

1 SENATE BILL NO. 327

2 INTRODUCED BY A. OLSON

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4 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING CERTAIN COMPETITIVE ELECTRICITY SUPPLIERS
5 FROM THE REQUIREMENTS OF THE MONTANA RENEWABLE POWER PRODUCTION AND RURAL
6 ECONOMIC DEVELOPMENT ACT; AMENDING SECTION 69-3-2004, MCA; AND PROVIDING AN IMMEDIATE
7 EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

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11 **Section 1.** Section 69-3-2004, MCA, is amended to read:

12 **"69-3-2004. Renewable resource standard -- administrative penalty -- waiver.** (1) Except as provided
13 in 69-3-2007 and subsections (11) ~~and (12)~~ through (13) of this section, a graduated renewable energy standard
14 is established for public utilities and competitive electricity suppliers as provided in subsections (2) through (4)
15 of this section.

16 (2) In each compliance year beginning January 1, 2008, through December 31, 2009, each public utility
17 and competitive electricity supplier shall procure a minimum of 5% of its retail sales of electrical energy in
18 Montana from eligible renewable resources.

19 (3) (a) In each compliance year beginning January 1, 2010, through December 31, 2014, each public
20 utility and competitive electricity supplier, except as provided in subsection (13), shall procure a minimum of 10%
21 of its retail sales of electrical energy in Montana from eligible renewable resources.

22 (b) Beginning January 1, 2012, as part of their compliance with subsection (3)(a), public utilities shall
23 purchase both the renewable energy credits and the electricity output from community renewable energy projects
24 that total at least 50 megawatts in nameplate capacity.

25 (c) Public utilities shall proportionately allocate the purchase required under subsection (3)(b) based on
26 each public utility's retail sales of electrical energy in Montana in the calendar year 2011.

27 (4) (a) In the compliance year beginning January 1, 2015, and in each succeeding compliance year, each
28 public utility and competitive electricity supplier, except as provided in subsection (13), shall procure a minimum
29 of 15% of its retail sales of electrical energy in Montana from eligible renewable resources.

30 (b) (i) As part of their compliance with subsection (4)(a), public utilities shall purchase both the renewable

1 energy credits and the electricity output from community renewable energy projects that total at least 75
2 megawatts in nameplate capacity.

3 (ii) In meeting the standard in subsection (4)(b)(i), a public utility may include purchases made under
4 subsection (3)(b).

5 (c) Public utilities shall proportionately allocate the purchase required under subsection (4)(b) based on
6 each public utility's retail sales of electrical energy in Montana in the calendar year 2014.

7 (5) (a) In complying with the standards required under subsections (2) through (4), a public utility or
8 competitive electricity supplier shall, for any given compliance year, calculate its procurement requirement based
9 on the public utility's or competitive electricity supplier's previous year's sales of electrical energy to retail
10 customers in Montana.

11 (b) The standards in subsections (2) through (4) must be calculated on a delivered-energy basis after
12 accounting for any line losses.

13 (6) A public utility or competitive electricity supplier has until 3 months following the end of each
14 compliance year to purchase renewable energy credits for that compliance year.

15 (7) (a) In order to meet the standards established in subsections (2) through (4), a public utility or
16 competitive electricity supplier may only use:

17 (i) electricity from an eligible renewable resource in which the associated renewable energy credits have
18 not been sold separately;

19 (ii) renewable energy credits created by an eligible renewable resource purchased separately from the
20 associated electricity; or

21 (iii) any combination of subsections (7)(a)(i) and (7)(a)(ii).

22 (b) A public utility or competitive electricity supplier may not resell renewable energy credits and count
23 those sold credits against the public utility's or the competitive electricity supplier's obligation to meet the
24 standards established in subsections (2) through (4).

25 (c) Renewable energy credits sold through a voluntary service such as the one provided for in
26 69-8-210(2) may not be applied against a public utility's or competitive electricity supplier's obligation to meet the
27 standards established in subsections (2) through (4).

28 (8) Nothing in this part limits a public utility or competitive electricity supplier from exceeding the
29 standards established in subsections (2) through (4).

30 (9) If a public utility or competitive electricity supplier exceeds a standard established in subsections (2)

1 through (4) in any compliance year, the public utility or competitive electricity supplier may carry forward the
2 amount by which the standard was exceeded to comply with the standard in either or both of the 2 subsequent
3 compliance years. The carryforward may not be double-counted.

4 (10) Except as provided in subsections (11) and (12), if a public utility or competitive electricity supplier
5 is unable to meet the standards established in subsections (2) through (4) in any compliance year, that public
6 utility or competitive electricity supplier shall pay an administrative penalty, assessed by the commission, of \$10
7 for each megawatt hour of renewable energy credits that the public utility or competitive electricity supplier failed
8 to procure. A public utility may not recover this penalty in electricity rates. Money generated from these penalties
9 must be deposited in the universal low-income energy assistance fund established in 69-8-412(1)(b).

10 (11) A public utility or competitive electricity supplier may petition the commission for a short-term waiver
11 from full compliance with the standards in subsections (2) through (4) and the penalties levied under subsection
12 (10). The petition must demonstrate that the:

13 (a) public utility or competitive electricity supplier has undertaken all reasonable steps to procure
14 renewable energy credits under long-term contract, but full compliance cannot be achieved either because
15 renewable energy credits cannot be procured or for other legitimate reasons that are outside the control of the
16 public utility or competitive electricity supplier; or

17 (b) integration of additional eligible renewable resources into the electrical grid will clearly and
18 demonstrably jeopardize the reliability of the electrical system and that the public utility or competitive electricity
19 supplier has undertaken all reasonable steps to mitigate the reliability concerns.

20 (12) (a) Retail sales made by a competitive electricity supplier according to prices, terms, and conditions
21 of a written contract executed prior to April 25, 2007, are exempt from the standards in subsections (2) through
22 (4).

23 (b) The exemption provided for in subsection (12)(a) is terminated upon modification after April 25, 2007,
24 of the prices, terms, or conditions in a written contract.

25 (13) (a) A competitive electricity supplier with four or fewer small customers in Montana is exempt from
26 the requirements of subsections (2) through (4).

27 (b) For the purposes of determining the number of small customers served by a competitive electricity
28 supplier, an entity that purchases electricity for commercial or industrial use and does not resell electricity to
29 others is one small customer regardless of the number of its metered locations."

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1 NEW SECTION. **Section 2. Saving clause.** [This act] does not affect rights and duties that matured,
2 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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4 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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6 NEW SECTION. **Section 4. Retroactive applicability.** [This act] applies retroactively, within the
7 meaning of 1-2-109, to the compliance year beginning January 1, 2013.

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