

HOUSE BILL NO. HB0200

Reliable and dispatchable low-carbon energy standards.

Sponsored by: Representative(s) Zwonitzer, Burkhart,
Clausen, Crank, Eyre, Kirkbride, Miller and
Newsome and Senator(s) Anselmi-Dalton,
Baldwin, Boner, Dockstader, Driskill and Von
Flatern

A BILL

for

1 AN ACT relating to public utilities; providing legislative
2 findings; requiring the public service commission to
3 establish electricity generation portfolio standards for
4 public utilities; limiting the recovery of costs for the
5 retirement of coal fired electric generation facilities;
6 authorizing the public service commission to grant
7 reasonable rate recovery for public utilities as specified;
8 authorizing a surcharge; requiring reports; making
9 conforming amendments; and providing for an effective date.

10

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

12

13 **Section 1.**

14

1 (a) The legislature finds that:

2

3 (i) Wyoming is the largest producer of coal in
4 the United States, supplying approximately forty percent
5 (40%) of the nation's coal, which is used to generate
6 approximately eleven percent (11%) of the nation's
7 electricity that is supplied to millions of consumers in
8 the United States;

9

10 (ii) Approximately two-thirds (2/3) of the
11 electricity produced in Wyoming, most of which is produced
12 by coal-fired electric generation facilities, is exported
13 to other states, ensuring reliability and sufficient
14 resource adequacy of the electric-transmission grid;

15

16 (iii) Approximately twenty-nine (29) states have
17 established renewable fuel standards for the generation of
18 electricity with the stated goals of reducing or
19 eliminating carbon dioxide in the production of
20 electricity;

21

1 (iv) Wyoming coal is a low-sulfur, abundant and
2 reasonably priced source of fuel for electricity
3 generation;

4

5 (v) A utility supplying power in the Western
6 United States has announced plans to retire several
7 coal-fired electric generation facilities before their
8 established depreciable lives are projected to end;

9

10 (vi) Many utilities are making significant
11 investments in electricity generation resources other than
12 coal, including wind, solar and battery storage;

13

14 (vii) It is essential to the well-being of
15 Wyoming electric customers that Wyoming electric utilities
16 maintain access to reliable and cost effective electric
17 generation resources and it is essential to the well-being
18 of consumers across the nation to be able to access
19 dispatchable resources, including coal and natural gas
20 facilities;

21

22 (viii) Carbon capture technology is capable of
23 reducing or eliminating carbon dioxide from coal-fired

1 electric generation facilities, but additional time and
2 technological innovation are necessary to provide this
3 climate solution on a commercialized basis;

4

5 (ix) The deployment of carbon capture technology
6 in Wyoming will provide energy to other states to meet
7 policy goals of reduced or zero carbon dioxide emissions
8 while maintaining reliable sources of electricity and
9 ensuring sufficient resource adequacy.

10

11 **Section 2.** W.S. 37-18-101 and 37-18-102 are created
12 to read:

13

14

CHAPTER 18

15

RELIABLE AND DISPATCHABLE LOW-CARBON ENERGY STANDARDS

16

17

37-18-101. Definitions.

18

19

(a) As used in this article:

20

21

22

23

(i) "Carbon capture, utilization and storage
technology" means technology that has the principal purpose
of capturing, reusing, storing, sequestering or using

1 carbon dioxide emissions to prevent carbon dioxide from
2 entering the atmosphere whether constructed integral or
3 adjacent to a coal fired generation facility;

4

5 (ii) "Dispatchable" means a source of
6 electricity that is available for use on demand and that
7 can be dispatched upon request of a power grid operator or
8 that can have its power output adjusted, according to
9 market needs;

10

11 (iii) "Low-carbon" means electricity that is
12 generated while using carbon capture, utilization and
13 storage technology that produces carbon emissions not
14 greater than six hundred fifty (650) pounds of carbon
15 dioxide per megawatt hour of generated electricity averaged
16 over one (1) calendar year;

17

18 (iv) "Reliable" means generated electricity that
19 is not subject to intermittent availability.

20

21 **37-18-102. Energy generation portfolio standards;**
22 **reporting requirements; rate recovery and limitations.**

23

1 (a) Consistent with the objective of ensuring Wyoming
2 electric utilities maintain access to reliable and cost
3 effective electric generation resources, the public service
4 commission shall establish by rule energy portfolio
5 standards that will maximize the use of dispatchable and
6 reliable low-carbon electricity. In establishing standards,
7 the commission:

8

9 (i) Shall require a public utility to generate a
10 specified percentage of electricity generated to be
11 dispatchable and reliable low-carbon electricity;

12

13 (ii) Shall establish a date not later than July
14 1, 2030 for requiring a percentage of electricity generated
15 by a public utility to be dispatchable and reliable
16 low-carbon electricity taking into consideration any
17 potentially expiring federal tax credits;

18

19 (iii) Shall establish intermediate standards and
20 requirements for dispatchable and reliable low-carbon
21 electricity that public utilities must generate before the
22 electricity generation standard established in paragraphs
23 (i) and (ii) of this subsection;

1

2 (iv) Shall require each public utility to
3 demonstrate in each integrated resource plan submitted to
4 the commission the steps the public utility is taking to
5 achieve the electricity generation standard established in
6 paragraphs (i) through (iii) of this subsection;

7

8 (v) Shall for each public utility:

9

10 (A) Establish baseline standards for
11 electric reliability to ensure that new or expanded
12 intermittent generation resources do not unreasonably
13 diminish power quality or increase momentary outages across
14 a utility's service territory or in any particular
15 location;

16

17 (B) Require the utility to monitor and
18 report electric reliability and power quality outcomes in
19 integrated resource plan submissions or as otherwise
20 directed by the commission; and

21

22 (C) Require the utility to take any steps
23 the commission deems reasonably necessary to maintain

1 reasonable levels of electric reliability and power
2 quality.

3

4 (b) In addition to W.S. 37-3-117(a), the rates
5 charged by an electric public utility shall not include any
6 recovery of or earnings on the capital costs associated
7 with new electric generation facilities built, in whole or
8 in part, to replace the electricity generated from one (1)
9 or more coal fired electric generation facilities located
10 in Wyoming and retired on or after January 1, 2024, unless
11 the commission determines that the public utility that
12 owned the retired coal fired electric generation facility:

13

14 (i) Has satisfied the requirements of W.S.
15 37-3-117(a); and

16

17 (ii) Is achieving or has taken steps to the
18 commission's satisfaction to achieve the electricity
19 generation standards established under subsection (a) of
20 this section.

21

22 (c) Subject to W.S. 37-3-117(a) and the limitation in
23 subsection (b) of this section, the commission shall

1 consider the following when establishing reasonable rates
2 for a public utility working toward and achieving the
3 electricity generation standards established under
4 subsection (a) of this section:

5

6 (i) A public utility that generates dispatchable
7 and reliable low-carbon electricity may apply to the
8 commission for rate recovery of the cost of any carbon
9 capture, utilization and storage technology used to achieve
10 the electricity generation standards established under
11 subsection (a) of this section, including a higher return
12 on equity, provided that the carbon capture, utilization
13 and storage technology is integral or adjacent to a coal
14 fired generation facility in Wyoming;

15

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

22

1 (iii) To the extent a public utility can
2 demonstrate that it will incur incremental costs to comply
3 with the reliable and dispatchable low-carbon energy
4 standard, the commission shall authorize the public utility
5 to implement a rate recovery mechanism that collects a
6 surcharge from customers not to exceed two percent (2%) of
7 each customer's total electric bill to provide for the
8 recovery of the prudently incurred incremental costs to
9 comply with the reliable and dispatchable low-carbon energy
10 standard. A rate recovery mechanism may be authorized and
11 established prior to the public utility incurring
12 incremental costs to comply with the reliable and
13 dispatchable low-carbon energy standard and the public
14 utility may retain funds collected through a mechanism in a
15 regulatory account approved by the commission to offset
16 future costs. To the extent the rate recovery mechanism is
17 insufficient to compensate the public utility for its
18 prudently incurred incremental costs to comply with the
19 reliable and dispatchable low-carbon energy standard, the
20 commission shall take such actions as necessary
21 notwithstanding any other provision of this section to
22 ensure the public utility is able to recover its prudently
23 incurred incremental costs and customers are not charged

1 for those incremental costs other than through the rate
2 recovery mechanism.

3

4 (d) The commission shall promulgate rules to ensure
5 that public utilities are satisfactorily progressing toward
6 achieving the dispatchable and reliable low-carbon
7 electricity generation standard that the commission
8 establishes as required in subsection (a) of this section
9 and achieving reasonable electric reliability and power
10 quality outcomes as required by subsection (a) of this
11 section.

12

13 (e) Beginning in 2023, and occurring every second
14 year thereafter, the commission shall report to the
15 legislature regarding whether implementation of the
16 electricity portfolio standards is meeting the legislative
17 declaration and findings and recommend whether it should be
18 continued, modified or repealed. To the extent the
19 electricity portfolio standards is modified or
20 discontinued, nothing shall impair the ability of a public
21 utility that has incurred costs to comply with the
22 electricity portfolio standard to recover its prudently
23 incurred costs as authorized by the commission.

1

2 **Section 3.** W.S. 37-1-101(a)(intro) and (vi) by
3 creating a new subparagraph (N) is amended to read:

4

5 **37-1-101. Definitions.**

6

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

9

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

13

14 (N) The provisions of W.S. 37-18-101 and
15 37-18-102 shall not apply to any public utility owned or
16 operated by a municipality or any cooperative electrical
17 generation and transmission association operating in
18 interstate commerce whose rates are not regulated by the
19 Wyoming public service commission.

20

21 **Section 4.** This act is effective July 1, 2020.

22

23

(END)