

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR NEIGHBORHOOD RENEWABLE ENERGY  
5 FACILITIES; PROVIDING FOR A COST-BENEFIT ANALYSIS; PROVIDING RULEMAKING AUTHORITY;  
6 AMENDING SECTIONS 69-8-103, 69-8-605, 69-8-610, AND 69-8-611, MCA; AND PROVIDING AN  
7 IMMEDIATE EFFECTIVE DATE."

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10  
11 **Section 1.** Section 69-8-103, MCA, is amended to read:

12 **"69-8-103. Definitions.** As used in this chapter, unless the context requires otherwise, the following  
13 definitions apply:

14 (1) "Assignee" means any entity, including a corporation, partnership, board, trust, or financing  
15 vehicle, to which a utility assigns, sells, or transfers, other than as security, all or a portion of the utility's interest  
16 in or right to transition property. The term also includes an entity, corporation, public authority, partnership,  
17 trust, or financing vehicle to which an assignee assigns, sells, or transfers, other than as security, the  
18 assignee's interest in or right to transition property.

19 (2) "Board" means the board of investments created by 2-15-1808.

20 (3) "Carbon offset provider" means a qualified third-party entity that arranges for projects or actions  
21 that either reduce carbon dioxide emissions or increase the absorption of carbon dioxide.

22 (4) "Cooperative utility" means:

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

24 (b) ~~an existing~~ any municipal electric utility ~~as of May 2, 1997.~~

25 (5) "Cost-effective carbon offsets" means any combination of certified actions that are taken to reduce  
26 carbon dioxide emissions or that increase the absorption of carbon dioxide, which collectively do not increase  
27 the cost of electricity produced annually on a per-megawatt-hour basis by more than 2.5%, including:

28 (a) actions undertaken by the applicant that reduce carbon dioxide emissions or that increase the

1 absorption of carbon dioxide from a facility or equipment used to generate electricity; or

2 (b) actions by a carbon offset provider on behalf of the applicant.

3 (6) "Customer-generator" means a user of a net metering system.

4 (7) "Distribution facilities" means those facilities by and through which electricity is received from  
5 transmission facilities and distributed to a retail customer and that are controlled or operated by a utility.

6 (8) "Electricity supply costs" means the actual costs incurred in providing electricity supply service  
7 through power purchase agreements, demand-side management, and energy efficiency programs, including  
8 but not limited to:

9 (a) capacity costs;

10 (b) energy costs;

11 (c) fuel costs;

12 (d) ancillary service costs;

13 (e) transmission costs, including congestion and losses;

14 (f) planning and administrative costs; and

15 (g) any other costs directly related to the purchase of electricity and the management and provision of  
16 power purchase agreements.

17 (9) "Electricity supply resource" means:

18 (a) contracts for electric capacity and generation;

19 (b) plants owned or leased by a utility or equipment used to generate electricity;

20 (c) customer load management and energy conservation programs; or

21 (d) other means of providing adequate, reliable service to customers, as determined by the  
22 commission.

23 (10) "Electricity supply service" means the provision of electricity supply and related services through  
24 power purchase agreements, the acquisition and operation of electrical generation facilities, demand-side  
25 management, and energy efficiency programs.

26 (11) "Financing order" means an order of the commission adopted in accordance with 69-8-503 that  
27 authorizes the imposition and collection of fixed transition amounts and the issuance of transition bonds.

28 (12) (a) "Fixed transition amounts" means those nonbypassable rates or charges, including but not

1 limited to:

2 (i) distribution;

3 (ii) connection;

4 (iii) disconnection; and

5 (iv) termination rates and charges that are authorized by the commission in a financing order to permit  
6 recovery of transition costs and the costs of recovering, reimbursing, financing, or refinancing the transition  
7 costs and of acquiring transition property through a plan approved by the commission in the financing order,  
8 including the costs of issuing, servicing, and retiring transition bonds.

9 (b) If requested by the utility in the utility's application for a financing order, fixed transition amounts  
10 must include nonbypassable rates or charges to recover federal and state taxes in which the transition cost  
11 recovery period is modified by the transactions approved in the financing order.

12 (13) "Generation assets cost of service" means a return on invested capital and all costs associated  
13 with the acquisition, construction, administration, operation, and maintenance of a plant or equipment owned or  
14 leased by a public utility and used for the production of electricity.

15 (14) "Government entity" means a city, county, consolidated city-county, school district, state agency,  
16 unit of the Montana university system, tribal government, or federal government entity.

17 ~~(14)~~(15) "Interested person" means a retail electricity customer, a taxpayer defraying, through the  
18 taxpayer's property tax bill, part of the cost of providing electric service to a government entity, the consumer  
19 counsel established in 5-15-201, the commission, or a utility.

20 ~~(15)~~(16) "Large customer" means, for universal system benefits programs purposes, a customer with  
21 an individual load greater than a monthly average of 1,000 kilowatt demand in the previous calendar year for  
22 that individual load.

23 ~~(16)~~(17) "Local governing body" means a local board of trustees of a rural electric cooperative.

24 (18) "Local owner" has the meaning provided in 69-3-2003.

25 ~~(17)~~(19) "Low-income customer" means those energy consumer households and families with incomes  
26 at or below industry-recognized levels that qualify those consumers for low-income energy-related assistance.

27 (20) "Neighborhood renewable energy facility" means a community renewable energy project that:

28 (a) is more than 50 kilowatts of generating capacity in size;

1           **(b) is connected to a public utility's distribution or transmission system in association with a meter that**  
2 **can record the cumulative kilowatt hours produced by the neighborhood renewable energy facility;**

3           **(c) produces electricity for which two or more neighborhood renewable energy facility customers**  
4 **within the same public utility service territory receive an on-bill credit from the public utility for renewable energy**  
5 **produced by the neighborhood renewable energy facility;**

6           **(d) unless it demonstrates to the commission that a different percentage should apply, has a minimum**  
7 **of 3% of the neighborhood renewable energy facility system capacity assigned to reduce the electricity bill of**  
8 **the public utility's low-income customers as defined in 69-8-103;**

9           **(e) has all of its neighborhood renewable energy facility customers living within 2 miles of each other**  
10 **and within 10 miles from the neighborhood renewable energy facility;**

11           **(f) has all of its neighborhood renewable energy facility customers and the neighborhood renewable**  
12 **energy facility connected to the same public utility; and**

13           **(g) pays all workers involved in construction of the facility, nonconstruction services, and**  
14 **apprenticeship services at the facility, no less than the prevailing wage established under 18-2-411 through 18-**  
15 **2-419 while giving hiring preference to Montana residents required by 69-3-2005(3)(a).**

16           **(21) "Neighborhood renewable energy facility customer" means a public utility retail customer, small**  
17 **customer, or customer-generator receiving an on-bill credit for electricity generated by a neighborhood**  
18 **renewable energy facility.**

19           **(22) "Neighborhood renewable energy facility owner" means a local owner that owns a neighborhood**  
20 **renewable energy facility.**

21           ~~(18)~~**(23) "Net metering" means measuring the difference between the electricity distributed to and the**  
22 **electricity generated by a customer-generator that is fed back to the distribution system during the applicable**  
23 **billing period.**

24           ~~(19)~~**(24) "Net metering system" means a facility, with or without behind the meter battery or other**  
25 **energy storage associated with it, for the production of electrical energy that:**

26           **(a) uses as its fuel solar, wind, or hydropower; any eligible renewable resource listed in 69-3-2003;**

27           **(b) operates in parallel with the utility's distribution facilities;**

28           **(c) complies with all safety standards specified in 69-8-604 as certified by a licensed professional**

1 engineer or architect, master or journeyman electrician, or state or local code inspector;

2 ~~(b)~~(d) if it is not a neighborhood renewable energy facility, is located on the customer-generator's  
3 premises, and has a generating capacity of not more than 50 kilowatts; and

4 ~~(c)~~ is located on the customer-generator's premises;

5 ~~(d)~~ operates in parallel with the utility's distribution facilities; and

6 (e) is intended primarily to offset part or all of the customer-generator's or neighborhood renewable  
7 energy facility customers' requirements for electricity.

8 ~~(20)~~(25) "Nonbypassable rates or charges" means rates or charges that are approved by the  
9 commission and imposed on a customer to pay the customer's share of transition costs or universal system  
10 benefits programs costs even if the customer has physically bypassed either the utility's transmission or  
11 distribution facilities.

12 ~~(26)~~ "On-bill credit" means a credit of kilowatt hours applied to a neighborhood renewable energy  
13 facility customer's account by a public utility to offset the consumption of electrical energy.

14 ~~(24)~~(27) "Public utility" has the meaning of a public utility regulated by the commission pursuant to Title  
15 69, chapter 3, on May 2, 1997, including the public utility's successors or assignees.

16 ~~(22)~~(28) "Qualifying load" means, for payments and credits associated with universal system benefits  
17 programs, all nonresidential demand-metered accounts of a large customer within the utility's service territory in  
18 which the customer qualifies as a large customer.

19 ~~(23)~~(29) "Retail customer" means a customer that purchases electricity for residential, commercial, or  
20 industrial end-use purposes and does not resell electricity to others.

21 ~~(24)~~(30) "Transition bondholder" means a holder of transition bonds, including trustees, collateral  
22 agents, and other entities acting for the benefit of that bondholder.

23 ~~(25)~~(31) "Transition bonds" means any bond, debenture, note, interim certificate, collateral, trust  
24 certificate, or other evidence of indebtedness or ownership issued by the board or other transition bonds issuer  
25 that is secured by or payable from fixed transition amounts or transition property. Proceeds from transition  
26 bonds must be used to recover, reimburse, finance, or refinance transition costs and to acquire transition  
27 property.

28 ~~(26)~~(32) "Transition charge" means a nonbypassable rate or charge to be imposed on a customer to

1 pay the customer's share of transition costs.

2 ~~(27)~~(33) "Transition cost recovery period" means the period beginning on July 1, 1998, and ending  
3 when a utility customer does not have any liability for payment of transition costs.

4 ~~(28)~~(34) "Transition costs" means:

5 (a) a public utility's net verifiable generation-related and electricity supply costs, including costs of  
6 capital, that become unrecoverable as a result of the implementation of federal law requiring retail open access  
7 or customer choice or of this chapter;

8 (b) those costs that include but are not limited to:

9 (i) regulatory assets and deferred charges that exist because of current regulatory practices and can  
10 be accounted for up to the effective date of the commission's final order regarding a public utility's transition  
11 plan and conservation investments made prior to universal system benefits charge implementation;

12 (ii) nonutility and utility power purchase contracts executed before May 2, 1997, including qualifying  
13 facility contracts;

14 (iii) existing generation investments and supply commitments or other obligations incurred before May  
15 2, 1997, and costs arising from these investments and commitments;

16 (iv) the costs associated with renegotiation or buyout of the existing nonutility and utility power  
17 purchase contracts, including qualifying facilities and all costs, expenses, and reasonable fees related to  
18 issuing transition bonds; and

19 (v) the costs of refinancing and retiring of debt or equity capital of the public utility and associated  
20 federal and state tax liabilities or other utility costs for which the use of transition bonds would benefit  
21 customers.

22 ~~(29)~~(35) "Transition property" means the property right created by a financing order, including without  
23 limitation the right, title, and interest of a utility, assignee, or other issuer of transition bonds to all revenue,  
24 collections, claims, payments, money, or proceeds of or arising from or constituting fixed transition amounts  
25 that are the subject of a financing order, including those nonbypassable rates and other charges and fixed  
26 transition amounts that are authorized by the commission in the financing order to recover transition costs and  
27 the costs of recovering, reimbursing, financing, or refinancing the transition costs and acquiring transition  
28 property, including the costs of issuing, servicing, and retiring transition bonds. Any right that a utility has in the

1 transition property before the utility's sale or transfer or any other right created under this section or created in  
2 the financing order and assignable under this chapter or assignable pursuant to a financing order is only a  
3 contract right.

4 ~~(30)~~(36) "Transmission facilities" means those facilities that are used to provide transmission services  
5 as determined by the federal energy regulatory commission and the commission and that are controlled or  
6 operated by a utility.

7 ~~(34)~~(37) "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on  
8 a customer to pay the customer's share of universal system benefits programs costs.

9 ~~(32)~~(38) "Universal system benefits programs" means public purpose programs for:

- 10 (a) cost-effective local energy conservation;
- 11 (b) low-income customer weatherization;
- 12 (c) renewable resource projects and applications, including those that capture unique social and  
13 energy system benefits or that provide transmission and distribution system benefits;
- 14 (d) research and development programs related to energy conservation and renewables;
- 15 (e) market transformation designed to encourage competitive markets for public purpose programs;
- 16 and
- 17 (f) low-income energy assistance.

18 ~~(33)~~(39) "Utility" means any public utility or cooperative utility."  
19

20 **NEW SECTION. Section 2. Neighborhood renewable energy facility -- rulemaking.** (1) A public  
21 utility shall allow a neighborhood renewable energy facility to be interconnected to its distribution or  
22 transmission system, regardless of whether the facility has behind or in front of the meter battery or other  
23 energy storage associated with it, if:

- 24 (a) the facility complies with all safety standards as provided in 69-8-604 as certified by a licensed  
25 professional engineer;
- 26 (b) the electrical portion of the facility was constructed by licensed electricians supervised by a master  
27 or journeyman electrician in compliance with 37-68-102 and 37-68-103(3)(b); and
- 28 (c) the facility owner provides the public utility with:

- 1 (i) a single point of connection with the public utility and the name of a person to deal with;
- 2 (ii) a list of all of its neighborhood renewable energy facility customers and their associated accounts
- 3 that are to receive an on-bill credit for electricity generated by the neighborhood renewable energy facility, with
- 4 the list to be updated no more than once a month; and
- 5 (iii) the percentage of the total kilowatt-hour amount of electricity to be generated monthly by the
- 6 neighborhood renewable energy facility, and the associated renewable energy credit, to be assigned to each
- 7 neighborhood renewable energy facility customer account.

8 (2) (a) (i) A public utility shall grant an on-bill credit in accordance with this subsection (2) and rules

9 adopted by the commission to neighborhood renewable energy facility customers.

10 (ii) For the purposes of administering on-bill credits, each neighborhood renewable energy facility

11 customer is equivalent to a customer-generator who has generated the amount of electricity allocated to that

12 neighborhood renewable energy facility customer pursuant to subsection (2)(a)(i).

13 (iii) After electricity has been allocated to the neighborhood renewable energy facility customer, subject

14 to subsection (2)(b) and (2)(c), the provisions of 69-8-603(2), 69-8-603(3)(a), 69-8-603(4), and 69-8-603(5)

15 must apply to the neighborhood renewable energy facility customer's account with the public utility as if that

16 neighborhood renewable energy facility customer were a customer-generator.

17 (b) A public utility may charge a neighborhood renewable energy facility customer a fee, established

18 by the commission, to cover reasonable expenses for:

- 19 (i) administering neighborhood renewable energy facility on-bill credits;
- 20 (ii) any unbundled transmission facility or distribution facility costs, or both, involved in delivering, from
- 21 the neighborhood renewable energy facility to the customer, the amount of electricity included in the on-bill
- 22 credit for that customer's account; and
- 23 (iii) the demand charge normally associated with a neighborhood renewable energy customer's
- 24 account taking into account any battery or other energy backup or other measure created to reduce demand
- 25 associated with the neighborhood renewable energy customer's account or the neighborhood renewable
- 26 energy facility.

27 (c) When a neighborhood renewable energy facility customer ceases to hold the account receiving

28 the on-bill credit, at the request of that customer or the neighborhood renewable energy facility owner, the



1 public utility shall transfer the on-bill credit to a new eligible neighborhood renewable energy facility customer or  
2 customers.

3 (3) The commission may generally implement, create rules for, and enforce the provisions of this  
4 section, including but not limited to matters involving:

- 5 (a) fees a public utility may charge a neighborhood renewable energy facility customer or owner;
- 6 (b) on-bill credit requirements and accounting practices; and
- 7 (c) safety and power quality requirements for a neighborhood renewable energy facility.

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9 **Section 3.** Section 69-8-605, MCA, is amended to read:

10 **"69-8-605. Applicability.** (1) This part does not apply to cooperative utilities corporations organized  
11 under Title 35, chapter 18.

12 (2) The governing body of a cooperative utility may adopt the provisions of Title 69, chapter 8, part 6,  
13 from which it has been exempted by 69-8-605(1)."

14

15 **Section 4.** Section 69-8-610, MCA, is amended to read:

16 **"69-8-610. Cost-benefit analysis.** ~~(1) Before April 1, 2018, a public utility shall:~~

- 17 ~~(a) conduct a study of the costs and benefits of customer-generators as defined in 69-8-103; and~~
- 18 ~~(b) submit the study to the commission for the purpose of making determinations in accordance with a~~  
19 ~~public utility's general rate case pursuant to 69-8-611.~~

20 (1) Before April 1, 2022, a public utility shall:

21 (a) conduct a study of the costs and benefits of neighborhood renewable energy facilities as defined  
22 in 69-8-103; and

23 (b) submit the study to the commission for the purpose of making determinations in accordance with  
24 the commission's authority as provided in 69-3-324.

25 (2) The public utility may engage independent consultants or advisory services to complete a cost-  
26 benefit study. Costs are recoverable in rates.

27 (3) After ~~May 3, 2017~~ June 3, 2021, the commission may establish minimum information required for  
28 inclusion in a study conducted by a public utility in accordance with subsection (1)(a)."

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**Section 5.** Section 69-8-611, MCA, is amended to read:

**"69-8-611. Classification of service -- net metering and neighborhood renewable energy facility customers.** (1) After a study is completed in accordance with 69-8-610 and subject to subsections (2) and (4) of this section, in accordance with the commission's authority as provided in 69-3-324, if the commission finds that customer-generators or neighborhood renewable energy facility customers, or both should be served under a separate classification of service ~~as part of a public utility's general rate case~~, it shall establish appropriate classifications and rates based on the commission's findings relative to:

(a) the public utility system benefits of the net metering or neighborhood renewable energy facility resource; ~~and~~

(b) the cost to provide service to customer-generators or neighborhood renewable energy facility customers, whose systems do not include the meter, battery or other energy backup; ~~and~~

(c) the cost to provide service to customer-generators or neighborhood renewable energy facility customers, whose systems include behind the meter battery or other energy backup.

(2) The commission may, based on differences between net metering ~~systems~~, systems or neighborhood renewable energy facility systems, establish subclassifications and rates as part of a public utility's general rate case.

(3) The commission may approve separate production or consumption rates for customer-generators' or neighborhood renewable energy facility customers ~~production and consumption~~ and require separate metering subject to 69-8-602 if it finds it is in the public interest ~~and as part of a public utility's general rate case~~.

(4) If a public utility files a general rate case in accordance with Title 69, chapter 3, the general rate case must include the study required in accordance with 69-8-610 and be used by the commission to meet the requirements of the review of classifications of service required in this section."

**NEW SECTION. Section 6. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

**NEW SECTION. Section 7. Codification instruction.** [Section 2] is intended to be codified as an

1 integral part of Title 69, chapter 8, part 6, and the provisions of Title 69, chapter 8, part 6, apply to [section 2].

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3 NEW SECTION. Section 8. Severability. If a part of [this act] is invalid, all valid parts that are  
4 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
5 the part remains in effect in all valid applications that are severable from the invalid applications.

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

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