

HOUSE BILL NO. 218  
INTRODUCED BY M. LANGE

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING NET METERING LAWS APPLICABLE TO CERTAIN UTILITIES, INCLUDING COOPERATIVE UTILITIES; AMENDING SECTIONS 69-8-201 AND 69-8-311, MCA; REPEALING SECTION 69-8-605, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 69-8-201, MCA, is amended to read:

**"69-8-201. Public utility -- transition to customer choice -- options and requirements -- waiver. (1)**

Before July 1, 2027, all public utility customers of a public utility that has restructured in accordance with this chapter must have the opportunity to choose an electricity supplier other than the default supplier.

(2) (a) A small customer of a public utility that has restructured in accordance with this chapter:

(i) must receive default supply services from the default supplier as provided in this chapter; and

(ii) may purchase electricity supply services through a commission-approved small customer electricity supply program as provided in this section.

(b) A small customer receiving electricity from a licensed supplier prior to July 1, 2003, may continue to receive electricity supply from a supplier other than the default supplier.

(c) Customers that represent separately metered services with an estimated average monthly demand of less than 50 kilowatts related to the same individual customer referred to in subsection (3) or (4) may be combined with the respective eligible customer load or loads.

(3) (a) Subject to subsection (3)(b), a customer of a public utility that has restructured in accordance with this chapter and that has an individual load with an average monthly demand of less than 5,000 kilowatts but greater than or equal to 50 kilowatts may choose an electricity supplier.

(b) The total average monthly billing demand for all customers that choose an electricity supplier pursuant to subsection (3)(a) in each calendar year may not exceed 20,000 kilowatts.

(c) A customer referred to in subsection (3)(a) receiving electricity from a licensed supplier prior to July 1, 2003, may continue to receive electricity supply from a supplier other than the default supplier.

(4) (a) Except as provided in subsections (4)(b) through ~~(4)(e)~~ (4)(d), a customer of a utility that has restructured in accordance with this chapter and that has an individual load with an average monthly demand of

greater than or equal to 5,000 kilowatts shall purchase its entire electricity supply from the competitive marketplace.

~~(b)~~ A customer referred to in subsection (4)(a) that is receiving its electricity supply from the competitive marketplace may make a one-time election to enter into a permanent power supply contract with the default supplier for service on or after July 1, 2004. These contracts must include the applicable provisions established by the commission pursuant to subsection (5). This election must be submitted to the commission in writing no later than December 31, 2003.

~~(e)~~(b) A new customer with an estimated average monthly demand of greater than or equal to 5,000 kilowatts may enter into a power supply contract with the default supplier in order to receive default supply service. The new customer's election of an electricity supplier must be submitted in writing to the commission at least 90 days before delivery of electricity. These contracts must include the applicable provisions established by the commission pursuant to subsection (5).

~~(d)~~(c) A customer referred to in subsection (4)(a) that was receiving electricity from the default supplier on July 1, 2003, may continue to receive electricity from the default supplier.

~~(e)~~(d) A customer referred to in subsection (4)(a) that is a public agency, as defined in 18-1-101, may enter into a power supply contract with the default supplier for default supply service for all or part of the public agency's load. These contracts must include the applicable provisions established by the commission pursuant to subsection (5).

(5) The commission shall adopt rules and establish rates and fees to enable customers to have reasonable opportunities to choose an electricity supplier or to receive default supply service in accordance with subsections (2) through (4), while providing protection for small customers from higher or more unstable default supply service rates than would otherwise result if these choices were not offered.

(6) An electricity supplier licensed by the commission to offer electricity supply service to small customers may petition the commission for the opportunity to provide electricity to small customers. The total average monthly demand for all customers referred to in subsection (2)(a) in each calendar year that receive service from an electricity supplier that is not the default supplier may not exceed 10,000 kilowatts. The commission shall ensure that electricity supply service provided pursuant to this subsection is consistent with the requirements in subsection (5) and the provision of default supply service pursuant to this chapter.

(7) Based on an analysis of the sources of costs of providing default supply service, the commission may:

(a) establish different categories of default supply service customers to assist with the implementation

of this section;

(b) allocate default supply costs; and

(c) develop default supply rates.

(8) (a) Except as provided in subsection (8)(b), a customer receiving default supply service may not resell the electricity.

(b) A default supplier may implement demand reduction programs that reward customers for reducing demand under terms established by the commission.

(9) (a) Except as provided in 69-5-101, 69-5-102, 69-5-104 through 69-5-112, ~~and~~ 69-8-402, and 69-8-601 through 69-8-604, a public utility currently doing business in Montana as part of a single integrated multistate operation, no portion of which lies within the basin of the Columbia River, may defer compliance with this chapter until a time that the public utility can reasonably implement customer choice in the state of the public utility's primary service territory.

(b) To the extent that a public utility described in subsection (9)(a) becomes the successor in interest of another public utility that has restructured in accordance with this chapter, it shall assume responsibility only for the applicable transition plan of the acquired public utility.

(10) Upon a request from a public utility with fewer than 50 customers, the commission shall waive compliance with the requirements of 69-8-104, 69-8-202 through 69-8-204, 69-8-208 through 69-8-211, 69-8-402, and this section."

**Section 2.** Section 69-8-311, MCA, is amended to read:

**"69-8-311. Cooperative utility -- exemption.** (1) Within 1 year after May 2, 1997, a cooperative utility may file a notice with the commission that the cooperative utility does not intend to open the cooperative utility's distribution facilities to electricity suppliers and does not intend to adopt a transition plan. Except as otherwise provided in the universal system benefits program pursuant to 69-8-402 or in the net metering requirements under 69-8-601 through 69-8-604, a cooperative utility filing notice under this section is exempt from the provisions and requirements of this chapter.

(2) A cooperative utility filing a notice under this section:

(a) may elect later to adopt a transition plan in accordance with this chapter; and

(b) may not use a public utility's distribution facilities unless preexisting contracts exist."

NEW SECTION. **Section 3. Repealer.** Section 69-8-605, MCA, is repealed.

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

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