

1 SENATE BILL NO. 7

2 INTRODUCED BY J. KEANE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ELECTRICAL GENERATION FACILITIES AND
5 UTILITIES IN MONTANA THAT BUY OR SELL RENEWABLE ENERGY CREDITS TO FILE RENEWABLE
6 ENERGY CREDIT REPORTS WITH THE PUBLIC SERVICE COMMISSION; PROVIDING A PENALTY FOR
7 NOT FILING A RENEWABLE ENERGY CREDIT REPORT; AMENDING SECTIONS 69-1-114 AND 69-3-2005,
8 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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10 WHEREAS, a growing number of states have adopted renewable portfolio standards requiring electricity
11 retailers to acquire a minimum percentage of their power from renewable energy resources, and renewable
12 energy credits are used to meet those acquisition targets; and

13 WHEREAS, the environmental attributes of a renewable power source reside in an unbundled renewable
14 energy credit and associated electrons are considered generic electricity in power markets and priced
15 accordingly; and

16 WHEREAS, there are no central clearinghouses and no futures market for renewable energy credits, and
17 contracts for large volumes of renewable energy credits often contain confidentiality clauses that prohibit price
18 disclosure for the term of the contract; and

19 WHEREAS, unbundled renewable energy credits sent to certain markets could depress the value of the
20 associated electrons that remain in the region, and regional utilities could face higher costs for integrating
21 renewable power constructed to meet certain states' increased demand for renewable energy credits; and

22 WHEREAS, it is in the public interest to disclose the price of renewable energy credits because it
23 provides credibility and transparency to state-legislated policies such as renewable portfolio standards.

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

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27 **NEW SECTION. Section 1. Electrical generation facilities renewable energy credit reporting.** (1)

28 (a) Except as provided in subsection (3), a utility as defined in 69-8-103 operating in Montana and the owner of
29 an electrical generation facility operating in Montana that buys or sells renewable energy credits shall annually
30 file a renewable energy credit report, in a format to be determined by the commission, with the commission.

1 (b) The report must be filed by March 1 of the year following the purchase or sale of the renewable
2 energy credit.

3 (2) The report must include:

4 (a) the price of any renewable energy credit bought or sold by the facility or utility; and

5 (b) whether electrical energy and renewable energy credits were bought or sold together or separately,
6 as a bundled or unbundled product.

7 (3) Through 2015, public utilities and competitive electricity suppliers subject to Title 69, chapter 3, part
8 20, shall submit reports in accordance with 69-3-2005(6).

9 (4) Except as provided in subsection (5), the reports are not subject to the regulatory powers of the
10 commission and must be open to public inspection.

11 (5) A utility or owner of an electrical generation facility that fails to file the report required pursuant to
12 subsection (1) or subsection (3) shall pay an administrative penalty, assessed by the commission, of \$1,500. A
13 utility may not recover this penalty through an increase in electricity rates. Money generated from these penalties
14 must be deposited in an account in the state special revenue fund to the credit of the department of public service
15 regulation pursuant to 69-1-402.

16 (6) For the purposes of implementing this section, "electrical generation facility" means any combination
17 of a physically connected generator or generators, associated prime movers, and other associated property,
18 including appurtenant land and improvements and personal property, that are normally operated together to
19 produce electric power.

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21 **Section 2.** Section 69-1-114, MCA, is amended to read:

22 **"69-1-114. Fees.** (1) Each fee charged by the commission must be reasonable.

23 (2) Except for a fee assessed pursuant to 69-3-204(2), 69-8-421(10), ~~or~~ 69-12-423(2), or [section 1(5)],
24 a fee set by the commission may not exceed \$500.

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

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28 **Section 3.** Section 69-3-2005, MCA, is amended to read:

29 **"69-3-2005. Procurement -- cost recovery -- reporting.** (1) In meeting the requirements of this part,
30 a public utility shall:

- 1 (a) conduct renewable energy solicitations under which the public utility offers to purchase renewable
2 energy credits, either with or without the associated electricity, under contracts of at least 10 years in duration;
- 3 (b) consider the importance of geographically diverse rural economic development when procuring
4 renewable energy credits; and
- 5 (c) consider the importance of dispatch ability, seasonality, and other attributes of the eligible renewable
6 resource contained in the commission's supply procurement rules when considering the procurement of
7 renewable energy or renewable energy credits.
- 8 (2) A public utility that intends to enter into contracts of less than 10 years in duration shall demonstrate
9 to the commission that these contracts will provide a lower long-term cost of meeting the standard established
10 in 69-3-2004.
- 11 (3) (a) Contracts signed for projects located in Montana must require all contractors to give preference
12 to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the
13 projects if the Montana residents have substantially equal qualifications to those of nonresidents.
- 14 (b) Contracts signed for projects located in Montana must require all contractors to pay the standard
15 prevailing rate of wages for heavy construction, as provided in 18-2-414, during the construction phase of the
16 project.
- 17 (4) All contracts signed by a public utility to meet the requirements of this part are eligible for advanced
18 approval under procedures established by the commission. Upon advanced approval by the commission, these
19 contracts are eligible for cost recovery from ratepayers, except that nothing in this part limits the commission's
20 ability to subsequently, in any future cost-recovery proceeding, inquire into the manner in which the public utility
21 has managed the contract and to disallow cost recovery if the contract was not reasonably administered.
- 22 (5) A public utility or competitive electricity supplier shall submit renewable energy procurement plans
23 to the commission in accordance with rules adopted by the commission. The plans must be submitted to the
24 commission on or before:
- 25 (a) June 1, 2013, for the standard required in 69-3-2004(4); and
26 (b) any additional future dates as required by the commission.
- 27 (6) (a) A public utility or competitive electricity supplier shall annually submit ~~annual reports~~ a report, in
28 a format to be determined by the commission, demonstrating compliance with this part for each compliance year.
- 29 (b) The report must include:
- 30 (i) the price of any renewable energy credit bought or sold by a public utility or competitive electricity

1 supplier; and

2 (ii) whether electrical energy and renewable energy credits were bought or sold together or separately,
3 as a bundled or unbundled product.

4 (c) The ~~reports~~ report must be filed by March 1 of the year following the compliance year.

5 (7) For the purpose of implementing this part, the commission has regulatory authority over competitive
6 electricity suppliers."

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8 **NEW SECTION. Section 4. Notification to tribal governments.** The secretary of state shall send a
9 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
10 Chippewa tribe.

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12 **NEW SECTION. Section 5. Codification instruction.** [Section 1] is intended to be codified as an
13 integral part of Title 69, chapter 3, part 20, and the provisions of Title 69, chapter 3, part 20, apply to [section 1].
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15 **NEW SECTION. Section 6. Saving clause.** [This act] does not affect rights and duties that matured,
16 penalties that were incurred, or proceedings that were begun before [the effective date of this act].
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18 **NEW SECTION. Section 7. Effective date.** [This act] is effective on passage and approval.

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20 **NEW SECTION. Section 8. Applicability.** [This act] applies to renewable energy credits bought or sold
21 on or after January 1, 2012.

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