

1 SENATE BILL NO. 292

2 INTRODUCED BY C. POPE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A UTILITY ENERGY CONSERVATION
5 STANDARD; PROVIDING ACQUISITION REQUIREMENTS; DIRECTING RESULTING FUNDS TO THE
6 LOW-INCOME ENERGY ACCOUNT; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN
7 IMMEDIATE EFFECTIVE DATE."

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

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11 NEW SECTION. SECTION 1. DEFINITION. AS USED IN [SECTIONS 1 THROUGH 5], UNLESS THE CONTEXT
12 CLEARLY INDICATES OTHERWISE, "UTILITY" MEANS A PUBLIC UTILITY REGULATED BY THE COMMISSION PURSUANT TO THIS
13 CHAPTER.

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15 NEW SECTION. Section 2. Energy conservation standard -- rulemaking authority. (1) Beginning
16 in 2022, an electric distribution utility shall implement energy conservation programs that achieve energy
17 savings equivalent to the greater of:

18 (a) one-half of 1% of the total annual average of normalized kilowatt-hour sales of the electric
19 distribution utility during the preceding 3 calendar years to customers in the state; and

20 (b) pursuant to [section 2 3], the annual conservation target as identified in the utility's most recent
21 conservation assessment.

22 (2) The utility may choose to implement its energy conservation portfolio, containing specific actions,
23 programs, or measures that have as their purpose the reduction of energy usage required to perform an
24 equivalent task, to achieve the targets, and it may contract with a qualified third party to implement these
25 programs or measures.

26 (3) The commission shall adopt rules implementing energy conservation programs that address:

27 (a) a process and method for the evaluation, verification, and measurement of program savings;

28 (b) a stakeholder process for considering and recommending energy conservation programs for

1 approval by the commission;

2 (c) a methodology for addressing the allocation of program funds for utility programs applicable to
3 each customer class along with a methodology for the recovery of program costs; and

4 (d) any other issues the commission considers relevant.

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6 **NEW SECTION. Section 3. Energy conservation acquisition.** (1) A utility shall acquire all
7 achievable cost-effective energy conservation as provided in [sections 4-2 through 3 4].

8 (2) (a) Within 2 years of [the effective date of this act], a utility shall submit an energy conservation
9 assessment to the commission.

10 (b) The energy conservation assessment must:

11 (i) be completed by an independent entity with experience in performing energy conservation
12 evaluations for utilities;

13 (ii) estimate the amount of all available and achievable cost-effective energy conservation on the
14 utility's system that could reasonably be acquired by all utility programs by 2022 and account for the effect of
15 any federal or state energy conservation acquisition programs; and

16 (iii) be updated every 4 years.

17 (3) The energy conservation assessment must be accompanied by a plan for acquiring all cost-
18 effective energy conservation identified by the assessment, including the establishment of annual energy
19 conservation targets. The annual energy conservation target may not be lower than one-half of 1% of retail
20 load, as identified in [section 4 2].

21 (4) (a) The commission shall, in accordance with a schedule established by commission rule,
22 approve, disapprove, or modify the energy conservation assessment and the plan submitted by the utility under
23 procedures established by commission rule.

24 (b) In making the determination pursuant to subsection (4)(a), the commission shall consider:

25 (i) compliance with the requirements of [sections 4 2 through 3 4];

26 (ii) the adequacy and methodological soundness of the analysis contained in the energy conservation
27 assessment;

28 (iii) the amount of cost-effective energy conservation on the utility's system;

- 1 (iv) the need for energy and capacity resources;
- 2 (v) the benefits of energy conservation investments;
- 3 (vi) the reasonable capacity of the utility to implement cost-effective energy conservation programs and
4 measures, including consideration of a reasonable and feasible schedule for the implementation of the
5 programs and measures and the acquisition of cost-effective energy conservation;
- 6 (vii) that successful utility acquisition of energy conservation through utility programs depends in part
7 on voluntary participation and actions by utility customers that, in turn, determine timing and levels of energy
8 conservation that can be acquired and the establishment of reasonable targets;
- 9 (viii) that a utility's ability to acquire achievable energy conservation may be impacted by the availability
10 of other federal or state energy conservation programs administered by or on behalf of the federal or state
11 government or their agents;
- 12 (ix) the timeframe for acquiring total achievable cost-effective conservation, which may not be more
13 than 20 years; and
- 14 (x) any other factor the commission determines relevant.
- 15 (5) If a utility is unable to meet the energy savings targets established pursuant to subsection (4), the
16 utility shall provide an explanation of why the targets were not achieved. The report may include a request by
17 the utility to adjust the target.
- 18 (6) (a) At regular intervals, but not more often than every 4 years, under a schedule and procedures
19 established by commission rule, a utility shall submit to the commission a comprehensive measurement,
20 verification, and program evaluation report prepared by an independent entity that has experience in performing
21 energy conservation program evaluations for utilities.
- 22 (b) In preparing the report, the independent program evaluator shall:
- 23 (i) measure and verify energy and demand savings;
- 24 (ii) determine the cost-effectiveness of the energy conservation programs and measures;
- 25 (iii) assess the performance of the utility or contractors of the utility in implementing energy
26 conservation programs and measures;
- 27 (iv) provide recommendations on how program performance can be improved; and
- 28 (v) include any other information the commission considers necessary.

1 (c) The independent program evaluator may not be the same entity that prepared the energy
2 conservation assessment and plan pursuant to subsection (2).

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4 **NEW SECTION. Section 4. Energy conservation -- cost recovery and incentives.** (1) The
5 commission shall provide for the timely recovery of the actual costs of prudent energy conservation activities,
6 including the conservation assessment, through annual cost adjustments, plus the interest on the accumulated
7 amount.

8 (2) The commission shall allow an incentive for a utility's acquisition of cost-effective energy
9 conservation programs in excess of established annual conservation targets as identified in its most recent
10 conservation assessment.

11 (3) In complying with subsection (2) the commission shall:

12 (a) subject to subsection (4), create a performance-based incentive that shares the net economic
13 benefits resulting from cost-effective energy conservation acquired as a result of utility programs between the
14 utility and its customers in excess of the annual target as determined by the utility's most recent conservation
15 assessment as follows:

16 (i) at a ratio of 70% to customers and 30% to the utility for conservation acquisition equaling or
17 exceeding one-quarter of 1% of load above the annual target; and

18 (ii) at a ratio of 60% to customers and 40% to the utility for conservation acquisition equaling or
19 exceeding one-half of 1% of load above the annual target; and

20 (b) provide other incentives the commission determines appropriate, including but not limited to
21 incentives for energy conservation programs that deliver durable, multiyear, cost-effective energy savings and
22 other energy conservation initiatives.

23 (4) Incentives rendered pursuant to subsection (3)(a) apply only to the net economic benefits resulting
24 from the first year of energy savings.

25 (5) (a) Subject to subsection 3, incentives must be granted annually based on preliminarily reported
26 conservation acquisition figures.

27 (b) Incentives must be subject to a true-up based on findings of evaluation, verification, and
28 measurement as prescribed in [section ~~2(6)~~ 3(6)].

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2 **NEW SECTION. Section 5. Commission authority -- rulemaking.** (1) The commission may
3 promulgate rules necessary to implement [sections 1 through 4 5] and shall exercise its authority in a timely
4 fashion to provide certainty to each utility regarding their responsibilities under [sections 1 through 4 5].

5 (2) The commission shall, to the greatest extent possible, integrate any existing commission rules
6 concerning utility acquisition of energy conservation with rules promulgated pursuant to [sections 1 through 4
7 5].

8 (3) In establishing procedures to be followed, the commission shall ensure that the due process rights
9 of the utilities subject to the provisions of [sections 1 through 4 5] are not infringed on, and that the public has a
10 right to participate in commission proceedings with respect to the utilities' acquisition of energy conservation.

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12 **NEW SECTION. Section 6. Codification instruction.** [Sections 1 through 4 5] are intended to be
13 codified as an integral part of Title 69, chapter 3, and the provisions of Title 69, chapter 3, apply to [sections 1
14 through 4 5].

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16 **NEW SECTION. Section 7. Effective date.** [This act] is effective on passage and approval.

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