

SENATE BILL NO. 56

INTRODUCED BY W. MCNUTT

BY REQUEST OF THE TRANSITION ADVISORY COMMITTEE ON ELECTRIC UTILITY INDUSTRY

RESTRUCTURING

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT UTILITIES AND LARGE CUSTOMERS MAY RECEIVE CREDIT FOR UNIVERSAL SYSTEM BENEFITS PROGRAMS THAT INCLUDE AMORTIZED OR NONAMORTIZED PORTIONS OF ~~AMORTIZED OR NONAMORTIZED~~ EXPENDITURES; AMENDING SECTION 69-8-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-8-402, MCA, is amended to read:

"69-8-402. Universal system benefits programs. (1) Universal system benefits programs are established for the state of Montana to ensure continued funding of and new expenditures for energy conservation, renewable resource projects and applications, and low-income energy assistance during the transition period and into the future.

(2) Beginning January 1, 1999, 2.4% of each utility's annual retail sales revenue in Montana for the calendar year ending December 31, 1995, is established as the initial funding level for universal system benefits programs. To collect this amount of funds on an annualized basis in 1999, the commission shall establish rates for utilities subject to its jurisdiction and the governing boards of cooperatives shall establish rates for the cooperatives. Except as provided in subsection (7), these universal system benefits charge rates must remain in effect until July 1, 2003.

(a) The recovery of all universal system benefits programs costs imposed pursuant to this section is authorized through the imposition of a universal system benefits charge assessed at the meter for each local utility system customer as provided in this section.

(b) Utilities must receive credit toward annual funding requirements for a utility's internal programs or activities that qualify as universal system benefits programs, including those AMORTIZED OR NONAMORTIZED portions of amortized or nonamortized expenditures for the purchase of power that are for the acquisition

1 or support of renewable energy, conservation-related activities, or low-income energy assistance, and for
2 large customers' programs or activities as provided in subsection (7). The department of revenue shall
3 review claimed credits of the utilities and large customers pursuant to 69-8-414.

4 (c) A utility's distribution services provider at which the sale of power for final end use occurs is
5 the utility that receives credit for the universal system benefits programs expenditure.

6 (d) A customer's distribution services provider shall collect universal system benefits funds less
7 any allowable credits.

8 (e) For a utility to receive credit for low-income related expenditures, the activity must have taken
9 place in Montana.

10 (f) If a utility's or a large customer's credit for internal activities does not satisfy the annual
11 funding provisions of subsection (2), then the utility shall make a payment to the universal system benefits
12 fund established in 69-8-412 for any difference.

13 (3) Cooperative utilities may collectively pool their statewide credits to satisfy their annual funding
14 requirements for universal system benefits programs and low-income energy assistance.

15 (4) A utility's transition plan must describe how the utility proposes to provide for universal system
16 benefits programs, including the methodologies, such as cost-effectiveness and need determination, used
17 to measure the utility's level of contribution to each program.

18 (5) A utility's minimum annual funding requirement for low-income energy and weatherization
19 assistance is established at 17% of the utility's annual universal system benefits funding level and is
20 inclusive within the overall universal system benefits funding level.

21 (a) A utility must receive credit toward the utility's low-income energy assistance annual funding
22 requirement for the utility's internal low-income energy assistance programs or activities.

23 (b) If a utility's credit for internal activities does not satisfy its annual funding requirement, then
24 the utility shall make a payment for any difference to the universal low-income energy assistance fund
25 established in 69-8-412.

26 (6) An individual customer may not bear a disproportionate share of the local utility's funding
27 requirements, and a sliding scale must be implemented to provide a more equitable distribution of program
28 costs.

29 (7) (a) A large customer:

30 (i) shall pay a universal system benefits programs charge with respect to the large customer's

1 qualifying load equal to the lesser of:

2 (A) \$500,000, less the large customer credits provided for in this subsection (7); or

3 (B) the product of 0.9 mills per kilowatt hour multiplied by the large customer's total kilowatt hour
4 purchases, less large customer credits with respect to that qualifying load provided for in this subsection
5 (7);

6 (ii) must receive credit toward that large customer's universal system benefits charge for internal
7 expenditures and activities that qualify as a universal system benefits programs expenditure, and these
8 internal expenditures must include but not be limited to:

9 (A) expenditures that result in a reduction in the consumption of electrical energy in the large
10 customer's facility; and

11 (B) those AMORTIZED OR NONAMORTIZED portions of expenditures for the purchase of power at retail
12 or wholesale that are for the acquisition or support of renewable energy or conservation-related activities.

13 (b) Large customers making these expenditures must receive a credit against the large customer's
14 universal system benefits charge, except that any of those amounts expended in a calendar year that
15 exceed that large customer's universal system benefits charge for the calendar year must be used as a
16 credit against those charges in future years until the total amount of those expenditures has been credited
17 against that large customer's universal system benefits charges.

18 (8) A public utility shall prepare and submit an annual summary report of the public utility's
19 activities relating to all universal system benefits programs to the commission, the department of revenue,
20 and the transition advisory committee provided for in 69-8-501. A cooperative utility shall prepare and
21 submit annual summary reports of activities to the cooperative utility's respective local governing body,
22 the statewide cooperative utility office, and the transition advisory committee. The statewide cooperative
23 utility office shall prepare and submit an annual summary report of the activities of individual cooperative
24 utilities, including a summary of the pooling of statewide credits, as provided in subsection (3), to the
25 department of revenue and to the transition advisory committee. The annual report of a public utility or
26 of the statewide cooperative utility office must include but is not limited to:

27 (a) the types of internal utility and customer programs being used to satisfy the provisions of this
28 chapter;

29 (b) the level of funding for those programs relative to the annual funding requirements prescribed
30 in subsection (2); and

1 (c) any payments made to the statewide funds in the event that internal funding was below the
2 prescribed annual funding requirements.

3 (9) A utility or large customer filing for a credit shall develop and maintain appropriate
4 documentation to support the utility's or the large customer's claim for the credit.

5 (10) (a) A large customer claiming credits for a calendar year shall submit an annual summary
6 report of its universal system benefits programs activities and expenditures to the department of revenue
7 and to the large customer's utility. The annual report of a large customer must identify each qualifying
8 project or expenditure for which it has claimed a credit and the amount of the credit. Prior approval by the
9 department of revenue or the utility is not required, except as provided in subsection (10)(b).

10 (b) If a large customer claims a credit that the department of revenue disallows in whole or in part,
11 the large customer is financially responsible for the disallowance. A large customer and the large
12 customer's utility may mutually agree that credits claimed by the large customer be first approved by the
13 utility. If the utility approves the large customer credit, the utility may be financially responsible for any
14 subsequent disallowance."

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16 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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18 NEW SECTION. SECTION 3. RETROACTIVE APPLICABILITY. [THIS ACT] APPLIES RETROACTIVELY, WITHIN THE
19 MEANING OF 1-2-109, TO THOSE AMORTIZED OR NONAMORTIZED PORTIONS OF A UTILITY'S EXPENDITURES CLAIMED IN
20 A UNIVERSAL SYSTEM BENEFITS PROGRAMS REPORTING PERIOD, FOR THE PURCHASE OF POWER THAT IS FOR THE
21 ACQUISITION OR SUPPORT OF INTERNAL PROGRAMS THAT QUALIFY AS UNIVERSAL SYSTEM BENEFITS PROGRAMS, MADE
22 EITHER PRIOR TO OR AFTER JANUARY 1, 1999, FOR WHICH PAYMENTS CONTINUE BEYOND JANUARY 1, 1999.

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