

SENATE BILL NO. 311
INTRODUCED BY R. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO ELECTRICITY SUPPLY AND DEFAULT SUPPLY SERVICE; CLARIFYING LEGISLATIVE POLICY AND FINDINGS; REQUIRING A DEFAULT SUPPLIER TO PROCURE ADEQUATE AND RELIABLE ELECTRICITY SUPPLY AT THE LOWEST KNOWN TOTAL COST FROM A FINANCIALLY STABLE AND CREDITWORTHY ENTITY THAT SUPPLIES ELECTRICITY; ELIMINATING THE REQUIREMENT THAT IN REVIEWING THE PROCUREMENT OF ELECTRICITY SUPPLY, THE PUBLIC SERVICE COMMISSION TAKE INTO ACCOUNT THE STATEWIDE ECONOMIC BENEFITS; CLARIFYING DEFAULT SUPPLIER PROCUREMENT OBJECTIVES; AMENDING SECTIONS 69-8-102, 69-8-210, AND 69-8-419, 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 not 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 and the economy of Montana must be protected through the provision of adequate and reliable default supply service at the lowest ~~long-term~~ known 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) allowing for Montana's default supply consumers to purchase electricity at the lowest known total cost and to ensure that known risks are assumed by electricity suppliers, not 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 known 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 known 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 ~~(4)~~ 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~~ known 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 known 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."

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

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