

Minutes for the week of April 25, 2011

At the meeting of the Public Service Commission of the State of Montana held at the Commission's Offices in Helena, Montana, on Tuesday, April 26, 2011, the following members were present:

Travis Kavulla, Chairman  
 Gail Gutsche, Vice-Chairman  
 Bill Gallagher, Commissioner  
 Brad Molar, Commissioner  
 John Vincent, Commissioner

APPEARANCE

Kate Whitney, Administrator, Regulatory Division

(204) In the matter of the Commission's minutes of April 4, 2011:

Commissioner Gutsche moved to APPROVE the Commission Minutes for the week of April 4, 2011. Commissioner Vincent seconded the motion, which passed unanimously.

APPEARANCE

Eric Eck, Regulatory Division

(205) In the matter of D2011.3.25: On March 15, 2011, Black Hills Power filed a Quarterly Fuel Rate Rider application.

Commissioner Molnar moved to GRANT Black Hills Power's Quarterly Fuel Rate Rider application. Chairman Kavulla seconded the motion, which passed unanimously.

APPEARANCE

Scott Fabel, Regulatory Division

(206) In the matter of N2011.4.30: On April 5, 2011, CenturyLink filed Advice No. 11-06. The purpose of this filing is to introduce a database records fee applicable to wireless carriers.

Commissioner Vincent moved to APPROVE CenturyLink's Advice No. 11-06 in Docket N2011.4.30. Commissioner Gutsche seconded the motion, which passed unanimously.

APPEARANCE

Eric Dahlgren, Regulatory Division

(207) In the matter of TN2500: Eric Fruehstorfer d/b/a AAA Night Taxi, Lewistown, Montana, requests permission to suspend PSC No. 9471, April 26, 2011, to October 26, 2011.

Commissioner Kavulla moved to APPROVE the suspension of PSC No. 9471 as requested. Commissioner Gallagher seconded the motion, which passed unanimously.

APPEARANCE

Sarah Norcott, Legal Division

Minutes for the week of April 25, 2011

(208) In the matter of the Commission's discussion of D2010.11.107 – Avista Corporation d/b/a Avista Utilities – application for authority to increase electric rates:

Commissioner Vincent moved to APPROVE the default order in D2010.11.107 submitted by staff, with the proviso as suggested by Jim Paine. Commissioner Gutsche seconded the motion, which passed unanimously.

APPEARANCE

Justin Kraske, Legal Division  
Kim Moran, Regulatory Division

(209) In the matter of the Commission's discussion of D2010.3.27: NorthWestern Energy natural gas universal systems benefits charge rate adjustment:

Commissioner Gutsche moved to APPROVE the final order which finalizes the interim USB rates currently in place in Docket No. D2010.3.27. Commissioner Vincent seconded the motion, which passed 3-1-1. Commissioner Molnar voted no. Commissioner Gallagher abstained.

APPEARANCE

Justin Kraske, Legal Division  
Neil Templeton, Regulatory Division

(210) In the matter of the Commission's discussion of D2011.3.26: NorthWestern Energy natural gas universal system benefits charge rate adjustment:

Commissioner Gutsche moved to APPROVE proposed interim rates in the natural gas universal system benefits program in Docket No. D2011.3.26. Chairman Kavulla seconded the motion, which passed unanimously.

APPEARANCE

Justin Kraske, Legal Division  
Kate Whitney, Administrator, Regulatory Division

(211) In the matter of DDV 2011-79, 86, and 89: NorthWestern Energy, Montana Consumer Counsel and Human Resource Council, District IX and Natural Resources Defense Council v. Montana Public Service Commission - proposed settlement:

MOTION 1: Commissioner Gutsche moved that the Commission DEFEND its Final Order 7046h as approved on December 9, 2010. Commissioner Vincent seconded the motion.

SUGGESTION TO THE MOVANT AND SECOND: Commissioner Gallagher suggested to Commissioner Gutsche and Commissioner Vincent that they amend their motion to defend the order as it stands with the caveat that we instruct counsel to request and at every opportunity insist that if the judge were to find any portion of the order intolerable that the judge remand the entire case to the Commission. The movant and second did not accept the amendment.

Minutes for the week of April 25, 2011

ALTERNATIVE MOTION: Commissioner Molnar moved that the PSC DEFEND the Order and if the judge takes umbrage with any portion of it then the entire order would be remanded to the Commission. Commissioner Gallagher seconded the motion, which failed on a 2 to 3 vote. Chairman Kavulla, Commissioner Gutsche and Commissioner Vincent voted no.

RESTATEMENT OF MOTION 1: Commissioner Gutsche moved that the Commission SUPPORT the Final Order 7046h as approved on December 9, 2010 and DEFEND it in court. Commissioner Vincent seconded the motion, which failed with a 2 to 2 vote. Chairman Kavulla and Commissioner Gallagher voted no. Chairman Kavulla ruled that Commissioner Molnar did not vote when the vote was called and mandated roll call votes from this point forward on this issue.

Commissioner Gallagher requested a retake of the vote. Chairman Kavulla moved to amend the motion.

SUBSTITUTE MOTION FOR ALL MOTIONS PENDING: Chairman Kavulla moved to AMEND the main motion (Motion 1) that the Commission accept the settlement offer and put this issue to rest. Commissioner Vincent seconded the motion, which passed 3 to 2.

Roll call vote: Commissioner Gallagher voted no,  
Commissioner Gutsche voted yes,  
Commissioner Molnar voted no,  
Commissioner Vincent voted yes,  
Chairman Kavulla voted yes.

SUBSTITUTE MOTION 2: Commissioner Gallagher moved to REITERATE our negotiating position to NorthWestern Energy as it stands, ask them to either accept or reject the position, and if they reject it then to DEFEND the order. Commissioner Molnar seconded the motion, which failed 2 to 3.

Roll call vote: Commissioner Gallagher voted yes,  
Commissioner Gutsche voted no,  
Commissioner Molnar voted yes,  
Commissioner Vincent voted no,  
Chairman Kavulla voted no.

MAIN MOTION: ACCEPT the proposed settlement offer and communicate that the commission support it and follow up with a submission to the district court jointly filed with minor modifications, which passed 3 to 2.

Roll call vote: Commissioner Gallagher voted no,  
Commissioner Gutsche voted yes,  
Commissioner Molnar voted no,  
Commissioner Vincent voted yes,  
Chairman Kavulla voted yes.

APPEARANCE  
Travis Kavulla, Chairman

Minutes for the week of April 25, 2011

(212) In the matter of the Commission's discussion of FERC ER10-1138: Mill Creek Generating Station Schedule 3 Allocation.

Commissioner Vincent moved that Chairman Kavulla and Commissioner Gutsche be designated as the sole Commissioner representatives at the next FERC settlement on May 9, 2011 in Washington D.C., and that we determine that any other commissioner in attendance will not be there on official state business and would not be entitled to travel reimbursement or other expenses incurred. Chairman Kavulla seconded the motion, which passed 3 to 2. Commissioner Molnar and Commissioner Gallagher voted no.

#### APPEARANCE

W. A. Gallagher, Commissioner

(213) In the matter of the Commission's discussion of Ultra Vires Activities of the Chair and to determine whether the new Chairman will voluntarily submit to a "Chairman's Code of Conduct" authored by Commissioner Kavulla and to discuss the merits and necessity of such.

MOTION 1: Commissioner Vincent moved to AUTHORIZE the Chairman to schedule a work session to write a code of conduct for the entire Commission and for subsequent commissions to voluntarily sign. Commissioner Kavulla seconded the motion. Commissioner Vincent withdrew the motion.

SUBSTITUTE MOTION: Commissioner Vincent moved that the consideration of the matter at hand be indefinitely POSTPONED and that Commissioner Vincent will SCHEDULE a work session to consider the matter addressed in the original motion for the Commission. Commissioner Gutsche seconded the motion, which passed 3 to 2. Commissioner Gallagher and Commissioner Molnar voted no.

Minutes for the week of April 25, 2011

There being no further business to come before the Commission the meeting was adjourned.

---

TRAVIS KAVULLA, Chairman

---

GAIL GUTSCHE, Vice Chair

---

W.A. GALLAGHER, Commissioner

---

BRAD MOLNAR, Commissioner

---

JOHN VINCENT, Commissioner

ATTEST:

Judy Scheier,  
Assistant Commission Secretary

(SEAL)