

HOUSE BILL NO. 219

INTRODUCED BY Z. BROWN, D. ZOLNIKOV

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING NET METERING LAWS; REQUIRING THE PUBLIC
5 SERVICE COMMISSION TO REVIEW NET METERING RATE CLASSIFICATIONS ~~UNDER CERTAIN~~
6 ~~CIRCUMSTANCES~~; ALLOWING THE COMMISSION TO REQUIRE SEPARATE METERING; REQUIRING A
7 UTILITY TO CONDUCT A COST-BENEFIT STUDY; ALLOWING ~~THE COMMISSION TO CHARGE A FEE~~;
8 ~~ESTABLISHING TIMELINES~~ A UTILITY TO RECOVER COSTS; ALLOWING FOR A NEW SERVICE
9 CLASSIFICATION; GRANTING RULEMAKING; GRANDFATHERING EXISTING CUSTOMER-GENERATOR
10 RATES; AMENDING SECTIONS ~~69-1-114, 69-1-402~~, 69-3-306, 69-8-602, AND 69-8-603, MCA; AND
11 PROVIDING AN IMMEDIATE EFFECTIVE ~~DATE~~ DATES."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 ~~NEW SECTION. Section 1. Cost-benefit analysis trigger -- rulemaking.~~ (1) In accordance with
16 subsection (3), when the estimated production of net metering systems interconnected with a public utility
17 exceeds 1% of that public utility's retail sales of electricity or if production has not exceeded 1% but the
18 commission determines it is in the public interest, the commission shall commence a proceeding to determine
19 if customer-generators should be served under a separate classification of service.
20 (2) (a) After [the effective date of this act] the commission may adopt rules necessary to:
21 (i) establish the information required for inclusion in a cost-benefit study conducted by a public utility in
22 accordance with subsection (3); and
23 (ii) establish a methodology to estimate a public utility's net metering production for the purposes of
24 implementing the 1% trigger in accordance with subsection (1).
25 (b) The commission shall adopt rules in accordance with the Montana Administrative Procedure Act
26 provided for in Title 2, chapter 4, to implement the provisions of this section.
27 (3) The commission, prior to making a determination in accordance with subsection (1), shall require that
28 a public utility:
29 (a) conduct a study of the costs and benefits of customer-generators; and
30 (b) submit the study to the commission for the purpose of making determinations pursuant to subsection

1 ~~(1):~~

2 ~~———— (4) In the proceeding, the commission may engage independent consultants or advisory services to~~
 3 ~~evaluate a utility's cost-benefit study.~~

4 ~~———— (5) The commission shall charge a fee to the public utility to pay for the costs of consultants or advisory~~
 5 ~~services. Costs are recoverable in rates.~~

6
 7 **NEW SECTION. SECTION 1. COST-BENEFIT ANALYSIS.** (1) BEFORE APRIL 1, 2018, A PUBLIC UTILITY SHALL:

8 (A) CONDUCT A STUDY OF THE COSTS AND BENEFITS OF CUSTOMER-GENERATORS AS DEFINED IN 69-8-103; AND

9 (B) SUBMIT THE STUDY TO THE COMMISSION FOR THE PURPOSE OF MAKING DETERMINATIONS IN ACCORDANCE
 10 WITH A PUBLIC UTILITY'S GENERAL RATE CASE PURSUANT TO [SECTION 2].

11 (2) THE UTILITY MAY ENGAGE INDEPENDENT CONSULTANTS OR ADVISORY SERVICES TO COMPLETE A
 12 COST-BENEFIT STUDY. COSTS ARE RECOVERABLE IN RATES.

13 (3) AFTER [THE EFFECTIVE DATE OF THIS SECTION] THE COMMISSION MAY ESTABLISH MINIMUM INFORMATION
 14 REQUIRED FOR INCLUSION IN A STUDY CONDUCTED BY A PUBLIC UTILITY IN ACCORDANCE WITH SUBSECTION (1)(A).

15
 16 **NEW SECTION. Section 2. Classification of service -- net metering customers.** (1) After a
 17 ~~proceeding~~ STUDY is completed in accordance with [section 1] and subject to ~~subsection (2)~~ SUBSECTIONS (2) AND
 18 (4) of this section, if the commission finds that customer-generators should be served under a separate
 19 classification of service AS PART OF A PUBLIC UTILITY'S GENERAL RATE CASE, it shall establish appropriate
 20 classifications and rates based on the commission's findings relative to:

21 (a) the ~~value~~ UTILITY SYSTEM BENEFITS of the net metering ~~system~~ RESOURCE; and

22 (b) the cost to provide service to customer-generators.

23 (2) The commission may, based on differences between net metering systems, establish
 24 subclassifications and rates AS PART OF A PUBLIC UTILITY'S GENERAL RATE CASE.

25 (3) The commission may approve separate rates for customer-generators' production and consumption
 26 and require separate metering subject to 69-8-602 if it finds it is in the public interest AND AS PART OF A PUBLIC
 27 UTILITY'S GENERAL RATE CASE.

28 (4) IF A PUBLIC UTILITY FILES A GENERAL RATE CASE IN ACCORDANCE WITH TITLE 69, CHAPTER 3, THE GENERAL
 29 RATE CASE MUST INCLUDE THE STUDY REQUIRED IN ACCORDANCE WITH [SECTION 1] AND BE USED BY THE COMMISSION
 30 TO MEET THE REQUIREMENTS OF THE REVIEW OF CLASSIFICATIONS OF SERVICE REQUIRED IN THIS SECTION.

1
 2 **NEW SECTION. Section 3. New classifications of service -- grandfather clause.** (1) Except as
 3 provided in subsection (2), if the commission approves new classifications of service for customer-generators in
 4 accordance with [section 2], the new classifications apply only to customer-generators interconnecting net
 5 metering systems on or after the date on which the commission adopts a final order implementing the new
 6 classifications.

7 (2) (a) A customer-generator that interconnects a net metering system prior to commission approval of
 8 new classifications of service for customer-generators may accept service under the new classifications of service
 9 at any time.

10 (b) After accepting service under a new classification of service, the customer-generator may not return
 11 to its original classification of service.

12
 13 ~~Section 4. Section 69-1-114, MCA, is amended to read:~~

14 ~~"69-1-114. Fees. (1) Each fee charged by the commission must be reasonable.~~
 15 ~~(2) Except for a fee assessed pursuant to 69-3-204(2), 69-8-421(10), [section 1(5)], or 69-12-423(2), a~~
 16 ~~fee set by the commission may not exceed \$500.~~

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

19 ~~(4) All fees collected by the department under [section 1(5)] must be deposited in an account in the~~
 20 ~~special revenue fund. Funds in this account must be used as provided in [section 1]."~~

21
 22 ~~Section 5. Section 69-1-402, MCA, is amended to read:~~

23 ~~"69-1-402. Funding of department of public service regulation. (1) All fees collected under this~~
 24 ~~section and any other fees, except as provided in 69-1-114(3) or (4), must be deposited in an account in the state~~
 25 ~~special revenue fund to the credit of the department. An appropriation to the department may consist of a base~~
 26 ~~appropriation for regular operating expenses and a contingency appropriation for expenses due to an~~
 27 ~~unanticipated caseload.~~

28 ~~(2) In addition to all other licenses, fees, and taxes imposed by law, all regulated companies shall, within~~
 29 ~~30 days after the close of each calendar quarter, pay to the department of revenue a fee based on a percentage~~
 30 ~~of gross operating revenue reported pursuant to 69-1-223(2)(a), as determined by the department of revenue~~

1 under 69-1-403:

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

7

8 **Section 4.** Section 69-3-306, MCA, is amended to read:

9 **"69-3-306. Classification of service.** (1) ~~The~~ Except as provided in subsection (3), the commission may
 10 prescribe classifications of the service of all public utilities. ~~Such classifications~~ Classifications may take into
 11 account the quantity used, the time when used, and any other reasonable consideration. ~~Each~~ A public utility is
 12 required to conform its schedule of rates, tolls, and charges to ~~such~~ the classifications.

13 (2) The commission shall prescribe a declining block rate structure OR A STRUCTURE APPROPRIATE TO
 14 CUSTOMER-GENERATORS for electric service, when cost-justified.

15 (3) Classifications of service for customer-generators must be determined in accordance with Title 69,
 16 chapter 8, part 6."

17

18 **Section 5.** Section 69-8-602, MCA, is amended to read:

19 **"69-8-602. Utility net metering requirements.** (1) A utility shall:

20 ~~———(1) allow net metering systems to be interconnected using a standard kilowatt-hour meter capable of~~
 21 ~~registering the flow of electricity in two directions, unless,~~

22 (2) (a) If the commission determines, after appropriate notice and opportunity for comment,

23 ~~———(a) that the use of additional metering equipment to monitor the flow of electricity in each direction is~~
 24 ~~necessary and appropriate for the interconnection of net metering systems, the commission may establish~~
 25 ~~additional metering equipment requirements.~~

26 (b) The commission shall after taking into account consider the benefits and costs to a public utility and
 27 a customer-generator of purchasing and installing additional metering equipment; and

28 ~~(b) how the costs of additional net metering equipment are to be allocated between the~~
 29 ~~customer-generator and the public utility; and,~~

30 ~~(2)(3) (a) The commission shall charge the customer-generator a minimum monthly fee that is the same~~

1 ~~as other customers of the electric utility in the same rate class~~ AN APPROPRIATE RATE PURSUANT TO 69-3-306.

2 ~~(b) The Notwithstanding [sections 1 through 3], if the commission shall determine~~ determines, after
3 appropriate notice and opportunity for comment, if:

4 ~~(a) the that a public utility will incur~~ is incurring direct costs associated with interconnecting or
5 administering net metering systems that exceed any offsetting benefits associated with these net metering
6 systems, ~~and~~

7 ~~public policy is best served by imposing~~ the commission may impose these costs on the
8 customer-generator, rather than allocating these costs among the public utility's entire customer base."
9

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

11 **"69-8-603. Net energy measurement calculation.** Consistent with the other provisions of this part, and
12 except as provided in [section 2(3)], the net energy measurement must be calculated in the following manner:

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

15 (2) If the electricity supplied by the ~~electricity supplier~~ public utility exceeds the electricity generated by
16 the customer-generator and fed back to the ~~electricity supplier~~ public utility during the billing period, the
17 customer-generator must be billed for the net electricity supplied by the ~~electricity supplier~~ public utility and billed
18 for AT the appropriate customer charges RATE PURSUANT TO 69-3-306, in accordance with ~~normal metering~~
19 practices 69-8-602 and [sections 1 through 3].

20 (3) ~~If Subject to 69-8-602 and [sections 1 through 3], if~~ electricity generated by the customer-generator
21 exceeds the electricity supplied by the ~~electricity supplier~~ public utility, the customer-generator must be:

22 (a) billed for AT the appropriate customer charges RATE PURSUANT TO 69-3-306 for that billing period, ~~in~~
23 ~~accordance with 69-8-602;~~ and

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

26 (4) On January 1, April 1, July 1, or October 1 of each year, as designated by the customer-generator
27 as the beginning date of a 12-month billing period, any remaining unused kilowatt-hour credit accumulated during
28 the previous 12 months must be granted to the ~~electricity supplier~~ public utility, without any compensation to the
29 customer-generator."
30

1 NEW SECTION. Section 7. Codification instruction. [Sections 1 through 3] are intended to be codified
 2 as an integral part of Title 69, chapter 8, part 6, and the provisions of Title 69, chapter 8, part 6, apply to [sections
 3 1 through 3].

4

5 ~~NEW SECTION. Section 10. Effective date.~~ [This act] is effective on passage and approval.

6

7 COORDINATION SECTION. SECTION 8. COORDINATION INSTRUCTION. IF BOTH SENATE BILL NO. 78 AND
 8 [THIS ACT] ARE PASSED AND APPROVED, THEN SENATE BILL NO. 78 IS VOID.

9

10 COORDINATION SECTION. SECTION 9. COORDINATION INSTRUCTION. IF SENATE BILL NO. 12 IS NOT
 11 PASSED AND APPROVED AND IF BOTH SENATE BILL NO. 7 AND [THIS ACT] ARE PASSED AND APPROVED AND IF BOTH
 12 CONTAIN A SECTION THAT AMENDS 69-8-602, THEN:

13 (1) THE AMENDMENTS TO 69-8-602 IN SENATE BILL NO. 7 ARE EFFECTIVE ON PASSAGE AND APPROVAL OF
 14 SENATE BILL NO. 7 AND ARE VOID ON OCCURRENCE OF THE CONTINGENCY IN [SECTION 13 OF THIS ACT]; AND

15 (2) EFFECTIVE ON OCCURRENCE OF THE CONTINGENCY IN [SECTION 13], 69-8-602 MUST BE AMENDED AS
 16 FOLLOWS:

17 **"69-8-602. Utility Public utility net metering requirements.** (1) A public utility shall:

18 ~~———~~(1) allow net metering systems to be interconnected using a standard kilowatt-hour meter capable of
 19 registering the flow of electricity in two directions, ~~unless,~~

20 (2) (a) If the commission determines, after appropriate notice and opportunity for comment:

21 ~~———~~(a) that the use of additional metering equipment to monitor the flow of electricity in each direction is
 22 necessary and appropriate for the interconnection of net metering systems, the commission may establish
 23 additional metering equipment requirements.

24 (b) The commission shall ~~after taking into account~~ consider the benefits and costs to a public utility and
 25 a customer-generator of purchasing and installing additional metering equipment; and

26 (b) how the costs of additional net metering equipment are to be allocated between the
 27 customer-generator and the public utility; ~~and,~~

28 (2)(3) (a) The commission, in accordance with 69-8-601(2), shall charge the customer-generator a
 29 minimum monthly fee that is the same as other customers of the electric utility in the same rate class an
 30 appropriate rate pursuant to 69-3-306.

1 (b) ~~The Notwithstanding [sections 1 through 3 of HB 219], if the commission shall determine~~ determines,
2 after appropriate notice and opportunity for comment, if:

3 ~~(a) the that a public utility will incur~~ is incurring direct costs associated with interconnecting or
4 administering net metering systems that exceed any offsetting benefits associated with these net metering
5 systems, ~~and~~

6 ~~(b) public policy is best served by imposing~~ the commission may impose these costs on the
7 customer-generator, rather than allocating these costs among the public utility's entire customer base."
8

9 COORDINATION SECTION. SECTION 10. COORDINATION INSTRUCTION. IF SENATE BILL NO. 7 IS NOT
10 PASSED AND APPROVED AND IF BOTH SENATE BILL NO. 12 AND [THIS ACT] ARE PASSED AND APPROVED AND IF BOTH
11 CONTAIN A SECTION THAT AMENDS 69-8-602, THEN:

12 (1) THE AMENDMENTS TO 69-8-602 IN SENATE BILL NO. 12 ARE EFFECTIVE ON PASSAGE AND APPROVAL OF
13 SENATE BILL NO. 12 AND ARE VOID ON OCCURRENCE OF THE CONTINGENCY IN [SECTION 13 OF THIS ACT]; AND

14 (2) EFFECTIVE ON OCCURRENCE OF THE CONTINGENCY IN [SECTION 13], 69-8-602 MUST BE AMENDED AS
15 FOLLOWS:

16 **"69-8-602. Utility Public utility net metering requirements. (1) A public utility shall:**
17 ~~(1) allow net metering systems to be interconnected using a standard kilowatt-hour meter capable of~~
18 ~~registering the flow of electricity in two directions, unless the commission determines, after appropriate notice and~~
19 ~~opportunity for comment:~~

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

23 ~~(b) how the costs of net metering are to be allocated between the customer-generator and the utility; and~~
24 ~~makes a determination in accordance with 69-8-604 that alternative net metering equipment should be used.~~

25 (2) (a) ~~The commission shall charge the customer-generator a minimum monthly fee that is the same~~
26 ~~as other customers of the electric utility in the same rate class an appropriate rate pursuant to 69-3-306.~~

27 (b) ~~The Notwithstanding [sections 1 through 3 of HB 219], if the commission shall determine~~ determines,
28 after appropriate notice and opportunity for comment, if:

29 ~~(a) the that a public utility will incur~~ is incurring direct costs associated with interconnecting or
30 administering net metering systems that exceed any offsetting benefits associated with these net metering

1 systems, and

2 ~~—— (b) public policy is best served by imposing~~ the commission may impose these costs on the
3 customer-generator, rather than allocating these costs among the public utility's entire customer base."
4

5 COORDINATION SECTION. SECTION 11. COORDINATION INSTRUCTION. (1) IF SENATE BILL NO. 7, SENATE
6 BILL NO. 12, AND [THIS ACT] ARE ALL PASSED AND APPROVED AND CONTAIN SECTIONS THAT AMEND 69-8-602, THEN
7 EFFECTIVE ON PASSAGE AND APPROVAL OF [THIS ACT], 69-8-602 MUST BE AMENDED AS FOLLOWS:

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

9 (1) allow net metering systems to be interconnected using a standard kilowatt-hour meter capable of
10 registering the flow of electricity in two directions, unless the commission makes a determination in accordance
11 with 69-8-604(3) that alternative net metering equipment should be used ~~determines, after appropriate notice and~~
12 ~~opportunity for comment:~~

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

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

17 (2) charge the customer-generator a minimum monthly fee that is the same as other customers of the
18 electric public utility in the same rate class. The commission shall ~~determine, in accordance with 69-8-601(2) and~~
19 ~~after appropriate notice and opportunity for comment, determine~~ if:

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

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

24 (2) THE AMENDMENTS TO 69-8-602 IN SUBSECTION (1) OF THIS SECTION ARE VOID ON OCCURRENCE OF THE
25 CONTINGENCY IN [SECTION 13 OF THIS ACT].

26
27 COORDINATION SECTION. SECTION 12. COORDINATION INSTRUCTION. IF SENATE BILL NO. 7, SENATE BILL
28 NO. 12, AND [THIS ACT] ARE ALL PASSED AND APPROVED AND CONTAIN SECTIONS THAT AMEND 69-8-602, THEN EFFECTIVE
29 ON THE OCCURRENCE OF THE CONTINGENCY IN [SECTION 13 OF THIS ACT], 69-8-602 MUST BE AMENDED AS FOLLOWS:

30 **"69-8-602. Utility Public utility net metering requirements. (1)** A public utility shall:

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

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

7 ~~(b) how the costs of net metering are to be allocated between the customer-generator and the utility; and~~
 8 ~~makes a determination in accordance with 69-8-604 that alternative net metering equipment should be used.~~

9 ~~(2) (a) The commission, in accordance with 69-8-601(2), shall charge the customer-generator a minimum~~
 10 ~~monthly fee that is the same as other customers of the electric utility in the same rate class an appropriate rate~~
 11 ~~pursuant to 69-3-306.~~

12 ~~(b) The Notwithstanding [sections 1 through 3 of HB 219], if the commission shall determine determines,~~
 13 ~~after appropriate notice and opportunity for comment, if:~~

14 ~~_____ (a) the that a public utility will incur is incurring direct costs associated with interconnecting or~~
 15 ~~administering net metering systems that exceed any offsetting benefits associated with these net metering~~
 16 ~~systems, and~~

17 ~~_____ (b) public policy is best served by imposing the commission may impose these costs on the~~
 18 ~~customer-generator, rather than allocating these costs among the public utility's entire customer base."~~

19
 20 **NEW SECTION. SECTION 13. EFFECTIVE DATE -- CONTINGENCY -- CONTINGENT VOIDNESS. (1) EXCEPT AS**
 21 **PROVIDED IN SUBSECTION (2), [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.**

22 **(2) (A) [SECTIONS 5 AND, 6, 9(2), 10(2), AND 12] ARE EFFECTIVE ON THE DATE THAT THE PUBLIC SERVICE**
 23 **COMMISSION ISSUES AN ORDER MAKING A DETERMINATION THAT CUSTOMER-GENERATORS ARE BEING SERVED UNDER A**
 24 **SEPARATE CLASSIFICATION OF SERVICE IN ACCORDANCE WITH [SECTION 2].**

25 **(B) [SECTIONS 9(1), 10(1), AND 11] ARE VOID ON OCCURRENCE OF THE CONTINGENCY IN SUBSECTION (2)(A).**

26 **(C) THE PUBLIC SERVICE COMMISSION SHALL PROVIDE A COPY OF THE ORDER TO THE CODE COMMISSIONER**
 27 **WITHIN 10 DAYS OF ISSUING THE ORDER.**

28 - END -