

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING NET METERING LAWS; ESTABLISHING
5 THE "MONTANA NEIGHBORHOOD NET METERING ACT"; ALLOWING NEIGHBORHOOD ENERGY
6 FACILITIES TO CONNECT TO A UTILITY'S DISTRIBUTION SYSTEM; ESTABLISHING NEIGHBORHOOD
7 ENERGY FACILITY AND UTILITY REQUIREMENTS; GRANTING THE PUBLIC SERVICE COMMISSION
8 RULEMAKING AUTHORITY; ALLOWING A CUSTOMER-GENERATOR PARTICIPATING IN NET METERING
9 TO CARRY FORWARD REMAINING UNUSED KILOWATT-HOUR CREDITS AND TO APPLY EXCESS
10 CREDITS TO SEPARATELY METERED ACCOUNTS; INCREASING THE CAP ON NET METERING;
11 PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA;
12 AMENDING SECTIONS 69-8-103, 69-8-201, AND 69-8-603, MCA; AND PROVIDING AN EFFECTIVE DATE
13 AND AN APPLICABILITY DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16
17 NEW SECTION. **Section 1. Short title.** [Sections 1 through 6] may be cited as the "Montana
18 Neighborhood Net Metering Act".

19
20 NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 6], unless the context requires
21 otherwise, the following definitions apply:

22 (1) "Neighborhood energy facility" means a facility located in Montana that produces electrical energy
23 and:

- 24 (a) uses as its fuel:
 - 25 (i) solar;
 - 26 (ii) wind;
 - 27 (iii) geothermal;
 - 28 (iv) fuel cells;
 - 29 (v) hydropower;
 - 30 (vi) landfill gas;

- 1 (vii) dedicated energy crops available on a renewable basis; or
2 (viii) low-emission, nontoxic biomass;
3 (b) is connected to a public utility's distribution system behind a production meter that is capable of
4 recording the cumulative kilowatt hours produced by a neighborhood energy facility;
5 (c) has a generating capacity of not more than 1 megawatt; and
6 (d) produces electricity that two or more subscribing customers within the same county receive an on-bill
7 credit for using.

8 (2) "Neighborhood energy facility owner" means a utility, for-profit business, nonprofit organization,
9 public-private partnership, or governmental unit that operates a neighborhood energy facility.

10 (3) "On-bill credit" means a credit of kilowatt hours applied to a subscribing customer's account or
11 accounts to offset the consumption of electrical energy.

12 (4) (a) "Public utility" means an electric utility regulated by the commission pursuant to Title 69, chapter
13 3, on [the effective date of this act], including the public utility's successors or assignees.

14 (b) The term does not include a:

- 15 (i) neighborhood energy facility;
16 (ii) subscribing customer; or
17 (iii) public utility that served 50 or fewer retail customers in Montana on December 31, 2012.

18 (5) "Subscribing customer" means a retail electricity consumer receiving an on-bill credit for electricity
19 generated by a neighborhood energy facility.

20
21 **NEW SECTION. Section 3. Neighborhood energy facility requirements -- public utility**

22 **requirements.** (1) A public utility shall allow a neighborhood energy facility that meets the requirements of
23 [section 6] to be interconnected to its distribution system.

24 (2) Except as provided in subsection (5), a public utility shall grant an on-bill credit in accordance with
25 [section 4], this section, and rules adopted by the commission pursuant to [section 6] to the account or accounts
26 of subscribing customers.

27 (3) A neighborhood energy facility owner generating electricity for subscribing customers shall provide
28 a public utility with:

- 29 (a) a single point of contact;
30 (b) a list, to be updated no more than once a month, of all subscribing customers and the associated

1 accounts that are to receive an on-bill credit for electricity generated by the neighborhood energy facility; and
2 (c) the proportion or block of generated electricity assignable to each subscribing customer and
3 associated account or accounts.

4 (4) A public utility may charge a subscribing customer a monthly fee, established by the commission in
5 accordance with [section 6], that covers reasonable administrative expenses for administering neighborhood
6 energy facility on-bill credits.

7 (5) (a) A subscribing customer must have an account with the public utility providing the on-bill credit.
8 Accounts must be for meters at locations within the county where the neighborhood energy facility is located.

9 (b) If a subscribing customer ceases to hold the account where the on-bill credit is received but has
10 another account in the service territory of the public utility and in the county where a neighborhood energy facility
11 is located, the on-bill credit must, at the request of the subscribing customer, be transferred to the new account
12 and be adjusted to reflect the proportion or block of generated electricity assignable to the account in accordance
13 with subsection (3)(c).

14 (c) If a subscribing customer ceases to hold the account where an on-bill credit is received, the public
15 utility, at the request of the subscribing customer, shall transfer the on-bill credit to another subscribing customer
16 in the county where a neighborhood energy facility is located.

17
18 **NEW SECTION. Section 4. Net energy calculations for neighborhood energy facilities --**
19 **renewable energy credits.** (1) (a) A public utility shall grant an on-bill credit to a subscribing customer's account
20 or accounts for the proportion of generation from a neighborhood energy facility for each billing period. The on-bill
21 credit must represent at least 1 kilowatt of the neighborhood energy facility's generating capacity.

22 (b) The public utility shall determine an on-bill credit by multiplying the subscribing customer's proportion
23 of the electricity produced by the neighborhood energy facility by the retail rate per kilowatt hour of the public
24 utility.

25 (c) The on-bill credit for each separately metered account may not be more than the subscribing
26 customer's average annual consumption of electricity for that metered account.

27 (2) (a) If the electricity supplied by a public utility for the account or accounts of the subscribing customer
28 exceeds the subscribing customer's on-bill credit, the subscribing customer must be billed for the electricity
29 supplied by the public utility, excluding the subscribing customer's on-bill credit.

30 (b) If the subscribing customer's on-bill credit during the billing period exceeds the electricity supplied by

1 a public utility for the account or accounts, the subscribing customer must be:

2 (i) billed for the appropriate customer charges for that billing period, in accordance with [section 3(4)];

3 and

4 (ii) credited for the excess kilowatt hours generated during the billing period, with this kilowatt-hour credit
5 appearing on the bill for the following billing period.

6 (3) On January 1, April 1, July 1, or October 1 of every second year, as designated by the subscribing
7 customer as the beginning date of a 24-month billing period, any remaining unused kilowatt-hour credit
8 accumulated during the previous 24 months must be granted to the public utility, without any compensation to
9 the subscribing customer.

10 (4) A neighborhood energy facility owner owns the renewable energy credits associated with the
11 neighborhood energy facility.

12

13 **NEW SECTION. Section 5. Neighborhood energy facility -- reliability and safety.** A neighborhood
14 energy facility must include, at the neighborhood energy facility owner's own expense, all equipment necessary
15 to meet applicable safety, power quality, and interconnection requirements established by the national electrical
16 code, national electrical safety code, institute of electrical and electronics engineers, and underwriters
17 laboratories.

18

19 **NEW SECTION. Section 6. Commission authority -- rulemaking.** (1) The commission has the
20 authority to generally implement and enforce the provisions of [sections 1 through 6].

21 (2) The commission shall adopt rules establishing:

22 (a) the maximum fee a public utility may charge a neighborhood energy facility owner to cover
23 reasonable administrative expenses for providing on-bill credits;

24 (b) requirements that on-bill credits be provided by a public utility in accordance with [section 4(1)];

25 (c) additional safety and power quality requirements for a neighborhood energy facility owner that the
26 commission determines are necessary in accordance with [section 5];

27 (d) accounting practices for neighborhood energy facility owners and subscribing customers for the
28 purposes of administering an on-bill credit; and

29 (e) implementation and enforcement of the provisions of [sections 1 through 6].

30

1 **Section 7.** Section 69-8-103, MCA, is amended to read:

2 **"69-8-103. Definitions.** As used in this chapter, unless the context requires otherwise, the following
3 definitions apply:

4 (1) "Assignee" means any entity, including a corporation, partnership, board, trust, or financing vehicle,
5 to which a utility assigns, sells, or transfers, other than as security, all or a portion of the utility's interest in or right
6 to transition property. The term also includes an entity, corporation, public authority, partnership, trust, or
7 financing vehicle to which an assignee assigns, sells, or transfers, other than as security, the assignee's interest
8 in or right to transition property.

9 (2) "Board" means the board of investments created by 2-15-1808.

10 (3) "Carbon offset provider" means a qualified third-party entity that arranges for projects or actions that
11 either reduce carbon dioxide emissions or increase the absorption of carbon dioxide.

12 (4) "Cooperative utility" means:

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

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

15 (5) "Cost-effective carbon offsets" means any combination of certified actions that are taken to reduce
16 carbon dioxide emissions or that increase the absorption of carbon dioxide, which collectively do not increase
17 the cost of electricity produced annually on a per-megawatt-hour basis by more than 2.5%, including:

18 (a) actions undertaken by the applicant that reduce carbon dioxide emissions or that increase the
19 absorption of carbon dioxide from a facility or equipment used to generate electricity; or

20 (b) actions by a carbon offset provider on behalf of the applicant.

21 (6) "Customer-generator" means a user of a net metering system.

22 (7) "Distribution facilities" means those facilities by and through which electricity is received from
23 transmission facilities and distributed to a retail customer and that are controlled or operated by a utility.

24 (8) "Electricity supply costs" means the actual costs incurred in providing electricity supply service
25 through power purchase agreements, demand-side management, and energy efficiency programs, including but
26 not limited to:

27 (a) capacity costs;

28 (b) energy costs;

29 (c) fuel costs;

30 (d) ancillary service costs;

- 1 (e) transmission costs, including congestion and losses;
- 2 (f) planning and administrative costs; and
- 3 (g) any other costs directly related to the purchase of electricity and the management and provision of
- 4 power purchase agreements.
- 5 (9) "Electricity supply resource" means:
- 6 (a) contracts for electric capacity and generation;
- 7 (b) plants owned or leased by a utility or equipment used to generate electricity;
- 8 (c) customer load management and energy conservation programs; or
- 9 (d) other means of providing adequate, reliable service to customers, as determined by the commission.
- 10 (10) "Electricity supply service" means the provision of electricity supply and related services through
- 11 power purchase agreements, the acquisition and operation of electrical generation facilities, demand-side
- 12 management, and energy efficiency programs.
- 13 (11) "Financing order" means an order of the commission adopted in accordance with 69-8-503 that
- 14 authorizes the imposition and collection of fixed transition amounts and the issuance of transition bonds.
- 15 (12) (a) "Fixed transition amounts" means those nonbypassable rates or charges, including but not limited
- 16 to:
- 17 (i) distribution;
- 18 (ii) connection;
- 19 (iii) disconnection; and
- 20 (iv) termination rates and charges that are authorized by the commission in a financing order to permit
- 21 recovery of transition costs and the costs of recovering, reimbursing, financing, or refinancing the transition costs
- 22 and of acquiring transition property through a plan approved by the commission in the financing order, including
- 23 the costs of issuing, servicing, and retiring transition bonds.
- 24 (b) If requested by the utility in the utility's application for a financing order, fixed transition amounts must
- 25 include nonbypassable rates or charges to recover federal and state taxes in which the transition cost recovery
- 26 period is modified by the transactions approved in the financing order.
- 27 (13) "Generation assets cost of service" means a return on invested capital and all costs associated with
- 28 the acquisition, construction, administration, operation, and maintenance of a plant or equipment owned or leased
- 29 by a public utility and used for the production of electricity.
- 30 (14) "Interested person" means a retail electricity customer, the consumer counsel established in

1 5-15-201, the commission, or a utility.

2 (15) "Large customer" means, for universal system benefits programs purposes, a customer with an
3 individual load greater than a monthly average of 1,000 kilowatt demand in the previous calendar year for that
4 individual load.

5 (16) "Local governing body" means a local board of trustees of a rural electric cooperative.

6 (17) "Low-income customer" means those energy consumer households and families with incomes at
7 or below industry-recognized levels that qualify those consumers for low-income energy-related assistance.

8 (18) "Net metering" means measuring the difference between the electricity distributed to and the
9 electricity generated by a customer-generator that is fed back to the distribution system during the applicable
10 billing period.

11 (19) "Net metering system" means a facility for the production of electrical energy that:

12 (a) uses as its fuel solar, wind, or hydropower;

13 (b) has a generating capacity of not more than ~~50 kilowatts~~ 1 megawatt;

14 (c) is located on the customer-generator's premises;

15 (d) operates in parallel with the utility's distribution facilities; and

16 (e) is intended primarily to offset part or all of the customer-generator's requirements for electricity.

17 (20) "Nonbypassable rates or charges" means rates or charges that are approved by the commission
18 and imposed on a customer to pay the customer's share of transition costs or universal system benefits programs
19 costs even if the customer has physically bypassed either the utility's transmission or distribution facilities.

20 (21) "Public utility" has the meaning of a public utility regulated by the commission pursuant to Title 69,
21 chapter 3, on May 2, 1997, including the public utility's successors or assignees.

22 (22) "Qualifying load" means, for payments and credits associated with universal system benefits
23 programs, all nonresidential demand-metered accounts of a large customer within the utility's service territory in
24 which the customer qualifies as a large customer.

25 (23) "Retail customer" means a customer that purchases electricity for residential, commercial, or
26 industrial end-use purposes and does not resell electricity to others.

27 (24) "Transition bondholder" means a holder of transition bonds, including trustees, collateral agents, and
28 other entities acting for the benefit of that bondholder.

29 (25) "Transition bonds" means any bond, debenture, note, interim certificate, collateral, trust certificate,
30 or other evidence of indebtedness or ownership issued by the board or other transition bonds issuer that is

1 secured by or payable from fixed transition amounts or transition property. Proceeds from transition bonds must
2 be used to recover, reimburse, finance, or refinance transition costs and to acquire transition property.

3 (26) "Transition charge" means a nonbypassable rate or charge to be imposed on a customer to pay the
4 customer's share of transition costs.

5 (27) "Transition cost recovery period" means the period beginning on July 1, 1998, and ending when a
6 utility customer does not have any liability for payment of transition costs.

7 (28) "Transition costs" means:

8 (a) a public utility's net verifiable generation-related and electricity supply costs, including costs of capital,
9 that become unrecoverable as a result of the implementation of federal law requiring retail open access or
10 customer choice or of this chapter;

11 (b) those costs that include but are not limited to:

12 (i) regulatory assets and deferred charges that exist because of current regulatory practices and can be
13 accounted for up to the effective date of the commission's final order regarding a public utility's transition plan and
14 conservation investments made prior to universal system benefits charge implementation;

15 (ii) nonutility and utility power purchase contracts executed before May 2, 1997, including qualifying
16 facility contracts;

17 (iii) existing generation investments and supply commitments or other obligations incurred before May
18 2, 1997, and costs arising from these investments and commitments;

19 (iv) the costs associated with renegotiation or buyout of the existing nonutility and utility power purchase
20 contracts, including qualifying facilities and all costs, expenses, and reasonable fees related to issuing transition
21 bonds; and

22 (v) the costs of refinancing and retiring of debt or equity capital of the public utility and associated federal
23 and state tax liabilities or other utility costs for which the use of transition bonds would benefit customers.

24 (29) "Transition property" means the property right created by a financing order, including without
25 limitation the right, title, and interest of a utility, assignee, or other issuer of transition bonds to all revenue,
26 collections, claims, payments, money, or proceeds of or arising from or constituting fixed transition amounts that
27 are the subject of a financing order, including those nonbypassable rates and other charges and fixed transition
28 amounts that are authorized by the commission in the financing order to recover transition costs and the costs
29 of recovering, reimbursing, financing, or refinancing the transition costs and acquiring transition property,
30 including the costs of issuing, servicing, and retiring transition bonds. Any right that a utility has in the transition

1 property before the utility's sale or transfer or any other right created under this section or created in the financing
2 order and assignable under this chapter or assignable pursuant to a financing order is only a contract right.

3 (30) "Transmission facilities" means those facilities that are used to provide transmission services as
4 determined by the federal energy regulatory commission and the commission and that are controlled or operated
5 by a utility.

6 (31) "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on a
7 customer to pay the customer's share of universal system benefits programs costs.

8 (32) "Universal system benefits programs" means public purpose programs for:

9 (a) cost-effective local energy conservation;

10 (b) low-income customer weatherization;

11 (c) renewable resource projects and applications, including those that capture unique social and energy
12 system benefits or that provide transmission and distribution system benefits;

13 (d) research and development programs related to energy conservation and renewables;

14 (e) market transformation designed to encourage competitive markets for public purpose programs; and

15 (f) low-income energy assistance.

16 (33) "Utility" means any public utility or cooperative utility."
17

18 **Section 8.** Section 69-8-201, MCA, is amended to read:

19 **"69-8-201. Public utility -- customer electricity supply service options and requirements --**

20 **exemption.** (1) (a) Except as provided in subsections (1)(b) and (1)(c), a retail customer that has an individual
21 load with an average monthly demand of greater than or equal to 5,000 kilowatts and that is not purchasing
22 electricity supply service from a public utility on October 1, 2007, may not purchase electricity supply service from
23 a public utility.

24 (b) A retail customer referred to in subsection (1)(a) may request electricity supply service from the public
25 utility, and the public utility shall provide electricity supply service if the retail customer demonstrates that the
26 provision of electricity supply service to the retail customer will not adversely impact the public utility's other
27 customers over the long term as determined by the commission.

28 (c) If a public utility provides electricity supply service to a retail customer as provided in subsection
29 (1)(b), that service is regulated by the commission and the customer may not, at a later date, purchase electricity
30 supply service from another provider of electricity supply service.

1 (2) (a) A retail customer that has an individual load with an average monthly demand of less than 5,000
 2 kilowatts that is not purchasing electricity from a public utility on October 1, 2007, may continue to purchase
 3 electricity from an electricity supplier. The retail customer may subsequently purchase electricity from a public
 4 utility subject to commission rule or order, but the customer may not, at a later date, choose to purchase electricity
 5 from another source.

6 (b) A retail customer that has an individual load with an average monthly demand of less than 5,000
 7 kilowatts and that is currently purchasing electricity from a public utility may not choose to purchase electricity
 8 from another source after October 1, 2007.

9 (3) Nothing in this section affects a retail customer's rights and obligations with respect to net metering,
 10 use of a neighborhood energy facility, cogeneration, self-generation, or ancillary sales of electricity related to
 11 deviations from scheduled energy deliveries from nonutility suppliers, as may be provided for in law, commission
 12 rule or order, or a tariff approved by the public service commission or the federal energy regulatory commission.

13 (4) (a) Except as provided in 69-5-101, 69-5-102, 69-5-104(2), 69-5-105 through 69-5-112, 69-8-402,
 14 and subsection (4)(b) of this section, a public utility currently doing business in Montana as part of a single
 15 integrated multistate operation, no portion of which lies within the basin of the Columbia River, is exempt from
 16 the requirements of this chapter.

17 (b) To the extent that a public utility described in subsection (4)(a) becomes the successor in interest
 18 of another public utility that has restructured in accordance with this chapter before October 1, 2007, it is subject
 19 to the requirements of this chapter with respect to the service area of the acquired public utility."
 20

21 **Section 9.** Section 69-8-603, MCA, is amended to read:

22 **"69-8-603. Net energy measurement calculation.** Consistent with the other provisions of this part, the
 23 net energy measurement must be calculated in the following manner:

24 (1) The public utility shall measure the net electricity produced or consumed during the billing period, in
 25 accordance with normal metering practices.

26 (2) If the electricity supplied by the ~~electricity-supplier~~ public utility exceeds the electricity generated by
 27 the customer-generator and fed back to the ~~electricity-supplier~~ public utility during the billing period, the
 28 customer-generator must be billed for the net electricity supplied by the ~~electricity-supplier~~ public utility, in
 29 accordance with normal metering practices.

30 ~~(3) If electricity generated by the customer-generator exceeds the electricity supplied by the electricity~~

1 supplier, the customer-generator must be:

2 ~~—— (a) billed for the appropriate customer charges for that billing period, in accordance with 69-8-602; and~~

3 ~~—— (b) credited for the excess kilowatt hours generated during the billing period, with this kilowatt-hour credit~~

4 ~~appearing on the bill for the following billing period.~~

5 (3) (a) Except as provided in subsection (3)(c) and in accordance with subsection (3)(e), at the end of
 6 each monthly billing period a public utility shall carry over any excess kilowatt-hour credits earned by the
 7 customer-generator and apply those credits to the bill for any of the customer-generator's separately metered
 8 accounts. Separately metered accounts may include a utility account for a corporation of which the
 9 customer-generator is an owner.

10 (b) A separately metered account must be for:

11 (i) a location on the customer-generator's contiguous or abutting property; and

12 (ii) electricity used only for the customer-generator's requirements as measured for that location.

13 (c) Excess kilowatt-hour credits may not reduce minimum monthly fees imposed by the public utility in
 14 accordance with 69-8-602(2).

15 (d) If excess kilowatt-hour credits are applied in accordance with subsection (3)(a) to a separate meter
 16 that is in a different rate class, the kilowatt-hour credit must offset a kilowatt hour of electricity consumption.

17 (e) A customer-generator applying excess kilowatt-hour credits to a separately metered account shall:

18 (i) give at least 60 days' notice to a public utility that additional meters will be included in meter
 19 aggregation in accordance with this subsection (3)(e);

20 (ii) designate the rank order for the meters to which net metering credits are to be applied; and

21 (iii) at least 60 days in advance of the next 12-month billing period, notify the public utility if the
 22 designation of rank provided in accordance with subsection (3)(e)(ii) will be changed.

23 (4) On January 1, April 1, July 1, or October 1 of each year, as designated by the customer-generator
 24 as the beginning date of a 12-month billing period, any remaining unused kilowatt-hour ~~credit~~ credits accumulated
 25 during the previous 12 months must be granted to the ~~electricity supplier~~ public utility, without any compensation
 26 to the customer-generator."

27
 28 NEW SECTION. Section 10. Notification to tribal governments. The secretary of state shall send
 29 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
 30 Chippewa tribe.

