

Unofficial Draft Copy

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LC7001

**** Bill No. ****

Introduced By *****

By Request of the Environmental Quality Council

A Bill for an Act entitled: "An Act allowing regulated public utilities to recover fuel costs for biomass; allowing utilities to file automatic rate adjustments for biomass electricity costs; amending sections 69-3-302, and 69-3-303, MCA; and providing an immediate effective date."

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

NEW SECTION. **Section 1. Automatic rate adjustment for biomass feedstock.** (1) To allow for the full recovery of fuel costs for biomass, the commission shall allow a public utility to file rate schedules containing provisions for an automatic adjustment to the price of electricity to reflect fluctuations in the cost of biomass feedstock used to supply electricity or heat.

(2) The amended rate schedules must be filed with the commission on or before the effective date of the change in costs. The schedules must fully document a utility's fuel costs.

(a) Every six months, the commission shall review the adjustments for accuracy. At that time, the commission may order a review of the adjustments and order, if necessary, any refunds due customers.

(b) A public utility may challenge an order issued by the commission under subsection (2)(a) in accordance with the

provisions of 69-3-401 through 69-3-405.

(3) The automatic adjustment must be set against a baseline fuel cost that is incorporated into the utility's base rates.

(a) If a utility's fuel costs are above the baseline in a given month, the adjustment must appear on a consumer's bill as a per-kilowatt surcharge.

(b) If fuel costs fall below the baseline, the adjustment must appear on a consumer's bill as a per-kilowatt-hour credit.

(4) Every two years a public utility shall review its baseline fuel costs and provide the commission with those costs.

Section 2. Section 69-3-302, MCA, is amended to read:

"69-3-302. Changes in schedules. (1) Except as provided in 69-3-308 and [section 1], a change may not be made in any schedule, including schedules of joint rates, except as approved by the commission, upon the passage of 9 months, or by operation of 69-3-907(1). If the 9-month time period expires prior to commission approval of a schedule, a utility may waive the time period.

(2) Notwithstanding any provision of this title to the contrary, other than rate adjustments made pursuant to 69-3-308 or [section 1], the rates, tolls, or charges set forth in any schedule filed with the commission pursuant to 69-3-301 must become effective and be lawful rates, tolls, or charges for the utility service rendered 9 months after the date upon which the schedule was filed under the rules of practice and procedure for filing as adopted by the commission or upon commission approval,

whichever occurs first, unless the utility waives the 9-month time period. However, if the rates, tolls, or charges become effective because of the passage of 9 months, the revenue collected is subject to rebate, plus interest at an annual rate determined by the commission, to the extent that the rates, tolls, or charges ultimately approved by the commission in its final decision produce revenue that is less than that collected under the filed schedules. In the case of an investor-owned utility, the interest rate set by the commission may not exceed the cost of equity capital as last determined by the commission.

(3) The commission may prescribe rules necessary to effectively administer this section."

{*Internal References to 69-3-302:*
69-2-203x}

Section 3. Section 69-3-303, MCA, is amended to read:

"69-3-303. Notice and hearing on proposed change. (1) Except as provided in 69-3-308 and [section 1], before the commission may approve any change increasing the rate or rates for utility service in a schedule generally affecting consumers in a utility's service area or before any change may become effective due to the passage of 9 months, the commission shall publish a notice of the proposed change, conforming to the requirements of 2-4-601 in one or more newspapers published and of general circulation within the area affected by the proposed change. This notice must announce a hearing on the proposed change and must inform interested persons as to how they may

petition the commission to become parties to the hearing.

(2) The commission shall proceed to conduct the hearing under the Montana Administrative Procedure Act. The final decision of the commission in any matter decided after a hearing conducted pursuant to this section must conform to the requirements of a decision in a contested case under the Montana Administrative Procedure Act.

(3) The consumer counsel may petition to become a party to the hearing."

{*Internal References to 69-3-303:*
69-2-203x 69-3-1407x 69-3-1407x}

NEW SECTION. Section 4. {standard} Codification

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

NEW SECTION. Section 5. {standard} Effective date. [This act] is effective on passage and approval.

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