



## LEGISLATIVE CONSUMER COMMITTEE

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### SENATE MEMBERS

Sue Malek, Chair  
Jeff Welborn, Vice-Chair

### HOUSE MEMBERS

Mary Ann Dunwell  
Mike Hopkins

### DRAFT MINUTES LOG

September 17, 2019  
Room 137, State Capitol Building,  
Helena, Montana

Please note: This document is a Minutes Log and provides annotation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video recording of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of the meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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Please contact the Montana Consumer Counsel at 406-444-2771 for more information.

### COMMITTEE MEMBERS PRESENT

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Senator Sue Malek, Chair  
Senator Jeff Welborn, Vice Chair  
Representative Mary Ann Dunwell

### COMMITTEE MEMBERS EXCUSED

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Representative Mike Hopkins

## MONTANA CONSUMER COUNSEL STAFF PRESENT

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Robert A. Nelson, Consumer Counsel  
Jason Brown, Staff Attorney  
Paul Schulz, Rate Analyst  
Jaime Stamatson, Economist  
Suzanne Snow, Secretary

## VISITORS PRESENT

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Brian Fadie – Montana Environmental Information Center (MEIC)  
Ben Fitch-Fleischmann, NorthWestern Energy  
Jeff Fox – Renewable Northwest  
Ann Hedges- Montana Environmental Information Center (MEIC)  
Keith Lundby – MECA  
Mark Reller – Bonneville Power Administration (BPA)  
Diego Rivas – NW Energy Coalition  
Will Rosquist – Public Service Commission

Sign in Sheet ([Attachment 1](#))

AGENDA – ([Attachment 2](#))

## CALL TO ORDER

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10:03:25 Chair Malek called the meeting to order with the roll call. ([Attachment 3](#))

## APPROVAL OF MINUTES OF PREVIOUS MEETINGS – June 26, 2019

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10:04:31 MOTION: Representative Dunwell moved acceptance of the minutes.

VOTE: The motion passed unanimously on a voice vote.

## NORTHWESTERN ENERGY PROCUREMENT PLAN - PANEL DISCUSSION

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Chair Malek stated that it is the goal of the committee to educate consumers about the possibilities for change, and what Montana might consider for the future in the energy industry. Chair Malek opened the panel discussion and introduced each panel member with a short biography prior to their presentation.

10:05:45 Mr. Mark Reller, Bonneville Power Administration ([Attachment 4](#))

10:28:32 Chair Malek asked whether smart meters would be required with the implementation of demand response.

10:28:40 Mr. Reller responded that at the residential scale, yes, but not necessarily at the industrial scale.

10:30:03 Dr. Ben Fitch-Fleischmann, NorthWestern Energy ([Attachment 5](#))

10:50:24 Chair Malek asked for clarification on the meaning of “Capacity Factor”.

10:50:27 Dr. Fitch-Fleishmann responded that the capacity factor is calculated by taking the energy the resource produced divided by what it could have produced if it was operating at 100 percent

10:50:59 Rep. Dunwell stated that the NorthWestern Energy Procurement Plan has an emphasis on natural gas development and distribution, which means a cost to rate payers. Rep. Dunwell asked Dr. Fitch-Fleischmann if he could talk about the cost of drilling, installing pipelines, transporting and all that goes along with natural gas production, and how it will affect the rate payers.

10:51:56 Dr. Fitch-Fleischmann responded by stating that cost to ratepayers is what NorthWestern is trying to minimize and the purpose for the planning exercise. Dr. Fitch-Fleischmann noted that NorthWestern is directed by state laws to consider the lowest long-term total cost. He further noted that the Legislature would need to direct the company to include external costs for it to account for them explicitly in its planning decisions.

10:53:26 Rep. Dunwell stated that if NorthWestern does not account for any externalities like the cost to public health, or the threat of pipeline leaks in its modeling, consumers will be paying for them.

10:54:08 Dr. Fitch-Fleischmann asked for clarification of Rep. Dunwell's question.

10:54:26 Rep. Dunwell stated that there were some costs that NorthWestern did not incorporate in its modelling, and those costs would be transferred to ratepayers.

10:54:40 Dr. Fitch-Fleischmann responded that state statutes direct NorthWestern to account for explicit costs that rate payers will pay in its planning.

10:55:48 Rep. Dunwell stated that this is a big extranational turning point as to what we want our energy to look like in the next ten, fifty, or one hundred years.

10:56:20 Dr. Fitch-Fleischmann stated that long term is a key part of the conversation. NorthWestern does a 20-year planning horizon, which is updated every two to three years.

10:56.:55 Dr. Fitch-Fleischmann continued with his presentation – Page 13

11:07:08 Rep. Dunwell asked when a referenced Request for Proposal (RFP) would be issued.

11:07:47 Dr. Fitch-Fleischmann responded that NorthWestern expected to release an RFP for resources by the end of this year or quarter one of next year.

11:09:13 Mr. Brian Fadie, MEIC ([Attachment 6](#))

11:15:07 Chair Malek inquired as to when Colstrip 4 was built.

11:15:10 Mr. Fadie responded that Colstrip 4 was built in 1985.

11:15:14 Mr. Fadie continued with his presentation.

11:24:57 Mr. Diego Rivas, NW Energy Coalition ([Attachment 7](#))

11:31:54 Rep. Dunwell asked for clarification on whether 'buying stuff' meant energy or facilities.

11:32:14 Mr. Rivas stated that his interpretation of the plan is that the utility needs to buy generation, buy facilities, or procure generation from other facilities. The plan does not state exactly what options NorthWestern is considering.

11:32:39 Rep. Dunwell asked how much the consumers would pay.

11:32:44 Mr. Rivas responded that he did not want to speak for NorthWestern, but that a lot would depend on the RFPs.

11:33:19 Rep. Dunwell stated that she hoped that the Colstrip plant was not considered part of the 'stuff'. Rep. Dunwell expressed her concerned with Mr. Fadie's statement that Colstrip wasn't modelled in the current plan and if that is accurate, then why not.

14:34:00 Dr. Fitch-Fleischmann responded that Mr. Fadie was correct by stating that NorthWestern is an outlier. NorthWestern relies heavily on the market and explained if Colstrip were retired earlier than anticipated, then the size of the energy gap NorthWestern needed to fill would increase.

11:36:04 Mr. Rivas continued with his presentation.

11:55:25 Chair Malek asked if NorthWestern came up with 35 more megawatts of power how many homes would that service.

11:55:29 Mr. Rivas responded that 1 megawatt would supply approximately 2,000 homes.

11:55:46 Jeff Fox, Renewable Northwest ([Attachment 8](#))

12:03:53 Chair Malek asked whether the plan would have to go through the review process again including public comment.

12:05:04 Mr. Fox responded that he believed it would go through the whole NEPA analysis.

12:05:55 Dr. Fitch-Fleischmann noted that integrating transmission planning into resource planning is very difficult because it adds a layer of complexity into an already complex process, but that as an industry they are trying to get there.

12:06:57 Mr. Fox responded to comments from some of the other panelists regarding Resource Adequacy planning before finishing his presentation.

12:17:13 Will Rosquist, Montana Public Service Commission, outlined the process the Commission will take in reviewing NorthWestern's plan.

12:21:24 Rep. Dunwell expressed her thanks to the Public Service Commission for allowing the public to weigh in on the process along with expressing her concern that NorthWestern, a public utility, does not allow the public at the table during its planning process.

12:22:52 Mr. Rosquist responded by distinguishing the difference between NorthWestern's and the Commission's procedures.

12:25:49 Rep. Dunwell noted that she would like to see NorthWestern's advisory committee open to the public moving forward.

12:25:51 Mr. Rosquist briefly outlined the Commission rules regarding public input into the planning process.

12:29:22 Dr. Fitch-Fleischmann noted that the public is represented during the planning process by those participating in ETAC meetings.

12:32:48 Rep. Dunwell asked when and where these meetings would take place.

12:32:52 Dr. Fitch-Fleischmann stated that the meetings are held at NorthWestern's office in Butte.

12:33:03 Chair Malek asked Mr. Rosquist if the public meetings that the Public Service Commission holds are advertised and if so, where can these notices be found.

12:33:19 Mr. Rosquist stated that it is a statutory requirement that the Public Service Commission publish a legal notice in the newspaper specifying the date of the public meeting, but

that does not necessarily preclude the Commission from issuing a press release that could get picked up by a reporter in the newspaper, which may also appear at the same time as the legal ad.

- 12:34:13 Mr. Rosquist continued his presentation with the Public Service Commission evaluation of the plan and noted that the Commission will make recommendations to NorthWestern on how to remedy any concerns it has received and agrees with through comments. Mr Rosquist also noted that the Commission has retained a consultant to evaluate NorthWestern’s modelling process.
- 12:36:28 Chair Malek invited Mark Reller to highlight what is happening regionally.
- 12:37:10 Mr. Reller outlined how Montanans can be engaged in the larger regional co-operative planning efforts.
- 12:38:21 Chair Malek asked if the upcoming October 2 meeting is open to the public and will it be publicized.
- 12:38:28 Mr. Reller stated that the meeting is open to the public and more information would be available on the Northwest Power Planning Council’s website.
- 12:39:03 Chair Malek closed the panel discussion and thanked the panel members for their attention and information presented to the committee today.

Public Comment  
None

#### LUNCH BREAK

- 13:33:55 Chair Malek called the Legislative Consumer Committee back to order with the status of cases pending.

#### STATUS OF CASES PENDING

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- 13:34:09 - Bob Nelson briefly highlighted the cases that have seen some change in the status since the Committee’s last meeting. ([Attachment 9](#))
- 13:34:30 2019.09.058 – NorthWestern – Annual Power Costs and Credit Adjustment Mechanism
- 13:36:23 2016.07.052 – NorthWestern - 2017 Electricity Supply Tracker
- 13:37:04 2019.02.008 – Grizzly Wind - Qualifying Facility (QF)
- 13:42:51 2019.02.009 - Black Bear Wind - QF
- 13:43:26 2019.06.034 – Caithness Beaver Creek - QF
- 13:44:13 Rep. Dunwell asked Mr. Nelson whether there was any advantage in being a QF as opposed to a large facility.
- 13:44:39 Mr. Nelson responded that the advantage that the QFs have is that they do not have to take on the risk of marketing their power. The utility has an obligation to purchase at

the Utility's avoided costs, so the utility and the Commission do not get to look at the cost of production of the QF, but rather they look at the cost the utility is facing.

13:45:26 Rep. Dunwell stated that it seemed that larger projects were getting around some of the criteria by breaking projects up into smaller pieces.

13:45:48 Mr. Nelson noted that there have been issues in the past about geographic separation and that there is definitely some strategizing with respect to how to get qualified, not only as a QF, but also in some cases as a small QF, and access to default tariffs as opposed to the negotiated commission set rates.

13:47:07 Chair Malek asked Jaime Stamatson why he agreed with some of the avoided cost calculations and disagreed with others - In particular the Black Bear Wind project.

13:47:40 Mr. Stamatson responded that he agreed with the capacity cost calculations. The Commission has been using a default 5 percent for wind even though Jamie had argued in the past for doing a pay as you go, or a more of a measured capacity contribution but the Commission has been reluctant to do so.

13:48:19 Chair Malek asked Mr. Stamatson to explain what makes up the capacity costs.

13:48:40 Mr. Stamatson responded that the capacity cost would be the capacity payment the QF would receive. Mr. Stamatson noted that 5 percent of name plate capacity would be an acceptable calculation. He stated that capacity is instantaneous and can be called upon at any given time and that energy is the byproduct of capacity; the time variation of it.

13:49:41 Mr. Nelson noted that all of the 3-megawatt solar projects highlighted in the status of cases are trying to qualify for the default tariff, rather than as one large project.

13:50:29 Rep. Dunwell asked if that was smart growth.

13:50:48 Bob Nelson responded that from the perspective of the QF it maximizes their revenues and that larger projects might be more cost effective, but they would not generate the same revenues for the developers.

13:51:37 Chair Malek asked Mr. Nelson to clarify if a utility does not want wind because it is considered too variable, it was more likely to deny a 120 megawatt project than a project that came in at 80 megawatts or below.

13:51:59 Mr. Nelson responded that Rep. Dunwell was correct, the utility is required to purchase the 80 megawatt project and highlighted some of the complex issues related to QFs.

13:53:58 Mr. Nelson continued with the status of cases –

2019.06.034 - Caithness Beaver Creek (page 2)

13:54:40 2019.05.026 – Meadowlark - Certification as Eligible Renewable Resource (CREP)

13:55:55 BDV-17-0776 – Vote Solar, MEIC and Cypress Creek Renewables v. PSC  
DA 19-0223 – MTSUN v. PSC - Appeals of prior Commission QF orders (Page 3 and 4)

14:00:27 2018.07.046 – NorthWestern - Annual Gas Cost Tracker (Page 4)

14:01:56 2019.04.019 – Townsend Propane -Annual Rate Adjustment

14:02:26 2019.07.042 – Havre Pipeline – Farmstead Customer Rate Adjustment

14:02:49 2018.09.060 – MDU – Application to Increase Electric Rates ( Page 5)

14:03:22 2019.06.036 – MDU – Annual Purchased Power Tracking Adjustment

14:04:31 2018.12.084 – MDU – Annual Rate 93 Avoided Cost Update (Page 6)

14:04:51 2019.07.043 – MDU – Biennial Electric Integrated Resource Plan

14:05:47 2019.09.064 MDU – Annual Gas Cost Tracker

14:06:00 2019.03.011 – MDU – Natural Gas Conservation Program

14:06:25 2018.09.057 – MDU – Application to Discontinue Natural Gas Service to Saco/Bowdoin – Page 7

14:07:15 FERC Docket RP 19-165-000 – WBI Energy Transmission – Gas Transmission Rate Increase

14:08:27 2019.06.031 – Energy West – Annual Gas Cost Tracker (Page 8)

14:09:30 2019.06.032 – Energy West – Annual USB Tracker

14:10:05 2019.08.047 – Energy West – Petition for Accounting Order  
2019.08.048 – Cut Bank Gas – Petition for Accounting Order

14:12:15 Rep. Dunwell asked if Energy West was protesting the property taxes involved in the preceding docket.

14:12:27 Bob responded that Energy West negotiated some adjustment, but is not protesting the taxes.

14:13:03 2018.02.011 – Miller Oil – Annual Propane Cost Tracking Adjustment – (Page 9)

14:13:29 2014.06.057 – Glacier Point Water and Sewer – Intent to Continue Standard Rates

14:15:23 2018.10.070 – Kookoosint Village Homeowners Assoc. – Application for Transfer of Ownership and Proposed Standard Rate (page10)

14:16:01 2018.09.063 – HLH, LLC – Application to Increase Water Rates

14:16:51 2010.06.060 – North Star Development – Application for Water and Sewer Rate Increase

14:19:25 2019.04.025 – Phantom Hills Water Company – Application to Transfer to City of Missoula (Page 11)

14:19:55 2019.03.013 – Williams Water Works – Application for Purchase and Sale

14:21:35 Town of Geraldine – Notice of Sewer Rate Increase.

14:23:24 2019.06.039 – Citizens Telecommunications Co. – Joint application to transfer Control of Citizens from Frontier Communications Corp. to Northwest Fiber, LLC

14:25:00 Chair Malek stated that it was her understanding that telecommunications were federally regulated, and not under state regulations.

14:25:12 Mr. Nelson responded that two-way switched voice-grade access is state regulated. Mobile, cellular, internet communications, and VoIP are not regulated by the Commission

14:26:26 Chair Malek asked Mr. Brown to give the Committee a more in-depth look at the MTSUN docket.

14:27:08 Jason outlined the progress of the docket.

14:29:05 Chair Malek asked if MTSUN was the first large solar project in Montana.

14:29:13 Mr. Brown confirmed that MTSUN is the first 80 megawatt solar QF in the state.

14:29:44 Chair Malek noted that NorthWestern customer surveys and the Montana Conservation voter surveys indicate two different viewpoints on renewable energy. Chair Malek asked Mr. Brown how the Consumer Counsel, as representatives of the consumer, makes sure it meets the consumer's desires in the energy field and still addresses costs.

14:31:55 Mr. Brown noted that PURPA includes some balancing of the goal of promoting these technologies as emerging technologies, but also making sure that there is a consumer indifference and that cost is a major consideration.

14:36:35 Chair Malek asked if a representative from the Consumer Counsel would be going to the Northwest Power Pool meeting that Mr. Reller had mentioned earlier.

14:37:29 Mr. Nelson responded that he was not aware of that particular meeting. Mr. Nelson noted that he had recently attended the Western Electric Coordinating Council (WECC) meeting where the same issues were being raised. Mr. Nelson offered a cautionary note on developing resources for export in that it should not be the ratepayer that is responsible for that development.

14:39:24 Chair Malek inquired about the bill that required the Commission to apply the same review process to NorthWestern as it did to Montana-Dakota Utilities. Also, Chair Malek asked if the hearings examiner to be appointed at the Commission would alleviate some of the workload on the Montana Consumer Counsel with respect to small water companies in the state.

14:40:00 Mr. Nelson responded that Senate Bill 244 stated that, if the Commission adopted a tracker mechanism for one utility, it has to be the same for all utilities and that the Commission has issued a notice of roundtable to begin the process on how to apply that bill.

With respect to House Bill 597, which talks about the Commission acquiring a hearing examiner, Mr. Nelson noted that the bill does not become effective until July of 2020 and that he did not expect it to affect the Consumer Counsel's work load, as the purpose of the hearing examiner role was to address the issue of Commission staff being both the decision maker and in the role of advisor.

14:42:24 Rep. Dunwell inquired as to what it would take to encourage large scale development of QFs. Is there something legislatively the Consumer Counsel could suggest to the Committee to lift the restriction and encourage large scale renewable development?

14:43:54 Mr. Nelson responded that the implementation of PURPA was to put renewable development on an equal footing and to remove barriers so that utilities that controlled the transmission cannot exclude those developers.

14:50:57 Chair Malek asked for clarification as to why excess power is perceived to be a problem - If Montana is involved with the Western Energy Imbalance Market and has an RTO, then is that not exactly what we want to happen?

14:52:40 Mr. Nelson stated that he agreed with Chair Malek. Mr. Nelson also noted that his concern with NorthWestern's plan is whether they have looked far enough for potential load and resource diversity within the entire western United States.

- 14:53:33 Chair Malek asked about implementation of HB 597, and Consumer Counsel responsibility for hiring an outside consultant.
- 14:54:23 Mr. Nelson clarified that HB 597 does not take effect until July 2020 and the Consumer Counsel has the authority, not the requirement, to hire an independent monitor to monitor the competitive solicitation process to ensure that it conforms to industry best practices.
- 14:56:08 Rep. Dunwell asked that the Consumer Counsel make sure that the monitor is independent and not a subsidiary of the company.

#### FINANCIAL REPORT

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- 14:58:00 Mr. Nelson reviewed the current budget report (dated 9-16-19) and noted that he did not have any concerns on the budget at this point in the fiscal year.

#### CONTRACTED SERVICES

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- 14:59:03 Bob requested authorization from the Committee to retain the services of: -
- David Dismukes, Acadian Consulting in Docket 2019.09.058 - NorthWestern Annual Power Costs and Credit adjustment.
- Robert Loube, Rolka Loube, in Docket 2019.06.039 – Citizens Telecommunications Co. Joint Application to Transfer Control of Citizens from Frontier Communications Corp. to Northwest Fiber, LLC
- 15:00:34 Chair Malek called for a motion to approve the contracted services.
- MOTION: Vice Chair Welborn moved to approve the retention of the consultants as requested by the Consumer Counsel.
- VOTE: The motion passed unanimously by a voice vote.

#### NEXT MEETING

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- 15:01:49 The next meeting was set for November 14, 2019 at 10:00 a.m.
- 15:01:57 The Committee discussed the proposed format for the overview of NorthWestern Energy's rate case for the upcoming meeting in November.

#### ADJOURNMENT

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- 15:03:44 There being no further business before the Committee the meeting was adjourned
- MOTION: Vice Chair Welborn moved to adjourn the meeting.
- VOTE: The motion passed unanimously by a voice vote.
- The meeting adjourned at 3:04 p.m.