

1 SENATE BILL NO. 213

2 INTRODUCED BY K. REGIER

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PUBLIC SERVICE COMMISSION APPEALS
5 PROCESS IN CONTESTED CASES TO CONFORM WITH THE PROCEDURES OF THE MONTANA
6 ADMINISTRATIVE PROCEDURE ACT; AMENDING SECTIONS 69-3-308 AND 69-3-330, MCA; REPEALING
7 SECTIONS 69-3-401, 69-3-402, 69-3-403, 69-3-404, AND 69-3-405, MCA; AND PROVIDING AN IMMEDIATE
8 EFFECTIVE DATE."

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

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12 **Section 1.** Section 69-3-308, MCA, is amended to read:

13 **"69-3-308. Disclosure of taxes and fees paid by customers of public utility -- automatic rate**
14 **adjustment and tracking for taxes and fees.** (1) A public utility may separately disclose in a customer's bill
15 the amount of state and local taxes and fees assessed against the public utility that the customer is paying.
16 (2) (a) (i) [Except as provided in 15-72-601,] the commission shall allow a public utility to file rate
17 schedules containing provisions for the automatic adjustment and tracking of Montana state and local taxes and
18 fees, except state income tax, paid by the public utility. The resulting rate schedule changes must include:
19 (A) adjustments for the net change in federal and state income tax liability caused by the deductibility
20 of state and local taxes and fees;
21 (B) retroactive tax adjustments; and
22 (C) adjustments related to the resolution of property taxes paid under protest.
23 (ii) The rate schedules must include provisions for annual rate adjustments, including both tax
24 increases and decreases.
25 (b) The amended rates must automatically go into effect on January 1 following the date of change in
26 taxes paid on an interim basis, subject to any adjustments determined in subsection (2)(c).
27 (c) The amended rate schedule must be filed with the commission on or before the effective date of
28 the change in taxes paid, and if the commission determines that the revised rate schedule is in error, the

1 commission may, within 45 days of receipt of the revised rate schedule, ask for comment and order the public
2 utility to address any errors or omissions including, if necessary, any refunds due customers.

3 (d) Failure of the commission to issue an order pursuant to subsection (2)(c) is considered approval
4 on the part of the commission.

5 (e) A public utility may challenge an order issued by the commission under subsection (2)(c) in
6 accordance with the provisions of ~~69-3-401 through 69-3-405~~ 2-4-701 through 2-4-711."

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8 **Section 2.** Section 69-3-330, MCA, is amended to read:

9 **"69-3-330. Decision by commission.** (1) If, upon ~~such a~~ hearing and due investigation, the rates,
10 tolls, charges, schedules, or joint rates are found to be unjust, unreasonable, or unjustly discriminatory or to be
11 preferential or otherwise in violation of the provisions of this chapter, the commission may fix and order
12 substituted ~~therefor such~~ the rates, tolls, charges, or schedules as are just and reasonable.

13 (2) If the commission determines that a rate, toll, or charge has been collected in violation of 69-3-
14 305(1)(b), the commission may order refunds or credits as specified in 69-3-305(3).

15 (3) If the commission finds that any regulation, measurement, practice, act, or service complained of
16 is unjust, unreasonable, insufficient, preferential, unjustly discriminatory, or otherwise in violation of the
17 provisions of this chapter or that the service is inadequate or any reasonable service cannot be obtained, the
18 commission may substitute ~~therefor~~ other regulations, measurements, practices, services, or acts and make
19 ~~such an~~ an order relating ~~thereto to it~~ to it as is just and reasonable.

20 (4) In any decision ordering a change in the rates ~~which that~~ that may be charged for electricity or natural
21 gas, the commission shall list each expenditure submitted by the utility for allowance as an operating cost ~~which~~
22 that is disallowed by the commission as an element of operating costs. The list of disallowed expenditures ~~shall~~
23 must appear in the written decision of the commission and ~~shall~~ must itemize each expenditure by amount,
24 category, and purpose.

25 (5) A party in interest who is aggrieved by a commission-contested case decision may petition for
26 judicial review pursuant to the Montana Administrative Procedure Act in accordance with Title 2, chapter 4, part
27 7."

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1 NEW SECTION. Section 3. Repealer. The following sections of the Montana Code Annotated are

2 repealed:

3 69-3-401. Effective date of commission orders.

4 69-3-402. Action to challenge commission order.

5 69-3-403. Injunctive relief.

6 69-3-404. Review confined to record -- exceptions.

7 69-3-405. Appeal of court decision.

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

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