

## HOUSE BUSINESS AND INDUSTRY COMMITTEE

Chairman, Rep. Jerry Metcalf, called the Business & Industry Committee to order on March 7, 1983, in Room 420 of the Capitol Building, Helena, Montana, at 9:00 a.m.

### SENATE JOINT RESOLUTION 17

SEN. ELLIOTT, District 8, sponsor, opened by saying this resolution urges the Bonneville Power Administration to reduce rates for direct service customers in recognition of the long-term commitment made to those plants at the time of their construction. Most of the aluminum plants in Montana are direct service customers. They were enticed into Montana by the construction of Hungry Horse Dam and the low cost of power. The Northwest Power Act has skyrocketed the price to direct service customers. They entered into this act thinking the rate would go from 3 mills to 15 or 16 mills. It has gone to 26 mills. The BPA is currently reconsidering their position on direct service customers and this resolution would help in trying to keep the direct service industry alive. If these industries close, whole communities will be affected. The Bonneville Power Administration is trying to sell surplus power in the region now at a price of 10 or 11 mills while Anaconda Aluminum is still paying 26 to 28 mills. It seems strange that we ship our power out at a much cheaper rate than what our users in the northwest can get it for.

### PROPOSERS:

REP. AUBYN CURTISS: The BPA is beginning to respond to the outcry because the aluminum industry is being impacted by power rates. There are a lot of jobs that depend upon some kind of moderation in the rates and I urge you to support this resolution.

REP. MARY ELLEN CONNELLY: This is a continuation of my resolution that Congress oversee the Bonneville Power budget and direct the Northwest Power Planning Council to review it. The direct service industry should be considered as a part of the whole budget area - they are separated right now. The people are worried that if they drop it for direct service, they might raise it to individuals in the area.

REP. RAY LYBECK: I concur with what has been said and support this resolution.

### OPPOSERS: none

SEN. ELLIOTT, in closing, said the act that he referred to in his testimony requires that direct service industries pick up the marginal costs of new power added to the system by the private power utility companies. If only one of these direct service industries closes up, the other DSI's will have to pick up that added share. You can have the domino effect to force them all out of existence. Bonneville will be losing a

tremendous source of revenue. Recently, the Bonneville Power Administration has sold 30% of it's load to these direct service industries but have generated close to 50% of their revenue. If they lose this load, the commercial, industrial and residential users will have to pick it up.

QUESTIONS:

REP. KADAS: The DSI's are using 30% of the load and paying for 50% of the revenue? Sen. Elliott: They are paying a marginal rate of 26 mills. The privates are paying in the area of 20 mills.

REP. KADAS: Would you be satisfied if we treated DSI's as regular customers - then everyone's rate would go up? Sen. Elliott: They are paying at the high end and keeping the low down.

SENATE BILL 430

SEN. MIKE HALLIGAN, District 48, sponsor, opened by saying this bill enlarges the definition of "qualifying small power production facility" to include a facility that produces energy through cogeneration.

PROPONENTS:

MAX DEIBERT, Consulting Engineer, Billings: The 1981 legislature enacted SB 139 which addresses small power production facilities but does not reference cogeneration facilities. The purpose of SB 430 is to include cogeneration in 69-3-601 of MCA to demonstrate the intention of the State of Montana to encourage the development and utilization of both Small Power Production and Cogeneration facilities. (Exhibit #1)

TOM SCHNEIDER, Commissioner, Public Service Commission: We strongly support this legislation. It provides consistency with Montana law and makes good sense to put all energy on one plane. In the Senate committee we took conservation which had some opposition.

JOHN ALKE, Montana Dakota Utilities: Once the bill was amended in the Senate the utility companies all support it. It will make the law parallel the federal laws.

GENE PHILLIPS, Pacific Power and Light: We support the amended bill.

DON REED, Montana Environmental Information Center: We support this bill.

MIKE ZIMMERMAN, Montana Power Co.: The Montana Power Company supports the amended bill.

OPPONENTS: none

SEN. HALLIGAN, in closing, said there were two clerical amendments needed on page 2, line 5 to strike "or" and insert "and"; and on line 25 to insert "(4) (b)."

QUESTIONS:

REP. KADAS: Mr. Zimmerman, I noticed today that one of your head honchos was complaining about this act in the Tribune. Mr. Zimmerman: His concern is buying cogeneration at a cost that exceeds what we can sell it for but it is my hope that the PSC's implementation of the program will recognize the difference. I think avoided costs will be recognized through the administrative procedures.

SENATE JOINT RESOLUTION 18

SEN. ED SMITH, District 1, sponsor, opened by saying this resolution urges the Bureau of Land Management, the Forest Service and other federal agencies to rescind plans to charge rural electric and telephone cooperatives for right-of-way use and permits. They ask them to provide service and then charge them to cross their land. Rep. Marlenee and Sen. Melcher are in full agreement with this resolution.

PROPONENTS:

JOE HELGESON, Montana Associated Utilities: We would not want to increase the cost of service to our customers because of this proposal to charge utilities for crossing. (Exhibit #2)

OPPONENTS:

SEN. SMITH, in closing, said he thinks this is a very good resolution and one that will keep them from forcing utilities to provide service and then charging them to do it.

QUESTIONS:

REP. FABREGA: Do you cross private property as well as government property and do they charge you to cross? Sen. Smith: No private individual charges and this is a good point.

REP. METCALF: Is someone in line to carry this bill to the floor?

SEN. SMITH: Rep. Schultz will carry the bill.

EXECUTIVE SESSION:

SENATE BILL 430

REP. SCHULTZ: I move the amendments proposed.

QUESTION: Motion carried unanimously.

REP. SCHULTZ: I move SENATE BILL 430 BE CONCURRED IN AS AMENDED.

QUESTION: Motion carried unanimously.

SENATE JOINT RESOLUTION 17

REP. KADAS: I don't think this is a good resolution. If we are going to lower DSI rates, we will have to increase some-  
one elses. I don't think the legislature should get into this  
business. This kind of language is in direct conflict with  
FERC. The DSI's entered into the Northwest Power Act and since  
then there are tremendous cost over-runs and BPA got stuck with  
that.

REP. SCHULTZ: The cost went from 2 mills to 26 mills. Rep.  
Kadas: I don't see any way out of everyone getting stuck. I  
don't think we should say who gets stuck more.

Rep. Schultz: What happens if the plants close? Rep. Kadas:  
Anaconda has used that argument for years.

REP. LYBECK: I think there is alot more involved here when  
we're talking about operations as large as Anaconda Co. They  
are down to less than 50% of production. They have a 750%  
increase in power costs. We are afraid they will shut down  
and never open up again. The state needs this kind of industry.

REP. JENSEN: They were enticed to come here and operate and  
offered lower rates. Rep. Kadas: They were enticed when there  
was an excess of cheap power. Now, they have grown and so has  
the region and because of that we need new resources. The  
rates, therefore, go up. Who should pay for that - all of us  
or just residential and commercial? Rep. Jensen: They are  
paying more than their share now because of the increase.

Rep. Kadas: The rates are being equalized to the rest of us.

REP. WALLIN: We get alot of publicity about being anti-business  
and I have to support the resolution.

REP. FABREGA: I support the resolution because we are trying  
to create jobs. It's unfortunate the rate increases had to come  
along at the same time we are going through economic collapse.  
We would be defeating the other areas we're working on for  
jobs, including tax breaks for new industry, etc. I think it  
would do the least amount of harm to go with this at this time.

REP. HANSEN: Rep. Lybeck, do you have any comparison of price  
of utilities in other states. Could they get cheaper power  
some where else? Rep. Lybeck: Arco has moved to Kentucky  
and started a new plant which operates more efficiently and  
the power rates are substantially less than in Montana.

Everything has to be shipped in to Montana so we have to at  
least offer the cheapest power. We have approximately 1200  
people working there.

REP. METCALF: BPA announced that there is a huge surplus of  
power in the northwest and they are considering cutting their  
rates in half so there will be no problem up there. I would  
suggest that Mary Ellen Connelly's resolution really takes a  
better look at this business and we could table this and see  
what happens to her bill in the Senate.

REP. KADAS: I move a substitute motion to TABLE this resolu-  
tion. We would be robbing Peter to pay Paul. We have been  
threatened by the Anaconda Company so many times.

REP. PAVLOVICH: I agree with you, but Anaconda has made good  
it's threats and they will do it in Columbia Falls too. They  
could care less if they close that plant in Columbia Falls...  
if they have to they will. If we don't give them a break, they

BUSINESS & INDUSTRY COMMITTEE

MARCH 7, 1983

Page 5

will. I agree with Rep. Metcalf that Rep. Connelly's is a better resolution and we should table this one and see what happens to her's.

REP. METCALF: I have received more mail on this subject than any other and if I did not feel BPA is going to lower those rates I would do something more specific myself, but I don't have any problem with tabling this resolution for now.

REP. KADAS: We have a short-term surplus of 5 to 8 years. It's interruptable.

REP. FABREGA: If we don't do something to retain those businesses until the situation has improved, how much are we going to have to pay later to help the local governments because they have lost an industry? I would vote against the substitute motion.

REP. METCALF: We could amend this resolution to lower rates for DSI's but along with that, the excess cost would not be picked up by residential and commercial. Rep. Kadas: Also, that it not be temporary. In the long run, they have to pay their fair share.

REP. METCALF: Let's take another day to look at this and prepare amendments.

SENATE JOINT RESOLUTION 18

REP. PAVLOVICH: I move SJR 18 BE CONCURRED IN.

QUESTION: The motion carried unanimously.

The hearing adjourned at 10:10 a.m.

  
\_\_\_\_\_  
REP. JERRY METCALF, CHAIRMAN

  
\_\_\_\_\_  
Linda Palmer, Secretary

# STANDING COMMITTEE REPORT

MARCH 7

19 83

**SPEAKER:**

MR. ....

## BUSINESS & INDUSTRY

We, your committee on .....

having had under consideration ..... **SENATE** ..... Bill No. **430** .....

third reading copy ( blue )  
color

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE COGENERATION  
AND-CONSERVATION IN THE DEFINITION OF A QUALIFYING SMALL  
POWER PRODUCTION FACILITY; AMENDING SECTIONS 69-3-601, 69-3-602,  
AND 69-3-604, MCA."

Respectfully report as follows: That ..... **SENATE** ..... Bill No. **430** .....

### BE AMENDED AS FOLLOWS:

1. Page 2, line 5  
Following: "cogeneration;"  
Strike: "or"  
Insert: "and"

2. Page 2, line 25  
Following: "(4)(a)"  
Insert: "and (4)(b)"

AND AS AMENDED  
BE CONCURRED IN

XXYDQFAS

# STANDING COMMITTEE REPORT

MARCH 7

19 83

MR. **SPEAKER:** .....

We, your committee on **BUSINESS & INDUSTRY** .....

having had under consideration **SENATE JOINT RESOLUTION** ..... Bill No. **18** .....

third reading copy ( blue )  
color

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES  
OF THE STATE OF MONTANA PROTESTING PROPOSED CHARGES BY FEDERAL  
AGENCIES TO RURAL ELECTRIC AND TELEPHONE COOPERATIVES FOR RIGHT-  
OF-WAY USE AND PERMITS.

Respectfully report as follows: That **SENATE JOINT RESOLUTION** ..... Bill No. **18** .....

BE CONCURRED IN  
~~HOUSE~~

S.B. 430 "An Act to Include Cogeneration ~~and Conservation~~  
in the Definition of a Qualifying Small Power Production  
Facility: Amending Sections 69-3-601, 69-3-602 & 69-3-604 MCA"

Testimony before Business and Industry Committee 3/7/83

by: Max C. Deibert, P.E.  
Consulting Engineer  
P. O. Box 3574  
Billings, MT 59103 Ph. 406-248-1218

The 1981 Montana Legislature passed SB 139 (69-3-601 through 69-3-604 MCA) which provides authorization for the sale of electricity from qualifying small power production facilities to utilities under rates and conditions mutually agreed upon or as established by the (Montana) Public Service Commission or to electric cooperatives under terms and conditions mutually agreed upon and in compliance with the "Public Utility Regulatory Policy Act."

#### Background

- 1) Public Utility Regulatory Policy Act of 1978
  - On November 9, 1978, public law 95-617 the "Public Utility Regulatory Policy Act (PURPA), 16 U.S.C. 2601 et. seq. became law.
  - Title II of PURPA provides "Certain Federal Energy Regulatory Commissions and Department of Energy Authorities."
  - Section 210 of Title II of PURPA covers "Cogeneration and Small Power Production."
  - Section 210 provides a definition for both cogeneration and small power production and provides for the encouragement and implementation of regulations to cover their utilization.
- 2) On November 10, 1980, the rules and regulations were adopted which implemented Section 210, Title II of PURPA. These regulations, 18CFR, Part 292, are administered by the Federal Energy Regulatory Commission (FERC). The title of these regulations is "Regulations under Section 201 and 210 of the



Public Utility Regulatory Policies Act of 1978 with Regard to  
Small Power Production and Cogeneration".

Included in these regulations are:

Subpart B - Qualifying Cogeneration and Small Power  
 Production Facilities

Section 292.204 - Criteria for qualifying small power  
 production facilities

Section 292.205 - Criteria for qualifying cogeneration  
 facilities

Section 292.207 - Procedures for obtaining qualifying status

- 3) On May 4, 1981, the Montana Public Service Commission (MPSC) adopted rules and regulations covering Cogeneration and Small Power Production. These rules and regulations (Administrative Rules of Montana, 38.5.1901 through 38.5.1908) site for their authority Sections 201 and 210 of PURPA and the FERC regulations 18 CFR 292. These MPSC rules and regulations include the following provisions:
  - 38.5.1901 includes a definition of small power production and cogeneration facilities.
  - 38.5.1903 the obligations of utilities to purchase electric power from small power production and cogeneration facilities.
  - 38.5.1905 the mechanism by which the MPSC will establish the rate to be paid by utilities for power supplied by small power production and cogeneration facilities.
- 4) On August 3, 1982, the MPSC approved the rate to be paid by each utility company for electric energy supplied by Cogeneration and Small Power Production facilities. These rates were established by the MPSC at the cost of energy and capacity which are avoided by each utility company because of the energy supplied by Cogenerators and Small Power Production facilities. These rules for the Montana Power Company are specified in MPSC Docket 81.1.15 order 4865b and 4865c.

- 5) In May, 1982, the Montana Power Company published "Guidelines for the Interfacing of Co-Generators and Small Power Producers with the Montana Power Company System."

This document includes an example contract between the Montana Power Company and a Cogenerator or a Small Power Production facility.

AND

- 6) The 1981 Montana Legislature enacted SB 139 (69-3-601ff MCA) which addresses small power production facilities, but does not reference cogeneration facilities.

The purpose of SB 430 is to include cogeneration in 69-3-601ff MCA to demonstrate the intention of the State of Montana to encourage the development and utilization of both Small Power Production and Cogeneration facilities.

By enacting SB 340, the 1983 Montana Legislature will:

- Declare its support for the development of the most efficient and cost effective energy utilization by business enterprises in Montana.
- Support the efficient utilization of existing small energy facilities in Montana to produce electric power.
- Demonstrate that both renewable energy sources in small power production facilities and the most efficient use of nonrenewable resources in cogeneration facilities is supported by the state.
- Demonstrate that Montana supports both cogeneration and small power production.
- Provide a base in Montana law for both cogeneration and small power production which will help insulate the viability of these facilities from any challenges to federal laws (PURPA) and the FERC rules and regulations associated with these types of facilities.

There are several important advantages which result from the development of electric cogeneration facilities in Montana. These include:

#### Capital Investment

The engineering design efficiencies resulting from the combination of co-generated electric power production and a separate energy consuming process using a single set of boilers, results in significant capital investment savings. The total savings in capital investment can amount to hundreds of millions of dollars when several small cogeneration projects replace a single large power plant of the same total electric power generation capacity.

#### Size Efficiency

The power generation capacity of a cogenerator is much smaller than that of a major utility-owned power plant. Providing cogenerated power, therefore, avoids the large and expensive overcapacity which occurs when a large power plant is brought on line. Electric power consumers are also spared from the large rate increases which occur when a major new power plant is added to a utility's rate base.

#### Energy Efficiency

The utilization of non-renewable fossil fuel, such as coal, is much more efficient in cogeneration operations. While the new processing facilities associated with cogeneration require additional coal to operate, the increase in coal usage is 10 to 25 percent less than for separately located and operated power production and processing facilities.

#### Business Development

Revenue from the sale of cogenerated electric power encourages the development of small and attractive new industries which provide important employment and economic benefits at several locations. Since cogeneration projects are not concentrated at one location, their economic benefits are spread through several communities.

#### Environmental Impacts

A large number of separately located cogeneration projects each have much less local impact and disruption during construction than a single large power plant. Each cogeneration project must comply with all applicable environmental requirements. Since cogeneration projects are relatively small, they have much less impact than large projects and they are readily accepted and accommodated by established communities.

In addition, the "Regional Conservation and Electric Power Plan 1983; Meeting the Regions' Energy Needs With Confidence, Flexability and at Lowest Possible Cost", prepared by the Northwest Power Planning Council includes in key elements of the plan "Industries will be encouraged to develop cogeneration facilities that would provide power for the region." It proceeds to present an analysis of the advantages of electric cogeneration development.

I support the enactment of SB 430 by the 1983 Montana Legislature.

#### ATTACHMENTS

1. Public Law 95-617; PURPA, 1978. Title II, Section 201 & 210.
2. FERC Regulations Part 292, subpart B.
3. MPSC Regulations 38.5.1901 through 38.5.1908.
4. MPSC Docket 81.2.15, Order 4865b and 4865c.
5. "Guidelines . . ." Montana Power Company, May 1982.
6. Montana Law 69-3-601 through 604 MCA.
7. Advantage of Electrical Cogeneration, Deibert 1983.
8. Excerpts from Regional Conservation and Electric Plan 1983, Northwest Power Planning Council.

Administration has broken it's promise to non-profit Rural Electric and Telephone cooperatives. By charging Right-of-Way fees across federal land, they are, in effect, increasing the cost of services for themselves and consumers.

Electric and Telephone cooperatives have never charged government agencies the thousands and tens of thousands of dollars that it cost the cooperatives to extend service to remote areas. The government wants to charge us for erecting these very poles and lines which brings them and other remote customers service.

We don't want to increase the cost of government, and we don't want to increase the cost of electric service, which would come about if these efforts were successful.

*We agree with and appreciate the resolution  
Senator Smith has made*

## VISITOR'S REGISTER

HOUSE

Bus. + Ind.

COMMITTEE

BILL

SB 4/30

DATE \_\_\_\_\_

3-7-83

SPONSOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HOUSE Bus. Ind.

BILL SJR 17

DATE 3-3-7-83

SPONSOR \_\_\_\_\_

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Bus. + Ind.

COMMITTEE

5JR 18

3-7-83

SPONSOR

Joe Helgeson	Kalispell mt	MAW - Skotchfeld Ek sy	✓
Billy Krueger	Kalispell mt	MAW	✓

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



WITNESS STATEMENT

Name Joe Helgeson Committee On \_\_\_\_\_  
Address 610 Woodland Ave Kalispell Date 3-7-83  
Representing NAU & Shattuck Elec. Co. Support ✓  
Bill No. SJR-18 Oppose \_\_\_\_\_  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.