**** BILL NO. ****

INTRODUCED BY ****

BY REQUEST OF THE ****

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PUBLIC UTILITY ELECTRICITY SUPPLY SERVICE LAWS RELATING TO RETAIL CUSTOMERS WITH LOADS WITH AN AVERAGE MONTHLY DEMAND OF GREATER THAN OR EQUAL TO 5,000 KILOWATTS; AMENDING SECTION 69-8-201, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 69-8-201, MCA, is amended to read:

"**69-8-201. Public utility -- customer electricity supply service options and requirements -- exemption.** (1) (a) Except as provided in subsections (1)(b) and (1)(c), a retail customer, including the retail customer's successor in interest, that has an individual load with an average monthly demand of greater than or equal to 5,000 kilowatts and that ~~is~~was not purchasing electricity supply service from a public utility on October 1, 2007, may not purchase electricity supply service from a public utility.

(b) A retail customer referred to in subsection (1)(a) and a new retail customer, may request electricity supply service from the public utility, and the public utility shall provide electricity supply service if the public utility or retail customer demonstrates that the provision of electricity supply service to the retail customer will not adversely impact the public utility's ~~other~~ residential customers over the long term as determined by the commission pursuant to [section ~~42~~].

(c) If a public utility provides electricity supply service to a retail customer with an average monthly demand of greater than or equal to 5,000 kilowatts~~as provided in subsection (1)(b)~~, that service is regulated by the commission and the customer may not, at a later date, purchase electricity supply service from another provider of electricity supply service without a demonstration by the retail customer that purchasing service from another provider of electricity supply service will not adversely impact the public utility's ~~other~~ residential customers over the long term as determined by the commission pursuant to [section ~~23~~].

(2) (a) A retail customer that has an individual load with an average monthly demand of less than 5,000 kilowatts that ~~is~~ was not purchasing electricity from a public utility on October 1, 2007, may continue to purchase electricity from an electricity supplier. The retail customer may subsequently purchase electricity from a public utility subject to commission rule or order, but the customer may not, at a later date, choose to purchase electricity from another source.

(b) A retail customer that has an individual load with an average monthly demand of less than 5,000 kilowatts and that is currently purchasing electricity from a public utility may not choose to purchase electricity from another source after October 1, 2007.

(3) Nothing in this section affects a retail customer's rights and obligations with respect to net metering, cogeneration, self-generation, or ancillary sales of electricity related to deviations from scheduled energy deliveries from nonutility suppliers, as may be provided for in law, commission rule or order, or a tariff approved by the public service commission or the federal energy regulatory commission.

(4) (a) Except as provided in 69-5-101, 69-5-102, 69-5-104(2), 69-5-105 through 69-5-112, 69-8-402, 69-8-421, and subsection (4)(b) of this section, a public utility currently doing business in Montana as part of a single integrated multistate operation, no portion of which lies within the basin of the Columbia River, is exempt from the requirements of this chapter.

(b) To the extent that a public utility described in subsection (4)(a) becomes the successor in interest of another public utility that has restructured in accordance with this chapter before October 1, 2007, it is subject to the requirements of this chapter with respect to the service area of the acquired public utility."

NEW SECTION. **Section 2. Public utility electricity supply service -- responsibilities of the commission.** (1) To determine whether the provision of electricity supply service to a retail customer will not adversely impact the public utility's residential customers over the long term pursuant to 69-8-201(1)(b), the commission shall require the public utility or retail customer to demonstrate that providing service to the retail customer will not:

(a) result in any increased or additional costs for the public utility's residential customers;

(b) impact the public utility's ability to provide transmission, distribution, energy, capacity, or ancillary services to the utilities residential customers; and

(c) impair the public utility's ability to maintain adequate facilities to serve its other customer's with reliable and affordable electricity supply.

(2) If the public utility proposes to provide electricity supply service to one or more customers pursuant to 69-8-201(1)(b), whose electric demand is classified as a large information technology load, , the commission shall, create a new classification of service for retail customers that with an average monthly demand of greater than or equal to 5,000 kilowatts. The customer class must be separate and distinct from existing classifications of service for other commercial or industrial retail electricity consumers and have its own tariff schedule. The tariff schedule adopted for the customer class with an average monthly demand of greater than or equal to 5,000 kilowatts must:

(a) require deposits and associated financial guarantees sufficient to compensate the utility for any costs incurred and risks created by serving the new retail customer~~;~~ and to ensure the new retail customers can ~~meets~~meet its obligations.

(b) designate when service is to commence, any applicable ramps or changes in service, and, if applicable, when service is anticipated to conclude;

(c) set rates and other terms of service regarding the provision of electricity supply service to the proposed retail customer that reflect all costs of serving the proposed retail customer, including, as applicable, the costs incurred by the public utility to provide transmission, distribution, energy, capacity, or ancillary services, and any related costs or risks associated with providing electricity supply service to the proposed customer;

(d) set rates and other terms of service that prevents the shifting of any costs to residential customers, ensures residential customers do not subsidize the cost of service for the new retail customer, and ensures that residential customers are not obligated to pay additional costs because of the new retail customer.

(e) directly assign and allocate all costs associated with serving the new retail customer to that customer or its customer class;

(f) specify the duration of the contract, the estimated start date of electricity supply service, and a guarantee by the new retail customer to take service for a sufficient period to ensure the public utility has a reasonable opportunity to recover the costs associated with serving the new retail customer;

(g) require the proposed retail customer to pay a minimum payment~~s~~ or a percentage based on the proposed retail customer's projected usage of the electricity supply service that the public utility is contracted to provide for the duration of the contract whether service is taken or not to ensure the public utility has a reasonable opportunity to recover its costs associated with serving the new retail customer even if the customer does not commence service when expected or stops taking service before expected;

(h) provide for early termination or exit fees; and

(i) require that the new retail customer provide credit or other financial assurances to reasonably ensure it can meet its obligations.

(3) Nothing in this section prohibits the commission from requiring additional protections to ensure that the public utility's residential customers are not adversely impacted over the long term.

(4) For all other new retail customers taking service pursuant to subsection (1)(b), the customer shall not be included in any customer class including other public utility customers not taking service pursuant to subsection (1)(b) except following a rate case where the commission can ensure that including new retail customers in a customer class with other customers does not create cross-subsidies.

(5) In each rate case after the public utility begins to serve a new retail customer pursuant to subsection (1)(b), the public utility shall provide a complete evaluation of the public utility's cost allocation methods such that the commission can set rates to prevent new retail customers being subsidized by ~~other~~ residential customers.

(6) If a customer receiving electricity supply service pursuant to 69-8-201(1)(b) fails to pay any amount owed to the public utility under the written contract required under subsection (1)(c), the public utility shall not recover any of the unpaid amounts from the public utility's other customers.

~~(7)~~ Nothing in this section prohibits the commission from charging any increased or additional costs to the retail customer, to include a retail customer with a large information technology load that will benefit, decrease or remove costs for the public utility's residential customers .

(7) For the purposes of this section, "large information technology load" means a retail customer electric load that serves information technology services, including:

(a) providing data storage, processing, and transport services;

(b) supporting the delivery of cloud computing services; and

(c) supporting artificial intelligence, machine learning, or similar computation services.

NEW SECTION. **Section 3. Cessation of electricity supply service.** (1) To determine whether the cessation of electricity supply service to a retail customer will not adversely impact the public utility's other customers over the long term pursuant to 69-8-201(1)(b) or (1)(c), the commission shall require the public utility or retail customer to demonstrate that ceasing to provide service to the retail customer will not:

(a) result in any increased or additional costs for the public utility's residential customers;

(b) impact the public utility's ability to provide transmission, distribution, energy, capacity, or ancillary services, to the utilities residential customers; and

(c) impair the public utility's ability to maintain adequate facilities to serve its other customer's with reliable and affordable electricity service.

(2) In making a determination pursuant to this section regarding the utility ceasing to provide service to a retail customer, the commission shall:

(a) require reasonable deposits and associated financial guarantees sufficient to compensate the utility and existing customers for any costs incurred and risks created by the cessation of electricity supply service to a retail customer;

(b) designate when service is anticipated to conclude;

(c) set terms regarding the cessation of electricity supply service to the retail customer that reflect all costs previously incurred for providing service that have yet to be recovered and all costs of no longer serving the retail customer, including, as applicable, the costs incurred by the public utility to provide transmission, distribution, energy, capacity, or ancillary services, and any related costs or risks associated with ceasing to provide electricity supply service to the retail customer;

(d) set terms that prevents shifting costs to other customers, ensures other customers do not subsidize the cessation of the retail customer, and mitigates the risk that other customers pay unwarranted costs because of the retail customer.

(e) directly assign and allocate all costs associated with no longer serving the retail customer to that customer; and

(f) establish early termination or exit fees.

(3) Nothing in this section prohibits the commission from requiring additional protections to ensure that the public utility's residential customers are not adversely impacted over the short or long term.

NEW SECTION. **Section 4. Rulemaking.** The commission shall adopt rules to implement [sections 2 and 3] in a manner that ensures that the provision of service or the cessation of service will not adversely impact the public utility's residential customers.

NEW SECTION. **Section 5. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 6. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 7. Codification instruction.** [Section 2] is intended to be codified as an integral part of Title 69, and the provisions of Title 69 apply to [section 2].

NEW SECTION. **Section 8. Effective date.** [This act] is effective on passage and approval.

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