

HOUSE BILL NO. 123
INTRODUCED BY M. LANGE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO ELECTRICITY SUPPLY AND DEFAULT SUPPLY SERVICE; CLARIFYING THAT IT IS THE POLICY OF THE STATE OF MONTANA TO PROTECT MONTANA CONSUMERS BY ENSURING THE LOWEST COST OF ELECTRICITY SUPPLY FROM A FINANCIALLY STABLE AND CREDITWORTHY ENTITY THAT SUPPLIES ELECTRICITY; REQUIRING A DEFAULT SUPPLIER TO PROCURE ADEQUATE AND RELIABLE ELECTRICITY SUPPLY AT THE LOWEST TOTAL COST FROM A FINANCIALLY STABLE AND CREDITWORTHY ENTITY THAT SUPPLIES ELECTRICITY; ELIMINATING THE REQUIREMENT THAT IN REVIEWING THE PROCUREMENT OF ELECTRICITY SUPPLY, THE DEFAULT SUPPLIER TAKE INTO ACCOUNT THE STATEWIDE ECONOMIC BENEFITS; CLARIFYING DEFAULT SUPPLIER PROCUREMENT OBJECTIVES; AMENDING SECTIONS 69-8-102, 69-8-210, 69-8-419, AND 69-8-1004, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 69-8-102, MCA, is amended to read:

"69-8-102. Legislative findings and policy. The legislature finds and declares the following:

- (1) The generation and sale of electricity is becoming a competitive industry.
- (2) Montana customers should have the freedom to choose their electricity supply and related services in accordance with this chapter. Affording this opportunity serves the public interest.
- (3) The interests of small Montana consumers must be protected through the provision of adequate and reliable default supply service at the lowest ~~long-term~~ total cost from a financially stable and creditworthy entity that supplies electricity.
- (4) The financial integrity of electrical utilities must be fostered.
- (5) The public interest requires the continued protection of consumers through:
 - (a) the lowest cost of electricity supply for Montana's default supply consumers;
 - ~~(a)~~(b) licensure of electricity suppliers;
 - ~~(b)~~(c) provision of information to consumers regarding electricity supply service;
 - ~~(c)~~(d) provision of a process for investigating and resolving complaints;
 - ~~(d)~~(e) continued funding for public purpose programs for:

- (i) cost-effective local energy conservation;
- (ii) low-income customer weatherization;
- (iii) renewable resource projects and applications;
- (iv) research and development programs related to energy conservation and renewables;
- (v) market transformation; and
- (vi) low-income energy assistance;
- ~~(e)~~(f) assurance of service reliability and quality; and
- ~~(f)~~(g) prevention of anticompetitive and abusive activities.

(6) A utility in the state of Montana may not be advantaged or disadvantaged in the competitive electricity supply market, including the consideration of the existence of universal system benefits programs and the comparable level of funding for those programs throughout the regions neighboring Montana."

Section 2. Section 69-8-210, MCA, is amended to read:

"69-8-210. Public utilities -- electricity supply. (1) A public utility's distribution services provider shall provide default supply service.

(2) The commission shall establish an electricity cost recovery mechanism that allows a default supplier to fully recover prudently incurred electricity supply costs, subject to the provisions of 69-8-419 and 69-8-420. The cost recovery mechanism must provide for prospective rate adjustments for cost differences resulting from cost changes, load changes, and the time value of money on the differences.

(3) Except as provided in subsection (5), a default supplier shall procure adequate and reliable electricity supply at the lowest total cost from a financially stable and creditworthy entity that supplies electricity.

~~(3)~~(4) The commission may direct a default supplier to offer its customers multiple default supply service options if the commission determines that those options are in the public interest, reflect the lowest total cost of reliable electricity supply, and are consistent with the provisions of 69-8-104 and 69-8-201.

~~(4)~~(5) Notwithstanding any service options that the commission may require pursuant to subsection ~~(3)~~ (4), a default supplier shall offer its customers the option of purchasing a product composed of or supporting power from certified environmentally preferred resources that include but are not limited to wind, solar, geothermal, and biomass, subject to review and approval by the commission. The commission shall ensure that these resources have been certified as meeting industry-accepted standards.

~~(5) (a) Subject to subsection (5)(b), the commission shall, in reviewing the procurement of electricity supply by the default supplier, take into account the statewide economic benefits that are associated with the~~

~~electricity supply procurement for the default supply stakeholders. The default supply stakeholders include the default supplier, customers of the default supplier, and the public.~~

~~(b) The consideration of economic benefits is secondary to the consideration of the costs and benefits to the consumer and other criteria established by law.~~

(6) 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."

Section 3. Section 69-8-419, MCA, is amended to read:

"69-8-419. Default supply resource planning and procurement -- duties of default supplier -- objectives -- commission rules. (1) The default supplier shall:

- (a) plan for future default supply resource needs;
- (b) manage a portfolio of default supply resources; and
- (c) procure new default supply resources when needed.

(2) The default supplier shall pursue the following objectives in fulfilling its duties pursuant to subsection (1):

- (a) provide adequate and reliable default supply services at the lowest ~~long-term~~ total cost;
- (b) conduct an efficient default supply resource planning and procurement process that evaluates the full range of cost-effective electricity supply and demand-side management options;
- (c) identify and cost-effectively manage and mitigate risks related to its obligation to provide default electricity supply service;
- (d) use open, fair, and competitive procurement processes whenever possible; and
- (e) provide default supply services at just and reasonable rates.

(3) ~~By December 31, 2003, the~~ The commission shall adopt rules that guide the default supply resource planning and procurement processes used by the default supplier and facilitate the achievement of the objectives in subsection (2) by the default supplier. The rules must establish:

- (a) goals, objectives, and guidelines that are consistent with the objectives in subsection (2) for:
 - (i) planning for future default supply resource needs;
 - (ii) managing the portfolio of default supply resources; and
 - (iii) procuring new default supply resources at the lowest total cost from a financially stable and creditworthy entity that supplies electricity;
- (b) standards for the evaluation by the commission of the reasonableness of a power supply purchase

agreement proposed by the default supplier; and

(c) minimum filing requirements for an application by the default supplier for advanced approval of a proposed power supply purchase agreement."

Section 4. Section 69-8-1004, MCA, is amended to read:

"69-8-1004. Renewable resource standard -- administrative penalty -- waiver. (1) Except as provided in 69-8-1007 and subsection (11) of this section, a graduated renewable energy standard is established for public utilities as provided in subsections (2) through (4) of this section.

(2) In each compliance year beginning January 1, 2008, through December 31, 2009, each public utility shall procure a minimum of 5% of its retail sales of electrical energy in Montana from eligible renewable resources.

(3) (a) In each compliance year beginning January 1, 2010, through December 31, 2014, each public utility shall procure a minimum of 10% of its retail sales of electrical energy in Montana from eligible renewable resources.

(b) As part of their compliance with subsection (3)(a), public utilities shall purchase both the renewable energy credits and the electricity output from community renewable energy projects that total at least 50 megawatts in nameplate capacity.

(c) Public utilities shall proportionately allocate the purchase required under subsection (3)(b) based on each public utility's retail sales of electrical energy in Montana in the calendar year 2009.

(4) (a) In the compliance year beginning January 1, 2015, and in each succeeding compliance year, each public utility shall procure a minimum of 15% of its retail sales of electrical energy in Montana from eligible renewable resources.

(b) (i) As part of their compliance with subsection (4)(a), public utilities shall purchase both the renewable energy credits and the electricity output from community renewable energy projects that total at least 75 megawatts in nameplate capacity.

(ii) In meeting the standard in subsection (4)(b)(i), a public utility may include purchases made under subsection (3)(b).

(c) Public utilities shall proportionately allocate the purchase required under subsection (4)(b) based on each public utility's retail sales of electrical energy in Montana in the calendar year 2014.

(5) (a) In complying with the standards required under subsections (2) through (4), a public utility shall, for any given compliance year, calculate its procurement requirement based on the public utility's previous year's

sales of electrical energy to retail customers in Montana.

(b) The standard in subsections (2) through (4) must be calculated on a delivered-energy basis after accounting for any line losses.

(6) A public utility has until 3 months following the end of each compliance year to purchase renewable energy credits for that compliance year.

(7) (a) In order to meet the standard established in subsections (2) through (4), a public utility may only use:

(i) electricity from an eligible renewable resource in which the associated renewable energy credits have not been sold separately;

(ii) renewable energy credits created by an eligible renewable resource purchased separately from the associated electricity; or

(iii) any combination of subsections (7)(a)(i) and (7)(a)(ii).

(b) A public utility may not resell renewable energy credits and count those sold credits against the public utility's obligation to meet the standards established in subsections (2) through (4).

(c) Renewable energy credits sold through a voluntary service such as the one provided for in ~~69-8-210(4)~~ 69-8-210(5) may not be applied against a public utility's obligation to meet the standards established in subsections (2) through (4).

(8) Nothing in this part limits a public utility from exceeding the standards established in subsections (2) through (4).

(9) If a public utility exceeds a standard established in subsections (2) through (4) in any compliance year, the public utility may carry forward the amount by which the standard was exceeded to comply with the standard in either or both of the 2 subsequent compliance years. The carryforward may not be double-counted.

(10) Except as provided in subsection (11), if a public utility is unable to meet the standards established in subsections (2) through (4) in any compliance year, that public utility shall pay an administrative penalty, assessed by the commission, of \$10 for each megawatt hour of renewable energy credits that the public utility failed to procure. A public utility may not recover this penalty in electricity rates. Money generated from these penalties must be deposited in the universal low-income energy assistance fund established in 69-8-412(1)(a).

(11) A public utility may petition the commission for a short-term waiver from full compliance with the standards in subsections (2) through (4) and the penalties levied under subsection (10). The petition must demonstrate that the:

(a) public utility has undertaken all reasonable steps to procure renewable energy credits under

long-term contract, but full compliance cannot be achieved either because renewable energy credits cannot be procured or for other legitimate reasons that are outside the control of the public utility; or

(b) integration of additional eligible renewable resources into the electrical grid will clearly and demonstrably jeopardize the reliability of the electrical system and that the public utility has undertaken all reasonable steps to mitigate the reliability concerns."

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

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