MINUTES

of the

LEGISLATIVE CONSUMER COMMITTEE

October 3, 2008

State Capitol, Room 137, Helena, MT

COMMITTEE MEMBERS PRESENT

Representative George Groesbeck, Chairman

Representative Walter McNutt, Vice Chairman

Senator Joe Tropila

Senator Terry Murphy

STAFF PRESENT

Robert A. Nelson, Consumer Counsel

Mary Wright, Attorney

Mandi Shulund Hinman, Secretary

VISITORS PRESENT

Bob Rowe, NorthWestern Energy

Pat Corcoran, NorthWestern Energy

John Hines, NorthWestern Energy

Dave Gates, NorthWestern Energy

John Fitzpatrick, NorthWestern Energy

Kirk Pohl, NorthWestern Energy

Mike Pichette, NorthWestern Energy

Sonja Nowakowski, Legislative Services

John Bushnell, NorthWest Power Planning Council

Hal Harper, Governor's Office

CALL TO ORDER

The meeting was called to order by Representative Groesbeck.

MINUTES OF THE PREVIOUS MEETING

MOTION: Representative McNutt moved approval of the May 1, 2008 meeting minutes.

VOTE: The motion passed unanimously.

Bob Rowe, NorthWestern Energy

Representative Groesbeck said that being a legislator from Butte, it was a privilege for him to represent the community and with that, represent many jobs that NorthWestern Energy (NWE) had in Butte and with the recent change of leadership at NWE, having Bob Rowe speak to the committee is something that Representative Groesbeck has looked forward to. Representative Groesbeck introduced Bob Rowe, CEO and President of NWE. Mr. Rowe began by stating that not only was he CEO and President of NWE, he is also a customer and he wanted to talk about NWE and future plans for the company. He then introduced Pat Corcoran, Vice President of Government and Regulatory Affairs; Dave Gates, Vice President of Wholesale Operations; Kirk Pohl, Vice President of Retail Operations; John Hines, Chief Supply Officer; John Fitzpatrick, Director of Governmental Affairs; and Mike Pichette, Governmental Affairs. NWE is a three state operation with the majority of the operations and employees in Montana. The general office and network operation center are in Butte which is where the transmission, distribution and supply function are centered. Sioux Falls is home to corporate support, including general counsel, finance, accounting and personnel. NWE has key personnel staff that provide services to the entire company located throughout the system and has taken a tremendous initiative over the last several years in integrating and restructuring the distribution operations so employees can perform their duties more efficiently. In

Nebraska NWE is exclusively natural gas and in South Dakota, where NWE owns generation, NWE is both natural gas and electricity. NWE is a 100% regulated utility either by one of the three state commissions or by the FERC. Mr. Rowe wants to eventually focus on the utility operation, where there is tremendous opportunity for innovation and real challenges, but for now the focus is on NWE's resources and people. NWE is a regulated utility and there needs to be an alignment of long-term interests between NWE, the investors, and customers in the states served by NWE. Also there is obvious focus on the financial soundness of the states and communities that NWE serves and NWE is working out long-term plans, particularly customer basing and strategic planning for the distribution utility and as that is done, NWE would like to be able to talk to MCC, legislators, and customers. NWE would request being a standard item on this committee agenda because NWE is a large part of MCC's workload and members of this committee are key members of the legislature and the focus is on the long-term. Although NWE and MCC are obviously going to be in contested cases, Mr. Rowe would like to be able to say that there is some agreement on where NWE and MCC want the company to be in the long-term. Early on in this job, Mr. Rowe met with many people, including MCC staff, and as a result, internal discussions based on meeting feedback led to a very thorough look at NWE followed by an attempt to map out a purpose and structure for the company. Main areas of the proposal are gas supply procurement, power quality, reliability and value, energy supply, rate base, technology and the general topic of retail and performance areas. Safety is also a priority for the NWE, particularly internal control and risk management. Soon NWE will be inviting 150 people from throughout the system to spend a few days at Fairmont Hot Springs to strengthen the idea of being part of one company with a common set of values and a common mission. Representative Groesbeck opened the discussion of NWE being a regular item on the agenda by stating that he felt it was a good idea because the committee, and more specifically MCC, does get involved in issues that directly affect the company and it would make sense to extend the same invitation to possibly PPL or MDU. Representative McNutt added that in the past Qwest, MDU, and MPC have been on the agenda and those presentations have been very valuable to him. Representative

Groesbeck recommended giving the idea more thought because with the legislative session beginning in January, it is currently unclear what members will be appointed to this committee.

BOB NELSON PROVIDED THE FOLLOWING HIGHLIGHTS OF CASES CURRENTLY PENDING:

NorthWestern Energy

D2007.7.82-Application for Increased Gas and Electric Delivery Service Rates: MCC entered into a stipulation with NWE for a rate increase and other considerations in this docket. The rate increase was for $10 million electric and $5 million gas but there was also a power purchase agreement and other future rate base reductions, which MCC felt brought an overall benefit to consumers. The Commission issued a Final Order in 7/08 on that stipulation, agreeing that, despite the rate increases, there were consumer benefits in the stipulation.

D2007.7.82 Phase II-Application for Increased Gas and Electric Delivery Service Rates: This application is Phase II of the previous case. Phase I dealt with revenue requirements and Phase II, filed 3/08, addresses the allocation of those revenue requirements. In this application, because of the way the revenues are being allocated, there is a proposal for a residential increase of about 5%, some decreases to other classes, and for the gas allocations to remain unchanged. Another issue of this case is how the rates are then designed. NWE is proposing to generally shift the charges to fixed charges rather than to the commodity portion of the bill. MCC filed testimony of John Wilson on the electric portion and George Donkin on the gas portion in 7/08. MCC generally disagrees with the cost of service study and feels the residential class should be entitled to a small decrease based on modifications to the company's study, although Dr. Wilson is proposing no changes. Dr. Wilson also disagrees with the increasing emphasis on customer charges because it appears to contradict the interest in efficiency. The hearing is scheduled for 2/25/09.

D2008.5.44-Annual Natural Gas Tracker Filing and D2008.5.45-Annual Electric Tracker Filing: Both the gas and electric utilities file monthly trackers to reflect changes in commodity costs and then annual true-ups and audits of these monthly trackers are preformed. Both utilities filed annual electric and natural gas tracker filings in 5/08.

D2008.4.36-Petition of MCC for Investigation Concerning Compliance with Affiliate Transaction Requirements of Order 6505e: This case involves the limitation on investments that NWE is allowed to make in non-regulated activities, which was a concern before and during the bankruptcy, so limitations were put in place as a result of resolving the bankruptcy case. This particular discussion came up last year when there was some indication that NWE was reacquiring interest in Colstrip 4. MCC received an inquiry from Commission staff, on behalf of Commissioner Mood, asking MCC and NWE for comments regarding any problems with the bankruptcy stipulation with respect to NWE reacquiring interest in Colstrip 4. MCC concluded that there were problems and recommended NWE discuss them with MCC and the PSC. Despite this request, NWE submitted a filing at the FERC in 12/07 to transfer their interests in Colstrip 4 to Colstrip Lease Holdings, a subsidiary created for that purpose. MCC intervened and filed comments in that FERC docket. Subsequent to that, MCC filed this petition at the Commission for investigation of those circumstances and whether NWE's activities complied with the bankruptcy Consent Order. In that petition MCC asserted that NWE had paid $38.2 million for a 79 megawatt interest that Mellon Leasing had in Colstrip 4 and $133.4 million for a 143 megawatt interest that SGE Associates had in Colstrip 4. MCC also noted that NWE had sought FERC approval to transfer these interests to Colstrip Lease Holdings and that they retained Credit Suisse as a consultant to review their options with respect to disposition to Colstrip 4. MCC feels the transaction exceeded the $75 million limitation for investments in subsidiaries and affiliates contained in the Consent Order. In 5/08 MCC filed testimony of Dr. John Wilson who opined that NWE used public utility debt to reacquire Colstrip 4 interests from Mellon and SGE and it appeared that NWE was interested in selling those interests at a gain in part to

capture net operating loss carry forward tax benefits that arose from the bankruptcy proceedings and the cost of the acquisition exceeded the limited investment basket cap under the Consent Order. Dr. Wilson also observed that it may be shown upon completion of discovery that the plant should be rate based or that the gain from the sale of the plant should be attributed to rate payers. In 6/08 NWE filed an application for approval of the sale of the Colstrip 4 interest to default supply or to rate base those interests, and at the same time they filed a motion to stay these proceedings, essentially indicating they believe a decision in the rate basing could moot these issues. The Commission denied NWE's motion for stay and in 7/08 NWE filed answer testimony stating that: they believed the scope of the proceeding was limited to a complaint so the issues of rate basing, for example, were beyond the scope of the investigation proceeding and that Colstrip 4 has never been included in rate base; years ago Montana Power Company refinanced Colstrip 4 through a sale leaseback transaction and with approval of that sale, the Commission disclaimed jurisdiction over Colstrip 4 and that Colstrip 4 is a FERC regulated public utility asset; the limited investment basket cap does not apply because Colstrip 4 is not a subsidiary or affiliate; ratepayers were not at risk for the losses that generated the NOL's, which they feel are beyond the scope of the docket; and recognizing NOL's would be retroactive ratemaking because they related to past periods. NWE also said they paid $38 million for the Mellon interests and $102 million for the SGE interest, assuming no debt in either transaction, and that Colstrip Lease Holdings had borrowed $100 million to pay NWE back for the SGE interest and in turn, NWE then granted the lender of that $100 million security interest in the SGE owner participant interest. On 8/18/08 MCC filed rebuttal testimony, stating that: the Commission had explicitly retained jurisdiction over Colstrip 4 by approving the sale leaseback and because the statutory provision under which that sale had been approved the exempts only entities that are not otherwise public utilities, MPC and its successor do not quality under that statute for that kind of exemption; ring fencing and the investment cap provisions do apply to merchant generation such as Colstrip 4; that NWE's own records initially showed that Colstrip 4 is subject to the limited investment basket cap and that NWE was in fact violating that cap; and the limited

investment basket cap does apply to affiliates even if not separately incorporated subsidiaries, and NWE had recorded their interests for FERC purposes as subsidiary investments. MCC also stated that NWE has public utility obligations to provide service at the lowest obtainable cost and had created a conflict of interest with Colstrip 4 and the Commission should insure that NWE's obligation to shareholders is subordinate to the public interest. The hearing was held 9/24/08, Initial briefs are due 10/15/08 and reply briefs due 10/22/08. The Commission is also processing the docket involving the proposal to rate base Colstrip 4 and may try to resolve the dockets simultaneously. Initial briefs for the rate basing docket have been filed and reply briefs are due 10/10/08.

D2008.6.69-Application for Approval of Interest in Colstrip Unit 4 as an Electricity Supply Resource under Certain Terms and Conditions Including Certain Treatment of Net Operating Losses: In this application NWE essentially asked to allow rate basing of Colstrip 4 at a value of $407 million. The $407 million comes from a bid received from Bicent for $404 million plus a $6.25 million termination fee they would have to pay if they decide to rate base it rather than selling to Bicent. There is also a $3.25 million dollar closing transaction cost NWE thinks they would avoid by rate basing, which would offsets the $6.25 million. MCC believes that NWE paid roughly $187 million for the interests that allow them now to sell the Colstrip 4 asset and on their books NWE had a remaining original cost minus depreciation of about $38 million in addition to investment in the land that Colstrip 4 is on. NWE is also asking for termination of some existing agreements that MCC has entered into in the past with respect to sales of Colstrip 4 power to default supply. One is a 90 megawatt sale that runs through 2018 at $36 per megawatt, which is a very favorable price at this point for default supply. NWE would also terminate a 21 megawatt agreement at Mid-C minus $19 that runs through 2014. NWE requested a Declaratory Order stating that the net operating loss carry forwards of about $346 million generated from their investments in non-utility ventures not be used in calculating future utility revenue requirements and also requested action from the Commission within 120 days of this filing. In testimony filed with the application, NWE indicated they

conducted a bid process resulting in this sale agreement with Bicent in order to preserve shareholder interests and maintain economic neutrality for NWE between selling and rate basing the Colstrip 4 interests. NWE presented the net present cost through 2042 with 5 options in order to provide a comparison and those options were: rate basing Colstrip 4 through 2042; Mid-C purchases or market purchases minus $3.00; a Bicent offer which is a sale back from Bicent of this power; building a super critical coal plant in Wyoming; or building a combined cycle combustion turbine. NWE concluded that rate basing would be the cheapest option. MCC filed testimony of John Wilson on 8/8/08 and he generally opined that it would be appropriate to rate base Colstrip 4 but at a lower cost than NWE proposed and there were significant concerns with NWE's proposal to surrender the entitlements to the purchase of the 111 megawatts. Dr. Wilson felt NWE's analysis of alternatives used unrealistically high market benchmarks and NWE incorrectly estimated the risks of future cost increases for rate basing Colstrip 4. Dr. Wilson also felt the proposal required the forfeiture of several hundred million dollars of NOL benefits and that NWE had acquired the Colstrip 4 interest with public utility debt. The Commission has the option of rate basing those interests at the original costs minus depreciation plus acquisition adjustments representing what NWE had in fact paid or, in recognizing dedication of Colstrip 4 to the public service, at lower costs than NWE had proposed. NWE subsequently filed rebuttal testimony of 8 witnesses and to briefly summarize they asserted that: there was no bankruptcy Consent Order violation in that they had not assumed debt in the transaction and the trustee remained obligated to pay the debt; the $404 million dollar bid did include the value of the 91 and 21 megawatt deals; and rate basing at less than the $407 million dollars would have significant adverse financial impacts on NWE and that ignoring the Bicent contract and NWE's commitment to make the sale to Bicent in the contract would put all interested parties into litigation. NWE rebutted Dr. Wilson's testimony stating that Dr. Wilson's net operating loss recommendations would negatively impact the ability to obtain external financing. Finally, NWE said that there was no rate payer impact from the bankruptcy so there was no equitable entitlement to the NOL values. A hearing ran from 9/10/08 through 9/16/08, initial briefs were

filed 9/30/08 with reply briefs due on 10/10/08. NWE had originally indicated there was a 120 day deadline to process this docket and at the end of the 120 days they would deem their application withdrawn, but NWE recently filed an amendment changing the withdrawal date to 11/14/08 but still requesting a decision within the 120 days.

D2005.6.106-Investigation of USB: The Commission issued a Notice of Investigation of USB programs in 2005, when gas prices were quite high, and there was concern about low-income discounts. The Commission issued an Interim Order increasing electric and gas discounts to 25% and 30% respectively for NWE. The order also increased an allocation for Energy Share for low income customer assistance to $300,570 and reduced the renewables allocation by about $200,000. In doing this, the Commission noted that NWE should continue to transfer those cost effective renewable expenditures to default supply costs where they can be recovered through regular rates rather than the USB surcharge. MCC feels that since those items can be supported elsewhere that it was appropriate to transfer and reallocate that money to low income assistance, which is what the Commission did in the that first Interim Order and subsequent Interim Orders in 2006 and 2007. In 4/08 the Commission stated they wanted to finalized these orders and asked NWE to file supplemental testimony containing information regarding the cost to independently fund the gas programs with gas surcharges. Larry Nordell responded to NWE testimony 5/08. NWE said they felt they needed to go back and reallocate these allocations so there would be broad customer participation in the USB programs. Larry disagreed with the objective of broad customer participation because the USB programs were designed to serve social needs that were not being met elsewhere and were not designed to be broad participation programs. If that becomes the obstacle, the cost effectiveness purpose is defeated. There is a provision in electric USB statues that sets the USB surcharge at 2.4%, but the provision says the 2.4% is an initial funding level and is subject to being credited for the company's internal expenditures for those same purposes. So the original intent was that NWE be credited for expenditures made elsewhere in the company for USB purposes Larry

believed that is an indication that those reallocations to other programs can be viewed as expenditures on those types of programs for setting what the Commission views should be the proper allocation to the USB programs. Larry also pointed out that NWE's interpretation of fully funding the gas programs could increase that gas surcharge by $2.1 million, where Larry felt at most it should be increased by $417,000 because that was the amount reallocated or transferred as a result of this docket. MCC's view was that there was legislative intent in the crediting mechanism that indicated if NWE started to use internal funding mechanisms to fund these purposes, the USB program surcharge could actually be reduced. MCC was not suggesting it be reduced but that money then could be redirected to other public purposes within USB. The ETIC had a bill draft for the electric USB that addresses the sunset at the end of 2008, but Bob is unsure if the amount of revenues will be changed. MCC's effort here would be to try to recognize that these expenditures have not actually been decreased for these programs, but have been moved elsewhere and are still included in rates. A hearing was held 7/08 and briefs have been filed.

D2006.1.2-Investigation and Direction on MDU Electric and Natural Gas USB: This docket is the Commission investigation of MDU's electric and natural gas USB programs initiated 1/06. MCC entered into a stipulation with MDU, DPHHS, AARP and Energy Share. The stipulation covered the three year period of 2008-2010 and involved a transfer of $175,000 in electric funding to gas programs and some increases for Energy Share for low income assistance and allocation to several other areas. After the filing of that stipulation the Commission requested briefing, not only from MDU parties but also from parties in the NWE docket on some legal issues that staff had raised. MDU strenuously objected to NWE participants filing briefs in this docket. MCC's brief opined that the use of electric funds for gas programs is not contrary to law, in fact, the Commission thought it would be resolved in legislation during the 2007 in HB 427. The language in law now states that the Commission can set a gas USB charge and in setting that charge, they should take into account the gas USB programs. MCC also said there were no minimum levels required in statute

for any of the programs except for low-income assistance, when an allocation of 17% minimum is required. The staff then issued a memo on 6/30 recommending the Commission end the practice of what they called cross subsidizing gas programs with electric funds. This was the first time MCC had heard the term cross subsidy; that practice had always been known as pooling. Senator Tropila asked Bob if HB427 allows for pooling. Bob said it is unclear but MCC and MDU both believe that HB 427 does allow it. The staff also said they believe that all statutorily defined USB programs are a legitimate purpose for expenditures and should receive a sufficient level of funding. The staff memo speculated that the Commission had done things differently in the past because they had no other option under the statues that existed then and that HB 427 had given them this option. The Commission issued a Final Order without a hearing, which had been requested by MDU if the stipulation had not been adopted. The Final Order basically did adopt many provisions of the stipulation for a one year period with some minor modifications. The order required MDU to file budgets that separately fund all natural gas USB programs with gas charges and reflects Commission policy on allocations the Commission is going to order in the NWE docket.

<u>Docket No. ADV 2008-809; MDU v. PSC, Complaint and Petition for Judicial Review of Order No. 6727b:</u> MDU filed a Complaint and Petition for Review of the Final Order in the previous case in District Court in Helena. In the complaint MDU states that the Commission violated Montana law by not holding a hearing in D2006.1.2 and that HB 427 did not prohibit the use of electric USB's for gas programs. MDU also feels that the proper scope of USB programs is vested in the Department of Revenue, not the Commission. Bob agrees with the first two points that MDU made, but not the third, and is evaluating participation in this complaint. Representative McNutt asked Bob if it was common practice for the PSC staff to issue memos of recommendation. Bob said the staff normally issues memos immediately prior to hearing, and sometimes after hearing, summarizing testimony but this was unusual in that they were trying to interpret Commission authority and the legal issues at hand. Another unusual instance is recently in a Qwest docket the Commission has

designated an Advocacy Staff, so the Commission now has an Advocacy Staff and an Advisory Staff in that proceeding.

D2008.8.95-NWE Application for Approval to Construct and Operate the Mill Creek Generating Station to Supply Regulation Service: NWE filed an application on 8/25/08 to construct and operate the Mill Creek Generating Station. NWE had entered into contracts regarding turbine purchases in 3/08 so this has been in the works before this application was filed. The application proposes to build a simple cycle gas fired turbine plant with three turbines, each with approximately 50 megawatts of capacity. The plant will provide about 140 megawatts of regulation capacity and would be capable of burning diesel and biodiesel as backup fuels to the primary gas fuel. The initial phase will have two of the three turbines running with a projected fuel use in the plant, running at an average load of 34 megawatts, of about 3.1 bfc of gas and about 1.3 million gallons of diesel fuel. The Mill Creek site was chosen due to its proximity to transmission, gas, rail and water lines and because it is already a superfund site with limited environmental considerations. The initial phase start is projected to be late 2010. With respect to the need for the plant, NWE says it will help with regulation to meet reliability criteria to balance loads and resources on the system. This is something that NWE has always had to do and historically they have had a need for 60 megawatts of regulation which was provided by Kerr Dam. However, FERC regulation required that Kerr Dam be used differently so they had to replace Kerr Dam with a contract from Idaho Power. Idaho Power now needs that power for its own regulating purposes so that contract has also gone away. NWE has gone out on the market and has had difficulty replacing that contract, currently contracting with Avista and PowerEx. Part of the reason NWE is having trouble finding resources is because other utilities are having to incorporate intermittent resources on their systems. NWE is proposing to build this plant with a 50/50 capital structure, which Bob believes is not an actual capital structure, with a 10.75% return on equity and an overall return of 8.26%. NWE estimates the capital cost of the plant to be $206 million with a caveat that costs are increasing and could end up being substantially more. The estimated annual revenue requirement at this

point for the plant is $80.4 million with $13 million of that allocated to transmission and the rest allocated to retail supply with a $12.2 million credit for sales they will make from energy out of this plant. Intervenor testimony is due 11/14/08 and a hearing is tentatively set for 2/25/09.

Bob handed out the gas cost updates for the last 5 months, which shows a significant decrease. Also, MCC was granted an expedited argument on 10/22/08 in the PPL case at FERC that was appealed to the 9th Circuit.

MARY WRIGHT PROVIDED THE FOLLOWING HIGHLIGHTS OF TELECOM CASES CURRENTLY PENDING:

Eligible Telecommunications Carrier Cases

D2008.9.111-Investigation of Compliance with ETC Designation Requirements, Alltel Communications, Inc: The only significant change in ETC cases is an Investigation the Commission just started regarding whether Alltel has complied with its build-out requirements in its order granting ETC status. The intervention deadline is 10/24/08.

Qwest

D2008.1.6-PSC Investigation of Qwest Corporation Regarding the Justness and Reasonableness of Rates, Schedules and Terms and Conditions of Service:
This item is a result of years of effort by the Commission and MCC to get a rate reduction for Qwest customers and a stipulation was filed in the AFOR case. There have been discovery difficulties in this case and the current issue at hand is that two intervenors have asked the Commission to establish price floors for Qwest services and have requested a wholesale rate reduction similar to retail reductions proposed in the AFOR. Discovery disputes are ongoing and a hearing is scheduled for 11/5/08.

D2008.1.3- Ronan and Hot Springs Telephone Complaint: This case deals with the issue of transiting traffic, which is carried by Qwest, and Ronan has been challenging this issue in every forum available, including before the Commission and federal courts, since 1999. This case is still ongoing.

HIRING OF EXPERT WITNESSES

MOTION: Senator Tropila moved approval to hire the services of the following expert witnesses:

D2008.8.95 NWE Application for Approval to Construct and Operate the Mill Creek Generating Station to Supply Regulation Service - John Wilson

D2008.5.44 NWE Annual Natural Gas Tracker Filing- George Donkin

D2008.5.45 NWE Annual Electric Tracker Filing- John Wilson

D2008.6.69 NWE Application for Approval of its Interest in Colstrip Unit 4 as an Electricity Supply Resource under Certain Terms and Conditions including Certain Treatment of Net Operating Losses-John Coyle and John Wilson

VOTE: The motion passed unanimously.

FINANCIAL REPORT

The September financial report was presented to the Committee. Bob said that due to the amount of work the office has had with the expedited cases the budget has already been hit pretty hard in contracted services so far for this year. Also, each year the MCC tax rate is recalculated and was recently set at 0.0008 with the prior year being 0.0014. The Department of Revenue takes the appropriation level and

subtracts the carryovers from prior years in their collections and each year calculates a new rate. Representative Groesbeck asked if there is going to be a negative impact on the budget due to the calculation being lower than the previous year. Bob said that it never has in the past and MCC's budget and spending authority is set and the Department of Revenue is to collect the appropriation that has been authorized.

BUDGET

Bob discussed the budget development process for the next biennium that needs committee approval for submission for the budget book. A report was given to the committee showing a breakdown of second level categories including 4 historical years, the base year, and the two projected years. The first category is salaries and actual expenditures for 2008 were roughly $300,000 with the budget being $407,000. This is due to not having filled the vacant Rate Analyst position and Larry, who is retired and working half time, has not yet been replaced. The base appropriation for salaries this year is $426,769 and the tentative request for 2010 is $453,372, which is a 6.2% increase. Bob did not want to have the economist position recorded as half time and end up not being able to fill it at a full time rate and debated backing that request down to the $426,769, with some minor modifications, or leaving it at $453,372. Bob recommended leaving the request at $453,372 because both vacant positions have recently been advertised with a potential ceiling salary of $75,000 in order to attract more qualified applicants. That amount would also allow Larry to stay on with the new hire for training purposes. "Other Services" is the biggest part of the budget and fluctuates quite a bit based on caseload from year to year. The biggest item there is contracted services, which includes a $250,000 contingency fund, so to compare 2009, 2010 and 2011 with 2006, 2007 and 2008, the $250,000 would have to be taken out of 2009, 2010 and 2011. In 2008 $174,000 of the contingency was used, in 2007 $73,000 was used and in 2006 $44,000 was used and prior to that, the contingency was only used about once every 5 years. Bob feels the base level for the last several years has not

been reflective of workload and the costs incurred for doing that work. Ordinarily, to set the budget for the next two years, Bob would work with the 2008 base and not include the amount used in the contingency but in this proposed budget Bob kept that used amount in to set the base level for the following two years and added the $250,000 back in as the contingency. This resulted in a 26% increase in that category over this biennium and a 14% biennial increase if the $250,000 was taken out. The other categories are relatively simple. For communications the 2008 and 2009 budget levels were used, for supplies an estimation based on a replacement cycle for computers and other supply needs was used, for travel historical averages were used, rent is a contracted amount, for repair and maintenance historical averages were used and other expenses actual projected costs were calculated. The net effect of the 2010/2011 biennium request would roughly be a 26% increase over the 2008/2009 biennium. If you take out the contingency, it is an 18.6% biennial increase or roughly a 9 or 10% increase on an annual basis. Senator Tropila asked Bob if he could defend this request before the budget subcommittee. Bob said that it will be difficult because usually MCC requests are more conservative than the statewide averages but this time the requests are higher.Representative McNutt asked if Bob was asking for that much because he was afraid the contingency could be taken away or because he feels the need for that amount plus the contingency. Bob said he views the contingency as a fund he does not anticipate using and is only there for unforeseen circumstances and caseload. MCC's experience the last several years show the base amounts have been underestimated and if that is not taken into account, then in fact, the contingency is not really a contingency anymore, it is just a separate funding source for what expenditures are expected to be.

MOTION: Representative McNutt moved to approve the budget as presented to the committee.

VOTE: The motion passed unanimously.

Public Comments

Based on HB94 requirements, a public comment period was offered, but none was given.

Adjournment

There being no further business to come before the Committee, the meeting adjourned.

Respectfully submitted,

_____, Robert Nelson, Consumer Counsel

Accepted by the Committee this _____ day of _____, 2009

_____, Chairman.