

ORIGINAL SENATE  
FILE NO. SF0021

ENROLLED ACT NO. 23, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

AN ACT relating to public utilities; amending authority of the public service commission as specified; providing authority to purchasers of retiring coal fired power plants as specified; amending limitations on retiring facilities; specifying applicability; and providing for an effective date.

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

**Section 1.** W.S. 37-2-133(a) and by creating new subsections (f) through (h) and 37-3-117(a) are amended to read:

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

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

(f) A person purchasing an otherwise retiring coal fired electric generation facility may sell electricity generated by the facility to the electric public utility selling the otherwise retiring coal fired electric generation facility, except for a cooperative or municipal public utility, for the benefit of a retail customer located in the existing service territory of that electric public utility provided that the customer has more than one (1) megawatt average demand and takes service at a primary or transmission voltage level.

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(g) If an electric utility purchases electricity from the owner of an otherwise retiring coal fired electric generation facility for the benefit of an eligible retail customer, the utility serving that eligible retail customer shall purchase the electricity at a cost and under terms and conditions that are acceptable to and negotiated between the customer and the owner of the otherwise retiring coal fired electric generation facility. The electric public utility shall pass that cost through to the customer without markup or modification except:

(i) For the collection of applicable taxes and the appropriate uniform assessment, which shall be collected pursuant to W.S. 37-2-106 through 37-2-109;

(ii) To ensure other Wyoming customers are not negatively impacted by the arrangement provided for in this subsection and subsection (f) of this section, the commission shall also authorize the utility to impose additional charges on participating retail customers to the extent the commission determines that a sale of electricity under this subsection and subsection (f) of this section will result in the utility experiencing incremental stranded generation capacity costs or other incremental costs except for the cost of any undepreciated investments associated with the otherwise retiring coal fired electric generation facility.

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

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

(a) Notwithstanding any other provision of this chapter:<sup>7</sup>

(i) Any electric public utility seeking to retire a coal fired electric generation facility shall first make a good faith effort to sell the facility for continued use as a coal fired electric generation facility;

(ii) The rates charged by an electric public utility, other than a cooperative electric utility, shall not include any recovery of or earnings on the capital costs associated with new electric generation facilities built, in whole or in part, to replace the electricity generated from one (1) or more coal fired electric generating facilities located in Wyoming and retired on or after January 1, 2022, unless the commission has determined that the public utility that owned the retired coal fired electric generation facility made a good faith effort to sell the facility to another person prior to its retirement and that the public utility did not refuse a reasonable offer to purchase the facility or the commission determines that, if a reasonable offer was received, the sale was not completed for a reason beyond the reasonable control of the public utility.

**Section 2.** This act shall apply to coal fired electric generation facilities retiring on or after July 1, 2021.

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**Section 3.** This act is effective July 1, 2021.

(END)