

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**** BILL NO. ****

INTRODUCED BY ****

BY REQUEST OF THE ****

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PUBLIC UTILITY RESOURCE PLANNING LAWS; PROVIDING TIMELINES; PROVIDING FOR AN INDEPENDENT MONITOR; AND AMENDING SECTIONS 69-3-1203, 69-3-1204, 69-3-1205, AND 69-3-1207, MCA; AMENDING SECTIONS 69-3-1204, 69-3-1205, AND 69-3-1207, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 69-3-1204, MCA, is amended to read:

"69-3-1204. Integrated least-cost plan. (1) (a) The commission shall adopt rules requiring a public utility to prepare and file a plan at least every 3 years for meeting the requirements of its customers in the most cost-effective manner consistent with the public utility's obligation to serve and in accordance with this part.

(b)_____The rules must prescribe the content and the time for filing a plan.

(2)(a) A plan must contain but is not limited to:

(i)_____an evaluation of the full range of cost-effective means for the public utility to meet the service requirements of its Montana customers, including conservation or similar improvements in the efficiency by which services are used and including demand-side management programs in accordance with 69-3-1209;

(ii)_____an annual electric demand and energy forecast developed pursuant to commission rules that includes energy and demand forecasts for each year within the planning period and historical data, as required by commission rule;

(iii)_____an assessment of planning reserve margins and contingency plans for the acquisition of additional resources developed pursuant to commission rules;

(iv)_____an assessment of the need for additional resources and the utility's plan for acquiring resources;

(v)_____the proposed process the utility intends to use to solicit bids for energy and capacity resources to

1 be acquired through a competitive solicitation process in accordance with 69-3-1207; and

2 (vi) descriptions of at least two alternate scenarios that can be used to represent the costs and benefits
3 from increasing amounts of renewable energy resources and demand-side management programs, based on
4 rules developed by the commission.

5 (b) The utility shall fully explain, justify, and document the data, assumptions, methodologies, models,
6 determinants, and any other inputs on which it relied to develop information required in subsection (2)(a).

7 (3)(a) The commission may adopt rules providing guidelines to be used in preparing a plan and
8 identifying the criteria to be used in determining cost-effectiveness.

9 (b) The criteria may include externalities associated with the acquisition of a resource by a public utility.

10 (c) The rules must establish the minimum filing requirements for acceptance of a plan by the
11 commission for further review. If a plan does not meet the minimum filing requirements, it must be returned to
12 the public utility with a list of deficiencies. A corrected plan must be submitted within the time established by the
13 commission.

14 (4) A plan filed with the commission by a utility, as defined in 75-20-104, must be provided to the
15 department of environmental quality and the consumer counsel.

16 (5) ~~Within 180 days of receipt of a plan, the~~The commission shall:

17 (a) review the plan;

18 (b) publish a copy of the plan;

19 (c) allow for a minimum of 60 days for the public to comment on the plan; and

20 (d) provide public meetings in accordance with 69-3-1205.

21 (6)(a) The commission may identify ~~concerns~~deficiencies in the plan, including:

22 (i) any concerns of the commission regarding the public utility's compliance with commission rules; and

23 (ii) ways to remedy the concerns.

24 (b) The commission may engage independent engineering, financial, and management consultants or
25 advisory services to evaluate a public utility's plan. The consultants ~~shall demonstrate~~must have demonstrated
26 knowledge and experience with resource procurement and resource portfolio management, modeling, risk
27 management, and engineering practices. The commission shall charge a fee to the public utility to pay for the
28 costs of consultants or advisory services. These costs are recoverable in rates."

1

2 **Section 2.** Section 69-3-1205, MCA, is amended to read:

3 **"69-3-1205. Public comment -- public meetings.** (1) ~~When~~ Prior to beginning the
4 developingdevelopment of a plan in accordance with this part and prior to submitting a plan to the commission,
5 a public utility shall hold at least two public meetings in the utility's Montana service territory to ensure a plan
6 best meets the diverse goals of shareholders, ratepayers, and society.

7 (2) After a plan is submitted, the commission shall conduct two public meetings for the purpose of
8 receiving comment on a plan. The commission or the department of public service regulation may comment on
9 the plan. A comment by the commission or the department may not be construed as preapproval by the
10 commission of rate treatment for any proposed resource.

11 (3) The department of environmental quality:

12 (a) shall review a plan submitted to the commission and comment on the need for new resources, the
13 alternatives evaluated to meet the need, the environmental implications of the resource choices, and other
14 related issues that it considers important. The department shall coordinate and deliver all comments from other
15 executive branch agencies.

16 (b) may use a plan in the development of studies for a specific energy facility for which an application
17 for a certificate of compliance is submitted under Title 75, chapter 20.

18 (4) The consumer counsel shall review and may comment on a submitted plan."
19

20 **Section 3.** Section 69-3-1207, MCA, is amended to read:

21 **"69-3-1207. Competitive solicitation process -- Montana consumer counsel role.** (1) (a) Except
22 as provided in subsection (5), a public utility that intends to seek approval by the commission pursuant to 69-8-
23 421 for the acquisition, construction, or purchase of an electricity supply resource shall conduct a competitive
24 solicitation process.

25 (b) A public utility may not prohibit a qualifying small power production facility as defined in 69-3-601 or
26 another utility or supplier that owns an electricity supply resource or intends to construct an electricity supply
27 resource from participating in a competitive solicitation process.

28 (c) ~~	A competitive solicitation process that is open to bids that would result in the ownership of an~~

1 ~~electricity supply resource by the public utility issuing the solicitation must include the use of a third-party~~
 2 ~~administrator. An independent monitor selected by the public utility shall be used to open, consider, and evaluate~~
 3 ~~bids submitted pursuant to a solicitation.~~ administer or monitor the evaluation of bids pursuant to a competitive
 4 solicitation.

5 (i) The independent monitor shall be selected by the Montana Consumer Counsel pursuant to section
 6 (4).

7 (ii) The role of the third-party monitor is to assist the public utility in conducting the competitive
 8 solicitation.

9 (iii) Third-party monitor shall be familiar with competitive bid and evaluation processes.

10 (iv) Third-party monitor shall thoroughly document the process used by the public utility to solicit and
 11 evaluate bids received during the competitive solicitation.

12 (d) A public utility may conduct a competitive solicitation in conjunction with the development of an
 13 integrated least-cost plan in 69-3-1204.

14 (2) A public utility that plans to conduct a competitive solicitation process shall submit the following
 15 information to the commission:

16 (a) a description of the competitive solicitation process that the public utility will use and proof of
 17 compliance with subsections (1)(b) and (1)(c), if applicable; and

18 (b) a complete draft of the proposal soliciting electricity supply resources, citing the range in size and
 19 type of resource needs which may include all for resources resource types.

20 (3) ~~The commission may accept public comment on the information shall notice and provide comments~~
 21 to the public utility on information received in subsection (2) within 30 days following the date a draft pursuant to
 22 this section is received by the commission.

23 (4)(a) The Montana consumer counsel ~~may~~shall request, select, and retain a person or organization to
 24 act as an independent monitor for a competitive solicitation process.

25 (b) The commission shall charge a fee to the public utility to pay for the costs of an independent
 26 monitor. These costs are recoverable in rates.

27 (c) The independent monitor may assist the Montana consumer counsel by:

28 (i) providing comments on the consistency of the competitive solicitation process with industry

1 standards;

2 (ii) monitoring and observing the competitive solicitation process, paying particular attention to the
3 public utility's evaluation of electricity supply resources that may result in utility ownership of the resource, to
4 ensure that the utility conducts a fair and proper process in accordance with industry standards;

5 (iii) notifying the utility and the consumer counsel on a timely basis prior to the utility's selection of the
6 resources of any discrepancies observed in the process and resolving any differences of opinion; and

7 (iv) preparing a closing report prior to the final selection of the resources regarding the consistency of
8 the process, including selection and notification of electricity supply resources taking part in the solicitation
9 process based on industry standards.

10 (5) This section does not apply to:

11 (a) a request for proposals or purchase by a public utility intended solely to meet the short-term
12 operational needs of the utility for a period of less than 12 months; or

13 (b) an application made to the commission by a public utility to acquire, construct, or purchase an
14 opportunity resource.

15 (6) For the purposes of this section, "opportunity resource" means an electricity supply resource
16 necessary to meet a need demonstrated in a plan in accordance with 69-3-1204(2)(a)(iv) that is either new or
17 existing and that remains unknown as to its availability for purchase until an opportunity to purchase arises."

18

19 **NEW SECTION. Section 4. {standard} Effective date.** [This act] is effective on passage and
20 approval.

21

- END -