MONTANA PUBLIC SERVICE COMMISSION UPDATE TO THE ENERGY & TECHNOLOGY INTERIM COMMITTEE STATUS OF LITIGATION

September 3, 2026

1. *Noland v. State of Montana, et al.*, Cause No. DV-15-2022-0001308-CR (Mont. 11th Jud. Dist. Court)

- The Montana Department of Justice is representing the State in this case.
- This matter concerns the constitutionality of the state's statutory system of garbage hauling regulation. The Montana Motor Carrier Act allows garbage haulers to protest applications for new authority and requires the PSC to consider public need for new authority. Petitioner claims that state law and Commission precedent unconstitutionally interfere with his ability to start a garbage hauling business.
- On February 8, 2024, the District Court granted summary judgment to the State, which Petitioner appealed.
- On December 23, 2025, the Montana Supreme Court reversed the District Court's denial of Plaintiff 's facial constitutional challenge because the decision was incorrectly based on the outcomes of prior applications instead of the application process itself. The case was remanded to the Flathead County District Court.
- On July 14, 2026, after supplemental briefing and oral argument, the case was submitted to Judge Eddy for a final decision.

2. *Allied Waste Services of N.A. v. Mont. Pub. Serv. Comm'n and MT Roll Offs, LLC*, Cause No. DV-25-2025-76-JR (1st Jud. Dist. Court)

- Republic Services of Montana filed a petition for judicial review of the PSC's decision to grant authority to MT Roll Offs, LLC to provide construction roll-off service in Yellowstone, Carbon, Stillwater, Musselshell, and Golden Valley counties.
- Republic argues the Commission did not have jurisdiction to issue its final order in the docket, that the Commission's decision was not supported by substantial evidence, and that MT Roll Offs did not meet its evidentiary burden to prove the required elements for a Class D Certificate of Public Convenience and Necessity.
- On April 20, 2026, after briefing and oral argument, the case was submitted to Judge Seeley for a final decision.

3. *Brad Molnar v. Greg Gianforte, in his official capacity as Governor, and Jennifer Fielder, in her official capacity as a PSC Commissioner*, Cause No. ADV-2025-535 (1st Jud. Dist. Court)

- The PSC is represented by outside counsel in this case.
- Among other things, Molnar requested attorney's fees and injunctive relief finding the PSC Response Team's August 2025 complaint to the Governor to be procedurally invalid.
- On October 10, 2025, the Court issued an Order denying Molnar's Motion for Preliminary Injunction.
- No substantive developments in this case have occurred since, and the issue of attorney's fees remains pending.

4. *Allied Waste Services of N.A. v. Mont. Pub. Serv. Comm'n and L&L Site Servs., Inc.*, Cause No. DV-25-2026-04-JR (1st Jud. Dist. Court)

- Republic Services of Montana filed a petition for judicial review of the PSC's decision to grant authority to L&L Site Services, Inc. d/b/a Grizzly Disposal and Recycling to provide garbage hauling service in certain portions of Lake and Flathead counties.
- On June 29, 2026, Republic submitted a Stipulation to Dismiss the case, which is awaiting Court approval.

5. *Brad Molnar v. Jeff Welborn, Jennifer Fielder, and Annie Bukacek, in their official capacities as PSC Commissioners*, Cause No. CV-26-41-H-BMM (U.S. District Court, District of Montana, Helena Division)

- The PSC is represented by outside counsel in this case.
- In the underlying complaint, Molnar argued that, in imposing a remote work requirement against him, defendant Commissioners retaliated against Molnar for exercising his constitutional free speech right to criticize PSC actions.
- On June 25, 2026, the Court issued an Order denying Molnar's Motions for Preliminary Injunction and Expedited Discovery.
- On August 31, 2026, the Court issued an Order granting Molnar's unopposed request to dismiss the case without prejudice.

6. *Brad Molnar v. Montana Public Service Commission; Jeff Welborn, Jennifer Fielder, and Annie Bukacek, in their official capacities as PSC Commissioners; and Greg Gianforte, in his official capacity as Governor*, Cause No. ADV-2026-0475 (1st Jud. Dist. Court)

- The PSC is represented by outside counsel in this case.
- Among other claims, Plaintiff requests that the Governor be restrained from appointing a temporary replacement PSC Commissioner under Mont. Code Ann. § 69-1-113. Plaintiff argues that the PSC's Response Team proceedings, culminating in the Governor's decision to suspend Plaintiff as a PSC Commissioner for one year, violated Plaintiff's state constitutional right to due process.
- On August 28, 2026, the Court issued an Order denying Plaintiff's Motion for Preliminary Injunction, finding that Plaintiff is unlikely to succeed on the merits; Plaintiff's due process rights were not violated; and that Plaintiff will not suffer irreparable injury.

7. *350 Montana and Montana Farmers Union v. Montana Public Service Commission; and Jeff Welborn; Jennifer Fielder, Randy Pinocci, and Annie Bukacek, in their official capacities as PSC Commissioners*, Cause No. ADV-2026-566 (1st Jud. Dist. Court)

- The PSC is represented by outside counsel in this case.
- On August 13, 2026, Petitioners filed a motion for temporary restraining order and preliminary injunction to prevent the PSC from conducting a final deliberation in the NorthWestern/Black Hills merger proceeding (PSC Dkt. 2025.10.078).
- Among other claims, Petitioners assert the PSC must resolve Petitioners' pending motions before proceeding to a final decision; that PSC staff improperly rejected Petitioners' public filings for containing confidential information protected by PSC Protective Order; and that a temporary Commissioner appointed by the Governor, under Mont. Code Ann. § 69-1-113, cannot participate in Commission decisions related to the merger docket.
- On August 31, 2026, Petitioners requested an expedited hearing in advance of a PSC public meeting, scheduled for Friday, September 4, 2026, to consider action on pending motions in the merger docket.
- On September 3, 2026, the PSC moved to dismiss the case because Petitioners' claims are not ripe for judicial review and Petitioners have not exhausted available administrative remedies before the PSC.