

SENATE BILL NO. 139

INTRODUCED BY DOVER, M. ANDERSON, HAPFERMAN, THOMAS
BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

IN THE SENATE

January 15, 1981	Introduced and referred to Committee on Natural Resources.
January 16, 1981	Fiscal note requested.
January 21, 1981	Fiscal note returned.
February 17, 1981	Committee recommend bill do pass as amended. Report adopted.
February 18, 1981	Bill printed and placed on members' desks.
February 19, 1981	Second reading, do pass.
February 20, 1981	Correctly engrossed.
February 21, 1981	Third reading, passed. Ayes, 48; Noes, 0. Transmitted to House.

IN THE HOUSE

February 23, 1981	Introduced and referred to Committee on Natural Resources.
March 28, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 30, 1981	On motion rules suspended and bill allowed to be transmitted on 71st legislative day. Motion adopted.
March 31, 1981	Second reading, pass consideration. On motion to put back on second reading this day. Motion adopted. Second reading, concurred in.

March 31, 1981

On motion rules suspended and bill placed on third reading this day.

Third reading, concurred in as amended. Ayes, 75; Noes, 21.

IN THE SENATE

April 1, 1981

Returned from House with amendments.

April 3, 1981

Second reading, pass consideration.

April 4, 1981

On motion, consideration be passed for the day.

April 10, 1981

Second reading, amendments concurred in.

April 11, 1981

Third reading, amendments concurred in. Ayes, 48; Noes, 0. Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *139*
 2 INTRODUCED BY *Rep. Mike Anderson, Chairman*
 3 BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL *Thomas*

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE SALE
 6 OF ELECTRICITY FROM QUALIFYING SMALL POWER PRODUCTION
 7 FACILITIES TO UTILITIES UNDER RATES AND CONDITIONS MUTUALLY
 8 AGREED UPON OR ESTABLISHED BY THE PUBLIC SERVICE
 9 COMMISSION."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Definitions. As used in [this act], the
 13 following definitions apply:

- 14 (1) "Commission" means the Montana public service
 15 commission.
- 16 (2) "Utility" means any public utility supplying
 17 electricity and regulated by the commission.
- 18 (3) "Qualifying small power production facility" means
 19 a facility that:
 - 20 (a) produces electricity by the use, as a primary
 21 energy source, of biomass, waste, water, or other renewable
 22 resource, or any combination of those sources;
 - 23 (b) has a power production capacity that together with
 24 any other facilities located at the same site, is not
 25 greater than 80 megawatts; and

1 (c) is owned by a person not primarily engaged in the
 2 generation or sale of electricity.

3 Section 2. Generation and sale of electricity by
 4 qualifying small power production facility. (1) A qualifying
 5 small power production facility may generate electricity
 6 from the sources described in [section 1(3)(a)] and may
 7 contract for the sale of that electricity with a utility.

8 (2) A qualifying small power production facility may
 9 not engage in the distribution of the electricity it
 10 generates.

11 Section 3. Required sale of electricity under rates and
 12 conditions prescribed by commission. (1) If a qualifying
 13 small power production facility and a utility are unable to
 14 mutually agree to a contract for the sale of electricity or
 15 a price for the electricity to be purchased by the utility,
 16 the commission shall require the utility to purchase the
 17 electricity under rates and conditions established under the
 18 provisions of subsection (2).

19 (2) The commission shall determine the rates and
 20 conditions of the contract upon petition of a qualifying
 21 small power production facility or a utility or during a
 22 rate proceeding involving the review of rates paid by a
 23 utility for electricity purchased from a qualifying small
 24 power production facility. The commission shall render a
 25 decision within 120 days of receipt of the petition or

1 before the completion of the rate proceeding. The rates and
2 conditions of the determination shall be made according to
3 the standards prescribed in [section 4].

4 Section 4. Standards for determination of rates and
5 conditions. (1) The commission shall determine the rates and
6 conditions of the contract for the sale of electricity by a
7 qualifying small power production facility according to the
8 standards in subsections (2) through (4).

9 (2) Long term contracts for the purchase of electricity
10 by the utility from a qualifying small power production
11 facility shall be encouraged in order to enhance the
12 economic feasibility of qualifying small power production
13 facilities.

14 (3) The rates to be paid by a utility for electricity
15 purchased from a qualifying small power production facility
16 shall be established with consideration of the availability
17 and reliability of the electricity produced.

18 (4) The commission may set these rates by use of any of
19 the following methods:

20 (a) the levelized avoided cost over the term of the
21 contract;

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

25 (c) any other method that will promote the development

1 of qualifying small power production facilities.

-End-

STATE OF MONTANA

REQUEST NO. 115-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 16, 19 81, there is hereby submitted a Fiscal Note for SB-139 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 Proposed Legislation:

An act to authorize the sale of electricity from qualifying small power production facilities to utilities under rates and conditions mutually agreed upon or established by the Public Service Commission.

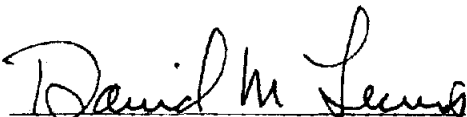
Assumptions:

- (1) One hearing per year for each of the three (3) major electrical distribution companies.
- (2) An average of ten (10) petitions per year of qualifying small power procedures.
- (3) The agency requests 1 FTE, Economist, Grade 15.
- (4) Clerical and hearings expenses will be absorbed from present budget.

Revenue & Expenditure Impact:

<u>State</u>	<u>FY 82</u>	<u>FY 83</u>
Revenue	0	0
Expenditures		
Personal Services	\$21,860	\$22,314
Operating Exp	3,600	2,710
Net Effect	\$25,460	\$25,024

Cost over the biennium is \$50,484.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-21-81

Approved by Committee on Natural Resources

1 SENATE BILL NO. 139
 2 INTRODUCED BY DOVER, M. ANDERSON, HAFFERMAN, THOMAS
 3 BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE SALE
 6 OF ELECTRICITY FROM QUALIFYING SMALL POWER PRODUCTION
 7 FACILITIES TO UTILITIES UNDER RATES AND CONDITIONS MUTUALLY
 8 AGREED UPON OR ESTABLISHED BY THE PUBLIC SERVICE COMMISSION
 9 OR TO ELECTRIC COOPERATIVES UNDER TERMS AND CONDITIONS
 10 MUTUALLY AGREED UPON AND IN COMPLIANCE WITH THE PUBLIC
 11 UTILITY REGULATORY POLICIES ACT."
 12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 Section 1. Definitions. As used in [this act], the
 15 following definitions apply:
 16 (1) "Commission" means the Montana public service
 17 commission.
 18 (2) "ELECTRIC COOPERATIVE" MEANS A PURAL ELECTRIC
 19 COOPERATIVE ORGANIZED UNDER THE LAWS OF MONTANA, OR A
 20 FOREIGN CORPORATION ADMITTED TO DO BUSINESS IN MONTANA.
 21 ~~††(3)~~ "Utility" means any public utility supplying
 22 electricity and regulated by the commission.
 23 ~~††(4)~~ "Qualifying small power production facility"
 24 means a facility that:
 25 (a) produces electricity by the use, as a primary

1 energy source, of biomass, waste, water, WIND, or other
 2 renewable resource, or any combination of those sources;
 3 (b) has a power production capacity that together with
 4 any other facilities located at the same site, is not
 5 greater than 80 megawatts; and
 6 (c) is owned by a person not primarily engaged in the
 7 generation or sale of electricity.
 8 Section 2. Generation and sale of electricity by
 9 qualifying small power production facility. (1) A qualifying
 10 small power production facility may generate electricity
 11 from the sources described in [section 1~~(3)~~(4)(a)] and may
 12 contract for the sale of that electricity with a utility.
 13 (2) A qualifying small power production facility may
 14 ~~not engage in the distribution of the electricity--it~~
 15 ~~generates~~ GENERATE ELECTRICITY FROM THE SOURCES DESCRIBED IN
 16 [SECTION 1(4)(A)] AND MAY CONTRACT FOR THE SALE OF THAT
 17 ELECTRICITY WITH AN ELECTRIC COOPERATIVE UNDER TERMS AND
 18 CONDITIONS MUTUALLY AGREED UPON BETWEEN THE PARTIES AND IN
 19 COMPLIANCE WITH THE RATES AND REGULATIONS ESTABLISHED BY THE
 20 PUBLIC UTILITY REGULATORY POLICIES ACT.
 21 Section 3. Required sale of electricity under rates
 22 and conditions prescribed by commission. (1) If a qualifying
 23 small power production facility and a utility are unable to
 24 mutually agree to a contract for the sale of electricity or
 25 a price for the electricity to be purchased by the utility.

1 the commission shall require the utility to purchase the
2 electricity under rates and conditions established under the
3 provisions of subsection (2).

4 (2) The commission shall determine the rates and
5 conditions of the contract upon petition of a qualifying
6 small power production facility or a utility or during a
7 rate proceeding involving the review of rates paid by a
8 utility for electricity purchased from a qualifying small
9 power production facility. The commission shall render a
10 decision within 120 days of receipt of the petition or
11 before the completion of the rate proceeding. The rates and
12 conditions of the determination shall be made according to
13 the standards prescribed in [section 4].

14 Section 4. Standards for determination of rates and
15 conditions. (1) The commission shall determine the rates and
16 conditions of the contract for the sale of electricity by a
17 qualifying small power production facility according to the
18 standards in subsections (2) through (4).

19 (2) Long term contracts for the purchase of
20 electricity by the utility from a qualifying small power
21 production facility shall be encouraged in order to enhance
22 the economic feasibility of qualifying small power
23 production facilities.

24 (3) The rates to be paid by a utility for electricity
25 purchased from a qualifying small power production facility

1 shall be established with consideration of the availability
2 and reliability of the electricity produced.

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

5 (a) the ~~levelized~~ avoided cost over the term of the
6 contract;

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

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

-End-

1 SENATE BILL NO. 139

2 INTRODUCED BY DOVER, M. ANDERSON, HAFFERMAN, THOMAS

3 BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE SALE
6 OF ELECTRICITY FROM QUALIFYING SMALL POWER PRODUCTION
7 FACILITIES TO UTILITIES UNDER RATES AND CONDITIONS MUTUALLY
8 AGREED UPON OR ESTABLISHED BY THE PUBLIC SERVICE COMMISSION
9 OR TO ELECTRIC COOPERATIVES UNDER TERMS AND CONDITIONS
10 MUTUALLY AGREED UPON AND IN COMPLIANCE WITH THE PUBLIC
11 UTILITY REGULATORY POLICIES ACT."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:14 Section 1. Definitions. As used in [this act], the
15 following definitions apply:16 (1) "Commission" means the Montana public service
17 commission.18 (2) "ELECTRIC COOPERATIVE" MEANS A RURAL ELECTRIC
19 COOPERATIVE ORGANIZED UNDER THE LAWS OF MONTANA, OR A
20 FOREIGN CORPORATION ADMITTED TO DO BUSINESS IN MONTANA.21 ~~(2)(3)~~ "Utility" means any public utility supplying
22 electricity and regulated by the commission.23 ~~(3)(4)~~ "Qualifying small power production facility"
24 means a facility that:

25 (a) produces electricity by the use, as a primary

1 energy source, of biomass, waste, water, WIND, or other
2 renewable resource, or any combination of those sources;3 (b) has a power production capacity that together with
4 any other facilities located at the same site, is not
5 greater than 80 megawatts; and6 (c) is owned by a person not primarily engaged in the
7 generation or sale of electricity.8 Section 2. Generation and sale of electricity by
9 qualifying small power production facility. (1) A qualifying
10 small power production facility may generate electricity
11 from the sources described in [section 1~~(3)~~(4)(a)] and may
12 contract for the sale of that electricity with a utility.13 (2) A qualifying small power production facility may
14 ~~not engage in the distribution of the electricity it~~
15 ~~generates~~ GENERATE ELECTRICITY FROM THE SOURCES DESCRIBED IN
16 [SECTION 1(4)(A)] AND MAY CONTRACT FOR THE SALE OF THAT
17 ELECTRICITY WITH AN ELECTRIC COOPERATIVE UNDER TERMS AND
18 CONDITIONS MUTUALLY AGREED UPON BETWEEN THE PARTIES AND IN
19 COMPLIANCE WITH THE RATES AND REGULATIONS ESTABLISHED BY THE
20 PUBLIC UTILITY REGULATORY POLICIES ACT.21 Section 3. Required sale of electricity under rates
22 and conditions prescribed by commission. (1) If a qualifying
23 small power production facility and a utility are unable to
24 mutually agree to a contract for the sale of electricity or
25 a price for the electricity to be purchased by the utility,

1 the commission shall require the utility to purchase the
2 electricity under rates and conditions established under the
3 provisions of subsection (2).

4 (2) The commission shall determine the rates and
5 conditions of the contract upon petition of a qualifying
6 small power production facility or a utility or during a
7 rate proceeding involving the review of rates paid by a
8 utility for electricity purchased from a qualifying small
9 power production facility. The commission shall render a
10 decision within 120 days of receipt of the petition or
11 before the completion of the rate proceeding. The rates and
12 conditions of the determination shall be made according to
13 the standards prescribed in [section 4].

14 Section 4. Standards for determination of rates and
15 conditions. (1) The commission shall determine the rates and
16 conditions of the contract for the sale of electricity by a
17 qualifying small power production facility according to the
18 standards in subsections (2) through (4).

19 (2) Long term contracts for the purchase of
20 electricity by the utility from a qualifying small power
21 production facility shall be encouraged in order to enhance
22 the economic feasibility of qualifying small power
23 production facilities.

24 (3) The rates to be paid by a utility for electricity
25 purchased from a qualifying small power production facility

1 shall be established with consideration of the availability
2 and reliability of the electricity produced.

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

5 (a) the ~~levelized~~ avoided cost over the term of the
6 contract;

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

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

-End-

SENATE BILL NO. 139

INTRODUCED BY DOVER, M. ANDERSON, HAFFERMAN, THOMAS

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE SALE OF ELECTRICITY FROM QUALIFYING SMALL POWER PRODUCTION FACILITIES TO UTILITIES UNDER RATES AND CONDITIONS MUTUALLY AGREED UPON OR ESTABLISHED BY THE PUBLIC SERVICE COMMISSION OR TO ELECTRIC COOPERATIVES UNDER TERMS AND CONDITIONS MUTUALLY AGREED UPON AND IN COMPLIANCE WITH THE PUBLIC UTILITY REGULATORY POLICIES ACT."

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

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

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

(2) "ELECTRIC COOPERATIVE" MEANS A RURAL ELECTRIC COOPERATIVE ORGANIZED UNDER THE LAWS OF MONTANA, OR A FOREIGN CORPORATION ADMITTED TO DO BUSINESS IN MONTANA.

(3) "Utility" means any public utility supplying electricity and regulated by the commission.

(4) "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;

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

(c) 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.

Section 2. 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 [section 1(4)(a)] and may contract for the sale of that electricity with a utility.

(2) A qualifying small power production facility may not engage in the distribution of the electricity it generates GENERATE ELECTRICITY FROM THE SOURCES DESCRIBED IN [SECTION 1(4)(A)] 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.

Section 3. Required sale of electricity under rates and conditions prescribed by commission. (1) If a qualifying small power production facility and a utility are unable to mutually agree to a contract for the sale of electricity or

1 a price for the electricity to be purchased by the utility.
 2 the commission shall require the utility to purchase the
 3 electricity under rates and conditions established under the
 4 provisions of subsection (2).

5 (2) The commission shall determine the rates and
 6 conditions of the contract upon petition of a qualifying
 7 small power production facility or a utility or during a
 8 rate proceeding involving the review of rates paid by a
 9 utility for electricity purchased from a qualifying small
 10 power production facility. The commission shall render a
 11 decision within 120 days of receipt of the petition or
 12 before the completion of the rate proceeding. The rates and
 13 conditions of the determination shall be made according to
 14 the standards prescribed in [section 4].

15 Section 4. Standards for determination of rates and
 16 conditions. (1) The commission shall determine the rates and
 17 conditions of the contract for the sale of electricity by a
 18 qualifying small power production facility according to the
 19 standards in subsections (2) through (4).

20 (2) Long term contracts for the purchase of
 21 electricity by the utility from a qualifying small power
 22 production facility shall be encouraged in order to enhance
 23 the economic feasibility of qualifying small power
 24 production facilities.

25 (3) The rates to be paid by a utility for electricity

1 purchased from a qualifying small power production facility
 2 shall be established with consideration of the availability
 3 and reliability of the electricity produced.

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

6 (a) the ~~levelized~~ avoided cost over the term of the
 7 contract;

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

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

-End-

NATURAL RESOURCES COMMITTEE AMENDMENTS TO SB 139
MARCH 28, 1981

1. Page 2, line 7.
Following: "electricity"
Insert: "other than electric power from a small power production
facility"