

**REVISED MINUTES OF THE  
ENERGY POLICY TASK FORCE**

Tuesday, November 30, 2004 – 10:00 a.m. – Room W130 House Building

**Members Present:**

Sen. Leonard M. Blackham, Senate Chair  
Rep. Sheryl L. Allen, House Chair  
Sen. Gregory S. Bell  
Sen. Mike Dmitrich  
Sen. Dan R. Eastman  
Sen. Ed P. Mayne  
Rep. Ralph Becker  
Rep. Chad E. Bennion  
Rep. Ty McCartney

**Members Absent:**

Rep. Bradley G. Last  
Rep. Darin G. Peterson  
Rep. David Ure

**Staff Present:**

Mr. Mark Steinagel, Policy Analyst  
Ms. Patricia Owen, Associate General Counsel  
Ms. Wendy Bangerter, Legislative Secretary

Note: A list of others present and a copy of related materials can be found at [www.leg.utah.gov](http://www.leg.utah.gov) or by contacting the task force secretary, Wendy Bangerter, at 538-1032. A recording of the meeting is available from the task force secretary.

**1. Task Force Business**

Chair Allen called the meeting to order at 10:07 a.m.

**MOTION:** Rep. Bennion moved to approve the minutes of the November 16, 2004 meeting. The motion passed unanimously. Rep. McCartney was absent for the vote.

**2. New Energy Resource Amendments**

Sen. Blackham introduced the draft legislation, "Public Utilities Amendments," and distributed amendments that were recommended by interested parties and prepared by task force staff.

Panel Members:

Mr. Gary Dodge, Utah Energy Users;  
Mr. Richard Campbell, Public Utilities Commission;  
Mr. Paul Proctor, Community Consumer Services;  
Mr. Chuck Greenhawt, Questar;  
Mr. Tim Hunter, Attorney for PacifiCorp;  
Mr. Richard Walje, Sr. Executive for Utah, PacifiCorp;  
Mr. Artie Powell, Technical Consultant, Division of Public Utilities; and  
Ms. Kelly Francone, Utility Analyst, Committee of Consumer Services

A panel comprised of the individuals listed above sat at the witness table and commented as the Task Force progressed through the bill and discussed changes to it.

Mr. Dave Anderson, Questar, and Mr. Ted Boyer, Public Service Commission, also spoke to the amendments.

**Amendment One - Section 54-4-4**

**MOTION:** Sen. Blackham moved to accept Amendment one as modified. The motion passed unanimously. Sen. Eastman and Rep. McCartney were absent for the vote.

1. Page 1, Line 10: After line 10 insert "addressing prudence;"

2. Page 1, Line 30: After line 30 insert "**54-4-4**, [legislative history]"

3. Page 2, Line 47: After line 47 insert:

"Section 1. Section **54-4-4** is amended to read:

**54-4-4. Classification and fixing of rates after hearing.**

(1) (a) The commission shall take an action described in Subsection (1)(b), if the commission finds after a hearing that:

(i) the rates, fares, tolls, rentals, charges, or classifications demanded, observed, charged, or collected by any public utility for, or in connection with, any service, product, or commodity, including the rates or fares for excursion or commutation tickets, or that the rules, regulations, practices, or contracts affecting the rates, fares, tolls, rentals, charges, or classifications are:

(A) unjust;

(B) unreasonable;

(C) discriminatory;

(D) preferential; or

(E) otherwise in violation of any provisions of law; or

(ii) the rates, fares, tolls, rentals, charges, or classifications described in Subsection (1)(a)(i) are insufficient.

(b) If the commission makes a finding described in Subsection (1)(a), the commission shall:

(i) determine the just, reasonable, or sufficient rates, fares, tolls, rentals, charges, classifications, rules, regulations, practices, or contracts to be thereafter observed and in force; and

(ii) fix the determination described in Subsection (1)(b)(i) by order as provided in this section.

(2) The commission may:

(a) investigate:

(i) one or more rates, fares, tolls, rentals, charges, classifications, rules, regulations, contracts, or practices of any public utility; or

(ii) one or more schedules of rates, fares, tolls, rentals, charges, classifications, rules, regulations, contracts, or practices of any public utility; and

(b) establish, after hearing, new rates, fares, tolls, rentals, charges, classifications, rules, regulations, contracts, practices, or schedules in lieu of them.

(3) (a) If in the commission's determination of just and reasonable rates the commission uses a test period, the commission shall select a test period that, on the basis of evidence, the commission finds best reflects the conditions that a public utility will encounter during the period when the rates determined by the commission will be in effect.

(b) In establishing the test period determined in Subsection (3)(a), the commission may use:

(i) a future test period that is determined on the basis of projected data not exceeding 20 months from the date a proposed rate increase or decrease is filed with the commission under Section 54-7-12;

(ii) a test period that is:

(A) determined on the basis of historic data; and

- (B) adjusted for known and measurable changes; or
- (iii) a test period that is determined on the basis of a combination of:
  - (A) future projections; and
  - (B) historic data.
- (c) If pursuant to this Subsection (3), the commission establishes a test period that is not determined exclusively on the basis of future projections, in determining just and reasonable rates the commission shall consider changes outside the test period that:
  - (i) occur during a time period that is close in time to the test period;
  - (ii) are known in nature; and
  - (iii) are measurable in amount.
- (4)(a) The commission shall make a prudence determination on the basis of the factors listed in Subsection (4)(b):
  - (i) if, in the commission's determination of just, reasonable, or sufficient rates, the commission considers the prudence of an action taken by a public utility; or
  - (ii) when the commission makes a prudence determination in connection with:
    - (A) a significant energy resource decision under Chapter 17, Part 3, Resource Plans and Significant Energy Resource Approval; or
    - (B) a resource decision under Chapter 17, Part 4, Voluntary Request for Prudence Review.
  - (b) In making a prudence determination described in Subsection (4)(a), the commission shall make its prudence determination on the basis of:
    - (i) focusing on the reasonableness of the expense resulting from the action of the public utility judged as of the time it was taken, or is proposed to be taken;
    - (ii) determining whether a reasonable utility, knowing what the utility knew or reasonably should know at the time of the action, reasonably incurred, or should reasonably incur, all or some portion of the expense, in taking the same or some other action;
    - (iii) finding that the public utility action taken, or proposed to be taken is consistent with providing utility services at the lowest reasonable cost to the retail consumers of a public utility located in this state considering:
      - (A) long-term and short-term impacts;
      - (B) risk;
      - (C) reliability;
      - (D) financial impacts on the public utility; and
      - (E) the public interest;
    - (iv) any other factors determined by the commission to be relevant, consistent with this section."

**Renumber remaining subsections accordingly**

#### **Amendment Two - Section 54-4-25**

**MOTION:** Sen. Blackham moved to accept Amendment 2 as written. The motion passed unanimously. Sen. Eastman and Rep. McCartney were absent for the vote.

1. Page 3, Line 70: After "(a)" insert "(i)"
2. Page 3, Line 73: After line 73 insert:

"(ii) If the applicant is in the process of obtaining the required consent, franchise, or permit, a certificate shall be conditioned upon:  
(A) receipt of the consent, franchise, or permit within the time period the commission may direct; and  
(B) the filing of such evidence of the receipt of the consent, franchise, or permit as the commission may require."

**Amendment Three - Section 54-17-102**

No action was taken on item one.

**MOTION:** Sen. Blackham moved to accept items two and three as written. The motion passed unanimously.

2. Page 5, Line 149: After "service;" delete "and"
3. Page 5, Line 151: After "practicable" insert:  
"; and  
(e) such other data and analyses as the commission may require"

**MOTION:** Sen. Blackham moved to accept item four as written and six as amended. The motion passed with Rep. Bennion voting in opposition.

4. Page 5, Line 154: Delete "125" and insert "100"
6. Page 6, Line 157: Delete "125" and insert "100"

**MOTION:** Sen. Blackham moved to accept item seven as written. The motion passed unanimously.

7. Page 6, Line 162: After "utility" insert "or an affiliate"

No action was taken on items one, five, and eight.

1. Page 5, Line 146: Delete "brief" and delete "summary"
5. Page 5, Line 155: Delete "10" and insert "seven"
8. Page 6, Lines 166-168: After "Act" delete the remainder of line 166 and lines 167-168 and insert  
""  
";"

**Amendment Four - Section 54-17-101**

**MOTION:** Sen. Blackham moved to accept the amendment. The motion passed unanimously. Sen. Eastman and Rep. McCartney were absent for the vote.

1. Page 4, Line 125: Delete "New"

**Amendment Five - Section 54-17-102**

**MOTION:** Sen. Blackham moved to accept items one, two, and three. The motion passed unanimously.

1. Page 5, Line 131: Delete "a" and insert "an energy"
2. Page 5, Line 142: Delete "15" and insert "10"
3. Page 5, Line 143: Delete "plan" and insert "options" and after "in its" insert "load and resource"

No action was taken on items four and five, with the recommendation that they be discussed further by the working group.

**MOTION:** Sen. Blackham moved to accept items six and seven as modified. The motion passed unanimously.

6. Page 6, Line 161: Delete line 161 and insert "(c) the purchase or lease by an electrical utility from an affiliated company of:  
(i) a generating facility;  
(ii) electricity;  
(iii) electrical generating capacity; or  
(iv) electricity and electrical generating capacity;"
7. Page 6, Line 162: after "purchase" delete "the" and insert "a" and after "resource" insert "that consists of not less than 100 megawatts or more of new generating capacity that has a remaining dependable life of 10 or more years"

**Amendment Six - Section 54-7-103**

**MOTION:** Sen. Blackham moved to delete Section 54-7-103 from the bill. The motion passed unanimously.

**Amendment Seven - 54-17-103**

No action was taken on Amendment seven.

**Amendment Eight - 54-17-201**

**MOTION:** Sen. Blackham moved to accept items one and two as modified. The motion passed unanimously. Sen. Eastman was absent for the vote.

1. Page 7, line 197: Delete "(a) Beginning July 1, 2005, an" and insert "An"
2. Page 7, Line 198: After "resource" insert "after January 1, 2005"

Also added:

Page 7, Line 200: Delete "July 1, 2005" and insert "January 1, 2005."

No action was taken on item three.

**MOTION:** Sen. Blackham moved to accept item four as written. The motion passed unanimously, with Sen. Eastman absent for the vote.

4. Page 7, Line 206: Delete "an outline" and insert "a description"

No action was taken on item five.

**MOTION:** Sen. Blackham moved to insert item six into the draft legislation.

6. Page 8, Line 241: After line 241 insert:

"(4) This chapter does not apply to any purchase by an affected electrical utility of electric capacity or energy required by law."

**SUBSTITUTE MOTION:** Rep. Bennion moved to insert item six with a new subsection (b) to read: "This Subsection (4) does not limit the commission's authority under Section 54-12-2." The motion failed with Sen. Dmitrich, Sen. Mayne, Rep. Becker, and Rep. McCartney voting in opposition. Sen. Eastman was absent for the vote.

**SUBSTITUTE MOTION:** Sen. Dmitrich moved to refer item six back to the working group. The motion passed unanimously with Sen. Eastman absent for the vote.

Sen. Blackham stated that the working group would meet prior to the session to discuss possible changes to the bill.

**MOTION:** Sen. Blackham moved to adopt "Public Utilities Amendments" as amended. The motion passed unanimously with Sen. Eastman and Rep. Becker absent for the vote.

Sen. Mayne distributed and discussed information regarding preferential awardings of public works and contracts.

### **3. Task Force Reauthorization**

Chair Allen explained the need for reauthorization of the task force.

**MOTION:** Sen. Dmitrich moved to recommend "Energy Policy Task Force Reauthorization." The motion passed unanimously with Sen. Bell, Sen. Eastman, and Rep Becker absent for the vote.

### **4. Other Items / Adjourn**

**MOTION:** Rep. Bennion moved to adjourn the meeting. The motion passed unanimously with Sen. Bell, Sen. Eastman, and Rep Becker absent for the vote.

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Chair Allen adjourned the meeting at 12:20 p.m.