



## Energy and Telecommunications Interim Committee

### 62nd Montana Legislature

#### SENATE MEMBERS

ALAN OLSON--Chair  
VERDELL JACKSON  
JIM KEANE  
CLIFF LARSEN

#### HOUSE MEMBERS

TONY BELCOURT--Vice Chair  
ROBYN DRISCOLL  
HARRY KLOCK  
AUSTIN KNUDSEN

#### COMMITTEE STAFF

SONJA NOWAKOWSKI, Lead Staff  
TODD EVERTS, Staff Attorney  
DAWN FIELD, Secretary

# MINUTES

November 17, 2011

Room 172, State Capitol  
Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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Hard copies of the exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

#### **COMMITTEE MEMBERS PRESENT**

REP. TONY BELCOURT, Vice Chair  
SEN. VERDELL JACKSON  
SEN. JIM KEANE

REP. ROBYN DRISCOLL  
REP. HARRY KLOCK

#### **COMMITTEE MEMBERS EXCUSED/ABSENT**

SEN. ALAN OLSON, Chair  
SEN. CLIFF LARSEN  
REP. AUSTIN KNUDSEN

#### **STAFF PRESENT**

SONJA NOWAKOWSKI, Lead Staff  
TODD EVERTS, Staff Attorney  
DAWN FIELD, Secretary

#### **AGENDA & VISITORS' LIST**

Agenda, [Attachment #1](#).  
Visitors' list, [Attachment #2](#).

## **COMMITTEE ACTION**

The Energy and Telecommunications Interim Committee approved:

- the September 16, 2011, meeting minutes as written; and
- the "*Citizens Guide to Montana Energy Law*" handbook update.

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

00:00:01 REP. BELCOURT called the meeting to order at 9:00 a.m. The Secretary took roll, SEN. OLSON, SEN. LARSEN, and REP. KNUDSEN were excused ([ATTACHMENT 3](#)). REP. BELCOURT requested a moment of silence to honor the memory of Mike Pichette.

## **RURAL CELL PHONE COVERAGE**

00:01:20 **Bonnie Lorang, General Manager, Montana Independent Telecommunication Systems (MITS)**, briefly discussed the topics to be covered by the rural providers, the service areas involved, and the companies providing services ([EXHIBIT 1](#)).

### **Mid-Rivers**

00:04:30 **Bill Wade, General Manager, Mid-Rivers Communications**, said that Mid-Rivers is a cooperative and that the service territory's rural makeup is very expensive to serve. He said that the company does its best to provide the highest level of service possible.

00:05:44 **Erin Lutts, External Relations Manager, Mid-Rivers Communications**, discussed a PowerPoint presentation ([EXHIBIT 2](#)), which provided details on services offered by Mid-Rivers, its existing service area, and challenges in providing services.

### **Nemont**

00:14:02 **Mike Kilgore, General Manager and CEO, Nemont Telephone Cooperative**, discussed several large maps which illustrated cellular telephone service in eastern Montana. Mr. Kilgore said it is very expensive to provide cellular service in eastern Montana and discussed numerous challenges, such as spectrum, roaming agreements with other companies, and the limited availability of compatible devices. He introduced Tim Wilson, Nemont's Wireless Service Manager.

### **Triangle**

00:23:29 **Rick Stevens, Manager, Triangle Communications**, said that Triangle Communications is a member of Triangle Cooperative Association, which covers north central Montana down to the Wyoming border. Mr. Stevens said that the company will soon be branding its wireless system under the Triangle name but will still be operated jointly with Nemont. He introduced Tim Nixdorf and said he would discuss Triangle's future plans.

00:25:19 **Tim Nixdorf, Wireless Manager, Triangle Communications**, said the company has been operating since 1995 in conjunction with Nemont. Mr. Nixdorf said that the company currently operates nine sites and plans to add two more in northern Montana. He discussed a PowerPoint presentation that covered the status of

coverage, plans for expansion over the next two years, and substantial improvements in service in that area (EXHIBIT 3).

#### **AT&T**

00:31:36

**Jason Olson, External Affairs, AT&T**, presented an overview of what AT&T is doing in Montana. Topics discussed by Mr. Olson in his PowerPoint presentation (EXHIBIT 4) included investments in Montana, number of employees, a map of AT&T coverage area in Montana; new cell sites to be added in 2012, and trend and growth projections, particularly for mobile data services.

#### **Verizon**

00:37:59

**Aimee Gromoljez, Verizon Wireless**, addressed the ETIC via polycom phone. Ms. Gromoljez provided structural details about Verizon, the current status of services available, future plans for expansion, and service and technology upgrade information (EXHIBIT 5).

#### **Questions for Ms. Gromoljez**

00:44:03

SEN. JACKSON asked about coverage between Kalispell and Helena, and if Verizon is going to sell to AT&T. Ms. Gromoljez said to her knowledge, there are no plans to sell to AT&T. Regarding coverage, she said that the route through the Seeley-Swan area is very difficult to build out because of federal ground and a great resistance to placing towers in a scenic area. She said the coverage along the I-90 corridor is much better and that she would report back to the ETIC if there are plans for more development in that area.

00:46:45

REP. BELCOURT asked if Verizon has roaming agreements with small rural carriers. Ms. Gromoljez said she would have to confirm but thought Verizon has agreements in place with most rural wireless carriers in Montana.

#### **Cellular One**

00:48:26

**Julia Tanner, General Counsel, Cellular One**, discussed a PowerPoint overview of the Cellular One company and issues of concern, including federal funding cuts and the difficulty and expense of serving rural areas (EXHIBIT 6).

#### **Public Comment**

01:00:49

**Becky Berger, 9-1-1 Program Manager, State of Montana**, discussed two maps illustrating the progress made in deployment of wireless 9-1-1- calling availability (EXHIBIT 7 and EXHIBIT 8). Ms. Berger also discussed challenges facing the 9-1-1 system and plans regarding the next generation of 9-1-1 services in Montana. She noted that residents still can't text to 9-1-1 and left educational materials regarding the need for that service (EXHIBIT 9).

#### **ETIC Questions and Concerns**

01:07:38

REP. DRISCOLL asked Erin Lutts (Mid-Rivers) to respond to Ms. Gromoljez's (Verizon) statement regarding roaming agreements with small carriers in rural areas. Ms. Lutts said Mid-Rivers does have some roaming agreements with Verizon but it does not have all the roaming agreement in place that it would need for voice and data.

- 01:08:33 SEN. KEANE discussed a number of concerns about "build out" regarding how a cellular company may control an area but not provide service. He referred to several maps discussed in the presentations and noted that rural and urban areas appear to have less pockets of no coverage than more heavily populated areas. Ms. Lorang (MITS), Mr. Wade (Mid-Rivers), and Mr. Olson (AT&T) responded to SEN. KEANE's questions and concerns, explaining that the problems could be due to licensing agreement issues, a lack of extension agreements between companies, expense, or Federal Communications Commission (FCC) regulations.
- 01:16:06 SEN. KEANE and Mr. Kilgore (Nemont) discussed Verizon's impact on smaller carriers, including SEN. KEANE's concern that a larger company like Verizon could eliminate smaller companies. Mr. Kilgore discussed build out and spectrum issues, including a specific example in Nye, Montana, where Verizon won't allow its customers to roam on the Nemont network.
- 01:21:14 SEN. JACKSON asked if there is a directory published containing wireless numbers. Ms. Lorang said no but that people can choose to publish their wireless numbers in land line directories.
- 01:22:53 REP. BELCOURT asked why it is so difficult for small carriers to get agreements with larger companies. Mr. Olson (AT&T) said that while AT&T has hundreds of roaming agreements in place, other factors such as the type of operating system influences whether agreements can be made. He noted that AT&T is a net purchaser from rural carriers and predicted that as everyone moves to more advanced technologies, such as Long Term Evolution, this problem will go away.
- 01:25:40 REP. BELCOURT asked if phone bills will decrease. Mr. Olson said that voice communication bills have decreased by 50% over the last 10 years and that he would provide additional information later. REP. BELCOURT asked who determines the coverage when building out a territory. Mr. Olson said those decisions are made by the FCC.
- 01:27:44 REP. BELCOURT recessed the committee for a 15-minute break.  
**BREAK**
- 01:46:23 REP. BELCOURT reconvened the meeting at 10:50 a.m.
- ZINC AIR**
- 01:47:35 **Kevin Waldner, Vice President/Finance, Zinc Air**, reviewed the history of the Zinc Air company and the technology developed and employed in its manufacturing of batteries ([EXHIBIT 10](#)).
- 02:09:15 SEN. JACKSON asked Mr. Waldner to describe recent developments and improvements made to Zinc Air batteries. Mr. Waldner discussed the large footprint of the battery and its large storage capacity but said that the batteries could be suitable for certain urban markets. He said that Zinc Air is in the process of building and delivering its first system but it is moving slowly in order to avoid the pitfalls of unexpected problems before getting too large.

02:13:39 SEN. JACKSON asked Mr. Waldner to discuss the patent process used to create Zinc Air batteries. Mr. Waldner said it is important that Zinc Air be able to defend its technology, and he explained the steps taken to work with the original old patent, changes made, and new patents that have been filed that will make it difficult for competitors to use similar technology. He said that with Zinc Air technology, wind energy could become much more viable.

#### **Public Comment**

02:17:47 **John Fitzpatrick, NorthWestern Energy (NWE)**, said it is encouraging to see companies moving forward with new technologies at this time but that low energy prices in the northwest and other areas will be an impediment to companies such as Zinc Air. He predicted that the storage technology would be developed but not in the near future because of the pricing structure and already low prices.

#### **ONE-CALL UPDATE**

##### **Stakeholder Update**

02:21:15 John Fitzpatrick, NWE, listed the members of the work group and challenges encountered in creating a satisfactory and workable solution. He said that the work group has worked to address gas and hazardous liquid pipeline issues and to minimize the number of changes made to the current one call law. He said a new issue regarding authority of a board was raised at the latest meeting and that the work group hopes to have draft legislation for consideration at the January 2012 meeting.

02:25:43 **Doug Hardy, Montana Electric Cooperative Association (MECA)**, concurred with Mr. Fitzpatrick's comments and said it is heartening to see people working together trying to find a compromise.

02:26:34 **Michelle Slyder, Montana Utility Coordinating Council (MUCC)**, said that the Pipeline and Hazardous Materials Safety Administration (PHMSA) has requested a status update of Montana's efforts to deal with this issue by December. She said the report will be that work continues and that progress is being made.

02:27:37 **Harold Blattie, Executive Director, Montana Association of Counties (MACo)**, said that the current proposal is acceptable to MACo and predicted that MACo would support a bill draft.

02:28:44 SEN. KEANE asked about service pipelines. Mr. Hardy said he expects the proposal will mirror federal pipeline rules and that service lines will probably be included under pipeline regulations.

02:30:12 SEN. KEANE asked if natural gas pipelines into homes would be included, for instance. Mr. Hardy said that natural gas lines are a part of the review but that the federal regulations don't distinguish between low pressure and high pressure gas lines and that the work group needs to clarify that.

02:31:05 **Sonja Nowakowski, Research Analyst, Legislative Services Division (LSD)**, said that at the January meeting she expects the stakeholders to have a draft bill or at least something close. She asked the members to tell her if any additional

information is wanted or if there are specific people the Committee would like to hear from. SEN. KEANE said he is concerned about the impact on excavators.

02:33:22 **Cary Hegreberg, Executive Director, Montana Contractor's Association**, said the Association has reserved comment to date and appreciates the efforts made to date but that concerns remain about a two-tier approach. He said the Association will continue to work in good faith toward a consensus bill.

02:34:55 Ms. Nowakowski said that if a draft bill does come forward, two weeks must be allowed for public comment and for consideration by the members prior to the January meeting date. She said the Committee could make a decision on if the proposed bill draft would be a committee bill at the January or May meeting.

### **OTHER BUSINESS**

#### **Approval of September 16 Minutes**

02:36:18 **REP. DRISCOLL moved to approve the September 16, 2011, meeting minutes, as written. The motion carried on a unanimous voice vote.**

#### **Review of Handbooks**

02:36:49 Ms. Nowakowski said that members received in their mailing packet a draft copy of "*A Citizen's Guide to Montana Energy Law*" ([EXHIBIT 11](#)) and asked the members for their approval or if additional changes need to be made.

02:40:08 SEN. KEANE asked if the Environmental Quality Council air quality permitting process for energy development chart on page 19 of [EXHIBIT 11](#) is up to date. Ms. Nowakowski said the 2009 terms still apply so no changes were made to the chart.

02:41:35 **REP. DRISCOLL moved to approve the updated handbook. The motion passed on a unanimous voice vote.**

02:42:04 Ms. Nowakowski asked the members if labeling the "Understanding Electricity in Montana" handbook to indicate updated data tables, prepared by the Department of Environmental Quality (DEQ), is adequate. Members agreed a label would be adequate.

#### **Rule Review**

02:42:19 **Todd Everts, Staff Attorney, LSD**, discussed rulemaking activity related to the Department of Public Service Regulation ([EXHIBIT 12](#)).

02:44:22 Ms. Nowakowski asked the members for feedback and suggestions for the January meeting agenda. She said that to date, agenda items include the Southern Montana Electric (SME) bankruptcy issue and an update from the one-call work group.

02:45:14 SEN. JACKSON said that Mr. Waldner invited members to tour Zinc Air facility in Kalispell.

02:46:38 REP. BELCOURT recessed the ETIC for a lunch break at 11:50 a.m., to reconvene at 1:00 p.m. The ETIC members met with the Education and Local Government Interim Committee over the lunch hour to review the recent eastern Montana bus tour of oil and gas production sites.

**LUNCH & GROUP DISCUSSION WITH EDUCATION & LOCAL GOVERNMENT INTERIM COMMITTEE** (See Education and Local Government Interim Committee minutes for additional information.)

04:04:10 REP. BELCOURT called the ETIC meeting back to order at 1:08 p.m.

**UNIVERSAL SYSTEMS BENEFITS**

04:04:26 Mr. Everts said that the ETIC is statutorily required to review the Universal Service Benefits programs (USB) in Montana. Mr. Everts discussed a PowerPoint presentation which included an overview of the USB program and a historical chronology of the program ([EXHIBIT 13](#)).

**Energy Share**

04:06:16 **Rachel Haberman, Energy Share of Montana**, discussed a PowerPoint presentation on the Energy Share of Montana program ([EXHIBIT 14](#)). Topics included what the Energy Share program does, who it serves, how USB funds are used, and statistics regarding the number of households served. Ms. Haberman noted that Energy Share is a private nonprofit organization and explained the differences between the Low Income Energy Assistance Program (LIEAP) and Energy Share.

**Public Comment**

There was no public comment.

**Committee Questions**

04:16:17 REP. DRISCOLL asked about the percentage of private or individual donors who donate to Energy Share. Ms. Haberman estimated it to be about 20% but said she would get the specific amount.

04:17:31 Ms. Nowakowski noted that the members received an overview from the DEQ ([EXHIBIT 15](#)) and the Department of Public Health and Human Services (DPHHS) ([EXHIBIT 16](#)) of how USB funds are administered as well as copies of the 2010 USB reports from NorthWestern Energy ([EXHIBIT 17](#)), Montana-Dakota Utilities ([EXHIBIT 18](#)), and the Montana Electric Cooperatives's Association ([EXHIBIT 19](#)).

**ENERGY RESOURCE DEVELOPMENT**

04:18:34 Ms. Nowakowski reported that the Select Committee on Efficiency in Government (SCEG) (HB 642) recently met in Great Falls and will meet next in Helena in January 2012. Ms. Nowakowski updated the ETIC on the work done by the SCEG and said the SCEG is currently seeking public comment on natural resource issues through a public input tool on its web page. She encouraged ETIC members to submit comment and to encourage their constituents to do so as well.



04:25:39 Ms. Nowakowski said that in response to SB 233 from the 2011 Legislative Session, University of Montana graduate students are in the process of assessing implementation of the Montana Environmental Policy Act (MEPA). She said information will be available in March 2012 and that she would keep the ETIC updated.

#### **Public Comment**

There was no public comment.

#### **Committee Questions**

There was no public comment.

04:28:08 REP. BELCOURT recessed the ETIC for a short break.

#### **BREAK**

#### **PSC ORGANIZATIONAL STRUCTURE**

04:31:31 Ms. Nowakowski provided a brief overview of the Public Service Commission (PSC). She referred to a report prepared for the ETIC, "*PSC Organizational Structure*" ([EXHIBIT 20](#)) in her presentation. She said the ETIC could pursue a number of different options, such as hear additional presentations, request more research, draft legislation, or do nothing.

04:39:57 **Professor James Lopach, Department of Political Science, University of Montana, Missoula**, discussed his professional opinion on why an appointed commission would be preferable over an elected commission ([EXHIBIT 21](#)).

04:49:12 **Bobby Baker, former Commissioner on Georgia Public Service Commission**, discussed his opinion regarding the benefits of preserving an elected public service commission. ([EXHIBIT 22](#)).

#### **Public Comment**

04:58:33 **Becky Stockton, Montana consumer and voter**, testified in support of maintaining an elected public service commission.

04:59:12 **Robert Kolar, business owner and consumer**, testified in support of maintaining an elected public service commission.

05:00:29 **Curt Wagner, citizen**, testified in support of maintaining an elected public service commission.

#### **Committee Questions**

05:01:24 SEN. JACKSON said he also supports maintaining an elected public service commission.

#### **Staff Directions**

05:02:59 Ms. Nowakowski asked how the ETIC wished to proceed. REP. DRISCOLL suggested that a decision be delayed until the full committee was present to act. It was agreed that a final decision regarding the PSC organizational structure would be on the January agenda but that additional presentations would not be



made. REP. BELCOURT thanked Professor Lopach and Mr. Baker for their perspectives.

### **AGENCY OVERVIEW PRESENTATION**

05:05:29 **Travis Kavulla, Chair, Public Service Commission (PSC)**, distributed and discussed an update on current PSC activities/docket ([EXHIBIT 23](#)).

### **Public Comment**

There was no public comment.

### **Committee Questions and Discussion**

- 05:26:12 SEN. JACKSON asked about Electric City Power in Great Falls and the SME bankruptcy. Commissioner Kavulla explained that Electric City Power is a member of the cooperative that gets its power from SME. He said that the PSC may intervene in the bankruptcy process in order to protect the public and that the PSC will closely monitor the situation.
- 05:28:24 REP. KLOCK asked where the fine money for Electric City Power 's failure to meet Renewable Portfolio standard requirements will go. Commissioner Kavulla said that fine money collected is deposited into a fund that is used to assist LIEAP and discussed how fines are handled by utility companies.
- 05:29:15 SEN. KEANE asked about rule changes before the PSC. Commissioner Kavulla said that many of the rules are very out of date and need to be updated to allow for a more transparent and competitive process.
- 05:32:06 SEN. KEANE and Commissioner Kavulla discussed the current low price of natural gas, the historical volatility of natural gas prices, and how future price indexes are used to project future costs of generation.
- 05:35:20 SEN. KEANE asked if the PSC is tracking natural gas development in eastern Montana and how that could potentially affect generation in Montana. Commissioner Kavulla explained how the PSC is monitoring gas development. He noted that NWE plans to file a case to allow it to acquire a well head and that the PSC will review it in early 2012.
- 05:36:54 REP. BELCOURT referred to concerns discussed by rural cellular telephone coops regarding cellular service areas and sharing of towers and asked if the PSC is involved with the issue. Commissioner Kavulla agreed that it is a problem but said the PSC has little authority over the issue. REP. BELCOURT asked how the situation could be dealt with. Commissioner Kavulla said he would research that for REP. BELCOURT and would get back him with suggestions.
- 05:38:20 SEN. KEANE asked about interconnect agreements and how they can be used by smaller companies. Commissioner Kavulla said there is a process for interconnect agreements in order to make the market more competitive. SEN. KEANE asked if PSC staff could research complaints about interconnect agreements and if there is a way that the PSC could help. Commissioner Kavulla said that staff would do so.

**PUBLIC COMMENT**

The was no additional public comment.

**DIRECTIONS TO STAFF**

There were no additional directions to staff.

**ADJOURN**

05:41:04      REP. BELCOURT adjourned the meeting at 2:45 p.m. The Energy and Telecommunications Interim Committee will meet next on Janary13, 2012, in Helena.

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