

SENATE BILL NO. 178

INTRODUCED BY K. GEBHARDT

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE PUBLIC SERVICE COMMISSION TO CONSIDER DISPATCH ABILITY, GEOGRAPHIC DIVERSITY, AND SEASONALITY IN SETTING RATES FOR QUALIFYING SMALL POWER PRODUCTION FACILITIES; INCREASING THE TIME THE COMMISSION HAS TO ACT ON A PETITION; REQUIRING CONTRACTS WITH QUALIFYING SMALL POWER PRODUCTION FACILITIES TO INCLUDE RENEWABLE ENERGY CREDITS; AMENDING SECTIONS 69-3-601, 69-3-602, 69-3-603, 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:

**Section 1.** Section 69-3-601, MCA, is amended to read:

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

(1) "Balancing authority" means a transmission system control operator who balances electricity supply and load at all times to meet transmission system operating criteria and to provide reliable electric service to customers.

~~(1)~~(2) "Commission" means the Montana public service commission.

(3) "Dispatch ability" means the ability of either the owner of a qualifying small power production facility or a balancing authority to rapidly start, stop, increase, or decrease electricity production from a qualifying small power production facility in order to respond to the balancing authority's needs to match supply resources to loads on the transmission system.

~~(2)~~(4) "Electric cooperative" means a rural electric cooperative organized under the laws of Montana; or a foreign corporation admitted to do business in Montana.

(5) "Geographic diversity" means the degree to which a qualifying small power production facility is physically separated from other electric generating resources supplying electricity to a utility in order to reduce the likelihood that the electric generating resources will be similarly affected by climatic conditions, disruptions to the transmission system, or natural disaster.

~~(3)~~(6) "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

1 renewable resource, or any combination of those sources; or

2 (b) produces electricity and useful forms of thermal energy, such as heat or steam, used for industrial,  
3 commercial, heating, or cooling purposes through the sequential use of energy known as cogeneration; and

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

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

8 (7) "Seasonality" means the degree to which a qualifying small power production facility is capable of  
9 producing electricity in each of the seasons of the year.

10 ~~(4)(8)~~ "Utility" means any public utility supplying electricity and regulated by the commission. (Repealed  
11 on occurrence of contingency--secs. 1, 3, Ch. 284, L. 2003.)"

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13 **Section 2.** Section 69-3-602, MCA, is amended to read:

14 **"69-3-602. (Temporary) Generation and sale of electricity by qualifying small power production**

15 **facility.** (1) A qualifying small power production facility may generate electricity from the sources described in

16 ~~69-3-601(3)(a) and (3)(b)~~ 69-3-601(6)(a) and (6)(b) and may contract for the sale of that electricity with a utility.

17 (2) A qualifying small power production facility may generate electricity from the sources described in

18 ~~69-3-601(3)(a) and (3)(b)~~ 69-3-601(6)(a) and (6)(b) and may contract for the sale of that electricity with an electric

19 cooperative under terms and conditions mutually agreed upon between the parties and in compliance with the

20 rates and regulations established by the Public Utility Regulatory Policies Act. (Repealed on occurrence of

21 contingency--secs. 1, 3, Ch. 284, L. 2003.)"

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23 **Section 3.** Section 69-3-603, MCA, is amended to read:

24 **"69-3-603. (Temporary) Required sale of electricity under rates and conditions prescribed by**

25 **commission.** (1) If a qualifying small power production facility and a utility are unable to mutually agree to a

26 contract for the sale of electricity or a price for the electricity to be purchased by the utility, the commission shall

27 require the utility to purchase the electricity under rates and conditions established under the provisions of

28 subsection (2).

29 (2) The commission shall determine the rates and conditions of the contract upon petition of a qualifying

30 small power production facility or a utility or during a rate proceeding involving the review of rates paid by a utility

1 for electricity purchased from a qualifying small power production facility. The commission shall render a decision  
 2 within ~~120~~ 270 days of receipt of the petition or before the completion of the rate proceeding. The rates and  
 3 conditions of the determination ~~shall~~ must be made according to the standards prescribed in 69-3-604. (Repealed  
 4 on occurrence of contingency--secs. 1, 3, Ch. 284, L. 2003.)"

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

7 **"69-3-604. (Temporary) Standards for determination of rates and conditions.** (1) The commission  
 8 shall determine the rates and conditions of the contract for the sale of electricity by a qualifying small power  
 9 production facility according to the standards in subsections (2) through ~~(5)~~ (7).

10 (2) Long-term contracts for the purchase of electricity by the utility from a qualifying small power  
 11 production facility ~~shall~~ must be encouraged in order to enhance the economic feasibility of qualifying small power  
 12 production facilities.

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

15 (4) In determining the rates, the commission shall consider the value to the utility of the dispatch ability,  
 16 seasonality, and geographic diversity of the qualifying small power production facility.

17 ~~(4)~~(5) The commission may set these rates by use of any of the following methods:

18 (a) the avoided cost over the term of the contract;

19 (b) the cost of production for the qualifying small power production facility plus a just and reasonable  
 20 return; or

21 (c) any other method that will promote the development of qualifying small power production facilities.

22 (6) Contracts for the purchase of electricity by the utility from a qualifying small power production facility  
 23 must include the acquisition of renewable energy credits by the utility, when applicable. The commission may  
 24 adjust the rates to be paid by the utility to include the value of the renewable energy credits pursuant to the  
 25 market value of the credits in Montana, a regional market encompassing Montana, Idaho, Washington, and  
 26 Oregon, or a regional market that includes states that are members of an independent transmission system  
 27 operator in the midwest.

28 ~~(5)~~(7) The commission may adopt rules further defining the criteria for qualifying small power production  
 29 facilities, their cost-effectiveness, and other standards. (Repealed on occurrence of contingency--secs. 1, 3, Ch.  
 30 284, L. 2003.)"

