

HOUSE BILL NO. 22

INTRODUCED BY L. BISHOP

BY REQUEST OF THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ELECTRICITY SUPPLY RESOURCE LAWS; REQUIRING THE PUBLIC SERVICE COMMISSION TO REQUIRE LONG-TERM CONTRACTS FOR THE PURCHASE OF ELECTRICITY BY A UTILITY FROM A QUALIFYING SMALL POWER PRODUCTION FACILITY; ~~PROHIBITING THE PUBLIC SERVICE COMMISSION FROM IMPOSING COST RECOVERY CONSTRAINTS ON OTHER RESOURCES;~~ PROHIBITING THE PUBLIC SERVICE COMMISSION FROM SPECIFYING CONTRACT LENGTHS OR ECONOMIC LIVES FOR CERTAIN ELECTRICITY SUPPLY RESOURCES BASED ON QUALIFYING SMALL POWER PRODUCTION FACILITY CONTRACTS; AMENDING SECTIONS 69-3-601, 69-3-602, AND 69-3-604, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 69-3-601, MCA, is amended to read:

"69-3-601. (Temporary) Definitions. As used in this part, the following definitions apply:

(1) "Commission" means the Montana public service commission.

(2) "Electric cooperative" means a rural electric cooperative organized under the laws of Montana, or a foreign corporation admitted to do business in Montana.

(3) "Long-term contract" means a contract lasting 25 20 15 years or more.

~~(3)~~(4) "Qualifying small power production facility" means a facility that:

(a) produces electricity by the use, as a primary energy source, of biomass, waste, water, wind, or other renewable resource, or any combination of those sources; or

(b) produces electricity and useful forms of thermal energy, such as heat or steam, used for industrial, commercial, heating, or cooling purposes through the sequential use of energy known as cogeneration; and

(c) has a power production capacity that together with any other facilities located at the same site is not greater than 80 megawatts; and

(d) is owned by a person not primarily engaged in the generation or sale of electricity other than electric power from a small power production facility.

1 ~~(4)(5)~~ "Utility" means any public utility supplying electricity and regulated by the commission. (Repealed
2 on occurrence of contingency--secs. 1, 3, Ch. 284, L. 2003--see part compiler's comment.)"

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4 **Section 2.** Section 69-3-602, MCA, is amended to read:

5 **"69-3-602. (Temporary) Generation and sale of electricity by qualifying small power production**

6 **facility.** (1) A qualifying small power production facility may generate electricity from the sources described in
7 ~~69-3-601(3)(a) and (3)(b)~~ 69-3-601(4)(a) and (4)(b) and may contract for the sale of that electricity with a utility.

8 (2) A qualifying small power production facility may generate electricity from the sources described in
9 ~~69-3-601(3)(a) and (3)(b)~~ 69-3-601(4)(a) and (4)(b) and may contract for the sale of that electricity with an electric

10 cooperative under terms and conditions mutually agreed upon between the parties and in compliance with the

11 rates and regulations established by the Public Utility Regulatory Policies Act of 1978. (Repealed on occurrence

12 of contingency--secs. 1, 3, Ch. 284, L. 2003--see part compiler's comment.)"

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14 **Section 3.** Section 69-3-604, MCA, is amended to read:

15 **"69-3-604. (Temporary) Standards for determination of rates and conditions.** (1) The commission

16 shall determine the rates and conditions of the contract for the sale of electricity by a qualifying small power
17 production facility according to the standards in subsections (2) through ~~(5)~~ (6).

18 (2) ~~(a) Long-term contracts~~ Except as provided in subsection (2)(b), the commission shall require a

19 long-term contract for the purchase of electricity by the utility from a qualifying small power production facility ~~must~~
20 ~~be encouraged in order~~ to enhance the economic feasibility of qualifying small power production facilities.

21 (b) This subsection (2) does not prohibit a qualifying small power production facility and a utility from

22 mutually agreeing to a specific contract term or the commission from requiring a contract for a time period shorter

23 than a long-term contract as specified in 69-3-601 if requested by a small power production facility.

24 (3) The rates to be paid by a utility for electricity purchased from a qualifying small power production
25 facility must be established with consideration of the availability and reliability of the electricity produced.

26 (4) The commission shall set these rates using the avoided cost over the term of the contract.

27 (5) The commission may adopt rules further defining the criteria for qualifying small power production
28 facilities, their cost-effectiveness, and other standards.

29 (6) Rates determined pursuant to subsections (2) through (5):

30 (a) must be just and reasonable to a utility's customers;

1 (b) may not discriminate against qualifying small power production facilities; and

2 (c) must be in the public interest.

3 (7) THE COMMISSION MAY NOT USE A DECISION SETTING THE CONTRACT LENGTH FOR A QUALIFYING SMALL
4 POWER PRODUCTION FACILITY AS THE BASIS FOR ESTABLISHING OR MODIFYING THE CONTRACT LENGTH FOR A
5 UTILITY-OWNED ASSET OR AN ASSET CONTRACTED BY A UTILITY UNDER A POWER PURCHASE AGREEMENT.

6 (7) For the purposes of implementing 18 CFR 292.304, the Public Utility Regulatory Policies Act of 1978,
7 or this part, the commission may not impose cost recovery constraints or shorten depreciation schedules for other
8 resources that are owned by or leased to a utility or that sell energy, capacity, or other ancillary services to a
9 utility. (Repealed on occurrence of contingency--secs. 1, 3, Ch. 284, L. 2003--see part compiler's comment.)"

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11 NEW SECTION. Section 4. Saving clause. [This act] does not affect rights and duties that matured,
12 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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14 NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

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