| Amendment - 1st Reading-white - Requested by: Katie Sullivan - (H) Energy, Technology and Federal Relations | | | | |
|---|-------------------|---|------------------------------|--|
| | egislature 2023 | Drafter: Trevor Graff, 406-444-4975 | HB0643.001.002 | |
| | | | | |
| 1 | | HOUSE BILL NO. 643 | | |
| 2 | | INTRODUCED BY J. KASSMIER | | |
| 3 | | | | |
| 4 | A BILL FOR A | AN ACT ENTITLED: "AN ACT REVISING NET METERING LAWS; INCRE | ASING THE CAP ON | |
| 5 | NET METERI | NG SYSTEMS; REQUIRING THE PUBLIC SERVICE COMMISSION TO | ESTABLISH | |
| 6 | SEPARATE R | RATE CLASSIFICATIONS FOR CUSTOMER GENERATORS; REQUIRIN | G A UTILITY TO | |
| 7 | CONDUCT A | COST-BENEFIT STUDY; PROVIDING RULEMAKING AUTHORITY; REV | /ISING THE | |
| 8 | DEFINITION | OF "NET METERING SYSTEM"; AMENDING SECTIONS 69-8-103, 69-8- | -601, 69-8-602, 69-8- | |
| 9 | 610, 69-8-611 | , AND 69-8-612, MCA; AMENDING SECTION 13, CHAPTER 248, LAWS | OF 2017; AND | |
| 10 | PROVIDING E | EFFECTIVE DATES." | | |
| 11 | | | | |
| 12 | BE IT ENACT | ED BY THE LEGISLATURE OF THE STATE OF MONTANA: | | |
| 13 | | | | |
| 14 | Sectio | on 1. Section 69-8-103, MCA, is amended to read: | | |
| 15 | "69-8- | -103. Definitions. As used in this chapter, unless the context requires of | therwise, the following | |
| 16 | definitions app | oly: | | |
| 17 | (1) | "Assignee" means any entity, including a corporation, partnership, boar | d, trust, or financing | |
| 18 | vehicle, to whi | ich a utility assigns, sells, or transfers, other than as security, all or a portion | on of the utility's interest | |
| 19 | in or right to tr | in or right to transition property. The term also includes an entity, corporation, public authority, partnership, | | |
| 20 | trust, or financ | cing vehicle to which an assignee assigns, sells, or transfers, other than as | s security, the | |
| 21 | assignee's inte | erest in or right to transition property. | | |
| 22 | (2) | "Board" means the board of investments created by 2-15-1808. | | |
| 23 | (3) | "Carbon offset provider" means a qualified third-party entity that arrang | es for projects or actions | |
| 24 | that either red | luce carbon dioxide emissions or increase the absorption of carbon dioxide | е. | |
| 25 | (4) | "Cooperative utility" means: | | |
| 26 | (a) | a utility qualifying as an electric cooperative pursuant to Title 35, chapte | ∋r 18; or | |
| 27 | (b) | an existing municipal electric utility as of May 2, 1997. | | |
| | | | | |



- 2023 68th Legislature 2023 Drafter: Trevor Graff, 406-444-4975 HB0643.001.002 1 (5) "Cost-effective carbon offsets" means any combination of certified actions that are taken to 2 reduce carbon dioxide emissions or that increase the absorption of carbon dioxide, which collectively do not 3 increase the cost of electricity produced annually on a per-megawatt-hour basis by more than 2.5%, including: 4 actions undertaken by the applicant that reduce carbon dioxide emissions or that increase the (a) 5 absorption of carbon dioxide from a facility or equipment used to generate electricity; or 6 actions by a carbon offset provider on behalf of the applicant. (b) 7 (6) "Customer-generator" means a user of a net metering system. 8 (7) "Distribution facilities" means those facilities by and through which electricity is received from 9 transmission facilities and distributed to a retail customer and that are controlled or operated by a utility. 10 (8) "Electricity supply costs" means the actual costs incurred in providing electricity supply service 11 through power purchase agreements, demand-side management, and energy efficiency programs, including 12 but not limited to: 13 (a) capacity costs; 14 (b) energy costs; 15 (c) fuel costs; 16 (d) ancillary service costs: transmission costs, including congestion and losses; 17 (e) 18 (f) planning and administrative costs; and 19 (g) any other costs directly related to the purchase of electricity and the management and 20 provision of power purchase agreements. 21 (9) "Electricity supply resource" means: 22 contracts for electric capacity and generation; (a) 23 (b) plants owned or leased by a utility or equipment used to generate electricity; 24 (c) customer load management and energy conservation programs; or 25 (d) other means of providing adequate, reliable service to customers, as determined by the 26 commission. 27 (10)"Electricity supply service" means the provision of electricity supply and related services



Amendment - 1st Reading-white - Requested by: Katie Sullivan - (H) Energy, Technology and **Federal Relations** - 2023 68th Legislature 2023 Drafter: Trevor Graff, 406-444-4975 HB0643.001.002 1 through power purchase agreements, the acquisition and operation of electrical generation facilities, demand-2 side management, and energy efficiency programs. 3 (11)"Financing order" means an order of the commission adopted in accordance with 69-8-503 that 4 authorizes the imposition and collection of fixed transition amounts and the issuance of transition bonds. 5 (a) "Fixed transition amounts" means those nonbypassable rates or charges, including but not (12)6 limited to: 7 (i) distribution; 8 (ii) connection; 9 (iii) disconnection; and 10 (iv) termination rates and charges that are authorized by the commission in a financing order to 11 permit recovery of transition costs and the costs of recovering, reimbursing, financing, or refinancing the 12 transition costs and of acquiring transition property through a plan approved by the commission in the financing order, including the costs of issuing, servicing, and retiring transition bonds. 13 14 If requested by the utility in the utility's application for a financing order, fixed transition amounts (b) 15 must include nonbypassable rates or charges to recover federal and state taxes in which the transition cost 16 recovery period is modified by the transactions approved in the financing order. 17 (13)"Generation assets cost of service" means a return on invested capital and all costs associated 18 with the acquisition, construction, administration, operation, and maintenance of a plant or equipment owned or 19 leased by a public utility and used for the production of electricity. 20 "Interested person" means a retail electricity customer, the consumer counsel established in 5-(14)21 15-201, the commission, or a utility. 22 (15)"Large customer" means, for universal system benefits programs purposes, a customer with an 23 individual load greater than a monthly average of 1,000 kilowatt demand in the previous calendar year for that 24 individual load. 25 (16)"Local governing body" means a local board of trustees of a rural electric cooperative. 26 (17)"Low-income customer" means those energy consumer households and families with incomes 27 at or below industry-recognized levels that qualify those consumers for low-income energy-related assistance.



Amendment - 1st Reading-white - Requested by: Katie Sullivan - (H) Energy, Technology and **Federal Relations** - 2023 68th Legislature 2023 Drafter: Trevor Graff, 406-444-4975 HB0643.001.002 1 (18) "Net metering" means measuring the difference between the electricity distributed to and the 2 electricity generated by a customer-generator that is fed back to the distribution system during the applicable 3 billing period. 4 (19) "Net metering system" means a facility for the production of electrical energy that: 5 (a) uses as its fuel solar, wind, or hydropower; (b)(a) has a generating capacity of not more than 50 100 kilowatts 50 kilowatts for residential 6 7 customers, not more than 100 kilowatts for nonresidential customers, or not more than 350 kilowatts for 8 government-owned facilities; 9 is located on the customer-generator's premises; (c)(b) 10 (d)(c) operates in parallel with the utility's distribution facilities; and 11 is intended primarily to offset part or all of the customer-generator's requirements for electricity. (e)(d) 12 (20) "Nonbypassable rates or charges" means rates or charges that are approved by the 13 commission and imposed on a customer to pay the customer's share of transition costs or universal system 14 benefits programs costs even if the customer has physically bypassed either the utility's transmission or 15 distribution facilities. (21) 16 "Public utility" has the meaning of a public utility regulated by the commission pursuant to Title 17 69, chapter 3, on May 2, 1997, including the public utility's successors or assignees. 18 (22)"Qualifying load" means, for payments and credits associated with universal system benefits 19 programs, all nonresidential demand-metered accounts of a large customer within the utility's service territory in 20 which the customer qualifies as a large customer. 21 (23)"Retail customer" means a customer that purchases electricity for residential, commercial, or 22 industrial end-use purposes and does not resell electricity to others. 23 (24)"Transition bondholder" means a holder of transition bonds, including trustees, collateral 24 agents, and other entities acting for the benefit of that bondholder.

- (25) "Transition bonds" means any bond, debenture, note, interim certificate, collateral, trust
 certificate, or other evidence of indebtedness or ownership issued by the board or other transition bonds issuer
- 27 that is secured by or payable from fixed transition amounts or transition property. Proceeds from transition

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| 1 | bonds must be | e used to recover, reimburse, finance, or refinance transition costs and to acquire | e transition |
| 2 | property. | | |
| 3 | (26) | "Transition charge" means a nonbypassable rate or charge to be imposed on | a customer to |
| 4 | pay the custom | ner's share of transition costs. | |
| 5 | (27) | "Transition cost recovery period" means the period beginning on July 1, 1998, | and ending |
| 6 | when a utility c | customer does not have any liability for payment of transition costs. | |
| 7 | (28) | "Transition costs" means: | |
| 8 | (a) | a public utility's net verifiable generation-related and electricity supply costs, in | cluding costs of |
| 9 | capital, that be | come unrecoverable as a result of the implementation of federal law requiring re | tail open access |
| 10 | or customer choice or of this chapter; | | |
| 11 | (b) | those costs that include but are not limited to: | |
| 12 | (i) | regulatory assets and deferred charges that exist because of current regulator | y practices and |
| 13 | can be accoun | ted for up to the effective date of the commission's final order regarding a public | utility's transition |
| 14 | plan and conse | ervation investments made prior to universal system benefits charge implementa | ation; |
| 15 | (ii) | nonutility and utility power purchase contracts executed before May 2, 1997, in | ncluding |
| 16 | qualifying facili | ity contracts; | |
| 17 | (iii) | existing generation investments and supply commitments or other obligations | incurred before |
| 18 | May 2, 1997, a | and costs arising from these investments and commitments; | |
| 19 | (iv) | the costs associated with renegotiation or buyout of the existing nonutility and | utility power |
| 20 | purchase contr | racts, including qualifying facilities and all costs, expenses, and reasonable fees | related to |
| 21 | issuing transition | on bonds; and | |
| 22 | (v) | the costs of refinancing and retiring of debt or equity capital of the public utility | and associated |
| 23 | federal and sta | ate tax liabilities or other utility costs for which the use of transition bonds would | penefit |
| 24 | customers. | | |
| 25 | (29) | "Transition property" means the property right created by a financing order, inc | luding without |
| 26 | limitation the rig | ght, title, and interest of a utility, assignee, or other issuer of transition bonds to | all revenue, |
| 27 | collections, cla | ims, payments, money, or proceeds of or arising from or constituting fixed trans | tion amounts |



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| 1 | | bject of a financing order, including those nonbypassable rates and other charges and fixed | |
| 2 | transition amo | unts that are authorized by the commission in the financing order to recover transition costs and | |
| 3 | the costs of re | covering, reimbursing, financing, or refinancing the transition costs and acquiring transition | |
| 4 | property, inclu | ding the costs of issuing, servicing, and retiring transition bonds. Any right that a utility has in the | |
| 5 | transition prop | erty before the utility's sale or transfer or any other right created under this section or created in | |
| 6 | the financing c | order and assignable under this chapter or assignable pursuant to a financing order is only a | |
| 7 | contract right. | | |
| 8 | (30) | "Transmission facilities" means those facilities that are used to provide transmission services | |
| 9 | as determined | by the federal energy regulatory commission and the commission and that are controlled or | |
| 10 | operated by a utility. | | |
| 11 | (31) | "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on a | |
| 12 | customer to pa | ay the customer's share of universal system benefits programs costs. | |
| 13 | (32) | "Universal system benefits programs" means public purpose programs for: | |
| 14 | (a) | cost-effective local energy conservation; | |
| 15 | (b) | low-income customer weatherization; | |
| 16 | (c) | renewable resource projects and applications, including those that capture unique social and | |
| 17 | energy system | benefits or that provide transmission and distribution system benefits; | |
| 18 | (d) | research and development programs related to energy conservation and renewables; | |
| 19 | (e) | market transformation designed to encourage competitive markets for public purpose | |
| 20 | programs; and | | |
| 21 | (f) | low-income energy assistance. | |
| 22 | (33) | "Utility" means any public utility or cooperative utility." | |
| 23 | | | |
| 24 | Sectio | on 2. Section 69-8-601, MCA, is amended to read: | |
| 25 | "69-8- | 601. Legislative findings. The legislature finds that it is in the public interest to promote net | |
| 26 | metering beca | use it : | |
| 27 | (1) | encourages private investment in renewable energy resources; | |



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| 1 | (2) | stimulates Montana's economic growth; and | |
| 2 | (3) | enhances the continued diversification of the energy resources used in N | 1ontana." |
| 3 | | | |
| 4 | Sectio | on 3. Section 69-8-602, MCA, is amended to read: | |
| 5 | " 69 -8 | -602. (Temporary) Utility net metering requirements. A utility shall: | |
| 6 | (1) a | allow net metering systems to be interconnected using a standard kilowatt-h | our meter capable of |
| 7 | registering the | e flow of electricity in two directions, unless the commission determines, afte | ⊮ appropriate notice |
| 8 | and opportuni | ity for comment: | |
| 9 | (a) t | hat the use of additional metering equipment to monitor the flow of electricit | y in each direction is |
| 10 | necessary and | d appropriate for the interconnection of net metering systems, after taking in | ito account the |
| 11 | benefits and c | costs of purchasing and installing additional metering equipment; and | |
| 12 | (b) r | now the costs of net metering are to be allocated between the customer-ger | verator and the utility; |
| 13 | and | | |
| 14 | (2) c | charge the customer-generator a minimum monthly fee that is the same as o | other customers of the |
| 15 | electric utility i | in the same rate class. The commission shall determine, after appropriate n | otice and opportunity |
| 16 | f or comment i | f. | |
| 17 | (a) t i | he utility will incur direct costs associated with interconnecting or administer | r ing net metering |
| 18 | systems that e | exceed any offsetting benefits associated with these net metering systems; | and |
| 19 | (b) р | public policy is best served by imposing these costs on the customer-genera | ator, rather than |
| 20 | allocating thes | se costs among the utility's entire customer base. | |
| 21 | 69-8-6 | 602. (Effective on occurrence of contingency) Utility net metering req | j uirements. (1) A |
| 22 | utility shall allo | ow net metering systems to be interconnected using a standard kilowatt-hou | ır meter capable of |
| 23 | registering the | e flow of electricity in two directions. | |
| 24 | (2) | (a) If the <u>The</u> commission <u>shall</u> determines <u>determine</u> , after appropriate n | otice and opportunity |
| 25 | for comment, | that whether or not the use of additional metering equipment to monitor the | flow of electricity in |
| 26 | | n is necessary and appropriate for the interconnection of net metering syster | ns, the commission |
| 27 | may establish | additional metering equipment requirements. | |



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| 1 | (b) | The commission shall consider the benefits and costs to a public utility and a | customer- |
| 2 | generator of p | urchasing and installing additional metering equipment and how the costs of ad | ditional net |
| 3 | metering equip | oment are to be allocated between the customer-generator and the public utility | |
| 4 | (3) | (a) The commission shall charge the customer-generator an appropriate rate | pursuant to 69-3- |
| 5 | 306. | | |
| 6 | (b) N | lotwithstanding 69-8-610 through 69-8-612, if the commission determines, after | - appropriate |
| 7 | notice and opp | portunity for comment, that a public utility is incurring direct costs associated wit | h interconnecting |
| 8 | or administerin | ig net metering systems that exceed any offsetting benefits associated with the | se net metering |
| 9 | systems, the c | ommission may impose these costs on the customer-generator, rather than all | ocating these |
| 10 | costs among th | ne public utility's entire customer base. | |
| 11 | <u>(4)</u> | The aggregate generating capacity of net metering may not exceed 5% of a t | utility's forecasted |
| 12 | summer peak | load as <u>defined in the most recent integrated resource plan filed with the comm</u> | iission until |
| 13 | separate rate o | classifications for customer generators are established in accordance with 69-8 | <u>-611.</u> " |
| 14 | | | |
| 15 | Sectio | on 4. Section 69-8-610, MCA, is amended to read: | |
| 16 | "69-8- | 610. Cost-benefit Cost of service analysis for customer generators. (1) E | efore April 1, |
| 17 | 2018 Septemb | <u>er 30, 2025</u> , a public utility shall : | |
| 18 | (a) c | onduct a study of the costs and benefits of file a cost-of-service study with the o | commission that |
| 19 | reflects custom | ner-generators as defined in 69-8-103 ; and . | |
| 20 | (b) s | ubmit the study to the commission for the purpose of making determinations in | accordance with a |
| 21 | public utility's દ્ | general rate case pursuant to 69-8-611. | |
| 22 | (2) | The utility may engage independent consultants or advisory services to comp | lete a cost-benefit |
| 23 | study the cost- | of-service study. Costs are recoverable in rates. | |
| 24 | (3) A | fter May 3, 2017, the commission may establish minimum information required | for inclusion in a |
| 25 | study conducte | ed by a public utility in accordance with subsection (1)(a)." | |
| 26 | | | |
| 27 | Sectio | n 5. Section 69-8-611, MCA, is amended to read: | |



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| 1 | "69-8-611. | Classification of service net metering customers. (1) After a study | is completed in |
| 2 | accordance with 69 | -8-610 and subject to subsections (2) and <u>through</u> (4) of this section, if the | e commission f inds |
| 3 | that customer-gene | rators should be served under a separate classification of service as part | of a public utility's |
| 4 | general rate case, it | shall establish appropriate separate classifications and rates based on th | ne commission's |
| 5 | findings relative to : | | |
| 6 | (a) the uti | lity system benefits of the net metering resource; and | |
| 7 | (b) the co | ost to provide service to customer-generators. | |
| 8 | (2) The | e commission may, based on differences between net metering systems, | establish |
| 9 | subclassifications a | nd rates as part of a public utility's general rate case. <u>Rates established ir</u> | <u>ı this section shall</u> |
| 10 | not include subsidie | es from public utility customers who do not use net metering systems to cu | <u>ustomer</u> |
| 11 | generators. | | |
| 12 | (3) The | e commission may approve separate rates for customer-generators' produ | uction and |
| 13 | consumption and re | equire separate metering subject to 69-8-602 if it finds it is in the public inte | erest and as part |
| 14 | of a public utility's g | eneral rate case <u>filing</u> . | |
| 15 | (4) If a | public utility files a general rate case in accordance with Title 69, chapter | 3, the general rate |
| 16 | case must include t | he study required in accordance with 69-8-610 and be used by the comm | ission to meet the |
| 17 | requirements of the | review of classifications of service required in this section." | |
| 18 | | | |
| 19 | Section 6. | Section 69-8-612, MCA, is amended to read: | |
| 20 | "69-8-612. | New classifications of service grandfather clause. (1) Except as p | rovided in |
| 21 | subsection (2), if the | e commission approves new classifications of service for customer-generation | ators in |
| 22 | accordance with 69 | -8-611, the new classifications apply only to customer-generators intercor | nnecting net |
| 23 | metering systems ø | n or after the date on which the commission adopts a final order that are i | implemented and |
| 24 | connected 6 months | <u>s after the date on which the commission adopts a final order</u> implementir | າg the new |
| 25 | classifications. | | |
| 26 | (2) (a) | A customer-generator that interconnects a net metering system prior to co | ommission |
| 27 | approval of new cla | ssifications of service for customer-generators may accept service under | the new |



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| 1 | classifications | of service at any time. |
| 2 | (b) | After accepting service under a new classification of service, the customer-generator may not |
| 3 | return to its ori | ginal classification of service." |
| 4 | | |
| 5 | Sectio | n 7. Section 13, Chapter 248, Laws of 2017, is amended to read: |
| 6 | "Section | on 13. Effective date contingency contingent voidness. (1) Except as provided in |
| 7 | subsection (2), | [this act] is effective on passage and approval. |
| 8 | (2) | (a) [Sections 5, 6, 9(2), 10(2), and 12] are effective on the date that the public service |
| 9 | commission is | sues an order making a determination that customer-generators are being served under a |
| 10 | separate class | ification of service in accordance with [section 2]. |
| 11 | (b) | [Sections 9(1), 10(1), and 11] are void on occurrence of the contingency in subsection (2)(a). |
| 12 | (c) | The public service commission shall provide a copy of the order to the code commissioner |
| 13 | within 10 days | of issuing the order. |
| 14 | <u>(d)</u> | [Section 5] is effective on passage and approval of [LC 0183 of the 2023 session]." |
| 15 | | |
| 16 | NEW S | SECTION. Section 8. Effective dates contingent voidness. (1) Except as provided in |
| 17 | subsection (2), | [this act] is effective on passage and approval. |
| 18 | (2) | [Section 1] is effective on the date that the public service commission issues an order making a |
| 19 | determination | hat customer-generators are being served under a separate classification of service in |
| 20 | accordance wi | th [section 3]. |
| 21 | (3) | [Section 3(4)] is void on the date that the public service commission issues an order making a |
| 22 | determination | hat customer-generators are being served under a separate classification of service in |
| 23 | accordance wi | th [section 3]. |
| 24 | | - END - |