

Ratepayers have constant, effective advocate in Montana Consumer Counsel

By Roger Koopman

During my time on the Public Service Commission, commissioners have faced many difficult and complex issues while pursuing that challenging balancing act called “the public interest.” The parties and special interest groups that come before us are typically thoughtful, well-prepared and provide valuable input to the regulatory process – although generally driven by self-interest and ideological agendas. In the midst of these contentious cases, one entity has stood out as the ubiquitous defender of ratepayers’ interests. Guided not by self-interest or partisan politics, but by a consistent analysis of what serves the long-term interests of Montana ratepayers, the Montana Consumer Counsel (MCC) has quietly and effectively advanced the legitimate interests of consumers in the face of the well-funded challenges of environmental groups, profit-minded developers and the utility companies themselves.

This tiny, Constitutionally-established state agency goes about its business with a modest staff of 6, who together advance the consumer’s interests while scrupulously avoiding political agendas and ideologies. They are driven by the singular objective of guaranteeing consumers a fair shake in the regulatory process.

In a perfect world, where freedom and free markets create vigorous competition for the consumer’s dollar, the interests of companies and consumers coalesce, and the “public interest” takes care of itself. What’s good for the customer is good for the company, and vice versa. Unfettered competition sees to that, as innovation, creativity and greater efficiency drive down cost and expand consumer choice. It’s the classic free market “win-win.” Exciting, Unpredictable. Sparked by a spirit of discovery and positive expectation, leading inevitably to an improvement in the human condition. Such is the legacy of liberty.

But alas, we don’t live in that perfect world, and with each passing year, we seem to drift further from it, as we pursue our love affair with Big Government, and increasingly accept of the notion that politicians are smarter than consumers and bureaucrats are smarter than markets. We regularly discard America’s traditional faith in freedom, and replace it with a trust in the kind of top-down economic manipulation that belongs in the dustbin of history. The politician’s answer is always the same: “pass another law” -- not to pursue equity and justice, but to impose on us their personal opinions of what America should look like. Business people become like trained dolphins, jumping through the government’s hoops to receive their politically-bestowed favors, subsidies and tax breaks. Winners and losers are established by politics, not by the market. Corporate welfare and crony capitalism abound.

That said, there is clearly an essential role for enlightened regulation where natural monopolies are concerned. Regulated power companies like NorthWestern Energy fall firmly into the monopoly category, owning the means of transmission and distribution in their service area, and thus facing no disciplining competition from the marketplace. That’s the reason we have a state public service commission, and why the federal government also has a constitutionally-limited but important regulatory role, where interstate commerce is a factor. In Montana, the commission is charged by state statute to establish rates and regulatory parameters that are “just and reasonable” and “in the public interest.” The PSC does not make law. But within our statutory framework, there is considerable discretion in the way the PSC goes about regulating in the public interest. It has been my belief that the

best regulation of monopolistic utilities is when, as much as possible, the regulator takes the place of the missing “competition factor” by introducing market-type incentives and risk into the operation of the utility itself. This approach to regulation seeks to create the win-win scenario of the marketplace – producing stronger companies and major benefits and savings to consumers.

In all of our deliberations, the Montana Consumer Counsel is the ever-present voice of the consumer, reminding us how, in their view, our decisions will impact rates and other consumer priorities. In doing so, they are unafraid of sometimes testing the limits of troublesome federal mandates that can work against the consumer and artificially drive up the cost of energy. Case in point was the important contribution the MCC made to our recent decision on small-scale (QF-1) renewable standard rates and contract lengths. The consumer council has been asserting for years that long-term (up to 25 year) fixed-rate QF contracts are unworkable, and place consumers at great risk. The commission has agreed in principle, but hadn't yet found a good solution.

The MCC proposed a maximum contract length of 5 to 7 years, with rate recalculations every 3 years. The commission's solution was largely patterned after the MCC model, offering a somewhat more generous 10-year contract with an automatic adjustment to current tariff rates in year 6. The commission went further, by including the utility into this same regulatory principle, calling for 5-year reviews of the rate-based returns of any new company-owned generation asset. This shared risk/shared reward approach more accurately reflects the changing realities on the energy marketplace, and creates an even playing field that favors no one and serves everyone .

Certainly, the MCC's positions aren't always adopted by the PSC. Every case stands on its own merits, and every party is given equal consideration. But the contribution the MCC provides, as exemplified in our most recent decision, affords exactly the kind of safeguards the framers of our state constitution had in mind. The counsel deserve the thanks of every Montana rate-payer.

Roger Koopman (R-Bozeman), is serving his second term on the Montana Public Service Commission, representing PSC District 3. He is a former two-term state legislator and operated a small business in Bozeman for 37 years.