

## SENATE BILL NO. 225

INTRODUCED BY J. PRIEST

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING QUALIFYING SMALL POWER PRODUCTION FACILITY  
5 LAWS; REQUIRING THE PUBLIC SERVICE COMMISSION TO SET RATES USING AVOIDED COST;  
6 REQUIRING THE COMMISSION TO CONSIDER ELECTRICITY SUPPLY RESOURCE PROCUREMENT  
7 PLANS AND INTEGRATED LEAST-COST RESOURCE PLANS WHEN CONSIDERING QUALIFYING SMALL  
8 POWER PRODUCTION FACILITY APPLICATIONS; ~~REQUIRING INTERCONNECTION AGREEMENTS TO BE~~  
9 ~~IN ACCORDANCE WITH FEDERAL SMALL GENERATOR INTERCONNECTION PROCEDURES;~~  
10 ESTABLISHING INTERCONNECTION REQUIREMENTS; AMENDING SECTIONS 69-3-601, 69-3-602, AND  
11 69-3-604, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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15 ~~NEW SECTION. Section 1. Interconnection requirements. Qualifying small power production facilities~~  
16 ~~shall interconnect in accordance with the requirements of the federal energy regulatory commission's small~~  
17 ~~generator interconnection procedures pursuant to 18 CFR, part 35, as incorporated in a transmission service~~  
18 ~~provider's open access transmission tariff.~~

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20 NEW SECTION. SECTION 1. INTERCONNECTION REQUIREMENTS. PRIOR TO REQUESTING A CONTRACT FOR  
21 THE SALE OF ELECTRICITY WITH A UTILITY, A QUALIFYING SMALL POWER PRODUCTION FACILITY SHALL FILE A GENERATION  
22 INTERCONNECTION REQUEST WITH THE UTILITY.

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24 **Section 2.** Section 69-3-601, MCA, is amended to read:  
25 **"69-3-601. (Temporary) Definitions.** As used in this part, the following definitions apply:  
26 (1) "Avoided cost" means the incremental costs, as determined by the commission, to an electric utility  
27 of electric energy, capacity, or both, that, except for the purchase from the qualifying small power production  
28 facility or facilities, the utility would generate itself or purchase from another source.  
29 (1)(2) "Commission" means the Montana public service commission.  
30 (2)(3) "Electric cooperative" means a rural electric cooperative organized under the laws of Montana,

1 or a foreign corporation admitted to do business in Montana.

2 (4) "Plan" means an electricity supply resource procurement plan submitted pursuant to 69-8-420 for a  
 3 utility that is subject to Title 69, chapter 8, or an integrated least-cost resource plan submitted pursuant to Title  
 4 69, chapter 3, part 12, for a utility that is exempt from Title 69, chapter 8.

5 ~~(3)~~(5) "Qualifying small power production facility" means a facility that:

6 (a) produces electricity by the use, as a primary energy source, of biomass, waste, water, wind, or other  
 7 renewable resource, or any combination of those sources; or

8 (b) produces electricity and useful forms of thermal energy, such as heat or steam, used for industrial,  
 9 commercial, heating, or cooling purposes through the sequential use of energy known as cogeneration; and

10 (c) has a power production capacity that together with any other facilities located at the same site is not  
 11 greater than 80 megawatts; and

12 (d) is owned by a person not primarily engaged in the generation or sale of electricity other than electric  
 13 power from a small power production facility.

14 ~~———— (6) "Transmission facilities" means those facilities that are used to provide transmission services as~~  
 15 ~~determined by the federal energy regulatory commission and the commission and that are controlled or operated~~  
 16 ~~by a utility.~~

17 ~~———— (7) "Transmission service provider" means a person controlling or operating transmission facilities.~~

18 ~~(4)~~~~(8)~~(6) "Utility" means any public utility supplying electricity and regulated by the commission.  
 19 (Repealed on occurrence of contingency--secs. 1, 3, Ch. 284, L. 2003--see part compiler's comment.)"

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21 **Section 3.** Section 69-3-602, MCA, is amended to read:

22 **"69-3-602. (Temporary) Generation and sale of electricity by qualifying small power production**

23 **facility.** (1) A qualifying small power production facility may generate electricity from the sources described in  
 24 ~~69-3-601(3)(a) and (3)(b)~~ 69-3-601(5)(a) and (5)(b) and may contract for the sale of that electricity with a utility.

25 (2) A qualifying small power production facility may generate electricity from the sources described in  
 26 ~~69-3-601(3)(a) and (3)(b)~~ 69-3-601(5)(a) and (5)(b) and may contract for the sale of that electricity with an electric  
 27 cooperative under terms and conditions mutually agreed upon between the parties and in compliance with the  
 28 rates and regulations established by the Public Utility Regulatory Policies Act. (Repealed on occurrence of  
 29 contingency--secs. 1, 3, Ch. 284, L. 2003--see part compiler's comment.)"

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1           **Section 4.** Section 69-3-604, MCA, is amended to read:

2           **"69-3-604. (Temporary) Standards for determination of rates and conditions.** (1) The commission  
3 shall determine the rates and conditions of the contract for the sale of electricity by a qualifying small power  
4 production facility according to the standards in subsections (2) through ~~(5)~~ (4).

5 ~~—— (2) Long-term contracts for the purchase of electricity by the utility from a qualifying small power  
6 production facility shall be encouraged in order to enhance the economic feasibility of qualifying small power  
7 production facilities.~~

8 ~~—— (3)(2) The rates to be paid by a utility for electricity purchased from a qualifying small power production  
9 facility shall must be established IN ACCORDANCE WITH THE FEDERAL PUBLIC UTILITY REGULATORY POLICIES ACT AND  
10 FEDERAL RULES IMPLEMENTING THE ACT with consideration of:~~

11           ~~(a) the availability and reliability of the electricity produced; AND~~

12 ~~—— (b) the requirements of 16 U.S.C. 824a-3 and of 18 CFR, part 292; and~~

13           ~~(c)(B) whether the small power production facility has attributes that meet the needs of a utility as outlined  
14 in the utility's plan.~~

15           ~~(4)(3) The commission may shall set these rates by use of any of the following methods:~~

16           ~~(a) using the avoided cost over the term of the contract;~~

17 ~~—— (b) the cost of production for the qualifying small power production facility plus a just and reasonable  
18 return; or~~

19 ~~—— (c) any other method that will promote the development of qualifying small power production facilities.~~

20           ~~(5)(4) The commission may adopt rules further defining the criteria for qualifying small power production  
21 facilities, their cost-effectiveness, and other standards. (Repealed on occurrence of contingency--secs. 1, 3, Ch.  
22 284, L. 2003--see part compiler's comment.)"~~

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24           NEW SECTION. Section 5. Codification instruction. [Section 1] is intended to be codified as an  
25 integral part of Title 69, chapter 3, part 6, and the provisions of Title 69, chapter 3, part 6, apply to [section 1].

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27           NEW SECTION. Section 6. Saving clause. [This act] does not affect rights and duties that matured,  
28 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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30           NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.

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2            NEW SECTION.   **Section 8. Applicability.** [This act] applies to contracts entered into and rates  
3 established or modified on or after [the effective date of this act].

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