

**BEFORE THE COMMISSIONER
OF POLITICAL PRACTICES
STATE OF MONTANA**

In re the Complaint against)	SUMMARY OF FACTS
BRAD MOLNAR;)	and
NORTHWESTERN ENERGY;)	STATEMENT OF FINDINGS
and PPL MONTANA.)	

INTRODUCTION

On May 15, 2008 Mary Jo Fox (Fox), on behalf of the Ron Tussing Campaign for a seat on Montana's Public Service Commission, filed a Complaint with the Office of the Commissioner of Political Practices for the State of Montana (COPP), against Northwestern Energy (NWE), PPL Montana (PPL), and Brad Molnar (Molnar). At that time, Molnar was a member of the Montana Public Service Commission (PSC) and seeking reelection. Molnar prevailed in the 2008 general election against Ron Tussing and is currently serving his second term as a Public Service Commissioner.

Fox has filed several other complaints against Molnar with COPP. These complaints included a June 2008 ethics complaint; a March 26, 2010, campaign finance and practices complaint; and a September 17, 2010, ethics complaint.

All of Fox's complaints against Molnar are factually based upon allegations related to brochures announcing two events spearheaded by Molnar. The first brochure announced an event that was conducted on December 6-7, 2007, named the "Great Billings Brownout," ("Billings brochure"). The second brochure is nearly identical to the first brochure except it announced an event conducted on March 27, 2008, titled the "Laurel & Miles City Conservation Challenge," ("Laurel & Miles City brochure").

With regard to the June 2008 ethics complaint by Fox against Molnar, on September 13, 2010, then-Commissioner of Political Practices Dennis Unsworth issued a Decision and Final Order. Molnar sought judicial review of that decision, and the District Court affirmed COPP's Decision and Final Order in an order and memorandum issued on February 7, 2012.

Fox's March 26, 2010, campaign finance and practices complaint against Molnar, and her September 17, 2010, ethics complaint against Molnar, remain pending before COPP.

Only Fox's May 15, 2008, campaign finance and practices complaint is addressed in this "Summary of Facts and Statement of Findings."

After review of the May 15, 2008, campaign finance and practices complaint filed by Fox, the responses by NWE, PPL, and Molnar, the relevant records and files, and based on an investigation into the allegations and defenses presented, COPP issues the following Summary of Facts and Statement of Findings regarding Fox's May 15, 2008, campaign finance and practices complaint.

SUMMARY OF FACTS

1. Fox's May 15, 2008, campaign finance and practices complaint alleges that Molnar handed out the Billings brochure, which was printed with funds provided by NWE and PPL, while campaigning door-to-door for election to the Montana Public Service Commission in March of 2008. The Billings brochure, a tri-fold brochure with a picture of Molnar, was distributed to citizens of Billings to announce the event. A copy of the Billings brochure is attached as Exhibit 1.
2. Fox alleges NWE and PPL violated §13-35-227(1), MCA, by using corporate funds to pay for the Billings brochure. Fox states such payments are expenditures in connection with candidate Molnar that supports Molnar's candidacy for the Montana Public Service Commission. In her complaint, Fox states:

Even if the corporation paid for the brochure to be used for a different purpose, the fact that the brochure is actually being used by the filed candidate for campaign purposes has made this brochure a piece of campaign literature.
3. Fox's complaint further alleges that the Billings brochure violates § 13-35-225, MCA because it does not include the attribution "paid for by."
4. Molnar organized an event he termed a "brownout," in Billings on December 6, 2007. According to Molnar, the purpose of this "brownout" was to show residents their voluntary power usage efforts can create energy savings. Molnar was responsible for all aspects of the Billings brownout, including the Billings brochure.
5. In the above referenced September 13, 2010, Decision and Final Order, then-Commissioner of Political Practices Dennis Unsworth found that in the fall of 2007, at a break in the proceedings when NWE was appearing before the PSC, Molnar solicited \$1,000 from a representative of NWE "for Brown Out money." Additionally, during the contested case hearing on Fox's June 2008 ethics complaint, Molnar acknowledged he contacted PPL and solicited money for his Billings brownout. Molnar was given checks in the amount of \$1,000 from both

PPL, on November 12, 2007, and NWE, on November 26, 2007. Molnar deposited both of those \$1,000 checks in his personal checking account. During the week of February 4, 2008 Molnar made another request of NWE for an additional \$1,000, to support another "Brownout" to be held in Laurel. NWE again favorably responded to Molnar's request and sent him another check for \$1,000.

6. COPP's September 13, 2010, Decision and Final Order regarding the 2008 ethics complaint against Molnar indicates the invoice for the printing of 30,000 copies of the Billings brochure was in the amount of \$1,648.46 and was paid by Molnar's personal check in a like amount.

7. NWE routinely expends funds for energy conservation in its normal course of business. NWE had no input on the contents of the brochure nor was it made aware that the Billings brochure listed it as a major supporter, until after the brochure was printed. NWE did not ask to be listed as a sponsor on the Billings brochure.

8. On March 3, 2008, NWE's legal department advised its regulatory affairs department to request that Molar return the initial \$1,000 donation for the Billings Brownout, along with the subsequent \$1,000 donation for the Laurel Brownout, based upon questions raised about providing funds for a conservation program that was sponsored and facilitated by Molnar, a sitting PSC member. NWE's donation was given for conservation education. When potential legal questions arose, NWE determined it would ask Molnar to return the funds.

9. On March 13, 2008, NWE's regulatory affairs representative, who had initially provided the funds to Molnar, contacted Molnar and requested that he return the donations. NWE's request for Molnar to return the funds was made three days before Molnar filed for reelection to the PSC with the Secretary of State. Molnar complied with this request by March 25, 2008, and returned the funds to NWE..

10. On November 12, 2007, PPL donated \$1,000 for the "Billings Brownout" and was provided with an invoice by Molnar so stating. As with NWE, PPL's \$1,000 was provided solely to promote the "Billings brownout" electrical energy conservation event. PPL points out that the Billings brochure, as originally printed, announces the conservation event and does not mention Molnar as a candidate for reelection to the PSC, nor does it refer to the 2008 election.

11. Molnar's 2008 campaign finance report, filed with COPP, indicates that his first expenditure for the 2008 election cycle was on February 3, 2008. Molnar filed for reelection to the Montana Public Service Commission on March 18, 2008.

12. In the above referenced September 13, 2010, Decision and Final Order, (Fact 13) then-Commissioner of Political Practices, Dennis Unsworth, found that the Billings Chamber of Commerce, the City of Billings, and Billings School District 2 demanded that Molnar stop using the Billings Brochure in his campaign, stating they did not endorse or support political

candidates. In addition, Fact 14 of COPP Unsworth's decision finds that instead of discontinuing use of the brochures Molnar placed an adhesive sticker on the brochure, covering the names of the Billings Chamber of Commerce and the City of Billings, but not Billings School District 2. This adhesive sticker read:

**The "Brown out" may be over.
But the energy tips are still good!
BRAD MOLNAR
Your conservation Candidate for Public Service Commissioner**

13. A copy of the Billings brochure, with the sticker affixed, is attached as Exhibit 2. These remaining brochures, some with sticker intact, some without, were handed out by Molnar while campaigning door-to-door for reelection to the PSC.

14. When PPL learned Molnar was using the Billings brochures while campaigning for reelection to the PSC after the "Billings Brownout" event, it sent a letter to Molnar asking him to stop using the brochures.

STATEMENT OF FINDINGS

Brad Molnar arranged all aspects of the "Billings brownout." He was responsible for the solicitation of funds, the content, and the distribution of the Billings brochure. When Molnar used the remaining Billings brochures, with the above-referenced sticker affixed to them, it was clearly a communication through a handbill advocating the success of his candidacy for reelection to the PSC. In addition, it was Molnar's intention to advocate for his reelection when he handed out the remaining brochures without the sticker, when campaigning door-to-door, long after the Billings brownout.

The remaining Billings brochures that were handed out by Molnar while campaigning after the Billings brownout, whether with or without the above referenced sticker attached, did not include an attribution, "paid for by."

Section 13-35-225(1), MCA, states:

All communications advocating the success or defeat of a candidate, political party, or ballot issue through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, poster, handbill, bumper sticker, internet website, or other form of general political advertising must clearly and conspicuously include the attribution "paid for by" followed by the name and address of the person who made or financed the expenditure for the communication. When a candidate or a candidate's campaign finances the expenditure, the attribution must be the name and the address of the candidate or the candidate's campaign. In the case of a political committee, the attribution

must be the name of the committee, the name of the committee treasurer, and the address of the committee or the committee treasurer.

The Billings brochures that were handed out by Molnar while campaigning were communications advocating the success of a candidate. Those brochures did not contain the attribution "paid for by." Therefore, Molnar violated § 13-35-225(1), MCA.

Section 13-35-227(1), MCA, prohibits contributions to candidates by corporations. That statute states:

A corporation may not make a contribution or an expenditure in connection with a candidate or a political committee that supports or opposes a candidate or a political party.

Neither NWE nor PPL provided a contribution to advocate the support of Molnar for reelection. Rather, their contributions were made with the sole intention to promote energy conservation through education of consumers.

When questions were raised by its legal department, NWE requested and received its donation back from Molnar. Moreover, upon being made aware that Molnar was using the brochures to advocate for his reelection, PPL made a written request that Molnar cease using the Billings brochures. The contributions made by NWE and PPL were not made to support Molnar's reelection candidacy. Neither NWE nor PPL made a "contribution" or an "expenditure," as those terms are used in § 13-35-227(1), MCA, because the funds provided were for energy conservation and were not made in connection with Molnar's candidacy for reelection to the PSC. Therefore, neither NWE nor PPL violated § 13-35-227(1), MCA.

CONCLUSION

There is sufficient evidence to conclude that Molnar either intentionally or negligently violated § 13-35-225(1), MCA. Therefore, a civil penalty action is appropriate in accordance with the provisions of § 13-37-128(1), MCA.

There is insufficient evidence to conclude that either NWE or PPL violated § 13-35-227(1), MCA.

Dated this 22 day of February, 2012.

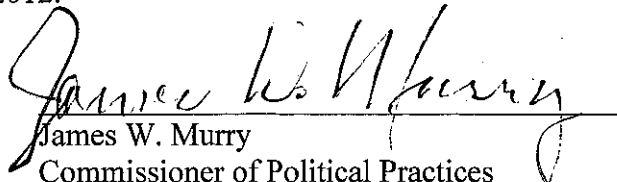
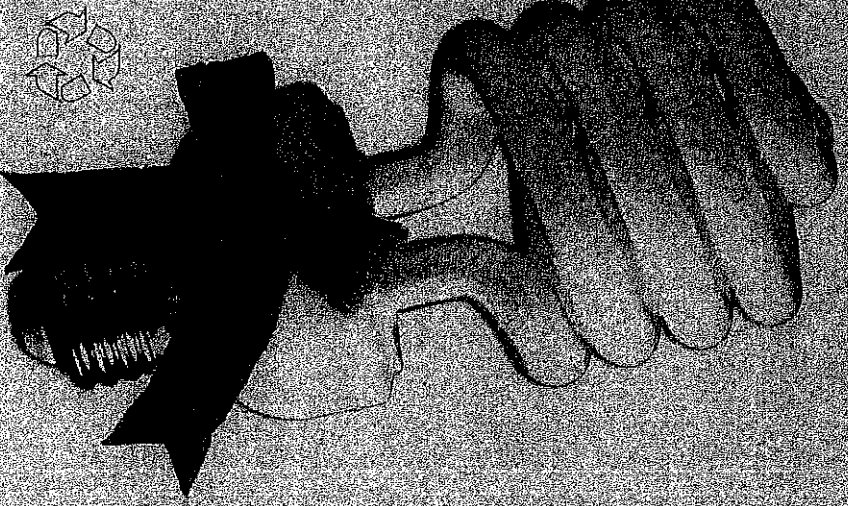

James W. Murry
Commissioner of Political Practices

EXHIBIT 1

The Christmas Gift... that keeps giving.

Every man, woman and child in Billings received a compact fluorescent light bulb (CFL) for an early Christmas gift (and installed it at 7pm on December 6th), during the life of those bulbs we would stop 40,000 tons of CO₂ from being released into the air and our families would save \$3,000,000 on their electricity bills. Truly a very easy way to save money and live a little greener.



MAJOR SUPPORTERS OF THE BILLINGS BROWNOUT

Public Service Commissioner, Brad Molnar
Montana State University - Billings

School District 2

Billings Chamber of Commerce

City of Billings

KCFR-8 TV

Yellowstone County Government

Rocky Mountain College

KTVQ-2

Downtown Billings Association

PPL Montana

Northwestern Energy

Billings Outpost

KSNV ABC-6

Heighs Walmart

West End Walmart

Billings Clinic

KHMT Fox-4

St. Vincent Healthcare

Montana Realities Association

Montana Restaurant Association

Big Sky Economic Development Assn.

Jim Larson Advertising



*Prepared and Distributed without
recipies or rate payer expense.*

Thank you to:

School District 2

Northwestern Energy

PPL Montana

Alphagraphics

Heighs Walmart

Billings Outpost

Billings Downtown Association

Fiscus Realty

**PLEASE COPY AND GIVE TO
CO-WORKERS & FRIENDS.**



**PUBLIC SERVICE COMMISSIONER
BRAD MOLNAR**

**invites you to join your
neighbors and take part in the
GREAT BILLINGS BROWNOUT
December 6th • 7-8 pm**

The first voluntary brownout was held in Sydney Australia. For one hour they reduced electricity consumption by 10%, saving consumers millions of dollars and stopping 24 tons of CO₂ from being released into the air; an equivalent of 44,000 cars driving for one hour.

For the Billings Brownout, Northwestern Energy will determine how much electricity was saved, its value and the amount of CO₂ not released.

Due to political actions and market forces, your already too-high utility bills will soon go even higher.

It is our firm belief that empowerment through education on cost effective conservation practices employers and families can and will take control of their household and business expenses, while becoming good environmental stewards, without expensive governmental mandates.

Conservation is determined by what you opt to plug-in or un-plug.

To that end, the Billings Brownout will take place on December 6, 2007 from 7:00 pm to 8:00 pm. Brownout organizers ask that, for that hour, you un-plug or turn off appliances and lights that you determine are non-essential. If you then take advantage of the educational component of the Billings Brownout, you may save 30% on your utility bill and make a positive environmental contribution.

Sincerely,

Brad Molnar

Brad Molnar

For conservation to be sustained it must be convenient and cost effective.

— Einstein 2007

HEATING YOUR HOME IS 40% OF YOUR UTILITY BILL. REDUCING AIR MIGRATION IS THE KEY.

- NO COST:** Bathroom ceiling vents are venting your warm air right outside. Unscrew the vent cover and line it with cardboard.
- NO COST:** Space heaters, hot tubs and water beds can cost \$40 per month. Each! Your choice.
- NO COST:** Plug your chimney with a plastic bag filled with crumpled newspapers. Leave a ribbon hanging down as a reminder.
- LOW COST:** Install your door sweeps and foam strips on exterior doors. (cost: \$10) Window insulator kits. (cost: \$5)
- LOW COST:** Drafty Electrical outlets and switches can account for 20% of air leakage in your home. (cost: \$3 a package)

HEATING WATER IS 25% OF YOUR HOME ENERGY BILL.

- NO COST:** Set your water heater at 120°, check by sticking a candy thermometer under your faucet. Why add cold water to water you paid to heat?
- NO COST:** Wash clothes in cold water whenever possible. Cold water detergents are now very effective.
- LOW COST:** A 'Low Flow' shower head will save you 18,000 gallons of water a year. It costs a tremendous amount to heat 18,000 gallons of water for a year and you can't feel the difference of a low flow head. (cost: \$10)
- LOW COST:** Once your water is heated why heat it again? Wrap your water heater with insulation or purchase a cover for it. Do not cover vents.

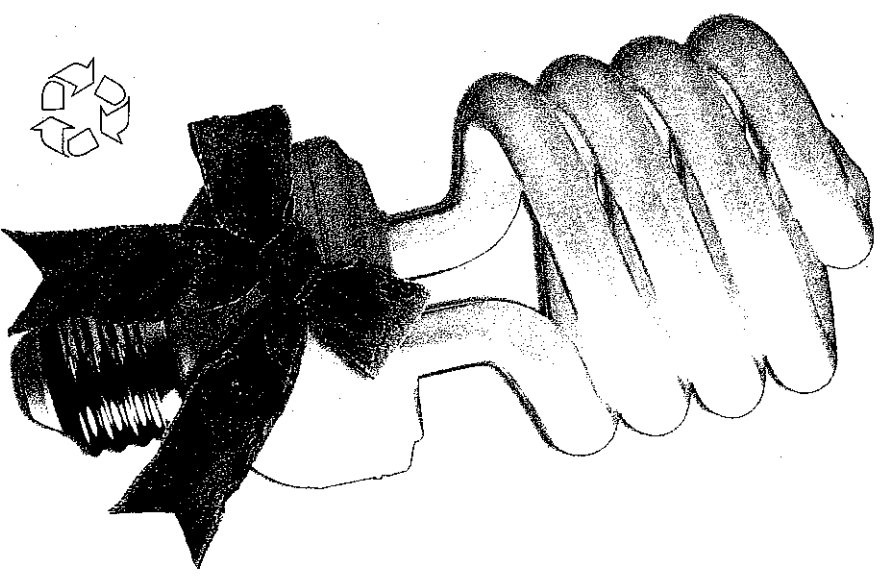
The combined costs of the above measures are often less than \$40, yet will visibly reduce your utility bill in just one month.

For more information and over 200 cost cutting conservation tips go to:
billingsbrownout.blogspot.com
or call Commissioner Brad Molnar at 406-444-6165

EXHIBIT 2

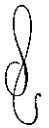
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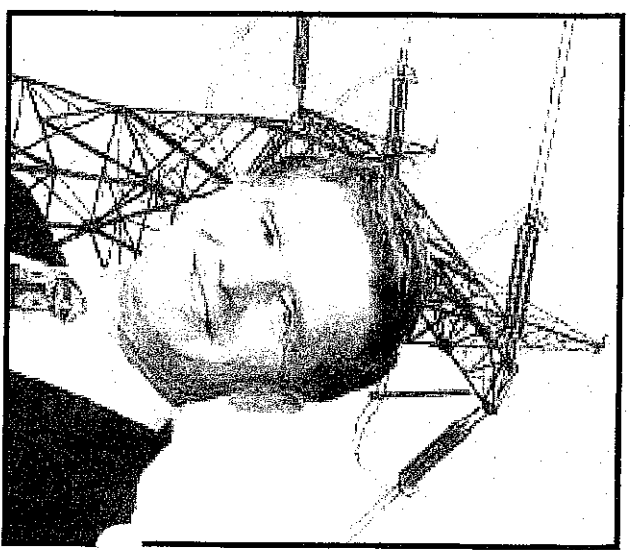
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- K1VQ-2
- Downtown Billings Association
- PPL Montana
- Northwestern Energy
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Sincerely, 60:11 V 01 DES 0007

Brad Molnar
RECEIVED
COMMISSIONER OF
SERVICES
MAY 10 2007
BRAD MOLNAR

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