Electric Utility Industry Restructuring Transition Advisory Committee

57th Montana Legislature

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June 19, 2001
Room 317, State Capitol Building
Original Minutes with Attachments

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes and exhibits are on file at the offices of the Legislative Services Division.

COMMITTEE MEMBERS PRESENT

Rep. Roy Brown
Rep. Tom Dell
Rep. Stanley Fisher
Rep. Jim Keane
Rep. Steve Gallus
Rep. Alan Olson
Sen. Alvin Ellis
Sen. Walter McNutt
Sen. Linda Nelson
Sen. Don Ryan
Sen. Emily Stonington
Sen. Fred Thomas

Art Compton
Pat Corcoran
Gene Leuwer
Bob Nelson
Russ Ritter
Kathy Roos
Dave Wheelihan
Matt Brainard
Paul Farr

COMMITTEE MEMBERS EXCUSED
Stephen Bradley
Jerry Driscoll

STAFF MEMBERS PRESENT
Jeff Martin, Legislative Research Analysts
Todd Everts, Legislative Attorney
Robyn Lund, Secretary

VISITOR'S REGISTRATION
Attachment 1

COMMITTEE ACTION

? Elected officers for the 2001-02 Interim

I WELCOME AND INTRODUCTIONS

CHAIRMAN FRED THOMAS called the meeting to order at 9:00 a.m. Roll call was noted, see **Attachment 2**.

? *Members, staff, and interested persons in attendance*

New members of the committee consist of REP. ROY BROWN, REP. STEVE GALLUS, REP. JIM KEANE, REP. ALAN OLSON, SEN. ALVIN ELLIS, SEN. LINDA NELSON, SEN. EMILY STONINGTON, COMMISSIONER MATT BRAINARD, PAT CORCORAN, JERRY DRISCOLL, PAUL FARR, RUSS RITTER, and KATHY ROOS.

? *Review of agenda*

CHAIRMAN THOMAS commented that most of the day would be spent dealing with reports and information. He would like to plan an educational meeting for some time in the future in order to learn about current trends in the electrical energy market.

II ADMINISTRATIVE MATTERS

? *Overview of committee finances, in HB 2*

JEFF MARTIN said that the appropriation for the committee is $77,285. The committee has a cash balance of $18,917 from the previous interim that will be carried forward to the current interim. A budget will be prepared for the next meeting.

? *Review of statutory duties under SB 390 and related legislation (1999 and 2001)*

JEFF MARTIN referred to 69-5-501 MCA, which describes the duties of the committee. He said that the code is fairly straightforward and he will go into further detail on this subject at the September meeting.

III REVIEW OF SELECTED ENERGY LEGISLATION FROM THE 2001 SESSION

A complete summary can be seen in **Attachment 3.**

TODD EVERTS said that **SB 398** allows the operation of temporary power generation units. The units may be constructed and operated without a permit, but they may not violate ambient air quality standards.

SB 521 revised the emergency powers of the Governor. It expands the scope of emergency powers which the Governor had in existing statute. It allows the Governor to declare an emergency supply alert, or to invoke those emergency powers based on the price of energy. It also extended the time of the emergency to 90 days.

HB 474 was the omnibus energy bill of the 2001 Session. The legislation established an incentive program through low interest loans through the Montana Board of Investments for facilitating up to 450 megawatts of construction of new generation, or for the purchase of 120 megawatts of existing qualifying facilities. It extended the transition period, which was also done in SB 19. It designated the default supplier as the customers' distribution services provider. In doing that it also extended the obligation beyond the transition period. It provided a transition to customer choice, requiring the PSC to establish procedures and terms under which customers may choose an electric supplier other than the default supplier. It created a Montana Power Authority which is authorized to purchase, construct, or operate generation facilities, transmission facilities or distribution systems, or to enter into joint ventures. It extended the termination date of the Universal System Benefits (USB) program by two years. It also required that 6% of those funds be spent on irrigated agriculture, conservation, and efficiency. It created a consumer electricity support program. It specified the recovery of electricity supply costs and defined those costs. It defined the process for procuring electricity supply.

HB 645 implemented an electrical energy supply pool that is created through conservation efforts, assignment, or sale of electricity to the pool.

JEFF MARTIN commented that he would like to expand the summary contained in Attachment 3. He said that it only covers the significant points of the legislation.

He said that **SB 19** extends the transition period and the due date of the report from public utilities on pilot programs. The bill extended the transition period for customer choice to 2007. It deferred competition for Montana-Dakota Utilities. It clarified language dealing with the rate moratorium. It extends the transition plan submitted by rural electric cooperatives. It clarifies the term of membership for the Transition Advisory Committee. It also removes some dated language dealing with TAC duties prior to 2001.

SB 269 also revised the transition period for customer choice, however, the effective date was March 30th as compared to May 5th for SB 19.

SB 506 provides tax incentives, as well as other financial incentives, for developing alternative energy resources. It establishes a revolving loan account administered by DEQ. It allows cities, towns and counties to set up special improvement districts for alternative energy production facilities. It provides a number of tax incentives for alternative energy, such as property tax incentives. An expanded credit for wind generation on state land was added to this bill during a conference committee. It also exempts in-state energy transmission from the Wholesale Energy Transaction Tax (WETT).

SB 508 provided a property tax exemption, for a specific time period, for electrical generation facilities that offer 50% of their net generating output at a cost-based rate. It also provides for impact fees from the generation facilities to local governments as an offset against the property tax exemption.

HB 643 provides similar tax credits as contained in SB 506 for wind generation on tribal land. It also exempts certain energy produced on tribal land and is delivered out of state from the WETT. It allows local governments to issue revenue bonds for electrical generation facilities regardless of size or fuel source.

IV <u>REPORTS</u>

CHAIRMAN THOMAS presented a handout that showed the Dow Jones Mid-Columbia Electricity Index, see **Attachment 4.** It shows that the prices of electricity have come down.

MR. FARR commented that this handout appears to be the daily prices as quoted by the Dow Jones for the Mid-Columbia Index from June 1st through June 14th. It provides firm and non-firm prices, peak and non-peak. This index references delivered prices. The trend is that prices have moved down.

SEN. STONINGTON asked if anyone could explain why this is happening. MR. FARR said that his opinion is that it is a confluence of events. He said that it covers a short period of time and it is tough to discern a trend over a 14-day period. What we are seeing is temperate weather in the Northwest. We are also running into the tail end of the hydro runoff; this means that there is a decrease in demand because of the weather and a corresponding increase in hydro energy because of the runoff. It is also possible that the recent demands of the Federal Regulatory Commission (FERC) are built into the prices.

REP. DELL agreed that 14 days doesn't make a trend and asked if, over the past year, there is any indication of a trend downward. MR. FARR said that this is typically the softest time of the year given the decrease in demand. The prices have been very volatile over the last year. **Joel Cook, PPL,** added that there are several mitigation efforts going on. This is the typical time of the year where the prices are softest.

SEN. ELLIS asked about prices a year ago. MR. RITTER commented that when Montana Resources shutdown a year ago, they were looking at prices somewhere between $350 and $600 per megawatt and that fluctuated back and forth at that time.

MR. WHEELIHAN would like information on what long-term contracts, in the three to five year range, are going for. MR. CORCORAN responded that the work they have been doing would indicate prices are still in the upper fifty- or sixty-dollar range.

JEFF MARTIN provided a handout, **Attachment 5**, that reflects a graphical representation of the information contained on Attachment 4.

? *Status of energy power pool under HB 645*

Will Rosquist, PSC, said that on May 1st the Public Service Commission (PSC), in anticipation of HB 645, conditionally allocated 10 megawatts of power from the energy pool to Golden Sunlight Mine. It was a three-month allocation starting on July 1st at a price to be determined by the PSC. The conditions were that there would be at least 10 megawatts in the pool and that the PSC provided a 20-day period for interested persons to comment on the allocation. No objections were filed. The PSC anticipates the Golden Sunlight Mine will receive that allocation.

On May 15th, the PSC requested information from generators, other than PPL, on whether they intended to put any power into the energy pool and, if so, how much, when that power would be available, and at what price. The PSC received two responses. One was from PPL confirming their offer of 20 megawatts at 3.5 cents per kilowatt hour. The second was from Power Ex. They indicated an interest in the pool, but didn't commit any power or indicate a price at which power might be provided.

Since HB 645 was passed, the PSC has met with various parties, including Montana Power Company (MPC), PPL-Montana, the Governor's Office and the Legislative Consumer Counsel staff, in order to work on and develop the administrative and technical details that would be required to implement the electrical energy pool, particularly the conservation aspects of the pool. MPC and PPL both provided written drafts of concepts that they thought should be included in the final rules, orders, or tariffs approved by the PSC. The PSC has also been exploring ways to make the 20 megawatts offered by PPL available before July 1, 2001. On June 12, 2001, the PSC directed MPC to enter into whatever contracts or agreements are necessary with PPL by June 15th in order to make that 20 megawatts available. He believes that contract may be signed later today.

On June 15th, the PSC requested comments on proposed administrative framework on how the electric energy pool would be implemented beginning July 1, 2001. The PSC requested that industrial customers outline their power supply needs and identify how much power they would like from the pool, when they would be able to use the power, jobs that may be impacted, and what the impacts might be. The PSC allocated 20 megawatts among four customers that the PSC knew would be able to use that power between now and the end of June. Those customers were Conoco Pipeline, Conoco Refinery, Express Pipeline and Exxon. The PSC approved a retail tariff under which those customers will receive power from the pool. The tariff will be effective starting today for any deliveries that begin as soon as possible. That tariff will be in effect until June 30.

The PSC expects written comments on the technical and administrative framework from a notice that was previously issued. The Commission will be meeting next week to discuss the comments. Final decisions will be made at that time so that the power pool can be implemented.

SEN. STONINGTON asked if the power the PSC has to negotiate on is the 20 megawatts.
Mr. Rosquist said that is correct. Beginning July 1, 2001, there will be the 20 megawatts plus they

will begin to develop ways of using the conservation aspect of the power pool. SEN. STONINGTON noted that to date there is 20 megawatts of firm power, plus the potential of conservation power, and there may be no new generation on the horizon that will be available for this. She also asked what the anticipated demand is and if there is adequate power to meet that demand. **Mr. Rosquist** replied that the 20 megawatts that were allocated didn't meet all of the power demands of those customers. It was allocated on a proportional basis depending on the loads of the customers. That is how they anticipate having to deal with the pool in the future as well. The power in the pool isn't going to be enough to serve the total load of the industrial customers that would be eligible to purchase from the pool. There may be an additional 80 megawatts going to the pool from NorthWestern Corporation later in the fall, but that power has not officially been committed. There is approximately 170 to 180 megawatts worth of load that would be eligible to purchase from the power pool.

SEN. STONINGTON said that Mr. Rosquist had said that they were anticipating $35 per megawatt until the end of June. What is anticipated after the end of June? **Mr. Rosquist** said that they haven't worked out the final details of how they are going to integrate the conservation piece with the power that has been offered by PPL. The conceptual framework that they are looking at is turning the conservation part into dollars rather than flowing that into the pool.

REP. DELL asked if the huge demand that was anticipated has actually been the case so far. **Mr. Rosquist** said that there is going to be more demand for power than what is available.

CHAIRMAN THOMAS asked for clarification on why some of the large industrial employers are not asking for assistance from the pool. **Mr. Rosquist** said that the industrial customers have continued to look for market situations to meet their loads. It is a fluid situation in terms of who has contracts for what period of time. CHAIRMAN THOMAS asked what sources of information Mr. Rosquist is using to track those contracts. **Mr. Rosquist** replied that he has talked to the attorney for the large customer group, as well as the individual letters from the customers who sent letters to the Commission.

CHAIRMAN THOMAS said that the PSC asked generators, other than PPL, to contribute to the pool. Were there responses to that request? **Mr. Rosquist** said that the PSC sent a notice to all generators who have obtained licenses from the commission, plus additional generators that they were aware of, and the response was from PPL and PowerEx, which is a company out of Canada. PowerEx didn't commit power to the pool, but they did express interest in the final rules. CHAIRMAN THOMAS asked if they had anticipated getting some additional power through those requests. **Mr. Rosquist** said that he expected that PPL would confirm their power and that NorthWestern would confirm power for this fall. CHAIRMAN THOMAS commented that he was concerned that they didn't get a few more megawatts, considering that PPL generates only part of the power for the state.

REP. KEANE asked if the power from conservation would be sold at market prices. **Mr. Rosquist** said that was a possible option that the PSC has requested comments on. It seems to be the more feasible way of dealing with the conservation portion of the pool. REP. KEANE asked who would benefit from the money that would be made. **Mr. Rosquist** replied that the conceptual framework is that the customer would enter into a contractual agreement with MPC to try to define the ways in which the customer would conserve energy. MPC would then attempt to determine any change in the customer's metered usage. Once you have measured the amount of conservation savings, in a sense that was sold in the market. You can use the market revenue to pay an incentive to the customer for their conservation.

CHAIRMAN THOMAS asked if it was too late for another electrical generator to enter into the pool. **Mr. Rosquist** said that a generator could offer power at any time and the PSC would work that in.

REP. BROWN asked what keeps PPL from taking the conservation portion and selling it someplace other than the pool. **Mr. Rosquist** said that the PSC is trying to work cooperatively with PPL to develop a mechanism that they are comfortable with, that benefits customers, and that serves the intent of HB 645.

PAT CORCORAN noted that the energy conservation activities would be just for those customers that have not gone to a competitive market.

CHAIRMAN THOMAS asked if there is an issue with conservation coming into the pool or is the PSC in agreement with PPL on this point. **Mr. Rosquist** thinks that there is general agreement that they can work out something that ensures that the conservation savings can benefit the industrial customers. MR. FARR commented that it is not as if the customers are committing to a significant percentage reduction and so they have to measure the conservation that is taking place. Rather, it is after the fact; they have already sold that power.

SEN. RYAN asked if there is any way that the conservation by cooperatives that are not on the MPC system right now could benefit by putting that power into the power pool. **Mr. Rosquist** said that the only way he can see is if they market the conserved power and contribute dollars to the energy pool. **Doug Hardy, Montana Electric Cooperative Association**, commented that the cooperatives in the state only have generation to cut back or use for different purposes. They have contracts that state that if they don't use the power it goes back to the supplier.

MR. RITTER asked when the mechanism will be ready, when the amount of conservation can be identified and then moved back into a power pool. **Mr. Rosquist** said that the PSC is committed to having the rules to implement the mechanism by July 1. There will have to be some adjustment to the billings by MPC; these adjustments could cause some delay. MR. CORCORAN agreed that once the framework is put out, there are some things that MPC will have to do administratively. There will have to be some changes to the billing system in order to measure the conservation. August 1 is the goal to have the billing system in place.

REP. FISHER commented that HB 645 said that the PSC must have rules in place by July 1. **Mr. Rosquist** said that they will make that deadline. REP. FISHER asked whether that they will be able to identify the savings and where it is going to go. **Mr. Rosquist** replied that the rules on how to do it and what needs to be done will be in place. The implementation of those rules and the actual timing of when a customer gets a bill credit for conserved kilowatt hours may not occur until August because of billing cycles.

CHAIRMAN THOMAS noted that the PSC is currently using the 20 megawatts in the pool and allocating that to Conoco, Exxon, Conoco Pipeline, and Express Pipeline for the last two weeks in June. Then come July 1 the PSC is going to re-allocate those 20 megawatts, plus whatever is coming into the pool, among other applicants. **Mr. Rosquist** said that was correct. Next week the PSC will be able to make decisions on allocations beginning July 1. CHAIRMAN THOMAS said that the 10 megawatt allocation to Golden Sunlight beginning July 1 has been done, so there will be another 10 megawatts to work with going forward in July. **Mr. Rosquist** said that was correct. CHAIRMAN THOMAS is glad that the megawatts are being used now, but it is his hope that the megawatts will be going to other companies who aren't in the energy business.

Bob Anderson, PSC, wanted to explain an issue with Ashgrove Cement. They didn't receive an allocation because they didn't ask for one. They have a contract through the end of June and therefore didn't request an allocation for this time period.

SEN. ELLIS asked how the PSC is going to audit any energy that they might pick up through conservation, considering that they won't know that it is there until it is actually there. **Mr. Rosquist** said that is part of the reason that they are looking at turning conservation savings into dollars rather than trying to say that they can allocate a certain number of megawatts into the pool.

SEN. RYAN asked, if we were to save ten megawatts that is being sold at 2.5 cents and then turn that into dollars and put it into the power pool, but the market is now 6 cents, didn't the value of that just drop in proportion to what it can purchase. **Mr. Rosquist** said that the value of saved kilowatt hours is dependent on what the market price is.

? ***Installation of self-generation by Rail Energy of Montana***

RUSS RITTER, Washington Corp., stated that the current price of electricity drives the operation of Rail Energy of Montana (REM). Since the price of energy is down, they have decided to put a temporary hold on the operation in Butte. Projects in other areas of the state will be pursued as the market chooses. They have looked at the opportunity to serve customers. Many of the customers that they are looking at are rail customers. They would hope that being able to provide them power would in some way get them back to full production in various areas. At this point no decisions have been made.

REP. BROWN asked what the price of energy needs to be before this will take off.

MR. RITTER said that because of Montana Resources they are hoping that the price of power will continue to go down. On the other hand, the only way the REM can serve customers is if they can take that power out on the open market and sell a portion of it to subsidize the customers in Montana. The current price of $40 is not feasible.

SEN. STONINGTON asked over what time frame they would need to have the prices high.
MR. RITTER said that it would depend on the length of the contract that they had with a particular user at that time. They would have to fulfill the contract.

REP. GALLUS asked if REM is seeking a permit from DEQ for this proposal in Butte.
MR. RITTER said that was his understanding. REP. GALLUS asked for the status of the permit. MR. RITTER believes that it is to be approved as long as Montana Resources is not operating.

CHAIRMAN THOMAS asked if they were able to run those and sell any power. MR. RITTER said that they did some testing and they fulfilled the projections of what they could generate. CHAIRMAN THOMAS asked if their costs are above the current price level of $50 to $60.
MR. RITTER said that they were.

MR. COMPTON commented on the permit from DEQ. He said that a draft permit has been issued that is now in the public comment period until July 2. Absent any new issues, the permit will be finalized on July 3.

? ***Status of temporary power generation units under SB 398***

ART COMPTON, DEQ, said that there are four permits being processed. SB 398 allows for two years of temporary generation from a regular air quality permit. A unit that is less than 125 megawatts may be constructed before receiving the permit; if it is below ten megawatts, the unit may be constructed and operated before receiving a permit. The operation has to meet Montana's air quality standards. The permits that the DEQ has either issued or is working on include the one in Butte that MR. RITTER spoke about, one near Three Forks that has been issued, one at Trident that they are working on, and the Cravens site between Big Timber and Columbus that they are working on. The plan is to move forward with the permits that are on the table.

SEN STONINGTON asked if all of these permit requests are for diesel generated power.
MR. COMPTON said that they are. There are some other self-generating sites that are looking at options other than diesel engines. SEN. STONINGTON asked if any small business group is going together and getting some sort of gas-fired generation. MR. COMPTON had not heard that. He believes that the Exxon refinery is using gas turbines. There is less of an air quality concern with gas turbines.

? ***Federal Energy Regulatory Commission (FERC) news release***

Doug Hardy, Montana Electric Cooperatives, referred to **Attachment 6**. He said that it would appear that the ruling FERC issued has five parts to it. It affects periods of time when there is over 7% reserves differently than when there is less than 7% reserves. Under 7% reserves, if you have generation, you need to offer it. Unless you have extenuating circumstances, the maximum price during this period is figured by taking the highest cost producing gas plant they have, taking out the environmental costs and the start-up costs on it, and looking at what the price of gas is and giving them $2 to $6 for operations and maintenance. Over 7%, you need to offer your generation for sale and the price may not exceed 85% of what was set during the low reserve time.

CHAIRMAN THOMAS asked if they set a price in California, would that then set a cap in the rest of the grid. **Mr. Hardy** replied that they didn't use the term "cap," but that is how it reads. It would be a cap until the reserves drop below 7% again.

MR. FARR had seen some of the discussion of FERC of how they came to support, five to zero, this ruling. From a dollar perspective, they had said that based upon that selection of average gas prices, that yesterday the price of it would have been about $108 per megawatt hour during the low reserve time period, which would result in about a $92 price. CHAIRMAN THOMAS noted that if gas prices go up, so would that cap. MR. FARR said that was correct.

SEN. ELLIS asked if it was correct that there are three gas markets in the Western Systems Coordinating Council (WSCC). MR. FARR said that was correct. SEN. ELLIS said that SoCal is the one that serves southern California. Is it a lot higher than the others all of the time, or only when you have spikes? MR. FARR said that in the winter we have winter peaking and gas down there isn't used for much at that time. Some of those mechanics need to be readjusted. He said it is too early to guess at what will happen.

- ***Developments related to NorthWestern Energy gas turbine electrical generation facilities in Montana***

Dennis Lopach, NorthWestern Corporation, said that the project has been announced for a site north of Great Falls. The cost of the project is projected to be $140 million to $170 million. A contractor to do the construction of the facility has been secured. During the construction phase there will be approximately 100 workers employed, mostly local people. The turbines have been secured. The site will be prepared for two 80 megawatt plants. Initially the plan is to just bring on one plant at this time. The first 80 megawatts is scheduled for this fall, the second is scheduled for next summer. The transmission capacity has been secured from the MPC system. The actual gas has not yet been secured. The project manager is watching gas prices closely and attempting to determine the best time to lock in. The intent is to have the first 80 megawatts flow into the power pool sometime this fall. The air quality permit has been filed. The plans for pricing have not been finalized yet. The plan is to sell a certain amount of power into the market in order to subsidize the price available out of the power pool.

REP. DELL asked if electricity would go into the power pool in late fall. **Mr. Lopach** said that was the best information that he had. REP. DELL hoped that this would reassure the PSC that this would be power that would go into the pool. **Mr. Lopach** said that was the intent and that he would sit down and work with the PSC to make sure that Northwestern does what is required. REP. DELL commented that he had heard about how difficult it is to locate gas turbines. How was NorthWestern able to locate one? **Mr. Lopach** said that there are some restrictions with resale. This is a GE turbine. There is more of a resale market developing for gas turbines. Supply and demand really does work.

SEN. RYAN asked if there is a difference of on-peak and off-peak availability of the 80 megawatts. He also commented that if some of the 80 megawatts has to be sold on the market, then not all of it will go into the power pool. **Mr. Lopach** said that his understanding was that the current plan is to make a portion of it available and to sell a portion to subsidize the price. There will be power available both on peak and off peak. He said that it is unrealistic to think that the pool will be able to fill all of the requests for power that the PSC will receive. However, the power will be blended to hopefully get the overall price at a level which will allow for operation.

SEN. STONINGTON asked if NorthWestern was working on any of the other incentives that were provided by the last legislative session. **Mr. Lopach** said that they are exploring several options. He was not aware of any agreement that specified a particular financing tool. The primary incentive that he is aware of is the property tax relief offered in SB 508. Anything that reduces their costs will reduce the cost to the customers. SEN. STONINGTON asked if NorthWestern had looked into any sort of partnership with the state, in terms of using some of the state's bonding authority for financing. **Mr. Lopach** thought that there had been discussions of that type, but he wasn't aware of the details.

CHAIRMAN THOMAS would like to see Mr. Lopach work with Mr. Rosquist to answer the questions with getting the power into the pool and corresponding details.

? ***Status of supply contracts with large industrial customers***

Joel Cook, PPL-Energy Plus, said that toward the end of the 2001 Session, in addition to PPL's efforts to provide 500 megawatts to MPC for five years, PPL was also directed to offer similar terms and conditions to industrial customers in Montana. They are offering the industrials 4 cents per kilowatt hour power for five years for delivery to customers into MPC's systems. It is for a base load quantity. Each customer is unique and their requirements are different. The only other term and condition that would apply is that each customer would be required to have appropriate credit for PPL to sell long-term contracts. They have made some enhancements for the industrial customers, unlike what they provided to MPC. Mainly to incorporate the fact that they are not in this business daily. He pointed out that this is unit conditional power. That means that if PPL's facilities are not available, they would not be obligated to provide backup energy. The other advantage is that the supply is spread among all of the PPL facilities in Montana, therefore offering a more reliable source of energy. When the facility is not available PPL will go to the market to make up for the short fall. They are offering to reprice for whatever the market is for that period of time. There will be no interruption to the industrial customers. A week ago they provided a copy of an agreement to the industrial customers that PPL is prepared to sign. They are waiting for a response from the customers.

CHAIRMAN THOMAS summarized that PPL is offering the power. They have sample contracts in front of interested industrial employers. Those terms are $40 per megawatt hour for five years, unit contingent. He has heard some discussion about the clause in the contract dealing with regulatory activities. **Mr. Cook** said that the agreement provided that industrial customers will not pursue, in the public forum, adverse actions against PPL. That is a condition of the agreement. CHAIRMAN THOMAS asked if something adverse happened to PPL that was not advocated by that industrial customer, that clause wouldn't apply. **Mr. Cook** replied that that was correct.

MR. WHEELIHAN asked if there is flexibility in the contract to allow an industrial user to contract for only part of its load. **Mr. Cook** said that there is that ability.

MR. CORCORAN asked when that contract would start. **Mr. Cook** responded that the contract terms are available July 1, 2002. However, in all cases with customers, they are looking at bridging the time between now and then. PPL is not excited to make additional obligations this summer, but by September or October for the majority of customers on a case-by-case basis, they are looking at a market-based price to bridge them to the $40, five-year offer.

REP. GALLUS asked what the reasons were for the adverse action clause previously discussed. **Mr. Cook** said that it is the result of actions that they have seen over the past year. It is a protection for PPL.

Mr. Colwell, Avista Corporation, asked for an example of what might qualify for that type of activity. **Mr. Cook** said that an example would be if an industrial company promoted PPL being re-regulated.

Don Quander, Industrial Customers, said that there are no contracts signed and he doesn't believe that there are going to be any signed. The offer proposed by PPL is unacceptable. The pricing is unacceptable because it is not on a firm basis. There isn't any four-cent power being offered. This is contingent power. The adverse governmental action clause is unacceptable. It requires that customers agree that they "shall not, either individually or as a member of a group, initiate, encourage or support financially, politically, or otherwise, directly or indirectly, any action or proposed action by a Montana governmental authority that if enacted or otherwise may result in an adverse governmental action."

He commented that the energy pool has been a vehicle that they have been working with to see if it can be used in some form. The energy pool was supposed to be available April 1, 2001. Prices at that time averaged around $250 per megawatt hour. Yet, no power has been delivered to the energy pool. He commended the PSC for moving as quickly as it could to get the energy pool up and operating. The energy pool can help some companies. Those who can use it will be able to cut their prices.

There are no offers for power between now and October available from PPL. He is aware that some customers have entered into short-term contracts under the circumstances, possibly because of confusion. For example, Ashgrove Cement entered into a one-month contract for the month of June at $193 per megawatt hour.

The option of temporary generation has been difficult. No permits have been issued pursuant to SB 398. All permitting has been done pursuant to standard, preconstruction permitting requirements of the DEQ, in part because EPA continues to challenge the legality of SB 398. Several permits have been issued. He noted that the DEQ has worked overtime to process the standard air quality permits as quickly as they could. The third quarter of 2001 will see extensive use of fairly expensive and unattractive temporary generators.

He talked about the NorthWestern project. If that power is available by October, most companies will have already had to commit before then. He hopes that NorthWestern will have a market for the power when they are ready to offer it.

Mr. Rosquist, PSC, wanted to clarify the situation with Ashgrove Cement. Ashgrove sent a letter to the PSC expressing interest in an allocation, but they didn't ask for an allocation. Other companies said that they would like the PSC to designate them power on an emergency basis right away. Ashgrove basically said that they had the need for six megawatts to the extent that the PSC ultimately gets some power in the pool and it is available, they would like to be considered. Apparently the power wasn't firmly available in time for Ashgrove.

Mr. Quander commented that he had seen the contract and it was his understanding that from the period of July forward there might be the opportunity to buy their way out of that contract to the extent that they can participate in the energy pool.

CHAIRMAN THOMAS commented that a year ago it was several industrial employers that were screaming the most. There seems to be a pretty reasonable offer on the table.

Mr. Cook stated that PPL made a commitment to the state to make this offer under very difficult circumstances. They feel that it is a good offer. If people turn away from that offer, it is their choice, but the offer is on the table.

REP. GALLUS asked why REM chose not to use SB 398, considering that they would fall below the ten megawatt limit. **Mr. Quander** said that they commenced the process of trying to do this informally, even before the formal applications with the DEQ, at that time SB 398 wasn't law. Even at that point they knew that EPA was going to challenge whether SB 398, as written, was legal and they were reserving the right to potentially sue facilities who proceeded along that road. It is a big risk.

REP. BROWN asked for historical information on what the downtime is, considering that the contract is unit contingent. **Mr. Cook** said that the price is subject to PPL's units being available. It is spread among many of their units. There is roughly 10% of downtime.

REP. BROWN asked if Montana Resources was offered the same contract. MR. RITTER replied that PPL has offered them the same contract and Montana Resources is taking a close look at it. However, with the price of copper dropping, the $40 power doesn't look as good as it did considering that it doesn't include transmission costs.

REP. FISHER clarified that the contracts are for 4 cents for five years and they are guaranteed the power for five years. **Mr. Cook** responded that they are 4 cents and firm. The 4 cents applied to when PPL plants are running. If the plants are not running, PPL will still supply the power, but for that period of time the price will be the market price.

REP. FISHER said that, with deregulation, electricity becomes a commodity like oil and gas. When a company enters a contract they usually know what they are getting into. He doesn't understand why Mr. Quander would object to that because that is between the buyer and the seller. He is bothered by the idea that PPL felt so unsure of themselves in dealing with the state that they had to have the adverse action clause in there, but given their past treatment he may have put it in there, too.

MR. FARR said that the units in Colstrip, in any given year, operate in the high 80's or low 90's availability factors. About half of that is very predictable in terms of being able to arrange alternative supply because it is for planned outages. It is a relatively short, roughly 5% window that is an unknown.

Mr. Quander said that the firm offer is a take-or-pay contract. If units are out you have to pay the market price, whatever that may be. PPL obviously sees a significant value in shifting that risk to the customers. They were told to anticipate 15% unavailability. The point is that it is not $40 power. The average price is well above $40.

SEN. RYAN asked if it is possible, with the FERC ruling, that we know what the cap is on the outside price if you were to have to buy on the market. **Mr. Cook** said that FERC put this mechanism in place to be a variable price, so it is hard to say in advance what the price will be at any given time because there are variable components.

CHAIRMAN THOMAS said that when the industrials chose to leave regulated rates, for about two years they saved money in a mature market. A year ago the prices went nuts and a lot of the people screaming about it were the industrials. Of course the Legislature got blamed for letting the companies have the ability to make their own decisions. We have contracts available that the Legislature demanded that PPL offer to the significant industrial employers so that they can continue operation. If they have better deals then they should jump on them because he doesn't know that there are any better deals. Prices will go back up and there will be more layoffs and the Legislature will get blamed, again, for letting the companies make their own decisions.

Mr. Quander noted that the industrials did endorse SB 390 at the time because they felt that customer choice was a good idea. They liked the idea of being in a competitive market. They are looking for whatever options would allow them to stay profitable during a very rough period. The Legislature took constructive steps for the long term, but the specifics were that industrial customers were prohibited from returning to the default supply system until 2002. The PSC had a tariff which limited that. The industrial customers believe that they are on their own. Those who make it through the next year or so are going to have learned a lot of lessons in a market that they mis-estimated when they got into it.

Mr. Colwell said that the terms of the proposal are unsatisfactory to large industrial customers in that the price isn't a firm price because they might have to buy on the market occasionally and because of the governmental action clause. If the pricing part were firmed up, would the clause be a deal killer? **Mr. Quander** said that it would depend what the price was firmed up as. It would be an individual company decision. Staying open and staying in production is a high priority and if that meant agreeing not to question anything for five years, if the price is right, maybe some companies would sign it.

Mr. Colwell said that on one hand MR. RITTER said that he needs a price of $40 per megawatt to generate, while the industrial customers complain that they are paying $193 per megawatt and that they don't want to accept a $40 contract because on occasion they may have to pay the market price. That indicates that $40 is less than the market price. Yet, this is unacceptable. He is curious why Mr. Quander said that the industrials wouldn't go back on default supply at $40, which sounds like it is going to be below market price. **Mr. Quander** thinks that we need to get by the idea that PPL is offering $40 power. The price is what you pay for the power and that price is interruptible. **Mr. Cook** responded that their offer is a firm offer, at no time will they be interrupted because of plants not operating. The price, however, for those short periods of time will be adjusted. It is better than the market, and it is simply a sharing of the risk between the supplier and the customer.

REP. GALLUS offered some numbers. If the facility was down 15% of the time, and if the highest rate on the Mid-Columbia Index for June was the market price during that time, you could increase the total budget expended on energy for the year by 56% of what you planned. A $5-million bill could go to $7.6 million. It seems like there is a lot of risk there.

SEN. RYAN asked if whatever the industrial needs, they will get in the supply. **Mr. Cook** said that is not correct. The contract is for a negotiated quantity that will be agreed upon in advance. SEN. RYAN asked if they could get the maximum if they needed it. **Mr. Cook** said that PPL would provide their full, maximum quantity, or a partial quantity. SEN. RYAN said that they hadn't offered the maximum to the residential consumers, only 500 megawatts. **Mr. Cook** said that was correct.

Mr. Hardy asked, if a unit goes down with plenty of notice, would there be the ability for them to do a maintenance during that period and a reduction of load, or would they be committed to a true take-or-pay for a set number of megawatts. **Mr. Cook** believes that they provided for that in the agreements with the industrial customers. There are some details in the contract where that would be offered for known, planned outages. For unplanned outages, they can't give the warning to allow the customers to do that.

SEN. ELLIS commented that it seemed to him that the offer to the industrials is considerably better than the offer to other MPC customers because 500 megawatts is less than 85% of their needs. Beyond that, their requirement varies every day and so their nighttime needs are going to be met when the power prices are cheaper and they will be out on the market during the daytime when it is higher. Regarding the governmental action clause, it is questionable how important it is. **Mr. Quander** responded that PPL must think it is important enough to keep the industrials from being there; it insists upon the industrials giving up that right. Industrial loads are more stable and reliable than the residential load and that makes them more attractive to suppliers.

REP. BROWN offered some numbers. If you take an industrial load of 100 megawatts and 10% downtime, they will only have 10 megawatts that they have to buy on the market. Even if they have to pay $100 for those megawatts, their blended rate would only be $46. That has got to be better than what the market is offering. **Mr. Quander** replied that PPL obviously thinks that there is a lot of money involved and a lot of risk being shared. It is evidently very important to them that this not be a firm price. It is different than the traditional utility function where that risk was assumed by the supplier. **Mr. Cook** said that in the event that PPL loses a unit, they will be short of power and will be forced to go to the market to buy that power. They are simply passing on the cost during these short periods of time, as a traditional utility would have.

REP. DELL asked if there is a history toward these clauses, such as the adverse governmental action clause, in agreements for generators. COMMISSIONER BRAINARD responded that the PSC is looking at contracts in a seller's market. It is the effect of restructuring without having sufficient supply and there is an imbalance in the system right now. We are in the middle between the monopolies of the past and the market place of the future. Those old monopolies have a leg up in the industry and they are taking advantage of it. Within 2 to 3 years we will see a totally different market place.

REP. DELL said that there was indication that supply is catching up with demand and that is encouraging. He would still be encouraged by what he has heard today in the sense that even if PPL has to go to market and buy additional generation, it is not as bleak as what Mr. Quander has presented. **Mr. Quander** said that if supply and demand come back in balance we will see some changes. He agrees that there are encouraging signs out there. If we can get through the next year or more, we are going to be looking at better market conditions and opportunities. One of the concerns that he has heard expressed is that there will be a dip in prices just long enough to discourage new generation projects and then the prices will go back up again.

? ***Selection of presiding officers***

Motion/Vote: REP. DELL NOMINATED SEN. THOMAS FOR CHAIR. MOTION CARRIED UNANIMOUSLY.

Motion/Vote: SEN. THOMAS NOMINATED REP. DELL FOR VICE CHAIR. MOTION CARRIED UNANIMOUSLY.

? *PPL-Montana and MPC power purchase agreement*

PAT CORCORAN, MPC, said that they hope to have the contract completed and filed with the PSC this week. PPL has signed the contract and delivered it to MPC. MPC is conducting an internal review of the contract. Part of MPC's review includes NorthWestern Corporation. Upon completion of that they will file it with the PSC. That filing will include testimony by various people and a copy of the contract. The terms of the contract are 4 cents, 500 megawatt units contingent, for a period of 5 years starting July 1, 2002. They are also reviewing the adverse governmental action clause.

? *Sale of MPC transmission and distribution facilities to NorthWestern Energy*

PAT CORCORAN, MPC, said that MPC has continued to work on the items in the agreement with NorthWestern Corporation on the sale of the transmission and distribution facilities. Those items include a number of filings that they have made, a lot of which they have received back from FERC at this point. They continue to work on a proxy statement. The one that is outstanding at this point is the filing that they made with the PSC in January. The PSC has yet to issue a procedural schedule. The PSC recently determined that they needed additional information that they were going to ask MPC to respond to, but the PSC has yet to issue an order with regard to that activity. Once the order is issued MPC can supply the additional information that the PSC needs. Other items are moving ahead accordingly.

SEN. STONINGTON asked for a time frame for the remainder of power, referring to the power contract. MR. CORCORAN said that they are continuing to fill in the rest of the portfolio. The 500 megawatt contract with PPL is the base of the portfolio. They are looking at a number of other alternatives, including possible contracts with other power suppliers. They are also looking at wind opportunities. They are hoping to fill in the rest of the portfolio with some short-term contracts. SEN. STONINGTON asked if the picture is changing at all in terms of how fast new generation is coming on line. MR. CORCORAN thinks that the market is starting to show signs of that activity.

CHAIRMAN THOMAS asked when the request for proposal for the wind power is due back. MR. CORCORAN thought it would be soon. CHAIRMAN THOMAS asked if the target level of the request is 150 megawatts. MR. CORCORAN said that was correct. They are looking at wind as being part of the portfolio and serving default supply customers. CHAIRMAN THOMAS noted that MPC is required to provide a renewable option for consumers by law now.
MR. CORCORAN said that is correct, starting July 1, 2002. It would be separate from the default supply.

? *Public Service Commission regulatory authority over electricity supply*

COMMISSIONER BRAINARD said that the PSC is the executive branch agency that is responsible for administrating SB 390. They are in charge of getting both the ratepayers and the utilities to a free market. Their duties are prescribed by law. The Commission is obligated to go forward in as best a manner possible and with due diligence and perform those duties. Those responsibilities are not negotiable with anybody's contract. They have to follow the law. It is their intention to go forward, to administrate the law, to be as flexible and innovative as they can, but they are not going to be blackmailed by public opinion. He referred to a handout, **Attachment 7**. MPC has stated that they will be filing a request for approval of a partial requirements, default supply contract with PPL-Montana. The PSC may accept the filing for review and determination as to whether it is the ratepayers' best interest. The PSC may issue an order to MPC requiring them to show that the filing will not result in rates higher than reasonably expected under regulation.

Dave Hoffman, PSC, added that it is a mischaracterization to think that what the PSC is doing is re-regulation. Re-regulation implies that there was a point in time in the past when electricity prices were not regulated and that isn't the case. What they are doing is exercising statutory authority and following statutory directives to continue a regulatory scheme throughout the transition period.

Todd Everts, Staff Attorney, referred to a letter regarding Mr. Petesch's legal analysis of the PSC's asserted jurisdiction. **Attachment 8**. It is Mr. Petesch's opinion that HB 474 serves two basic purposes: (1) to protect the ratepayers in Montana; (2) to foster the financial integrity of MPC as both a utility and a distribution services provider. It is his opinion that those goals are not in conflict. To the extent that the PSC can assert jurisdiction over MPC and PPL-Montana to supply cost-based electricity, HB 474 does that. If the PSC were to assert jurisdiction and require that MPC go to market and sell power below market, that is not the intent of HB 474.

SEN. STONINGTON said that the relationship between MPC and the PSC is not so much an issue as is the relationship of the PSC and PPL-Montana. What is the ability of the PSC to require in some way that PPL-Montana sell energy to MPC at a reasonable rate? **Mr. Hoffman** said that the PSC's legal analysis identifies that the statute gives the Commission ongoing regulatory, supervisory authority over MPC under Title 69, Chapter 3. That includes the generation component, and that generation component has not yet been separated from the rate base and can't be separated from rate base under 69-8-210(1) until the Commission signs the final transition order.

SEN. STONINGTON said that the claim is that PPL is a successor in interest and that is what allows the PSC to regulate PPL. How does that allow PPL-Montana to operate under the federal authority? MR. BRAINARD said that all generation that occurs and crosses state lines does so under the administration of FERC. Interstate commerce is under the jurisdiction of the federal government. The idea of succession and the successor is an interesting legal question. Some of these issues will be decided in court as to the extent of the PSC's power. SB 390 implies a safety net for ratepayers until we reach a competitive market in Montana. MR. BRAINARD doesn't think that there will ever be a true market place if the default supplier is MPC, if the administrator of the power is MPC, and the aggregator of wind power is MPC. This is a federal issue and there isn't anything going on right now that indicates how the federal government will deal with this issue. The PSC has an ongoing obligation to serve the ratepayers in Montana.

SEN. STONINGTON asked if that means that when MPC brings their rate case to the Commission, does the PSC have the right to say no and send them back to PPL to negotiate a better contract. MR. BRAINARD thinks that the PSC is interested in innovation and in working inside the market place as best they can, providing that the criteria of HB 474 are met. There are a variety of ways to do that through regulation, semi-regulation, a blend of market and regulation, or a market place.

? ***Flathead Electric Cooperative energy supply contract with PacifiCorp***

Warren McConkey, Flathead Electric Cooperative (FEC), gave an overview of FEC. FEC is a cooperative utility that serves the Flathead Valley and Libby. The cooperative has 53,000 customers and an average load of 145 megawatts. It is implementing the integration of Energy Northwest, Inc., (ENI) into FEC. When FEC purchased the service territory from PacifiCorp in 1998 it included a variety of urban areas. Since FEC was considered a rural cooperative it wasn't to serve the urban areas directly and therefore ENI was formed. In the 2001 Session, SB 325 clarified the urban definition and allows FEC to serve the urban areas. Within a couple months ENI will cease to exist and FEC will have all 53,000 customers. There will be one power sales contract with Bonneville Power Administration (BPA).

A breakdown of the FEC load of 125 megawatts is as follows: 62 megawatts is from BPA, which is subject to a wholesale rate increase on October 1, 2001; 13 megawatts of a BPA contract which will be served at the 1996 rate for 5 years; 70 megawatts from PacifiCorp. When they did the acquisition in 1998 they agreed to take 70 megawatts of Colstrip generated power delivered to the Flathead Valley delivery points. That was an eight-year contract at $23.85 for the first three years of that contract. The three years is up and now they are having to adjust the price using the mid-Columbia Price Index as a fair pricing mechanism. The bottom line is that, with this pricing, FEC will not be able to pay their power bill in October. It would mean an increase of ten fold in the wholesale power bill.

They are working with PacifiCorp to revise the contract. Three options are being considered. The first is to convert the contract to a fixed price term contract. The first version of that contract wasn't accepted. The second version of that will be received later this week. The second option is a variant of the first and would involve BPA. It would be a sleeve contract rather than a cost-based contract. The last option would be to exchange generation from an out-of-state generator.

Tom Ebzery, PacifiCorp, confirmed that the contract with FEC does covert over to a Mid-Columbia pricing mechanism. They have had discussions with FEC and are hopeful that there will be some resolution. PacifiCorp has agreed to look at repricing and is looking at a five-year contract. The issues revolve around the involvement of BPA and the sleeve contract would be something that they are interested in because some of the risk that PacifiCorp might experience under this would be shouldered by Bonneville. They have also looked at ways for FEC to get involved with the state authority and some creative financing mechanisms. They hope that they will get some information over the next few weeks as to whether or not there may be some role for the power authority to be a part of this process. They are not sure that there will be enough time before the contract is up to look for an out-of-state generator to swap power with. They believe that a satisfactory resolution is possible.

CHAIRMAN THOMAS noted that the new entity that FEC is combining the two old entities into is not regulated by the MPC in any way. **Mr. McConkey** said that was correct. CHAIRMAN THOMAS asked for the balance of their costs. **Mr. McConkey** said that they used to be 50/50 with distribution costs and supply costs. Now they run 20/80, distribution to supply. CHAIRMAN THOMAS asked whether on October 1 the board-approved contract will go from a fixed rate to the Mid-Columbia Index. **Mr. McConkey** said yes. FEC would not have gone that direction if it had had any idea what the Index would be like today. It has been very stable over the last 20 years, until one year ago. **Mr. Ebzery** added that regardless of any agreement, he believes that the large industrials customers of FEC should get onboard with the arrangement. **Mr. McConkey** added that one of the big debates is about future prices of power. Long-term prices are in the mid-thirty dollar range in 2004 and 2005. The dilemma is that they need long term contracts to balance out the high years that are facing FEC currently.

REP. FISHER added that Bonneville has the capability of generating about 8000 megawatts and they contracted for 11,000 thinking that the water situation would be better this year than it was. They are now on the open market purchasing power to meet their contracts. This will affect what Bonneville prices are in October.

SEN. RYAN asked Mr. McConkey about how much of the 70 megawatt load that they are negotiating for is controlled by industrials. **Mr. McConkey** said that they have five industrial customers and it is about 45% of their total load of 145 megawatts. SEN. RYAN said that FEC would then need a commitment from the industrials to be a part of the FEC system.
Mr. McConkey said that was correct.

? ***Regional transmission operator initiative (RTO-West)***

Ted Williams, MPC, referred to **Attachment 9**. In December 1999, FERC issued order 2000, which was described by one of the commissioners as a "voluntary mandate" for jurisdictional transmission owning utilities to form regional transmission operators (RTO). Within this order there were some definitions for RTOs to adopt, such as independence and large scope. MPC is required to comply with this order. A group of regional filing utilities organized a substantial public process to address the RTO formation. The filing utilities filed a Stage 1 plan with FERC in the fall of 2000 in response to the order. In that plan they sought approval of the governance proposal, of the scope of the organization, of an agreement limiting liability of the participants and of the underlying principles of the transmission operating agreement and the suspension of existing agreements. On April 26, 2001, FERC issued an order that largely approved the filing. It disapproved the liability issue. The filing utilities petitioned for rehearing on that issue. The utilities think that there is a substantial increase in potential liability exposure with an RTO. The next step will be a Stage 2 filing. The idea of an RTO is not widely accepted in the Pacific Northwest. The RTO would require Bonneville to do its transmission rate cases and its transmission policies consistent with regulated entities. That is a change from Bonneville's past policies and is causing some concern. The final Stage 2 filing is expected to be completed in December. An interim filing is being contemplated for August.

REP. FISHER asked if Montana will lose its PSC authority over the Montana Power lines that are donated to this RTO. **Mr. Williams** said that the lines MPC is considering turning over are open-access lines and they are currently regulated by FERC. REP. FISHER asked if these lines are put into the RTO, will the PSC lose the ability to rate base those. **Mr. Williams** would expect that rather than rate based treatment, it would be an expense from the RTO. REP. FISHER asked how MPC will handle the extension of transmission lines as may be needed in the future. **Mr. Williams** said that local area planning will continue to be done by MPC. To the extent that construction of a new facility would have impact on the total grid, the RTO will have some planning authority to look at those facilities and make a determination as to whether or not there is a negative impact to the rest of the grid. That is not unlike what happens today. REP. FISHER asked, once this RTO is formed, will it take any legislative action by the Montana Legislature to approve or disapprove this RTO concept. **Mr. Williams** said that he was not aware that it would.

? ***Report on activities of the Northwest Power Planning Council***

Kerry Berg, Northwest Power Planning Council, submitted **Attachment 10**. In May the Council did an analysis on the power supply outlook. This is the second analysis that the Council has done this year. These updates are motivated by changes that can alter the load and resource balance. If there is energy available in excess of loads over the summer period, this energy could be used to address winter reliability problems and salmon and steelhead migration needs. This additional energy might result from better water conditions, additional generation or load reduction, or an increased spill at some of the dams. Energy can be stored in a number of ways, such as exchanging energy with California with a return schedule for the winter, or increased storage behind some dams. Additional energy can be used when and where it is most effective, or some of the revenue from generation with a new spill can be used to fund other salmon recoveries. The summer analysis assumes the following: thermo-generating units will be operating at their expected levels, temperatures in the northwest will be average and no imports will be available. The winter analysis assumes that off-peak and peak imports will be available at a high price. There has been a significant increase in the amount of new generation. There is some uncertainty with some of this new generation. There is expected to be approximately 700 megawatts of internal combustion generation, and a similar quantity of simple cycle gas turbines. Some of the risk factors that need to be considered are extended outages at major generators, weather, new resources or load reduction might not occur as expected, exports from merchant plants might be beyond the assumed levels. We must not lose sight of the fact that the power system is not adequate. The situation is better, but we are not out of the woods yet.

? ***Governor's plan for energy development in Montana***

Shane Hedges, Governor's Office, stated that the administration is doing everything that it can to mitigate the long-term negative effects of the energy shortage if we don't find effective solutions quickly. They are working to get HB 474 implemented by July 1, 2001. That includes the creation of the Montana Power Authority, which will be seven members that the Governor will appoint. The Governor wants to have the commission appointed before July 1 in order to give them a full briefing, so that they can begin the work in that piece of legislation. The administration is also looking at the short-term solutions. They are committed to getting the power pool up and running in a timely manner. They hope to implement a long-term, aggressive conservation strategy for the state in the next few weeks. That power can be utilized by the power pool. They are also working on a number of transmission upgrades that will allow Montana to increase generation supply from neighboring states. There are some enormous opportunities for some transmission lines from Canada that would provide affordable power from Canada. The long-term outlook is 6000 megawatts in the coming years that could help Montana secure long-term affordable contracts. These upgrades take some time to get done, but they will keep working to get that done. There are enormous opportunities for the state to provide the nation with energy resources needed in the coming years. Studies have suggested that the US will need 1900 additional generation facilities over the next 20 years just to meet the basic demand. That has a tremendous potential for Montana to develop its resources. Montana can play a significant role in helping the nation diversify power and energy sources. NorthWestern is on track with additional power for the power pool. DEQ is working to make sure that all of the departments are working together to get the permits and the necessary regulations met in a timely manner, so that companies who are interested in investing in Montana don't run into roadblocks. Continental Energy is in the permitting process currently.

MR. RITTER asked if anyone has looked into the possibility of selling the coal tracks to a utility in return for power. He also asked if the administration had any conversations with Burlington Northern Santa Fe (BNSF) as to the future of the Tongue River Railroad for shipping of that coal. **Mr. Hedges** replied that the Governor has not had any conversations with BNSF, however, Mr. Hedges had. BNSF is interested in a longer term commitment to that region. There is some concern that the coal is high in sodium. The power facilities in the mid-west do not have those of the latest technology and the high sodium makes the coal less desirable for the older facilities. There is the possibility for on-site generation with newer technology that can better handle the sodium in the coal. In response to the other question, it is their hope that the revenue generated from those facilities can be used to fund Montana's new economy as well, which means that the money needs to go into education and other longer term objectives.

MR. RITTER asked if there was a reasonable chance that, if the coal was available, there would be generating facilities within two years. **Mr. Hedges** replied that they are not that optimistic. Coal facilities take some time to develop. It is at the top of their priority list and they are going to aggressively pursue the options there. MR. RITTER said that it would be important to send a signal of that nature so that opportunists would be interested in being a source of those. **Mr. Hedges** thinks that they have the signal that they are committed, as per his comments today. They have spoken with entities interested in production in that area and they will continue to pursue that.

REP. OLSON asked if Mr. Hedges was aware of the status of BMP Incorporated's attempt to reopen the Bull Mountain Mine. **Mr. Hedges** is unsure of the status. REP. OLSON said that application was sent in under the guidelines of HB 495. They are also looking at building two 350 megawatt power generators in conjunction with that mine. The permit has been in for approximately three weeks now with not a lot of communication.

V OTHER BUSINESS

CHAIRMAN THOMAS presented a graph of the Mid-Columbia Prices for the year 2000. **Attachment 11**.

MR. FARR explained the graph. It shows volatility on a short-term spot market basis. The movement overall is not as drastic as the short term spot market prices show.

MR. MARTIN provided another Dow Jones Mid-Columbia Electricity Index. **Attachment 12**.

? ***Tentative meeting schedule for the interim, instructions to the staff***

MR. MARTIN presented a meeting schedule for the rest of the interim. There are four, possibly five, meetings in 2002. All but two are on Fridays. The Committee will meet on September 20, 2001.

CHAIRMAN THOMAS said that they can modify the dates as the Committee moves forward, but the schedule will be adopted so that members can plan on them. There being no discussion that is considered done.

VI ADJOURNMENT

There being no further business, the meeting was adjourned.

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