

SENATE BILL NO. 45

INTRODUCED BY J. KEANE

BY REQUEST OF THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE

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

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

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

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

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

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

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

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

(a) is interconnected on the utility side of the meter in which local owners have a controlling interest and 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 any of which produces electricity from one or more  
21 of the 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 December 31, 2010. The eligible renewable resource includes only the proportion of actual hourly generation  
2 resulting from the expansion based on the ratio of added capacity to the total capacity of the expanded  
3 hydroelectric project. If the total capacity of the expanded hydroelectric project subsequently changes, the ratio  
4 of added capacity to the total capacity of the hydroelectric project must be recalculated.

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

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

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

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

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

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

15 (11) "Local owners" means:

16 (a) Montana residents;

17 (b) general partnerships of which all partners are Montana residents;

18 (c) business entities organized under the laws of Montana that:

19 (i) have less than \$50 million of gross revenue;

20 (ii) have less than \$100 million of assets; and

21 (iii) have at least 50% of the equity interests, income interests, and voting interests owned by Montana  
22 residents;

23 (d) Montana nonprofit organizations;

24 (e) Montana-based tribal councils;

25 (f) Montana political subdivisions or local governments;

26 (g) Montana-based cooperatives other than cooperative utilities; or

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

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

1 (13) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter  
2 3, on January 1, 2005, including the public utility's successors or assignees.

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

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

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

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

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

- 15 (a) located within 5 miles of the project;  
16 (b) constructed within the same 12-month period; and  
17 (c) under common ownership."  
18

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

20 **"69-3-2006. Commission authority -- rulemaking authority.** (1) The commission has the authority to  
21 generally implement and enforce the provisions of this part.

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

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

30 (3) The commission may adopt rules to ensure that the calculation of energy generation and the

1 renewable energy credits for eligible renewable resources under 69-3-2003(10)(d)(iii) reflects the actual electrical  
2 production from the expansion as typically reduced by seasonal water conditions."

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

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

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10 NEW SECTION. Section 5. Retroactive applicability. [This act] applies retroactively, within the  
11 meaning of 1-2-109, to the compliance year beginning January 1, 2013.

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