

**Unofficial Draft Copy**

As of: August 2, 2010 (4:41pm)

LC6002

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the Energy and Telecommunications Interim Committee

A Bill for an Act entitled: "An Act extending the graduated renewable energy standards in the Montana Renewable Power Production and Rural Economic Development Act; requiring the submission of procurement plans for the new standards; amending sections 69-3-2004 and 69-3-2005, MCA; and providing an immediate effective date."

Be it enacted by the Legislature of the State of Montana:

**Section 1.** Section 69-3-2004, MCA, is amended to read:

**"69-3-2004. Renewable resource standard -- administrative penalty -- waiver.** (1) Except as provided in 69-3-2007 and subsections ~~(11)~~ and ~~(12)~~ (13) and (14) of this section, a graduated renewable energy standard is established for public utilities and competitive electricity suppliers as provided in subsections (2) through ~~(4)~~ (6) of this section.

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

(3) (a) In each compliance year beginning January 1, 2010, through December 31, 2014, each public utility and competitive

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electricity supplier shall procure a minimum of 10% of its retail sales of electrical energy in Montana from eligible renewable resources.

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

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

(4) (a) In ~~the~~ each compliance year beginning January 1, 2015, ~~and in each succeeding compliance year, through the compliance year ending December 31, 2019,~~ each public utility and competitive electricity supplier shall procure a minimum of 15% of its retail sales of electrical energy in Montana from eligible renewable resources.

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

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

(c) Public utilities shall proportionately allocate the purchase required under subsection (4)(b) based on each public

utility's retail sales of electrical energy in Montana in the calendar year 2014.

(5) In each compliance year beginning January 1, 2020, through the compliance year ending December 31, 2024, each public utility and competitive electricity supplier shall procure a minimum of 20% of its retail sales of electrical energy in Montana from eligible renewable resources.

(6) In the compliance year beginning January 1, 2025, and in each succeeding compliance year, each public utility and competitive electricity supplier shall procure a minimum of 25% of its retail sales of electrical energy in Montana from eligible renewable resources.

~~(5)~~(7) (a) In complying with the standards required under subsections (2) through ~~(4)~~ (6), a public utility or competitive electricity supplier shall, for any given compliance year, calculate its procurement requirement based on the public utility's or competitive electricity supplier's previous year's sales of electrical energy to retail customers in Montana.

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

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

~~(7)~~(9) (a) In order to meet the standard established in subsections (2) through ~~(4)~~ (6), a public utility or competitive electricity supplier may only use:

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

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

(iii) any combination of subsections ~~(7)(a)(i)~~ and ~~(7)(a)(ii)~~ (9)(a)(i) and (9)(a)(ii).

(b) A public utility or competitive electricity supplier may not resell renewable energy credits and count those sold credits against the public utility's or the competitive electricity supplier's obligation to meet the standards established in subsections (2) through ~~(4)~~ (6).

(c) Renewable energy credits sold through a voluntary service, such as the one provided for in 69-8-210(2), may not be applied against a public utility's or competitive electricity supplier's obligation to meet the standards established in subsections (2) through ~~(4)~~ (6).

~~(8)(10)~~ Nothing in this part limits a public utility or competitive electricity supplier from exceeding the standards established in subsections (2) through ~~(4)~~ (6).

~~(9)(11)~~ If a public utility or competitive electricity supplier exceeds a standard established in subsections (2) through ~~(4)~~ (6) in any compliance year, the public utility or competitive electricity supplier may carry forward the amount by which the standard was exceeded to comply with the standard in either or both of the 2 subsequent compliance years. The

carryforward may not be double-counted.

~~(10)~~(12) Except as provided in subsections ~~(11)~~ and ~~(12)~~ (13) and (14), if a public utility or competitive electricity supplier is unable to meet the standards established in subsections (2) through ~~(4)~~ (6) in any compliance year, that public utility or competitive electricity supplier shall pay an administrative penalty, assessed by the commission, of \$10 for each megawatt hour of renewable energy credits that the public utility or competitive electricity supplier failed to procure. A public utility may not recover this penalty in electricity rates. Money generated from these penalties must be deposited in the universal low-income energy assistance fund established in ~~69-8-412(1)(a)~~ 69-8-412(1)(b).

~~(11)~~(13) A public utility or competitive electricity supplier may petition the commission for a short-term waiver from full compliance with the standards in subsections (2) through ~~(4)~~ (6) and the penalties levied under subsection ~~(10)~~ (12). The petition must demonstrate that the:

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

(b) integration of additional eligible renewable resources into the electrical grid will clearly and demonstrably jeopardize

the reliability of the electrical system and that the public utility or competitive electricity supplier has undertaken all reasonable steps to mitigate the reliability concerns.

~~(12)~~(14) (a) Retail sales made by a competitive electricity supplier according to prices, terms, and conditions of a written contract executed prior to April 25, 2007, are exempt from the standards in subsections (2) through ~~(4)~~ (6).

(b) The exemption provided for in subsection ~~(12)~~(14) ~~(a)~~ (a) is terminated upon modification after April 25, 2007, of the prices, terms, or conditions in a written contract."

{*Internal References to 69-3-2004:*  
69-3-2005a          69-3-2005a          69-3-2008x}

**Section 2.** Section 69-3-2005, MCA, is amended to read:

**"69-3-2005. Procurement -- cost recovery -- reporting.** (1)

In meeting the requirements of this part, a public utility shall:

(a) conduct renewable energy solicitations under which the public utility offers to purchase renewable energy credits, either with or without the associated electricity, under contracts of at least 10 years in duration;

(b) consider the importance of geographically diverse rural economic development when procuring renewable energy credits; and

(c) consider the importance of dispatch ability, seasonality, and other attributes of the eligible renewable resource contained in the commission's supply procurement rules when considering the procurement of renewable energy or renewable energy credits.

(2) A public utility that intends to enter into contracts of less than 10 years in duration shall demonstrate to the commission that these contracts will provide a lower long-term cost of meeting the standard established in 69-3-2004.

(3) (a) Contracts signed for projects located in Montana must require all contractors to give preference to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the projects if the Montana residents have substantially equal qualifications to those of nonresidents.

(b) Contracts signed for projects located in Montana must require all contractors to pay the standard prevailing rate of wages for heavy construction, as provided in 18-2-414, during the construction phase of the project.

(4) All contracts signed by a public utility to meet the requirements of this part are eligible for advanced approval under procedures established by the commission. Upon advanced approval by the commission, these contracts are eligible for cost recovery from ratepayers, except that nothing in this part limits the commission's ability to subsequently, in any future cost-recovery proceeding, inquire into the manner in which the public utility has managed the contract and to disallow cost recovery if the contract was not reasonably administered.

(5) A public utility or competitive electricity supplier shall submit renewable energy procurement plans to the commission in accordance with rules adopted by the commission. The plans must be submitted to the commission on or before:

(a) June 1, 2013, for the standard required in

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69-3-2004(4); ~~and~~

(b) June 1, 2018, for the standard required in 69-3-2004(5);

(c) June 1, 2023, for the standard required in 69-3-2004(6);

and

~~(b)(d)~~ any additional future dates as required by the commission.

(6) A public utility or competitive electricity supplier shall submit annual reports, in a format to be determined by the commission, demonstrating compliance with this part for each compliance year. The reports must be filed by March 1 of the year following the compliance year.

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

{Internal References to 69-3-2005: None.}

NEW SECTION. **Section 3. {standard} Effective date.** [This act] is effective on passage and approval.

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