

SB 257 Undermines the Purpose and Benefits of Montana's Renewable Energy Standard

SB 257 makes a mockery of Montana Renewable Energy Standard (RES), prints money for hydroelectric generators, like PPL, and corrupts the renewable energy certificate market. The bill does three things:

1. What the bill does: SB 257 amends existing law to include within the definition of “eligible renewable resource,” water power from existing hydroelectric projects that increases, or since January 1, 2005 has increased, its generating capacity as a result of an upgrade, repair, or routine maintenance to the facility. Thus, power from these projects and associated renewable energy certificates could be used by utilities to comply with their renewable energy obligations under Montana's Renewable Energy Standard law.

Flaws:

1. The purpose of renewable energy standard laws, such as Montana's law, is to provide an incentive for the production of new renewable resources such as wind, solar, and geothermal. These laws are not intended to promote hydropower because most of the nation's hydropower potential has been exhausted and the nation needs to develop new renewable resources. In addition, over the last century federal and state policies have worked to support hydropower development; renewable energy standard laws seek to level the playing field.
2. Montana's renewable energy standard law, recognizing that there may be some potential small hydro power sites, allows for hydro projects that are less than 10 MW and don't require a new impoundment or diversion of water. SB 257, however, does not impose such a limitation. So, for example, a capacity upgrade at the facility that significantly increased the size of the reservoir would be granted “eligible renewable resource” treatment, which is 180 degrees at variance from the intent of existing law.
3. As noted, the purpose behind Montana's law is to promote the development of new renewable resources. Renewable resources that are going to be developed in any event do not need public policy support.
4. Allowing actions like “repair” and “maintenance” that have to occur regardless of a renewable energy standard, to form the basis for bringing a capacity increase within the definition of “eligible renewable resource” is not only bad policy but subverts existing law.
5. Likewise, the retroactive application of SB 257 is also problematic since any work done on existing facilities was done irrespective of Montana's renewable energy standard law.

2. What the bill does: SB 257 says the increased capacity from a change at a dam will be the first energy sold from that dam. This is a significant change as the upgraded dam may never actually produce the increased power from the repair or upgrade, but SB 257 treats it as if it were. For example, a 50 MW project, that had its capacity increased by 60 MW,

but that produced only 10 MW for 6 months of the year, would be entitled to the full 10 MW of capacity “increase” for that time frame.

Flaws:

1. This is Enron-style accounting. A proper methodology for accounting for the value of a capacity increase would be for the actual production of the facility that is above the prior capacity.
2. Renewable energy credits (or certificates) (RECs) are tradable commodities, and may be (and increasingly are) sold separately from the underlying electricity itself. RECs are being used as a means to comply with various state renewable energy laws. For example, RECs associated with the operation of the Naturener wind project in Shelby are being sold to San Diego Gas and Electric in order for it to meet its compliance obligation under the California law. The manner in which SB 257 creates RECs threatens the integrity of the REC market.

3. What the bill does: SB 257 gives 22% of the created RECs to DPHHS, presumably so that DPHHS can sell the RECs and receive the proceeds.

Flaws: Given the manner in which the RECs were created, the value of the RECs is highly questionable. Put simply, holders of these RECs may be unable to find buyers because of the corrupt manner in which these RECs were created.