

1 HOUSE BILL NO. 877

2 INTRODUCED BY J. FITZPATRICK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA DATA CENTER DEVELOPMENT
5 ACT; ESTABLISHING POLICY AND INTENT; CLARIFYING THE PUBLIC SERVICE COMMISSION'S ROLE
6 IN A REGULATED PUBLIC UTILITY'S SERVICE TO LARGE CUSTOMERS; PROHIBITING THE PUBLIC
7 SERVICE COMMISSION FROM PREVENTING A REGULATED PUBLIC UTILITY FROM SERVING NEW
8 LARGE CUSTOMERS; PRESCRIBING THE PUBLIC SERVICE COMMISSION'S ROLE IN ESTABLISHING
9 TARIFFS AND REGULATORY PROCESSES; PROVIDING AN APPROPRIATION; AMENDING SECTION 69-
10 8-201, MCA; AND PROVIDING EFFECTIVE DATES."

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12 WHEREAS, Montana offers several advantages for data center development, including a cool, dry
13 climate, low risk of natural disasters, ample land, and affordable electricity; and

14 WHEREAS, according to the Frontier Institute, Montana leaders can build on the state's already
15 favorable position and further leverage the current data gold rush, turning Montana into the national leader in
16 data centers by 2050; and

17 WHEREAS, Montana has abundant opportunities to leverage all energy resources, including natural
18 gas, coal, wind, solar, hydrothermal, and geothermal resources; and

19 WHEREAS, a stable, predictable regulatory climate for energy is necessary not only to protect
20 Montana's electricity ratepayers but also to foster predictability, to allow for long-term planning, and to
21 encourage investment.

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

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25 NEW SECTION. Section 1. Short title. [Sections 1 and 2] may be cited as the "Montana Data Center
26 Development Act".

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28 NEW SECTION. Section 2. Policy and intent. (1) October 1, 2007, marked the end of deregulation

1 in the state, which eliminated customer choice for electricity supply and initiated the rebuilding of certain public
2 utilities into vertically integrated enterprises.

3 (2) The end of deregulation in the state eliminated customer choice in electric supply while
4 preserving the choices that had been made by customers in existence on or before October 1, 2007.

5 (3) The public service commission has an important role in determining how large electric
6 customer needs are met, but that role does not extend to prohibiting large electric customers from obtaining
7 service from certain public utilities.

8 (4) It is the legislature's intent to clarify the commission's role and to clarify how new, large
9 customers may obtain electric service in order to address the opportunities and challenges that new, large
10 loads present, particularly with the rapid emergence of data centers and other large-scale energy consumers.

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12 **Section 3.** Section 69-8-201, MCA, is amended to read:

13 **"69-8-201. Public utility -- customer electricity supply service options and requirements --**

14 **exemption.** (1) (a) Except as provided in subsections (1)(b) and ~~(1)(e)~~ through 1(e), a retail customer that
15 existed on or before October 1, 2007, that has an individual load with an average monthly demand of greater
16 than or equal to 5,000 kilowatts, and that is not purchasing electricity supply service from a public utility on
17 October 1, 2007, may not purchase electricity supply service from a public utility.

18 (b) A retail customer referred to in subsection (1)(a) may request electricity supply service from the
19 public utility, and the public utility shall provide electricity supply service if the retail customer demonstrates that
20 the provision of electricity supply service to the retail customer will not adversely impact the public utility's other
21 customers over the long term as determined by the commission.

22 (c) If a public utility provides electricity supply service to a retail customer as provided in
23 subsection (1)(b), that service is regulated by the commission and the customer may not, at a later date,
24 purchase electricity supply service from another provider of electricity supply service.

25 (d) The commission may not prohibit a public utility from providing service to a retail customer that
26 came into existence after October 1, 2007, and that has an individual load with an average monthly demand of
27 greater than or equal to 5,000 kilowatts.

28 (e) Nothing in this subsection (1) prohibits the commission from establishing tariffs and regulatory

1 processes consistent with its regulation of public utilities under Title 69, chapter 3.

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

7 (b) A retail customer that has an individual load with an average monthly demand of less than
8 5,000 kilowatts and that is currently purchasing electricity from a public utility may not choose to purchase
9 electricity from another source after October 1, 2007.

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

14 (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-
15 402, 69-8-421, and subsection (4)(b) of this section, a public utility currently doing business in Montana as part
16 of a single integrated multistate operation, no portion of which lies within the basin of the Columbia River, is
17 exempt from the requirements of this chapter.

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

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22 **NEW SECTION. Section 4. Appropriation.** (1) There is appropriated \$25,000 from the general fund
23 to the department of commerce for the biennium beginning July 1, 2025, to market Montana as a data center
24 location.

25 (2) There is appropriated \$25,000 from the general fund to the state energy office within the
26 department of environmental quality for the biennium beginning July 1, 2025, to assist data center developers in
27 the acquisition of electrical generation resources to serve additional load.

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NEW SECTION. **Section 5. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 69, chapter 8, and the provisions of Title 69, chapter 8, apply to [sections 1 and 2].

NEW SECTION. **Section 6. 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 7. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 4] is effective July 1, 2025.

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