

HOUSE BILL NO. 694

2/06 Introduced
2/06 Referred to Business & Labor
2/18 Hearing
2/19 Committee Report-Bill Do Pass
2/21 2nd Reading Pass
2/23 3rd Reading pass

Transmitted to Senate

3/04 Referred to Natural Resources
3/11 Tabled in Committee

1 HOUSE BILL NO. 694
 2 INTRODUCED BY Alan Simon
 3 E. Smith T. H. J. G. S. L. H.
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE PUBLIC
 5 SERVICE COMMISSION TO SET RATES FOR UTILITY PURCHASES FROM
 6 QUALIFYING FACILITIES AT THE UTILITY'S AVOIDED COST AND
 7 SPECIFYING THE AVOIDED COST UNDER CERTAIN CIRCUMSTANCES;
 8 AMENDING SECTION 69-3-604, MCA."
 9

10 WHEREAS, the Congress of the United States enacted the
 11 Public Utility Regulatory Policies Act of 1978 (PURPA),
 12 which included provisions requiring public utilities to
 13 purchase power from certain qualifying facilities at the
 14 utilities' avoided cost, as defined in the act; and

15 WHEREAS, the Legislature empowered Montana's Public
 16 Service Commission to determine avoided cost rates in
 17 accordance with PURPA and the rules promulgated thereunder
 18 by the Federal Energy Regulatory Commission; and

19 WHEREAS, it was the intent of PURPA that utilities pay
 20 only for costs which could be truly avoided by the purchase
 21 of capacity and energy; and

22 WHEREAS, a utility that has a base-load generating
 23 station which the Commission has determined is not needed to
 24 serve its customers or which has other excess capacity or
 25 energy on its system avoids no cost in purchasing additional

1 capacity; and

2 WHEREAS, a utility that can purchase capacity or energy
 3 from a power pool avoids only the costs charged by the pool
 4 in purchasing capacity or energy from a qualifying facility;
 5 and

6 WHEREAS, it was the intention of the Legislature to
 7 authorize the Commission to set purchase rates only for
 8 truly avoided costs.

9 THEREFORE, the Legislature finds it appropriate to
 10 specify the requirement that utilities are obligated to
 11 purchase power only at truly avoidable costs.

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 69-3-604, MCA, is amended to read:

15 "69-3-604. 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 (5).

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~~ shall set these rates ~~by use of~~
 5 ~~any of the following methods:~~

6 ~~(a) the avoided cost over the term of the 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. in~~
 12 compliance with the rules and regulations established by the
 13 Federal Public Utility Regulatory Policies Act of 1978. If a
 14 utility is able to purchase capacity and energy from a power
 15 pool, the avoided cost of capacity and energy must be the
 16 price charged by the power pool. If the commission has
 17 determined that a utility has excess generating capacity,
 18 the avoided cost of capacity must be zero and the avoided
 19 cost of energy must be equal to the utility's incremental
 20 running cost.

21 (5) The commission may adopt rules further defining
 22 the criteria for qualifying small power production
 23 facilities, their cost-effectiveness, and other standards."

24 NEW SECTION. Section 2. Extension of authority. Any
 25 existing authority of the public service commission to make

1 rules on the subject of the provisions of this act is
 2 extended to the provisions of this act.

-End-

APPROVED BY COMM. ON
BUSINESS AND LABOR

HOUSE BILL No. 694

INTRODUCED BY Aray Simon

E. Smith Talbot James Gilbert Decker

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE PUBLIC SERVICE COMMISSION TO SET RATES FOR UTILITY PURCHASES FROM QUALIFYING FACILITIES AT THE UTILITY'S AVOIDED COST AND SPECIFYING THE AVOIDED COST UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTION 69-3-604, MCA."

WHEREAS, the Congress of the United States enacted the Public Utility Regulatory Policies Act of 1978 (PURPA), which included provisions requiring public utilities to purchase power from certain qualifying facilities at the utilities' avoided cost, as defined in the act; and

WHEREAS, the Legislature empowered Montana's Public Service Commission to determine avoided cost rates in accordance with PURPA and the rules promulgated thereunder by the Federal Energy Regulatory Commission; and

WHEREAS, it was the intent of PURPA that utilities pay only for costs which could be truly avoided by the purchase of capacity and energy; and

WHEREAS, a utility that has a base-load generating station which the Commission has determined is not needed to serve its customers or which has other excess capacity or energy on its system avoids no cost in purchasing additional

capacity; and

WHEREAS, a utility that can purchase capacity or energy from a power pool avoids only the costs charged by the pool in purchasing capacity or energy from a qualifying facility; and

WHEREAS, it was the intention of the Legislature to authorize the Commission to set purchase rates only for truly avoided costs.

THEREFORE, the Legislature finds it appropriate to specify the requirement that utilities are obligated to purchase power only at truly avoidable costs.

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

Section 1. Section 69-3-604, MCA, is amended to read:

"69-3-604. 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).

(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) 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 ~~shall~~ set these rates by-use-of
 5 ~~any-of-the-following-methods:~~

6 ~~(a)--the-avoided-cost-over-the-term-of-the-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: in~~
 12 compliance with the rules and regulations established by the
 13 federal Public Utility Regulatory Policies Act of 1978. If a
 14 utility is able to purchase capacity and energy from a power
 15 pool, the avoided cost of capacity and energy must be the
 16 price charged by the power pool. If the commission has
 17 determined that a utility has excess generating capacity,
 18 the avoided cost of capacity must be zero and the avoided
 19 cost of energy must be equal to the utility's incremental
 20 running cost.

21 (5) The commission may adopt rules further defining
 22 the criteria for qualifying small power production
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E. Smith Tollet James Gilbert Martin

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THEREFORE, the Legislature finds it appropriate to specify the requirement that utilities are obligated to purchase power only at truly avoidable costs.

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

Section 1. Section 69-3-604, MCA, is amended to read: "69-3-604. 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).

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

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