

**MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY**

BRAD MOLNAR,

Plaintiff,

vs.

GREG GIANFORTE, in his official capacity as
Governor of the State of Montana, and
JENNIFER FIELDER, in her official capacity as
a member of the Montana Public Services
Commission,

Defendants.

Case No. ADV 2025-535

**ORDER GRANTING PLAINTIFF'S
MOTION FOR TEMPORARY
RESTRAINING ORDER**

I. PROCEDURAL HISTORY

This matter comes before the Court on Plaintiff Brad Molnar's Motion for Temporary Restraining Order filed September 4, 2025. Having reviewed the motion, supporting brief, verified complaint, and exhibits, and being fully advised in the premises, the Court finds that Plaintiff has satisfied the requirements for issuance of a temporary restraining order under Mont. Code Ann. § 27-19-201.

II. FINDINGS OF FACT

The Court makes the following findings of fact based on the verified complaint and supporting evidence:

1. Plaintiff Brad Molnar is a duly elected Commissioner of the Montana Public Service Commission (“PSC”), representing District 2, having been elected in November 2024.
2. In January 2025, Commissioner Molnar was elected President of the PSC by his fellow commissioners.
3. In 2024, the PSC adopted an Internal Policy Manual establishing mandatory procedural requirements for complaints seeking gubernatorial suspension of elected commissioners. Rule 2.17 of the Internal Policy Manual requires that before the PSC may file any complaint seeking gubernatorial suspension of a commissioner, it must: (1) conduct a properly noticed public meeting on the recommendation, and (2) obtain an affirmative vote of at least four of the five commissioners.
4. On August 19, 2025, NorthWestern Energy announced its proposed \$3.6 billion sale to out-of-state conglomerate Black Hills Energy, a transaction requiring PSC approval.
5. Within hours of the merger announcement, Governor Gianforte publicly endorsed the merger, stating: “[w]ith rising demand on our power grid, consumers across MT and the U.S. need access to affordable, reliable energy. I’m hopeful that this proposed merger will do just that.”
6. On August 20, 2025, within 24 hours of the merger announcement, Defendant Jennifer Fielder filed a complaint with Governor Gianforte seeking Commissioner Molnar's “immediate” suspension.
7. Defendant Fielder’s complaint was filed in violation of Rule 2.17’s mandatory procedural requirements:
 - No properly noticed public meeting was conducted on the recommendation to seek gubernatorial suspension

- No affirmative vote of at least four PSC commissioners was obtained before filing the complaint
- 8. Defendant Fielder marked her complaint “CONFIDENTIAL” and failed to notify Commissioner Molnar that she had filed it.
- 9. Commissioner Randy Pinocci publicly acknowledged at the August 26, 2025 PSC meeting: “I do see the possibility of Jennifer Fielder’s complaint to the governor in conflict with possibly our internal policies.”
- 10. On September 3, 2025, Commissioner Molnar moved to withdraw Defendant Fielder's unauthorized complaint. Although the motion failed 3-2, the fact that a formal vote was required confirms that the complaint lacked proper initial authorization under Rule 2.17.
- 11. Despite these procedural violations, Governor Gianforte has not dismissed the complaint and has requested briefing from both parties, creating immediate risk of unlawful suspension.
- 12. Commissioner Molnar is the only current PSC member with experience evaluating major utility mergers, having voted in 2007 to reject NorthWestern Energy’s proposed sale to Babcock and Brown – a decision vindicated when that company collapsed into bankruptcy two years later.

III. CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the Court concludes as a matter of law:

A. Likelihood of Success on the Merits

Plaintiff has demonstrated a strong likelihood of success on the merits. Mont. Code Ann. § 69-1-113 requires both “good cause” and a valid complaint before a governor may suspend an elected PSC commissioner. Defendant Fielder’s complaint is procedurally defective under the

PSC's own mandatory rules, having been filed without conducting a properly noticed public meeting or obtaining the required four-commissioner vote as mandated by Rule 2.17. These procedural violations render the complaint invalid under Montana law and deprive Governor Gianforte of authority to act upon it.

B. Irreparable Harm

Plaintiff faces irreparable harm that cannot be remedied by monetary damages if the temporary restraining order is not granted:

1. **Loss of Democratic Representation:** The voters of PSC District 2 would be deprived of their chosen representative during any suspension period, a harm that cannot be remedied by later restoration to office.
2. **Nullification of Election Results:** Commissioner Molnar's suspension would effectively nullify the November 2024 election results in PSC District 2.
3. **Irreversible Loss of Official Duties:** As PSC President and commissioner, Commissioner Molnar has specific statutory duties that cannot be performed retroactively.
4. **Time-Sensitive Harm Regarding Utility Merger:** The timing of the threatened suspension would remove Commissioner Molnar's unique institutional knowledge during the critical \$3.6 billion NorthWestern Energy merger review, depriving Montana ratepayers of his proven expertise in scrutinizing utility acquisitions.

C. Balance of Equities

The balance of equities tips decisively in Commissioner Molnar's favor. He seeks only to enforce existing legal requirements, specifically that government officials must follow their own mandatory procedural rules. Defendants suffer no cognizable harm from being required to comply with the PSC's own established procedures. If legitimate concerns about Commissioner Molnar exist, Defendant Fielder remains free to pursue relief through proper procedures under Rule 2.17.

D. Public Interest

Granting the temporary restraining order serves vital public interests:

1. **Protecting Democratic Processes:** The public has a fundamental interest in ensuring elected officials serve their terms unless removed through lawful procedures.
2. **Ensuring Governmental Compliance:** The public interest requires government officials to follow their own mandatory procedural rules, particularly those designed to prevent arbitrary removal of elected officials.
3. **Protecting Ratepayers:** The pending utility merger review requires the full expertise of all properly serving commissioners, including Commissioner Molnar's unique institutional knowledge of major utility transactions.
4. **Maintaining Regulatory Independence:** The suspicious timing of the complaint – filed within 24 hours of the merger announcement and Governor's endorsement - threatens public confidence in the PSC's independence from political pressure.

IV. ORDER

Based on the foregoing findings of fact and conclusions of law, and good cause appearing therefor,

IT IS HEREBY ORDERED:

1. **TEMPORARY RESTRAINING ORDER GRANTED:** Plaintiff's Motion for Temporary Restraining Order is GRANTED.
2. **RESTRAINT ON DEFENDANTS:** Defendant Greg Gianforte, in his capacity as Governor of Montana, and all persons acting in concert with him, are hereby TEMPORARILY RESTRAINED AND ENJOINED from taking any action to suspend, remove, or otherwise interfere with Plaintiff Brad Molnar's service as an elected Commissioner and President of the Montana Public Service Commission based upon Defendant Jennifer Fielder's complaint dated August 20, 2025, or any substantially similar complaint filed in violation of PSC Rule 2.17.
3. **DURATION:** This Temporary Restraining Order shall remain in effect until further order of this Court, but in no event longer than fourteen (14) days from the date of this Order, unless extended by the Court.
4. **PRELIMINARY INJUNCTION HEARING:** A hearing on Plaintiff's Motion for Preliminary Injunction is hereby scheduled for September 16, 2025, at 9:30 a.m. in the above-entitled Court.
5. **NOTICE:** Defendants shall be served with a copy of this Order and the underlying motion and supporting documents immediately upon entry of this Order.
6. **NO BOND REQUIRED:** Given the nature of this case involving preservation of democratic processes and the enforcement of mandatory governmental procedures, no bond is required of Plaintiff.
7. **SCOPE OF ORDER:** This Order does not prevent Governor Gianforte from exercising his lawful authority under Mont. Code Ann. § 69-1-113 to consider properly filed

complaints that comply with all applicable procedural requirements, including PSC Rule 2.17.

8. **PRESERVATION OF STATUS QUO:** Commissioner Molnar shall continue to serve in his elected capacity as PSC Commissioner and President during the pendency of this Order, with all rights, duties, and responsibilities incident thereto.

V. RATIONALE

This Court finds that the procedural safeguards established by PSC Rule 2.17 serve essential democratic functions by preventing individual commissioners from acting unilaterally to remove elected colleagues, ensuring transparency in attempts to nullify election results, and providing due process protections. Allowing Defendant Fielder to bypass these mandatory requirements would render such safeguards meaningless and create a dangerous precedent for circumventing democratic processes.

The timing of this complaint—filed within 24 hours of a major utility merger announcement that Commissioner Molnar is uniquely qualified to evaluate—raises serious concerns about the complaint's true purpose and threatens both democratic institutions and the public's interest in thorough utility regulation.

IT IS SO ORDERED.

DATED: September 4, 2025