

HOUSE BILL NO. HB0189

Generation facility closure requirements-natural gas.

Sponsored by: Representative(s) Burkhardt and Senator(s)
Driskill

A BILL

for

1 AN ACT relating to public utilities; subjecting electric
2 generation facilities fueled by natural gas to closure and
3 electricity sale requirements; specifying applicability;
4 requiring rulemaking; and providing for an effective date.

5

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

7

8 **Section 1.** W.S. 37-2-133(a), (b)(intro), (i), (d)
9 through (f), (g)(intro), (ii) and (h) and 37-3-117(a)(i),
10 (ii), (b)(intro), (c)(intro), (d), (e)(intro), (iv) and (f)
11 are amended to read:

12

13 **37-2-133. Exemption for purchase of coal fired and**
14 **natural gas generation facilities that would otherwise have**

1 **been retired; public utility purchase requirements;**
2 **conditions for exemption.**

3

4 (a) Except as otherwise provided in this section, the
5 provisions of this chapter and chapters 1 and 3 of this
6 title shall not apply to a person who operates a coal fired
7 or natural gas electric generation facility purchased under
8 an agreement approved by the commission under W.S.
9 37-3-117.

10

11 (b) Electric public utilities, other than cooperative
12 electric utilities, shall be obligated to purchase
13 electricity generated from a coal fired or natural gas
14 electric generation facility purchased under agreement
15 approved by the commission under W.S. 37-3-117, provided
16 that:

17

18 (i) The person purchasing the otherwise retiring
19 coal fired or natural gas electric generation facility
20 offers to sell some or all of the electricity from the
21 facility to an electric public utility;

22

1 (d) The commission may elect to set the avoided cost
2 price and other terms and conditions for the purchase of
3 electricity from an otherwise retiring coal fired or
4 natural gas electric generation facility in advance of the
5 facility's proposed retirement date to permit potential
6 purchasers to know the avoided cost price and other terms
7 and conditions for sales from that facility prior to
8 entering into an agreement to purchase the facility.

9

10 (e) As used in this section, "avoided cost" means the
11 incremental costs to an electric utility of electric energy
12 or capacity or both which, but for the purchase from the
13 otherwise retiring coal fired or natural gas electric
14 generation facility, the utility would generate itself or
15 incur in a purchase from another source. As may be
16 determined by the commission, avoided costs may change over
17 the course of an approved power purchase agreement at
18 specified intervals set forth in the power purchase
19 agreement.

20

21 (f) A person purchasing an otherwise retiring coal
22 fired or natural gas electric generation facility may sell
23 electricity generated by the facility to the electric

1 public utility selling the otherwise retiring coal fired or
2 natural gas electric generation facility, except for a
3 cooperative or municipal public utility, for the benefit of
4 a retail customer located in the existing service territory
5 of that electric public utility provided that the customer
6 has more than one (1) megawatt average demand and takes
7 service at a primary or transmission voltage level.

8
9 (g) If an electric utility purchases electricity from
10 the owner of an otherwise retiring coal fired or natural
11 gas electric generation facility for the benefit of an
12 eligible retail customer, the utility serving that eligible
13 retail customer shall purchase the electricity at a cost
14 and under terms and conditions that are acceptable to and
15 negotiated between the customer and the owner of the
16 otherwise retiring coal fired or natural gas electric
17 generation facility. The electric public utility shall pass
18 that cost through to the customer without markup or
19 modification except:

20
21 (ii) To ensure other Wyoming customers are not
22 negatively impacted by the arrangement provided for in this
23 subsection and subsection (f) of this section, the

1 commission shall also authorize the utility to impose
2 additional charges on participating retail customers to the
3 extent the commission determines that a sale of electricity
4 under this subsection and subsection (f) of this section
5 will result in the utility experiencing incremental
6 stranded generation capacity costs or other incremental
7 costs except for the cost of any undepreciated investments
8 associated with the otherwise retiring coal fired or
9 natural gas electric generation facility.

10

11 (h) An eligible retail customer under subsection (g)
12 of this section shall only receive electricity as provided
13 in subsection (g) of this section from the owner of an
14 otherwise retiring coal fired or natural gas electric
15 generation facility if the customer also purchases partial
16 requirements or equivalent service from the electric public
17 utility under rates, terms and conditions set by the
18 commission to compensate the public utility for its
19 costs.

20

21 **37-3-117. Limitation for recovery of costs associated**
22 **with electric generation built to replace retiring**
23 **coal-fired or natural gas generation facility; exemption.**

1

2 (a) Notwithstanding any other provision of this
3 chapter:

4

5 (i) Any electric public utility seeking to
6 retire a coal fired or natural gas electric generation
7 facility shall first make a good faith effort to sell the
8 facility for continued use as a coal fired or natural gas
9 electric generation facility;

10

11 (ii) The rates charged by an electric public
12 utility, other than a cooperative electric utility, shall
13 not include any recovery of or earnings on the capital
14 costs associated with new electric generation facilities
15 built, in whole or in part, to replace the electricity
16 generated from one (1) or more coal fired or natural gas
17 electric generating facilities located in Wyoming and
18 retired on or after January 1, 2022, unless the commission
19 has determined that the public utility that owned the
20 retired coal fired or natural gas electric generation
21 facility made a good faith effort to sell the facility to
22 another person prior to its retirement and that the public
23 utility did not refuse a reasonable offer to purchase the

1 facility or the commission determines that, if a reasonable
2 offer was received, the sale was not completed for a reason
3 beyond the reasonable control of the public utility.

4

5 (b) In determining whether the public utility made a
6 good faith effort to sell the retired coal fired or natural
7 gas electric generation facility under this section the
8 commission shall consider:

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10 (c) In determining whether an offer to purchase a
11 coal fired or natural gas electric generation facility
12 under this section was reasonable, the commission shall
13 consider:

14

15 (d) Upon application by a public utility, the
16 commission may approve procedures for the solicitation and
17 review of offers to purchase an otherwise retiring electric
18 generation facility in advance of a proposed retirement. If
19 the public utility follows the procedures approved by the
20 commission to solicit and review offers to purchase an
21 otherwise retiring electric generation facility under this
22 subsection, there shall be no limitation under this section
23 for recovery of costs or earnings associated with electric

1 generation built to replace a retired coal fired or natural
2 gas electric generation facility.

3

4 (e) Any agreement between a public utility and
5 another person for the sale of an otherwise retiring coal
6 fired or natural gas electric generation facility shall not
7 be effective until approved by the commission. In reviewing
8 the agreement the commission shall consider:

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10 (iv) If the coal fired or natural gas electric
11 generation facility is comprised of one (1) or more
12 generation units at a larger power plant where the public
13 utility will continue to own and operate one (1) or more
14 generation units, whether the proposed purchaser and the
15 public utility have made reasonable contractual
16 arrangements for the sharing of the costs associated with
17 any joint or common facilities at the plant;

18

19 (f) The requirements of this section shall not apply
20 to an electric public utility that replaces a coal-fired or
21 natural gas electric generation facility with an advanced
22 nuclear reactor that is operated in the state of Wyoming in
23 accordance with W.S. 35-11-2101.

1

2 **Section 2.** Nothing in this act shall be construed to
3 impair or alter any agreement, contract or obligation
4 entered into before the effective date of this act.

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6 **Section 3.** The public service commission shall
7 promulgate all rules necessary to implement this act.

8

9 **Section 4.** This act is effective July 1, 2024.

10

11

(END)