HOUSE OF REPRESENTATIVES
Roll Call
FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS COMMITTEE

DATE: 2.12.07

NAME	PRESENT	ABSENT/ EXCUSED
REP. ALAN OLSON, CHAIR	✓	
REP. HARRY KLOCK, VICE CHAIR	✓	
REP. GEORGE GROESBECK, VICE CHAIR	✓	
REP. SCOTT BOGGIO	✓	
REP. ROBYN DRISCOLL	✓	
REP. DAVE GALLIK	✓	
REP. DENNIS HIMMELBERGER	✓	
REP. LLEW JONES	✓	
REP. DIANE RICE	✓	
REP. WAYNE STAHL	✓	
REP. BILL THOMAS	✓	
REP. JONATHAN WINDY BOY	✓	

HOUSE STANDING COMMITTEE REPORT

Mr. Speaker:

We, your committee on **Federal Relations, Energy, and Telecommunications** recommend that **House Bill 25** (first reading copy -- white) **do pass as amended.**

Signed: _____
Representative Alan Olson, Chair

And, that such amendments read:

1. Title, line 6 through line 7.
Strike: "CLARIFYING" on line 6 through "PROVISIONS;" on line 7

2. Title, line 10.
Strike: "PREAPPROVAL"
Insert: "APPROVAL"
Strike: "NEW"

3. Title, line 11.
Following: "RESOURCES;"
Insert: "CLARIFYING USE OF GENERATION ASSETS;"
Following: "35-19-102,"
Insert: "69-1-114,"
Strike: "69-8-102,"

4. Title, line 12.
Following: "69-8-311,"
Insert: "69-8-403, 69-8-411,"

5. Title, line 12.
Following: "69-8-421,"
Insert: "69-8-602, 69-8-603,"

6. Title, line 13.
Following: "SECTIONS"
Insert: "69-8-102,"

Committee Vote:
Yes 8, No 4
Fiscal Note Required ___

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7. Title, line 14.
Strike: "69-8-401, 69-8-403,"
Following: "69-8-409,"
Insert: "AND"

8. Title, line 15.
Strike: "AND 69-8-411,"

9. Page 1, line 26.
Following: "line"
Insert: "or substation"

10. Page 4, line 5.
Insert: "Section 4. Section 69-1-114, MCA, is amended to read:

"69-1-114. Fees. (1) Each fee charged by the commission must be reasonable.

(2) Except for a fee assessed pursuant to 69-3-204(2), ~~69-8-421(7)~~ 69-8-421(9), or 69-12-423(2), a fee set by the commission may not exceed $500.

(3) All fees collected by the department under ~~69-8-421(7)~~ 69-8-421(9) must be deposited in an account in the special revenue fund. Funds in this account must be used as provided in ~~69-8-421(7)~~ 69-8-421(9)."
Renumber: subsequent sections

11. Page 4, line 8.
Strike: "Transition"
Insert: "Generation Reintegration"

12. Page 4, line 10 through page 5, line 4.
Strike: section 5 in its entirety
Renumber: subsequent sections

13. Page 6.
Following: line 6
Insert: "(5) "Distribution facilities" means those facilities by and through which electricity is received from transmission facilities and distributed to a retail customer and that are controlled or operated by a utility."
Renumber: subsequent subsections

14. Page 6, line 7.
Strike: "of"
Insert: "incurred in"
Following: "service"
Insert: "through power purchase agreements, demand-side management, and energy efficiency programs"

15. Page 6, line 13.

Strike: subsection (e) in its entirety
Renumber: subsequent subsections

16. Page 6, line 15.
Strike: subsections (g) in its entirety
Renumber: subsequent sections

17. Page 6, line 16.
Following: ";"
Insert: "and"

18. Page 6, line 17 through page 6, line 18.
Strike: subsection (i) in its entirety
Renumber: subsequent subsections

19. Page 6, line 20.
Following: "~~default~~"
Strike: remainder of line 20
Insert: "power purchase agreements.
(7) "Electricity supply resource" means:
(a) contracts for electric capacity and generation;
(b) plants owned or leased by a utility or equipment used to generate electricity;
(c) customer load management and energy conservation programs; or
(d) other means of providing adequate, reliable service to customers, as determined by the commission."
Renumber: subsequent subsections

20. Page 6, line 21.
Following: "<u>services</u>"
Insert: "through power purchase agreements, the acquisition and operation of electrical generation facilities, demand-side management, and energy efficiency programs"

21. Page 7.
Following: line 7
Insert: "(11) "Generation assets cost of service" means a return on invested capital and all costs associated with the acquisition, construction, administration, operation, and maintenance of a plant or equipment owned or leased by a public utility and used for the production of electricity."
Renumber: subsequent subsections

22. Page 7, line 23.
Strike: "distribution services provider's"
Insert: "utility's"

23. Page 7, line 25 through page 7, line 26.
Strike: subsection (15) in its entirety

Renumber: subsequent subsections

24. Page 8, line 3.
Following: "~~assignees~~"
Insert: ", on May 2, 1997, including the public utility's successors or assignees"

25. Page 9.
Following: line 22
Insert: "(28) "Transmission facilities" means those facilities that are used to provide transmission services as determined by the federal energy regulatory commission and the commission and that are controlled or operated by a utility."
Renumber: subsequent subsections

26. Page 10, line 6.
Following: "**customer**"
Insert: "electricity supply service"

27. Page 10, line 29.
Following: "supply"
Insert: "service"

28. Page 11, line 9.
Strike: "may agree to"
Insert: "must"

29. Page 11, line 10.
Following: "impact"
Strike: "the rates of"

30. Page 12.
Following: line 12
Insert: "(2) (a) A retail customer that has an individual load with an average monthly demand of less than 5,000 kilowatts and that is not purchasing electricity from a public utility on [the effective date of this act] 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 [the effective date of this act].

(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."
Renumber: subsequent subsections

31. Page 12, line 14.
Strike: "(2)(b)"
Insert: "(4)(b)"

32. Page 12, line 18.
Strike: "(2)(a)"
Insert: "(4)(a)"

33. Page 13, line 1.
Strike: "and"
Insert: ","
Following: "69-8-420"
Insert: ", and commission rules. The commission may include other utility costs and expenses in the cost recovery mechanism if it determines that including additional costs and expenses is reasonable and in the public interest"

34. Page 14, line 1.
"Section 10. Section 69-8-403, MCA, is amended to read:
"69-8-403. Commission ~~authority --~~ rulemaking authority.
~~(1) Beginning on the effective date of a commission order regarding a public utility's transition plan, the commission shall regulate the public utility's retail transmission, distribution, and default supply services within the state of Montana, as provided in this chapter.~~
~~(2) The commission shall license electricity suppliers and enforce licensing provisions pursuant to 69-8-404.~~
~~(3) The commission shall promulgate rules that identify the licensees and ensure that the offered electricity supply is provided as offered and is adequate in terms of quality, safety, and reliability.~~
~~(4) The commission shall establish just and reasonable rates through established ratemaking principles for public utility default supply, distribution, and transmission services and shall regulate these services. The commission may approve rates and charges for those services based on alternative forms of ratemaking such as performance-based ratemaking, on a demonstration by the public utility that the alternative method complies with this chapter, and on the public utility's transition plan.~~
~~(5) The commission shall certify that a cooperative utility has adopted a transition plan that complies with this chapter. A cooperative utility's transition plan is considered certified 60~~

~~days after the cooperative utility files for certification.~~

~~(6) The commission shall promulgate rules that protect consumers, distribution services providers, and electricity suppliers from anticompetitive and abusive practices.~~

~~(7) (a) After July 1, 2010, the commission shall continuously monitor whether or not workable competition has developed for small customers.~~

~~(b) If the commission determines that workable competition has developed for small customers after July 1, 2010, the commission shall provide a report to the legislature that includes recommendations for legislative implementation of customer choice for small customers.~~

~~(8)~~ In addition to promulgating rules expressly provided for in this chapter, the commission may promulgate any other rules necessary to carry out the provision of this chapter.

~~(9) This chapter does not give the commission the authority to:~~

~~(a) regulate cooperative utilities in any manner other than reviewing certification filings for compliance with this chapter; or~~

~~(b) compel any change to a cooperative utility's certification filing made pursuant to this chapter.~~"

Insert: "Section 11. Section 69-8-411, MCA, is amended to read:

"69-8-411. Nondiscriminatory access ~~-- reciprocity.~~ ~~Except as provided in 69-8-311, all electricity suppliers must be afforded open, fair, and nondiscriminatory access to customers and a comparable opportunity to compete. A distribution services provider or the distribution services provider's affiliates may not use another distribution services provider's facilities in the state of Montana to sell electricity to customers in the state of Montana unless the first distribution services provider or the distribution services provider's affiliates offer comparable and nondiscriminatory access to the distribution services provider's distribution facilities within the state of Montana.~~ (1) Nonutility generators and electricity suppliers must have open, fair, and nondiscriminatory access to a public utility's transmission and distribution facilities according to federal energy regulatory commission rules and regulations for purposes of serving those customers identified in 69-8-201(1) and (2).

(2) Public utilities shall grant the retail customers identified in 69-8-201(1) and (2) and their electricity suppliers access to transmission and distribution facilities at rates and under terms and conditions comparable to the public utility's own access to those facilities or access by the public utility's affiliates.

(3) Public utilities shall file tariffs for transmission and distribution services regulated by the federal energy regulatory commission and the commission implementing subsections (1) and (2)."

Renumber: subsequent sections

35. Page 14, line 17.
Following: "service"
Insert: "and related services"

36. Page 14, line 18.
Following: "~~the~~"
Strike: "The"
Insert: "By December 31, 2007, the"

37. Page 14, line 28.
Following: "~~agreement~~"
Strike: "preapproval of a new"
Insert: "approval of an"

38. Page 15, line 3.
Strike: "pursuant to 69-8-419"

39. Page 15, line 5 through page 15, line 6.
Strike: "the rules adopted pursuant to 69-8-419"
Insert: "commission rules"

40. Page 15, line 11 through page 15, line 12.
Following: "with"
Strike: remainder of line 11 through line 12 in their entirety
Insert: "commision rules; and"

41. Page 15, line 16.
Strike: "**Preapproval of new**"
Insert: "Approval of"

42. Page 15, line 18 through page 15, line 19.
Strike: "preapproval of a new"
Insert: "approval of an"

43. Page 15, line 24 through page 15, line 29.
Strike: subsections (2)(a) and (2)(b) in their entirety

44. Page 15, line 30.
Strike: "(c)"
Insert: "(2)"

45. Page 16, line 1.
Strike: "preapproval"
Insert: "approval"

46. Page 16, line 3 through page 16, line 4.
Following: "explain"
Strike: remainder of line 3 through line 4 in their entirety

Insert: "the deficiencies."

47. Page 16, line 5.
Strike: "(d)"
Insert: "(3)"
Following: "application"
Insert: "for approval of a power purchase agreement from an existing generating resource"

48. Page 16.
Following: line 6
Insert: "(4) The commission shall issue an order within 270 days of receipt of an adequate application for approval of a lease, an acquisition of an equity interest in a new or existing plant or equipment used to generate electricity, or a power purchase agreement for which approval would result in construction of a new electric generating resource. The commission may extend the time limit up to an additional 90 days if it determines that extraordinary circumstances require it."

49. Page 16, line 7.
Strike: "(e)"
Insert: "(5)"

50. Page 16, line 9.
Strike: "preapproval"
Insert: "approval"

51. Page 16, line 10.
Strike: "(3)"
Insert: "(6)"
Renumber: subsequent subsections

52. Page 16, line 11.
Strike: "preapproval of a new"
Insert: "approval of an"

53. Page 16, line 14.
Strike: "preapproval of a new electricity supply resource"
Insert: "approval"

54. Page 16, line 15 through page 16, line 16.
Strike: "preapproval of a new electricity supply resource"
Insert: "approval of an application"

55. Page 16, line 17.
Strike: "preapproval of all or part of the ~~agreement~~ new electricity supply resource "

Insert: "approval, in whole or in part,"

56. Page 16, line 18.
Following: ";"
Insert: "and

57. Page 16, line 19 through page 16, line 22.
Strike: subsections (ii) and (iii) in their entirety
Insert: "(ii) procurement of the electricity supply resource is consistent with the requirements in 69-3-201, the objectives in 69-8-419, and commission rules.

(d) The commission order may include a provision for allowable generation assets cost of service when the utility has filed an application for the lease or acquisition of an equity interest in a plant or equipment used to generate electricity."
Renumber: subsequent subsections"

58. Page 16, line 24.
Strike: "preapproval"
Insert: "approval"

59. Page 16, line 25.
Strike: "(3)(c)"
Insert: "(6)(c)"

60. Page 16, line 27.
Strike: "(3)(c)"
Insert: "(6)(c)"

61. Page 16, line 28.
Strike: "incurred under the agreement"
Insert: "related to the approved electricity supply resource"

62. Page 16, line 29 through page 17, line 4.
Strike: subsection (5) in its entirety
Renumber: subsequent subsections

63. Page 17, line 5.
Strike: "cost recovery"
Insert: "rate"

64. Page 17, line 6.
Strike: "and"
Insert: "or"

65. Page 17, line 7.
Strike: "new electricity supply"
Following: "resource"
Insert: "or managed any power supply purchase agreement"

66. Page 17, line 8.
Strike: "electricity supply"
Insert: "rate recovery for the"

67. Page 17, line 10.
Strike: "new"

68. Page 17, line 10 through page 17, line 11.
Following: "in"
Strike: remainder of line 10 through line 11 in their entirety
Insert: "a manner consistent with 69-3-201, 69-8-419, and commission rules."

69. Page 17, line 12.
Following: "independent"
Insert: "engineering, financial, and management"

70. Page 17, line 14.
Strike: "new"

71. Page 17, line 15.
Following: "modeling,"
Strike: "and"
Following: "risk management"
Insert: ", and engineering"

72. Page 17, line 17.
Strike: "electricity supply service"

73. Page 17, line 18 through page 17, line 19.
Strike: subsection (8) in its entirety
Insert: "(10) By December 31, 2007, the commission shall adopt rules prescribing minimum filing requirements for applications filed pursuant to this part."

74. Page 17, line 20.
Insert: "Section 15. Section 69-8-602, MCA, is amended to read:
"69-8-602. ~~Distribution services provider~~ Utility net metering requirements. A ~~distribution services provider~~ utility shall:
(1) allow net metering systems to be interconnected using a standard kilowatt-hour meter capable of registering the flow of electricity in two directions, unless the commission determines, after appropriate notice and opportunity for comment:
(a) that the use of additional metering equipment to monitor the flow of electricity in each direction is necessary and appropriate for the interconnection of net metering systems, after taking into account the benefits and costs of purchasing and installing additional metering equipment; and

(b) how the costs of net metering are to be allocated between the customer-generator and the ~~distribution services provider~~ utility; and

(2) charge the customer-generator a minimum monthly fee that is the same as other customers of the electric utility in the same rate class. The commission shall determine, after appropriate notice and opportunity for comment if:

(a) the ~~distribution services provider~~ utility will incur direct costs associated with interconnecting or administering net metering systems that exceed any offsetting benefits associated with these net metering systems; and

(b) public policy is best served by imposing these costs on the customer-generator, rather than allocating these costs among the ~~distribution services provider's~~ utility's entire customer base.""

Insert: "Section 16. Section 69-8-603, MCA, is amended to read:

"69-8-603. Net energy measurement calculation. Consistent with the other provisions of this part, the net energy measurement must be calculated in the following manner:

(1) The ~~distribution services provider~~ utility shall measure the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(2) If the electricity supplied by the electricity supplier exceeds the electricity generated by the customer-generator and fed back to the electricity supplier during the billing period, the customer-generator must be billed for the net electricity supplied by the electricity supplier, in accordance with normal metering practices.

(3) If electricity generated by the customer-generator exceeds the electricity supplied by the electricity supplier, the customer-generator must be:

(a) billed for the appropriate customer charges for that billing period, in accordance with 69-8-602; and

(b) credited for the excess kilowatt hours generated during the billing period, with this kilowatt-hour credit appearing on the bill for the following billing period.

(4) On January 1, April 1, July 1, or October 1 of each year, as designated by the customer-generator as the beginning date of a 12-month billing period, any remaining unused kilowatt-hour credit accumulated during the previous 12 months must be granted to the electricity supplier, without any compensation to the customer-generator.""

Renumber: subsequent sections

75. Page 19, line 24.

Insert: "NEW SECTION. **Section 18. Use of generation assets.** Generation assets acquired by a public utility pursuant to this chapter:

(1) must be used by the public utility to serve and benefit customers within the public utility's Montana service territory; and

(2) may not be removed from the rate base unless the commission finds that customers of the public utility will not be adversely affected."

Insert: "NEW SECTION. **Section 19. Codification instruction.** [Section 18] is intended to be codified as an integral part of Title 69, chapter 8, part 4, and the provisions of Title 69, chapter 8, part 4, apply to [section 18]."

Renumber: subsequent sections

76. Page 19, line 25.
Following: "Sections"
Insert: "69-8-102,"

77. Page 19, line 26.
Strike: "69-8-401, 69-8-403,"

78. Page 19, line 27.
Following: "69-8-409,"
Insert: "and"
Strike: "and 69-8-411,"

- END -

HOUSE OF REPRESENTATIVES
Roll Call Vote
FEDERAL RELATIONS, ENERGY & TELECOMMUNICATIONS COMMITTEE

DATE 2-12-07 BILL NO HB25 MOTION NO._____

MOTION: HB25 DPA17

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. HARRY KLOCK, VICE CHAIR	✓		
REP. GEORGE GROESBECK, VICE CHAIR	✓		
REP. SCOTT BOGGIO		✓	
REP. ROBYN DRISCOLL	✓		
REP. DAVE GALLIK		✓	
REP. DENNIS HIMMELBERGER	✓		
REP. LLEW JONES	✓		
REP. DIANE RICE	✓		
REP. WAYNE STAHL		✓	
REP. BILL THOMAS		✓	
REP. JONATHAN WINDY BOY	✓		
REP. ALAN OLSON, CHAIR	✓		
	8	4	

Montana House of Representatives
Visitors' Register

FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS COMMITTEE **Date** 2/12/07

Bill Nos. 558 **Sponsor(s)** Wilmur

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Name	Representing	Bill No.	Support	Oppose	Info.
Matt Elsaesser	SAVE Fnd	558	X		
CHUCK MAGRAW	NRDC + RNP	558	X		
PATRICK JUDGE	MEIC	558	X		
Matt Leow	MontPIRG	558	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.