

## HOUSE BILL NO. 642

INTRODUCED BY DEVLIN, FORRESTER, GALLUS, LASZLOFFY, MCNUTT, MENDENHALL, A. OLSON,  
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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT STATE AND LOCAL TAXES AND FEES PAID BY A PUBLIC UTILITY MAY BE SEPARATELY DISCLOSED IN A PUBLIC UTILITY CUSTOMER'S BILL; REQUIRING AN AUTOMATIC RATE ADJUSTMENT TO REFLECT STATE AND LOCAL TAXES AND FEES PAID BY A PUBLIC UTILITY; AMENDING SECTIONS 69-3-302 AND 69-3-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**NEW SECTION. Section 1. Disclosure of taxes and fees paid by customers of a public utility -- automatic rate adjustment AND TRACKING for taxes and fees.** (1) A public utility may separately disclose in a customer's bill the amount of state and local taxes and fees assessed against the public utility that the customer is paying.

(2) (a) (i) The commission shall allow a public utility to file rate schedules containing provisions for the automatic adjustment AND TRACKING of ~~charges for public utility service in direct relation to~~ Montana state and local taxes and fees, EXCEPT STATE INCOME TAX, PAID BY THE PUBLIC UTILITY. THE RESULTING RATE SCHEDULE CHANGES MUST INCLUDE:

(A) ADJUSTMENTS FOR THE NET OF CHANGE IN FEDERAL AND STATE INCOME TAX LIABILITY CAUSED BY CHANGES IN MONTANA THE DEDUCTIBILITY OF STATE AND LOCAL TAXES AND FEES, paid by the public utility, including;

(B) retroactive tax adjustments; AND

(C) ADJUSTMENTS RELATED TO THE RESOLUTION OF PROPERTY TAXES PAID UNDER PROTEST.

(ii) THE RATE SCHEDULES MUST INCLUDE PERMANENT PROVISIONS FOR ANNUAL RATE ADJUSTMENTS, INCLUDING BOTH TAX INCREASES AND DECREASES.

(b) The amended rates must automatically go into effect on JANUARY 1 FOLLOWING the date of change in taxes paid on an interim basis, subject to any adjustments determined in subsection (2)(c).

(c) The amended rate schedule must be filed with the commission on or before the effective date of the change in taxes paid, and if the commission determines that the revised rate schedule is in error, the commission may, within ~~40~~ 45 days of receipt of the revised rate schedule, ASK FOR COMMENT AND order the public utility to

address any errors or omissions including, if necessary, any refunds due customers.

(d) Failure of the commission to issue an order pursuant to subsection (2)(c) is considered approval on the part of the commission.

(e) A public utility may challenge an order issued by the commission under subsection (2)(c) in accordance with the provisions of 69-3-401 through 69-3-405.

**Section 2.** Section 69-3-302, MCA, is amended to read:

**"69-3-302. Changes in schedules.** (1) ~~No change shall~~ Except as provided in [section 1], a change may not be made in any schedule, including schedules of joint rates, except as approved by the commission, upon the passage of 9 months, or by operation of 69-3-907(1). If the 9-month time period expires prior to commission approval of a schedule, a utility may waive the time period.

(2) Notwithstanding any provision of this title to the contrary, other than rate adjustments made pursuant to [section 1], and notwithstanding the existence of and authorization for the office of consumer counsel, the rates, tolls, or charges set forth in any schedule filed with the commission pursuant to 69-3-301 ~~shall~~ must become effective and be lawful rates, tolls, or charges for the utility service rendered 9 months after the date upon which the schedule was filed under the rules of practice and procedure for filing as adopted by the commission or upon commission approval, whichever ~~shall occur~~ occurs first, unless the utility waives the 9-month time period. However, if the rates, tolls, or charges become effective because of the passage of 9 ~~months' time~~ months, the ~~revenues~~ revenue collected ~~thereunder shall be~~ is subject to rebate, plus interest at a ~~per-annum~~ annual rate determined by the commission, to the extent that the rates, tolls, or charges ultimately approved by the commission in its final decision produce ~~revenues which are~~ revenue that is less than ~~those that~~ that collected under the filed schedules. In the case of an investor-owned utility, the interest rate set by the commission may not exceed the cost of equity capital as last determined by the commission.

(3) The commission may prescribe rules necessary to effectively administer this section."

**Section 3.** Section 69-3-303, MCA, is amended to read:

**"69-3-303. Notice and hearing on proposed change.** (1) ~~Before it~~ Except as provided in [section 1], before the commission may approve any change increasing the rate or rates for utility service in a schedule generally affecting consumers in a utility's service area or before any change may become effective due to the passage of 9 months, the commission shall publish a notice of the proposed change, conforming to the requirements of 2-4-601 in one or more newspapers published and of general circulation within the area affected

by the proposed change. This notice ~~shall~~ must announce a hearing on the proposed change and ~~shall~~ must inform interested persons as to how they may petition the commission to become parties to the hearing.

(2) The commission shall proceed to conduct the hearing under the Montana Administrative Procedure Act. The final decision of the commission in any matter decided after a hearing conducted pursuant to this section ~~shall~~ must conform to the requirements of a decision in a contested case under the Montana Administrative Procedure Act.

(3) The consumer counsel may ~~in his discretion~~ petition to become a party to the hearing."

NEW SECTION. **Section 4. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 69, chapter 3, part 3, and the provisions of Title 69, chapter 3, part 3, apply to [section 1].

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

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