

1 SENATE BILL NO. 125

2 INTRODUCED BY OLSON, ARTHUN, CLARK, JACKSON, L. JONES, KARY, KNUDSEN, O'HARA,
3 TAYLOR, WALKER, ZOLNIKOV
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THAT THE PUBLIC SERVICE COMMISSION MAY
6 IMPOSE AN ADMINISTRATIVE PENALTY FOR FAILURE TO COMPLY WITH THE GRADUATED RENEWABLE
7 ENERGY STANDARD; ~~CLARIFYING THAT A PENALTY MAY NOT BE IMPOSED~~ AND FOR FAILURE TO
8 COMPLY WITH THE COMMUNITY RENEWABLE ENERGY PROJECT REQUIREMENT; AMENDING SECTION
9 69-3-2004, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY
10 DATE."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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14 **Section 1.** Section 69-3-2004, MCA, is amended to read:

15 **"69-3-2004. Renewable resource standard -- administrative penalty -- waiver.** (1) Except as provided
16 in 69-3-2007 and subsections (11) and (12) of this section, a graduated renewable energy standard is established
17 for public utilities and competitive electricity suppliers as provided in subsections (2) through (4) of this section.

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

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

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

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

29 (4) (a) In the compliance year beginning January 1, 2015, and in each succeeding compliance year, each
30 public utility and competitive electricity supplier shall procure a minimum of 15% of its retail sales of electrical

1 energy in Montana from eligible renewable resources.

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

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

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

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

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

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

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

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

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

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

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

27 (c) Renewable energy credits sold through a voluntary service such as the one provided for in
28 69-8-210(2) may not be applied against a public utility's or competitive electricity supplier's obligation to meet the
29 standards established in subsections (2) through (4).

30 (8) Nothing in this part limits a public utility or competitive electricity supplier from exceeding the

1 standards established in subsections (2) through (4).

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

6 (10) Except as provided in subsections (11) and (12):

7 (A) if a public utility or competitive electricity supplier is unable to meet the standards established in
8 ~~subsections (2) through (4)~~ subsection (2), (3)(a), or (4)(a) in any compliance year, that public utility or competitive
9 electricity supplier shall pay an administrative penalty, assessed by the commission, of \$10 for each megawatt
10 hour of renewable energy credits that the public utility or competitive electricity supplier failed to procure. ~~A:~~

11 (B) IF A PUBLIC UTILITY IS UNABLE TO MEET THE STANDARDS ESTABLISHED IN SUBSECTIONS (3)(B) OR (4)(B) IN
12 ANY COMPLIANCE YEAR, THAT PUBLIC UTILITY SHALL PAY AN ADMINISTRATIVE PENALTY, ASSESSED BY THE COMMISSION,
13 OF \$500 NOT TO EXCEED \$1,000 FOR EACH MEGAWATT OF NAMEPLATE CAPACITY FROM WHICH THE PUBLIC UTILITY FAILED
14 TO PURCHASE RENEWABLE ENERGY CREDITS AND ELECTRICITY;

15 (C) A public utility may not recover this penalty THE PENALTIES ASSESSED IN ACCORDANCE WITH SUBSECTION
16 (10)(A) OR (10)(B) in electricity rates. Money generated from these penalties THE PENALTIES ASSESSED IN
17 ACCORDANCE WITH SUBSECTION (10)(A) OR (10)(B) must be deposited in the universal low-income energy
18 assistance fund established in 69-8-412(1)(b).

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

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

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

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

1 (4).

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

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5 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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7 NEW SECTION. **Section 3. Retroactive applicability.** [This act] applies retroactively, within the
8 meaning of 1-2-109, to the compliance year beginning January 1, 2012.

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