

HOUSE BILL NO. 390

INTRODUCED BY QUILICI, HARP, LYNCH, BLAYLOCK, GILBERT,
PAVLOVICH, S. RICE, FRITZ, BENEDICT, SCHYE

IN THE HOUSE

JANUARY 30, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
	FIRST READING.
FEBRUARY 11, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 12, 1993	PRINTING REPORT.
FEBRUARY 13, 1993	SECOND READING, DO PASS.
FEBRUARY 15, 1993	ENGROSSING REPORT.
FEBRUARY 16, 1993	THIRD READING, PASSED. AYES, 99; NOES, 0.
FEBRUARY 17, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 20, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
MARCH 10, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 11, 1993	SECOND READING, CONCURRED IN.
MARCH 12, 1993	THIRD READING, CONCURRED IN. AYES, 48; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 13, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *390*
 2 INTRODUCED BY *Julie HARP Lynch*
 3 *Robert Patrick* *SRice* *BENEDICT* *Schye*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE MONTANA
 5 INTEGRATED LEAST-COST RESOURCE PLANNING AND ACQUISITION ACT;
 6 PROVIDING THAT THE PUBLIC SERVICE COMMISSION MAY REQUIRE A
 7 PUBLIC UTILITY THAT PROVIDES ELECTRIC OR NATURAL GAS SERVICE
 8 TO FILE AN INTEGRATED LEAST-COST RESOURCE PLAN; ALLOWING THE
 9 INCLUSION OF CERTAIN COSTS IN RATES; INTEGRATING THE
 10 PLANNING PROCESS IN FACILITY SITING; AMENDING SECTIONS
 11 69-3-702, 75-20-304, AND 75-20-501, MCA; AND PROVIDING AN
 12 EFFECTIVE DATE."

14 STATEMENT OF INTENT

15 A statement of intent is required for this bill because
 16 [section 4] grants the public service commission rulemaking
 17 authority to adopt guidelines for an electric or natural gas
 18 utility to follow in compiling an integrated least-cost
 19 resource plan. It is the intent of the legislature that the
 20 rules not apply to rural electric cooperatives. It is also
 21 the intent of the legislature that the rules preserve the
 22 "used and useful" ratemaking standard. The rules are not
 23 intended to allow the commission to preapprove any resource
 24 use proposed in a plan. [Section 5] does not require
 25 coordination between the commission and the department of

1 natural resources and conservation regarding their
 2 respective planning requirements. The rules must allow and
 3 provide for adequate consideration of siting issues.
 4 [Section 6] addresses commission rate treatment. The
 5 commission may include costs resulting from an integrated
 6 least-cost resource plan in a utility's rates.

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

9 NEW SECTION. **Section 1.** Short title. [Sections 1
 10 through 6] may be cited as the "Montana Integrated
 11 Least-Cost Resource Planning and Acquisition Act".

12 NEW SECTION. **Section 2.** Policy -- planning. (1) It is
 13 the policy of the state of Montana to supervise, regulate,
 14 and control public utilities. To the extent that it is
 15 consistent with the policy and in order to benefit society,
 16 the state encourages efficient utility operations, efficient
 17 use of utility services, and efficient rates. It is further
 18 the policy of the state to encourage utilities to acquire
 19 resources in a manner that will help ensure a clean,
 20 healthful, safe, and economically productive environment.

21 (2) The legislature finds that the commission may
 22 include in rates the costs that are associated with
 23 acquiring the resources referred to in subsection (1) and
 24 that are consistent with this policy if the resources are
 25 used by and useful to the public. To advance this policy,

the commission may require periodic long-range plans from utilities that provide electric and natural gas service in a form and manner determined by the commission. The commission may receive comments on the plans.

(3) [Sections 1 through 6] do not constrain or limit the commission's other duties or responsibilities.

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 6], unless the context requires otherwise, the following definitions apply:

(1) "Abandonment costs" means the costs incurred for resources acquired and abandoned pursuant to a plan.

(2) "Consumer counsel" means the consumer counsel provided for in 5-15-201.

(3) "Externalities" mean the impacts on society that are not directly borne by the producer in production and delivery activities, which due to imperfections in or the absence of markets are not accounted for in the producer's production and pricing decisions.

(4) "Plan" means an integrated least-cost resource plan submitted by a utility in accordance with [sections 1 through 6] and the rules adopted under [sections 1 through 6].

(5) "Planning costs" means the costs of evaluating the future demand for services and of evaluating alternative methods of satisfying future demand.

(6) "Public utility" means a public utility, as defined in 69-3-101, that provides electric or natural gas service. The term does not include municipal utilities.

NEW SECTION. Section 4. Integrated least-cost plan.

(1) The commission may adopt rules requiring a public utility to prepare and file a plan for meeting the requirements of its customers in the most cost-effective manner consistent with the public utility's obligation to serve. The rules may prescribe the content and the time for filing a plan.

(2) A plan must contain but is not limited to an evaluation of the full range of cost-effective means for the public utility to meet the service requirements of its Montana customers, including conservation or similar improvements in the efficiency by which services are used.

(3) The commission may adopt rules providing guidelines to be used in preparing a plan and identifying the criteria to be used in determining cost-effectiveness. The criteria may include externalities associated with the acquisition of a resource by a public utility. The rules must establish the minimum filing requirements for acceptance of a plan by the commission for further review. If a plan does not meet the minimum filing requirements, it must be returned to the public utility with a list of deficiencies. A corrected plan must be submitted within the time established by the

1 commission.

2 (4) A plan filed with the commission by a utility, as
3 defined in 75-20-104, must be provided to the department of
4 natural resources and conservation and the consumer counsel.

5 NEW SECTION. Section 5. Public comment. (1) The
6 commission shall conduct a public meeting for the purpose of
7 receiving comment on a plan. The commission or the
8 department of public service regulation may comment on the
9 plan. A comment by the commission or the department may not
10 be construed as preapproval by the commission of rate
11 treatment for any proposed resource.

12 (2) The department of natural resources and
13 conservation:

14 (a) shall review a plan and comment on the need for new
15 resources, the alternatives evaluated to meet the need, the
16 environmental implications of the resource choices, and
17 other related issues that it considers important. The
18 department shall coordinate and deliver all comments from
19 other executive branch agencies.

20 (b) may use a plan in the development of studies for a
21 specific energy facility for which an application for a
22 certificate of environmental compatibility and public need
23 is submitted under Title 75, chapter 20.

24 (3) The consumer counsel shall review and may comment
25 on a plan.

1 NEW SECTION. Section 6. Rate treatment. (1) The
2 commission may include in a public utility's rates:

3 (a) the cost of resources acquired in accordance with a
4 plan;

5 (b) the cost-effective expenditures for improving the
6 efficiency with which the public utility provides and its
7 customers use utility services; and

8 (c) the costs of complying with the planning
9 requirements of [sections 1 through 6], including but not
10 limited to:

11 (i) planning costs;

12 (ii) portfolio development costs; and

13 (iii) all or a portion of abandonment costs.

14 (2) The commission shall adopt rules establishing
15 criteria governing the extent of recovery of abandonment
16 costs.

17 Section 7. Section 69-3-702, MCA, is amended to read:

18 "69-3-702. Eligible conservation. Conservation
19 purchases or investments are eligible under this part if
20 they are:

21 (1) provided for in [section 6]; or

22 (2) made to replace, upgrade, or enhance building
23 shells, space heating or cooling equipment, or refrigeration
24 equipment that was installed and in operation in the
25 existing residential building at least 3 years before the

conservation purchases or investments are made and if they are determined by the commission to cost no more than the utility's avoided costs."

Section 8. Section 75-20-304, MCA, is amended to read:

"75-20-304. Waiver of provisions of certification proceedings. (1) The board may waive compliance with any of the provisions of 75-20-216 through 75-20-222, 75-20-501, and this part if the applicant makes a clear and convincing showing to the board at a public hearing that an immediate, urgent need for a facility exists and that the applicant did not have knowledge that the need for the facility existed sufficiently in advance to fully comply with the provisions of 75-20-216 through 75-20-222, 75-20-501, and this part.

(2) The board may waive compliance with any of the provisions of this chapter upon receipt of notice by a person subject to this chapter that a facility or associated facility has been damaged or destroyed as a result of fire, flood, or other natural disaster or as the result of insurrection, war, or other civil disorder and there exists an immediate need for construction of a new facility or associated facility or the relocation of a previously existing facility or associated facility in order to promote the public welfare.

(3) The board shall waive compliance with the requirements of subsections (2)(c), (3)(b), and (3)(c) of

75-20-301 and---75-20-501(5) and the requirements of subsections (1)(a)(iv) and (v) of 75-20-211, 75-20-216(3), and 75-20-303(3)(a)(iv) relating to consideration of alternative sites if the applicant makes a clear and convincing showing to the board at a public hearing that:

(a) a proposed facility will be constructed in a county where a single employer within the county has permanently curtailed or ceased operations causing a loss of 250 or more permanent jobs within 2 years at the employer's operations within the preceding 10-year period;

(b) the county and municipal governing bodies in whose jurisdiction the facility is proposed to be located support by resolution such a waiver;

(c) the proposed facility will be constructed within a 15-mile radius of the operations that have ceased or been curtailed; and

(d) the proposed facility will have a beneficial effect on the economy of the county in which the facility is proposed to be located.

(4) The waiver provided for in subsection (3) applies only to permanent job losses by a single employer. The waiver provided for in subsection (3) does not apply to jobs of a temporary or seasonal nature, including but not limited to construction jobs or job losses during labor disputes.

(5) The waiver provided for in subsection (3) does not

1 apply to consideration of alternatives or minimum adverse
 2 environmental impact for a facility defined in subsections
 3 (10)(b), (c), (d), or (e) of 75-20-104, for an associated
 4 facility defined in 75-20-104(3), or for any portion of or
 5 process in a facility defined in subsection (10)(a) of
 6 75-20-104 to the extent that the process or portion of the
 7 facility is not subject to a permit issued by the department
 8 of health or board of health.

9 (6) The applicant shall pay all expenses required to
 10 process and conduct a hearing on a waiver request under
 11 subsection (3). However, any payments made under this
 12 subsection shall be credited toward the fee paid under
 13 75-20-215 to the extent the data or evidence presented at
 14 the hearing or the decision of the board under subsection
 15 (3) can be used in making a certification decision under
 16 this chapter.

17 (7) The board may grant only one waiver under
 18 subsections (3) and (4) for each permanent loss of jobs as
 19 defined in subsection (3)(a)."

20 **Section 9.** Section 75-20-501, MCA, is amended to read:

21 "75-20-501. Annual long-range plan submitted --
 22 contents -- available to public -- least-cost plan. (1) Each
 23 Except as provided in subsection (5), each utility and each
 24 person contemplating the construction of a facility within
 25 this state in the ensuing 10 years shall furnish annually to

1 the department for its review a long-range plan for the
 2 construction and operation of facilities.

3 (2) The plan ~~shall~~ must be submitted by July 1 of each
 4 year and must include the following:

5 (a) the general location, size, and type of all
 6 facilities to be owned and operated by the utility or person
 7 whose construction is projected to commence during the
 8 ensuing 10 years, as well as those facilities to be removed
 9 from service during the planning period;

10 (b) in the case of planned development of utility
 11 facilities, a description of efforts by the utility or
 12 person to coordinate the ~~plan~~ with other utilities or and
 13 ~~persons-so-as-to-provide-a--coordinated regional plan--for~~
 14 ~~meeting-the-energy-needs-of-the-region~~ planning;

15 (c) a description of the efforts to involve
 16 environmental protection and land use planning agencies in
 17 the planning process, as well as other efforts to identify
 18 and minimize environmental problems at the earliest possible
 19 stage in the planning process;

20 (d) projections of the demand for the service rendered
 21 by the utility or person and explanation of the basis for
 22 those projections and a description of the manner and extent
 23 to which the proposed facilities will meet the projected
 24 demand; and

25 (e) additional information that the board by rule or

the department on its own initiative or upon the advice of interested state agencies might request in order to carry out the purposes of this chapter.

(3) The plan shall be furnished to the governing body of each county in which any facility included in the plan under (2)(a) of this section is proposed to be located and made available to the public by the department. The utility or person shall give public notice throughout the state of its plan by filing the plan with the environmental quality council, the department of health and environmental sciences, the department of transportation, the department of public service regulation, the department of state lands, the department of fish, wildlife, and parks, and the department of commerce. Citizen environmental protection and resource planning groups and other interested persons may obtain a plan by written request and payment therefor for the plan to the department.

(4) A rural electric cooperative may furnish the department with a copy of the long-range plan and 2-year work plan or other integrated resource plan required to be completed under federal rural electrification administration or other federal agency requirements in lieu of the long-range plan required in subsection (1).

(5) ~~No person may file an application for a facility unless the facility had been adequately identified in a~~

~~long-range plan at least 2 years prior to acceptance of an application by the department, except for electric transmission lines of a design capacity of 230 kilovolts or less. The provisions of subsections (1) through (4) do not apply to a public utility that submits an integrated least-cost resource plan to the public service commission pursuant to [sections 1 through 6].~~

(6) A public utility that submits an integrated least-cost resource plan pursuant to [sections 1 through 6] shall contract with the department to fund the actual and necessary costs of the department that are associated with preparing the department's comments on the public utility's plan and with obtaining other agencies' comments, as provided in [section 5]. If a contract is not entered into prior to the submission of the plan, the department, upon completion of its review and comment, shall bill the utility for the department's costs."

NEW SECTION. Section 10. Codification instruction.
[Sections 1 through 6] are intended to be codified as an integral part of Title 69, chapter 3, and the provisions of Title 69, chapter 3, apply to [sections 1 through 6].

NEW SECTION. Section 11. Effective date. [This act] is effective July 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0390, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: The bill provides that the Montana Public Service Commission may require public utilities which provide electric or natural gas services to file integrated least cost plans and that the commission shall hold hearings on such plans.

ASSUMPTIONS:

1. Legislation affects regulated energy utilities and removes the doubt expressed by interested parties that the Public Service Commission (PSC) has adequate jurisdiction to adopt rules, require the filing of plans and allow for ratemaking approvals or disallowances that are specified in the bill.
2. The PSC has adopted least cost planning rules which conform to the bill. Such adoption was made assuming that the Commission would have adequate resources to implement the rules.
3. A \$50,000 biennial appropriation was approved by the Natural Resource Appropriations Subcommittee for the purpose of hiring a consultant to assist the commission in its least cost planning activities. However, the PSC has subsequently informed the subcommittee that the \$50,000 appropriation should be rescinded, if the budget targets of the House Select Committee on Budget/Revenue are imposed. The PSC believes that without the appropriation, they could not properly process least cost plans.
4. The Department of Natural Resources and Conservation (DNRC) budget request includes a Major Facility Siting Act (MFSA) block appropriation. DNRC currently reviews annually filed long-range utility plans. The costs are covered by fees paid by utilities and assessed under the MFSA.

FISCAL IMPACT:


Department of Natural Resources and Conservation: None.

Public Service Commission: \$50,000 biennial appropriation (currently approved).

	FY '94			FY '95		
<u>Expenditures:</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Consultant Services	50,000	50,000	0	0	0	0

Revenues: General Fund/Regulatory Fees - \$50,000

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION: More cost effective implementation of least cost planning activities because the specter of litigation over the statutory authority of the commission to require least cost planning is reduced substantially.

 2-9-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

2-8-93
JOE QUILICI, PRIMARY SPONSOR DATE

Fiscal Note for HB0390, as introduced **HB 390**

APPROVED BY COMM. ON BUSINESS
AND ECONOMIC DEVELOPMENT

HOUSE BILL NO. 390

INTRODUCED BY QUILICI, HARP, LYNCH, BLAYLOCK, GILBERT,
PAVLOVICH, S. RICE, FRITZ, BENEDICT, SCHYE

A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE MONTANA
INTEGRATED LEAST-COST RESOURCE PLANNING AND ACQUISITION ACT;
PROVIDING THAT THE PUBLIC SERVICE COMMISSION MAY REQUIRE A
PUBLIC UTILITY THAT PROVIDES ELECTRIC OR NATURAL GAS SERVICE
TO FILE AN INTEGRATED LEAST-COST RESOURCE PLAN; ALLOWING THE
INCLUSION OF CERTAIN COSTS IN RATES; INTEGRATING THE
PLANNING PROCESS IN FACILITY SITING; AMENDING SECTIONS
69-3-701, 69-3-702, 75-20-304, AND 75-20-501, MCA; AND
PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because
[section 4] grants the public service commission rulemaking
authority to adopt guidelines for an electric or natural gas
utility to follow in compiling an integrated least-cost
resource plan. It is the intent of the legislature that the
rules not apply to rural electric cooperatives. It is also
the intent of the legislature that the rules preserve the
"used and useful" ratemaking standard. The rules are not
intended to allow the commission to preapprove any resource
use proposed in a plan. [Section 5] does not require

coordination between the commission and the department of
natural resources and conservation regarding their
respective planning requirements. ~~The rules must allow and
provide for adequate consideration of siting issues.~~
HOWEVER, IT IS THE INTENT OF THE LEGISLATURE THAT THE
DEPARTMENT AND OTHER STATE AGENCIES SHARE WITH THE
COMMISSION THEIR EXPERTISE ON ENVIRONMENTAL IMPACTS OF A
UTILITY'S PLANNED RESOURCE ACQUISITIONS. [Section 6]
addresses commission rate treatment. The commission may
include costs resulting from an integrated least-cost
resource plan in a utility's rates.

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

NEW SECTION. Section 1. short title. [Sections 1
through 6] may be cited as the "Montana Integrated
Least-Cost Resource Planning and Acquisition Act".

NEW SECTION. Section 2. Policy -- planning. (1) It is
the policy of the state of Montana to supervise, regulate,
and control public utilities. To the extent that it is
consistent with the policy and in order to benefit society,
the state encourages efficient utility operations, efficient
use of utility services, and efficient rates. It is further
the policy of the state to encourage utilities to acquire
resources in a manner that will help ensure a clean,
healthful, safe, and economically productive environment.

(2) The legislature finds that the commission may include in rates the costs that are associated with acquiring the resources referred to in subsection (1) and that are consistent with this policy if the resources are ACTUALLY used by and useful to FOR THE CONVENIENCE OF the public. To advance this policy, the commission may require periodic long-range plans from utilities that provide electric and natural gas service in a form and manner determined by the commission. The commission may receive comments on the plans.

(3) [Sections 1 through 6] do not constrain or limit the commission's other EXISTING STATUTORY duties or responsibilities.

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 6], unless the context requires otherwise, the following definitions apply:

(1) "Abandonment costs" means the costs incurred for resources acquired and abandoned pursuant to a plan.

(2) "Consumer counsel" means the consumer counsel provided for in 5-15-201.

(3) "Externalities" mean the impacts on society that are not directly borne by the producer in production and delivery activities, which due to imperfections in or the absence of markets are not accounted for in the producer's production and pricing decisions.

(4) "Plan" means an integrated least-cost resource plan submitted by a utility in accordance with [sections 1 through 6] and the rules adopted under [sections 1 through 6].

(5) "Planning costs" means the costs of evaluating the future demand for services and of evaluating alternative methods of satisfying future demand.

(6) "PORTFOLIO DEVELOPMENT COSTS" MEANS THE COSTS OF PREPARING A RESOURCE IN A PORTFOLIO FOR PROMPT AND TIMELY ACQUISITION OF THE RESOURCE.

~~(6)~~(7) "Public utility" means a public utility, as defined in 69-3-101, that provides electric or natural gas service. The term does not include municipal utilities.

NEW SECTION. Section 4. Integrated least-cost plan.

(1) The commission may adopt rules requiring a public utility to prepare and file a plan for meeting the requirements of its customers in the most cost-effective manner consistent with the public utility's obligation to serve. The rules may prescribe the content and the time for filing a plan.

(2) A plan must contain but is not limited to an evaluation of the full range of cost-effective means for the public utility to meet the service requirements of its Montana customers, including conservation or similar improvements in the efficiency by which services are used.

1 (3) The commission may adopt rules providing guidelines
 2 to be used in preparing a plan and identifying the criteria
 3 to be used in determining cost-effectiveness. The criteria
 4 may include externalities associated with the acquisition of
 5 a resource by a public utility. The rules must establish the
 6 minimum filing requirements for acceptance of a plan by the
 7 commission for further review. If a plan does not meet the
 8 minimum filing requirements, it must be returned to the
 9 public utility with a list of deficiencies. A corrected plan
 10 must be submitted within the time established by the
 11 commission.

12 (4) A plan filed with the commission by a utility, as
 13 defined in 75-20-104, must be provided to the department of
 14 natural resources and conservation and the consumer counsel.

15 NEW SECTION. Section 5. Public comment. (1) The
 16 commission shall conduct a public meeting for the purpose of
 17 receiving comment on a plan. The commission or the
 18 department of public service regulation may comment on the
 19 plan. A comment by the commission or the department may not
 20 be construed as preapproval by the commission of rate
 21 treatment for any proposed resource.

22 (2) The department of natural resources and
 23 conservation:

24 (a) shall review a plan and comment on the need for new
 25 resources, the alternatives evaluated to meet the need, the

1 environmental implications of the resource choices, and
 2 other related issues that it considers important. The
 3 department shall coordinate and deliver all comments from
 4 other executive branch agencies.

5 (b) may use a plan in the development of studies for a
 6 specific energy facility for which an application for a
 7 certificate of environmental compatibility and public need
 8 is submitted under Title 75, chapter 20.

9 (3) The consumer counsel shall review and may comment
 10 on a plan.

11 NEW SECTION. Section 6. Rate treatment. (1) The
 12 commission may include in a public utility's rates:

13 (a) the cost of resources acquired in accordance with a
 14 plan;

15 (b) the cost-effective expenditures for improving the
 16 efficiency with which the public utility provides and its
 17 customers use utility services; and

18 (c) the costs of complying with the planning
 19 requirements of [sections 1 through 6], including but not
 20 limited to:

21 (i) planning costs;

22 (ii) portfolio development costs; and

23 (iii) all or a portion of abandonment costs.

24 (2) The commission shall adopt rules establishing
 25 criteria governing the extent of recovery of abandonment

costs.

SECTION 7. SECTION 69-3-701, MCA, IS AMENDED TO READ:

"69-3-701. Definitions. As used in this part, the following definitions apply:

~~(1) "Avoided costs" means the incremental costs, as determined by the commission, to an electric or natural gas utility of energy or capacity, or both, which, but for the purchase of conservation, the utility would generate or supply itself or purchase from another source.~~

~~(2)(1) "Commission" means the Montana public service commission created in 2-15-2602.~~

~~(3)(2) "Conservation" means any reduction in electric power or natural gas consumption as a result of investment in measures that increase the efficiency of electricity or gas use in building shells, space heating or cooling equipment, water heating equipment, or refrigeration equipment or other cost-effective measures which, over its economic life meet the criteria of 69-3-702.~~

~~(4) "Residential building" means a building used for residential occupancy that:~~

~~(a) has a system for heating, cooling, or both, that uses a fuel supplied by the utility; and~~

~~(b) contains at least one but not more than four separately or centrally heated dwelling units or contains more than four separately heated or cooled or both heated~~

~~and-cooled-units."~~

Section 8. Section 69-3-702, MCA, is amended to read:

"69-3-702. Eligible conservation. Conservation purchases or investments are eligible under this part if they are:

~~(1) provided for in [section 6]; or~~

~~(2) made to replace, upgrade, or enhance building shells, space heating or cooling equipment, or refrigeration equipment that was installed and in operation in the existing residential building at least 3 years before the conservation purchases or investments are made and if they are determined by the commission to cost no more than the utility's avoided costs."~~

Section 9. Section 75-20-304, MCA, is amended to read:

"75-20-304. Waiver of provisions of certification proceedings. (1) The board may waive compliance with any of the provisions of 75-20-216 through 75-20-222, 75-20-501, and this part if the applicant makes a clear and convincing showing to the board at a public hearing that an immediate, urgent need for a facility exists and that the applicant did not have knowledge that the need for the facility existed sufficiently in advance to fully comply with the provisions of 75-20-216 through 75-20-222, 75-20-501, and this part.

(2) The board may waive compliance with any of the provisions of this chapter upon receipt of notice by a

person subject to this chapter that a facility or associated facility has been damaged or destroyed as a result of fire, flood, or other natural disaster or as the result of insurrection, war, or other civil disorder and there exists an immediate need for construction of a new facility or associated facility or the relocation of a previously existing facility or associated facility in order to promote the public welfare.

(3) The board shall waive compliance with the requirements of subsections (2)(c), (3)(b), and (3)(c) of 75-20-301 and ~~75-20-501(5)~~ and the requirements of subsections (1)(a)(iv) and (v) of 75-20-211, 75-20-216(3), and 75-20-303(3)(a)(iv) relating to consideration of alternative sites if the applicant makes a clear and convincing showing to the board at a public hearing that:

(a) a proposed facility will be constructed in a county where a single employer within the county has permanently curtailed or ceased operations causing a loss of 250 or more permanent jobs within 2 years at the employer's operations within the preceding 10-year period;

(b) the county and municipal governing bodies in whose jurisdiction the facility is proposed to be located support by resolution such a waiver;

(c) the proposed facility will be constructed within a 15-mile radius of the operations that have ceased or been

curtailed; and

(d) the proposed facility will have a beneficial effect on the economy of the county in which the facility is proposed to be located.

(4) The waiver provided for in subsection (3) applies only to permanent job losses by a single employer. The waiver provided for in subsection (3) does not apply to jobs of a temporary or seasonal nature, including but not limited to construction jobs or job losses during labor disputes.

(5) The waiver provided for in subsection (3) does not apply to consideration of alternatives or minimum adverse environmental impact for a facility defined in subsections (10)(b), (c), (d), or (e) of 75-20-104, for an associated facility defined in 75-20-104(3), or for any portion of or process in a facility defined in subsection (10)(a) of 75-20-104 to the extent that the process or portion of the facility is not subject to a permit issued by the department of health or board of health.

(6) The applicant shall pay all expenses required to process and conduct a hearing on a waiver request under subsection (3). However, any payments made under this subsection shall be credited toward the fee paid under 75-20-215 to the extent the data or evidence presented at the hearing or the decision of the board under subsection (3) can be used in making a certification decision under

1 this chapter.

2 (7) The board may grant only one waiver under
3 subsections (3) and (4) for each permanent loss of jobs as
4 defined in subsection (3)(a)."

5 **Section 10.** Section 75-20-501, MCA, is amended to read:

6 "75-20-501. Annual long-range plan submitted --
7 contents -- available to public -- least-cost plan. (1) Each
8 Except as provided in subsection (5), each utility and each
9 person contemplating the construction of a facility within
10 this state in the ensuing 10 years shall furnish annually to
11 the department for its review a long-range plan for the
12 construction and operation of facilities.

13 (2) The plan ~~shall~~ must be submitted by July 1 of each
14 year and must include the following:

15 (a) the general location, size, and type of all
16 facilities to be owned and operated by the utility or person
17 whose construction is projected to commence during the
18 ensuing 10 years, as well as those facilities to be removed
19 from service during the planning period;

20 (b) in the case of planned development of utility
21 facilities, a description of efforts by the utility or
22 person to coordinate the plan with other utilities or and
23 ~~persons--so--as--to--provide--a--coordinated regional plan for~~
24 ~~meeting the energy needs of the region~~ planning;

25 (c) a description of the efforts to involve

1 environmental protection and land use planning agencies in
2 the planning process, as well as other efforts to identify
3 and minimize environmental problems at the earliest possible
4 stage in the planning process;

5 (d) projections of the demand for the service rendered
6 by the utility or person and explanation of the basis for
7 those projections and a description of the manner and extent
8 to which the proposed facilities will meet the projected
9 demand; and

10 (e) additional information that the board by rule or
11 the department on its own initiative or upon the advice of
12 interested state agencies might request in order to carry
13 out the purposes of this chapter.

14 (3) The plan shall be furnished to the governing body
15 of each county in which any facility included in the plan
16 under (2)(a) of this section is proposed to be located and
17 made available to the public by the department. The utility
18 or person shall give public notice throughout the state of
19 its plan by filing the plan with the environmental quality
20 council, the department of health and environmental
21 sciences, the department of transportation, the department
22 of public service regulation, the department of state lands,
23 the department of fish, wildlife, and parks, and the
24 department of commerce. Citizen environmental protection and
25 resource planning groups and other interested persons may

1 obtain a plan by written request and payment therefor for
2 the plan to the department.

3 (4) A rural electric cooperative may furnish the
4 department with a copy of the long-range plan and 2-year
5 work plan or other integrated resource plan required to be
6 completed under federal rural electrification administration
7 or other federal agency requirements in lieu of the
8 long-range plan required in subsection (1).

9 ~~(5) No person may file an application for a facility~~
10 ~~unless the facility had been adequately identified in a~~
11 ~~long-range plan at least 2 years prior to acceptance of an~~
12 ~~application by the department, except for electric~~
13 ~~transmission lines of a design capacity of 230 kilovolts or~~
14 ~~less.~~ The provisions of subsections (1) through (4) do not
15 apply to a public utility that submits an integrated
16 least-cost resource plan to the public service commission
17 pursuant to [sections 1 through 6].

18 (6) A public utility that submits an integrated
19 least-cost resource plan pursuant to [sections 1 through 6]
20 shall contract with the department to fund the actual and
21 necessary costs of the department that are associated with
22 preparing the department's comments on the public utility's
23 plan and with obtaining other agencies' comments, as
24 provided in [section 5]. If a contract is not entered into
25 prior to the submission of the plan, the department, upon

1 completion of its review and comment, shall bill the utility
2 for the department's costs."

3 NEW SECTION. Section 11. Codification instruction.
4 [Sections 1 through 6] are intended to be codified as an
5 integral part of Title 69, chapter 3, and the provisions of
6 Title 69, chapter 3, apply to [sections 1 through 6].

7 NEW SECTION. Section 12. Effective date. [This act] is
8 effective July 1, 1993.

-End-

1 HOUSE BILL NO. 390

2 INTRODUCED BY QUILICI, HARP, LYNCH, BLAYLOCK, GILBERT,
3 PAVLOVICH, S. RICE, FRITZ, BENEDICT, SCHYE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE MONTANA
6 INTEGRATED LEAST-COST RESOURCE PLANNING AND ACQUISITION ACT;
7 PROVIDING THAT THE PUBLIC SERVICE COMMISSION MAY REQUIRE A
8 PUBLIC UTILITY THAT PROVIDES ELECTRIC OR NATURAL GAS SERVICE
9 TO FILE AN INTEGRATED LEAST-COST RESOURCE PLAN; ALLOWING THE
10 INCLUSION OF CERTAIN COSTS IN RATES; INTEGRATING THE
11 PLANNING PROCESS IN FACILITY SITING; AMENDING SECTIONS
12 69-3-701, 69-3-702, 75-20-304, AND 75-20-501, MCA; AND
13 PROVIDING AN EFFECTIVE DATE."

14 STATEMENT OF INTENT

15 A statement of intent is required for this bill because
16 [section 4] grants the public service commission rulemaking
17 authority to adopt guidelines for an electric or natural gas
18 utility to follow in compiling an integrated least-cost
19 resource plan. It is the intent of the legislature that the
20 rules not apply to rural electric cooperatives. It is also
21 the intent of the legislature that the rules preserve the
22 "used and useful" ratemaking standard. The rules are not
23 intended to allow the commission to preapprove any resource
24 use proposed in a plan. [Section 5] does not require
25

1 coordination between the commission and the department of
2 natural resources and conservation regarding their
3 respective planning requirements. ~~The rules must allow and~~
4 ~~provide for adequate consideration of siting issues.~~
5 HOWEVER, IT IS THE INTENT OF THE LEGISLATURE THAT THE
6 DEPARTMENT AND OTHER STATE AGENCIES SHARE WITH THE
7 COMMISSION THEIR EXPERTISE ON ENVIRONMENTAL IMPACTS OF A
8 UTILITY'S PLANNED RESOURCE ACQUISITIONS. [Section 6]
9 addresses commission rate treatment. The commission may
10 include costs resulting from an integrated least-cost
11 resource plan in a utility's rates.
12

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

14 NEW SECTION. Section 1. Short title. (Sections 1
15 through 6] may be cited as the "Montana Integrated
16 Least-Cost Resource Planning and Acquisition Act".

17 NEW SECTION. Section 2. Policy -- planning. (1) It is
18 the policy of the state of Montana to supervise, regulate,
19 and control public utilities. To the extent that it is
20 consistent with the policy and in order to benefit society,
21 the state encourages efficient utility operations, efficient
22 use of utility services, and efficient rates. It is further
23 the policy of the state to encourage utilities to acquire
24 resources in a manner that will help ensure a clean,
25 healthful, safe, and economically productive environment.

(2) The legislature finds that the commission may include in rates the costs that are associated with acquiring the resources referred to in subsection (1) and that are consistent with this policy if the resources are ACTUALLY used by and useful to FOR THE CONVENIENCE OF the public. To advance this policy, the commission may require periodic long-range plans from utilities that provide electric and natural gas service in a form and manner determined by the commission. The commission may receive comments on the plans.

(3) [Sections 1 through 6] do not constrain or limit the commission's other EXISTING STATUTORY duties or responsibilities.

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 6], unless the context requires otherwise, the following definitions apply:

(1) "Abandonment costs" means the costs incurred for resources acquired and abandoned pursuant to a plan.

(2) "Consumer counsel" means the consumer counsel provided for in 5-15-201.

(3) "Externalities" mean the impacts on society that are not directly borne by the producer in production and delivery activities, which due to imperfections in or the absence of markets are not accounted for in the producer's production and pricing decisions.

(4) "Plan" means an integrated least-cost resource plan submitted by a utility in accordance with [sections 1 through 6] and the rules adopted under [sections 1 through 6].

(5) "Planning costs" means the costs of evaluating the future demand for services and of evaluating alternative methods of satisfying future demand.

(6) "PORTFOLIO DEVELOPMENT COSTS" MEANS THE COSTS OF PREPARING A RESOURCE IN A PORTFOLIO FOR PROMPT AND TIMELY ACQUISITION OF THE RESOURCE.

~~(6)~~(7) "Public utility" means a public utility, as defined in 69-3-101, that provides electric or natural gas service. The term does not include municipal utilities.

NEW SECTION. Section 4. Integrated least-cost plan.
(1) The commission may adopt rules requiring a public utility to prepare and file a plan for meeting the requirements of its customers in the most cost-effective manner consistent with the public utility's obligation to serve. The rules may prescribe the content and the time for filing a plan.

(2) A plan must contain but is not limited to an evaluation of the full range of cost-effective means for the public utility to meet the service requirements of its Montana customers, including conservation or similar improvements in the efficiency by which services are used.

1 (3) The commission may adopt rules providing guidelines
 2 to be used in preparing a plan and identifying the criteria
 3 to be used in determining cost-effectiveness. The criteria
 4 may include externalities associated with the acquisition of
 5 a resource by a public utility. The rules must establish the
 6 minimum filing requirements for acceptance of a plan by the
 7 commission for further review. If a plan does not meet the
 8 minimum filing requirements, it must be returned to the
 9 public utility with a list of deficiencies. A corrected plan
 10 must be submitted within the time established by the
 11 commission.

12 (4) A plan filed with the commission by a utility, as
 13 defined in 75-20-104, must be provided to the department of
 14 natural resources and conservation and the consumer counsel.

15 NEW SECTION. Section 5. Public comment. (1) The
 16 commission shall conduct a public meeting for the purpose of
 17 receiving comment on a plan. The commission or the
 18 department of public service regulation may comment on the
 19 plan. A comment by the commission or the department may not
 20 be construed as preapproval by the commission of rate
 21 treatment for any proposed resource.

22 (2) The department of natural resources and
 23 conservation:

24 (a) shall review a plan and comment on the need for new
 25 resources, the alternatives evaluated to meet the need, the

1 environmental implications of the resource choices, and
 2 other related issues that it considers important. The
 3 department shall coordinate and deliver all comments from
 4 other executive branch agencies.

5 (b) may use a plan in the development of studies for a
 6 specific energy facility for which an application for a
 7 certificate of environmental compatibility and public need
 8 is submitted under Title 75, chapter 20.

9 (3) The consumer counsel shall review and may comment
 10 on a plan.

11 NEW SECTION. Section 6. Rate treatment. (1) The
 12 commission may include in a public utility's rates:

13 (a) the cost of resources acquired in accordance with a
 14 plan;

15 (b) the cost-effective expenditures for improving the
 16 efficiency with which the public utility provides and its
 17 customers use utility services; and

18 (c) the costs of complying with the planning
 19 requirements of [sections 1 through 6], including but not
 20 limited to:

21 (i) planning costs;

22 (ii) portfolio development costs; and

23 (iii) all or a portion of abandonment costs.

24 (2) The commission shall adopt rules establishing
 25 criteria governing the extent of recovery of abandonment

1 costs.

2 **SECTION 7. SECTION 69-3-701, MCA, IS AMENDED TO READ:**

3 "69-3-701. Definitions. As used in this part, the
4 following definitions apply:

5 (1) ~~"Avoided costs" means the incremental costs, as~~
6 ~~determined by the commission, to an electric or natural gas~~
7 ~~utility of energy or capacity, or both, which, but for the~~
8 ~~purchase of conservation, the utility would generate or~~
9 ~~supply itself or purchase from another source.~~

10 (2)(1) "Commission" means the Montana public service
11 commission created in 2-15-2602.

12 (3)(2) "Conservation" means any reduction in electric
13 power or natural gas consumption as a result of investment
14 in measures that increase the efficiency of electricity or
15 gas use in building shells, space heating or cooling
16 equipment, water heating equipment, or refrigeration
17 equipment or other cost-effective measures which, over its
18 economic life meet the criteria of 69-3-702.

19 (4) ~~"Residential building" means a building used for~~
20 ~~residential occupancy that:~~

21 (a) ~~has a system for heating, cooling, or both, that~~
22 ~~uses a fuel supplied by the utility; and~~

23 (b) ~~contains at least one but not more than four~~
24 ~~separately or centrally heated dwelling units or contains~~
25 ~~more than four separately heated or cooled or both heated~~

1 and-cooled-units."

2 **Section 8. Section 69-3-702, MCA, is amended to read:**

3 "69-3-702. Eligible conservation. Conservation
4 purchases or investments are eligible under this part if
5 they are:

6 (1) provided for in section 6; or

7 (2) ~~made to replace, upgrade, or enhance building~~
8 ~~shells, space heating or cooling equipment, or refrigeration~~
9 ~~equipment that was installed and in operation in the~~
10 ~~existing residential building at least 3 years before the~~
11 ~~conservation purchases or investments are made and if they~~
12 ~~are determined by the commission to cost no more than the~~
13 ~~utility's avoided costs."~~

14 **Section 9. Section 75-20-304, MCA, is amended to read:**

15 "75-20-304. Waiver of provisions of certification
16 proceedings. (1) The board may waive compliance with any of
17 the provisions of 75-20-216 through 75-20-222, 75-20-501,
18 and this part if the applicant makes a clear and convincing
19 showing to the board at a public hearing that an immediate,
20 urgent need for a facility exists and that the applicant did
21 not have knowledge that the need for the facility existed
22 sufficiently in advance to fully comply with the provisions
23 of 75-20-216 through 75-20-222, 75-20-501, and this part.

24 (2) The board may waive compliance with any of the
25 provisions of this chapter upon receipt of notice by a

person subject to this chapter that a facility or associated facility has been damaged or destroyed as a result of fire, flood, or other natural disaster or as the result of insurrection, war, or other civil disorder and there exists an immediate need for construction of a new facility or associated facility or the relocation of a previously existing facility or associated facility in order to promote the public welfare.

(3) The board shall waive compliance with the requirements of subsections (2)(c), (3)(b), and (3)(c) of 75-20-301 and ~~75-20-501(5)~~ and the requirements of subsections (1)(a)(iv) and (v) of 75-20-211, 75-20-216(3), and 75-20-303(3)(a)(iv) relating to consideration of alternative sites if the applicant makes a clear and convincing showing to the board at a public hearing that:

(a) a proposed facility will be constructed in a county where a single employer within the county has permanently curtailed or ceased operations causing a loss of 250 or more permanent jobs within 2 years at the employer's operations within the preceding 10-year period;

(b) the county and municipal governing bodies in whose jurisdiction the facility is proposed to be located support by resolution such a waiver;

(c) the proposed facility will be constructed within a 15-mile radius of the operations that have ceased or been

curtailed; and

(d) the proposed facility will have a beneficial effect on the economy of the county in which the facility is proposed to be located.

(4) The waiver provided for in subsection (3) applies only to permanent job losses by a single employer. The waiver provided for in subsection (3) does not apply to jobs of a temporary or seasonal nature, including but not limited to construction jobs or job losses during labor disputes.

(5) The waiver provided for in subsection (3) does not apply to consideration of alternatives or minimum adverse environmental impact for a facility defined in subsections (10)(b), (c), (d), or (e) of 75-20-104, for an associated facility defined in 75-20-104(3), or for any portion of or process in a facility defined in subsection (10)(a) of 75-20-104 to the extent that the process or portion of the facility is not subject to a permit issued by the department of health or board of health.

(6) The applicant shall pay all expenses required to process and conduct a hearing on a waiver request under subsection (3). However, any payments made under this subsection shall be credited toward the fee paid under 75-20-215 to the extent the data or evidence presented at the hearing or the decision of the board under subsection (3) can be used in making a certification decision under

1 this chapter.

2 (7) The board may grant only one waiver under
3 subsections (3) and (4) for each permanent loss of jobs as
4 defined in subsection (3)(a)."

5 **Section 10.** Section 75-20-501, MCA, is amended to read:

6 "75-20-501. Annual long-range plan submitted --
7 contents -- available to public -- least-cost plan. (1) Each
8 Except as provided in subsection (5), each utility and each
9 person contemplating the construction of a facility within
10 this state in the ensuing 10 years shall furnish annually to
11 the department for its review a long-range plan for the
12 construction and operation of facilities.

13 (2) The plan shall must be submitted by July 1 of each
14 year and must include the following:

15 (a) the general location, size, and type of all
16 facilities to be owned and operated by the utility or person
17 whose construction is projected to commence during the
18 ensuing 10 years, as well as those facilities to be removed
19 from service during the planning period;

20 (b) in the case of planned development of utility
21 facilities, a description of efforts by the utility or
22 person to coordinate the plan with other utilities or and
23 persons--so--as--to--provide--a--coordinated regional plan--for
24 meeting-the-energy-needs-of-the-region planning;

25 (c) a description of the efforts to involve

1 environmental protection and land use planning agencies in
2 the planning process, as well as other efforts to identify
3 and minimize environmental problems at the earliest possible
4 stage in the planning process;

5 (d) projections of the demand for the service rendered
6 by the utility or person and explanation of the basis for
7 those projections and a description of the manner and extent
8 to which the proposed facilities will meet the projected
9 demand; and

10 (e) additional information that the board by rule or
11 the department on its own initiative or upon the advice of
12 interested state agencies might request in order to carry
13 out the purposes of this chapter.

14 (3) The plan shall be furnished to the governing body
15 of each county in which any facility included in the plan
16 under (2)(a) of this section is proposed to be located and
17 made available to the public by the department. The utility
18 or person shall give public notice throughout the state of
19 its plan by filing the plan with the environmental quality
20 council, the department of health and environmental
21 sciences, the department of transportation, the department
22 of public service regulation, the department of state lands,
23 the department of fish, wildlife, and parks, and the
24 department of commerce. Citizen environmental protection and
25 resource planning groups and other interested persons may

1 obtain a plan by written request and payment therefor for
2 the plan to the department.

3 (4) A rural electric cooperative may furnish the
4 department with a copy of the long-range plan and 2-year
5 work plan or other integrated resource plan required to be
6 completed under federal rural electrification administration
7 or other federal agency requirements in lieu of the
8 long-range plan required in subsection (1).

9 ~~(5) No person may file an application for a facility~~
10 ~~unless the facility had been adequately identified in a~~
11 ~~long-range plan at least 2 years prior to acceptance of an~~
12 ~~application by the department, except for electric~~
13 ~~transmission lines of a design capacity of 230 kilovolts or~~
14 ~~less.~~ The provisions of subsections (1) through (4) do not
15 apply to a public utility that submits an integrated
16 least-cost resource plan to the public service commission
17 pursuant to [sections 1 through 6].

18 (6) A public utility that submits an integrated
19 least-cost resource plan pursuant to [sections 1 through 6]
20 shall contract with the department to fund the actual and
21 necessary costs of the department that are associated with
22 preparing the department's comments on the public utility's
23 plan and with obtaining other agencies' comments, as
24 provided in [section 5]. If a contract is not entered into
25 prior to the submission of the plan, the department, upon

1 completion of its review and comment, shall bill the utility
2 for the department's costs."

3 NEW SECTION. Section 11. Codification instruction.
4 [Sections 1 through 6] are intended to be codified as an
5 integral part of Title 69, chapter 3, and the provisions of
6 Title 69, chapter 3, apply to [sections 1 through 6].

7 NEW SECTION. Section 12. Effective date. [This act] is
8 effective July 1, 1993.

-End-

1 HOUSE BILL NO. 390

2 INTRODUCED BY QUILICI, HARP, LYNCH, BLAYLOCK, GILBERT,
3 PAVLOVICH, S. RICE, FRITZ, BENEDICT, SCHYE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE MONTANA
6 INTEGRATED LEAST-COST RESOURCE PLANNING AND ACQUISITION ACT;
7 PROVIDING THAT THE PUBLIC SERVICE COMMISSION MAY REQUIRE A
8 PUBLIC UTILITY THAT PROVIDES ELECTRIC OR NATURAL GAS SERVICE
9 TO FILE AN INTEGRATED LEAST-COST RESOURCE PLAN; ALLOWING THE
10 INCLUSION OF CERTAIN COSTS IN RATES; INTEGRATING THE
11 PLANNING PROCESS IN FACILITY SITING; AMENDING SECTIONS
12 69-3-701, 69-3-702, 75-20-304, AND 75-20-501, MCA; AND
13 PROVIDING AN EFFECTIVE DATE."

14
15 STATEMENT OF INTENT

16 A statement of intent is required for this bill because
17 [section 4] grants the public service commission rulemaking
18 authority to adopt guidelines for an electric or natural gas
19 utility to follow in compiling an integrated least-cost
20 resource plan. It is the intent of the legislature that the
21 rules not apply to rural electric cooperatives. It is also
22 the intent of the legislature that the rules preserve the
23 "used and useful" ratemaking standard. The rules are not
24 intended to allow the commission to preapprove any resource
25 use proposed in a plan. [Section 5] does not require

1 coordination between the commission and the department of
2 natural resources and conservation regarding their
3 respective planning requirements. ~~The rules must allow and~~
4 ~~provide--for--adequate--consideration--of--siting--issues--~~
5 HOWEVER, IT IS THE INTENT OF THE LEGISLATURE THAT THE
6 DEPARTMENT AND OTHER STATE AGENCIES SHARE WITH THE
7 COMMISSION THEIR EXPERTISE ON ENVIRONMENTAL IMPACTS OF A
8 UTILITY'S PLANNED RESOURCE ACQUISITIONS. [Section 6]
9 addresses commission rate treatment. The commission may
10 include costs resulting from an integrated least-cost
11 resource plan in a utility's rates.
12

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

14 NEW SECTION. Section 1. Short title. [Sections 1
15 through 6] may be cited as the "Montana Integrated
16 Least-Cost Resource Planning and Acquisition Act".

17 NEW SECTION. Section 2. Policy -- planning. (1) It is
18 the policy of the state of Montana to supervise, regulate,
19 and control public utilities. To the extent that it is
20 consistent with the policy and in order to benefit society,
21 the state encourages efficient utility operations, efficient
22 use of utility services, and efficient rates. It is further
23 the policy of the state to encourage utilities to acquire
24 resources in a manner that will help ensure a clean,
25 healthful, safe, and economically productive environment.



(2) The legislature finds that the commission may include in rates the costs that are associated with acquiring the resources referred to in subsection (1) and that are consistent with this policy if the resources are ACTUALLY used by and useful to FOR THE CONVENIENCE OF the public. To advance this policy, the commission may require periodic long-range plans from utilities that provide electric and natural gas service in a form and manner determined by the commission. The commission may receive comments on the plans.

(3) [Sections 1 through 6] do not constrain or limit the commission's other EXISTING STATUTORY duties or responsibilities.

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 6], unless the context requires otherwise, the following definitions apply:

(1) "Abandonment costs" means the costs incurred for resources acquired and abandoned pursuant to a plan.

(2) "Consumer counsel" means the consumer counsel provided for in 5-15-201.

(3) "Externalities" mean the impacts on society that are not directly borne by the producer in production and delivery activities, which due to imperfections in or the absence of markets are not accounted for in the producer's production and pricing decisions.

(4) "Plan" means an integrated least-cost resource plan submitted by a utility in accordance with [sections 1 through 6] and the rules adopted under [sections 1 through 6].

(5) "Planning costs" means the costs of evaluating the future demand for services and of evaluating alternative methods of satisfying future demand.

(6) "PORTFOLIO DEVELOPMENT COSTS" MEANS THE COSTS OF PREPARING A RESOURCE IN A PORTFOLIO FOR PROMPT AND TIMELY ACQUISITION OF THE RESOURCE.

~~(6)~~(7) "Public utility" means a public utility, as defined in 69-3-101, that provides electric or natural gas service. The term does not include municipal utilities.

NEW SECTION. Section 4. Integrated least-cost plan.

(1) The commission may adopt rules requiring a public utility to prepare and file a plan for meeting the requirements of its customers in the most cost-effective manner consistent with the public utility's obligation to serve. The rules may prescribe the content and the time for filing a plan.

(2) A plan must contain but is not limited to an evaluation of the full range of cost-effective means for the public utility to meet the service requirements of its Montana customers, including conservation or similar improvements in the efficiency by which services are used.

(3) The commission may adopt rules providing guidelines to be used in preparing a plan and identifying the criteria to be used in determining cost-effectiveness. The criteria may include externalities associated with the acquisition of a resource by a public utility. The rules must establish the minimum filing requirements for acceptance of a plan by the commission for further review. If a plan does not meet the minimum filing requirements, it must be returned to the public utility with a list of deficiencies. A corrected plan must be submitted within the time established by the commission.

(4) A plan filed with the commission by a utility, as defined in 75-20-104, must be provided to the department of natural resources and conservation and the consumer counsel.

NEW SECTION. Section 5. Public comment. (1) The commission shall conduct a public meeting for the purpose of receiving comment on a plan. The commission or the department of public service regulation may comment on the plan. A comment by the commission or the department may not be construed as preapproval by the commission of rate treatment for any proposed resource.

(2) The department of natural resources and conservation:

(a) shall review a plan and comment on the need for new resources, the alternatives evaluated to meet the need, the

environmental implications of the resource choices, and other related issues that it considers important. The department shall coordinate and deliver all comments from other executive branch agencies.

(b) may use a plan in the development of studies for a specific energy facility for which an application for a certificate of environmental compatibility and public need is submitted under Title 75, chapter 20.

(3) The consumer counsel shall review and may comment on a plan.

NEW SECTION. Section 6. Rate treatment. (1) The commission may include in a public utility's rates:

(a) the cost of resources acquired in accordance with a plan;

(b) the cost-effective expenditures for improving the efficiency with which the public utility provides and its customers use utility services; and

(c) the costs of complying with the planning requirements of [sections 1 through 6], including but not limited to:

(i) planning costs;

(ii) portfolio development costs; and

(iii) all or a portion of abandonment costs.

(2) The commission shall adopt rules establishing criteria governing the extent of recovery of abandonment

1 costs.

2 **SECTION 7. SECTION 69-3-701, MCA, IS AMENDED TO READ:**

3 "69-3-701. Definitions. As used in this part, the
4 following definitions apply:

5 ~~{1}--"Avoided--costs"--means--the--incremental--costs--as~~
6 ~~determined--by--the--commission--to--an--electric--or--natural--gas~~
7 ~~utility--of--energy--or--capacity--or--both--which--but--for--the~~
8 ~~purchase--of--conservation--the--utility--would--generate--or~~
9 ~~supply--itself--or--purchase--from--another--source.~~

10 {2}{1} "Commission" means the Montana public service
11 commission created in 2-15-2602.

12 {3}{2} "Conservation" means any reduction in electric
13 power or natural gas consumption as a result of investment
14 in measures that increase the efficiency of electricity or
15 gas use in building shells, space heating or cooling
16 equipment, water heating equipment, or refrigeration
17 equipment or other cost-effective measures which, over its
18 economic life meet the criteria of 69-3-702.

19 {4}--"Residential--building"--means--a--building--used--for
20 residential--occupancy--that:

21 {a)--has--a--system--for--heating--cooling--or--both--that
22 uses--a--fuel--supplied--by--the--utility--and

23 {b)--contains--at--least--one--but--not--more--than--four
24 separately--or--centrally--heated--dwelling--units--or--contains
25 more--than--four--separately--heated--or--cooled--or--both--heated

1 and-cooled-unitar"

2 **Section 8. Section 69-3-702, MCA, is amended to read:**

3 "69-3-702. Eligible conservation. Conservation
4 purchases or investments are eligible under this part if
5 they are:

6 {1} provided for in [section 6]; or

7 {2}--made--to--replace--upgrade--or--enhance--building
8 shells--space-heating--or--cooling--equipment--or--refrigeration
9 equipment--that--was--installed--and--in--operation--in--the
10 existing--residential--building--at--least--3--years--before--the
11 conservation--purchases--or--investments--are--made--and--if--they
12 are--determined--by--the--commission--to--cost--no--more--than--the
13 utility's--avoided--costs."

14 **Section 9. Section 75-20-304, MCA, is amended to read:**

15 "75-20-304. Waiver of provisions of certification
16 proceedings. (1) The board may waive compliance with any of
17 the provisions of 75-20-216 through 75-20-222, 75-20-501,
18 and this part if the applicant makes a clear and convincing
19 showing to the board at a public hearing that an immediate,
20 urgent need for a facility exists and that the applicant did
21 not have knowledge that the need for the facility existed
22 sufficiently in advance to fully comply with the provisions
23 of 75-20-216 through 75-20-222, 75-20-501, and this part.

24 (2) The board may waive compliance with any of the
25 provisions of this chapter upon receipt of notice by a

person subject to this chapter that a facility or associated facility has been damaged or destroyed as a result of fire, flood, or other natural disaster or as the result of insurrection, war, or other civil disorder and there exists an immediate need for construction of a new facility or associated facility or the relocation of a previously existing facility or associated facility in order to promote the public welfare.

(3) The board shall waive compliance with the requirements of subsections (2)(c), (3)(b), and (3)(c) of 75-20-301 and ~~75-20-501(5)~~ and the requirements of subsections (1)(a)(iv) and (v) of 75-20-211, 75-20-216(3), and 75-20-303(3)(a)(iv) relating to consideration of alternative sites if the applicant makes a clear and convincing showing to the board at a public hearing that:

(a) a proposed facility will be constructed in a county where a single employer within the county has permanently curtailed or ceased operations causing a loss of 250 or more permanent jobs within 2 years at the employer's operations within the preceding 10-year period;

(b) the county and municipal governing bodies in whose jurisdiction the facility is proposed to be located support by resolution such a waiver;

(c) the proposed facility will be constructed within a 15-mile radius of the operations that have ceased or been

curtailed; and

(d) the proposed facility will have a beneficial effect on the economy of the county in which the facility is proposed to be located.

(4) The waiver provided for in subsection (3) applies only to permanent job losses by a single employer. The waiver provided for in subsection (3) does not apply to jobs of a temporary or seasonal nature, including but not limited to construction jobs or job losses during labor disputes.

(5) The waiver provided for in subsection (3) does not apply to consideration of alternatives or minimum adverse environmental impact for a facility defined in subsections (10)(b), (c), (d), or (e) of 75-20-104, for an associated facility defined in 75-20-104(3), or for any portion of or process in a facility defined in subsection (10)(a) of 75-20-104 to the extent that the process or portion of the facility is not subject to a permit issued by the department of health or board of health.

(6) The applicant shall pay all expenses required to process and conduct a hearing on a waiver request under subsection (3). However, any payments made under this subsection shall be credited toward the fee paid under 75-20-215 to the extent the data or evidence presented at the hearing or the decision of the board under subsection (3) can be used in making a certification decision under

1 this chapter.

2 (7) The board may grant only one waiver under
3 subsections (3) and (4) for each permanent loss of jobs as
4 defined in subsection (3)(a)."

5 **Section 10.** Section 75-20-501, MCA, is amended to read:

6 "75-20-501. Annual long-range plan submitted --
7 contents -- available to public -- least-cost plan. (1) Each
8 Except as provided in subsection (5), each utility and each
9 person contemplating the construction of a facility within
10 this state in the ensuing 10 years shall furnish annually to
11 the department for its review a long-range plan for the
12 construction and operation of facilities.

13 (2) The plan shall must be submitted by July 1 of each
14 year and must include the following:

15 (a) the general location, size, and type of all
16 facilities to be owned and operated by the utility or person
17 whose construction is projected to commence during the
18 ensuing 10 years, as well as those facilities to be removed
19 from service during the planning period;

20 (b) in the case of planned development of utility
21 facilities, a description of efforts by the utility or
22 person to coordinate the plan with other utilities or and
23 ~~persons--so--as--to--provide--a--coordinated regional plan--for~~
24 ~~meeting--the--energy--needs--of--the--region planning;~~

25 (c) a description of the efforts to involve

1 environmental protection and land use planning agencies in
2 the planning process, as well as other efforts to identify
3 and minimize environmental problems at the earliest possible
4 stage in the planning process;

5 (d) projections of the demand for the service rendered
6 by the utility or person and explanation of the basis for
7 those projections and a description of the manner and extent
8 to which the proposed facilities will meet the projected
9 demand; and

10 (e) additional information that the board by rule or
11 the department on its own initiative or upon the advice of
12 interested state agencies might request in order to carry
13 out the purposes of this chapter.

14 (3) The plan shall be furnished to the governing body
15 of each county in which any facility included in the plan
16 under (2)(a) of this section is proposed to be located and
17 made available to the public by the department. The utility
18 or person shall give public notice throughout the state of
19 its plan by filing the plan with the environmental quality
20 council, the department of health and environmental
21 sciences, the department of transportation, the department
22 of public service regulation, the department of state lands,
23 the department of fish, wildlife, and parks, and the
24 department of commerce. Citizen environmental protection and
25 resource planning groups and other interested persons may

1 obtain a plan by written request and payment therefor for
2 the plan to the department.

3 (4) A rural electric cooperative may furnish the
4 department with a copy of the long-range plan and 2-year
5 work plan or other integrated resource plan required to be
6 completed under federal rural electrification administration
7 or other federal agency requirements in lieu of the
8 long-range plan required in subsection (1).

9 ~~(5) No person may file an application for a facility~~
10 ~~unless the facility had been adequately identified in a~~
11 ~~long-range plan at least 2 years prior to acceptance of an~~
12 ~~application by the department, except for electric~~
13 ~~transmission lines of a design capacity of 230 kilovolts or~~
14 ~~less. The provisions of subsections (1) through (4) do not~~
15 apply to a public utility that submits an integrated
16 least-cost resource plan to the public service commission
17 pursuant to [sections 1 through 6].

18 (6) A public utility that submits an integrated
19 least-cost resource plan pursuant to [sections 1 through 6]
20 shall contract with the department to fund the actual and
21 necessary costs of the department that are associated with
22 preparing the department's comments on the public utility's
23 plan and with obtaining other agencies' comments, as
24 provided in [section 5]. If a contract is not entered into
25 prior to the submission of the plan, the department, upon

1 completion of its review and comment, shall bill the utility
2 for the department's costs."

3 NEW SECTION. Section 11. Codification instruction.
4 [Sections 1 through 6] are intended to be codified as an
5 integral part of Title 69, chapter 3, and the provisions of
6 Title 69, chapter 3, apply to [sections 1 through 6].

7 NEW SECTION. Section 12. Effective date. [This act] is
8 effective July 1, 1993.

-End-