

HOUSE BILL NO. 485

INTRODUCED BY A. WITTICH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING NET METERING LAWS; INCREASING THE
5 CAP ON NET METERING SYSTEMS; ALLOWING A CUSTOMER-GENERATOR PARTICIPATING IN NET
6 METERING TO CARRY FORWARD REMAINING UNUSED KILOWATT-HOUR CREDITS AND TO APPLY
7 EXCESS CREDITS TO SEPARATELY METERED ACCOUNTS; PROVIDING STIPULATIONS FOR APPLYING
8 EXCESS KILOWATT-HOUR CREDITS TO ADDITIONAL METERS; REQUIRING A UTILITY TO CONDUCT A
9 NET METERING STUDY; REQUIRING THE PUBLIC SERVICE COMMISSION TO REVIEW NET METERING
10 CLASSIFICATIONS UNDER CERTAIN CIRCUMSTANCES; ESTABLISHING TIMELINES; ALLOWING FOR A
11 FEE; GRANTING RULEMAKING; AMENDING SECTIONS 69-1-114, 69-1-402, 69-8-103, 69-8-602, AND
12 69-8-603, MCA; AND PROVIDING AN EFFECTIVE DATE AND A CONTINGENT EFFECTIVE DATE."

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

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16 **NEW SECTION. Section 1. Cost of service analysis -- commission consideration and rulemaking.**

17 (1) Before September 1, 2015, the commission shall require that a public utility:

- 18 (a) conduct a study of the cost of service of customer-generators, as defined in 69-8-103; and
- 19 (b) submit the study to the commission for the purpose of making determinations pursuant to subsection

20 (2).

21 (2) (a) Upon the submission of the study required pursuant to subsection (1), the commission shall
22 commence a proceeding pursuant to 69-3-306 to determine whether customer-generators should be served
23 under a separate classification of service. In the proceeding, the commission shall:

- 24 (i) consider all costs and benefits of net metering that are relevant for ratemaking considerations;
- 25 (ii) except as provided for in subsection (2)(b), issue an order within 270 days of the commencement of
26 the proceeding.

27 (b) The commission may extend the time for issuing an order for good cause.

28 (c) The commission may engage independent consultants or advisory services to evaluate a utility's cost
29 of service study.

30 (d) The commission shall charge a fee to the utility to pay for the costs of consultants or advisory



1 services. Costs are recoverable in rates.

2 (3) The commission may adopt rules necessary to establish the information required for inclusion in a
3 cost of service study conducted in accordance with subsection (1)(a).

4

5 **Section 2.** Section 69-1-114, MCA, is amended to read:

6 **"69-1-114. Fees.** (1) Each fee charged by the commission must be reasonable.

7 (2) Except for a fee assessed pursuant to 69-3-204(2), 69-8-421(10), [section 1(2)(d)], or 69-12-423(2),
8 a fee set by the commission may not exceed \$500.

9 (3) All fees collected by the department under 69-8-421(10) must be deposited in an account in the
10 special revenue fund. Funds in this account must be used as provided in 69-8-421(10).

11 (4) All fees collected by the department under [section 1(2)(d)] must be deposited in an account in the
12 special revenue fund. Funds in this account must be used as provided in [section 1]."

13

14 **Section 3.** Section 69-1-402, MCA, is amended to read:

15 **"69-1-402. Funding of department of public service regulation.** (1) All fees collected under this
16 section and any other fees, except as provided in 69-1-114(3) or (4), must be deposited in an account in the state
17 special revenue fund to the credit of the department. An appropriation to the department may consist of a base
18 appropriation for regular operating expenses and a contingency appropriation for expenses due to an
19 unanticipated caseload.

20 (2) In addition to all other licenses, fees, and taxes imposed by law, all regulated companies shall, within
21 30 days after the close of each calendar quarter, pay to the department of revenue a fee based on a percentage
22 of gross operating revenue reported pursuant to 69-1-223(2)(a), as determined by the department of revenue
23 under 69-1-403.

24 (3) The amount of money that may be raised by the fee on the regulated companies during a fiscal year
25 may not be increased, except as provided in 69-1-224(1)(c), from the amount appropriated to the department by
26 the legislature for that fiscal year, including both base and contingency appropriations. Any additional money
27 required for operation of the department must be obtained from other sources in a manner authorized by the
28 legislature."

29

30 **Section 4.** Section 69-8-103, MCA, is amended to read:

1 **"69-8-103. Definitions.** As used in this chapter, unless the context requires otherwise, the following
2 definitions apply:

3 (1) "Assignee" means any entity, including a corporation, partnership, board, trust, or financing vehicle,
4 to which a utility assigns, sells, or transfers, other than as security, all or a portion of the utility's interest in or right
5 to transition property. The term also includes an entity, corporation, public authority, partnership, trust, or
6 financing vehicle to which an assignee assigns, sells, or transfers, other than as security, the assignee's interest
7 in or right to transition property.

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

9 (3) "Carbon offset provider" means a qualified third-party entity that arranges for projects or actions that
10 either reduce carbon dioxide emissions or increase the absorption of carbon dioxide.

11 (4) "Cooperative utility" means:

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

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

14 (5) "Cost-effective carbon offsets" means any combination of certified actions that are taken to reduce
15 carbon dioxide emissions or that increase the absorption of carbon dioxide, which collectively do not increase
16 the cost of electricity produced annually on a per-megawatt-hour basis by more than 2.5%, including:

17 (a) actions undertaken by the applicant that reduce carbon dioxide emissions or that increase the
18 absorption of carbon dioxide from a facility or equipment used to generate electricity; or

19 (b) actions by a carbon offset provider on behalf of the applicant.

20 (6) "Customer-generator" means a user of a net metering system.

21 (7) "Distribution facilities" means those facilities by and through which electricity is received from
22 transmission facilities and distributed to a retail customer and that are controlled or operated by a utility.

23 (8) "Electricity supply costs" means the actual costs incurred in providing electricity supply service
24 through power purchase agreements, demand-side management, and energy efficiency programs, including but
25 not limited to:

26 (a) capacity costs;

27 (b) energy costs;

28 (c) fuel costs;

29 (d) ancillary service costs;

30 (e) transmission costs, including congestion and losses;

- 1 (f) planning and administrative costs; and
- 2 (g) any other costs directly related to the purchase of electricity and the management and provision of
- 3 power purchase agreements.
- 4 (9) "Electricity supply resource" means:
- 5 (a) contracts for electric capacity and generation;
- 6 (b) plants owned or leased by a utility or equipment used to generate electricity;
- 7 (c) customer load management and energy conservation programs; or
- 8 (d) other means of providing adequate, reliable service to customers, as determined by the commission.
- 9 (10) "Electricity supply service" means the provision of electricity supply and related services through
- 10 power purchase agreements, the acquisition and operation of electrical generation facilities, demand-side
- 11 management, and energy efficiency programs.
- 12 (11) "Financing order" means an order of the commission adopted in accordance with 69-8-503 that
- 13 authorizes the imposition and collection of fixed transition amounts and the issuance of transition bonds.
- 14 (12) (a) "Fixed transition amounts" means those nonbypassable rates or charges, including but not limited
- 15 to:
- 16 (i) distribution;
- 17 (ii) connection;
- 18 (iii) disconnection; and
- 19 (iv) termination rates and charges that are authorized by the commission in a financing order to permit
- 20 recovery of transition costs and the costs of recovering, reimbursing, financing, or refinancing the transition costs
- 21 and of acquiring transition property through a plan approved by the commission in the financing order, including
- 22 the costs of issuing, servicing, and retiring transition bonds.
- 23 (b) If requested by the utility in the utility's application for a financing order, fixed transition amounts must
- 24 include nonbypassable rates or charges to recover federal and state taxes in which the transition cost recovery
- 25 period is modified by the transactions approved in the financing order.
- 26 (13) "Generation assets cost of service" means a return on invested capital and all costs associated with
- 27 the acquisition, construction, administration, operation, and maintenance of a plant or equipment owned or leased
- 28 by a public utility and used for the production of electricity.
- 29 (14) "Interested person" means a retail electricity customer, the consumer counsel established in
- 30 5-15-201, the commission, or a utility.

1 (15) "Large customer" means, for universal system benefits programs purposes, a customer with an
2 individual load greater than a monthly average of 1,000 kilowatt demand in the previous calendar year for that
3 individual load.

4 (16) "Local governing body" means a local board of trustees of a rural electric cooperative.

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

7 (18) "Net metering" means measuring the difference between the electricity distributed to and the
8 electricity generated by a customer-generator that is fed back to the distribution system during the applicable
9 billing period.

10 (19) "Net metering system" means a facility for the production of electrical energy that:

11 (a) uses as its fuel solar, wind, or hydropower;

12 (b) has a generating capacity of not more than ~~50~~ 150 kilowatts;

13 (c) is located on the customer-generator's premises;

14 (d) operates in parallel with the utility's distribution facilities; and

15 (e) is intended primarily to offset part or all of the customer-generator's requirements for electricity.

16 (20) "Nonbypassable rates or charges" means rates or charges that are approved by the commission
17 and imposed on a customer to pay the customer's share of transition costs or universal system benefits programs
18 costs even if the customer has physically bypassed either the utility's transmission or distribution facilities.

19 (21) "Public utility" has the meaning of a public utility regulated by the commission pursuant to Title 69,
20 chapter 3, on May 2, 1997, including the public utility's successors or assignees.

21 (22) "Qualifying load" means, for payments and credits associated with universal system benefits
22 programs, all nonresidential demand-metered accounts of a large customer within the utility's service territory in
23 which the customer qualifies as a large customer.

24 (23) "Retail customer" means a customer that purchases electricity for residential, commercial, or
25 industrial end-use purposes and does not resell electricity to others.

26 (24) "Transition bondholder" means a holder of transition bonds, including trustees, collateral agents, and
27 other entities acting for the benefit of that bondholder.

28 (25) "Transition bonds" means any bond, debenture, note, interim certificate, collateral, trust certificate,
29 or other evidence of indebtedness or ownership issued by the board or other transition bonds issuer that is
30 secured by or payable from fixed transition amounts or transition property. Proceeds from transition bonds must

1 be used to recover, reimburse, finance, or refinance transition costs and to acquire transition property.

2 (26) "Transition charge" means a nonbypassable rate or charge to be imposed on a customer to pay the
3 customer's share of transition costs.

4 (27) "Transition cost recovery period" means the period beginning on July 1, 1998, and ending when a
5 utility customer does not have any liability for payment of transition costs.

6 (28) "Transition costs" means:

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

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

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

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

16 (iii) existing generation investments and supply commitments or other obligations incurred before May
17 2, 1997, and costs arising from these investments and commitments;

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

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

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

1 order and assignable under this chapter or assignable pursuant to a financing order is only a contract right.

2 (30) "Transmission facilities" means those facilities that are used to provide transmission services as
3 determined by the federal energy regulatory commission and the commission and that are controlled or operated
4 by a utility.

5 (31) "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on a
6 customer to pay the customer's share of universal system benefits programs costs.

7 (32) "Universal system benefits programs" means public purpose programs for:

8 (a) cost-effective local energy conservation;

9 (b) low-income customer weatherization;

10 (c) renewable resource projects and applications, including those that capture unique social and energy
11 system benefits or that provide transmission and distribution system benefits;

12 (d) research and development programs related to energy conservation and renewables;

13 (e) market transformation designed to encourage competitive markets for public purpose programs; and

14 (f) low-income energy assistance.

15 (33) "Utility" means any public utility or cooperative utility."
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17 **Section 5.** Section 69-8-602, MCA, is amended to read:

18 **"69-8-602. Utility net metering requirements.** A utility shall:

19 (1) allow net metering systems to be interconnected using a standard kilowatt-hour meter capable of
20 registering the flow of electricity in two directions; unless the commission determines, after appropriate notice and
21 opportunity for comment:

22 (a) that the use of additional metering equipment to monitor the flow of electricity in each direction is
23 necessary and appropriate for the interconnection of net metering systems, after taking into account the benefits
24 and costs of purchasing and installing additional metering equipment; ~~and~~

25 (b) how the costs of net metering are to be allocated between the customer-generator and the utility; and

26 (c) that a separate classification of service is necessary, after accounting for the costs and benefits of
27 net metering relevant to ratemaking in accordance with utility studies and commission analysis conducted in
28 accordance with [section 1]; and

29 (2) charge the customer-generator a minimum monthly fee that is the same as other customers of the
30 electric utility in the same rate class. The commission shall determine, after appropriate notice and opportunity

1 for comment if:

2 (a) the utility will incur direct costs associated with interconnecting or administering net metering systems
3 that exceed any offsetting benefits associated with these net metering systems; and

4 (b) public policy is best served by imposing these costs on the customer-generator, rather than allocating
5 these costs among the utility's entire customer base."

6

7 **Section 6.** Section 69-8-603, MCA, is amended to read:

8 **"69-8-603. Net energy measurement calculation.** Consistent with the other provisions of this part, the
9 net energy measurement must be calculated in the following manner:

10 (1) The public utility shall measure the net electricity produced or consumed during the billing period, in
11 accordance with normal metering practices.

12 (2) If the electricity supplied by the ~~electricity supplier~~ public utility exceeds the electricity generated by
13 the customer-generator and fed back to the ~~electricity supplier~~ public utility during the billing period, the
14 customer-generator must be billed for the net electricity supplied by the ~~electricity supplier~~ public utility, in
15 accordance with normal metering practices.

16 ~~(3) If electricity generated by the customer-generator exceeds the electricity supplied by the electricity
17 supplier, the customer-generator must be:~~

18 ~~—— (a) billed for the appropriate customer charges for that billing period, in accordance with 69-8-602; and~~

19 ~~—— (b) credited for the excess kilowatt hours generated during the billing period, with this kilowatt-hour credit
20 appearing on the bill for the following billing period.~~

21 (3) (a) Except as provided in subsection (3)(c) and in accordance with subsection (3)(e), at the end of
22 each monthly billing period a public utility shall carry over any excess kilowatt-hour credits earned by the
23 customer-generator and apply those credits to the bill for any of the customer-generator's separately metered
24 accounts. Separately metered accounts may include a utility account for a corporation of which the
25 customer-generator is an owner.

26 (b) A separately metered account must be for:

27 (i) a location on the customer-generator's contiguous or abutting property; and

28 (ii) electricity used only for the customer-generator's requirements as measured for that location.

29 (c) Excess kilowatt-hour credits may not reduce minimum monthly fees imposed by the public utility in
30 accordance with 69-8-602(2).

