

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By J.D. Lynch, Chair, on March 9, 1993, at 10:00 a.m.

ROLL CALL

Members Present:

Sen. J.D. Lynch, Chair (D)
Sen. Chris Christiaens, Vice Chair (D)
Sen. John Brenden (R)
Sen. Betty Bruski-Maus (D)
Sen. Delwyn Gage (R)
Sen. Tom Hager (R)
Sen. Ethel Harding (R)
Sen. Ed Kennedy (D)
Sen. Terry Klampe (D)
Sen. Francis Koehnke (D)
Sen. Kenneth Mesaros (R)
Sen. Doc Rea (D)
Sen. Bill Wilson (D)

Members Excused: Senator Hager

Members Absent: None.

Staff Present: Bart Campbell, Legislative Council
Kristie Wolter, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 390, HB 465, HB 637
Executive Action: HB 390, HB 465, HB 201, HB 305, HB 222

HEARING ON HB 390

Opening Statement by Sponsor:

Representative Joe Quilici, House District 71, stated HB 390 referred to the Integrated Least Cost Planning Bill. He stated HB 390 was a compromise reached between the Northwest Power Planning Council, Bonneville Power, Central Montana Electric Cooperatives, Montana Environmental Information Center, Montana Power Company and Montana/Dakota Utilities. He stated HB 390 would clarify the Public Service Commission's (PSC) authority to

require electric and natural gas utilities to file plans with the Commission. He stated HB 390 would allow for the PSC to recover their costs if they invest in energy efficient plans. He stated HB 390 would coordinate the planning requirements of the PSC with those required by the Major Facility Citing Act. He stated HB 390 would allow for continuity within state regulatory processes. Representative Quilici stated HB 390 was a "good energy bill." He stated HB 390 would allow for the consumer to have the "least cost" energy resource.

Proponents' Testimony:

Gerald Mueller, Spokesperson, Regulation and Integrated Least Cost Resource Planning and Acquisition Working Group, stated his support of HB 390. He supplied the Committee with a list of group members (Exhibit #1) and read from prepared testimony in support of HB 390 (Exhibit #2).

Bob Anderson, PSC, read from prepared testimony in support of HB 390 (Exhibit #3).

John Alke, Montana/Dakota Utilities, stated his support of HB 390. He stated the position of the industry is that in the absence of HB 390, the Commission would not have the authority to contain the expansion of the rates into the resource selection process. He stated the PSC needs the power to have a choice in the resource selection process. He supplied the Committee with a response brief to the PSC in support of HB 390 (Exhibit #4). Mr. Alke stated the Montana statute, as it stands, limits investments in conservation to residential structures and to 100% of avoided costs. He stated the avoided costs are production costs. He stated if resource conservation is to be viewed on the basis of externalities, the 100% of Avoided Costs limitation would be inappropriate. Mr. Alke concluded the industry supports HB 390 because it is from a collaborative process and has become a necessity.

Mark Siminich, Director, Department of Natural Resources (DNRC), stated his support of HB 390. He stated the administration supports the concept of integrated least cost planning (ILCP) and the PSC's definition of ILCP for public utilities in Montana. He stated HB 390 would provide for a meaningful public dialogue on the energy choices utilities will confront before they make a significant investment. He stated HB 390 would require cooperation between the DNRC and the PSC. Mr. Siminich stated that through the state agencies cooperating, better and smarter solutions will be reached on issues addressed by those agencies.

Jack Haffey, Montana Power Company, stated his support of HB 390.

Gene Phillips, Pacific Power and Light, stated his support of HB 390.

John Hines, Northwest Power Planning Council, stated his support of HB 390.

Ken Toole, Montana Environmental Information Center, stated his support of HB 390.

Bob Nelson, Consumer Council, stated his support of HB 390.

Allen Davis, Department of Natural Resource and Conservation, stated his support of HB 390. He stated HB 390 would remove two years from the major facility citing process.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Brenden asked Mr. Anderson to define an externality. Mr. Anderson stated an externality is a benefit or cost which does not accrue to a participant in a transaction. He stated a good example of an externality would be pollution.

Senator Brenden asked Mr. Anderson if the PSC would place a monetary value on externalities. Mr. Anderson stated there was no plan by the PSC to do so. He stated that without scientific proof of externalities, there would be no reason to charge for externalities. Mr. Anderson stated the burden of values of externalities would be placed on the utilities.

Senator Koehnke asked Mr. Mueller asked if all the cooperatives in the state were covered under the collaboration. Mr. Mueller stated they were all covered.

Senator Mesaros asked Mr. Anderson if the \$50,000 appropriation for a consultant would be absorbed. Mr. Anderson stated the submission of the plans would impose a work burden on the PSC, and the \$50,000 appropriation was over a two year period to cover the burden.

Senator Christiaens asked Mr. Davis to speak on the rationale behind the elimination of the two year period for facility citing. Mr. Davis stated one reason was the independent power producers were submitting bids to MPC and added the other reason was because the utility people were going about the planning process without the regulation.

Senator Brenden asked Mr. Hines if there were any scientific proof of global warming. Mr. Hines stated there was inconclusive proof of global warming by fossil fuels.

Closing by Sponsor:

Representative Quilici read from a proposal from the NCSL regarding the ILCP:

"The economic and environmental health of the United States and the states will depend largely on the way state governments deal with the energy problems, and to the extent to which states initiate effective actions to support energy efficiency gains."

He stated the above quote is one of the reasons HB 390 would be compatible with legislation from other states and good for Montana.

HEARING ON HB 465**Opening Statement by Sponsor:**

Representative Bill Ryan, House District 38, stated HB 465 would revise the laws dealing with Medicare supplement insurance. He stated HB 465 would be a consumer protection bill and would allow for comparison shopping on the Medicare supplement insurance policies. Representative Ryan stated HB 465 would clean up the language in the current code. He stated some of the changes in the code are due to federal regulation.

Proponents' Testimony:

Frank Cote, Deputy Insurance Commissioner, stated new medicare supplement insurance laws are necessary as a result of abuses in the marketplace. He stated the changes to existing and new code sections and are designed to increase the ability of senior citizens to purchase the supplemental insurance which best fits their needs. Mr. Cote stated there will be 10 standard policies available throughout the country which will be labeled "A" through "J". He stated the various policies will facilitate comparison shopping. Mr. Cote explained the open period for application of a Medicare supplement policy will be six months and anyone applying within that period will be accepted regardless of health conditions. He stated the Medicare supplement policies are expected to provide reasonable benefits in relation to premiums charged and added the law would provide the ability to decide if the premiums being charged are sufficient.

Bill Olson, AARP, read from prepared testimony in support of HB 465 (Exhibit #5).

Tanya Ask, Blue Cross/Blue Shield (BCBS) stated her support of HB 465.

Tom Hopgood, Health Insurance Agency of America stated his support of HB 465.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Klampe asked Mr. Cote to explain how the policies would differ in scope and prices. Mr. Cote stated policy "A" is the base policy, and the policies from there would increase benefits and would cost more. He stated the companies selling the policies will label their policies the same, and the policies will be identical with the exception that companies will have the right to charge different premiums.

Senator Christiaens asked Mr. Cote to expand on the "pre-existing conditions" he had addressed earlier. Senator Christiaens also wanted to know if the policies are going to be in easily understood language, and if HB 465 would be standardized for the Health Care Financing Administration (HCFA). Mr. Cote stated that when a person becomes eligible for Medicare supplement insurance at age 65, the person may purchase a supplement policy regardless of his or her health. He stated the "pre-existing condition" clause would only be for a six month time period. He stated the policies will be subject to the "plain english" statute. He stated HB 465 would be consistent with HCFA standards.

Closing by Sponsor:

Representative Ryan closed on HB 465 stating it was good legislation for senior citizens.

HEARING ON HB 637

Opening Statement by Sponsor:

Representative Bill Ryan stated HB 637 provided for easy readability in property and casualty policies. He stated HB 637 would establish minimum language standards for these policies. He stated the law already applied to health and life insurance policies. Representative Ryan noted that there had been amendments proposed which were agreed upon by the insurance industry and the Insurance Commissioner (Exhibit #6).

Proponents' Testimony:

Frank Cote, Deputy Insurance Commissioner, stated HB 637 was a consumer protection bill. He stated it would require property/casualty companies to write their policies so a layperson may understand the language. He stated HB 637 would give the consumer the ability to read and understand their contracts and added it would also give the agents the ability to easily review the policy with their clients.

Mark O'Keefe, State Auditor, stated people were complaining that they could not understand the language in their insurance policies. He stated HB 637 would address that problem.

Jacqueline Lenmark, American Insurance Agents, stated she was in support of HB 637. She distributed proposed amendments to HB 637 (Exhibit #6) and reviewed them with the Committee.

Roger McGlenn, Executive Director, Independent Insurance Agents Association of Montana and Executive Director, Montana Surplus Lines Insurance Association, stated the Associations' support of HB 637. He stated he had a concern with surplus lines insurance. Referring to Section 4, line 17, subsection 3, he stated the requirements of HB 637 do not apply to policies in manuscript form to a list of different kinds of insurance. Mr. McGlenn stated surplus lines policies are in manuscript form and are covered by HB 637. He stated he would like it clarified that surplus lines are covered in HB 637.

Greg VanHorssen, State Farm Insurance Company, stated his support of HB 637 with the amendments proposed by Ms. Lenmark.

Ron Waterman, Farmers Insurance Groups, stated his support of HB 637 with the amendments proposed by Ms. Lenmark.

Gene Phillips, National Association of Independent Insurers, stated his support of HB 637.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Christiaens asked Ms. Lenmark if she could provide him a sample of an insurance policy which has been clarified. Ms. Lenmark stated she would.

Closing by Sponsor:

Representative Ryan closed on HB 637, stating it was a good consumer bill. He stated Senator Christiaens would carry HB 637 on the Senate floor.

Announcement:

Chair Lynch announced Representative Tuss had injured her back and was unable to present HB 545. He stated HB 545 would be rescheduled for hearing.

EXECUTIVE ACTION ON HB 390

Motion:

Senator Christiaens moved HB 390 BE CONCURRED IN.

Discussion:

Senator Brenden explained to the Committee about global warming and how it would affect HB 390. He stated global warming is an externality, and externalities can be added on to the costs of utilities.

Vote:

The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 465

Motion/Vote:

Senator Kennedy moved HB 465 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 201

Motion/Vote:

Senator Christiaens moved HB 201 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 305

Motion:

Senator Harding moved HB 305 be CONCURRED IN.

Discussion:

Senator Christiaens stated he believed the number of hours for advance notice of limousine service should be changed. He stated the PSC was concerned about the limousine's being in direct competition with taxis. He stated the PSC wanted the limousine service to be arranged 24 hours in advance. He stated HB 305, as it stands, only requires a 2 hour advance notice which would interfere with taxi service.

Senator Lynch stated there should be a need for limousine service and it should stay completely regulated. He stated if the need for limousines were removed, then the need for taxi's and bars would have to be removed.

Senator Brenden stated he did not want to put anyone in any economic jeopardy. He stated he would like to see deregulation with a sunset clause included.

Senator Mesaros stated the 2 hour advance notice is a legitimate concern of the taxi industry. He stated that perhaps the industry should not be regulated, but they are. He said to deregulate the industry would be opening a "can of worms".

Senator Klampe stated he felt the "can of worms" should be opened now instead of waiting for a longer period of time. He stated the law as it stands is wrong and should be changed. He proposed a one-time tax write off for people who got caught by the regulation clause.

Senator Rea stated he agreed with Senator Klampe. He stated the PSC regulates things which cost the Commission and the tax payers too much money.

Senator Harding stated the limousine service in Great Falls has a monopoly in the state and can not supply service to the entire area.

Senator Christiaens stated there would be no way of determining the amount of a tax write-off.

Senator Klampe stated the write-off should be a portion of the total investment.

Senator Lynch stated the investments ran anywhere from \$20,000 to \$26,000 and said there was no way they could write off all of the investment.

Senator Harding stated competition should show a need for services. She stated she believed in free enterprise and said HB 305 would supply that to the limousine services.

Senator Christiaens stated people in a small town should not have a problem if they want to start a limousine service because there is a need for the service which can be shown.

Senator Klampe stated the law is set up so if a person shows a need and another persons business is injured, that person can say there is no need because he can supply the service to the area of need.

Senator Lynch stated the probelm arose in Missoula and there was a seven and a half hour hearing which proved there was no need. He stated the people who brought HB 305 before the Committee could not win with the rules as they stand, so they want to change them. He stated that he didn't agree with the changing of the rules because someone lost at the process.

Senator Mesaros stated HB 305 evolved over one incident and the PSC is responsive to the needs of the state.

Senator Bruski-Maus stated her concern with the law is the limitation of county lines with the limousines services. She stated if she wanted to travel in a limousine from Billings to Great Falls, the limo could only take her as far as the border of Yellowstone County.

Senator Lynch stated he was not sure if that was correct because a taxi could be taken from Butte to Billings. He said the same should apply to a limousine.

Bart Campbell stated HB 305 would not change the problem that Senator Bruski-Maus had addressed.

Senator Lynch stated if the people at the PSC hearing had won, the law would have been just fine and they would not have challenged it.

Senator Rea stated he did not believe the law, as it stands, is right.

Senator Lynch stated "Certificates of Need" were to control prices.

Senator Klampe stated there is a difference between a "need" and a "luxury". He stated limousines are a luxury item, not a "need" item. He stated he felt there was no need for the regulation of a luxury.

Senator Lynch announced that any amendments be submitted to Mr. Campbell and HB 305 would be addressed at a later date.

EXECUTIVE ACTION ON HB 356

Motion/Vote:

Senator Christiaens moved HB 356 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 222

Discussion:

Chair Lynch referred the Committee to the three options of amendments to HB 222 (Exhibit #7).

Senator Brenden asked Beth Baker, Department of Justice, to explain alternatives 1 and 2.

Ms. Baker stated alternative 1 would remove all regulation of service and sales of portable fire extinguishers. She stated alternative 2 would continue to regulate the servicing of fire extinguishers, but not its sales. She stated alternative 2 would allow for a licensing fee and no endorsement fee.

Senator Harding asked how alternative 2 would address school inspections. Ms. Baker stated the licensing fees and endorsement fees would be decreased, but the major systems would still require endorsements. She stated the endorsement is necessary to check on the qualifications of the installers of the major systems.

Senator Mesaros asked Ms. Baker if alternative 2 would eliminate the endorsements on fire suppression systems. Ms. Baker stated the endorsements would still be required for the major systems. She stated alternative 2 would eliminate the endorsement provision for portable fire extinguishers.

Motion:

Senator Christiaens moved HB 222 BE AMENDED TO ALTERNATIVE 2.

Discussion:

Senator Brenden stated he opposed the amendment because it would create more bureaucracy. He stated he felt the licensing fees were discriminatory.

Vote:

The motion failed on ROLL CALL VOTE.


SENATE BUSINESS & INDUSTRY COMMITTEE

March 9, 1993

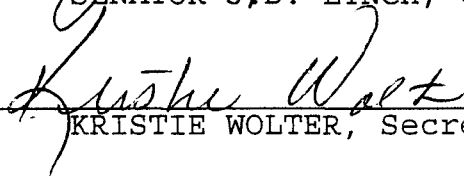
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ADJOURNMENT

Adjournment: 11:30 a.m.



SENATOR J.D. LYNCH, Chair



KRISTIE WOLTER, Secretary

JDL/klw

ROLL CALL

SENATE COMMITTEE Business & Industry DATE 3/9/92

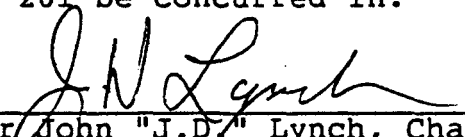
NAME	PRESENT	ABSENT	EXCUSED
Senator Lynch	✓		
Senator Christiaens	✓		
Senator Brenden	✓		
Senator Gage	✓		
Senator Hager			✓
Senator Harding	✓		
Senator Kennedy	✓		
Senator Klampe	✓		
Senator Koehnke	✓		
Senator Mesaros	✓		
Senator Rea	✓		
Senator Bruski-Maus	✓		
Senator Wilson	✓		

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 9, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 201 (first reading copy -- blue), respectfully report that House Bill No. 201 be concurred in.

Signed: 

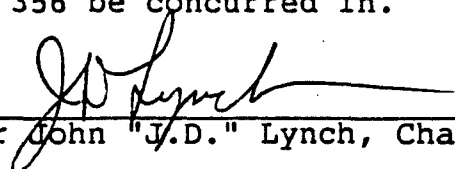
Senator John "J.D." Lynch, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 9, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 356 (first reading copy -- blue), respectfully report that House Bill No. 356 be concurred in.

Signed: 

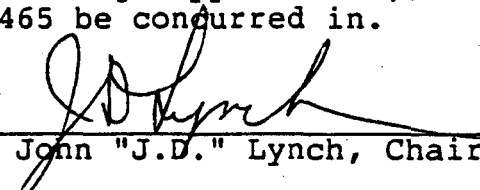
Senator John "J.D." Lynch, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 9, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 465 (first reading copy -- blue), respectfully report that House Bill No. 465 be concurred in.

Signed: 

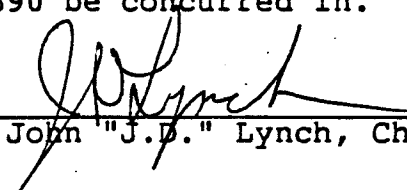
Senator John "J.D." Lynch, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 9, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 390 (first reading copy -- blue), respectfully report that House Bill No. 390 be concurred in.

Signed: 
Senator John "J.D." Lynch, Chair

ROLL CALL VOTE

SENATE COMMITTEE Business & Industry BILL NO. HB 222

DATE 3/9/93 TIME 10:00 A.M. P.M.

NAME	YES	NO
Senator Gage		✓
Senator Hager		
Senator Harding		✓
Senator Misaros		✓
Senator Toews Brenden		✓
Senator Wilson	✓	
Senator Rea	✓	
Senator Klampe	✓	
Senator Koehnke		✓
Senator Bruski-Maus	✓	
Senator Kennedy	✓	
Senator Christbaens	✓	
Senator Lynch		✓

Kristen Weth
SECRETARY

J. D. Lynch
CHAIR

MOTION: HB 222 Be Amended to Alternative 2

REGULATION
AND
INTEGRATED LEAST COST RESOURCE PLANNING AND ACQUISITION
WORKING GROUP

ORGANIZATION

PARTICIPANTS

Montana Power Company	Jack Haffey, Tom Worring, & Dave Houser
Montana Dakota Utilities	C. Wayne Fox, Don Ball, & John Alke
Western Montana Generation & Transmission Co-op	Ron Wilkerson
Central Montana Electric Co-operative	Jim Eskeridge
Montana Environmental Information Center	Sam Toole
Northern Plains Resource Council	Tom Schneider
District XI Human Resource Council	Jim Morton & Thomas M. Power
Boulder Hydro	Lee Tavener
Montana Consumer Counsel	Robert Nelsen & Frank Buckley
Montana Department of Natural Resources & Conservation	Van Jamison, Alan Davis, Larry Nordel
Montana Consumer Counsel	Robert Nelsen & Frank Buckley
Montana Public Service Commission Staff	Dan Elliott & Robin McHugh
Northwest Power Planning Council	John Hines
Bonneville Power Administration	Gail Kuntz
Committee Facilitator	Gerald Mueller

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 1

DATE 3/9/93

BILL NO. HB 390

TESTIMONY OF GERALD MUELLER
BEFORE THE MONTANA SENATE
BUSINESS AND INDUSTRY COMMITTEE
MARCH 9, 1993

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 2
DATE 3/9/93
BILL NO. HB 390

Chairman John "J. D." Lynch, members of the Committee, my name is Gerald Mueller, and I live at 7165 Old Grant Creek Road in Missoula. I appear here this morning in support of H.B. 390 as the spokesperson for the group that developed this proposed legislation. The group has a long name which I will read just once for the record, the Regulation and Integrated Least Cost Resource Planning and Acquisition Working Group.

I have passed out a list of the participants in the Working Group, and I direct your attention to this list now. You will notice that it contains a wide assortment of groups, many of which normally appear before you in opposition to each other. The list includes:

- Both private utilities and public utilities from western and eastern Montana, Montana Power Company and Montana Dakota Utilities, Western Montana Generation & Transmission Co-op, and Central Montana Electric Co-operative;
- Environmental and low-income organizations, the Montana Environmental Information Center, Northern Plains Resource Council, and District XI Human Resource Council;
- An independent power producer, Boulder Hydro;
- State legislative and executive branch agencies involved with the regulation of utilities, the Montana Consumer Counsel, Department of Natural Resources & Conservation, and Public Service Commission;
- The Pacific Northwest regional electricity planning body, the Northwest Power Planning Council; and
- An agency of the U.S. Department of Energy, the Bonneville Power Administration.

The participants in this group overcame their traditional antagonisms and worked together voluntarily for over two years to develop proposed legislation which has become H.B. 390. They did so because they shared a belief that utilities can develop resources at lower costs and that the historic conflict in utility siting and rate-making processes can and should be reduced.

The vehicle for reduced resource costs and regulatory conflict is integrated least cost resource planning which differs from traditional utility planning in three important ways:

- First, it ensures that utilities seek out the least costly means of meeting electricity demands from among all resource alternatives, including power plants, conservation, utility-owned resources, and the competitive market place.

- Second, it explicitly takes into account factors not addressed in past utility planning. It incorporates environmental and social costs and benefits not born directly by the utility. It does so in comparisons of resource alternatives not by placing these costs directly in utility rates. It also considers the uncertainty in projecting future electricity needs and the cost and availability of resources and the risk that arises from that uncertainty.
- And third, it involves all interested parties, utility customers, environmental organizations and regulators, in the utility planning before resource acquisition decisions are made. I want to emphasize that this involvement does not transfer resource decisions from utility management to the state or the public. It does provide information about the interests and concerns of potential intervenors in regulatory processes as well as the regulators themselves at an early stage so that the utility if it chooses to do so can avoid regulatory conflict.

Very simply, H.B. 390 does four things:

1. It authorizes the Commission to require the electric and gas utilities it now regulates to file integrated least cost resource plans, and allows the Commission to provide guidance to utilities as to the content of those plans.
2. It amends existing statutes to clarify that the Commission can provide rate treatment for utility investments in all forms of conservation, including residential, commercial, industrial, and agricultural.
3. H.B. 390 allows the Commission to provide rate treatment for costs arising from integrated least cost resource planning and acquisition.
4. It assures that environmental expertise existing in state executive branch agencies is shared with the Commission to avoid unnecessary duplication in state regulatory processes.

In closing, H.B. 390 represents the end product of cooperation by many interests who have been traditional combatants in utility matters. These interests worked together because they believe that utility costs can and should be reduced in two ways: through improved resource planning and reduced regulatory conflict. On behalf of these interests, I urge this Committee to act favorably on this bill.

Thank you for the opportunity to testify this morning.

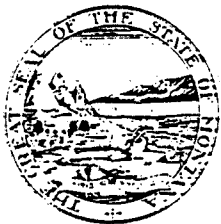
3-9-93
HB-390

REGULATION
AND
INTEGRATED LEAST COST RESOURCE PLANNING AND ACQUISITION
WORKING GROUP

ORGANIZATION

PARTICIPANTS

Montana Power Company	Jack Haffey, Tom Worrington, & Dave Houser
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Committee Facilitator	Gerald Mueller



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Bob Anderson, Chairman
Bob Rowe, Vice Chairman
Dave Fisher
Nancy McCaffree
Danny Oberg

March 9, 1993

Testimony of Bob Anderson

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 3

DATE 3/9/93

BILL NO. HB 390

The PSC supports HB390, which clarifies the authority of the PSC to require energy utilities to prepare and submit integrated least cost plans.

HB390 is not about whether or not integrated least cost planning is a good idea. It's about the risk of future litigation.

Integrated least cost planning has been developed over a period of several years by state utility commissions and utilities all over the country. Its key concepts include:

- a level playing field for conservation and supply
- public involvement in utility planning
- consideration of the environment in resource selection
- risk management
- pricing for informed and efficient purchase decisions.

In December, 1992, the PSC adopted rules which require the utilities to submit integrated least cost plans, beginning with the Montana Power Company in March, 1993. These rules were the result of a collaborative process that began in 1988 and included three rounds of public hearings and much dialog among the interested and affected parties. The resulting rules are as well thought out as any in the country.

A sticking point in the dialog was whether or not the PSC has sufficient legal authority to require this planning. We firmly believe that we do under our general statutory powers. Some parties agree with us; others do not.

There are two ways to settle this disagreement. One is in court. After a rate case an unhappy party could challenge the PSC's authority to require integrated least cost plans.

The other way to settle this dispute is to clarify the PSC's authority in legislation. That's what HB390 would do. We believe it is in the public interest to settle this matter in the legislature rather than in the courts. That's why we support HB390.

Our fiscal note on the bill shows a \$50,000 per biennium cost for processing the plans. We will incur this cost whether or not the bill passes. Our budget subcommittee has approved a modification to our consulting budget for this expense.

Finally, we respect the process that produced this bill. It represents a way of settling differences in a constructive way instead of the polarized, contentious way of the past. This bill represents one of the positive legacies of the Colstrip era.

RECEIVED

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

JAN 27 1992

MONT. P. S. COMMISSION

* * * * *

IN THE MATTER of the Proposed)
Adoption of Rules On Integrated)
Least Cost Planning)
for Electric Utilities)

REPLY COMMENTS OF
MONTANA-DAKOTA UTILITIES CO.

COMES NOW, Montana-Dakota Utilities Co. (Montana-Dakota), a Division of MDU Resources Group, Inc., and submits the following reply comments.

INTRODUCTION

Both Montana-Dakota and Montana Power Company, in their earlier comments, have pointed out the need for enabling legislation to successfully implement least cost planning and resource acquisition in the State of Montana. Such legislation is necessary in three areas:

1. The Commission needs enabling legislation to implement least cost planning in Montana.
2. Statutory clarification is necessary to insure that prudent expenditures incurred for planning or implementation of a plan are recoverable in rates, even though the expenditures do not result in the actual acquisition of a resource.
3. Sections 69-3-701, *et seq.* of the Montana Code Annotated need to be amended.

The Montana legislature has already twice rejected legislation enabling the

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 4

DATE 3/9/93

BILL NO. HB 390

Commission to implement least cost planning.¹ Consensus has been reached in two important areas on the issue of cost recovery.² Apparently, however, no consideration was given to the effect of § 69-3-701, MCA, prior to the Commission's rulemaking hearing. At that hearing, unsupported statements were made that the statutes did not limit the Commission's authority. The Commission will seriously jeopardize the future of least cost planning in Montana if it fails to address the need for changes to §§ 69-3-701, *et seq.*, MCA. The purpose of these reply comments is to focus the Commission's attention on the need for such changes.

SECTIONS 69-3-701, ET SEQ., MCA

MUST BE AMENDED

Part 7 of Chapter 3 of Title 69 was enacted into law by the 1983 Montana legislature. In doing so, the 1983 legislature made a clear choice. Two bills were introduced in the 1983 session, Senate Bill 456, and House Bill 765. It was Senate Bill 456 which was eventually enacted into law. The key provisions of the two bills were as follows:³

S.B. 456

1. Permissive utility investment in conservation;
2. Investment limited to measures costing no more than 50% of avoided cost.⁴

¹ House Bill 780, 1981 Montana Legislature; House Bill 868, 1985 Montana Legislature.

² Comments of Regulation and Integrated Least Cost Resource Planning and Acquisition Group, pp. 5-7.

³ SB 456, First Reading Copy, is attached as Exhibit A. HB 765, First Reading Copy, is attached as Exhibit B.

⁴ The 1987 amendments raised the ceiling to 100% of avoided costs, Chapter 304, 1987 Session Laws of Montana.

3. A 2% "equity kicker" for investments in conservation.

HB 765

1. Mandatory utility investment in conservation;
2. Investment criteria to be established by the Commission.

If the legislature had enacted HB 765 into law, the Commission would have been empowered to enact many of the rules it has proposed, such as the "115% of avoided cost" provision in Rule III(1)(h). Instead, the legislature rejected HB 765, and after substantial amendment, enacted SB 456 into law. (One of the amendments was a request by the Commission to limit recoverable conservation investments by utilities to investments in exiting residential structures.⁵)

It is specious to now suggest that § 69-3-701, *et seq.*, MCA, does not address, or was not intended to address, utility investments in conservation measures. Part 7, Chapter 3, of Title 69 is succinctly entitled:

Conservation Purchases or Investments by Utilities

Its provisions clearly and unambiguously set forth standards for recoverable utility investments in conservation.

CONCLUSION

The successful implementation of least cost planning and resource acquisition in Montana requires some statutory changes. No interest group suggested they would oppose the enactment of such changes. Given that lack of opposition, any resistance to making the

⁵ March 22, 1983 Minutes of the House Business and Industry Committee:

The next major amendment is to limit the whole bill to residential facilities, rather than to commercial and industrial and agricultural. This was at the suggestion of the PSC.

exhibit # 7
3-9-93
HB-390

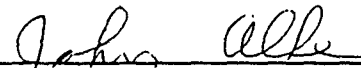
necessary changes is quixotic.

Respectfully submitted this 27th day of January, 1992.

MONTANA-DAKOTA UTILITIES CO.,
a Division of MDU Resources Group, Inc.

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Bringing lifetimes of experience and
leadership to serve all generations.

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Montana AARP State Legislative Committee
1992 Position Paper

MEDIGAP STANDARDIZATION

POSITION: The Montana AARP State Legislative Committee concurs with the action being taken by the Commissioner of Insurance and pledges its support in implementing the required changes. The proposed changes are of benefit to those purchasing Medigap insurance and adoption of all ten optional are worthy of support.

PROBLEM: The 1990 Omnibus Budget Reconciliation Act (OBRA 1990) provides new standards which insurance companies must meet before selling Medigap policies, and standardizes the Medigap policies that insurance companies can offer. In Montana, this law becomes effective July 1993.

SOLUTION: Enabling legislation must be passed by the 1993 legislature which will give authority to the Montana Commissioner of Insurance to promulgate the rules. It is anticipated that legislation will be prepared by the Commissioner of Insurance for submittal to the 1993 legislature.

CONTACT: Mr. Gene Quenemoen, State Legislative Committee Chairman
606 Frank Road
Belgrade, MT 59714
(406) 388-6982

MT 8/31/92
POSPAPER.002

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 5
DATE 3/9/93
BILL NO. HB 465

Amendments to House Bill No. 637
Third Reading Copy

Prepared by Jacqueline Lenmark
American Insurance Association

March 9, 1993

1. Page 2, line 11.
Following: "Applicability."
Strike: remainder of lines 11 through 13 in their entirety
Renumber: subsequent subsections.

NOTE: This subsection appears to be redundant to Section 9 which was amended by the House Business and Economic Development Committee.

2. Page 3, line 5.
Strike: "and"
Insert: "L"

3. Page 3, line 6.
Following: "sentences"
Insert: "and personal style"

4. Page 3, line 7.
Following: "words"
Insert: "and every day conversational language consistent with the policy's standing as a contract"

NOTE: Section 5(a) and (b) appear to be substantially redundant to Section 5(6). Section 5(7) is clearly redundant to Section 5(1)(c). I have prepared the amendments to delete subsections (6) and (7) and to move the additional language into Section 5(1)(a) through (f).

5. Page 3, line 8.
Following: "technical"
Insert: "and"
Following: "terms"
Insert: "and words with special meanings"

6. Page 3, line 14.
Following: "contents"
Insert: "and notice section"

7. Page 4, lines 1 through 6.
Strike: subsections (6) and (7) in their entirety
Renumber: subsequent subsections

8. Page 4

Following: line 6

Insert: "(6) POLICY EXCLUSIONS MAY USE TECHNICAL TERMS AND TERMS WITH COURT-INTERPRETED AND SPECIAL MEANING TO INSURE POLICY CLARITY."

9. Page 6.

Following: line 20

Insert: "NEW SECTION. Section 8. Liability and coverage not imputed. The existence or nonexistence of coverage or liability under a policy may not be construed from policy approval by the commissioner."

Renumber: subsequent sections

10. Page 6, line 25 through page 7, line 2.

Strike: section 9 in its entirety

Insert: "NEW SECTION. Section 9. Applicability. [Sections 1 through 8] apply to all policies issued or renewed on or after April 1, 1996."

11. Page 1, lines 15, 18, 21, 23 (two occurrences), and 25

Page 2, lines 4, 12, and 17

Page 3, line 3

Page 5, line 25

Page 6, lines 2, 22, and 24

Page 7, line 2

Following: "through"

Strike: "7"

Insert: "8".

NOTE: This last amendment is simply to accommodate the addition of a new section to the bill.

Amendments to House Bill 222
House Third Reading Copy

Prepared by Department of Justice

Alternative One

1. Page 1, line 25.
Following: "of"
Strike: "servicing"
2. Page 2, line 1.
Strike: "fire extinguishers, or before engaging in the business of"
3. Page 2, line 11.
Strike: "TO SERVICE fire extinguishers, OR"
4. Page 2, line 22.
Strike: "service a fire extinguisher or"
5. Page 5, line 3.
Following: "annual"
Strike: "\$300"
Insert: "\$200"
6. Page 5, line 6.
Following: "(A)"
Strike: "\$100 TO SERVICE FIRE EXTINGUISHERS;"
7. Page 5, line 7.
Strike: "(B) \$175"
Insert: "\$100"
8. Page 5, line 9.
Strike: "(C) \$175"
Insert: "(b) \$100"
9. Page 5, line 11
Strike: "(D) \$175"
Insert: "(c) \$100"

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 7

DATE 3/9/93

BILL NO HB 222

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 1

DATE 3/9/93

BILL NO HB 222

Amendments to House Bill 222
House Third Reading Copy

Prepared by Department of Justice

Alternative Two

1. Page 2, line 11.

Strike: "TO SERVICE fire extinguishers, OR"

2. Page 5, line 3.

Following: "annual"

Strike: "\$300"

Insert: "\$200"

3. Page 5, line 6.

Following: "(A)"

Strike: "\$100 TO SERVICE FIRE EXTINGUISHERS;"

4. Page 5, line 7.

Strike: "(B) \$175"

Insert: "\$100"

5. Page 5, line 9.

Strike: "(C) \$175"

Insert: "(b) \$100"

6. Page 5, line 11

Strike: "(D) \$175"

Insert: "(c) \$100"

3-9-93
HB-222

Amendments to House Bill 222
House Third Reading Copy

Prepared by Department of Justice

Alternative Three

1. Page 1, line 5.
Following: "ACT"
Strike: "REVISING"
Insert: "REPEALING"
2. Page 1, line 7.
Following: "EQUIPMENT"
Strike: "AMENDING"
Insert: "REPEALING"
3. Page 1, line 9.
Following: "AN"
Strike: "APPLICABILITY"
Insert: "IMMEDIATE EFFECTIVE"
4. Page 1, line 11.
Strike: lines 11 through 17 in their entirety.
5. Page 1, line 19.
Following: line 19.
Strike: remainder of page 1 and all of pages 2, 3, 4, 5, and 6.
Insert: "NEW SECTION. Section 1. Repealer. Sections 50-39-101, 50-39-102, 50-39-103, 50-39-104, and 50-39-105, MCA, are repealed."
6. Page 6, line 18.
Following: line 18.
Insert: "NEW SECTION. Section 2. Effective date. [This act] is effective upon passage and approval."

DATE 3/9/93

SENATE COMMITTEE ON Business and Industry

BILLS BEING HEARD TODAY: HB 390, HB 465, HB 545, HB 1,37

Name	Representing	Bill No.	Check One Support Oppose
John Anderson	Dept AG	HB 545	✓
Gerald Mueller		HB 390	✓
Bob Nelson	Consumer Counsel	HB 390	✓
Roger McGlen	INDEPENDENTS INS. AGENTS ASSOC. OF MT	HB 390 HB 545	✓
PAN WATERMAN	FARMERS INSURANCE	HB 637	✓ ✗
Bill Olson	AARP	HB 465	✓
Alan Davis	DAIRC	HB 390	✓
MARK Simonich	DAIRC	HB 390	✓
Ken Toole	MEIL	HB 390	✓
GENE PHILLIPS	P.P. & L	HB 390	✗
Jack Aaffey	The Montana Power Company	HB 390	✓
John Allen	MNU	HB 390	✓
John Hines	NWPPC	HB 390	✓
Frank Cate	S.A.C.	465/545	✓
Tom Hargood	Blue Cross of Montana	465/545	✓
	High Ins Assoc America	465/545	✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3/9/93

SENATE COMMITTEE ON Business and Industry

BILLS BEING HEARD TODAY: HB 390, 465, 545, 637

Name	Representing	Bill No.	Check One	Support	Oppose
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Greg Van Horssen	State Farm	545		✓
Greg Van Horssen	State Farm	637		✓
MARK E. NELSON	State Auditor	545	✓	
		465	✓	
Jaqueline Denmark	Am. Ins. Assoc.	465		
		637	✓	
GENE PHILLIPS	NALI	HB		
		637		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY