

HOUSE BILL NO. 438

INTRODUCED BY T. WOODS

1
2
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ENERGY LAWS; ESTABLISHING
5 RESTRUCTURING REQUIREMENTS FOR MONTANA'S ELECTRIC UTILITY INDUSTRY; PROVIDING
6 CUSTOMER CHOICE; GENERALLY REVISING TERRITORIAL INTEGRITY LAWS; ESTABLISHING A
7 TRANSITION ADVISORY COMMITTEE; PROVIDING RULEMAKING AUTHORITY; APPROPRIATING FUNDS
8 FOR THE ACTIVITIES OF A TRANSITION ADVISORY COMMITTEE ON ELECTRIC UTILITY INDUSTRY
9 RESTRUCTURING; AMENDING SECTIONS 15-32-402, 15-72-103, 15-72-104, 15-72-601, 69-1-114, 69-1-402,
10 69-2-217, 69-3-308, 69-3-1403, 69-3-2004, 69-5-102, 69-5-104, 69-5-105, 69-5-106, 69-5-121, 69-5-122,
11 69-5-123, 69-8-402, 69-8-602, 69-8-603, 75-25-101, AND 90-4-1203, MCA; AMENDING SECTION 13,
12 CHAPTER 248, LAWS OF 2017; REPEALING SECTIONS 69-8-101, 69-8-103, 69-8-201, 69-8-210, 69-8-215,
13 69-8-411, 69-8-419, 69-8-420, 69-8-421, 69-8-426, 69-8-610, 69-8-611, AND 69-8-612, MCA; AND PROVIDING
14 AN IMMEDIATE EFFECTIVE DATE."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17
18 NEW SECTION. **Section 1. Short title.** This part may be cited as the "Electric Utility Industry
19 Restructuring and Customer Choice Act".

20
21 NEW SECTION. **Section 2. Legislative findings and policy.** The legislature finds and declares that:

- 22 (1) the generation of electricity is a competitive industry, and utility-owned generating resources
23 undermine the market and lead to increased customer costs;
- 24 (2) Montana consumers should have the freedom to choose their supplier of electricity and related
25 services in a competitive market as soon as administratively feasible;
- 26 (3) affording Montana consumers this opportunity to choose serves the public interest;
- 27 (4) the interests of Montana consumers should be protected and the financial integrity of electrical utilities
28 should be fostered;
- 29 (5) a utility in the state of Montana may not be advantaged or disadvantaged in the competitive electricity
30 supply market; and

- 1 (6) the public interest requires the continued protection of consumers through:
2 (a) licensure of electricity suppliers;
3 (b) provision of information to consumers regarding electricity supply service;
4 (c) provision of a process for investigating and resolving complaints;
5 (d) continued funding for the universal system benefits program;
6 (e) assurance of service reliability and quality; and
7 (f) prevention of anticompetitive and abusive activities.

8
9 **NEW SECTION. Section 3. Definitions.** As used in this part, unless the context requires otherwise,
10 the following definitions apply:

11 (1) "Aggregator" or "market aggregator" means an entity, licensed by the commission, that aggregates
12 retail customers and purchases and takes title to electrical energy as an intermediary for sale to the retail
13 customers.

14 (2) "Assignee" means an entity, including a corporation, partnership, board, trust, or financing vehicle,
15 to which a utility assigns, sells, or transfers, other than as security, all or a portion of the utility's interest in or right
16 to transition property. The term also includes an entity, corporation, public authority, partnership, trust, or
17 financing vehicle to which an assignee assigns, sells, or transfers, other than as security, the assignee's interest
18 in or right to transition property.

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

20 (4) "Broker" or "marketer" means an entity, licensed by the commission, that acts as an agent or
21 intermediary in the sale or purchase of electrical energy but does not take title to electrical energy.

22 (5) "Cooperative utility" means:

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

24 (b) an existing municipal electric utility as of [the effective date of this act].

25 (6) "Customer" or "consumer" means a retail electric customer or consumer. The university of Montana,
26 pursuant to 20-25-201(1), and Montana state university, pursuant to 20-25-201(2), are each considered a single
27 retail electric customer or consumer with a single individual load.

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

29 (8) "Distribution facilities" means the facilities by and through which electricity is received from a
30 transmission services provider and distributed to the customer and that are controlled or operated by a distribution

1 services provider.

2 (9) "Distribution services provider" means a person controlling or operating distribution facilities for
3 distribution of electricity to the public.

4 (10) "Electricity supplier" means a person, including aggregators, market aggregators, brokers, and
5 marketers, offering to sell electricity to retail customers in the state.

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

8 (12) (a) "Fixed transition amounts" means the nonbypassable rates or charges, including but not limited
9 to distribution, connection, disconnection, and termination rates and charges, that are authorized by the
10 commission in a financing order to permit recovery of transition costs and the costs of recovering, reimbursing,
11 financing, or refinancing the transition costs and acquiring transition property through a plan approved by the
12 commission in the financing order, including the costs of issuing, servicing, and retiring transition bonds.

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

16 (13) "Functionally separate" means a utility's separation of the utility's electricity supply, transmission,
17 distribution, and unregulated retail energy services assets and operations.

18 (14) "Low-income customer" refers to energy consumer households and families with incomes at or below
19 industry-recognized levels that qualify those consumers for low-income energy-related assistance.

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

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

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

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

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

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

26 (16) "Nonbypassable rates or charges" means rates or charges approved by the commission imposed
27 on a customer to pay the customer's share of transition costs or universal system benefits program costs even
28 if the customer has physically bypassed the utility's transmission or distribution facilities.

29 (17) "Person" means an individual, firm, partnership, corporation, unincorporated association, or other
30 legal or business entity or the executor, administrator, trustee, receiver, assignee, or personal representative of

1 the entity.

2 (18) "Pilot program" means a program using a representative sample of residential and small commercial
3 customers to assist in developing and offering customer choice of electricity supply for residential and commercial
4 customers.

5 (19) (a) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter
6 3, on [the effective date of this act], including the public utility's successors or assignees.

7 (b) The term does not include a cooperative utility.

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

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

14 (22) "Transition cost recovery period" means the period beginning on July 1, 2020, and ending when a
15 utility customer does not have any liability for payment of transition costs.

16 (23) (a) "Transition costs" means a public utility's net verifiable generation-related and electricity supply
17 costs, including costs of capital, that become unrecoverable as a result of the implementation of this part or of
18 federal law requiring retail open access or customer choice.

19 (b) The term includes but is not limited to:

20 (i) (A) regulatory assets and deferred charges that exist because of current regulatory practices and that
21 can be accounted for up to the effective date of the commission's final order regarding a public utility's transition
22 plan; and

23 (B) conservation investments made by a utility using universal system benefits program funds;

24 (ii) nonutility and utility power purchase contracts, including qualifying facility contracts;

25 (iii) existing generation investments and supply commitments or other obligations incurred before [the
26 effective date of this act] or costs arising from these investments and commitments;

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

30 (v) the costs of refinancing and retiring of debt or equity capital of the public utility and associated federal

1 and state tax liabilities or other utility costs for which the use of transition bonds would benefit customers.

2 (24) "Transition period" means the period beginning on July 1, 2020, and ending on July 1, 2024, unless
3 otherwise extended pursuant to this part, during which utilities may phase in customer choice of electricity
4 suppliers.

5 (25) "Transition property" means the property right created by a financing order, including without
6 limitation the right, title, and interest of a utility, assignee, or other issuer of transition bonds to all revenue,
7 collections, claims, payments, money, or proceeds of or arising from or constituting fixed transition amounts that
8 are the subject of a financing order, including those nonbypassable rates and charges and fixed transition
9 amounts that are authorized by the commission in the financing order to recover transition costs and the costs
10 of recovering, reimbursing, financing, or refinancing the transition costs and acquiring transition property,
11 including the costs of issuing, servicing, and retiring transition bonds. Any right that a utility has in the transition
12 property before the utility's sale or transfer or any other right created under this section or created in the financing
13 order and assignable under this part or assignable pursuant to a financing order is only a contract right.

14 (26) "Transmission facilities" means the facilities used to provide transmission services as determined
15 by the federal energy regulatory commission and the public service commission.

16 (27) "Transmission services provider" means a person controlling or operating transmission facilities.

17 (28) "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on a
18 customer to pay the customer's share of universal system benefits program costs.

19 (29) "Universal system benefits programs" means public purpose programs for:

20 (a) cost-effective local energy conservation;

21 (b) low-income customer weatherization;

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

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

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

26 (f) low-income energy assistance.

27 (30) "Utility" means any public utility or cooperative utility.

28

29 **NEW SECTION. Section 4. Pilot programs.** (1) Except as provided in [section 5(3)], beginning July
30 1, 2020, public utilities shall conduct pilot programs using a representative sample of their residential and small

1 commercial customers. A report describing and analyzing the results of the pilot programs must be submitted to
2 the commission and the transition advisory committee established in [section 19] on or before July 1, 2022.

3 (2) Public utilities shall use pilot programs to gather necessary information to determine the most effective
4 and timely options for providing customer choice. Necessary information includes but is not limited to:

5 (a) the level of demand for electricity supply choice and the availability of market prices for smaller
6 customers;

7 (b) the best means to encourage and support the development of sufficient markets and bargaining power
8 for the benefit of smaller customers;

9 (c) the electricity suppliers' interest in serving smaller customers and the opportunities in providing service
10 to smaller customers; and

11 (d) experience in the broad range of technical and administrative support matters involved in designing
12 and delivering unbundled retail services to smaller customers.

13

14 **NEW SECTION. Section 5. Public utility transition to customer choice.** (1) A public utility shall,
15 except as provided in this section, adhere to the following deadlines:

16 (a) On or before July 1, 2020, all customers with individual loads greater than 1,000 kilowatts and for
17 loads of the same customer with individual loads at a meter greater than 300 kilowatts that aggregate to 1,000
18 kilowatts or greater must have the opportunity to choose an electricity supplier. Nothing in this section violates
19 a contract between a customer under this subsection (1)(a) and a supplier entered into after May 2, 1997, and
20 before [the effective date of this act].

21 (b) Subject to subsection (2), and as soon as is administratively feasible but before July 1, 2024, all other
22 public utility customers must have the opportunity to choose an electricity supplier.

23 (2) (a) Except as provided for in subsection (3), the commission may determine that additional time is
24 necessary for customers identified in subsection (1)(b). However, the implementation of full customer choice may
25 not be delayed beyond July 1, 2026.

26 (b) A determination by the commission that additional time is necessary for customers identified in
27 subsection (1)(b) must be made at least 60 days in advance of the scheduled date and must be based on one
28 or more of the following considerations:

29 (i) implementation would not be administratively feasible;

30 (ii) implementation would materially affect the reliability of the electric system; or

1 (iii) Montana customers or electricity suppliers would be disadvantaged due to lack of a competitive
2 electricity supply market.

3 (3) Upon a request from a public utility with fewer than 50 customers, the commission shall waive
4 compliance with the requirements of [sections 4 and 6 through 12] and this section.

5
6 **NEW SECTION. Section 6. Public utility transition plans.** (1) All public utilities, pursuant to this part,
7 shall submit a transition plan to the commission. Plans must be filed with the commission not later than 1 year
8 before the date by which any customers of the public utility are entitled to choice of electricity supplier pursuant
9 to [section 5]. The commission may develop a schedule for public utilities that are required to file plans. The
10 transition plan must demonstrate that the public utility meets all of the requirements of this part.

11 (2) The commission shall develop a procedural schedule that includes:

12 (a) a preliminary transition plan determination, including the commission's findings on whether the plan
13 is complete and adequate subject to the requirements of this part; and

14 (b) an opportunity for a public utility to file a revised plan based on the preliminary determination.

15 (3) Unless waived by the public utility, the commission shall issue a final order approving, modifying, or
16 denying the transition plan before 9 months after the date a public utility files a plan. All parties must be afforded
17 an opportunity for hearing before issuance of the final order.

18 (4) The commission shall process a request for approval of a transition plan pursuant to the contested
19 case procedures of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6.

20 (5) On approval of the plan, the commission shall enforce the public utility obligations as incorporated
21 in the plan and in the commission's final order.

22
23 **NEW SECTION. Section 7. Customer choice -- continued service -- education.** (1) A customer is
24 permitted to choose an electricity supplier pursuant to the deadlines established in [section 5]. Public utilities shall
25 propose a method for customers to choose an electricity supplier.

26 (2) If a customer has not chosen an electricity supplier by the end of the transition period, a public utility
27 shall propose a method in the public utility's transition plan for assigning that customer to an electricity supplier.

28 (3) A public utility may phase in customer choice to promote the orderly transition to a competitive market
29 environment pursuant to the deadlines in [section 5].

30 (4) Public utilities shall educate their customers about customer choice so that customers may make an

1 informed choice of an electricity supplier. This education process must give special emphasis to education efforts
2 during the transition period.

3
4 **NEW SECTION. Section 8. Functional separation, divestiture, and nondiscrimination.** (1) To the
5 extent that a public utility is vertically integrated, a public utility shall functionally separate the public utility's
6 electricity supply, retail transmission and distribution, and regulated and unregulated retail energy services
7 operations in the state upon application to and approval from the commission.

8 (2) The commission shall order a public utility to divest itself of generation assets in accordance with a
9 transition plan approved in accordance with [section 6].

10 (3) A public utility shall:

11 (a) prevent undue discrimination in favor of its own power supply, other services, divisions, or affiliates,
12 if any;

13 (b) prevent any other forms of self-dealing that could result in noncompetitive electricity prices to
14 customers; and

15 (c) grant customers and their electricity suppliers access to the public utility's retail transmission and
16 distribution system on a nondiscriminatory basis at rates, terms, and conditions of service comparable to the use
17 of the retail transmission and distribution system by the public utility and the public utility's affiliates.

18 (4) The provisions of this section are satisfied if the public utility adopts and complies with a code of
19 conduct consistent with a code of conduct approved by the federal energy regulatory commission pursuant to 18
20 CFR 37. The commission shall promulgate rules relating to an acceptable code of conduct.

21
22 **NEW SECTION. Section 9. Distribution services.** (1) A public utility's distribution services provider
23 shall:

24 (a) file tariffs that make distribution facilities available to all electricity suppliers and transmission services
25 providers on a nondiscriminatory and comparable basis;

26 (b) build and maintain distribution facilities; and

27 (c) be an emergency supplier of electricity and related services.

28 (2) (a) When a distribution services provider acts as an emergency supplier of electricity and related
29 services to customers, the electricity supplier that should have provided the electricity shall reimburse the
30 distribution services provider at the higher of a multiple of the cost or a multiple of the then existing market rate

1 for that electricity. The commission shall determine and authorize the multiple used. A distribution services
 2 provider is not required to purchase any reserve supply of electricity to fulfill this obligation.

3 (b) For the purposes of subsection (2)(a), "market rate" means the highest published rate for electricity
 4 purchased within the local load control area at the time that the distribution services provider provided the
 5 emergency supply.

6
 7 **NEW SECTION. Section 10. Transmission services.** For transmission services regulated by the
 8 commission, public utilities, through filed tariffs, shall make transmission services available for nondiscriminatory
 9 and comparable use by all electricity suppliers and by distribution services providers.

10
 11 **NEW SECTION. Section 11. Electricity supply.** (1) On the effective date of a commission order
 12 approving and implementing a public utility's transition plan pursuant to [section 6], the public utility shall remove
 13 its generation assets from the rate base.

14 (2) During the transition period, the commission may establish cost-based prices for electricity supply
 15 service for customers that do not have a choice of electricity supply service or that have not yet chosen an
 16 electricity supplier.

17 (3) If the transition period is extended, then the customers' distribution services provider shall:

18 (a) (i) extend any cost-based contract with the distribution services provider's affiliate supplier for a term
 19 of not more than 3 years; or

20 (ii) purchase electricity from the market; and

21 (b) use a mechanism that recovers electricity supply costs in rates to ensure that those costs are fully
 22 recovered.

23 (4) If a public utility intends to be an electricity supplier through an unregulated division, then the public
 24 utility must be licensed as an electricity supplier pursuant to [section 14].

25
 26 **NEW SECTION. Section 12. Transition costs and charges -- rate of moratorium.** (1) Subject to the
 27 provisions of this section, the commission shall allow recovery of the following categories of transition costs:

28 (a) the unmitigable costs of qualifying facility contracts, including reasonable buyout or buy-down costs,
 29 for which the contract price of generation is above the market price for generation;

30 (b) the unmitigable costs of energy supply-related regulatory assets and deferred charges that exist

1 because of current regulatory practices and that can be accounted for up to the effective date of the commission's
2 final order regarding a public utility's transition plan, including costs, expenses, and
3 reasonable fees related to issuing of transition bonds;

4 (c) the unmitigable transition costs related to public utility-owned generation and other power purchase
5 contracts, except that recovery of those costs is limited to the amount accruing during the first 4 years after the
6 commission enters an order pursuant to [section 6(3)]; and

7 (d) other transition costs as may qualify for recovery under this section.

8 (2) Transition costs as determined by the commission upon an affirmative showing by a public utility must
9 meet all of the following requirements:

10 (a) Transition costs must reflect all reasonable mitigation by the public utility, including but not limited
11 to good faith efforts to renegotiate contracts, buying out or buying down contracts, and refinancing through
12 transition bonds.

13 (b) The value of all generation-related assets and liabilities and electricity supply costs must be
14 reasonably demonstrable and must be considered on a net basis. Methods for determining value must include
15 but are not limited to:

16 (i) estimating future market values of electricity and ancillary services provided by the assets;

17 (ii) appraisal by independent third-party professionals; and

18 (iii) a competitive bid sale.

19 (c) Investments and power purchase contracts must have been previously allowed in rates or, if not
20 previously in rates, must be determined to be used and useful to ratepayers in connection with the commission's
21 approval of the utility's transition plan.

22 (d) Unless otherwise provided for in this part, only costs related to existing investments and power
23 purchase contracts identified in subsection (2)(c) and costs arising from those investments and power purchase
24 contracts may be included as transition costs.

25 (3) (a) On commission approval of the amount of a public utility's transition costs, those costs must be
26 recovered by imposing a transition charge.

27 (b) A transition charge may not be collected from customers for:

28 (i) new or additional loads of 1,000 kilowatts or greater that were first served by the public utility after
29 December 31, 2018; or

30 (ii) loads served by that customer's own generation.

1 (c) Subject to commission approval, a utility and a customer may agree to alter the customer's transition
2 charge payment schedule. Public utilities may file with the commission tariffs for electric service rates that foster
3 economic development or retention of existing customers within the state, including generally available rate
4 schedules. Transition charges are the only charges that may be imposed on a customer class to recover
5 transition costs under this section. A separate exit fee may not be charged.

6 (4) Transition charges must be imposed within a transition cost recovery period approved by the
7 commission on a case-by-case basis. Except for transition costs recovered under subsection (1)(c), categories
8 of transition costs may have varying transition cost recovery periods.

9 (5) Approval of transition costs and collection of those transition costs through transition charges is a
10 settlement of all transition costs claims by a public utility. A public utility seeking to recover transition costs through
11 any means not authorized by this part may not collect transition charges with respect to these transition costs.

12 (6) Except as provided in subsection (7), public utilities shall implement a rate moratorium during the
13 transition period as follows:

14 (a) from July 1, 2020, through June 30, 2022, public utilities may not charge rates higher than those rates
15 in effect on July 1, 2020; and

16 (b) from July 1, 2022, through June 30, 2024, and only for those customers subject to the provisions of
17 [section 5(1)(b)], public utilities may not increase that increment of rates normally allocated to electricity
18 supply-related costs above the increment associated with electricity supply-related costs reflected in rates in
19 effect on July 1, 2020. Beginning on July 1, 2022, public utilities may propose increases to those increments of
20 rates normally allocated to transmission and distribution costs.

21 (7) Subsection (6) does not apply to:

22 (a) increased costs necessary to implement full customer choice, including but not limited to metering,
23 billing, and technology. Those costs must be recovered from the customers on whose behalf the increased costs
24 are incurred.

25 (b) subject to commission approval, an extraordinary event resulting in:

26 (i) a 4% annual revenue requirement increase from July 1, 2020, through June 30, 2024; or

27 (ii) an 8% power supply-related annual revenue requirement increase from July 1, 2020, through June
28 30, 2024; and

29 (c) portions of the increase or decrease in the annual state and local property tax expense that are
30 greater than the payment or adjustment that results from applying the industry-recognized rates of inflation to the

1 increase or decrease in the state and local property tax expense reflected in rates as of [the effective date of this
2 act].

3 (8) Notwithstanding subsections (6) and (7), during the transition period, public utilities may not charge
4 rates or collect costs that include costs reallocated to transition costs at a level higher than the public utility would
5 reasonably expect to recover in rates had the current regulatory system remained intact.

6 (9) Public utilities shall apply savings resulting under 69-8-503 toward the rate moratorium pursuant to
7 subsection (6).

8 (10) During the 4-year transition period, public utilities may accelerate the amortization of accumulated
9 deferred investment tax credits associated with transmission, distribution, and the general plan as an adjustment
10 to earnings if electric earnings fall below 9.5% earned return on average equity. The public utility may include the
11 flow through of investment tax credits so that the public utility's earned return on equity is maintained at 9.5%.
12 Accumulated deferred investment tax credits amortized under this subsection may not be reflected in operating
13 income for ratemaking purposes.

14 (11) The commission shall issue the accounting orders necessary to align rate moratorium timing and
15 requirements to actual transition bonds savings.

16
17 **NEW SECTION. Section 13. Commission authority -- rulemaking.** (1) Beginning on the effective date
18 of a commission order regarding a public utility's transition plan, the commission shall regulate the public utility's
19 retail transmission and distribution services within the state, as provided in this part, and may not regulate the
20 price of electricity supply except as electricity supply may be procured during the transition period by the
21 distribution function of a public utility for those customers that have not chosen an electricity supplier or for those
22 customers that have not yet been assigned an electricity supplier. During a transition period, those procurements
23 may include a cost-based contract from a supply affiliate or an unregulated division.

24 (2) If the transition period is extended for certain customers because the commission finds that workable
25 competition in the electricity supply market does not exist, then the commission shall continue to regulate the
26 provision of electricity supply by distribution services providers in accordance with [section 11].

27 (3) The commission shall decide if there is workable competition in the electricity supply market by
28 determining whether competition is sufficient to inhibit monopoly pricing or anticompetitive price leadership. In
29 reaching a decision, the commission may not rely solely on market share estimates.

30 (4) The commission shall license electricity suppliers and enforce licensing provisions pursuant to

1 [section 14].

2 (5) The commission shall promulgate rules that identify the licensees and ensure that the offered
3 electricity supply is provided as offered and is adequate in terms of quality, safety, and reliability.

4 (6) The commission shall establish just and reasonable rates through established ratemaking principles
5 for public utility distribution and transmission services and shall regulate these services. The commission may
6 approve rates and charges for electricity distribution and transmission services based on
7 alternative forms of ratemaking, including performance-based ratemaking, following a demonstration by the
8 public utility that the alternative method complies with this part and the public utility's transition plan.

9 (7) The commission shall promulgate rules that protect consumers, distribution services providers, and
10 electricity suppliers from anticompetitive and abusive practices.

11 (8) In addition to promulgating rules expressly provided for in this part, the commission may promulgate
12 any other rules necessary to carry out the provisions of this part.

13

14 **NEW SECTION. Section 14. Licensing.** (1) An electricity supplier shall file an application with and
15 obtain a license from the commission before offering electricity for sale to retail customers in the state.

16 (2) As a condition of licensing, an electricity supplier shall identify and describe its business activities and
17 purposes and the purposes of each of the electricity supplier's affiliates, if any, including whether an affiliate that
18 owns or operates distribution facilities offers customer choice through open, fair, and nondiscriminatory access
19 to the electricity supplier's or the electricity supplier's affiliate's distribution facilities.

20 (3) The commission may require electricity suppliers that provide electricity supply service to small
21 customers to make a standard service offer that ensures that those customers have access to affordable
22 electricity.

23 (4) The commission may require:

24 (a) proof of financial integrity and a demonstration of adequate reserve margins or the ability to obtain
25 those reserves; and

26 (b) a licensee to post a bond should an electricity supplier lack financial integrity or fail to supply
27 electricity.

28 (5) An electricity supplier shall provide the commission and all distribution services providers with copies
29 of all license applications pursuant to subsection (2). Licensees shall update information and file annual reports
30 with the commission and all distribution services providers.

1 (6) License applications are effective 30 days after filing with the commission, unless the commission
2 rejects the application during that period. If the commission rejects a license application, the commission shall
3 specify the reasons in writing and, if practical, identify alternative ways to overcome deficiencies.

4
5 **NEW SECTION. Section 15. Penalties -- license revocation.** (1) The commission may begin a
6 proceeding to revoke or suspend a license of an electricity supplier, impose a penalty, or both, for just cause on
7 the commission's own investigation or upon the complaint of an affected party if it is established that the electricity
8 supplier:

9 (a) intentionally provided false information to the commission;

10 (b) switched, or caused to be switched, the electricity supply for a customer without first obtaining the
11 customer's written permission;

12 (c) failed to provide a reasonably adequate supply of electricity for its customers in the state; or

13 (d) committed fraud or engaged in deceptive practices.

14 (2) A person selling or offering to sell electricity in this state in violation of [section 14 or 17] and this
15 section is subject to a fine of not less than \$100 or more than \$1,000 for the violation or to a license revocation
16 or suspension. Each day of each violation constitutes a separate violation.

17 (3) The fine must be recovered in a civil action upon the complaint by the commission in a court of
18 competent jurisdiction.

19 (4) A license revocation proceeding under this section is a contested case proceeding pursuant to the
20 Montana Administrative Procedure Act, Title 2, chapter 4, part 6.

21
22 **NEW SECTION. Section 16. Bill information -- customer nonpayment -- commission rulemaking.**

23 (1) Electrical bills to consumers must disclose each component of the electrical bill in accordance with rules
24 promulgated by the commission. Electrical bill disclosure must include but is not limited to:

25 (a) distribution and transmission charges;

26 (b) electricity supply charges;

27 (c) competitive transition charges; and

28 (d) universal system benefits charges.

29 (2) The commission shall promulgate rules establishing the procedures relating to how and when an
30 electricity supplier may discontinue service to a customer because of the customer's nonpayment and the

1 procedures relating to reconnection.

2

3 **NEW SECTION. Section 17. Unauthorized switching -- commission rulemaking.** (1) An electricity
4 supplier or any person, firm, corporation, or government entity may not make a change in the electricity supplier
5 for a customer without first obtaining the customer's written permission.

6 (2) The commission shall promulgate rules establishing procedures to prevent unauthorized switching.

7

8 **NEW SECTION. Section 18. Nondiscriminatory access -- reciprocity.** (1) All electricity suppliers must
9 be afforded open, fair, and nondiscriminatory access to customers and a comparable opportunity to compete.

10 (2) A distribution services provider or the distribution services provider's affiliates may not use another
11 distribution services provider's facilities in the state to sell electricity to customers in the state unless the first
12 distribution services provider or that distribution services provider's affiliates offer comparable and
13 nondiscriminatory access to the distribution services provider's distribution facilities.

14

15 **NEW SECTION. Section 19. Transition advisory committee.** (1) A transition advisory committee on
16 electric utility industry restructuring is created. The transition advisory committee is composed of eight voting
17 members who are appointed as follows:

18 (a) the speaker of the house shall appoint four members from the house of representatives, not more
19 than two of whom may be from one political party; and

20 (b) the president of the senate shall appoint four members from the senate, not more than two of whom
21 may be from one political party.

22 (2) The following entities shall appoint nonvoting advisory representatives to the transition advisory
23 committee:

24 (a) the director of the department of environmental quality shall appoint one department representative;

25 (b) the legislative consumer counsel committee shall appoint one representative;

26 (c) the Montana electrical cooperative association shall designate how one representative of the
27 cooperative utility industry is to be appointed;

28 (d) the public utilities in the state of Montana shall appoint one member;

29 (e) the commission shall appoint one member; and

30 (f) the governor shall appoint the following nonvoting committee members:

- 1 (i) one representative from the industrial community with an interest in the restructuring of the electric
2 utility industry;
- 3 (ii) one representative from the nonindustrial retail electric consumer sector;
- 4 (iii) one representative from organized labor;
- 5 (iv) one representative from the community comprising environmental and conservation interests;
- 6 (v) one representative from a low-income consumers provider program;
- 7 (vi) one representative of Montana's Indian tribes; and
- 8 (vii) one representative of the electric power market industry.
- 9 (3) In case of a vacancy, a replacement must be selected in the manner of the original appointment.
- 10 (4) Legislative members are entitled to salary and expenses as provided in 5-2-302.
- 11 (5) The public service commission, the legislative services division, and appropriate state agencies shall
12 provide staff assistance as requested by the committee.
- 13 (6) Transition advisory committee members must be appointed within 60 days of [the effective date of
14 this act] to an initial term expiring on December 31, 2021. Subsequent terms must be for up to 2 years and expire
15 on January 1 of odd-numbered years.
- 16 (7) The voting members shall select a transition advisory committee presiding officer.
- 17 (8) The transition advisory committee on electric utility industry restructuring must dissolve on the earlier
18 of either the date that full transition to retail competition is completed or December 31, 2025.
- 19 (9) The transition advisory committee shall provide an annual report on the status of electric utility
20 restructuring on or before November 1 to the governor, the speaker of the house, the president of the senate, and
21 the commission and shall provide other regular reports to the legislature in accordance with 5-11-210.
- 22 (10) The transition advisory committee shall meet at least quarterly or as often as is necessary to conduct
23 its business.
- 24 (11) The transition advisory committee shall analyze and report on the transition to effective competition
25 in the competitive electricity supply market. The annual report made in the year 2022 must evaluate specifically
26 the pilot programs for customers with loads under 1,000 kilowatts and must include legislative recommendations,
27 if it appears appropriate, about the best means to further encourage the development of customer choice and
28 meaningful market access for the benefit of smaller customers. The annual report for the year 2022 must also
29 address the need, if any, for additional consumer protection, including protection from abusive or anticompetitive
30 practices.

1 (12) The criteria that the transition advisory committee must use to evaluate effective competition in the
2 electricity supply market include but are not limited to:

3 (a) the level of demand for power supply choice and the availability of market prices for smaller
4 customers;

5 (b) the existence of sufficient markets and bargaining power to the benefit of smaller customers and the
6 best means to encourage and support the development of sufficient markets;

7 (c) the level of interest among electricity suppliers and the opportunity for electricity suppliers to serve
8 smaller customers; and

9 (d) the existence of the requisite technical and administrative support that enables smaller customers
10 to have choice of electricity supply.

11 (13) The transition advisory committee shall recommend legislation, if necessary, to promote electric
12 utility restructuring and retail choice of electricity suppliers.

13 (14) On or before November 1, 2023, the transition advisory committee shall collect information to
14 determine whether Montana utilities or their affiliates have an opportunity to sell electricity to customers outside
15 of the state comparable to the opportunity provided pursuant to this part to utilities or their affiliates located
16 outside the state.

17
18 NEW SECTION. **Section 20. Tax revenue analysis.** (1) The revenue and transportation interim
19 committee provided for in 5-5-227 shall analyze the amount of state and local tax revenue derived from previously
20 regulated electricity suppliers that will enter the competitive market and report to the legislature in accordance
21 with 5-11-210 on how revenue to the state or local government is changed by restructuring and competition.

22 (2) On or before November 30, 2020, the revenue and transportation interim committee shall recommend
23 legislative changes, if any, to address the establishment of comparable state and local taxation burdens on all
24 market participants in the supply of electricity. Any legislation recommended by the revenue and transportation
25 interim committee should place comparable state and local taxation burdens on all market participants.

26
27 NEW SECTION. **Section 21. Appropriation.** There is appropriated \$30,000 from the state general fund
28 to the legislative services division for each of fiscal years 2020 and 2021 for the administration of a transition
29 advisory committee established in accordance with [section 19].

30

1 **Section 22.** Section 15-32-402, MCA, is amended to read:

2 **"15-32-402. Commercial or net metering system investment credit -- alternative energy systems.**

3 (1) An individual, corporation, partnership, or small business corporation as defined in 15-30-3301 that makes
4 an investment of \$5,000 or more in property that is depreciable under the Internal Revenue Code for a
5 commercial system or a net metering system, as defined in ~~69-8-103~~ [section 3], that is located in Montana and
6 that generates energy by means of an alternative renewable energy source, as defined in 15-6-225, is entitled
7 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,
8 to be taken as a credit only against taxes due as a consequence of taxable or net income produced by one of
9 the following:

10 (a) manufacturing plants located in Montana that produce alternative energy generating equipment;

11 (b) a new business facility or the expanded portion of an existing business facility for which the
12 alternative energy generating equipment supplies, on a direct contract sales basis, the basic energy needed; or

13 (c) the alternative energy generating equipment in which the investment for which a credit is being
14 claimed was made.

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

18 (a) generating equipment;

19 (b) safety devices and storage components;

20 (c) transmission lines necessary to connect with existing transmission facilities; and

21 (d) transmission lines necessary to connect directly to the purchaser of the electricity when no other
22 transmission facilities are available.

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

25

26 **Section 23.** Section 15-72-103, MCA, is amended to read:

27 **"15-72-103. Definitions.** As used in this part, unless the context requires otherwise, the following
28 definitions apply:

29 (1) "Customer" or "purchaser" means a person who acquires for consideration electricity for use or
30 consumption and not for resale.

1 (2) "Distribution services provider" means a person controlling or operating distribution facilities for
2 distribution of electricity to the public. A distribution services provider includes a purchaser who takes electricity
3 directly from a transmission line or substation and a purchaser who generates electricity for the purchaser's own
4 use but does not include electricity generated by the purchaser for noncommercial use or for agricultural use.

5 (3) "Person" means an individual, estate, trust, receiver, cooperative association, corporation, limited
6 liability company, firm, partnership, joint venture, syndicate, or other entity, including any gas or electric utility
7 owned or operated by a county, municipality, or other political subdivision of the state.

8 (4) "Transmission services provider" means a person or entity controlling or operating transmission
9 ~~facilities used for the transmission of electricity~~ as defined in [section 3]."

10

11 **Section 24.** Section 15-72-104, MCA, is amended to read:

12 **"15-72-104. Wholesale energy transaction tax -- rate of tax -- exemptions -- cost recovery.** (1) (a)

13 Except as provided in subsection (3), a wholesale energy transaction tax is imposed upon electricity transmitted
14 within the state as provided in this section. The tax is imposed at a rate of 0.015 cent per kilowatt hour of
15 electricity transmitted by a transmission services provider in the state.

16 (b) For electricity produced in the state for delivery outside the state, the taxpayer is the person owning
17 or operating the electrical generation facility producing the electricity. The transmission services provider shall
18 collect the tax from the person based upon the kilowatt hours introduced onto transmission lines from the
19 electrical generation facility. The amount of kilowatt hours subject to tax must be reduced by 5% to compensate
20 for transmission line losses.

21 (c) For electricity produced in the state for delivery within the state, the taxpayer is the distribution
22 services provider. The transmission services provider shall collect the tax based upon the amount of kilowatt
23 hours of electricity delivered to the distribution services provider. The taxpayer may apply for a refund for
24 overpayment of taxes pursuant to 15-72-116.

25 (d) For electricity produced outside the state for delivery inside the state, the taxpayer is the distribution
26 services provider. The transmission services provider shall collect the tax based upon the amount of kilowatt
27 hours of electricity delivered to the distribution services provider.

28 (e) For electricity delivered to a distribution services provider that is a rural electric cooperative for
29 delivery to purchasers that ~~have~~ opted for customer choice ~~under the provisions of Title 69, chapter 8, part 3,~~ the
30 taxpayer is the distribution services provider. The transmission services provider shall collect the tax based on

1 the amount of kilowatt hours of electricity delivered to the distribution services provider that is attributable to
2 customers that have opted for customer choice.

3 (f) For electricity delivered to a distribution services provider that prior to May 2, 1999, was owned by
4 a public utility as defined in 69-3-101, the tax is imposed on the successor distribution services provider. The
5 transmission services provider shall collect the tax based upon the amount of kilowatt hours of electricity delivered
6 to the distribution services provider.

7 (2) (a) If more than one transmission services provider transmits electricity, the last transmission services
8 provider transmitting or delivering the electricity shall collect the tax.

9 (b) If the transmission services provider is an agency of the United States government, the distribution
10 services provider receiving the electricity shall self-assess the tax subject to the provisions of this part.

11 (c) If an electrical generation facility located within the state produces electricity for sale inside and
12 outside the state, sales within the state are considered to have come from electricity produced within the state
13 for purposes of the tax imposed by this section.

14 (3) (a) Electricity transmitted through the state that is not produced or delivered in the state is exempt
15 from the tax imposed by this section.

16 (b) Electricity produced in the state by an agency of the United States government or electricity produced
17 from an electric energy generation facility, as defined in 90-5-101(3), constructed after May 1, 2001, that is within
18 the exterior boundaries of a Montana Indian reservation for delivery outside the state is exempt from the tax
19 imposed by this section.

20 (c) Electricity produced by wind turbines erected on state land for which annual lease payments are
21 made to the permanent school trust fund is exempt from the tax imposed by this section.

22 (d) Electricity delivered to a distribution services provider that is a municipal utility ~~described in~~
23 ~~69-8-103(4)(b)~~ or a rural electric cooperative organized under the provisions of Title 35, chapter 18, is exempt
24 from the tax imposed by this section.

25 (e) Electricity delivered to a purchaser that receives its power directly from a transmission or distribution
26 facility owned by an entity of the United States government on or before May 2, 1997, or electricity that is
27 transmitted exclusively on transmission or distribution facilities owned by an entity of the United States
28 government on or before May 2, 1997, is exempt from the tax imposed by this section.

29 (4) A distribution services provider is allowed to recover the tax imposed by this section and the
30 administrative costs to comply with this part in its rates."

1

2 **Section 25.** Section 15-72-601, MCA, is amended to read:

3 **"15-72-601. (Temporary) Invasive species fee for hydroelectric facilities.** (1) In recognition of the
4 threat that invasive species pose to Montana's hydroelectric power structures and systems, a hydroelectric facility
5 shall pay a quarterly invasive species fee of \$795.76 per megawatt of the facility's nameplate capacity authorized
6 by the federal energy regulatory commission.

7 (2) Every hydroelectric facility subject to the fee in subsection (1) shall file on forms provided by the
8 department and pay within 30 days after the end of each quarterly period. The quarterly periods end March 31,
9 June 30, September 30, and December 31 of each year.

10 (3) If the fee is not paid on or before the due date, a penalty and interest must be assessed as provided
11 in 15-1-216. The department may waive the penalty pursuant to 15-1-216.

12 (4) The department may audit the records and other documents of a hydroelectric facility to ensure that
13 the proper fee is paid and collected pursuant to this section.

14 (5) A hydroelectric facility that funds protection, mitigation, and enhancement measures pursuant to a
15 settlement approved by the federal energy regulatory commission may use any of those funds that are
16 unobligated to pay, in whole or in part, the fee owed pursuant to subsection (1).

17 (6) Money collected pursuant to this section must be deposited in the invasive species account
18 established in 80-7-1004.

19 (7) For the purposes of this section, the public service commission shall determine the appropriate
20 recovery of this fee in rates in a proceeding held pursuant to 69-3-302 ~~for any hydroelectric facility approved~~
21 ~~pursuant to 69-8-421.~~

22 (8) For the purposes of this section, "hydroelectric facility" means an operating facility located in Montana
23 in a watercourse as that term is defined in 85-2-102 that produces electricity using water power and has more
24 than 1.5 megawatts in nameplate capacity. (Terminates June 30, 2019--sec. 21(3), Ch. 387, L. 2017.)"

25

26 **Section 26.** Section 69-1-114, MCA, is amended to read:

27 **"69-1-114. Fees.** (1) Each fee charged by the commission must be reasonable.

28 (2) Except for a fee assessed pursuant to 69-3-204(2), ~~69-8-421(10)~~, or 69-12-423(2), a fee set by the
29 commission may not exceed \$500.

30 ~~(3) All fees collected by the department under 69-8-421(10) must be deposited in an account in the~~

1 ~~special revenue fund. Funds in this account must be used as provided in 69-8-421(10).~~"

2

3 **Section 27.** Section 69-1-402, MCA, is amended to read:

4 **"69-1-402. Funding of department of public service regulation.** (1) All fees collected under this
5 section and any other fees, ~~except as provided in 69-1-114(3)~~ [and subject to legislative fund transfer], must be
6 deposited in an account in the state special revenue fund to the credit of the department. An appropriation to the
7 department may consist of a base appropriation for regular operating expenses and a contingency appropriation
8 for expenses due to an unanticipated caseload.

9 (2) In addition to all other licenses, fees, and taxes imposed by law, all regulated companies shall, within
10 30 days after the close of each calendar quarter, pay to the department of revenue a fee based on a percentage
11 of gross operating revenue reported pursuant to 69-1-223(2)(a), as determined by the department of revenue
12 under 69-1-403.

13 (3) The amount of money that may be raised by the fee on the regulated companies during a fiscal year
14 may not be increased, except as provided in 69-1-224(1)(c), from the amount appropriated to the department by
15 the legislature for that fiscal year, including both base and contingency appropriations. Any additional money
16 required for operation of the department must be obtained from other sources in a manner authorized by the
17 legislature. (Bracketed language in subsection (1) terminates June 30, 2019--sec. 28, Ch. 6, Sp. L. November
18 2017.)"

19

20 **Section 28.** Section 69-2-217, MCA, is amended to read:

21 **"69-2-217. Exemptions -- definition.** (1) Projects proposed by utilities, as defined in ~~69-8-103~~ [section
22 3], or their affiliates are exempt from the analysis required by 69-2-216 if the utility or affiliate files the necessary
23 tariffs, rate schedules, and other requisite information with the commission or the federal energy regulatory
24 commission.

25 (2) For the purposes of this section, "affiliate" means an entity wholly or partially owned by, closely
26 connected to, or associated with a utility."

27

28 **Section 29.** Section 69-3-308, MCA, is amended to read:

29 **"69-3-308. Disclosure of taxes and fees paid by customers of public utility -- automatic rate**
30 **adjustment and tracking for taxes and fees.** (1) A public utility may separately disclose in a customer's bill the

1 amount of state and local taxes and fees assessed against the public utility that the customer is paying.

2 (2) (a) (i) [Except as provided in 15-72-601, and] unless the state and local taxes and fees are included
3 as fixed transition amounts as defined in [section 3] and part of a public utility transition plan in accordance with
4 chapter 8, part 5, the commission shall allow a public utility to file rate schedules containing provisions for the
5 automatic adjustment and tracking of Montana state and local taxes and fees, except state income tax, paid by
6 the public utility. The resulting rate schedule changes must include:

7 (A) adjustments for the net change in federal and state income tax liability caused by the deductibility
8 of state and local taxes and fees;

9 (B) retroactive tax adjustments; and

10 (C) adjustments related to the resolution of property taxes paid under protest.

11 (ii) The rate schedules must include provisions for annual rate adjustments, including both tax increases
12 and decreases.

13 (b) The amended rates must automatically go into effect on January 1 following the date of change in
14 taxes paid on an interim basis, subject to any adjustments determined in subsection (2)(c).

15 (c) The amended rate schedule must be filed with the commission on or before the effective date of the
16 change in taxes paid, and if the commission determines that the revised rate schedule is in error, the commission
17 may, within 45 days of receipt of the revised rate schedule, ask for comment and order the public utility to address
18 any errors or omissions including, if necessary, any refunds due customers.

19 (d) Failure of the commission to issue an order pursuant to subsection (2)(c) is considered approval on
20 the part of the commission.

21 (e) A public utility may challenge an order issued by the commission under subsection (2)(c) in
22 accordance with the provisions of 69-3-401 through 69-3-405. (Bracketed language terminates June 30,
23 2019--sec. 21(3), Ch. 387, L. 2017.)"

24

25 **Section 30.** Section 69-3-1403, MCA, is amended to read:

26 **"69-3-1403. Customer choice.** (1) A natural gas utility may voluntarily offer its customers choice of
27 natural gas supplier and provide open access to its transmission facilities, storage facilities, or distribution
28 facilities.

29 (2) If a customer choice offering results in transition costs, the commission may allow those transition
30 costs to be recovered in separate identifiable charges to customers. Upon commission approval, the natural gas

1 utility must have the opportunity but not the obligation to finance the fixed transition costs and related financing
2 costs using transition cost financing as provided for in ~~69-8-103~~ and ~~69-8-503~~ chapter 8, part 5."

3

4 **Section 31.** Section 69-3-2004, MCA, is amended to read:

5 **"69-3-2004. Renewable resource standard -- administrative penalty -- waiver.** (1) Except as provided
6 in 69-3-2007 and subsections (11) through (14) of this section, a graduated renewable energy standard is
7 established for public utilities and competitive electricity suppliers as provided in subsections (2) through (4) of
8 this section.

9 (2) In each compliance year beginning January 1, 2008, through December 31, 2009, each public utility
10 and competitive electricity supplier shall procure a minimum of 5% of its retail sales of electrical energy in
11 Montana from eligible renewable resources.

12 (3) (a) In each compliance year beginning January 1, 2010, through December 31, 2014, each public
13 utility and competitive electricity supplier, except as provided in subsections (13) and (14), shall procure a
14 minimum of 10% of its retail sales of electrical energy in Montana from eligible renewable resources.

15 (b) Beginning January 1, 2012, as part of their compliance with subsection (3)(a), public utilities shall
16 purchase both the renewable energy credits and the electricity output from community renewable energy projects
17 that total at least 50 megawatts in nameplate capacity.

18 (c) Public utilities shall proportionately allocate the purchase required under subsection (3)(b) based on
19 each public utility's retail sales of electrical energy in Montana in the calendar year 2011.

20 (4) (a) In the compliance year beginning January 1, 2015, and in each succeeding compliance year, each
21 public utility and competitive electricity supplier, except as provided in subsections (13) and (14), shall procure
22 a minimum of 15% of its retail sales of electrical energy in Montana from eligible renewable resources.

23 (b) (i) As part of their compliance with subsection (4)(a), public utilities shall purchase both the renewable
24 energy credits and the electricity output from community renewable energy projects that total at least 75
25 megawatts in nameplate capacity.

26 (ii) In meeting the standard in subsection (4)(b)(i), a public utility may include purchases made under
27 subsection (3)(b).

28 (c) Public utilities shall proportionately allocate the purchase required under subsection (4)(b) based on
29 each public utility's proportion of the total retail sales of electrical energy by public utilities in Montana in the
30 calendar year 2014.

1 (5) (a) In complying with the standards required under subsections (2) through (4), a public utility or
2 competitive electricity supplier shall, for any given compliance year, calculate its procurement requirement based
3 on the public utility's or competitive electricity supplier's previous year's sales of electrical energy to retail
4 customers in Montana.

5 (b) The standards in subsections (2) through (4) must be calculated on a delivered-energy basis after
6 accounting for any line losses.

7 (6) A public utility or competitive electricity supplier has until 3 months following the end of each
8 compliance year to purchase renewable energy credits for that compliance year.

9 (7) (a) In order to meet the standards established in subsections (2) through (4), a public utility or
10 competitive electricity supplier may only use:

11 (i) electricity from an eligible renewable resource in which the associated renewable energy credits have
12 not been sold separately;

13 (ii) renewable energy credits created by an eligible renewable resource purchased separately from the
14 associated electricity; or

15 (iii) any combination of subsections (7)(a)(i) and (7)(a)(ii).

16 (b) A public utility or competitive electricity supplier may not resell renewable energy credits and count
17 those sold credits against the public utility's or the competitive electricity supplier's obligation to meet the
18 standards established in subsections (2) through (4).

19 (c) Renewable energy credits sold through a voluntary service ~~such as the one provided for in~~
20 ~~69-8-210(2)~~ may not be applied against a public utility's or competitive electricity supplier's obligation to meet the
21 standards established in subsections (2) through (4).

22 (8) Nothing in this part limits a public utility or competitive electricity supplier from exceeding the
23 standards established in subsections (2) through (4).

24 (9) If a public utility or competitive electricity supplier exceeds a standard established in subsections (2)
25 through (4) in any compliance year, the public utility or competitive electricity supplier may carry forward the
26 amount by which the standard was exceeded to comply with the standard in either or both of the 2 subsequent
27 compliance years. The carryforward may not be double-counted.

28 (10) Except as provided in subsections (11) and (12), if a public utility or competitive electricity supplier
29 is unable to meet the standards established in subsections (2) through (4) in any compliance year, that public
30 utility or competitive electricity supplier shall pay an administrative penalty, assessed by the commission, of \$10

1 for each megawatt hour of renewable energy credits that the public utility or competitive electricity supplier failed
2 to procure. A public utility may not recover this penalty in electricity rates. Money generated from these penalties
3 must be deposited in the universal low-income energy assistance fund established in 69-8-412(1)(b).

4 (11) A public utility or competitive electricity supplier may petition the commission for a short-term waiver
5 from full compliance with the standards in subsections (2) through (4) and the penalties levied under subsection
6 (10). The petition must demonstrate that the:

7 (a) public utility or competitive electricity supplier has undertaken all reasonable steps to procure
8 renewable energy credits under long-term contract, but full compliance cannot be achieved either because
9 renewable energy credits cannot be procured or for other legitimate reasons that are outside the control of the
10 public utility or competitive electricity supplier; or

11 (b) integration of additional eligible renewable resources into the electrical grid will clearly and
12 demonstrably jeopardize the reliability of the electrical system and that the public utility or competitive electricity
13 supplier has undertaken all reasonable steps to mitigate the reliability concerns.

14 (12) (a) Retail sales made by a competitive electricity supplier according to prices, terms, and conditions
15 of a written contract executed prior to April 25, 2007, are exempt from the standards in subsections (2) through
16 (4).

17 (b) The exemption provided for in subsection (12)(a) is terminated upon modification after April 25, 2007,
18 of the prices, terms, or conditions in a written contract.

19 (13) A public utility that served 50 or fewer retail customers in Montana on December 31, 2012, is exempt
20 from the requirements of subsections (2) through (4).

21 (14) (a) A competitive electricity supplier with four or fewer small customers in Montana is exempt from
22 the requirements of subsections (2) through (4).

23 (b) For the purposes of determining the number of small customers served by a competitive electricity
24 supplier, an entity that purchases electricity for commercial or industrial use and does not resell electricity to
25 others is one small customer regardless of the number of its metered locations."

26

27 **Section 32.** Section 69-5-102, MCA, is amended to read:

28 **"69-5-102. Definitions.** When used in this part, the following definitions apply:

29 (1) "Agreement" means a written agreement between two or more electric facilities providers that
30 identifies the geographical area to be served exclusively by each electric facilities provider that is a party to the

1 agreement and any terms and conditions pertinent to the agreement.

2 (2) "Cost" means the gross cost of constructing new electric service facilities to the premises, using new
3 materials and similar design standards required to meet the load, from a point where there is existing electrical
4 capacity to serve.

5 ~~(3) "Distribution facilities" means those facilities by and through which electricity is received from a
6 transmission services provider and distributed to the customer that are controlled or operated by a distribution
7 utility.~~

8 ~~—— (4) "Distribution service" means the function of delivering electricity to the public by a distribution utility.~~

9 ~~—— (5) "Distribution utility" means a utility owning distribution facilities for distribution of electricity to the
10 public.~~

11 (3) "Electric service facilities" means any distribution or transmission system or related facility necessary
12 to provide electricity to the premises, including lines.

13 ~~(6)(4) "Electric service facilities provider" means any electric utility that provides electric service facilities~~
14 ~~to the public.~~

15 (5) "Electric utility" means a person, firm, or corporation that provides electricity to the premises, including
16 lines. An electric utility may include a utility.

17 ~~(7) "Electric service facilities" means any distribution or transmission system or related facility necessary~~
18 ~~to provide electricity to the premises, including lines.~~

19 ~~(8) "Electricity supplier" means any person, corporation, or governmental entity that:~~

20 ~~—— (a) sells electricity to customers at retail rates in the state; and~~

21 ~~—— (b) is not a public utility or a cooperative.~~

22 ~~—— (9) "Electricity supply service" means the provision of electricity supply and related services through~~
23 ~~power purchase agreements, the acquisition and operation of electrical generation facilities, demand side~~
24 ~~management, and energy efficiency programs.~~

25 ~~(10)(6) "Large customer" means any premises, except subdivisions, with the estimated connected load~~
26 ~~for full operation at an individual service for the premises of 500 kilowatts or larger.~~

27 ~~(11)(7) "Line" means any material that is used to convey electrical energy and that is normally energized~~
28 ~~between 2,400 volts phase to ground and 14,400 volts phase to ground electricity supply conductor.~~

29 ~~(12)(8) "Premises" means a building, residence, structure, irrigation pump, or facility to which electric~~
30 ~~service facilities are provided or are to be installed. However, two or more buildings, structures, irrigation pumps,~~

1 or facilities that are located on one tract or contiguous tracts of land and that are used by one electric consumer
 2 for farming, business, commercial, industrial, institutional, governmental, or trailer court purposes must together
 3 constitute one premises, except that any building, structure, irrigation pump, or facility, other than a trailer court,
 4 may not, together with any other building, structure, irrigation pump, or facility, constitute one premises if the
 5 electric service to it is separately metered and the charges for that service are calculated independently of
 6 charges for service to any other building, structure, irrigation pump, or facility.

7 ~~(13) "Regulated utility" means any electric utility regulated by the commission pursuant to Title 69, chapter~~
 8 ~~3, on May 2, 1997, including the public utility's successors or assignees.~~

9 ~~(14) "Service territory" means premises receiving distribution service from a utility on January 1, 2011,~~
 10 ~~and premises added pursuant to Title 69, chapter 5.~~

11 ~~(15)(9) "Subdivision" has the meaning provided for in 76-3-103. The definition includes subdivisions that~~
 12 ~~may be developed in one or more phases of development at different periods of time.~~

13 ~~(16)(10) "Utility" means a public utility regulated by the commission pursuant to Title 69, chapter 3, or a~~
 14 ~~utility qualifying as an electric cooperative pursuant to Title 35, chapter 18, or their successors or assignees.~~

15 ~~(17)(11) "Vector" means a straight line between two points."~~

16

17 **Section 33.** Section 69-5-104, MCA, is amended to read:

18 **~~"69-5-104. Supply service prohibited -- continuation~~ Continuation of electric service facilities to**
 19 **~~existing consumers.~~ (1) Except as provided in subsection (2), a utility may not provide electricity supply service**
 20 **~~to premises in another utility's service territory. An electricity supplier may provide electricity supply service in the~~**
 21 **~~service territory of a public utility as provided in 69-8-411.~~**

22 ~~———(2) Each electric service facilities provider has the right to provide electric service facilities to all premises~~
 23 ~~being served by it or to which any of its facilities are attached on May 2, 1997 [the effective date of this act]."~~

24

25 **Section 34.** Section 69-5-105, MCA, is amended to read:

26 **"69-5-105. Service to new consumers.** (1) ~~Except as provided in 69-5-106 and 69-5-113~~ Subject to
 27 this part, the electric service facilities provider that has a line nearest the premises and that has the capacity to
 28 serve the premises, as measured in accordance with subsection (2), shall provide electric service facilities to the
 29 premises initially requiring service after ~~May 2, 1997~~ [the effective date of this act].

30 (2) All measurements under this part must be made on the shortest vector that can be drawn from the

1 line nearest the premises to the nearest permanent portion of the premises."

2

3 **Section 35.** Section 69-5-106, MCA, is amended to read:

4 **"69-5-106. Electric service facilities to large customers.** ~~A regulated utility~~ A electric facilities provider
5 utility has the right to furnish electric service facilities to the premises of a large customer if the ~~regulated utility~~
6 ~~electric facilities provider~~ utility can extend its electric service facilities to the premises of a large customer at less
7 cost than other electric service facilities providers. The estimated connected load must be determined from the
8 plans and specifications prepared for construction of the premises or, if an estimate is not available, must be
9 determined by mutual agreement of the electric service facilities provider and the large customer."

10

11 **Section 36.** Section 69-5-121, MCA, is amended to read:

12 **"69-5-121. Definitions.** As used in 69-5-122, 69-5-123, and this section, the following definitions apply:

13 (1) "Added structure" means any outbuildings, improvements, irrigation pumps, facilities, or other
14 structures located on a small customer's property.

15 (2) "Commercial structure" means a building used for commercial purposes.

16 (3) "Contractor" means a person who submits a proposal to construct or enters into a contract to
17 construct an extension and who is licensed, insured, a member of the national electrical contractors association,
18 and experienced in comparable construction.

19 (4) "Electric utility" ~~means:~~

20 ~~—— (a) a public utility regulated by the public service commission pursuant to Title 69, chapter 3, that~~
21 ~~provides electrical service for heat, light, or power to a small customer; or~~

22 ~~—— (b) a utility qualifying as a rural electric cooperative pursuant to Title 35, chapter 18, that provides~~
23 ~~electrical service for heat, light, or power to a small customer.~~ has the meaning provided in 69-5-102.

24 (5) "Extension" means any works or improvements necessary to connect a residential, commercial, or
25 added structure of a small customer to an electric utility's distribution or transmission system.

26 (6) "Residential structure" means a single-family house, trailer, manufactured home, or mobile home,
27 excluding any outbuildings, improvements, irrigation pumps, facilities, or other structures located on the property.

28 (7) "Small customer" has the meaning provided in 69-3-2003."

29

30 **Section 37.** Section 69-5-122, MCA, is amended to read:

1 **"69-5-122. Residential utility line extension -- refund.** (1) A small customer of an electric utility ~~as~~
 2 ~~defined in 69-5-121(4)(a)~~ who pays for a portion of the construction of an extension to a residential structure or
 3 who advances money to an electric utility ~~as defined in 69-5-121(4)(a)~~ for a subsequent connection to that
 4 extension must receive a refund as provided in subsection (2) if an additional customer connects to the extension.

5 (2) Each additional customer, prior to the initiation of electric service, shall advance to an electric utility
 6 ~~as defined in 69-5-121(4)(a)~~ an equal proportionate share of the total amount paid for the extension to a
 7 residential structure. The electric utility shall refund the advance on a pro rata basis to the small customer who
 8 paid for the initial extension or to the small customer who paid for a subsequent connection to that extension. A
 9 refund may not be issued after 10 years from the date the initial extension is established.

10 (3) A small customer who expends funds for an extension to a residential structure may not receive a
 11 refund that is greater than the amount necessary to return the small customer to the small customer's
 12 proportionate share of the cost of the original extension.

13 (4) A small customer may receive a refund pursuant to this section only if:

14 (a) the small customer paid for the initial extension or subsequent connection to the extension pursuant
 15 to subsection (1);

16 (b) at the time the refund is issued, the small customer owns the residential structure to which the
 17 extension or subsequent connection to the extension was made; and

18 (c) the small customer did not hire a contractor to complete the extension pursuant to 69-5-123."
 19

20 **Section 38.** Section 69-5-123, MCA, is amended to read:

21 **"69-5-123. Review and selection of contractor.** (1) (a) After an electric utility provides a cost estimate
 22 to a small customer for an extension on the small customer's property to a residential, commercial, or added
 23 structure, the small customer may request a contractor to provide an alternative cost estimate.

24 (b) If the small customer requesting an alternative cost estimate is served by a ~~public utility as defined~~
 25 ~~in 69-5-121(4)(a)~~ an electric utility, the small customer shall pay a \$25 fee to the public service commission and
 26 file a copy of the cost estimate and alternative cost estimate with the commission.

27 (2) (a) Subject to subsection (2)(b), after receiving an alternative cost estimate, the small customer may
 28 hire the contractor to complete the extension on the small customer's property to the residential, commercial, or
 29 added structure.

30 (b) At least 20 days prior to the contractor beginning work on the extension, the small customer shall

1 notify the electric utility that will be providing service to the small customer. The notification must be in writing.

2 (3) (a) Subject to subsections (3)(b) through (3)(d), if a contractor is selected, the extension must be built
3 on the small customer's property to meet the same standards proposed by the electric utility that will be providing
4 service to the small customer.

5 (b) Throughout construction and as the electric utility considers appropriate, the electric utility shall
6 inspect the extension and be onsite. The contractor shall notify the electric utility of construction progress as
7 needed for inspection.

8 (c) If a contractor is selected, the contract for an extension must require the payment of the standard
9 prevailing wage rate in effect and applicable to the work being performed.

10 (d) Either the contractor selected in accordance with subsection (3)(a) or the person selected by the
11 electric utility completing inspections onsite in accordance with subsection (3)(b) must be a journeyman lineman
12 or professional engineer.

13 (4) (a) When the extension is completed by the contractor, the electric utility that will be providing service
14 to the small customer shall complete a final inspection. After the final inspection and following the correction of
15 deficiencies, if any, the electric utility shall provide the small customer a written statement that construction is
16 complete.

17 (b) After the written statement is issued in accordance with subsection (4)(a), the electric utility shall
18 connect the extension to the electric utility's system.

19 (5) Construction and completion of an extension by a contractor does not:

20 (a) affect the location of a vector, a capacity decision, or any other agreement made in accordance with
21 69-5-101 through 69-5-114;

22 (b) allow the contractor to connect an extension to an electric utility without the electric utility's written
23 statement and final inspection in accordance with subsection (4); or

24 (c) affect the rights and duties of a rural electric cooperative organized in accordance with Title 35,
25 chapter 18, to adopt policies or to implement the provisions of this section.

26 (6) (a) If a contractor is hired in accordance with this section, the cost of engineering, construction, and
27 other services must be paid by the small customer who sought the alternative cost estimate and hired the
28 contractor.

29 (b) The small customer is also responsible for costs incurred by an electric utility while onsite during
30 construction and inspections in accordance with subsections (3) and (4).

1 (7) If a contractor is hired in accordance with this section, when construction is complete the customer
2 and the electric utility may negotiate ownership and maintenance of the extension."

3

4 **Section 39.** Section 69-8-402, MCA, is amended to read:

5 **"69-8-402. Universal system benefits programs.** (1) Universal system benefits programs are
6 established for the state of Montana to ensure continued funding of and new expenditures for energy
7 conservation, renewable resource projects and applications, and low-income energy assistance.

8 (2) (a) Except as provided in subsection (11), beginning January 1, 1999, 2.4% of each utility's annual
9 retail sales revenue in Montana for the calendar year ending December 31, 1995, is established as the initial
10 funding level for universal system benefits programs. To collect this amount of funds on an annualized basis in
11 1999, the commission shall establish rates for utilities subject to its jurisdiction and the governing boards of
12 cooperatives shall establish rates for the cooperatives.

13 (b) The recovery of all universal system benefits programs costs imposed pursuant to this section is
14 authorized through the imposition of a universal system benefits charge assessed at the meter for each local
15 utility system customer as provided in this section.

16 (c) A utility must receive credit toward annual funding requirements for the utility's internal programs or
17 activities that qualify as universal system benefits programs, including those amortized or nonamortized portions
18 of expenditures for the purchase of power that are for the acquisition or support of renewable energy,
19 conservation-related activities, or low-income energy assistance, and for large customers' programs or activities
20 as provided in subsection (7). The department of revenue shall review claimed credits of the utilities and large
21 customers pursuant to 69-8-414.

22 (d) A ~~utility~~ utility's distribution services provider at which the sale of power for final end use occurs is
23 the utility that receives credit for the universal system benefits programs expenditure.

24 (e) A customer's ~~utility~~ distribution services provider shall collect universal system benefits funds less
25 any allowable credits.

26 (f) For a utility to receive credit for low-income-related expenditures, the activity must have taken place
27 in Montana.

28 (g) If a utility's or a large customer's credit for internal activities does not satisfy the annual funding
29 provisions of this subsection (2), then the utility or large customer shall make a payment to the universal system
30 benefits fund established in 69-8-412 for any difference.

1 (3) Cooperative utilities may collectively pool their statewide credits to satisfy their annual funding
2 requirements for universal system benefits programs and low-income energy assistance.

3 (4) A utility's transition plan must describe how the utility proposes to provide for universal system
4 benefits programs, including the methodologies, such as cost-effectiveness and need determination, used to
5 measure the utility's level of contribution to each program.

6 (5) (a) A cooperative utility's minimum annual funding requirement for low-income energy and
7 weatherization assistance is established at 17% of the cooperative utility's annual universal system benefits
8 funding level and is inclusive within the overall universal system benefits funding level.

9 (b) Except as provided in subsection (11), a public utility's minimum annual funding requirement for
10 low-income energy and weatherization assistance is established at 50% of the public utility's annual universal
11 system benefits funding level and is inclusive within the overall universal system benefits funding level.

12 (c) A utility must receive credit toward the utility's low-income energy assistance annual funding
13 requirement for the utility's internal low-income energy assistance programs or activities. Internal programs and
14 activities may include providing low-income energy and weatherization assistance on Indian reservations.

15 (d) If a utility's credit for internal activities does not satisfy its annual funding requirement, then the utility
16 shall make a payment for any difference to the universal low-income energy assistance fund established in
17 69-8-412.

18 (6) An individual customer may not bear a disproportionate share of the local utility's funding
19 requirements, and a sliding scale must be implemented to provide a more equitable distribution of program costs.

20 (7) (a) A large customer:

21 (i) shall pay a universal system benefits programs charge with respect to the large customer's qualifying
22 load equal to the lesser of:

23 (A) \$500,000, less the large customer credits provided for in this subsection (7); or

24 (B) the product of 0.9 mills per kilowatt hour multiplied by the large customer's total kilowatt hour
25 purchases, less large customer credits with respect to that qualifying load provided for in this subsection (7);

26 (ii) must receive credit toward that large customer's universal system benefits charge for internal
27 expenditures and activities that qualify as a universal system benefits programs expenditure, and these internal
28 expenditures must include but not be limited to:

29 (A) expenditures that result in a reduction in the consumption of electrical energy in the large customer's
30 facility; and

1 (B) those amortized or nonamortized portions of expenditures for the purchase of power at retail or
2 wholesale that are for the acquisition or support of renewable energy or conservation-related activities.

3 (b) Large customers making these expenditures must receive a credit against the large customer's
4 universal system benefits charge, except that any of those amounts expended in a calendar year that exceed that
5 large customer's universal system benefits charge for the calendar year must be used as a credit against those
6 charges in future years until the total amount of those expenditures has been credited against that large
7 customer's universal system benefits charges.

8 (8) (a) Except as provided in subsection (11), a public utility shall prepare and submit an annual summary
9 report of the public utility's activities relating to all universal system benefits programs to the commission, the
10 department of revenue, and the energy and telecommunications interim committee provided for in 5-5-230. A
11 cooperative utility shall prepare and submit annual summary reports of activities to the cooperative utility's
12 respective local governing body, the statewide cooperative utility office, and the energy and telecommunications
13 interim committee. The statewide cooperative utility office shall prepare and submit an annual summary report
14 of the activities of individual cooperative utilities, including a summary of the pooling of statewide credits, as
15 provided in subsection (3), to the department of revenue and the energy and telecommunications interim
16 committee. The annual report of a public utility or of the statewide cooperative utility office must include but is not
17 limited to:

18 (i) the types of internal utility and customer programs being used to satisfy the provisions of this chapter;

19 (ii) the level of funding for those programs relative to the annual funding requirements prescribed in
20 subsection (2);

21 (iii) any payments made to the statewide funds in the event that internal funding was below the prescribed
22 annual funding requirements; and

23 (iv) the names of all large customers who either utilized credits to minimize or eliminate their charge
24 pursuant to subsection (7) or received a reimbursement for universal system benefits related to expenditures from
25 the utility during the previous reporting year.

26 (b) Before September 15 of the year preceding a legislative session, the energy and telecommunications
27 interim committee shall:

28 (i) review the universal system benefits programs and, if necessary, submit recommendations regarding
29 these programs to the legislature; and

30 (ii) review annual universal system benefits reports provided by utilities in accordance with subsection

1 (8)(a) and compare those reports with reports provided by large customers to the department of revenue in
 2 accordance with subsection (10)(a) and identify large customers, if any, who are not in compliance with reporting
 3 requirements in accordance with this subsection (8) and subsection (10).

4 (9) A utility or large customer filing for a credit shall develop and maintain appropriate documentation
 5 to support the utility's or the large customer's claim for the credit.

6 (10) (a) A large customer claiming credits for a calendar year shall submit an annual summary report of
 7 its universal system benefits programs activities and expenditures to the department of revenue and to the large
 8 customer's utility. A report must be filed with the department even if a large customer is being reimbursed for a
 9 prior year's project. The annual report of a large customer must identify each qualifying project or expenditure
 10 for which it has claimed a credit and the amount of the credit. Prior approval by the utility is not required, except
 11 as provided in subsection (10)(b).

12 (b) If a large customer claims a credit that the department of revenue disallows in whole or in part, the
 13 large customer is financially responsible for the disallowance. A large customer and the large customer's utility
 14 may mutually agree that credits claimed by the large customer be first approved by the utility. If the utility
 15 approves the large customer credit, the utility may be financially responsible for any subsequent disallowance.

16 (11) A public utility with fewer than 50 customers is exempt from the requirements of this section."
 17

18 **Section 40.** Section 69-8-602, MCA, is amended to read:

19 ~~"69-8-602. (Temporary) Utility net metering requirements. 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 the commission determines, after appropriate notice and~~
 22 ~~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, after taking into account the benefits~~
 25 ~~and costs of purchasing and installing additional metering equipment; and~~

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

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

30 ~~—— (a) the utility will incur direct costs associated with interconnecting or administering net metering systems~~

1 that exceed any offsetting benefits associated with these net metering systems; and
 2 ——— (b) public policy is best served by imposing these costs on the customer-generator, rather than allocating
 3 these costs among the utility's entire customer base.

4 **69-8-602. (Effective on occurrence of contingency) Utility Distribution services provider net**
 5 **metering requirements.** (1) A utility distribution services provider shall allow net metering systems to be
 6 interconnected using a standard kilowatt-hour meter capable of registering the flow of electricity in two directions.

7 (2) (a) If the commission determines, after appropriate notice and opportunity for comment, that the use
 8 of additional metering equipment to monitor the flow of electricity in each direction is necessary and appropriate
 9 for the interconnection of net metering systems, the commission may establish additional metering equipment
 10 requirements.

11 (b) The commission shall consider the benefits and costs to a public utility distribution services provider
 12 and a customer-generator of purchasing and installing additional metering equipment and how the costs of
 13 additional net metering equipment are to be allocated between the customer-generator and the public utility
 14 distribution services provider.

15 (3) (a) The commission shall charge the customer-generator an appropriate rate pursuant to 69-3-306.

16 (b) ~~Notwithstanding 69-8-610 through 69-8-612, if~~ If the commission determines, after appropriate notice
 17 and opportunity for comment, that a public utility distribution services provider is incurring direct costs associated
 18 with interconnecting or administering net metering systems that exceed any offsetting benefits associated with
 19 these net metering systems, the commission may impose these costs on the customer-generator, rather than
 20 allocating these costs ~~among the public utility's entire customer base~~ to the distribution services provider."

21
 22 **Section 41.** Section 69-8-603, MCA, is amended to read:

23 **~~"69-8-603. (Temporary) Net energy measurement calculation.~~** Consistent with the other provisions
 24 of this part, the net energy measurement must be calculated in the following manner:

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

27 ——— (2) ~~If the electricity supplied by the electricity supplier exceeds the electricity generated by the~~
 28 ~~customer-generator and fed back to the electricity supplier during the billing period, the customer-generator must~~
 29 ~~be billed for the net electricity supplied by the electricity supplier, in accordance with normal metering practices.~~

30 ——— (3) ~~If electricity generated by the customer-generator exceeds the electricity supplied by the electricity~~

1 supplier, the customer-generator must be:

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

3 ~~—— (b) credited for the excess kilowatt hours generated during the billing period, with this kilowatt-hour credit~~

4 ~~appearing on the bill for the following billing period.~~

5 ~~—— (4) On January 1, April 1, July 1, or October 1 of each year, as designated by the customer-generator~~

6 ~~as the beginning date of a 12-month billing period, any remaining unused kilowatt-hour credit accumulated during~~

7 ~~the previous 12 months must be granted to the electricity supplier, without any compensation to the~~

8 ~~customer-generator.~~

9 **69-8-603. ~~(Effective on occurrence of contingency)~~ Net energy measurement calculation.**

10 Consistent with the other provisions of this part, ~~and except as provided in 69-8-611(3);~~ the net energy

11 measurement must be calculated in the following manner:

12 (1) The ~~public utility~~ distribution services provider shall measure the net electricity produced or consumed

13 during the billing period, in accordance with normal metering practices.

14 (2) If the electricity supplied by the ~~public utility~~ electricity supplier exceeds the electricity generated by

15 the customer-generator and fed back to the ~~public utility~~ electricity supplier during the billing period, the

16 customer-generator must be billed for the net electricity supplied by the ~~public utility~~ electricity supplier and billed

17 at the appropriate rate pursuant to 69-3-306, ~~and~~ in accordance with 69-8-602 ~~and 69-8-610 through 69-8-612.~~

18 (3) Subject to 69-8-602 ~~and 69-8-610 through 69-8-612~~, if electricity generated by the

19 customer-generator exceeds the electricity supplied by the ~~public utility~~ electricity supplier, the

20 customer-generator must be:

21 (a) billed at the appropriate rate pursuant to 69-3-306 for that billing period; and

22 (b) credited for the excess kilowatt hours generated during the billing period, with this kilowatt-hour credit

23 appearing on the bill for the following billing period.

24 (4) On January 1, April 1, July 1, or October 1 of each year, as designated by the customer-generator

25 as the beginning date of a 12-month billing period, any remaining unused kilowatt-hour credit accumulated during

26 the previous 12 months must be granted to the ~~public utility~~ electricity supplier, without any compensation to the

27 customer-generator."

28

29 **Section 42.** Section 75-25-101, MCA, is amended to read:

30 **"75-25-101. Alternative energy revolving loan account.** (1) There is a special revenue account called

1 the alternative energy revolving loan account to the credit of the department of environmental quality.

2 (2) The alternative energy revolving loan account consists of money deposited into the account from air
3 quality penalties from 75-2-401 and 75-2-413 and money from any other source. Any interest earned by the
4 account and any interest that is generated from a loan repayment must be deposited into the account and used
5 to sustain the program. [The account is subject to legislative fund transfer.]

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

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

10 (b) for net metering as defined in ~~69-8-103~~ [section 3]; and

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

13 (4) The amount of a loan may not exceed \$40,000, and the loan must be repaid within 10 years.
14 (Bracketed language in subsection (2) terminates June 30, 2019--sec. 28, Ch. 6, Sp. L. November 2017.)"

15

16 **Section 43.** Section 90-4-1203, MCA, is amended to read:

17 **"90-4-1203. Authority to acquire, construct, and operate projects.** A governmental body may:

18 (1) acquire, construct, reconstruct, extend, or improve a project within or outside of the boundaries of
19 the governmental body or partially within or partially outside the boundaries of the governmental body;

20 (2) acquire any interest in or any right to capacity of a project and acquire by gift, purchase, or lease land
21 or rights in land or other real or personal property that is necessary for the ownership, operation, or maintenance
22 of a project;

23 (3) operate and maintain a project to provide electricity for its own use and, to the extent that production
24 is in excess of its own requirements, sell the production to:

25 (a) a party allowed to choose an electricity supplier ~~under 69-8-204~~;

26 (b) a public utility or cooperative;

27 (c) through June 30, 2009, a public utility under a qualifying contract governed by Title 69, chapter 3, part
28 6, if:

29 (i) the commission determines that adequate ancillary services are available for increases in the amount
30 of intermittent generation resources connected to the transmission grid;

1 (ii) the cost of any ancillary services provided to the generator by the public utility can be adjusted to
 2 reflect actual costs, the costs are deductible by the public utility from the price of electricity paid to the generator,
 3 and adjustments may be made as frequently as every 12 months; and

4 (iii) the public utility can refuse acceptance of electricity from the generator when the loss of ancillary
 5 services threatens system reliability or the public utility is unable to purchase sufficient ancillary services to meet
 6 its obligations, subject to 90 days' written notice to the generator;

7 (d) a competitive electricity supplier; or

8 (e) an out-of-state purchaser;

9 (4) prescribe and collect rates, fees, and charges for the services and facilities furnished by a project;

10 (5) enter into and perform contracts and agreements that are necessary for the planning, construction,
 11 lease, operation, and maintenance of a project and the sale, transmission, distribution, or exchange of the
 12 electricity generated from the project on terms and for a period of time that its governing authority may determine;

13 (6) contract with a person or entity, within or outside the state, for the construction of a project, for the
 14 sale or transmission of electricity generated by a project, or for any interest in the project or any right to capacity
 15 of the project on terms and conditions that its governing authority may determine."
 16

17 **Section 44.** Section 13, Chapter 248, Laws of 2017, is amended to read:

18 **"Section 13. Effective date -- contingency -- contingent voidness.** (1) Except as provided in
 19 subsection (2), [this act] is effective on passage and approval.

20 (2) (a) [Sections ~~5, 6,~~ 9(2), 10(2), and 12] are effective on the date that the public service commission
 21 issues an order making a determination that customer-generators are being served under a separate
 22 classification of service in accordance with [section 2].

23 (b) [Sections 9(1), 10(1), and 11] are void on occurrence of the contingency in subsection (2)(a).

24 (c) The public service commission shall provide a copy of the order to the code commissioner within 10
 25 days of issuing the order."
 26

27 **NEW SECTION. Section 45. Repealer.** The following sections of the Montana Code Annotated are
 28 repealed:

29 69-8-101. Short title.

30 69-8-103. Definitions.

- 1 69-8-201. Public utility -- customer electricity supply service options and requirements -- exemption.
2 69-8-210. Public utilities -- cost tracking -- environmentally preferred resources.
3 69-8-215. Ratepayer and shareholder protection.
4 69-8-411. Nondiscriminatory access.
5 69-8-419. Electricity supply resource planning and procurement -- duties of public utility -- objectives --
6 commission rules.
7 69-8-420. Electricity supply resource procurement plans -- comment on plans.
8 69-8-421. Approval of electricity supply resources.
9 69-8-426. Use of generation assets.
10 69-8-610. Cost benefit analysis.
11 69-8-611. Classification of service -- net metering customers.
12 69-8-612. New classification of service -- grandfather clause.

13
14 **NEW SECTION. Section 46. Notification to tribal governments.** The secretary of state shall send
15 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
16 Chippewa tribe.

17
18 **NEW SECTION. Section 47. Saving clause.** [This act] does not affect rights and duties that matured,
19 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

20
21 **NEW SECTION. Section 48. Severability.** If a part of [this act] is invalid, all valid parts that are
22 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
23 the part remains in effect in all valid applications that are severable from the invalid applications.

24
25 **NEW SECTION. Section 49. Codification instruction.** [Sections 1 through 20] are intended to be
26 codified as an integral part of Title 69, chapter 8, part 5, and the provisions of Title 69, chapter 8, part 5, apply
27 to [sections 1 through 20].

28
29 **NEW SECTION. Section 50. Effective date.** [This act] is effective on passage and approval.

30 - END -