



**REQUEST FOR PROPOSALS
MONTANA COMMUNITY RENEWABLE ENERGY PROJECTS**

June 1, 2010

Montana-Dakota Utilities Co., A Division of MDU Resources Group, Inc., (“Montana-Dakota”) is issuing this Request for Proposals (“RFP”) to solicit offers from developers of community renewable energy resources (“Responder”).

Montana-Dakota’s intent is to participate in Community Renewable Energy Projects (“PROJECT”) that support the following goals:

- Supports the local economy in areas of Montana served by Montana-Dakota.
- Supports and promotes environmentally responsible and cost-effective electric generation for Montana-Dakota’s customers.
- Support PROJECTs that meet the State of Montana’s requirements as defined in Montana Code Annotated (“MCA”) Section 69-3-2003(4) for a Community Renewable Energy Project.

This RFP is intended to meet the requirements of Montana’s Renewable Power Production and Rural Economic Development Act.

Starting with year 2012, MCA 69-3-2004(3)(b) requires Montana utilities to acquire specific amounts of eligible renewable resource capacity developed locally by community renewable energy projects. To qualify as a PROJECT, Montana owners including residents, small businesses, non-profit organizations, tribal councils, political subdivisions or local governments, and non-utility cooperatives, or a combination of these entities, must have a controlling interest in the eligible renewable resources.

In this RFP, Montana-Dakota is seeking proposals for PROJECTs consisting of up to six megawatts (MW) of nameplate capacity by 2012 and PROJECTs consisting of up to ten MW of nameplate capacity by 2015 which qualify as a PROJECT under MCA Section 69-3-2003(4). Montana-Dakota will accept proposals for qualifying PROJECTs of up to ten MW nameplate capacity.

Responders are encouraged to familiarize themselves with the Montana Community Renewable Energy program and are responsible for their PROJECT

submittal meeting the requirements prescribed in the MCA. A copy of the applicable MCA sections is attached as Exhibit A for reference purposes.

Montana-Dakota will conduct two informational meetings on July 7, 2010 in Sidney, Montana at 10:00 am Mountain Time and in Glendive, Montana at 2:00 pm Mountain Time. The meetings will be held at the Northern Plains Agricultural Research Center, 560 N. Central Avenue, in Sidney and at the Eastern Plains Event Center, 313 S. Merrill Avenue, in Glendive. All prospective Responders are encouraged to attend, although attendance of the informational meeting is not required for submitting proposals.

Criteria

The criteria that will be considered in determining a preferred proposal include, but not limited to, the following:

1. Eligible Community Renewable Resource as defined in MCA 69-3-2003
2. Energy Sales Price
3. Power Deliverability
4. Evidence of site control
5. Quality and experience of the PROJECT development team
6. Financial capability of the Responder
7. Location within Montana-Dakota service territory

Preference will be given to Responders who have demonstrated a history of successful renewable energy project completion, have the ability to complete a project within the required timeframe, and can provide a project consistent with Montana-Dakota's generation expansion strategy. The selected Responder may be required to provide financial security of performance in a format acceptable to Montana-Dakota to ensure completion of the project in a timely manner.

Assessment and Process

Montana-Dakota will assess all proposals to determine which are the most economical, feasible and viable options for meeting Montana-Dakota's generation diversity and system needs. The assessment will take into account both economic and non-economic factors. Upon completion of this assessment, Montana-Dakota will create its short list of qualified PROJECTs.

Short List

Responders who enter into short-list discussions with Montana-Dakota will be required to demonstrate the following:

- Site control by showing evidence of site ownership, an option to purchase the site, or an option for a long term lease of the site.
- A plan for determining local community reaction to the project and an action plan for working with the local community on project issues.

- Nonrefundable Payment to Montana-Dakota of one thousand dollars (\$1,000.00) no later than five (5) business days after receiving notice from Montana-Dakota that it qualifies for Montana-Dakota's short list of qualified PROJECTs. This nonrefundable fee is intended to secure the obligation of each Responder during the evaluation period, to ensure each proposal has been thoroughly considered, and to represent a binding offer to Montana-Dakota. If the Responder fails to submit this fee within the deadline, the Responder's proposal will be rejected and removed from the short list of qualified PROJECTs.
- Successful Responders will be expected to execute a Power Purchase Agreement (PPA) with Montana-Dakota in form similar to Exhibit B.

Required Bid Information

Each Responder will be required to provide the following information:

1) Location of PROJECT

Provide details on where the PROJECT will be located and site description details, including size and the right of the Responder to acquire ownership or lease land.

2) Siting Description

Provide a description of plans for assessing and meeting local community siting issues, resource issues, environmental issues, and electrical transmission interconnection issues. The Responder should include existing efforts to address any of these issues. Responders with approved siting permits will receive greater evaluation weight for their proposals.

3) Power Deliverability

Proposals will be evaluated based on the ability of the PROJECT to gain access with the Midwest Independent Transmission System Operator ("Midwest ISO" or "MISO") market and to be able to deliver the PROJECT's power to the MISO market. More information on MISO interconnection and market rules can be obtained from the MISO website:

<http://www.midwestiso.org/home>.

Proposals must include information available relative to the proposed PROJECT and its interface with the MISO market. Montana-Dakota will assist the Responder with the MISO Generator Interconnect application procedure. MISO Network Resource Connection is not required at the time of bidding, but will be requested at a later date.

4) Regulatory and Environmental Compliance

The Responder is responsible for obtaining all federal, state, and local permits, licenses, approvals, and variances that are currently in effect, or may become in effect in the future, required for the operation of the

PROJECT and the delivery of its power. In the case of a wind project, the Responder must have evaluated and selected the proposed wind turbine development site in accordance with the recommendations listed in U.S. Fish and Wildlife Service's most recent *Interim Guidance on Avoiding Wildlife Impacts from Wind Turbines* (“*Interim Guidance*”). The Responder must report any deviations from the suggested site recommendations in the *Interim Guidance*.

6) Company Qualifications and Experience

The Responder should supply information regarding the ownership structure of the Responder and the PROJECT, including primary and secondary investors/owners of the Responder and the PROJECT.

The Responder must be able to show proof of ownership eligibility for a PROJECT pursuant to MCA 69-3-2003(11).

7) Financial Considerations

Each Responder must include the following financial information for each Responder/entity involved in the proposal if available:

- Current annual financial reports for each entity. If annual financial reports are not available, a listing of current assets, current liabilities, and last year’s cash flow must be provided.
- Description of proposed PROJECT financing and whether such financing has been secured.

8) Other Information

This section provides Responder with the opportunity to describe other aspects of the PROJECT that may not fit into one of the other categories. This may include alternative approaches to providing renewable energy benefits.

9) Pricing Information

Prices shall be quoted in U.S. dollars of which the base year must be indicated and will be considered firm unless expressly stated otherwise. If the Responder’s pricing policy involves an escalation or index, the escalation terms and conditions or specific index must be included for evaluation. Indexes used should be published and publicly available.

- Montana-Dakota’s preference is a fixed price in terms of dollars per kilowatt-hour of energy delivered (\$/kWh) for all energy, capacity, and renewable attributes received at the delivery point or attributable to the PROJECT. Montana-Dakota will, however, consider proposals with other pricing methods.
- Prices should include all taxes and environmental charges. All prices should be defined for the duration of the prospective PPA between Montana-Dakota and the Responder.

- The Responder will be responsible for compliance with all applicable existing and future environmental requirements during the term of the prospective PPA between Montana-Dakota and the Responder.

10) Pricing Terms

Montana-Dakota must be granted any and all current and/or future renewable energy certificates and emissions credits associated with the energy from the successful PROJECT. The PROJECT must be able to be certified in a Renewable Energy Credit market that will operate within the Eastern Interconnection as a qualifying Community Renewable Energy Project as determined by the Montana Public Service Commission.

11) Generation Equipment

Describe the generation equipment for the PROJECT and how it will be operated and maintained. The Responder must include the number of individual units and, for each individual unit,

- Manufacturer and model,
- nameplate capacity, and
- Other relevant equipment information.

The Responder should also provide estimated equipment maintenance schedules.

12) Term

Montana-Dakota prefers a 10- to 20-year term for the PPA. Proposal terms should not be less than five years and may be up to 25 years in length.

Montana-Dakota must have the option to terminate the PPA agreement with the Responder, if the PROJECT is unable to delivery energy for a period of six consecutive months.

13) Commercial Operation

Montana-Dakota will evaluate most favorably the proposals that begin power delivery matching Montana-Dakota's needs, i.e., approximately January 1, 2012, but will consider earlier commercial operation dates.

14) Energy Analysis

The Responder must include an estimate of the energy production from the PROJECT indicating the projected net energy output on a monthly basis for the first five years of the PPA term, based upon site specific wind speed or available fuel data and equipment performance specifications,.

15) Transmission

The Responder must provide information on transmission interconnection and assumption work that the Responder has completed or plans to complete with respect to the PROJECT. For example, if the Responder has filed a generator interconnection request with MISO, please indicate the queue number, request size, and status. Also, if the Responder has performed its own transmission analysis for the PROJECT, the analysis should also be provided.

The Responder should expect to be responsible for any transmission facilities to the energy delivery point.

If placed by Montana-Dakota on its short list of qualified PROJECTs, the Responder should be prepared to pay for the interconnection and transmission studies required by the Midwest ISO.

16) Local Participation

The PROJECT is expected to comply with MCA 69-3-2003(4) as a qualifying Community Renewable Energy Project. The Responder must indicate how the PROJECT will involve local ownership or participation in the revenue of the PROJECT. If applicable, please describe the type and level of local ownership or participation in the PROJECT. Montana-Dakota will submit PROJECT information to the Montana Public Service Commission for qualification of ownership structure.

17) Confidentiality

Montana-Dakota will not disclose to a third-party any information contained in the Responder's proposal that is marked "Confidential," unless such disclosures are required by law or by a court or governmental or regulatory agency having appropriate jurisdiction or is necessary to obtain PROJECT qualification. As a regulated utility, Montana-Dakota may be required to release proposal information to various government agencies including the Montana Public Service Commission as part of a regulatory review or legal proceeding. Montana-Dakota also reserves the right to disclose proposals to Montana-Dakota's consultants and attorneys for the purpose of evaluating proposals. In the event Montana-Dakota is required to submit copies of proposals to any governmental or regulatory agency, Montana-Dakota will attempt to file such information labeled as "Confidential" on a confidential basis. Designating specific information as confidential, rather than the entire proposal, may facilitate such efforts. However, Montana-Dakota cannot guarantee that such information will be deemed confidential by the agency or court the information is filed with.

Acceptance of Proposals

Montana-Dakota reserves the right, without qualification, to select or reject any or all proposals and to waive any formality, technicality, requirement, or irregularity

in the proposals received. Montana-Dakota also reserves the right to request further information, as necessary, to complete its evaluation of the proposals received. Responders who submit proposals do so without recourse against Montana-Dakota for either rejection by Montana-Dakota or failure to execute an agreement for purchase of capacity and/or energy for any reason. Montana-Dakota will not reimburse any Responders for any cost incurred in the preparation or submission of a proposal and/or any subsequent negotiations regarding a proposal.

Proposal Submission

Montana-Dakota requests that questions regarding this RFP be submitted by e-mail to Mr. Hoa Nguyen at hoa.nguyen@mdu.com. Answers may be provided to all other Responders, if appropriate as determined by Montana-Dakota, by e-mail or by amendment to this RFP.

A nonbinding Notice of Intent to Bid is due on **July 23, 2010** for those parties that intend to submit a proposal. Proposals are due no later than **August 20, 2010**. Proposals may be submitted by e-mail, U.S. Postal Service mail, fax, or hand delivery. Faxed or e-mailed proposals must be followed up by mail with a signed original and may arrive after the due date as long as the faxed or e-mailed copy meets the due date requirement. Responders should submit three bound copies of their proposals including all appropriate documents and exhibits. All proposals should be directed to Hoa Nguyen at Montana-Dakota Utilities Co.

E-mail:	hoa.nguyen@mdu.com Include "Montana Community Renewable Energy Project RFP" in the subject line.
Voice:	701-222-7656
Fax:	701-222-7872
Mailing address:	Hoa Nguyen Montana-Dakota Utilities Co. 400 North 4 th Street Bismarck, ND 58501

Proposal Schedule and Evaluation Process

Montana-Dakota will complete its evaluation of proposals received by **October 1, 2010**, and will invite one or more Responders to meet with Montana-Dakota's management team to discuss their proposals in further detail. Based on those discussions, Montana-Dakota intends to select a developer by **November 15, 2010**, with the intent of finalizing documentation of a PPA, and/or other

appropriate project documents, no later than **December 31, 2010**. The final agreement is subject to filing with the Montana Public Service Commission.

Montana-Dakota reserves the right, at any time prior to finalization of a PPA, in its sole discretion, to terminate, or once terminated to resume, this RFP process or negotiations with any Responder. Nothing herein shall be construed to bind Montana-Dakota unless and until a PPA or another binding contract has been negotiated and executed and is effective. The costs for responding to the RFP are the responsibility of the Responder.

Anticipated RFP Timeline

Informational meeting held in Glendive, MT	July 7, 2010
Informational meeting held in Sidney, MT	July 7, 2010
Notices of Intend to Bid due	July 23, 2010
PROJECT proposals due	August 20, 2010
Short list Responders notified	October 1, 2010
Anticipated PROJECT selection	November 15, 2010

Exhibits

- A. Montana Code Annotated 2009 69-3-2001 to 2007.
- B. Sample PPA which the successful Responder would be expected to sign.

Exhibit A

Montana Code Annotated 2009

[Search](#) · [MCA Contents](#)

Table of Contents

TITLE 69. PUBLIC UTILITIES AND CARRIERS CHAPTER 3. REGULATION OF UTILITIES

Part 20. Renewable Power Production and Rural Economic Development

[*Back Up One Level in Table of Contents*](#)

[69-3-2001. Short title.](#)

[69-3-2002. Findings.](#)

[69-3-2003. Definitions.](#)

[69-3-2004. Renewable resource standard -- administrative penalty -- waiver.](#)

[69-3-2005. Procurement -- cost recovery -- reporting.](#)

[69-3-2006. Commission authority -- rulemaking authority.](#)

[69-3-2007. Cost caps.](#)

[69-3-2008. Cooperative utility -- exemption -- standard.](#)

Montana Code Annotated 2009

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

69-3-2001. Short title. This part may be cited as the "Montana Renewable Power Production and Rural Economic Development Act".

History: En. Sec. 1, Ch. 457, L. 2005; Sec. [69-8-1001](#), MCA 2005; redes. [69-3-2001](#) by Sec. 1, Ch. 220, L. 2007.

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[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

69-3-2002. Findings. The legislature finds that:

- (1) Montana is blessed with an abundance of diverse renewable energy resources;
- (2) renewable energy production promotes sustainable rural economic development by creating new jobs and stimulating business and economic activity in local communities across Montana;
- (3) increased use of renewable energy will enhance Montana's energy self-sufficiency and independence; and
- (4) fuel diversity, economic, and environmental benefits from renewable energy production accrue to the public at large, and therefore all consumers and utilities should support expanded development of these resources to meet the state's electricity demand and stabilize electricity prices.

History: En. Sec. 2, Ch. 457, L. 2005; Sec. [69-8-1002](#), MCA 2005; redes. [69-3-2002](#) by Sec. 1, Ch. 220, L. 2007.

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Montana Code Annotated 2009

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

69-3-2003. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Ancillary services" means services or tariff provisions related to generation and delivery of electric power other than simple generation, transmission, or distribution. Ancillary services related to transmission services include energy losses, energy imbalances, scheduling and dispatching, load following, system protection, spinning reserves and nonspinning reserves, and reactive power.

(2) "Balancing authority" means a transmission system control operator who balances electricity supply and load at all times to meet transmission system operating criteria and to provide reliable electric service to customers.

(3) "Common ownership" means the same or substantially similar persons or entities that maintain a controlling interest in more than one community renewable energy project even if the ownership shares differ between two community renewable energy projects. Two community renewable energy projects may not be considered to be under common ownership simply because the same entity provided debt or equity or both debt and equity to both projects.

(4) "Community renewable energy project" means an eligible renewable resource that:

(a) is interconnected on the utility side of the meter in which local owners have a controlling interest and that is less than or equal to 25 megawatts in total calculated nameplate capacity; or

(b) is owned by a public utility and has less than or equal to 25 megawatts in total nameplate capacity.

(5) (a) "Competitive electricity supplier" means any person, corporation, or governmental entity that is selling electricity to small customers at retail rates in the state of Montana and that is not a public utility or cooperative.

(b) The term does not include governmental entities selling electricity produced only by facilities generating less than 250 kilowatts that were in operation prior to 1990.

(6) "Compliance year" means each calendar year beginning January 1 and ending December 31, starting in 2008, for which compliance with this part must be demonstrated.

(7) "Cooperative utility" means:

(a) a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18; or

(b) an existing municipal electric utility as of May 2, 1997.

(8) "Dispatch ability" means the ability of either a balancing authority or the owner of an electric generating resource to rapidly start, stop, increase, or decrease electricity production from that generating resource in order to respond to the balancing authority's need to match supply resources to loads on the transmission system.

(9) "Electric generating resource" means any plant or equipment used to generate electricity by any means.

(10) "Eligible renewable resource" means a facility either located within Montana or delivering electricity from another state into Montana that commences commercial operation after January 1, 2005, and that produces electricity from one or more of the following sources:

(a) wind;

(b) solar;

(c) geothermal;

(d) water power, in the case of a hydroelectric project that:

(i) does not require a new appropriation, diversion, or impoundment of water and that has a

nameplate rating of 10 megawatts or less; or

(ii) is installed at an existing reservoir or on an existing irrigation system that does not have hydroelectric generation as of April 16, 2009, and has a nameplate capacity of 15 megawatts or less;

(e) landfill or farm-based methane gas;

(f) gas produced during the treatment of wastewater;

(g) low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic fuels from wood, forest, or field residues, except that the term does not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic;

(h) hydrogen derived from any of the sources in this subsection (10) for use in fuel cells;

(i) the renewable energy fraction from the sources identified in subsections (10)(a) through (10)(j) of electricity production from a multiple-fuel process with fossil fuels; and

(j) compressed air derived from any of the sources in this subsection (10) that is forced into an underground storage reservoir and later released, heated, and passed through a turbine generator.

(11) "Local owners" means:

(a) Montana residents or entities composed of Montana residents;

(b) Montana small businesses;

(c) Montana nonprofit organizations;

(d) Montana-based tribal councils;

(e) Montana political subdivisions or local governments;

(f) Montana-based cooperatives other than cooperative utilities; or

(g) any combination of the individuals or entities listed in subsections (11)(a) through (11)(f).

(12) "Nonspinning reserve" means offline generation that can be ramped up to capacity and synchronized to the grid within 10 minutes and that is needed to maintain system frequency stability during emergency conditions, unforeseen load swings, and generation disruptions.

(13) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter 3, on January 1, 2005, including the public utility's successors or assignees.

(14) "Renewable energy credit" means a tradable certificate of proof of 1 megawatt hour of electricity generated by an eligible renewable resource that is tracked and verified by the commission and includes all of the environmental attributes associated with that 1 megawatt-hour unit of electricity production.

(15) "Seasonality" means the degree to which an electric generating resource is capable of producing electricity in each of the seasons of the year.

(16) "Small customer" means a retail customer that has an individual load with an average monthly demand of less than 5,000 kilowatts.

(17) "Spinning reserve" means the online reserve capacity that is synchronized to the grid system and immediately responsive to frequency control and that is needed to maintain system frequency stability during emergency conditions, unforeseen load swings, and generation disruptions.

(18) "Total calculated nameplate capacity" means the calculation of total nameplate capacity of the community renewable energy project and other eligible renewable resources that are:

(a) located within 5 miles of the project;

(b) constructed within the same 12-month period; and

(c) under common ownership.

History: En. Sec. 3, Ch. 457, L. 2005; Sec. [69-8-1003](#), MCA 2005; redes. [69-3-2003](#) by Sec. 1, Ch. 220, L. 2007; amd. Sec. 1, Ch. 246, L. 2007; amd. Sec. 1, Ch. 30, L. 2009; amd. Sec. 1, Ch. 118, L. 2009; amd. Sec. 1, Ch. 232, L. 2009.

Montana Code Annotated 2009

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

69-3-2004. Renewable resource standard -- administrative penalty -- waiver. (1) Except as provided in [69-3-2007](#) and subsections (11) and (12) of this section, a graduated renewable energy standard is established for public utilities and competitive electricity suppliers as provided in subsections (2) through (4) of this section.

(2) In each compliance year beginning January 1, 2008, through December 31, 2009, each public utility and competitive electricity supplier shall procure a minimum of 5% of its retail sales of electrical energy in Montana from eligible renewable resources.

(3) (a) In each compliance year beginning January 1, 2010, through December 31, 2014, each public utility and competitive electricity supplier shall procure a minimum of 10% of its retail sales of electrical energy in Montana from eligible renewable resources.

(b) Beginning January 1, 2012, as part of their compliance with subsection (3)(a), public utilities shall purchase both the renewable energy credits and the electricity output from community renewable energy projects that total at least 50 megawatts in nameplate capacity.

(c) Public utilities shall proportionately allocate the purchase required under subsection (3)(b) based on each public utility's retail sales of electrical energy in Montana in the calendar year 2011.

(4) (a) In the compliance year beginning January 1, 2015, and in each succeeding compliance year, each public utility and competitive electricity supplier shall procure a minimum of 15% of its retail sales of electrical energy in Montana from eligible renewable resources.

(b) (i) As part of their compliance with subsection (4)(a), public utilities shall purchase both the renewable energy credits and the electricity output from community renewable energy projects that total at least 75 megawatts in nameplate capacity.

(ii) In meeting the standard in subsection (4)(b)(i), a public utility may include purchases made under subsection (3)(b).

(c) Public utilities shall proportionately allocate the purchase required under subsection (4)(b) based on each public utility's retail sales of electrical energy in Montana in the calendar year 2014.

(5) (a) In complying with the standards required under subsections (2) through (4), a public utility or competitive electricity supplier shall, for any given compliance year, calculate its procurement requirement based on the public utility's or competitive electricity supplier's previous year's sales of electrical energy to retail customers in Montana.

(b) The standard in subsections (2) through (4) must be calculated on a delivered-energy basis after accounting for any line losses.

(6) A public utility or competitive electricity supplier has until 3 months following the end of each compliance year to purchase renewable energy credits for that compliance year.

(7) (a) In order to meet the standard established in subsections (2) through (4), a public utility or competitive electricity supplier may only use:

(i) electricity from an eligible renewable resource in which the associated renewable energy credits have not been sold separately;

(ii) renewable energy credits created by an eligible renewable resource purchased separately from the associated electricity; or

(iii) any combination of subsections (7)(a)(i) and (7)(a)(ii).

(b) A public utility or competitive electricity supplier may not resell renewable energy credits and count those sold credits against the public utility's or the competitive electricity supplier's obligation to meet the standards established in subsections (2) through (4).

(c) Renewable energy credits sold through a voluntary service such as the one provided for in [69-8-210](#)(2) may not be applied against a public utility's or competitive electricity supplier's obligation to meet the standards established in subsections (2) through (4).

(8) Nothing in this part limits a public utility or competitive electricity supplier from exceeding the standards established in subsections (2) through (4).

(9) If a public utility or competitive electricity supplier exceeds a standard established in subsections (2) through (4) in any compliance year, the public utility or competitive electricity supplier may carry forward the amount by which the standard was exceeded to comply with the standard in either or both of the 2 subsequent compliance years. The carryforward may not be double-counted.

(10) Except as provided in subsections (11) and (12), if a public utility or competitive electricity supplier is unable to meet the standards established in subsections (2) through (4) in any compliance year, that public utility or competitive electricity supplier shall pay an administrative penalty, assessed by the commission, of \$10 for each megawatt hour of renewable energy credits that the public utility or competitive electricity supplier failed to procure. A public utility may not recover this penalty in electricity rates. Money generated from these penalties must be deposited in the universal low-income energy assistance fund established in [69-8-412](#)(1)(a).

(11) A public utility or competitive electricity supplier may petition the commission for a short-term waiver from full compliance with the standards in subsections (2) through (4) and the penalties levied under subsection (10). The petition must demonstrate that the:

(a) public utility or competitive electricity supplier has undertaken all reasonable steps to procure renewable energy credits under long-term contract, but full compliance cannot be achieved either because renewable energy credits cannot be procured or for other legitimate reasons that are outside the control of the public utility or competitive electricity supplier; or

(b) integration of additional eligible renewable resources into the electrical grid will clearly and demonstrably jeopardize the reliability of the electrical system and that the public utility or competitive electricity supplier has undertaken all reasonable steps to mitigate the reliability concerns.

(12) (a) Retail sales made by a competitive electricity supplier according to prices, terms, and conditions of a written contract executed prior to April 25, 2007, are exempt from the standards in subsections (2) through (4).

(b) The exemption provided for in subsection (12)(a) is terminated upon modification after April 25, 2007, of the prices, terms, or conditions in a written contract.

History: En. Sec. 4, Ch. 457, L. 2005; Sec. [69-8-1004](#), MCA 2005; redes. [69-3-2004](#) by Sec. 1, Ch. 220, L. 2007; amd. Sec. 2, Ch. 246, L. 2007; amd. Sec. 18, Ch. 491, L. 2007; amd. Sec. 1, Ch. 31, L. 2009.

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[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

69-3-2005. Procurement -- cost recovery -- reporting. (1) In meeting the requirements of this part, a public utility shall:

(a) conduct renewable energy solicitations under which the public utility offers to purchase renewable energy credits, either with or without the associated electricity, under contracts of at least 10 years in duration;

(b) consider the importance of geographically diverse rural economic development when procuring renewable energy credits; and

(c) consider the importance of dispatch ability, seasonality, and other attributes of the eligible renewable resource contained in the commission's supply procurement rules when considering the procurement of renewable energy or renewable energy credits.

(2) A public utility that intends to enter into contracts of less than 10 years in duration shall demonstrate to the commission that these contracts will provide a lower long-term cost of meeting the standard established in [69-3-2004](#).

(3) (a) Contracts signed for projects located in Montana must require all contractors to give preference to the employment of bona fide Montana residents, as defined in [18-2-401](#), in the performance of the work on the projects if the Montana residents have substantially equal qualifications to those of nonresidents.

(b) Contracts signed for projects located in Montana must require all contractors to pay the standard prevailing rate of wages for heavy construction, as provided in [18-2-414](#), during the construction phase of the project.

(4) All contracts signed by a public utility to meet the requirements of this part are eligible for advanced approval under procedures established by the commission. Upon advanced approval by the commission, these contracts are eligible for cost recovery from ratepayers, except that nothing in this part limits the commission's ability to subsequently, in any future cost-recovery proceeding, inquire into the manner in which the public utility has managed the contract and to disallow cost recovery if the contract was not reasonably administered.

(5) A public utility or competitive electricity supplier shall submit renewable energy procurement plans to the commission in accordance with rules adopted by the commission. The plans must be submitted to the commission on or before:

(a) June 1, 2013, for the standard required in [69-3-2004](#)(4); and

(b) any additional future dates as required by the commission.

(6) A public utility or competitive electricity supplier shall submit annual reports, in a format to be determined by the commission, demonstrating compliance with this part for each compliance year. The reports must be filed by March 1 of the year following the compliance year.

(7) For the purpose of implementing this part, the commission has regulatory authority over competitive electricity suppliers.

History: En. Sec. 5, Ch. 457, L. 2005; Sec. [69-8-1005](#), MCA 2005; redes. [69-3-2005](#) by Sec. 1, Ch. 220, L. 2007; amd. Sec. 3, Ch. 246, L. 2007; amd. Sec. 2, Ch. 232, L. 2009; amd. Sec. 17, Ch. 277, L. 2009.

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[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

69-3-2006. Commission authority -- rulemaking authority. (1) The commission has the authority to generally implement and enforce the provisions of this part.

(2) The commission shall adopt rules before June 1, 2006, to:

(a) select a renewable energy credit tracking system to verify compliance with this part;

(b) establish a system by which renewable resources become certified as eligible renewable resources;

(c) define the process by which waivers from full compliance with this part may be granted;

(d) establish procedures under which contracts for eligible renewable resources and renewable energy credits may receive advanced approval;

(e) define the requirements governing renewable energy procurement plans and annual reports; and

(f) generally implement and enforce the provisions of this part.

History: En. Sec. 6, Ch. 457, L. 2005; Sec. [69-8-1006](#), MCA 2005; redes. [69-3-2006](#) by Sec. 1, Ch. 220, L. 2007.

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Montana Code Annotated 2009

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

69-3-2007. Cost caps. (1) A public utility that has restructured pursuant to Title 69, chapter 8, is not obligated to take electricity from an eligible renewable resource unless the eligible renewable resource has demonstrated through a competitive bidding process that the total cost of electricity from that eligible resource, including the associated cost of ancillary services necessary to manage the transmission grid and firm the resource, is less than or equal to bids for the equivalent quantity of power over the equivalent contract term from other electricity suppliers.

(2) A public utility that has not restructured pursuant to Title 69, chapter 8, is not obligated to take electricity from an eligible renewable resource unless the cost per kilowatt hour of the generation from the renewable resource does not exceed by more than 15% the cost of power from any other alternate generating resource available to the public utility.

(3) A competitive electricity supplier is not obligated to take electricity from an eligible renewable resource unless the total cost of the electricity from that eligible renewable resource, including ancillary services, is less than or equal to a cost cap determined by the commission based on:

- (a) the cost of alternate power supplies available to the competitive electricity supplier; and
- (b) the cost caps applicable to other utilities under this section.

History: En. Sec. 7, Ch. 457, L. 2005; Sec. [69-8-1007](#), MCA 2005; redes. [69-3-2007](#) by Sec. 1, Ch. 220, L. 2007; amd. Sec. 4, Ch. 246, L. 2007.

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Montana Code Annotated 2009

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

69-3-2008. Cooperative utility -- exemption -- standard. (1) A cooperative utility is exempt from the graduated renewable energy standard established in [69-3-2004](#).

(2) Each governing body of a cooperative utility that has 5,000 or more customers is responsible for implementing and enforcing a renewable energy standard for that cooperative utility that recognizes the intent of the legislature to encourage new renewable energy production and rural economic development, while taking into consideration the effect of the standard on rates, reliability, and financial resources.

History: En. Sec. 8, Ch. 457, L. 2005; Sec. [69-8-1008](#), MCA 2005; redes. [69-3-2008](#) by Sec. 1, Ch. 220, L. 2007.

Provided by Montana Legislative Services

Exhibit B

POWER PURCHASE AGREEMENT

THIS AGREEMENT, entered into this ____ day of _____, 2008, by and between _____, hereinafter referred to as "Seller", and MONTANA-DAKOTA UTILITIES CO., a Division of MDU Resources Group, Inc., located at 400 North Fourth Street, Bismarck, North Dakota 58501, hereinafter referred to as "Company and collectively referred to as "Party" or "Parties".

WHEREAS, Company is a public utility engaged in the generation, transmission and distribution of electric energy for consumption; and

WHEREAS, Seller proposes to construct and own a _____ plant hereinafter referred to as "Unit" located near the city of _____; and

WHEREAS, Company is willing to acquire all the generated energy, capacity and renewable energy attributable to Seller's Unit.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein to be kept and performed by the respective parties, the parties hereto agree as follows:

1. ELECTRIC ENERGY DELIVERED TO COMPANY: Seller will sell to Company and Company will purchase from Seller during the term of this Agreement up to ____ MW per hour of the capacity and electric energy output generated from the Unit. Company will install a meter at the point of receipt shown on Exhibit 2 to measure the energy generated by Seller and supplied to the Company. All electric energy delivered under this Agreement by Seller shall be delivered through a separately metered circuit at a 3 phase system voltage of ____ kV.

Pricing: The Energy Purchase Rate to be applied to all energy supplied to Company is defined in the terms listed in Exhibit 1. A monthly statement of Energy Purchases from Seller by Company shall be calculated monthly by Company and delivered to the Seller by the tenth working day of the following month with full payment due from Company to Seller within 15 days from the delivery of the monthly statement.

Product:

Electric energy generated by the Unit shall be contingent energy, which means that Seller may curtail the generation facility at Seller's determination in accordance with prudent industry practices for certain events without incurring any liability to Company. These events including, but not limited to;

1. equipment failure
2. inspection
3. maintenance or repair
4. transmission limitations
5. fuel supply limitations
6. force majeure
7. forced outage, or
8. environmental restriction

Seller shall provide not less than one (1) month notice of any intended curtailment of greater than three (3) months duration. If possible, Seller will shall not curtail the Unit during the months of June thru September which are typically the Company's peak load months.

2. CREDIT REQUIREMENTS:

Seller: Seller shall post a letter of credit or other form of suitable security to Company, beginning on the execution of this agreement through the Commercial Operation Date ("COD") for the Unit in the amount equal to \$10 per MWh multiplied by the projected annual production in MWh for the Unit. Company will have the right to draw on the letter of credit in the event of default by the Seller prior to achievement of the COD or the Unit fails to achieve COD by _____.

Company: No specific credit requirements for the Company.

3. MAINTENANCE: Seller agrees to regularly maintain the equipment owned by it and utilized by it in conjunction with the purchase and sale of electric power. Seller shall submit maintenance schedules for the Unit no later than August 1 of each year for the following year in writing to Company's Electric Systems Manager at 400 North Fourth Street, Bismarck, ND 58501. The Unit may be unavailable from time to time due to planned maintenance.

If possible, Seller shall not schedule normal maintenance work on the Unit during the months of June thru September which are typically Company's peak load months.

4. METERS AND METERING: All electric power delivered hereunder by either party shall be metered by Company at the delivery points designated on Exhibit 2. Company will read the meters electronically. Company shall test the meter(s) according to approved rules and tariffs filed with the Montana Public Service Commission.

5. OPERATIONAL REQUIREMENTS: No later than 60 days prior to the expected COD of the Unit, Seller and Company shall meet to develop operating procedures to be applicable to operation, maintenance, scheduling and dispatch of the Unit, routine communications and notices between the parties, and other necessary items.

At any time that the Unit is not curtailed, Company shall use commercially reasonable efforts to take all of the energy dispatched from the Unit up to ___ MW unless agreed otherwise in writing by both Parties. At any time that the Unit is operating, Seller shall have the right to change the output level of the Unit to any output for good faith operational reasons and shall have the right to require that the Unit be shut down for good faith operational reasons. Seller will notify Company of the startup and shutdown and maintenance outages of the Unit.

6. AUTHORIZATIONS:

Seller:

Seller shall secure all permits, licenses and other authorizations and agreements necessary for Unit construction and operation including generator interconnection with the Midwest Independent Transmission System Operator ("MISO").

Seller is responsible for securing the generator interconnection agreement with MISO. Seller will request Energy Service ("ES") status for the Unit with MISO. Company may request Seller to

submit request for Network Resource ("NR") service for the Unit with MISO at a later date of which Seller shall be obligated to comply.

Company:

This agreement by Company to purchase energy from Seller will be subject to regulatory approval.

Company will support Seller in securing the generator interconnection agreement and ES service for the Unit with MISO. Company will be responsible for all transmission system costs, including those related to ancillary and scheduling services from the point of delivery to the Company's system. Seller is responsible for all construction costs of connecting to the delivery point with the Company's system located at _____.

7. GOVERNMENT REGULATION: This Agreement is subject to the jurisdiction of the Montana Public Service Commission and any present and future laws and rules dealing with public utilities providing electric service. Any provision herein inconsistent with such laws or rules shall be amended to comply therewith. This Agreement is subject to filing with the Montana Public Service Commission pursuant to _____.

8. LIABILITY: As between the parties hereto, Company shall be liable only for accidents occurring by reason of the operation of its own lines and equipment and for injury or damage to the extent caused by the negligence of Company's employees and representatives. Seller hereby agrees to indemnify and hold Company harmless from any and all property damage and other liabilities directly or indirectly caused by/from the installation or operation of the Unit or Seller's other equipment or caused by the negligence of Seller's employees and representatives except to the extent caused by negligence of Company's employees or representatives. Company reserves the right to require proof of and establish limits of liability insurance from Seller.

Neither Party shall be liable to the other for any indirect, consequential, incidental, special, exemplary, or punitive damages arising out of or related to the acts or omissions of such Party in connection with this Agreement except to the extent a Party is required to indemnify the other party for indirect, consequential, incidental, special, exemplary or punitive damages of a third party under this paragraph. Indirect, consequential, incidental or special damages shall include, but not be limited to, loss of profit, loss of product, loss of use or business interruption.

9. FORCE MAJEURE: The term "Force Majeure" as used herein, means unforeseeable causes beyond the reasonable control of and without fault or negligence of Seller or Company, but does not mean causes resulting from normal operation and maintenance of Seller's generation equipment. Parties performance hereunder is excused if Seller or Company, because of Force Majeure, is rendered wholly or partly unable to perform its obligation under this Agreement, and

- 1 Seller or Company, within two weeks after the occurrence of the Force Majeure, gives the other Party written notice describing the particulars of the condition or occurrence which resulted in the Force Majeure;
- 2 The suspension of performance is of no greater scope nor of longer duration than is required by the Force Majeure;

3 Obligations of Seller or Company which arose before the occurrence causing the suspension of performance are not excused as a result of the occurrence of Force Majeure; and

4 Seller or Company uses its best efforts to remedy its inability to perform.

10. **BREACH OF AGREEMENT:** If Seller breaches the terms of this Agreement, Company may terminate the Agreement and Company's obligations hereunder if Seller fails to cure the breach within fifteen (15) days. If Seller breaches the terms of the Agreement and fails to cure the breach within fifteen (15) days or notice from Company, Company shall draw on the Credit established in Section 2.

11. **ACCESS:** Seller hereby grants Company access to the property of Seller for the servicing and maintenance of Company's equipment. Company shall install a visibly open, gang-operated, load break disconnect switch, capable of being locked in an open position that will completely isolate Seller's equipment from Company's system. Such disconnect switch shall be installed in a place easily accessible to Company at all times.

12. **TWENTY-FOUR HOUR COMMUNICATIONS:** Seller shall provide Company in the space provided below with the names and telephone numbers of at least two Seller representatives who can be reached on a 24 hour basis for interrupting or restoring service, if necessary.

NAME	TELEPHONE NUMBER
_____	_____
_____	_____
_____	_____
_____	_____

Any change in the foregoing names and numbers shall be provided to Company immediately in writing.

13. **ASSIGNMENT:** Seller may assign its rights and obligations under this Agreement to any subsequent owner or operator of Seller's Unit without written consent of the Company.. Assignee must meet the requirements under Montana's Renewable Power Production and Rural Economic Development Act as a qualified owner of a community renewable energy project and must maintain or provide a suitable substitute letter of credit as required under this Agreement.

14. **NOTICES:** Notices required hereunder shall be in writing and shall be sent to the respective addresses below:

To Company: Vice President – Electric Supply
Montana-Dakota Utilities Co.
400 North Fourth Street
Bismarck, ND 58501

To Seller: _____

15. ENTIRE AGREEMENT: This is the entire agreement between the parties hereto and may be amended only by written agreement, properly executed by both parties.

16. TERM: This Agreement shall remain in full force and effect for an initial period of ____ years from COD of the Unit (Initial Term), and is subject to an additional ____ year extension (“Extension Term”) if so elected by Company in writing not less than one year prior to expiration of the Initial Term. The Extension Term shall be extended year to year thereafter until either party cancels the Agreement in writing upon not less than one (1) years written notice furnished to the other party.

17. COMMERCIAL OPERATION DATE: Seller shall provide the Company with written notice of achievement of actual COD of the Unit which shall be no later than _____, _____. If the Seller has not declared an actual COD prior to _____, _____, Company may terminate this Agreement without liability to the Seller or the Company and draw on Letter of Credit in Section 2.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

COMPANY
MONTANA-DAKOTA UTILITIES CO.
A Division of MDU Resources Group, Inc.

By: _____
Vice President – Electric Supply

SELLER

By: _____

Exhibit 1

- a. Energy purchase price and payment:

Example Calculation of Energy Purchase Price

- b. Changes in Laws & Regulations: Seller will be responsible for all costs associated with changes in laws and regulations that have a material adverse effect on Seller's ability to generate electricity.
- c. Capacity and Environmental Credits Attributes: Energy purchase price includes all capacity of the Unit and any current or future environmental credits or attributes related to the generation of electricity from the Unit which will be the property of the Company.