

SENATE BILL NO. 247  
INTRODUCED BY J. COBB

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A DEFAULT ELECTRICITY SUPPLY PROCUREMENT PROCESS; REQUIRING THE PUBLIC SERVICE COMMISSION TO ADOPT RULES THAT ESTABLISH CRITERIA THAT GUIDE THE DEFAULT ELECTRICITY SUPPLY PROCUREMENT PROCESS; PROVIDING OBJECTIVES FOR THE PROCUREMENT PROCESS; REQUIRING THE DEFAULT SUPPLIER TO DEVELOP A PROCUREMENT PLAN; ESTABLISHING REQUIREMENTS FOR COMMISSION ACTION ON A DEFAULT SUPPLIER PROCUREMENT PLAN; REQUIRING THAT ANY DEFAULT ELECTRICITY SUPPLY PURCHASE MADE IN COMPLIANCE WITH A COMMISSION-APPROVED PROCUREMENT PLAN BE RECOVERED IN DEFAULT ELECTRICITY SUPPLY RATES; AMENDING SECTION 69-8-210, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**NEW SECTION. Section 1. Establishment of criteria to guide default electricity supply procurement process.** (1) The commission shall adopt rules that establish a set of criteria that guide the default electricity supply procurement process. The commission shall begin the rule making process within 30 days after [the effective date of this act].

(2) The criteria developed by the commission must achieve the following objectives that include but are not limited to:

(a) ensuring that the full range of cost-effective means for the default supplier to meet the default electricity supply needs of its customers is evaluated;

(b) enabling the default supplier to fulfill its obligation to serve its customers at just and reasonable rates;

(c) providing for just and reasonable default electricity supply rates, with an appropriate balancing of price stability and price level;

(d) moderating the price risk associated with serving the default supplier's default electricity supply customers;

(e) establishing an efficient default electricity supply procurement planning process in which the default supplier submits a procurement plan to the commission for its approval, consistent with the requirements of [sections 1 through 3];

(f) ensuring that the procurement process does not impair the default supplier's credit worthiness or lead to a deterioration of the default supplier's credit worthiness;

(g) providing a viable, open, and fairly subscribed competitive procurement process under which the default supplier may request bids for a default electricity supply and services;

(h) providing upfront achievable standards by which the acceptability and eligibility for rate recovery of a proposed procurement transaction will be known by the default supplier prior to the execution of the bilateral contract for the purchase of a default electricity supply;

(i) providing that any default electricity supply purchase made in compliance with a commission-authorized procurement process be recovered in default electricity supply rates;

(j) eliminating the need for after-the-fact reviews of a default supplier's actions in compliance with an approved procurement plan and process under [section 2], including resulting electricity procurement contracts, practices, and related expenses. However, the commission may establish a regulatory process to verify and ensure that each contract was administered in accordance with the terms of the contract, that each contract was not imprudently administered, and that contract disputes are reasonably resolved.

(k) ensuring timely recovery of prospective procurement costs incurred pursuant to an approved procurement plan under [section 2]; and

(l) establishing default electricity supply rates based on forecasts of procurement costs adopted by the commission, actual procurement costs incurred, or a combination of each, as determined by the commission.

**NEW SECTION. Section 2. Default supplier procurement plan.** (1) Consistent with the provisions of [section 1] and this section, the default supplier shall develop a proposed procurement plan to be submitted to the commission on or before December 31, 2003.

(2) Absent any material change in conditions under which the procurement plan was developed as determined by the commission, the default supplier's procurement plan must be updated at least once every 2 years.

(3) In addition to the requirements of [section 1], the proposed procurement plan must also include but is not limited to:

(a) an assessment of the price risk associated with the default supplier's portfolio, including any existing power purchase and exchange contracts and proposed contracts or purchases under which a default supplier will procure electricity, electricity demand reductions, and electricity-related products and the remaining open block of electricity needed to be served by spot market transactions;

- (b) a definition of each electricity product, electricity-related product, and procurement-related financial product, including support and justification for the product type and amount to be procured under the plan;
- (c) the duration of the plan;
- (d) the duration, timing, and range of quantities of each product to be procured;
- (e) procedures for updating the procurement plan;
- (f) a showing in the procurement plan that the default supplier will create or maintain a diversified procurement portfolio, consisting of both short-term and long-term electricity and electricity-related and demand-reductions products; and
- (g) the default supplier's risk management policy, strategy, and practices, including specific measures of price stability.

**NEW SECTION. Section 3. Commission action on procurement plan.** (1) Within 120 days of receipt of a procurement plan, the commission shall review and accept, modify, or reject the default supplier's procurement plan based on the provisions of [sections 1 and 2].

(2) Except as provided in subsection (7), any default electricity supply purchase made in compliance with a commission-approved procurement plan must be recovered in default electricity supply rates.

(3) The commission shall review and either approve or reject the individual contracts submitted by the default supplier to ensure compliance with its procurement plan. To the extent that the commission rejects a proposed contract pursuant to the commission's established criteria, the commission shall designate alternative procurement choices obtained in the procurement plan that will be recoverable for ratemaking purposes.

(4) The commission may engage an independent consultant or advisory service to evaluate the risk management and strategy of a procurement plan and subsequent electricity supply contracts.

(5) The commission shall provide for the periodic review and prospective modification of a default supplier's procurement plan.

(6) The commission shall adopt appropriate procedures to ensure the confidentiality of any market-sensitive information submitted in a default supplier's proposed procurement plan or resulting from or related to its approved procurement plan.

(7) The commission may disallow default supplier costs incurred as a result of gross incompetence, fraud, abuse, or similar grounds.

**Section 4.** Section 69-8-210, MCA, is amended to read:

**"69-8-210. Public utilities -- electricity supply.** (1) On the effective date of a commission order implementing a public utility's transition plan pursuant to 69-8-202, the public utility shall remove its generation assets from the rate base.

(2) During the transition period, the commission may establish cost-based prices for electricity supply service for customers that do not have a choice of electricity supply service or that have not yet chosen an electricity supplier.

(3) ~~If the transition period is extended, then the~~ The customers' distribution services provider shall:

(a) extend any cost-based contract with the distribution services provider's affiliate supplier for a term of not more than 3 years; or

(b) purchase electricity from the market through the procurement process required in [sections 1 through 3]; and

(c) use a mechanism that recovers electricity supply costs in rates to ensure that those costs are fully recovered, as provided in [sections 1 through 3].

(4) If a public utility intends to be an electricity supplier through an unregulated division, then the public utility must be licensed as an electricity supplier pursuant to 69-8-404."

NEW SECTION. Section 5. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 69, chapter 8, part 4, and the provisions of Title 69, chapter 8, part 4, apply to [sections 1 through 3].

NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

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