

HOUSE BILL NO. HB0166

Utilities-presumption against early facility retirements.

Sponsored by: Representative(s) Harshman, Barlow, Burkhart,
Nicholas and Simpson and Senator(s) Anderson
and Wasserburger

A BILL

for

1 AN ACT relating to public utilities; creating a presumption
2 against the early retirement of electric generation
3 facilities as specified; providing definitions related to
4 the presumption; specifying how a public utility can rebut
5 the presumption; limiting rate recovery for public
6 utilities closing electric generation facilities without
7 rebutting the presumption as specified; requiring
8 rulemaking; and providing for effective dates.

9

10 *Be It Enacted by the Legislature of the State of Wyoming:*

11

12 **Section 1.** W.S. 37-2-134 and 37-3-118 are created to
13 read:

14

1 **37-2-134. Electric generation facility closures;**
2 **presumption; commission review.**

3

4 (a) As used in this section:

5

6 (i) "Baseload electricity" means electricity
7 produced by a public utility at an electric generation
8 facility that is designed and intended to operate
9 continuously to provide reliable and dispatchable
10 electricity;

11

12 (ii) "Dispatchable" means as defined in W.S.
13 37-18-101(a)(ii) and includes dispatchability;

14

15 (iii) "Retirement" means the closure of or the
16 complete and permanent cessation of operations at an
17 electric generation facility. "Retirement" shall not
18 include any closure mandated by federal law or any closure
19 resulting from federal environmental requirements to where
20 it is no longer cost effective for the facility to continue
21 operating;

22

1 (iv) "Electric generation facility" means a
2 facility located in Wyoming that uses coal or natural gas
3 to generate reliable and dispatchable electricity for
4 provision to customers;

5

6 (v) "Reliable" means as defined in W.S.
7 37-18-101(a)(iv) and includes reliability.

8

9 (b) There shall be a rebuttable presumption against
10 the early retirement of an electric generation facility.
11 The commission shall not approve the retirement of an
12 electric generation facility unless the public utility
13 rebuts the presumption in this subsection by providing
14 evidence deemed satisfactory by the commission that:

15

16 (i) Significant cost savings will result to
17 customers as a result of the early retirement of the
18 electric generation facility;

19

20 (ii) The early retirement will not result in an
21 insufficient amount of baseload electricity that is
22 reliable and dispatchable; and

23

1 (iii) The early retirement will not adversely
2 impact the dispatchability or reliability of electric
3 service to customers of the public utility. The commission
4 shall promulgate rules to specify what qualifies as an
5 adverse impact to dispatchability and reliability of
6 electric service.

7

8 (c) The rate recovery limitations of W.S. 37-3-118
9 shall apply to a public utility that completes a retirement
10 of an electric generation facility without rebutting the
11 presumption specified in this section.

12

13 (d) Nothing in this section shall be construed to
14 relieve a public utility of the requirements to comply with
15 W.S. 37-2-133 and 37-3-117 before the early retirement of
16 an electric generation facility.

17

18 **37-3-118. Limitation for recovery of costs for**
19 **replacing electric generation facilities.**

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21 (a) As used in this section, "retirement" or
22 "retired" means the closure of or the complete and
23 permanent cessation of operations at a coal or natural gas

1 electric generation facility before the end of the
2 facility's useful life. "Retirement" shall not include any
3 closure mandated by federal law or any closure resulting
4 from federal environmental requirements to where it is no
5 longer cost effective for the facility to continue
6 operating.

7

8 (b) Notwithstanding any other provision of this
9 chapter but in addition to W.S. 37-3-117, the rates charged
10 by an electric public utility shall not include any
11 recovery of or earnings on the capital costs associated
12 with new noncoal or nonnatural gas electric generation
13 facilities built, in whole or in part, to replace the
14 electricity generated from a retired coal or natural gas
15 electric generation facility that was retired on or after
16 July 1, 2021 and for which the presumption against early
17 retirement was not rebutted by the public utility as
18 required by W.S. 37-2-134.

19

20 **Section 2.** The public service commission shall
21 promulgate all rules necessary to implement the provisions
22 of this act.

23

1 **Section 3.**

2

3 (a) Except as provided in subsection (b) of this
4 section, this act is effective immediately upon completion
5 of all acts necessary for a bill to become law as provided
6 by Article 4, Section 8 of the Wyoming Constitution.

7

8 (b) Section 1 of this act is effective July 1, 2021.

9

10

(END)