

SENATE BILL NO. 317

2/02 Introduced  
2/04 Referred to Business & Industry  
2/13 Hearing  
2/22 Tabled in Committee

1 *Senate* BILL NO. *317*  
 2 INTRODUCED BY *Ed. Dan Richard E. Manning*  
 3 BY REQUEST OF THE PUBLIC SERVICE COMMISSION

4 *Molan*  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE PUBLIC  
 6 SERVICE COMMISSION TO ISSUE AN ORDER TO SHOW CAUSE WHY A  
 7 PARTICULAR ACTION OF A PUBLIC UTILITY SHOULD NOT BE  
 8 PREVENTED PENDING CONSIDERATION OF THE ACTION BY THE  
 9 COMMISSION; AMENDING SECTION 69-3-103, MCA; AND PROVIDING AN  
 10 IMMEDIATE EFFECTIVE DATE."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 69-3-103, MCA, is amended to read:  
 14 "69-3-103. General powers and rulemaking authority of  
 15 commission. (1) In addition to the modes of procedure  
 16 hereinafter prescribed in particular cases and classes of  
 17 cases, said commission shall have power to prescribe rules  
 18 of procedure and to do all things necessary and convenient  
 19 in the exercise of the powers conferred by this chapter upon  
 20 the commission; provided that nothing in this chapter shall  
 21 be construed as vesting judicial powers on said commission  
 22 or as denying to any person, firm, association, corporation,  
 23 municipality, county, town, or village the right to test in  
 24 a court of competent jurisdiction the legality or  
 25 reasonableness of any fixed order made by the commission in

1 the exercise of its duties or powers.  
 2 (2) The commission shall have the power to:  
 3 (a) adopt reasonable and proper rules relative to all  
 4 inspections, tests, audits, and investigations;  
 5 (b) adopt and publish reasonable and proper rules to  
 6 govern its proceedings; and  
 7 (c) regulate the mode and manner of all investigations  
 8 and hearings of public utilities and other parties before  
 9 it.  
 10 (3) (a) The commission may, upon its own motion or  
 11 upon the request of a proper party, issue an order to show  
 12 cause to prevent a public utility from executing a proposed  
 13 action. Through the issuance of the order to show cause, the  
 14 commission may prevent a public utility from taking action  
 15 that:  
 16 (i) will harm or threatens to harm the public health,  
 17 welfare, and safety;  
 18 (ii) may be unlawful under this chapter;  
 19 (iii) will affect the ability of the commission to  
 20 ensure reasonable rates; or  
 21 (iv) involves any combination of subsections (3)(a)(i)  
 22 through (3)(a)(iii).  
 23 (b) The order to show cause must describe the proposed  
 24 action of the public utility, provide the basis of the  
 25 commission's contention that the action at issue should be

1 prevented, and provide the public utility with notice and an  
 2 opportunity to show cause before the commission why its  
 3 proposed action should not be prevented.

4 (c) Following the public utility's opportunity to show  
 5 cause, the commission shall determine whether the action at  
 6 issue should be permanently prevented by the commission. If  
 7 the commission cannot make that determination based on  
 8 evidence presented at the show cause hearing, the commission  
 9 shall initiate an appropriate commission proceeding to  
 10 investigate the proposed action and its effects, in which  
 11 case the preventive order remains in effect pending such  
 12 proceeding.

13 (d) If the public utility's proposed action is  
 14 imminent, the commission may issue a temporary order to show  
 15 cause, without notice, to immediately prevent the public  
 16 utility from acting. The public utility must be provided an  
 17 opportunity to show cause before the commission within 10  
 18 days of the issuance of the temporary order. Following the  
 19 opportunity to show cause, the commission shall make the  
 20 required determination pursuant to subsection (3)(c)."

21 NEW SECTION. Section 2. Extension of authority. Any  
 22 existing authority of the public service commission to make  
 23 rules on the subject of the provisions of this act is  
 24 extended to the provisions of this act.

25 NEW SECTION. Section 3. Effective date. This act is

1 effective on passage and approval.

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