



AN ACT REVISING QUALIFYING SMALL POWER PRODUCTION FACILITY LAWS; REQUIRING THE PUBLIC SERVICE COMMISSION TO SET RATES USING AVOIDED COST; REQUIRING THE COMMISSION TO CONSIDER ELECTRICITY SUPPLY RESOURCE PROCUREMENT PLANS AND INTEGRATED LEAST-COST RESOURCE PLANS WHEN CONSIDERING QUALIFYING SMALL POWER PRODUCTION FACILITY APPLICATIONS; ESTABLISHING INTERCONNECTION REQUIREMENTS; AMENDING SECTIONS 69-3-601, 69-3-602, AND 69-3-604, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

Section 1. Interconnection requirements. Prior to requesting a contract for the sale of electricity with a utility, a qualifying small power production facility shall file a generation interconnection request with the utility.

Section 2. Section 69-3-601, MCA, is amended to read:

"69-3-601. (Temporary) Definitions. As used in this part, the following definitions apply:

(1) "Avoided cost" means the incremental costs, as determined by the commission, to an electric utility of electric energy, capacity, or both, that, except for the purchase from the qualifying small power production facility or facilities, the utility would generate itself or purchase from another source.

~~(1)~~(2) "Commission" means the Montana public service commission.

~~(2)~~(3) "Electric cooperative" means a rural electric cooperative organized under the laws of Montana, or a foreign corporation admitted to do business in Montana.

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

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

(a) produces electricity by the use, as a primary energy source, of biomass, waste, water, wind, or other

renewable resource, or any combination of those sources; or

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

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

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

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

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

"69-3-602. (Temporary) Generation and sale of electricity by qualifying small power production facility. (1) A qualifying small power production facility may generate electricity from the sources described in ~~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.

(2) A qualifying small power production facility may generate electricity from the sources described in ~~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 cooperative under terms and conditions mutually agreed upon between the parties and in compliance with the rates and regulations established by the Public Utility Regulatory Policies Act. (Repealed on occurrence of contingency--secs. 1, 3, Ch. 284, L. 2003--see part compiler's comment.)"

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

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

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

~~————(3)~~(2) The rates to be paid by a utility for electricity purchased from a qualifying small power production facility ~~shall~~ must be established in accordance with the federal Public Utility Regulatory Policies Act and federal

rules implementing the act with consideration of:

(a) the availability and reliability of the electricity produced; and

(b) whether the small power production facility has attributes that meet the needs of a utility as outlined in the utility's plan.

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

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

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

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

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

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

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

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

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

- END -

I hereby certify that the within bill,
SB 0225, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2011.

Speaker of the House

Signed this _____ day
of _____, 2011.

SENATE BILL NO. 225

INTRODUCED BY J. PRIEST

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