

## SENATE BILL NO. 205

INTRODUCED BY A. OLSON

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A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING A UTILITY FROM PROVIDING ELECTRICITY SUPPLY SERVICE IN ANOTHER UTILITY'S SERVICE TERRITORY; AMENDING SECTIONS 69-5-102 AND 69-8-411, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**NEW SECTION.** **Section 1. Supply service prohibited.** Except as provided in 69-5-104, a utility may not provide electricity supply service to premises in another utility's service territory. AN ELECTRICITY SUPPLIER MAY PROVIDE ELECTRICITY SUPPLY SERVICE IN THE SERVICE TERRITORY OF A PUBLIC UTILITY AS PROVIDED IN 69-8-411.

**Section 2.** Section 69-5-102, MCA, is amended to read:

**"69-5-102. Definitions.** When used in this part, the following definitions apply:

(1) "Agreement" means a written agreement between two or more electric facilities providers that identifies the geographical area to be served exclusively by each electric facilities provider that is a party to the agreement and any terms and conditions pertinent to the agreement.

(2) "Cost" means the gross cost of constructing new electric service facilities to the premises, using new materials and similar design standards required to meet the load, from a point where there is existing electrical capacity to serve.

(3) "Distribution facilities" means those facilities by and through which electricity is received from a transmission services provider and distributed to the customer that are controlled or operated by a distribution utility.

(4) "Distribution service" means the function of delivering electricity to the public by a distribution utility.

(5) "Distribution utility" means a utility owning distribution facilities for distribution of electricity to the public.

~~(3)~~(6) "Electric facilities provider" means any utility that provides electric service facilities to the public.

~~(4)~~(7) "Electric service facilities" means any distribution or transmission system or related facility necessary to provide electricity to the premises, including lines.

1 (8) "ELECTRICITY SUPPLIER" MEANS ANY PERSON, CORPORATION, OR GOVERNMENTAL ENTITY THAT:

2 (A) SELLS ELECTRICITY TO CUSTOMERS AT RETAIL RATES IN THE STATE; AND

3 (B) IS NOT A PUBLIC UTILITY OR A COOPERATIVE.

4 (8)(9) "Electricity supply service" means the provision of electricity supply and related services through  
 5 power purchase agreements, the acquisition and operation of electrical generation facilities, demand side  
 6 management, and energy efficiency programs.

7 (5)(9)(10) "Large customer" means any premises, except subdivisions, with the estimated connected  
 8 load for full operation at an individual service for the premises of 500 kilowatts or larger.

9 (6)(10)(11) "Line" means any material that is used to convey electrical energy and that is normally  
 10 energized between 2,400 volts phase to ground and 14,400 volts phase to ground.

11 (7)(11)(12) "Premises" means a building, residence, structure, irrigation pump, or facility to which electric  
 12 service facilities are provided or are to be installed. However, two or more buildings, structures, irrigation pumps,  
 13 or facilities that are located on one tract or contiguous tracts of land and that are used by one electric consumer  
 14 for farming, business, commercial, industrial, institutional, governmental, or trailer court purposes must together  
 15 constitute one premises, except that any building, structure, irrigation pump, or facility, other than a trailer court,  
 16 may not, together with any other building, structure, irrigation pump, or facility, constitute one premises if the  
 17 electric service to it is separately metered and the charges for that service are calculated independently of  
 18 charges for service to any other building, structure, irrigation pump, or facility.

19 (8)(12)(13) "Regulated utility" means any electric utility regulated by the commission pursuant to Title 69,  
 20 chapter 3, on May 2, 1997, including the public utility's successors or assignees.

21 (13)(14) "Service territory" means premises receiving distribution service from a utility on January 1, 2011,  
 22 and premises added pursuant to Title 69, chapter 5.

23 (9)(14)(15) "Subdivision" has the meaning provided for in 76-3-103. The definition includes subdivisions  
 24 that may be developed in one or more phases of development at different periods of time.

25 (10)(15)(16) "Utility" means a public utility regulated by the commission pursuant to Title 69, chapter 3,  
 26 or a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18, or their successors or assignees.

27 (11)(16)(17) "Vector" means a straight line between two points."

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29 **Section 3.** Section 69-8-411, MCA, is amended to read:

30 **"69-8-411. Nondiscriminatory access.** (1) Nonutility generators and electricity suppliers must have

1 open, fair, and nondiscriminatory access to a public utility's transmission and distribution facilities according to  
2 federal energy regulatory commission rules and regulations for purposes of serving those customers identified  
3 in 69-8-201(1) and (2).

4 (2) ~~Public~~ Except as provided in [section 1], public utilities shall grant the retail customers identified in  
5 69-8-201(1) and (2) and their electricity suppliers access to transmission and distribution facilities at rates and  
6 under terms and conditions comparable to the public utility's own access to those facilities or access by the public  
7 utility's affiliates.

8 (3) Public utilities shall file tariffs for transmission and distribution services regulated by the federal  
9 energy regulatory commission and the commission implementing subsections (1) and (2)."

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11 NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an  
12 integral part of Title 69, chapter 5, part 1, and the provisions of Title 69, chapter 5, part 1, apply to [section 1].

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

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