

**MINUTES OF THE
PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE**

Wednesday, September 12, 2001 – 9:00 a.m. – Room 129 State Capitol

Members Present:

Sen. Leonard M. Blackham, Senate Chair
Rep. John E. Swallow, House Chair
Sen. Mike Dmitrich
Sen. Scott K. Jenkins
Sen. John L. Valentine
Rep. Douglas C. Aagard
Rep. Sheryl L. Allen
Rep. Ralph Becker
Rep. Chad E. Bennion
Rep. Kevin S. Garn
Rep. Brent H. Goodfellow
Rep. Eric Hutchings

Rep. Ty McCartney
Rep. Gordon E. Snow
Rep. Michael R. Styler
Rep. Stephen H. Urquhart

Members Absent:

Speaker Martin R. Stephens
Rep. David Ure

Staff Present:

Mr. Robert H. Rees, Associate General Counsel
Ms. Cassandra Bauman, Legislative Secretary

Note: A list of others present and a copy of materials can be found at <http://www.image.le.state.ut.us/imaging/history.asp> or contact the Office of Legislative Research and General Counsel.

1. Call to Order

Chair Blackham called the meeting to order at 9:11 a.m.

MOTION: Rep. Snow moved to approve the minutes of the July 18, 2001 meeting. The motion passed unanimously with Sen. Valentine, Rep. Becker, Rep. Swallow and Rep. Urquhart absent for the vote.

2. Broadband Access Rural Utah

Mr. Mark Steinagel, Information Consultant, Office of Legislative Research and General Counsel, distributed "Information Technology in Rural Utah." Chair Blackham presented information regarding DSL capabilities in the rural areas of the State. He presented policy options to the committee.

Rep. Allen stated that the Economic Development and Human Resources Appropriations Subcommittee had an extensive presentation regarding smart sites in Cedar City during August 2001.

Sen. Jenkins stated that the Information Technology Commission received a presentation that reported more fiber optics cables are used in Utah than anywhere else in the U.S. He inquired about the availability and usage of fiber optics. He also asked if the use of state highways would result in fees. Mr. Steinagel explained that Utah does not charge for use of rights-of-way on state highways because the Department of Transportation encourages its usage. He stated that research would be conducted on the use of fiber optics.

3. Clean Coal Technology Resolution

Sen. Dmitrich explained that emphasis should be placed on using western coal and that the resolution presented would encourage that, possibly. He stated that moneys are available through President Bush's new Energy Policy.

Mr. Bryan White, T.A.S. Inc., explained that resources for burning clean coal are available. He stated, however, that the technology is not being utilized. He also stated that if the technology is updated and upgraded, then coal could be utilized more effectively.

Mr. Robert Hadfield, T.A.S. Inc., echoed remarks of Mr. White. He stated that, currently, there is not a market for coal micronization.

Mr. Greg Freed, President, Utah Mining Association, explained that 95 percent of power used by industry is generated from coal. He explained that preservation of energy needs to begin by cleaning the coal. He stated that the average job in the coal industry pays \$54,000 per year. He also stated that the coal industry in Utah needs to be updated to keep the industry competitive and the economy diversified.

MOTION: Sen. Dmitrich moved that the Committee approve the resolution. The motion passed unanimously with Sen. Valentine and Rep. Swallow absent for the vote.

4. Net Metering: Draft Legislation

Mr. Robert H. Rees, Associate General Counsel, Office of Legislative Research and General Counsel, explained the changes made to the net metering legislation since the last meeting. He stated that most of the changes are not substantive. He explained that Section 54-15-103 of the bill was substantially rewritten without any real substantive change except on line 110 where it is provided that the electrical corporation shall credit excess customer-generated electricity at a value that is at least avoided cost. He also indicated the addition of a definition for "governing authority" and that lines 93, 123, and 126-127 containing that term effect a substantive change from the last draft the Committee looked at.

Mr. Mike Peterson, Utah Rural Electric Association, explained the meaning of avoided costs. He spoke in favor of the legislation, stating that peak demand limitation on coops was not a concern. He also stated that the renewable facilities provision is questionable and usage of fuel cells need to be researched further.

Mr. Bruce Griswold, PacifiCorp, spoke in support of the legislation. He explained that PacifiCorp would support further study of fuel cells.

Rep. Allen stated that a conference on wind energy will be held on October 1, 2001. She also stated that the committee should further discuss this issue in its October meeting when information from that conference would be available.

MOTION: Rep. Snow moved to adopt the legislation as a committee bill. The motion passed unanimously with Rep. Becker and Rep. Swallow absent for the vote.

5. Universal Service Fund Access - Small Community Telephone Providers

Mr. David Irvine, attorney, Eagle Mountain, provided background on the issue. He stated that municipal telephone company, Eagle Mountain Telecommunications Company, was not established until 1996. He explained that H.B. 149, 2001 General Session, discouraged municipal entities from establishing telephone company services, but granted grandfather status to Eagle Mountain. He distributed "Facts About the Utah

Universal Service Fund.” He explained that Eagle Mountain qualifies for the Universal Public Telecommunications Service Support Fund (USF), except that it does not meet the definition of "corporation." He stated that in UCA §54-2-1, the definition of corporation excludes municipal entities, counties, and special service districts. He requested that the Legislature modify the definition to include Eagle Mountain and responded to committee questions.

Mr. Gerald Kinghorn, General Counsel, Eagle Mountain, explained rates regarding telecommunications. He stated that Qwest and Beehive telecommunication services provide their services to the surrounding areas of Eagle Mountain and also responded to committee questions.

Mr. Steve Mecham, Chair, Public Service Commission, stated that the Commission is not fundamentally opposed to the idea of providing USF to Eagle Mountain. He also stated that the Commission has the authority and responsibility to study corporations to conclude if the costs are reasonable. He inquired whether Utah Constitution, Article VI, Section 28, would present a problem. He proposed several questions for the committee to consider.

Mr. Jerry Fenn, attorney, Utah Rural Telecom Association, explained that the board opposes the proposition. He stated that the board is concerned that if USF is provided to Eagle Mountain, it would be unfair. He also stated that other options are available for Eagle Mountain and those should be studied. He expressed concern that other cities and towns may attempt to withdraw funds from USF and that other municipalities would feel discriminated against if Eagle Mountain was given a specific exemption. He said that cities have inherent advantages for telecommunication services. He also recommended that constitutional concerns be reviewed.

MOTION: Rep. Styler moved to continue discussion on the issue in October.

SUBSTITUTE MOTION: Rep. Allen moved that interested legislators work with involved parties and that staff draft legislation for the October or November interim meeting. The motion passed with Rep. Snow voting in opposition.

Chair Blackham instructed staff to work with interested parties to draft legislation on the issue. He requested that the constitutional issue be looked into.

6. Natural Gas Issues: An Update from Questar

This item was postponed until a future meeting.

7. Adjournment

MOTION: Rep. Bennion moved to adjourn the meeting. The motion passed unanimously with Rep. Becker absent for the vote. Chair Blackham adjourned the meeting at 11:22 a.m.

