

SENATE BILL NO. 350

INTRODUCED BY R. ERICKSON

1  
2  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE RENEWABLE RESOURCE STANDARD LAWS;  
5 CLARIFYING THE DEFINITION OF PUBLIC UTILITY; CLARIFYING THE RENEWABLE RESOURCE  
6 STANDARD FOR CERTAIN PUBLIC UTILITIES; AMENDING SECTIONS 69-3-2003 AND 69-3-2004, MCA; AND  
7 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10  
11 **Section 1.** Section 69-3-2003, MCA, is amended to read:

12 **"69-3-2003. Definitions.** As used in this part, unless the context requires otherwise, the following  
13 definitions apply:

14 (1) "Ancillary services" means services or tariff provisions related to generation and delivery of electric  
15 power other than simple generation, transmission, or distribution. Ancillary services related to transmission  
16 services include energy losses, energy imbalances, scheduling and dispatching, load following, system  
17 protection, spinning reserves and nonspinning reserves, and reactive power.

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

21 (3) "Common ownership" means the same or substantially similar persons or entities that maintain a  
22 controlling interest in more than one community renewable energy project even if the ownership shares differ  
23 between two community renewable energy projects. Two community renewable energy projects may not be  
24 considered to be under common ownership simply because the same entity provided debt or equity or both debt  
25 and equity to both projects.

26 (4) "Community renewable energy project" means an eligible renewable resource that:  
27 (a) is interconnected on the utility side of the meter in which local owners have a controlling interest and  
28 that is less than or equal to 25 megawatts in total calculated nameplate capacity; or  
29 (b) is owned by a public utility and has less than or equal to 25 megawatts in total nameplate capacity.  
30 (5) (a) "Competitive electricity supplier" means any person, corporation, or governmental entity that is

1 selling electricity to small customers at retail rates in the state of Montana and that is not a public utility or  
2 cooperative.

3 (b) The term does not include governmental entities selling electricity produced only by facilities  
4 generating less than 250 kilowatts that were in operation prior to 1990.

5 (6) "Compliance year" means each calendar year beginning January 1 and ending December 31, starting  
6 in 2008, for which compliance with this part must be demonstrated.

7 (7) "Cooperative utility" means:

8 (a) a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18; or

9 (b) an existing municipal electric utility as of May 2, 1997.

10 (8) "Dispatch ability" means the ability of either a balancing authority or the owner of an electric  
11 generating resource to rapidly start, stop, increase, or decrease electricity production from that generating  
12 resource in order to respond to the balancing authority's need to match supply resources to loads on the  
13 transmission system.

14 (9) "Electric generating resource" means any plant or equipment used to generate electricity by any  
15 means.

16 (10) "Eligible renewable resource" means a facility either located within Montana or delivering electricity  
17 from another state into Montana that commences commercial operation after January 1, 2005, and that produces  
18 electricity from one or more of the following sources:

19 (a) wind;

20 (b) solar;

21 (c) geothermal;

22 (d) water power, in the case of a hydroelectric project that:

23 (i) does not require a new appropriation, diversion, or impoundment of water and that has a nameplate  
24 rating of 10 megawatts or less; or

25 (ii) is installed at an existing reservoir or on an existing irrigation system that does not have hydroelectric  
26 generation as of April 16, 2009, and has a nameplate capacity of 15 megawatts or less;

27 (e) landfill or farm-based methane gas;

28 (f) gas produced during the treatment of wastewater;

29 (g) low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic  
30 fuels from wood, forest, or field residues, except that the term does not include wood pieces that have been

1 treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic;

2 (h) hydrogen derived from any of the sources in this subsection (10) for use in fuel cells;

3 (i) the renewable energy fraction from the sources identified in subsections (10)(a) through (10)(j) of  
4 electricity production from a multiple-fuel process with fossil fuels; and

5 (j) compressed air derived from any of the sources in this subsection (10) that is forced into an  
6 underground storage reservoir and later released, heated, and passed through a turbine generator.

7 (11) "Local owners" means:

8 (a) Montana residents or entities composed of Montana residents;

9 (b) Montana small businesses;

10 (c) Montana nonprofit organizations;

11 (d) Montana-based tribal councils;

12 (e) Montana political subdivisions or local governments;

13 (f) Montana-based cooperatives other than cooperative utilities; or

14 (g) any combination of the individuals or entities listed in subsections (11)(a) through (11)(f).

15 (12) "Nonspinning reserve" means offline generation that can be ramped up to capacity and synchronized  
16 to the grid within 10 minutes and that is needed to maintain system frequency stability during emergency  
17 conditions, unforeseen load swings, and generation disruptions.

18 (13) "Public utility" means:

19 (a) any electric utility regulated by the commission pursuant to Title 69, chapter 3, on January 1, 2005,  
20 including the public utility's successors or assignees; or

21 (b) any entity that:

22 (i) wholly or partially owns or operates a generating facility in Montana, directly or through a subsidiary  
23 or an affiliate;

24 (ii) furnishes electricity from the generating facility to retail customers in another state; and

25 (iii) would be a public utility as defined in subsection (13)(a) if those retail electricity customers were in  
26 Montana.

27 (14) "Renewable energy credit" means a tradable certificate of proof of 1 megawatt hour of electricity  
28 generated by an eligible renewable resource that is tracked and verified by the commission and includes all of  
29 the environmental attributes associated with that 1 megawatt-hour unit of electricity production.

30 (15) "Seasonality" means the degree to which an electric generating resource is capable of producing

1 electricity in each of the seasons of the year.

2 (16) "Small customer" means a retail customer that has an individual load with an average monthly  
3 demand of less than 5,000 kilowatts.

4 (17) "Spinning reserve" means the online reserve capacity that is synchronized to the grid system and  
5 immediately responsive to frequency control and that is needed to maintain system frequency stability during  
6 emergency conditions, unforeseen load swings, and generation disruptions.

7 (18) "Total calculated nameplate capacity" means the calculation of total nameplate capacity of the  
8 community renewable energy project and other eligible renewable resources that are:

9 (a) located within 5 miles of the project;

10 (b) constructed within the same 12-month period; and

11 (c) under common ownership."  
12

13 **Section 2.** Section 69-3-2004, MCA, is amended to read:

14 **"69-3-2004. Renewable resource standard -- administrative penalty -- waiver.** (1) Except as provided  
15 in 69-3-2007 and subsections (11) and (12) of this section, a graduated renewable energy standard is established  
16 for public utilities and competitive electricity suppliers as provided in subsections (2) through (4) of this section.

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

20 ~~(3)(2)~~ (a) In each compliance year beginning January 1, 2010, through December 31, 2014, each public  
21 utility and competitive electricity supplier shall procure a minimum of 10% of its retail sales of electrical energy  
22 in Montana from eligible renewable resources.

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

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

28 ~~(4)(3)~~ (a) In the compliance year beginning January 1, 2015, and in each succeeding compliance year,  
29 each public utility and competitive electricity supplier shall procure a minimum of 15% of its retail sales of  
30 electrical energy in Montana from eligible renewable resources.

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

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

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

8 (4) (a) Except as provided in subsection (5)(b), in the compliance year beginning January 1, 2015, and  
9 in each succeeding compliance year, a public utility as defined in 69-3-2003(13)(b) shall generate a minimum of  
10 15% of its production in Montana from eligible renewable resources.

11 (b) A public utility may request exemption from the requirement in (4)(a) if:

12 (i) it demonstrates to the commission that it is meeting a renewable portfolio standard of 15% of its retail  
13 electricity sales in a state in which it furnishes electricity from the generating facility described in 69-3-2003(13)(b);  
14 or

15 (ii) it is otherwise subject to this part.

16 (5) (a) In complying with the standards required under subsections (2) through (4), a public utility or  
17 competitive electricity supplier shall, for any given compliance year, calculate its procurement requirement based  
18 on the public utility's or competitive electricity supplier's previous year's sales of electrical energy to retail  
19 customers in Montana.

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

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

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

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

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

30 (iii) any combination of subsections (7)(a)(i) and (7)(a)(ii).

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

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

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

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

13 (10) Except as provided in subsections (11) and (12), if a public utility or competitive electricity supplier  
14 is unable to meet the standards established in subsections (2) ~~through (4)~~ and (3) in any compliance year, that  
15 public utility or competitive electricity supplier shall pay an administrative penalty, assessed by the commission,  
16 of \$10 for each megawatt hour of renewable energy credits that the public utility or competitive electricity supplier  
17 failed to procure. A public utility may not recover this penalty in electricity rates. Money generated from these  
18 penalties must be deposited in the universal low-income energy assistance fund established in 69-8-412(1)(a).

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

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

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

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

1 ~~(4)~~ and (3).

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

4

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

6

- END -