

HOUSE BILL NO. 93

INTRODUCED BY D. SKEES

BY REQUEST OF THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE REGULATION OF SMALL SEWER OR WATER UTILITIES BY THE PUBLIC SERVICE COMMISSION; PROVIDING FOR STANDARD RATE TARIFFS FOR SMALL SEWER OR WATER UTILITIES BY THE COMMISSION; PROVIDING RULEMAKING AUTHORITY; PROVIDING A TRANSITION; AMENDING SECTION 69-3-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 69-3-101, MCA, is amended to read:

"69-3-101. Meaning of term "public utility". (1) The term "public utility", within the meaning of this chapter, includes every corporation, both public and private, company, individual, association of individuals, and their lessees, trustees, or receivers appointed by any court that own, operate, or control any plant or equipment, any part of a plant or equipment, or any water right within the state for the production, delivery, or furnishing for or to other persons, firms, associations, or corporations, private or municipal:

- (a) heat;
- (b) street-railway service;
- (c) light;
- (d) power in any form or by any agency;
- (e) except as provided in chapter 7 and, when applicable, in accordance with [sections 2 through 5], water for business, manufacturing, household use, or sewerage service, whether within the limits of municipalities or towns or elsewhere;
- (f) regulated telecommunications service.

(2) The term does not include:

- (a) privately owned and operated water, sewer, or water and sewer systems that do not serve the public;
- (b) county or consolidated city and county water or sewer districts as defined in Title 7, chapter 13, parts

22 and 23;



1 (c) except as provided in chapter 7, municipal sewer or water systems and municipal water supply
2 systems established by the governing body of a municipality pursuant to Title 7, chapter 13, parts 42, 43, and 44;
3 or

4 (d) a person exempted from regulation as a public utility as provided in 69-3-111."
5

6 **NEW SECTION. Section 2. Definitions.** As used in [sections 2 through 5], unless the context requires
7 otherwise, the following definitions apply:

8 (1) "ANCILLARY CHARGES" MEANS:

9 (A) OPTIONAL CHARGES SELECTED BY A CUSTOMER THAT ARE NOT NECESSARY FOR THE PROVISION OF WATER
10 OR SEWER UTILITY SERVICE; OR

11 (B) ADJUSTMENTS IN CHARGES, INCLUDING INCREASES OR DECREASES IN CHARGES, NECESSARY TO
12 ACCOMMODATE FEE CHANGES MADE IN ACCORDANCE WITH 69-1-224 OR 69-1-403, OR BOTH.

13 ~~(1)(2)~~ "Customer" means an individual or entity supplied with water or sewer service by means of a water
14 or sewer line that connects a single building or living unit to a small sewer or water utility's water or sewer system.
15 For purposes of [sections 2 through 5], each single building or living unit connected to the utility's system is one
16 customer.

17 ~~(2)(3)~~ "Small sewer or water utility" means a privately owned sewer or water utility that serves the public
18 and has 500 or fewer customers.

19 ~~(3)(4)~~ (A) "Standard rate" means a rate determined by the commission using ~~the most recent publicly~~
20 ~~available~~ AN AVERAGE ESTABLISHED IN A rate study of other similar small water and sewer systems in Montana AND,
21 UNLESS A SIMILAR ADJUSTMENT IS INCORPORATED INTO THE AVERAGE ESTABLISHED BY THE COMMISSION, ADJUSTED BY
22 THE LESSER OF 2% A BIENNIUM OR THE INCREASE IN THE CONSUMER PRICE INDEX FOR THAT BIENNIUM. ~~The rate may~~
23 ~~not be less than an average determined by the commission using the rate study.~~

24 (B) THE TERM DOES NOT INCLUDE ANCILLARY CHARGES COLLECTED BY A SMALL SEWER OR WATER UTILITY.
25

26 **NEW SECTION. Section 3. Small sewer or water utility regulation -- standard rate.** (1) (a) Except
27 as provided in subsections (3) and (4)(b), the commission shall grant a small sewer or water utility the standard
28 rate.

29 (b) The standard rate is:

30 (i) just and reasonable to a utility's customers; and

1 (ii) in the public interest.

2 (c) The commission shall make the analysis used to determine the standard rate available to the public.

3 (d) If the standard rate will result in increased rates to customers, the small sewer or water utility may
4 request or the commission may require the implementation of rates in increments over a reasonable time period
5 not to exceed 3 years.

6 (2) (a) A small sewer or water utility shall file annual reports in accordance with 69-3-203.

7 (b) The commission may fine a utility up to \$50 a month for each full month the utility fails to file an
8 annual report.

9 (3) (a) A small sewer or water utility may file a rate application with the commission, and the commission
10 shall proceed with a rate case in accordance with Title 69, chapter 3, part 3.

11 (b) If 25% or more of the customers of a small sewer or water utility that is eligible for the standard rate
12 request that the utility file a rate application with the commission, the commission shall proceed with a rate case
13 in accordance with Title 69, chapter 3, part 3.

14 (4) (a) [Sections 2 through 5] do not limit the commission's regulatory authority over small sewer or water
15 utilities when service complaints or similar concerns are received.

16 (b) The commission is not required to grant the standard rate if:

17 (i) a company habitually fails to file an annual report in accordance with subsection (2); OR

18 (ii) the commission receives complaints or concerns pertaining to the utility's service or rates, or both,
19 and the commission determines those complaints and concerns warrant additional review.

20 (c) If the commission does not issue the standard rate, those alternate rates remain in effect until the
21 commission determines the complaints or concerns are resolved. When the commission determines the issues
22 are resolved, the utility is eligible for the standard rate.

23 ~~(5) A small sewer or water utility may only adjust its rates on a biennial basis.~~

24
25 **NEW SECTION. Section 4. Small sewer or water utility -- commission rulemaking authority.** The
26 commission may adopt rules necessary to implement [sections 2 and 3]. The rules may include:

27 (1) small sewer or water utility notice requirements to customers of small sewer or water utilities
28 requesting the standard rate;

29 (2) timelines for acting on requests for the standard rate;

30 (3) procedures and timelines for extending the standard rate when requested by a small sewer or water

- 1 utility;
- 2 (4) establishment of standard rate tariffs;
- 3 (5) petition requirements necessary for compliance with [section 3(3)(b)];
- 4 (6) use of an alternative rate in accordance with [section 3(4)(b) and (4)(c)]; and
- 5 (7) other requirements necessary to implement and enforce the requirements of [sections 2 through 5].

6
 7 **NEW SECTION. Section 5. Grandfather clause -- transition.** A small sewer or water utility operating
 8 under tariffs approved by the commission on or before July 1, 2019 [THE EFFECTIVE DATE OF THIS ACT], may
 9 continue to operate under those approved tariffs until their expiration.

10
 11 **NEW SECTION. Section 6. Codification instruction.** [Sections 2 through 5] are intended to be codified
 12 as an integral part of Title 69, chapter 3, and the provisions of Title 69, chapter 3, apply to [sections 2 through 5].

13
 14 **NEW SECTION. Section 7. Saving clause.** [This act] does not affect rights and duties that matured,
 15 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

16
 17 **NEW SECTION. Section 8. Severability.** If a part of [this act] is invalid, all valid parts that are severable
 18 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
 19 remains in effect in all valid applications that are severable from the invalid applications.

20
 21 ~~**NEW SECTION. Section 9. Effective date.** [This act] is effective July 1, 2019.~~

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 23 **NEW SECTION. SECTION 9. EFFECTIVE DATE.** [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

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