

1 HOUSE BILL NO. 78

2 INTRODUCED BY R. COOK

3 BY REQUEST OF THE PUBLIC SERVICE COMMISSION

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE DEFINITION OF "LOCAL OWNERS" IN THE
6 MONTANA RENEWABLE POWER PRODUCTION AND RURAL ECONOMIC DEVELOPMENT ACT;
7 AMENDING SECTION 69-3-2003, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
8 APPLICABILITY DATE."

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

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

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

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

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

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

27 (4) "Community renewable energy project" means an eligible renewable resource that:

28 (a) is interconnected on the utility side of the meter in which local owners have a controlling interest and
29 that is less than or equal to 25 megawatts in total calculated nameplate capacity; or

30 (b) is owned by a public utility and has less than or equal to 25 megawatts in total nameplate capacity.

1 (5) (a) "Competitive electricity supplier" means any person, corporation, or governmental entity that is
2 selling electricity to small customers at retail rates in the state of Montana and that is not a public utility or
3 cooperative.

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

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

8 (7) "Cooperative utility" means:

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

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

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

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

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

20 (a) wind;

21 (b) solar;

22 (c) geothermal;

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

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

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

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

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

30 (g) low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic

1 fuels from wood, forest, or field residues, except that the term does not include wood pieces that have been
 2 treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic;

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

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

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

8 (11) "Local owners" means:

9 (a) Montana residents; ~~or entities composed of~~

10 (b) general partnerships of which all partners are Montana residents;

11 ~~(b)(c) Montana small businesses;~~ business entities organized under the laws of Montana that:

12 (i) have less than \$50 million of gross revenue;

13 (ii) have less than \$100 million of assets; and

14 (iii) ~~are~~ HAVE at least 50% OF THE EQUITY INTERESTS, INCOME INTERESTS, AND VOTING INTERESTS owned by
 15 Montana residents;

16 ~~(c)(d)~~ Montana nonprofit organizations;

17 ~~(d)(e)~~ Montana-based tribal councils;

18 ~~(e)(f)~~ Montana political subdivisions or local governments;

19 ~~(f)(g)~~ Montana-based cooperatives other than cooperative utilities; or

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

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

24 (13) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter
 25 3, on January 1, 2005, including the public utility's successors or assignees.

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

29 (15) "Seasonality" means the degree to which an electric generating resource is capable of producing
 30 electricity in each of the seasons of the year.

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

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

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

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

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

10 (c) under common ownership."
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12 **NEW SECTION. Section 2. Saving clause.** [This act] does not affect rights and duties that matured,
13 penalties that were incurred, or proceedings that were begun before [the effective date of this act].
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15 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.
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17 **NEW SECTION. Section 4. Applicability.** [This act] applies to proceedings begun on or after [the
18 effective date of this act].
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