



ENERGY RESOURCE PLANNING

INTRODUCTION

The Energy and Telecommunications Interim Committee in January and March allocated time to a review of Montana's integrated resource planning and supply procurement processes. In March, questions were raised about the efficacy of the existing planning requirements in both statute and in administrative rules. In the information below, the statutes and rules that apply to NorthWestern Energy and Montana-Dakota Utilities are broken into two sections and briefly summarized. A detailed review of the rules and statutes is included in the full program review presented in January.

The committee in March requested additional information and time during the May meeting for a discussion of the rules and statutes. In reviewing the information below, the committee may wish to focus on whether the statutes or Public Service Commission (PSC) rules need to be revisited or changed, and if so how. The committee may wish to discuss whether revisions to the statutes, if any, should be directed at requiring the PSC to take certain actions related to the planning process or if revisions should be directed at requiring utilities to take certain actions when developing plans.

NORTHWESTERN ENERGY

After Montana's experiment with deregulation and before its return to regulation in 2007, the Montana Legislature developed the "electricity supply resource procurement planning" process. NorthWestern Energy completes an electricity supply resource procurement plan under the planning statutes in 69-8-419 through 69-8-421, MCA.

The goals and objectives of the planning process are outlined below:

- 69-8-420. Electricity supply resource procurement plans — comment on plans.** (1) The public utility shall develop electricity supply resource procurement plans. The plans must be submitted to the commission at intervals determined in rules adopted by the commission.
- (2) An electricity supply resource procurement plan must demonstrate the public utility's achievement of the objectives provided in 69-8-419 and compliance with commission rules.
- (3) The commission shall:
- (a) review the electricity supply resource procurement plan;
 - (b) provide an opportunity to the public to comment on the plan in accordance with subsection (4); and
 - (c) issue written comments within 9 months after the plan is submitted to the commission that identify:
 - (i) any concerns of the commission regarding the public utility's compliance with commission rules; and
 - (ii) ways to remedy any concerns.
- (4) The commission shall hold two public meetings in an area of the state encompassed by the plan. Notice of the meetings must be published once a week for 2 consecutive weeks in a newspaper of general circulation at least 30 days prior to each meeting.

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The Public Service Commission enacted rules to implement the statute. The rules do not impose specific resource procurement processes or mandate particular resource acquisitions. The rules establish a framework for considering resource needs and optimal ways to meet those needs.

The rules establish when a plan is required – Dec. 15 in each odd-numbered year. The rules provide the basis for PSC review and consideration of the prudence of a utility's electricity supply resource planning and procurement actions and are the standards against which the PSC evaluates electricity supply resources for which a utility requests approval under 69-8-421, MCA.

MONTANA-DAKOTA UTILITIES

The Montana Integrated Least-Cost Resource Planning and Acquisition Act (IRP) was the result of a 1988 agreement between the Montana Power Company, the Human Resource Council, and the Natural Resources Defense Council. Currently Montana-Dakota Utilities is the only utility in Montana that submits a plan under the IRP statutes in Title 69, chapter 3, part 12, MCA.

The overall goals of the planning process are below:

69-3-1204. Integrated least-cost plan. (1) The commission may adopt rules requiring a public utility to prepare and file a plan for meeting the requirements of its customers in the most cost-effective manner consistent with the public utility's obligation to serve. The rules may prescribe the content and the time for filing a plan.

(2) A plan must contain but is not limited to an evaluation of the full range of cost-effective means for the public utility to meet the service requirements of its Montana customers, including conservation or similar improvements in the efficiency by which services are used.

(3) The commission may adopt rules providing guidelines to be used in preparing a plan and identifying the criteria to be used in determining cost-effectiveness. The criteria may include externalities associated with the acquisition of a resource by a public utility. The rules must establish the minimum filing requirements for acceptance of a plan by the commission for further review. If a plan does not meet the minimum filing requirements, it must be returned to the public utility with a list of deficiencies. A corrected plan must be submitted within the time established by the commission.

(4) A plan filed with the commission by a utility, as defined in 75-20-104, must be provided to the department of environmental quality and the consumer counsel.

The IRP statutes are intended to clarify the PSC's authority to require electric and natural gas utilities to file a plan with the PSC; clarify that utilities may, at the PSC's discretion, recover costs if they invest in energy efficiency or other investments consistent with plans; and eliminate duplication between PSC planning requirements and those required under the Major Facility Siting Act.

The rules establish when a plan is required – Sept. 15 of each odd-numbered year. The rules do not change the fundamental ratemaking relationship between utilities and the PSC. The planning requirements in rule are a restatement of the PSC's regulatory objectives.

COMMENTS BY REGULATORY ASSISTANCE PROJECT (RAP)

During the March ETIC meeting, the Regulatory Assistance Project (RAP) reviewed Montana's utility planning statutes and rules, as well as requirements in other states. RAP also discussed stakeholder participation in utility planning. The ETIC directed staff to develop two bill drafts LCIRP1 and LCIRP2 that focus on public and stakeholder participation.

A summary, provided by RAP, of its recommendations on Montana's overall planning requirements is attached. The ETIC may want to evaluate the comments in two different regulatory regimes currently established in statute and outlined above – one for MDU and one for NorthWestern Energy. In addition, the committee may want to consider whether changes, if any, are made in statute or if the PSC is directed in statute to make specific changes in rule.

Based on those RAP comments, below are potential questions for ETIC discussion:

- Should the statutes or rules provide the utility with guidance on what is included in a plan or mandate what is included?
- If requirements are mandated, what should be included in a plan (for example, demand forecasts and resources for a 20-year planning period, certain historical data, use of certain computer modeling and types of analysis, or other requirements)?
- Should competitive resource solicitations be mandated?
- Should the statutes or rules require a code of conduct for affiliate transactions? If so, what should be included?
- Should timelines for the filing of plans be revisited?
- Should the PSC be required to make specific rulings on the role of plans (for example, resource acquisitions must comply with approved plans or risk cost recovery, or other requirements)? If so, to what extent and on what issues?