

SENATE BILL NO. 332

INTRODUCED BY K. VAN DYK

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A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE GRADUATED RENEWABLE ENERGY STANDARD IN THE MONTANA RENEWABLE POWER PRODUCTION AND RURAL ECONOMIC DEVELOPMENT ACT; REQUIRING THE SUBMISSION OF PROCUREMENT PLANS FOR THE NEW STANDARDS; AMENDING SECTIONS 69-3-2004 AND 69-3-2005, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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Section 1. Section 69-3-2004, MCA, is amended to read:

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"69-3-2004. Renewable resource standard -- administrative penalty -- waiver. (1) Except as provided in 69-3-2007 and subsections ~~(11) and (12)~~ (12) and (13) of this section, a graduated renewable energy standard is established for public utilities and competitive electricity suppliers as provided in subsections (2) through ~~(4)~~ (5) of this section.

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~~(2) In each compliance year beginning January 1, 2008, through December 31, 2009, each public utility and competitive electricity supplier shall procure a minimum of 5% of its retail sales of electrical energy in Montana from eligible renewable resources.~~

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~~(3)~~(2) (a) In each compliance year beginning January 1, 2010, through December 31, 2014, each public utility and competitive electricity supplier shall procure a minimum of 10% of its retail sales of electrical energy in Montana from eligible renewable resources.

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(b) Beginning January 1, 2012, as part of their compliance with subsection ~~(3)(a)~~ (2)(a), public utilities shall purchase both the renewable energy credits and the electricity output from community renewable energy projects that total at least 50 megawatts in nameplate capacity.

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(c) Public utilities shall proportionately allocate the purchase required under subsection ~~(3)(b)~~ (2)(b) based on each public utility's retail sales of electrical energy in Montana in the calendar year 2011.

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~~(4)~~(3) (a) In ~~the each~~ each compliance year beginning January 1, 2015, ~~and in each succeeding compliance year, through the compliance year ending December 31, 2019,~~ each public utility and competitive electricity supplier shall procure a minimum of 15% of its retail sales of electrical energy in Montana from eligible renewable

1 resources.

2 (b) (i) As part of their compliance with subsection ~~(4)(a)~~ (3)(a), public utilities shall purchase both the
3 renewable energy credits and the electricity output from community renewable energy projects that total at least
4 75 megawatts in nameplate capacity.

5 (ii) In meeting the standard in subsection ~~(4)(b)(i)~~ (3)(b)(i), a public utility may include purchases made
6 under subsection ~~(3)(b)~~ (2)(b).

7 (c) Public utilities shall proportionately allocate the purchase required under subsection ~~(4)(b)~~ (3)(b)
8 based on each public utility's retail sales of electrical energy in Montana in the calendar year 2014.

9 (4) (a) In each compliance year beginning January 1, 2020, through the compliance year ending
10 December 31, 2024, each public utility and competitive electricity supplier shall procure a minimum of 20% of its
11 retail sales of electrical energy in Montana from eligible renewable resources.

12 (b) (i) As part of their compliance with subsection (4)(a), public utilities shall purchase both the renewable
13 energy credits and the electricity output from community renewable energy projects that total at least 100
14 megawatts in nameplate capacity.

15 (ii) In meeting the standard in subsection (4)(b)(i), a public utility may include purchases made under
16 subsection (3)(b).

17 (c) Public utilities shall proportionately allocate the purchase required under subsection (4)(b) based on
18 each public utility's retail sales of electrical energy in Montana in the calendar year 2019.

19 (5) (a) In the compliance year beginning January 1, 2025, and in each succeeding compliance year, each
20 public utility and competitive electricity supplier shall procure a minimum of 25% of its retail sales of electrical
21 energy in Montana from eligible renewable resources.

22 (b) (i) As part of their compliance with subsection (5)(a), public utilities shall purchase both the renewable
23 energy credits and the electricity output from community renewable energy projects that total at least 125
24 megawatts in nameplate capacity.

25 (ii) In meeting the standard in subsection (5)(b)(i), a public utility may include purchases made under
26 subsection (4)(b).

27 (c) Public utilities shall proportionately allocate the purchase required under subsection (5)(b) based on
28 each public utility's retail sales of electrical energy in Montana in the calendar year 2024.

29 ~~(5)(6)~~ (a) In complying with the standards required under subsections (2) through ~~(4)~~ (5), a public utility
30 or competitive electricity supplier shall, for any given compliance year, calculate its procurement requirement

1 based on the public utility's or competitive electricity supplier's previous year's sales of electrical energy to retail
2 customers in Montana.

3 (b) The standard in subsections (2) through ~~(4)~~ (5) must be calculated on a delivered-energy basis after
4 accounting for any line losses.

5 ~~(6)~~(7) A public utility or competitive electricity supplier has until 3 months following the end of each
6 compliance year to purchase renewable energy credits for that compliance year.

7 ~~(7)~~(8) (a) In order to meet the standard established in subsections (2) through ~~(4)~~ (5), a public utility or
8 competitive electricity supplier may only use:

9 (i) electricity from an eligible renewable resource in which the associated renewable energy credits have
10 not been sold separately;

11 (ii) renewable energy credits created by an eligible renewable resource purchased separately from the
12 associated electricity; or

13 (iii) any combination of subsections ~~(7)(a)(i) and (7)(a)(ii)~~ (8)(a)(i) and (8)(a)(ii).

14 (b) A public utility or competitive electricity supplier may not resell renewable energy credits and count
15 those sold credits against the public utility's or the competitive electricity supplier's obligation to meet the
16 standards established in subsections (2) through ~~(4)~~ (5).

17 (c) Renewable energy credits sold through a voluntary service, such as the one provided for in
18 69-8-210(2), may not be applied against a public utility's or competitive electricity supplier's obligation to meet
19 the standards established in subsections (2) through ~~(4)~~ (5).

20 ~~(8)~~(9) Nothing in this part limits a public utility or competitive electricity supplier from exceeding the
21 standards established in subsections (2) through ~~(4)~~ (5).

22 ~~(9)~~(10) If a public utility or competitive electricity supplier exceeds a standard established in subsections
23 (2) through ~~(4)~~ (5) in any compliance year, the public utility or competitive electricity supplier may carry forward
24 the amount by which the standard was exceeded to comply with the standard in either or both of the 2
25 subsequent compliance years. The carryforward may not be double-counted.

26 ~~(10)~~(11) Except as provided in subsections ~~(11) and (12)~~ (12) and (13), if a public utility or competitive
27 electricity supplier is unable to meet the standards established in subsections (2) through ~~(4)~~ (5) in any
28 compliance year, that public utility or competitive electricity supplier shall pay an administrative penalty, assessed
29 by the commission, of \$10 for each megawatt hour of renewable energy credits that the public utility or
30 competitive electricity supplier failed to procure. A public utility may not recover this penalty in electricity rates.

1 Money generated from these penalties must be deposited in the universal low-income energy assistance fund
 2 established in ~~69-8-412(1)(a)~~ 69-8-412(1)(b).

3 ~~(11)~~(12) A public utility or competitive electricity supplier may petition the commission for a short-term
 4 waiver from full compliance with the standards in subsections (2) through ~~(4)~~ (5) and the penalties levied under
 5 subsection ~~(10)~~ (11). The petition must demonstrate that the:

6 (a) public utility or competitive electricity supplier has undertaken all reasonable steps to procure
 7 renewable energy credits under long-term contract, but full compliance cannot be achieved either because
 8 renewable energy credits cannot be procured or for other legitimate reasons that are outside the control of the
 9 public utility or competitive electricity supplier; or

10 (b) integration of additional eligible renewable resources into the electrical grid will clearly and
 11 demonstrably jeopardize the reliability of the electrical system and that the public utility or competitive electricity
 12 supplier has undertaken all reasonable steps to mitigate the reliability concerns.

13 ~~(12)~~(13) (a) Retail sales made by a competitive electricity supplier according to prices, terms, and
 14 conditions of a written contract executed prior to April 25, 2007, are exempt from the standards in subsections
 15 (2) through ~~(4)~~ (5).

16 (b) The exemption provided for in subsection ~~(12)(a)~~ (13)(a) is terminated upon modification after April
 17 25, 2007, of the prices, terms, or conditions in a written contract."

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19 **Section 2.** Section 69-3-2005, MCA, is amended to read:

20 **"69-3-2005. Procurement -- cost recovery -- reporting.** (1) In meeting the requirements of this part,
 21 a public utility shall:

22 (a) conduct renewable energy solicitations under which the public utility offers to purchase renewable
 23 energy credits, either with or without the associated electricity, under contracts of at least 10 years in duration;

24 (b) consider the importance of geographically diverse rural economic development when procuring
 25 renewable energy credits; and

26 (c) consider the importance of dispatch ability, seasonality, and other attributes of the eligible renewable
 27 resource contained in the commission's supply procurement rules when considering the procurement of
 28 renewable energy or renewable energy credits.

29 (2) A public utility that intends to enter into contracts of less than 10 years in duration shall demonstrate
 30 to the commission that these contracts will provide a lower long-term cost of meeting the standard established

1 in 69-3-2004.

2 (3) (a) Contracts signed for projects located in Montana must require all contractors to give preference
3 to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the
4 projects if the Montana residents have substantially equal qualifications to those of nonresidents.

5 (b) Contracts signed for projects located in Montana must require all contractors to pay the standard
6 prevailing rate of wages for heavy construction, as provided in 18-2-414, during the construction phase of the
7 project.

8 (4) All contracts signed by a public utility to meet the requirements of this part are eligible for advanced
9 approval under procedures established by the commission. Upon advanced approval by the commission, these
10 contracts are eligible for cost recovery from ratepayers, except that nothing in this part limits the commission's
11 ability to subsequently, in any future cost-recovery proceeding, inquire into the manner in which the public utility
12 has managed the contract and to disallow cost recovery if the contract was not reasonably administered.

13 (5) A public utility or competitive electricity supplier shall submit renewable energy procurement plans
14 to the commission in accordance with rules adopted by the commission. The plans must be submitted to the
15 commission on or before:

16 (a) June 1, 2013, for the standard required in ~~69-3-2004(4)~~ 69-3-2004(3); and

17 (b) June 1, 2018, for the standard required in 69-3-2004(4);

18 (c) June 1, 2023, for the standard required in 69-3-2004(5); and

19 ~~(b)~~(d) any additional future dates as required by the commission.

20 (6) A public utility or competitive electricity supplier shall submit annual reports, in a format to be
21 determined by the commission, demonstrating compliance with this part for each compliance year. The reports
22 must be filed by March 1 of the year following the compliance year.

23 (7) For the purpose of implementing this part, the commission has regulatory authority over competitive
24 electricity suppliers."

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26 **NEW SECTION. Section 3. Notification to tribal governments.** The secretary of state shall send a
27 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
28 Chippewa tribe.

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

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