

HOUSE BILL NO. 852

INTRODUCED BY HARP, JACOBSON, HAND, ASAY,
MARKS, QUILICI, CRIPPEN, HIRSCH, O'CONNELL,
STIMATZ, NEUMAN, LYNCH, DRISCOLL, KEATING,
STEPHENS, REGAN, MANUEL, MENAHAN, JONES,
BRANDEWIE, PAVLOVICH

IN THE HOUSE

February 15, 1985	Introduced and referred to Committee on Business and Labor.
February 22, 1985	Committee recommend bill do pass as amended. Report adopted.
	Bill printed and placed on members' desks.
February 25, 1985	Second reading, do pass. Considered correctly engrossed.
February 26, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 4, 1985	Introduced and referred to Committee on Business and Industry.
March 14, 1985	Committee recommend bill be concurrred in. Report adopted.
March 18, 1985	Second reading, concurrred in.
March 20, 1985	Third reading, concurrred in. Ayes, 50; Noes, 0.
	Returned to House.

IN THE HOUSE

March 21, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 852 *marks*
 2 INTRODUCTION BY *HARP* *Lockwood* *Hart* *Gen. Sullivan*
 3 *Com. Hines* *Strom* *Numan* *Spink* *Seating*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE AN EXEMPTION *STEDNER*
 5 FOR CERTAIN PERSONS FROM REGULATION AS PUBLIC UTILITIES; TO *Wynn*
 6 EXCLUDE SUCH PERSONS FROM THE DEFINITION OF "PUBLIC *Warner*
 7 UTILITY"; AMENDING SECTION 69-3-101, MCA; AND PROVIDING AN *McIntosh*
 8 IMMEDIATE EFFECTIVE DATE." *Parlin* *Brady*

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

11 Section 1. Section 69-3-101, MCA, is amended to read:

12 "69-3-101. Meaning of term "public utility". (1) The
 13 term "public utility", within the meaning of this chapter,
 14 shall embrace every corporation, both public and private,
 15 company, individual, association of individuals, their
 16 lessees, trustees, or receivers appointed by any court
 17 whatsoever, that now or hereafter may own, operate, or
 18 control any plant or equipment, any part of a plant or
 19 equipment, or any water right within the state for the
 20 production, delivery, or furnishing for or to other persons,
 21 firms, associations, or corporations, private or municipal:

- 22 (a) heat;
- 23 (b) street-railway service;
- 24 (c) light;
- 25 (d) power in any form or by any agency;

1 (e) except as provided in chapter 7, water for
 2 business, manufacturing, household use, or sewerage service,
 3 whether within the limits of municipalities, towns, and
 4 villages or elsewhere;

5 (f) telegraph or telephone service.

6 (2) The term "public utility" does not include:

7 (a) privately owned and operated water, sewer, or
 8 combination systems that do not serve the public; or

9 (b) county or consolidated city and county water or
 10 sewer districts as defined in Title 7, chapter 13, parts 22
 11 and 23; or

12 (c) a person exempted from regulation as a public
 13 utility as provided in [section 2]."

14 NEW SECTION. Section 2. Commission may determine
 15 certain persons not a public utility. (1) Upon application,
 16 the commission, by order, may determine that any person not
 17 otherwise a public utility is not a public utility subject
 18 to the jurisdiction, control or regulation of the commission
 19 under this title, solely because such person owns or
 20 controls any plant or equipment, any part of or undivided
 21 interest in a plant, property, or equipment or any water
 22 right described in 69-3-101:

- 23 (a) which is leased or sold or held for lease or sale
- 24 to any public utility or other lessee; or
- 25 (b) the operation and use of which is vested by lease



1 or other contract in a public utility or other lessee; or
 2 (c) for a period of not more than 90 days after
 3 termination of any lease or contract described in subsection
 4 (1)(a) or (1)(b) or after such person gains possession of
 5 such property following a breach of such lease or contract.
 6 (2) Any order once issued may not be revoked or
 7 modified by the commission unless there is a material change
 8 in the lease or contract terms forming the basis of such
 9 order.
 10 (3) The commission may, upon application by a public
 11 utility, issue its order approving the terms of any lease or
 12 contract described in subsection (1)(a) or (1)(b) for the
 13 purpose of qualifying any party thereto for an exemption by
 14 the United States Securities and Exchange Commission from
 15 the federal Public Utility Holding Company Act of 1935.
 16 (4) A public utility leasing any plant or equipment,
 17 any part of, or undivided interest in, a plant or equipment
 18 or any water right described in 69-3-101 which is subject to
 19 any lease or contract described in this section shall comply
 20 with this title, regarding such plant, equipment or water
 21 right.
 22 (5) Nothing in this section may be construed to alter
 23 or modify the authority of the commission to regulate the
 24 rates and services of a public utility that is subject to
 25 the provisions of this title.

1 NEW SECTION. Section 3. Codification instruction.
 2 Section 2 is intended to be codified as an integral part of
 3 Title 69, chapter 3.
 4 NEW SECTION. Section 4. Extension of authority. Any
 5 existing authority of the public service commission to make
 6 rules on the subject of the provisions of this act is
 7 extended to the provisions of this act.
 8 NEW SECTION. Section 5. Effective date. This act is
 9 effective on passage and approval.

-End-

APPROVED BY COMM. ON
BUSINESS AND LABOR

1 HOUSE BILL NO. 852
2 INTRODUCED BY HARP, JACOBSON, HAND, ASAY,
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4 STIMATZ, NEUMAN, LYNCH, DRISCOLL, KEATING,
5 STEPHENS, REGAN, MANUEL, MENAHAN, JONES,
6 BRANDEWIE, PAVLOVICH
7
8 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE AN EXEMPTION
9 FOR CERTAIN PERSONS FROM REGULATION AS PUBLIC UTILITIES; TO
10 EXCLUDE SUCH PERSONS FROM THE DEFINITION OF "PUBLIC
11 UTILITY"; AMENDING SECTION 69-3-101, MCA; AND PROVIDING AN
12 IMMEDIATE EFFECTIVE DATE."
13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15 Section 1. Section 69-3-101, MCA, is amended to read:
16 "69-3-101. Meaning of term "public utility". (1) The
17 term "public utility", within the meaning of this chapter,
18 shall embrace every corporation, both public and private,
19 company, individual, association of individuals, their
20 lessees, trustees, or receivers appointed by any court
21 whatsoever, that now or hereafter may own, operate, or
22 control any plant or equipment, any part of a plant or
23 equipment, or any water right within the state for the
24 production, delivery, or furnishing for or to other persons,
25 firms, associations, or corporations, private or municipal:

1 (a) heat;
2 (b) street-railway service;
3 (c) light;
4 (d) power in any form or by any agency;
5 (e) except as provided in chapter 7, water for
6 business, manufacturing, household use, or sewerage service,
7 whether within the limits of municipalities, towns, and
8 villages or elsewhere;
9 (f) telegraph or telephone service.
10 (2) The term "public utility" does not include:
11 (a) privately owned and operated water, sewer, or
12 combination systems that do not serve the public; or
13 (b) county or consolidated city and county water or
14 sewer districts as defined in Title 7, chapter 13, parts 22
15 and 23; or
16 (c) a person exempted from regulation as a public
17 utility as provided in [section 2]."
18 NEW SECTION. Section 2. Commission may determine
19 certain persons not a public utility. (1) Upon application,
20 the commission, by order, may determine that any person not
21 otherwise a public utility is not a public utility subject
22 to the jurisdiction, control or regulation of the commission
23 under this title, solely because such person owns or
24 controls any plant or equipment, any part of or undivided
25 interest in a plant~~;~~~~property~~, or equipment or any water

1 right described in 69-3-101:

2 (a) which is leased or sold or held for lease or sale
3 to any public utility or other lessee; or

4 (b) the operation and use of which is vested by lease
5 or other contract in a public utility or other lessee; or

6 (c) for a period of not more than 90 days after
7 termination of any lease or contract described in subsection
8 (1)(a) or (1)(b) or after such person gains possession of
9 such property following a breach of such lease or contract.

10 (2) Any order once issued may not be revoked or
11 modified by the commission unless there is a material change
12 in the lease or contract terms forming the basis of such
13 order.

14 (3) The commission may, upon application by a public
15 utility, issue its order approving the terms of any lease or
16 contract described in subsection (1)(a) or (1)(b) for the
17 purpose of qualifying any party thereto for an exemption by
18 the United States Securities and Exchange Commission, OR ITS
19 SUCCESSOR, from the federal Public Utility Holding Company
20 Act of 1935.

21 (4) A public utility, leasing AS LESSEE OF any plant
22 or equipment, any part of, or undivided interest in, a plant
23 or equipment or any water right described in 69-3-101 which
24 is subject to any lease or contract described in this
25 section, shall comply with this title, regarding such plant,

1 equipment or water right.

2 (5) Nothing in this section may be construed to alter
3 or modify the authority of the commission to regulate the
4 rates and services of a public utility that is subject to
5 the provisions of this title.

6 NEW SECTION. Section 3. Codification instruction.
7 Section 2 is intended to be codified as an integral part of
8 Title 69, chapter 3.

9 NEW SECTION. Section 4. Extension of authority. Any
10 existing authority of the public service commission to make
11 rules on the subject of the provisions of this act is
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13 NEW SECTION. Section 5. Effective date. This act is
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A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE AN EXEMPTION FOR CERTAIN PERSONS FROM REGULATION AS PUBLIC UTILITIES; TO EXCLUDE SUCH PERSONS FROM THE DEFINITION OF "PUBLIC UTILITY"; AMENDING SECTION 69-3-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 69-3-101, MCA, is amended to read:

"69-3-101. Meaning of term "public utility". (1) The term "public utility", within the meaning of this chapter, shall embrace every corporation, both public and private, company, individual, association of individuals, their lessees, trustees, or receivers appointed by any court whatsoever, that now or hereafter may own, operate, or control any plant or equipment, any part of a plant or equipment, or any water right within the state for the production, delivery, or furnishing for or to other persons, firms, associations, or corporations, private or municipal:

- (a) heat;
(b) street-railway service;
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(2) The term "public utility" does not include:
(a) privately owned and operated water, sewer, or combination systems that do not serve the public; or
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1 right described in 69-3-101:

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3 to any public utility or other lessee; or

4 (b) the operation and use of which is vested by lease
5 or other contract in a public utility or other lessee; or

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7 termination of any lease or contract described in subsection
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19 SUCCESSOR, from the federal Public Utility Holding Company
20 Act of 1935.

21 (4) A public utility, ~~leasing~~ AS LESSEE OF any plant
22 or equipment, any part of, or undivided interest in, a plant
23 or equipment or any water right described in 69-3-101 which
24 is subject to any lease or contract described in this
25 section, shall comply with this title, regarding such plant,

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