

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

In the matter of the amendment of            ) NOTICE OF PUBLIC HEARING ON  
ARM 38.2.5031 pertaining to Public        ) PROPOSED AMENDMENT  
Utility Executive Compensation            )

TO: All Concerned Persons

1. On October 17, 2013, at 1:30 p.m., the Department of Public Service Regulation will hold a public hearing in the Bollinger Room at 1701 Prospect Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Public Service Regulation will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Service Regulation no later than 5:00 p.m. on October 9, 2013, to advise us of the nature of the accommodation that you need. Please contact Aleisha Solem, Department of Public Service Regulation, 1701 Prospect Avenue, Helena, Montana, 59620-2601; telephone (406) 444-6170; fax (406) 444-7618; TDD/Montana Relay Service (406) 444-4212; or e-mail asolem@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

38.2.5031 PUBLIC UTILITY EXECUTIVE COMPENSATION INFORMATION  
TRANSPARENCY RULE

~~(1) If the commission is in possession of executive compensation information, the commission will not afford proprietary, confidential treatment to the compensation of the three highest-paid, Montana-based employees. Total compensation includes, but is not limited to base salary, short-term (annual) incentive plan benefits, long-term incentive plan benefits, stock options, any supplemental benefit plans and perquisites, and compensation from the public utility affiliates of their executive management personnel in Montana. The total compensation information of the three highest-paid, Montana-based utility employees will not be protected from public disclosure through issuance of a protective order by the commission. If a public utility or a public utility employee contends that the circumstances of the privacy of an employee's particular compensation warrants issuance of a protective order despite the wording set forth above, the utility or employee may seek issuance of a protective order and set forth the circumstances that may justify issuance of such an order. Any information held in the possession of the commission is open to the public for inspection and copying in accordance with 2-6-102, MCA, during regular business hours, as defined by 2-16-117, MCA, except for information listed in (2).~~

(a) Information includes: pleadings, petitions, applications, motions, communications, exhibits, reports, records, accounts, files, papers, and memoranda or other document(s); of every nature, which may include utility compensation information; in whole or in part, whether individual or in aggregate, whether organized by job title or name, whether executive or otherwise.

~~(2) Adoption of this rule does not preclude the commission from seeking and securing other information from regulated businesses. The following information is not open to public inspection:~~

(a) commission personnel files;

(b) information for which the commission has issued a protective order pursuant to 69-3-105(2), MCA; and

(c) information required by law or requirements of personal privacy to remain confidential.

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-106, 69-3-201, 69-3-203, 69-3-330, MCA

REASON: The department is amending the existing rule to clarify that all information in possession of the department is public information, unless it is required by law or through issuance of a protective order to remain confidential. The existing version of the rule is limited to executive pay and does not discuss how non-executive utility compensation information is handled. The department is amending the existing rule to improve and clarify how it handles information that is in the department's possession.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Aleisha Solem, Department of Public Service Regulation, 1701 Prospect Avenue, Helena, Montana, 59620-2601; telephone (406) 444-6170; fax (406) 444-7618; or e-mail [asolem@mt.gov](mailto:asolem@mt.gov), and must be received no later than 5:00 p.m., October 25, 2013.

5. The commission, a commissioner, or a duly appointed presiding officer may preside over and conduct the hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version

of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact any small businesses. The proposed rule clarifies that information in the possession of the department will be public information unless it is required to be protected consistent with law. If the proposed rule is amended, small regulated utility businesses that are required to file information with the department will continue to have to file for a protective order to keep information confidential. That is consistent with the prior process at the department. The department is unaware of any significant and direct adverse impacts that amendment of the proposed rule will have on other small businesses.

/s/ JUSTIN KRASKE  
Justin Kraske  
Rule Reviewer

/s/ W.A. (BILL) GALLAGHER  
W.A. (Bill) Gallagher  
Chairman  
Public Service Regulation

Certified to the Secretary of State September 9, 2013.