

HOUSE BILL NO. HB0258

Public utilities-reliability and transparency requirements.

Sponsored by: Representative(s) Zwonitzer, Clausen, Greear
and Heiner

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; amending definitions related
10 to low-carbon energy standards and requirements; making
11 conforming amendments; requiring rulemaking; and providing
12 for effective dates.

13

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

15

1 **Section 1.**

2

3 (a) The legislature finds that:

4

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

11

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

17

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

21

22 (iv) Electric power markets have likely been
23 distorted by direct and indirect subsidies and will not

1 function rationally until policies account for the true and
2 total cost of generated electricity;

3

4 (v) Market distortions have resulted in the
5 undervaluation of dispatchable thermal electric power
6 generation facilities that are now at risk of early
7 retirement, which will further erode the reliability and
8 resiliency of the electric grid;

9

10 (vi) The variability and nondispatchability of
11 wind and solar electric generation threatens to expose the
12 bulk power system to reliability and resiliency challenges
13 without the continued presence of significant dispatchable
14 thermal electric generation;

15

16 (vii) Economics and scaling issues will prevent
17 energy storage technologies from replacing dispatchable
18 thermal electric generation and providing grid support for
19 the foreseeable future;

20

21 (viii) The current system of regulatory
22 oversight is hindered in its ability to ensure the
23 reliability and resiliency of the electric grid because

1 markets are distorted by direct and indirect subsidies,
2 which prevent ratepayers from knowing the true and total
3 cost of the electric power they are purchasing. Similarly,
4 subsidies lead to analyses that incorporate premature
5 retirement of thermal electric power generation and do not
6 adequately consider the reliability and resiliency
7 penalties of renewable, nondispatchable energy;

8

9 (ix) In the states served by the Western
10 Interconnection, state policies mandating and incentivizing
11 the deployment of significant nondispatchable electricity
12 sources, including wind and solar, are imposing reliability
13 and resiliency penalties on the bulk power system that
14 Wyoming citizens and industries rely upon;

15

16 (x) It is essential that the state immediately
17 develops additional regulatory structures to ensure that a
18 system is put into place to address the reliability and
19 resiliency penalties being imposed on the state as a result
20 of the deployment of nondispatchable sources of
21 electricity, and that Wyoming citizens and industries are
22 given more transparency about the true and total cost of
23 the deployment of those sources of electricity.

1

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

3

4 **37-18-103. Energy reliability standards; enforcement;**
5 **reporting requirements.**

6

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

12

13 (i) Offset the reliability difference of
14 nondispatchable sources of electricity through firming; or

15

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

20

21 (b) To ensure that the reliability standard specified
22 in subsection (a) of this section is implemented, the
23 commission shall:

1

2 (i) Require public utilities generating or
3 purchasing nondispatchable electricity to demonstrate to
4 the commission not later than December 1, 2022, and not
5 later than each December 1 thereafter, that the public
6 utility has secured sufficient firming capacity to meet the
7 reliability standard in subsection (a) of this section. As
8 part of this annual reporting requirement, the commission
9 shall require each public utility to demonstrate or
10 provide:

11

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

14

15 (B) The total transmission costs with an
16 allocation of the transmission costs necessitated by the
17 use of renewable, nondispatchable energy.

18

19 (ii) Commence revocation proceedings under W.S.
20 37-2-205 if a public utility fails to meet the requirements
21 of subsection (a) of this section.

22

1 **Section 3.** W.S. 37-1-101(a)(vi)(N), 37-2-205 by
2 creating a new subsection (k) and 37-18-101(a)(i) through
3 (iii) and by creating new paragraphs (v) through (x) are
4 amended to read:

5

6 **37-1-101. Definitions.**

7

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

10

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

14

15 (N) The provisions of W.S. 37-18-101 ~~and~~
16 ~~37-18-102~~ through 37-18-103 shall not apply to any public
17 utility owned or operated by a municipality or any
18 cooperative electrical generation and transmission
19 association operating in interstate commerce whose rates
20 are not regulated by the Wyoming public service commission.

21

22 **37-2-205. Certificate of convenience and necessity;**
23 **hearings.**

1

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

10

11 **37-18-101. Definitions.**

12

13 (a) As used in this article:

14

15 (i) "Carbon capture, utilization and storage
16 technology" means technology that has the principal purpose
17 of capturing, reusing, storing, transporting, sequestering
18 or using carbon dioxide emissions to prevent carbon dioxide
19 from entering the atmosphere whether constructed integral
20 or adjacent to a coal fired generation facility;

21

22 (ii) "Dispatchable" means a source of
23 electricity that is available for use on demand and that

1 can be dispatched upon request of a power grid operator or
2 that can have its power output adjusted, according to
3 market needs and where the availability of the source is
4 not directly dependent on the presence or variability of
5 wind, sunshine or other weather conditions;

6
7 (iii) "Low-carbon" means electricity that is
8 generated ~~while using~~ by a coal-fired electric generation
9 facility that has been retrofitted and is operating with
10 carbon capture, utilization and storage technology and that
11 produces carbon emissions either not greater than six
12 hundred fifty (650) pounds of carbon dioxide per megawatt
13 hour of generated electricity averaged over one (1)
14 calendar year or such other emission rate as approved by
15 the commission;

16
17 (v) "Availability factor" means the amount of
18 time that an electric generation facility is able to
19 produce electricity in a specified period of time;

20
21 (vi) "Dispatchable energy reliability factor"
22 means the average availability factor of all dispatchable
23 sources of electricity in the state during the five (5)

1 peak electric demand hours in the most recent calendar
2 year, or an average of the five (5) peak electric demand
3 hours in past calendar years, as determined by the
4 commission;

5

6 (vii) "Firming" means the act of mitigating the
7 reliability difference of a given nondispatchable source of
8 electricity to ensure that the hourly availability of the
9 nondispatchable source of electricity equals or exceeds the
10 dispatchable energy reliability factor by:

11

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

14

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

17

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

21

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

4
5 (ix) "Reliability difference" means the
6 difference between a nondispatchable source of
7 electricity's average availability factor during the five
8 (5) peak electric demand hours in the most recent calendar
9 year, or an average of the five (5) peak electric demand
10 hours in past calendar years, as determined by the
11 commission, and the dispatchable energy reliability factor;

12
13 (x) "Resiliency" means the ability to withstand
14 and reduce the magnitude or duration of disruptive events
15 and includes the capability to anticipate, absorb, adapt to
16 or rapidly recover from a disruptive event.

17
18 **Section 4.** The public service commission shall
19 promulgate all rules necessary to implement the provisions
20 of this act.

21

1 **Section 5.**

2

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

5

6 (b) Sections 4 and 5 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)