SENATE BILL NO. 517

INTRODUCED BY D. RYAN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THE PUBLIC SERVICE COMMISSION WITH THE DISCRETION TO REQUIRE A PUBLIC UTILITY TO CHARGE UP TO 1 CENT PER KILOWATT HOUR TO MITIGATE ELECTRICITY SUPPLY-RELATED COSTS INCURRED AFTER JULY 1, 2002, FUND LOW-INCOME ENERGY BILL ASSISTANCE AND WEATHERIZATION PROGRAMS, AND PROVIDE FUNDS TO MITIGATE IMPACTS OF ENERGY-RELATED JOB LOSSES; CREATING A STATE SPECIAL REVENUE ACCOUNT; AMENDING SECTION 69-8-211, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 69-8-211, MCA, is amended to read:

"69-8-211. Public utilities -- transition costs and charges -- rate moratorium. (1) Subject to the provisions of this section, the commission shall allow recovery of the following categories of transition costs:

(a) the unmitigable costs of qualifying facility contracts, including reasonable buyout or buydown costs, for which the contract price of generation is above the market price for generation;

(b) the unmitigable costs of energy supply-related regulatory assets and deferred charges that exist because of current regulatory practices and that can be accounted for up to the effective date of the commission's final order regarding a public utility's transition plan, including costs, expenses, and reasonable fees related to issuing of transition bonds;

(c) the unmitigable transition costs related to public utility-owned generation and other power purchase contracts, except that recovery of those costs is limited to the amount accruing during the first 4 years after the commission enters an order pursuant to 69-8-202(3); and

(d) other transition costs as may qualify for recovery under this section.

(2) Transition costs as determined by the commission upon an affirmative showing by a public utility must meet the following requirements:

(a) Transition costs must reflect all reasonable mitigation by the public utility, including but not limited to good faith efforts to renegotiate contracts, buying out or buying down contracts, and refinancing through transition bonds.

(b) The value of all generation-related assets and liabilities and electricity supply costs must be reasonably demonstrable and must be considered on a net basis, and methods for determining value must include but are not limited to:

(i) estimating future market values of electricity and ancillary services provided by the assets;

(ii) appraisal by independent third-party professionals; or

(iii) a competitive bid sale.

(c) Investments and power purchase contracts must have been previously allowed in rates or, if not previously in rates, must be determined to be used and useful to ratepayers in connection with the commission's approval of the utility's transition plan.

(d) Unless otherwise provided for in this chapter, only costs related to existing investments and power purchase contracts identified in subsection (2)(c) and costs arising from those investments and power purchase contracts may be included as transition costs.

(3) (a) On commission approval of the amount of a public utility's transition costs, those costs must be recovered through the imposition of a transition charge.

(b) A transition charge may not be collected from customers for:

(i) new or additional loads of 1,000 kilowatts or greater that were first served by the public utility after December 31, 1996; or

(ii) loads served by that customer's own generation.

(c) Subject to commission approval, a utility and a customer may agree to alter the customer's transition charge payment schedule. Public utilities may file with the commission tariffs for electric service rates that foster economic development or retention of existing customers within the state, including generally available rate schedules. Transition charges are the only charges that may be imposed upon a customer class to recover transition costs under this section. A separate exit fee may not be charged.

(4) Transition charges must be imposed within a transition cost recovery period approved by the commission on a case-by-case basis. Except for transition costs recovered under subsection (1)(c), categories of transition costs may have varying transition cost recovery periods.

(5) Approval of transition costs and collection of those transition costs through transition charges is a settlement of all transition costs claims by a public utility. A public utility seeking to recover transition costs through any means not authorized by this chapter may not collect transition charges with respect

to these transition costs.

(6) Except as provided in ~~subsection (7)~~ <u>subsections (7) and (8)</u>, public utilities shall implement a rate moratorium during the transition period as follows:

(a) From July 1, 1998, through June 30, 2000, public utilities may not charge rates higher than those rates in effect on July 1, 1998.

(b) From July 1, 2000, through June 30, 2002, and only for those customers subject to the provisions of 69-8-201(1)(b), public utilities may not increase that increment of rates normally allocated to electric supply-related costs above the increment associated with electric supply-related costs reflected in rates in effect on July 1, 1998. Beginning on July 1, 2000, public utilities may propose increases to those increments of rates normally allocated to transmission and distribution costs.

(7) Excepted from the provisions of subsection (6) are:

(a) increased costs related to universal system benefits programs greater than those currently in rates, including the treatment of universal system benefits program costs as an expense;

(b) increased costs necessary to implement full customer choice, including but not limited to metering, billing, and technology. Those costs must be recovered from the customers on whose behalf the increased costs are incurred.

(c) subject to commission approval, an extraordinary event resulting in either:

(i) a 4% annual revenue requirement increase from July 1, 1998, through June 30, 2000; or

(ii) an 8% power supply-related annual revenue requirement increase from July 1, 2000, through June 30, 2002;

(d) the increase or decrease in the annual state and local property tax expense that has occurred since May 2, 1997.

<u>(8) (a) The commission may require a public utility that has filed a transition plan pursuant to 69-8-202 to increase that public utility's increment of rates normally allocated to electric supply-related costs up to 1 cent per kilowatt hour above the increment associated with electric supply-related costs reflected in rates in effect on July 1, 1998, in order to:</u>

<u>(i) mitigate the increase in electric supply-related costs incurred after July 1, 2002;</u>

<u>(ii) fund low-income energy bill assistance and weatherization programs; and</u>

<u>(iii) provide funds to mitigate the impacts of energy-related job losses.</u>

<u>(b) Any increase authorized by the commission in the rate allocated to electric-supply costs</u>

pursuant to subsection (8)(a) must be deposited into the special revenue account created in [section 2].

~~(8)~~(9) Notwithstanding subsections (6) and (7), during the transition period, public utilities may not charge rates or collect costs that include costs reallocated to transition costs at a level higher than the public utility would reasonably expect to recover in rates had the current regulatory system remained intact.

~~(9)~~(10) Public utilities shall apply savings resulting under 69-8-503 toward the rate moratorium pursuant to subsection (6).

~~(10)~~(11) During the 4-year transition period, public utilities may accelerate the amortization of accumulated deferred investment tax credits associated with transmission, distribution, and the general plant as an adjustment to earnings if electric earnings fall below 9.5% earned return on average equity. The public utility may include the flow through of investment tax credits so that the public utility's earned return on equity is maintained at 9.5%. Accumulated deferred investment tax credits amortized under this subsection may not be reflected in operating income for ratemaking purposes.

~~(11)~~(12) The commission shall issue the accounting orders necessary to align rate moratorium timing and requirements to actual transition bonds savings."

NEW SECTION. **Section 2. Electrical energy savings account -- use.** (1) There is an electrical energy savings account in the state special revenue fund. The money collected pursuant to 69-8-211(8) must be deposited in the account.

(2) Except as provided in subsection (3), the money in the account must be used by the commission to mitigate electrical energy supply costs incurred after July 1, 2002, by Montana customers of a public utility that has filed a transition plan pursuant to 69-8-202.

(3) Up to 10% of the total amount of money deposited in the account on an annual basis may be used by the commission to fund low-income energy bill assistance and weatherization programs and to provide funds to mitigate impacts of energy-related job losses.

NEW SECTION. **Section 3. Codification instruction.** [Section 2] is intended to be codified as an integral part of Title 69, chapter 8, and the provisions of Title 69, chapter 8, apply to [section 2].

NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

- END -