

HOUSE BILL NO. 643

INTRODUCED BY J. KASSMIER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING NET METERING LAWS; INCREASING THE CAP ON NET METERING SYSTEMS; REQUIRING THE PUBLIC SERVICE COMMISSION TO ESTABLISH SEPARATE RATE CLASSIFICATIONS FOR CUSTOMER GENERATORS; REQUIRING A UTILITY TO CONDUCT A COST-BENEFIT STUDY; PROVIDING RULEMAKING AUTHORITY; REVISING THE DEFINITION OF "NET METERING SYSTEM"; AMENDING SECTIONS 69-8-103, 69-8-601, 69-8-602, 69-8-610, 69-8-611, AND 69-8-612, MCA; AMENDING SECTION 13, CHAPTER 248, LAWS OF 2017; AND PROVIDING EFFECTIVE DATES."

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

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

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

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

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

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

(4) "Cooperative utility" means:

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

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

(5) "Cost-effective carbon offsets" means any combination of certified actions that are taken to

1 reduce carbon dioxide emissions or that increase the absorption of carbon dioxide, which collectively do not
2 increase the cost of electricity produced annually on a per-megawatt-hour basis by more than 2.5%, including:

3 (a) actions undertaken by the applicant that reduce carbon dioxide emissions or that increase the
4 absorption of carbon dioxide from a facility or equipment used to generate electricity; or

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

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

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

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

12 (a) capacity costs;

13 (b) energy costs;

14 (c) fuel costs;

15 (d) ancillary service costs;

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

17 (f) planning and administrative costs; and

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

20 (9) "Electricity supply resource" means:

21 (a) contracts for electric capacity and generation;

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

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

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

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

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

3 (12) (a) "Fixed transition amounts" means those nonbypassable rates or charges, including but not
4 limited to:

5 (i) distribution;

6 (ii) connection;

7 (iii) disconnection; and

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

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

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

18 (14) "Interested person" means a retail electricity customer, the consumer counsel established in 5-
19 15-201, the commission, or a utility.

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

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

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

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

- 1 (19) "Net metering system" means a facility for the production of electrical energy that:
- 2 ~~(a)~~ uses as its fuel solar, wind, or hydropower;
- 3 ~~(b)~~(a) has a generating capacity of not more than ~~50~~ 100 kilowatts;
- 4 ~~(c)~~(b) is located on the customer-generator's premises;
- 5 ~~(d)~~(c) operates in parallel with the utility's distribution facilities; and
- 6 ~~(e)~~(d) is intended primarily to offset part or all of the customer-generator's requirements for electricity.
- 7 (20) "Nonbypassable rates or charges" means rates or charges that are approved by the
- 8 commission and imposed on a customer to pay the customer's share of transition costs or universal system
- 9 benefits programs costs even if the customer has physically bypassed either the utility's transmission or
- 10 distribution facilities.
- 11 (21) "Public utility" has the meaning of a public utility regulated by the commission pursuant to Title
- 12 69, chapter 3, on May 2, 1997, including the public utility's successors or assignees.
- 13 (22) "Qualifying load" means, for payments and credits associated with universal system benefits
- 14 programs, all nonresidential demand-metered accounts of a large customer within the utility's service territory in
- 15 which the customer qualifies as a large customer.
- 16 (23) "Retail customer" means a customer that purchases electricity for residential, commercial, or
- 17 industrial end-use purposes and does not resell electricity to others.
- 18 (24) "Transition bondholder" means a holder of transition bonds, including trustees, collateral
- 19 agents, and other entities acting for the benefit of that bondholder.
- 20 (25) "Transition bonds" means any bond, debenture, note, interim certificate, collateral, trust
- 21 certificate, or other evidence of indebtedness or ownership issued by the board or other transition bonds issuer
- 22 that is secured by or payable from fixed transition amounts or transition property. Proceeds from transition
- 23 bonds must be used to recover, reimburse, finance, or refinance transition costs and to acquire transition
- 24 property.
- 25 (26) "Transition charge" means a nonbypassable rate or charge to be imposed on a customer to
- 26 pay the customer's share of transition costs.
- 27 (27) "Transition cost recovery period" means the period beginning on July 1, 1998, and ending
- 28 when a utility customer does not have any liability for payment of transition costs.

1 (28) "Transition costs" means:

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

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

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

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

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

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

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

19 (29) "Transition property" means the property right created by a financing order, including without
20 limitation the right, title, and interest of a utility, assignee, or other issuer of transition bonds to all revenue,
21 collections, claims, payments, money, or proceeds of or arising from or constituting fixed transition amounts
22 that are the subject of a financing order, including those nonbypassable rates and other charges and fixed
23 transition amounts that are authorized by the commission in the financing order to recover transition costs and
24 the costs of recovering, reimbursing, financing, or refinancing the transition costs and acquiring transition
25 property, including the costs of issuing, servicing, and retiring transition bonds. Any right that a utility has in the
26 transition property before the utility's sale or transfer or any other right created under this section or created in
27 the financing order and assignable under this chapter or assignable pursuant to a financing order is only a
28 contract right.

1 (30) "Transmission facilities" means those facilities that are used to provide transmission services
 2 as determined by the federal energy regulatory commission and the commission and that are controlled or
 3 operated by a utility.

4 (31) "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on a
 5 customer to pay the customer's share of universal system benefits programs costs.

6 (32) "Universal system benefits programs" means public purpose programs for:

7 (a) cost-effective local energy conservation;

8 (b) low-income customer weatherization;

9 (c) renewable resource projects and applications, including those that capture unique social and
 10 energy system benefits or that provide transmission and distribution system benefits;

11 (d) research and development programs related to energy conservation and renewables;

12 (e) market transformation designed to encourage competitive markets for public purpose
 13 programs; and

14 (f) low-income energy assistance.

15 (33) "Utility" means any public utility or cooperative utility."
 16

17 **Section 2.** Section 69-8-601, MCA, is amended to read:

18 **"69-8-601. Legislative findings.** The legislature finds that ~~it is in the public interest to promote net~~
 19 ~~metering because it:~~

20 (1) encourages private investment in renewable energy resources;

21 (2) stimulates Montana's economic growth; and

22 (3) enhances the continued diversification of the energy resources used in Montana."
 23

24 **Section 3.** Section 69-8-602, MCA, is amended to read:

25 "~~69-8-602. (Temporary) Utility net metering requirements.~~ A utility shall:

26 (1) ~~allow net metering systems to be interconnected using a standard kilowatt-hour meter capable of~~
 27 ~~registering the flow of electricity in two directions, unless the commission determines, after appropriate notice~~
 28 ~~and opportunity for comment:~~

1 ~~(a) that the use of additional metering equipment to monitor the flow of electricity in each direction is~~
 2 ~~necessary and appropriate for the interconnection of net metering systems, after taking into account the~~
 3 ~~benefits and costs of purchasing and installing additional metering equipment; and~~

4 ~~(b) how the costs of net metering are to be allocated between the customer-generator and the utility;~~
 5 ~~and~~

6 ~~(2) charge the customer-generator a minimum monthly fee that is the same as other customers of the~~
 7 ~~electric utility in the same rate class. The commission shall determine, after appropriate notice and opportunity~~
 8 ~~for comment if:~~

9 ~~(a) the utility will incur direct costs associated with interconnecting or administering net metering~~
 10 ~~systems that exceed any offsetting benefits associated with these net metering systems; and~~

11 ~~(b) public policy is best served by imposing these costs on the customer-generator, rather than~~
 12 ~~allocating these costs among the utility's entire customer base.~~

13 **69-8-602. (Effective on occurrence of contingency) Utility net metering requirements.** (1) A
 14 utility shall allow net metering systems to be interconnected using a standard kilowatt-hour meter capable of
 15 registering the flow of electricity in two directions.

16 (2) (a) ~~If the~~ The commission shall determines determine, after appropriate notice and opportunity
 17 for comment, ~~that whether or not~~ the use of additional metering equipment to monitor the flow of electricity in
 18 each direction is necessary and appropriate for the interconnection of net metering systems, the commission
 19 may establish additional metering equipment requirements.

20 (b) The commission shall consider the benefits and costs to a public utility and a customer-
 21 generator of purchasing and installing additional metering equipment and how the costs of additional net
 22 metering equipment are to be allocated between the customer-generator and the public utility.

23 (3) ~~(a)~~ The commission shall charge the customer-generator an appropriate rate pursuant to 69-3-
 24 306.

25 ~~(b) Notwithstanding 69-8-610 through 69-8-612, if the commission determines, after appropriate~~
 26 ~~notice and opportunity for comment, that a public utility is incurring direct costs associated with interconnecting~~
 27 ~~or administering net metering systems that exceed any offsetting benefits associated with these net metering~~
 28 ~~systems, the commission may impose these costs on the customer-generator, rather than allocating these~~

1 ~~costs among the public utility's entire customer base.~~

2 (4) The aggregate generating capacity of net metering may not exceed 5% of a utility's forecasted
 3 summer peak load as defined in the most recent integrated resource plan filed with the commission until
 4 separate rate classifications for customer generators are established in accordance with 69-8-611."

5

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

7 **"69-8-610. ~~Cost-benefit~~ Cost of service analysis for customer generators.** (1) Before April 1,
 8 ~~2018~~ September 30, 2025, a public utility shall:

9 ~~(a) conduct a study of the costs and benefits of~~ file a cost-of-service study with the commission that
 10 reflects customer-generators as defined in 69-8-103; ~~and.~~

11 ~~(b) submit the study to the commission for the purpose of making determinations in accordance with a~~
 12 ~~public utility's general rate case pursuant to 69-8-611.~~

13 (2) The utility may engage independent consultants or advisory services to complete ~~a cost-benefit~~
 14 study the cost-of-service study. Costs are recoverable in rates.

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

17

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

19 **"69-8-611. Classification of service -- net metering customers.** (1) After a study is completed in
 20 accordance with 69-8-610 and subject to subsections (2) ~~and through~~ (4) of this section, ~~if the commission finds~~
 21 ~~that customer generators should be served under a separate classification of service as part of a public utility's~~
 22 ~~general rate case,~~ it shall establish appropriate separate classifications and rates based on the commission's
 23 findings relative to:

24 ~~(a) the utility system benefits of the net metering resource; and~~

25 ~~(b) the cost to provide service to customer-generators.~~

26 (2) ~~The commission may, based on differences between net metering systems, establish~~
 27 subclassifications and rates as part of a public utility's general rate case. Rates established in this section shall
 28 not include subsidies from public utility customers who do not use net metering systems to customer

1 generators.

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

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

8

9 **Section 6.** Section 69-8-612, MCA, is amended to read:

10 **"69-8-612. New classifications of service -- grandfather clause.** (1) Except as provided in
11 subsection (2), if the commission approves new classifications of service for customer-generators in
12 accordance with 69-8-611, the new classifications apply only to customer-generators interconnecting net
13 metering systems ~~on or after the date on which the commission adopts a final order that~~ are implemented and
14 connected 6 months after the date on which the commission adopts a final order implementing the new
15 classifications.

16 (2) (a) A customer-generator that interconnects a net metering system prior to commission
17 approval of new classifications of service for customer-generators may accept service under the new
18 classifications of service at any time.

19 (b) After accepting service under a new classification of service, the customer-generator may not
20 return to its original classification of service."

21

22 **Section 7.** Section 13, Chapter 248, Laws of 2017, is amended to read:

23 **"Section 13. Effective date -- contingency -- contingent voidness.** (1) Except as provided in
24 subsection (2), [this act] is effective on passage and approval.

25 (2) (a) [Sections 5, 6, 9(2), 10(2), and 12] are effective on the date that the public service
26 commission issues an order making a determination that customer-generators are being served under a
27 separate classification of service in accordance with [section 2].

28 (b) [Sections 9(1), 10(1), and 11] are void on occurrence of the contingency in subsection (2)(a).

1 (c) The public service commission shall provide a copy of the order to the code commissioner
2 within 10 days of issuing the order.

3 (d) [Section 5] is effective on passage and approval of [LC 0183 of the 2023 session]."
4

5 **NEW SECTION. Section 8. Effective dates -- contingent voidness.** (1) Except as provided in
6 subsection (2), [this act] is effective on passage and approval.

7 (2) [Section 1] is effective on the date that the public service commission issues an order making a
8 determination that customer-generators are being served under a separate classification of service in
9 accordance with [section 3].

10 (3) [Section 3(4)] is void on the date that the public service commission issues an order making a
11 determination that customer-generators are being served under a separate classification of service in
12 accordance with [section 3].

13 - END -