

SENATE BILL NO. 7

INTRODUCED BY J. KEANE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ELECTRICAL GENERATION FACILITIES AND
5 UTILITIES IN MONTANA THAT BUY OR SELL RENEWABLE ENERGY CREDITS TO FILE RENEWABLE
6 ENERGY CREDIT REPORTS WITH THE ~~PUBLIC SERVICE COMMISSION~~ DEPARTMENT OF REVENUE AND
7 THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE; REQUIRING THE ENERGY AND
8 TELECOMMUNICATIONS INTERIM COMMITTEE TO REVIEW THE REPORT; PROVIDING EXCEPTIONS TO
9 THE REPORTS' CONTENTS; PROVIDING A PENALTY FOR NOT FILING A RENEWABLE ENERGY CREDIT
10 REPORT; ~~AMENDING SECTIONS 69-1-114 AND 69-3-2005, MCA~~; AND PROVIDING AN IMMEDIATE
11 EFFECTIVE DATE AND AN APPLICABILITY DATE."
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13 WHEREAS, a growing number of states have adopted renewable portfolio standards requiring electricity
14 retailers to acquire a minimum percentage of their power from renewable energy resources, and renewable
15 energy credits are used to meet those acquisition targets; and

16 WHEREAS, the environmental attributes of a renewable power source reside in an unbundled renewable
17 energy credit and associated electrons are considered generic electricity in power markets and priced
18 accordingly; and

19 WHEREAS, there are no central clearinghouses and no futures market for renewable energy credits, and
20 contracts for large volumes of renewable energy credits often contain confidentiality clauses that prohibit price
21 disclosure for the term of the contract; and

22 WHEREAS, unbundled renewable energy credits sent to certain markets could depress the value of the
23 associated electrons that remain in the region, and regional utilities could face higher costs for integrating
24 renewable power constructed to meet certain states' increased demand for renewable energy credits; and

25 WHEREAS, it is in the public interest to disclose the price of renewable energy credits because it
26 provides credibility and transparency to state-legislated policies such as renewable portfolio standards.

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

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30 NEW SECTION. **Section 1. Electrical generation facilities renewable energy credit reporting. (1)**



1 (a) Except as provided in ~~subsection (3)~~ [SECTION 2], a utility as defined in ~~69-8-103~~ 69-5-102 operating in
 2 Montana, A COMPETITIVE ELECTRICITY SUPPLIER AS DEFINED IN 69-3-2003, and ~~the~~ ANY owner of an electrical
 3 generation facility operating in Montana that buys or sells renewable energy credits shall annually file a renewable
 4 energy credit report, ~~in a format to be determined by the commission, with the commission~~ IN ACCORDANCE WITH
 5 THIS SECTION.

6 (b) The report must be filed by March 1 of the year following the purchase or sale of the renewable
 7 energy credit.

8 (2) ~~The~~ EXCEPT AS PROVIDED IN [SECTION 2], THE report must include:

9 (a) the price of any renewable energy credit bought or sold by the facility or utility; and

10 (b) whether electrical energy and renewable energy credits were bought or sold together or separately,
 11 as a bundled or unbundled product.

12 ~~Through 2015, public utilities and competitive electricity suppliers subject to Title 69, chapter 3, part~~
 13 ~~20, shall submit reports in accordance with 69-3-2005(6).~~

14 ~~(3)~~ (4) Except as provided in subsection ~~(5)~~ (4), the reports are not subject to the regulatory powers of
 15 the ~~commission and must be open to public inspection.~~ DEPARTMENT OF REVENUE. THE DEPARTMENT OF REVENUE
 16 SHALL MAKE THE REPORT AVAILABLE FOR PUBLIC INSPECTION.

17 ~~(5)~~ (4) A utility or owner of an electrical generation facility that fails to file the report required pursuant to
 18 ~~subsection (1) or subsection (3)~~ THIS SECTION shall pay an administrative penalty, assessed by the ~~commission~~
 19 DEPARTMENT OF REVENUE, of \$1,500. A utility may not recover this penalty through an increase in electricity rates.
 20 Money generated from these penalties must be deposited in ~~an account in the state special revenue fund to the~~
 21 ~~credit of the department of public service regulation pursuant to 69-1-402~~ THE UNIVERSAL LOW-INCOME ENERGY
 22 ASSISTANCE FUND ESTABLISHED IN 69-8-412(1)(B).

23 ~~(6)~~ (5) For the purposes of implementing this section, "electrical generation facility" means any
 24 combination of a physically connected generator or generators, associated prime movers, and other associated
 25 property, including appurtenant land and improvements and personal property, that are normally operated
 26 together to produce electric power.

27 (6) (A) THE REPORT REQUIRED IN SUBSECTION (1) MUST BE FILED WITH THE DEPARTMENT OF REVENUE IN A
 28 FORMAT DETERMINED BY THE DEPARTMENT.

29 (B) A UTILITY, A COMPETITIVE ELECTRICITY SUPPLIER, OR AN OWNER OF AN ELECTRICAL GENERATION FACILITY
 30 THAT IS REQUIRED TO FILE A REPORT PURSUANT TO SUBSECTION (1) SHALL PROVIDE A COPY OF THE REPORT TO THE

1 ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE PROVIDED FOR IN 5-5-230. BEFORE SEPTEMBER 15 OF THE
 2 YEAR PRECEDING A LEGISLATIVE SESSION, THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE SHALL REVIEW
 3 THE REPORTS AND, IF NECESSARY, SUBMIT RECOMMENDATIONS REGARDING THE USE OF RENEWABLE ENERGY CREDITS
 4 IN MONTANA TO THE LEGISLATURE.

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 6 **NEW SECTION. SECTION 2. EXCEPTIONS TO REPORT CONTENTS.** (1) IF A UTILITY, A COMPETITIVE ELECTRICITY
 7 SUPPLIER, OR AN OWNER OF AN ELECTRICAL GENERATION FACILITY OPERATING IN MONTANA REQUIRED TO FILE THE
 8 REPORT PURSUANT TO [SECTION 1] BUYS OR SELLS A RENEWABLE ENERGY CREDIT IN A MARKET WHERE THE PRICE OF A
 9 RENEWABLE ENERGY CREDIT IS NOT PUBLICLY DISCLOSED, THE UTILITY, COMPETITIVE ELECTRICITY SUPPLIER, OR OWNER
 10 OF AN ELECTRICAL GENERATION FACILITY OPERATING IN MONTANA IS NOT REQUIRED TO DISCLOSE THE PRICE.

11 (2) THE UTILITY, COMPETITIVE ELECTRICITY SUPPLIER, OR OWNER OF AN ELECTRICAL GENERATION FACILITY
 12 OPERATING IN MONTANA SHALL REPORT THE NUMBER OF CREDITS BOUGHT OR SOLD AND WHETHER THE ENERGY AND
 13 RENEWABLE ENERGY CREDITS WERE BOUGHT OR SOLD TOGETHER OR SEPARATELY AS A BUNDLED OR UNBUNDLED
 14 PRODUCT.

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 16 ~~Section 2. Section 69-1-114, MCA, is amended to read:~~

17 ~~"69-1-114. Fees. (1) Each fee charged by the commission must be reasonable.~~

18 ~~(2) Except for a fee assessed pursuant to 69-3-204(2), 69-8-421(10), or 69-12-423(2), or [section 1(5)],~~
 19 ~~a fee set by the commission may not exceed \$500.~~

20 ~~(3) All fees collected by the department under 69-8-421(10) must be deposited in an account in the~~
 21 ~~special revenue fund. Funds in this account must be used as provided in 69-8-421(10)."~~

22
 23 ~~Section 3. Section 69-3-2005, MCA, is amended to read:~~

24 ~~"69-3-2005. Procurement -- cost recovery -- reporting. (1) In meeting the requirements of this part,~~
 25 ~~a public utility shall:~~

26 ~~(a) conduct renewable energy solicitations under which the public utility offers to purchase renewable~~
 27 ~~energy credits, either with or without the associated electricity, under contracts of at least 10 years in duration;~~

28 ~~(b) consider the importance of geographically diverse rural economic development when procuring~~
 29 ~~renewable energy credits; and~~

30 ~~(c) consider the importance of dispatch ability, seasonality, and other attributes of the eligible renewable~~

1 resource contained in the commission's supply procurement rules when considering the procurement of
2 renewable energy or renewable energy credits:

3 ~~———(2) A public utility that intends to enter into contracts of less than 10 years in duration shall demonstrate~~
4 ~~to the commission that these contracts will provide a lower long-term cost of meeting the standard established~~
5 ~~in 69-3-2004.~~

6 ~~———(3) (a) Contracts signed for projects located in Montana must require all contractors to give preference~~
7 ~~to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the~~
8 ~~projects if the Montana residents have substantially equal qualifications to those of nonresidents.~~

9 ~~———(b) Contracts signed for projects located in Montana must require all contractors to pay the standard~~
10 ~~prevailing rate of wages for heavy construction, as provided in 18-2-414, during the construction phase of the~~
11 ~~project.~~

12 ~~———(4) All contracts signed by a public utility to meet the requirements of this part are eligible for advanced~~
13 ~~approval under procedures established by the commission. Upon advanced approval by the commission, these~~
14 ~~contracts are eligible for cost recovery from ratepayers, except that nothing in this part limits the commission's~~
15 ~~ability to subsequently, in any future cost-recovery proceeding, inquire into the manner in which the public utility~~
16 ~~has managed the contract and to disallow cost recovery if the contract was not reasonably administered.~~

17 ~~———(5) A public utility or competitive electricity supplier shall submit renewable energy procurement plans~~
18 ~~to the commission in accordance with rules adopted by the commission. The plans must be submitted to the~~
19 ~~commission on or before:~~

20 ~~———(a) June 1, 2013, for the standard required in 69-3-2004(4); and~~

21 ~~———(b) any additional future dates as required by the commission.~~

22 ~~———(6) (a) A public utility or competitive electricity supplier shall annually submit annual reports a report, in~~
23 ~~a format to be determined by the commission, demonstrating compliance with this part for each compliance year.~~

24 ~~———(b) The report must include:~~

25 ~~———(i) the price of any renewable energy credit bought or sold by a public utility or competitive electricity~~
26 ~~supplier; and~~

27 ~~———(ii) whether electrical energy and renewable energy credits were bought or sold together or separately;~~
28 ~~as a bundled or unbundled product.~~

29 ~~———(c) The reports report must be filed by March 1 of the year following the compliance year.~~

30 ~~———(7) For the purpose of implementing this part, the commission has regulatory authority over competitive~~

1 electricity suppliers."

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3 NEW SECTION. **Section 3. Notification to tribal governments.** The secretary of state shall send a
4 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
5 Chippewa tribe.

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7 NEW SECTION. **Section 4. Codification instruction.** [~~Section 1~~] is [~~SECTION 1 AND 2~~] ARE intended
8 to be codified as an integral part of Title 69, chapter 3, part 20, and the provisions of Title 69, chapter 3, part 20,
9 apply to [~~section 1~~] [~~SECTIONS 1 AND 2~~].

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11 NEW SECTION. **Section 5. Saving clause.** [This act] does not affect rights and duties that matured,
12 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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14 NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

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16 NEW SECTION. **Section 7. Applicability.** [This act] applies to renewable energy credits bought or sold
17 on or after January 1, 2012.

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