

MONTANA

Public Service Commission

CHAIRMAN'S (Mid-Year)

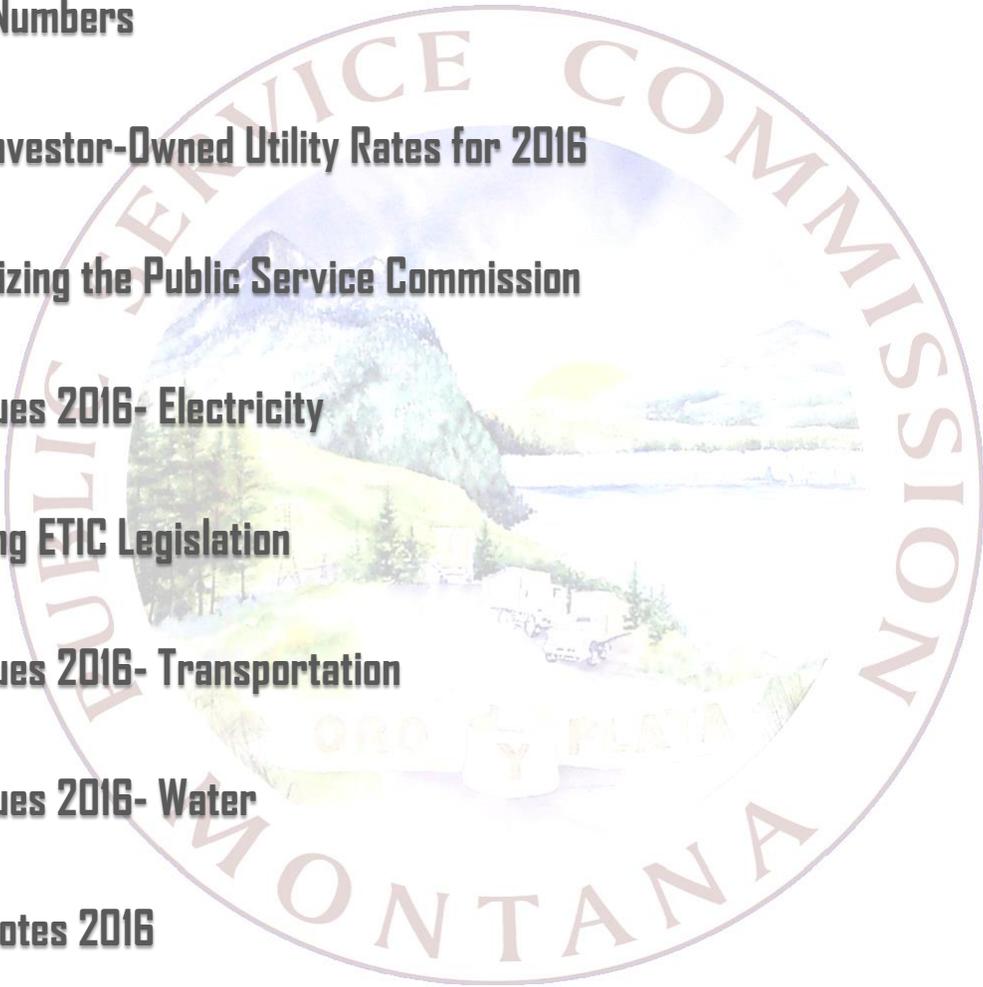
REPORT

2016

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By The Numbers:

Total Budget Fiscal Year 2016: \$4,133,777

Total FTE Count: 38.44

2016 Rates for Montana's Largest Investor-Owned Utilities

(As of the 1st day of each month)

| | NWE Gas (therm) | MDU Gas (dkt) | EWM Gas (ccf) | Big Sky Gas (therm) | NWE Electric (kwh) | MDU Electric (kwh) |
|-----------------|--------------------|------------------|------------------|------------------------|-----------------------|-----------------------|
| January | | | | | | |
| Total Rate | \$.662192 | \$5.2525 | \$.49179 | \$.646234 | \$.107423 | \$.074996 |
| Supply Rate | \$.279958 | \$3.873 | \$.21856 | \$.264 | \$.066250 | \$.02527 |
| Service Chg | \$7.35/month | \$.26/day | \$7.25/month | *NWE | \$5.30/month | \$.18/day |
| February | | | | | | |
| Total Rate | \$.658602 | \$5.0405 | \$.49084 | \$.646234 | \$.112465 | \$.074366 |
| Supply Rate | \$.276368 | \$3.661 | \$.21826 | \$.264 | \$.068390 | \$.02464 |
| Service Chg | \$7.35/month | \$.26/day | \$7.25/month | *NWE | \$5.30/month | \$.18/day |
| March | | | | | | |
| Total Rate | \$.613422 | \$5.0405 | \$.47757 | \$.646234 | \$.112621 | \$.074356 |
| Supply Rate | \$.231188 | \$3.661 | \$.20469 | \$.264 | \$.068546 | \$.02463 |
| Service Chg | \$7.35/month | \$.26/day | \$7.25/month | *NWE | \$5.30/month | \$.18/day |
| April | | | | | | |
| Total Rate | \$.568032 | \$4.6455 | \$.39276 | \$.781234 | \$.11278 | \$.075956 |
| Supply Rate | \$.185798 | \$3.266 | \$.12141 | \$.399 | \$.068705 | \$.02372 |
| Service Chg | \$7.35/month | \$.26/day | \$7.25/month | *NWE | \$5.30/month | \$.18/day |
| May | | | | | | |
| Total Rate | \$.563132 | \$4.3805 | \$.39073 | \$.781234 | \$.112235 | \$.074136 |
| Supply Rate | \$.180898 | \$3.001 | \$.12066 | \$.399 | \$.06816 | \$.0219 |
| Service Chg | \$7.35/month | \$.26/day | \$7.25/month | *NWE | \$5.30/month | \$.18/day |
| June | | | | | | |
| Total Rate | \$.5680506 | \$4.5075 | \$.39534 | \$.7071526 | \$.111923 | \$.093816 |
| Supply Rate | \$.180898 | \$3.12 | \$.12647 | .32 | \$.067848 | \$.02058 |
| Service Chg | \$7.35/month | \$.26/day | \$7.25/month | *NWE | \$5.30/month | \$.18/day |
| July | | | | | | |
| Total Rate | \$.6362775 | \$4.5075 | \$.4449 | \$.7342375 | \$.111532 | \$.092676 |
| Supply Rate | \$.24904 | \$3.12 | \$.17701 | \$.347 | \$.067523 | \$.01944 |

| Service Chg | \$7.35/month | \$.26/day | \$7.25/month | *NWE | \$5.30/month | \$.18/day |
|---------------|--------------|-----------|--------------|----------|--------------|-----------|
| August | | | | | | |
| Total Rate | \$.6459075 | \$5.2575 | \$.47028 | \$.68724 | \$.111246 | \$.093426 |
| Supply Rate | \$.25867 | \$3.87 | \$.20321 | \$.30 | \$.067237 | \$.02019 |
| Service Chg | \$7.35/month | \$.26/day | \$7.25/month | *NWE | \$5.30/month | \$.18/day |

NOTES AND DISCLAIMERS:

This document shows the tariff-verified rates for each utility as of the first day of the month. Mid-month changes are not reflected here. MDU's electric power supply costs consist of fuel used in its generating stations, energy purchases from MISO and a seasonal capacity contract. NWE's electric supply rate includes the cap-ex rate base value of its owned generation. NWE's electric supply rate includes Federal production tax credits for wind resources. NWE's gas cost includes the Battle Creek, Bear Paw, and Devon revenue requirements (update 11/2013). Gas supply rates for each company may include transportation and storage costs from other parties. The supply rates as shown on this document do not include any deferred supply rates.

Modernizing the Montana Public Service Commission

(The following is a continuation of the "modernization" update provided in the "2015 Chairman's Report")

At the beginning of calendar year 2015, the PSC initiated an agency-wide "modernization" effort to improve the efficiency and effectiveness of the Commission's workflow. This included improving Information Technology functions, as well as staff re-organization efforts.

Information Technology Upgrade

The Information Technology section (IT) of the PSC falls under the Centralized Services Division. The ultimate goal of IT at the PSC is to facilitate the agency's objective to provide the best possible services and support to commissioners, staff, and the citizens of Montana in a timely, efficient and cost effective manner, as well as to continually review new technologies and ideas to ensure that we are meeting the needs of everyone that we serve.

IT is integrated into nearly every function of the agency; from the creation and storage of digital content, to receiving and delivering services and data. IT provides user administration, support, and system and application development and is responsible for planning, development, implementation and maintenance of comprehensive internal and state-wide IT solutions to better provide services to the PSC staff and to the public.

In deviating from past practice, our servers are now currently being hosted by the State Information Technology Services Division (SITSD) at the State of Montana Data Center (SMDC), with the exception of one server that we use for live streaming our weekly business meetings. Our transition to the SMDC took place roughly a year ago.

Like all other state agencies, the PSC is totally dependent on IT, not just to support and enhance our business, but also to enable it. The task of IT is to support the PSC mission by developing, delivering, and facilitating the use of IT services and resources; the primary contributions being:

- The need to continue the existing focus on e-Services and system upgrades;
- The need to rewrite our PSC intranet and public facing web application systems;
- The need to provide fast and easy access to materials in hearings and business meetings;
- The need to enhance the use of video to promote participation from remote areas; and
- The need to increase customer and user capabilities;

Our strategy is to continue utilizing State Information Technology Service Division, Department of Administration (SITSD) services to help free up IT staff time to be able to work on the above items.

Many PSC IT principles coincide with the Montana Information Technology Act, as well as the State of Montana Information Technology Strategic Plan. Resources and funding will be allocated to IT projects that contribute the greatest value and benefit to partakers, and duplication of processes will be minimized by sharing data, systems, and applications within agency divisions. Information technology will be used to provide educational opportunities to staff, enable business continuity, and provide privacy and security of data.

IT resources will be used in an organized, deliberative and cost-effective manner, and IT services will provide delivery channels that allow citizens to determine when, where, and how they interact with state agencies. Elimination of risks is a priority to protect individual privacy, and the privacy of systems information and service offerings will incorporate security controls based on both state and federal security standards.

The PSC is increasingly dependent our information systems and needs. Managing how the agency uses and leverages technology is crucial. In today's evolving technology environment, effective IT governance can be the difference between success and failure. Governance for PSC IT service delivery function stems from commissioner decisions in a business meeting setting with guidance from the Centralized Services Division Administrator, Communications Director and Computer Systems Analyst.

In August of this year, the PSC issued a request for proposal (RFP) to contract for website re-design and a new database management system. Proposals to the agency are due September 18, 2016. The target date for completion of the project is December 2017.

Staff re-organization

The Public Service Commission is currently conducting a comprehensive assessment to evaluate organizational structure and objectives, staffing, and human resources practices to ensure that we effectively support our mission and our goals.

The assessment will be a collaborative process involving the Commission, managers, and staff to develop specific human resource administration recommendations in alignment with best practices and policy, and legal requirements, as well as to allow us to shape our culture and team to meet the needs of our staff and constituents. The assessment will also allow for better services associated with knowledge transfer and succession planning, which are critical considerations given the fact that the scope of knowledge associated with the topics that we cover at the PSC are very specific and unique.

The staff re-organization will be conducted through calendar year 2016. The Commission contracted with Helena firm, Communication and Management Services (CMS) to conduct the staff evaluation and re-organization.

Top Issues in 2016

Electricity

Montana-Dakota Utilities Rate Case

On June 25, 2015, the Montana Public Service Commission received a request from Montana-Dakota Utilities for an \$11.8 million, or 21.1%, rate increase for its approximately 26,000 customers in eastern Montana.

The increase to the average MDU ratepayer resulting from the original request was estimated to be about \$14.80 per month. The Montana PSC must by law issue an order on the rate case within 270 days after MDU filed the request. MDU's last general electric rate review was in 2011, when the Montana PSC approved an increase of just over 6%.

MDU's original application asked the Commission to authorize a 10% return for the capital invested by the company's shareholders. In addition to increasing the per-kilowatt-hour charge for energy, the original request would have also increased the fixed monthly charge. MDU is also asked the Commission to approve additional "rate riders" on customers' bills related to environmental and transmission costs. It

also included a proposed revision to the net metering tariff under which customers who generate their own electricity are credited for excess production.

To view Montana-Dakota Utilities' news release regarding the rate increase request, visit <http://www.montana-dakota.com/utility-menu/news>

With a 4-0 vote on December 15, 2015, the Commission rejected a \$10.9 million interim electricity rate increase requested by Montana-Dakota Utilities. The rate increase was requested as an interim adjustment that is part of their original 21.1%, \$11.8 million increase that was under review in a contested rate case before the Commission at that time.

The Commission held a hearing on the MDU electricity rate case February 9 & 10, 2016 in Glendive, MT.

On March 22, 2016, the Commission issued an order approving a settlement between Montana-Dakota Utilities, the Montana Consumer Counsel and the Large Customer Group.

One day prior to a hearing in Glendive in February, MDU and the consumer advocates reached a settlement, reducing the rate increase to 13.3% to be phased in over two years. The total rate increase for MDU's roughly 26,000 customers in eastern Montana equals approximately \$7.4 million.

In approving the stipulation, the Commission expressed skepticism of the utility's proposal to include two combustion engines installed in Sidney, Mont., into customer rates, leaving the decision to include the units in rates for a future rate proceeding. The Commission noted that the plant was not providing economic energy supply for customers at this time, and had not been certified as a capacity resource at the time of the hearing.

Additionally, the Commission clarified its position on environmental upgrades, noting that utilities should not charge customers for pollution control technologies until emissions standards are actually in effect and enforceable. The company has paid for upgrades to the Lewis & Clark Station in Sidney, Mont., and the Big Stone Plant in South Dakota.

Although the settlement presented by MDU and the consumer advocates did not state an established return on equity (ROE), the Commission found a range of 9.0-9.5% to be an acceptable return on the equity investment by MDU's shareholders, down from the last-approved ROE of 10.25%.

The first phase of the rate adjustment is a \$3 million increase, which goes into effect April 1, 2016. The second phase of the rate adjustment is a \$4.4 million increase that goes into effect April 1, 2017.

To view the MDU rate case docket, visit: <http://1.usa.gov/1QmjxDH>

Commission approves contract terms for Greycliff Wind Farm

The Commission voted 4-1 on July 19 to establish contract terms and conditions between Greycliff Wind Prime LLC. and NorthWestern Energy, for a 25-megawatt wind farm in southcentral Montana.

In July 2015, Greycliff Wind Prime LLC. and NorthWestern Energy had entered into negotiations to establish contract terms for the project amongst themselves, but were unable to reach an agreement, eventually requiring PSC mediation.

The Greycliff Wind Farm will move forward as a qualifying facility (QF) under the federal Public Utilities Regulatory Policies Act (PURPA), a law which requires utilities like Northwestern Energy to purchase power from independent renewable generators less than 80-megawatts in size, at the utility's "avoided cost." Avoided cost is the cost the utility would have incurred had it supplied the same amount of power itself, or obtained it from another source.

Central to the dispute between NorthWestern Energy and Greycliff Wind Prime LLC. was the price that NorthWestern's customers would pay for the electricity produced by the wind farm. The Commission approved a rate based upon calculation of the utility's avoided cost.

Greycliff Wind Prime LLC. requested to be compensated at a price of \$53.39 per megawatt-hour of electricity produced, NorthWestern Energy proposed a price of \$35.65 per megawatt-hour. The discrepancy between the proposed purchase prices required mediation by the Montana PSC.

The two primary points of dispute resolved by the PSC are,

- The project will move forward with a contract length of **up to 25 years at \$45.49 per megawatt-hour** for the full length of the contract.
- NorthWestern has the right to curtail purchase of Greycliff's power during light load hours ONLY for safety purposes. NorthWestern had requested curtailment rights for economic reasons in addition to safety, but that request has been denied.

To view the full docket, visit: <http://bit.ly/2a5Lwxn>

Creating Tax Transparency in Customers' bills

Voicing concerns of the effect that a state law regarding utility taxes has on consumers, the Montana Public Service Commission voted 4-1 on January 25, 2016 to require NorthWestern Energy to create a proposal for increasing the transparency of taxes in customers' monthly bills.

Throughout discussion during a work session on the issue, the Commission criticized a Montana law that allows taxes for Northwestern Energy to automatically pass through to their customers with very little PSC input, and also criticized the Montana Department of Revenue's method of calculating NorthWestern Energy's tax bill.

NorthWestern Energy's 2015 tax bill increased by over \$22 million from last year, due in large part to the 2014 purchase of 11 hydroelectric dams from PPL. Montana law allows NorthWestern energy to automatically recover their tax bill from their customers without any approval from the PSC, less a deduction for its income-tax impacts.

In the 2015 legislative session, HB 190 would have ended the automatic pass through of NorthWestern's taxes to their customers. The Commission unanimously supported the bill, but it failed to pass.

In an effort to better inform customers of the portion of their bill attributed to taxes, the PSC's order requires NorthWestern Energy to create a proposal to calculate the specific dollar amount that each customer pays in taxes on their bill every month, as well as create a proposal to remove recovery of taxes out of fixed rates and include all taxes in a single volumetric rate.

The PSC's decision followed a roundtable discussion held in December with Northwestern Energy and Department of Revenue officials. At the roundtable, the Commission probed DOR on their valuation methods, as well as NorthWestern Energy on their efforts to reduce their tax bill and their methods of disclosure to customers.

To view the Commission's order, visit: <http://1.usa.gov/1Qaj98h>

Montana Public Service Commission requires NorthWestern Energy to negotiate solar energy contracts



The Commission voted 3-2 on June 16 to temporarily suspend the qualifying facility (QF) standard rate available to new small solar projects, requiring NorthWestern Energy instead to negotiate contracts with any proposed solar facilities of 100 kilowatts to 3 megawatts in size.

On May 17, NorthWestern Energy submitted an “emergency request” to the Commission, asking for the suspension of the current QF-1 standard rate available to solar projects of 100 kilowatts to 3 megawatts in size, citing a deluge of proposed projects that could generate significant additional costs for their customers.

The Montana Consumer Counsel agreed with NorthWestern’s concerns about consumer impact, stating in comments submitted to the Commission,

“The long-term risk of harm to customers justifies granting the relief requested by NorthWestern.”

NorthWestern Energy submitted testimony to the Commission estimating that anticipated small solar projects could create over \$215 million in additional costs to their customers over the next 25 years if the PSC didn’t suspended the current rate of \$66 per megawatt hour.

All solar projects that have signed both contracts and interconnection agreements with NorthWestern Energy prior to the Commission’s action will be allowed in at the current rate of \$66 per MWh. All other projects will have the ability to negotiate a contract price with NorthWestern Energy. The Commission stands ready to resolve matters on which QFs and NorthWestern are unable to mutually agree.

The Commission's temporary suspension of the QF-1 rate for solar projects will remain in effect until a new rate is established about six months from now.

To view NorthWestern's 2016 QF-1 rate application, visit: <http://1.usa.gov/ItsVf4Q>

OPINION: Consumers shouldn't have to overpay for an "energy revolution"

By: Chairman Brad Johnson

It's safe to say that solar energy development has experienced incredible progress over the past decade and has the potential to one day revolutionize how we generate electricity in Montana. But should we be forced to pay more on our monthly electricity bill just to promote solar energy?

Some corporate solar developers operating in Montana are willing to allow exactly that, appearing content with throwing ratepayers under the bus to boost their own profits. This is unacceptable, and must not be tolerated.

My colleagues and I on the Montana Public Service Commission recently approved a request by NorthWestern Energy to *temporarily* suspend the dated, and almost certainly inflated rate NorthWestern Energy's customers are forced to pay for new solar energy generated by independent power producers. The rate will remain suspended until a new, more accurate rate is calculated later this year.

As expected, the decision did not sit well with out-of-state renewable energy developers and environmental activists operating in Montana.

At issue is a federal law known as the Public Utility Regulatory Policies Act (PURPA), which *requires* utilities like Northwestern Energy to purchase power that independent renewable generators produce, whether needed or not, and pass the costs of that power straight through to their customers. The price consumers pay is set by state governments, varying state-by-state.

Corporate solar developers use this law as a guaranteed source of income for obtaining loans to finance projects, cherry picking the states with the highest government-assured rate to do business in. But PURPA also requires that customers shouldn't overpay for electricity produced by solar facilities, which is exactly what was happening in Montana.

The last time the PSC updated the PURPA rate was in 2013, when the Commission established a price of \$66 per megawatt-hour. Since then, the factors that go into calculating the rate have changed significantly.

NorthWestern purchased over 400 MW of capacity from 10 hydroelectric dams in 2014 at \$56 per megawatt-hour, and current electricity market prices are near historic lows of about \$20 per megawatt-hour; both of which affect the calculation for what solar generators should be paid under the obligations of PURPA.

Simply put, it was well past time to put the rate on pause and update it again.

Predictably, renewable energy advocates immediately blasted the PSC's decision to suspend the rate, claiming that the Commission acted unlawfully to stop renewable energy development in Montana. Such a claim is patently false.

The Commission's decision was wholly within its legal authority, having nothing to do with anti-renewable sentiment and everything to do with the potential harm that the current rate could have on consumers.

In comments submitted to the PSC, the state's consumer advocate, the Montana Consumer Counsel, urged the Commission to grant NorthWestern's request. The MCC agreed that the current rate is outdated, and is far higher than what customers should pay for electricity from these solar projects. We took this analysis to heart while making our decision.

I strongly believe that renewable energy development has the potential to provide tremendous benefit to Montana in the form of jobs, taxes and a draw for companies to relocate their operations to our state with the appeal of a greener energy portfolio. But under the requirements of PURPA, electricity consumers should not pay more on their bills as a result of renewable energy development, which is what would have happened had the Commission not acted.

Out-of-state solar developers and renewable energy advocates can cry foul all they want, but the PSC's recent decision was clearly the right thing to do, and I'm always proud to side with the consumers of Montana.

NorthWestern Energy Hydro-Compliance Docket

On December 9, 2015, NorthWestern Energy (NWE) filed a Hydroelectric Facilities Purchase Compliance Filing (Hydro Compliance Filing) with the Public Service Commission (PSC). In 2014, the PSC ordered NWE to make "a final compliance filing in December 2015 to reflect post-closing adjustments, the future conveyance of Kerr to the CSKT, and the actual property tax expense for the Hydroelectric Facilities." Order 7323k, Dkt. D2013.12.85, ¶ 190 (Sept. 25, 2014). It also ordered NWE to "track revenue credits on a portfolio basis through the electricity supply cost tracker." *Id.* ¶ 191.

NWE proposed the following adjustments, which increase the Hydros' revenue requirement by \$24,465,682: A decrease of (\$20,604,912) for expenses associated with Kerr; an increase of \$41,820,651

to account for lower forecasted sales volumes and market prices resulting in lower revenue credits; an increase of \$3,208,800 for state and local property taxes; and an increase of \$41,142 for other post-closing adjustments. Additionally, over a twelve-month period, NWE proposes to refund (\$6,925,834) for Kerr fixed costs collected since Kerr was transferred, and to collect \$14,103,153 for revenue credits that it has over credited since the Hydros were acquired. These adjustments result in a total revenue increase of \$31,643,001.

On January 19th, 2016, the Commission approved the interim rate increase requested by NorthWestern Energy. A hearing for this docket will be held on September 12, 2016, with a final decision expected in 2017.

Commission approves annual compliance with Renewable Portfolio Standard

Montana's Renewable Portfolio Standard (RPS) law provides that public utilities and competitive electricity suppliers have until three months following the end of each compliance year to obtain Renewable Energy Credits (RECs) for that compliance year, with certain exceptions. Mont. Code Ann. § 69-3-2001 to -2010 (2015). Administrative rules of the Montana Public Service Commission (Commission or PSC) direct utilities and competitive suppliers to demonstrate compliance with the RPS law by filing an annual compliance report by the same date, i.e., March 31, of the year following the compliance year. Mont. Admin. R. 38.5.8301, 38.5.8302 (2016). The compliance report provides information on, among other things, the volume of electricity sales from the previous year, the number of retail customers, the retirement and carry-over of RECs, and electricity from Community Renewable Energy Projects (CREPs), if applicable.

ANALYSIS

On January 8, 2016, Commission staff mailed an instructional letter to the public utilities and electricity suppliers whose operations in Montana may be subject to RPS requirements, or whose operations have been subject to these requirements in the past. The letter summarized RPS requirements, provided links to RPS statutes and rules, described filing procedures, and included links to the standardized report forms available on the PSC website. The instructional letter also addressed the required increase from 10% to 15% of retail sales from eligible renewable resources, as well as the increase from 50 MW to 75 MW for CREP compliance.

The following public utilities or competitive electricity suppliers complied with RPS reporting requirements in 2015: Montana-Dakota Utilities Co. (MDU); NorthWestern Energy (NWE); and Talen Treasure State, LLC (Talen), formerly known as PPL Treasure State, LLC. Core data from the reports may be found in Appendix I, attached to this report, titled *Summary of Montana Renewable Portfolio Standard Compliance Reports*.

Based on its review of the reports received, staff considers Talen, the sole competitive electricity supplier, to be in full RPS compliance. Both of the public utilities (MDU and NWE) were found to be in compliance with the 15% procurement requirement in 2015. CREP compliance was met by MDU, but was not met by NWE. NWE filed a letter on March 28, 2016, in Docket D2016.4.33, stating that NWE intends to file a petition for a waiver of the 2015 CREP requirement once a decision is reached for the 2014 waiver request in Docket D2015.3.27.

Summary of Montana Renewable Portfolio Standard Compliance Reports
Compliance Year 2015 (N2016.1.3)

| 2015 Renewable Energy Credits | Montana-Dakota Utilities Co. | NorthWestern Energy | Talen Treasure State, LLC |
|----------------------------------|------------------------------|---------------------|---------------------------|
| Date Received | 4/1/2016 | 3/31/2016 | 3/22/2016 |
| Compliance Category | Utility | Utility | Supplier |
| 2014 Total Retail Sales (MWh) | 804,582 | 6,005,906 | 221,832 |
| 2015 REC Procurement Requirement | 120,687 | 900,886 | 33,275 |
| 2013 Carry-over Applied | 0 | 0 | 1,838 |
| 2014 Carry-over Applied | 0 | 535,543 | 25,000 |
| 2015 Total RECs Procured | 120,687 | 770,045 | 6,437 |
| 2015 Total RECs Retired | 120,687 | 900,886 | 33,275 |
| REC Balance | 0 | 404,702 | 0 |

| 2015 Community Renewable Energy Projects | Montana-Dakota Utilities Co. | NorthWestern Energy |
|--|------------------------------|---------------------|
| 2015 CREP Procurement Requirement | 8.8 | 65.4 |
| 2015 Total CREPs Procured | 8.8 | 25.1 |
| CREP Balance | 0.0 | -40.3 |

Analyzing ETIC Legislation

"The PSC stands ready to implement public policies that the Legislature deems appropriate, but the agency must be provided adequate authority and adequate funding to perform our duties. The Commission is opposed to any proposal that would put any undue financial burden directly on Montana ratepayers." – Chairman Brad Johnson

Colstrip

The idea of retiring one or more Colstrip coal-fired generating units gained immediacy in 2015 when the Washington Legislature considered the subject. Early in 2016, the Oregon Legislature adopted energy policy that will affect the future of Colstrip generation. In July 2016, Talen Energy and Puget Sound Energy, co-owners of Colstrip Units 1 and 2, announced a settlement with environmental organizations to that will retire the units no later than 2022. As these developments have unfolded, the ramifications of Colstrip retirement have been discussed at almost every meeting of ETIC. As a result of those discussions, ETIC proposed seven Colstrip-related draft bills and has requested that public comment on the draft bills be submitted to ETIC by August 25, 2016.

ANALYSIS

Our summaries of the seven draft bills follow. We describe the intent of each draft bill, specify which Montana statute (if any) would be affected by it, and attempt to identify significant impacts the draft bill, if enacted, would have on public utilities, ratepayers, and/or Commission responsibilities.

Important: the "regulatory impact" element of each summary requires speculation, and we may have not identified all possibilities; please give your own thoughts as to what impacts a bill may have on utility regulation.

The heading of each proposed draft bill is linked to the bill text, and statutes are also linked in the "affected code" element of each summary.

LC COL1

This draft bill allocates funds to both the Montana Department of Justice and the governor's office to allow the participation of both agencies in dockets before out-of-state regulatory commissions that relate to the future of Colstrip Units 1 and 2. The bill proposes \$80,000 to the Department of Justice and \$20,000 to the governor's office, with a caveat that technical assistance can be requested, with no

funding, from the PSC, Department of Environmental Quality, or Department of Labor and Industry. The funds would be appropriated from the general fund for the 2017 biennium; any unused funds would revert back to the general fund.

Affected code: No current statute would be affected.

Regulatory impact: PSC commissioners and staff have been involved with Colstrip-related legislation in Washington and Oregon for the past 18 months. No significant increase above the current level is anticipated.

LC COL2

This draft bill provides adequate remedies after the retirement of coal-fired generating units (retired after January 1, 2017, and with capacity of 200 MW or greater) in order to protect the environment, as well as establish a procedure for decommissioning and remediation plans. The bill gives DEQ the authority to review, approve, modify, or disapprove coal-fired decommissioning and remediation plans, as well as administer and enforce the plans. Prior to decommissioning a coal-fired generating unit, the operator would be required to file a plan with DEQ. The board would adopt rules, conduct hearings, and establish procedures. The plan requirements, timelines, plan modifications, degree of cleanup and financial assurance, hearing, appeal, venue, and enforcement requirements are also outlined in detail.

Affected code: To be codified as part of Title 75, MCA.

Regulatory impact: The PSC is not mentioned in the bill. Because Northwestern Energy is a part-owner of Colstrip 4, the retirement of that unit would create remediation obligations for the utility and related questions of financial responsibility for NorthWestern ratepayers.

LC COL3

This draft bill creates "The Treasure State Restore and Rebuild Act," a grant program to support economic development efforts, schools, primary sector businesses, and local governments associated with the closure of a natural resource business. The grant types and eligibility requirements are described in the bill. Grant funding—at a level of \$50 million—would be appropriated from the coal severance tax permanent fund and administered by the Montana Department of Commerce. (The Montana constitution requires that appropriation from the coal severance tax trust fund requires a vote of three-fourths of the members of each house of the Legislature for passage.)

Affected code: New sections would become part of Title 90; provisions related to the coal severance tax fund would amend 17-5-703, MCA.

Regulatory impact: The PSC is not mentioned in the bill. No direct regulatory impact is identified.

LC COL 4

This draft bill increases the license tax on electrical energy producers from \$0.0002 per kWh to \$.00029 per kWh from July 1, 2017 through June 30, 2042. The tax applies to all electricity and electrical energy generated, manufactured, or produced by a person or other organization engaged in the production of electricity or electrical energy in the state of Montana with the intent to sell or exchange the energy. The difference between the current tax and the proposed increase, \$.00009 per kWh, would be deposited in a coal severance tax permanent fund. LC COL 4 will only go into effect if LC COL 3 is also enacted. The bill has an effective date of July 1, 2017.

Affected code: Amends 15-51-101 and -103, and 17-2-124, MCA.

Regulatory impact: No action required from the PSC. Tax monies generated by this bill would be collected by the Department of Revenue. Potential action by the PSC might include ways to display the tax on customer bills for transparency if any affected electricity producers have Montana customers. Rates could also increase to generate the revenue necessary to pay the increased license tax for utilities serving Montana customers.

LC COL 5

This draft bill creates a coal county impact fee, to be paid by electrical companies, wholesale exempt generators, or public utilities planning to retire coal-fired generating units that have a generating capacity of 200-400 MW and were placed into service prior to 1980. The coal county impact fee is effective for ten years following the retirement of a coal-fired generating unit. The schedule of the fees is as follows:

- Years 1-5: \$3 million, plus 100% of the assessed property taxes paid on the retired unit during the 2015 tax year and 100% of the electrical energy producers license tax;
- Year 6: 100% of the assessed property taxes paid on the retired unit during the 2015 tax year and 100% of the electrical energy producers license tax;
- Year 7: 80% of the assessed property taxes paid on the retired unit during the 2015 tax year and 80% of the electrical energy producers license tax;

- Year 8: 60% of the assessed property taxes paid on the retired unit during the 2015 tax year and 60% of the electrical energy producers license;
- Year 9: 40% of the assessed property taxes paid on the retired unit during the 2015 tax year and 40% of the electrical energy producers license;
- Year 10: 20% of the assessed property taxes paid on the retired unit during the 2015 tax year and 20% of the electrical energy producers license.

An electrical energy producer is exempt from the coal county impact fee if it demonstrates to the Department of Revenue that it is providing financial assistance to the affected community where the coal-fired generating unit is being retired in similar amounts to what would be generated by the fee. Money received from the fee is to be divided equally among a coal county impact account, a coal county school district account, a special revenue account for workforce redevelopment and training, and the general fund. The act would retroactively apply to any coal-fired generating unit retired on or after January 1, 2017.

Affected code: Creates a new section, and amends 15-10-420, MCA.

Regulatory impact: Requires a notice to be filed with the PSC no later than six months prior to the intended date of retirement for a coal-fired generating unit. Nothing in this bill prevents the impact fees from being added to rate base; therefore, if a public utility regulated by the Commission retires a coal-fired generating unit subject to the coal county impact fee, it could potentially affect rates for Montana customers.

LC COL 6

This draft bill creates a task force on benefits and retirement security. The task force's mission would be to investigate the rights of employees affected by the exit or bankruptcy of natural-resource-based businesses that operate in Montana and to determine if there is any role of the state in assisting private-sector employees. The task force would be comprised of five members, including two representatives from Montana business and labor unions appointed by the governor, one representative from the Department of Justice appointed by the attorney general, one representative from the Department of Labor and Industry appointed by the labor commissioner, and one representative from the State Auditor and Insurance Commission appointed by the state auditor. The task force must submit its findings to the governor and the 66th legislature by September 15, 2018. An appropriation of \$20,000 from the general fund to the governor's office would support the task force activities. The act would be effective July 1, 2017.

Affected code: Would create a new section, unidentified in the draft bill text.

Regulatory impact: No clear impact on the PSC. "Natural-resource-based businesses" also include businesses that produce 200 MW or more of electrical energy using coal as a source of fuel. More analysis of the final report produced by the task force in 2018 may be required to identify any impact the recommendations from the study may have on customer rates for public utilities that operate coal-fired units and serve customers in Montana.

LC COL 7

This draft bill changes the law for electric universal system benefits ("USB") by allowing large customers to use their self-directed USB funds to assist in paying for "excess energy costs" caused by the need to find new electricity supply due to the closure of a coal-fired generation unit operating in Montana. The draft bill describes such cost increases as "energy market transition costs." Traditionally, most self-directed USB expenditures have been used for efficiency and conservation projects that decrease the large customer's consumption of electricity. According to LC COL 7, large customers could self-direct USB funds for energy market transition costs only if a supplying coal unit is retired before 2022, and the energy market transition cost credits could be used only through 2025.

Affected code: Amends 69-8-402, MCA.

Regulatory impact: Negligible; the PSC does not regulate large-customer self-directed funding or expenditures.

Net Metering

The subject of net metering drew much public comment in the previous legislative session. During the interim, ETIC was tasked with studying net metering. As ETIC began to investigate the topic, they learned that it was a complex issue with limited historical data available. As a result of the committee's discussions, ETIC proposed five net metering-related draft bills.

ETIC also addressed the reporting of renewable energy credits, and it concluded that information submitted on the new reporting forms implemented in 2014 to be of little use. Thus ETIC has proposed two draft bills related to renewable energy credits.

ANALYSIS

Our summaries of the seven draft bills follow. We describe the intent of each draft bill, specify which Montana statute (if any) would be affected by it, and attempt to identify significant impacts the draft bill, if

enacted, would have on public utilities, ratepayers, and/or responsibilities of the Public Service Commission ("PSC").

Important: the "regulatory impact" element of each summary requires speculation, and we may have not identified all possibilities; please apply your own thinking as to what impacts a bill may have on utility regulation.

The heading of each proposed draft bill is linked to the bill text, and statutes are also linked in the "affected code" element of each summary.

LC NET 1

This draft bill requires the PSC to review and update biennially the interconnection requirements and rules for customer-generators to ensure the requirements and rules meet the most recent national codes and standards for electricity and safety. The PSC also would be required to ensure the requirements and rules are being properly implemented by public utilities that administer net metering programs. This bill would be effective upon passage and approval.

Affected code: Amends section 69-8-604, MCA.

Regulatory impact: The PSC currently has the authority to adopt by rule any additional safety, power quality, and interconnection requirements for customer-generators that the PSC determines necessary for safety and reliability. This bill adds the requirement for the PSC to review interconnection rules biennially, and to update rules if they are not in compliance with national standards. The PSC could potentially require new reporting information from regulated utilities that administer net metering programs in order to ensure the utilities are following the interconnection requirements and rules.

LC NET 2

This draft bill requires individuals to obtain a license in order to perform electrical work on a grid-tied generator on their property.

Affected code: Amends sections 37-68-102 and 37-68-103, MCA.

Regulatory impact: No impact on regulatory provisions. If passed, this bill might make it more expensive for customers to install net metered generation on their properties, as it requires a licensed electrician to connect the system to the grid.

LC NET 3

This bill requires the PSC to determine whether the use of metering equipment or technologies to monitor the flow of electricity in each direction is necessary for the interconnection of net metering systems.

Affected code: Amends sections 69-8-602 and 69-8-604, MCA.

Regulatory impact: This bill requires the PSC to notice and provide opportunity to comment on the use of additional net metering equipment or technology to monitor bi-directional power flow. The PSC would be required to determine the cost-benefits of installing additional metering equipment, cost allocation between the customer-generator and the public utility, and whether additional equipment or technology would improve grid reliability and net-metered customer billing. This bill would retain the current requirement that the PSC shall determine if the public utility will incur costs associated with interconnecting net metering systems that exceed offsetting benefits and if these costs should be imposed on the customer-generator instead of the public utility's entire rate base.

LC NET 4

This draft bill requires the PSC to initiate a proceeding to determine the value of generation from net-metering systems if net metering systems exceed 1% of a public utility's retail sales. The bill would allow the PSC to determine what information should be included in a cost-benefit study and establish a methodology to estimate a public utility's net metering production to implement the 1% trigger. The PSC would be able to require the public utility to conduct a cost-benefit study of customer-generators, and it allows the PSC to hire an independent consultant. The fees for the consultant would be charged to the public utility and would be recoverable in rates. If the PSC approves a new classification of service for customer generators, the new rate is applicable only to customer generators interconnecting net metering systems on or after the date of implementation for the new classification.

Affected code: Amends sections 69-1-114, 69-1-402, 69-3-306, 69-8-602 and 69-8-603, MCA.

Regulatory impact: If a public utility reaches a point where net metering systems exceed 1% of the utility's retail sales, the PSC would be required to initiate a net metering proceeding. The PSC would be allowed to establish a fee to pay for outside consultants, and would be tasked with determining the cost-benefits of net metering, the classification of net metering customer generators, and whether or not additional metering equipment is needed to monitor the flow of electricity in each direction.

LC NET 5

This draft bill increases the cap on generating capacity for net metering systems from 50 kW to 250 kW for customer-generators that qualify for tax exemption as governmental, charitable, or educational organizations under 15-6-201 MCA. The bill would be effective upon passage.

Affected code: Amends section 69-8-103, MCA.

Regulatory impact: Little direct impact for the PSC is foreseen with this bill. If the increase for governmental, charitable, and educational organizations leads to a surge in net metering on NWE's system, the PSC may want to initiate an investigation into the costs and benefits of net metering, and if any interconnection requirements need to be updated for safety and reliability.

Renewable energy credits

LC REC1

This draft bill repeals renewable energy credit (REC) reporting and penalties relating to the requirements of the Department of Revenue for electrical generation facilities, both public utilities and competitive electricity suppliers. It does not repeal the RPS requirement itself. The statutes being repealed do not affect the PSC reporting requirements (most recent report: N2016.1.3 Staff Memo).

Affected code: Repeals sections 69-3-2009 and 69-3-2010, MCA.

Regulatory impact: Repeal of these two statutes would have no effect on the PSC.

LC REC2

This draft bill is a Joint Resolution of the Senate and House of Representatives requesting an interim study of RECs. The designated interim committee would review the use of RECs in Montana, and study and make recommendations on policy, administration, and trading of RECs.

Affected code: No current statute affected.

Regulatory impact: The PSC is not mentioned in the bill. However, based on the fact that the PSC reviews and monitors RECs it would be logical to have PSC staff involved with the study, if requested by the interim committee.

Transportation

Improving Rail Safety in Montana

On April 19, 2016, Commission voted 5-0, directing staff to move forward with plans to examine the state's rail safety program housed within the agency.

State agencies have limited authority to enforce rail safety in the United States, as rail safety is primarily under federal jurisdiction. State involvement is limited to voluntary participation, with state inspectors enforcing Federal Railroad Administration (FRA) policy.

Within the limited authority of the Montana PSC, the Commission directed PSC staff to move forward with the following items regarding the agency's rail safety program.

1. Write and complete a state railroad safety risk assessment and associated state railroad safety action plan for presentation to the Commission within six months, incorporating the input and involvement of stakeholders in the completion of those documents.
2. Continue increased involvement and communication with National Association of State Rail Safety Managers with the goal of attending a national or regional meeting at least annually.
3. Continue attendance at Montana's State Emergency Response Committee (SERC) and membership in SERC's HazMat Subcommittee.
4. Authorize the Regulatory Division Administrator to fill the currently open railroad inspector position with a specialist in motive power and equipment (MP&E) inspection.
5. Provide quarterly work session updates to the Commission.

Following the completion of the risk assessment and safety plan, the Commission will determine action regarding the possibility of requesting funds during the next legislative session to increase resources available for the rail safety program, which could include hiring additional inspectors.

Commission staff is currently working on the comprehensive rail safety risk assessment and associated action plan, and expects to have it completed before the 2017 legislative session.

To view the Commission's investigative docket on railroad safety, visit: <http://l.usa.gov/22L2laa>

Water

Reducing rates for Mountain Water Customers

The Commission voted 4-1 on May 31 to implement a 5.97 percent (\$1.1 million) rate reduction for the customers of Mountain Water Co., the owner and operator of the water system in Missoula, MT.

The rate reduction comes after a four month long investigation into Mountain Water's rates that was initiated by the sale and transfer of the water system in January, which was consummated without the PSC's approval. The Commission held a hearing in Missoula on May 3-4 to hear testimony from parties in this proceeding.

The Montana Consumer Counsel submitted an analysis to the Commission that found that the lower costs of very low interest financing utilized by the new owner, Liberty Utilities Co. should also benefit the customers of Mountain Water. The Commission's own investigation based on the data provided found that there should be a reduction in Mountain Water's cost of capital under the new owner. The reduction in the cost of capital results in a cost of service savings that must be passed on to ratepayers in order for rates to remain just and reasonable, as is required by law.

To view the Commission's Mountain Water rate investigation docket, visit: <http://l.usa.gov/ILSXzVC>

Montana Public Service Commission reaches settlement agreement with Liberty Utilities

A Victory for Ratepayers

The Settlement Between Montana PSC and Liberty Utilities:

- **Provides \$150,000 to Low-Income Assistance Through the Missoula Human Resource Council**
- **Protects Ratepayers by Reaffirming MPSC Regulatory Authority Over Utilities Operating in Montana**
- **Prevents Mountain Water from Challenging the \$1.1 Million Annual Rate Reduction for Mountain Water Customers Approved In May**

The Commission approved a settlement agreement on July 7 with Liberty Utilities Co. for the unauthorized sale and transfer of Missoula's water system, Mountain Water Co., last January.

Liberty Utilities and Mountain Water approached the Commission with an offer to enter into settlement discussions after the PSC voted to seek the statutory maximum penalty against Liberty Utilities in Montana district court for the unauthorized transaction.

The terms and conditions of the settlement include,

- (1) Mountain Water will pay \$150,000 to the Human Resource Council designated for use in its low income and renters repair and replacement program, which assists qualifying individuals with the cost of replacing service lines or meter installation costs normally borne by customers within Mountain Water's service area. This figure represents the statutory maximum in fines Liberty Utilities would pay had the PSC's complaint gone forward in court. The money will come out of Mountain Water's profits and not from rates charged to customers.
- (2) Mountain Water will not challenge the \$1.1 million annual rate reduction approved by the PSC in May.
- (3) Mountain Water, Liberty Utilities, and its corporate affiliates agree no sale or transfer of Mountain Water shall take place without prior approval by the Commission.
- (4) Mountain Water will not attempt to seek recovery of any costs related to the Liberty Utility acquisition, including acquisition premium, transaction, and transition costs.
- (5) In its next general rate case, Mountain Water will provide the Commission information about it and its upstream corporate ownership to ensure Mountain Water will provide reasonably adequate service and facilities at just and reasonable rates. Mountain Water also will consent to the Commission including a review of ring-fencing provisions within the rate docket.

Due to the outdated statutorily prescribed level of allowable fines for an unauthorized sale of a utility, the Commission recently voted to introduce a bill during the 2017 legislative session to increase the maximum penalty from the current ceiling of \$1,000 a day, to \$10,000 a day.

To view the full settlement, visit: <http://bit.ly/29xtjZb>

Major Votes in 2016

| Date | Docket | Description | Vote |
|-----------|-------------|---|------|
| 1/12/2016 | D2015.10.81 | Order NWE to propose tax transparency, volumetric rates | 4-1 |
| 1/19/2016 | D2013.12.85 | Approval of NWE hydro compliance Interim rate increase | 3-1 |
| 1/19/2016 | N/A | Issue fine of \$22,000 to Five Valley's Gas | 3-2 |
| 2/23/2016 | D2014.7.58 | Approval of NWE 2014/15 electricity tracker | 5-0 |
| 2/23/2016 | D2015.3.32 | Issue final order in Havre Pipeline proceeding | 5-0 |
| 3/1/2016 | T-15.23.PCN | Approval of L&L Site Services' CPCN | 3-2 |
| 3/11/2016 | D2015.6.51 | Approval of Final Order in MDU Electrical Rate Case | 3-2 |
| 3/22/2016 | D2016.1.12 | Approval of settlement with Five Valleys Gas Co. | 5-0 |
| 3/29/2016 | N/A | Begin Gas/Electric Service Termination Rulemaking | 5-0 |
| 3/29/2016 | D2013.5.33 | NWE Consolidated Electricity Tracker | 3-2 |
| 4/5/2016 | N/A | Approval of PSC IT Plan | 4-0 |
| 4/19/2016 | N2015.11.84 | Approval of Staff Railroad Safety Recommendations | 5-0 |
| 4/19/2016 | D2015.3.27 | Approval of NWE CREP Waiver Request | 5-0 |
| 5/10/2016 | D2013.5.33 | Approval NWE Consolidated Electricity Tracker Final Order | 3-2 |
| 5/31/2016 | D2016.2.15 | Approval of Mountain Water Rate Reduction | 4-1 |
| 6/16/2016 | D2016.5.39 | Suspension of QF-1 Tariff | 3-2 |
| 7/7/2016 | D2016.5.39 | Deny motion for rehearing by FLS Energy | 5-0 |
| 7/7/2016 | D2014.12.99 | Approval of Liberty Utilities Stipulation | 5-0 |
| 7/19/2016 | D2015.8.64 | Approve terms and conditions for Greycliff wind farm | 4-1 |

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