



AN ACT PROVIDING PROTECTION FOR RATEPAYERS AND FOR THE SHAREHOLDERS OF INNOCENT THIRD-PARTY PURCHASERS FOR THE ERRORS OR OMISSIONS OF A PREDECESSOR UTILITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

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

Section 1. Ratepayer and shareholder protection. (1) Rates established pursuant to Title 69, chapter 3, part 3, may not allow for the recovery of any portion of a civil judgment in a lawsuit arising out of litigation brought by the shareholders of a predecessor in interest against:

- (a) the predecessor in interest;
- (b) the officers or directors of a predecessor in interest;
- (c) the legal advisers or consultants to the predecessor in interest; or
- (d) any successor of the predecessor in interest, including a successor in interest.

(2) (a) Subject to subsection (3), an entity subject to regulation under Title 69, including the entity's subsidiaries and affiliates, may not be made a party to litigation brought by the shareholders of a predecessor in interest against:

- (i) the predecessor in interest;
- (ii) the officers or directors of a predecessor in interest;
- (iii) the legal advisers or consultants to the predecessor in interest; or
- (iv) any successor of the predecessor in interest that is not a successor in interest.

(b) Except as provided in subsection (3), an entity subject to regulation under Title 69 may not be held liable for a civil judgment entered against:

- (i) a predecessor in interest;
- (ii) the officers or directors of a predecessor in interest;
- (iii) the legal advisers or consultants to the predecessor in interest; or
- (iv) any successor of the predecessor in interest that is not a successor in interest.

(3) Subsection (2) does not apply:

- (a) to a successor of a public utility regulated by the public service commission pursuant to Title 69,

chapter 3, on May 2, 1997, whose shareholders received stock as a result of the sale of a public utility; or

(b) if the liabilities resulting from, related to, or arising out of a reorganization, restructuring, or plan of merger were explicitly assumed by written contract to be the liabilities of the successor to the predecessor in interest.

(4) For the purposes of this section:

(a) "predecessor in interest" means a public utility regulated by the commission pursuant to Title 69, chapter 3, on May 2, 1997, in which an interest was purchased through an arm's-length transaction in which the market value of the public utility property purchased was paid for in cash, debt assumption, or a combination of cash and debt assumption; and

(b) "successor in interest" means the purchaser of all or a portion of a public utility regulated by the commission pursuant to Title 69, chapter 3, on May 2, 1997, through an arm's-length transaction in which the market value of the public utility property purchased was paid for in cash, debt assumption, or a combination of cash and debt assumption.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 69, chapter 8, part 2, and the provisions of Title 69, chapter 8, part 2, apply to [section 1].

Section 3. Nonseverability. It is the intent of the legislature that each part of [section 1] is essentially dependent upon every other part of [section 1], and if one part of [section 1] is held unconstitutional or invalid, all other parts are invalid.

Section 4. Effective date. [This act] is effective on passage and approval.

Section 5. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to cases filed but in which a judgment has not been entered on [the effective date of this act].

- END -

I hereby certify that the within bill,
SB 0458, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2019.

Speaker of the House

Signed this _____ day
of _____, 2019.

SENATE BILL NO. 458

INTRODUCED BY MCNUTT, FORRESTER, LASZLOFFY, SHEA, SPRAGUE

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