

House Bill 780

In The House

February 16, 1981	Introduced and referred to Committee on Business and Industry.
February 17, 1981	Fiscal note requested.
February 20, 1981	Fiscal note returned.
February 21, 1981	Committee recommend bill do pass as amended.
February 23, 1981	Bill printed and placed on members' desks. Second reading do pass.
February 25, 1981	On motion rules suspended and bill placed on third reading this day. Third reading passed.

In The Senate

March 3, 1981	Introduced and referred to Committee on Business and Industry.
April 23, 1981	Died in Committee.

1 *Andreason* *House* BILL NO. *780*
 2 INTRODUCED BY *Astana Vallyan* *VINCENT*
 3 *Meyer* *David Brown* *Mark Harper* *Amerson*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE
 5 INVESTOR-OWNED GAS AND ELECTRIC UTILITIES IN MONTANA TO
 6 ACQUIRE COST-EFFECTIVE ENERGY RESOURCES."

7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Definitions. As used in this [act] the
 10 following definitions apply:

11 (1) "Cogeneration facility" means a facility that
 12 produces electric energy and steam or forms of useful energy
 13 that are used for heating and cooling or industrial or
 14 commercial purposes through the sequential use of energy.

15 (2) "Commission" means the public service commission.

16 (3) "Conservation energy facility" means a facility or
 17 system of facilities that supply energy by means of measures
 18 and technologies that increase the energy efficiency of
 19 building shells, equipment, or processes and thus reduce
 20 electricity or gas use below the level that would have been
 21 used in their absence. The term includes a cogeneration
 22 facility.

23 (4) "Consumer" means any end-user of electric power or
 24 natural or synthetic gas.

25 (5) "Conventional energy facility" means, in the case

1 of an electric utility, thermal electric or hydro electric
 2 generating plants providing either energy or capacity or
 3 both and electric transmission and distribution lines and,
 4 in the case of a gas utility, natural gas from owned wells
 5 or purchased gas or synthetic gas manufactured from coal and
 6 gas transmission and distribution pipelines.

7 (6) (a) "Cost-effective", when applied to any resource
 8 referred to in this [act], means that the resource must be
 9 forecast:

10 (i) to be reliable and available within the time it is
 11 needed; and

12 (ii) to meet the need for electric power or need for
 13 gas as determined by the commission at an estimated
 14 incremental system cost no greater than that associated with
 15 the least-cost similarly reliable and available potential
 16 conventional resources or the highest avoidable cost
 17 existing resource.

18 (b) For purposes of this definition, the term
 19 "incremental system cost" means an estimate of all costs of
 20 serving loads, including if applicable the cost of both
 21 capacity and energy and the cost of distribution and
 22 transmission to the consumer and including but not limited
 23 to annual operating costs, waste disposal costs,
 24 end-of-cycle costs and such quantifiable environmental costs
 25 and benefits as the commission determines, on the basis of a

1 methodology developed by the commission with the assistance
2 of the department, as provided for in [section 3], are
3 directly attributable to such service.

4 (c) In determining the cost effectiveness of a
5 resource, the commission, assisted by the department, shall
6 take into account projected realization factors and plant
7 factors, including appropriate historical experience with
8 similar resources.

9 (d) For purposes of this definition, the "estimated
10 incremental system cost" of any conservation energy facility
11 may not be treated as greater than that of a nonconservation
12 resource unless the incremental system cost of such
13 conservation energy facility is in excess of 110% of the
14 incremental system cost of the nonconservation resource.

15 (7) "Covered utility" means a public utility that
16 during the second preceding calendar year had:

17 (a) sales of natural gas for purposes other than
18 resale that exceed 10 billion cubic feet; or

19 (b) sales of electric power for purposes other than
20 resale that exceed 500 million kilowatt-hours in Montana.

21 (8) "Department" means the department of natural
22 resources and conservation.

23 (9) "Qualifying conservation energy facility" means a
24 facility that supplies energy through conservation, which
25 the commission determines, by rule, meets such requirements

1 as the commission may, by rule, prescribe and which is owned
2 by a person not primarily engaged in the production,
3 transmission, or sale of natural gas or the generation,
4 transmission, or sale of electric power.

5 (10) "Qualifying renewable energy facility" means a
6 facility that produces energy by using only renewable
7 resources, which the commission determines, by rule, meets
8 such requirements as the commission, by rule, may prescribe
9 and is owned by a person not primarily engaged in the
10 production, transmission, or sale of natural gas or the
11 generation, transmission, or sale of electric power.

12 (11) "Renewable energy facility" means a facility or
13 system of facilities that supply energy by means of
14 technologies that either produce electricity or gas directly
15 or reduce the use of utility-supplied electricity or gas by
16 capture and use of solar, wind, geothermal, hydro, or
17 biomass energy sources.

18 (12) "Resource" means energy or capacity, or both,
19 supplied by conservation energy facilities, renewable energy
20 facilities, or conventional energy facilities.

21 Section 2. Submission of load projection and
22 implementation plan to commission -- approval by commission.
23 (1) Within 2 years of [the effective date of this act],
24 covered utilities shall submit to the commission a load
25 projection for the next 10 years that will specify the

1 projected load, both system-wide and in Montana, by and use
 2 and by other criteria determined by the commission. The
 3 covered utilities shall also submit a plan describing the
 4 types and amounts of resources to be acquired to meet the
 5 projected load, both system-wide and in Montana. The load
 6 projection and implementation plan for acquisition of
 7 cost-effective resources to meet Montana loads, is not
 8 effective until approved by the commission. Any revisions of
 9 the projected load and of the implementation plan shall be
 10 submitted annually to the commission.

11 (2) The commission shall evaluate the implementation
 12 plan for acquisition of resources according to the criteria
 13 developed by the commission under [section 3].

14 (3) No covered utility may include resources in its
 15 rate base under [section 7] unless they are included in the
 16 implementation plan approved by the commission.

17 section 3. Development by commission of evaluation
 18 criteria for implementation plans. (1) Within 1 year of [the
 19 effective date of this act], the commission shall by rule
 20 adopt criteria by which qualifying renewable energy and
 21 conservation measures will be defined and evaluated. These
 22 criteria will guide the commission when approving
 23 implementation plans of the covered utilities. The criteria
 24 will be based on:

25 (a) an assessment of cost effectiveness;

1 (b) an assessment of environmental costs and benefits;
 2 (c) a list and assessment of various types of
 3 renewable energy facilities;
 4 (d) a list and assessment of various types of
 5 conservation facilities;
 6 (e) qualifications for energy audits;
 7 (f) installation procedures for onsite renewable
 8 energy systems and conservation measures; and
 9 (g) qualification procedures for auditors and
 10 installers.

11 (2) The department shall assist the commission in
 12 developing these criteria.

13 (3) The commission shall review the criteria annually
 14 and revise them if necessary.

15 Section 4. Acquisition of resources by utility. A
 16 covered utility may acquire any resources contained in the
 17 implementation plan required under [section 2] and approved
 18 by the commission. The utility may acquire the resource
 19 directly and assume ownership of that resource, or it may
 20 acquire the resource by purchase of energy from a qualifying
 21 facility.

22 Section 5. Purchase of energy from qualifying
 23 conservation energy and renewable energy facilities. (1) Not
 24 less than 5 months after [the effective date of this act],
 25 the commission shall adopt rules parallel to those adopted

1 under the requirements of section 210 of the federal Public
 2 Utility Regulatory Policies Act of 1978 (PURPA) for
 3 cogeneration and small power producers, which require
 4 electric and gas utilities to purchase energy from
 5 qualifying conservation energy facilities and qualifying
 6 renewable energy facilities.

7 (2) The rules prescribed under subsection (1) shall
 8 insure that in requiring any electric or gas utility to
 9 offer to purchase energy from a qualifying conservation
 10 energy facility or renewable energy facility, the rates for
 11 that purchase may not increase costs to the consumers of the
 12 electric or gas utility above the longrun costs in the
 13 absence of such purchase and may not discriminate against
 14 qualifying conservation energy producers or qualifying
 15 renewable energy producers. Such rates for purchase shall
 16 provide maximum incentive to qualifying conservation energy
 17 producers and qualifying renewable energy producers by
 18 reflecting the incremental system cost to the purchasing
 19 utility of providing the energy form produced by or sold to
 20 the utility from conventional resources.

21 (3) Within 1 year of [the effective date of this act],
 22 each utility shall provide the commission with estimates of
 23 its own incremental system costs.

24 (4) The calculation of incremental system cost must
 25 reflect:

1 (a) all direct costs of new conventional resources
 2 over their effective life, including if applicable the cost
 3 of both capacity and energy and the cost of distribution and
 4 transmission to the consumer and including but not limited
 5 to annual operating, waste disposal, and end-of-cycle costs;
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7 (b) the cost of the highest cost-avoidable existing
 8 resource.

9 (5) The commission shall hold hearings open to all
 10 interested parties and shall adopt, by rule, an estimate of
 11 incremental system cost for each utility. This procedure
 12 shall be repeated at intervals of at least once every 3
 13 years.

14 Section 6. Exemptions. (1) Qualifying conservation
 15 energy facilities and qualifying renewable energy facilities
 16 are exempt from regulation of rates and rates of return,
 17 with the exception of the guidelines adopted under
 18 subsection (2) of [section 5], any rules promulgated under
 19 that section, and the associated determinations of the
 20 commission.

21 (2) Income accruing to minority ownership in
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 23 regulated utilities may not be treated as income to the
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LC 0803/01

1 acquisition. Resources included in the implementation plan
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5 capital for these resources shall be made separately from
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7 Section 8. Complaint and audit procedures. The
8 commission has jurisdiction over complaint procedures and
9 audit requirements with respect to the quality of materials,
10 installation of renewable systems and conservation measures,
11 and performance of those systems and measures.

12 Section 9. Severability. If a part of this act is
13 invalid, all valid parts that are severable from the invalid
14 part remain in effect. If a part of this act is invalid in
15 one or more of its applications, the part remains in effect
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17 invalid applications.

-End-

STATE OF MONTANA

REQUEST NO. 405-81

FISCAL NOTE

Form BD-15

In compliance with a written request received February 17, 19 81, there is hereby submitted a Fiscal Note for House Bill 780 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Legislation

An act to require investor owned gas and electric utilities in Montana to acquire cost effective energy resources.

Assumptions

The P.S.C. would need an additional economist, engineer, secretary and two (2) hearing examiners to adequately carry out provisions of this bill. Additional expenditures for computer capability after the first two (2) years; \$100,000 for FY 84 and \$50,000 for FY 85, and thereafter.

<u>State</u>	<u>FY 82</u>	<u>FY 83</u>
Revenue	0	0
Expenditure	116,386	113,999

Local Impact

May promote decentralized energy production which would occur in many localities. (Amount cannot be estimated).

David M. Leno
BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 2/20/81

Approved by Committee
on Business and Industry

HOUSE BILL NO. 780

INTRODUCED BY AZZARA, HALLIGAN, VINCENT, FABREGA,

MEYER, D. BROWN, MARKS, HARPER, ANDERSON,

BARDANQUE, R. ANDREASON

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15 invalid, all valid parts that are severable from the invalid
16 part remain in effect. If a part of this act is invalid in
17 one or more of its applications, the part remains in effect
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19 invalid applications.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 780

3 HOUSE BUSINESS AND INDUSTRY COMMITTEE
4

5 The intent of this bill is to insure that the energy
6 needs of Montana consumers are supplied at the lowest
7 possible cost. It is based on the observation that specific
8 energy needs can be met through a variety of resources, not
9 strictly limited to conventional fuels. The most
10 cost-effective resource should be obtained first. If
11 insulating an individual residence saves more energy per
12 dollar invested than is produced by a new coal thermal
13 plant, then the utility should invest in insulating the
14 house. Energy from electricity and natural gas is currently
15 supplied only by regulated utilities; this bill provides the
16 mechanism whereby those utilities can supply energy from
17 conservation and renewable resources in a manner which is
18 predictable, economical, and which provides the utility
19 financial encouragement to do so. Rulemaking may be used to
20 expedite the development of smaller, more dispersed types of
21 resources.

HOUSE BILL NO. 780

INTRODUCED BY AZZARA, HALLIGAN, VINCENT, FERGUSON,

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 11 offer to purchase energy from a qualifying conservation
 12 energy facility or renewable energy facility, the rates for
 13 that purchase may not increase costs to the consumers of the
 14 electric or gas utility above the longrun costs in the
 15 absence of such purchase and may not discriminate against
 16 qualifying conservation energy producers or qualifying
 17 renewable energy producers. Such rates for purchase shall
 18 provide maximum incentive to qualifying conservation energy
 19 producers and qualifying renewable energy producers by
 20 reflecting the incremental system cost to the purchasing
 21 utility of providing the energy form produced by or sold to
 22 the utility from conventional resources.

23 (3) Within 1 year of [the effective date of this act],
 24 each utility shall provide the commission with estimates of
 25 its own incremental system costs.

1 (4) The calculation of incremental system cost must
 2 reflect:

3 (a) all direct costs of new conventional resources
 4 over their effective life, including if applicable the cost
 5 of both capacity and energy and the cost of distribution and
 6 transmission to the consumer and including but not limited
 7 to annual operating, waste disposal, and end-of-cycle costs;
 8 and

9 (b) the cost of the highest cost-avoidable existing
 10 resource.

11 (5) The commission shall hold hearings open to all
 12 interested parties and shall adopt, by rule, an estimate of
 13 incremental system cost for each utility. This procedure
 14 shall be repeated at intervals of at least once every 3
 15 years.

16 Section 6. Exemptions. (1) Qualifying conservation
 17 energy facilities and qualifying renewable energy facilities
 18 are exempt from regulation of rates and rates of return,
 19 with the exception of the guidelines adopted under
 20 subsection (2) of [section 5], any rules promulgated under
 21 that section, and the associated determinations of the
 22 commission.

23 (2) Income accruing to minority ownership in
 24 qualifying conservation or renewable energy facilities by
 25 regulated utilities may not be treated as income to the

1 utility for purposes of regulation by the commission.

2 Section 7. Determination of rate return from resource
3 acquisition. Resources included in the implementation plan
4 required in [section 2] acquired by a utility directly are
5 eligible for inclusion in the utility's rate base, subject
6 to approval by the commission. Determination of the cost of
7 capital for these resources shall be made separately from
8 that for other utility property.

9 Section 8. Complaint and audit procedures. The
10 commission has jurisdiction over complaint procedures and
11 audit requirements with respect to the quality of materials,
12 installation of renewable systems and conservation measures,
13 and performance of those systems and measures.

14 Section 9. Severability. If a part of this act is
15 invalid, all valid parts that are severable from the invalid
16 part remain in effect. If a part of this act is invalid in
17 one or more of its applications, the part remains in effect
18 in all valid applications that are severable from the
19 invalid applications.

-End-