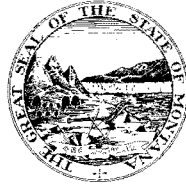


OFFICE OF THE GOVERNOR
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR



ANGELA McLEAN
LT. GOVERNOR

April 8, 2015

The Honorable Debby Barrett
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Austin Knudsen
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Barrett and Speaker Knudsen:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill 321 (SB 321), "AN ACT REVISING THE DEFINITION OF A PUBLIC UTILITY; EXCLUDING THE DISTRIBUTION, DELIVERY, OR SUPPLY OF PROPANE TO CUSTOMERS FROM PUBLIC SERVICE COMMISSION REGULATION; AMENDING SECTION 69-3-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

When robust economic competition exists, consumers often benefit. However, when a business has no real competitors and the pressures of a healthy marketplace do not exist, consumers often suffer the consequences of poor service or higher prices. When the service being provided by a monopoly is home heating, most Montanans would agree that the service should be appropriately regulated to protect consumers.

The Montana Public Service Commission's (PSC) role is to protect consumers by ensuring that public utilities provide adequate service at reasonable rates. A key inquiry for the PSC is whether a company providing an essential service is in fact a public utility, which is defined in Section 69-3-101, MCA. As used in statute, "public utility" is a term of art, and the application of that term to a particular set of circumstances requires the expertise of the PSC and its professional staff.

SB 321 seeks to exclude from the definition of public utility the distribution, delivery, or supply of propane to consumers, regardless of the circumstances. There are four propane distribution systems in Montana that are now regulated by the PSC because they are public utilities, and this regulation would continue. However, under SB 321 the PSC would be precluded from ever finding in the future that a propane distribution system, even an underground system providing monopoly service

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to consumers to heat their homes in the winter, is a public utility and should be regulated as to rates and service. Such a broad stroke is not in the best interests of Montanans.

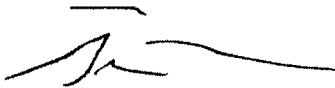
Section 69-3-101, MCA, which defines “public utility,” contains other exclusions which are telling. For example, privately-owned water or sewer systems that do not serve the public are not public utilities. Generally, water or sewer systems operated by local governments are not included either. In those cases, it is easy to see the means by which consumers can protect themselves (such as private contracts or the ballot box). There are no such checks or balances under SB 321.

It is my understanding that SB 321 addresses the circumstances of one entity that is now before the PSC in a proceeding to determine its status as a public utility. It is the PSC’s expertise that should make this determination based on the facts and law before it. To legislatively address this specific case by broadly excluding from regulation all entities that deliver propane to consumers through an underground distribution network is unwarranted. Moreover, the bill allows propane suppliers – entirely at their own discretion – to opt-in to regulation as a public utility to gain access to public rights-of-way. SB 321’s framework of regulation only at the option of the regulated entity is unworkable and unwise. The PSC unanimously opposed this bill.

When it is an essential service like heating your home, you want to know that you are not being gouged by an unlawful business practice. The PSC protects customers of public utilities by ensuring that they provide adequate service at reasonable rates. I am sure that there are propane distribution services operating in this state that are not public utilities, but I believe that consumers are better protected when that determination is made by the PSC.

For these reasons, I veto SB 321.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Bullock", with a horizontal line above it.

STEVE BULLOCK
Governor

cc: Legislative Services Division
Secretary of State