

HOUSE BILL NO. 911

INTRODUCED BY J. FITZPATRICK

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MEANING OF THE TERM "PUBLIC UTILITY"; PROVIDING REQUIREMENTS; PROVIDING AN APPROPRIATION; AMENDING SECTION 69-3-101, MCA; AND PROVIDING EFFECTIVE DATES."

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

Section 1. Section 69-3-101, MCA, is amended to read:

"69-3-101. Meaning of term "public utility" -- requirements of certain entities excluded from meaning. (1) The term "public utility", within the meaning of this chapter, includes every corporation, both public and private, company, individual, association of individuals, and their lessees, trustees, or receivers appointed by any court that own, operate, or control any plant or equipment, any part of a plant or equipment, or any water right within the state for the production, delivery, or furnishing for or to other persons, firms, associations, or corporations, private or municipal:

- (a) heat;
 - (b) street-railway service;
 - (c) light;
 - (d) power in any form or by any agency;
 - (e) except as provided in chapter 7, water for business, manufacturing, household use, or sewerage service, whether within the limits of municipalities or towns or elsewhere;
 - (f) regulated telecommunications service.
- (2) The term does not include:
- (a) privately owned and operated water, sewer, or water and sewer systems that do not serve the public;
 - (b) county or consolidated city and county water or sewer districts as defined in Title 7, chapter 13, parts 22 and 23;

(c) except as provided in chapter 7, municipal sewer or water systems and municipal water supply systems established by the governing body of a municipality pursuant to Title 7, chapter 13, parts 42, 43, and 44; or

(d) a person exempted from regulation as a public utility as provided in 69-3-111; or

(e) a legally separate entity established by a public utility that owns or controls an electric generation, TRANSMISSION, OR DISTRIBUTION facility FACILITIES, or part of an electric generation facility PORTIONS OF THE FACILITIES, that solely supplies generation SUPPLY ELECTRICITY to a customer-CUSTOMERS located in the utility's service territory EACH with a monthly average load greater than or equal to 20 5 megawatts. CUSTOMERS SERVED BY THE LEGALLY SEPARATE ENTITY MAY NOT ALSO BE CUSTOMERS THAT PURCHASE ELECTRIC SUPPLY SERVICE FROM THE PUBLIC UTILITY. The legally separate entity shall demonstrate TO THE COMMISSION IN ACCORDANCE WITH RULES ADOPTED BY THE COMMISSION THAT it:

(i) was not established using an affiliate transaction or material affiliate transaction and is not an affiliate as provided for in Title 69, chapter 3, part 15; and

(ii) does not and will not have any financial impact on the utility's regulated customers;

(iii) DOES NOT UTILIZE THE PUBLIC UTILITY'S TRANSMISSION FACILITIES OR TRANSMISSION RIGHTS OTHER THAN AS PERMITTED BY FEDERAL LAW; AND

(iv) OPERATES IN ACCORDANCE WITH FEDERAL LAW GOVERNING THE SALE OF ELECTRICITY.

(3) All revenues and expenditures from an entity that meets the requirements of subsection (2)(e) must be accounted for separately from a regulated public utility. While an entity that meets the requirements of subsection (2)(e) may fund that entity with a utility's retained earnings, the entity may not guarantee debt using:

(a) utility assets; or

(b) proceeds in issuing securities for which the assets of the utility are pledged."

NEW SECTION. Section 2. Appropriation. (1) There is appropriated \$15,000 from the general fund to the department of commerce for the biennium beginning July 1, 2025, to work in conjunction with the department of environmental quality to analyze Montana's growing energy demand.

(2) On or before September 1, 2026, the department of commerce shall update the energy and telecommunications interim committee on the analysis.

NEW SECTION. **Section 3. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective on passage and approval

(2) [Section 2] is effective July 1, 2026.

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