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The Honorable Alan Olson, Chair
Energy and Telecommunications
Interim Committee
State Capitol
Helena, Montana 59620

Dear Representative Olson:

Thank you and the Committee for the opportunity to comment on the reauthorization of the Universal System Benefit (USB) programs on behalf of the Montana Large Customer Group (LCG).

When the USB was established in 1997, the LCG worked with others to shape a balanced program to retain specific public purposes funding in utility rates. Despite some reservations about a utility tax surcharge on customers, the LCG has consistently supported retention of USB as a balanced program.

This program has been often and carefully reviewed by participants, by the Public Service Commission and by the Montana Legislature. I have personally had the opportunity to serve on the USB Subcommittee for the first rounds of program review under this Committee's predecessor, the Transition Advisory Committee (TAC). This review led to the development of "Guidelines for Universal Systems Benefits Programs Funding Credits and Expenditures," which were recommended by the Subcommittee to the full TAC, which subsequently adopted and endorsed the Guidelines to the Montana Legislature, as well as to the Department of Revenue (DOR) for related rulemaking (TAC Resolution of November 5, 1999).

The DOR used the TAC Guidelines as part of a "Negotiated Rulemaking," which included extended discussions and participation by multiple and diverse parties. Although the DOR rules made broad use of the Guidelines, the rules also incorporated additional detailed provisions for claiming, recordkeeping and reporting of USB credits and expenditures. See ARM 42.29.101-112 (included in this Committee's USB Programs Workbook). The DOR rules include a specific and detailed process for challenge and review of claims, which may be initiated by any interested person. ARM 42.29.104. Utility and large customers are required to keep extensive records of USB expenditures, which are available to the DOR in reviewing any credit. ARM 42.29.105.

In addition to the publicly available reports filed with DOR, annual reports are filed by utilities and cooperatives with the PSC and with this Committee. Section 69-8-402(8) MCA 2003. Large customers file annual reports with their utility in addition to filing reports with DOR. Section 69-8-402(10) MCA 2003.

USB has been a "relative success story" on the Montana energy scene, as was recognized at AARP's recent energy conference. This is due in no small part to the balance of public purposes addressed and the diverse support the program consequently has received. Our first priority should be to do no harm to a sound program and to preserve a broad base of support for USB.

Montana is presently and unfortunately also a "relatively" poor state, not in spirit but economically. There is a significant, unmet need for low income energy assistance. This need is larger than USB is able or was intended to address. When introduced in 1997, supporters uniformly and correctly insisted that USB was <u>not</u> and would not become a general State welfare program. Montana's energy needs far exceed what can be expected of USB. However, USB has been and can continue to be a successful part of our answer to those larger needs.

The local control and implementation of significant elements of the Montana USB program is a recognized part of its strength. The LCG agrees that it would be a mistake to create a centralized, bureaucratic process to administer USB programs. Programs such as Energy Share of Montana have effectively worked through local Human Resource Development Councils and dedicated volunteers to apply knowledge of specific needs and to minimize administrative overhead. LCG members have actively engaged in local energy efficiency projects, and have been significant supporters of Energy Share through USB payments, in part because they know how USB money is being spent. The process of local direction is ultimately more cost effective than a paper-bound program administered from Helena. Despite underlying good intentions to "standardize" low income assistance, one size does not fit all in Montana.

Because the LCG has been a firm supporter of Montana's current USB program, it has also been a leader in defending program funds. LCG and Energy Share, joined by the Montana Consumer Counsel (MCC), filed the initial petition with the Montana PSC to protect USB funds from NOR's bankruptcy. That petition established the foundation for subsequent successful efforts by MCC and the PSC to obtain segregation of USB funding from the NOR bankruptcy estate. It is important that participants feel they have a stake in the USB program.

There has been some confusion or omission in recent discussions of the large customer contributions to the USB program, which I would like to comment upon briefly. It is important to understand that because USB charges in utility bills are based solely upon kilowatt hours, and not upon traditional utility ratemaking principles of cost causation, the program had the potential to impose disproportionate costs on individual large customers. The participants and the Legislature addressed this, in part, by setting a fixed charge to large customers of 0.9 mills per kilowatt hour and an annual ceiling of $500,000 for any customer. This serves, as was intended, as an important protection from a disproportionate cost allocation. This objective also was recognized separately in law by Section 69-8-402(6).

It is equally important to appreciate that no large customer can ever receive a credit for qualifying projects or contributions greater than the amount of USB charges it has actually paid to the program. Since not all potential USB credits are claimed by all large customers, large customers as a group have always been net contributors to USB. Likewise, under the current provisions, no individual large customer can ever receive a credit for qualifying expenditures in excess of the total USB payments it has actually made. This includes <u>combined</u> expenditures directed to qualifying low energy efficiency projects <u>and</u> for qualifying low income energy assistance through Energy Share. Also, large customers are not permitted to receive any USB funds under other utility conservation programs, which was allowed and encouraged prior to 1998.

To clarify a statement made in Committee's USB Workbook: Large customers are <u>not</u> able to "allocate funds as they choose among USB programs." What has recently been referred to as "self-direction" of electric USB funds is simply a term that some have used to describe the ability of large customers (and cooperatives) to potentially receive credit for qualifying expenditures on internal efficiency projects or for directing contributions to qualified low income energy assistance programs. Large customers do not, for example, receive credit for any expenditures on renewables, market transformation, research and development, support for energy conservation organizations, or any other external conservation expenditures.

To the best of my knowledge, no large customer credit has ever been allowed that was not fully reported. In short, the current system for large customers electric USB payments and credits is well-documented and is working well, and large customers are doing their part.

Committee members should also be aware that LCG members make substantial <u>natural gas</u> USB payments, in addition to electric USB, and do so without any direct benefit, credit or ability to participate in natural gas USB programs. LCG does not necessarily recommend a change in the gas program at this time, as we appreciate that most of the current crises in low income energy assistance is a result of natural gas costs, not electricity costs. Should the USB program be significantly restructured, however, this imbalance in gas USB responsibility and benefit should perhaps be considered.

Montana's USB program has been particularly public and accountable program. It is agreed to be a successful program in addressing important public policies. The LCG has consistently supported this balanced program, in recognition of the significant component of local self-direction. The LCG recommends to the Energy and Telecommunications Committee that the USB program be extended and that the large customer provisions of the program be preserved.

Very truly yours,

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