

UTILITY RESOURCE PLANNING AND PROCUREMENT (INCLUDES PREAPPROVAL)

LEGISLATOR NOTICE

The Legislative Services Division is required to offer a brief history on the subject matter of a bill draft request prior to drafting. (5-4-105, MCA; [Chapter 309, Laws of 2017](#)) The history must include related legislation introduced over the last five sessions and hyperlinks to the bill, hearing information, and fiscal notes. The legislation links below open to the page showing the status and history of bills introduced on this topic in the past. The bill text and any related fiscal notes can be accessed through the link at the top of that page.

Legislation can be complex and this history is not intended to be exhaustive. Please contact the drafter of the requested bill for more information.

Background Materials and Research

Topic Summary:

Planning

Montana has two distinct planning processes for two different utilities operating in the state, but the processes are similar in more ways than they differ. Both planning processes emphasize long-term planning that results in the lowest-cost, most reliable, and most efficient mix of generation resources.

The Montana Integrated Least-Cost Resource Planning and Acquisition Act, codified in Title 69, chapter 3, was largely developed around providing public participation requirements and guidance to the Montana Power Company (MPC), but the act currently does not apply to NorthWestern Energy. Montana-Dakota Utilities (MDU) is the only utility in Montana that submits a plan under the statute.

After Montana's experiment with deregulation and before its return to regulation in 2007, the Montana Legislature developed an "electricity supply resource procurement plan" process. The process was originally intended for use by default suppliers operating in Montana's deregulated market. When Montana reregulated utilities in 2007, NorthWestern, a default supplier, became a public utility regulated pursuant to Title 69, chapter 8. NorthWestern therefore does not submit an integrated least-cost resource plan but instead submits an electricity supply resource procurement plan.

Preapproval

Originally, preapproval allowed a default supplier to apply to the commission for advance approval of a power supply purchase agreement. The PSC was also prohibited from subsequently disallowing the recovery of costs incurred under an approved preapproval agreement based on contrary findings.

Bob Rowe, chairman of the PSC at the time, was a leading opponent to the proposal. Rowe supported the intent of the legislation to give the default supplier authority, direction, and the appropriate regulatory environment to enter into long-term contracts. He advocated for the existing authority of the PSC to evaluate purchase agreements and the processes outlined in HB 509. The Consumer Counsel also opposed preapproval, raising concerns that it shifted the risk to small consumers, removed incentives for cost control, removed flexibility, changed the PSC's role from regulator to manager, and was unnecessary and duplicative of HB 509. Questions were raised in 2003, and continue to be raised today, about whether NorthWestern would truly have an incentive to complete a comprehensive planning process with preapproval and its impact on company risk.

In 2007, when the Montana Legislature passed and approved House Bill 25, Montana's experiment with deregulation ended. With changes made by the 2007 Legislature, NorthWestern Energy began pursuing its own generation assets, using the guidelines put into place in HB 25 and directing the PSC on the steps to be followed in reviewing and potentially approving NorthWestern Energy's electricity supply resources. To ease concerns about financing new power plants, NorthWestern began to utilize preapproval for certain, significant generating projects it hoped to build or acquire. Preapproval was to provide some level of cost recovery assurance prior to constructing or acquiring generation assets.

Legislative Services Division Materials:

[Least-Cost Integrated Resource and Electricity Supply Resource Planning](#)

[Resource Planning Questions and Considerations](#)

Other Materials:

[NWE 2015 Procurement Plan PSC Docket No. N2015.11.91](#)

[NorthWestern Energy Integrated Resource Planning Meetings Update](#)

[MDU 2017 Integrated Resource Plan PSC Docket N2017.9.73](#)

[Regulatory Assistance Project \(RAP\) Presentation \(March 2018\)](#)

[RAP Recommendations](#)

Introduced Legislation

*Chapter number assigned means bill was passed and approved. Most recent action.

2017

[House Bill No. 193](#) – Chapter Number Assigned -- AN ACT REVISING PUBLIC UTILITY ELECTRICITY COST RECOVERY; STANDARDIZING THE TREATMENT OF PUBLIC UTILITIES SUBJECT TO TITLE 69, CHAPTER 3; AMENDING SECTION 69-8-210, MCA; AND PROVIDING AN EFFECTIVE DATE.

[Senate Bill No. 168](#) – Chapter Number Assigned -- AN ACT REVISING ELECTRICITY SUPPLY RESOURCE PROCUREMENT PLAN REVIEW; ESTABLISHING PUBLIC MEETING REQUIREMENTS; ESTABLISHING A DEADLINE FOR PLAN REVIEW BY THE PUBLIC SERVICE COMMISSION; AMENDING SECTION 69-8-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

2015

[House Bill No. 638](#) – (H) Missed Deadline for Referendum Proposal -- AN ACT CREATING UNIFORM COST RECOVERY METHODS FOR OUTAGES FOR UTILITY COMPANIES DOING BUSINESS IN MONTANA; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AMENDING SECTION 69-8-210, MCA; AND PROVIDING AN EFFECTIVE DATE.

[House Bill No. 189](#) – (H) Missed Deadline for General Bill Transmittal -- AN ACT REVISING HOW UTILITIES ACCOUNT FOR CERTAIN COSTS; PROHIBITING A PUBLIC UTILITY FROM RECOVERING COSTS ASSOCIATED WITH AN OUTAGE AT AN ELECTRICITY GENERATION FACILITY BY USING AN ELECTRICITY COST RECOVERY MECHANISM; ALLOWING A UTILITY TO ACCOUNT FOR CERTAIN COSTS IN A GENERAL RATE CASE; AMENDING SECTION 69-8-210, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

2013

[House Bill No. 475](#) -- (H) Died in Standing Committee -- AN ACT ESTABLISHING A COMPETITIVE SOLICITATION PROCESS FOR PUBLIC UTILITIES SEEKING PREAPPROVAL; REQUIRING A PUBLIC UTILITY SEEKING PREAPPROVAL TO ACQUIRE, CONSTRUCT, OR PURCHASE AN ELECTRICITY SUPPLY RESOURCE TO CONDUCT A COMPETITIVE SOLICITATION PROCESS APPROVED BY THE PUBLIC SERVICE COMMISSION; ESTABLISHING THE REQUIREMENTS OF A COMPETITIVE SOLICITATION PROCESS; ESTABLISHING COMMISSION REQUIREMENTS FOR REVIEW AND APPROVAL OR REJECTION OF A COMPETITIVE SOLICITATION PROCESS; ALLOWING A PUBLIC UTILITY TO REQUEST A WAIVER FOR THE COMPETITIVE SOLICITATION PROCESS; ESTABLISHING THE PROCESS FOR REQUESTING A WAIVER; ESTABLISHING COMMISSION REQUIREMENTS FOR GRANTING A WAIVER; ALLOWING FOR A TECHNICAL CONFERENCE TO REVIEW WAIVER REQUESTS; AMENDING SECTIONS 69-1-114, 69-8-419, AND 69-8-421, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

2011

None

2009

[House Bill No. 392](#) – (H) Died in Standing Committee -- AN ACT AUTHORIZING THE PUBLIC SERVICE COMMISSION TO ALLOW COST RECOVERY BY A PUBLIC UTILITY FOR RESEARCH AND

DEVELOPMENT OF RENEWABLE ELECTRICAL GENERATION RESOURCES; AMENDING SECTIONS 69-3-109 AND 69-3-1202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

[House Bill No. 597](#) – (H) Died in Standing Committee -- AN ACT REQUIRING A PUBLIC UTILITY TO MAINTAIN A TRADITIONAL AND A NONTRADITIONAL ELECTRIC PORTFOLIO; ALLOWING CUSTOMERS TO CHOOSE TO PURCHASE ELECTRICITY SUPPLY FROM A PORTFOLIO; REQUIRING A UTILITY TO SUPPLY A CUSTOMER WITH POWER FROM A SELECTED PORTFOLIO AT RATES ASSOCIATED WITH THAT PORTFOLIO; EXTENDING PUBLIC SERVICE COMMISSION RULEMAKING AUTHORITY; AMENDING SECTIONS 69-3-1204, 69-8-419, 69-8-420, AND 69-8-421, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.