

Unofficial Draft Copy

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

LC0045

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act clarifying the public service commission's existing authority to review and approve material affiliate transactions of regulated energy utilities; and providing an immediate effective date."

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

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 2], unless the context requires otherwise, the following definitions apply:

(1) "Affiliate transaction" means any transaction between the utility operations of a regulated energy utility and an affiliated company of the regulated energy utility.

(2) "Material affiliate transaction" means an affiliate transaction that is significant and excludes day to day affiliate transactions that do not have a potential impact on the financial stability of a regulated energy utility.

(3) "Regulated energy utility" means a public utility with more than 100 customers that owns distribution facilities for the distribution of electricity or natural gas to the public and that is regulated by the commission pursuant to Title 69.

NEW SECTION. **Section 2. Commission approval of affiliate**

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transactions. (1) In addition to the commission's existing regulatory authority under Title 69, and except as provided in subsection (3), a regulated energy utility may not enter into a material affiliate transaction without the review and approval of the commission.

(2) The commission may review and approve material affiliate transactions including:

(a) dividend payments from a regulated energy utility to a corporate parent company and the commission may limit dividend payments from a regulated energy utility to a corporate parent company if those payments would place the regulated energy utility's credit quality or property in jeopardy;

(b) inter-company loans or other extensions of credit or advances of working capital between a regulated energy utility and an affiliate interest if those activities would place the regulated energy utility's credit quality or property in jeopardy;

(c) the use of proceeds in security issuances for which the assets of the regulated energy utility are pledged; and

(d) external borrowing of a regulated energy utility with a term greater than 120 days if the utility's credit quality or property may be placed in jeopardy.

(3) A regulated energy utility may request and the commission may grant, on a case by case basis after notice and an opportunity for a hearing, forbearance from any or all of the provisions in this section.

NEW SECTION. **Section 3. {standard} Codification instruction.**

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[Sections 1 and 2] are intended to be codified as an integral part of Title 69, and the provisions of Title 69 apply to [sections 1 and 2].

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

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