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Energy and Telecommunications Interim Committee

63rd Montana Legislature

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June 25, 2014

TO: Energy and Telecommunications Interim Committee (ETIC) members

FR: ETIC staff

RE: Public Service Commission (PSC) draft legislation

To facilitate the orderly drafting of executive branch bill drafts and to allow legislative oversight of agency bill draft proposals, each agency assigned to the ETIC for oversight purposes is required to present descriptions of proposed legislation to the ETIC. The ETIC has oversight of the Department of Public Service Regulation.

Mid-May through September of each even-numbered year is usually the time period that the ETIC receives the PSC descriptions of its proposed legislation. At your upcoming July meeting, the PSC will present the descriptions of their proposed legislation. The ETIC will be asked to review and discuss the legislative proposals and then make a formal decision as to whether the proposed legislation should be requested.

The ETIC's decision to "request" on behalf of the PSC that a bill be drafted does not mean that the ETIC necessarily endorses the bill draft. It simply gets the requests into the bill drafting system so that the bill drafts can be drafted and pre-introduced prior to the legislative session. The PSC will be responsible for finding a legislator to actually carry the bill during the session.

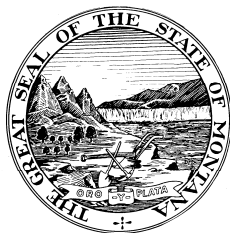
This also does not mean that the ETIC has to request all of the PSC's bill draft proposals be drafted. In the past, the ETIC has occasionally made the decision not to request that an agency proposal be drafted. If an interim committee does not agree to request the legislation, the agency may still proceed by finding a holdover or unopposed legislator to request the legislation. This is the opportunity for the ETIC to provide its insights, comments, and constructive criticism regarding PSC policy proposals.

The PSC proposals are attached for your review and discussion.

Sonja Nowakowski

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PUBLIC SERVICE COMMISSION STATE OF MONTANA



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June 27, 2014

MEMORANDUM

TO: Energy & Telecommunications Interim Committee

FROM: Public Service Commission

RE: Public Service Commission's 2015 Legislative Proposals

This memo provides summaries of the Public Service Commission's (PSC's) legislative proposals for the 2015 session. The PSC looks forward to the review of these proposals by the Energy & Telecommunications Committee.

1) Amend the Universal System Benefits Program laws to include an exemption for small gas and electric utilities. The USB statutes require regulated utilities of any size to implement USB programs and charges. (The electric USB laws originally provided that electric utilities with fewer than 50 customers could request a waiver from USB requirements from the PSC, but the waiver provision was eliminated when House Bill 25 was enacted in 2007.) There are two electric utilities and two natural gas utilities that have not implemented USB programs or charges: Avista (27 customers), Black Hills Power & Light (33 customers), Havre Pipeline Co. (135 customers), and Sleepy Hollow Oil & Gas (90 customers). A recent legislative audit concerning the PSC's implementation of the USB laws correctly found that these utilities were not in compliance with the USB statutes. The PSC agreed with the audit finding and responded that it would submit a bill to the 2015 legislature to provide an exemption from USB requirements for utilities below a certain size threshold. The PSC proposes an exemption from electric USB requirements for public utilities with fewer than 50 customers and an exemption from natural gas USB requirements for natural gas utilities with fewer than 200 customers.

2) Repeal of Community Renewable Energy Project (CREP) requirements. In practice, these well-intentioned CREP requirements have proven difficult for utilities to implement, have resulted in utility-owned projects rather than locally-owned projects, have been challenging for the PSC to implement, and have been the subject of amending legislation every year since their original enactment. The PSC proposes repeal of the CREP statutes.

3) Amend § 69-3-303, MCA (Notice and hearing on proposed change). First, the PSC proposes amending the § 69-3-303 notice requirement as shown below so that the law takes into account the frequent situation whereby the PSC holds no hearing on a utility's rate change request, either because no party has intervened in the case or because intervening parties do not contest the rate change. In those cases, the PSC provides an opportunity for hearing by issuing a notice that it will hold a hearing if one is requested by interested persons. Second, the PSC

proposes to add a sentence to § 69-3-303 to eliminate the requirement for newspaper publication of a notice of a rate change if the PSC notice has been sent directly to each affected customer.

69-3-303. Notice and hearing on proposed change. *(1) Except as provided in [69-3-308](#), before the commission may approve any change increasing the rate or rates for utility service in a schedule generally affecting consumers in a utility's service area or before any change may become effective due to the passage of 9 months, the commission shall publish a notice of the proposed change, conforming to the requirements of [2-4-601\(1\)](#) in one or more newspapers published and of general circulation within the area affected by the proposed change. This notice must announce an opportunity for a hearing on the proposed change and must inform interested persons as to how they may petition the commission to become parties to the hearing. Newspaper publication of the notice is not required if the commission or utility has sent the notice directly to each affected customer.*

4) **Clean-up Title 69, Chapter 14 – Railroads.** The PSC proposes to repeal and amend various sections of Chapter 14 to eliminate statutory provisions that are obsolete or no longer applicable due to federal preemption. Senate Bill 220 from the 1991 legislative session could provide a starting point for bill drafting.

5) **Repeal the Montana Low Income Telephone Assistance Program (MTAP) (§§ 69-3-1001 through 1007, MCA).** Montana's MTAP law is no longer necessary because the federal Lifeline program no longer requires a matching state discount. MTAP requires an additional \$3.50 discount on top of the federal discount. Century Link-Qwest is the only regulated telephone company in Montana that can't get out of MTAP because the law mandates that regulated companies with at least 50,000 access lines must offer it. In addition, the Federal Communications Commission's 2012 *Lifeline Reform Order* adopted uniform eligibility criteria for Lifeline discounts for low-income telephone customers that are applicable to eligible telecommunications carriers (ETCs) in all states. Montana's law, which provides that only Medicaid recipients qualify for Lifeline discounts, does not comply with the FCC's eligibility criteria that include several more income-based methods of qualifying. The state Department of Health and Human Services has limited involvement now in verifying subscribers' eligibility for Lifeline discounts.