

MINUTES OF THE MEETING
NATURAL RESOURCES SUBCOMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 21, 1985

The meeting of the Natural Resources Subcommittee was called to order by Chairman Manuel on February 21, 1985 at 8:15 a.m. in Room 132 of the State Capitol.

ROLL CALL: All members were present.

DEPARTMENT OF AGRICULTURE

Keith Kelly, Administrator, Department of Agriculture, said the Northern Cheyenne Indian Tribe wants to get into the Pesticide program.

Mr. Kelly (64:B:212) said they estimate they will need about \$1,000 in FY '85 for this. If some other tribes want to join they may need about \$2,500 in FY '86 and about \$4,000 in FY '87.

Mr. Kelly said the money would come from the Tribes if they make the agreement to join the Pesticide program.

Mr. Kelly said if the Tribes join the program this money would be used for training an assistant and getting them started.

The Department is requesting authority to spend this money so they wouldn't have to come in for a budget amendment

Discussion was held.

Senator Lane made a motion to approve this request. Representative Swift seconded. A Voice vote was taken and the motion carried unanimously.

Maintenance Contracts: Curt Nichols, Principal Analyst, said he found some small reductions in these contracts but there was also an increase of about \$4,000 per year.

This increase was primarily due to the equipment and contracts being consolidated in Centralized Services.

Discussion was held.

Mr. Kelly said they did not put maintenance contracts on the computers when they were under warranty so this would be part of the increase.

Weed Coordinator: Mr. Kelly (64:B:394) said the Weed Coordinator cooperates and helps coordinate community management projects with Federal, State and Private land managers and owners throughout the county weed districts. They would plan, develop and implement a State Noxious Weed Trust Fund under the direct supervision of the Director.

Mr. Kelly said they are putting together a Weed Trust Fund of \$2.5 million dollars with grants for putting together projects for good coordinated weed management.

Discussion was held on Bills concerning this program.

Mr. Kelly said this is an effort to keep control at the County level.

Senator Lane made a motion to approve \$32,000 in FY '86 and \$31,000 in FY '87 for this Weed Coordinator. Senator Smith seconded. A Voice vote was taken and the motion carried unanimously.

Maintenance Contracts: Mary Evans, Administrator, Centralized Services Division, said Centralized Services needs \$2,214 for the word processor displaywriter, \$349 for five typewriters, \$219 for four calculators, \$276 for one electronic typewriter and \$376 for the hard disc which is now in place. This totals \$3,382. The additional money dealt with the information systems plan which is no longer valid as far as General Fund goes.

Discussion was held.

The Committee will come back to this.

Modified:

(Environmental Management Division)

Pesticide Training Fees: Mr. Kelly (65:A:004) said they need authority to appropriate fees from Pesticide Training.

Representative Spaeth made a motion to approve the authority to appropriate \$14,666 in FY '86 and \$14,930 in FY '87. Representative Swift seconded. A Voice vote was taken and the motion carried unanimously.

Clerk/Custodian: This would come out of the General Fund for about \$8,300 per year.

This person would be used in the Bozeman lab. This is a request to go from a half-time clerk/custodian to a full-time clerk/custodian.

Representative Spaeth made a motion to disapprove this. Representative Swift seconded. A Voice vote was taken and the motion carried unanimously.

EPA Samples: Mr. Nichols said this is money the Department anticipates from the EPA for running samples in the lab.

Representative Spaeth made a motion to approve authority to spend \$76,936 in FY '86 and \$100,589 in FY '87. Representative Swift seconded. A Voice vote was taken and the motion carried unanimously.

Market Promotion: \$25,000 for market promotion was left out of both the Department of Commerce and the Department of Agriculture budgets. This would come from the General Fund.

Discussion was held.

The Committee is going to go over the Department of Commerce budget again.

DEPARTMENT OF PUBLIC SERVICE REGULATION

(Public Service Commission)

Madeline Cottrill (65:A:190), Administrator, Centralized Services Division, Public Service Commission (PSC) introduced the Commissioners for the Public Service Commission.

Ms. Cottrill presented a breakdown of the Agencies requests. See Exhibit "VVVV".

Ms. Cottrill said there is a 4% Vacancy Savings difference between the agency request and the Executive budget.

Ms. Cottrill said it is the Commission's decision to not hire a System Analyst or a Computer Programmer. They would like to see \$50,846 budgeted for these two positions moved into Contracted Services for Office Automations Data Processing. The '87 biennium does not show any current level for data processing.

Ms. Cottrill said the Hearings Reporter and the Auditor positions have been left vacant to help make up Vacancy Savings.

Ms. Cottrill said they would like to apply the money the LFA has over the Executive in Repairs and Maintenance to Supplies for the gasoline that has been taken out.

Ms. Cottrill said the LFA cut one car out of the FY '87 budget for one of the enforcement people.

Ms. Cottrill said the Federal people approved the 50-50 split for the Pipeline Safety Program.

Ms. Cottrill went over the positions of the 49 FTE's. See page 10, Exhibit "VVVV".

Ms. Cottrill said in travel they would like to either have \$10,000 line itemed so they could spend the money and as they get reimbursed by the utilities they could put the money back into the General Fund or have a contingent revolving account. Ms. Cottrill said it would be very inconvenient for the utilities to bring their books in state for the audits.

Modifieds:

Ron Weiss (65:B:069), Office of Budget Program and Planning (OBPP), said the Executive budget has set aside \$1 million per year of General Fund for the consideration of the Legislature for all of the modifications that come in from the elected officials budgets.

Ms. Cottrill said excluding their Federal programs they generated \$1,124,264 to the General Fund in FY '84. This would be from application fees, bingo stamps and tariffs.

John Driscoll (65:B:118), Commissioner, Public Service Commission, said the five Commissioners agreed to help the Legislature to put through a bill to fund the PSC. This would be funded on a percentage on gross revenue of the utilities that are regulated. To come up with the revenue level they have with modifications it would take .0004% of the revenues of the utilities that are regulated. That combined with the Consumer Council tax will make .0005% of the revenue. This would generate \$2.3 million of General Fund revenue to be freed up for other uses.

Eileen Shore, Administrator, Legal Division, PSC, said they are requesting an attorney for \$27,237. See Exhibit "WWW".

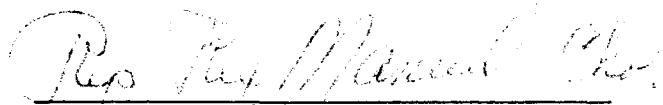
Natural Resources Subcommittee
February 21, 1985
Page 190

Bill Leaphart, representing two industrial consumers for public utility rates, testified in support of this additional lawyer.

John Alke, Lawyer, testified in support of the additional lawyer.

Bob Gannon, Vice-President and General Council of the Montana Power Company, testified in support of the additional lawyer.

The meeting adjourned at 9:55 a.m.



Representative Rex Manuel
Chairman

NATURAL RESOURCES SUBCOMMITTEE

Date 2-21-62

CS-30

Exhibit "VVVV"

* The column headed as agency request was completed per direction and included some budget modifications as current spending level. With the deletion of these modifications the agency current level service request and the LFA budget are very close. See page 6 for Commission justification of printing expenses in contracted services category, page 7 for Commission clarification of shortfall for Communication category. See Budget Modification for Travel for explanation of \$10,000 travel category shortfall.

DEPARTMENT OF PUBLIC SERVICE REGULATION
PUBLIC SERVICE COMMISSION

FY 86

Agency vs. Executive Budget

Salaries

\$55,771 Vacancy Savings

Contracted Services

\$50,000 Budget Modification

\$ 2,087 - Inflation Adjustment

Supplies

\$ 69.00

Communications

\$11,236.00 Advertising - Budget Modification

1,348.00 Inflation Adjustment

Travel

\$ 1,819 Inflation Adjustment

Rent

Same

Repairs & Maintenance

\$ 17

Other Expenses

\$22,472 Registration Fees for Training Conf. - Budget Modification

\$ 898 Inflation Adjustment

Equipment

Same

DEPARTMENT OF PUBLIC SERVICE REGULATION
PUBLIC SERVICE COMMISSION

FY 87

Salaries

\$55,880 Vacancy Savings
95

Contracted Services

\$50,000 - Budget Modification
2,089 - Inflation Adjustment

Supplies

\$ 69.00

Communications

\$11,910 - Budget Modification
2,262 - Inflation Adjustment

Travel

\$ 1,828 - Inflation Adjustment

Rent

Same

Repairs & Maintenance

\$17

Other Expenses

\$23,820 - Budget Modification
952 - Inflation Adjustment

Equipment

Same

DEPARTMENT OF PUBLIC SERVICE REGULATION
PUBLIC SERVICE COMMISSION

FY 86

Executive vs LFA

Salary

Cut the agency 4 F.T.E.'s
Hearing Reporter, Auditor
System Analyst, Computer Operations Tech I
\$88,521.00

Contracted Services

\$10,112 Printing Difference in our Request & Base
2,754

Supplies

\$1,470

Communications

\$8,861

Travel

\$10,000 - Budget Modification in Executive Budget

Rent

\$2,585

Repairs & Maintenance

\$ 542 more than Executive Budget

Other Expenses

\$ 415 more than Executive Budget

Equipment

Same

Printing - Acct 2110

84 Base 18,968

Add'l 10,112

29,080 Total Request

July to December 1984 Actual Costs

Duplicating 4,265.59

IBM Copier III 4,103.01

MITA Copier 1,085.65

9,454.25 X 2 = \$ 18,908.50

Printing for

Bingo Stamps 1,138.50

Encumbrances 9,200.10

for other print-
ing

10,338.60

\$18,908.50

10,338.60

29,247.10

200.00 for NGPS & RRS

\$29,447.10

Summary

The LFA budget is \$12,866 deficit in category for contracted services for printing. The agency finds this insufficient to cover actual costs for printing with state printing office, duplicating, stationery, envelopes, and photocopying. The Commission does not print any newsletters or brochures, but needs this budget to comply with legal obligations. The Commission has little control over the spending category as it must publish and distribute notices and orders and respond to public requests for information.

Communications

2301 - Local Service & Equipment

84 Base 10,348

Addt'l 1,067

11,415 - Request

2302-Long Distance - Credit Card

84 Base 2,933

Addt'l 3,910

6,843 - Request

2314 - STS Usage

84 Base 10,013

NGPS 960

RRS 480

Addt'l 2,329

13,782 - Request

\$8,746 Addt'l request

July to December 1984 actual costs

2301 - \$ 5,437.22 x 2 10,874.44

2302 - 2,504.15 x 2 5,008.30

2314 5,717.54 x 2 11,435.08

27,317.82

Request 32,040.00

Actual - 27,317.82

4,722.18

\$4,139.00

Summary The Commission Current Level Services Request for Communication was based on a study of billing. The Commission agrees now that the total is not needed, but \$4,139.00 of the requested \$8,746 is necessary to meet actual costs.

PIPELINE SAFETY PROGRAM
CURRENT LEVEL FY 86 & FY 87

| | FY 1986 | INFLATION | TOTAL 1986 | FY 1987 | INFLATION | TOTAL FY 87 |
|-----------------|------------|-----------|---------------|------------|-----------|----------------|
| Pipeline Safety | | | | | | |
| Salaries | 29081 | 0000 | 29081 | 29081 | 0000 | 29081 |
| Longevity | 665 | 0000 | 665 | 736 | 0000 | 736 |
| Benefits | 5695 | 0000 | 5695 | 5723 | 0000 | 5723 |
| Air Fare | 3190 | 128 | 3318 | 3190 | 128 | 3318 |
| O/S Meals | 744 | 30 | 774 | 744 | 30 | 774 |
| O/S Lodging | 1250 | 50 | 1300 | 1250 | 50 | 1300 |
| Motor Pool | 3860 | 155 | 4015 | 3860 | 155 | 4015 |
| Rent | 960 | 38 | 998 | 960 | 38 | 998 |
| Xerox | 200 | 08 | 208 | 200 | 08 | 208 |
| Phone Set | 240 | 29 | 269 | 240 | 46 | 286 |
| Phone STS | 960 | 115 | 1075 | 960 | 182 | 1142 |
| Postage | 120 | 14 | 134 | 120 | 23 | 143 |
| Photos | 1200 | 48 | 1248 | 1200 | 48 | 1248 |
| I/S Meals | 870 | 35 | 905 | 870 | 35 | 905 |
| I/S Lodging | 1440 | 58 | 1498 | 1440 | 58 | 1498 |
| Supplies | 120 | 05 | 125 | 120 | 05 | 125 |
| O/S Other | 100 | 04 | 104 | 100 | 04 | 104 |
| Photo Equip. | 240 | 00 | 240 | | | |
| TOTALS | 50935 | 717 | 51652 | 50794 | 810 | 51604 |
| General Fund | | | 25826 | | | 25802 |
| Federal Funds | | | 25826 | | | 25802 |

RAILROAD SAFETY PROGRAM
CURRENT LEVEL FY 86 & FY 87

| | FY 86 | INFLATION | TOTALS FY 86 | FY 87 | INFLATION | TOTALS FY 87 |
|-----------------|-------|-----------|-----------------|-------|-----------|-----------------|
| Salaries | 24671 | 0000 | 24671 | 24671 | 0000 | 24671 |
| Longevity | 59 | 0000 | 59 | 69 | 0000 | 69 |
| Benefits | 5122 | 0000 | 5122 | 5126 | 0000 | 5126 |
| Supplies | 1588 | 64 | 1652 | 1588 | 64 | 1652 |
| Telephone | 720 | 86 | 806 | 720 | 136 | 856 |
| Postage | 120 | 14 | 134 | 120 | 23 | 143 |
| I/S Meals | 2436 | 97 | 2533 | 2436 | 97 | 2533 |
| I/S Lodging | 4032 | 161 | 4193 | 4032 | 161 | 4193 |
| Rent | 960 | 38 | 998 | 960 | 38 | 998 |
| Repair & Maint. | 480 | 19 | 499 | 480 | 19 | 499 |
| Xerox | 200 | 08 | 208 | 200 | 08 | 208 |
| Tires (86 only) | 124 | 05 | 129 | 0000 | 0000 | 0000 |
| Equipment: | | | | | | |
| Level Bar (86) | 600 | 0000 | 600 | 0000 | 0000 | 0000 |
| (only) | | | | | | |
| Car ('87) | | | | 9286 | 0000 | 9286 |
| TOTALS | 41112 | 492 | 41604 | 49688 | 546 | 50234 |
| Gen Funds | | | 20802 | | | 25117 |
| Fed. Funds | | | 20802 | | | 25117 |

DEPARTMENT OF PUBLIC SERVICE REGULATION
PUBLIC SERVICE COMMISSION
FISCAL YEAR 1985 CURRENT POSITIONS

COMMISSIONERS - (5 positions)

CENTRALIZED SERVICES DIVISION

Administrator
Assistant Administrator
Administrative Secretary
Receptionist
Accounting Technician
Word Processor - (2 positions)
System Analyst - (vacant) funds will be spent on office automation
Data Processing Operator (vacant) funds will be spent of office automation
Court Reporter (vacant) Held vacant to make up vacancy savings
TOTAL (10 positions)

LEGAL DIVISION

Attorneys (4 positions)
Administrative Secretary
TOTAL (5 positions)

UTILITY DIVISION

Administrator
Assistant Administrator
Administrative Secretary
Word Processor
Economist (2 positions)
CPA
Consumer Representative
Rate Analyst (5 positions - current hiring for 2 openings)
Utility Engineer
TOTAL (14 positions)

TRANSPORTATION DIVISION

Administrator
Assistant Administrator
Word Processor
Compliance Officer (3 positions)
Auditor (vacant) Held vacant to make up vacancy savings
Transportation Specialist
Railroad Safety Inspector
Motor Carrier Enforcement Officer (6 positions - 5 positions are located in the following areas: Great Falls, Butte, Missoula, Billings, Glendive; with the Administrator located in the Helena Office)
TOTAL (15 positions)

DEPARTMENT OF PUBLIC SERVICE COMMISSION
PUBLIC SERVICE COMMISSION

LEGISLATIVE AUDIT REPORT

Expenditure Abatements

In a recent audit of the Legislative Auditor's Office an issue was addressed for abating expenditures back into the Commission's appropriation. It was stated that "In accordance with state policy, expenditures should only be abated to correct an error or when the expenditure is solely for the convenience of others. Abatement of the expenditures restored PSR's spending authority which gave it the potential to spend its appropriation authority twice.

When the Commission sends staff out of state to examine records of a case before the Commission, the Commission in accordance with Montana law charges those utility enterprises the full cost of any examination that must be conducted for the convenience of the examination outside of Montana. When the Commission receives the reimbursement from the Utility, the Commission put its backin into their appropriation.

This is also the case when Commissioner's and staff travel to Portland at the exense of the Northwest Power Council and BPA. The Commission pays the expense up front and when reimbursed puts the money back in their appropriation.

To comply with Legislative Auditor's Recommendation we need additional funds. Either as a line item to be paid back as revenue or as a contingent revolving account.

| | | |
|----------------------------|--------------|--------------|
| <u>Operating Expenses:</u> | <u>FY 86</u> | <u>FY 87</u> |
| Travel | \$10,000 | \$10,000 |
| Total | \$10,000 | \$10,000 |



Exhibit "WWW"

PUBLIC SERVICE COMMISSION

2701 Prospect Avenue • Helena, Montana 59620
Telephone: (406) 444-6199

Clyde Jarvis, Chairman
Howard Ellis, Vice Chairman
John Driscoll
Tom Monahan
Danny Oberg

MEMORANDUM

TO: Subcommittee on Appropriations - Natural Resources
FROM: Eileen E. Shore, Administrator
Legal Division
DATE: February 21, 1985
RE: PSC Budget Modification Request for an Additional
Lawyer

(1) Workload statistics for the PSC's Legal Division, 1983/1984

a) Contested cases before the PSC - 189

b) Hearing days - 253

| | |
|--------------------------------|-------|
| Hearing days in Helena | - 100 |
| Hearing days outside of Helena | - 153 |
| Total | 253 |

Percentage of total working days spent in administrative hearings - 51%

c) Court cases - 29

These hearing day statistics do not reflect time spent on drafting orders; drafting rules; decisionmaking advice to the Commission, travel time, preparation for administrative cases and court cases; correspondence; consultation with regulated companies, industrial customers and other consumer groups; formal and informal involvement in federal agency issues; drafting legislation.

(2) New issues.

During the past two years, major new developments have very substantially increased the Legal Division's workload:

a) AT&T divestiture.

Telecommunications is one of the most complex areas of utility regulation. Divestiture has increased that complexity substantially. One of the PSC attorneys now spends approximately 80% of his time on telecommunications issues.

Divestiture has resulted in more cases before the PSC and the courts as well as more involvement in matters before the Federal Communications Commission. Although the FCC has preempted some areas that used to be under the PSC's jurisdiction, it regularly solicits comments from the state commissions. Because of a shortage of personnel, Montana has not responded, unlike the surrounding states.

b) MPC's construction of a natural gas pipeline.

The PSC has never been extensively involved in issues surrounding construction of a natural gas pipeline. Because of serious problems revealed in a hearing last March, both MPC and several unions have requested the PSC's active involvement in the construction problems of the MPC pipeline. In addition, this involvement is mandated under the PSC's responsibility to enforce the Natural Gas Pipeline Safety Act. Future involvement will include processing a waiver request by MPC. In addition, only one-half of the pipeline has been constructed. Thus, this oversight is expected to continue for several years.

c) MDU's reorganization.

MDU's reorganization has resulted in an assumption of jurisdiction by the Federal Energy Regulatory Commission over many areas of MDU's operations. FERC decisions will have a substantial impact on rates in the coming years. Therefore, the PSC will have to be involved in FERC proceedings in order to meet its statutory mandate to assure reasonable rates. This represents a substantial additional workload for the PSC's attorneys.

d) MPC's addition of Colstrip Unit No. 3 to its resources.

As everyone knows, the Colstrip plants have represented a major controversy in Montana since they were first proposed. That controversy has now moved into the PSC's arena. The first round has spawned four lawsuits. We are now processing the second round. Whatever the PSC's decisions, the Colstrip issue will be controversial for the next several years.

e) Regional and national issues in utility regulation are multiplying in number and degree of complexity.

For much of its history, utility regulation has been stable. In the past few years, it has been just the opposite. Telecommunications, because of legal and technological changes, looks entirely different than it did five years ago. Energy issues now involve substantial involvement in matters before the FERC, BPA, and the Northwest Power Planning Council. Repeatedly, the PSC has been requested to become involved in these regional and national issues by utilities, consumer groups and other state commissions. Too often, these requests have been turned down solely on the basis of lack of resources.

The regulation of motor carriers and railroads, while more stable than other PSC responsibilities, has also undergone significant changes in the past few years. The federal Staggers Act has complicated railroad rate regulation. In addition, BN has embarked on an aggressive campaign to close many stations. Each proposed closure requires PSC approval. The new safety program for motor carriers will require additional legal resources.

CONCLUSION

PSC lawyers are required to represent the state in what is commonly recognized as one of the most complicated areas of law. Those who come before the PSC in its own administrative cases and in lawsuits, usually have resources that make ours look almost comical. That situation will continue to exist whether or not you approve our request for an additional lawyer. But the addition will help.

Whether or not you agree with the PSC's decisions, we ask you to address this question: Should opponents of those positions override them by default, simply because the PSC is unable to give its lawyers time to adequately represent the State? As our litigation workload suggests, and as the number of bills in this and other legislative sessions suggest, the PSC's decisions receive constant judicial and legislative scrutiny. If the PSC is wrong, judges and legislators have ample opportunity to correct the problems. Those problems should not be corrected by default.

PSC lawyers are expressing concern about malpractice actions. They fear that, because of time constraints, they will file a brief that overlooks a crucial case, that they will give the PSC bad advice, that they will fail to write an order fast enough, and will, therefore, harm the financial interests of a Montana business whether a utility, a motor carrier or a railroad. I do not believe that these concerns represent an imminent threat. However, I do believe that they reflect the reality that lawyers who have the responsibility for representing Montana in utility, motor carrier and railroad cases do not believe they are doing a good enough job, the kind of job they want to do.

VISITORS' REGISTER

NATURAL RESOURCES SUB COMMITTEE

BILL NO. PSC Sub-Com
on BudgetDATE 2-21

SPONSOR _____

| NAME (please print) | RESIDENCE | SUPPORT | OPPOSE |
|--------------------------|-----------------------|-------------------------------------|--------|
| <i>Ron Weiss</i> | | | |
| <i>KEITH KELLY</i> | <i>DEPT OF AGR</i> | | |
| <i>MARY EVANS</i> | <i>" "</i> | | |
| <i>Sandra Luchau</i> | <i>" "</i> | | |
| <i>Therese L. Carver</i> | <i>PSC</i> | | |
| <i>Donnell</i> | <i>PSC</i> | | |
| <i>Sammy Oberg</i> | <i>PSC</i> | | |
| <i>Eileen Shore</i> | <i>PSC</i> | | |
| <i>Wayne Becht</i> | <i>PSC</i> | | |
| <i>Darrell Hagen</i> | <i>ISD/Admin.</i> | | |
| <i>Bill Opitz</i> | <i>Dep. Dir. DHES</i> | <input checked="" type="checkbox"/> | |
| <i>Tom Monahan</i> | <i>PSC</i> | <input checked="" type="checkbox"/> | |
| <i>John B. Dussler</i> | <i>PSC</i> | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.