

QUALIFYING SMALL POWER PRODUCTION FACILITIES (QF'S)

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:

In 1978, Congress enacted a National Energy Act, which included PURPA. PURPA, 16 U.S.C. 824a-3, establishes requirements for the purchase and sale of electric power between qualifying small power production facilities (QFs) and electric utilities under the regulation of the PSC.

In 1981, the Montana Legislature enacted QF laws, referred to as “mini-PURPA” and codified in Title 69, chapter 3, part 6. Montana law authorizes QFs to contract for the sale of electricity to regulated public utilities. Federal law requires all state-regulated utilities to purchase QF power offered by qualifying cogeneration and small power production facilities either at a freely negotiated rate or at a rate set by the Montana Public Service Commission (PSC). In Montana, there are close to 40 QFs with the collective capacity to produce on average about 160 megawatts of electricity annually.

Montana's PSC in the last five years issued several orders related to avoided-cost price for QFs. The issue of contract length also has been visited by the PSC on multiple occasions. Several recent decisions also have been challenged in District Court and appealed to Montana's Supreme Court. QF requirements in Montana continue to be controversial.

Legislative Services Division Materials:

[Qualifying Facilities in Montana: A Snapshot of QF Contracts and Policy](#)

Other Materials:

[Montana PSC Materials on solar contract decision](#)

[Montana Renewable Energy Association: QF Contract Terms](#)

Introduced Legislation

*Chapter number assigned means bill was passed and approved.

2019

[House Bill No. 22](#) -- (S) Died in Process -- AN ACT REVISING ELECTRICITY SUPPLY RESOURCE LAWS; REQUIRING THE PUBLIC SERVICE COMMISSION TO REQUIRE LONG-TERM CONTRACTS FOR THE PURCHASE OF ELECTRICITY BY A UTILITY FROM A QUALIFYING SMALL POWER PRODUCTION FACILITY; PROHIBITING THE PUBLIC SERVICE COMMISSION FROM SPECIFYING CONTRACT LENGTHS OR ECONOMIC LIVES FOR CERTAIN ELECTRICITY SUPPLY RESOURCES BASED ON QUALIFYING SMALL POWER PRODUCTION FACILITY CONTRACTS; AMENDING SECTIONS 69-3-601, 69-3-602, AND 69-3-604, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

[House Bill No. 42](#) -- (H) Died in Process -- AN ACT GENERALLY REVISING ELECTRICITY SUPPLY RESOURCE ACQUISITION REQUIREMENT LAWS; REQUIRING THE PUBLIC SERVICE COMMISSION TO REQUIRE LONG-TERM CONTRACTS FOR THE PURCHASE OF ELECTRICITY BY A UTILITY FROM A QUALIFYING SMALL POWER PRODUCTION FACILITY; DEFINING A LONG-TERM CONTRACT; ESTABLISHING A COMPETITIVE SOLICITATION PROCESS FOR PUBLIC UTILITIES; REQUIRING A PUBLIC UTILITY TO CONDUCT A COMPETITIVE SOLICITATION PROCESS APPROVED BY THE PUBLIC SERVICE COMMISSION TO ACQUIRE, CONSTRUCT, OR PURCHASE AN ELECTRICITY SUPPLY RESOURCE; ESTABLISHING THE REQUIREMENTS OF A COMPETITIVE SOLICITATION PROCESS; ESTABLISHING COMMISSION REQUIREMENTS FOR REVIEW AND APPROVAL OR REJECTION OF A COMPETITIVE SOLICITATION PROCESS; INCORPORATING COMPETITIVE SOLICITATION REQUIREMENTS INTO PLANNING PROCESSES; AMENDING SECTIONS 69-1-114, 69-3-601, 69-3-602, 69-3-604, 69-3-1202, 69-3-1204, 69-3-1206, 69-8-419, AND 69-8-421, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

[House Bill No. 511](#) -- (H) Died in Process -- AN ACT DEFINING "LONG-TERM" FOR THE PURPOSES OF UTILITY ENERGY PROCUREMENT AND CONTRACT LENGTH; AMENDING SECTIONS 69-3-601, 69-3-602, AND 69-3-2003, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

[House Bill No. 597](#) -- Chapter Number Assigned -- AN ACT GENERALLY REVISING LAWS RELATED TO UTILITY REGULATION; REVISING ENERGY RESOURCE PLANNING AND PROCUREMENT; REPEALING CERTAIN UTILITY ELECTRICITY SUPPLY RESOURCE PLANNING AND PROCUREMENT REQUIREMENTS; REQUIRING A PUBLIC UTILITY TO ESTABLISH AN ADVISORY COMMITTEE FOR RESOURCE PLANNING; ESTABLISHING A COMPETITIVE SOLICITATION PROCESS FOR PUBLIC UTILITIES; REQUIRING A PUBLIC UTILITY SEEKING APPROVAL TO ACQUIRE, CONSTRUCT, OR PURCHASE A RESOURCE TO CONDUCT A COMPETITIVE SOLICITATION PROCESS; ESTABLISHING THE REQUIREMENTS OF A COMPETITIVE SOLICITATION PROCESS; ALLOWING THE MONTANA CONSUMER COUNSEL TO REQUEST, SELECT,

AND RETAIN AN INDEPENDENT MONITOR FOR COMPETITIVE SOLICITATIONS; ALLOWING THE COMMISSION TO ESTABLISH ENERGY SAVINGS AND PEAK DEMAND REDUCTION GOALS; ALLOWING DEMAND-SIDE MANAGEMENT PROGRAMS TO BE INCLUDED IN UTILITY RATE PROCESSES; REQUIRING LEAST-COST RESOURCE PLANNING EVERY 3 YEARS; REVISING PUBLIC HEARING REQUIREMENTS FOR RESOURCE PLANS; REQUIRING UTILITIES TO HOLD PUBLIC MEETINGS WHEN DEVELOPING RESOURCE PLANS; ALLOWING THE COMMISSION TO ASSESS A FEE; ALLOWING FOR A HEARINGS EXAMINER FOR PROCEEDINGS UNDER TITLE 69; ESTABLISHING A PROCESS FOR USE OF A HEARINGS EXAMINER; GRANTING THE PUBLIC SERVICE COMMISSION RULEMAKING AUTHORITY; AMENDING SECTIONS 69-1-114, 69-3-702, 69-3-711, 69-3-712, 69-3-713, 69-3-1202, 69-3-1203, 69-3-1204, 69-3-1205, 69-3-1206, AND 69-8-421, MCA; REPEALING SECTIONS 69-8-419 AND 69-8-420, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

[Senate Bill No. 199](#) -- (H) Died in Standing Committee -- AN ACT PROHIBITING THE PUBLIC SERVICE COMMISSION FROM SPECIFYING CONTRACT LENGTHS OR ECONOMIC LIVES FOR CERTAIN ELECTRICITY SUPPLY RESOURCES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

2017

[Senate Bill No. 102](#) -- (H) Died in Standing Committee -- AN ACT LIMITING CONTRACTS BETWEEN A UTILITY AND A QUALIFYING SMALL POWER PRODUCTION FACILITY TO A MAXIMUM 5-YEAR TERM; AMENDING SECTION 69-3-604, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

2015

[Senate Bill No. 327](#) -- Chapter Number Assigned -- AN ACT ESTABLISHING A DEADLINE FOR THE PUBLIC SERVICE COMMISSION TO ISSUE AN ORDER FOR RATE SCHEDULES FOR THE PURCHASE OF ELECTRICITY FROM A QUALIFYING SMALL POWER PRODUCTION FACILITY; AMENDING SECTION 69-3-603, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

2013

[House Bill No. 188](#) -- (H) Veto Override Failed in Legislature -- AN ACT REQUIRING THE PUBLIC SERVICE COMMISSION TO APPROVE RATE SCHEDULES FOR CERTAIN SMALL POWER PRODUCERS; PROHIBITING THE COMMISSION FROM APPROVING RATE SCHEDULES FOR CERTAIN SMALL POWER PRODUCERS; ESTABLISHING CERTAIN PARAMETERS FOR LONG-TERM CONTRACTS BETWEEN SMALL POWER PRODUCTION FACILITIES AND UTILITIES; GRANTING THE COMMISSION RULEMAKING AUTHORITY; AMENDING SECTION 69-3-603, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES.

[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

[Senate Bill No. 225](#) – (S) Veto Override Failed in Legislature -- AN ACT REVISING QUALIFYING SMALL POWER PRODUCTION FACILITY LAWS; REQUIRING THE PUBLIC SERVICE COMMISSION TO SET RATES USING AVOIDED COST; REQUIRING THE COMMISSION TO CONSIDER ELECTRICITY SUPPLY RESOURCE PROCUREMENT PLANS AND INTEGRATED LEAST-COST RESOURCE PLANS WHEN CONSIDERING QUALIFYING SMALL POWER PRODUCTION FACILITY APPLICATIONS; ESTABLISHING INTERCONNECTION REQUIREMENTS; AMENDING SECTIONS 69-3-601, 69-3-602, AND 69-3-604, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

[House Bill No. 92](#) – Chapter Number Assigned -- AN ACT REQUIRING THE PUBLIC SERVICE COMMISSION TO SET RATES FOR QUALIFYING SMALL POWER PRODUCTION FACILITIES USING AVOIDED COSTS OVER THE TERM OF THE CONTRACT; AMENDING SECTION 69-3-604, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

[House Bill No. 233](#) – Chapter Number Assigned -- AN ACT REQUIRING CERTAIN QUALIFYING SMALL POWER PRODUCTION FACILITIES TO ACCEPT A RATE SCHEDULE APPROVED BY THE PUBLIC SERVICE COMMISSION; EXTENDING THE TIME WITHIN WHICH THE PUBLIC SERVICE COMMISSION IS REQUIRED TO RENDER A DECISION; AMENDING SECTION 69-3-603, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

2009

[House Bill No. 491](#) – (H) Died in Standing Committee -- AN ACT GENERALLY REVISING SMALL POWER PRODUCTION LAWS; REQUIRING A UTILITY TO CONTRACT IN GOOD FAITH AND IN ACCORDANCE WITH FEDERAL REGULATIONS FOR THE PURCHASE OF ELECTRICITY FROM QUALIFYING SMALL POWER PRODUCTION FACILITIES; REQUIRING THE COMMISSION TO DETERMINE AVOIDED COSTS AND STANDARD RATES; PROVIDING PENALTIES FOR A UTILITY'S NONCOMPLIANCE WITH SMALL POWER PRODUCTION LAWS; REPEALING A PENDING REPEAL OF THE SMALL POWER PRODUCTION LAWS; AMENDING SECTIONS 69-3-601, 69-3-602, 69-3-603, AND 69-3-604, MCA; REPEALING CHAPTER 284, LAWS OF 2003; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

[Senate Bill No. 178](#) – (S) Died in Standing Committee -- AN ACT REQUIRING THE PUBLIC SERVICE COMMISSION TO CONSIDER DISPATCH ABILITY, GEOGRAPHIC DIVERSITY, AND SEASONALITY IN SETTING RATES FOR QUALIFYING SMALL POWER PRODUCTION FACILITIES; INCREASING THE TIME THE COMMISSION HAS TO ACT ON A PETITION; REQUIRING CONTRACTS WITH QUALIFYING SMALL POWER PRODUCTION FACILITIES TO INCLUDE RENEWABLE ENERGY CREDITS; AMENDING SECTIONS 69-3-601, 69-3-602, 69-3-603, AND 69-3-604, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

[Senate Bill No. 403](#) -- (S) Veto Override Failed in Legislature -- AN ACT INCREASING THE TIME THE PUBLIC SERVICE COMMISSION HAS TO ACT ON A PETITION FROM A UTILITY OR QUALIFYING SMALL POWER PRODUCTION FACILITY; ALLOWING ELECTRICITY FROM AN ELIGIBLE RENEWABLE RESOURCE PURCHASED BY A PUBLIC UTILITY FROM A QUALIFYING SMALL POWER PRODUCTION FACILITY TO BE USED TO OFFSET REQUIREMENTS OF THE RENEWABLE RESOURCE STANDARD; AMENDING SECTIONS 69-3-603 AND 69-3-2004, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, AN APPLICABILITY DATE, AND A CONTINGENT TERMINATION DATE.

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