



Electric Utility Industry Restructuring Transition Advisory Committee

PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

55th Montana Legislature

SENATE MEMBERS
STEVE DOHERTY
JOHN "J.D." LYNCH
WALTER MCNUTT
MIKE SPRAGUE
FRED THOMAS
BILL WILSON

HOUSE MEMBERS
ERNEST BERGSAGEL
TOM DELL
STANLEY FISHER
ROYAL JOHNSON
RAY PECK
JOE QUILICI

COMMITTEE STAFF
TODD EVERTS
STAFF ATTORNEY
STEPHEN MALY
RESEARCH ANALYST
JUDY KEINTZ
SECRETARY

DRAFT

TRANSITION ADVISORY COMMITTEE

September 24, 1999 - Federal Building, Helena, MT

Original Minutes with Attachments

COMMITTEE MEMBERS PRESENT

Sen. Fred Thomas, Chair
Rep. Joe Quilici, Vice Chair
Rep. Tom Dell
Sen. Steve Doherty
Rep. Stanley Fisher
Rep. Royal Johnson
Sen. J. D. Lynch
Sen. Walter McNutt
Rep. Ray Peck
Sen. Mike Sprague
Sen. Bill Wilson

Bob Anderson
Ed Bartlett
Stephen Bradley
Neil Colwell
Art Compton
Kathy Hadley
Bob Nelson
Don Quander
Roma Taylor
Dave Wheelihan

COMMITTEE MEMBERS EXCUSED

Rep. Ernest Bergsagel
Stan Dupree
Gene Leuwer

STAFF MEMBERS PRESENT

Stephen Maly
Todd Everts
Judy Keintz, Secretary

VISITORS' LIST

Attachment #1

COMMITTEE ACTION

- < Held elections for Chairman and Vice Chairman for the interim.
- < Approved the minutes of the January 21, 1999 meeting.
- < Approved the interim calendar.

- < Approved funding be requested from appropriate sources.
- < Set next meeting date for Friday, November 5, 1999 in Helena.

I WELCOME AND INTRODUCTIONS

< Members, staff, and interested persons in attendance

CHAIRMAN THOMAS called the meeting to order at 10:00 a.m. Legislators new to the Committee were introduced and include: SEN. SPRAGUE, SEN DOHERTY, REP. FISHER, REP. PECK, REP. JOHNSON, REP. DELL. Public members new to the Committee were also introduced and include: ED BARTLETT - Montana Power Company (MPC) - public utilities, ART COMPTON - Department of Environmental Quality (DEQ), and NEIL COLWELL - Avista Corporation (electrical power market industry). Returning Legislators include: REP. BERGSAGEL, SEN. LYNCH, SEN. MCNUTT, REP. QUILICI, SEN. THOMAS, and SEN. WILSON. Returning Committee members include: BOB ANDERSON - Public Service Commission (PSC), STEPHEN BRADLEY - Crow Indian Tribe, STAN DUPREE - IBEW- LOCAL 44 (organized labor), KATHY HADLEY - National Center for Appropriate Technology (environmental and conservation interests), GENE LEUWER - Rocky Mountain Development Council (low income program provider), BOB NELSON - Montana Consumer Counsel, DON QUANDER - (large industrial customers representative), ROMA TAYLOR - (non-industrial retail sector), and DAVE WHEELIHAN - Montana Electric Cooperatives Association. Roll call was noted; MR. DUPREE and MR. LEUWER were excused, **Attachment 2**.

< Review of Agenda

There were no changes made to the agenda. MR. MALY remarked that future meetings could be held in a larger meeting room, given the space requirements necessary. He also pointed out a handout of legislative information, **Exhibit 1**.

< Adoption of Minutes

Motion/Vote: SEN. LYNCH MOVED THAT THE MINUTES OF THE JANUARY 21, 1999, TAC MEETING BE APPROVED AS WRITTEN. THE MOTION CARRIED UNANIMOUSLY.

II ADMINISTRATIVE MATTERS

< Selection of Chair and Vice Chair

MR. MALY related that REP. BERGSAGEL was unable to attend the meeting and requested that he be allowed to issue a proxy vote specifically for selection of Chairman and Vice Chairman.

Motion/Vote: SEN. LYNCH MOVED THAT REP. BERGSAGEL'S PROXY BE ACCEPTED FOR THE ELECTION OF CHAIRMAN AND VICE CHAIRMAN. THE MOTION CARRIED UNANIMOUSLY.

Nominations were opened for Chairman of the TAC.

REP. QUILICI nominated SEN. THOMAS for Chairman. He maintained that SEN. THOMAS was the chief sponsor of the electrical restructuring act and has done a credible job as the Chairman of the TAC last interim.

Motion/Vote: SEN. DOHERTY MOVED THAT NOMINATIONS BE CLOSED. THE MOTION CARRIED UNANIMOUSLY.

Motion/Vote: SEN. LYNCH MOVED THAT THE VOTE BE CAST UNANIMOUSLY FOR SEN. THOMAS AS CHAIRMAN OF THE TAC. THE MOTION CARRIED UNANIMOUSLY.

Nominations were opened for Vice Chairman of the TAC.

SEN. MCNUTT nominated REP. QUILICI for Vice Chairman of TAC. He related that REP. QUILICI has been involved in this process and the Montana Consumer Counsel for a number of years.

Nominations were closed for Vice Chairman of the TAC.

Motion/Vote: SEN. LYNCH MOVED THAT THE VOTE BE CAST UNANIMOUSLY FOR REP. QUILICI AS VICE CHAIRMAN OF THE TAC. THE MOTION CARRIED UNANIMOUSLY.

< **Discussion of terms of service of current TAC members**

CHAIRMAN THOMAS explained that the terms for the non-legislative members to the Committee that were made in May of 1997 will be completed the end of this year. At that time, the respective organizations will make those appointments for another two-year term. The new legislative members are appointed for the entire legislative interim. The former legislative members are appointed until the end of this year and need to be reappointed for the second year of the interim. The Chairman will submit a letter to the Legislative Council requesting the reappointments.

< **Overview of Committee Finances: budget authorization; sources and relative shares of funding support; policy directive(s) re: expenditures**

MR. MALY reported that the Legislature authorized a \$100,000 expenditure for the TAC this interim. Last interim \$200,000 was appropriated and approximately \$75,000 was spent by the Committee. To date, no monies have been received. The TAC funds are from private donations. The \$100,000 amount was authorized by the Legislature but not appropriated from the General Fund. The TAC did not exceed its

authorized expenditures last interim but did exceed, by a small margin, its cash balance. A small deficit was incurred this summer and will need to be paid from the first monies received. Last interim there was a proportional split from the monies received from the investor owned utilities (IOUs) and the Cooperatives. He added that the Legislative Council insists that this Committee adopt a spending policy so that the accounting staff is better able to track expenditures. This addresses bills to be paid automatically absent any directive from the Chairman.

CHAIRMAN THOMAS believed that the same funding mechanism would be available from the IOUs and the Cooperatives this interim. He added that the Committee traveled to several different areas in the state last interim which resulted in extra costs.

MR. MALY explained that the reason for the deficit involved a transfer from this Committee to the Revenue Oversight Committee for the purpose of analyzing the tax implications of restructuring. The accounting system did not show this transfer as an expenditure. The state has a new accounting system which should provide an improved format for budgetary analysis. Six meetings have been recommended for this interim. A meeting in Helena costs approximately \$2500.

CHAIRMAN THOMAS requested that the accounting of last interim's expenditures be provided to the Committee members. He reiterated that the \$100,000 authorization had been made by the Legislature but the TAC will rely on the IOUs and the Cooperatives for funding.

Motion: SEN. LYNCH MOVED THAT THE CHAIRMAN REQUEST FUNDING FROM THE APPROPRIATE SOURCES.

Discussion:

SEN. DOHERTY suggested that the new companies involved in electrical energy supply in Montana be included as a funding source.

Substitute Motion: SEN. LYNCH MOVED THAT THE CHAIRMAN REQUEST FUNDING FROM THE APPROPRIATE SOURCES TO INCLUDE THE NEW COMPANIES INVOLVED IN ELECTRICAL ENERGY SUPPLY IN MONTANA.

Discussion:

MR. MALY emphasized that due to the unique funding sources of the TAC, it does not have the same line of credit available to other interim committees within the Legislative Council budget. He added that the need for funds is imminent.

Vote: THE MOTION CARRIED UNANIMOUSLY.

CHAIRMAN THOMAS requested that a budget be prepared under the new accounting system. This budget would be available for the approval of Committee members at the next meeting. The budget would need to include travel funds for future meetings.

Motion/Vote: SEN. LYNCH MOVED THAT THE DECISION ON TRAVEL BE MADE AT THE DISCRETION OF THE CHAIR. THE MOTION CARRIED UNANIMOUSLY.

< **Brief review of statutory duties under SB 390 (1997) and related legislation (1999).**

MR. MALY remarked that the italicized items in the work plan (**Exhibit 2**) demand the attention of the Committee this interim. Page two of the work plan summarizes the bills that were passed in the 1999 Legislative Session as well as the SB 390 enabling legislation from the 1997 Legislative Session. He added that the Purchasers' Cooperative bill will be discussed later in the meeting. House Bill 211 allows governments to be default suppliers. House Bill 174 addresses changes in tax classification.

A report on the status of restructuring is due November 1st of this year and another report will be due on November 1, 2000. The newsletter that was produced last interim to fulfil a quarterly reporting requirement is no longer a required product. The newsletter could be continued as a means of communicating to the public. The same format or a less expensive format could be used. He requested substantial input and review from the Committee members. The concern is that the report needs to be accurate and reflect current reality.

CHAIRMAN THOMAS asked Committee members whether they would like to provide a quarterly report in addition to the annual report.

SEN. SPRAGUE remarked that one of the Committee's major responsibilities is informing the public on the transitional process. He believed the quarterly report could be an informational guide on a statewide basis. He recommended that members most familiar with restructuring information be included in the newsletter and could be on a Subcommittee to work on this project.

CHAIRMAN THOMAS remarked that he had received suggestions that industry personnel be included in preparation of the articles. An example would be to have someone with the Cooperatives cover the Pennsylvania Power and Light (PP&L)/MPC change of hands. Staff could incorporate this information into the report.

REP. QUILICI insisted that it was necessary that the public understood both competition and choice when dealing with energy supply.

SEN. LYNCH requested comparisons of what other states are doing in the area of restructuring. He would also like the default situation in other states to be addressed. Information needs to be compiled and provided to the public. It is important that the public be aware that these issues have arisen throughout the country.

CHAIRMAN THOMAS summarized that the annual report would be prepared with assistance from Committee members. The quarterly newsletter could be discussed at the next meeting of the TAC.

MR. MALY remarked that the annual report could include the substantive issues and the comparisons to activities in other states as well as at the federal level.

III BRIEF REPORTS AND UPDATES FROM MEMBERS & OTHERS

< PP&L - Roger Petersen

MR. PETERSEN related that they are looking forward to closing the sale with the MPC by the end of October. One of the main factors involved includes the Federal Energy Regulatory Commission (FERC) requirements. The environmental permits are being processed. Approximately 500 people who have worked with MPC in the past will be working for PP&L. There will be no layoffs and union contracts will remain in place. They are establishing an office in Butte that will house 60 people. They are making a \$3 million investment in Butte that will house the traders of electricity and the group that manages the hydro assets. They are hiring local individuals to work in the corporate office in Billings. He introduced **Mark Sorem, PP&L Energy Trading**, and added that he and the group have offered constructive comments to the Public Service Commission regarding default provider rules.

< Consumer Counsel - Rep. Joe Quilici - Bob Nelson

REP. QUILICI reported that at the Counsel's last meeting they heard presentations from PP&L, MPC and the Bonneville Power Administration (BPA). The Counsel has provided written comments on subscription power sales and standards of service to the BPA. They have also discussed default providers and buying cooperatives. He has had discussions with the sponsor of the Texas restructuring bill who told him that they used Montana's legislation when drafting their legislation. He added that there has been a lot of activity in Washington, D.C. recently, since the Clinton Administration is pushing for electrical deregulation. The Chairman of the Commerce Subcommittee on Energy and Power has prepared a draft of energy restructuring legislation. States that have implemented restructuring laws want to maintain their own autonomy. The national legislation that is being drafted will allow those states to use the laws already enacted. However, the FERC will have a lot to say regarding any state and/or federal legislation. The Counsel is staying current with the rule making that the PSC is implementing regarding default providers.

MR. NELSON added that they are also actively involved in the MPC contested case proceedings before the PSC.

< **Utilities - Ed Bartlett**

MR. BARTLETT provided a copy of an Edison Electric Institute publication, “Current Status Summary - The States: Leaders in Electric Power Industry Restructuring”, **Exhibit 3**. This report recaps the electrical power industry restructuring in the states. He also received a more detailed report from Edison Electric Institute and has requested copies for Committee members and interested parties. Twenty-four states have adopted final orders or laws implementing restructuring in their states.

He thanked the PP&L group for the efforts that have been made to effect the closing of the sale. The magnitude of what needed to be done caused the parties not to be able to meet the July 1st closing date. A closing should be completed by the end of October. Approximately 50 significant activities needed to occur that were out of the hands of the buyers and sellers. He added that Colstrip Unit 4 is not part of the sale and was excluded from the transaction earlier this summer. This was a result of the failure to receive consent from the owners of Colstrip Unit 4. The MPC does not own its interest in this project. This is a lessor/lessee interest and the MPC will maintain that interest in Colstrip Unit 4.

With respect to the anticipated closing on the asset sale, the MPC has made estimated corporate income tax payments of approximately \$30 million.

SEN. DOHERTY raised a concern that the tax payments were made before the closure of the sale. MR. BARTLETT explained that the tax department analyzed that it would be appropriate to make the estimated tax payments in anticipation of the closing. They were concerned about the possibility of interest and penalties if these estimated taxes were not paid.

< **Cooperatives - Dave Wheelihan; Warren McConkey**

MR. WHEELIHAN commented that as of July 1 Glacier Electric Cooperative in Cut Bank has offered customer choice to all consumers. Flathead Electric plans to open their system to competition sometime next year. The other Cooperatives around the state have prepared cost of service studies and have the capability of providing unbundled bills. They are updating their metering technology to reflect the requirements of restructuring. Education efforts continue on a weekly and monthly basis through meetings and publications focused on updating consumers on choice. The Cooperatives have formed a universal systems benefit pool as required by statute. Committees have been established and forms have been sent to the Cooperatives showing the credits allowed. The Cooperative pooled funds will allow them to meet their obligation in a timely manner. In July, the Board of Directors voted to ask a subsidiary of the Cooperative Finance Corporation to provide grant funds to study aggregation and the default supply in Montana. They have been awarded \$50,000 to perform this study. This study will review aggregation and power supply to provide customers with an active choice. Requests for proposals will be going out within the next few weeks and the study should be completed by early next year. As a component of the study, default supply will also be

addressed including whether a default supply coop would be functional. They have met with the Montana Electricity Buying Cooperative in early September. They have been asked to arrive at what is needed in terms of default supply and this information should be received within a few weeks.

SEN. SPRAGUE questioned whether the TAC could be privy to the study information. MR. WHEELIHAN explained that the Board has not addressed this issue. They may be able to fully share the information or perhaps segments of the information could be shared.

REP. JOHNSON asked why they would be interested in developing markets of default suppliers. MR. WHEELIHAN explained that the study is developing markets for choice. People will be able to pool kilowatt hours which could be turned over to a power supplier. A component of the study will address the people who do not actually chose a supplier. The policy of the Board is to prefer that people actually make a choice.

Warren McConkey, General Manger of Flathead Electric in Kalispell and Energy Northwest, Inc., related that last November they purchased distribution and transmission assets from PacifiCorp. They went from a 12,000 customer cooperative to a 48,000 customer cooperative. They have recently grown to over 50,000 customers. The transaction was to create a wholly owned subsidiary to handle the purchase in Kalispell, Columbia Falls and Whitefish. Energy Northwest, Inc. is investor owned, but Flathead Electric is the sole investor. Flathead Electric is operated as a cooperative. Since Energy Northwest is investor owned, the PSC regulates it. Flathead Electric provides services to Energy Northwest by way of a maintenance management contract. The books are completely separate. Their biggest problem is wholesale power supply. They have no ownership in power supply so it is necessary to purchase from other sources. Twenty percent of the power that is purchased goes to Energy Northwest and 80% goes to Flathead Electric Cooperative.

The city limit boundaries of Kalispell are quite small so approximately 2/3rds of the area is in Flathead Electric territory. Many customers have the city limit line go through their property and as a result they receive bills from both Energy Northwest and Flathead Electric. Policies and rates for Energy Northwest are regulated by the PSC. He added that PacifiCorp did not handle credit and collections very well. They inherited over 3,000 residential accounts that went through the winter months without a disconnect policy and had in excess of \$2,000 past due amounts. They have been working with the customers and placing them on payment plans.

They had filed a transition plan with the PSC on the 12,000 member Flathead Electric Cooperative. This was approved and they were ready to move forward before the acquisition took place. They now have a target date of July 1, 2000 for full customer choice.

When they acquired PacifiCorp, Flathead Electric had 50 employees and PacifiCorp had 42 employees. They currently have 140 employees in Kalispell and Libby.

REP. QUILICI questioned whether the power purchased from the BPA was purchased in the same manner for the IOU and the cooperative. **Mr. McConkey** clarified that Flathead Electric is not a FERC licensed reseller. Energy Northwest had to go to the BPA and was not able to secure preference status. They are purchasing on a federal surplus contract, which is at a higher price.

SEN. DOHERTY inquired if there were any indications of how many people would be interested in moving to choice in the Flathead area. **Mr. McConkey** responded that their rates are the second lowest retail rates in Montana and so he did not believe a lot of customers would be moving to choice. They are working with the large industrial customers. If they want to move to choice, they will serve as a broker and help them purchase power from the market. They have indications that some industrial customers are interested in this method.

REP. JOHNSON remarked that if a default supplier was able to provide power for a lower amount than any other supplier, everyone would want default supply power.

REP. DELL asked what process was being used to educate the consumers. **Mr. McConkey** related that they send out a monthly newsletter with informative articles in the interest of educating consumers on their choice for energy supply. As they get closer to July of 2000, there will be information in the newspaper.

CHAIRMAN THOMAS asked the current situation on taxes. **Mr. McConkey** explained that PacifiCorp paid the taxes at the 12% rate and this was addressed in the closing on the sale. Effective in November, there are signed agreements with all six counties that Energy Northwest operates in, that the company will continue to pay two parts of the tax bill. They will pay an assessment on 3% and they will then calculate the tax at 12% and pay the difference in lieu of taxes. In effect, every county will receive the same revenue as before the sale. They will continue to pay 12% on all acquired property. This will continue until there is property tax reform in Montana. They made a commitment to pay the property taxes at the same level that PacifiCorp had been paying.

SEN. SPRAGUE remarked that the 3% commitment is a law. The other 9% is a good faith agreement.

CHAIRMAN THOMAS asked that a proposal regarding tax reform be brought to the TAC and that all interested persons work together on the issue. He further stated that the Flathead tax issue should be included in the TAC annual report. **Mr. McConkey** related that they are aggressively working on the issue of tax reform.

CHAIRMAN THOMAS further remarked that MR. BARTLETT had stated that the MPC has made two tax payments this year of \$15 million anticipating tax liabilities on the sale of its assets. He questioned whether \$30 million is the amount the state had planned on for revenue. MR. BARTLETT affirmed that it was.

CHAIRMAN THOMAS questioned whether the MPC would be making any future payments beyond the regular taxes for next year. MR. BARTLETT remarked that for the fourth quarter estimated tax, they would be making a substantial payment far in excess of what has been paid in previous years.

< **Buyers' Cooperative - Kathy Hadley**

MS. HADLEY reported that the Buyer's Cooperative has set up a board of directors. Their five member board of directors includes: Jim Morton - Missoula, HRDC; George Thurman - Past PSC Commissioner and Northwest Power Planning Counsel Member; Clyde Jarvis - Past PSC Commissioner; Errol Galt, Rancher, and Kathy Hadley. Their purpose is to look out for the interests of Montana's small residential and small commercial electric customers. The board meets monthly and has started discussions with energy suppliers. They are participating in the PSC rule making on default supplier.

< **Public Service Commission - Bob Anderson**

COMMISSIONER ANDERSON related that PacifiCorp sold its Montana distribution assets to Flathead Electric during their transition plan proceedings. The Commission went to court to prevent PacifiCorp from leaving the state and escaping their jurisdiction since it is possible that there could be negative stranded costs. A final order should be issued in the PacifiCorp case within a month.

Tier two of the MPC's transition case is in suspension pending the closure of the sale of generation assets. The Commission has suspended the procedural schedule. Parties have been asked to provide legal briefs on several issues in this case. One issue is whether or not the final order in the transition case needs to determine a transition amount which is fixed. The MPC has proposed an amount that could be tracked through time. The Commission has asked for legal opinions on whether this is allowed by SB 390. Another issue is whether the case should consider market power and revenue requirements of the company. The PSC has a December 1st deadline for rules for licensing default suppliers. A set of draft rules was distributed several weeks ago and informal comments were requested. The Commission received varied responses on the proposed rules.

The BPA has asked the four Public Utility Commissions in the four northwest states to recommend an allocation of 1800 megawatts for the first five year subscription period. The Commissions negotiated throughout the summer but were unable to come up with a plan. They asked the BPA for another 100 megawatts. An agreement has been reached in which Montana's allocation during the first five year period

would be 24 megawatts. The small customers buying cooperative enabled by SB 406 does not meet BPA's standards as a preference customer.

Montana Dakota Utilities (MDU) has filed an application for approval of their universal system benefits program (USBP). MDU also has a petition before the Department of Revenue (DOR) asking for a declaratory ruling on the credibility of its USBP charge. The MPC has its USBP in place for this year and the Commission is expecting a filing in the near future for the year 2000.

The Commission continues to license suppliers. There are now 23 companies licensed as electricity suppliers in Montana. Four suppliers are licensed to serve the residential market.

There is an ongoing lawsuit with the MPC on the standards of conduct issue which involves open access to the company's bills. Negotiations are continuing and settlement options are being explored.

SEN. DOHERTY questioned whether the state was prepared to take substantive action with the current BPA issue regarding non-qualification. COMMISSIONER ANDERSON maintained that the comments from the region were that the BPA needed to maintain their current standard. The PSC filed comments that the Montana's Buyers' Cooperative should qualify for preference power.

REP. FISHER questioned why the Montana School Boards Association would want to be an energy supplier. COMMISSIONER ANDERSON clarified that they would be an aggregator.

< **Large Industrial Customers - Don Quander**

MR. QUANDER remarked that he represents about a dozen of the largest customers in the state who are on the MPC system. He works with approximately a half dozen other customers as well. All but four of these customers have exercised choice and gone to market. He expects two more to go to market before the end of the year. There has been plenty of competition and they have been receiving at least three to five competitive bids from potential suppliers. Generally, they are very happy with the service. The suppliers have worked very closely with the companies to study their energy needs and load management as well as reviewing and structuring their energy. Some have saved money and others haven't. There are some fixed term arrangements for six to eighteen months and these customers have done very well. Savings have been up to 20% in some cases. The average savings is 5% to 10%. The transition costs have yet to be determined and this still leaves a question mark on the amount of actual savings.

The importance of scheduling has been well noted. In the past, customers didn't need to worry about scheduling and customers usually didn't consider how they were using power. Now customers need to understand how and when to use power much better than in the past. It has been a good lesson to learn.

The MPC filed a large transmission tariff case approximately a year ago which has not been finally approved by the FERC at this time. As part of that resolution, the balancing and scheduling issues that caused problems have been addressed and some customers will be receiving rebates. This made them realize the importance of transmission in the newly restructured world.

Some customers have found it takes up to six weeks to receive a bill and this is not a final bill. The systems were not in place to address billing. The manner in which the bills are being handled may present an opportunity for consolidated billing.

Across the country as rates are unbundled, there has been a tendency for utilities to shift costs away from supply to transmission and distribution. Some of those shifts may be a correction of misallocation over the years. When the MPC first filed its transition plan, there was a request for a 45% increase in transmission charges. The final settlement on this issue was around 30%. MR. QUANDER added that the MPC has been very good in terms of working with customers and providing information.

Customers above the one megawatt level who have gone to choice are able to claim a credit against their USBC for directing equivalent amounts of money to qualifying energy efficiency projects or low income energy assistance. He predicted that in the first year the program should have between \$500,000 and \$1,000,000 spent on energy efficiency projects. He also believed there would be several thousand dollars directed to low income energy assistance programs.

SEN. SPRAGUE questioned whether the large industrial customers experienced more or less predictability after choosing a supplier. MR. QUANDER believed the customers appreciated the flexibility rather than predictability. The largest remaining issue of uncertainty is the issue of the transition costs. This has caused people to contract for power supply in short term rather than long term increments.

SEN. SPRAGUE inquired as to whether the status of the electrical restructuring was an asset insofar as recruiting businesses to move to Montana. MR. QUANDER maintained that at least two or three customers made savings that helped to keep existing businesses alive. The industrial companies in the state have been speaking favorably about restructuring. An employee at the cement plant in Trident, Montana, who has worked with energy supply for that plant, is now in charge of energy contracts for the company's various facilities on a nationwide basis. He has taken on this new job responsibility from his Montana location.

CHAIRMAN THOMAS remarked that the PSC will be dealing with the outstanding transition costs. COMMISSIONER ANDERSON explained that following the closing of the sale, the numbers will be filed with the PSC and the case will then proceed. The law requires that they end up with a net stranded cost

number. This includes using the regulatory stranded costs, the QFs, and other items specified in the law and arriving at a net amount. This process should be completed a few months after the closure of the sale.

< **Deb Young - Montana Power Company**

MS. YOUNG provided a list of the licensed suppliers in the state, **Exhibit 4**. Seven electric suppliers have customers on the MPC system. Twenty-five percent of MPC's electric retail loads have moved to competitive supply choice. In recent weeks MPC has received requests from individual residential and small commercial customers to move to competitive choice. There are still three years left in the transition period. If an MPC customer found a supplier's contract they wanted to sign, they could be moved to choice today. MPC's pilot programs determine how many customers make the switch at one time. This is mainly for administrative purposes. Five of the natural gas suppliers have commercial customers in competitive choice. They have not seen residential customers on the natural gas side move to choice. There are 330 accounts that make up the 25% of their electric retail load that have moved to choice. A large number of the accounts are a naturally pooled group of customers who chose to shop in an aggregated format and moved a large number of accounts from across the state into choice.

MS. YOUNG provided a handout, "Exploring the New Frontier of Energy Choices", **Exhibit 5**. This was mailed as a bill insert to all 325,000 MPC customers. Six percent of these customers have stated their interest in finding out more about choice. Approximately one-third of these customers were willing to give their names and addresses to a supplier. One competitive supplier has followed up with customers and it appears that this is where the customer enrollments [mentioned above] are coming from. Other bill inserts have included information on customer choice, energy restructuring, the new unbundled bill, etc., **Exhibits 6, 7, & 8**. The September billing statement includes the new unbundled format. The new bill shows the customer's energy usage for the previous year. It is important that consumers shop for supply using a more complete picture. The MPC plans additional mailings to the customers who have responded to the early supplier mailing. A separate mailing to all customers near the end of this year will be tied to the sale of the generation and the unbundled bill.

Software is in place to support the scheduling, settlement, and load profiles. They have entered into agreements with suppliers who are serving customers on their systems. Metering equipment and telephone lines for large customers are being installed. A supplier list can be found on the MPC website. The PSC also has a supplier listing on their website.

MPC has been collecting USBC funds since the first of the year. The PSC has set allocations amongst various categories and directed them to redirect any unspent large customer dollars to low income energy assistance needs for 1999. An advisory committee has worked with them on refining the 1999 activity and developing a plan to be filed with the Commission. Under the allocation, approximately \$1 million was

allocated for renewable projects. They have received approximately 20 good proposals, most of these are residential or small commercial generation projects.

REP. QUILICI remarked that all four suppliers licensed for residential and small commercial customers are Montana corporations. He maintained that for customers to have a choice, there needs to be more outside suppliers for the residential market.

SEN. DOHERTY inquired as to the greatest degree of market penetration in other states for residential and small commercial customers. He also questioned whether anyone is operating without a net, i.e., without protection from rate increases. MS. YOUNG remarked that she is not aware of any states operating “without a net”. In Pennsylvania, the residential and small commercial customers have been moving to choice. In California, pricing mechanisms have caused suppliers not to be interested in serving the small customer at this time. MR. QUANDER reported that in one area of Pennsylvania, a territory of 200,000 residential customers has had 15% of the customers switch to choice. This number is reflective of the residential market in Pennsylvania.

SEN. DOHERTY questioned whether these customers were actually paying less for energy supply. MR. QUANDER responded that they are paying about 5% less.

SEN. DOHERTY further questioned whether such consumers are still operating under the incentives of the Pennsylvania deregulation bill that required a freeze on residential rates. MR. QUANDER affirmed that they were and added that these incentives may be counter incentives because they would cause the customer not to switch energy supply.

MR. COMPTON asked how the MPC arrived at the costs on their unbundled bills. MS. YOUNG explained that the rates are approved in their tariffs before the PSC.

< **Bonneville Power Administration - Gail Kuntz**

MS. KUNTZ remarked that there are two general approaches identified for small customers who have historically been served by MPC to potentially access power from the BPA in the future. This includes the creation of new entities that may be able to qualify for preference access and eligibility, or the receipt of federal benefits through a settlement of the historic residential exchange program under subscription.

The standards for service policy includes historic standards that the BPA has relied upon to determine who is eligible to take federal power and who is eligible to become a preference entity. The BPA prepared a draft proposal to modify the standard which holds that to be a customer of the BPA, the entity must own

distribution wires. This would recognize an ownership lease arrangement as a substitute for full and absolute ownership of wires. Public comment from states other than Montana urged the BPA to go back to the strict interpretation which was strict wires ownerships. Many Montana comments urged the BPA to recognize retail open access. The BPA will be issuing a record of decision on this issue in the months ahead.

A year ago, the BPA proposed to make a block of combined power and financial benefits available for residential and small consumers served by IOUs. They had asked the four state utility commissions to work together and the BPA would then recommend an allocation. A week ago the commission recommended an allocation which allotted 24 average megawatts (Mwa) to Montana Power customers. There is a statement in the recommendation that this amount does not represent Montana's total interest and position as far as what would be considered a reasonable allocation. The BPA will prepare a federal document for regional public comment. It is their intent to make a final decision by November. Thereafter each of the IOUs will have the choice of taking the settlement that is their share of that allocation or using the traditional residential exchange program.

In late August, the BPA issued their initial rate case proposal. The rates they are proposing will remain basically the same as they are presently. They expect to reach a record of decision on this issue in April of 2000. After that there is a 120-day window which is referred to as the subscription window. During that time people will be signing contracts to purchase the power. There is a Montana hearing on the rates proposal on October 5th in Missoula at 6:30 at the Double Tree Hotel.

REP. QUILICI questioned how long it would take for MPC customers to be able to receive the settlement power. MS. KUNTZ explained that this was a topic of active debate and she could not comment. The final rates will not be known until April of 2000.

SEN. DOHERTY questioned who made the comments in favor of the strict interpretation regarding entities qualifying for preference. MS. KUNTZ explained that she had not reviewed the list but believed that some of the arguments for strict interpretation were from other regions and also from some of the tribes.

MR. BARTLETT remarked that the MPC has been adamant about its opposition to the actions of the BPA on this issue. Allocating 24 Mwa out of 1900 Mwa to the IOUs in Montana does not seem fair or equitable.

SEN. DOHERTY added that not allowing the Montana Buyers' Cooperative preference power along with everyone else who is receiving the same, also does not seem to be equitable.

MS. KUNTZ related that every action the BPA takes is under federal statute as well as in a regional context. These issues must be viewed both through a regional lens and a Montana lens. The allocation of the IOUs' share of the power has been based on historic participation in the program.

< **Northwest Power Planning Council - John Hines**

MR. HINES provided a handout on the subscription allocation, **Exhibit 9**. The Racicot Administration believes Montana is not receiving a fair allocation of benefits for IOU residential customers. The methodology used to allocate the benefits gives most of the power to Washington and Oregon, some of the power to Idaho, and almost none to Montana. A different methodology would recognize the benefits that Montana provides the federal power system and would give Montana a significantly increased amount of power. The understanding for quite some time has been that the BPA would be giving MPC exchange customers about 40 to 45 megawatts.

The BPA has approximately 8,540 Mwa to distribute on a region-wide basis. Benefits will be allocated among power public utilities, the residential exchange settlement, and direct service industries. The region includes the Columbia River Basin: Oregon, Washington, Idaho and western Montana. There are parts of Washington that are not a part of the Columbia River Basin that are still partaking in the benefit. Arguments have been made to the BPA that all of Montana should likewise be considered. Under federal law, all regional preference load must be met by the BPA.

The proposal for apportioning the megawatts includes 1,500 Mwa to the direct service industry, 1,900 Mwa to the residential customers of investor owned utilities, of which MPC has been allocated 24 Mwa, and 5,200 Mwa to the public power customers.

The response to SB 406 included the creation of a small customer buying cooperative. This entity and others in the state have tried to change the standards for service allowing them to become recognized as a utility and allowing them to qualify for preference power. The administration advocated a recognition by the BPA that Montana was distinct and had special circumstances that should be recognized in allowing Montana to receive a greater amount of power. The BPA once again maintained that 45 megawatts would be available. The BPA also asked the four state public utility commissions to develop an allocation strategy for the 1,900 Mwa. It was made clear that the recommendation of the commission would not be binding on the BPA and they would be the ultimate authority in making the decision. At first, the commission allotted only 8 Mwa to Montana. The letter on allocation which the commission has sent to the BPA includes a statement that the allocation does not fulfill or satisfy Montana's requirements. The allocation of the 1,900 Mwa includes: Montana - 24 Mwa, Idaho - 290 Mwa, Washington - 845 Mwa, and Oregon - 742 Mwa. This will give Montana consumers approximately a seven cents a month benefit from federal power. Montana is asking for this allocation to be doubled to 45 Mwa.

Montana generates more energy than it uses. It provides significant flood control. These items should be factored into the allocation. Montana needs to get more Congressional involvement in this issue. MR. HINES also noted that a lawsuit could disrupt the subscription process.

< **Natural Resources Defense Council, Renewable Northwest Project (NRDC/RNP),
Montana Electricity Buying Cooperative - Debbie Smith**

MS. SMITH remarked that the 1999 Legislature made tremendous strides in correcting some of the weaknesses involved in electrical restructuring from a consumer and environmental point of view.

The NRDC/RNP is mostly satisfied with the implementation of the USBC. There are some areas of disagreement which include the TAC Guideline which has been adopted by the DOR that allows large customers to self direct their USBC funds to low income programs. The intent of the legislation did not delegate to large corporations the ability to decide which low income programs will receive funding in this state. This is a serious problem of interpretation of the USBC. She commended the MPC's implementation of their USBC obligations.

The Montana Electricity Buying Cooperative will examine the record of decision being made by the BPA on the standards of service issue. The Cooperative is incorporated and is participating in the Commission's default supplier license rule making proceeding. They hope to obtain a default supplier license. This will give them standing to challenge any decision that the BPA may make that would preclude an entity that meets the statutory requirements of a preference entity with the sole exception that it doesn't own poles and wires.

There was an unprecedented set of joint comments filed to the BPA on the standards of service by the MPC, the Buying Cooperative, the PSC, the NRDC, and the League of Cities and Towns. The strongest opposition in the region comes from the public power community. The TAC will need to consider how Montana can share in this resource. Of the 8,500 Mwa of power the BPA generates, approximately 600 Mwa is generated in Montana. Over 5,000 Mwa is going to public power. Half of the preference power is going to entities that are clamoring for the market.

SEN. DOHERTY remarked that at some time there will be an energy war in the Pacific Northwest because the BPA needs to meet everyone's needs. The entitlement to preference power is a very important issue. He recommended that the TAC take a strong stand on this issue.

REP. JOHNSON questioned the monetary value of Montana's allocation. MS. KUNTZ explained that 24 Mwa would cost out to approximately \$1.7 million annually and 48 Mwa would be a little over \$3 million annually.

MR. HINES stated that the critical question is the difference between market price and the price at which the BPA could provide the energy.

MS. KUNTZ remarked that the number of hours in a year, 8760, should be multiplied by the \$8.00 differential of proposed BPA rates as compared to a proposed forecast of the market price in the next five years.

CHAIRMAN THOMAS recommended that this issue be addressed at the next meeting. A panel presentation would be informative and helpful to the TAC.

IV NEXT MEETING

The next meeting will be held on Friday, November 5, 1999, in Helena.

V ADOPTION OF INTERIM CALENDAR

The Committee adopted the interim calendar in the TAC work plan.

VI ADJOURNMENT

There being no further business, the meeting was adjourned.

Sen. Fred Thomas, Chairman

CI2255 9305loxa.