

SENATE BILL NO. 364
INTRODUCED BY G. LIND

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MONTANA ELECTRICITY LABELING AND DISCLOSURE ACT; ESTABLISHING FUEL MIX AND ENVIRONMENTAL IMPACT DISCLOSURE REQUIREMENTS FOR RETAIL ELECTRICITY SUPPLIERS AND PURCHASING-SELLING ENTITIES; DEFINING CERTAIN TERMS; REQUIRING THAT FUEL MIX AND ENVIRONMENTAL IMPACT DISCLOSURE INFORMATION BE CALCULATED AND FORMATTED; ESTABLISHING AN ELECTRICITY INFORMATION COORDINATOR; PROVIDING THE DEPARTMENT OF ENVIRONMENTAL QUALITY WITH RULEMAKING AUTHORITY; AND PROVIDING EXEMPTIONS TO THE DISCLOSURE AND INFORMATION REQUIREMENTS."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 9] may be cited as the "Montana Electricity Labeling and Disclosure Act".

NEW SECTION. **Section 2. Legislative findings.** The legislature finds that:

(1) consumer disclosure ensures that retail electricity customers purchasing electrical energy receive basic information about the characteristics associated with their electricity product in a form that facilitates consumer understanding of retail electrical energy service and the development of new products responsive to consumer preferences;

(2) there is a need for the consistent collection of reliable, accurate, and timely information regarding fuel source and environmental impacts associated with power generation;

(3) the desirability and feasibility of this type of disclosure has been clearly established in nutrition labeling, uniform food pricing, truth-in-lending, and other consumer information programs;

(4) fundamental to disclosure is a label that promotes consistency in content and format, that is accurate, reliable, and simple to understand, and that allows verification of the accuracy of information reported; and

(5) to ensure that consumer information is verifiable and accurate, certain characteristics of electricity generation must be tracked and compared with information provided to consumers.

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 9], unless the context requires otherwise, the following definitions apply:

(1) "Bonneville power administration system mix" means a generation mix sold by the Bonneville power administration that is net of any resource-specific sales and that is net of any electricity sold to direct-service industrial customers.

(2) "Declared resource" means an electricity source specifically identified by a retail supplier to serve retail electrical energy customers. A declared resource includes a stated quantity of electricity tied directly to a specified generation facility or set of facilities, either through ownership or contract purchase, or a contractual right to a stated quantity of electricity from a specified generation facility or set of facilities.

(3) "Department" means the department of environmental quality provided for in 2-15-3501.

(4) "Disclosure label" means a statement, similar to labels on consumer products, that provides information about the electricity product being sold.

(5) "Electricity information coordinator" means the department.

(6) "Midwest reliability organization" means the generating resources included in the United States portion of the midwest reliability organization area as defined by the North American electric reliability council.

(7) "Net system power mix" means the fuel mix in the northwest power pool or the midwest reliability organization, as applicable and net of:

(a) any declared resources identified by retail electricity suppliers;

(b) any electricity sold by the Bonneville power administration or the western area power administration to direct-service industrial customers; and

(c) any resource-specific sales made by the Bonneville power administration or the western area power administration.

(8) "Northwest power pool" means the generating resources included in the United States portion of the northwest power pool area as defined by the North American electric reliability council.

(9) "Purchasing-selling entity" means an entity that is eligible to purchase or sell electricity or capacity and reserve transmission services as defined by the North American electric reliability council.

(10) "Qualifying renewable electricity generation" means the production of electricity from any of the following sources:

(a) wind;

(b) solar;

(c) geothermal;

- (d) water power, in the case of a hydroelectric project with a nameplate rating of 1 megawatt or less;
 - (e) landfill gas;
 - (f) gas produced during the treatment of wastewater;
 - (g) low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic fuels from wood, forest, or field residues, except that the term does not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic; or
 - (h) hydrogen derived from any of the sources listed in this subsection (10) for use in fuel cells.
- (11) "Retail electricity supplier" means a distribution services provider, as defined in 69-8-103, that purchases electricity for its retail customers or an electricity supplier, as defined in 69-8-103.
- (12) "Western area power administration system mix" means a generation mix sold by the western area power administration in the relevant power pool that is net of any resource-specific sales and that is net of any electricity sold to direct-service industrial customers.

NEW SECTION. Section 4. Fuel mix and environmental impact disclosure general requirements.

- (1) Except as provided in [section 9(1)], beginning January 1, 2006, a retail electricity supplier shall, based on the available service options, provide:
- (a) to its existing and new retail electricity customers its annual fuel mix information by generation category as required in [section 5];
 - (b) environmental impact information as required in [section 6].
- (2) The disclosures required under subsection (1) must be provided through a disclosure label presented in a standardized format as required in [sections 5 and 6].
- (3) A retail electricity supplier shall provide a disclosure label:
- (a) to each of its new retail electricity customers at the time service is established;
 - (b) to all of its existing retail electricity customers, as a bill insert or other mailed publication, sent to existing retail electricity customers not less than four times each year; and
 - (c) as part of any marketing material, in paper, written, or other media format, that is used primarily to promote the sale of any specific electricity product being advertised, contracted for, or offered for sale to current or prospective retail electricity customers.

NEW SECTION. Section 5. Fuel mix disclosure format requirements. (1) (a) Except as provided in [section 9(1)], a retail electricity supplier shall disclose the fuel mix of each electricity product it offers to retail

electricity customers.

(b) For an electricity product composed entirely of declared resources, the retail electricity supplier shall disclose the fuel mix for the electricity product based on the quantity of electrical generation from those declared resources for the previous calendar year and any adjustment, if taken, available under subsection (5).

(c) For an electricity product that is not composed of a declared resource, the retail electricity supplier shall report the fuel mix for the electricity product as net system power mix for the previous calendar year as determined by the department in its capacity as electricity information coordinator under [section 8].

(d) For the portion of an electricity product purchased from the Bonneville power administration, the retail electricity supplier may disclose the Bonneville power administration system mix.

(e) For the portion of an electricity product purchased from the western area power administration, the retail electricity supplier may disclose the western area power administration system mix.

(f) For an electricity product composed of a combination of declared resources, Bonneville power administration system mix, western area power administration system mix, or net system power mix, the retail electricity supplier shall disclose the fuel mix for the electricity product as a weighted average of the megawatt hours from each source of power contained in the electricity product.

(2) Disclosure of fuel mix information required in this section must identify the percentage of the total electricity product sold by a retail electricity supplier during the previous calendar year from each of the following categories:

- (a) coal-fired generation;
- (b) hydroelectric generation;
- (c) natural gas-fired generation;
- (d) oil-fired generation;
- (e) nuclear generation;
- (f) qualifying renewable electricity generation; and

(g) other generation, except that when a component of the other generation category meets or exceeds 2% of the total electricity product sold by a retail electricity supplier during the previous calendar year, the retail electricity supplier shall identify the component or components and display the fuel mix percentages for these component sources. A retail electricity supplier may voluntarily identify any component or components within the other generation category that comprises 2% or less of annual sales.

(3) The percentages used in subsection (2) must be rounded to the nearest whole number. Any source of electricity listed in subsections (2)(a) through (2)(e) that is not used must be listed in the table and depicted

as "0%". The specific energy sources that comprise qualifying renewable electricity generation may also be broken out separately along with their corresponding percentages.

(4) Disclosure of the fuel mix information required in this section must be made in the following uniform format:

(a) a tabular format, with two columns, where the first column must list the categories identified in subsection (2) and the second column must display the corresponding percentage of the total that each category represents; and

(b) a pie chart, which graphically depicts the information in subsection (2). Any source of electricity in subsection (2) that is not used may not be depicted in the pie chart.

(5) A retail electricity supplier may adjust its reported fuel mix for known changes in its declared resources for the current year based on any changes in its sources of electricity supply from either generation or contracts. If a retail electricity supplier changes its fuel mix during a calendar year, it shall report those changes to the electricity information coordinator.

(6) A retail electricity supplier shall disclose comparative information regarding the fuel mix of any environmentally preferred service option that it offers to its customers. The disclosure must include contact information for customers interested in learning more about the environmentally preferred service option and how to enroll in it.

NEW SECTION. Section 6. Environmental impact disclosure requirements. (1) Except as provided in [section 9(1)], a retail electricity supplier shall disclose the environmental impacts of each electricity product it offers to retail electricity customers. The environmental impacts disclosed for an electricity product must relate to the specific resources underlying the fuel mix determined for that product under [section 5(1)]. The environmental impacts to be disclosed under this section include emissions of:

- (a) carbon dioxide, measured in pounds per megawatt hour;
- (b) sulfur dioxide, measured in pounds per megawatt hour;
- (c) nitrogen oxides, measured in pounds per megawatt hour; and
- (d) mercury, measured in pounds per gigawatt hour.

(2) A retail electricity supplier shall compare the environmental impacts disclosed in subsection (1) with the respective regional average levels of those impacts from all electricity generation encompassed by the applicable net system power mix.

(3) A retail electricity supplier shall disclose comparative information regarding the environmental impacts

of any environmentally preferred service option it offers to its customers. The disclosure must include contact information for customers interested in learning more about the environmentally preferred service option and how to enroll in it.

NEW SECTION. Section 7. Purchasing-selling entity obligations. (1) Except as provided in [section 9(1)], a purchasing-selling entity selling to a retail electricity supplier in Montana, but not to retail electricity customers in Montana, shall provide the energy source and environmental impact information required in [sections 5 and 6].

(2) A purchasing-selling entity may meet the requirement in subsection (1) by providing the information either directly to the entity's retail electricity supplier customer or to the electricity information coordinator, either of which shall calculate a system mix for each purchasing-selling entity.

NEW SECTION. Section 8. Electricity information coordinator -- department rulemaking authority. (1) Except as provided in [section 9(2)], the electricity information coordinator shall obtain the following information:

(a) actual generation by fuel mix in the northwest power pool and the midwest reliability organization for the prior calendar year, expressed in megawatt hours. This information must be compiled as it becomes available.

(b) adjustments to the actual generation for the prior calendar year that are known and provided to the electricity information coordinator by the end of April of the current calendar year to reflect known changes in declared resources for the current year and changes due to interconnection of new electrical generation resources or decommissioning or sale of existing resources or contracts. These adjustments must include supporting documentation.

(c) the amount of electricity from declared resources that retail electricity suppliers will identify in their fuel mix disclosures during the current calendar year. Retail suppliers shall make this information available by the end of April in each year.

(2) (a) Upon request of the electricity information coordinator, a retail electricity supplier shall make available the following information to support the ownership or contractual rights to declared resources:

(i) documentation of ownership of declared resources by retail electricity suppliers; or

(ii) documentation of contractual rights by retail electricity suppliers to a stated quantity of electricity from a specific electrical generation facility.

(b) If the documentation required in subsection (2)(a) is not available, the retail electricity supplier may

not identify the electricity source as a declared resource and instead shall report the applicable net system power mix for the quantity of electricity generation from that resource.

(3) The electricity information coordinator shall:

(a) coordinate with comparable entities or organizations in the western interconnection and eastern interconnection;

(b) on or before May 1 of each year, or as soon as practicable once the data in subsection (1)(a) is available, calculate and make available the net system power mix by calculating the actual power pool generation for the prior calendar year, plus any adjustments to the power pool generation as made available to the electricity information coordinator by the end of April of the current calendar year, less the quantity of electricity associated with declared resources claimed by retail electricity suppliers for the current calendar year, plus other adjustments necessary to ensure that the same resource output is not declared more than once;

(c) to the extent the information is available, verify that the quantity of electricity associated with the declared resources does not exceed the available generation from those resources;

(d) assist retail electricity suppliers in compiling emissions data to satisfy the requirements of [section 6]; and

(e) compile the regional average environmental impacts identified in [section 6], for both the northwest power pool and the midwest reliability organization, and make this information available.

(4) The department shall adopt rules on:

(a) the definitions of fuel types;

(b) the content of the disclosure label;

(c) reporting formats to be used by retail electricity suppliers and purchasing-selling entities; and

(d) any other matters necessary to carry out the provisions of [sections 1 through 9].

NEW SECTION. Section 9. Exemption. (1) A retail electricity supplier or purchasing-selling entity is exempt from the disclosure requirements in [sections 4 through 7] for those customers residing in areas served by power pools that provide less than 10% of the electricity sold in Montana.

(2) The electricity information coordinator is exempt from the requirement in [section 8] for power pools that provide less than 10% of the electricity sold in Montana.

NEW SECTION. Section 10. Codification instruction. [Sections 1 through 9] are intended to be codified as an integral part of Title 69, and the provisions of Title 69 apply to [sections 1 through 9].

NEW SECTION. **Section 11. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

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