

1 HOUSE BILL NO. 59

2 INTRODUCED BY T. BELCOURT

3 BY REQUEST OF THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF "ELIGIBLE RENEWABLE
6 RESOURCE" TO INCLUDE HYDROELECTRIC PROJECT EXPANSIONS; GRANTING THE PUBLIC SERVICE
7 COMMISSION RULEMAKING AUTHORITY OVER HYDROELECTRIC PROJECT EXPANSIONS; AMENDING
8 SECTIONS 69-3-2003 AND 69-3-2006, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
9 APPLICABILITY DATE."

10

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

12

13 **Section 1.** Section 69-3-2003, MCA, is amended to read:

14 **"69-3-2003. Definitions.** As used in this part, unless the context requires otherwise, the following
15 definitions apply:

16 (1) "Ancillary services" means services or tariff provisions related to generation and delivery of electric
17 power other than simple generation, transmission, or distribution. Ancillary services related to transmission
18 services include energy losses, energy imbalances, scheduling and dispatching, load following, system
19 protection, spinning reserves and nonspinning reserves, and reactive power.

20 (2) "Balancing authority" means a transmission system control operator who balances electricity supply
21 and load at all times to meet transmission system operating criteria and to provide reliable electric service to
22 customers.

23 (3) "Common ownership" means the same or substantially similar persons or entities that maintain a
24 controlling interest in more than one community renewable energy project even if the ownership shares differ
25 between two community renewable energy projects. Two community renewable energy projects may not be
26 considered to be under common ownership simply because the same entity provided debt or equity or both debt
27 and equity to both projects.

28 (4) "Community renewable energy project" means an eligible renewable resource that:

29 (a) is interconnected on the utility side of the meter in which local owners have a controlling interest and
30 that is less than or equal to 25 megawatts in total calculated nameplate capacity; or

1 (b) is owned by a public utility and has less than or equal to 25 megawatts in total nameplate capacity.

2 (5) (a) "Competitive electricity supplier" means any person, corporation, or governmental entity that is
3 selling electricity to small customers at retail rates in the state of Montana and that is not a public utility or
4 cooperative.

5 (b) The term does not include governmental entities selling electricity produced only by facilities
6 generating less than 250 kilowatts that were in operation prior to 1990.

7 (6) "Compliance year" means each calendar year beginning January 1 and ending December 31, starting
8 in 2008, for which compliance with this part must be demonstrated.

9 (7) "Cooperative utility" means:

10 (a) a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18; or

11 (b) an existing municipal electric utility as of May 2, 1997.

12 (8) "Dispatch ability" means the ability of either a balancing authority or the owner of an electric
13 generating resource to rapidly start, stop, increase, or decrease electricity production from that generating
14 resource in order to respond to the balancing authority's need to match supply resources to loads on the
15 transmission system.

16 (9) "Electric generating resource" means any plant or equipment used to generate electricity by any
17 means.

18 (10) "Eligible renewable resource" means a facility either located within Montana or delivering electricity
19 from another state into Montana that commences commercial operation after January 1, 2005, or a hydroelectric
20 project expansion referred to in subsection (10)(d)(iii), and that produces electricity from one or more of the
21 following sources:

22 (a) wind;

23 (b) solar;

24 (c) geothermal;

25 (d) water power, in the case of a hydroelectric project that:

26 (i) does not require a new appropriation, diversion, or impoundment of water and that has a nameplate
27 rating of 10 megawatts or less; ~~or~~

28 (ii) is installed at an existing reservoir or on an existing irrigation system that does not have hydroelectric
29 generation as of April 16, 2009, and has a nameplate capacity of 15 megawatts or less; or

30 (iii) is an expansion of an existing hydroelectric project that increases existing generation capacity on or

1 after [the effective date of this act]. The eligible renewable resource includes only the actual amount of increased
2 generation capacity produced by the project as a result of the expansion.

3 (e) landfill or farm-based methane gas;

4 (f) gas produced during the treatment of wastewater;

5 (g) low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic
6 fuels from wood, forest, or field residues, except that the term does not include wood pieces that have been
7 treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic;

8 (h) hydrogen derived from any of the sources in this subsection (10) for use in fuel cells;

9 (i) the renewable energy fraction from the sources identified in subsections (10)(a) through (10)(j) of
10 electricity production from a multiple-fuel process with fossil fuels; and

11 (j) compressed air derived from any of the sources in this subsection (10) that is forced into an
12 underground storage reservoir and later released, heated, and passed through a turbine generator.

13 (11) "Local owners" means:

14 (a) Montana residents or entities composed of Montana residents;

15 (b) Montana small businesses;

16 (c) Montana nonprofit organizations;

17 (d) Montana-based tribal councils;

18 (e) Montana political subdivisions or local governments;

19 (f) Montana-based cooperatives other than cooperative utilities; or

20 (g) any combination of the individuals or entities listed in subsections (11)(a) through (11)(f).

21 (12) "Nonspinning reserve" means offline generation that can be ramped up to capacity and synchronized
22 to the grid within 10 minutes and that is needed to maintain system frequency stability during emergency
23 conditions, unforeseen load swings, and generation disruptions.

24 (13) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter
25 3, on January 1, 2005, including the public utility's successors or assignees.

26 (14) "Renewable energy credit" means a tradable certificate of proof of 1 megawatt hour of electricity
27 generated by an eligible renewable resource that is tracked and verified by the commission and includes all of
28 the environmental attributes associated with that 1 megawatt-hour unit of electricity production.

29 (15) "Seasonality" means the degree to which an electric generating resource is capable of producing
30 electricity in each of the seasons of the year.

1 (16) "Small customer" means a retail customer that has an individual load with an average monthly
2 demand of less than 5,000 kilowatts.

3 (17) "Spinning reserve" means the online reserve capacity that is synchronized to the grid system and
4 immediately responsive to frequency control and that is needed to maintain system frequency stability during
5 emergency conditions, unforeseen load swings, and generation disruptions.

6 (18) "Total calculated nameplate capacity" means the calculation of total nameplate capacity of the
7 community renewable energy project and other eligible renewable resources that are:

- 8 (a) located within 5 miles of the project;
9 (b) constructed within the same 12-month period; and
10 (c) under common ownership."
11

12 **Section 2.** Section 69-3-2006, MCA, is amended to read:

13 **"69-3-2006. Commission authority -- rulemaking authority.** (1) The commission has the authority to
14 generally implement and enforce the provisions of this part.

15 (2) The commission shall adopt rules before June 1, 2006, to:

- 16 (a) select a renewable energy credit tracking system to verify compliance with this part;
17 (b) establish a system by which renewable resources become certified as eligible renewable resources;
18 (c) define the process by which waivers from full compliance with this part may be granted;
19 (d) establish procedures under which contracts for eligible renewable resources and renewable energy
20 credits may receive advanced approval;
21 (e) define the requirements governing renewable energy procurement plans and annual reports; and
22 (f) generally implement and enforce the provisions of this part.

23 (3) The commission shall adopt rules before ~~October 1, 2011~~ JANUARY 1, 2012, to ensure that the
24 calculation of energy generation and of renewable energy credits for eligible renewable resources under
25 69-3-2003(10)(d)(iii) reflects the actual electrical production from the expansion as typically reduced by seasonal
26 water conditions."
27

28 COORDINATION SECTION. SECTION 3. COORDINATION INSTRUCTION. IF SENATE BILL NO. 109 AND [THIS
29 ACT] ARE BOTH PASSED AND APPROVED, THEN THE SECTIONS AMENDING 69-3-2003 ARE VOID AND 69-3-2003 MUST BE
30 AMENDED AS FOLLOWS:

1 **"69-3-2003. Definitions.** As used in this part, unless the context requires otherwise, the following
2 definitions apply:

3 (1) "Ancillary services" means services or tariff provisions related to generation and delivery of electric
4 power other than simple generation, transmission, or distribution. Ancillary services related to transmission
5 services include energy losses, energy imbalances, scheduling and dispatching, load following, system
6 protection, spinning reserves and nonspinning reserves, and reactive power.

7 (2) "Balancing authority" means a transmission system control operator who balances electricity supply
8 and load at all times to meet transmission system operating criteria and to provide reliable electric service to
9 customers.

10 (3) "Common ownership" means the same or substantially similar persons or entities that maintain a
11 controlling interest in more than one community renewable energy project even if the ownership shares differ
12 between two community renewable energy projects. Two community renewable energy projects may not be
13 considered to be under common ownership simply because the same entity provided debt or equity or both debt
14 and equity to both projects.

15 (4) "Community renewable energy project" means an eligible renewable resource that:

16 (a) is interconnected on the utility side of the meter in which local owners have a controlling interest and
17 that is less than or equal to 25 megawatts in total calculated nameplate capacity; or

18 (b) is owned by a public utility and has less than or equal to 25 megawatts in total nameplate capacity.

19 (5) (a) "Competitive electricity supplier" means any person, corporation, or governmental entity that is
20 selling electricity to small customers at retail rates in the state of Montana and that is not a public utility or
21 cooperative.

22 (b) The term does not include governmental entities selling electricity produced only by facilities
23 generating less than 250 kilowatts that were in operation prior to 1990.

24 (6) "Compliance year" means each calendar year beginning January 1 and ending December 31, starting
25 in 2008, for which compliance with this part must be demonstrated.

26 (7) "Cooperative utility" means:

27 (a) a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18; or

28 (b) an existing municipal electric utility as of May 2, 1997.

29 (8) "Dispatch ability" means the ability of either a balancing authority or the owner of an electric
30 generating resource to rapidly start, stop, increase, or decrease electricity production from that generating

1 resource in order to respond to the balancing authority's need to match supply resources to loads on the
2 transmission system.

3 (9) "Electric generating resource" means any plant or equipment used to generate electricity by any
4 means.

5 (10) "Eligible renewable resource" means a facility either located within Montana or delivering electricity
6 from another state into Montana that, except as provided in subsection (10)(d)(ii), commences commercial
7 operation after January 1, 2005, and that produces electricity from one or more of the following sources:

8 (a) wind;

9 (b) solar;

10 (c) geothermal;

11 (d) (i) water power, in the case of a hydroelectric project that:

12 ~~—— (i) does not require a new appropriation, diversion, or impoundment of water and that has a nameplate~~
13 ~~rating of 10 megawatts or less; or~~

14 ~~—— (ii) is installed at an existing reservoir or on an existing irrigation system that does not have hydroelectric~~
15 ~~generation as of April 16, 2009, and has a nameplate capacity of 15 megawatts or less;~~

16 (ii) water power in the case of a hydroelectric project that is an expansion of a hydroelectric project that
17 commenced commercial operation before December 31, 2004, that increases generation capacity on or after [the
18 effective date of this act]. The eligible renewable resource includes only the actual amount of increased
19 generation capacity produced by the project as a result of the expansion.

20 (e) landfill or farm-based methane gas;

21 (f) gas produced during the treatment of wastewater;

22 (g) low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic
23 fuels from wood, forest, or field residues, except that the term does not include wood pieces that have been
24 treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic;

25 (h) hydrogen derived from any of the sources in this subsection (10) for use in fuel cells;

26 (i) the renewable energy fraction from the sources identified in subsections (10)(a) through (10)(j) of
27 electricity production from a multiple-fuel process with fossil fuels; and

28 (j) compressed air derived from any of the sources in this subsection (10) that is forced into an
29 underground storage reservoir and later released, heated, and passed through a turbine generator.

30 (11) "Local owners" means:

- 1 (a) Montana residents or entities composed of Montana residents;
- 2 (b) Montana small businesses;
- 3 (c) Montana nonprofit organizations;
- 4 (d) Montana-based tribal councils;
- 5 (e) Montana political subdivisions or local governments;
- 6 (f) Montana-based cooperatives other than cooperative utilities; or
- 7 (g) any combination of the individuals or entities listed in subsections (11)(a) through (11)(f).
- 8 (12) "Nonspinning reserve" means offline generation that can be ramped up to capacity and synchronized
- 9 to the grid within 10 minutes and that is needed to maintain system frequency stability during emergency
- 10 conditions, unforeseen load swings, and generation disruptions.
- 11 (13) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter
- 12 3, on January 1, 2005, including the public utility's successors or assignees.
- 13 (14) "Renewable energy credit" means a tradable certificate of proof of 1 megawatt hour of electricity
- 14 generated by an eligible renewable resource that is tracked and verified by the commission and includes all of
- 15 the environmental attributes associated with that 1 megawatt-hour unit of electricity production.
- 16 (15) "Seasonality" means the degree to which an electric generating resource is capable of producing
- 17 electricity in each of the seasons of the year.
- 18 (16) "Small customer" means a retail customer that has an individual load with an average monthly
- 19 demand of less than 5,000 kilowatts.
- 20 (17) "Spinning reserve" means the online reserve capacity that is synchronized to the grid system and
- 21 immediately responsive to frequency control and that is needed to maintain system frequency stability during
- 22 emergency conditions, unforeseen load swings, and generation disruptions.
- 23 (18) "Total calculated nameplate capacity" means the calculation of total nameplate capacity of the
- 24 community renewable energy project and other eligible renewable resources that are:
- 25 (a) located within 5 miles of the project;
- 26 (b) constructed within the same 12-month period; and
- 27 (c) under common ownership."
- 28

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

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