Consumers' council| Countervailing power to Montana Power?

Russell Leigh Doty

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CONSUMERS' COUNCIL:
COUNTERVAILING POWER TO MONTANA POWER?

By
Russell L. Doty, Jr.
B.A., Washington State University, 1965

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Approved by:

[Signatures]
Chairman, Board of Examiners
Dean, Graduate School

Date Dec, 1970
PREFACE

This is written primarily to aid the electric and gas consumer in understanding the rationale behind the forces which shape utility rates in Montana. But it is also intended to impart some knowledge of the interaction and impact of political "pressure" or interest groups in Montana and to aid students in understanding the political process in Montana.

I want to thank Senator Lee Metcalf, Vic Reinemer, Harry L. and Gretchen G. Billings, Mrs. Francis Logan, and Jerome J. Cate for getting me interested in the utility rate issue. It is hoped that this study will supplement work already done by them in this area.

The suggestions of Dr. Thomas Payne, my advisor, and Edmund L. Freeman have greatly improved the writing style. And as members of the Board of Thesis Examiners, Drs. Brad E. Hainsworth and Richard E. Shannon helped resolve inconsistencies in political theory.

The people interviewed during the writing of this have corrected privately many of my mistakes. I admire their candidness and appreciate their help.
To Dad and Mom who financed it and to Janet who shared it.
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CHAPTER I

THE DYNAMICS OF GROUP THEORY

In Through the Looking Glass Alice remarked to the twins, "Really it's coming on very dark," and asked if they thought it might rain.

Tweedledum spread a large umbrella over himself and his brother, and looked up into it. "No, I don't think it is," he said: "at least not under here, nohow."

"But it may rain outside?"

"It may—if it chooses," said Tweedledee, "we've no objection, contrariwise."1

The Montana Power and Anaconda Copper Mining companies were the twins, Tweedledum and Tweedledee, in Joseph Kinsey Howard's analogy describing the political power struggle in Montana prior to 1944. He thought that for all practical purposes their alliance had controlled the allocation of resources in the vast Treasure State.

The Anaconda Copper Mining Company (ACM), as Montana's largest business, had exerted varying influence on Montana political institutions. For example, Anaconda owned seven of Montana's fourteen daily or almost-daily newspapers in four of its five major cities.2 In addition,


2ACM owned The Missoulian-Sentinel in Missoula, The Livingston Enterprise in Livingston, The Independent Record in Helena, The Billings Gazette in Billings, and
Anaconda's president, John D. Ryan, had organized the Montana Power Company as a privately owned utility to insure the sale of cheap electricity and gas to ACM's plants and mines at Butte, Anaconda, and Great Falls, which by 1940 used more power than the entire U.S. airplane industry. Ryan was also interested in the electrification of the Milwaukee & St. Paul Railroad. Because it supplied energy to the mines and railroads, Montana Power grew until it served the western two-thirds of Montana and had the largest service area of any electric utility in the United States.

Because it is a public utility, Montana Power is granted a natural monopoly over its service area. It is subject to gas and electric rate regulation by the Montana Railroad and Public Service Commission, a state government agency of three elected officials. One of the first actions the Public Service Commission took after its creation in 1913 was to order the Montana Power Company to lower its electric rates.  

The commissioners said that consolidation of the smaller companies into Montana Power had made more efficient

---

The Montana Standard in Butte. The major city that had a newspaper not owned by ACM was Great Falls, where O. S. Warden ran the Great Falls Tribune-Leader.

service possible. Then they ruled that the monopoly profit that Montana Power had made before regulation was too much.

Between 1912 and 1947, the Public Service Commission reduced Montana Power residential electric rates eight times. The biggest reduction came in 1923 when the Company reduced the average residential electric light bill (20 KWH) by 16 per cent and reduced by an even larger percentage the price on usage of greater amounts of power.

In 1964, the rates were again lowered to pass on to the consumer a utility tax cut the federal government had granted to stimulate a recessive economy. It was the first of nine federal tax reductions since World War II to be passed on to Montana Power patrons. In 1948, the Commission granted a 50 per cent increase for all kilowatt hours consumed over 1,000 a month. And as can be deduced from Table 1, Montana Power customers discovered their bill had also increased in 1957 and 1969.

As Table 2 illustrates, Montana Power was ordered to reduce its gas rates in 1933 and 1935. The Commission granted natural gas rate increases in 1953, 1962, and 1969. Gas price increases have ranged from 66 to 150 per cent (depending upon the amount of gas used) since the last rate reduction in 1935. And electric price increases have ranged from 16 to 50 per cent (depending on the amount of electricity used) since the last meaningful rate reduction in 1947. (The 1964 reduction merely passed on a federal tax cut to
TABLE 1
MONTANA POWER COMPANY RESIDENTIAL ELECTRIC RATES
REGULATED AFTER 1912

<table>
<thead>
<tr>
<th>YEAR</th>
<th>250 KWH</th>
<th>500 KWH</th>
<th>750 KWH</th>
</tr>
</thead>
<tbody>
<tr>
<td>1912 (small towns)</td>
<td>$33.25</td>
<td>$66.50</td>
<td>$99.75</td>
</tr>
<tr>
<td>1913 (large towns)</td>
<td>23.00</td>
<td>43.00</td>
<td>58.00</td>
</tr>
<tr>
<td>1913 (small towns)</td>
<td>24.23</td>
<td>43.23</td>
<td>57.48</td>
</tr>
<tr>
<td>1923a</td>
<td>8.00</td>
<td>13.00</td>
<td>18.00</td>
</tr>
<tr>
<td>1929</td>
<td>15 KWH bill reduced from $2.00 to $1.20. Larger usage rates unchanged.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1935</td>
<td>7.93</td>
<td>11.93</td>
<td>15.68</td>
</tr>
<tr>
<td>1939</td>
<td>7.75</td>
<td>11.75</td>
<td>15.50</td>
</tr>
<tr>
<td>1941</td>
<td>7.61</td>
<td>11.36</td>
<td>15.11</td>
</tr>
<tr>
<td>1944</td>
<td>7.08</td>
<td>10.83</td>
<td>14.58</td>
</tr>
<tr>
<td>1947</td>
<td>6.83</td>
<td>9.33</td>
<td>11.83</td>
</tr>
<tr>
<td>1948b</td>
<td>The price went from 1½/KWH to 1¾/KWH for electricity used in excess of 1,000 KWH, a 50 per cent increase.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1957</td>
<td>7.53</td>
<td>10.78</td>
<td>14.03</td>
</tr>
<tr>
<td>1964</td>
<td>6.91</td>
<td>10.16</td>
<td>13.41</td>
</tr>
<tr>
<td>1969</td>
<td>7.95</td>
<td>11.45</td>
<td>14.95</td>
</tr>
</tbody>
</table>

Per Cent of Rate Reduction from 1923 to 1947c 15% 28% 34%
Per Cent of Rate Increase from 1947 to 1969 16% 23% 26%

a In 1922, the average residential customer used 20 KWH of electricity each month at a cost of $1.90. In 1923, the Public Service Commission asked for a rate reduction. The Company complied, setting the price of 20 KWH at $1.60 and reducing the rates for greater amounts of electricity used more drastically. Company officials said they hoped that the reduction in these categories would increase consumption. Average consumption today is 450 KWH/month. Montana R.R. & Pub. Serv. Comm'n., Montana Utilities Reports, XVI (1923), 229-30.

b The 1948 raise, which affected 400 customers, was decided on in a conference between Company officials and the Public Service Commissioners. No public hearing was held, no advance publicity about the conference was given. The Commission said a hearing would be held if opposition to the new
rates developed. The Western News, September 7, 1948, p. 4. The 50 per cent 1948 raise is often ignored by Montana Power. Note, for example, the following quote from a letter which J. E. Corette wrote to Company stockholders on August 12, 1957: "Now for the first time in 45 years, your Company finds it necessary to raise its rates to electric customers." See also The Missoulian, February 14, 1968, p. 1.

The efficiency of electric generating plants has increased tremendously in the last 50 years. In 1917, for example, it took 2.69 pounds of coal to produce a kilowatt hour of electricity. In 1967, it took only .87 pounds of coal to produce the same amount of electricity. Edison Electric Institute, EEI Pocketbook of Electric Utility Industry Statistics (15th ed.; New York: Edison Electric Institute, 1969), p. 21.

**TABLE 2**

<table>
<thead>
<tr>
<th>YEAR</th>
<th>1 Mcf</th>
<th>100 Mcf</th>
<th>300 Mcf</th>
<th>1000 Mcf</th>
<th>5000 Mcf</th>
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<tbody>
<tr>
<td>1931</td>
<td>$1.70</td>
<td>$46.25</td>
<td>$128.25</td>
<td>$313.25</td>
<td>$993.25</td>
</tr>
<tr>
<td>1933</td>
<td>1.70</td>
<td>46.25</td>
<td>106.25</td>
<td>260.75</td>
<td>940.75</td>
</tr>
<tr>
<td>1935</td>
<td>1.00</td>
<td>45.55</td>
<td>105.55</td>
<td>259.55</td>
<td>939.55</td>
</tr>
<tr>
<td>1953</td>
<td>1.30</td>
<td>59.71</td>
<td>143.41</td>
<td>360.71</td>
<td>1360.71</td>
</tr>
<tr>
<td>1962</td>
<td>2.00</td>
<td>66.35</td>
<td>158.35</td>
<td>410.35</td>
<td>1690.35</td>
</tr>
<tr>
<td>1969</td>
<td>2.50</td>
<td>75.76</td>
<td>183.76</td>
<td>477.76</td>
<td>1997.76</td>
</tr>
</tbody>
</table>

Per Cent of Rate Increase from 1935 to 1969

- 150%
- 66%
- 74%
- 84%
- 112%

Per Cent of Net Rate Increase from 1931 to 1969

- 47%
- 64%
- 43%
- 52%
- 101%

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aMontana Power fought the gas rate reduction order in 1935. Montana Power Co. v. Public Service Comm'n., 12 F. Supp. 946 (1935). Commission findings in other cases may be found in the Public Utilities Reports available at many county law libraries. Citations to these cases may be found in the bibliography.

In 1953, the average residential user's gas bill
increased 32 to 47 per cent. This is compared to a 10 per cent increase in the costs of the American Smelting and Refining Company in East Helena (from 25% to 27\% per Mcf). A few large companies like American Smelting and Refining negotiate separate contracts with Montana Power and are able to get lower prices or keep rate raises from hitting them as hard as the rest of Montana's businesses because Montana Power realizes they might choose to use competing forms of energy if gas and electric prices become too high.


\*1 Mcf = 1,000 cubic feet of gas. A cubic foot of gas is that quantity of gas which, at a temperature of sixty degrees Fahrenheit and at a pressure of 14.73 pounds per square inch absolute (psia), occupies one cubic foot.

the consumers.) These increases came at a time when the U. S. electric utility industry was boasting a decrease in prices.\textsuperscript{4} This record has brought forth criticism of Montana Power for alleged influence over her sole rate restraint, the Montana Public Service Commission.

The most recent test of the extent of Montana Power influence arose on February 13, 1968, when the Company petitioned the Public Service Commission for permission to raise electric and gas prices.

J. E. Corette, Montana Power board chairman and chief executive officer, said a three-year investment of $98.6 million in new facilities plus "extraordinary expenses"

\textsuperscript{4}In 1966, 32 electric companies instituted rate reductions and only one asked for and received a rate increase. Robert H. Short, vice president of Portland General Electric Co., in Commercial & Financial Chronicle, March 2, 1967, p. 1.
totaling $1.8 million led the Company to seek a rate increase. Corette said that during the last ten years wages had increased 49 per cent, all state and local taxes had gone up 96 per cent, and the Montana corporation license (income) tax had increased 54 3 per cent. He said that current interest expenses (based on interest rates ranging from 6.5 to 7.6 per cent), increased depreciation charges, and the cost of acquiring and developing additional natural gas supplies also accounted for the boost in operating expenses.

Ten witnesses presented the Company's story to the Public Service Commission on May 1, 2, and 3, 1968. At that time the Commission did not cross-examine the Company witnesses. Nor did it allow protestants, the people who oppose the rate increase, to cross-examine. The Commission did, however, permit questions to clarify testimony and exhibits submitted by the Company. Cross-examination was permitted during a second hearing which commenced on August 7, 1968, and terminated on August 16, 1968. The testimony and cross-

6 Montana Power paid a 1967 corporation license tax of $1,419,767. In 1967, the corporation license tax rate was 5.4 per cent of a company's net income, which is defined as revenues less legitimate business expenses. The 1967 rate increased only one-fourth of one per cent over the 1957 rate. So the 543 per cent increase in Montana Power's corporation license tax may largely have been due to increased net income (profit). Montana Power Co., 1967 Form 1 Report to the FPC, p. 222.
examination of Dr. R. Hayden Howard and Dr. George F. Hess, utility experts hired by the Public Service Commission, was allowed at the second hearing. The testimony and examination of Dr. David a Kosh, a rate expert hired by the consumers, was heard September 3, 1968. Attorneys for all sides were allowed three months to prepare briefs in support of their positions. On January 30, 1969, the Commission decided that the rates should be increased.

Montana Power's rate increase request seemed a particularly bold move for at least two reasons. First, the Company told the press it wanted a 15 per cent increase in electric and gas revenues. This statement was true, but an increase in revenue was confused in the minds of newspaper readers with an increase in costs to the consumer. When the rate schedules were actually computed, the requested increase amounted to more than 25 per cent in most residential utility bills. When the revenue obtained from a 25 per cent cost increase in residential rates is averaged with the revenue obtained from commercial sources, the result is a 15 per cent increase in revenue.

Second, Montana Power displayed confidence by requesting a substantial election year increase at a time when Senator Lee Metcalf had been publicly alleging for several years that an average yearly overcharge of $10 million was being paid by Montanans to the utility.

Indeed, according to Electric Power and Light, the
electric industry's house organ, Montana Power was number one in the nation with a 1967 net income that was 25.37 percent of its gross revenue.  

Reacting on the basis of Metcalf's allegations of overcharge, consumers formed two groups, the Concerned Consumers' Council and the Montana Consumers' Council, which arose to oppose the utility rate raise request. Their effectiveness in preventing the increase is the topic of this thesis. Harvard economist John Kenneth Galbraith has postulated that: "As a common rule, we can rely on countervailing power to appear as a curb on economic power." If the postulate is correct, we would assume that the consumer groups would be able to mobilize enough countervailing opinion to keep Montana Power from obtaining the increase. What actually happened, however, was that the Montana Public Service Commission authorized an increase in electric and gas bills that averaged 15 per cent—most of what the Company requested. This would suggest that one should seek an alternate hypothesis to Galbraith's. At least one should seek a more complete understanding of the political process in this particular situation. Group theorist David B. Truman has said that in such situations

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the behaviors that constitute the process of government cannot be adequately understood apart from the groups, especially the organized and potential interest groups, which are operative at any point in time.\textsuperscript{10}

If Truman's argument is correct, we should arrive at a more adequate understanding of the Montana Power Company rate raise by focusing this study on the group interaction in the regulatory process. But, before we proceed to a hypothesis about such group interaction, some explanation of group theory will be necessary.

**Group Theory**

By asking, as a corporation, for a rate increase, Montana Power fits David B. Truman's definition of a political interest group. A group, writes Truman, is "any collection of individuals who have some characteristic in common."\textsuperscript{11} When the individuals become aware of the shared characteristics, attitudes, or interests, they may interact on the basis of their awareness. The frequency of such interaction produces more shared attitudes or interests and uniformities of behavior. Presumably, the more interaction between group members, the more cohesive will be their shared attitudes, the stronger their interests, and the more uniform their behavior.


\textsuperscript{11}Ibid., p. 23.
A group (e.g., the Montana Power Company) becomes an interest group, says Truman, when because of one or more shared attitudes between group members, it organizes to make "certain claims upon other groups [consumers and taxpayers] in the society for the establishment, maintenance, or enhancement of forms of behavior [higher rates] that are implied by the shared attitudes." As a corporation, Montana Power is a group whose members include directors, officers, employees, and bond and stockholders. These people have mobilized in quest of a utility rate increase as a common goal. When a group organizes to seek a goal and "makes its claim through or upon any of the institutions of government [Railroad and Public Service Commission or city councils], it becomes a political interest group." Professor Truman believes that his definition of political interest groups has more advantages than other definitions because "it permits the identification of various potential as well as existing interest groups." Interest groups arise when widely held attitudes are expressed through interaction. If these attitudes are not expressed in interaction but merely held in a state of readiness by their possessors, the people holding the shared attitude comprise a potential interest group. For example, all of the taxpayers

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12 Ibid., p. 33.  
13 Ibid., p. 37.  
14 Ibid., p. 34.
and consumers affected by the rate raise proposal may be included in a potential group which wants lower electric rates and lower taxes. Thus, the power of the utility company allegedly will be tempered, checked, or kept in "balance" by a countervailing force of consumers and taxpayers.

"The possibility," says Truman, "that severe disturbances will be created if these submerged, potential interests should organize necessitates some recognition of the existence of these interests and gives them at least a minimum of influence." Such a disturbance might result in restriction or elimination of the group that caused the potential interest to react. According to this rationale, a private power company, which set its rates too high, might find its service area invaded by lower cost public utility districts or by some other power supplier.

This does not mean that widespread unorganized interests are always dominant. "Nor does it mean," writes Professor Truman, "that the slightest action in violation of any of them inevitably and instantly produces a restrictive response. . . ." Mobilization of these unorganized interests depends upon many factors, including: the means of communication existing within a society, the quality of

\[15\text{Ibid.}, \text{p. 512.}\] \[16\text{Ibid.}, \text{p. 514.}\]
leadership generated within the emerging group, the degree
to which the group members' tolerance is exceeded, the degree
to which the group's members' attitudes are frustrated or to
which the rules of the game are violated, and the obstacles
to mobilization which organized groups place in the way.
In addition, citizens who generally do not vote or participate
in the political process are hard to arouse to action.

Nevertheless, Professor Truman believes that in
relatively vigorous political systems, unorganized interests
are dominant with sufficient frequency in the behavior of
enough important segments of society that, despite their
restrictions, they serve as balance wheels to keep the
activity and methods of organized interests within broad
limits.¹⁷

Even when the threat that potential interests might
mobilize is not apparent to members of existing pressure
groups, the existing group's action is tempered by multiple
and overlapping group memberships. "Multiple membership"
refers to a situation in which a person belongs to two or
more groups. And "overlapping membership" occurs when a
group contains a person who is also a member of another,
perhaps competing, interest group.

Political groups in America do not have monolithic
memberships. No single individual accounts for all the
policy of any group, and no single group affiliation accounts

¹⁷Ibid., p. 515.
for all of the attitudes or interests of any individual (except a fanatic or neurotic). Individual group members participate in a variety of activities and bring their unique frames of reference to the policy-making process of the groups to which they belong. Thus, when a group is making policy, it must listen to a variety of ideas and interests. If the group wishes to maintain its membership, the group policy must to some degree reflect all of these interests. Otherwise, members who disagree with the policy might cease their support of the group.

For example, the leaders of the Montana Chamber of Commerce may be indebted to the Montana Power Company for one of their largest (if not the largest) membership contributions of $4,844 paid in 1967, but they cannot parrot the Company position on every issue. Only 39 per cent of the Chamber's total income is derived from contributions above $100. If the Chamber took an overt stand favoring the electric and gas rate raise, it would likely encounter internal dissension and cohesion problems among smaller members whose taxes and business expenses might be increased

18 Montana Power Co., 1967 Form 1 Report to the FPC, p. 427. The largest membership contribution to the Montana Chamber of Commerce was in the neighborhood of $5,000, according to the Chamber's executive vice-president Del H. Siewert. He declined to divulge the names or amounts of contributors.

19 Interview with Del H. Siewert, executive vice-president, Montana Chamber of Commerce, August 16, 1968.
because of the action. Members of the Chamber are also consumers, and this overlapping membership prevents the Chamber from bringing its power to bear in one united effort favoring the rate raise."

Because multiple and overlapping membership exists among the personnel of every group, Professor Truman thinks it "is more important as a restraint upon the activities of organized groups than the rarely aroused protests of chronic nonparticipants." He thinks both factors are important in checking the political power of organized vested interests, however. And he contends that "multiple memberships in potential groups based on widely held and accepted interests . . . serve as a balance wheel in a going political system like that of the United States."21

The traditional meaning of "balance" in the sense of "balance of power" has been that the political power and influence in a society were distributed equally among groups in the society. This traditional meaning has carried with it the notion that these balanced political groupings could lay equal claim to the resources of a society. This notion is misleading.20

A society may be stable or essentially free from overt conflict and disruption, but the resources of the society may not be distributed equally—as in the case of

20 Truman, op. cit., p. 510. 21 Ibid., p. 514.
countless different political systems. They may be controlled by the few for the benefit of a few. Yet the political power is said to be "balanced" because the forces that precipitate social change are more or less static. A close look at this type of situation indicates that political force is not always met by an equal but opposite reactionary political force. A preponderant amount of force may be yielded by one side so that the opposition may be incapacitated or suppressed completely.

It is true that the political power or resources of the participants will not change much relative to each other until something intervenes to alter the relationship. But we cannot say that these powers are balanced in the sense of being equal.

What we can say is that at any given point in time the political system is at rest and an equilibrium or "balance" of sorts is in effect. But as we move in time the equilibrium changes; technology, natural resources, political attitudes, and leadership are the precipitant factors. This is the concept of a "moving equilibrium" used by Arthur F. Bentley and others who have viewed the political action as a constantly changing "process."

"The pressures never do . . . work themselves through to a final balance," says Bentley. Even the status quo of law is "a forming, a systematization, a
struggle, an adaptation, of group interests, just as government is.\textsuperscript{22}

Because this process appears to be one of constant adjustment, David Easton has suggested we call it "perpetual disequilibrium" rather than "moving equilibrium."\textsuperscript{23}

Then the idea of equilibrium can apply to a balanced condition which, even though it never materializes, can be used as a norm for comparing several disequilibrium conditions. The task of the political scientist is to identify and describe and quantify (if possible) the disequilibrium in the light of what would have happened if the equilibrium norm had emerged. The reasons for the failure of the equilibrium to materialize are then sought.

An equilibrium condition or one closely approximating it has been suspected as a necessary correlate to a free and peaceful society. Where all groups are in balance, it is hypothesized, the abuse of power by any one group is thereby restrained.\textsuperscript{24} A contrary hypothesis could be posited here that "where strong combinations of groups,


\textsuperscript{24}Ibid., p. 294.
relatively equal in strength, have each poised against the other, this has usually been a sign of the threatened disintegration of the going political system. . . ." 25

But for the moment we will accept the first hypothesis that greed must be balanced to be restrained.

How do the groups adjust their power? Apparently each group will become as powerful as possible in order to gain as much as possible. Then there will be a give-and-take compromising adjustment. The collective bargaining situation offers a good model for this type of adjustment. Once the compromise is completed, according to the theory, a point of equilibrium is reached, the differences or conflict resolved, and stability restored.

The model for this study will be a political system in which change is customarily produced not by violence, but by a government based for the most part upon political equality, popular sovereignty, popular consultation and majority rule. Citizens who are aware of their common interest form groups to coordinate consistent activity in an effort to gain favor from or control of government, the authoritative allocator of resources.

Hypothesis and Methodology

The hypothetical equilibrium condition of this model that will be reified for this study is an equilibrium where

25Ibid., p. 303.
the consumers and taxpayers groups are able to muster enough countervailing force to prevent the Montana Power Company from receiving a rate raise.

It will be postulated that although potential interest groups occasionally arise to oppose organized interests, unless they are helped, potential groups are rarely effective in routing the organized groups. The rarity of their effectiveness means that they cannot be relied on to counterbalance the activity of organized groups.

Three reasons why these potential interest groups fail to mobilize effectively are apparent. First, overlapping memberships, such as interlocking directorates, often hinder the rise of effective countervailing power more than they temper the actions of institutionalized power. As an example of this, it must be pointed out that the same multiple and overlapping memberships that prevent the Chamber of Commerce from favoring the rate raise also prevent it from opposing the rate raise. The Chamber in this case is a political eunuch that cannot take a stand on either side of the issue if it wants to maintain internal harmony. It is dubious to argue, however, that the stalemate in this situation indicates a perfect balance of power. A stalemate favors the Montana Power Company because small business members of the Chamber of Commerce usually look to it for political leadership and action in their interests. If that action is effectively thwarted, small businessmen will have to form
an organization outside of the framework of the Chamber to represent them by advocating low utility rates. The task of forming an extra organization is made more difficult because some small members of the business community believe that no extra organization is necessary in this instance. They think the Chamber will represent them as it has done in other matters. Also, some businessmen have already budgeted for Chamber of Commerce dues and are reluctant to give a new organization funds to do the job they expect the old one to do. And finally, even if businessmen do realize their interest in lower utility rates and the Chamber's inability to advocate them, they will be reluctant to participate in a new interest group because Montana Power might cancel its business with firms participating in anti-rate raise activities.

Thus, the foregoing example also illustrates the second and third reasons why potential interest groups fail to mobilize. Potential groups lie dormant because the interests of potential opponents are obscured by the organized groups and are not generally perceived by the opponents (even though perception is sometimes possible). Thirdly, the interests that are recognized by potential opponents of existing groups are often overshadowed by conflicting interests that destroy the incentive of the potential opponents to mobilize.

To determine whether these assumptions about group action within the model are valid, documents and interviews
were obtained from members of the press, representatives of the Montana Power Company, its proponents and opponents, and representatives of Montana's Public Service Commissioners. The two-week rate hearing where Montana Power's requested increase was considered was also attended and some of the material presented there was included in this analysis.
CHAPTER II
THE MONTANA POWER COMPANY AND
ITS REGULATOR

The company will present its accounts as a record of established facts. And the representatives of the public will seldom be equipped to challenge the propriety of the items they contain. Upon occasion, certain items may be disallowed in the rate base. But such control, at best, is indirect and weak."

At the beginning, the question arises: Why do some Montanans want to challenge the propriety of items in Montana Power's rate base, oppose utility rate increases, or "beat" the Company? For the answer, one must look to Montana Power's creation.

Montana Power
Creating an Electric Utility

Montana Power was organized by the president of the Anaconda Copper Mining Company, John D. Ryan. Ryan entered the electric power business in August of 1908 when he bought for $1,538,246.46 all the stock of the Great Falls Water Power and Townsite Company from Great Northern Railroad magnate Clair Wilcox, Public Policies Toward Business (Chicago: Richard D. Irwin, Inc., 1955), pp. 520-521.

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With these power sites under his control, Ryan bargained for low Anaconda Copper electric rates from the Butte Electric & Power Company, one of Montana's most successful electric producers. Butte Electric's general manager, Mr. Turner, said that Ryan told him that unless an amalgamation with Butte Electric could be arranged, Ryan "would develop the Great Falls power, transmit it to Butte, do their own power business, and . . . take on residential light business also."  

Concerned about possible competition, C. W. Wetmore, Butte Electric's President, requested Copper & Powelson, consulting engineers, to prepare an analysis of consolidation. The Consultants said the commendable profit record of Butte Electric's general manager was "possible only because he has been able so far to keep out competition and to ward off regulative legislation."  

To protect this monopoly situation, the consultants advised Butte Electric, "Ally yourself with the Ryan interest at once. . . ."  

Butte Electric followed this advice. In May, 1909, Ryan sold one-fourth of Butte Electric Power Company to the Ryan interests. 

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3 Ibid., p. 109.  
5 Ibid., p. 209.
half of his stock in his Great Falls operation to the Butte Electric & Power Company for $2,500,000, of which $150,000 was cash and the rest stocks and bonds of the Butte Company. Since one-half the original value of Great Falls Water Power was $750,000, Ryan's one-year profit from the transaction was $1,750,000. As a result of the transaction, Ryan also became the largest single stockholder in the two companies.

His profits continued to increase when Butte Electric & Power merged with the Madison River Power Company, the Billings and Eastern Montana Power Company, and the Missouri River Electric and Power Company on December 12, 1912, to form the Montana Power Company. On the morning of consolidation, common stock held by the owners of Butte Electric & Power and its subsidiaries was worth approximately $6,554,000. During the merger, it split four-to-one and each stockholder was issued four shares of 100-par Montana Power stock for each 100-par-value share of Butte Electric. Because of this transaction, the "on-paper" value of Montana Power stock was set at $26,217,000, of which $19,663,391.11 was self-created value or fictitious writeup.

Four days after consolidation, Ryan took over as president of the Montana Power Company when the Butte Electric president retired because of illness.

As president, Ryan further inflated Montana Power's worth by selling the company his remaining half of the Great

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Falls properties for $22,500,000 in common and preferred stock. The original cost of this half of the property was $750,000 when Ryan purchased it in 1908. So its worth was inflated by $21,750,000 when he sold it five years later on February 11, 1913.

On the same day in 1913, he sold for $5,000,000 in Montana Power stock the Thompson Falls and Fish Creek power sites that he had purchased two and one-half months earlier for $928,887.10 from the Chicago, Milwaukee & St. Paul Railway, of which he was a director. Of course, the resulting $4,071,112.90 of self-created value was included in the Company's rate base as the "original" acquisition cost of utility property.9

"Original" Acquisition Costs in a Utility Rate Base

The rate base is an accounting figure that represents the total value of all of a utility's property. State utility regulatory commissions ratify the value and thus the rate base of the utilities within their jurisdiction. The commissions then allow a rate of return to the owners of the utility on the value of the investment they have made. This means

8Ibid., p. 207.

that the utility can charge enough for its product to cover costs of operation and to pay the stockholders a profit. If either the rate base or the rate of return can be increased, more profit will accrue to the investors.

Ryan increased the "original" acquisition cost of utility property and thus the rate base by selling his own property to himself for more than it was worth. He also increased the rate base by neglecting to retire property from the rate base which was no longer used by the Company. All totaled, the series of write-ups pumped at least $46,891,597.41 of "water" into Montana Power's capital structure.\(^{10}\)

This amount includes write-ups occurring in 1892, 1899, and 1901 when through reorganization and exchange of securities Butte Electric & Power, the immediate predecessor of Montana Power, increased book assets by $2,605,795.89 without increasing the real value of the Company's property. Commenting on the suggestion that the books of Butte Electric's predecessor be stamped over and used by the reorganized company, Butte Electric's C.P.A., H. A. Niles, advised, "Entirely new books should be opened for the new company. You have deliberately watered the stock of the company and therefore you should . . . prevent reference to the old books."\(^{11}\)

Once the rate base was watered and thus inflated, the

\(^{10}\)Re The Montana Power Co., 57 P.U.R. (n.s.) at 235.

\(^{11}\)Re The Montana Power Co., 57 P.U.R. (n.s.) at 202 and 203.
consumer had to pay a higher electric bill that included a rate of return to the Company for money that was never really spent to enhance the service given. The extra amount that customers had to pay is illustrated in the following example.

Suppose that the state regulatory commission allowed electric utilities a six per cent return on their investment. If a utility increased its rate base or the net worth of its investment by $46,891,597.41, the consumers would have their light bills increased enough so the Company could receive $2,813,496 each year as profit on the investment (rate base of $46,891,597 times the rate of return of six per cent). But if the capital investment was never in reality made to build more electric generating or transmitting facilities, the consumer would be paying for something he never received.

The fact that Montana consumers were being overcharged was not generally known until Mr. Ryan's efforts to pyramid Montana Power's assets finally attracted the attention of Federal Power Commission (FPC) auditors who were enforcing the Federal Power Act of 1935. ¹² The 1935 Act was the culmination of a resolution first introduced into the United States Senate in 1927 by Thomas J. Walsh of Montana. ¹³ After it was amended, the Walsh resolution authorized the Federal Trade Commission (FTC) to investigate the electric

¹²U.S., Codes Annotated, c. 16, sec. 301 (a).
power trust. Investigating utilities from 1928 to 1932, the FTC brought to light more than one and one-half billion dollars of watered electric company stock. At the time of this investigation, the Montana Power Company refused to let the FTC look at its books. To correct such evasion and other improprieties, Congress passed the Federal Power Act of 1935, requiring the Federal Power Commission to enforce the use of proper accounting methods by the nation's electric utilities. During the next nine years the FPC discovered $500,000,000 in inflated values in U.S. utilities. Most of this was dropped from the respective rate bases without opposition from the utilities involved and even without a hearing.

Investigation of Montana Power began in 1941 and 1942 when the field staff of the Federal Power Commission made an extensive reclassification study of the Company's books, records and documents. The Public Service Commissions of Idaho and Montana were invited to participate in this reclassification study. The Idaho Commission did not


respond to the FPC's offer, and the Montana Commission said it would be unable to participate because of lack of appropriations. The reclassification study culminated on March 27, 1944, when the FPC began seven weeks of hearings in Butte, Montana, by asking the Company to "show cause" why it should not be required to eliminate $53 million in excess capitalization and fictitious writeups from its rate base by adopting the bona fide "original cost" of utility property accounting provided for in the Federal Power Act of 1935. FPC attorney Reuben Goldberg also asked for reclassification of $6,000,000 that was in the Company plant accounts. At the federal agency's invitation, the Montana Railroad and Public Service Commission, which has jurisdiction over the rates charged by Montana Power, sat jointly with the FPC in these hearings. The two commissions maintained independent rules for the acceptance of evidence, however. This independence was exhibited when the FPC examiner, John J. O'Neill, ruled that the Butte Electric stock split was irrelevant evidence and did not increase the original $6,554,000 cost of the utility's facilities.

"The same plant and property was there in the afternoon after the consolidation as was there in the morning before consolidation and the same people owned it," he

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The Montana Public Service Commission Chairman, Austin B. Middleton, whose son-in-law, Kendrick Smith, was a Company counsel at the hearing, disagreed with the FPC examiner. Middleton accepted Montana Power's estimate of its worth after the merger as admissible testimony and a valid determination of utility investment. Because Middleton's decision has never been changed, Montana consumers have had to continue paying a return to the Company for money that was never really spent to enhance the service given.

The Montana Public Service Commission disagreed with the FPC on a number of other matters. In its reclassification order, the Montana Commission said, "The evidence clearly shows that the transactions were hard-fought and at arm's length." Furthermore, the Commission said, "Ryan and his associates did not devote any property to a public use" before the final transactions with the utility companies involved. And since the Montana Commission ruled that the "original cost of the property is defined by the system of accounts as the cost to the persons first devoting it to public use," Montana Power was allowed to retain in its rate base part of what the federal commission considered


20 Ibid., p. 219. See also p. 213.
"water." In defense of this classification, the Montana Commission said:

The Federal Power Commission staff, in reaching its conclusions, disregarded state laws; and their brief argues that the Federal Power Act supersedes state law. We do not believe that this Federal Agency has the right to disregard state laws. . . . We consider this a fundamental question of states rights, and we cannot agree with a Federal agency which refuses to recognize a transaction carried out under state law.\footnote{Ibid., p. 206. A recent U.S. Supreme Court ruling in \textit{Northwestern Electric Co. v. Federal Power Comm'n.}, 321 U.S. 119, held that state law is not controlling.}

The Montana Commission did ask Montana Power to write off some $28,793,495.33 of its excess rate base, however.\footnote{Ibid., p. 237.} In part, this decision was based not on the original cost of utility property but on the difference between the par-value of stock and the actual market value at the time of stock issuance. For example, in the Thompson Falls power sites deal, John D. Ryan received 50,000 shares of $100 per share par-value common stock in the Montana Power Company. Because of dividend restrictions, however, this stock was worth only $35 per share. The Montana Commission ruled that $65 of each $100 worth of this stock issued "represents stock . . . for which no value was received and, therefore, the amount of $3,250,000 must be placed in Account 107 and disposed of. . . ."\footnote{Ibid., p. 236.}

Except for Montana Power's Mystic Lake properties, the Federal Power Commission and the Montana Public Service
Commission have agreed on the value of Company plant additions and retirements since 1944. But the Montana Commission's 1944 decision still accounts in part for the current $21.6 million difference in utility plant valuations made by the Montana Public Service Commission and the Federal Power Commission. In addition to disagreeing on the original acquisition cost of the utility, the two commissions use different formulas to determine the value of utility property.

"Fair Value" and Reproduction Cost New in a Utility Rate Base

The Federal Power Commission uses the original cost depreciated rate base to determine utility value. This is the original cost of the property plus the cost of improvements less the accrued depreciation shown on the utility books from year to year. In other words, the original cost (OC) of property is what it cost the utility to build its plant or purchase its land. The original cost depreciated (OCD) is what the original plant and property are worth after they have been in use. A utility's OCD gets smaller as its plant gets older and its machinery wears out. Therefore, as time passes, any rate base will get smaller if it is determined by using a utility's original cost depreciated.

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Thirty states and the District of Columbia have joined the FPC in its use of the original cost depreciated rate base. Montana is one of 13 states that still uses the so-called "fair value" system of determining rate bases.\textsuperscript{26}

Montana's "fair value" is arrived at by adding a percentage of the original cost of the property depreciated to a percentage of the reproduction cost new depreciated. This figure is added to one-half the value of the company's materials and supplies (inventory). Also, in place of working capital permitted by some commissions, Montana allows the reserve that has been accrued through accelerated depreciation to be included in the rate base. Reproduction cost new (RCN) is what it would cost a utility to build its original plant today. Reproduction cost new depreciated (RCND) is what the utility would be worth today if it had been originally built at today's prices and the plant had been allowed to depreciate until today.

Reproduction cost valuation is accomplished by making plant valuations change to correspond with the changes in construction costs. For example, if a company was valued at $10 million in 1930 and construction costs doubled by

\textsuperscript{26} Michigan uses average net investment to figure utility rate bases. Four states, Minnesota, Nebraska, South Dakota, and Texas, do not have commissions authorized to regulate electric utilities. The recently established commissions in Alaska and Hawaii have not established firm policies yet. U.S., Congress, Senate Committee on Government Operations, State Utility Commissions, 90th Cong., 1st Sess., 1967, Senate Doc. 56, insert VII. Cited hereinafter as Senate, State Utility Commissions, 1967.
1970, the company would be revalued at $20 million, the rate base inflated, and the investors paid a rate of return on $10 million they never really invested.

The rate base or method of valuating a utility's property should not be confused with the operating costs that a utility incurs while paying for its labor or advertising, while paying taxes, or while maintaining and repairing its plant. Operating costs are not included in the rate base, which is the total value of a utility's property. A utility, however, is allowed to charge the customer for all of its operating costs. The use of either the reproduction cost new or the original cost depreciated methods of calculating a rate base will have no effect upon the utility's ability to pay its operating expenses. Operating costs are figured independently from rate bases (value of utility plant). A utility should be allowed a rate of return only on its rate base and not on its costs of operation. These costs of operation are completely paid for by the consumers.

Those who support reproduction cost valuation say that it is needed to keep earnings in regulated industries in line with those in other industries and with cost of living changes.

They say that stockholders expect to see their investments grow over time, at least at the rate of inflation. Those who oppose reproduction cost valuation say that the "change in construction costs index" used to figure RCN is
not the same as the "change in cost of living index."

Furthermore, they contend that, under RCN valuation, dividends on common stock rise more than prices do. Public utility expert, Clair Wilcox, explains how this can happen:

Assume a company with a valuation of $10 million and a return of 6 per cent, producing earnings of $600,000. On $3 million of bonds at 4 per cent, it pays $120,000. On $3 million of preferred stock at 5 per cent, it pays $150,000. It has $330,000 left. On $4 million of common stock, it can pay $1 per cent. Assume that the price level doubles. The company is revalued at $20 million. With its return still at 6 per cent, it now earns $1,200,000. It still pays $270,000 on its bonds and its preferred stock because interest on bonds or dividends on preferred stock do not change as prices change. But it now has $930,000 left for its common. This gives it a yield of 23 1/2 per cent. Prices have doubled, but dividends on common stock have tripled.

In 1966, as Table 3 illustrates, the return to Montana Power stockholders on their equity was 17.7 per cent. Only two other U.S. electric utilities granted a higher return on common stock equity in 1966 than did Montana Power. In addition, "the value of the stock in The Montana Power Company increased five times in the years 1950-60," according to

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27 Wilcox, loc. cit., p. 529. See also the dissent in Southwestern Bell Tel. Co. v. Public Serv. Comm'n., 262 U.S. 276, 305 (1923) where Justice Brandeis writes, "To follow a reproduction-cost-new rate base, especially in times of inflation, is to take no cognizance of the immense resulting windfall to stockholders arising from the fact that the interest obligation on the bonds remains static."

to evidence accepted by the Montana Supreme Court.29

TABLE 3
MONTANA POWER'S RATE OF RETURN ON
COMMON STOCK EQUITY

<table>
<thead>
<tr>
<th></th>
<th>1965</th>
<th>1966</th>
<th>1967</th>
</tr>
</thead>
<tbody>
<tr>
<td>Montana Power rate of return on Common equity</td>
<td>17.7%</td>
<td>17.7%</td>
<td>16.4%</td>
</tr>
<tr>
<td>Number of major electric utilities paying a higher return than Montana Power</td>
<td>3</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>Number of companies compared in above ranking</td>
<td>204</td>
<td>205</td>
<td>207</td>
</tr>
</tbody>
</table>

\textsuperscript{a}The FPC offers the following clarification about this data: "The presentation of the rates of return on common equity is not intended as an evaluation of the reasonableness or unreasonableness of the returns under the applicable regulatory standards." However, they do serve as a useful and valid comparison between companies since the criterion they are figured on is standardized by the FPC for all companies. \textit{U.S., Federal Power Comm'n., Statistics of Privately Owned Electric Utilities in the United States (1966 and 1967)}, pp. 655-656.

Montana consumers have opposed this rate of return to Montana Power's investors, because not only is the return high, but most of it goes out of state. Only 13.7 per cent

\textsuperscript{29}Cascade County Consumers Ass'n. v. Public Serv. Comm'n., 144 Mont. 169, 175. One share of Montana Power stock purchased for $17.50 in 1949 could be sold for $78 in 1959--before the stock split three-for-one. Immediately after the split, the price dropped to $22 per share. Then the market price rose to a high of $45.37 per share in 1965. Three shares (originally bought as one for $17.50 before the stock split) could now be sold for $136.11--a 778 per cent profit in 16 years. Due to the recently depressed market, the price of Montana Power common stock fluctuated around
of Montana Power's stock is owned by Montanans. And the dividends paid to out-of-state stockholders shrink Montana's disposable personal income and thus lower the buying power of its inhabitants by at least $7 million.

Some Montana consumers contend that such high monopoly earnings may be kept in line with prices by varying the rate of return without manipulating the rate base. In Wilcox's example, earnings were raised from $600,000 to $1,200,000 by raising the rate base from $10 million to $20 million and keeping the rate of return constant at six per cent. Wilcox points out that a utility could have gotten the same increase in earnings by leaving the rate base at $10 million and raising the rate of return to 12 per cent. A public utility would not allow its earnings to be increased in this way, says Wilcox. "Public opinion would be outraged if the rate of return to investors in regulated industries were doubled. But it does not complain when the same effect is achieved through revaluation," because valuation is a mystery

$26 a share in June of 1970. Earnings per share (which are not to be confused with dividends per share which are less than the earnings since not all of the earnings are paid out but some retained) increased from 98 cents per share in 1945 to $3.85 per share in 1958 when the stock split three-for-one. Since 1970, after-the-stock-split earnings are estimated to be $2.50 per share, the earnings per 1945 share have gone from $.98 in 1945 to $7.50 in 1970. Data from Standard & Poor's Corporation, Standard Listed Stock Reports, and Moody's Investors Service, Inc., Moody's Public Utility Manual (New York: Moody's Investors Service, 1927-69).

to the public and "it does not realize what is going on."\(^{31}\)

It is indeed hard to find out how a "fair value" rate base is set in Montana. As was stated previously, "fair value" is arrived at by adding a percentage of the OCD to a percentage of RCND. Exactly what percentages of the OCD and the RCND are to be used is not clear under Montana law.

According to W. M. Johnson, auditor for the Public Service Commission of Montana:

There is no mathematical formula for determining fair value. The commission arrives at a fair value determination as a matter of judgment, after carefully considering all the valuation elements mentioned above.\(^{32}\)

The elements which the Commission considers in addition to RCND and OC are prudent investment theory and certain public records.

The Courts "Legislate" a Utility Rate Base

The RCND guidelines were determined not by the Montana legislature but by the Montana Supreme Court. The guidelines evolved when the Montana legislature empowered the Commission to determine property values. The law specifically provides:

The Commission may, in its discretion, investigate and ascertain the value of the property of every public utility actually used and useful for the convenience of the public. In making such investigation the Commission may avail itself of all information contained in the assessment rolls of various counties.

\(^{31}\) Wilcox, loc. cit.

\(^{32}\) Letter from W. M. Johnson, auditor, Montana Public Service Comm'n, April 10, 1969
and the public records of the various branches of the state government, or any other information obtainable, and the Commission may at any time of its own initiative make a revaluation of such property. 33

This legislative mandate says nothing about "fair value" or original cost methods of valuation. The law does not say that the Commission must consider "fair value" and it does not say that it cannot. The Montana Supreme Court has ruled, however, that the Commission must relate rates to the finding of "fair value." The Court said:

While our statute does not establish a formula for arriving at fair value, it does require such value be found and used as the base in fixing rates. The reasonableness and justness of the rates must be related to this finding of fair value. 34

This legislation by the Court has evolved from the 1940 Tobacco River Power Co. v. Public Service Comm'n. decision. 35 The circumstances leading to this decision started on July 7, 1936, when, after a hearing, the Montana Public Service Commission ordered the Tobacco River Power Company in Eureka, Montana, to lower electric rates charged its 225 customers. Upon seeing that its rate base was not big enough to justify the rates, the Tobacco River Power Company invested in an electricity-producing diesel engine

33 Montana, Revised Codes (1947), sec. 70-106.


so that its rate base (investment) would increase. It then asked the Montana District Court to enjoin the rate schedule set by the Public Service Commission and to order the Public Service Commission to set a new schedule figured on the new base and upon reproduction cost new less depreciation. The schedule was enjoined and the Public Service Commission appealed to the Montana Supreme Court.

The Supreme Court observed that considerable latitude is allowed the Public Service Commission in determining value. Neither the Public Service Commission nor the utility company is limited to or bound by any particular method in arriving at the solution of the question of value.\textsuperscript{36}

Since nobody was limited to any particular method of ascertaining value, the Supreme Court said, the utility could use "fair value" if it wanted to. Indeed, the Court ruled:

The cost of reproduction new, less depreciation, is usually regarded as one of the most important, if not the dominant factor, in the determination of value (51CJ17).\textsuperscript{37}

The Montana Supreme Court upheld the lower court's injunction and ordered the Public Service Commission to conduct a new hearing. Ironically, this ruling has had the effect of limiting the Commission's freedom in determining utility value. The ruling meant that the utility could determine its own method of valuation and the Commission

\textsuperscript{36}Tobacco River Power Co. v. Public Serv. Comm'n., 109 Mont. 521, 529.

\textsuperscript{37}Ibid., p. 530.
would have to accept that method and apply it subject to the rules of inspection the Court outlined for determining reproduction cost new. Since the Public Service Commission had to accept the utility's method of valuation, the utility could, to a large degree, regulate itself. The Montana courts have had difficulty reconciling the two mutually contradictory principles that evolved from the remedy in the Tobacco River Case. In one statement the Montana Supreme Court has ruled:

The language of the statute is clear that the Commission shall determine "the value of the property of every public utility actually used and useful for the convenience of the public" [emphasis by the Court]. This court has previously determined that this means the present fair value of the utility's property [citing Tobacco River Case].

And then in the very next statement the Court said:

Neither the Public Service Commission nor the utility company is limited to nor bound by any particular method in arriving at the solution of the question of value.

This is rhetoric, of course, since the ruling in the first statement makes the situation described in the second statement impossible to achieve. Writing in the Montana Law Review, James V. Bottomly comments on the Court's

38Although the Commission believes it has to use the so-called "fair value" to establish a rate base, it does not have to include everything the utilities request in the base. The Commission has not allowed the utilities to include non-productive gas leases and other things that the utilities would have liked in the rate base. See Cascade County Consumers Ass'n. v. Public Serv. Comm'n., 144 Mont. 169 (1964).

inconsistency.

How or why the imperative shall is read into the permissive may of the statute is never explained by the court. It is submitted . . . that the court should at least treat the matter with consistency. Only two pages later in answer to the contention of the protestant that Revised Codes of Montana, 1947, section 70-106, makes it incumbent upon the commission to make an independent investigation of its own and not blindly accept Company testimony without doublechecking it before increasing rates, the court stated that the statute was permissive only.40

The fact that utilities believe the Commission is in reality limited in its method of determining value is illustrated by the following assumptions made in Montana Power's utility rate increase arguments:

Montana law requires, however, that Applicant be allowed a fair rate of return on the "present fair value" of its property used and useful in its utility business. The law does not relate a fair rate of return to depreciated original cost.41

or:

He justifies the above with mystic calculus formulas and then frosts the cake by recommending a fair rate of return based upon net original cost rate base, which this Commission is barred by law from applying.42

The Montana Public Service Commission adheres to the utilities' interpretation. Commissioner Louis G. Boedecker has said that because of the Tobacco River decision, "the

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42Ibid., p. 53.
Commission must use the present fair value of the utilities' property."^43

Strangely enough, the Court seems to disavow its own legislative function in requiring the so-called "fair value" rate base to be used in Montana. It said:

This Court has pointed out that it is a legislative function to regulate public utilities and that the legislature can do so through an administrative agency. Too that the acts of this agency are legislative and not judicial.^^44

And:

The elected officials of the Commission . . . are accountable . . . to the people only, . . . and this court will not interfere so long as they follow the law. . . . The forum in which their actions are to be judged is in the minds and consciences of the people, whose servants they are, and who alone can hold them responsible. . . .^45

The Court, of course, as well as the people, has held the Public Service Commission accountable for its actions. In so doing, the Court has exercised legislative authority. On the other hand, the Commission has made judicial as well as legislative decisions while regulating utilities. To deny it, as the Court seems to want to do, only muddles the political picture. And the system of checks and balances does not require such self-deception. Indeed the system of checks and balances may be enhanced by a realistic

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44Cascade County Consumers Ass'n v. Public Serv. Comm'n., 144 Mont. 169, 192 (1964).

appraisal of the political picture. Then the proper functions of government will not be as clouded by contradictory legal rhetoric. The fact that the Court has legislated a guideline that limits the Commission's determination of utility value should be seen clearly. Whether or not that guideline is proper or even constitutional, however, are questions that are still open to debate.

Consumers Want So-called "Fair Value" Abolished

The consumer advocates, for example, contend that so-called "fair value" should not be used in Montana. They say that in Maryland, Michigan, New Jersey, Oregon, and Washington statutes that require the use of fair value in rate base valuation are ignored in recent court decisions that usually have been based on depreciated original cost. In some of these states, the old reproduction cost new concept of "fair value" has been discarded because the courts have accepted original cost depreciated figures as a valid method of determining "fair values." Also, in arguing against a rate increase granted to the Montana Power Company in 1969 the utility opponents said:

The Commission's Order No. 3295 utilizes as its basis the Tobacco River Case, ... which in fact relies upon an 1898 decision of the United States

46 Senate, State Utility Commissions, 1967, insert VII.
Supreme Court which is not the law of the United States at this time, and has not been since 1941. So-called "fair value" was required by the 1898 Supreme Court to obtain a fair return on the value of property in Smyth v. Ames. This method of valuation was originally intended to protect utility consumers from valuation claims based on inflated prices of the past—claims, for example, like those made by John D. Ryan about the inflated worth of Montana Power. As the United States Supreme Court has pointed out:

Those were the days before state legislation prohibited the issue of public utility securities without authorization from state officials; before accounting was prescribed and supervised; when outstanding bonds and stocks were hardly an indication of the amount of capital embarked in the enterprise; when depreciation accounts were unknown; and when book values, or property accounts, furnished no trustworthy evidence either of cost or real value. Estimates of reproduction cost were then offered, largely as a means, either of supplying lacks in the proofs of actual cost and investment, or of testing the credibility of evidence adduced or showing that the cost of installation had been wasteful.

With the advent of modern accounting and record keeping procedures, the Supreme Court overruled Smyth v. Ames

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49 Southwestern Bell Tel. Co. v. Public Serv. Comm'n., 262 U.S. 276 (1923). For an excellent understanding of the difficulty inherent in reproduction cost new valuation see cross examination by and testimony by Mr. George P. Hess, Montana Public Service Commission expert in Docket No. 5698.
in Federal Power Commission v. Hope Natural Gas Company. The utilities clung to the "fair value" rate base whenever they could, however, because the economy had shifted from depression to inflation. When prices rise during inflation, so does reproduction cost new and the "fair value" rate base, which is figured from reproduction cost new. Montana has continued to valuate utility property using the "fair value" rate base because the Montana Supreme Court has ruled that Federal Power Commission v. Hope Natural Gas Company did not change the law in the state.

Montana Power Return on Net Plant Investment

Because the Montana Public Service Commission continues to use a different rate base (fair value) than the Federal Power Commission (original cost depreciated), the two commissions quite naturally arrive at different rates of return actually accruing on utility investment. In 1967, as Table 4 will show, the FPC calculated that the Montana Power Company was receiving a 10.66 per cent return on net electric

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50 Federal Power Comm'n. v. Hope Natural Gas Co., 320 U.S. 591, 88 L. Ed. 333 (1942). Prior to the Hope case, four states used original cost or prudent investment as the rate base (Massachusetts, California, Wisconsin, and possibly Washington). During the ten years following the decision, 19 states explicitly changed from fair value to original cost or prudent investment, and eight more employed original cost as the measure of fair value. Joseph R. Rose, "The Hope Case and Public Utility Valuation in the States," Columbia Law Review, LIV (1954), 190-212.

51 State ex rel. Olsen v. Public Serv. Comm'n., supra; note 39; Cascade County Consumers Ass'n v. Public Serv. Comm'n., 144 Mont. 169, 394 P. 2d 856 (1964), cert. denied
**TABLE 4**

PERCENTAGE RATES OF RETURN ON NET ELECTRIC PLANT INVESTMENT<sup>a</sup>
(All rates of return are calculated on net electric plant investment)

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<tbody>
<tr>
<td>Montana Power's Rate of Return</td>
<td>9.78%</td>
<td>10.12%</td>
<td>10.24%</td>
<td>10.92%</td>
<td>11.37%</td>
<td>11.33%</td>
<td>10.66%</td>
</tr>
</tbody>
</table>

<sup>a</sup>The FPC offers the following clarification about this data: "It should be noted that this review of rates of return as calculated by the Commission's staff is not intended as an evaluation of the reasonableness of the earnings of any electric utility company under the applicable State or local regulatory standards. In many jurisdictions the statutory rate base differs from that used in the present calculations. Also, the treatment of income taxes differs among the various jurisdictions, as does the treatment of certain other elements of cost of service." However, they do serve as a useful and valid comparison between companies since the criterion they are figured on is standardized by the FPC for all companies. Source: U.S. Federal Power Commission, Statistics of Privately Owned Electric Utilities in the United States (1963-1967), pp. 651-653.

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</thead>
<tbody>
<tr>
<td>Aggregate Average Rate of Return of Major Companies</td>
<td>6.96%</td>
<td>7.08%</td>
<td>7.33%</td>
<td>7.39%</td>
<td>7.42%</td>
<td>7.44%</td>
<td></td>
</tr>
<tr>
<td>Major Companies</td>
<td>192</td>
<td>192</td>
<td>187</td>
<td>187</td>
<td>186</td>
<td>187</td>
<td>199</td>
</tr>
<tr>
<td>Number of Companies with a Rate of Return above 10 Per Cent</td>
<td>4</td>
<td>3</td>
<td>3</td>
<td>6</td>
<td>5</td>
<td>7</td>
<td>8</td>
</tr>
<tr>
<td>Per Cent of Companies with a Rate of Return above 10 Per Cent</td>
<td>2.2%</td>
<td>1.6%</td>
<td>1.6%</td>
<td>3.2%</td>
<td>2.7%</td>
<td>3.7%</td>
<td>4.2%</td>
</tr>
</tbody>
</table>

Median rate of return.

See also, Owen Ely, "Financial News and Comment: Frank Chutter Reviews State Rate Regulation," Public Utilities Fortnightly (January 3, 1963), p. 49; Arnold H. Hirsch, "Effective Rate Regulation: Fact or Fiction?" Public Power (May 1962), pp. 11-13, for different method of calculating rate of return that all show Montana to allow a larger rate of return than any other state.
plant investment—the third highest rate of return in the
nation. At the same time, the Montana Public Service
Commission reported the Company had a 5.21 per cent rate of
return on a "fair value" electric rate base of $296,950,000.52

By federal standards, Montana Power was enjoying a
prosperous year despite the fact that a copper strike had
reduced company revenue, and the state legislature had
decided to start daylight savings time in 1967. The Company's
10.66 per cent return was well above the near 6 per cent
return usually prescribed by law.53 The actual rate of
return, however, usually averages more than that which is
legally valid. In 1967, the 189 major U.S. electric utilities
had an average rate of return on net plant investment of 7.44

52 Montana Railroad and Public Service Comm'n., Order
No. 3295, Re The Montana Power Co., Docket No. 5698 (January 30,

53 The legally prescribed rate of return reported by
state public service commissions averaged 6.14 per cent in
1966—the last year for which figures are available—ac-
cording to Senate, State Utility Commissions, 1967, p. 25.
The 6 per cent prescribed rate of return figure may
be revised upward if utilities are forced to continue borrow-
ing at the current 8½ per cent interest rate. At present
the overall interest most utilities pay to service their
borrowed capital is still below 6 per cent because many of
their bond financing projects were launched during the de-
pression when interest rates were substantially below 6 per
cent. According to E. W. Clemens, Economics and Public
Utilities (New York: Appleton-Century-Croft, Inc., 1950),
pp. 105 and 108, there had been, "a steady decline in cost
of utility bond financing from 7½ per cent in 1921 to
less than 6 per cent in 1922, with a gradual and continuous
decline thereafter to less than 5 per cent as late as 1931.
From 1921 to 1924, the simple average yield of new public
utility interest-bearing securities dropped below that of
other utilities (excluding railroads) by one-half of one per
per cent. And Montana Power's rate of return was well above this average.

Long-term low-interest financing can increase rate of return. Theoretically, this rate of return should be set to allow utilities to meet obligations on old financing and to attract capital to finance new expansion at current (inflated or deflated) rates of interest. But if a utility does little expanding and does not have to refinance its current debt at a higher interest rate, it will not need more money to service its long-term capital since it may continue to pay the old rate of return until the bonds expire. A utility, as any business, will finance at the lowest rate possible and will generally finance through long-term investments, bonds, preferred stock, etc., only when the rate is low. It will finance using short-term investments during a time of high interest rates and then liquidate the short-term investment in favor of long-term investment as soon as the interest rate drops. Montana Power, for example,

cent or more." Despite the fact that interest was lower on utility securities than on other securities, the demand for utility securities increased. This was due not only to the fact that utility securities were secure, but also to the fact that new laws were adopted permitting savings banks to invest in utility securities.

It should be noted here that if company insiders are in a position to invest in the company, there may be little incentive for company managers to finance at the lowest possible rate. Instead, they may try to sell bonds or stock to company insiders at as high a rate as possible, thus insuring themselves a high rate of return on their investment, often for a very long period. Some stockbrokers, for example,
issued $30 million in four-year bonds that will mature in 1974. Therefore, a utility like Montana Power that is granted a rate increase to cover current interest rates might soon find that it no longer needs that much money to service its capital because it has refinanced at a lower rate.

When refinancing occurs, the utility is rarely asked to reduce its rates and the "extra" money continues to accrue in company coffers. This "extra" money is not always paid to company stockholders. In 1968, for example, the nation's private electric utilities paid out only 70 per cent of the earnings they had available for the servicing of common stock equity. This left them with a retained earned surplus of ....

wondered why Montana Power did not wait for a month or so for interest rates to decline before issuing its last bonds. Perhaps the answer lies in the fact that Montana Power could obtain after-the-rate-raise justification for its increase by financing at higher interest rates. In addition, Company insiders could make good money by investing in Montana Power securities. And all this manipulation would not harm the Company financially since it passed the cost of attracting capital on to the consumers in their light bills. An example of long-term, high interest rate financing occurred recently when the American Telephone and Telegraph Company issued 30-year AAA bonds at 8 3/4 per cent.

55 Federal Power Commission, Statistics of Privately Owned Electric Utilities in the United States (1968), p. xxvi. In 1968, after paying $280 million dividends to preferred stockholders, and $1,360 million interest on long-term debt, privately owned electric utilities in the United States had $2,700 million available for the servicing of common equity. The utilities paid out $1,900 million of that $2,700 million and kept $800 million in retained earnings. The utilities retained $400 million more in 1968 than they did in 1958. So retained earnings have increased by 100 per cent in the last decade.
about $800 million—enough to run Montana's entire state government at the current level of expenditure for the next 10 years.

Retained earnings finance extra-utility activities. Sometimes utilities use this "extra" money to finance new construction. Then the value of the resulting plant is included in the rate base. And the consumers are required to pay a rate of return on money that in reality they, not the stockholders, invested in the utility. Senator Lee Metcalf of Montana has recently testified to the Senate's antitrust subcommittee that utilities are buying real estate companies and setting up housing subsidiaries that competing fuel companies are not allowed to serve. Such tax-sheltered ventures, often financed from the retained earnings of a utility, yield more than 20 per cent annually on their equity. 56

Another example of retained utility earnings used to finance activities not related to the public utility business occurred in Missoula, where in 1966, the Montana Power Company owned stock in the Florence Hotel, a parking corporation, and a skiing facility. Including these Missoula activities, M P C had non-utility property and investments valued at

nearly $4 million in 1966. Montana Power had invested $15 million in associated companies such as gas pipelines and gas, oil and coal exploration ventures. Montana Consumers' Council lawyers found that by using retained earnings to finance what is alleged to be natural gas exploration, Montana Power can in reality finance oil exploration and charge the cost of "dry hole operations" off as an operating expense. If the Company "accidently" strikes oil while looking for gas, the consumers do not benefit from the strike because the revenue from the oil well is transferred to a "non-utility" account. Montana Power has $2.4 million in its "non-utility" oil properties account. If, on the other hand, the Company has bad luck and drills a dry "gas" well, the expense of the drilling is considered to be an operating expense that may be included in the consumer's light bill.

Retained earnings provide stock option plans.-- Sometimes, retained earnings are used by company insiders to finance stock option plans. In Montana, this started in 1956


58 Ibid., (account 123), p. 202A.

59 Ibid., (account 121), p. 201. See also C. W. Leap-hart, Jr., et al., Montana Consumers' Council, Protestants' Brief, Re The Montana Power Co., Docket No. 5698 (Montana R. R. & Pub. Serv. Comm'n., 1969), p. 12. Some of these wells were designated as oil wells before they were drilled. And if they were, the cost of drilling them is charged to the "non-utility" account so the consumer does not pay for drilling them.
when the Federal Power Commission authorized issuance of 100,000 Montana Power common stock shares to Company officials. The price was not to be less than 95 per cent of the stock's closing price on the dates the options were granted and the plan was to expire in June of 1959. In May, 1959, the FPC authorized a three-for-one Montana Power stock split that increased the stock option authorization to 300,000 shares. During June of 1959, Montana Power stockholders (without FPC approval) extended, for 10 years, the expiration date of the stock option plan to June 16, 1969, and authorized options on an additional 450,000 shares to 123 employees. Then in 1961, before the FPC had reviewed the action, Montana Power relinquished its corporate registration in New Jersey and became a Montana-based corporation. This move exempted the Company's securities from FPC scrutiny and placed them under the control of the Montana Public Service Commission. The Montana Commission has never investigated the options on the additional 450,000 shares or passed on the validity of them.

Once stock options are authorized by stockholders, they are then issued or granted by the company. A company may not issue all of the authorized options at one time. Once the option is issued the stock is said to be "under option" which means that the person granted the option may at a later date of his own choosing exercise the option by paying

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the company the market price the stock sold at on the day
the option was granted. (Ninety-five per cent of market price
if option is granted before 1964.) This should not be con-
fused with the price of the stock on the day the option is
exercised which is higher than the price on the day the option
is granted or the option would be forfeited and not exer-
cised. Once an option is exercised the stock may be sold
for immediate profit or held for future speculation.

By 1964, eight Montana Power executives had re-
ceived $655,000 profit through the exercise of stock options.
In some cases, Company officials had paid less than 30 per
cent of the option-exercised-day market value for the stock.
And none of the officials had to pay brokerage fees on his
buying transactions. The Federal Power Commission staff
estimated that when options on all 750,000 shares were exer-
cised, the Company's cost (probably paid from retained
earnings) would be $9 million. In addition, the equity of
the ordinary stockholder would be diluted by $9 million. 61

Montana Power defended its options as being necessary
to attract "competent, dedicated personnel," 11 per cent of
whom were made eligible to benefit under the stock option
plan. 62 Senator Metcalf's assistant, Vic Reinemer, countered

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61 U.S., Congress, Senate, "IOU No. 24: Stock Option Windfall For Company Insiders—Ordinary Stockholders, Con-
sumers Unknowingly Provide Multimillion Dollar Windfall," Congressionl Record, 88th Cong., 2d Sess., Vol. 110, No. 95,

that the eight officials who had received $655,000 by exercising options were already making an average yearly salary of $30,000 before the options were exercised. J. E. Cornette, Montana Power's president, said that 704 United States companies had similar plans in 1962. Metcalf said that 24 of the nation's 224 private electric utilities had restricted stock option plans in 1961. And only one of those—the original 100,000 share option of Montana Power—had been approved by the Federal Power Commission. He also pointed out that in 1964 the FPC had reversed its earlier position on the approval of stock options and denied the Black Hills Power and Light Company authority to issue common stock options.

According to a Company official, who did not want to be quoted by name, Montana Power has enough options available to "last for the next 100 years." In 1969, the Company's stockholders voted to extend the expiration date of the present stock option plan to 1979. Stockholders also

64 The Independent Record, May 27, 1964.
65 Senate, "IOU No. 24," loc. cit.
66 Letter from Vic Reinemer to Harry L. Billings, editor of The People's Voice, no date.
authorized an additional 200,000 shares of stock to be optioned, bringing the total available shares to be optioned between 1954 and 1979 to 950,000--13 per cent of the Company's outstanding stock and four and one-half per cent of the Company's total shares of no par value common stock authorized for issuance. Apparently, the Company intends to continue modifying the present plan and extending the expiration date, thereby avoiding the need for Public Service Commission approval of new stock option issues. Presently, because of new Internal Revenue Service rules, the stock in option plans must be at 100 per cent of market price at the time of the acceptance of the option. And no capital gains treatment is given unless the stock is held three years and the option exercised within five years.

The stock option plan has not always meant short-run profit to Company officials. Recently, some options were exercised at $35. The price of the stock has since dropped to about $26, leaving the officials with a short-run net loss of $9 per share--a phenomenon which will attract "competent, dedicated" workers for the Company only if short-term loss can be turned into long-term gain. Indeed, mostly because of the depressed value of the stock, options on 294,206 shares were forfeited and not exercised by the option holders in 1969. The total number of option shares exercised from 1954 to 1970 is 260,193.
Allegations of excessive stock options and utility overcharges continued to mount in Montana. Many of these charges emanated from the office of Senator Lee Metcalf. So Montana Power defended itself. In 1966, the year Senator Metcalf was running for re-election, Montana Power doubled its advertising budget and spent more than $216,000 to support its business practices. Metcalf, who could not afford to match this advertising with counter-advertising, soft-peddled the utility issue. And during his campaign he concentrated on other issues. Once Metcalf was re-elected, he resumed his criticism by co-authoring, with his assistant, Vic Reinemer, a book called *Overcharge*. The book, made possible by a grant from the American Political Science Association, assailed utility overcharges and resulted in some consumer awareness of utility practices in the United States. In Montana, the book did not cause a furor over Montana Power's rates.

But informed opinion leaders such as Clyde T. Jarvis and Gordon R. Twedt of the Montana Farmers Union, James W. Murry of the Montana AFL-CIO, Dr. M. F. Keller and State Senator Herbert J. Klindt of the Republican Party, State Senator John L. McKeon of Anaconda, and Gordon R. Bennett, campaign manager for Governor Forrest H. Anderson, Senator Lee Metcalf, and Roland R. Renne, remained concerned about the situation. They said, however, that they had little hope that Company influence could be overcome enough to change the
situation. They said they thought that a majority of the people they represented were frustrated because they could not benefit from low-cost electricity that should accompany a state with the vast hydro-electric generating and water resources of Montana. But they also said that some of their people were consoled by Montana Power advertising that pointed out that its electric rates were often lower than rates charged in other areas. Riley Wm. Childers lamented that this advertising did not point out that Montana Power was comparing its rates with those charged in areas that must use an expensive coal-steam method of generating electricity. Since this and other facts about utility rates were not widely understood, he thought that, by and large, Montanans had learned to live with their electric and gas bills. This uneasy truce was broken when on February 13, 1968, Montana Power petitioned the Public Service Commission to increase its rates. 

The Montana Railroad and Public Service Commission has always consisted of three members who are elected for six-year terms, one member coming up for election every

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two years.

By 1975, Montana's three Public Service Commissioners will be paid $11,500 a year. They also are reimbursed for actual and necessary traveling expenses while away from Helena—provided such expenses do not exceed $40 per day.

As nearly as can be determined from available reports, Montana pays its commissioners a lower yearly salary than that received by commissioners for any of the other 52 fulltime utility regulatory agencies.

This meager compensation has not attracted the most highly educated personnel to run for the office of Montana Railroad and Public Service Commissioner. Only one of Montana's present commissioners has attended college. Louis G. Boedecker has a B.A. degree. In contrast to this, at least two-thirds of the nation's public service commissioners have had some college, and more than a third have law degrees.

Created in 1907 to regulate the operation of railroads, the Board of Railroad Commissioners of the State of

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69 Montana, Revised Codes (1947), sec. 25-501.
70 Montana, Revised Codes (1947), sec. 59-538.
71 Senate, State Utility Commissions, 1967, p. 6 insert. Since state law provides that a commissioner cannot have a pay raise during his term, each commissioner must wait six years until he is elected to a new term before his wage is increased. Under this system, all commissioners are paid a different salary. Commissioner Smith is being paid less than $10,000. His successor will be paid at the current rate.
72 Ibid.
Montana was delegated additional authority in 1913 to 'supervise and regulate the operations of the public utilities....' The legislature provided that a newly created body, called the Public Service Commission of Montana, would conduct its business of auditing utility accounts, insuring quality service, and setting public utility rates separately from the business of the Railroad Commission. But the railroad commissioners were made ex officio members of the Public Service Commission and the Public Service Commission was to use the Railroad Commission's staff personnel. The Commission was granted authority to hire "examiners, experts, clerks, accountants or other assistants as it may deem necessary," but its existing staff absorbed most of the extra workload.

The Commission hired only an engineer and an auditor, each at $200 a month, to help regulate electric, gas, phone, water, streetcar, and telegraph utilities. The engineer has since been dropped from the payroll.

In 1961, the Commission was again asked to accept additional responsibility—this time to control the issuance

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73 Montana, Revised Codes (1947), sec. 70-101.
74 Montana, Laws Resolutions and Memorials of the State of Montana Passed by the Thirteenth Regular Session of the Legislative Assembly (held January 6-March 6, 1913), ch. 52, sec. 16, p. 95.
of utility securities and stock option plans. No securities analyst has been retained by the Commission to aid in the scrutiny of these stock issuances.

Also, the Commission often arbitrates disputes between utilities and their customers. These disputes concern service shutoffs for non-payment of bills, meter and billing accuracy, and feasibility studies for expanded service.

Staff and Budget

To help in its regulatory efforts, the Commission retains an 18-member staff that includes two attorneys, a rate analyst, an executive secretary, an accountant, a hearings reporter, eight inspectors, and four secretaries. Only occasionally has it hired experts to help it make utility plant or cost of capital valuations.

The Montana Railroad and Public Service Commission spent $213,355 in 1968 to regulate 664 transportation utilities and 194 non-transportation utilities. In that year,

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76 Montana, Revised Codes (1947), sec. 70-117.1.

77 Senate, State Utility Commissions, 1967, p. 16 insert; Interview with Bruce Tomko, Montana Railroad Comm'n. staff, April 17, 1970.

78 The Commission has hired the following rate experts: 1961 Montana Power gas rate case, J. W. Kushing ($4,106.95 fee); 1965 Montana-Dakota Utilities Rate Case, Oregon firm of Cornell, Howland, Hayes and Merryfield ($6,584 fee); 1967 Mountain Bell rate case, Dr. Thatcher, professor of business economics at the University of Wisconsin ($4,765 fee).

79 Ibid., p. 22 insert, and p. 34 insert. See also,
the Montana Power Company spent almost half that much, 
$82,914.20, while pursuing only one rate increase request.  
(The Montana Consumers' Council spent $15,000 opposing that increase.)

The number of utilities the Commission must regulate is rapidly increasing. In 1970, Commissioner Louis G. Boedecker said, "The total number of utilities under our jurisdiction is in excess of 225. Under the motor carrier act, we regulate approximately 1,000 motor carriers. . . . Each year the Montana Commission performs over 200 desk audits and several detailed field audits."  

Perhaps one of the reasons the Commission has not hired more staff to better scrutinize utilities is that it is often thought of as a court. The Montana Supreme Court reflected this train of thought in a 1957 rate increase case when it ruled: "The Public Service Commission is a court

Montana, Executive Budget 1969-1971, p. 23. Electric and telephone cooperatives have been exempted from regulation by the legislature because cooperatives are customer-owned and are regulated by the people they serve.


and does not need to make an independent determination of whether a utility is presenting proper figures for rate-making purposes." This means that the Public Service Commission can blindly accept the evidence presented it by a utility if nobody appears in opposition. The Commission does doublecheck some utility figures, however. During the 1968 Montana Power rate raise request, some members of the Commission staff spent several days reviewing Company operations in Butte.

Because of the small Public Service Commission budget and the lack of utility experts employed by the Commission, directors of the Montana Consumers' Council felt that they needed help in determining the validity of utility rate raise requests. They filled this void by hiring an expert of their own. The mobilization of resources to hire a consumer representative in the 1968 Montana Power rate case is discussed in the following chapter.

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82The People's Voice, March 22, 1957. Note the Court's inconsistency by comparing this statement with that cited in footnote 44, Chapter II.
CHAPTER III

CONSUMER INTERESTS MOBILIZE

Consumers Determine Effect of Rate Raise

Rate Raise Effects on Residential Electric and Gas Customers

Consumer concern in the Montana Power Company rate raise case was first stirred when the utility's February 14, 1968, news release carried by the Associated Press claimed the proposed "increase would be about 15½ per cent, based on anticipated 1969 revenues." Eugene F. Pike, general manager of the Missoula Electric Cooperative, wrote the Public Service Commission for a copy of Montana Power's petition and discovered that the percentage increase would not fall evenly on all of the utility's customers.

Power companies generally maintain different rate schedules governing the sale of energy to residential, commercial, and industrial customers. Street and yard lighting, and irrigation pumping charges are figured independently of these schedules.

Pike found that Montana Power's average residential

electric user (450 kilowatt hours) would have his bill increased by 27\(\frac{3}{4}\) per cent or $31.68 a year.\(^2\) The commercial consumer or small businessman would witness his electrical costs rise by 23 per cent.\(^3\) And gas consumers using less than 5,000,000 cubic feet of gas per month would experience a cost increase of 26 per cent or more.\(^4\)

Pike's findings, published in *The People's Voice*, gave Montanans who were already predisposed to mistrust the Company reason to believe Montana Power was bending statistics to mislead the public about the extent of the proposed increase.\(^5\) If residential and small business users were being asked to bear the burden of most of the increase, they reasoned, energy cost increases of industrial users must be very slight. Other Montanans, working independently of Pike, thought it might be a good idea to find out why.

**Concerned Consumers' Council**

The first group opposition to the rate raise appeared in Billings, Montana, where Jerome J. Cate, a lawyer,


spearheaded the Concerned Consumers' Council. Cate, whose opposition to Montana Power crystalized during an internship he served in Senator Lee Metcalf's office, worked with the Consumers' president, Emil Sewell, to raise money and circulate anti-rate raise petitions. The efforts of this group were aborted because of a lack of sustaining leadership. Mr. Cate, who was already busy with his law practice and his position as Montana Civil Rights Coordinator, became involved in presidential politics as Montana coordinator of the Robert Kennedy campaign. Mr. Sewell also encountered health problems that pre-empted him from devoting much time to the Consumers' efforts. The Concerned Consumers raised only $24. Its main achievement was to distribute the anti-rate raise petitions and to act as the Billings branch of a more active group that was forming--the Montana Consumers' Council.

Rate Increase Effects on a Town

Strangely enough, the Montana Consumers' Council got its leaders because of a poorly executed Montana Power public relations program that was designed to break the news gently to local officials about how much they could expect their energy budgets to increase. As part of this program, Montana Power personnel met with municipal officials in several places to explain the rate increase request. The

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6 Telephone interview with Jerome J. Cate, lawyer from Billings, Montana, September 5, 1968.
Company official who contacted Mayor William E. Hunt of Chester failed to engender good will, however.

Hunt, whose small town of 1,158 people is located between Shelby and Havre on Montana's "high line," said he was told by a Company official, not asked, to increase Chester's electric energy budget by 15 per cent. Hunt resented the Company official's order as premature, especially since hearings had not yet been held on the merits of the rate increase request.

"The rate increase does not bother me as much as our lack of political freedom and I intend to fight for that as well as the dollars involved," Hunt wrote to Senator Lee Metcalf on April 24, 1968.7

Hunt began a close examination of the rate increase application filed with the Montana Public Service Commission. He discovered that the Company was asking for a general electric schedule (GS-68) rate increase of 25 per cent. Yet the Company official had suggested that city electric rates, which are figured under this schedule, would only increase by 15 per cent. Mayor Hunt said that this indicated that the 25 per cent increase was neither needed nor expected by the Company, and that Company officials were "just going to give the commission[ers] something to cut off there

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so they could go to the voters . . .” and claim they had trimmed the fat from Montana Power's request. 8

As part of his examination, Mayor Hunt reviewed Chester's energy budgets. He found that the town was paying the Company 15 per cent more for electricity than it had 10 years previously. He said, "Between 1966 and 1968 the amount Chester paid Montana Power for utility facilities used by the town increased about $1,700 from $8,300 to $10,000." 9 Hunt determined that this increase in Company revenue was due not to increases in investment by Montana Power, but "to a small but steady growth in the town." He said the city was using more power because of "additions to the sewer system with more lift stations with their electric pumps; greater use of water that had to be lifted out of Tiber Reservoir to settling basins near town, and then to the water tank. . . ." 10

Hunt said, "Our activities, the people's activities, the consumers' activities, not the Power Company's, enlarged the use of electricity." Hunt could not remember seeing the Company "so much as put in a new insulator in the last 10 years. . . ." 11

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11 Ibid.
He said he could not understand why the Company now needed more money from Chester's citizens when it had not done anything to deserve more. The Company's revenue from the city of Chester had already increased 15 per cent between 1957 and 1967 because of increased electricity usage.

Mayor Hunt, however, said, "I am not a rate expert nor do I pretend to be." And realizing that the Company's situation might be different in places other than Chester, Hunt, acting in the consumers' interest, began calling for an investigation by qualified personnel to see if the rate increase was necessary.

Montana Consumers' Council

Chester Town Council Seeks Allies to Help Investigate Need for Rate Raise

First, Mayor Hunt presented the problem to the Chester Town Council. The Council adopted a resolution requesting investigation of the rate increase request. It asked the other 126 incorporated Montana cities to join Chester by helping pay the cost of hiring a qualified rate expert to represent the consumers when the request was heard by the Railroad and Public Service Commission. The response to this plea resulted in the formation of the Montana Consumers' Council, the major opponent to Montana Power's rate increase request. The details of the Council's formation and

12 Ibid.
its effectiveness in combating the increase are the major topics of this study and will be investigated in this and later chapters.

On April 2, 1968, the Chester, Montana, Town Council resolved that its duty was

to investigate and report to the people matters of concern that affect the well being of the town and its inhabitants including any act which increases taxes on the state and county as well as the town level.\(^{13}\)

It found that if the Montana Power Company raised its rates the resulting increase in Chester's gas and electricity costs would require "an additional tax of more than one and three quarters (1 3/4) mills . . . " before the town's energy bill could be paid.\(^{14}\)

Chester's mayor, William E. Hunt, said that in tax dollar terms the increase would

cost more than $1.00 per year for each man, woman and child for the town alone. In the past, the increase to the non-government individual user has been much more. Only a rate expert can tell how much more.\(^{15}\)

The council felt the town of Chester lacked the resources to investigate the need for Montana Power's requested gas and electric rate increase. Nor could the

\(^{13}\) Chester Town Council, "Resolution to Investigate Power and Natural Gas Rates," Chester, Montana, April 2, 1968.  
\(^{14}\) Ibid. One mill equals one-tenth of one cent ($.001).  
\(^{15}\) Letter from Hon. William E. Hunt, mayor of Chester, Montana, to 126 Montana Cities, April 22, 1968.
council, by itself, effectively oppose any increase not shown to be in the public interest. But a combination of cities and towns could muster the resources to hire an independent rate expert to conduct such an investigation. So in a resolution, the Chester Town Council urged other cities to join it in underwriting the cost of an independent investigation.

"No stronger force can be developed than the local municipal governments," Mayor Hunt wrote on April 22, 1968. He was relaying the Chester Council's message to Montana's 126 incorporated towns and cities, asking them to form a phalanx of query, capable of probing the need for any utility rate increase. "If the rates were justified," said Hunt, "we would have to be satisfied and adjust our budget accordingly." But first, he said, consumers should determine whether or not the requested rates can be justified.

Support for an Independent Rate Investigation Is Sought from Montana Municipal League Members

Mayor Hunt said he planned to gain support for an independent investigation of Montana Power's rate increase request during a meeting of the Montana Municipal League on

16 Ibid.
17 Senate, S. 607 Hearings, 1969, p. 149.
May 10, 1968. He hoped the League would pass a resolution calling for an independent investigation. And he told a Billings Gazette reporter that he had "received encouragement from Butte Mayor Tom Powers, Great Falls Mayor John McLaughlin and Havre Mayor Pete Hamilton."¹⁹

Mayor Thomas F. Powers was president of the Montana Municipal League. His support would greatly aid the passage of any resolution proposed to the League. Hunt tried to jell Powers' support by sending him an advanced copy of the letter Hunt was composing to request money from the cities. In a note that accompanied that advance, Hunt outlined his strategy for forming a Consumers' Council and restated his belief that Powers would back the forming of such a coalition.²⁰

As mayor of Great Falls, Montana's second largest city, and as second vice-president of the Montana Municipal League, John J. McLaughlin would also be a valued ally to the consumer effort. In the 1966 Democratic primary McLaughlin had sought nomination to the Montana Railroad and Public Service Commission and lost by 904 votes to incumbent

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¹⁸ The Montana Municipal League changed its name to the Montana League of Towns and Cities in August 1968.


Louis G. Boedecker. In that election McLaughlin had been supported by persons who were now emerging as leaders and supporters of the consumers' movement. Persons, for example, like consumers' lawyer Leo C. Graybill, Jr., and public relations man, Joseph A. Renders.

Mayor Powers' role at the League meeting.—The support Mayor Hunt had anticipated from the Municipal League's May meeting did not materialize, however. Mayor Powers describes the League meeting as follows:

Mr. Hunt was granted every courtesy and ample time to present his proposal at Glendive. He spoke for at least twenty (20) minutes but failed to arouse much sympathy from any of the mayors present. Five delegates were on their feet vying for permission to move for referral of the entire matter to the Railroad and Public Service Commission.

Powers was not active in organizing mayoral support for the consumer coalition. He said:

My interest at the Glendive Meeting of May 10th, 1968, was directed entirely toward my personal goals of reorganizing the League of Cities, relocating its offices in Helena, getting a new director at the helm and achieving fiscal stability.

Mayor McLaughlin's role at the League meeting.—Mayor McLaughlin, whom Hunt said had encouraged a consumers' plea to the League, did not favor Municipal League investigation of the rate increase. McLaughlin said he desired to avoid Montana Power opposition to important city programs that the

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22 Ibid.
League would present to the 1969 Montana Legislature. McLaughlin apparently experienced a conflict of interest about whom he should represent at the Municipal League meeting. He later said of his non-support of the Consumers' Council:

I am Mayor of all the people in Great Falls, not just the Democrats. The Montana Power Company is our county's largest taxpayer. The City of Great Falls trades land and does much other business with them.

One observer speculated that the reason Mayor McLaughlin refused to support the Consumers' Council was that he was in line to become president of the Montana Municipal League and did not want Montana Power to oppose his candidacy. McLaughlin declined to comment upon this speculation.


24 Letter from Hon. John J. McLaughlin, mayor of Great Falls, Montana, to the author, January 3, 1970. Mayor McLaughlin's reference to Montana Power as Cascade "county's largest taxpayer" can be more correctly stated "county's largest tax-collector." Public utilities are allowed an after-tax rate of return on their investment because taxes are considered to be an operating expense by the Public Service Commission. Also, Montana Power has a clause in its rate order that states, "The Company may increase the bill for electric service supplied under this Schedule by an amount equal to the proportionate part of any taxes other than those in effect on February 13, 1968, subject to the prior approval of the Montana Public Service Commission." The underlined portion was added to the rate schedule in 1968. The date is changed whenever a new order is issued. The tax-shifting clause and the allowing of taxes to be included as an operating
saying only, "It has been my experience in public life that it is best not to go on the defensive in regard to such matters. It is always a case of 'who believes who?'" McLaughlin is now president of the Municipal League's successor, the Montana League of Cities and Towns. But this fact alone is not enough to substantiate the innuendo that McLaughlin's motivations were self-seeking. With or without Montana Power's support, McLaughlin, as second vice-president of the League and head of Montana's second largest city, was a strong contender for the League presidency. The League often moves its officers up the ladder into its top offices. The voting members of the Montana League of Cities and Towns must be elected officials of a paid-up city or town. The Montana Power Company influences many decisions in the state, but it is doubtful that it could control a majority of the 126 mayors who would ballot for the League's president. Unless such control could be demonstrated, McLaughlin would have no need to fear Montana Power's opposition.

Before too much significance is attached to the roles expense work together to enable Montana Power eventually to shift to the consumer the full amount of any tax levied upon it. Since the Company's taxes are shifted 100 per cent to the consumer, in the long run the Company is really a tax collector, not a taxpayer. Thus, "tax the company" politicians are only taxing the Company for short periods when they levy a new tax on it. The tax will be shifted to the consumer at the first opportunity and Montana Power will get the credit for providing the taxes which the consumer actually pays.

Ibid.
of Powers and McLaughlin, it should be noted that their in-action alone could not have killed the resolution calling for support of a Consumers' Council. As Mayor McLaughlin points out, "I didn't act alone in this matter. The League has many Republican Mayors as well as Democrats." 26

**Mayor Hunt's analysis of the League's inaction.**—Mayor Hunt said he feels that much of this inaction by League mayors is due to their conservative attitude that government should be run like a business not to hurt business. "Montana Power lobbyist, Robert D. Corette, plays this conservative sentiment like a symphony conductor," he said. "Often Corette does not even have to talk to a public official about a subject. He knows the man will vote in the Company's interest because of his conservative leanings. A Company bought lunch every two years is enough to keep these people in line." Hunt said, "The mayors would be indignant if somebody suggested that Montana Power controlled their vote. They sincerely think they vote independently." 27 And Montana Power does not destroy this belief. Instead, the Company relies upon the conservative tendencies of these officials because conservative officials generally vote "right" without being lobbied or prompted.

The League's many voting members are not the only

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26Ibid.

27Interview with William E. Hunt, Helena, Montana, March 27, 1970.
people who can exert influence on it. Private individuals and organizations may also exert influence by paying $100 dues each year and affiliating with the League as non-voting associate members. Mayor Hunt said he had been told the Montana Power Company was a paying associate member of the Montana League of Cities and Towns. And, at one time, he thought the Company's opposition as an associate member was the reason "the League failed to act" on his resolution calling for an independent rate investigation.  

If Montana Power did influence the League's decision on Hunt's resolution, it was not because of the reason mentioned by Mayor Hunt. The Montana Power Company is not a paying associate member of the Montana League of Cities and Towns. Dan K. Mizner, executive director of the Montana League of Cities and Towns, said:

> To my knowledge no industry or company has ever approached the League for or against any support for legislation. Rather it has been the League asking for their help.

> Our relations with the Montana Power Company and other industries, as well as labor organizations, have been and will be strictly on a basis of support for improved and good local government laws. . . . Sometimes to get good legislation passed we have to call on industry, labor unions and other local government organizations to . . . assist us in the legislature.

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29 Letter from Dan K. Mizner, executive director of the Montana League of Cities and Towns to the author, December 31, 1969. The associate members of the League are: Thomas, Dean & Hoskins; Dain, Kalman and Quail; Washington
The League's monthly newspaper, The Montana League of Cities and Towns, did not report Mayor Hunt's request for help or his speech at the May 10 meeting. This non-reporting, though, probably cannot be attributed to Montana Power pressure. The Company does not advertise in this publication and therefore would not be able to withhold advertising if the editor did not do the Company's bidding.

Consumers' Council Organizes

Even though the Montana League of Cities and Towns failed to support Mayor Hunt's resolution for an independent rate investigation, the May 10 meeting provided an opportunity for public officials who questioned the rate increase request to find each other and to organize. Ten of these men resolved that their association known as the Montana Consumers' Council should become a non-profit corporation. They elected Mayor William E. Hunt of Chester, president; Mayor E. O. Pike of Superior, vice president; Mayor Victor E. Jones of Hingham, secretary; and Mayor Roger H. Elliot of Columbia Falls, treasurer. The other members were made directors of the Montana Consumers' Council. They included Mayor Thomas A. Fairhurst of Three Forks, Mayor W. E. Munce of Harlowton, Mayor John L. Dunckel of Choteau, Mayor Clay H. McCartney of Chinook, County Commissioner Fred C. Vanisko of

National Insurance Co., and Morrison-Mairele. Basil Andrikopoulos recently quit his job as Montana Power lobbyist to work for Dain, Kalman and Quailin Billings.
Deer Lodge County, and Councilman Owen P. McNally of Anaconda.  

Mayor Hunt did not limit his support-seeking efforts just to members of the Montana Municipal League. To expand his coalition, Hunt sent letters to the boards of trustees of 164 school districts, and on June 18, to the commissions of all 56 Montana counties. He invited all groups interested in consumer affairs to join the Council, including "hospitals, industry, and the individual taxpayer who eventually has to pay the entire increase."  

Hunt appealed to the presidents of 65 Democratic Women's clubs to start a "Housewives for Reasonable Rates" organization. It would be, he said, "as important as a Mothers March. The money saved for your community means money saved for education, health, community betterment, recreation, and in many cases, . . . the very basic needs of life." 

Hunt tried to attract the allegiance of the Montana

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30 Mayor Munce resigned from the Council for health reasons. Mayor McCartney resigned as mayor because of his health, but he is still on the Council. McCartney apparently owns part of a natural gas interest--High Crest Oil--which competes with Montana Power in the Bear Paw Mountains near Havre.


32 Letter from Hon. William E. Hunt, president of the Montana Consumers' Council, to 65 Democratic Women's Clubs in Montana (no date).
Freight Rates Association headed by Robert Pester of Hingham, Montana. He told Pester:

The Consumers' Council has devoted all of its resources to the immediate goal of investigating the Montana Power Company rate increase request. But after we have completed what we can do on gas and electric rates, we will certainly join with you and do what we can to lower freight rates.33

Specifically, Hunt encouraged assistance from the Montana AFL-CIO, the Montana Farmers Union, the Montana Associated Utilities (composed of rural electric cooperatives), and the Montana Trial Lawyers Association.

Although Consumers' Council membership is open to all persons or groups interested in consumer affairs, Council officers and directors must be elected officials of a city, county, or other bona fide governmental organization. Financial contributions to the Council are accepted from anyone.

Consumers' Council Seeks Money to Hire a Rate Expert

To raise money for an independent investigation of Montana Power's rate increase request, the Council asked that all cities, counties, and school districts pay dues of 10 cents for every person within their governmental boundaries if these boundaries were also in the Montana Power Company's service area. Local governments in areas not served by Montana Power were asked to donate five cents for

33Interview with Hon. William E. Hunt, president of Montana Consumers' Council, Helena, Montana, August 8, 1968.
each person within their boundaries. Statewide consumer support was sought because taxpaying Montanans who are not in the Montana Power Company service area are affected by a utility rate increase. To pay an increased state energy bill, state taxes are raised uniformly for all taxpayers regardless of their location in or out of a utility's service area.

Mayor Hunt told the people from whom he was seeking money that he planned to retain Dr. David A. Kosh as the Consumers' Council rate expert. In the early spring of 1968, Hunt had flown at his own expense to Washington, D.C., to find a rate expert. He asked the advice of U.S. Senator Lee Metcalf and his administrative aid, Vic Reinemer. They were able to suggest names of several utility rate experts for Hunt to contact.

The first expert Hunt contacted was John W. Cragun. He had helped the Confederated Salish and Kootenai tribes of the Flathead Indian Reservation increase by $700,000 Montana Power's rent for tribal land use. He said that since one of Montana Power's justifications for a rate increase was its increased cost of leasing Indian lands, it would be embarrassing for the consumers to have him fight such an increase. This expert said that somebody should fight the increase, however, because in his opinion Montana Power did not need it. He also gave Hunt another list of experts to contact. Hunt compared that list with the one given him by Vic Reinemer and found that the name of Dr. David A. Kosh was on both lists.
Dr. Kosh told Hunt that he knew and liked Metcalf and Reinemer, but that he had no ax to grind about Montana Power's alleged overcharge as they did. He said he did not represent just one type of client such as consumers, but that he had represented all types including public service commissions, companies and consumers. He said he would work for the Consumers' Council if he would be free to examine the Company books and let the facts speak for themselves, and if the consumers would accept the outcome of such an investigation. Mayor Hunt agreed and Kosh was hired at a fee of between $5,000 and $25,000, depending on the work.  

Hunt recalls that "After an examination of Montana Power's records, Kosh told me 'It is unconscionable that a company would ask for a rate increase under these circumstances.'"

Mayor Hunt said, "I probably would not have continued with the consumer movement if either of the experts I contacted had said the increase was justified. But they both egged me on."  

The Consumers' Council directors had originally hoped to raise $150,000. Mayor Hunt wrote to Roger H. Elliot,  

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The name of George P. Hess, the engineer who was later hired for $5,000 by the Montana Railroad and Public Service Commission, was also on the list Cragun gave to Hunt. Kosh, the consumers' expert, was sought after by the Montana Railroad and Public Service Commission, but it decided it could not afford his fee of $15,000.

the Council's treasurer, "I would judge that the total cost of this hearing will be somewhere in the vicinity of $35,000 to $40,000." Any leftover money was to be used for appeals and legislative lobbying.

Early attempts to gain money were unfruitful, however, and on May 27, 1968, Senator Lee Metcalf wrote to Hunt:

I am sorry that the support you sought to generate for the rate case did not develop as hoped, but am pleased to see that you and Bill Leaphart and a few others are going to follow through anyway. By June 4, Hunt announced "We have actually organized drives in four counties and . . . expect to have organizations in thirty to forty counties by June twentieth with the help of several groups that have contacted me--mostly farm and labor organizations with several individual businessmen indicating they will help."

He wrote 24 interest-group leaders and asked them to attend a June 7 meeting in Helena, Montana. To those 10 to 12 people who attended the meeting, he outlined the following instructions on how to organize their counties:


38 Letter from Hon. William E. Hunt, president of the Montana Consumers' Council, to 24 interest group leaders asking them to attend a June 7 meeting in Helena, Montana, June 4, 1968.
1. Call a public meeting to organize a county
   A. Form a group to circulate petitions door to door at every business and house in county
   B. Form telephone committee to call persons and tell them of the petitions and need for signatures and donations

2. Make sure people understand the need for action
   A. There will be an increase in property tax if the increase is granted whether or not a person is served by Montana Power
   B. Tax greatest in areas served by Montana Power
   C. Increase will stunt economic growth

3. Many people will contribute because:
   A. The rate increase is to pay for cost of MPC's expansion into areas adequately served by other utilities
   B. Customers not only have to pay a reasonable rate of return to MPC investors but have to supply those investors through retained earnings with the capital which they must pay the return on
   C. MPC needs money to build gas import lines from Canada, but it can be served by Montana development
   D. Rate of return is already high
   E. Return is going out of state

Consumers' Council Seeks More Time to Organize

Organization of the counties did not progress as planned. By mid-June it became apparent that the consumers needed more time to raise money to pay their advocates. Also, consumer rate expert Dr. David A. Kosh and consumer attorneys C.W. Leaphart, Jr., Leo C. Graybill, Jr., and Oscar Hendrickson needed more time to prepare their case because Montana Power had not yet provided some information Dr. Kosh had requested. That information would require time to analyze.

Hunt summarized the situation:
We had about three months to prepare our case and counted completely upon free will donations. Robert D. Corette said after the first day of hearings that it took them three years to prepare Montana Power's case. And the $300,000 he said it cost for preparation and presentation can be passed on to its customers in the electric bill. Under state law, this is considered an operating cost of doing business which can legally be included in the rate structure. Unfortunately, there is no provision for financing preparation and presentation of the public's case.39

In addition to needing more time, the Council members realized that a delay in the hearing would cause a delay in the increase if the Company was successful in getting one. Such a delay would forestall increased utility bills and be "worth from a few dollars to the pensioner to several hundred dollars to businessmen, . . . town, county, and state," according to Mayor Hunt.40

Taking all these things into consideration, Leaphart asked the Montana Railroad and Public Service Commission for a delay in the second half of the hearing. The Commission delayed cross-examination one month, from July 9 to August 7, to give Montana Power time to submit some requested information. Kosh wrote the Public Service Commission that he would have difficulty appearing for a public hearing on August 7


because of prior commitments in Colorado and Puerto Rico.\textsuperscript{41} So Kosh could appear, Leaphart tried to reschedule the hearing for August 19.

The Commission's counsel, William E. O'Leary, replied to Leaphart on July 2, 1968, "The Board of Public Service Commissioners\textsuperscript{7} is unwilling to continue the date for cross-examination because of the delay which such a continuance would occur \textsuperscript{sic} in these proceedings." Also, Leaphart's request was denied because Public Service Commissioner Paul T. Smith had planned to attend the Democratic National Convention during the time Leaphart had suggested for the hearing.

Leaphart wrote Kosh that the hearing was still set for August 7 and explained, "I am aware of the fact that quite often there is an extended interval between cross and direct examination, . . . but in Montana this is quite an acquiescence to modern rate making."\textsuperscript{42}

On August 7, Dr. Kosh was in Colorado on a rate case as he said he would be. Leaphart again asked for a delay until September when Kosh could be present. Montana Power counsel, Robert D. Corette, protested Leaphart's request as

\textsuperscript{41}\textit{Letter from Dr. David A. Kosh, Montana Consumers' Council utility consultant, to Montana Public Service Commission, June 21, 1968.}

\textsuperscript{42}\textit{Letter from C. W. Leaphart, Jr., Montana Consumers' Council lawyer, to Dr. David A. Kosh, Montana Consumers' Council utility consultant, July 8, 1968.}
"unfair, unusual, and completely unwarranted." Leaphart's request for a delay was denied, but the Commission did schedule a time in September for Kosh to appear.

In the event that his request would be denied, Leaphart had gone over some to the cross-examination that Kosh wanted undertaken. Kosh also sent his associate, Mr. Glassman, to help Leaphart during part of the August hearing.

The timing of the second half of the split rate hearing was advantageous to the Montana Power Company. It was conducted during the National Republican Presidential Nominating Convention when many of Helena's newsmen were in Florida and when the attention of the nation was pre-empted from following the reporting of cross-examination and rebuttal of Company witnesses. The Company had gotten its side to the press and the people in May when there was little to detract from it. But in August, when the protestants had a chance to challenge Company testimony, they had to compete for attention with many exciting events. Also, the protestants were handicapped by the denial of a hearing delay because their chief rate expert, Dr. Kosh, was not able to attend any of the 11 days of testimony or cross-examination. Kosh did, however, prepare from the transcript of testimony and cross-examination, a statement which he read on behalf of the consumers at a short hearing September 3. Kosh was

the only expert testifying on any of the hearing dates who conducted a computer analysis of Montana Power's rate structure.

J.D. Holmes, reporter for the Associated Press, wrote an account of the September 3 hearing and devoted 12 column inches to Dr. Kosh's testimony. On September 4, 1968, the story appeared on page seven of the Great Falls Tribune. During the first three days in May, the Tribune had carried four front-page stories (5½ column inches of print) about Company experts' testimony. Another 26 column inches of print, continuing these front-page stories, were printed on other pages of the paper.

The Montana Standard of Butte played the Kosh story prominently on the front page and continued it to page two. May stories on Company rate experts were positioned, page-wise, in the same manner as the story on Dr. Kosh. But, Company experts were given three times the space that the consumers' expert was given.44

The Billings Gazette ran the AP story at the bottom of page one, but edited out six column inches of Dr. Kosh's testimony. On that day, Gazette editors played stories on the Czechoslovak insurrection, Mayor Daley of Chicago, a Turkish earthquake, and Montana's then emerging New Reform Political Party ahead of the consumer expert's testimony.

The story on testimony for the consumer was positioned better than May accounts of Company testimony, which appeared on pages 12 and 17 of the Gazette. But, Company experts garnered three times the newspaper space allotted to the consumer expert.\textsuperscript{45}

The extra time to prepare testimony granted the Consumers' Council did little to help organizational efforts that continued to bog down. On July 10th, Roger H. Elliot reported to Hunt that the Council had only received $1,179. Hunt traveled to Butte, Missoula, and Great Falls to meet with businessmen in continuing fund-raising efforts. He also asked Francis J. McCarvel, a Kalispell attorney, to raise some money. McCarvel made a few contacts, but did not have time to do much.

At the suggestion of the Farmers' Union, the Council finally decided to hire Charles A. Banderob of Huntley, Montana, to travel the state as a professional fund raiser. Banderob was hired in August, and it was agreed that he would get approximately 25 per cent of what he collected to help defray his expenses and to pay his wages. By the final day of hearings testimony on September 3, it was reported that Banderob had collected an after-commission net total of $210.36 for the Council. When Banderob was finished, he had traveled for three weeks, and put more than 5,000 miles on

\textsuperscript{45}The Billings Gazette, September 4, 1968, p. 1; May 2, 1968, p. 12; and May 3, 1968, p. 17.
his car. He had raised about $5,000—one-third of all the money the Consumers' Council finally collected. 46 Banderob's commission did not pay his expenses because he had to hire a man to run his farm while he traveled.

Reception of Consumers' Council Request for Aid

Consumer Council efforts to raise money and gain members were disappointing to Mayor Hunt. Only 21 of Montana's 126 municipalities, none of its 56 counties, and three of its 164 school districts donated to the Council. 47

Support for Council

One town sent Mayor Hunt a blank claim in which the dues amount was not filled in. He returned the claim and asked the town clerk if she would fill in the amount of money the town wanted to give to the council.

Raymond Hokanson, superintendent-clerk of Livingston School District Number Four, wrote Hunt that the district trustees had met at their annual budget meeting on June 24, 1968, and "voiced their wholehearted support of your cause. However, it is impossible for our school board to set aside


47 The names of the cities and individuals who donated to the Consumers' Council have been withheld at Mayor Hunt's request. He said he wants the names withheld to prevent any reprisal Montana Power may take against its known opponents.
money for this purpose. Although the Consumers' Council was made aware of the Livingston School trustees' feelings, this sentiment was never communicated to the body that had to judge on the rate request—the Montana Public Service Commission.

Mr. T. L. Forehand, mayor of Joliet, Montana, did not communicate with the Consumers' Council, but he did send a letter on April 22, 1968, to the Montana Public Service Commission opposing the rate raise. He said the increase would be a hardship on schools and complained that Montana Power's service to his town had been poor. Other governments that were not in close contact with the consumers but that wrote the Public Service Commission opposing the rate raise include: The Columbia Falls School District Trustees, the Hill County Board of Commissioners, Sanders County School District Number Two, and the Anaconda City Council.

Mayor Hershel M. Robbins wrote the Public Service Commission that the Roundup City Council was unanimously opposed to a Montana Power rate raise. But he wrote Mayor Hunt that he did not want to use city or Montana Municipal League funds to hire an independent rate expert. Robbins said the state already had "sufficient experts" on its payroll who would listen to the citizens' protests and act according to their wishes. It is interesting to note that

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Bobbins communicated his feelings to Hunt on April 23, 1968, before the Public Service Commission had hired an expert to help determine the validity of Montana Power's rate increase request. Indeed, the Public Service Commission did not even hire its consulting engineer, George F. Hess, until the end of June—a month and a half after the first part of the rate hearing was over.49

**Opposition to Council**

Two municipalities wrote Hunt expressing opposition to the Council. One of these, West Yellowstone, Montana, is not supplied with energy from the Montana Power Company according to the town's mayor, Billie B. Smith. Smith wrote that his town council "feels that the Montana Public Service Commission will not allow an unfair rate increase."50

Mayor Walter H. Myers of Virginia City, Montana, wrote his opposition to the Consumers' Council idea:

> Our city Council any myself personally believe that when we become smart enough to manage the Montana Power Co., we will then have reason to believe we can tell them when to raise or lower their rates.51

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51 Letter from Hon. Walter H. Myers, mayor of Virginia City, Montana, to William E. Hunt, president of the Montana Consumers' Council, received by Hunt on April 29, 1968.
The rest of the local governments let the issue melt into oblivion. At its May 9, 1968, meeting, the Red Lodge, Montana, council considered the Consumers' Council's request for aid and referred it to the Montana Municipal League for action.

The Whitefish, Montana, council wrote Mayor Hunt on May 8, 1968, that it was holding off action on the consumers' aid request for one week while it studied the matter. The Whitefish Council's final decision was never relayed to Mayor Hunt.

The Ronan city clerk informed Mayor Hunt on July 2, 1968, that as part of the only government retail power selling outlet in Montana, the Flathead Irrigation Project, Ronan citizens enjoyed the lowest rates in the state. The clerk wrote:

"As our power in this area is furnished by the Bureau of Indian Affairs, we do not feel it would serve any useful purpose to attempt to resist any rate increases."

Bozeman, Montana's city manager, Oscar E. Cutting, wanted to know the attitude of the Montana Municipal League about the Consumers' Council before he would make any comments. After finding out that the League had failed to support the Consumers' Council and after working up a preliminary budget for the city, Cutting wrote Hunt that he found it necessary to inform the Bozeman City Commission that we would be completely unable to come up with a contribution along the line solicited by your letter and the City Attorney also advised the Commission
that he felt there could be a serious question as to the legality of such an expenditure.\footnote{Letter from Oscar E. Cutting, city manager of Bozeman, Montana, to William E. Hunt, president of the Montana Consumers’ Council, June 20, 1968.}

Mayor McLaughlin of Great Falls said that Mayor Hunt’s request for help from the city of Great Falls would be presented to the city council. But he did not think that it would help the request if he championed a resolution supporting a consumer movement. Despite the fact that a majority of the council is in the same political party as the mayor, he felt that they were an independent bunch and said, "I cannot tell them what to do."\footnote{Interview with John J. McLaughlin, op. cit.}

\textbf{Butte equivocates.}—In Butte, Montana, according to former mayor Thomas F. Powers, "A motion passed unanimously concurring with Mr. Hunt’s request for ten (10) cents per person to form the . . . 'consumer coalition.'" Exactly what happened to this resolution is unclear because the Butte City Council has no taped or written record of the resolution. Powers, however, said, "The rate expert \cite{Dr. Kosh proposed by Mr. Hunt was already conducting such an investigation for the Railroad and Public Service Commission hence we would have been paying an exorbitant fund for a mere copy of a previous survey.\footnote{Letter from Thomas F. Powers, op. cit.}} This belief was
erroneous, but apparently it was enough to convince the Butte Council not to donate to the Consumers' Council. The resolution, if ever passed, was apparently rescinded. And Butte's city attorney, William N. Geagan, was sent to protest the rate raise at the Helena hearing. Geagan questioned only one Montana Power witness and did not file a brief in protest. It is also possible that the donation at this time of $100,000 to build Butte's first public swimming pool by Montana Power's board chairman, J. E. Corette, might have generated enough good feeling toward the Company to prevent effective opposition to the rate increase request.

Montana bank examiner questions contributions to the Council.—One of the main obstacles the Consumers' Council had in getting contributions was the questioning by different sources of the legality of such contributions. This question came into the open July 11, 1968, when Albert E. Leuthold, Montana's State Bank Examiner, wrote Mayor Hunt asking, "By what authority do you feel the municipality can legally make a contribution to this organization?" Leuthold said that "if there is a legal question involved we would be glad to request an Attorney General's Opinion." The Bank Examiner's allegations of impropriety were carried widely by the press.

Mayor Hunt said he thought the letter from the Bank Examiner's office was inspired by the Montana Power Company and was an attempt to discourage the collection of money by
his consumers' protection association.

Leuthold, however, said that his inquiry was a matter of routine investigation. "My office received an inquiry from the Meagher County Commissioners about the propriety of Mayor Hunt's request for funds," said Leuthold. "One of our field auditors also noticed a donation to the Consumers' group while going over the Deer Lodge city books and asked us if it was acceptable." He said that other than these two requests, nobody has asked for clarification of the issue and that to his knowledge no one from the Power Company or Governor Babcock's office had prompted the requests. The auditor who called the donations to Leuthold's attention said that no Montana Power Company representative had asked him to do so, but that he had done it on his own. Leuthold had written Hunt on July 11, 1968, that he did not take "issue with the merits of the cause for which you work or question Municipal officials personal and private activities."

Two months before the Bank Examiner had questioned donations to the Consumers' Council, Hunt had anticipated a challenge. He wrote to the Montana Trial Lawyers Association and asked them to help prepare a brief if the matter came up in court. The trial lawyers never did prepare a brief, but


56 Telephone interview with Basil Kennedy, auditor for the Montana State Bank Examiner, August 16, 1968.
some of them talked with Hunt about the legality of the proposed contributions.\textsuperscript{57}

On July 16, 1968, Mayor Hunt replied to Bank Examiner Leuthold that:

Contributions were made on the theory that towns and cities could join together for a common good in the same manner they could join the Municipal League to further the needs of municipality. . . .

When Montana Power Company advised the cities and towns to increase their budget for gas and electricity by 15\% it became a matter of concern to the cities and towns and I believe it was incumbent upon the cities and towns to investigate the need for the rate and to furnish evidence of the results of the investigation to the Public Service Commission. . . .

Because the hearings required special experience and training, the municipalities, instead of sending their own town or city attorney to the hearing, pooled their resources and under the authority of Section 11-811 RCM 19\textsuperscript{47}, . . . made contributions to a single organization.

That section of the law provides in part:

Nothing herein shall be taken or construed as preventing the city council from employing other and additional counsel in special cases, and providing for the payment of such services.

Hunt did not tell Leuthold about another law, Section 11-989 RCM 19\textsuperscript{47}, which states:

The council of any incorporated city or town shall have power, by ordinance, to provide for and regulate the inspection and the measurement of gas, electric, or other light, and electric or other power, sold within its limits or brought into or carried through any such city or town.\textsuperscript{58}


\textsuperscript{58}Montana, Revised Codes (1947), sec. 11-989.
Hunt said he felt this section confirmed the legality of contributions to the Consumers' Council, but wanted to reserve its mention as an ace in the hole in case he had to defend contributions in court.

Hunt also had an informal discussion with the Attorney General's office about the legality of the contributions and concluded that he did not "know what the result of an Attorney General's opinion would be but . . . it appears that they would conclude the same thing that I have done." 59

Mr. Leuthold did, in fact, request an Attorney General's opinion on the matter. Attorney General Forrest H. Anderson assigned the opinion to a lawyer who went on vacation shortly after he received the assignment. Whether or not the Attorney General did this to purposely cause a delay in the opinion cannot be ascertained for sure. But the delay did give the Consumers' Council additional time to collect money without having such a collection declared illegal until after the Consumers' rate experts and lawyers were paid.

The delay in the Attorney General's opinion may have had a detrimental as well as a beneficial effect upon the fund-raising efforts of the Consumers' Council. The fact

that contributions to the Consumers' Council were not declared legal by a high state authority gave local governments such as the Bozeman City Commission a convenient excuse not to donate for fear of doing something illegal. Such was the case in Cascade County, Montana.

Cascade County commissioners ignore Council request for funds.---When Mayor Hunt's June 18 letter asking for aid arrived in the office of the Cascade County Commissioners, only Republican Commissioner Chan W. Ferguson was present. The other two commissioners, Democrat Edward L. Shubat and Republican John St. Jermain, were out of town. Commissioner Ferguson filed the letter without acting on it. An August 12, 1968, investigation in the commissioners' office produced the finding that Shubat and St. Jermain had not been made aware of Mayor Hunt's letter. Ferguson was asked if he had purposely buried the letter because of favoritism to the Montana Power Company or fear of it. Commissioner Shubat interrupted rather heatedly before Ferguson could answer saying, "I don't think Chan would purposely keep anything from us." He preferred to credit the commissioners' inaction on the letter to bureaucratic inefficiency rather than dishonesty. Shubat said he would refer the letter to Cascade County Attorney Gene B. Daly for an opinion on the legality of donations to the Consumers' Council and make the commissioners' final decision available. Notice of any further action by the commissioners, however, was not made
available. It would be erroneous to conclude from these facts, however, that Mayor Hunt's request for aid had been thwarted by pro-Montana Power county commissioners. Both Shubat and St. Jermain are on record as having given personal contributions to help the Cascade County Consumers' Association fight Montana Power's 1961 gas rate raise.

It is likely that bureaucratic inefficiency such as that in Cascade County had its toll on Mayor Hunt's request for support. On April 22, the date Hunt sent notice of Chester's resolve to hire an expert to the cities, J. H. McAlear of Red Lodge wrote Hunt, "The copy of the resolution should be mailed to the City Clerk of each municipality rather than to the mayor in order to be sure that it is called to the attention of the respective city councils." Hunt replied the next day, "I had thought of sending the resolution to the clerk . . . but decided against it because I wanted to make it personal to the mayor. I was going to send one to each member of each council and to the newspaper editor but ran out of time and money." The mayors in some cities probably failed to relay Hunt's request for aid, and since no one else in the city government received a copy of the resolution, it was effectively buried.

Few Governments Determine Effect of Raise on Budget

The Chester Town Council had resolved to report to the people on an act that would raise taxes in the state,
county, or town. They knew that a 15 per cent increase in energy rates would require a concurrent tax increase of one dollar for every person in Chester if an increased city energy bill was to be paid. Few other public officials, however, tried to ascertain the effect of the proposed rate increase before acting upon Mayor Hunt's request to join in hiring an independent rate expert. Choteau, Montana, made estimates about what the increase would mean to it.

**Missoula City Council acts without knowledge of the effects of the rate increase.**—Before any estimate had been made on how much the increase would cost Missoula taxpayers, the Missoula, Montana, City Council voted 9-1 not to join the Consumers' Council.

According to the Missoula City Council minutes, before the vote, "Mayor Shoup commented that the Montana Municipal League had denied this request at the executive session last week." A motion was then made by Alderman J. J. Howe that Hunt's request for financial aid be denied. It was seconded by Alderman James P. Nugent, a Montana Power employee. Nugent, now deceased, and Lamar Jones, another Montana Power Company employee, were among those voting against Hunt's request.

Neither Mayor Richard G. Shoup nor the City Clerk of Missoula could estimate how much a 15 per cent increase in the electricity bill would cost the city of Missoula.

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60 Minutes of the Missoula City Council, May 13, 1968, p. 6.
If they had researched it, they would have found that Missoula pays 25 different gas and light bills averaging about $10,000 every month, or $120,000 every year, to Montana Power. The City Clerk did not know precisely which rate schedule each of these different light bills was figured under so this researcher had to estimate that a 15 per cent increase in power rates would cost Missoula at least $18,000 a year. A 25 per cent increase would cost $30,000 a year. On the basis of this estimate, the Missoula City Council was asked to reconsider its action and support an independent rate investigation. The council refused.

State officials procrastinate in determining effects of rate increase.—Commenting on data released by Jerry R. Holloron, columnist for the Lee Newspapers, The People's Voice wrote that "MPCo.'s proposed increase in electric and natural gas rates . . . will cost our strapped state treasury an estimated $180,000 a year. . . ." 61

Until prompted by newsmen, the officers of state government had not attempted to determine how much the proposed rate increase would cost Montana. Governor Babcock said, "The Railroad and Public Service Commission is an elected body which preempts my jurisdiction over the conduct or decision of this rate hearing. It represents the state in this matter." He said he would not take a political stand

on whether or not the increase was justified.\textsuperscript{62}

"No legislators have discussed the Montana Power Company rate raise in depth with me," said Donald L. Sorte, then executive director of the Montana Legislative Council. "Nor have they asked my staff to determine the effect the raise will have upon the state budget."\textsuperscript{63}

On May 1, 1968, Montana state legislator, Russell L. Doty, Jr., asked Governor Babcock's budget director, Richard F. Morris, to ascertain how much the proposed rate increase would cost the state of Montana. Morris procrastinated until August. This caused C. W. Leaphart, a consumer lawyer, to remark that Morris would probably not come up with the data because his uncle was the head accountant for the Montana Power Company. Morris said he had never been in contact with his uncle on the matter nor had he been told by the Governor or anyone else to stall the information or prevent its release.\textsuperscript{64}

Finally, Morris had Ralph C. Kenyon, the Montana State Controller, get a computer printout of all of Montana Power's claims against the state for a period of one year. Kenyon obtained 58 11 x 17-inch pages of raw data at a cost

\textsuperscript{62}Interview with Hon. Tim Babcock, governor of Montana, August 8, 1968.

\textsuperscript{63}Interview with Donald L. Sorte, August 8, 1968.

\textsuperscript{64}Conversation with C. W. Leaphart, Jr., lawyer for Montana Consumers' Council, August 7, 1968. Interview with Richard F. Morris, Montana state budget director, August 8, 1968.
of about $200 for computer time. Morris said this cost was one of the reasons for the delay."

Kenyon asked William M. Johnson, the overworked Public Service Commission auditor, to apply the rate schedules to this data. Johnson said he would do this when he had time. But except for helping a few state agencies figure new budgets, Johnson never did have time to determine what the raise would cost the entire state government. Instead, state officials accepted Jerry R. Holloron's $180,000 estimate of what the increase would be.

Holloron's early estimates seem low. The computer printouts of utility bills released three months after Holloron's original research, revealed that the University of Montana at Missoula spent about $220,000 a year on gas and electricity. If that bill were to increase 15 per cent, the additional cost would be $33,000. But in addition to the University of Montana, Montana Power serves five other state colleges, 10 state institutions, the deaf and blind school, the state highway department and highway patrol installations, the capitol complex in Helena, and state liquor stores. It is likely that the combined total of increased utility bills from all of these state departments was considerably higher than $180,000. Certainly high enough to offset the increased statewide property tax Montana Power will have to "pay" on improvements made with its increased revenue.
As has been mentioned, the Consumers' Council was aided by many existing interest groups in its quest for an independent rate investigation. The next chapter will be devoted to a discussion of that aid.
CHAPTER IV

THE MECHANICS OF GROUP MOBILIZATION

"No group can be stated, or defined, or valued . . . except in terms of other groups."¹

Rural Electric Cooperatives

Organization and Staff

Twenty-five rural electric cooperatives (RECs) serve 53,970 Montana families.² To promote their common interests, 21 of these cooperatives have affiliated with Montana Associated Utilities, Inc. (MAU), a non-profit corporation, which consists solely of electric utilities.³ All of Montana's RECs as well as Montana Associated Utilities belong to the National Rural Electric Cooperative Association (NRECA). Nationally, the NRECA lobbies for low-cost power generation and rural transmission and distribution projects. It

¹Bentley, op. cit., p. 217.


³Montana Associated Utilities, 1968 Directory: Montana Rural Electric and Telephone Cooperatives (Great Falls, Montana: Montana Associated Utilities, Inc., 1968), pp. i and 63. (Includes Glacier Electric Cooperative, which recently joined so the membership does not show in the Directory.)
participates in court proceedings to protect the interests of electric cooperatives, coordinates cooperative activities, and conducts training schools on management, accounting, engineering, maintenance, etc. for its members. Montana Associated Utilities performs these same services on a smaller scale for its Montana members.

To coordinate its statewide efforts, MAU has hired a fulltime executive secretary, Riley Wm. Childers, and a staff assistant (office secretary), Earlene Lee. It also retains the Great Falls auditing firm of Artz, Clark, Stevens and Deming, and until recently, Hubert J. Massman of Helena acted as attorney. Working from MAU headquarters on the second floor of Great Falls' Rainbow Hotel, Childers attends district cooperative meetings and coordinates the work of 11 standing committees that include: publications, power use, legislative, retail rate, advertising, insurance, water resources, job training and safety, and three others. Cooperative staff members and customers serve on these committees.

Public Relations

Print media.—Each month Ray W. Fenton of Public Relations Associates in Great Falls edits the Montana Rural Electric News (MREN). It is a 20-30 page, two-color magazine comprised of editorials, columns from officers and staff, a section for teenagers and housewives, and full-page reports with pictures on the activities and problems of MAU's member
The Montana Rural Electric News (MREN) is distributed to 29,671 subscribers, libraries, and schools each month. It claims a readership of 150,000 and has the largest circulation of any rural publication in the state. It gave sparse coverage to the Montana Power Company rate raise request and to the Consumers' Council opposition. These subjects were not mentioned in nine of the 12 MREN issues published from March of 1968 through March of 1969. The March, 1968, issue carried six column inches of news telling that the Montana Public Service Commission planned to hire an expert in the case. The June issue included a reprinted editorial from The Billings Gazette and a news story, all of which totaled only 18 column inches. Over half of the attention given the Consumers' Council by MREN came after the rate hearing was completed and too late to aid organizational efforts. In September's 24-inch "Watts' from Washington" column, Vic Reinemer pleaded for money to finish paying the expert, Dr. David A. Kosh, who had testified for the consumers. This issue also carried an illustrated feature describing the Consumers' Council July organizational meeting in Missoula.

Sound media.—Montana Associated Utilities also sponsored a radio broadcast over 20 Montana stations for its
members and the general public. Commencing in April of 1968, MAU and the Montana Farmers Union presented a five-minute radio editorial commentary each weekday at noon. The Farmers Union sponsored the program Monday through Thursday, and 14 MAU cooperatives sponsored it on Friday.

The cooperatives used their five minutes each week primarily to inform the urban public on what rural electrics accomplish. The program also championed "territorial integrity" and municipal power and counteracted investor-owned utility propaganda. The total yearly cost to the rural electric cooperatives for this program was $12,000. The total promotional budget of MAU for all expenditures including MREN was $47,000 for the year 1968.5

Even though the expense of radio time was shared, the Friday MAU program was not intentionally related in content to the Farmers Union program. According to Ray W. Fenton, the RECs did not even use the voice of Farmers Union announcer, Clyde T. Jarvis, because they were "afraid that political association would cause membership complaints."6


6Ibid. The radio program was dropped on April 17, 1970, just two years after it began. The cooperatives that sponsored the program felt it was good and that it should be continued. But that everybody should pay for it since everybody benefited from it. Some cooperatives that had previously refused to sponsor the program continued to refuse, however. And some eastern Montana cooperatives became afraid that the program would raise the ire of Montana-Dakota Utilities, a private utility that they often buy power from. So,
The diversified political views found among the members of electric cooperatives hinder the formation of cooperative and non-cooperative policy decisions. Most rural folks, regardless of political belief, benefit from rural electrification. But not everybody supports it. Conservative John Birch and Farm Bureau types join liberal Farmers Unionites at monthly meetings to form the policies of their cooperatives. And these people of widely differing views are not always in accord. Often the policy coming from the monthly board meetings is a compromise between these polarized views. And, as in the case of the 11 cooperatives that chose not to sponsor the five-minute radio program, compromised policy is no policy.

MAU's continuing inability to articulate its own interest will cause a decline in the political punch the rural electric cooperatives are able to muster as a countervailing force to Montana Power. That political punch has already been "pulled" by reapportionment and by the decline in rural population. The loss of electric patrons in rural areas conceivably could be offset if the cooperatives are allowed to sell electricity to people who move to cooperative service areas in the suburbs.

since some of the cooperatives were not cooperative, the program was stopped.

The Montana Power Company requested tapes of all Montana Associated Utilities' broadcasts. The Intermountain News Network sent the tapes and, presumably, the Company monitored what its competitors were saying.
Territorial Integrity

Through the years, however, the Montana Power Company has initiated and successfully prosecuted lawsuits to establish the Company's right to serve customers in electric cooperative areas that were once rural but that have become urban or suburban because of population growth or migration. State courts have granted Montana Power the right to construct facilities in these areas and serve them even though service lines may already exist there, and even though consumers have elected to receive cheaper electricity from the cooperatives. To counteract this "skimming of the cream" from their most profitable service areas, the cooperatives have sought "territorial integrity" legislation. If this legislation passes, existing service areas will not be subject to raiding and the numerical and political strength of the cooperatives will increase as suburban areas grow. Otherwise, the influence of rural electric cooperatives will dwindle because cooperatives will be growing at a slower rate than Montana's other electric utilities.

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8 Even though the number of families served by rural electric cooperatives may dwindle in Montana, the amount of electricity marketed will double every seven to 10 years. This will be due to the increased use of irrigation systems, pumps, milking machines, and other electrical innovations, according to projections made by the Federal Power Commission.
MAU and the Consumers' Council

Montana Associated Utilities did not use the power it now has to countervail Montana Power's influential request for increased rates. William Hunt, the president of the Montana Consumers' Council, spoke at a MAU board meeting on July 18, 1968. Mayor Hunt's speech produced little overt help from the cooperatives. And they took no public stand supporting the Consumers' Council investigation of the rate increase request.

Cooperatives not affected by rate increase.—A commercial and residential electric rate increase has no effect upon the cooperatives that buy only wholesale electricity from Montana Power. Therefore, they had little reason to oppose the increase. As Eugene F. Pike told members of the Missoula Electric Cooperative, "The only effect any Montana Power Company rate increases would have on your cooperative's rates is that it would make them look just that much better."^9

Cooperatives buy wholesale electricity from Montana Power.—Other reasons for cooperative non-support of the Consumers' Council can be deduced from the following statement by Riley Wm. Childers, executive secretary of Montana Associated Utilities. He said, "Support of our Association

^9Montana Rural Electric News, June, 1968, p. 9. Pike, incidentally, fought the rate increase even though it had no effect on the coop. he manages.
becomes somewhat more complicated because of the nature of the rate raise petition and existing contracts . . . between various rural electrics and the power company. 10

In 1965, Montana Power charged the cooperatives a lower wholesale rate—4.72 mills per kilowatt-hour—than any investor-owned utility in the United States. Only the Bonneville Power Administration and the Tennessee Valley Authority, both government projects, had lower wholesale rates. 11 Twelve of the 17 rural electric cooperatives that are located within or adjacent to Montana Power's service area buy wholesale electricity from the Company. 12 These cooperatives may not have wanted to oppose the rate increase request and risk Montana Power reprisals in the form of higher wholesale rates or refusal to sell power to the cooperatives.


Cooperative board members are not financially independent.—At least two other reasons exist to explain why rural electric cooperatives did not overtly support the Consumers' Council. First, some of the cooperative board members are as financially interested in the welfare of Montana Power as they are in the welfare of their cooperatives. For example, Charles E. Sweeney, president of the board of directors of the Big Horn Electric Cooperative, is vice-president of the Big Horn City State Bank in Hardin, Montana, which does business with Montana Power. Because he wears two hats, Sweeney is vulnerable to implicit or explicit pressure from Montana Power. An anti-Company position by the Sweeney-led cooperative board might jeopardize the bank's business with the Company. This may be one reason the board has often acted in a pro-Company manner as it did when Yellowtail Dam was built near the cooperative's service area. As a cooperative, Big Horn Electric was offered the opportunity to hook onto the Yellowtail Power network and buy low-cost federal power directly from the Bureau of Reclamation. Big Horn Electric's board of directors turned down this government offer and chose instead to continue buying electricity at wholesale prices from Montana Power, which purchased electricity from the Bureau of Reclamation.

Like most major corporations in the state, Montana Power does some business with most all of the banks in its
service area. This public relations policy prevents the officers of one bank from becoming irate because a competitor is getting all of the Company business. The policy also creates a "live and let live" attitude that effectively neutralizes opposition to many Company positions.

Another example of where the conflicting financial interest of a cooperative board member destroyed united cooperative policy occurred at the Glacier Electric Cooperative in Cutbank, Montana. Glacier Electric's 1968 board president, G. S. Frary, owned Montana Power stock and demonstrated repeatedly that he was not likely to favor any cooperative action that would not enhance his investment. He did not favor Glacier Electric opposition to a Montana Power built transmission line which, when completed, would aid the Company in serving a large cooperative customer. And he opposed and helped prevent Glacier Electric's affiliation with Montana Associated Utilities, the statewide cooperative organization. Glacier Electric became a member of MAU after Frary resigned his board position in 1969.

Cooperative board members are elderly.—Another explanation of why the rural electric cooperatives did not overtly support the Consumers' Council lies in the attitude of their elderly board members.

The average age of cooperative board members is that of the men who pioneered rural electrification in Montana—over 65. The attitude of these conservative-thinking elders
discourages the more liberal "young turks." The result is conservative policy. Perhaps these older men are tired of "locking horns" with Montana Power. Public relations man, Ray W. Fenton, believes they have the notion that "If we leave the Montana Power Company alone, it won't get riled and will leave us alone." Also, they are afraid that if they help publicly, it will hurt the rural electrification movement. Therefore, it the co-ops do help, it will be from behind the scenes to keep the heat off. Some rural electric personnel and patrons will donate individually in an attempt to keep Montana Power occupied so it won't have time to fight them.\footnote{Interview with Ray W. Fenton, \textit{op. cit.}}

\textbf{Clandestine donations?—}Indeed, the help that the Consumers' Council did get was from behind the scenes. One cooperative, which does not want to be mentioned by name, donated $200 to the Consumers' Council. The money was donated because it was thought that the Council investigation would prevent the Montana Power Company from getting money to extend its facilities into the cooperative service area. Mayor Hunt thought that another $1,000-$1,500 may have been donated anonymously by MAU members.

\textbf{ACRE! The Cooperative Political Action Arm}

In times past it has been difficult for a cooperative to donate to a political cause. Cooperatives may allocate five per cent of their net margin (what is left after patronage rebates) for educational purposes such as advertising. But they are subject to the "no-political-contribution" laws...
that govern the actions of any business. Recently, MAU has set up a political action group called Montana Action Committee for Rural Electrification (Montana ACRE) so that it can support candidates and causes in the political arena. ACRE is asking for minimum dues contributions of $10 from individuals (no corporations) who want to support the political friends of rural electricity. Preliminary indications are that ACRE will be a successful program. Donation booths set up at the annual meetings of the Sun River and Sheridan Electric Cooperatives each produced about 300 ACRE members.\textsuperscript{14}

The Montana Farmers Union

Organization and Membership

Agrarian interests were slow to oppose the corporations in Montana. The policies espoused by the Farmers Alliances did not reach the state until 1914, after they had penetrated the rest of the country. In that year, the Montana Society of Equity was organized. It quickly mushroomed to maturity with 15,000 members by 1917. And, in 1918, it was succeeded by the Nonpartisan League. The members of this organization tried to raise the price of farm products and lower the price of goods farmers bought. These goals brought it into conflict with the corporations that controlled the

railroads, grain elevators, and large general stores like the Missoula Mercantile. Many of the League's members thought the corporations controlled Montana's political machinery, too, and they gathered frequently to hear men like Burton K. Wheeler vehemently condemn the Company.

The most long-lived of the progressive farm organizations is the Montana Farmers Union. It started in Montana when 21 farmers formed Ronan Local No. 1. Following four years of organizing, the Montana Farmers Union was chartered in Great Falls on April 3, 1916, during the first annual convention.

The Farmers Union represented 2,000 farm families back in 1916 and grew steadily until 1958 when 15,940 families dispersed in all of the state's 56 counties professed membership. The Farmers Union, like the other liberal farm organizations, has often opposed Montana's corporate interests. Maintaining its prior opposition to the Company, the Farmers Union became the most influential pressure group to support the Consumers' Council in its quest for an independent evaluation of Montana Power's 1968 electric and gas rate increase request.

In past journalistic analyses of Montana politics, too often the influence of the Farmers Union has been over or underestimated, and almost always such analysis has been

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too simplistic. To avoid these mistakes and more thoroughly evaluate the influence of the Farmers Union and its ability to muster countervailing power against Company forces, it is necessary to examine mathematically the actual support the Farmers Union can claim.

Approximately one-third of Montana's 26,000 farm families belong to the Farmers Union. About one-sixth of the state's farm families belong to the Farm Bureau, the Farmers Union's largest competitor. Farmers Union membership dwindled from a peak of 15,940 families in 1958 to 8,500 families in 1969. Although some of this decline in membership undoubtedly is due to the fact that seven thousand Montana farms have ceased operation since 1958, much of the decline in membership is also due to other factors such as leadership problems, market conditions, and the doubling of membership dues in 1966. The Farmers Union has about the same number of member families now as it had in 1952 when Montana had 10,000 more farms than exist today. The payment of $10 dues by each of these 8,500 farm families entitles the husband, wife, and all children over 16 to voting membership in the Montana Farmers Union. So the actual voting membership of the Farmers Union is in the neighborhood of 16,000.

These 16,000 people have formed nearly 200 Farmers Union locals. Three or more locals in a county can constitute a county union of which there are 41. Locals usually meet monthly. County Farmers Union organizations convene monthly or quarterly and are composed of delegates from the county's locals. Both locals and county unions send delegates to an annual convention of the state Farmers Union. At this meeting the state president and vice president are elected. Delegates also select people to serve on the five-member board of directors--two directors being elected during one year and three the next.

The Farmers Union has three basic functions: it promotes education, cooperation, and legislation. The union conducts educational projects such as summer camps, workshops, citizenship encampments, lobbying trips to state and national legislatures, and conventions, which in a recent year attracted more than 1,200 youth and 1,200 adults.\(^{17}\)

Public Relations

In the past, the Farmers Union has utilized a circulating library, pamphlets, action letters, a national legislative newsletter, three organizational newspapers and radio to reach its adult members. Also, about 3,000 copies of the National Farmers Union Washington Newsletter are distributed

\(^{17}\text{What Is Montana Farmers Union, loc. cit., p. 10.}\)
in Montana, according to Thomas J. Ryan, former secretary-treasurer of the Montana Farmers Union. This newsletter does not deal with Montana affairs and did not carry stories concerning the Montana Power rate raise request.\textsuperscript{18}

\textbf{Print media.}—The Pilot, a monthly one-page newsletter mailed to about 300 Farmers Union officers, carried two stories concerning the rate raise request.

About 15 column inches of print were devoted to opposing the rate raise request in the \textit{Montana Farmers Union News}, a four-page monthly, which was mailed to 10,000 farm families until it suspended publication in the fall of 1969 because of inadequate financing. The Pilot is now being mailed to the general membership of the Farmers Union in place of the suspended \textit{Montana Farmers Union News}. Clyde T. Jarvis, then director of public relations for the Montana Farmers Union, said that he had included Consumers' Council material in a Farmers Union mailing to about 10,000 families.\textsuperscript{19}

To educate the general public the Farmers Union sponsored radio commentaries. It also joined the labor movement in support of the cooperative newspaper, \textit{The People's Voice}.

\textit{The People's Voice}, edited between 1946 and 1969 by independent-minded Harry L. Billings and his wife, Gretchen,

\textsuperscript{18}Interview with Thomas J. Ryan, former secretary-treasurer of the Montana Farmers Union, August 10, 1968.

\textsuperscript{19}Interview with Clyde T. Jarvis, director of public relations, Montana Farmers Union, Great Falls, Montana, August 9, 1968.
devoted much space each week to vigorous opposition of the rate raise request. During a time in the 1940s and 1950s when most of Montana's other papers were Company-dominated, The Voice led the opposition to Montana's corporate interests. But by 1968, that once-potent opposition was waning. Gretchen G. Billings, who had reported Company maneuvers clearly and accurately, was beset with back trouble and was unable to do much reporting. Harry L. Billings was struggling to keep the paper, which did not take commercial advertising, financially solvent. And Patricia Scott, The Voice reporter, frankly admitted her lack of knowledge about public utility regulation. Despite these handicaps, Voice editorials continued to be thought-provoking. For example, Harry L. Billings compared electric rate raises with tax increases in understandable layman's terms—a comparison not to be found in other statewide newspapers. And Gretchen G. Billings entertained a lively discussion in her column "What Do You Think?" advocating that the terms of all three Public Service Commissioners should expire at the same time in order to make the Commission responsible to the electorate. The Voice was no longer as alone in its anti-Company crusade as it had once been, however. Other newspapers were taking over the editorial role that they had ignored during the

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period when they were owned by the Anaconda Copper Mining Company. The Missoulian, which in 1944 had not even mentioned the existence of the Federal Power Commission hearings in Butte, was now editorializing for a more competent Public Service Commission. And The Billings Gazette, also a former Anaconda Copper owned newspaper, editorialized against the 1968 raise and in favor of public utility districts (PUDs).

Weekly Voice accounts of the rate hearings did increase the public's knowledge, and some of these accounts were more comprehensive than those carried by the daily press. But the daily press often outreported The Voice. And, at times, Harry L. Billings reprinted daily press articles causing Montanans, who once relied on The Voice as the state's most reliable non-corporate source of information to realize that the Lee Newspaper and Great Falls Tribune state bureaus were reporting the facts as independently and more rapidly than The Voice. The Voice's financial support dwindled as its function of independent reporting and editorializing was assumed by the daily press.

The death knell of The Voice sounded when Harry L. Billings favored Eugene J. McCarthy for president while opposing the labor-supported Lyndon B. Johnson Vietnam policy. Billings also favored Harriet Miller and LeRoy Anderson, Democratic candidates for congress and governor, instead of Arnold Olsen and Eugene Mahoney, who had the sympathies of many in the labor movement. Billings had opposed Voice supporters before--

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23 The Billings Gazette, March 25, 1968.
he endorsed Henry A. Wallace in 1948—and retained sufficient financial backing to publish, but the situation was different in 1968. If The Voice folded, some laborers and farmers believed they could turn elsewhere to have their stories told. And they would not be perplexed by an editor who occasionally criticized them as well as corporate interests. Some cooperatives and unions continued supporting The Voice, but others gradually took their printing jobs elsewhere and thereby cut off revenue that helped support the paper in the absence of advertising that was accepted only on a limited basis. Since his supporters did not need his independent voice as badly as in 1948, Harry L. Billings could not now be as independent in his thinking as he had been then. Reacting to Billings' independence, members of the Montana Carpenter's District Council forced a labor convention resolution censoring and chastizing a Voice report. The resolution did not eliminate AFL-CIO union financial backing of The Voice. But this insult to his free newspaper drained the last drop of enthusiasm from Harry L. Billings, who had devoted his life to labor's cause. He resigned. A short time later the paper folded.

It is ironic that that which Harry L. Billings supported most—an independent press in Montana—forced his paper out of business. Not all of the countervailing power of independent reporting that The Voice once offered Montana's corporate interests died when The Voice ceased to publish weekly. Rather, The People's Voice ceased to publish
partly because an alternative countervailing power could be provided by a large and independent, but competing, daily press.

Whether or not that daily press will remain independent now that The Voice's example is gone remains to be seen. Certainly, the countervailing power of the uncensored reporting in The Voice and daily newspapers combined to give Montanans the clearest picture of a utility rate hearing that they have ever had. Now that The Voice has closed, that countervailing power has dwindled.

**Sound Media**

In 1968, the Montana Farmers Union Insurance Agency, an independent tax-paying corporation, was sponsoring a noontime commentary on Montana affairs by Clyde T. Jarvis, director of public relations for the Montana Farmers Union. The program was aired weekdays over 26 stations located in 21 Montana towns and cities. Jarvis said that the program included references to the Consumers' Council and the rate raise controversy in about 20 broadcasts between April 15 and August 8, 1968.

At one time during these broadcasts, Jarvis and other consumer advocates thought that the Montana Power Company or someone prompted by it was subtly pressuring the Intermountain News Network to have the Farmers Union program removed from the air. Jarvis said he thought that the
network had been threatened with a libel suit, and that equal time had been demanded to rebut some of the things he had said.\textsuperscript{24}

Jack Paige, executive vice president of the Intermountain Network, Inc., responded when questioned on this matter, "We have never been asked by Montana Power or any other organization to remove the Montana Farmers Union Program."\textsuperscript{25}

Prior to Mr. Paige's letter, however, another network official intimated to Ray W. Fenton, public relations man for the rural electric cooperatives, that D. A. Davidson Company and Power-Townsend Company were unhappy about the Jarvis broadcasts. They sponsored stock and weather reports that were aired adjacent to the Farmers Union program over station KBLL in Helena. They threatened to go off the air if the views expressed by Jarvis were not disassociated from their programs. KBLL offered to move the Farmers Union program and to follow Jarvis' broadcast with a disclaimer saying that views expressed by him were not those of the station or its other sponsors. Also, Soc N. Vratis, a lobbyist for the Montana Retail Association, was unhappy

\textsuperscript{24}Interview with Clyde T. Jarvis, director of public relations for Montana Farmers Union, Great Falls, Montana, August 9, 1968.

\textsuperscript{25}Letter from Jack Paige, executive vice president of Intermountain News, to author, August 13, 1968.
with statements that Jarvis had made about an initiative his organization was placing on the ballot to have the inventory tax removed from Montana merchants. Vratis said, "I asked Helena station KBLL, not the network, for free equal time to counter Jarvis's statements. It was granted, but I never used it. I could have cared less about getting Jarvis off the air." He said that Montana Power personnel had not prompted him to seek equal time.26

In addition to disseminating information concerning the Consumers' Council, Farmers Union personnel personally solicited money and support for the Council. The Farmers Union leadership got together after the rate increase request was announced and decided to oppose it because it would increase their office budget. Then at about 20 meetings around the state, Clyde T. Jarvis gave an informal talk on the subject that concluded with the question, "Is anyone in favor of the increase?"

Jarvis said, "Nobody needed convincing. The leadership's stand was wholeheartedly endorsed by the rank and file. As far as I know, nobody quit the Farmers Union because of our position."27

Financial Aid to the Consumers' Council

"We used all of our staff and public contacts to help

26Interview with Socs N. Vratis, Helena, Montana, March 27, 1970.

27Interview with Clyde T. Jarvis, op. cit.
the Consumers' Council," said Gordon R. Twedt, Farmers Union president. The staff distributed anti-rate raise petitions to its members and asked signers to contribute. Twedt said he thought they were "averaging one dollar for each signature."

Jarvis estimated that "over 50 per cent [4,250] of our members contribute—even from beyond Montana Power's service area—because they want to keep the general rates down so Montana-Dakota Utilities won't seek an increase."28

Thomas J. Ryan thought that 33 per cent of the Farmers Union members would contribute, many of them because of the general publicity on the Consumers' Council and not because of direct solicitation by the Farmers Union.29

Other than individual member contributions, there is no record of Farmers Union donations to the Consumers' Council.30 Mayor Hunt used the long distance phone "WATS" line that the Farmers Union has, but he left money to cover the cost of his usage.

Contrary to rumor, the Montana Farmers Union does not

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28 Interview with Gordon R. Twedt, then president of the Montana Farmers Union, Great Falls, Montana, August 12, 1968. Interview with Clyde T. Jarvis, op. cit.

29 Interview with Thomas J. Ryan, op. cit.

30 The Farmers Union political corporation is not to be confused in this case with the Farmers Union Grain Terminal Association (GTA), a grain-marketing cooperative that supports the political corporation and that gave $300 to the Consumers' Council.
donate as an organization to any political campaign fund. In 1968, the Farmers Union had a budget of about $160,000. Approximately $95,000 of this was garnered from organization dues and most of the rest from Farmers Union gas stations, elevators, and hardware dealers. The elevators, gas stations, and hardware dealers, as cooperatives, may allot five percent of their net margin (what is left after patronage rebates) for educational and advertising purposes such as carried on by the Montana Farmers Union. In addition, the Montana Farmers Union receives $2,000 to $3,000 each year in gifts and grants. These monies support the many programs already mentioned, but none supports partisan politicians. The Farmers Union does not even allow candidates to use its mailing list. Rather, individual Farmers Union members support politicians of their choice. For example, Leonard Kenfield, the past president of the Farmers Union, campaigned in his own voting precinct for years for candidates he favored. And Thomas J. Ryan was instrumental in organizing several ad hoc non-partisan committees to screen and endorse liberal candidates for political office.

The Farmers Union As a Future Countervailing Influence in Montana

In 1969, because of dwindling resources and declining membership, the Farmers Union cut back its budget by approximately $30,000. When public relations director, Clyde T. Jarvis was elected president, his position was not refilled.
The full-time secretary-treasurer position was changed to a non-paying part-time post. And the Montana Farmers Union News stopped publication. The funds saved from the cutback are to be used to increase the group's membership.

Clyde T. Jarvis, the new Farmers Union president, has also adopted a policy that he says will be a totally new approach for us. Down through the years we have opposed quite a few things and quite a few organizations and groups. But we can't do this any longer. The reality of the situation is that family farmers and ranchers are a dwindling sector of our economy. This fact is most evident when we attempt to get agriculture legislation passed. We're going to have to work with those people now.  

He said the Farmers Union will probably find itself cooperating with other farm groups, commodity groups, civic clubs, service organizations, and Chambers of Commerce. He said he believes it is imperative to the life of a small town that the Chamber of Commerce in every community in Montana is enlisted in the battle to bring equitable income to farmers and ranchers. Without this income, these people can't be good customers and without good customers the small town businessman is out of business.

Does this new attitude on the part of Farmers Union leadership mean that the Farmers Union will be less of a countervailing force to Montana Power the next time the Company seeks a rate increase? Maybe so. Farmers will be reluctant to be as involved as they were during this rate raise fight—especially since not many of them are customers.

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31 Great Falls Tribune (Montana Parade), November 16, 1969, p. 2.
32 Ibid.
of Montana Power.

Unless Montana Power Company policy changes, however, the Company will continue to be a natural enemy of the Farmers Union. The Company, for example, will have to change the alliance with the railroads that it has had since John D. Ryan, a Milwaukee and St. Paul Railroad board member, started the Montana Power Company. The farmers want lower freight rates and will continue to fight the situation that now exists whereby it costs more to ship freight from Montana to the west coast than it does to ship freight originating in North Dakota or Canada. John E. Corette sits on the board of directors of Burlington-Northern Railroad and on the board of trustees of the Committee for Economic Development. The Committee advocates procedures that would put agriculture into the hands of a very few. The Farmers Union, of course, has always advocated the virtues of family farming and disagrees with the policies of the Committee for Economic Development. Consequently, if the Farmers Union and Montana Power are to reach a conciliation, Montana Power will have to stop donating to and participating in the affairs of the Committee for Economic Development. In addition, Montana Power will have to stop its raiding of electric cooperative service areas. The Farmers Union has always supported electric cooperatives and it is unlikely that this support will stop.

As long as the interests of the Farmers Union members and the Montana Power Company remain diametrically opposed,
it is not likely that they will cooperate to any extent. But given the present weakened position of the Farmers Union, it is unlikely that there will be any extensive countervailing opposition to Company policies either. Jarvis has said of the Farmers Union's new conciliatory approach that the group had "better not become a political organization or it will be dead." Yet the Farmers Union has always been a political interest group in the sense that it has tried to effect the allocation of Montana's resources for the benefit of its members. Abrogation of that function will destroy the Farmers Union's reason for being.

Montana AFL-CIO

Farmers Union leaders believe they must form coalitions with urban forces in order to get favorable legislation in Montana, and leaders of the Montana American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) believe that labor unions must continue their alliance with rural forces. "We couldn't get the time of day out of the legislature if it wasn't for the farmers," says James S. Umber, past executive secretary of the AFL-CIO. But he also concedes that rural organizations such as a few electric cooperatives could better solidify the farm-labor coalition if they would organize their workers under a union

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33 Interview with Clyde T. Jarvis by Don Weston of KGVO television, Missoula, Montana, January 21, 1970.
contract. This would change International Brotherhood of Electrical Workers' (IBEW) membership and interests enough to temper its support of utilities on most all non-contract issues.

**Group Cohesion**

As it is, the AFL-CIO suffers internal dissension if it goes on record opposing a utility rate increase. The Montana AFL-CIO is comprised of about 250 local unions and labor councils that have a membership of 27,000 to 30,000. Some of these locals belong to the IBEW, a national affiliate of the AFL-CIO. According to James S. Umber:

> IBEW officers scream if we [AFL-CIO] oppose a rate increase. They say that their electric or phone workers will not get a wage increase if the utility is not granted a rate increase. They say we should be organizing cooperatives instead of fighting a union employer. Sometimes we get heat from the building trades unions too, because they anticipate more jobs for their members if a utility is planning a construction program.  

An example of IBEW support for a utility rate raise was verified by a personal letter to public service commissioner, Ernest C. Steel, from Stanley E. Thompson, an international vice president of the IBEW. The letter, which Steel took from home to the office to make part of the file, asked "that the Mountain States Telephone Company in Montana

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34 Interview with James S. Umber, past executive secretary, Montana AFL-CIO, September 1, 1968.
be granted a rate increase. During the 1968 Montana Power Company rate raise request hearing, the IBEW did not express support for the utility position. Indeed, because of a late-arriving resolution submitted to the malapportioned twelfth annual convention of the Montana AFL-CIO, the IBEW was forced to give tacit approval to the Consumers' Council. Under the rules of parliamentary procedure, all resolutions to be considered by the convention must be submitted 30 days ahead of time. Permission to introduce late resolutions must be given unanimously by all of the convention delegates present. If the IBEW delegates had opposed the introduction of the anti-rate raise resolution, the pressure begrudging such opposition from the other convention delegates would have been overwhelming. If the resolution had been introduced on schedule, it would not have required a unanimous vote to be considered. Then the IBEW delegates could have avoided peer pressure.

35 Letter from Stanley E. Thompson, international vice president, International Brotherhood of Electrical Workers, to Public Service Commissioner Ernest C. Steel, November 9, 1967.

36 Montana State AFL-CIO conventions are malapportioned because voting delegates to them are allotted on the basis of a formula that gives a local union with 100 or less members one voting delegate and a local union with 4,501 to 5,500 members 10 delegates. This formula makes it possible for a small local to have at least 4 1/3 times more voting power than a large one. And although the courts have not yet had to decide the question, it is possible that in "union" and "closed shop" states sufficient state action could be shown to require the State AFL-CIO to comply with the equal protection clause of the Fourteenth Amendment to the United States Constitution.
and abstained from voting. Such an abstention would have denied labor the public relations advantage of being able to claim internal cohesion—a "united front" against the Montana Power Company rate raise.

**AFL-CIO Aid to the Consumers' Council**

A resolution.—The resolution opposing the Montana Power rate increase request passed by the AFL-CIO state convention was not accompanied by a donation of money to the Consumers' Council. And the resolution came in August—after the rate hearings—too late to give the delegates much of an opportunity to ask their local unions for money to support the position of the state labor organization. Other than passing the resolution opposing the rate increase, the AFL-CIO did little to aid the Consumers' Council. The AFL-CIO staff was hindered from extensive participation in Consumers' Council affairs by personal and family illness, impending labor negotiations, and the planning of COPE (Committee on Political Education) participation in the 1968 political campaign.37 Despite these handicaps, the state AFL-CIO did appeal to its affiliates for funds and passed on all Consumers' Council correspondence to member union locals.

COPE.—The political action committee of the AFL-CIO,

37 Interview with James W. Murry, former Montana COPE director, presently executive secretary of the Montana AFL-CIO, September 1, 1968.
COPE, registers voters and gets out the voters during elections. It also interviews and endorses candidates it feels will favor labor legislation. COPE is supported partly by voluntary donations from union members and partly from a yearly sixty-cents-per-member assessment made on each local union. The funds garnered from the assessment go to pay staff and to educate the union membership concerning union issues. The voluntary contributions are used to assist candidates for federal political offices. Contributions to candidates in state and local races can be legally made from local union treasuries. The total COPE budget for voter registration in 1970 was about $16,000. This did not include money expended for staff salaries. COPE did not donate to the Consumers' Council.

James W. Murry, executive director of the Montana AFL-CIO, said his organization could compete with Montana Power as a countervailing power in some situations. He said, "We don't have as much money as the Company, but we have a field organization of people, who knock on doors and vote, that money cannot buy." This organization was effective in 1963 when the AFL-CIO thwarted the campaign of a "right-to-work" committee that Robert D. Corette, Montana Power lobbyist and board member, served on.

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39 Interview with James W. Murry, September 1, 1968.
Informing the Membership

The AFL-CIO and its member unions communicate with their members via "house" organs that are usually published monthly. But the state organization has not had a general membership paper recently. The People's Voice used to promptly articulate labor's position on matters before it ceased publication in 1969. But after The Voice folded, labor was a year and one-half late in publishing a legislative voting record. Labor now relies on the commercial media to reach its member. In this way it also reaches Montana's 50,000 to 55,000 workers who are not affiliated with the AFL-CIO.

This haphazard communication with its membership does not fulfill the requirements of a good public relations program. Such a program requires that labor build a constant, continuing reservoir of opinion and understanding that is favorable to labor's position. Unless a reservoir of favorable opinion is maintained, Montana Power will be able to more easily embark at some future date upon a successful anti-labor public relations campaign. And then labor's position as a countervailing force to Montana Power will have been weakened.

This chapter has been a discussion of the support that existing interest groups gave to help the Consumers' Council countervail the power of the Montana Power Company. The next chapter will detail the extent of the Montana Power monopoly and its influence in Montana.
CHAPTER V

THE EXTENT OF MONOPOLY POWER

While those who would oppose the corporate interest were struggling for support from the people, the opposition has been unified and ready for action. The alliance of mining, finance, ranching and mercantile interest has been able to go forth to battle as a unit. Almost always in Montana political life this natural alliance has been able to confuse and divide the progressive forces before they assembled.¹

An Energy Monopoly

Montana Power is a governmentally protected electric and gas utility monopoly. Today it sells to 79 per cent of Montana's population in the largest service area, 96,000 square miles, of any public utility in the United States.²

As Figure 1 illustrates, Montana Power supplies energy to 182 communities in 41 of Montana's 56 counties. In addition, it energizes 440 miles of electric railway.

Missoula, Montana's Garden City, is progressive center of education, industry and transportation.

Directors

Dean Chaffin
Bozeman
President, Montana Automobile Association

Sam B. Chase
Butte
Former Senior Vice President & Counsel

J. E. Corette
Bozeman
Chairman of the Board & Chief Executive Officer

Robert D. Corette
Butte
Attorney—Corette, Smith & Deen

Newell Gough, Jr.
Helena
Attorney—Gough, Booth, Shamian & Johnson

*Adrian O. McLellan
Great Falls
President, First National Bank of Great Falls

George W. O'Connor
Butte
President

R. H. Robinson
Missoula
Attorney—Gartington, Lohn & Robinson

Clark E. Simon
Billings
President, Oleson Department Store

L. S. Studler
Butte
Vice Chairman of the Board

John E. Tenge
Billings
President, Midland National Bank

*—Elected Nov. 25, 1969, succeeding Errol F. Galt, retired.

Officers

J. E. Corette
Chairman of the Board & Chief Executive Officer

L. S. Studler
Vice Chairman, Chief Operating Officer

George W. O'Connor
President, Chief Operating Officer

Colin W. Raff
Vice President

J. J. Harrington
Vice President

W. W. Talbott
Vice President

**W. H. Coldiron
Vice President & General Manager

J. F. Doran
Assistant

F. V. Woy
Assistant

Margaret Sullivan
Assistant

Charles J. Gilder
Assistant

Howard L. Painter
Assistant

**—Elected vice president June 18, 1969

—Elected secretary Sept. 1, 1969, succeeding D. J. McCalister

Division Managers

D. M. Leuchen
Billings

Kennon W. Munrow
Bozeman-Livingston

A. C. Duclos
Butte

Louis G. Brewer
Great Falls

Dix C. Shevalier
Helena

C. G. Bruckner
Missoula

Walter G. Kelley
Missoula

Transfer Agents

PREFERRED STOCK
Office of the Company
First Montana Bank & Trust
Butte, Montana

COMMON STOCK
Office of the Company
First Montana Bank & Trust
Butte, Montana

Registrars

PREFERRED STOCK
Butte, Montana

COMMON STOCK
Butte, Montana

General Office
40 East Broadway
Butte, Montana
Electric Utility Monopoly

As early as 1922, Montana Power claimed it was the third largest hydro-electric enterprise in the United States with an annual output of 1,100,000,000 kilowatt hours. It led the nation in per capita consumption of electricity--each of its customers using an average of 2,061 kilowatt hours a year. Because of Montana's slow population growth rate, Montana Power's position among utilities has declined. By 1967, the year of a nationwide copper strike that decreased electricity consumption, 63 of the 224 U.S. electric utilities sold more electricity than did Montana Power. The Company remains dominant within Montana, however.

Montana Power owns 11 of the 17 electric-producing facilities in the state and has petitioned as a partner with three other companies to build another project or two on the Snake River between Idaho and Oregon. Other investor-owned utilities own two generating plants in Montana and the federal government possesses the remaining four. The government sells some of its electricity to Montana Power. The Company purchases about 825,000,000 kilowatt hours a year from the Bonneville Power Administration--enough to satisfy the electricity needs of all of the Company's residential customers.

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3The Daily Missoulian (souvenir edition), Montana Power Co. advertisement, July 20, 1922, p. 22.

4"The Top 100 Electric Utilities," op. cit., p. 83.
In 1967, Montana Power owned more than 4,686 miles of electric transmission lines in its service area.\(^5\) With a few exceptions, these are the only transmission lines in the area. And Montana Power used them to transmit or "wheel" 438,285,569 kilowatt hours of electricity for other distributors in 1967.\(^6\) This did not include power the Company transmitted for itself. Transmission lines carry electricity from the production facilities to the distribution facilities. They are the inter-city lines that carry electricity at high voltages. The intra-city lines that carry electricity to homes and businesses at lower voltages are called distribution lines.

Montana Power had more than 9,773 miles of electric distribution lines serving 167,061 customers in 1967.\(^7\) Since Montana is one of two states in the nation that does not have public utility districts, the only competition the Company has in electric distributions comes from the rural electric cooperatives. In 1967, the Montana cooperatives


\(^6\)Montana Power Co., 1967 Form 1 Report to the FPC, pp. 425 A and B.

had a combined total of 35,173 miles of transmission and
distribution line that served 52,783 customers. Since the
cooperatives operate in sparsely populated areas, they have
fewer customers—only 1.5 per mile of line—than the Montana
Power Company, which has 11.6 customers per mile of line.
Because they have fewer customers to pay for more utility
plant, the cooperatives are not in a strong financial
position to offer much countervailing power to the Company.

Coal, Oil and Other Ventures

In addition to its electricity ventures, the Montana
Power Company is also developing other forms of fuel.
Western Energy Company, a wholly owned subsidiary of Montana
Power, controls 850 million tons of coal reserves in
Montana. Most of this coal will be used by Montana Power
to fuel steam-electric generating plants like the one
recently constructed in Billings. Some of the coal is being
sold to utilities in the Midwest. Recent technological
developments have made it possible to produce pipeline gas,
gasoline, and other synthetic fuels from coal. So it is
possible that some of Montana Power's coal will be marketed
for these purposes. But, to date, negotiations with companies

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8 Montana Associated Utilities, 1968 Directory, op. cit.,
p. 63.

9 Some of these coal reserves are controlled by the Com-
pany through leasing at a low price. For example, on March 1,
1964, the Montana Power Company leased 1,198 acres of coal
land in Big Horn County for one dollar a year per acre.
interested in using coal in this manner have ground to a halt.\textsuperscript{10}

Montana Power had $2,537,688 worth of oil properties in Montana in 1967. It also participates in Canadian oil ventures through its wholly owned subsidiaries, Altana Exploration Company and Canadian-Montana Gas Company, Ltd.

The Company owns city water systems in Missoula and Superior.

\textbf{Gas Utility Monopoly}

Montana Power also monopolizes gas energy production. When the Cut Bank field developed in 1931, the Company constructed a 20-inch pipeline from the field to Helena, Anaconda, and Butte.\textsuperscript{11} And in 1954, Montana Power bought the northern Montana gas distribution facilities from Montana-Dakota Utilities.

Montana Power owned 1,657 miles of gas transmission line in 1969—the only gas transmission pipeline in western Montana. It also owned 1,304 miles of gas distribution mains. With minor exceptions, Montana Power is the sole source of supply for all domestic, commercial, and industrial consumers of natural gas in the western two-thirds of Montana. The


exceptions include three gas distribution companies in Great Falls, Shelby, and Cut Bank, which buy gas at wholesale prices from Montana Power. These three companies serve about 21,400 customers. Montana Power sold at retail to 84,791 natural gas customers in 1969. The percentage of people using natural gas in cities served by Montana Power ranges from 79 to 91 per cent.

Montana Power has 475,000 acres of gas leases in Montana and produces approximately 40 per cent of the state's natural gas. It sold 50,200,000 Mcf of gas to Montanans in 1968. One Mcf equals 1,000 cubic feet. The other major producer in the state is Montana-Dakota Utilities. Independent producers have been able to sell about 3 to 3.5 billion cubic feet of gas (3,500,000 Mcf) to Montana Power each year, but the Company has relied on gas imports from southern Alberta, Canada, for 75 per cent of its gas.

**Monopoly Pricing Advantages**

**High Crest Gas Sale Offer**

In 1966, because of its monopoly position, Montana

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15 Coleman, op. cit., p. 9.
Power was able to buy gas from independent Montana producers at an average wellhead price of 8.3 cents per Mcf. In the rest of the United States, the 1966 wellhead price averaged 15.46 cents per Mcf—approximately double the price in Montana. In 1968, High Crest Oil Company offered to sell gas to Montana Power for 12 1/2 cents per Mcf at the wellhead. This was nine cents less than the border price Montana Power paid for Canadian-produced gas. The Company refused the High Crest offer saying that it would require "more than $2 million during the first four years" to gather the gas, store it, and deliver it to the line at useable pressures and in regulated amounts.16

Undaunted, High Crest offered to deliver gas to the Montana Power Company in Great Falls for 27 1/2 cents per Mcf—14 1/2 cents less than the wholesale price Montana Power was charging the Great Falls Gas Company. Montana Power still refused the High Crest gas saying that it preferred to continue buying Canadian-produced gas because the reserves there were proven.

J. E. Corette, Montana Power's board chairman, told the Great Falls Rotary Club that High Crest claimed a proven reserve of 260,000,000 Mcf. But he said that FPC geologists had estimated the reserve at 95,000,000 Mcf and that independent

geologists hired by Montana Power calculated that 180,000,000 to 190,000,000 Mcf of proven gas were in the field. 17

High Crest said that the Montana reserves connected to the Montana Power system in 1969 totaled only 121,000,000 Mcf. It said that a conservative 333,000,000 Mcf estimate of proven and probable reserves in the High Crest field would exceed the existing Montana Power reserve. And that the Bear Paw area that contained the High Crest field was an "excellent prospect" that "may contain as much as one to two trillion cubic feet of gas (1,000,000,000 Mcf)." Even if the Montana Power estimate that the field contained only 180,000,000 Mcf was correct, this would be sufficient to supply the Company in excess of 30,000 Mcf per day for 12 years. 18 And Montana Power was only requesting permission to import two-thirds that amount—20,000 Mcf per day in two increments—from Canada to satisfy increasing demand for gas and to augment the 50,000 Mcf already being imported each day. 19

After further exploration in its field, High Crest released the estimates of an FPC geologist who said the

17 Great Falls Tribune, February 18, 1968, pp. 1, 7.
18 Coleman, op. cit., pp. 8, 15.
19 Stadler, op. cit. See also Montana Power Co., 1969 Report to Shareholders, p. 5, for information regarding an additional 10,000 Mcf per day that Montana Power seeks to import.
reserves were in excess of 554,000,000 Mcf. Northern Natural Gas Company of Omaha, Nebraska, thought the field contained more than 700,000,000 Mcf of gas and offered to buy it from High Crest for 15\textfrac{1}{2} cents per Mcf paid at the wellhead. This price is 4\textfrac{1}{2} cents per Mcf higher than the final Montana Power offer and 3 cents per Mcf higher than the sell price High Crest had been willing to agree on. Northern Natural Gas Company plans to pipe the High Crest gas 130 miles from the Tiger Ridge field near Havre, Montana, to Swift Current, Saskatchewan.\textsuperscript{20} There it will meet a line which Northern Natural wants to build across Canada. The gas will eventually be marketed in the midwestern United States.

The new Northern Natural pipeline will undoubtedly introduce competition and higher prices into the natural gas market, all of which will be good for the independent gas producers in Montana. But the consumers will not benefit from the introduction of this new countervailing power. Montana Power officials say, "These increased prices must of necessity be reflected in our sales rates, and sooner or later either cause an increase in the price of gas to our customers or prevent any possible decrease in such prices."\textsuperscript{21}

\textsuperscript{20} Coleman, op. cit., pp. 11, 16-18; Great Falls Tribune, March 2, 1970, p. 1.

This prediction is no consolation to consumers who watched Montana Power let lower prices slip through its hands.

**Explaining the Refusal to Buy**

Cost-plus contract.—An explanation of why Montana Power refused to purchase High Crest gas was suggested by High Crest attorneys who thought that Montana Power might have Canadian arrangements that would enable it to receive a double or more return on its own investment in Canadian gas. Montana Power buys Canadian gas under a cost-of-service plus seven and one-half per cent contract with Alberta & Southern Gas Company, a wholly owned subsidiary of the Pacific Gas and Electric Company. \(^22\) Alberta & Southern buys its gas for resale from several Canadian producers including Altana Exploration Company, a wholly owned subsidiary of Montana Power. After these transactions, the gas is piped to Montana by the Canadian-Montana Pipeline Company, which Montana Power owns jointly with three other utilities. \(^23\)

High Crest attorneys said that "Montana Power apparently includes its Canadian reserves in its rate base" and receives a return on that investment from Montana consumers. In


however, the border price of gas purchased from Alberta & Southern is included as an *operating* expense in Montana Power's cost of service. This could result in a situation where Montana Power could earn a return on Altana's reserves, obtain unregulated income from the sale of gas from those reserves at the going Canadian producer price, and then *re*purchase its gas supplies from Alberta & Southern... and recover this expense in its cost of service.²⁴

L. S. Stadler, chief operating officer of Montana Power's gas and oil department, said the High Crest supposition was "totally and completely false." He said that the only Canadian gas reserves that Montana Power includes in its rate base were those of the Canadian-Montana Gas Company, Ltd., which does not sell gas to Alberta & Southern but which pipes gas directly to the Canadian-Montana Pipeling Company. Altana reserves are not included in Montana Power's rate base and apparently Altana sells gas to Alberta & Southern and to Trans-Canada Pipelines, Ltd. only because its reserves are located too far north to be reached conveniently by the Canadian-Montana Pipeline Company.²⁵

Montana Power does not sell as much gas—a few billion cubic feet a year—through Altana to Alberta & Southern as it buys from Alberta & Southern via the Canadian-Montana Pipeline Company. Montana Power has not, however, negotiated a separate


²⁵Stadler, op. cit.
contract with Alberta & Southern to pay only transportation charges on that portion of gas that Alberta & Southern handles for Montana Power. Instead, Montana Power pays for all the cost of service (including Alberta & Southern's cost of purchasing, storing, and transporting gas) plus seven and one-half per cent for all gas, whether purchased or repurchased, from Alberta & Southern. The contract between the companies does not have to be approved by any regulatory agency. It was negotiated in 1961 when the interest rate on utility bonds was about four and one-half per cent, but it allows Alberta & Southern an unregulated seven and one-half per cent profit. This profit is well above the six to six and one-half per cent return generally accepted as adequate by utility regulatory commissions.

The money that Montana Power receives from the sale of Altana gas is not recorded in the Company's books as "operating revenue." Rather it is labeled "nonoperating income." This means that the money Montana Power received for the sale of Altana gas is not used to help the consumers pay for the repurchase of that gas. Instead the money is held aside and paid to the stockholders as dividends. The stockholders probably should be allowed a return on the money that they have invested in Altana, either through including Altana's assets in the rate base or through income obtained from Altana's sale of gas (as is now the case). But under

the present system, Altana sells to Alberta & Southern for a price higher than the average wellhead price of natural gas in Alberta. Indeed, Altana now sells its gas for between 13\frac{1}{2} and 18 cents per Mcf gathered and "sweetened" depending on the contract situation. The average wellhead price in Alberta was 15.37 cents per Mcf in 1969.

Under the present setup, Montana Power could have offered to accept the cost plus seven and one-half per cent contract if Alberta & Southern would agree to "adequate" compensation for Altana's gas. Such an agreement, even if it was not arrived at through a conspiracy to set prices, (and J. E. Corette said it was not), but through a tacit understanding of the mutual benefits to the companies involved, militates against the consumer. He has to pay for it all in a higher gas bill.

High Crest attorneys postulated another reason why Montana Power might have refused to buy gas at High Crest prices. They said, "Evidently Montana Power hopes to use its dominant position in the gas business to acquire the High Crest gas at a distressed price, or perhaps buy the reserves themselves."\(^{27}\)

Lawyers for the Great Falls Gas Company were present at the Montana Power Company rate increase hearings, but they did not intervene on behalf of the consumers. In fact,

\(^{27}\)Attwell, \textit{op. cit.}, p. 82.
instead of urging Montana Power to accept the low price offered by High Crest, they waited until the Public Service Commission increased the wholesale gas price paid Montana Power from 42.5 cents per Mcf in 1967 to 45.3 cents per Mcf in 1969. Then Great Falls Gas petitioned the Public Service Commission for an increase of its own rates based on the increased cost of gas purchased from Montana Power. Only two protestants, State Senator Richard G. Dzivi and Cascade County Treasurer Clarence O. Lindseth, appeared in opposition to the Great Falls Gas Company request, which was unanimously granted by the Commission.

Interlocking personnel.—John Kenneth Galbraith states that, "retailers like the Great Falls Gas Company are required by their situation to develop countervailing power on the consumer's behalf."\(^{28}\)

It is difficult to explain why the Great Falls Gas Company did not act in accord with Galbraith's hypothesis by trying more vigorously to obtain lower rates. The Gas Company had a contract with Montana Power that did not expire until 1979, but High Crest offered to sell to Montana Power at Great Falls, as well as to the Gas Company. According to Montana Power, the rates charged Great Falls Gas were to be renegotiated in 1969. Why the existing contract could not have been changed at that time to reflect the lower price of High Crest gas is not made clear by the companies, however.

\(^{28}\)Galbraith, \textit{op. cit.}, p. 117.
It is possible that the relationship between the owners, directors, and personnel of the Montana Power and Great Falls Gas Companies is closer than meets the eye. Information on this relationship is very difficult to obtain, however. Attempts to obtain such information from witnesses at the Montana Power Company rate hearing met repeated objections from Robert D. Corette, the Company counsel. The information that is available follows.

Montana Power retains the law firm of Jardine, Stephenson, Blewett and Weaver in Great Falls. Samuel B. Chase was with this firm before he became a lawyer for and director of Montana Power. John H. Weaver is the present designate in the firm and does most of the legal work for the Company. But Alex Blewett, Jr., a Montana Highway Commissioner and former majority leader of the Montana House of Representatives, is also a member of the firm. Blewett is a stockholder in the Great Falls Gas Company.

Blewett said, however:

The only thing I knew about those gas rate negotiations is what I read in the papers and I read quite a lot. This is the truth and I could say it under oath. I never consulted with anyone in either the Great Falls Gas Company or the Montana Power Company on this matter.29

He added that he had not communicated with Samuel B. Chase for some time and said that he thought Chase had retired from the Montana Power Company. He did not know that

29 Telephone interview with Alex Blewett, Jr., attorney with Jardine, Stephenson, Blewett and Weaver, July 15, 1970.
although Chase had retired as a vice-president and lawyer, he still held his position as a director.

Montana Power recently appointed Melvin M. Ryan to its legal staff in Butte. He was previously affiliated with the Great Falls law firm of Church, Harris, Johnson, Williams and Allen. Two members of that firm, I. W. Church and Carter Williams, are on the board of directors of the Great Falls Gas Company. Ryan represents Montana Power when it negotiates with Great Falls Gas.

**Lines of Monopoly Influence**

**Interlocking Personnel**

Having interlocking or common personnel is not uncommon among many Montana corporations. For example, John D. Stephenson, another attorney in the firm of Jardine, Stephenson, Blewett and Weaver, is on the 10-man board of directors of the First National Bank of Great Falls. Harold K. Dickinson, a retired division manager of the Montana Power Company, is also on that board. And Errol F. Galt, chairman of that board, was on the Montana Power board of directors until 1969, when he was succeeded by Adrian O. McLellan, president and board member of the First National

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30 Other directors include: J. Patrick Lannan, H. M. Saubert, Earle Garrison, R. V. Dehon, and Forrest C. Hedger (who donated $100--more than anybody else--to the primary campaign of Democrat J. Anderson, an unsuccessful candidate for the Public Service Commission in 1968).

Bank of Great Falls. The First National Bank of Great Falls is a member of the First Bank Stock Corporation of which J. E. Corette, Montana Power board chairman, is a director.

Other Montana member banks of the First Bank Stock Corporation include: Westside First National Bank, Great Falls; Western Montana National Bank and Southside National Bank, Missoula; Valley State and Midland National Banks, Billings; First Metals Bank, Butte; First National Banks in Helena, Havre, Bozeman, Lewistown, and Miles City; First State Bank, Forsyth; First National Park Bank, Livingston; First Choteau County Bank and the First Trust Company of Montana. John E. Tenge, president of the Midland National Bank, is a Montana Power director. And Pete Hamilton, Havre mayor who promised help to the Consumers' Council but who never did is an employee of the First National Bank of Havre.

J. E. Corette is also a director of the Pacific Gas Transmission Company, which is 50 per cent owned by Pacific Gas and Electric Company and which buys gas from Alberta & Southern and transports it to the Pacific Gas and Electric Company in California and to the El Paso Natural Gas Company.

Before he died, Walter H. McLeod, Montana president of the Missoula Mercantile Company, was a co-director with J. E. Corette of the Northern Pacific Railway and Montana Power Companies. Former Montana Power director, W. J. Jameson of Billings, and present director, R. H. Robinson, have done legal work for Northern Pacific. J. E. Corette has
become a director of the Northern Pacific's successor, the Burlington-Northern Railway Company, a consolidation of four railroads. He is also a charter member of the Upper Midwest Research and Development Council, an economic research group that sends its reports to legislators and other Montana leaders. Montana Power donated $10,500 to this Council between 1964 and 1967.

Consumer Solicitor Confronts the Web of Influence

The extent of the Montana Power Company's connections can easily be illustrated by relating the experiences of a Consumers' Council fund raiser. Rather than rely exclusively on interviews for information about the problems encountered by Consumers' Council solicitors in July of 1968, I engaged in a day of soliciting to get first-hand information on the reaction of businessmen to the consumers' cause.

The Missoula Mercantile.—Wayne L. Grow, controller for the Missoula Mercantile, was contacted first. The case against the rate raise was explained and Grow was invited to attend a meeting with Consumers' Council president William E. Hunt to gain further information, or to donate to the Council.

After consulting others in the store, Grow declined the invitation to attend the meeting or to donate. At the time, he gave no explanation other than, "We don't think we would be interested in this at this time."
A year and one-half later, in January of 1970, it was noticed that Montana Power's stockholder reports named Walter H. McLeod, Montana president of the Missoula Mercantile Company, as a former director of the Montana Power Company. The Mercantile has recently been sold to the Bon Marché chain and McLeod has died. But it is conceivable that people who are still employed by or who invest in the Mercantile are also directly interested in Montana Power's welfare. When directors of the Montana Power Company die or retire, members of their firms are often nominated to fill the vacancy. For example, Arthur F. Lamey of the Billings law firm Coleman, Lamey and Crowley succeeded W. J. Jameson, a senior partner in the firm, on the Montana Power board of directors. And R. H. (Ty) Robinson, a lawyer in the Missoula firm of Garlington, Lohn and Robinson, succeeded Harry C. Pauly as a Company director. Pauly was a member of the Garlington firm when it was called Murphy, Garlington and Pauly. Also, a Helena attorney, Newell Gough, Jr. of Weir, Gough and Matson, took the place of Taylor B. Weir on Montana Power's board of directors.

Wayne L. Grow said he thought the hypothesis that the store did not donate because of its affiliation with Montana Power was not correct. He said the store had not been affiliated with McLeod since 1959 when the Allied Chain had bought it from the Montana Mercantile. In further explaining why the store had not donated to the Consumers' Council, he
said, "We can't give to everybody who comes in here with his hand out or we'll be bankrupt in no time." When asked if the store would donate to an organization that would help keep its costs down, he said that it was true that the store's utility bill had risen substantially.

But, there is not much we can do about an increase. That is all set by the government, the Federal Power Commission or the Federal Trade Commission or one of those agencies. They and the utilities keep it pretty quiet until the raise is announced and once it is granted you can't do much about it.32

It could be concluded from this interview that the reason the Mercantile did not donate to the Consumers' Council may be more due to Grow's misunderstanding of the utility rate-setting process than to the influence of interlocking financial interests.

The First National Bank of Missoula.—After contacting the Mercantile management, I ventured across the street to the First National Bank of Missoula, an independent bank not affiliated with the First Bank Stock Corporation. A former schoolmate, Martin L. Mikelson, was asked if bank president Randolph Jacobs was in. Mikelson said that Jacobs was not expected back that day and asked why Jacobs was being sought. After it was explained that Jacobs was going to be asked to donate to the Consumers' Council, Mikelson replied, "I don't think Mr. Jacobs would be interested in anything like that. Besides I'm not a very good

person to be talking to about this. I married Bob Corette's daughter, Susan, and we own quite a bit of stock in the Power Company." Robert D. Corette is an attorney and director of Montana Power.

The Florence Hotel.—The quest for funds was continued at the Florence Hotel, Missoula's largest. Robert C. Lemm, the hotel's general manager, said that he did not believe the Florence Hotel would want to oppose the Montana Power Company's rate increase request even though a raise would add to the costs of running the hotel. He said, "The Company does a lot of business with us and we would not want to do anything to make them mad." A month later, in August of 1968, while scanning a Montana Power Company report to the Federal Power Commission, it was noticed that the Company had acquired in August of 1940 250 shares of Hotel Florence Company stock. It sold the hotel stock in 1967, but perhaps the vestiges of Company influence could have remained. Table 5 contains a list of investments that Montana Power is involved in. From this list the reader can ascertain who is not going to be inclined to oppose a Montana Power rate raise request.

St. Patrick Hospital.—Since hospitals use a lot of gas and electricity and since St. Patrick Hospital in Missoula had been an active contributor against a previous Montana Power Company rate raise, the hospital's administrators were solicited for a Consumers' Council donation. After
### TABLE 5

SELECTED 1967 MONTANA POWER COMPANY INVESTMENTS

<table>
<thead>
<tr>
<th>Investment</th>
<th>Worth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Butte Brass &amp; Controls Co. stock</td>
<td>$25,000</td>
</tr>
<tr>
<td>Downtown Parking Inc. stock</td>
<td>10,000</td>
</tr>
<tr>
<td>Economic Development Corp. stock</td>
<td>500</td>
</tr>
<tr>
<td>Hotel Florence Co. stock</td>
<td>25,000</td>
</tr>
<tr>
<td>Grizzly Peak Inc. stock</td>
<td>1,500</td>
</tr>
<tr>
<td>Lewistown Community Hotel Co. stock and deben.</td>
<td>10,000</td>
</tr>
<tr>
<td>Missoula Development Corp. stock</td>
<td>600c</td>
</tr>
<tr>
<td>Missoula Snow Bowl stock and deben.</td>
<td>16,000</td>
</tr>
<tr>
<td>Montana Hotel Corp. stock</td>
<td>1,000</td>
</tr>
<tr>
<td>Pacific Northwest Power Co. stock</td>
<td>5,000</td>
</tr>
<tr>
<td>Park &amp; Shop, Inc. stock</td>
<td>6,000</td>
</tr>
<tr>
<td>Pacific Gas Transmission Co. stock</td>
<td>663,000</td>
</tr>
</tbody>
</table>


*Disposed of in 1967 at a net loss of $21,875 to Montana Power.*

*Disposed of in 1967 at a net gain of $16 to Montana Power.*

being referred to two different people in the hospital, the solicitor was told to contact the patients' accounts manager, Dennis L. Ryan. Ryan said that his brother, Melvin, was an attorney for the Montana Power Company and that he would not approve a contribution to oppose something his brother was fighting for.

None of the Missoula businessmen contacted accepted an invitation to an evening meeting with Consumers' president William E. Hunt. The meeting netted nearly $30 in small contributions from housewives, teachers and workers. Thinking
that some Missoula businessmen would want to donate even though they had not desired to attend the meeting, Hunt sent a followup letter requesting funds. The response was negligible. One businessman who had actively opposed the Company's 1962 gas rate increase request and who did not want to be quoted by name said that he was not going to become active in the consumer effort or donate this time because the effort he had extended in 1962 had little effect on the Public Service Commission's decision.

This chapter has detailed the extent of Montana Power Company activities and suggested lines of political influence that might be in effect because of the alliances of Company personnel. Some of the tactics that Montana Power uses to influence public and group opinion will be elicited in chapter six.
CHAPTER VI

THE TACTICS OF GROUP INFLUENCE

If the twins Montana Power and Anaconda Mining Companies dislike candidate or project, the chances of either usually have been very slim indeed.¹

Political Action Groups Support Company Policy

In 1961, after being addressed by Robert D. Corette, the Kalispell Chamber of Commerce urged its members to write the Public Service Commission favoring a Montana Power gas rate increase request that Corette said was necessary to provide capital for expansion of natural gas service into the area. The Chamber's communication to its members said "that the Commission had received very little support from the Valley requesting gas, and since the Commission is a political body, this interest is very important."² Twenty-five letters from 37 Kalispell Chamber members were received by the Commission. The Chamber's prodding drew editorial criticism from The Daily Inter Lake because the introduction of natural gas would replace a $350,000 fuel-trucking industry

¹Howard, op. cit., p. 334.
²Letter from Kalispell Chamber of Commerce to its members, November 28, 1961.
with a $80,000 gas industry and thereby leave 50 men un­
employed.\(^3\) Since Montana Power did not serve Kalispell with
either gas or electricity, its personnel were not members of
the local Chamber as were some of the fuel truckers. Yet, the
Kalispell Chamber stood in direct opposition to its truck-
line members in favor of the non-member utility.

As in the aforementioned example, the Chambers of
Commerce and the Montana Taxpayers Association have often
represented interests that are compatible with Montana Power's
interests, such as more utility service, a retail sales tax,
lower unemployment compensation benefits, or opposition to a
1949 proposal of the Department of Interior to build electric
transmission lines for Fort Peck and Hungry Horse Dams. So
consumer advocates like William E. Hunt and Harry L. Billings
speculated that these two interest groups would favor the
rate raise request. In order to evaluate this speculation,
it is necessary to look at the nature and function of these
groups.

The State and Local Chambers of Commerce

The Chamber of Commerce, which is not related to the
Junior Chamber of Commerce, is a three tiered organization.
The Missoula Chamber, for example, had 850 members in 1968,
including 650 business and professional firms. Some of these
firms are among the 1000 business affiliates of the Montana

\(^3\)The Daily Inter Lake (Kalispell), December 3, 1961, p. 4.
Chamber of Commerce. The Missoula Chamber is among the 100 association affiliates to the Montana Chamber. Association affiliates include local Chambers of Commerce, Rotary, Lions, Kiwanis, and other service clubs; and interest groups such as the Montana Stockgrowers or the Woolgrowers. The Montana Chamber affiliates with the United States Chamber of Commerce.

The Montana Power Company belongs to the Montana Chamber of Commerce and to about 32 local Chambers. It paid dues of $4,844 to the Montana Chamber in 1967 and a total of $5,089 to the Billings, Butte and Great Falls Chambers. Information on 1967 dues payments to other local Chambers was not released, but from past information, it can be estimated that dues are near $5,000 in total. Executive vice presidents, Norris E. Johnson, of the Missoula Chamber and Del H. Siewert of the Montana Chamber say their associations are not subordinate to Montana Power.

Missoula Chamber of Commerce.--Johnson said that Montana Power had not asked the Missoula Chamber to support the rate raise as the Company had asked it to support the


5 Montana Power Co., Form 1 Report to the FPC, 1962-1967, p. 427. These organizational dues payments are included as a cost of service in an "above-the-line" account and are charged to the consumer. They are not like charitable donations which are included in a "below-the-line" or non-cost of service account and charged to the stockholders.
lighting of Missoula's streets. He said, "We would support the Company on a legislative issue, but it is not in our interests to take a position on an issue of this type." Would the Missoula Chamber oppose the rate increase? Johnson answered, "Probably not. How do you stand against people who are members?" Would the increase be opposed if Montana Power were not such a large dues payer ($1,060 in 1965)? Johnson said dues are of little consideration because "it wouldn't bother our $70,000 yearly administrative budget if the Company cut off funds." He said that Chamber functions, like the coordination of boxcar pools to gain low freight rates, would continue to be performed for other members if the Company quit. He said that tourist and convention promotion such as the paying of $1,000 to the Amateur Athletic Union to entice the skibob races to the Snow Bowl (see Table 5) would also continue. He said his organization could not be controlled by one segment of business as investor owned utilities because it welcomed members with other views such as cooperatives. But Johnson also said that 100 per cent membership of all of Missoula's businesses was not his organization's goal. He thought there were 200 potential Chamber of Commerce members in Missoula, but that "many can't afford membership; some don't believe in the free enterprise system; and some we wouldn't want as members because they use bad business practices."6

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6Interview with Norris E. Johnson, executive vice president, Missoula Chamber of Commerce, August 21, 1968.
Only one local Chamber of Commerce--Musselshell Valley--wrote the Public Service Commission opposing the 1968 rate raise. This may not be significant since only two Farmers Union locals and five labor union locals wrote the Commission.

Montana Chamber of Commerce.--Del H. Siewert said it was difficult for the Montana Chamber to get involved in the rate raise controversy because "even experts disagree on rates." He said, "Maybe I'm naive, but I don't think that the outside consultants the Power Company has hired are a bunch of crooks who have sold their souls." Siewert, whose appointment as executive vice president was suggested by Robert D. Corette, said the Company was in a difficult situation because some of those who wanted utility rates reduced were "the same people who want the Company to spend more to reduce thermal pollution or to increase recreation facilities at Hauser Dam."

He said that the Chamber's newspaper, The Montana Citizen, would probably not editorialize on the rate raise request for its 13,000 subscribers in the state and local Chambers unless Chamber committees or boards decided it should. And that was unlikely because "quite frankly, we try to create a back-scratching situation," he said. "That way, if a member has to raise money for the community chest, he gets help from others who know that the favor will be returned when they need help."
Siewert said that most of the Chamber's policy is formulated in committees or from tabulation of a membership referendum, as that taken on the sales tax. Committees, working in the general areas of community development, education, taxation, agriculture, transportation, travel, industry, and public affairs are appointed by the Chamber president and approved by 15 elected directors. Appointment to committees is made after polling the members about their interests. A member may be appointed to as many committees as he cares to serve on.\(^7\)

Montana Power officials are involved in this committee structure. The 1964 budget and finance committee contained four Montana Power directors. At least four of the 11 Company directors have been president of the Montana Chamber. And Robert D. Corette is the second Montanan to become a director of the U.S. Chamber of Commerce. Walter G. Kelley, division manager of Montana Power, was elected 1969-70 president of the Missoula Chamber, but resigned to accept a promotion. The 1968-69 Missoula Chamber president, Dr. C. P. Brooke, is a Montana Power stockholder. Other Company stockholders who are active in chamber of commerce affairs include C. H. Rittenour, Plains banker, and Robert G. Arnot, Sr., Conrad furniture dealer.\(^8\)

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\(^7\)Interview with Del H. Siewert, op. cit. For analysis of Company influence on the Chamber see Chap. I, pp. 14, 19, 20.

\(^8\)This list of relationships of Company personnel and stockholders is not complete, but rather a sample to illustrate that which is true in many localities.
Explaining the Raise to Stockholders

On February 13, 1968, Montana Power sent a letter to its 13,295 Montana stockholders explaining the rate increase request. Similar communications have been sent to stockholders explaining past policies. Therefore, because they receive special information and because of their financial interests, Company stockholders should be inclined to favor rate raise requests. There are exceptions, however.

Senator Lee Metcalf owns 10 shares of Montana Power and State Senator William H. Bertsche is a stockholder. Bertsche, when manager of the Great Falls Brewery, testified against a proposed 1962 Montana Power rate increase. He said, "the proposed rate penalized industrial customers of the Great Falls Gas Company. And the Brewery was a customer." He was asked if he had compared the dividends he earned as a Montana Power stockholder with what the rate increase would cost him as manager of the Brewery and decided that a rate increase would not be offset by increased stock earnings? "No!" he said, "Maybe I'm not like others, but I never compared the dividend income to the Brewery expense. I merely bought Montana Power stock as a good investment."^9

Apparently stockholders other than Bertsche do not compare their Montana Power dividend income to what their utility costs would be after an increase. Assuming, as Senator

^9Interview with William H. Bertsche, Jr., state senator, Great Falls, Mont., August 10, 1968.
Metcalf claims, that Montana Power charges each customer an average of $60 a year more than would be necessary for the Company to earn a "fair" six and one half per cent return on an original cost rate base; and assuming that each share of common paid the 1970 yearly dividend of $1.68, one would have to own 36 shares of Montana Power to gain enough dividend income to cover the unnecessary utility bill outgo. And, an investment of $1,008 would be needed to purchase 36 shares at current prices near $28 a share.

Furthermore, assuming that the electric bill for using 500 KWH of electricity each month increased $15.48 a year as a result of a rate raise and that the resultant increase in dividends was eight cents per year a share (Montana Power's average for the last decade), a shareholder would have to own 194 shares of common for seven years to make up in increased dividends what he would lose in the payment of a higher utility bill for the rest of his life (28 years). An investment of $5,432 is required to purchase 194 shares of stock at current prices.

While Montana consumers will pay an extra $8,700,000 in 1970 because of the utility rate raise, Montana Power's Montana common stockholders will only earn an extra $78,116 in dividends in 1970 (based on eight cents per share per year increase in dividends). Since a large number of Montana

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Power's Montana shareholders do not receive enough in dividends to "break even" after a rate raise, one could theorize that they would oppose any rate increase if they were acting strictly in their own economic interests. Stockholders, however, rarely oppose utility rate increases. Their "maximum propensity to oppose (MPO)" the Company is low.

Maximum Propensity to Oppose

The maximum propensity to oppose, illustrated in figure two, is the maximum part of a dollar that might be spent in opposition to a utility rate raise by the consumer for each extra dollar raise requested by the utility. The amount of resources a consumer would lose (RL) yearly because of a rate raise is plotted on the right half of the horizontal axis. The amount of resources a stockholder, company manager, charity, electrical or labor union member, or company patronized business would gain or retain yearly because of a rate increase is called resources gained (RG). These anticipated gains promote a low maximum propensity to oppose the utility because they might be lost if the increase is not granted or the patronage might be revoked by the utility if the recipient openly opposes the rate raise. The several factors which compose the maximum propensity to oppose are derived from resources lost and resources gained.

The dollar value of an individual's time, donations
or other resources which he is willing to expend (RE) in one year either opposing a utility rate raise (REO) or supporting one (RES) is plotted on the vertical axis. Resources expended in opposition (REO) will be equal to the resources lost (RL₁) plus alpha—alpha being a loading factor to account for long run expectations and emotional willingness to contribute more in opposition in one year than would be lost because of a utility rate raise. \( REO = RL₁ + a \). Consumer leaders have high alpha loading factors.

Resources expended in support (RES) will be equal to the resources gained (RG) plus beta—beta being a loading factor to account for long run expectation of gain and for emotional willingness to give more in support in one year than would be gained in that year because of a rate raise. \( RES = RG + b \). Utility officials have high beta loading factors.

The alpha and beta loading factors will usually be zero unless the individual to which the formula is being applied is anticipating long run (more than one year) loss or gain resulting from the increase. Resources expended will equal the resources expended in opposition minus the resources expended in support. \( RE = REO - RES = (RL₁ + a) - (RG + b) \). The maximum propensity to oppose the utility is obtained by dividing the resources expended (RE) by the resources lost plus one one-hundredth \((RL + .01)\). \( MPO = \frac{RE}{(RL + .01)} = \frac{REO - RES}{(RL + .01)} \). The .01 is added to the denominator to prevent division by zero (undefined) in
cases involving the utility company employees who get special utility rates as part of their employment benefits and so therefore are not as affected by a rate raise as ordinary consumers. If the maximum propensity to oppose is positive, there will be a tendency for the individual to act against the utility; if the maximum propensity to oppose is negative, there will be a tendency to favor the utility. If the minus sign is dropped from a negative maximum propensity to oppose, the result is a positive percentage which is called the maximum propensity to support (MPS).

Examples of MPO.--If the rate raise would increase a consumer's yearly utility bill $15.48 (RL) it would be
plotted at point L on figure two. If the consumer was willing to expend $15.48 (REO) in donations or organizational time allotted to the Consumers' Council, it would be plotted at point L. The maximum propensity to oppose the utility would be +100 per cent plotted at point C (MPO = RE/(RL + .01) = $15.48/$15.49). If, however, the consumer anticipated that the increase would cost him more in years to come, he might be willing to expend more than $15.48 to support the Consumers' Council during the year of the rate hearing. This would depend upon his financial ability to donate from current disposable income. If he donated $25 (REO plotted at point A), his alpha (a = LA = RA - RL) would be $9.52 and his MPO would be +166 per cent plotted at point C. MPO = ($15.48 + $9.52)/($15.48 + .01).

A stockholder, however, has a lower maximum propensity to oppose the utility than a non-stockholder because he makes up in increased dividends and appreciated stock prices, part of what he loses as a consumer from increased electric rates. For example, a shareholder with 100 shares of Montana Power common stock who was anticipating an eight cent per year dividend increase as a result of a rate raise would expect to gain $8 a year dividends. This would lower his resources expended to $7.48 (RE = $15.48 - $8 = RL - RG = GL). In this case, MPO would equal 48 per cent ($7.48/$15.49) and unless emotional factors affected his decision, this man could afford to donate to the Consumers' Council no more than 48
cents out of each dollar his utility bill increased. A larger donation would cause him to lose money.

If this stockholder determined that he would receive eight cents extra dividends during the first year of the increase and 16 cents a share during the second year, 24 cents during the third, and so forth, he might decide income would exceed increased utility bill outgo. So, his beta would increase in anticipation of future profits and MPO would shrink to zero or become negative. In this case, the man might conceivably invest some money to help the utility get a rate raise because his RES would be at point B. In the following example, alpha and beta are the losses and gains figured for the second and third years a rate increase is operative. $MPO=\frac{RL_1 + a}{RL + .01} - \frac{(RG + b)}{(RL + .01)} = \frac{(15.48 + 30.96)}{(15.48 + .01)} - \frac{(8 + 40)}{(15.48 + .01)} = -1.16/15.49 = -7\%$. Since MPO is minus, it becomes the maximum propensity to support (MPS=7\%) plotted at C2.

Donations Reduce MPO

The Company is able to reduce the maximum propensity to oppose of groups in the society other than shareholders by restoring to them in charitable contributions or Company patronage, part of the money which is lost because of rate increases. It was mentioned in Chapter V that hospitals would naturally have an interest in low utility rates because they use large amounts of energy. Hospitals, however, have a conflicting interest because, as Table 6 illustrates,
TABLE 6

DONATIONS FOR RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY OR EDUCATIONAL PURPOSES CHARGED TO MONTANA POWER STOCKHOLDERS 1964-1967

<table>
<thead>
<tr>
<th>RECIPIENT</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>St. Peters Hospital Building Fund, Helena</td>
<td>$18,000</td>
</tr>
<tr>
<td>St. Johns Hospital Building Fund, Helena</td>
<td>6,035</td>
</tr>
<tr>
<td>Mary Swift Tumor Foundation, Butte</td>
<td>2,500</td>
</tr>
<tr>
<td>4-H Program, Bozeman</td>
<td>11,035</td>
</tr>
<tr>
<td>YMCA, Butte</td>
<td>8,600</td>
</tr>
<tr>
<td>Boy Scouts of America, Butte</td>
<td>1,500</td>
</tr>
<tr>
<td>Montana School of Mines Alumni Fund, Butte</td>
<td>12,300</td>
</tr>
<tr>
<td>Rocky Mountain College, Billings</td>
<td>6,000</td>
</tr>
<tr>
<td>College of Great Falls</td>
<td>3,900</td>
</tr>
<tr>
<td>Carroll College, Helena</td>
<td>3,450</td>
</tr>
<tr>
<td>University of Montana, Missoula</td>
<td>3,225</td>
</tr>
<tr>
<td>Montana State University, Bozeman</td>
<td>1,170</td>
</tr>
<tr>
<td>Harvard University Graduate School, Boston, Mass.</td>
<td>1,000</td>
</tr>
<tr>
<td>Community Chest, Great Falls</td>
<td>15,750</td>
</tr>
<tr>
<td>Community Chest, Butte</td>
<td>12,400</td>
</tr>
<tr>
<td>United Givers, Missoula</td>
<td>8,250</td>
</tr>
<tr>
<td>United Neighbors, Billings</td>
<td>7,700</td>
</tr>
<tr>
<td>United Givers, Helena</td>
<td>1,000</td>
</tr>
<tr>
<td>American Red Cross, Butte &amp; other cities</td>
<td>3,409</td>
</tr>
<tr>
<td>Upper Midwest Res. &amp; Dev. Council, St. Paul</td>
<td>10,500</td>
</tr>
<tr>
<td>Western Governors Conference, Helena</td>
<td>5,000</td>
</tr>
<tr>
<td>Helena Chamber of Commerce</td>
<td>1,500</td>
</tr>
<tr>
<td>American Legion, various cities</td>
<td>1,380</td>
</tr>
<tr>
<td>Freedom's Foundation, Valley Forge, Penn.</td>
<td>1,100</td>
</tr>
<tr>
<td>Montana Safety Foundation</td>
<td>1,000</td>
</tr>
<tr>
<td>Island Development Committee, Missoula</td>
<td>2,000</td>
</tr>
<tr>
<td>Sleeping Buffalo Recreational Assoc., Malta</td>
<td>1,000</td>
</tr>
<tr>
<td>Russell Gallery, Great Falls</td>
<td>3,333</td>
</tr>
<tr>
<td>J.F. Kennedy for Performing Arts, Omaha, Neb.</td>
<td>1,000</td>
</tr>
<tr>
<td>Miscellaneous other donations (915) many of which</td>
<td>60,100.92</td>
</tr>
<tr>
<td>may have been received by the same benefactor at</td>
<td></td>
</tr>
<tr>
<td>different times. The Company refuses to release</td>
<td></td>
</tr>
<tr>
<td>the names of these benefactors.</td>
<td></td>
</tr>
</tbody>
</table>

TOTAL $215,137.92

Montana Power frequently donates to hospital building funds. A hospital will have higher utility bills if the rates are raised, but it might lose Company donations if the increase is opposed. So, donations reduce the maximum propensity to oppose of hospital administrators. Similarly, a rate raise will increase substantially the electrical costs of the University of Montana computer center, but the Company's donation of money to help get the last computer will lower the maximum propensity to oppose of the chairman of the computer science department, especially if he needs a new computer and hopes the Company might donate again. If the "charity" or recipient group has trouble funding itself, the maximum propensity to oppose will be lowered by Company donations more than would be the case if the group could depend on funds from someone else.

Utility donations are rarely given with an overt "gun-at-the-head" do not oppose us or lose the donation attitude. The object of donations is to evoke good feelings toward the Company which will help overcome detrimental sentiments. The trick in giving is to help the recipient rationalize that he has not accepted a bribe, and keep him thinking that he is still a free agent. If he were pressured by Company officials to pull his punches, his reaction would probably cause much detrimental sentiment toward the Company. On the other hand, since the donations are to build good will for Company positions, the Company does not finance
projects which conflict with its policies. Montana Power, for example, did not respond to a League of Women Voters' request for funds to publish *Know Your State*, a booklet that presented factual material on state taxation and legislative reform. Montana Power has in the past supported numerous innocuous publications such as high school band programs or University of Montana theater programs.

The other Company sponsored projects include: Boys State, the Thomas Alva Edison Foundation Science Institute for 350 educators at Bozeman, field trips to the Company's offices in Butte for University of Montana business students, Rose Bowl Parade floats, and the Screen News Digest, a current events film series which is said to have reached 150,000 Montana students.\(^1\)

Sometimes Montana Power officials are invited to speak before groups to which the Company donates. Montana Power also belongs to the Montana Taxpayers Association, an organization which maintains a speakers bureau to espouse the business community's philosophy.

*Montana Taxpayers Association*

**Organization and Purpose.**—Montanans often confuse the 49-year-old Montana Taxpayers Association (MTA) with temporary local groups such as the Cascade County Taxpayers Association. S. Keith Anderson, executive vice president of

\(^1\)The *Montana Power Outlet*, July, 1968, p. 12.
the Montana Taxpayers Association, says that his group has individual members in all of Montana's 56 counties, but does not allow local organizations to affiliate with MTA.\textsuperscript{12} Therefore, he says he is irritated when some local organizations oppose the legitimate needs of government and the MTA gets blamed for it. These ad hoc organizations generally have no staff and do little research on their programs. Anderson says that his organization has a yearly budget of $57,475 to support a staff whose main function is to audit school district, county and local budgets.\textsuperscript{13} These audits uncovered errors which saved Montana taxpayers from $1,100,000 in excess levies between 1960 and 1967.\textsuperscript{14} MTA also conducts budget and tax schools for association members and government officials.

\textbf{Publications.--}In conjunction with this seminar, it publishes a pamphlet entitled \textit{Property Tax Laws}, the Montana Levy Book, which compares property tax levies by governmental unit for each county, and the \textit{Property Tax Budget Guide}, designed to aid officials in the analysis and preparation of budgets.

\begin{itemize}
\item\textsuperscript{12}The MTA does, however, publish a booklet entitled \textit{Good Government Begins at Home: A Guide to Forming and Operating a Local Taxpayers Association}. Apparently, MTA encourages the formation of local groups even though it discourages affiliate members.
\item\textsuperscript{13}Montana Taxpayers Ass'n., \textit{1967 Annual Report} (Helena), p. 2.
\item\textsuperscript{14}Ibid., p. 4.
\end{itemize}
Lobbyists for the more than 2,000 individual members of the MTA oppose increased taxes and budget proposals the MTA considers unnecessary and legislation it believes will "hamper" business or increase the functions of government. It publishes the Legislative Bulletin to inform members on these activities.

MTA recently acquired an offset press which it uses to publish the Montana Taxpayer, a bi-monthly newspaper with a 1967 circulation of 2,818 for association members. The MTA has obtained very good press coverage of its programs. It mails frequent press releases to all of Montana's daily and weekly newspapers. In addition, MTA has a mailing list of 5,000 individuals to which it can disseminate information.

Structure.—The membership of MTA is very loyal says S. Keith Anderson. "Once we get a member, we keep him even though he may sell his ranch or go out of business." Since most adults pay taxes, MTA has a very broad based membership, and a larger potential membership than any other Montana interest group. MTA's board of directors is selected from 27 different business classifications including: transportation, banking, legal, medical, utility, lumbering, agricultural, tourist, insurance, mercantile, manufacturing, mineral, and real estate. According to Association literature, membership


16 Interview with S. Keith Anderson, executive vice president of the Montana Taxpayers Ass'n., August 13, 1968.
includes "an unusually large number of out-of-state business firms." 17 One-third of the members are farmers and ranchers and they pay about one-third of the "voluntary" dues.

Finances.—The amount of dues payment to the Association is said to be "voluntary," but the directors have established minimum memberships and other guidelines for maintaining the "voluntary" levels of support.

MTA and Montana Power.—In 1967, the Montana Power Company paid $3,413 in dues to the MTA—one-twentieth of the Association's total revenue. 18 Emmett F. Buckley, manager of Montana Power's tax and insurance department, serves as one of the MTA's 27 directors.

The MTA took no stand regarding Montana Power's rate increase request. Company personnel and S. Keith Anderson all said that Montana Power officials never asked the MTA to pass a resolution favoring the rate increase. Neither were MTA members urged to write letters to the Public Service Commission supporting the increase. 19

Anderson said, "The Montana Power Company has never been on my back in an attempt to exercise undue influence on me. And if it did, the board would not stand for it." He

17Montana Taxpayers Ass'n., Citizen Action.
18Montana Power Co., 1967 Form 1 Report to the FPC, p. 427
said he felt that the MTA board was comprised of individuals who are "highly independent in thought and action." He said the board is non-partisan (but there were at least twice as many Republicans as Democrats on it). And he felt it was well balanced because it was comprised of "directors from 27 different segments of the community to insure that no interest dominates." Board members usually are not so heterogeneous that they destroy MTA policy, however. Anderson said board members are chosen partly on the basis of personality to minimize the possibility that a board member would continually oppose the executive secretary or the president. The directors are elected at the annual meeting of the MTA and meet two or three times a year as the need arises to formulate policy and to approve the work program. Between board meetings, a seven member executive committee, composed of the president, three vice presidents and three directors, transacts necessary business.

It was estimated that Montana Power's proposed increase would raise state and local taxes, so Anderson was asked if MTA would oppose the increase because of the tax increase. He said the MTA "could not become involved in attacking its own members because factions would rip the group apart." He said he envied single-occupation organizations like the stockgrowers or bankers because he thought they did "not have the problem of walking a tightrope over conflicting policy interests" (they sometimes do). Anderson did
say, however, that he thought it was "clearly illegal for municipal governments to donate to the Consumers' Council." He said, "This would be like a unit of government donating to a political party." 20

Emmett F. Buckley, Company tax and insurance department manager, said MTA did not take any stands for or against a utility raise "whether it be gas, light, or water, because the raise should be granted on the basis of need demonstrated to the Public Service Commission and not because of political pressure." (Compare this statement with the one made by the Kalispell Chamber of Commerce on page 163.) 21

Company Patronage Increases Resources Gained and Lowers MPO.—Carl E. Dragstedt, a Missoula merchant and former MTA director who was not on the board during the increase request, said he imagined that the MTA did not oppose the raise because the directors were personally sold on the idea that a tax increase resulting from the utility rate increase was necessary since the utility needed more revenue to continue the service it had given in the past. He said the Company had always been fair in its dealings with him and so he had no need to doubt the need for the rate increase. He said that during the 52 years he had done business in Missoula, the Company had engendered his good will by buying "gloves, work clothing, and certain types of boots" locally, from him. 22

20 Interview with S. Keith Anderson, op. cit.
21 Interview with Emmett F. Buckley, op. cit.
Dragstedt is not the only merchant who has reason to appreciate Montana Power's patronage. The Company buys cars and trucks from Montana merchants to update its 560 vehicle fleet. The Company's advertising claims, "One of our policies is to purchase locally, either from a Montana dealer or from a national representative who maintains offices in the State, all of the equipment, materials and tools that can be obtained." In 1965 it spent $6,274,000 within Montana on such items.23

Cordial employee relations increase beta emotional factors and lower the MPO.—Dragstedt said the Company had always treated his brother-in-law, who was a Company accountant, fairly. He said that when his brother-in-law retired a few years ago, "the Company rented him a cottage at Kerr Dam for $75 a month. Utilities, lawn care, and garbage disposal were provided for that price. And when his wife had a heart attack, the Company remodeled the cottage for free so she wouldn't have to climb stairs." He said that about eight of 12 cabins at Kerr Dam are occupied by retired Company employees. At one time, the cabins were occupied by workers at the Dam. But because of increased productivity, it no longer requires that many workers to operate the Dam.24

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24 Dragstedt, op. cit.
Information Management

Montanans have not mobilized more opposition to Montana Power partly because they have lacked accurate information about Company activities. It costs between 70 cents and five dollars to produce a page of transcript from a utility rate hearing (depending on overtime paid for overnight transcribing). The transcript of Montana Power's 1968 rate hearing contained more than 1,200 pages. Early in the hearing, Glen E. Mahoney, the Commission reporter said that a transcript copy would cost about $200—a prohibitive price for any consumer interested in probing the validity of an increase request. At one time in Montana history it was necessary to examine the hearings transcript to obtain an impartial picture of the proceedings because Montana newspapers did not report hearings objectively.

Reporting the 1944 hearings.—As has been stated in Chapter I, the Anaconda Copper Mining Company did not sell its daily newspapers until June 1, 1959. Four Montana Power directors were on the boards of directors of these papers during the 1950s. One ACM paper, The Daily Missoulian, completely ignored the 1944 FPC-held hearings in Butte. The Capitol Press in Oregon gave the hearings more publicity

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than most Montana papers.  

The independent Great Falls Tribune ran Associated Press (AP) accounts of the testimony on page four during 22 of the 35 days of hearings. But these accounts were written for the AP by E. G. Leipheimer, publisher of the Company-owned Montana Standard; Colin W. Raff, Standard reporter who has since become a Montana Power vice president; and Ira K. O'Malley, AP reporter who replaced the Standard's correspondents or "stringers." Publisher Leipheimer reported the hearing only during the testimony and cross-examination of Cornelius F. "Con" Kelley, ACM's board chairman and a counsel to Montana Power's first president, John D. Ryan. Leipheimer's accounts praised Kelley and Ryan for bringing electricity to Montana. The following is his report of FPC attorney, Reuben Goldberg's cross-examination of C. F. Kelley:

"I am not an expert. I couldn't answer that," Kelley told him.
"Neither am I," Goldberg replied.
"That's apparent to both us [sic]," Kelley quipped.  

The People's Voice said the Butte courtroom was packed with Anaconda Company employees and "finely dressed women, who laugh and applaud at Kelley's attempts to be humorous . . . and then snicker and sneer at the federal power

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28 Great Falls Tribune, April 6, 1944, p. 4.
attorneys." It reported that when Kelley was under cross-examination by his own lawyers, he could apparently recall the slightest detail of a transaction occurring away back in 1909. . . . It seems to be a different story when the power commission counsel prod him in cross-examination and ask him to recall some large transaction perhaps involving millions of dollars which he and Ryan manipulated in 1912 and 1913. He slumps dejectedly in the witness chair; he can recall nothing; his memory has failed him completely. However, the power commission staff then go to the four large trunks of letters, documents, minutes, and exhibits which they have compiled . . . and bring out a letter, usually written by Kelley himself, or to Kelley by Ryan, and refresh the ACM official's memory, much to his disgust and embarrassment, and over the heated objection of the utility company's counsel . . . .

The AP stories contained lengthy explanations of Montana Power's expert's reasons for classifying the Company's property differently than the FPC accountants. But, not once did the AP stories give a detailed, understandable account of the FPC position which was labeled "highly technical." The usual method of portraying FPC witnesses is illustrated in the following description of testimony by Charles W. Smith and Russell C. Rainwater: "Their testimony mainly described the FPC staff's position on accounting procedures, on interpretation of the commission's uniform system of accounts and on items in the accounts of the Montana Power Company." These stories were full of details

29 The People's Voice, April 7, 1944, p. 4.
31 Great Falls Tribune, April 14, 1944, p. 4.
32 Ibid., May 6, 1944, p. 4.
about how long the FPC witnesses had dealt with power companies, but did not relate what the FPC staff's position actually was. These stories included only one relevant FPC figure, saying on numerous occasions: "The hearing was on an order to show cause why the Company should not adopt the FPC staff report . . . and write approximately $50,000,000 off the Company's books." 33 The $50 million figure was wrong. The FPC wanted $53 million stricken from the Company's rate base.

Joseph Kinsey Howard, then editor of the Great Falls Leader, sent a stack of AP releases on the hearings to high officials of the Associated Press with his comments. The head of the Montana AP Bureau, Hugh Thompson, was released for letting such important material written by "Company stringers" go out over the AP wire. Thompson then became a reporter for The Montana Standard before leaving Montana a short time later.

Consumers denied advertising space.—During the 1944 hearing, the Butte Miners Union had attempted to advertise the holding of a mass meeting to support the FPC. Both The Montana Standard and the Butte Daily Post refused the advertising, adding to the blackout on consumer information. 34 The blackout had been lifted slightly by the

33Ibid., May 13, 1944, p. 5.
34The People's Voice, April 28, 1944, p. 1.
Company press on the coverage of consumer activities by 1954 when a group of 400 people from around Montana met in Helena to protest the granting of the Montana Power gas and Mountain States Telephone increases. The Independent Record announced the holding of the meeting in a two-sentence story.\(^{35}\)

**Montana Power advertising.**—After ACM sold its newspapers, Montana Power found other means of getting publicity. The Company more than quadrupled its advertising in the Great Falls Tribune-Leader, placing 728 column inches of ads in 1957 and 3,445 column inches of ads in 1966. The most advertising was done in the year the ACM papers were sold (1959) when 6,995 column inches of advertising was placed in the two papers (roughly 41\(\frac{1}{2}\) pages at 168 column inches per page). In 1966, Montana Power spent at least $336,338.52 advertising products—gas and electricity—which no one else could sell in that service area because the Company has a legally granted monopoly. This increased each customer's utility bill $2.03 since advertising expense is charged to the customer as an operating cost.\(^{36}\)

Montana Power advertising often features electrical and gas appliances and offers incentive light bulb packets,

\(^{35}\)The Independent Record, March 11, 1954.

\(^{36}\)Data figured from Montana Power Co., 1966 Form 1 Report to the FPC (accounts 913, 930, 2930, 2913); 1969 Report to Stockholders, p. 8.
etc., free to appliance purchasers. Since Montana Power does not sell appliances, they must be purchased from local merchants who are allowed to display their wares in the showroom of Company offices around the state. This policy engenders the good will of appliance dealers in Montana.

Putting the "press" on the Press

Hot Springs Sentinel.—Some Montanans believe that if Montana Power does not get the treatment it wants in the state's newspapers, it sometimes retaliates by canceling advertising or printing contracts. Richard C. Shirley, editor-publisher of the now defunct Hot Springs Sentinel said that he was visited in the middle 1950s by Owen E. Grinde who was concerned about Shirley's editorial position on the Paradise Dam issue. He said that Grinde told him that the purpose of Montana Power advertising was to promote good will and if Shirley did not have good will Grinde implied that there was no point in advertising in the Sentinel. Shirley continued editorializing and lost his advertising for the several years until he ceased being editor and moved to a paper in Eureka, Montana, in June of 1960. Once under a new editor, the Hot Springs Sentinel regained Montana Power advertising.37 Shirley said that Montana Power has placed a

37See for example, the last issue of the Hot Springs Sentinel before it combined with The Plainsman on August 4, 1960.
small amount of anti-cooperative advertising in his Eureka paper, but only because it was the only way to reach people in that area. He has not received the general Company advertising usually sent to other papers each week. He is in a rural electric cooperative service area where the Company does not advertise unless they have to in order to maintain a favorable climate.38

Editor Fears Advertising Loss.—K. A. "Doc" Eggensperger, the editor of the Sanders County Ledger, a western Montana weekly, intimated that he was approached at a Helena meeting by a Company official who delivered a "polite hint reminding me that Montana Power was a good advertiser, and saying that it was not in the Company's interest to give as much publicity as had been given by my paper to the Committee for Paradise Dam." Eggensperger said he would not have changed his policy, but that he did not have to in order to avoid losing Company advertising because "the issue died down shortly after that meeting."

The Western News.—Hamilton's Miles Romney said that he had fought with the Missoula Light and Water Company from the time he took over The Western News from his father in 1922 until Montana Power bought it. Soon after the fight was continued with Montana Power, and according to Romney, "several different firms, oil and tire distributors (Conoco), ceased to advertise with me." He said that friends of his

who were local agents of these firms told him that his paper was blackballed on a list circulated by Montana Power. He was careful to say that he could not prove, beyond what he had been told, that such a list ever existed. Romney discounted the theory that the local distributors were just "passing the buck" to the Company as an excuse for not wanting to advertise in The Western News. He said they advertised with his competitor who at that time had a smaller circulation than his paper. The Western News still has comparable to cheaper advertising rates than the Hamilton daily paper.

Romney said he leased The Western News to his printer, Walter B. Rothe, for seven years when he and his father worked for the federal government. Rothe, who had no political viewpoints, obtained Montana Power advertising. Romney returned in 1937 and resumed running the paper. Within two weeks, Montana Power advertising stopped. Since that time The Western News has received Montana Power advertising only when Montana Power brought gas to Hamilton.39

Advertising Revenue Important.--Montana Power advertising is an important revenue source for several weekly newspapers. Thirty-six per cent of the total advertising in the October 6, 1966, Belt Valley Times was Montana Power sponsored (70 column inches--two ads). Throughout most of the 1966-1967 period during which the paper was examined, the Company ran

39 Telephone interview with Miles Romney, editor-publisher, The Western News (Hamilton), July 24, 1970.
weekly 30 to 40 column inch ads that accounted for 10 to 36 per cent of the total advertising placed in the Belt Valley Times.

Despite this advertising dependence, most editors of Montana weeklies have never been threatened with loss of Company advertising. And they feel that their newspapers are free from Company domination. Donald R. Coe, editor of The Plainsman, and Campbell C. Calvert, editor of the Laurel Outlook, have both taken editorial stands against Montana Power and say they have not been pressured by the Company because of it.

Independence is of little consequence if editors' views are the same as the Company's. Some editors have never been threatened with loss of advertising because their viewpoints rarely differ from that of the Company. Some of them, like Livingston publisher, Fred J. Martin, own Montana Power stock. Publishers are free enterprise businessmen and many of them compare their independent situation to that of the utility whose ads say that American totalitarian influences desire a government-owned press and a government-owned utility business.

This independence has a long tradition in Montana as is illustrated in the following research printed in 1934 by

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40 Telephone interview with Donald R. Coe, editor of The Plainsman (Plains), and Campbell C. Calvert, editor of the Laurel Outlook, July 24, 1970.
Daniel Whetstone, archetype frontier editor of the Cut Bank Pioneer Press:

Jerry O'Connel of Butte, democratic candidate for Public Service Commission, . . . is loudly attacking the electric rates charged by Montana Power and telling his hearers it is robbery . . . . A comparison of rates here and those charged by companies serving San Francisco, Los Angeles, Denver, Fort Worth, and Salt Lake is interesting. The rate charged by the Montana company is lower than any of them.41

Ten years previous to this editorial, Whetstone had vehemently denounced Company opposition to Governor Joseph Dixon's reelection. He detested the Company press as a prostitution of the function of a newspaper. And he said Montana Power was paying too little for federal land leased on Flathead Lake. But on the utility rate issue, he sided with the Company which did not supply electricity to his town. This editorial position fit well his philosophy that the value and pride of the press in a democracy was its independence.42

Some weeklies were not as independent as the Pioneer Press. The Phillips County News, for example, reprinted a Company submitted editorial on the Knowles Dam issue in 1962.43

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41 Cut Bank Pioneer Press, October 19, 1934, p. 3. See page 59 for discussion of material similar to that presented in this editorial.


"Conventional" public relations.—Montana editors are annual guests at a Montana Power sponsored dinner at the Montana Press Association convention. In between times, Company officials drop in to chat with editors or explain Company activities. Samuel C. Reynolds of The Missoulian and Edward P. "Daz" Furlong of the Great Falls Tribune said they received such visits from Company officials during the spring of the 1968 rate hearing. Owen E. Grinde said he delivered the February release announcing the rate raise request to the AP and The Montana Standard because he "happened to be in Helena and Butte that day."  

Once at the hearings, Grinde wrote one to seven pages of press releases each day concerning the 1968 hearings. The consumers had no paid staff to write releases for them. Over 50 per cent of the material used in AP stories on eight of the 13 days of the hearing came from Company press releases. The AP is the only statewide news agency subscribed to by the Montana daily newspapers. United Press International (UPI) and Intermountain News Network (IMN), whose reporters attended the hearings, release stories primarily to radio and television stations. Independent reporting by the Great Falls Tribune and Lee Newspaper state bureaus, however, counterbalanced the AP reports somewhat. And the press coverage was better than it had been in 1957 when Gretchen G. Billings and Owen E. Grinde were the only "reporters" at the Montana Power electric

44Grinde, op. cit.
rate increase hearing.

Asking who for what, when and how.--When figuring the maximum propensity to oppose, there is an apathy factor or zone of tolerance which must be accounted for. The more resources lost (RL), the more likely that the individual's zone of tolerance to the increase will be exceeded. And the more likely that he will oppose the rate increase, especially if MPO is also high. Two consumers may both have MPOs of 100 per cent, but the consumer with a potential resource loss of $1,000 a year will be more inclined to oppose the rate raise than a consumer with a potential loss of $15. Therefore, utilities sometimes try to nullify opposition from large industrial users by negotiating separate contracts with them which do not impose as large a percentage increase on them as on small residential or commercial customers.

Montana Power had negotiated a three per cent increase in rates with several large industrial customers prior to seeking its 15 per cent 1968 rate increase from other customers. The industrial customers were able to keep their increase small because they can switch to other forms of energy if electric rates get too high. And since their bills were not increased 15 per cent, they had no interest in opposing the increased rates sought from other consumers. By negotiating separate industrial contracts, Montana Power avoided the impact of an opposition from coalition between

45 The People's Voice, November 15, 1957.
industrial and other consumers.

The 1968 example is not the first time that Montana Power has prevented a consumer coalition from reaching its full strength (see Table 2, note a). In 1948, the Company requested to increase the electric bill for only those customers who used over 1,000 KWH of electricity a month. The small number of customers in this category were unable to mount effective opposition to the increase.

Conclusions about the effects of Montana Power's tactics on the political system will be drawn in Chapter VII.
CHAPTER VII

THE EQUILIBRATION OF GROUP INTERESTS

We have to shield ourselves not only from State autocracy but also from group autocracy or particularism.

In rebuttal to French sociologist notion that three tiered society (individual group, primary group, and nation) protects primary group members from being overwhelmed by the nation.¹

Equilibrium Not Attained

The hypothetical equilibrium—that the rate raise would be prevented—did not materialize. The Public Service Commission allowed Montana Power to raise its rates 15 per cent.² The Commission did not grant everything the Company asked for. But it cannot be positively stated that there was much give and take or compromise between the Company and the consumers. The Company, it will be recalled, apparently did not expect to get more than 15 per cent, since that is the per cent by which it told the cities to increase their budgets. It may have asked for a 25 per


cent increase—more than it needed—to give itself some bargaining leeway. If this was the situation, rather than being compromise on Montana Power's part, it was all take and no give.

Some compromising did take place between the Public Service Commissioners when they made their decision on how much to grant the Company. Commissioner Boedecker moved that the Montana Power Company be allowed an amount of revenue which would in effect deny the rate raise request. The motion died. Commissioner Smith then moved to allow the Company a greater amount of revenue. Smith's motion passed with Smith and Steel voting in favor and Boedecker voting against.

The raise was not more effectively opposed because some real barriers exist to hinder mobilization of effective countervailing power to Montana Power. These are the barriers of legal precedent and governmental inefficiency, interlocking directorates and allied interests, the Company's economic power, and the public's lack of knowledge about or indifference to existing exploitation. These real barriers sometimes create imagined barriers to mobilization. The most common of these is the belief among consumers that the Company is so omnipresent and omnipotent that it does little good to attempt opposition to Company policies. The rest of this chapter is devoted to the discussion of these barriers and to suggestions on how they might be overcome.
The Commission Does Not Balance Conflicting Interests

As it is presently constituted, the Montana Public Service Commission does not properly fulfill its role of balancing conflicting interests. It is forced by inadequate financing to be more of a court than a regulatory agency. As was pointed out in Chapter II, Montana Power spent $82,914.20 in 1968 pursuing the $8,700,000 revenue raise. That was 39 per cent of the Commission's total budget for regulating over 858 utilities and carriers. The combined Consumers' Council and Public Service Commission expenditures for the entire preparation of the case amounted to roughly $39,000—half of what the Company spent in 1968. And Robert D. Corette said that Montana Power had spent $300,000 on its case which apparently included preparatory work the Company had done prior to 1968.

The consumers were unable to pay Dr. Kosh more than they did ($5,000). And since he thought he deserved more ($15,000), it is not likely that he will represent them again. Consumer experts often lose money fighting rate cases. The Brotherhood of Railway Trainmen backed out of the consumer effort during the 1957 Montana Power rate hearing and did not pay its legal representative $600. And William E. Hunt said he received $750 to cover his expenses as president of the Consumers' Council, but that he lost 50 days away from his legal practice while working on Council affairs.
If because of lack of finances, regulatory bodies take on the function of courts, adjudicating upon the merits which public utilities and consumers place before it, the market forces of monopoly power will be operative and regulation will be a sham. The utilities, because they can finance their rate case out of earnings and pass the cost of preparing the rate case on to the consumers, will be able to present a much larger case. The consumers, who must finance their case from donations, will be limited in their efforts.

Consumers Have Difficulty Mobilizing

The consumers will have difficulty organizing even if the press is free and does a credible job of reporting a rate hearing. The consumers will have difficulty organizing and the great mass of them will remain inert even in the face of substantial alleged overcharge because their maximum propensity to oppose and their resources expended in opposition are lowered because of their perception of the situation.

Consumer interests are obscured by utility press releases. — A consumer's willingness to expend resources in opposition to a rate increase are lowered by the way the utility announces the request — saying it will cost only pennies a day instead of dollars a year. This helps prevent the consumer from realizing his own interests. The free press publishes parts of utility press releases almost verbatim — partly because its reporters are rushed and partly because
the reporters lack expertise with which to interpret technical data. If reporters do try to interpret such data and make a mistake, like Jerry Madden did in phoning an article to the Great Falls Tribune, the Montana Power people go to the publisher and criticize the mistake. The nationwide wire services might remedy this problem if they hired a public utility reporter to travel the United States and be an expert in interpreting the utility data.

Mobilization is difficult if consumers believe regulation is effective. Another consumer attitude which hinders consumer mobilization and lowers the resources expended in opposition is the belief that the regulatory agency is capable of examining the merits of a case and judging on them. As Mayor Shoup said, "Why should Missoula contribute to the Consumers' Council and pay double for the job the Public Service Commission is supposed to do?" Commissioner Boedecker concurred saying, "It is a waste of money to hire a consumer expert if the Commission is doing its job." Consumers expect something they are not getting, however. The Commission is not carrying out its balancing function partly because it is underfinanced.

Mobilization is difficult if consumers believe regulation is ineffective. While some consumers believe the Commission is doing its job others are disillusioned and

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3Interview with Louis G. Boedecker, public service commissioner of Montana, Helena, September 4, 1968.
experience feelings of impotence which are increased by suspicions that public service commissioners take bribes. These suspicions are unfortunate. Only one of the three commissioners said he had been offered a bribe or pressured by a representative of a utility appearing before the Commission. He said the bribe offer came from a utility official (not Montana Power) who was transferred from Montana when the utility was informed of his activities. The Commissioner said that during this same hearing a consumer representative had told him to vote against the utility or he would use his organization's influence to beat him during the next election. These efforts did no good since they made the Commissioner quite indignant with some persons involved in both sides of the controversy.

Another rumor, that Elizabeth Holmes, once a wife of the late public service commissioner, John Holmes, was receiving more alimony than the commissioner's salary, is unfounded. The rumor spreaders said that the alimony check came directly from the telephone company. Another said it came from Montana Power. Elizabeth Holmes, an opponent of high utility rates who recently changed apartments because of them, said "John paid the alimony himself. It amounted to $400 a month for a short while. But he got it reduced to $300 a month during the last part of 1959 because he could not afford the higher payments."[^4]

Simplistic interpretation of economic trends hinders consumer mobilization.—Consumer protection groups have trouble organizing when consumers are satisfied with service and believe that they never had it so good. They know that the cost of doing business is going up and assume that costs must be going up for utilities too. Therefore, they reason that some increase is justified. Also, in times when people are prosperous, they do not mind paying more for something as long as it is available when they want it and as long as there is no trouble connected with getting it. Service and convenience are important.

Multiple memberships "short circuit" consumer organization.—Multiple and overlapping group memberships do little to restrain the activities of organized groups. But, they do act as a check on consumer mobilization. A prevailing philosophy of "live and let live" or "if you let us make a dollar, we will let you make a dollar" was abundantly exhibited by the Chambers of Commerce, the Montana Taxpayers Association, the Montana League of Towns and Cities, the Montana Press, bankers, merchants, lawyers, auto dealers, and even the rural electric cooperatives and some labor unions. In this connection, Mayors John J. McLaughlin and Thomas Powers may get more from the Montana Power Company in donations and "gifts" for the cities of Great Falls and Butte than they could by opposing the Company and advocating lower utility rates.
Interlocking directors and shareholders are not disposed to oppose Montana Power. As David Truman has said, "An individual's group affiliations largely determine his attitudes, values, and the frames of reference in terms of which he interprets his experiences."\(^5\) Also, Montana Power patronizing policies create conflicting interests in Montana businessmen and keep the maximum propensity to oppose low. During the last rate increase, the resources lost to Montanans equaled $8,700,000 and the resources gained (or potentially lost if the merchants opposed the Company rate increase) were almost equal to the resources lost. Montana Power spends over $6,300,000 a year on local purchases not including advertising (roughly $200,000), donations, new jobs, increased dividends (about $78,000), etc.

One of the reasons why multiple memberships do not act as a check on organized groups is because many consumers are not joiners. We know, according to Oliver Garceau, "that multiple memberships in a formal sense increase with education and socio-economic status."\(^6\) Many consumers who have an interest in preventing a rate increase simply do not belong to organized political interest groups and so they cannot temper policy in those groups. Even if these people

\(^5\)Truman, op. cit., p. 505.

perceive their interests, as some of them do, they still remain inert. They are non-joiners who do not spontaneously act to further their own interests. It takes money and time to organize these potential groups. And the job is doubly difficult in Montana because of the distances between cities.

**Large group lethargy stifles the consumers' power base.**—Even large groups, such as labor unions, or the Farmers Union have difficulty arousing their members to action. Mancur Olsen, Jr. says this is true because if one member in these large groups does or does not help support the Consumers' Council, neither he nor the other members will perceive the result. Therefore, nobody has incentive to act. In order for these large groups to function, group members must be forced to participate, says Olsen. So laborers vote the union shop, farmers vote to accept commodity controls, and citizens vote to sustain taxes. Each of these groups must invoke compulsion upon themselves, says Olsen, or individual members will "scab" on the system, enjoy the collective good (lower rates) without paying for it (hiring a consumer rate expert), and eventually destroy the group.\(^7\)

**Consumers are apathetic.**—Consumer apathy in all groups is illustrated by the fact that the Public Service Commission received petitions in opposition to the 1968 rate

raise which contained only 2028 signatures. Only one letter, from E. L. Alexander, an elderly former stockbroker, was received by the Commission favoring the increase. The 1968 petitions can be compared with those submitted in 1959 and 1961 which carried 2,800 and 1,800 signatures of consumers who opposed the rate increases. Other causes championed in 1968 were more popular even though the rate increase meant a loss of $8.7 million a year. Eugene McCarthy for President people got 15,000 signatures in two months in support of their candidate. And the Montana Retail Association successfully petitioned for 22,478 signatures to place the repeal of the inventory property tax on the ballot.

Perhaps consumers do not sign petitions opposing the rate increase because they feel the Commission will be oblivious to this type of political pressure. In 1953, 78 organizations, businesses and protestants were represented by 16 lawyers at the Montana Power gas rate hearing. Leo Gallagher, manager of Elliston Lime Company, said a gas rate raise would increase his costs $3,400 and cause his plant to shut down. The Commission granted Montana Power a 30 percent increase in gas rates three months after the request was made despite the statements of Gallagher and others similarly situated. After rendering its decision, the Commission indicted:

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8 Letter from Leo Gallagher, manager of Elliston Lime Co., to Harry L. Billings, no date. Elliston Lime continued to operate despite the increase.
the consumers who had fought this and another increase by stating:

Certain individuals have used these two petitions to further their own political careers. . . . It is anticipated that much to-do will be made or attempted by those whose political ambitions transcend their own good consciences. It is with the thought in mind that they will endeavor to cast an untrue light upon the facts in these two cases that this statement is issued.9

The Public Service Commissioners said that signed petitions have no effect because if a utility needs a raise whether or not to grant it is an economic decision and not a political one. Louis G. Boedecker said, "Petitions have a different effect on the Commission than they have on Congressmen. Nobody wants an increase. But sometimes we have to go on record and grant one."10

Consumers and anti-Company politicians who confront Montana Power gain feelings of impotence after losing a grueling battle with the utility. They feel like the Missoula businessman mentioned in Chapter V (p. 162). They feel that they can do little in opposition to a monopoly utility before an unresponsive Public Service Commission, so why try? This is the self-fulfilling prophesy—the attitude that the Company cannot be beaten so why try to beat them which results in the fact that the Company is rarely beaten because few people sustain their effort to beat it.

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9 *The Independent Record*, August 14, 1953.

Montana Power is not invincible.—It is in Montana Power's interest to maintain its invincible image because of the demoralizing effect it has upon opposition. But even Company officials contend that many machinations are wrongly attributed to the utility, such as the Montana Bank Examiner's questioning of Consumers' Council donations, or the complaints about Jarvis's Farmers Union radio program. W. H. Coldiron says, "If Montana Power did everything that everybody says we do, we wouldn't have time to run the utility business."\(^{11}\)

After he headed the Consumers' Council, William E. Hunt was beaten by a former Montana Power employee in his race for mayor of Chester. But he will not give the credit for his defeat to Montana Power. Hunt says, "Why give them one more notch in their gun that they do not deserve and scare off somebody who might try to oppose the Company and succeed." Hunt said he was beaten because of a street paving controversy and other criticism of his administration which did not surface until the last issue of the Liberty County Times before the election. He also said that the conservatives got out their voters and he did not do the same with his. Hunt lost to Norman W. Harju by approximately 60 votes. Hunt discounted Montana Power influence even though the Liberty County Republican Chairman had told him that he made two trips to Butte, presumably to confer with

\(^{11}\)Coldiron, op. cit.
Montana Power lobbyists about the election. Hunt said a Montana Power employee ran for the city council in ward one and was beaten. Harju resigned after one month as mayor to work for the Browning telephone company. Before resigning, Harju asked Hunt to be Chester's city attorney. Hunt declined the job and moved to Helena where he is currently director of the Montana Aeronautics Commission. W. H. Coldiron said that Montana Power had not attempted to beat Hunt.

Just as Hunt is not willing to give Montana Power credit for his defeat, Montana Power is not willing to give the consumers credit for the 6,550 vote primary defeat of Commissioner Paul T. Smith in 1970. W. H. Coldiron says that he does not know why Smith was defeated. But, because Smith beat Paul Cannon by 238 votes in Silver Bow (Butte), Cannon's home county and the hotbed of Montana consumerism, Coldiron did not believe in the "consumer rebellion" theory which AP capitol reporter J. D. Holmes had attached to Smith's defeat. Holmes pointed out that Smith had ten more years of exposure in elected office than Cannon and that Cannon had a poorer won-loss record. Smith won only nine of Montana's 56 counties—all but Musselshell being in the western

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13 Coldiron, op. cit.

congressional district. And Smith spent $9,084 on his campaign--$7,201 more than Cannon. Concentrated campaign spending in Democratic Butte could have given Smith the edge there but not in other parts of the state where consumers recalled Commission decisions made from 1967 to 1969 to increase the rates of the Montana Power, Montana-Dakota Utilities, Mountain Bell Telephone, and Great Falls Gas Companies and to increase city water rates in Great Falls, Butte and Hamilton.

Perhaps Smith was beaten because of the reason given by Arthur F. Bentley in his explanation of the Dartmouth College case. He said that "if the adjudicating agency decides against the majority will, the decision will soon be circumvented and the majority position substituted."\(^{15}\) No one can say for sure what the majority feeling about the rate increase is since neither Montana Power nor the consumers have sampled public opinion on the issue. But the rural electric cooperatives completed a statewide survey in the summer of 1970 which indicated that 61.1 per cent of Montana's people felt that electric rates charged by investor owned utilities were too high. Twenty-seven and one-half per cent said rates were about right, .9 per cent said rates

\(^{15}\)Bentley, op. cit., pp. 390, 391.
were too low and 10.5 per cent said they were not sure.\footnote{16}{Montana Associated Utilities, Direction for the 70's: What Montanans Say and Think About Rural Electric Cooperatives (Spokane, Wash.: Reid & Associates, 1970), p. 6, question 10. Five thousand questionnaires were mailed randomly to heads of households in all of Montana's counties. Twenty per cent returned their questionnaires. Of those answering, 71.8 per cent were furnished electricity by investor owned utilities.} Assuming that the voters did want to circumvent the high rates the Commission set, in Montana, it would require six years because only one Commissioner stands for election every two years.

**Redressing the Balance**

**Commission Reforms**

*Shorter election terms.*—If the Commission is not held immediately responsible for decisions it makes, the public tends to forget the unfavorable effects of decisions made several years prior to an election. To remedy this, two of the Commission seats should be up for election every two years as is illustrated in Figure 3. This would be accomplished if two Commission seats were elected for staggered four year terms with one of the four year terms being open for election every congressional election year. The third Commissioner would be elected for a two year term. This system of alternating terms would allow the voters to judge two of the Commissioners every two years, yet save two of the Commissioners the expense of having to campaign that often if they could win a four year seat.
FIGURE 3

PUBLIC SERVICE COMMISSIONERS' SUGGESTED LENGTH OF TERMS

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Larger salary.—Another barrier which tends to keep the Commission ineffective is the low salary paid Commissioners which does not attract the most competent people to seek the job. Consumer president William E. Hunt, for example, was urged to seek office as a Public Service Commissioner. He declined saying he could not afford to leave his legal practice for the Commissioner's salary if he was going to put his kids through college. A shortage of consumer-oriented candidates leaves the voters with little choice. More alternatives to the Commission's positions would be offered if the Commissioner's salaries were not lower than those paid by any other commission in the United States.

Larger budget.—The salaries and budget of the Commission could be expanded without a large tax increase. The Public Service Commission contributes about $240,000 more to the state coffers each year than it spends. This is revenue accrued from fees and licenses. The Commission reported to the U.S. Senate Subcommittee on Intergovernmental Relations that its budget and staff were insufficient and should be
increased by 25 per cent. Not all of the Commissioners agree with this, however.

A larger budget was discussed before submitting an appropriation request to the 1967 legislature. Commissioners Steel and Smith thought a small budget should be submitted and outvoted Commissioner Boedecker who favored a larger budget. Once the budget was submitted, Commissioner Smith told legislators the Commission would help keep costs down and would live with whatever was appropriated. So the legislature cut the budget request even further.

If a regulatory body is operating on a small budget, an "original cost" rate base is the least expensive method of determining utility value because it does not require as much time estimating complicated "trends" as does the reproduction cost new rate base method.

Promoting Utility Competition

In addition to invigorating the Public Service Commission, consumers can develop countervailing power to investor owned utilities by advocating competition. Competition can be obtained by developing government ownership of some (not all) electric generating, transmission, and distribution facilities. Competition can be obtained by


providing the customer-owned cooperative with territorial integrity so that their service areas cannot be raided at will by Montana Power. And competition can be developed by requiring the electric and gas divisions of Montana Power to become separate and competing energy companies.

**PUDs.**—Montana is one of two states which does not allow public utility districts or municipal electric systems. In some places, such as Eugene, Oregon, where electricity is sold for one-third of the price charged Montanans, municipal electric systems provide a source of revenue for local governments because they make in-lieu of tax payments. Yet the potentiality that public utility districts might emerge if electric utility rates were set too high did not act as a countervailing force and deter Montana Power from seeking higher rates. The balancing power of potential groups did not have the effect David B. Truman theorizes they should have (pp. 11, 12) because they are prevented by law from arising. State Senator John L. "Luke" McKeon introduced a bill to allow public utility districts into the 1969 legislature. The bill died in committee after several utility lobbyists testified against it. McKeon was the only person testifying in favor. PUDs do not arise very often anywhere. Only three municipal electric systems started in the United States in 1965, and seven others were sold to investor owned utilities.\(^{19}\)

\(^{19}\)Edison Electric Institute, *op. cit.*, p. 25.
Short term utility franchises aid competition.—Even if public utility districts were allowed in Montana, they would face other barriers which would make it difficult for them to be a potential threat to Montana Power. Montana Power has been granted franchises to serve many Montana cities, and legally, a city could not switch to a municipal electric system until its franchise expired. Also, once a public utility district is formed, it must obtain electricity from somewhere—probably from Montana Power generating and transmitting facilities.

Water conservancy districts aid competition.—A municipal electric system could arise more easily if Montana had a water conservancy district law which allowed small flood control, reclamation, electric generation, and other conservation projects. But, Montana Power lobbyists have managed to kill water conservancy district bills introduced into the legislature.

Federal generating and transmitting facilities aid competition.—Because Montana Power has a monopoly on most transmission facilities in Montana, it could control the supply and price of electricity to a municipal-owned utility. In fact, Montana Power did maintain a high price for wholesale electricity carried to rural electric cooperatives on Montana's "high line." It charged the cooperatives 8.77 mills per KWH until Congress appropriated money for a Havre-Shelby transmission line. Montana Power's wholesale
electricity rate then dropped to 5.5 mills a KWH. At that
time rural electric cooperatives bought electricity from the
federal government for 3.5 mills per KWH and Montana Power
bought electricity from the federal government for 2.5 mills
per KWH delivered free to Great Falls via the government
owned Fort Peck–Great Falls transmission line.

**Consumer Advocate**

If a commission is not equipped to probe utility
accounts extensively, its function will be like that of a
court which listens to both sides of a story and decides on
the basis of evidence presented. If a commission is going to
function as a court, the consumers will need a competent,
well financed advocate to express their side of the story.
Such a proposal has been suggested by Lee Metcalf and ten
other U.S. Senators who have introduced a bill to establish
an Office of Utility Consumers' Counsel (S. 607). Besides
requiring preparation of model regulatory laws and requiring
more extensive reporting of utility operations, stock options,
expenditures, and interlocking directorates, Metcalf's bill
would establish an independent agency known as the United
States Office of Utility Consumers' Counsel. Among other
things, the presidentially-appointed head of this agency
could make grants to state or local governments or to a
combination of such governments which represent a population
of 100,000 people or more. The grant would finance up to 75
per cent of the cost of establishing local utility consumers'
counsels who would appear at utility rate-making proceedings on behalf of the consumer. After all, Metcalf said, "The public provides public utilities, through rates, with such experts as the public utilities may require to protect the utilities' rights, but the public, through taxes, does not provide adequate funds for its own protection."\(^{20}\)

Will a U.S. Office of Utility Consumers' Counsel offer enough countervailing power to redress the "balance" between the Company and the consumers? It has been the hypothesis of this thesis that an equilibrium more favorable to the consumer can be more easily approached if the consumers have outside help. The Company has been beaten in controversies involving the Broadwater County Water Users and the Havre-Shelby electric transmission line when federal agencies intervened on behalf of Company opponents.\(^{21}\)

Will the federal government be able to shake loose an appropriation to finance an Office of Utility Consumers' Counsel? The FPC has had difficulty obtaining funds. Its staff is smaller now than it was in 1949, and it only has


\(^{21}\)See Howard, op. cit., pp. 334-342.
enough money to audit utilities once every seven to ten years. The appropriation for the Office of Utility Consumers' Counsel will be subject to the same political pressures of investor owned utilities which have kept public service commissions inept and the FPC hamstrung. According to the philosophy of Arthur F. Bentley, what the new office "will get, if it survives, will be what the people it solidly represents are strong enough to make it get, and no more and no less. . . ."  

If the utilities thwart the Office of Utility Consumers' Counsel proposal, outside help to aid in countervailing Montana Power's political influence will not be forthcoming. But even if the power of the utilities is temporarily countervailed by a consumer advocate and strong regulation, in the absence of competition, utilities could call an energy strike similar to the transit, postal, garbage, or teacher strikes recently witnessed in the United States. School systems cut programs when financing is not approved; utilities may do the same. Such a strike would redress the balance of power in favor of the utility.


23 Bentley, op. cit., p. 361.
And so, with all these possibilities in mind, group theorists are forced to re-evaluate their notion that the activities of interest groups will not hinder services necessary in a democratic society. Utility, garbage, and transit services are extremely important to the health and safety of the nation. So are equitable and fair utility rates. Competing interests must be "balanced" so that these two goals of public policy are compatible. A start in this direction may be made by adopting some of the aforementioned proposals.
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