Economic Impacts of Proposed Amendments to ARM § 38.5.1902

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What is the effect of the proposed rule?

- Modifies existing PSC rules that implement federal law, the Public Utility Regulatory Policies Act (PURPA).
- The existing PSC rules contain a long-term standard rate eligibility threshold for Qualifying Facilities (QFs).
- Generally, QFs larger than the threshold must be selected in a competitive bidding process to obtain a long-term contract, but. . .
- A QF can petition the PSC under § 69-3-603, MCA to set a project-specific long-term rate if it shows that a utility's bidding or procurement process discriminates against QFs.
- The proposed rule reduces the long-term standard rate eligibility threshold from 10 MW to 100 kW.

What is the purpose of the proposed rule?

- PURPA encourages QF development subject to a cost cap that leaves utility consumers indifferent to the utility's purchases from QFs.
- PURPA's cost cap is the cost to a utility of electric energy or capacity which the utility would avoid by acquiring energy and capacity from QFs instead.
- It is the Commission's responsibility to implement PURPA and determine a utility's avoided cost.
- The Commission has found instances of QF contract rates based on Commission-estimated avoided costs that exceeded the actual cost of avoidable alternatives.
- The purpose of the rule is to reduce the potential for exceeding PURPA's cost cap in the future through greater use of competitive bidding for long-term purchases from large QFs.

Economic Impact Statement

- PSC received a request for a statement of the economic impact of the amendment to ARM § 38.5.1902, pursuant to § 2-4-405, MCA on June 26, 2013.
- The Commission directed its staff to prepare an economic impact statement (EIS) on July 2, 2013.
- The Commission approved the staff's draft EIS on August 22, 2013 and provided it to ETIC staff the same day.
- Commissioner Kavulla responded to the EIS on August 27, 2013.

EIS summary

- Key Assumptions:
  1. ARM § 38.5.1902 is consistent with PURPA and, when effectively enforced, minimizes electricity supply costs and promotes just and reasonable rates for consumers.
  2. Montana's regulatory framework is capable of reasonably motivating utilities to: (1) conduct competitive solicitations for new resources, (2) evaluate offers fairly and transparently, (3) select superior supply sources based on price and non-price factors.

EIS summary (cont.)

- The EIS does <u>not</u> assess the adequacy or inadequacy of other PSC rules governing utility resource procurement practices or the PSC's enforcement of such rules.

- The EIS emphasizes the importance of fair, transparent, and effectively competitive bidding processes to achieving full benefits from the proposed rule.

- The EIS concludes that if the regulatory framework tends to promote fair, transparent, and effectively competitive bidding (as it is required to do), consumers will benefit from the proposed rule.

Section 2-4-405(2)(a)

- Classes of persons affected by the rule
  - QF developers for projects 100 kW – 10 MW (expected to bear negligible costs).
  - Electric utility consumers (expected to benefit).
  - Under PURPA's avoided cost standard, economic development is not a factor the Commission can consider in evaluating alternative methods for setting QF rates.
  - Courts have determined that states can further encourage QF-type resources, if they choose, through methods such as Montana's renewable energy standard, which includes a rural economic development component.

Section 2-4-405(2)(b)

- Probable economic impacts on affected classes
  - Potential costs to QF developers
    - Negligible because the cost to obtain project information sufficient to prepare an offer in a competitive bidding process should be similar to the cost of determining financial feasibility under a standard rate.
    - A lost opportunity to develop a project is not a cost under PURPA if the reason for the lost opportunity is the availability of a lower-cost alternative.

Section 2-4-405(2)(b) (cont.)

– Potential benefits to consumers
  - Compare actual wind power transactions in 2011

QF Wind	Competitive bid Wind*	Difference
50 MW	40 MW	
$66.29/MWh	$56.27/MWh	$10.02/MWh
$122 Million NPV	$104 Million NPV	$18 Million NPV

* Costs adjusted to reflect energy production equivalent to QF wind

Section 2-4-405(2)(d)

- Costs and benefits of proposed rule/inaction
  - No significant incremental costs to PSC or other agencies to implement the rule.
  - No significant incremental costs to affected QFs to prepare bids.
  - If bidding is fair and effectively competitive; consumers will benefit.
  - If bidding is not fair and effectively competitive; consumers potentially harmed with or without the proposed rule.
  - Inaction might lead to future instances of QF contract rates that exceed the cost of alternatives and higher costs for consumers

Section 2-4-405(2)(d) (cont.)

- Although noticed at 100kW, final standard rate eligibility threshold may be larger.
- EIS concludes that the standard rate eligibility threshold should be based on consideration of:
  - potential for bidding/negotiation costs to discourage smaller QF projects;
  - potential for litigation costs to discourage smaller QFs from prosecuting legitimate complaints against a utility for discriminatory treatment in the bidding process.