

HOUSE BILL NO. 487

INTRODUCED BY D. SKEES

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF "ELIGIBLE RENEWABLE RESOURCE" REGARDING TO INCLUDE EXISTING HYDROELECTRIC PROJECTS RESOURCES; AMENDING SECTIONS 69-3-2003, ~~AND~~ 69-3-2006, ~~AND~~ 90-4-1005, 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

(b) is owned by a public utility and has less than or equal to 25 megawatts in total nameplate capacity.

(5) (a) "Competitive electricity supplier" means any person, corporation, or governmental entity that is



1 selling electricity to small customers at retail rates in the state of Montana and that is not a public utility or  
2 cooperative.

3 (b) The term does not include governmental entities selling electricity produced only by facilities  
4 generating less than 250 kilowatts that were in operation prior to 1990.

5 (6) "Compliance year" means each calendar year beginning January 1 and ending December 31, starting  
6 in 2008, for which compliance with this part must be demonstrated.

7 (7) "Cooperative utility" means:

8 (a) a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18; or

9 (b) an existing municipal electric utility as of May 2, 1997.

10 (8) "Dispatch ability" means the ability of either a balancing authority or the owner of an electric  
11 generating resource to rapidly start, stop, increase, or decrease electricity production from that generating  
12 resource in order to respond to the balancing authority's need to match supply resources to loads on the  
13 transmission system.

14 (9) "Electric generating resource" means any plant or equipment used to generate electricity by any  
15 means.

16 (10) (a) "Eligible renewable resource" means a facility either located within Montana or delivering  
17 electricity from another state into Montana that, EXCEPT AS PROVIDED IN SUBSECTION (10)(B), commences  
18 commercial operation after January 1, 2005, ~~or a hydroelectric project expansion referred to in subsection~~  
19 ~~(10)(d)(iii), any of which~~ AND THAT produces electricity from one or more of the following sources:

20 ~~(a)(i)~~ wind;

21 ~~(b)(ii)~~ solar;

22 ~~(c)(iii)~~ geothermal;

23 ~~(d)(iv)~~ water power; in the case of a hydroelectric project that ~~as provided in subsection (10)(b)~~ THAT:

24 (A) DOES NOT REQUIRE A NEW APPROPRIATION, DIVERSION, OR IMPOUNDMENT OF WATER; OR

25 (B) IS INSTALLED AT AN EXISTING RESERVOIR OR ON AN EXISTING IRRIGATION SYSTEM THAT DOES NOT HAVE

26 HYDROELECTRIC GENERATION AS OF APRIL 16, 2009;

27 ~~(i) does not require a new appropriation, diversion, or impoundment of water and that has a nameplate~~  
28 ~~rating of 10 megawatts or less;~~

29 ~~(ii) is installed at an existing reservoir or on an existing irrigation system that does not have hydroelectric~~  
30 ~~generation as of April 16, 2009, and has a nameplate capacity of 15 megawatts or less; or~~

1 ~~\_\_\_\_\_ (iii) is an expansion of an existing hydroelectric project that commences construction and increases~~  
 2 ~~existing generation capacity on or after October 1, 2013. Engineering estimates of the average incremental~~  
 3 ~~generation from the increase in existing generation capacity must be submitted to the commission for review. The~~  
 4 ~~commission shall determine an average annual incremental generation that will constitute the eligible renewable~~  
 5 ~~resource from the capacity expansion, subject to further revision by the commission in the event of significant~~  
 6 ~~changes in stream flow or dam operation.~~

7 ~~(e)(v)~~ landfill or farm-based methane gas;

8 ~~(f)(vi)~~ gas produced during the treatment of wastewater;

9 ~~(g)(vii)~~ low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic  
 10 fuels from wood, forest, or field residues, including wood pieces that have been treated with chemical  
 11 preservatives, such as creosote, pentachlorophenol, or copper-chrome arsenic, and that are used at a facility that  
 12 has a nameplate capacity of 5 megawatts or less;

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

14 ~~(i)(ix)~~ the renewable energy fraction from:

15 ~~(i)(A)~~ the sources identified in this subsection (10) of electricity production from a multiple-fuel process  
 16 with fossil fuels;

17 ~~(ii)(B)~~ flywheel storage as defined in 15-6-157(4)(d);

18 ~~(iii)(C)~~ hydroelectric pumped storage as defined in 15-6-157(4)(e);

19 ~~(iv)(D)~~ batteries; and

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

22 ~~(b) For a hydroelectric project, eligible renewable resource includes the actual amount of generation~~  
 23 ~~capacity produced by the project.~~

24 ~~(B)(I) EXCEPT AS PROVIDED IN SUBSECTION (10)(B)(II), THE TERM ALSO INCLUDES ELECTRICITY PRODUCED FROM~~  
 25 ~~AN EXISTING HYDROELECTRIC FACILITY THAT COMMENCED COMMERCIAL OPERATION IN MONTANA BEFORE JANUARY 1,~~  
 26 ~~2005.~~

27 ~~(II) THE TERM DOES NOT INCLUDE FEDERAL HYDROELECTRIC FACILITIES LOCATED IN MONTANA.~~

28 (11) "Local owners" means:

29 (a) Montana residents;

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

- 1 (c) business entities organized under the laws of Montana that:
- 2 (i) have less than \$50 million of gross revenue;
- 3 (ii) have less than \$100 million of assets; and
- 4 (iii) have at least 50% of the equity interests, income interests, and voting interests owned by Montana
- 5 residents;
- 6 (d) Montana nonprofit organizations;
- 7 (e) Montana-based tribal councils;
- 8 (f) Montana political subdivisions or local governments;
- 9 (g) Montana-based cooperatives other than cooperative utilities; or
- 10 (h) any combination of the individuals or entities listed in subsections (11)(a) through (11)(g).
- 11 (12) "Nonspinning reserve" means offline generation that can be ramped up to capacity and synchronized
- 12 to the grid within 10 minutes and that is needed to maintain system frequency stability during emergency
- 13 conditions, unforeseen load swings, and generation disruptions.
- 14 (13) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter
- 15 3, on January 1, 2005, including the public utility's successors or assignees.
- 16 (14) "Renewable energy credit" means a tradable certificate of proof of 1 megawatt hour of electricity
- 17 generated by an eligible renewable resource that is tracked and verified by the commission and includes all of
- 18 the environmental attributes associated with that 1 megawatt-hour unit of electricity production.
- 19 (15) "Renewable energy fraction" means the proportion of electricity output directly attributable to
- 20 electricity and associated renewable energy credits produced by one of the sources identified in subsection (10).
- 21 (16) "Seasonality" means the degree to which an electric generating resource is capable of producing
- 22 electricity in each of the seasons of the year.
- 23 (17) "Small customer" means a retail customer that has an individual load with an average monthly
- 24 demand of less than 5,000 kilowatts.
- 25 (18) "Spinning reserve" means the online reserve capacity that is synchronized to the grid system and
- 26 immediately responsive to frequency control and that is needed to maintain system frequency stability during
- 27 emergency conditions, unforeseen load swings, and generation disruptions.
- 28 (19) "Total calculated nameplate capacity" means the calculation of total nameplate capacity of the
- 29 community renewable energy project and other eligible renewable resources that are:
- 30 (a) located within 5 miles of the project;

- 1 (b) constructed within the same 12-month period; and
- 2 (c) under common ownership."

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

5 **"69-3-2006. Commission authority -- rulemaking authority.** (1) The commission has the authority to  
6 generally implement and enforce the provisions of this part.

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

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

15 ~~(3) The commission may shall adopt rules to ensure that the calculation of energy generation and the  
16 renewable energy credits for eligible renewable resources under 69-3-2003(10)(d)(iii) reflects the actual electrical  
17 production from the expansion as typically reduced by seasonal water conditions."~~

18

19 **SECTION 3. SECTION 90-4-1005, MCA, IS AMENDED TO READ:**

20 **"90-4-1005. Energy development and demonstration grant program.** (1) There is an energy  
21 development and demonstration grant program within the department of environmental quality to fund technology  
22 development and demonstration:

- 23 (a) advancing the development and utilization of energy storage systems, including but not limited to  
24 mediums, such as accumulators, fuel cells, and batteries, that store energy that may be drawn upon at a later  
25 date for use;
- 26 (b) developing storage systems specifically designed to store energy generated from eligible renewable  
27 resources as defined in ~~69-3-2003~~ 69-3-2003(10)(a), including but not limited to compressed air energy storage  
28 systems;
- 29 (c) promoting the efficiency, environmental performance, and cost-competitiveness of energy storage  
30 systems beyond the current level of technology; and

1 (d) advancing the development of alternative energy systems as defined in 15-32-102.

2 (2) Entities that may be eligible for grants include but are not limited to units of the Montana university  
3 system, agricultural research centers, or private entities or research centers.

4 (3) Money appropriated to the department of environmental quality for the purpose of the energy  
5 development and demonstration grant program may be used by the department for providing individual grants  
6 in amounts up to \$500,000 and for administrative costs of 1% of the grant award.

7 (4) The grant application may include:

8 (a) a project plan sufficient to allow a reasonable determination regarding the potential feasibility of  
9 advancing energy storage or alternative energy systems;

10 (b) a business plan to allow a reasonable determination regarding the financial feasibility of the project;  
11 and

12 (c) a reporting process to ensure progress toward project goals."

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

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16 NEW SECTION. SECTION 5. RETROACTIVE APPLICABILITY. [THIS ACT] APPLIES RETROACTIVELY, WITHIN THE  
17 MEANING OF 1-2-109, TO THE COMPLIANCE YEAR BEGINNING JANUARY 1, 2019.

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- END -