

HOUSE BILL NO. 294

INTRODUCED BY B. SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PUBLIC UTILITIES TO ALLOW NET METERING; PROVIDING EXCEPTIONS; AMENDING SECTIONS 15-32-402, 69-8-103, 69-8-602, 69-8-603, AND 75-25-101, MCA; 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 this part, unless the context requires otherwise, the following definitions apply:

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

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

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

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

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

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

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

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

(4) (a) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter 3, on [the effective date of this act], including the public utility's successors or assignees.

(b) The term does not include a:

(i) net metering facility;

(ii) customer-generator; or

(iii) public utility that served 50 or fewer retail customers in Montana on December 31, 2012.

Section 2. Section 15-32-402, MCA, is amended to read:

"15-32-402. Commercial or net metering system investment credit -- alternative energy systems.

(1) An individual, corporation, partnership, or small business corporation as defined in 15-30-3301 that makes

1 an investment of \$5,000 or more in property that is depreciable under the Internal Revenue Code for a
2 commercial system or a net metering system, as defined in ~~69-8-103~~ [section 1], that is located in Montana and
3 that generates energy by means of an alternative renewable energy source, as defined in 15-6-225, is entitled
4 to a tax credit against taxes imposed by 15-30-2103 or 15-31-121 in an amount equal to 35% of the eligible costs,
5 to be taken as a credit only against taxes due as a consequence of taxable or net income produced by one of
6 the following:

7 (a) manufacturing plants located in Montana that produce alternative energy generating equipment;
8 (b) a new business facility or the expanded portion of an existing business facility for which the
9 alternative energy generating equipment supplies, on a direct contract sales basis, the basic energy needed; or
10 (c) the alternative energy generating equipment in which the investment for which a credit is being
11 claimed was made.

12 (2) For purposes of determining the amount of the tax credit that may be claimed under subsection (1),
13 eligible costs include only those expenditures that are associated with the purchase, installation, or upgrading
14 of:

15 (a) generating equipment;
16 (b) safety devices and storage components;
17 (c) transmission lines necessary to connect with existing transmission facilities; and
18 (d) transmission lines necessary to connect directly to the purchaser of the electricity when no other
19 transmission facilities are available.

20 (3) Eligible costs under subsection (2) must be reduced by the amount of any grants provided by the
21 state or federal government for the system."

22
23 **Section 3.** Section 69-8-103, MCA, is amended to read:

24 **"69-8-103. Definitions.** As used in this chapter, unless the context requires otherwise, the following
25 definitions apply:

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

- 1 (2) "Board" means the board of investments created by 2-15-1808.
- 2 (3) "Carbon offset provider" means a qualified third-party entity that arranges for projects or actions that
3 either reduce carbon dioxide emissions or increase the absorption of carbon dioxide.
- 4 (4) "Cooperative utility" means:
- 5 (a) a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18; or
- 6 (b) an existing municipal electric utility as of May 2, 1997.
- 7 (5) "Cost-effective carbon offsets" means any combination of certified actions that are taken to reduce
8 carbon dioxide emissions or that increase the absorption of carbon dioxide, which collectively do not increase
9 the cost of electricity produced annually on a per-megawatt-hour basis by more than 2.5%, including:
- 10 (a) actions undertaken by the applicant that reduce carbon dioxide emissions or that increase the
11 absorption of carbon dioxide from a facility or equipment used to generate electricity; or
- 12 (b) actions by a carbon offset provider on behalf of the applicant.
- 13 ~~(6) "Customer-generator" means a user of a net metering system.~~
- 14 ~~(7)~~(6) "Distribution facilities" means those facilities by and through which electricity is received from
15 transmission facilities and distributed to a retail customer and that are controlled or operated by a utility.
- 16 ~~(8)~~(7) "Electricity supply costs" means the actual costs incurred in providing electricity supply service
17 through power purchase agreements, demand-side management, and energy efficiency programs, including but
18 not limited to:
- 19 (a) capacity costs;
- 20 (b) energy costs;
- 21 (c) fuel costs;
- 22 (d) ancillary service costs;
- 23 (e) transmission costs, including congestion and losses;
- 24 (f) planning and administrative costs; and
- 25 (g) any other costs directly related to the purchase of electricity and the management and provision of
26 power purchase agreements.
- 27 ~~(9)~~(8) "Electricity supply resource" means:
- 28 (a) contracts for electric capacity and generation;
- 29 (b) plants owned or leased by a utility or equipment used to generate electricity;
- 30 (c) customer load management and energy conservation programs; or

1 (d) other means of providing adequate, reliable service to customers, as determined by the commission.

2 ~~(10)~~(9) "Electricity supply service" means the provision of electricity supply and related services through
3 power purchase agreements, the acquisition and operation of electrical generation facilities, demand-side
4 management, and energy efficiency programs.

5 ~~(11)~~(10) "Financing order" means an order of the commission adopted in accordance with 69-8-503 that
6 authorizes the imposition and collection of fixed transition amounts and the issuance of transition bonds.

7 ~~(12)~~(11) (a) "Fixed transition amounts" means those nonbypassable rates or charges, including but not
8 limited to:

9 (i) distribution;

10 (ii) connection;

11 (iii) disconnection; and

12 (iv) termination rates and charges that are authorized by the commission in a financing order to permit
13 recovery of transition costs and the costs of recovering, reimbursing, financing, or refinancing the transition costs
14 and of acquiring transition property through a plan approved by the commission in the financing order, including
15 the costs of issuing, servicing, and retiring transition bonds.

16 (b) If requested by the utility in the utility's application for a financing order, fixed transition amounts must
17 include nonbypassable rates or charges to recover federal and state taxes in which the transition cost recovery
18 period is modified by the transactions approved in the financing order.

19 ~~(13)~~(12) "Generation assets cost of service" means a return on invested capital and all costs associated
20 with the acquisition, construction, administration, operation, and maintenance of a plant or equipment owned or
21 leased by a public utility and used for the production of electricity.

22 ~~(14)~~(13) "Interested person" means a retail electricity customer, the consumer counsel established in
23 5-15-201, the commission, or a utility.

24 ~~(15)~~(14) "Large customer" means, for universal system benefits programs purposes, a customer with an
25 individual load greater than a monthly average of 1,000 kilowatt demand in the previous calendar year for that
26 individual load.

27 ~~(16)~~(15) "Local governing body" means a local board of trustees of a rural electric cooperative.

28 ~~(17)~~(16) "Low-income customer" means those energy consumer households and families with incomes
29 at or below industry-recognized levels that qualify those consumers for low-income energy-related assistance.

30 ~~(18)~~ "Net metering" means measuring the difference between the electricity distributed to and the

1 ~~electricity generated by a customer-generator that is fed back to the distribution system during the applicable~~
 2 ~~billing period:~~

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

4 ~~—— (a) uses as its fuel solar, wind, or hydropower;~~

5 ~~—— (b) has a generating capacity of not more than 50 kilowatts;~~

6 ~~—— (c) is located on the customer-generator's premises;~~

7 ~~—— (d) operates in parallel with the utility's distribution facilities; and~~

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

9 ~~(20)(17) "Nonbypassable rates or charges" means rates or charges that are approved by the commission~~
 10 ~~and imposed on a customer to pay the customer's share of transition costs or universal system benefits programs~~
 11 ~~costs even if the customer has physically bypassed either the utility's transmission or distribution facilities.~~

12 ~~(21)(18) "Public utility" has the meaning of a public utility regulated by the commission pursuant to Title~~
 13 ~~69, chapter 3, on May 2, 1997, including the public utility's successors or assignees.~~

14 ~~(22)(19) "Qualifying load" means, for payments and credits associated with universal system benefits~~
 15 ~~programs, all nonresidential demand-metered accounts of a large customer within the utility's service territory in~~
 16 ~~which the customer qualifies as a large customer.~~

17 ~~(23)(20) "Retail customer" means a customer that purchases electricity for residential, commercial, or~~
 18 ~~industrial end-use purposes and does not resell electricity to others.~~

19 ~~(24)(21) "Transition bondholder" means a holder of transition bonds, including trustees, collateral agents,~~
 20 ~~and other entities acting for the benefit of that bondholder.~~

21 ~~(25)(22) "Transition bonds" means any bond, debenture, note, interim certificate, collateral, trust~~
 22 ~~certificate, or other evidence of indebtedness or ownership issued by the board or other transition bonds issuer~~
 23 ~~that is secured by or payable from fixed transition amounts or transition property. Proceeds from transition bonds~~
 24 ~~must be used to recover, reimburse, finance, or refinance transition costs and to acquire transition property.~~

25 ~~(26)(23) "Transition charge" means a nonbypassable rate or charge to be imposed on a customer to pay~~
 26 ~~the customer's share of transition costs.~~

27 ~~(27)(24) "Transition cost recovery period" means the period beginning on July 1, 1998, and ending when~~
 28 ~~a utility customer does not have any liability for payment of transition costs.~~

29 ~~(28)(25) "Transition costs" means:~~

30 ~~(a) a public utility's net verifiable generation-related and electricity supply costs, including costs of capital,~~

1 that become unrecoverable as a result of the implementation of federal law requiring retail open access or
2 customer choice or of this chapter;

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

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

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

9 (iii) existing generation investments and supply commitments or other obligations incurred before May
10 2, 1997, and costs arising from these investments and commitments;

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

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

16 ~~(29)~~(26) "Transition property" means the property right created by a financing order, including without
17 limitation the right, title, and interest of a utility, assignee, or other issuer of transition bonds to all revenue,
18 collections, claims, payments, money, or proceeds of or arising from or constituting fixed transition amounts that
19 are the subject of a financing order, including those nonbypassable rates and other charges and fixed transition
20 amounts that are authorized by the commission in the financing order to recover transition costs and the costs
21 of recovering, reimbursing, financing, or refinancing the transition costs and acquiring transition property,
22 including the costs of issuing, servicing, and retiring transition bonds. Any right that a utility has in the transition
23 property before the utility's sale or transfer or any other right created under this section or created in the financing
24 order and assignable under this chapter or assignable pursuant to a financing order is only a contract right.

25 ~~(30)~~(27) "Transmission facilities" means those facilities that are used to provide transmission services
26 as determined by the federal energy regulatory commission and the commission and that are controlled or
27 operated by a utility.

28 ~~(34)~~(28) "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on
29 a customer to pay the customer's share of universal system benefits programs costs.

30 ~~(32)~~(29) "Universal system benefits programs" means public purpose programs for:

- 1 (a) cost-effective local energy conservation;
- 2 (b) low-income customer weatherization;
- 3 (c) renewable resource projects and applications, including those that capture unique social and energy
- 4 system benefits or that provide transmission and distribution system benefits;
- 5 (d) research and development programs related to energy conservation and renewables;
- 6 (e) market transformation designed to encourage competitive markets for public purpose programs; and
- 7 (f) low-income energy assistance.

8 ~~(33)~~(30) "Utility" means any public utility or cooperative utility."

9

10 **Section 4.** Section 69-8-602, MCA, is amended to read:

11 **"69-8-602. Utility net metering requirements.** A public utility shall:

12 (1) allow net metering systems to be interconnected using a standard kilowatt-hour meter capable of

13 registering the flow of electricity in two directions, unless the commission determines, after appropriate notice and

14 opportunity for comment:

15 (a) that the use of additional metering equipment to monitor the flow of electricity in each direction is

16 necessary and appropriate for the interconnection of net metering systems, after taking into account the benefits

17 and costs of purchasing and installing additional metering equipment; and

18 (b) how the costs of net metering are to be allocated between the customer-generator and the public

19 utility; and

20 (2) charge the customer-generator a minimum monthly fee that is the same as other customers of the

21 ~~electric~~ public utility in the same rate class. The commission shall determine, after appropriate notice and

22 opportunity for comment, if:

23 (a) the public utility will incur direct costs associated with interconnecting or administering net metering

24 systems that exceed any offsetting benefits associated with these net metering systems; and

25 (b) public policy is best served by imposing these costs on the customer-generator, rather than allocating

26 these costs among the public utility's entire customer base."

27

28 **Section 5.** Section 69-8-603, MCA, is amended to read:

29 **"69-8-603. Net energy measurement calculation.** Consistent with the other provisions of this part, the

30 net energy measurement must be calculated in the following manner:

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

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

7 (3) If electricity generated by the customer-generator exceeds the electricity supplied by the ~~electricity~~
8 ~~supplier~~ public utility, the customer-generator must be:

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

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

12 (4) On January 1, April 1, July 1, or October 1 of each year, as designated by the customer-generator
13 as the beginning date of a 12-month billing period, any remaining unused kilowatt-hour credit accumulated during
14 the previous 12 months must be granted to the electricity supplier, without any compensation to the
15 customer-generator."

16

17 **Section 6.** Section 75-25-101, MCA, is amended to read:

18 **"75-25-101. Alternative energy revolving loan account.** (1) There is a special revenue account called
19 the alternative energy revolving loan account to the credit of the department of environmental quality.

20 (2) The alternative energy revolving loan account consists of money deposited into the account from air
21 quality penalties from 75-2-401 and 75-2-413 and money from any other source. Any interest earned by the
22 account and any interest that is generated from a loan repayment must be deposited into the account and used
23 to sustain the program.

24 (3) Funds from the alternative energy revolving loan account may be used to provide loans to individuals,
25 small businesses, units of local government, units of the university system, and nonprofit organizations for the
26 purpose of building alternative energy systems, as defined in 15-32-102:

27 (a) to generate energy for their own use;

28 (b) for net metering as defined in ~~69-8-103~~ [section 1]; and

29 (c) for capital investments by those entities for energy conservation purposes, as defined in 15-32-102,
30 when done in conjunction with an alternative energy system.

1 (4) The amount of a loan may not exceed \$40,000, and the loan must be repaid within 10 years."
2

3 **NEW SECTION. Section 7. Directions to code commissioner.** The code commissioner is instructed
4 to renumber sections currently in Title 69, chapter 8, part 6, into a new part in Title 69, chapter 3.
5

6 **NEW SECTION. Section 8. Codification instruction -- instructions to code commissioner.** (1)
7 [Section 1] is intended to be codified as an integral part of Title 69, chapter 3, and the provisions of Title 69,
8 chapter 3, apply to [section 1].

9 (2) The sections currently in Title 69, chapter 8, part 6, are intended to be renumbered and codified with
10 [section 1] as an integral new part of Title 69, chapter 3.
11

12 **NEW SECTION. Section 9. Saving clause.** [This act] does not affect rights and duties that matured,
13 penalties that were incurred, or proceedings that were begun before [the effective date of this act].
14

15 **NEW SECTION. Section 10. Effective date.** [This act] is effective on passage and approval.
16

- END -