

1 SENATE BILL NO. 424

2 INTRODUCED BY B. GLASER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING RECOVERABLE ELECTRICITY SUPPLY COSTS;
5 REQUIRING THAT A DISTRIBUTION SERVICES PROVIDER OR DEFAULT SUPPLIER RECEIVE A
6 REASONABLE RATE OF RETURN; AMENDING SECTIONS 69-8-210 AND 69-8-403, MCA; AND
7 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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11 **Section 1.** Section 69-8-210, MCA, is amended to read:

12 **"69-8-210. Public utilities -- electricity supply.** (1) On the effective date of a commission order
13 implementing a public utility's transition plan pursuant to 69-8-202, the public utility shall remove its
14 generation assets from the rate base.

15 (2) During the transition period, the commission may establish cost-based prices for electricity
16 supply service for customers that do not have a choice of electricity supply service or that have not yet
17 chosen an electricity supplier.

18 (3) If the transition period is extended, then the customers' distribution services provider shall:

19 (a) extend any cost-based contract with the distribution services provider's affiliate supplier for
20 a term not more than 3 years; or

21 (b) purchase electricity from the market; and

22 (c) use a mechanism that recovers electricity supply costs in rates to ensure that those costs are
23 fully recovered, including a reasonable rate of return as determined by the commission. Supply costs
24 include but are not limited to:

25 (i) commodity costs;

26 (ii) ancillary services;

27 (iii) delivery costs;

28 (iv) administrative and general costs; AND

29 (v) energy risk management costs; and.

30 (vi) a value-added service fee of a fixed amount as determined by the commission.

1 (4) If a public utility intends to be an electricity supplier through an unregulated division, then the
2 public utility must be licensed as an electricity supplier pursuant to 69-8-404."

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4 **Section 2.** Section 69-8-403, MCA, is amended to read:

5 **"69-8-403. Commission authority -- rulemaking authority.** (1) (a) Beginning on the effective date
6 of a commission order regarding a public utility's transition plan, the commission shall regulate the public
7 utility's retail transmission and distribution services within the state of Montana, as provided in this
8 chapter, and may not regulate the price of electricity supply except as electricity supply may be procured
9 as provided in this section:

10 ~~(a)(i)~~ by one or more default suppliers for those customers not being served by a competitive
11 supplier; or

12 ~~(b)(ii)~~ by the distribution function of a public utility for those customers that are not being served
13 by a competitive electricity supplier as provided by commission rules. During the transition period, those
14 procurements may include a cost-based contract from a supply affiliate or an unregulated division.

15 (b) If the transition period is extended, a default supplier or distribution services provider shall use
16 a mechanism that recovers electricity supply costs in rates to ensure that those costs are fully recovered,
17 including a reasonable rate of return as determined by the commission. Supply costs include but are not
18 limited to:

19 (i) commodity costs;

20 (ii) ancillary services;

21 (iii) delivery costs;

22 (iv) administrative and general costs; AND

23 (v) energy risk management costs; and.

24 ~~(vi) a value-added service fee of a fixed amount as determined by the commission.~~

25 (2) The commission shall decide if there is workable competition in the electricity supply market
26 by determining whether competition is sufficient to inhibit monopoly pricing or anticompetitive price
27 leadership. In reaching a decision, the commission may not rely solely on market share estimates.

28 (3) The commission shall license electricity suppliers and enforce licensing provisions pursuant to
29 69-8-404.

30 (4) The commission shall promulgate rules that identify the licensees and ensure that the offered

1 electricity supply is provided as offered and is adequate in terms of quality, safety, and reliability.

2 (5) The commission shall establish just and reasonable rates through established ratemaking
3 principles for public utility distribution and transmission services and shall regulate these services. The
4 commission may approve rates and charges for electricity distribution and transmission services based on
5 alternative forms of ratemaking such as performance-based ratemaking, on a demonstration by the public
6 utility that the alternative method complies with this chapter, and on the public utility's transition plan.

7 (6) The commission shall certify that a cooperative utility has adopted a transition plan that
8 complies with this chapter. A cooperative utility's transition plan is considered certified 60 days after the
9 cooperative utility files for certification.

10 (7) The commission shall promulgate rules that protect consumers, distribution services providers,
11 and electricity suppliers from anticompetitive and abusive practices.

12 (8) The commission shall license default suppliers and enforce default licensing provisions pursuant
13 to 69-8-416.

14 (9) The commission shall promulgate rules for the licensing of default suppliers on or before
15 December 1, 1999.

16 (10) Until the commission has determined that workable competition has developed for small
17 customers, a default supplier's obligation to serve remains.

18 (11) In addition to promulgating rules expressly provided for in this chapter, the commission may
19 promulgate any other rules necessary to carry out the provision of this chapter.

20 (12) This chapter does not give the commission the authority to:

21 (a) regulate cooperative utilities in any manner other than reviewing certification filings for
22 compliance with this chapter; or

23 (b) compel any change to a cooperative utility's certification filing made pursuant to this chapter."

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25 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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