked Mr. Johnson about the timeline. Mr. Johnson redirected the question.
- 16:02:11 Sen. Ellis asked Mr. Johnson if he has heard from other legislators regarding the decision by the PSC and the potential for a significant impact to the consumers and the public because of rate increases and the expense. She said she is concerned about transparency issues because the PSC's discovery process doesn't allow the public to get the information or participate in the process.
- 16:07:26 Sen. Ellis asked Mr. Johnson if all the information that is revealed in the discovery process will be available to the public to review and comment on before the PSC makes its decision.
- 16:09:21 Rep. Zolnikov asked Mr. Johnson about the hearings examiner process.
- 16:11:30 Rep. Zolnikov said he is available to answer any questions regarding the legislative intent of HB 597 (2019).
- 16:12:06 Rep. Skees asked Mr. Johnson if the PSC engages with the bill sponsor during the rule process.
- 16:12:48 Rep. Pope commented on public trust and asked Mr. Johnson about the PSC's decision to countersue the state newspaper industry regarding its request for public documents.
- 16:17:02 Rep. Skees commented on oversight by the ETIC and working with the PSC once the report is received.
- 16:18:52 Mr. Johnson said the PSC is anxious to have an open conversation with the committee and to keep issues from happening in the future.

**Committee action**

- 16:19:45 Rep. Skees asked about committee action on any of the agenda items today.

### **Public Comment on Matters Within the Jurisdiction of the ETIC**

16:21:12 Rep. Mary Ann Dunwell, HD 84.

16:25:43 Rep. Skees.

### **Committee Work Session**

16:26:50 Rep. Skees commented on adding a committee meeting in August and asked Mr. Graff to review the work plan and the meeting schedule.

### **Review of work plan**

16:28:04 Mr. Graff discussed the work plan and the agenda items that were missed when the March meeting was canceled.

16:32:18 Rep. Skees said he recommends adding the missed items to the July meeting.

16:33:00 Mr. Graff said the committee needs to address the military wind farm siting issue and two issues that may be committee bills.

16:34:38 Sen. Ellis asked Mr. Graff about energy storage.

16:36:30 Rep. Skees asked Mr. Graff about having a joint meeting with the Transportation Interim Committee on electric vehicles.

16:38:15 Sen. Regier asked Rep. Skees if future meetings will be held in-person.

16:38:31 Rep. Zolnikov asked Rep. Skees about making a motion to begin drafting committee bills.

### **Motion**

16:38:49 Rep. Zolnikov moved to begin work on a bill draft to resolve the issue related to the sunset date for the Office of Public Instruction's funding for the e-rate program.

### **Discussion on the motion**

16:39:28 Rep. Skees

16:39:44 Sen. Regier

16:40:05 Mr. Graff

### **Vote**

16:40:34 The motion carried unanimously by voice vote.

### **Motion**

16:41:35 Rep. Zolnikov moved to begin work on a bill draft for the Montana Telecommunications Association's concern regarding railroad right-of-way permits for broadband.

### **Discussion on the motion**

16:42:02 Mr. Graff

16:42:41 Rep. Skees  
16:43:07 Rep. Zolnikov withdrew his motion.  
16:43:17 Rep. Skees said he recommends adding a discussion at the next meeting on the MTA concerns.  
16:43:22 Rep. Zolnikov asked about making a motion regarding the military wind siting issue.  
16:44:19 Sen. Ellis said she received an update from an entity working on the issue and that changes may be made on the federal level.

### **Motion**

16:44:54 Rep. Zolnikov moved to begin work on a bill draft to create a consumer advocacy group housed within the PSC.

### **Discussion on the motion**

16:45:17 Rep. Zolnikov  
16:45:59 Rep. Skees  
16:46:10 Mr. Graff  
16:46:32 Sen. Ellis  
16:47:03 Rep. Zolnikov  
16:48:03 Sen. Regier  
16:48:29 Rep. Zolnikov  
16:49:50 Sen. Regier  
16:50:05 Rep. Zolnikov  
16:50:58 Sen. Regier  
16:51:38 Rep. Zolnikov  
16:52:45 Sen. Regier  
16:53:28 Mr. Graff

### **Vote**

16:54:06 The motion carried 7-3 by roll call vote with Rep. Tschida, Sen. Regier, and Sen. Richmond voting no. ([Attachment 3](#))  
16:55:06 Rep. Skees said Rep. Zolnikov can work with staff on the language for the bill draft.

### **Review of schedule**

16:55:40 Rep. Skees said without objection the committee will keep the same agenda items that were scheduled for March at its July meeting minus the items that were discussed today. He said agenda items can be added for a discussion on concerns from the MTA and on energy storage. He said the committee can make a decision on whether or not to add a discussion related to electric vehicles until after the Transportation Interim Committee meeting.



16:56:22 Rep. Bishop asked if the committee was meeting for one day or two in July. Rep. Skees said it hasn't been decided yet.

16:57:01 Rep. Pope said he recommends finding time to discuss the impact of electric transportation on the grid and how it relates to the budget.

16:58:03 Rep. Skees agreed.

16:58:18 Mr. Graff said the Transportation Interim Committee meeting is focused on the impact of electric vehicles on the fuel taxes.

16:59:06 Sen. Ellis said she recommends asking the panelists on energy storage if there are any problems in the Montana statutes that could create challenges. Mr. Graff agreed.

17:00:04 Rep. Pope asked to have staff notify the ETIC members when electric vehicles are being discussed in other committees.

17:01:02 Rep. Skees commented on the agenda for the next meeting.

17:01:29 Rep. Skees asked Mr. Graff about the July and September meeting dates.

17:04:16 Rep. Skees said he recommends meeting for two days in July.

17:04:41 Sen. Regier said he recommends scheduling the meeting for July 15-16. Rep. Skees said without objection the meeting will be scheduled for July 15-16.

17:05:00 Rep. Skees asked Mr. Graff about scheduling a two day meeting in August.

17:06:38 Rep. Hayman said she would like to have the dates for the August meeting earlier than July.

17:06:53 Rep. Skees asked Mr. Graff to send an email to the committee with possible meeting dates as soon as possible to find a date that works for everyone.

17:07:39 Rep. Skees asked Mr. Graff about any further action items.

## **ADJOURNMENT**

17:08:58 Rep. Skees adjourned the meeting at 5:08 p.m.