

## HOUSE BILL NO. 526

INTRODUCED BY G. GROESBECK, DRISCOLL, STAHL, JACOBSON, KLOCK, GEBHARDT, RYAN, GILLAN, LARSON, SESSO, NOONAN, PERRY, KOOPMAN, OLSON, EBINGER, THOMAS, L. JONES

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TERRITORIAL INTEGRITY ACT LAWS TO AVOID WASTEFUL DUPLICATION OF FACILITIES; CLARIFYING AND DEFINING CERTAIN TERMS; ELIMINATING THE REBUTTABLE PRESUMPTION THAT THE NEAREST LINE IS THE LEAST-COST ELECTRIC SERVICE FACILITY FOR A NEW CUSTOMER; CLARIFYING ELECTRIC SERVICE FACILITIES PROVIDED TO LARGE CUSTOMERS; PROVIDING A PROCESS FOR SERVICING NEW SUBDIVISIONS; PROVIDING A DISPUTE RESOLUTION PROCESS; AMENDING SECTIONS 69-5-102, 69-5-105, 69-5-106, AND 69-5-110, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

**Section 1.** Section 69-5-102, MCA, is amended to read:

**"69-5-102. Definitions.** When used in this part, the following definitions apply:

(1) "Agreement" means a written agreement between two or more electric facilities providers that identifies the geographical area to be served exclusively by each electric facilities provider that is a party to the agreement and any terms and conditions pertinent to the agreement.

(2) "Cost" means the gross cost of constructing new electric service facilities to the premises, using new materials and similar design standards required to meet the load, from a point where there is existing electrical capacity to serve.

~~(2) "Electric cooperative" means a rural electric cooperative organized under Title 35, chapter 18, or a foreign corporation admitted thereunder to do business in Montana.~~

~~(3)~~(3) "Electric facilities provider" means any utility that provides electric service facilities to the public.

~~(4)~~(4) "Electric service facilities" means any distribution or transmission system or related facility necessary to provide electricity to the premises, including lines.

~~(5) "Electric utility" means a person, firm, or corporation other than an electric cooperative that provides electric service facilities to the public.~~

(5) "Large customer" means any premises, except subdivisions, with the estimated connected load for full operation at an individual service for the premises of 500 kilowatts or larger.

(6) "Line" means any ~~electric supply conductor~~ material that is used to convey electrical energy and that is normally energized between 2,400 volts phase to ground and 14,400 volts phase to ground.

(7) "Premises" means a building, residence, structure, irrigation pump, or facility to which electric service facilities are provided or are to be installed; ~~however~~ However, two or more buildings, structures, irrigation pumps, or facilities that are located on one tract or contiguous tracts of land and that are used by one electric consumer for farming, business, commercial, industrial, institutional, governmental, or trailer court purposes must together constitute one premises, except that any building, structure, irrigation pump, or facility, other than a trailer court, may not, together with any other building, structure, irrigation pump, or facility, constitute one premises if the electric service to it is separately metered and the charges for that service are calculated independently of charges for service to any other building, structure, irrigation pump, or facility.

(8) "Regulated utility" means any electric utility regulated by the commission pursuant to Title 69, chapter 3, on May 2, 1997, including the public utility's successors or assignees.

(9) ~~"Subdivision" means a division of land or land that is divided and that creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed as provided in the approved plat of the subdivision, irrespective of whether the subdivision is~~ HAS THE MEANING PROVIDED FOR IN 76-3-103. THE DEFINITION INCLUDES SUBDIVISIONS THAT MAY BE developed in one or more phases of development at different periods of time.

~~(10)~~ (10) "Utility" means a public utility regulated by the commission pursuant to Title 69, chapter 3, or a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18, or their successors or assignees.

(11) "Vector" means a straight line between two points."

**Section 2.** Section 69-5-105, MCA, is amended to read:

**"69-5-105. Service to new consumers.** (1) ~~Subject to this part,~~ Except as provided in 69-5-106 and [section 5], the electric facilities provider ~~having that has~~ that has a line nearest the premises; and that has the capacity to serve the premises, as measured in accordance with subsection (2), shall provide electric service facilities to the premises initially requiring service after May 2, 1997; ~~which creates a rebuttable presumption that the nearest line is the least-cost electric service facility to the new customer. However, a customer or another electric facilities provider may rebut the presumption, and another electric facilities provider may provide the electric service facilities if it can do so at less cost.~~

(2) All measurements under this part must be made on the shortest straight line vector that can be drawn

from the conductor line nearest the premises to the nearest permanent portion of the premises.

~~(3) If the electric facilities providers are unable to reach agreement as to which electric facilities provider can provide electric service facilities at least cost, an independent consultant engineer agreeable to both electric facilities providers or, in the event of failure of the electric facilities providers to agree on a consultant engineer, an independent consultant engineer selected by the district court having jurisdiction, as provided in 69-5-110, shall determine which electric facilities provider can extend its lines to the consumer at the least cost. The cost of those engineering services must be paid equally by the electric facilities providers involved."~~

**Section 3.** Section 69-5-106, MCA, is amended to read:

**"69-5-106. Electric service facilities to large customers.** ~~(1) An electric~~ A regulated utility electric facilities provider has the right to furnish electric service facilities to ~~any premises if the estimated connected load for full operation at the premises will be 400 kilowatts or larger within 2 years from the date of initial service and the premises of a large customer~~ if the electric regulated utility electric facilities provider can extend its electric service facilities to the premises of a large customer at less cost ~~to the electric utility than the electric cooperative cost than other electric facilities providers~~. The estimated connected load must be determined from the plans and specifications prepared for construction of the premises or, if an estimate is not available, must be determined by mutual agreement of the electric facilities provider and the large customer. ~~The fact that the actual connected load after 2 years from the date of initial service is less than 400 kilowatts does not affect the right of the electric facilities provider initially providing electric service facilities to continue to provide electric service facilities to the premises.~~

~~————(2) An independent consultant engineer agreeable to both electric facilities providers or, in the event of failure of the electric facilities providers to agree on a consultant engineer, an independent consultant engineer selected by the district court having jurisdiction, as provided in 69-5-110, shall determine which electric facilities provider can extend its facilities at the least cost to the utility. The cost of those engineering services must be paid equally by the electric facilities providers involved."~~

**Section 4.** Section 69-5-110, MCA, is amended to read:

**"69-5-110. Jurisdiction of district courts over disputes.** The district courts of the county or counties within which the premises, vectors, or lines involved in any dispute are located have jurisdiction under this part over all electric facilities providers subject to this part."

**NEW SECTION. Section 5. Service to new subdivisions.** (1) Except as provided in 69-5-108, if two or more electric facilities providers have lines in general proximity to a new subdivision, electric service to the new subdivision must be apportioned by drawing a series of vectors through the subdivision equidistant from the lines of each electric facilities provider with that part of the subdivision closest to an electric facilities provider's line receiving service from that electric facilities provider.

(2) Nothing in this section prohibits electric facilities providers from agreeing among themselves on how to provide service to a new subdivision.

**NEW SECTION. Section 6. Review by independent consultant.** (1) If electric facilities providers that have provided cost estimates to a new large customer are unable to reach agreement as to which electric facilities provider can provide electric service facilities at the least cost, an independent consultant engineer agreeable to both electric facilities providers or, in the event of failure of the electric facilities providers to agree on a consultant engineer, an independent consultant engineer selected by the district court having jurisdiction, as provided in 69-5-110, shall determine which electric facilities provider can extend its line to the new large customer at the least cost. The cost of those engineering services must be paid equally by the electric facilities providers involved.

(2) If electric facilities providers proposing to provide service to a subdivision do not agree on the location of a vector, as provided in [section 5(1)], an independent consultant engineer agreeable to both electric facilities providers or, in the event of failure of the electric facilities providers to agree on a consultant engineer, an independent consultant engineer selected by the district court having jurisdiction, as provided in 69-5-110, shall determine the location of a vector. The cost of those engineering services must be paid equally by the electric facilities providers involved.

(3) If electric facilities providers having lines near the premises of a new consumer do not agree if a line has capacity to serve the premises, an independent consultant engineer agreeable to both electric facilities providers or, in the event of failure of the electric facilities providers to agree on a consultant engineer, an independent consultant engineer selected by the district court having jurisdiction, as provided in 69-5-110, shall determine if a line has capacity to serve the premises. The cost of those engineering services must be paid equally by the electric facilities providers involved.

**NEW SECTION. Section 7. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 8. Codification instruction.** [Sections 5 and 6] are intended to be codified as an integral part of Title 69, chapter 5, part 1, and the provisions of Title 69, chapter 5, part 1, apply to [sections 5 and 6].

NEW SECTION. **Section 9. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 10. Applicability.** [This act] does not apply to any pending litigation filed under the Territorial Integrity Act on or before [the effective date of this act].

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