



AN ACT REQUIRING THE PUBLIC SERVICE COMMISSION TO APPROVE RATE SCHEDULES FOR CERTAIN SMALL POWER PRODUCERS; PROHIBITING THE COMMISSION FROM APPROVING RATE SCHEDULES FOR CERTAIN SMALL POWER PRODUCERS; ESTABLISHING CERTAIN PARAMETERS FOR LONG-TERM CONTRACTS BETWEEN SMALL POWER PRODUCTION FACILITIES AND UTILITIES; GRANTING THE COMMISSION RULEMAKING AUTHORITY; AMENDING SECTION 69-3-603, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES.

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

Section 1. Section 69-3-603, MCA, is amended to read:

"69-3-603. (Temporary) Required sale of electricity under rates and conditions prescribed by commission. (1) Except as provided in subsection (3), if a qualifying small power production facility and a utility are unable to mutually agree to a contract for the sale of electricity or a price for the electricity to be purchased by the utility, the commission shall require the utility to purchase the electricity under rates and conditions established under the provisions of subsection (2).

(2) The commission shall determine the rates and conditions of the contract upon petition of a qualifying small power production facility or a utility or during a rate proceeding involving the review of rates paid by a utility for electricity purchased from a qualifying small power production facility. The commission shall render a decision within 180 days of receipt of the petition or before the completion of the rate proceeding. The rates and conditions of the determination must be made according to the standards prescribed in 69-3-604.

(3) (a) (i) If a qualifying small power production facility is eligible to sell electricity to a utility pursuant to a rate schedule approved by the commission, neither the qualifying small power production facility nor the utility may petition the commission in accordance with subsection (2) to authorize a rate or term different from that in the rate schedule.

(ii) If a qualifying small power production facility is not eligible to sell electricity to a utility pursuant to a rate schedule approved by the commission, the qualifying small power production facility may enter into a

long-term contract to sell electricity only if it is selected by a public utility in a competitive solicitation for long-term electricity supply resources.

(b) (i) For a public utility that has contracts with qualifying small power production facilities with an aggregate total nameplate capacity, excluding the aggregate total nameplate capacity of qualifying small power production facilities using a primary energy source referred to in 18 CFR 292.202(b)(4), (5), (6), or (8), that is less than 15% of the public utility's average daily load, the commission shall approve a rate schedule for sales of electricity to the utility from a qualifying small power production facility with a design capacity of 3 megawatts or less.

(ii) For a public utility that has contracts with qualifying small power production facilities with an aggregate total nameplate capacity, excluding the aggregate total nameplate capacity of qualifying small power production facilities using a primary energy source referred to in 18 CFR 292.202(b)(4), (5), (6), or (8), that is less than 15% of the public utility's average daily load, the commission may not approve a rate schedule for sales of electricity to the utility from a qualifying small power production facility with a design capacity of more than 3 megawatts.

(iii) For a public utility that has contracts with qualifying small power production facilities with an aggregate total nameplate capacity, excluding the aggregate total nameplate capacity of qualifying small power production facilities using a primary energy source referred to in 18 CFR 292.202(b)(4), (5), (6), or (8), that is equal to or greater than 15% of the public utility's average daily load, the commission shall approve a rate schedule for sales of electricity to the public utility from a qualifying small power production facility with a design capacity of 100 kilowatts or less.

(iv) For a public utility that has contracts with qualifying small power production facilities with an aggregate total nameplate capacity, excluding the aggregate total nameplate capacity of qualifying small power production facilities using a primary energy source referred to in 18 CFR 292.202(b)(4), (5), (6), or (8), that is equal to or greater than 15% of the public utility's average daily load, the commission may not approve a rate schedule for sales of electricity to the public utility from a qualifying small power production facility with a design capacity of more than 100 kilowatts.

(v) The commission shall limit the new contracts with standard offer rates for qualifying small power production facilities with a design capacity of more than 100 kilowatts to 6 megawatts of total aggregate design capacity in any calendar year.

(b)(c) A qualifying small power production facility may file a complaint pursuant to 69-3-321 if the facility

feels the rate schedule approved by the commission is unreasonable.

(4) Within 90 days of [the effective date of this act], the commission shall adopt rules necessary to implement subsections (3)(a) through (3)(c). (Repealed on occurrence of contingency--secs. 1, 3, Ch. 284, L. 2003--see part compiler's comment.)"

Section 2. 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].

Section 3. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

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

Section 5. Applicability -- retroactive applicability. (1) Except as provided in subsection (2), [this act] applies to:

(a) qualifying small power production facilities that commence commercial operation on or after [the effective date of this act]; or

(b) contracts entered into between qualifying small power production facilities and public utilities on or after [the effective date of this act].

(2) [This act] does not apply to the renewal of a contract between a qualifying small power production facility and a public utility after [the effective date of this act] if the qualifying small power production facility and the public utility entered into the original contract prior to [the effective date of this act].

(3) [This act] applies retroactively, within the meaning of 1-2-109, to rate schedules approved by the public service commission on or after January 1, 2013.

- END -

I hereby certify that the within bill,
HB 0188, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2013.

President of the Senate

Signed this _____ day
of _____, 2013.

HOUSE BILL NO. 188

INTRODUCED BY REGIER, CUFFE, HAGAN, KEANE, KNUDSEN, MCCHESENEY, NOONAN, O'HARA,
LAVIN, SESSO

AN ACT REQUIRING THE PUBLIC SERVICE COMMISSION TO APPROVE RATE SCHEDULES FOR CERTAIN SMALL POWER PRODUCERS; PROHIBITING THE COMMISSION FROM APPROVING RATE SCHEDULES FOR CERTAIN SMALL POWER PRODUCERS; ESTABLISHING CERTAIN PARAMETERS FOR LONG-TERM CONTRACTS BETWEEN SMALL POWER PRODUCTION FACILITIES AND UTILITIES; GRANTING THE COMMISSION RULEMAKING AUTHORITY; AMENDING SECTION 69-3-603, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES.