

HOUSE BILL NO. 513

INTRODUCED BY C. POPE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING MONTANA'S RENEWABLE RESOURCE STANDARD; REVISING COMMUNITY RENEWABLE ENERGY PROJECT REQUIREMENTS; REVISING RENEWABLE RESOURCE STANDARD COST CAPS; GRANTING THE PUBLIC SERVICE COMMISSION RULEMAKING AUTHORITY; AMENDING SECTIONS 69-3-2003, 69-3-2006, 69-3-2007; AND 90-4-1202, 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) ~~(A)~~ "Community renewable energy project" means an eligible renewable resource that is located in Montana and is:

~~(a)(i)~~ 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 35 megawatts in total calculated nameplate capacity; or

1 ~~(b)(ii) is owned by a public utility and has less than or equal to 25 megawatts in total nameplate capacity~~
2 ~~an energy storage facility of any size in total calculated nameplate capacity.~~

3 (B) EXCEPT AS PROVIDED IN SUBSECTION (4)(C), THE TERM DOES NOT INCLUDE A QUALIFYING SMALL POWER
4 PRODUCTION FACILITY AS DEFINED IN 69-3-601 THAT COMMENCED COMMERCIAL OPERATION ON OR BEFORE JANUARY
5 1, 2019.

6 (C) A QUALIFYING SMALL POWER PRODUCTION FACILITY OR ANOTHER COMMUNITY RENEWABLE ENERGY PROJECT
7 CERTIFIED AS A COMMUNITY RENEWABLE ENERGY PROJECT BY THE COMMISSION ON OR BEFORE JANUARY 1, 2019, IS
8 CONSIDERED A COMMUNITY RENEWABLE ENERGY PROJECT FOR THE PURPOSES OF THIS PART.

9 (5) (a) "Competitive electricity supplier" means any person, corporation, or governmental entity that is
10 selling electricity to small customers at retail rates in the state of Montana and that is not a public utility or
11 cooperative.

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

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

16 (7) "Cooperative utility" means:

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

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

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

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

25 (10) "Eligible renewable resource" means a facility either located within Montana or delivering electricity
26 from another state into Montana that commences commercial operation after January 1, 2005, or a hydroelectric
27 project expansion referred to in subsection (10)(d)(iii), any of which produces electricity from one or more of the
28 following sources:

29 (a) wind;

30 (b) solar;

- 1 (c) geothermal;
- 2 (d) water power, in the case of a hydroelectric project that:
- 3 (i) does not require a new appropriation, diversion, or impoundment of water and that has a nameplate
- 4 rating of 10 megawatts or less;
- 5 (ii) is installed at an existing reservoir or on an existing irrigation system that does not have hydroelectric
- 6 generation as of April 16, 2009, and has a nameplate capacity of 15 megawatts or less; or
- 7 (iii) is an expansion of an existing hydroelectric project that commences construction and increases
- 8 existing generation capacity on or after October 1, 2013. Engineering estimates of the average incremental
- 9 generation from the increase in existing generation capacity must be submitted to the commission for review. The
- 10 commission shall determine an average annual incremental generation that will constitute the eligible renewable
- 11 resource from the capacity expansion, subject to further revision by the commission in the event of significant
- 12 changes in stream flow or dam operation.
- 13 (e) landfill or farm-based methane gas;
- 14 (f) gas produced during the treatment of wastewater;
- 15 (g) low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic
- 16 fuels from wood, forest, or field residues, including wood pieces that have been treated with chemical
- 17 preservatives, such as creosote, pentachlorophenol, or copper-chrome arsenic, and that are used at a facility that
- 18 has a nameplate capacity of 5 megawatts or less;
- 19 (h) hydrogen derived from any of the sources in this subsection (10) for use in fuel cells; and
- 20 (i) energy storage facilities, including but not limited to:
- 21 ~~(i) the renewable energy fraction from:~~
- 22 ~~—— (i) the sources identified in this subsection (10) of electricity production from a multiple-fuel process with~~
- 23 ~~fossil fuels;~~
- 24 ~~(ii)(i)~~ flywheel storage as defined in 15-6-157(4)(d);
- 25 ~~(iii)(ii)~~ hydroelectric pumped storage as defined in 15-6-157(4)(e);
- 26 ~~(iv)(iii)~~ batteries; and
- 27 ~~(v)(iv)~~ compressed air derived from any of the sources in this subsection (10) that is forced into an
- 28 underground storage reservoir and later released, heated, and passed through a turbine generator.
- 29 ~~(11) "Local owners" means:~~
- 30 ~~—— (a) Montana residents;~~

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

- 1 (a) located within 5 miles of the project;
- 2 (b) constructed within the same 12-month period; and
- 3 (c) under common ownership."

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

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

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

- 9 ~~(a) select a renewable energy credit tracking system to verify compliance with this part;~~
- 10 ~~(b) establish a system by which renewable resources become certified as eligible renewable resources;~~
- 11 ~~(c) define the process by which waivers from full compliance with this part may be granted;~~
- 12 ~~(d) establish procedures under which contracts for eligible renewable resources and renewable energy~~
 13 ~~credits may receive advanced approval;~~
- 14 ~~(e) define the requirements governing renewable energy procurement plans and annual reports; and~~
- 15 ~~(f) determine avoided cost in accordance with 69-3-2007; and~~

16 ~~(f)(g) generally implement and enforce the provisions of this part.~~

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

20
 21 ~~Section 3.~~ Section 69-3-2007, MCA, is amended to read:

22 ~~"69-3-2007. Cost caps.~~ (1) ~~(a) A public utility that has restructured pursuant to Title 69, chapter 8, is not~~
 23 ~~obligated to take electricity from an eligible renewable resource unless the eligible renewable resource has~~
 24 ~~demonstrated through a competitive bidding process that the total cost of electricity from that eligible resource,~~
 25 ~~including the associated cost of ancillary services necessary to manage the transmission grid and firm the~~
 26 ~~resource, is less than or equal to bids for the equivalent quantity of power over the equivalent contract term from~~
 27 ~~other electricity suppliers:~~

28 ~~(2) A~~ Except as provided in subsection (1)(b), a public utility that has not restructured pursuant to Title
 29 69, chapter 8, is not obligated to take electricity from an eligible renewable resource identified in 69-3-2003(10)(a)
 30 through 69-3-2003(10)(h) unless the cost per kilowatt hour of the generation from the renewable resource does



1 not exceed by more than 15% the cost of power from any other alternate generating resource available to the
 2 public utility ~~utility's avoided cost, as determined by the commission.~~

3 ~~—— (b) A public utility is not obligated to take electricity from an eligible renewable resource identified in
 4 69-3-2003(10)(i) unless the cost per kilowatt hour of the generation does not exceed by more than 30% the
 5 utility's avoided cost for generation resources that share similar dispatch ability, as determined by the
 6 commission.~~

7 ~~—— (3)(2) A competitive electricity supplier is not obligated to take electricity from an eligible renewable
 8 resource unless the total cost of the electricity from that eligible renewable resource, including ancillary services,
 9 is less than or equal to a cost cap determined by the commission based on:~~

10 ~~—— (a) the cost of alternate power supplies available to the competitive electricity supplier; and~~

11 ~~—— (b) the cost caps applicable to other utilities under this section."~~

12

13 **Section 2.** Section 90-4-1202, MCA, is amended to read:

14 **"90-4-1202. Definitions.** Unless the context requires otherwise, in this part, the following definitions
 15 apply:

16 (1) "Ancillary services" has the meaning provided in 69-3-2003.

17 (2) "Bond" means bond, note, or other obligation.

18 (3) "Clean renewable energy bonds" means one or more bonds issued by a governmental body pursuant
 19 to section 54 of the Internal Revenue Code, 26 U.S.C. 54, and this part.

20 (4) "Commission" means the public service commission provided for in 69-1-102.

21 (5) "Governing authority" means a council, board, or other body governing the affairs of the governmental
 22 body.

23 (6) "Governmental body" means a city, town, county, school district, consolidated city-county, Indian
 24 tribal government, or any other political subdivision of the state, however organized.

25 (7) "Intermittent generation resource" means a generator that operates on a limited and irregular basis
 26 due to the inconsistent nature of its fuel supply, which is primarily wind or solar power.

27 (8) "Internal Revenue Code" has the meaning provided in 15-30-2101.

28 (9) "Project" means:

29 (a) a facility qualifying as a "qualified project" within the meaning of section 54(d)(2) of the Internal
 30 Revenue Code, 26 U.S.C. 54(d)(2);

1 (b) a community renewable energy project as defined in ~~69-3-2003(4)(a)~~ 69-3-2003(4) that is not owned
2 by a public utility; or

3 (c) an alternative renewable energy source as defined in 15-6-225."
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5 NEW SECTION. Section 3. Notification to tribal governments. The secretary of state shall send a
6 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
7 Chippewa tribe.

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

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12 NEW SECTION. Section 5. Severability. If a part of [this act] is invalid, all valid parts that are severable
13 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
14 remains in effect in all valid applications that are severable from the invalid applications.

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16 NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

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18 NEW SECTION. Section 7. Retroactive applicability. [This act] applies retroactively, within the
19 meaning of 1-2-109, to the compliance year beginning January 1, 2019.

20 - END -