

**DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA**

In re the Petition for Adoption of New Rule I and Declarations Pertaining to the Commission’s Consideration of the Adverse Climate Impacts of Greenhouse Gas Emissions	Docket 2024.03.028 March 19, 2024
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Notice of Public Hearing and Opportunity to Comment

1. On February 28, 2024, various interested groups filed with the Montana Public Service Commission (“Commission”) a Petition for Rulemaking (“Petition”) asking the Commission to adopt a proposed new rule requiring the Commission to consider the impacts of its decisions on the environment and human health, including impacts on climate change. The text of the proposed rule reads as follows:

NEW RULE. CONSIDERATION OF ADVERSE CLIMATE IMPACTS OF GREENHOUSE GAS EMISSIONS. In exercising its duties and powers with respect to electric and gas utility companies, the Public Service Commission shall consider the quantitative and qualitative impacts of its decisions on the environment and human health, including impacts on climate change. Relevant duties and powers involving electric and gas utilities include, but are not limited to, oversight of integrated resource planning; approval of electricity supply and gas resources, including purchases from qualifying small power production facilities (as defined in Mont. Code Ann. § 69-3-601(3)); decisions regarding ratemaking; and the issuance of securities and bonds and proceeds thereof. In making determinations regarding whether costs and actions pertaining to electric and gas utilities are reasonable, just, in the public interest, prudent, or otherwise approvable, the Commission shall, at a minimum:

- (1) Apply the higher of the social cost of greenhouse gases established by (a) the U.S. Environmental Protection Agency or (b) the federal

Interagency Working Group on the Social Cost of Greenhouse Gases as of the time of the Commission’s determination (except that in no case shall the costs of greenhouse gases be lower than those at a 2-percent near-term Ramsey discount rate from the U.S. Environmental Protection Agency’s November 2023 “Report on the Social Cost of Greenhouse Gases: Estimates Incorporating Recent Scientific Advances,” adjusted for inflation); and

- (2) Consider any adverse climate impacts of greenhouse gas emissions on communities that are disproportionately impacted by such emissions and/or subject to historical inequalities

In making determinations regarding electric utilities and considering (1)–(2) above, the Commission must determine that short-term costs or direct costs of renewable energy generation that are higher than the short-term costs or direct costs of alternatives relying more heavily on fossil fuels are reasonable, just, prudent, in the public interest, or otherwise approvable, if the adverse impacts resulting from the use of fossil fuels are larger than those from renewable energy generation.

2. The Petition also asked the Commission to issue certain declaratory rulings on the Commission’s legal obligations to consider greenhouse gas emissions. Specifically, the Petition asked the Commission to declare that:

The Montana Constitution imposes an affirmative obligation on the Commission to consider the harmful climate consequences of its decisions to prevent constitutional harm and protect Montanans’ fundamental right to a clean and healthful environment.

The following statutes—which require the Commission to regulate utilities in a manner that helps ensure a clean, healthful, safe, and economically productive environment; promotes the public interest; and ensures just and reasonable utility rates and practices—require considerations of climate change and its harmful effects in Montana: Mont. Code Ann. §§ 69-3-1202(1)(b); 69-3-1204(3)(a), (b); 69-8-421(6)(c)(i); 69-3-1415(5)(c); 69-3-330(1), (3); 69-3-504(1); 69-3-1606(1)(b).

3. The Petition asserts there is both a factual and legal basis for the Commission to adopt the proposed rule. Factually, the Petition asserts that climate change causes environmental and societal harm globally and in Montana; that climate change harms Montanans’ health; that fossil fuel energy sources and

infrastructure cause climate change and its harmful impacts; and that burning fossil fuels has significant environmental and societal costs. Legally, the Petition argues that the Commission is required to consider the impacts of climate change under the Montana Constitution's right to clean and healthful environment; statutes that give the Commission the full power of supervision, regulation, and control over utilities; statutes concerning resource planning and approval; and statutes that delegate broad rulemaking authority to the Commission.

4. A copy of the Petition is publicly available at the Commission's business office, 1701 Prospect Avenue, PO Box 202601, Helena, MT, and online at the Commission's website (<http://psc.mt.gov>) under Docket No. 2024.03.028. A copy of the Petition may also be available at the office of the Montana Consumer Counsel, which represents consumer interests before the Commission, 111 North Last Chance Gulch, Suite 1B, Helena, MT 59601, (406) 444-2771. Interested parties can register on the Commission's website to receive notice of filings in this docket. Instructions for subscribing to notices of filings are available at psc.mt.gov/reddi-help.

5. When contemplating rulemaking, the Commission can request information from interested persons regarding the rulemaking. Mont. Code Ann. § 2-4-304. The Commission may also hold a hearing on the Petition. Mont. Code Ann. § 2-4-315. Given the scope of the Petition and the petitioners' request for a hearing, the Commission has determined that additional viewpoints and advice of interested persons are necessary.

6. PLEASE TAKE NOTICE that the Commission will conduct a public hearing on the Petition. **The public hearing will commence on April 8, 2024, at 9:00 a.m.**, in the Bollinger Room located in the Commission's offices at 1701 Prospect Avenue, Helena, Montana. The Commission's website (<http://psc.mt.gov>) will have a live stream of the hearing. The hearing is for the purpose of receiving public comment and evidence (testimony and exhibits) addressing the Petition.

7. The Commission also invites written public comment from interested parties. All comments must be submitted to the Commission no later than **April 12**,

2024. Written public comments on this matter may be submitted to the Commission at 1701 Prospect Ave., PO Box 202601, Helena, MT 59620, or by email to pschelp@mt.gov. Public comments may also be submitted online in REDDI. Instructions for submitting public comments in REDDI are available at psc.mt.gov/reddi-help (select “Submit a Public Comment”).

8. The Commission’s jurisdiction over this matter is provided in Title 69 and Title 2, Chapter 4 of the Montana Code Annotated; Title 38, Chapters 2 and 5 of the Montana Administrative Rules; and any prior order of the Commission relevant to the issues presented.

DONE and DATED March 19, 2024, by the Montana Public Service Commission by a vote of 5 to 0.

JAMES BROWN, President
JENNIFER FIELDER, Vice President
TONY O’DONNELL, Commissioner
RANDALL PINOCCI, Commissioner
Dr. ANNIE BUKACEK, Commissioner

CERTIFICATE OF SERVICE

I certify that on the 19th day of March, 2024, a true and accurate copy of the foregoing document was served by email to the following:

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For Earthjustice

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EMAIL LIST(S):

Administrative Rules

Energy West Mailing List

Notification of Montana Dakota Utilities Filings

Notification of NorthWestern Energy Filings

PSC Hearing Notices

For the purpose of Public Notice, this document has been sent to the following media outlet(s):

The Billings Gazette - legals@billingsgazette.com

Bozeman Daily Chronicle - dcleghals@dailychronicle.com

Great Falls Tribune - triblegals@greatfallstribune.com

Independent Record - legalads@helenair.com

The Missoulian - legals@missoulian.com

Montana Standard - legals@mtstandard.com

Daily Inter Lake - mbooth@dailyinterlake.com

By: /s/ Tarin Slayton

Tarin Slayton

Montana Public Service Commission