

**Unofficial Draft Copy**

As of: August 17, 2004 (5:17pm)

LC0042

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the Energy and Telecommunications Interim Committee

A Bill for an Act entitled: "An Act requiring public service commission approval of an acquisition, transfer, or lease of a plant or equipment owned by a public utility; requiring that an order be issued within 180 days of application; and providing and authorizing exemptions."

Be it enacted by the Legislature of the State of Montana:

**NEW SECTION. Section 1. Commission approval of acquisition, transfer, or lease of public utility plant or equipment.** (1) (a) Except as provided in subsections (1)(b) and (1)(c), a plant or equipment that is owned by a public utility and that is used and useful to provide a utility service regulated under this title may not be acquired, transferred, or leased without the prior approval of the commission.

(b) The requirement for commission approval in this section does not apply to:

(i) an acquisition, transfer, or lease of a plant or equipment with a value less than 10% of the value of the public utility's used and useful plants or equipment in this state; or

(ii) an acquisition, transfer, or lease of a plant or equipment in the ordinary course of business. For purposes of this section, a transaction that results in a change in the ownership or control of a

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public utility that provides service to a customer in this state is not a transaction in the ordinary course of business.

(c) The commission may grant an exemption from the requirement for approval of an acquisition, transfer, or lease upon petition for good cause by the applicant or upon the commission's own motion.

(2) An acquisition or transfer subject to the requirements of this section includes any transaction that results in:

(a) a change in ownership or control of a majority of the voting capital stock of a public utility that owns a plant or equipment;

(b) a change in ownership or control of any entity that owns or controls a majority of the voting capital stock of a public utility that owns a plant or equipment; or

(c) any other change in ownership of a plant or equipment.

(3) The commission shall approve an acquisition, transfer, or lease of a plant or equipment if it finds that:

(a) the entity proposing to own or operate the plant or equipment is qualified to own or operate a public utility in compliance with the applicable provisions of this title;

(b) the proposed acquisition, transfer, or lease will not diminish the ability of the public utility to provide reasonably adequate and reliable public utility services at just and reasonable rates; and

(c) except when the commission determines that an increase in rates will be in the public interest, rates for providing service associated with the plant or equipment will not increase by reason of the acquisition, transfer, or lease.

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(4) The commission shall issue an order approving or disapproving an acquisition, transfer, or lease no later than 180 days after the filing of an application for approval. The applicant may waive this requirement.

(5) The commission may adopt rules to implement this section.

**NEW SECTION. Section 2. {standard} Codification instruction.**

[Section 1] is intended to be codified as an integral part of Title 69, chapter 3, part 1, and the provisions of Title 69, chapter 3, part 1, apply to [section 1].

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