SENATE BILL NO. 406

INTRODUCED BY C. POPE, C. NEUMANN, J. ELLIS, S. WEBBER, D. FERN, D. HAYMAN

A BILL FOR AN ACT ENTITLED: “AN ACT ESTABLISHING UTILITY ENERGY CONSERVATION EFFICIENCY STANDARDS; PROVIDING UTILITY ACQUISITION AND PROCUREMENT REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY; PROVIDING A DEFINITION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.”

WHEREAS, affordable, reliable sources of electrical service are essential to the long-term health and well-being of Montana citizens and their state economy; and

WHEREAS, periodic excessive peaks in electricity demand significantly burden the reliability of the grid and increase the cost of delivered electricity service to consumers; and

WHEREAS, investments in utility-scale energy conservation have the potential to reduce costs and improve the reliability of delivered electricity service to minimize costly structural peaks in electricity demand; and

WHEREAS, Montana investor-owned utilities may be otherwise disincentivized to adopt utility-scale energy conservation initiatives due to their traditional business goal of selling more electricity; and

WHEREAS, utility investments in energy conservation benefit all customers, program participants and nonparticipants alike, by increasing grid stability and reliability, and by reducing the need for more costly investments in new generation.

WHEREAS, utility investments in energy conservation are proven to enable cost-effective commercial application of affordable, clean, and firm power generation by shaving peak periods of expensive, thermal-generated power.

THEREFORE, a utility energy conservation efficiency standard is hereby enacted to ensure investor-owned utilities in Montana pursue all opportunities of energy conservation when proven to be cost-effective to ratepayers, and to adopt the use of energy conservation as a component of economic dispatch, capable of reimbursing and rewarding shareholders of Montana investor-owned utilities for energy-efficiency investments made on behalf of ratepayers when those investments are funded by ratepayers.

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 Energy Conservation Efficiency Standards Act".

NEW SECTION. **Section 2. Definition.** As used in [sections 1 through 6], unless the context clearly indicates otherwise, "energy conservation investments" means generation, distribution, or transmission investments that reduce the loss of delivered electricity service per unit of energy production and utility investments in demand-side consumption in partnership with ratepayers that in the aggregate conserve energy. Examples of energy conservation investments include but are not limited to:

(1) more efficient industrial electric motors, transmission and distribution lines, substations, and improvements to power production facilities; and

(2) programs promoting urban light-emitting diode lighting, more efficient agricultural water irrigation and delivery, residential high-efficiency electric hot water, dishwashing, refrigeration, and clothes dryer appliances, high-efficiency heat pumps, and wireless fidelity enabled thermostats.

NEW SECTION. **Section 3. Energy conservation efficiency standard -- rulemaking authority.** (1) On or before December 31, 2026, an electric distribution utility shall implement energy conservation programs that achieve energy savings equivalent to the greater of:

(a) 1.0% of the total annual average of normalized kilowatt-hour sales of the electric distribution utility during the preceding 5 calendar years; and

(b) pursuant to [section 4], the annual energy conservation target as identified in the utility's most recent energy conservation assessment.

(2) The commission shall adopt rules implementing energy conservation programs that address:

(a) a process and method for the evaluation, verification, and measurement of program savings;

(b) a stakeholder process for considering and recommending energy conservation programs for approval by the commission;

(c) a methodology for addressing the allocation of program funds for utility programs applicable to each customer class along with a methodology for the recovery of program costs;

(d) programs and methods to educate and otherwise communicate program objectives and achievements with the general public, consumers, and ratepayers; and

(e) any other issues the commission considers relevant.

NEW SECTION. **Section 4. Energy conservation procurement and acquisition.** (1) A utility shall acquire all achievable cost-effective energy conservation as provided in [sections 3 through 5].

(2) (a) Within 2 years of [the effective date of this act], a utility shall submit an energy conservation assessment to the commission.

(b) The energy conservation assessment must:

(i) be completed by an independent entity with experience in performing energy conservation evaluations for utilities;

(ii) estimate the amount of all available and achievable cost-effective energy conservation on the utility's system that could reasonably be acquired by all utility programs on or before December 31, 2027, and account for the effect of any state or federal energy conservation acquisition programs; and

(iii) be updated every 2 years.

(3) The energy conservation assessment must be accompanied by a plan for acquiring all cost-effective energy conservation identified by the assessment, including the establishment of annual energy conservation targets. The annual energy conservation target may not be lower than 1% of retail load as identified in [section 3].

(4) The plan must address the potential value to consumers and ratepayers of energy conservation, to include:

(a) deferred investment in generation, transmission, or distribution of electricity;

(b) reduced need for additional generation of electricity during times of peak demand;

(c) improved integration of different types of renewable resources;

(d) reduced greenhouse gas emissions;

(e) improved reliability of electrical transmission or distribution systems;

(f) reduced portfolio variable power costs; and

(g) any other value reasonably related to the application of energy conservation.

(5) (a) The commission shall, in accordance with a schedule established by commission rule, approve, disapprove, or modify the energy conservation assessment and the plan submitted by the utility under procedures established by commission rule.

(b) In making the determination pursuant to subsection (5)(a), the commission shall consider:

(i) compliance with the requirements of [sections 3 through 5];

(ii) the adequacy and methodological soundness of the analysis contained in the energy conservation assessment;

(iii) the amount of cost-effective energy conservation on the utility's system;

(iv) the need for energy and capacity resources;

(v) the benefits of energy conservation investments;

(vi) the reasonable capacity of the utility to implement cost-effective energy conservation programs and measures, including consideration of a reasonable and feasible schedule for the implementation of the programs and measures and the acquisition of cost-effective energy conservation;

(vii) that successful utility acquisition of energy conservation through utility programs depends in part on voluntary participation and actions by utility customers that, in turn, determine timing and levels of energy conservation that can be acquired and the establishment of reasonable targets;

(viii) that a utility's ability to acquire achievable energy conservation may be impacted by the availability of other state or federal energy conservation programs administered by or on behalf of the state or federal government or their agents;

(ix) the timeframe for acquiring total achievable cost-effective energy conservation, which may not be more than 20 years; and

(x) any other factor the commission determines relevant.

(6) If a utility is unable to meet the energy savings targets established pursuant to subsection (3), the utility shall provide an explanation of why the targets were not achieved. The report may include a request by the utility to adjust the target.

(7) (a) At regular intervals, but not more often than every 4 years, under a schedule and through

procedures established by commission rule, a utility shall submit to the commission a comprehensive measurement, verification, and program evaluation report prepared by an independent entity that has experience in performing energy conservation program evaluations for utilities.

(b) In preparing the report, the independent program evaluator shall:

(i) measure and verify energy and demand savings;

(ii) determine the cost-effectiveness of the energy conservation programs and measures;

(iii) assess the performance of the utility or contractors of the utility in implementing energy conservation programs and measures;

(iv) provide recommendations on how program performance can be improved; and

(v) include any other information the commission considers necessary.

(c) The independent program evaluator may not be the same entity that prepared the energy conservation assessment and plan pursuant to subsection (2).

NEW SECTION. **Section 5. Energy conservation -- cost recovery and incentives.** (1) The commission shall provide for the timely recovery of the actual costs of prudent energy conservation activities, including the energy conservation assessment, through annual cost adjustments, plus the interest on the accumulated amount.

(2) The commission shall allow an incentive for a utility's acquisition of cost-effective energy conservation programs in excess of established annual energy conservation targets as identified in its most recent energy conservation assessment.

(3) In complying with subsection (2), the commission shall, subject to subsection (4), create a performance-based incentive that shares the net economic benefits resulting from cost-effective energy conservation acquired as a result of utility programs between the utility and its customers in excess of the annual target as determined by the utility's most recent energy conservation assessment as follows:

(a) at a ratio of 70% to customers and 30% to the utility for energy conservation acquisition equaling or exceeding one-quarter of 1% of load above the annual target;

(b) at a ratio of 60% to customers and 40% to the utility for energy conservation acquisition equaling or exceeding one-half of 1% of load above the annual target; and

(c) provide other incentives the commission determines appropriate, including but not limited to incentives for energy conservation programs that deliver durable, multiyear, cost-effective energy savings and other energy conservation initiatives.

(4) Incentives rendered pursuant to subsection (3) apply only to the net economic benefits resulting from the first year of energy savings.

(5) (a) Subject to subsection (3), incentives must be granted annually based on preliminarily reported energy conservation acquisition figures.

(b) Incentives may be subject to a true-up based on evaluation, verification, and measurement findings as prescribed in [section 4].

NEW SECTION. **Section 6. Commission authority -- rulemaking.** (1) The commission may promulgate rules necessary to implement [sections 1 through 6] and shall exercise its authority in a timely manner to provide certainty to each utility regarding their responsibilities under [sections 1 through 6].

(2) The commission shall, to the greatest extent possible, integrate any existing commission rules concerning utility acquisition of energy conservation with rules promulgated pursuant to [sections 1 through 6].

(3) In establishing procedures, the commission shall ensure that the due process rights of the utilities subject to the provisions of [sections 1 through 6] are not infringed on, and that the public has a right to participate in commission proceedings with respect to the utilities' acquisition of energy conservation.

NEW SECTION. **Section 7. 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 8. Effective date.** [This act] is effective on passage and approval.

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