

1 HOUSE BILL NO. 389

2 INTRODUCED BY A. OLSON, B. OLSON, LENHART, MANGAN, GOLIE, KEANE, STAHL, KLOCK,
3 MCNUTT, MATTHEWS, RIPLEY

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO DEFAULT SUPPLY SERVICE FOR
6 ELECTRICITY; PROVIDING A DEFAULT SUPPLIER WITH AN OPTION TO INVEST IN, ACQUIRE, OR LEASE
7 A PLANT OR EQUIPMENT USED FOR THE PRODUCTION OF ELECTRICITY; MODIFYING CERTAIN
8 DEFINITIONS; REQUIRING FUNCTIONAL SEPARATION OF DEFAULT SUPPLY SERVICE FROM OTHER
9 SERVICE ASSETS AND OPERATIONS; REQUIRING THE PUBLIC SERVICE COMMISSION TO ADOPT
10 RULES REGARDING THE USE OF ELECTRICITY GENERATED BY THE DEFAULT SUPPLIER; PROVIDING
11 A PREAPPROVAL PROCESS FOR DEFAULT SUPPLIER INVESTMENT IN OR ACQUISITION OR LEASE OF
12 A PLANT OR EQUIPMENT USED FOR THE PRODUCTION OF ELECTRICITY; AMENDING SECTIONS
13 69-8-103, 69-8-204, 69-8-208, 69-8-210, AND 69-8-419, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
14 DATE."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17
18 **Section 1.** Section 69-8-103, MCA, is amended to read:

19 **"69-8-103. Definitions.** As used in this chapter, unless the context requires otherwise, the following
20 definitions apply:

21 (1) "Aggregator" or "market aggregator" means an entity, licensed by the commission, that aggregates
22 retail customers, purchases electrical energy, and takes title to electrical energy as an intermediary for sale to
23 retail customers.

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

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

30 (4) "Broker" or "marketer" means an entity, licensed by the commission, that acts as an agent or

1 intermediary in the sale and purchase of electrical energy but that does not take title to electrical energy.

2 (5) "Cooperative utility" means:

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

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

5 (6) "Customer" or "consumer" means a retail electric customer or consumer. The university of Montana,
6 pursuant to 20-25-201(1), and Montana state university, pursuant to 20-25-201(2), are each considered a single
7 retail electric customer or consumer with a single individual load.

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

9 (8) "Default supplier" means a ~~distribution services provider of a~~ public utility that has restructured in
10 accordance with this chapter.

11 (9) "Default supply service" means the provision of electricity supply by a default supplier.

12 (10) "Distribution facilities" means those facilities by and through which electricity is received from a
13 transmission services provider and distributed to the customer and that are controlled or operated by a
14 distribution services provider.

15 (11) "Distribution services provider" means a utility owning distribution facilities for distribution of
16 electricity to the public.

17 (12) "Electricity supplier" means any person, including aggregators, market aggregators, brokers, and
18 marketers, offering to sell electricity to retail customers in the state of Montana.

19 (13) "Electricity supply costs" means the actual costs of providing default supply service, including but
20 not limited to:

21 (a) capacity costs;

22 (b) energy costs;

23 (c) fuel costs;

24 (d) ancillary service costs;

25 (e) demand-side management and energy efficiency costs;

26 (f) transmission costs, including congestion and losses;

27 (g) billing costs;

28 (h) planning and administrative costs;

29 (i) THE REVENUE REQUIREMENT FOR A PLANT OR EQUIPMENT OWNED OR LEASED BY A DEFAULT SUPPLIER AND

30 USED FOR THE PRODUCTION OF ELECTRICITY, INCLUDING capital costs, operating costs, and other costs for a plant

1 ~~or equipment leased or owned by a default supplier and used for the production of electricity;~~ and

2 (j) any other costs directly related to the purchase of electricity, management of default electricity
3 supply costs, and provision of default supply and related services.

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

6 (15) (a) "Fixed transition amounts" means those nonbypassable rates or charges, including but not
7 limited to:

8 (i) distribution;

9 (ii) connection;

10 (iii) disconnection; and

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

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

18 (16) "Functionally separate" means a utility's separation of the utility's ~~electricity supply, default supply,~~
19 transmission, distribution, and unregulated retail energy services assets and operations.

20 (17) "Interested person" means a retail electricity customer, the consumer counsel established in
21 5-15-201, the commission, or a utility.

22 (18) "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 (19) "Local governing body" means a local board of trustees of a rural electric cooperative.

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

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

- 1 (22) "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) has a generating capacity of not more than 50 kilowatts;
- 4 (c) is located on the customer-generator's premises;
- 5 (d) operates in parallel with the distribution services provider's distribution facilities; and
- 6 (e) is intended primarily to offset part or all of the customer-generator's requirements for electricity.
- 7 (23) "Nonbypassable rates or charges" means rates or charges that are approved by the commission
- 8 and imposed on a customer to pay the customer's share of transition costs or universal system benefits
- 9 programs costs even if the customer has physically bypassed either the utility's transmission or distribution
- 10 facilities.
- 11 (24) "Pilot program" means an experimental program using a select set of small customers to assess
- 12 the potential for developing and offering customer choice of electricity supply to small customers in the future.
- 13 (25) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter
- 14 3, on May 2, 1997, including the public utility's successors or assignees.
- 15 (26) "Qualifying load" means, for payments and credits associated with universal system benefits
- 16 programs, all nonresidential demand-metered accounts of a large customer within the utility's service territory
- 17 in which the customer qualifies as a large customer.
- 18 (27) "Small customer" means a residential customer or a commercial customer who has an individual
- 19 account with an average monthly demand in the previous calendar year of less than 50 kilowatts or a new
- 20 residential or commercial customer with an estimated average monthly demand of less than 50 kilowatts of a
- 21 public utility that has restructured pursuant to Title 35, chapter 19, or this chapter.
- 22 (28) "Transition bondholder" means a holder of transition bonds, including trustees, collateral agents,
- 23 and other entities acting for the benefit of that bondholder.
- 24 (29) "Transition bonds" means any bond, debenture, note, interim certificate, collateral, trust certificate,
- 25 or other evidence of indebtedness or ownership issued by the board or other transition bonds issuer that is
- 26 secured by or payable from fixed transition amounts or transition property. Proceeds from transition bonds must
- 27 be used to recover, reimburse, finance, or refinance transition costs and to acquire transition property.
- 28 (30) "Transition charge" means a nonbypassable rate or charge to be imposed on a customer to pay
- 29 the customer's share of transition costs.
- 30 (31) "Transition cost recovery period" means the period beginning on July 1, 1998, and ending when

1 a utility customer does not have any liability for payment of transition costs.

2 (32) "Transition costs" means:

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

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

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

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

12 (iii) existing generation investments and supply commitments or other obligations incurred before May
13 2, 1997, and costs arising from these investments and commitments;

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

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

19 (33) "Transition period" means the period ending July 1, 2027.

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

29 (35) "Transmission facilities" means those facilities that are used to provide transmission services as
30 determined by the federal energy regulatory commission and the commission.

- 1 (36) "Transmission services provider" means an entity controlling or operating transmission facilities.
- 2 (37) "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on a
3 customer to pay the customer's share of universal system benefits programs costs.
- 4 (38) "Universal system benefits programs" means public purpose programs for:
- 5 (a) cost-effective local energy conservation;
- 6 (b) low-income customer weatherization;
- 7 (c) renewable resource projects and applications, including those that capture unique social and energy
8 system benefits or that provide transmission and distribution system benefits;
- 9 (d) research and development programs related to energy conservation and renewables;
- 10 (e) market transformation designed to encourage competitive markets for public purpose programs; and
- 11 (f) low-income energy assistance.
- 12 (39) "Utility" means any public utility or cooperative utility."
- 13

14 **Section 2.** Section 69-8-204, MCA, is amended to read:

15 **"69-8-204. Public utility -- functional separation, divestiture, and nondiscrimination.** (1) To the
16 extent that a public utility is vertically integrated, a public utility shall functionally separate the public utility's
17 ~~electricity supply, default supply,~~ retail transmission, retail distribution, and regulated and unregulated retail
18 energy services operations in the state of Montana, upon application to and approval from the commission.

19 (2) Public utilities shall:

20 (a) prevent undue discrimination in favor of their own power supply, other services, divisions, or
21 affiliates, if any;

22 (b) prevent any other forms of self-dealing that could result in noncompetitive electricity prices to
23 customers; and

24 (c) grant customers and their electricity suppliers access to the public utility's retail transmission and
25 distribution system on a nondiscriminatory basis at rates, terms, and conditions of service comparable to the use
26 of the retail transmission and distribution system by the public utility and the public utility's affiliates.

27 (3) The provisions of this section are satisfied if the public utility adopts and complies with a code of
28 conduct consistent with the federal energy regulatory commission approved code of conduct pursuant to 18
29 CFR, part 37, and commission rules and orders."

30

1 **Section 3.** Section 69-8-208, MCA, is amended to read:

2 **"69-8-208. Public utility -- distribution services.** A public utility's distribution services provider shall:

3 ~~——(1) file tariffs that make distribution facilities available to all electricity suppliers, transmission services~~
4 ~~providers, and customers on a nondiscriminatory and comparable basis;~~

5 ~~——(2) and shall build and maintain distribution facilities;~~

6 ~~——(3) provide default supply service; and~~

7 ~~——(4) provide or contract for emergency electricity supply and related services."~~

8

9 **Section 4.** Section 69-8-210, MCA, is amended to read:

10 **"69-8-210. Public utilities -- default supply service -- emergency service -- electricity supply.** (1)

11 ~~A public utility's distribution services provider~~ utility that has restructured under this chapter shall provide default
12 supply service and shall provide or contract for emergency electricity supply and related services.

13 (2) The commission shall establish an electricity cost recovery mechanism that allows a default supplier
14 to fully recover prudently incurred electricity supply costs, subject to the provisions of 69-8-419 and 69-8-420.
15 The cost recovery mechanism must provide for prospective rate adjustments for cost differences resulting from
16 cost changes, load changes, and the time value of money on the differences.

17 (3) The commission may direct a default supplier to offer its customers multiple default supply service
18 options if the commission determines that those options are in the public interest and are consistent with the
19 provisions of 69-8-104 and 69-8-201.

20 (4) Notwithstanding any service options that the commission may require pursuant to subsection (3),
21 a default supplier shall offer its customers the option of purchasing a product composed of or supporting power
22 from certified environmentally preferred resources that include but are not limited to wind, solar, geothermal, and
23 biomass, subject to review and approval by the commission. The commission shall ensure that these resources
24 have been certified as meeting industry-accepted standards.

25 (5) (a) Subject to subsection (5)(b), the commission shall, in reviewing the procurement of electricity
26 supply by the default supplier, take into account the statewide economic benefits that are associated with the
27 electricity supply procurement for the default supply stakeholders. The default supply stakeholders include the
28 default supplier, customers of the default supplier, and the public.

29 (b) The consideration of economic benefits is secondary to the consideration of the costs and benefits
30 to the consumer and other criteria established by law.

1 (6) If a public utility intends to be an electricity supplier through an unregulated division, then the public
2 utility must be licensed as an electricity supplier pursuant to 69-8-404."

3

4 **Section 5.** Section 69-8-419, MCA, is amended to read:

5 **"69-8-419. Default supply resource planning and procurement -- duties of default supplier --**
6 **objectives -- commission rules.** (1) The default supplier shall:

7 (a) plan for future default supply resource needs;

8 (b) manage a portfolio of default supply resources; and

9 (c) procure new default supply resources when needed.

10 (2) (A) The default supplier may invest in, acquire, or lease a plant or equipment used for the production
11 of electricity.

12 (B) THE COMMISSION MAY NOT PENALIZE THE DEFAULT SUPPLIER FINANCIALLY IF THE DEFAULT SUPPLIER
13 CHOOSES NOT TO INVEST IN, ACQUIRE, OR LEASE A PLANT OR EQUIPMENT USED FOR THE PRODUCTION OF ELECTRICITY
14 IN THE DEFAULT SUPPLIER'S DEFAULT SUPPLY PORTFOLIO.

15 (C) IF THE COMMISSION APPROVES THE DEFAULT SUPPLIER'S INVESTMENT IN, ACQUISITION OF, OR LEASE OF A
16 PLANT OR EQUIPMENT USED FOR THE PRODUCTION OF ELECTRICITY AS A PART OF THE DEFAULT SUPPLY PORTFOLIO, THE
17 DEFAULT SUPPLIER MAY NOT WITHDRAW ITS PROPOSAL FROM THE PORTFOLIO.

18 ~~(2)(3)~~ (3) The default supplier shall pursue the following objectives in fulfilling its duties pursuant to
19 ~~subsection~~ ~~subsections~~ SUBSECTION (1) and (2):

20 (a) provide adequate and reliable default supply services at the lowest long-term total cost;

21 (b) conduct an efficient default supply resource planning and procurement process that evaluates the
22 full range of cost-effective electricity supply and demand-side management options, including the use of

23 electrical generation by the default supplier ONLY IF THE DEFAULT SUPPLIER ELECTS TO PURSUE THE OPTION IN
24 SUBSECTION (2)(A);

25 (c) identify and cost-effectively manage and mitigate risks related to its obligation to provide default
26 electricity supply service;

27 (d) use open, fair, and competitive procurement processes whenever possible; and

28 (e) provide default supply services at just and reasonable rates.

29 ~~(3)(4)~~ ~~By December 31, 2003, the~~ The commission shall adopt rules that guide the default supply
30 resource planning and procurement processes used by the default supplier and facilitate the achievement of the

1 objectives in subsection ~~(2)~~ (3) by the default supplier. The rules must establish:

2 (a) goals, objectives, and guidelines that are consistent with the objectives in subsection ~~(2)~~ (3) for:

3 (i) planning for future default supply resource needs;

4 (ii) managing the portfolio of default supply resources; ~~and~~

5 (iii) procuring new default supply resources; and

6 (iv) developing procedures for the use of electricity generated by the default supplier in the default supply
7 portfolio.

8 (b) standards for the evaluation by the commission of the reasonableness of a power supply purchase
9 agreement proposed by the default supplier; and

10 (c) minimum filing requirements for an application by the default supplier for advanced approval of a
11 proposed power supply purchase agreement."

12

13 **NEW SECTION. Section 6. Default supply filings for investment in or acquisition or lease of plant**

14 **or equipment for power generation -- commission processing and approval.** (1) (A) A default supplier may

15 apply to the commission for advanced approval of an investment in or acquisition or lease of a plant or
16 equipment used for the production of electricity. THE APPLICATION MUST SPECIFY:

17 (I) THE REVENUE REQUIREMENT FOR ELECTRICAL ENERGY, CAPACITY, AND OTHER SERVICES TO BE SUPPLIED BY
18 THE PLANT OR EQUIPMENT;

19 (II) THE QUANTITY OF ENERGY, CAPACITY, AND OTHER SERVICES TO BE SUPPLIED BY THE PLANT OR EQUIPMENT;

20 AND

21 (III) THE TERM TO WHICH CUSTOMERS WOULD BE COMMITTED TO THE ENERGY, CAPACITY, AND OTHER SERVICES
22 TO BE SUPPLIED BY THE PLANT OR EQUIPMENT.

23 (B) IF AN APPLICATION FOR ADVANCED APPROVAL UNDER THIS SECTION IS BASED ON AN INVESTMENT IN OR

24 ACQUISITION OR LEASE OF A PLANT OR EQUIPMENT WITH A NAMEPLATE CAPACITY LARGER THAN 10 MEGAWATTS, THE

25 DEFAULT SUPPLIER SHALL EVALUATE THE SPECIFIC REVENUE REQUIREMENT FOR THE ELECTRICAL ENERGY, CAPACITY,

26 AND OTHER SERVICES AGAINST OTHER ALTERNATIVES AVAILABLE IN THE WHOLESALE MARKET AS ESTABLISHED BY THE

27 RESULTS OF A REQUEST FOR PROPOSALS THAT IS CONSISTENT WITH COMMISSION RULES.

28 (2) (a) The commission shall issue an order on the default supplier's application for advanced approval
29 of an investment in or acquisition or lease of a plant or equipment used for the production of electricity within
30 9 months unless waived by the default supplier.

1 (b) Within 45 days of the default supplier's submission of an application for advanced approval, the
 2 commission shall determine whether or not the application is adequate and in compliance with the commission's
 3 minimum filing requirements. If the commission determines that the application is inadequate, it shall explain
 4 how the filing fails to comply with the objectives in 69-8-419, ~~and the rules adopted pursuant to 69-8-419, AND~~
 5 THE COMMISSION'S MINIMUM FILING REQUIREMENTS.

6 ~~(c) To facilitate timely consideration of an application, the commission may initiate proceedings to~~
 7 ~~evaluate planning activities related to a potential investment in or acquisition or lease of a plant or equipment~~
 8 ~~used for the production of electricity prior to the default supplier's submission of an application for approval.~~

9 (3) (a) The commission may approve or deny, ~~in whole or in part,~~ an application for advanced approval
 10 of a potential investment in or acquisition or lease of a plant or equipment used for the production of electricity.

11 (b) The commission ~~may~~ SHALL consider all relevant information THAT IS known ~~up to~~ AND INCLUDED IN
 12 THE ADMINISTRATIVE RECORD AT the time that the administrative record in the proceeding is closed in the
 13 evaluation of an application for advanced approval ~~of a potential investment in or acquisition or lease of a plant~~
 14 ~~or equipment used for the production of electricity.~~

15 (c) A commission order granting advanced approval ~~of an investment in or acquisition or lease of a~~
 16 ~~plant or equipment used for the production of electricity~~ PURSUANT TO THIS SECTION must include the following
 17 findings:

18 (i) ~~advanced approval of all or part of the investment in or acquisition or lease of a plant or equipment~~
 19 ~~used for the production of electricity~~ SPECIFIC REVENUE REQUIREMENTS FOR ELECTRICAL ENERGY, CAPACITY, AND
 20 OTHER SERVICES, THE TERM OF THOSE COSTS, AND THE QUANTITY OF EACH SERVICE TO BE SUPPLIED BY THE PLANT OR
 21 EQUIPMENT SPECIFIED IN THE APPLICATION FOR ADVANCED APPROVAL is in the public interest;

22 (ii) the ~~investment or acquisition~~ APPLICATION resulted from a reasonable effort by the default supplier
 23 to comply with the objectives in 69-8-419 and the rules adopted pursuant to 69-8-419; and

24 (iii) ~~the investment in or acquisition or lease of a plant or equipment used for the production of electricity~~
 25 ~~would be used and useful in the provision of just and reasonable default supply service~~ THE SPECIFIC REVENUE
 26 REQUIREMENTS FOR ELECTRICAL ENERGY, CAPACITY, AND OTHER SERVICES, THE TERM OF THOSE COSTS, AND THE
 27 QUANTITY OF EACH SERVICE TO BE SUPPLIED BY THE PLANT OR EQUIPMENT SPECIFIED IN THE APPLICATION FOR ADVANCED
 28 APPROVAL ARE REASONABLE.

29 (d) The commission order may include other findings that the commission determines are necessary.

30 (e) A commission order that denies advanced approval must describe why the findings required in

1 subsection (3)(c) could not be reached.

2 (4) If the commission has issued an order containing the findings required under subsection (3)(c), the
3 commission may not subsequently disallow the recovery of ~~costs incurred under the investment or acquisition~~
4 ~~made by a public utility based on contrary findings~~ THE SPECIFIC REVENUE REQUIREMENTS FOR ELECTRICAL ENERGY,
5 CAPACITY, AND OTHER SERVICES DETERMINED TO BE REASONABLE IN THE COMMISSION'S ORDER.

6 ~~(5) If a default supplier does not apply for advanced approval of an investment in or acquisition or lease~~
7 ~~of a plant or equipment used for the production of electricity, the commission shall consider the prudence of the~~
8 ~~default supplier's investment, acquisition, or lease in the context of a default supplier's cost recovery filing~~
9 ~~pursuant to 69-8-210 or in a separate proceeding. The commission's decisions in these proceedings must be~~
10 ~~based on facts that were known or should reasonably have been known by the default supplier at the time of~~
11 ~~its investment, acquisition, or lease decisions.~~

12 ~~(6)~~(5) Nothing in this section limits the commission's ability to subsequently, in any future cost recovery
13 proceeding, inquire into the manner in which the default supplier has managed and operated a plant or
14 equipment used for the production of electricity as part of its overall portfolio. The commission may subsequently
15 disallow default supply costs that result from the failure of a default supplier to reasonably manage or operate
16 a plant or equipment used for the production of electricity in the context of its overall default supply portfolio
17 management and service obligations.

18 ~~(7)~~(6) The commission may engage independent consultants or advisory services to evaluate a public
19 utility's default supply resource procurement plans and proposed investment in or acquisition or lease of a plant
20 or equipment used for the production of electricity. The consultants must have demonstrated knowledge and
21 experience with electricity supply procurement and resource portfolio management, investments in or
22 acquisitions or leases of plants or equipment used for the production of electricity, modeling, and risk
23 management practices. The commission shall charge a fee to the default supplier to pay for the costs of
24 consultants or advisory services. These costs are recoverable in default supply rates.

25 (7) (A) IN ADOPTING RULES PURSUANT TO 69-8-419, THE COMMISSION SHALL ENSURE THAT THE DEFAULT
26 SUPPLIER DOES NOT UNFAIRLY FAVOR ITS OWN GENERATION OR LEASE PROPOSALS OVER ALTERNATIVE SUPPLY SOURCES.

27 (B) THE COMMISSION SHALL REVIEW DEFAULT SUPPLY PROCUREMENT BIDS IN ORDER TO ENSURE THAT THE
28 DEFAULT SUPPLIER DOES NOT UNFAIRLY FAVOR ITS OWN GENERATION OR LEASE PROPOSALS. THE COMMISSION MAY
29 PROTECT COST INFORMATION THAT A BIDDER TO SUPPLY ELECTRICITY FOR THE DEFAULT SUPPLY CONSIDERS
30 CONFIDENTIAL IF THE COMMISSION DETERMINES PROTECTION WOULD BE IN THE PUBLIC INTEREST.

1 (C) THE COMMISSION MAY, AS NECESSARY, REQUIRE THE DEFAULT SUPPLIER TO DEMONSTRATE THAT THE
2 REVENUE REQUIREMENT INCLUDED IN AN APPLICATION FOR ADVANCED APPROVAL REFLECTS A REASONABLE RETURN ON
3 THE ESTIMATED COSTS OF AN INVESTMENT IN OR THE LEASE OF A PLANT OR EQUIPMENT USED FOR THE PRODUCTION OF
4 ELECTRICITY.

5 (D) THE COMMISSION MAY PROTECT COST INFORMATION IN AN APPLICATION FOR ADVANCED APPROVAL THAT THE
6 DEFAULT SUPPLIER CONSIDERS CONFIDENTIAL IF THE COMMISSION DETERMINES PROTECTION WOULD BE IN THE PUBLIC
7 INTEREST.

8
9 NEW SECTION. Section 7. Codification instruction. [Section 6] is intended to be codified as an
10 integral part of Title 69, chapter 8, part 4, and the provisions of Title 69, chapter 8, part 4, apply to [section 6].

11

12 NEW SECTION. Section 8. Effective date. [This act] is effective on passage and approval.

13

- END -