

**Unofficial Draft Copy**

As of: April 16, 2018 (1:29pm)

LCSQF1

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

**DRAFT FOR DISCUSSION PURPOSES ONLY**

A Bill for an Act entitled: "An Act relating to electricity supply resource contract lengths; requiring the public service commission to require long-term contracts for the purchase of electricity by a utility from a qualifying small power production facility; prohibiting the public service commission from specifying contract lengths for other electricity supply resources; amending sections 69-3-601, 69-3-602, and 69-3-604, MCA; and providing an immediate effective date and an applicability date."

Be it enacted by the Legislature of the State of Montana:

**NEW SECTION. Section 1. Electricity supply resources -- prohibiting contract length specification.** (1) When approving an application by a utility regulated in accordance with Title 69, chapter 3 or chapter 8, for approval of an electricity supply resource, the commission may not specify contract lengths for the electricity supply resource that are different than the terms mutually agreed to by the parties to the contract.

(2) (a) For the purposes of this section, "electricity supply resource" includes electric generating resources acquired by a utility. The term includes but is not limited to:

(i) multiyear leases for electric generating resources;

(ii) an acquisition of an equity interest in a new or existing plant or equipment used to generate electricity;

(iii) agreements that result in construction of a new electric generating resource; or

(iv) electric generating resources included by the commission in a determination made in accordance with 69-3-109.

(b) The term does not include an agreement or contract with a qualifying small power production facility as defined in 69-3-601.

**Section 2.** Section 69-3-601, MCA, is amended to read:

**"69-3-601. (Temporary) Definitions.** As used in this part, the following definitions apply:

(1) "Commission" means the Montana public service commission.

(2) "Electric cooperative" means a rural electric cooperative organized under the laws of Montana, or a foreign corporation admitted to do business in Montana.

(3) "Long-term contracts" means contracts for 25 years or more.

~~(3)~~(4) "Qualifying small power production facility" means a facility that:

(a) produces electricity by the use, as a primary energy source, of biomass, waste, water, wind, or other renewable resource, or any combination of those sources; or

(b) produces electricity and useful forms of thermal energy, such as heat or steam, used for industrial, commercial,

heating, or cooling purposes through the sequential use of energy known as cogeneration; and

(c) has a power production capacity that together with any other facilities located at the same site is not greater than 80 megawatts; and

(d) is owned by a person not primarily engaged in the generation or sale of electricity other than electric power from a small power production facility.

~~(4)~~(5) "Utility" means any public utility supplying electricity and regulated by the commission. (Repealed on occurrence of contingency--secs. 1, 3, Ch. 284, L. 2003--see part compiler's comment.)"

{*Internal References to 69-3-601:*  
69-3-602a 69-3-602a 90-4-1001x}

**Section 3.** Section 69-3-602, MCA, is amended to read:

**"69-3-602. (Temporary) Generation and sale of electricity by qualifying small power production facility.** (1) A qualifying small power production facility may generate electricity from the sources described in ~~69-3-601(3)(a) and (3)(b)~~ 69-3-601(4)(a) and (4)(b) and may contract for the sale of that electricity with a utility.

(2) A qualifying small power production facility may generate electricity from the sources described in ~~69-3-601(3)(a) and (3)(b)~~ 69-3-601(4)(a) and (4)(b) and may contract for the sale of that electricity with an electric cooperative under terms and conditions mutually agreed upon between the parties and in

compliance with the rates and regulations established by the Public Utility Regulatory Policies Act. (Repealed on occurrence of contingency--secs. 1, 3, Ch. 284, L. 2003--see part compiler's comment.)"

{Internal References to 69-3-602: None.}

**Section 4.** Section 69-3-604, MCA, is amended to read:

**"69-3-604. (Temporary) Standards for determination of rates and conditions.** (1) The commission shall determine the rates and conditions of the contract for the sale of electricity by a qualifying small power production facility according to the standards in subsections (2) through (5).

(2) (a) Long-term Except as provided in subsection (2)(b), the commission shall require long-term contracts for the purchase of electricity by the utility from a qualifying small power production facility ~~must be encouraged in order~~ to enhance the economic feasibility of qualifying small power production facilities.

(b) If a qualifying small power production facility requests the commission require a contract for a time period shorter than a long-term contract as defined in 69-3-601, the commission may require the shortened contract length.

(3) The rates to be paid by a utility for electricity purchased from a qualifying small power production facility must be established with consideration of the availability and reliability of the electricity produced.

(4) The commission shall set these rates using the avoided

cost over the term of the contract.

(5) The commission may adopt rules further defining the criteria for qualifying small power production facilities, their cost-effectiveness, and other standards. (Repealed on occurrence of contingency--secs. 1, 3, Ch. 284, L. 2003--see part compiler's comment.) "

{Internal References to 69-3-604:  
69-3-603a}

NEW SECTION. **Section 5. {standard} Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 69, chapter 3, and the provisions of Title 69, chapter 3, apply to [section 1].

NEW SECTION. **Section 6. {standard} Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 7. {standard} Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 8. {standard} Applicability.** [This act] applies to:

(1) petitions by qualifying small power production facilities or utilities received by the public service commission on or after [the effective date of this act]; and

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(2) applications by a utility for approval of an electricity supply resource on or after [the effective date of this act].

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