

HOUSE BILL NO. 530

INTRODUCED BY A. ROSENDALE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA METER SECURITY AND CHOICE
5 ACT; REQUIRING ENERGY USE DATA TO BE CONFIDENTIAL; ESTABLISHING UTILITY GUIDELINES FOR
6 WIRELESSLY OR REMOTELY DISCONTINUING CUSTOMER SERVICE; PROHIBITING A UTILITY FROM
7 LIMITING A CUSTOMER'S USE OF A TRADITIONAL METER OR DISINCENTIVIZING A TRADITIONAL
8 METER; REQUIRING A UTILITY TO PROVIDE NOTICE PRIOR TO INSTALLATION OF AN ADVANCED
9 METER; ESTABLISHING NOTICE CRITERIA; ESTABLISHING A FEE FOR USE OF A TRADITIONAL METER;
10 ALLOWING A CUSTOMER TO OPT OUT OF USE OF AN ADVANCED METER; REQUIRING A UTILITY TO
11 ESTABLISH AN OPT-OUT PROGRAM AND CRITERIA; ESTABLISHING TIMELINES FOR REMOVAL OF
12 ADVANCED METER TECHNOLOGY, IF REQUESTED; REQUIRING A UTILITY TO ALLOW CUSTOMERS TO
13 READ AND SELF-REPORT ENERGY USAGE; ALLOWING A UTILITY TO READ AND REPORT ENERGY
14 USAGE; PROVIDING FOR ENFORCEMENT BY THE PUBLIC SERVICE COMMISSION OR THE LOCAL
15 GOVERNING BODY OF AN ELECTRIC COOPERATIVE; AND PROVIDING AN IMMEDIATE EFFECTIVE
16 DATE."

17
18 WHEREAS, Montanans have a right to privacy and to seek safety as guaranteed by the Montana
19 Constitution, Article II, sections 3 and 10; and

20 WHEREAS, advanced metering presents issues of privacy and cyber risk, which are of concern to
21 Montanans.

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

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25 NEW SECTION. **Section 1. Short title.** [Sections 1 through 7] may be cited as the "Montana Meter
26 Security and Choice Act".

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28 NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 7], unless the context requires
29 otherwise the following definitions apply:

30 (1) "Advanced meter" means a meter or metering device system that is owned or leased by a utility or

1 the utility's agent and that:

2 (a) measures, records, or sends a customer's utility usage or other data by use of radio waves or internet
3 over power lines;

4 (b) allows for two-way communication between the meter and the utility or its agent; or

5 (c) allows the utility or its agent to control a customer's thermostat, appliances, or other utility services.

6 (2) "Hub meter" means an advanced meter that generates stronger radio waves as a result of the meter
7 serving as a hub for other advanced meters it communicates with in a defined area.

8 (3) (a) "Inaccurate information" means the intentional underreporting of meter data in an effort to not pay
9 for utility services.

10 (b) The term does not mean minor differences in reading to account for variations based on the time of
11 day that the meter is read and similar factors.

12 (4) "Radio waves" means electromagnetic waves from 3 kilohertz to 300 gigahertz in frequency, including
13 the microwave spectrum.

14 (5) "Regular basis" means once per billing cycle.

15 (6) (a) "Traditional meter" means an analog or similar meter that is unable to transmit usage information
16 and is only intended to be read by an individual through a visual display. It is not capable of transmitting usage
17 data by using radio waves or broadband over power lines, allowing two-way communication between the meter
18 and a utility or the utility's agent, or allowing a utility or the utility's agent to control a customer's thermostat,
19 appliances, or utility services.

20 (b) The term does not include an advanced meter that has a certain functionality turned off or
21 deactivated.

22 (7) "Utility" means a public utility regulated by the public service commission pursuant to Title 69, chapter
23 3, or a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18, or either's successors or
24 assignees.

25

26 **NEW SECTION. Section 3. Meter security.** (1) (a) Except as provided in subsection (1)(b), a
27 customer's energy use data is private and confidential and may not be sold, rented, or shared by a utility or the
28 utility' agent.

29 (b) A subpoena or other court order for a customer's energy use data must be presented to a customer
30 and to the customer's utility.

1 (2) (a) Energy use data from an advanced meter communicated by networking technology must be
2 sufficiently encrypted so that the data cannot be intercepted by a device other than a device used by a utility.

3 (b) A utility may not communicate using networking meter technology data that include a customer's
4 name, social security number, address, or other identifying information, except for an independent and unique
5 customer identification number assigned by the utility.

6 (c) A customer identification number must be assigned in a manner that includes safeguards to prevent
7 a device not owned by a utility from associating the number with a particular customer or address.

8 (3) A utility may not post a customer's energy use data or bill on the internet, except over a secured
9 transfer protocol or similar secured connection that uses one or more additional security measures, including but
10 not limited to a customer-selected password, to ensure that only the customer can access the information.

11 (4) A utility may not wirelessly or remotely discontinue service to a customer unless the utility has a
12 security program in place in accordance with subsection (5) and the utility or the utility's agent visits the property
13 at least 48 hours prior to the discontinuance to verify the correct address.

14 (5) A utility shall provide a comprehensive security program ensuring that a customer's service is
15 wirelessly or remotely discontinued only through authorized access to the utility's computer system to prevent
16 unintentional discontinuance caused by network hacking or terrorism.

17

18 **NEW SECTION. Section 4. Meter choice.** (1) A utility may not:

19 (a) limit a customer's ability to use a traditional meter to determine utility service;

20 (b) make utility service to a customer contingent on the use of a meter other than a traditional meter;

21 (c) except as provided in subsection (3), impose a fee or disincentive for use of a traditional meter; or

22 (d) install an advanced meter, a hub meter, or an upgrade to advanced meter functionality after [the
23 effective date of this act], unless the customer has been properly notified in accordance with subsection (4) and
24 has not opted out of installation in accordance with [section 5].

25 (2) (a) If a customer self-reports energy service usage in accordance with [section 6], a utility may not
26 charge a monthly fee for use of a traditional meter.

27 (b) If a customer does not self-report, a utility may charge a fee of not more than \$5 per month for use
28 of a traditional meter.

29 (3) Notwithstanding [section 5], a utility or the utility's agent may not install an advanced meter, a hub
30 meter, or an upgrade to advanced meter functionality if a customer:

1 (a) posts a sign on the current meter forbidding installation of an advanced meter, a hub meter, or an
2 upgrade; or

3 (b) orally informs the utility or its agent at the time of the proposed installation or upgrade not to proceed.

4 (4) A utility shall:

5 (a) notify a customer in writing at least 60 days prior to installation of an advanced meter, a hub meter,
6 or an upgrade to advanced meter functionality at the customer's address;

7 (b) provide a copy of the notice to the public service commission or the local governing body of the utility;

8 and

9 (c) keep a copy of each mailed notice on file at the utility office or the office of the local governing body
10 of the utility. Notices must be available for public review.

11 (5) The notice provided in accordance with subsection (4) must:

12 (a) be sent by first-class mail to a customer's address and be separate from any billing mailing;

13 (b) include the customer's name and service address and the proposed date of the installation or
14 upgrade;

15 (c) clearly state the utility's intent to install an advanced meter, a hub meter, or an upgrade to advanced
16 meter functionality at the customer's address and include the functionality of the meter, the meter's method of
17 communication, and the planned frequency of data communication;

18 (d) if installation of a hub meter is planned, explain how a hub meter differs from other meters;

19 (e) state the customer's ability to select a traditional meter, and the customer's rights under [sections 1
20 through 7];

21 (f) in accordance with [section 5], clearly outline the process for a customer to opt out of installation of
22 an advanced meter, a hub meter, or an upgrade to advanced meter functionality; and

23 (g) include a deadline for a customer to opt out in accordance with [section 5].

24

25 **NEW SECTION. Section 5. Advanced meter opt-out -- advanced meter removal.** (1) On or before
26 July 1, 2017, a utility shall establish procedures allowing a customer to opt out of a proposed installation of an
27 advanced meter, a hub meter, or an upgrade to advanced meter functionality.

28 (2) (a) The procedures established in subsection (1) must be clear and must include steps a customer
29 can take to opt out.

30 (b) After receiving notice in accordance with [section 4(4)], a customer shall notify the utility within 45

1 days if the customer intends to opt out.

2 (c) A utility may not charge a customer a fee to opt out.

3 (3) (a) [Sections 1 through 7] or a decision made by a customer to opt out in accordance with this section
4 does not limit a customer's rights as a utility customer.

5 (b) A decision not to opt out after receiving notice in accordance with [section 4(4)] does not limit a
6 customer's ability to request that an advanced meter, a hub meter, or an upgrade to advanced meter functionality
7 be removed at a future date.

8 (4) (a) If a customer requests that a utility remove an advanced meter, a hub meter, or an upgrade to
9 advanced meter functionality from the customer's address, the utility shall remove the meter or upgrade within
10 30 days of receiving the notice.

11 (b) A utility shall replace a removed advanced meter, hub meter, or upgrade to advanced meter
12 functionality with a traditional meter.

13 (5) (a) Except as provided in subsection (5)(b), a utility may charge a customer a fee, limited to actual
14 costs and not to exceed \$150, to remove the advanced meter, hub meter, or upgrade to advanced meter
15 functionality and replace it with a traditional meter.

16 (b) If a utility installs an advanced meter, a hub meter, or an upgrade to advanced meter functionality
17 without providing notice in accordance with [section 4(4)] or if the utility installed the advanced meter, hub meter,
18 or upgrade to advanced meter functionality on or before [the effective date of this act], the utility may not charge
19 a fee.

20 (6) (a) If a utility installed an advanced meter, a hub meter, or an upgrade to advanced meter functionality
21 prior to [the effective date of this act], the utility shall notify the customer on or before July 1, 2017, of the
22 functionality of the meter, the meter's method of communication, and the frequency of data communication.

23 (b) Within 45 days of receiving the notice required in accordance with subsection (6)(a), a customer may
24 request removal of the advanced meter, hub meter, or upgrade to advanced meter functionality, and the utility
25 shall remove the meter or upgrade in accordance with subsections (4) and (5).

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27 **NEW SECTION. Section 6. Ability to self-report -- traditional meter charge.** (1) (a) A utility shall
28 allow a customer to read and report the customer's energy service usage.

29 (b) A utility shall provide a customer with a pre-addressed envelope and, upon request of the customer,
30 allow the customer to report meter readings on a secure website, by telephone, or by other reasonable means.

1 (2) If a customer reads and self-reports usage in accordance with subsection (1), at least once a year
2 the utility shall obtain an actual meter reading of the customer's energy usage to verify the accuracy of readings
3 reported by the customer.

4 (3) (a) Nothing in subsection (1) or (2) prohibits a utility from continuing to read and report a customer's
5 meter or from correcting a customer's reported usage.

6 (b) If a customer fails to report usage, or if the utility does not receive a customer's report on a regular
7 basis, the utility may read the customer's meter or may charge the customer based on an estimate of prior energy
8 use.

9 (4) A customer that intentionally reports inaccurate information may be assessed a reasonable penalty
10 by the utility and may be subject to penalties in accordance with chapter 4, part 11, of this title, if applicable.

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12 **NEW SECTION. Section 7. Enforcement -- rulemaking.** (1) (a) The public service commission shall
13 inquire into any suspected neglect or violation of [sections 1 through 6] by a public utility regulated by the public
14 service commission pursuant to Title 69, chapter 3. The commission shall enforce the provisions of [sections 1
15 through 6].

16 (b) The public service commission may adopt rules necessary to enforce the provisions of [sections 1
17 through 6], including but not limited to rules describing:

18 (i) the process for receiving and addressing customer complaints about meter usage or installation; and

19 (ii) general requirements to ensure a utility implements the provisions of [sections 1 through 6].

20 (2) The local governing body of a utility qualifying as an electric cooperative pursuant to Title 35, chapter
21 18, shall inquire into any suspected neglect or violation of [sections 1 through 6] by a utility qualifying as an
22 electric cooperative. The local governing board of an electric cooperative shall enforce the provisions of [sections
23 1 through 6].

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25 **NEW SECTION. Section 8. Codification instruction.** [Sections 1 through 7] are intended to be codified
26 as an integral part of Title 69, and the provisions of Title 69, apply to [sections 1 through 7].

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28 **NEW SECTION. Section 9. Effective date.** [This act] is effective on passage and approval.

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