

HOUSE BILL NO. HB0259

Public utilities-regulatory amendments.

Sponsored by: Representative(s) Zwonitzer and Senator(s)
Dockstader

A BILL

for

1 AN ACT relating to public utilities; providing legislative
2 findings; amending reliable and dispatchable energy
3 standards to require the public service commission to
4 establish reliability and transparency requirements;
5 amending low-carbon energy standard requirements to require
6 the use of certain generation facilities as specified;
7 authorizing the public service commission to revoke
8 certificates of convenience and necessity as specified;
9 amending and defining terms related to low-carbon energy
10 standards and requirements; amending the public service
11 commission's authority to revoke certificates for
12 violations as specified; amending standards for the
13 commission to consider during rate cases; amending
14 requirements and procedures for the sale and purchase of
15 otherwise retiring coal-fired generation facilities;

1 amending the definitions, purposes, duties, bonding
2 authority and requirements and general powers of the
3 Wyoming energy authority; amending bonding provisions and
4 requirements pertaining to the Wyoming energy authority;
5 amending general penalties for public utilities; making
6 conforming amendments; requiring rulemaking; and providing
7 for effective dates.

8

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

10

11 **Section 1.**

12

13 (a) The legislature finds that:

14

15 (i) Wyoming is the largest producer of coal in
16 the United States, supplying approximately forty percent
17 (40%) of the nation's coal, which is used to generate
18 approximately eleven percent (11%) of the nation's
19 electricity that is supplied to millions of consumers in
20 the United States;

21

22 (ii) Approximately two-thirds (2/3) of the
23 electricity produced in Wyoming, most of which is produced

1 by coal-fired electric generation facilities, is exported
2 to other states, ensuring reliability and sufficient
3 resource adequacy of the electric transmission grid;

4

5 (iii) The welfare and economic security of
6 Wyoming and its citizens depend upon the reliability and
7 resiliency of the nation's electric power supply;

8

9 (iv) Electric power markets have likely been
10 distorted by direct and indirect subsidies and will not
11 function rationally until policies account for the true and
12 total cost of generated electricity;

13

14 (v) Market distortions have resulted in the
15 undervaluation of dispatchable thermal electric power
16 generation facilities that are now at risk of early
17 retirement, which will further erode the reliability and
18 resiliency of the electric grid;

19

20 (vi) The variability and nondispatchability of
21 wind and solar electric generation threatens to expose the
22 bulk power system to reliability and resiliency challenges

1 without the continued presence of significant dispatchable
2 thermal electric generation;

3

4 (vii) Economics and scaling issues will prevent
5 energy storage technologies from replacing dispatchable
6 thermal electric generation and providing grid support for
7 the foreseeable future;

8

9 (viii) The current system of regulatory
10 oversight is hindered in its ability to ensure the
11 reliability and resiliency of the electric grid because
12 markets are distorted by direct and indirect subsidies,
13 which prevent ratepayers from knowing the true and total
14 cost of the electric power they are purchasing. Similarly,
15 subsidies lead to analyses that incorporate premature
16 retirement of thermal electric power generation and do not
17 adequately consider the reliability and resiliency
18 penalties of renewable, nondispatchable energy;

19

20 (ix) In the states served by the Western
21 Interconnection, state policies mandating and incentivizing
22 the deployment of significant nondispatchable electricity
23 sources, including wind and solar, are imposing reliability

1 and resiliency penalties on the bulk power system that
2 Wyoming citizens and industries rely upon;

3

4 (x) It is essential that the state immediately
5 develops additional regulatory structures to ensure that a
6 system is put into place to address the reliability and
7 resiliency penalties being imposed on the state as a result
8 of the deployment of nondispatchable sources of
9 electricity, and that Wyoming citizens and industries are
10 given more transparency about the true and total cost of
11 the deployment of those sources of electricity.

12

13 **Section 2.** W.S. 37-18-103 is created to read:

14

15 **37-18-103. Energy reliability standards; enforcement;**
16 **reporting requirements.**

17

18 (a) In addition to the standards established under
19 W.S. 37-18-102, beginning on July 1, 2021, one hundred
20 percent (100%) of the electricity generated or purchased by
21 a public utility shall be dispatchable. Any public utility
22 not meeting the standard required by this subsection shall:

23

1 (i) Offset the reliability difference of
2 nondispatchable sources of electricity through firming; or

3

4 (ii) If the public utility does not offset the
5 reliability difference, be subject to revocation of the
6 public utility's certificate of convenience and necessity
7 issued under W.S. 37-2-205.

8

9 (b) To ensure that the reliability standard specified
10 in subsection (a) of this section is implemented, the
11 commission shall:

12

13 (i) Require public utilities generating or
14 purchasing nondispatchable electricity to demonstrate to
15 the commission not later than December 1, 2022, and not
16 later than each December 1 thereafter, that the public
17 utility has secured sufficient firming capacity to meet the
18 reliability standard in subsection (a) of this section. As
19 part of this annual reporting requirement, the commission
20 shall require each public utility to demonstrate or
21 provide:

22

1 (A) The firming costs necessitated by the
2 use of renewable, nondispatchable energy;

3

4 (B) The total transmission costs with an
5 allocation of the transmission costs necessitated by the
6 use of renewable, nondispatchable energy.

7

8 (ii) Commence revocation proceedings under W.S.
9 37-2-205 if a public utility fails to meet the requirements
10 of subsection (a) of this section.

11

12 **Section 3.** W.S. 15-1-103(b)(ix), 37-1-101(a)(vi)(N),
13 37-2-120, 37-2-121, 37-2-133(b)(intro), (i), (iii), (d)
14 through (f), (g)(intro) and (h), 37-2-205 by creating a new
15 subsection (k), 37-3-116(d)(ii), 37-3-117(a)(i), (ii), (d),
16 (e)(iv) and (vi), 37-5-501(a)(iv) and (v),
17 37-5-503(a)(intro), (i), (ii)(A), (v), (viii), by creating
18 new paragraphs (x) through (xiii), (b), (c) and (f) through
19 (j), 37-5-504(a)(ii), (iv), (v), (x), (xv) and by creating
20 a new paragraph (xviii), 37-5-505(d) and (g)(intro),
21 37-5-506(a), (c) and by creating a new subsection (d),
22 37-5-602(b) and (m), 37-5-603(a), 37-5-607(a)(i) and (b),
23 37-12-118, 37-18-101(a)(i) through (iii) and by creating

1 new paragraphs (v) through (x) and 37-18-102(a)(i) through
2 (iii), (v)(A), (C), (c)(ii), (d) and by creating new
3 subsections (f) and (g) are amended to read:

4

5 **15-1-103. General powers of governing bodies.**

6

7 (b) Any franchise granted pursuant to subparagraph
8 (a)(xxxiii)(C) of this section is subject to the following:

9

10 (ix) If a distribution system has only one (1)
11 supplier of natural gas all prices charged in that
12 franchise are subject to W.S. ~~37-2-121~~37-2-121(a) and
13 37-2-122;

14

15 **37-1-101. Definitions.**

16

17 (a) As used in chapters 1, 2, 3, 12, 17 and 18 of
18 this title:

19

20 (vi) "Public utility" means and includes every
21 person that owns, operates, leases, controls or has power
22 to operate, lease or control:

23

1 (N) The provisions of W.S. 37-18-101 ~~and~~
2 ~~37-18-102~~ through 37-18-103 shall not apply to any public
3 utility owned or operated by a municipality or any
4 cooperative electrical generation and transmission
5 association operating in interstate commerce whose rates
6 are not regulated by the Wyoming public service commission.

7

8 **37-2-120. Order in case of violation; public hearing**
9 **required for change in rate or service; certificate**
10 **revocation.**

11

12 Whenever, after investigation in accordance with the
13 provisions of this act, the commission shall be of the
14 opinion that any provisions or requirements of this act,
15 title or any other law, or any order of the commission is
16 being, has been, or is about to be violated, it may make
17 and enter of record an order in the premises, specifying
18 the actual or proposed acts or omissions to act which
19 constitute such real or proposed violations, and require
20 that such violations be discontinued or rectified, or both,
21 or that it be prevented. The commission may make and enter
22 of record an order to revoke a public utility's certificate
23 of convenience and necessity or any other right, privilege,

1 franchise or certificate granted by the commission under
2 W.S. 37-2-205(k) for any violation. No order, however,
3 shall be made by the commission which requires the change
4 of any rate or service, facility or service regulation
5 except as otherwise specifically provided, or for a
6 revocation of any certificate, right, privilege or
7 franchise, unless or until all parties are afforded an
8 opportunity for a hearing in accordance with the Wyoming
9 Administrative Procedure Act. After any hearing under this
10 section and in addition to any revocation of a certificate,
11 right, privilege or franchise, the commission shall assess
12 a civil penalty upon the public utility not to exceed one
13 million dollars (\$1,000,000.00) for each day that the
14 violation is not discontinued or rectified pursuant to an
15 order.

16

17 **37-2-121. When rate to be changed by commission;**
18 **nontraditional rate making; considerations for electric**
19 **utilities.**

20

21 (a) If upon hearing and investigation, any rate shall
22 be found by the commission to be inadequate or
23 unremunerative, or to be unjust, or unreasonable, or

1 unjustly discriminatory, or unduly preferential or
2 otherwise in any respect in violation of any provision of
3 this act, the commission, within the time periods provided
4 under W.S. 37-3-106(c) may fix and order substituted
5 therefor a rate as it shall determine to be just and
6 reasonable, and in compliance with the provisions of this
7 act. The rate so ascertained, determined and fixed by the
8 commission shall be charged, enforced, collected and
9 observed by the public utility for the period of time fixed
10 by the commission. The rates may contain provisions for
11 incentives for improvement of the public utility's
12 performance or efficiency, lowering of operating costs,
13 control of expenses or improvement and upgrading or
14 modernization of its services or facilities. Any public
15 utility may apply to the commission for its consent to use
16 innovative, incentive or nontraditional rate making
17 methods. In conducting any investigation and holding any
18 hearing in response thereto, the commission may consider
19 and approve proposals which include any rate, service
20 regulation, rate setting concept, economic development
21 rate, service concept, nondiscriminatory revenue sharing or
22 profit-sharing form of regulation and policy, including
23 policies for the encouragement of the development of public

1 utility infrastructure, services, facilities or plant
2 within the state, which can be shown by substantial
3 evidence to support and be consistent with the public
4 interest of the citizens of Wyoming.

5
6 (b) When evaluating electric resource acquisitions,
7 integrated resource plans, requests for certificates of
8 convenience and necessity or other requests or petitions
9 for the acquisition, replacement, construction,
10 decommissioning, abandonment, transfer or expansion of
11 electric generation facilities, the commission shall
12 consider the effects on Wyoming labor and employment and
13 the short-term and long-term social and economic viability
14 of Wyoming businesses and communities. Any submission
15 specified in this subsection to the commission shall be
16 accompanied by a description of the external environmental
17 and economic consequences of the plan.

18
19 **37-2-133. Exemption for purchase of coal fired**
20 **generation facilities that would otherwise have been**
21 **retired; public utility purchase requirements; conditions**
22 **for exemption.**

23

1 (b) Electric public utilities, ~~other than cooperative~~
2 ~~electric utilities,~~ that sell a coal fired electric
3 generation facility under an agreement approved by the
4 commission shall be obligated to purchase electricity
5 generated from ~~a~~ that coal fired electric generation
6 facility purchased under agreement approved by the
7 commission under W.S. 37-3-117 provided that:

8
9 (i) The person purchasing the otherwise retiring
10 coal fired electric generation facility offers to sell some
11 or all of the electricity from the facility to an electric
12 public utility that sold the facility. For purposes of this
13 paragraph, "person" shall include the Wyoming energy
14 authority, any other instrumentality of the state, a
15 cooperative electric utility or a municipal utility;

16
17 (iii) The electricity is sold under a power
18 purchase agreement with a specified term length of not less
19 than twenty (20) years, or another term length specified by
20 the purchaser, from the closing of the purchase of the
21 otherwise retiring coal fired generation facility and such
22 other terms and conditions as may be approved by the
23 commission; and

1

2 (d) The commission ~~may~~shall elect to set the avoided
3 cost price and other terms and conditions for the purchase
4 of electricity from an otherwise retiring coal fired
5 electric generation facility in advance of the facility's
6 proposed retirement date and shall promulgate any other
7 rules deemed necessary by the commission to permit
8 potential purchasers of the otherwise retiring coal fired
9 electric generation facility to know the public utility's
10 avoided cost ~~price~~ and other terms and conditions for sales
11 from that facility prior to entering into an agreement to
12 purchase the facility.

13

14 (e) As used in this section, "avoided cost" means the
15 long-term incremental costs to ~~an~~the purchasing electric
16 utility of electric energy or capacity or both which, but
17 for the purchase from the otherwise retiring coal fired
18 electric generation facility, the utility would be required
19 to generate itself or ~~incur in a~~ purchase from another
20 source. As may be determined by the commission with the
21 consent of the parties to an approved power purchase
22 agreement, avoided costs may change over the course of ~~an~~

1 ~~approved power purchase~~ that agreement at specified
2 intervals set forth in the power purchase agreement.

3
4 (f) A person purchasing an otherwise retiring coal
5 fired electric generation facility may sell any amount or
6 all of the electricity generated by the facility directly
7 to ~~the electric public utility selling the otherwise~~
8 ~~retiring coal fired electric generation facility, except~~
9 ~~for a cooperative or municipal public utility, for the~~
10 ~~benefit of~~ a retail customer of the electric public utility
11 selling the otherwise retiring coal fired electric
12 generation facility, provided that the retail customer is
13 located in the existing service territory of that electric
14 public utility and provided that the customer has or
15 otherwise agrees to purchase to satisfy its projected
16 demand more than one (1) megawatt average demand and takes
17 service at a primary or transmission voltage level up to
18 all of the coal fired electric generation facility's
19 capacity.

20
21 (g) If an electric utility purchases electricity from
22 the owner of an otherwise retiring coal fired electric
23 generation facility for the benefit of an eligible retail

1 customer pursuant to subsection (f) of this section, the
2 utility serving that eligible retail customer shall
3 purchase the electricity at a cost and under terms and
4 conditions that are acceptable to and negotiated between
5 the customer and the owner of the otherwise retiring coal
6 fired electric generation facility. The electric public
7 utility shall pass that cost through to the customer
8 without markup or modification except:

9

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

19

20 **37-2-205. Certificate of convenience and necessity;**
21 **hearings.**

22

1 (k) The commission shall commence proceedings to
2 revoke a certificate of convenience and necessity issued
3 under this section after finding that a public utility has
4 failed to meet the requirements of W.S. 37-18-103. The
5 commission shall afford a public utility subject to this
6 subsection reasonable notice and an opportunity for hearing
7 for the public utility to show cause why the certificate of
8 convenience and necessity should not be revoked.

9

10 **37-3-116. Electric utility service agreements.**

11

12 (d) This section shall only apply to service
13 agreements:

14

15 (ii) For services provided under a tariff
16 approved by the commission consistent with its authority
17 under W.S. ~~37-2-121~~37-2-121(a).

18

19 **37-3-117. Limitation for recovery of costs associated**
20 **with electric generation built to replace retiring coal**
21 **fired generation facility.**

22

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

3
4 (i) Any electric public utility seeking to
5 retire a coal fired electric generation facility shall
6 first make a good faith effort to consider any offer to
7 purchase the facility for continued use as a coal fired
8 electric generation facility and, unless a sale is
9 completed earlier, not later than thirty-six (36) months
10 after announcing its plan to retire the facility, make a
11 good faith effort to sell the facility for continued use as
12 a coal fired electric generation facility;

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

1 faith effort to sell the facility to another person prior
2 to its retirement and that the public utility did not
3 refuse a reasonable offer to purchase the facility or the
4 commission determines that, if a reasonable offer was
5 received, the sale was not completed for a reason beyond
6 the reasonable control of the public utility. For purposes
7 of this section, the commission shall presume that an offer
8 to purchase a coal fired electric generation facility at
9 the facility's net book value is a reasonable purchase
10 price.

11

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

1

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

7

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

16

17 (vi) Whether the proposed purchase agreement
18 contains a provision allowing the public utility, with
19 commission approval, to revoke the sale in the event the
20 purchaser is unable to timely obtain all necessary local,
21 state and federal permits beyond those that the public
22 utility is able to assign to the purchaser in the proposed
23 purchase agreement;

1

2 **37-5-501. Definitions.**

3

4 (a) As used in this article:

5

6 (iv) "Energy project" means:

7

8 (A) Any project related to or involving a
9 natural resource associated with energy or an associated
10 natural resource;

11

12 (B) An electric generation, transmission or
13 distribution facility;

14

15 (C) A carbon capture or sequestration
16 facility;

17

18 (D) Any pipeline;

19

20 (E) Any ancillary equipment that may be
21 associated with any of the facilities or natural resources
22 specified in this paragraph.

23

1 (v) "Natural resource associated with energy" or
2 "associated natural resource" means any technology or any
3 substance, element or compound, either gaseous, liquid or
4 solid, associated with the production, development,
5 refining, processing, storage, generation, distribution or
6 transmission of energy or for an energy project;

7

8 **37-5-503. Purposes; report.**

9

10 (a) The authority is created to, either
11 independently, through a joint venture or in cooperation
12 with public or private partners:

13

14 (i) Diversify and expand the Wyoming economy
15 through improvements in the state's electric and energy
16 generation, distribution or transmission infrastructure and
17 facilitate Wyoming's production, storage, sequestration,
18 development and transmission of energy and associated
19 natural resources or chemical byproducts by planning,
20 financing, constructing, developing, acquiring,
21 maintaining, owning, investing in and operating electric
22 generation, transmission, distribution, energy export and
23 other energy ~~transmission facilities projects~~, advanced

1 technology facilities for natural resources associated with
2 energy, carbon dioxide capture and transportation
3 infrastructure, distribution facilities and related
4 supporting infrastructure and undivided or other interests
5 therein;

6

7 (ii) Consolidate energy staff and functions
8 existing in the state energy program and take actions to
9 administer the state energy program, including:

10

11 (A) Seek federal grants and loans and other
12 equity and debt financing;

13

14 (v) Develop and administer programs providing
15 education on energy projects, resources and emerging
16 technologies including tours, academic programs and
17 communication plans;

18

19 (viii) Plan, finance, construct, develop,
20 acquire, maintain, own, invest in and operate a pipeline or
21 other transportation and distribution systems or an energy
22 project within or outside the state of Wyoming to
23 facilitate the production, transportation, distribution and

1 delivery of associated natural resources that are produced
2 or developed in this state, including electric and other
3 forms of energy, energy byproducts and associated natural
4 resources received as royalties in kind pursuant to mineral
5 leases by the state, its agencies and political
6 subdivisions;

7
8 (x) Acquire by purchase, condemnation or other
9 means any property necessary or useful for its purposes,
10 including to own, maintain or operate, in whole or in part,
11 coal fired electric generation facilities previously owned
12 by a public utility for the purpose of installing and
13 operating carbon-capture technology retrofits, provided
14 that the authority shall not have the right to condemn
15 mineral leases, gas supplies, gas reserves, oil supplies,
16 oil reserves, oil refineries, minerals or other mineral
17 rights;

18
19 (xi) Supply electricity to the wholesale and
20 retail markets, including generation and transmission
21 cooperatives, public utilities, retail customers or other
22 consumers;

23

1 (xii) Preserve coal industry and electric
2 generation facility jobs and associated communities
3 impacted by the decommissioning of existing coal mines and
4 energy projects;

5
6 (xiii) Utilize carbon dioxide captured from coal
7 fired electric generation facilities' combustion flue gas
8 streams and other sources related to electric generation,
9 transmission or distribution to facilitate tertiary
10 recovery of low-carbon oil, mining of rare-earth elements
11 or other development of natural resources associated with
12 energy or energy projects.

13
14 (b) In order to provide for the financing,
15 construction, development, maintenance and operation of
16 energy transmission facilities, pipeline and other
17 transportation and distribution systems, the authority may
18 own, lease or rent facilities, structures and properties,
19 both incidental and necessary, constructed in accordance
20 with this article and article 6 of this chapter, to
21 facilitate the production, development, transportation,
22 generation, transmission, distribution and delivery of
23 energy and associated natural resources.

1

2 (c) Energy ~~transmission facilities projects~~ and
3 related supporting infrastructure may include all
4 facilities, structures and properties incidental and
5 necessary or useful in the production, development,
6 transportation, generation, distribution, storage,
7 sequestration, transmission and delivery of energy.
8 Pipeline and other transportation or distribution systems
9 may be inclusive of poles, wires, transformers,
10 substations, pipelines, ports, pumps, storage and all other
11 facilities, structures and properties incidental and
12 necessary or useful in the production, development,
13 transportation, generation, transmission, distribution and
14 delivery of natural resources associated with energy to
15 points of sale, consumption or to the points of
16 distribution for consumption.

17

18 (f) Except as provided in this ~~section~~chapter, the
19 authority shall not exercise any of the rights or powers
20 granted to it in this section if private persons, firms or
21 corporations are performing the acts, constructing or have
22 constructed the facilities or are providing the services
23 contemplated by the authority. The authority may acquire by

1 condemnation or purchase any property necessary for its
2 purposes, subject to the restrictions of this section and
3 W.S. 37-5-504(a)(v), for its purposes, including owning,
4 maintaining or operating, in whole or in part, coal fired
5 electric generation facilities previously owned by a public
6 utility.

7
8 (g) Prior to exercising any rights or powers granted
9 to it in this section, including those activities specified
10 in subsection (f) of this section, and except for
11 activities related to the administration of pipeline
12 capacity contracted with an entity operating under the
13 jurisdiction of the federal energy regulatory commission or
14 a successor agency, the authority shall publish in a
15 newspaper of general circulation in Wyoming, and in a
16 newspaper in the area where the authority contemplates
17 providing facilities or services, in the manner prescribed
18 by law, a notice describing the acts, facilities or
19 services contemplated by the authority. Private persons,
20 firms or corporations wishing to perform the acts,
21 construct the facilities or provide the services described
22 in the notice shall have ninety (90) days from the date of
23 last publication of the notice within which to notify the

1 authority of their intention to perform the acts, construct
2 the facilities or provide the services described in the
3 notice. A person or entity giving notice to the authority
4 shall include an anticipated timeline for completion of the
5 acts, construction or services. In the absence of
6 notification by a private person, firm or corporation, or
7 if a person, firm or corporation, having given notice of
8 intention to perform the acts, construct the facilities or
9 provide the services contemplated by the authority, fails
10 to commence the same within one hundred eighty (180) days
11 from the date of last publication, the authority may
12 proceed to perform the acts, construct the facilities or
13 provide the services for which notice was given. A private
14 person, firm or corporation that has made necessary
15 applications to acquire any federal, state, local or
16 private permits, certificates or other authorizations
17 necessary to perform the acts, construct the facilities or
18 provide the services included in the authority's notice
19 within the time required is deemed to have commenced the
20 same. When a private person, firm or corporation has given
21 notice of intent to perform or is performing the acts,
22 constructing the facilities or providing the services that
23 the authority contemplated, the authority may conduct

1 hearings or meetings with the person, firm or corporation
2 to assess progress toward completion of the intended acts
3 to be performed, the facilities to be constructed or the
4 services to be provided. If it appears to the authority
5 that progress or completion of any or all of the intended
6 acts may be delayed for one (1) year or more, the authority
7 may proceed to perform the acts, construct the facilities
8 or provide the services originally contemplated.

9

10 (h) The authority may acquire, purchase, hold, use,
11 lease, license, sell, transfer and dispose of an undivided
12 or other interest in or the right to capacity in any
13 pipeline system or other energy project within or outside
14 the state of Wyoming in order to facilitate the production,
15 transportation, distribution or delivery of associated
16 natural resources that are produced or developed in this
17 state. The provisions of subsection (g) of this section
18 shall not apply to the authority in exercising any power
19 pursuant to this subsection including the generation,
20 transmission or distribution of electricity.

21

22 (j) Before any appropriation is made to the
23 authority, the authority shall submit its budget for review

1 as provided by W.S. 9-2-1010 through 9-2-1014.—~~Any~~
2 ~~appropriation to the authority shall be expended only for~~
3 ~~administrative purposes, which shall include planning and~~
4 ~~research.~~

5

6 **37-5-504. Powers of the authority.**

7

8 (a) The authority may:

9

10 (ii) Contract, upon terms as it may agree upon,
11 for legal, financial, engineering, surveying, appraising
12 and other professional services necessary or expedient in
13 the conduct of its affairs;

14

15 (iv) Plan, finance, construct, develop, acquire,
16 own, maintain and operate within and outside the state of
17 Wyoming, energy projects, energy transmission
18 infrastructure, energy export facilities and pipeline and
19 other transportation or distribution systems including
20 pumps, poles, lines, substations, transformers, storage and
21 other attendant facilities, any necessary equipment for
22 energy generation, distribution or transmission
23 infrastructure and pipeline and other transportation or

1 distribution systems and for all other property,
2 structures, equipment, facilities and works of public
3 improvement necessary or useful for accomplishing the
4 purposes for which the authority was created, including
5 obtaining permits and acquiring rights-of-way;

6

7 (v) Acquire by purchase or condemnation any
8 properties or property rights necessary or useful for its
9 purposes, including owning, maintaining or operating, in
10 whole or in part, coal fired electric generation facilities
11 previously owned by a public utility for the purposes of
12 installing and operating carbon-capture technology
13 retrofits of the facilities, provided the authority shall
14 not have the right to condemn mineral leases, gas supplies,
15 gas reserves, oil supplies, oil reserves, oil refineries,
16 ~~existing energy transmission, distribution and generation~~
17 ~~facilities, minerals, water rights,~~ or other mineral
18 rights; ~~or pipelines or other distribution systems used in~~
19 ~~connection therewith;~~

20

21 (x) Investigate, plan, prioritize and establish
22 corridors for the generation, distribution or transmission
23 of energy and natural resources associated with energy;

1

2 (xv) Request data from any public or private
3 entity, or a public utility, that is necessary to ascertain
4 the location of associated natural resources within the
5 state or is relevant to the activities for which the
6 authority is permitted to engage;

7

8 (xviii) Supply low-carbon electricity to the
9 wholesale market, retail market, generation and
10 transmission cooperatives and other consumers.

11

12 **37-5-505. Bonds.**

13

14 (d) Except as provided by subsection (k) of this
15 section, any bonds issued under this section shall be
16 payable from and be secured by the pledge of the revenues
17 derived from the operation of the pipeline or other
18 transportation or distribution system, energy project or
19 energy generation or transmission facility as constructed,
20 acquired, extended or improved with the proceeds of the
21 bonds, subject only to prior payment of the reasonable and
22 necessary expenses of operating and maintaining the system
23 or facility. Any holder of the bonds may by appropriate

1 legal action compel performance of all duties required of
2 the authority in order to enforce payment of the bonds when
3 due. If any bond issued under this section is permitted to
4 go into default as to principal or interest, any court of
5 competent jurisdiction may, pursuant to the application of
6 the holder of the bonds, appoint a receiver for the system
7 or facility, who shall operate the same and collect and
8 distribute the revenues thereof pursuant to the provisions
9 and requirements of the resolution authorizing the bonds.

10

11 (g) No board or commission other than the authority
12 shall fix or supervise the making of fees and charges
13 stated in this subsection, which shall be in amounts
14 reasonably necessary for the purposes stated in this
15 article. When the authority has issued bonds and pledged
16 the revenues of the pipeline or other transportation or
17 distribution system or facility or the energy ~~transmission~~
18 ~~facility~~-~~project~~ for the payment of the bonds as provided
19 in this article, the authority shall operate and maintain
20 or shall contract for the operation and maintenance of the
21 system or facility and shall impose and collect fees and
22 charges for the services furnished by the system or
23 facility, including those furnished to the authority

1 itself, in the amounts and at rates as shall be fully
2 sufficient at all times to:

3

4 **37-5-506. Use of net revenues.**

5

6 (a) The authority, acting alone or in cooperation
7 with any agency of the state of Wyoming, may use and employ
8 any net revenues derived from a system or facility
9 authorized in this article and from any other source, after
10 providing for all costs of maintenance and operation of the
11 system or facility and after making the required principal
12 and interest payments on any revenue bonds issued hereunder
13 and any other payments provided in any resolution
14 authorizing the issuance and sale of revenue bonds and
15 obligations, to extend and improve the system or facility
16 as the authority may determine to be warranted by any need
17 for additional intrastate or interstate transportation or
18 energy distribution, generation or transmission facilities.

19

20 (c) If the authority determines that no need for
21 additional transportation or energy generation,
22 distribution or transmission facilities exists and after
23 the administrative expenses of the authority are paid, net

1 revenues derived under this article shall be paid to the
2 state treasurer for credit to the state general fund.

3

4 (d) The authority may make additional investments
5 using net revenues derived from a system or facility in
6 which the authority has an interest as authorized by this
7 article.

8

9 **37-5-602. Authority revenue bonds; issuance; amount.**

10

11 (b) The authority may issue and have outstanding
12 bonds to finance energy generation or transmission
13 facilities and related infrastructure, pipeline and other
14 transportation and distribution projects consistent with
15 the purposes of W.S. 37-5-503(a), which may be located
16 within or without the state of Wyoming, in an amount not to
17 exceed three billion dollars (\$3,000,000,000.00). The
18 financing of a pipeline or other generation, transmission,
19 transportation and distribution projects under this article
20 may include or consist solely of the purchase of capacity
21 by the authority as authorized by subsection (m) of this
22 section.

23

1 (m) The authority may acquire, purchase, make
2 prepayments for, finance, hold, use, lease, license, sell,
3 transfer and dispose of an undivided or other interest in
4 or the right to capacity in any pipeline or other
5 transportation, generation, transmission or distribution
6 system within or without the state of Wyoming. The
7 authority may acquire, purchase, make prepayments for
8 proven developed reserves, hold, use, lease, license, sell,
9 transfer and dispose of an undivided or other interest in
10 natural resources associated with energy, including
11 royalties taken in kind. The powers specified in this
12 subsection may be exercised in order to facilitate the
13 production, generation, transmission, transportation,
14 distribution or delivery of associated natural resources
15 produced or developed in this state. The authority is
16 exempt from the provisions of W.S. 37-5-503(g) when
17 exercising the powers granted by this article.

18

19 **37-5-603. Authority revenue bonds; security; payments**
20 **after retirement.**

21

22 (a) The principal and interest on any bonds that the
23 authority issues shall be secured by a pledge of revenues

1 from the operation of the pipeline or other transportation
2 or distribution system or energy generation or transmission
3 project financed, by a first mortgage on the facilities, by
4 guarantees and pledges of the entity owning the project,
5 pipeline or system, or of the parent corporation owning
6 said entity or by any combination thereof or other security
7 as the authority may determine to be reasonable and
8 prudent. The guarantees and pledges shall be no less
9 favorable to the authority than those granted other lenders
10 of the same class.

11

12 **37-5-607. Powers; duties; limitations.**

13

14 (a) The authority has the powers granted by W.S.
15 37-5-501 through 37-5-509 as necessary to carry out the
16 purposes of this article, including the power to hire
17 technical consultants, financial advisors and legal
18 advisors and specifically including the powers granted by
19 W.S. 37-5-504(a)(ii). In addition to the powers otherwise
20 granted to the authority, the authority shall have the
21 power to:

22

1 (i) Enter into loan or other agreements with
2 respect to one (1) or more projects, energy generation,
3 distribution or transmission infrastructure, energy export
4 facilities, pipelines or systems upon terms and conditions
5 the authority considers advisable;

6

7 (b) The authority may assess and collect fees that
8 are nonrefundable from applicants seeking to obtain
9 authority financing of an energy generation, distribution
10 or transmission infrastructure project, energy export
11 facility, pipeline, system or other project in total
12 amounts not to exceed five hundred thousand dollars
13 (\$500,000.00), which shall be credited to the state general
14 fund.

15

16 **37-12-118. Electricity; penalty.**

17

18 (a) Any person convicted of a violation of any of the
19 provisions of this ~~act~~title, shall be punished for each
20 offense by a fine of not less than fifty dollars (\$50.00)
21 nor more than three hundred dollars (\$300.00), or by
22 imprisonment in the county jail for a period of not less

1 than thirty (30) days or more than ninety (90) days, or by
2 both such fine and imprisonment.

3

4 (b) In addition to the penalty specified in
5 subsection (a) of this section, any public utility that
6 violates any provision of W.S. 37-3-117 or 37-18-102, and
7 after proceedings required under W.S. 37-2-120 or
8 37-2-205(k), may be further sanctioned by:

9

10 (i) Revocation of the public utility's
11 certificate of convenience and necessity or any other
12 right, privilege, franchise or certificate granted by the
13 commission;

14

15 (ii) A civil penalty not to exceed one million
16 dollars (\$1,000,000.00) for each day that the violation
17 continues or persists.

18

19 **37-18-101. Definitions.**

20

21 (a) As used in this article:

22

1 (i) "Carbon capture, utilization and storage
2 technology" means technology that has the principal purpose
3 of capturing, reusing, storing, transporting, sequestering
4 or using carbon dioxide emissions to prevent carbon dioxide
5 from entering the atmosphere whether constructed integral
6 or adjacent to a coal fired generation facility;

7
8 (ii) "Dispatchable" means a source of
9 electricity that is available for use on demand and that
10 can be dispatched upon request of a power grid operator or
11 that can have its power output adjusted, according to
12 market needs and where the availability of the source is
13 not directly dependent on the presence or variability of
14 wind, sunshine or other weather conditions;

15
16 (iii) "Low-carbon" means electricity that is
17 generated ~~while using~~ by a coal fired electric generation
18 facility that has been retrofitted and is operating with
19 carbon capture, utilization and storage technology and that
20 produces carbon emissions either not greater than six
21 hundred fifty (650) pounds of carbon dioxide per megawatt
22 hour of generated electricity averaged over one (1)

1 calendar year or such other emission rate as approved by
2 the commission;

3

4 (v) "Availability factor" means the amount of
5 time that an electric generation facility is able to
6 produce electricity in a specified period of time;

7

8 (vi) "Dispatchable energy reliability factor"
9 means the average availability factor of all dispatchable
10 sources of electricity in the state during the five (5)
11 peak electric demand hours in the most recent calendar
12 year, or an average of the five (5) peak electric demand
13 hours in past calendar years, as determined by the
14 commission;

15

16 (vii) "Firming" means the act of mitigating the
17 reliability difference of a given nondispatchable source of
18 electricity to ensure that the hourly availability of the
19 nondispatchable source of electricity equals or exceeds the
20 dispatchable energy reliability factor by:

21

22 (A) Continuing to operate or constructing a
23 facility that generates reliable, dispatchable electricity;

1

2

(B) Acquiring reliable, dispatchable electricity through a power purchase agreement;

4

5

(C) Otherwise generating sufficient electricity to meet the standard specified in this paragraph.

8

9

(viii) "Nondispatchable" means a source of electricity that is not dispatchable as defined in paragraph (ii) of this subsection;

12

13

(ix) "Reliability difference" means the difference between a nondispatchable source of electricity's average availability factor during the five (5) peak electric demand hours in the most recent calendar year, or an average of the five (5) peak electric demand hours in past calendar years, as determined by the commission, and the dispatchable energy reliability factor;

20

21

(x) "Resiliency" means the ability to withstand and reduce the magnitude or duration of disruptive events

22

1 and includes the capability to anticipate, absorb, adapt to
2 or rapidly recover from a disruptive event.

3

4 **37-18-102. Energy generation portfolio standards;**
5 **reporting requirements; rate recovery and limitations.**

6

7 (a) Consistent with the objective of ensuring Wyoming
8 electric utilities maintain access to reliable and cost
9 effective electric generation resources, the public service
10 commission shall establish by rule energy portfolio
11 standards that will maximize the use of dispatchable and
12 reliable low-carbon electricity. In establishing standards,
13 the commission:

14

15 (i) Shall require a public utility to generate
16 or, after July 1, 2021, purchase from a coal fired electric
17 generation facility a specified percentage of electricity
18 generated to be dispatchable and reliable low-carbon
19 electricity;

20

21 (ii) Shall establish a date not later than July
22 1, 2030 for requiring a by which the specified percentage
23 of electricity generated by a public utility to be

1 ~~dispatchable and reliable low-carbon electricity shall be~~
2 achieved, taking into consideration any potentially
3 expiring federal tax credits;

4
5 (iii) Shall establish intermediate standards and
6 requirements for dispatchable and reliable low-carbon
7 electricity that public utilities must, not later than July
8 1, 2030, generate ~~before or purchase from a coal fired~~
9 electric generation facility sold by the public utility in
10 order to achieve the electricity generation standard
11 established in paragraphs (i) and (ii) of this subsection;

12
13 (v) Shall for each public utility:

14
15 (A) Establish baseline standards for
16 electric reliability to ensure that new or expanded
17 nondispatchable or otherwise intermittent generation
18 resources do not unreasonably diminish power quality or
19 increase momentary outages across a utility's service
20 territory or in any particular location and to determine
21 how those generation resources may affect reliability;

22

1 (C) Require the utility to take any steps
2 the commission deems reasonably necessary to maintain
3 reasonable levels of electric reliability and power quality
4 or to satisfy any other rule or order issued by the
5 commission.

6
7 (c) Subject to W.S. 37-3-117(a) and the limitation in
8 subsection (b) of this section, the commission shall
9 consider the following when establishing reasonable rates
10 for a public utility working toward and achieving the
11 electricity generation standards established under
12 subsection (a) of this section:

13
14 (ii) A public utility may apply to the
15 commission for authorization to allow a portion of any
16 revenues from the sale of carbon dioxide captured, stored,
17 transported or otherwise utilized as a result of generating
18 dispatchable and reliable low-carbon electricity to be
19 returned to the shareholders of the public utility;

20
21 (d) The commission shall promulgate rules to ensure
22 that public utilities are:

23

1 (i) Satisfactorily progressing toward achieving
2 the dispatchable and reliable low-carbon electricity
3 generation standard that the commission establishes as
4 required in subsection (a) of this section;~~and~~

5
6 (ii) Achieving reasonable electric reliability
7 and power quality outcomes as required by subsection (a) of
8 this section;~~and~~

9
10 (iii) Undertaking good faith efforts to sell and
11 to accept a reasonable offer to purchase a coal fired
12 electric generation facility that the public utility plans
13 to retire as stated in its most recent integrated resource
14 plan filed with the commission and are performing any other
15 duties or obligations required in this section or W.S.
16 37-3-117.

17
18 (f) Not later than January 1, 2022, each public
19 utility shall submit to the commission a certification that
20 demonstrates its compliance with W.S. 37-3-117 regarding
21 the good faith efforts to sell or accept an offer for an
22 otherwise retiring coal fired electric generation facility
23 and that the public utility:

1

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23

(i) Affirms that it will forgo requesting authorization before January 1, 2030 to retire a coal fired electric generation facility in Wyoming;

(ii) Demonstrates that it has commenced good faith efforts to install carbon capture, utilization and storage technology at all of its coal fired electric generation facilities to comply with the standards imposed under this article.

(g) Upon a finding by the commission that a public utility has failed to comply with the requirements of subsection (f) of this section, the commission shall order the public utility to show cause why its certificate of convenience and necessity or any other right, privilege, franchise or certificate issued by the commission should not be immediately revoked. If, after a hearing by the commission, the commission determines that the public utility has failed to comply or will not comply with the requirements of subsection (f) of this section, the commission may:

1 (i) Revoke the public utility's certificate of
2 convenience and necessity or any other right, privilege,
3 franchise or certificate issued by the commission in
4 accordance with W.S. 37-2-205(k);

5
6 (ii) Impose a civil penalty not to exceed one
7 million dollars (\$1,000,000.00) for each day that the
8 public utility is not in compliance with the requirements
9 of subsection (f) of this section.

10
11 **Section 4.** Nothing in this act shall be construed to
12 impair any agreement for the sale of an otherwise retiring
13 electric generation facility in accordance with W.S.
14 37-2-133 and 37-3-117 entered into before the effective
15 date of this section.

16
17 **Section 5.** The public service commission shall
18 promulgate all rules necessary to implement the provisions
19 of this act.

20

1 **Section 6.**

2

3 (a) Except as provided in subsection (b) of this
4 section, this act is effective July 1, 2021.

5

6 (b) Sections 5 and 6 of this act are effective
7 immediately upon completion of all acts necessary for a
8 bill to become law as provided by Article 4, Section 8 of
9 the Wyoming Constitution.

10

11

(END)