

SENATE BILL NO. 225

INTRODUCED BY J. PRIEST

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING QUALIFYING SMALL POWER PRODUCTION FACILITY
5 LAWS; REQUIRING THE PUBLIC SERVICE COMMISSION TO SET RATES USING AVOIDED COST;
6 REQUIRING THE COMMISSION TO CONSIDER ELECTRICITY SUPPLY RESOURCE PROCUREMENT
7 PLANS AND INTEGRATED LEAST-COST RESOURCE PLANS WHEN CONSIDERING QUALIFYING SMALL
8 POWER PRODUCTION FACILITY APPLICATIONS; REQUIRING INTERCONNECTION AGREEMENTS TO BE
9 IN ACCORDANCE WITH FEDERAL SMALL GENERATOR INTERCONNECTION PROCEDURES; AMENDING
10 SECTIONS 69-3-601, 69-3-602, AND 69-3-604, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
11 AND AN APPLICABILITY DATE."

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

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15 NEW SECTION. Section 1. Interconnection requirements. Qualifying small power production facilities
16 shall interconnect in accordance with the requirements of the federal energy regulatory commission's small
17 generator interconnection procedures pursuant to 18 CFR, part 35, as incorporated in a transmission service
18 provider's open access transmission tariff.

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20 **Section 2.** Section 69-3-601, MCA, is amended to read:21 **"69-3-601. (Temporary) Definitions.** As used in this part, the following definitions apply:

22 (1) "Avoided cost" means the incremental costs, as determined by the commission, to an electric utility
23 of electric energy, capacity, or both, that, except for the purchase from the qualifying small power production
24 facility or facilities, the utility would generate itself or purchase from another source.

25 ~~(1)~~(2) "Commission" means the Montana public service commission.

26 ~~(2)~~(3) "Electric cooperative" means a rural electric cooperative organized under the laws of Montana,
27 or a foreign corporation admitted to do business in Montana.

28 (4) "Plan" means an electricity supply resource procurement plan submitted pursuant to 69-8-420 for a
29 utility that is subject to Title 69, chapter 8, or an integrated least-cost resource plan submitted pursuant to Title
30 69, chapter 3, part 12, for a utility that is exempt from Title 69, chapter 8.

1 ~~(3)~~(5) "Qualifying small power production facility" means a facility that:

2 (a) produces electricity by the use, as a primary energy source, of biomass, waste, water, wind, or other
3 renewable resource, or any combination of those sources; or

4 (b) produces electricity and useful forms of thermal energy, such as heat or steam, used for industrial,
5 commercial, heating, or cooling purposes through the sequential use of energy known as cogeneration; and

6 (c) has a power production capacity that together with any other facilities located at the same site is not
7 greater than 80 megawatts; and

8 (d) is owned by a person not primarily engaged in the generation or sale of electricity other than electric
9 power from a small power production facility.

10 (6) "Transmission facilities" means those facilities that are used to provide transmission services as
11 determined by the federal energy regulatory commission and the commission and that are controlled or operated
12 by a utility.

13 (7) "Transmission service provider" means a person controlling or operating transmission facilities.

14 ~~(4)~~(8) "Utility" means any public utility supplying electricity and regulated by the commission. (Repealed
15 on occurrence of contingency--secs. 1, 3, Ch. 284, L. 2003--see part compiler's comment.)"

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

18 **"69-3-602. (Temporary) Generation and sale of electricity by qualifying small power production**
19 **facility.** (1) A qualifying small power production facility may generate electricity from the sources described in
20 ~~69-3-601(3)(a) and (3)(b)~~ 69-3-601(5)(a) and (5)(b) and may contract for the sale of that electricity with a utility.

21 (2) A qualifying small power production facility may generate electricity from the sources described in
22 ~~69-3-601(3)(a) and (3)(b)~~ 69-3-601(5)(a) and (5)(b) and may contract for the sale of that electricity with an electric
23 cooperative under terms and conditions mutually agreed upon between the parties and in compliance with the
24 rates and regulations established by the Public Utility Regulatory Policies Act. (Repealed on occurrence of
25 contingency--secs. 1, 3, Ch. 284, L. 2003--see part compiler's comment.)"

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27 **Section 4.** Section 69-3-604, MCA, is amended to read:

28 **"69-3-604. (Temporary) Standards for determination of rates and conditions.** (1) The commission
29 shall determine the rates and conditions of the contract for the sale of electricity by a qualifying small power
30 production facility according to the standards in subsections (2) through ~~(5)~~ (4).

1 ~~———(2) Long-term contracts for the purchase of electricity by the utility from a qualifying small power~~
 2 ~~production facility shall be encouraged in order to enhance the economic feasibility of qualifying small power~~
 3 ~~production facilities.~~

4 ~~———(3)(2) The rates to be paid by a utility for electricity purchased from a qualifying small power production~~
 5 ~~facility shall~~ must be established with consideration of:

6 (a) the availability and reliability of the electricity produced;

7 (b) the requirements of 16 U.S.C. 824a-3 and of 18 CFR, part 292; and

8 (c) whether the small power production facility has attributes that meet the needs of a utility as outlined
 9 in the utility's plan.

10 ~~(4)(3) The commission may~~ shall set these rates ~~by use of any of the following methods:~~

11 ~~(a) using~~ the avoided cost over the term of the contract;

12 ~~———(b) the cost of production for the qualifying small power production facility plus a just and reasonable~~
 13 ~~return; or~~

14 ~~———(c) any other method that will promote the development of qualifying small power production facilities.~~

15 ~~(5)(4) The commission may adopt rules further defining the criteria for qualifying small power production~~
 16 ~~facilities, their cost-effectiveness, and other standards. (Repealed on occurrence of contingency--secs. 1, 3, Ch.~~
 17 ~~284, L. 2003--see part compiler's comment.)"~~

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 19 NEW SECTION. Section 5. Codification instruction. [Section 1] is intended to be codified as an
 20 integral part of Title 69, chapter 3, part 6, and the provisions of Title 69, chapter 3, part 6, apply to [section 1].

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 22 NEW SECTION. Section 6. Saving clause. [This act] does not affect rights and duties that matured,
 23 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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 25 NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.

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 27 NEW SECTION. Section 8. Applicability. [This act] applies to contracts entered into and rates
 28 established or modified on or after [the effective date of this act].

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