

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

February 18, 1983

The meeting of the Business and Industry Committee was called to order by Chairman Allen Kolstad on February 18, 1983, at 10:00 a.m., in Room 404, State Capitol.

ROLL CALL: All members of the Committee were present.

CONSIDERATION OF SENATE BILL 420: An act revising the Montana electronic funds transfer act to eliminate cost restrictions and to allow sharing of off-premises automated teller machines within the state.

Senator Bill Thomas stated on page 2, they deleted chargebacks and on page 3 is another provision with the company that owns the banks and licenses. I think the independent and large corporation banks agree with this bill.

PROPONENTS TO SENATE BILL 420: George Leland, First Bank Western, stated he supports this bill. He believes this represents the removal of restraints on marketing, grants services and provides an excellent way for the customer to get service at a lesser cost to them as well as the institutions involved. The MBA has worked diligently and asked that they be considered in good order.

Jerry Jones, First Bank, Bozeman, stated he supports Senate Bill 420. The purpose of the fast banks is the convenience for customers. Upon attending MSU he added an account for the purpose of convenience. The only thing that he could carry out was withdrawals, no other transactions could be done.

John Scully, Montana Independent Bankers, stated under the leadership of MDA they got together to discuss the EFT proposal. They worked on a statewide electronic funds network with the plastic card system and it may become reality around July for use.

Gretchen Tea, Montana Bankers Association, stated they support this bill.

Rich Schirber, First Bank, Great Falls, stated our banks support the amendment to the Montana Bank Law. Our customers will generate 1/4 million in transactions. We have been asked by our customers for improvements to use their cards in machines located out of town. We feel the improvements to customer services will be as a result of the amendment to the bill.

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE: Senator Goodover asked if you have one card and it can be used in any of the facilities no matter who owns the banks are they all tied into the same computer? George Leland stated depends on what network. There are more than one network available. If a bank signs up with one network and he files each day when a customer comes up to the machine they can verify the balance before they pay out.

It is putting one computer into another mainly by telephone lines.

In closing, Senator Thomas stated I think it is a good consumer bill and the financial institutions agree.

ACTION ON SENATE BILL 420: Senator Goodover made the motion that Senate Bill 420 Do Pass. Senator Christiaens seconded the motion.

The Committee voted 9-1 with Senator Regan abstaining, that SENATE BILL 420 DO PASS.

CONSIDERATION OF SENATE BILL 456: An act to allow an electric or gas utility to purchase or invest in cost-effective energy conservation; to require the Public Service Commission to include conservation in a utility's rate base; to require the Public Service Commission to allow a higher incremental rate of return on conservation.

Senator David Fuller stated he was the sponsor of this bill. This bill is an attempt to give an incentive to the utilities to get into the conservation program. There is a bill in the House that addresses it in a different point of view. This is optional for the utilities. They are providing a 2% rate of return for their investments in conservation. They are allowing them to do this directly or subcontract to do the work. The economics of conservation in terms of job production and ratepayer savings are better than the utility producing plants.

PROPOSERS TO SENATE BILL 456: Bruce Finnie stated he supported this bill.

John Alke, MDU, stated they support this bill. He pointed out there is another bill in the House; however, we feel this bill is far superior. It is important and they support it.

Bob Quinn, Montana Power Company, stated they support this bill.

Peter Antonioli, Montana Power Company, added his support to the bill. They enthusiastically support cost effective energy conservation. We feel the permissive nature of this bill is far superior than the one in the House. We think progressive types are far superior to the mandatory types. The avoided cost and conservation needs clarification in buildings that are being built today. He gave the committee amendments to the bill. (Exhibit No. 1)

Gene Phillips, Pacific Power & Light, stated they support this bill in preference to the bill in the House.

Tom Schneider, Montana Public Service Commission, stated in slight contrast our view is the House bill is the better bill. The optional matter of the bill is redundant. They currently do that today. This does not provide additional incentive along that line. The 2% rate of return suggests that there is some risk differential for a utility to consider in conservation. They only have to invest at 50% of their own avoided cost. It provides plenty of product to the utilities. There

are also tax affects on the rate of equity that has a multiplier affect on the rate base treatment. They have no concept in the utility in conservation.

Don Reed, MEIC, stated they supported this bill in the House. There were no opposition just suggested amendments. It is a sound idea and it is a good bill. They do not take issue of the 2% rate of return. The real incentive is to bring conservation in much more quickly than a thermal plant. This kind of legislation would bring them both some voluntary programs.

There were no further proponents nor opponents.

QUESTIONS FROM THE COMMITTEE: Senator Goodover asked could we have someone explain the amendments? Peter Antonioli explained the amendments to the committee.

Senator Goodover asked Senator Fuller to comment on the amendments. Senator Fuller asked that we hold this bill until tomorrow. He would like to have a couple of people look at them.

Senator Christiaens asked would the consumer be able to do the work themselves and still obtain financing? Mr. Antonioli stated no.

Senator Regan stated on page 5, lines 23 & 24, the Public Service Commission may make rules to implement this section as it shall apply to public utilities only. Under that could you make the rules and would you need a Statement of Intent? If you are giving them authority to make rules and use them where would that rulemaking authority go? Bill Opitz stated this is part of the existing law. The Commission has already passed rules implementing that section. This is redundant legislation.

Senator Christiaens asked that someone clarify the difference between this program and the current ESP Program handled by Montana Power. Mr. Antonioli stated this operates under the existing section of law. Under the present program instead of a customer incurring the impact of investment they are receiving the benefit and are getting that money with zero interest and having a long time to pay it back. Essentially all customers of the system will be picking up the tab for implementing conservation measures on a specific structure.

In closing, Senator Fuller stated he attempted to put a concept together that everyone could live with. It if does not work in two years he will be back with some amendments.

The hearing was closed on Senate Bill 456.

CONSIDERATION OF SENATE JOINT RESOLUTION 17: A joint resolution of the Senate and the House of Representatives of the State of Montana urging the Bonneville Power Administration to adopt a rate structure that will provide lower rates for its direct-service industrial customers.

Senator Roger Elliott stated this affects a very dear part of the industry in the Flathead Valley. This is directed toward the district service industries. They buy power with no middleman. In addition, it includes most of the aluminum plants in the northwest. It also affects other customers on the BPA system. During 1940 through 1960 without the direct service customers taking this power the power costs would have risen drastically. Electricity is one of the major costs of aluminum; however, the industry was acceptable to the increase. He brought up two main points: 1) if direct service industry closes thousands of jobs will be lost and 2) as the BPA loses the income their problem in the rating structure will be intensified many times over. The rates will be forced up. There are many groups involved in the industry. At the present time Bonneville is attempting to sell surplus power to California.

PROPONENTS TO SENATE JOINT RESOLUTION 17: Robert Rhodes, Arco Aluminum Company, stated he supports this bill. His written testimony is attached to the minutes. (Exhibit No. 2)

QUESTIONS FROM THE COMMITTEE: Senator Gage stated it seems to me that it is a federal agency that has revenue requirements. I am afraid the affect of this would be to raise everyones rates. Senator Elliott stated that is certainly a possibility that he alluded to in his statement. The point you are overlooking is the fact that residential users already benefit in reduced rates because they were able to take a great amount of load that BPA produced. While it does not help us today it certainly has to be considered in the long-range affect. Those of us in Columbia Falls would be glad to pay the higher rate to keep those jobs. When you are talking about an area wide problem, those concepts have to be considered. He is a CPA and has reason to study the way they devise their rates. It is a complex field. An investigation should be made on what interest factors they are throwing in to get 26 mills power cost.

Senator Dover asked isn't part of this problem with the rate structure we are experiencing today because some rules provide that everyone has to pay their share in equal amounts? A lot of power that is being picked up by ARCO is power that would otherwise be dumped. Are you given a discount because you are getting that power or are you being charged for that power? Mr. Rhoads stated we are paying the firm rate for nonfirm power. It would probably be exported if we were not using it.

Senator Dover asked you can't get that depressed price? Mr. Rhoads stated no.

Senator Regan asked are your rates established by the more you use the less the rate? Mr. Rhoads stated no they pay the demand charge. They are now paying a curtailment penalty also.

Senator Goodover asked what force of law is there for a resident to make the BPA do anything? Senator Elliott stated there is no force of law it is only an opinion.

Senator Christiaens stated I am wondering if we can get Tom Schneider to comment regarding this. Are you in fact passing this on to the general

consumer? Tom Schneider stated federal law has a particular requirement for the DSI rates which are tied to the residential or farm rates. The law requires that rates would change and pick up the discount for residential and farm over a five-year period. That is hard law. BPA has to set their rates according to that law. He does not think they have much flexibility to change.

In closing, Senator Elliott urged concurrence in Senate Joint Resolution 17.

The hearing was closed on Senate Joint Resolution 17.

CONSIDERATION OF SENATE BILL 423: An act to require that certain cooperatives must have membership approval to create long-term obligations related to bonded indebtedness under certain circumstances.

Senator Jean Turnage gave the committee amendments to this bill. (Exhibit No. 3) He stated without the amendments which he has assured the cooperatives he would offer, the bill would be a great problem in their viewpoint. It provides a quorum that would vote. The bill is an effort to call attention to the problem that happened in the participation bonded indebtedness relative to nuclear plants to be constructed and which construction failed and therefore they are now forced to pay for that. He does not know if the results would have been different if they had disclosed this to the members and obtained their consent. This cannot apply retroactive.

PROPOSERS TO SENATE BILL 423: James Loftus stated he is a member of Missoula Electric Cooperative. He supports Senate Bill 423 because we should have had this type of law before. Because of "WHOOOPS" his power bill has increased out of reason and he feels he is paying for a "dead horse" and can do nothing about it.

Jay Downen, Rural Electric Cooperatives, stated we think the cooperative is a democracy in one of its purest forms. He has seen directors who were not responsive to their membership removed. The directors do not have the opportunity to vote their own conscience they vote the way the constituents want. They will not be able to make these decisions without the direct approval of their members. Yellowstone Valley and others in the state are setting up memberships to analyze rates. No longer does the management do the rate study they do it with the membership. They will not oppose the bill as amended.

There were no further proponents and no opponents.

There were no questions from the committee.

In closing, Senator Turnage asked that the condensed information obtained be put in the record. (Exhibit No. 4)

ACTION ON SENATE BILL 423: Senator Regan made the motion that the proposed amendments to Senate Bill 423 Be Adopted. Senator Dover seconded the motion.

The Committee voted unanimously, by voice vote, that the proposed amend-

ments to SENATE BILL 423 BE ADOPTED.

Senator Dover made the motion that Senate Bill 423 As Amended Do Pass. Senator Goodover seconded the motion.

The Committee voted unanimously, by voice vote, that SENATE BILL 423 AS AMENDED DO PASS.

CONSIDERATION OF SENATE BILL 432: An act requiring wholesalers, manufacturers, and distributors of farm implements, industrial and construction equipment, and vehicles to repurchase such items from retail dealers upon cancellation of dealership contracts; and providing an immediate effective date.

Senator Ed Smith stated this is just a simple bill. If a company decides to close up and cancel a dealership it must purchase back the inventory. He told about an individual who had a John Deere dealership. The company had been trying to close some of the smaller dealerships. They cancelled this individual and left him sitting with a lot of inventory.

PROPOSERS TO SENATE BILL 432: Blake Wordal, Montana Hardware and Implement Association, stated they strongly support this bill. His written testimony is attached to the bill. (Exhibit No. 5)

Jerry Raunig, Montana Auto Dealers Association, stated they support this bill because the auto and truck dealers are included in the bill and some are also farm dealers.

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE: Senator Fuller stated I appreciate what you are saying here. Can we force someone to do this even though the contract does not say it? Mr. Raunig stated yes.

Senator Gage asked is this bill materially different than the bill you opposed previously? Mr. Wordal stated it is more detailed than the other bill and that is why it is more acceptable.

Senator Boylan asked would this depress other manufacturers wanting to come into the State of Montana? Mr. Wordal stated the manufacturer representatives basically do not support this legislation but are not opposed either.

ACTION ON SENATE BILL 432: Senator Dover made the motion that Senate Bill 432 Do Pass. Senator Goodover seconded the motion.

The Committee voted unanimously, by voice vote, that SENATE BILL 432 DO PASS.

ACTION ON SENATE BILL 323: Senator Lee stated he has received a letter from Senator Tom Hager asking that we Table this bill.

Senator Lee made the motion that Senate Bill 323 Be Tabled. Senator Dover seconded the motion.

The Committee voted unanimously, by voice vote, that SENATE BILL 323 BE TABLED.

CONSIDERATION OF SENATE BILL 419: An act providing that certain transfers made by a public utility must be approved in advance by the Public Service Commission.

Senator Tom Towe stated he was the sponsor of this bill. This bill relates to the holding companies of utilities. There seems to be interest on spinning off assets to holding companies. The question is how much should the utilities be allowed to spin off into another corporation which is no longer under the state regulation. It may or may not affect the capitalization of the company or profits of the company which is the basis for changing rates. Which assets of the utility company should legitimately be transferred and which should their be an objection to. He suggested that if an asset is purchased by stockholders money we have no concern. That asset should be allowed to be transferred to a holding company or brother/sister corporation but if that asset was acquired by ratepayers money that is a different matter. If they had a rate increase with which to pay for that asset than a different situation applies. The company should not be able to go into another holding company or brother/sister corporation. The Montana Power Company announced a year ago they were going to spin off some of their assets into a brother/sister corporation. In some cases he doesn't think there is a problem in others yes. The Public Service Commission would not allow this to happen until they approved the spin off. The decision was immediately taken into the Supreme Court for the purpose of determination. The court said no that is not a matter for them to consider and sent them back to District Court. They ordered that company could go ahead with their stockholders meeting and obtain stockholder's approval providing that they could not implement that until the Public Service Commission approved it. It is his understanding that that issue has now been appealed again by the utility companies seeking to implement the holding company. He mentioned that the Public Service Commission has suggested amendments for clarification of the language.

PROPOSERS TO SENATE BILL 419: Eileen Shore, Public Service Commission, stated they support this bill as amended. Her written testimony is attached to the minutes. (Exhibit 6) She proposed amendments that the Public Service Commission would like in the bill. These amendments are attached to the minutes. (Exhibit No. 7.)

John Alke, MDU, stated they support this bill. He also had proposed amendments. These amendments are attached to the minutes. (Exhibit No. 8)

James Paine, Montana Consumer Counsel, stated he is testifying in support of the bill. What he would like to avoid is if a utility wants to transfer, sell or spinoff that the Public Service Commission has the opportunity to look at that and approve or disapprove.

OPPOSERS TO SENATE BILL 419: Bob Sullivan, Montana Power Company, stated he appears on behalf of Montana Power Company, not to oppose

the concept of the bill but to oppose the way it is drafted. It is their position that the bill is not workable in its present form. He gave the committee proposed amendments. (Exhibit No. 9) In the bill they use the words "any asset" which he feels is too broad. It should be eliminated in their view with the amendments they have suggested. He stated utilities are not unlike anyother business enterprise. They are in business. The difference between a utility is that it is regulated as to the rates it can charge its customers. Built into that charge is a cost of service plus a reasonable profit that can be passed on to its shareholders. Montana Power Company has a customer stock purchase plan which more than 5,000 customers have taken advantage of. They have a right to a reasonable rate of return on their investment. He stated Montana law does not presently provide for the regulation of non-utility business. If this bill passes it will give the Public Service Commission a type of authority that is not contemplated by Montana law.

Gene Phillips, Pacific Power & Light, stated he seconded the remarks made by Bob Sullivan.

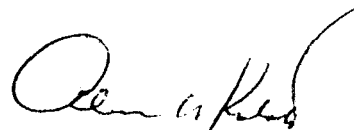
Dennis Lopach, Northwestern Telephone Systems, Inc., stated the bill has some serious ambiguities. The Northwestern Telephone System are in the process of modernizing its plants. The office equipment will be sold to a third party and those proceeds will be credited to the plant account. A sale of this kind is not uncommon. It seems to me that a sale of that kind would have to be done in a quick fashion. I think "ratepayers money" is an ambiguous term as to what "money" might be. There is no question that if that language remains in the bill there is going to be litigation to determine what it means.

Chairman Kolstad appointed a subcommittee of Senators Goodover, Christiaens and Dover to work on this.

Larry Huss, Mountain Bell, stated there are serious problems with this bill. There ought to be exceptions for when types of actions are forced upon someone. They will be glad to work with the subcommittee.

The hearing was closed on Senate Bill 419.

ADJOURN: There being no further business, the meeting adjourned at 12:10 p.m.



ALLEN C. KOLSTAD, CHAIRMAN

STANDING COMMITTEE REPORT

February 18

83

19.....

PRESIDENT

MR.

BUSINESS AND INDUSTRY

We, your committee on.....

SENATE

420

having had under consideration Bill No.....

SENATE

420

Respectfully report as follows: That..... Bill No.....

DO PASS

A.E.

STANDING COMMITTEE REPORT

February 18

19 83

MR. **PRESIDENT**.....

We, your committee on..... **BUSINESS AND INDUSTRY**.....

having had under consideration **SENATE** Bill No. **423**.....

Respectfully report as follows: That..... **SENATE** Bill No. **423**.....
be amended as follows:

1. Page 1, line 15.
Following: "indebtedness"
Insert: "for financing directly or indirectly the construction,
maintenance, or operation of nuclear power generating facilities"
2. Page 1, line 18.
Following: "members"
Insert: "present and voting at the meeting"

AND AS AMENDED,

DO PASS

AK

STANDING COMMITTEE REPORT

February 18

19 83

MR. **PRESIDENT**

We, your committee on **BUSINESS AND INDUSTRY**

having had under consideration **SENATE** Bill No. **432**

Respectfully report as follows: That **SENATE** Bill No. **432**

DO PASS

A.C.

Senate Bill 456 - Introduced Bill

1. Page 1, line 15.
Following: "the"
Strike: "incremental"

2. Page 1, line 16.
Strike: "to an electric or natural gas utility of energy or capacity, or both, but for the purchase of or in conservation, the utility would generate or supply itself or purchase from another source"
Insert: "which would be incurred by the utility if the utility does not make the purchase of, or investment in conservation."

3. Page 1, line 22.
Following: "means"
Strike: The remainder of subsection (3) in its entirety.
Insert: "any reduction in electric power consumption as a result of investment in measures that increase the efficiency of electricity or gas use in building shells, space heating or cooling equipment, water heating equipment, or refrigeration equipment which, over its economic life meet the criteria of (Section 3)."

4. Page 2, line 21.
Following: "made"
Strike: "for construction or installation that is begun after (the effective date of this act) and before January 1, 1993, and that, at the time they are placed in the rate base,"
Insert: "to replace, upgrade, or enhance building shells, space heating or cooling equipment, water heating equipment, or refrigeration equipment which was installed and in operation in the existing structure as (of the effective date of this act), and"

5. Page 2, line 25.
Following: "than"
Strike: "50% of"

6. Page 3, line 19.
Strike: "establish"
Insert: "approve"

7. Page 3, line 20.
Following: "that"
Strike: "may"
Insert: "will"

Statement of Robert R. Rhoads
before Montana Legislative Committee
Helena, Montana, February 18, 1983

Mr. Chairman and members of this committee, my name is Robert Rhoads and I am employed by ARCO Aluminum Company, Columbia Falls, Montana, and deal regularly in energy related matters, and hence, the title of Energy Coordinator. I have been invited to speak briefly to you concerning matters that are of interest to me personally, and with which we all share some concern collectively. I appreciate the opportunity to appear before your committee.

The ARCO Metals aluminum reduction plant at Columbia Falls began producing aluminum ingot in 1955 with two potlines and in subsequent years the capacity was expanded to its present rating of 180,000 tons annually. The last couple of years have been challenging ones, if not trying ones, for the plant as well as other operators within the Region. ARCO Aluminum is one of twelve companies constituting the Direct Service Industrial (DSI) customers of the Bonneville Power Administration, the Federal agency which markets federally produced power and provides transmission capacity for non-federal utilities. Within recent weeks two other companies, Alumax Pacific Corporation and Hanna Nickel Smelting Company, have withdrawn from the DSI's. In both cases part of the reason was the tremendous increase of BPA's rates together with the uncertainty regarding future rates. While Alumax had yet to construct its Oregon facility for which it has a legitimate BPA power sales contract, Hanna had a productive and viable operation in the Northwest. These announcements were preceded by others which terminated service from BPA, namely Stauffer Chemical and Elkem. Rising BPA rates coupled with the uncertainty regarding future increases, to be sure, would have been a part of such action.

DSI facilities use fixed amounts of power around the clock, providing an important market for nighttime and weekend energy when other loads are characteristically low. Without the DSI load, either water would be spilled or power sold at a low rate more frequently because loads would be too low to generate at the minimum streamflows required for fisheries and other operating constraints. The DSI load also helps allow BPA to exchange peaking capacity in return for extra energy, thereby reducing power costs to all Northwest power consumers.

The DSI's have helped keep overall power rates down by purchasing large amounts of "nonfirm" power. Other customers require "firm" power that Bonneville guarantees will be available regardless of hydro conditions. Twenty five per cent of the DSI load is served with interruptible power that can be cut off at any time the power is needed to meet firm loads. This reduces costs to all customers in two ways. First, BPA avoids the need to build additional generating resources to serve 25 per cent of the DSI load. Second, the DSI load provides a market for surplus power that otherwise might have to be spilled or exported from the region at a low rate. The DSI's traditionally have paid firm power rates while purchasing a much lower quality nonfirm power.

BPA's rights to restrict the DSI load provide low-cost power reserves for the entire region. BPA has the right to restrict DSI service for numerous reasons. This protects other Northwest users against power shortages and blackouts, and avoids the high cost of building and maintaining standby generating facilities that otherwise would be needed to provide power system reserves.

While I am discussing the Direct Services Industries, I would like to point out that the collective productivity is severely curtailed to approximately 60 per cent of capacity. Of greater concern are the several thousand workers who have been laid off, and the resulting economic loss not only to them and their families, but also to the region. But closer to home, you are perhaps aware of our most recent curtailment which occurred earlier this month in which the plant capacity was reduced to approximately 40 per cent of capacity. This has contributed to the unemployment of 600 workers, who, if the plant were operating at full capacity, would be contributing to the economy of Northwestern Montana.

Perhaps no other single factor has had as great an impact upon the presently depressed production level as have the spiraling Bonneville rates. With the rates which became effective last October 1, the increase over the past three years has been a whopping 750 per cent. This translates into an annual power bill, if we were at full capacity, of \$78 million. That is a lot of money. We in the Northwest are with hesitation, and reservation, anxiously awaiting February 28 which is the date Bonneville has promised to reveal its 1983 rate proposal. Nobody is more concerned about the rate announcement than we in the aluminum industry, for the consequences of a significant increase could in two words, be devastating. We don't know what to expect, but a 10 per cent increase would increase our power bill nearly \$8 million; a 20 per cent increase would result in an annual power bill at full load of \$94 million. You might be interested to know that our wholesale power rate is greater than that paid by the cooperatives, municipalities, PUD's and investor owned utilities of the Region. While their rates are approximately 2.2¢/kwh during the current rate period, the rate charged to Bonneville's industrial customers is nearly 20 per cent greater. At the same time, right now, Bonneville is selling surplus energy, mostly to the Southwest, at the ridiculously low rate of 0.9¢/kwh.

Admittedly, the uncertainty of electrical rates is not the only problem confronting us at Columbia Falls. Quite bluntly, these are difficult times, and hopefully the economy will make a robust recovery. But for now our greatest concern are future electrical rates.

I would like to conclude by repeating the remarks of Mr. Bob Sneddon, our plant manager, who in a recent interview said, "...WE like clean air. WE want clean water. We want all those things. But we also like to do business, and sometimes it gets very difficult to do (that)."

Thank you for the opportunity to offer this statement.

JANUARY 1983

BPA's 1983 Rate Looms Crucial

DSIs

Launch All-Out Effort

Northwest aluminum producers and other direct service industrial customers of the Bonneville Power Administration are girding themselves for BPA's 1983 rate case. Industry representatives agree that the 1983 rate process will be the most crucial round of discussions, hearings and legal encounters yet. The rate BPA sets this year may well determine whether some aluminum producers and other electricity-intensive industries can maintain cost-effective operations in the region.

"The DSIs are reeling under a barrage of rate hikes that have skyrocketed our electricity bills 750 percent since 1979," notes Dean Adams, Northwest power manager for Reynolds Metals Company. "BPA's 1983 rates may mean that some DSIs simply may not be able to operate some facilities in the Northwest," Adams warns.

William Armantrout, Kaiser Aluminum & Chemical Corporation's Northwest regional vice president, added that his company had put on hold a previously announced \$600 million modernization program for its Tacoma and Mead, Washington, plants due to last year's BPA rate increase. "With climbing power rates and an uncertain planning environment, it's difficult if not impossible to make sound business decisions," Armantrout explains.

BPA expects to publish an initial 1983 rate proposal by the end of



BPA administrator Peter Johnson pleaded BPA's rate case in Walla Walla last year. The federal agency's 1983 rates will exert long-term effects on Northwest direct service customers.

February. Public hearings are scheduled to begin in April. BPA will then evaluate the public input and prepare final rates, to go into effect in October or November.

BPA's 1983 rate will set DSI power costs for the next two years and establish a "floor" for rates after July, 1985. Brett Wilcox, DSI executive director, emphasizes that the two-year period is the critical window during which DSI companies must make long-term investment decisions to allow enough time for recovering these costs under their new 20-year power contracts, which expire in 2001. "The companies must have stable, predictable power rates at reasonable levels to maintain viable operations in the Northwest," says Wilcox.

Wilcox is optimistic that BPA and its utility customers are beginning to understand the industry's predicament. "Nearly all of BPA's costs are fixed and don't vary with the amount of power produced," he explains. If DSI loads diminish, "rates to other customers must increase. BPA has reached the point where little added revenue can be gained by increasing DSI rates.

Any gain from higher DSI rates would be offset by reduced sales to the DSIs," contends Wilcox.

DSI representatives point out that in spite of the industry's problems, their companies do not want a rate subsidy — only fair treatment. "Last year, residential customers of Northwest private utilities received a \$214 million subsidy in power rates, paid for primarily by the DSIs," notes Jonathan Ater, an attorney for the DSIs on rate matters.

Ater said that the DSIs agreed to pay these higher rates through the exchange provisions of the Regional Power Act. "However," he says, "we expected to get fair treatment in BPA's rate process, including its review of private utility exchange costs. We didn't get fair treatment last year, but must in 1983 or the agency and regional utilities will literally kill the geese that lay the golden eggs."

Ater believes that the 1983 rate case will provide a forum to remedy past wrongs. The key concerns of the DSIs include BPA's ability to sell surplus power, the price BPA charges for nonfirm power used to serve a quarter of the DSI power needs, the allocation of generating capacity costs and being "double charged" for costs included both in the private utility exchange agreement (paid mostly by the DSIs) and in BPA's overhead.

The DSIs are planning an all-out effort to explain their position on these crucial issues. Hanging in the balance for the Northwest aluminum industry and BPA's other industrial customers is future market competitiveness, and perhaps even survival.

SUBMITTED BY: Senator Jean Turnage
2/18/83
EXHIBIT NO. 3

Amendment to SB 423

1. Page 1, line 15.

Following: "indebtedness"

Insert: "for financing directly or indirectly the construction,
maintenance, or operation of nuclear power generating
facilities"

2. Page 1, line 18.

Following: "members"

Insert: "present and voting at the meeting"

GP3/Amend SB 423

SUBMITTED BY: Senator Jean Turnage
2/18/83
EXHIBIT NO. 4

RE: WPPS - Affect on Co-ops in Montana

THE CESSATION OF CONSTRUCTION OF WPPS (WOOPS)

4 & 5 NUCLEAR FACILITIES AFFECTED THE FOLLOWING:

RURAL ELECTRIC CO-OPS IN WESTERN MONTANA.

- (1) MISSOULA ELECTRIC CO-OP
- (2) NORTHERN LIGHTS ELECTRIC CO-OP
- (3) RAVALLI COUNTY ELECTRIC
- (4) VIGILANTE RURAL ELECTRIC (DILLON)
- (5) GLACIER ELECTRIC (CUT BANK)

THESE FIVE WESTERN MONTANA CO-OPS FINANCIAL RESPONSIBILITY

IS (A) \$2.25 BILLION (B) WITH INTEREST OVER \$7 BILLION
WHICH WILL BE AMORTIZED OVER A 30 YR. PERIOD.

PLUS TERMINATION OR MOTHBALL COSTS OF \$231,154,000.00,

THE ONLY OTHER ELECTRIC UTILITY IN MONTANA THAT HAD AN INTEREST
IN WPPS 4 & 5 WAS P. P. & L. (PACIFIC POWER & LIGHT).

A HEARING BEFORE THE MONTANA P.S.C. ON THE ISSUE, THE P.P. & L.'S
REQUEST TO RECOUP THEIR INVESTMENTS IN ABANDONED NUCLEAR FACILITIES
WAS HELD IN JANUARY. THE MONTANA CONSUMER COUNSEL IS CURRENTLY
BRIEFING THIS ISSUE.



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IMPLEMENT
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the advocate for Montana and Northern Wyoming retail hardware and farm implement dealers

TESTIMONY ON SENATE BILL 432

Mr. Chairman and members of the Senate Business and Industry Committee, I am Blake Wordal, the managing director of the Montana Hardware and Implement Association. Our association represents retail hardware and farm implement dealers in Montana and northern Wyoming.

We strongly support Senate Bill 432. This legislation is protective legislation for our dealers when a franchise is cancelled and has been adopted in 20 other states. Similar legislation was introduced in the last session of the Montana Legislature and passed the House without a dissenting vote. It was defeated, however, in a Senate Committee because our association opposed the bill as too general and too vague. At that time, we pledged to return with legislation based on the law in Minnesota. The bill you have before you is modeled after the Minnesota statutes and has been unanimously endorsed by my Board of Directors and the general membership at our 1982 convention.

When this type of legislation was first considered in other states, the battles between retailers, wholesalers, distributors and manufacturers were hard fought. After several of these fights, retailers and manufacturers decided that the best avenue to resolve their problems was to compromise. The Minnesota law was the result and has been used as a model in most other states.

This bill clearly states what wholegoods and parts will be bought back by the wholesaler, manufacturer or distributor; the amounts to be reimbursed; how the transaction shall take place; and provides an important section relating to the death of a dealer or major stockholder. Industrial equipment and automobiles have been included in this legislation at the request of their representatives.

The farm implement industry is one where a retailer's assets are tied into large, expensive machinery and parts. The loss of a franchise can simply bankrupt a thriving business through no fault of the dealer. He or she can be left with hundreds of thousands of dollars in inventory and no future relationship for service, parts or even updated information from the manufacturer, wholesaler or distributor. As the law now stands, the manufacturer, wholesaler and distributor have no responsibility to repurchase items bought by the retailer in good faith that their relationship would continue. He or she have very few alternatives. There are few farmers or ranchers who will buy merchandise from a farm implement dealer who is unable to service the equipment. Dealers are forced to auction what they can at significant losses and sacrifice the rest.

Senate Bill 432 is a very good vehicle to eliminate these inequities. I urge your favorable consideration of this legislation and will be happy to answer any questions the Committee members might have. Thank you.

SUBMITTED BY: Eileen Shore, PS C

2/18/83

EXHIBIT NO. 6

PUBLIC SERVICE COMMISSION 1227 11th Avenue • Helena, Montana 59620
Telephone: (406) 449-3007 or 449-3003

Thomas Schneider, Chairman
John Driscoll
Howard Ellis
Clyde Jarvis
Danny Oberg

SENATE BILL 419

The Montana Public Service Commission supports Senate Bill 419.

Although the Commission believes that it possesses the power to regulate a utility's transfer of assets under its general powers, the Montana Power Company has disputed that jurisdiction in litigation involving its reorganization into a holding company.

Therefore, passage of this bill will clarify this dispute and, we hope, help avoid future expensive litigation. This consideration is especially relevant in view of the stated intent of the Montana-Dakota Utilities Company to transfer a substantial number of its natural gas related assets to another corporation.

The Commission believes that control over asset transfers is essential to assure ratepayers of reasonably adequate service.

In addition, transfers may have an effect on rates. For example, some state commissions and some state courts have decided that when assets were paid for by ratepayers, profits from their transfer should go to ratepayers instead of stockholders. A similar situation is now before the Commission because Montana Power transferred some gas properties without the Commission's knowledge. Similarly, the question presented a very substantial

potential problem when Montana Power was trying to sell all of its Canadian gas properties. The Company maintained that all profits would go to shareholders. The Commission staff believed that, since ratepayers had paid for exploration and development of these properties, there was a very serious possibility that they should receive some benefit from a sale. Passage of this bill would clearly allow the Commission to examine such issues before any transfer of assets took place.

The Commission asks that consideration be given to amendments it is proposing. These amendments are intended to clarify what we understand to be the bill's intent and to resolve issues that have been disputed in the past.

Thomas Schneider, Chairman
John Driscoll
Howard Ellis
Clyde Jarvis
Danny Oberg

SENATE BILL 419

PROPOSED AMENDMENTS OF THE PUBLIC SERVICE COMMISSION

1. Page 1, Line 12.

Following: "asset"

Insert: "or convey control of any asset"

Reason for the amendment: It would clarify that the bill applies to conveyances accomplished through a sale of stock or means other than outright sale. Montana Power has claimed that the form of conveyance has a substantial effect on the Commission's jurisdiction.

2. Page 1, Line 12.

Following: "asset"

Strike: "that was acquired in whole or in part with ratepayers' money"

Insert: "used to provide utility service or was ever included in the utility's books and records"

Reason for the Amendment: From a technical view it is very difficult to trace the money used to acquire a particular asset. In addition, the substitute language better fits the purpose of protecting service and rates.

The second part of this amendment, "or was ever included in the utility's books and records" has been included to cover the

situation where an asset technically might not have been "used" for utility service, but, still affects service. The most obvious example is Montana Power's coal subsidiary, Western Energy. Although now considered a nonutility operation, creditors relied on its assets in lending Montana Power money for the Colstrip plant. Therefore, transfer of Western Energy assets could adversely affect Montana Power's credit rating which could, in turn, affect rates.

3. Page 1, Line 14.

Strike: Subsection (2) in its entirety

Insert: "(2) The Commission shall approve the conveyance unless it initiates, within thirty days of receipt of an application, a proceeding to further investigate the effect of the conveyance. The utility shall have the burden of proof in any proceeding of showing that the proposed conveyance will not adversely affect its ability to provide reasonably adequate service and facilities at a reasonable and just charge. The Commission shall issue its decision in such proceeding within a reasonable time. The commission may attach conditions to any approval given which it considers necessary to assure that a utility is able to provide reasonably adequate service and facilities at a reasonable and just charge."

Reason for the Amendment: The first part of this amendment was language agreed to with Montana Power Company and Montana-Dakota Utility. The last sentence assures that the Commission

has the flexibility to balance utility and ratepayer interests and to fashion a decision that strikes such a balance.

4. Page 1, Line 19

Strike: Section 1(3) in its entirety

Reason for the Amendment: This provision is not necessary in view of Amendment 2.

AMENDMENTS TO SENATE BILL 419

* * * * *

1. Line 13: Before the word "asset" insert the word "utility".
2. Line 14: Strike "may not" and insert instead the word "shall".
3. Line 15: Strike the word "not".
4. Beginning after the period on line 18, add the sentence:

"The PSC shall approve or disapprove a transfer of utility assets within 180 days of its receipt of an application by a utility for approval of such a transfer. If the Commission fails to approve or disapprove such an application within 180 days, such failure constitutes an automatic approval of the transfer."
5. Line 21: Before the word "asset" insert the word "utility".

2/18/83

EXHIBIT NO. 9

Senate Bill 419 (Introduced Bill)

1. Page 1, line 12.
Following: "was"
Strike: "acquired in whole or in part with
ratepayers' money"
Insert: "used to provide utility service"

2. Page 1, line 14.
Strike: Subsection (2) in its entirety
Insert: "(2) The Commission shall approve the
conveyance unless it initiates, within thirty
days of receipt of an application, a proceeding
to further investigate the effect of the
conveyance. The utility shall have the burden
of proof in any proceeding of showing that the
proposed conveyance will not adversely affect
its ability to provide reasonably adequate
service and facilities at a reasonable and
just charge. The Commission shall issue its
decision in such proceeding within a reasonable
time."

3. Page 1, line 19.
Strike: Subsection (3) in its entirety.

46th Legislature

1
2 INTRODUCED BY *Sen. Charles Kent Blodach*
3 *Rep. Van Vleet Berg*
4 *Rep. Hagen*
5 *Rep. Brown*
6 *Rep. ...*
7 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT CERTAIN

8 TRANSFERS MADE BY A PUBLIC UTILITY MUST BE APPROVED IN
9 ADVANCE BY THE PUBLIC SERVICE COMMISSION."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Prior approval by commission of public
12 utility asset conveyances. (1) A public utility may not,
13 other than in the regular course of business, convey any
14 asset that was ~~acquired in whole or in part with ratemakers'~~
15 ~~money~~ without the prior approval of the commission.

(2) The Commission shall approve the conveyance unless it initiates, within thirty days of receipt of an application, a proceeding to further investigate the effect of the conveyance. The utility shall have the burden of proof in any proceeding of showing that the proposed conveyance will not adversely affect its ability to provide reasonably adequate service and facilities at a reasonable and just charge. The Commission shall issue its decision in such proceeding within a reasonable time.

16
17
18
19
20 ~~(3) The commission may inquire pursuant to 59-2-105,~~
21 ~~into the management of a public utility in order to~~
22 ~~determine the source of the funds used to acquire any asset.~~
23 Section 2. Codification Instruction. Section 1 is
24 intended to be codified as an integral part of Title 69,
25 chapter 3, and the provisions of Title 69, chapter 3, apply
to section 1.

INTRODUCED BILL
58411

DATE _____

COMMITTEE ON _____

BUSINESS & INDUSTRY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Bruce Finnie	Self	456	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Tom Schneider	Montana PSC	419 456	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
GEO M. HELAND	FIRST BANK WESTERN	420	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Don Reed	MELC	456	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Eileen Shore	MT. PSC	419	<input checked="" type="checkbox"/>	<input type="checkbox"/>
EARL W. JOHNSON	FIRST BANK HELENA	420	<input type="checkbox"/>	<input type="checkbox"/>
Jimmy Jones	1st Bank, Bozeman	420	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Richard Schieber	FIRST BANK GREAT FALLS	420	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Walter Coffman	Triangle Terminal Co-op	723	<input type="checkbox"/>	<input checked="" type="checkbox"/>
John Albi	MSU	419 456	<input checked="" type="checkbox"/>	<input type="checkbox"/>
GENE PHILLIPS	PACIFIC POWER & LIGHT	419 456	AMEND <input checked="" type="checkbox"/>	<input type="checkbox"/>
Bill Gutz	MPSC	419 456	AMEND AMEND	<input type="checkbox"/>
Don Whit	MPSC	419 456	AMEND AMEND	<input type="checkbox"/>
Klaus DeWit	Self			
Hene H. de Wit	"			
Robert R. Moreds	ARCO ALUMINUM CO	5JR 17	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jack Canavan	" " "	5JR 17	<input checked="" type="checkbox"/>	<input type="checkbox"/>
JAMES A. LOFFUS	SELF	SB 423	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Moulen Ten	Montana Penks An.	SB 420	<input checked="" type="checkbox"/>	<input type="checkbox"/>
John Cadby	" " "	SB 420	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bob Quinn	MPSC	SB-456	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ed Smith	Mont. Fed Bank	SB 420	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ed Smith	Senate Dist # 1	SB 443	<input type="checkbox"/>	<input type="checkbox"/>

(Please leave prepared statement with Secretary)

NAME: GEORGE McHELANO DATE: 7-18-83

ADDRESS: #4 CARLINE Way, MISSOURI

PHONE: 721-2020

REPRESENTING WHOM? Xrist Bank Western

APPEARING ON WHICH PROPOSAL: SB 420

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Jerry Jones DATE: 2/18/83

ADDRESS: 219 E. OLIVE

PHONE: 507-7217

REPRESENTING WHOM? 1st BANK BOZEMAN

APPEARING ON WHICH PROPOSAL: DB # 420

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: JOHN OADBY DATE: 2-18-83

ADDRESS: HELENA

PHONE: 443-4121

REPRESENTING WHOM? NAT BANKERS ASSOC.

APPEARING ON WHICH PROPOSAL: SB 420

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: ALLOWS STATEWIDE USAGE OF DEBIT CARDS - BENEFITS CONSUMER.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: EARL W. JOHNSON

DATE: 2-18-83

ADDRESS: 6th Main, HELENA, MT. 59601

PHONE: 442-2540

REPRESENTING WHOM? FIRST BANK HELENA

APPEARING ON WHICH PROPOSAL: SB 420

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: WANT TO SECURE THAT ^{THIS} PRESENT BILL
ALLOWS ADDED USE OF SATELLITE ATM TERMINALS
IT APPEARS THAT THIS BILL DOES THIS.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Bruce Finnie DATE: 2/18/83

ADDRESS: 806 Halter

PHONE: 442-3716 office 442-6075

REPRESENTING WHOM? self

APPEARING ON WHICH PROPOSAL: SB: 456

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: PETER S. ANTONIOLI DATE: 2/18/83

ADDRESS: 40 E. BROADWAY ST.

PHONE: 723 - 5421 EXT. 2650

REPRESENTING WHOM? MONTANA POWER CO.

APPEARING ON WHICH PROPOSAL: SB - 456

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: AMENDMENTS TO BETTER
CLARIFY DEFINITIONS & INTENTIONS
OF BILL

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: GENE PHILLIPS DATE: 2/18/83

ADDRESS: KALISPELL

PHONE: 755-6644

REPRESENTING WHOM? PACIFIC POWER & LIGHT

APPEARING ON WHICH PROPOSAL: SB 456

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: JAMES A LOFFTUS DATE: FEB 10, 85

ADDRESS: 14522 HELLGATE LANE TURAH MONT 57825

PHONE: 258 6806

REPRESENTING WHOM? SELF

APPEARING ON WHICH PROPOSAL: SB 423

DO YOU: SUPPORT? AMEND? OPPOSE?

I AM A MEMBER OF MISSOULE ELECTRIC CO-OP
COMMENTS: I SUPPORT S.B.423 BECAUSE WE SHOULD
HAVE HAD THIS TYPE OF LAW BEFORE,
BECHUSE OF "WHOOPS" MY POWER BILL
HNS INCREASED OUT OF REASON AND I FEEL I
AM PAYING FOR A DEAD HORSE AND
CAN DO NOTHING ABOUT IT I URGE
YOUR SUPPORT. THANK YOU

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Eileen Shore DATE: 2/18/82

ADDRESS: 1227 11th AVE

PHONE: 449-4782

REPRESENTING WHOM? MT. P.S.C.

APPEARING ON WHICH PROPOSAL: SA 419

DO YOU: SUPPORT? ✓ AMEND? ✓ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: John Alke DATE: _____

ADDRESS: 406 Fuller

PHONE: 448-3690

REPRESENTING WHOM? MSU

APPEARING ON WHICH PROPOSAL: 456 : 419

DO YOU: SUPPORT? X AMEND? T OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: James Paine DATE: 2-18-83

ADDRESS: 34 W. 6th Ave Helena, MT.

PHONE: 449-2771

REPRESENTING WHOM? Montana Consumers — Montana Consumer Council

APPEARING ON WHICH PROPOSAL: SB 419

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: GENE PHILLIPS DATE: 2/18/83

ADDRESS: KALISPELL

PHONE: 755-6644

REPRESENTING WHOM? PACIFIC POWER & LIGHT

APPEARING ON WHICH PROPOSAL: SB 419

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Dennis Lapach DATE: 2/18/83

ADDRESS: PO Box 514

PHONE: 443-7397

REPRESENTING WHOM? Northwestern Tel. Systems, Inc

APPEARING ON WHICH PROPOSAL: SB 419

DO YOU: SUPPORT? _____ AMEND? X OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: LARRY HUSS DATE: 2-18-83

ADDRESS: 500 N. Park

PHONE: 449-4160

REPRESENTING WHOM? MOUNTAIN BELL

APPEARING ON WHICH PROPOSAL: SB 419

DO YOU: SUPPORT? _____ AMEND? X OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.