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Substitute 1

HOUSE BILL NO. HB0166

Utilities-presumption against early facility retirements.

Sponsored by: Representative(s) Harshman, Barlow, Burkhart,
Nicholas and Simpson and Senator(s) Anderson and
Wasserburger

A BILL

for

1 AN ACT relating to public utilities; creating a presumption against
2 the early retirement of electric generation facilities as
3 specified; providing definitions related to the presumption;
4 specifying how a public utility can rebut the presumption; limiting
5 rate recovery for public utilities closing electric generation
6 facilities without rebutting the presumption as specified;
7 requiring rulemaking; and providing for effective dates.

8

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

10

11 **Section 1.** W.S. 37-2-134 and 37-3-118 are created to read:

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13 **37-2-134. Electric generation facility closures;**
14 **presumption; commission review.**

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(a) As used in this section:

(i) "Baseload electricity" means electricity produced by a public utility at an electric generation facility that is designed and intended to operate continuously to provide reliable and dispatchable electricity;

(ii) "Dispatchable" means as defined in W.S. 37-18-101(a)(ii) and includes dispatchability;

(iii) "Retirement" means the closure of or the complete and permanent cessation of operations at an electric generation facility. "Retirement" shall not include any closure mandated by federal law or any closure resulting from federal environmental requirements to where it is no longer cost effective for the facility to continue operating;

(iv) "Electric generation facility" means a facility located in Wyoming that uses coal or natural gas to generate reliable and dispatchable electricity for provision to customers;

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1 (v) "Reliable" means as defined in W.S.
 2 37-18-101(a)(iv) and includes reliability.

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 4 (b) There shall be a rebuttable presumption against the
 5 early retirement of an electric generation facility. The
 6 commission shall not approve the retirement of an electric
 7 generation facility unless the public utility rebuts the
 8 presumption in this subsection by providing evidence deemed
 9 satisfactory by the commission that:

10
 11 (i) Significant cost savings will result to customers
 12 as a result of the early retirement of the electric generation
 13 facility;

14
 15 (ii) The early retirement will not result in an
 16 insufficient amount of baseload electricity that is reliable and
 17 dispatchable; and

18
 19 (iii) The early retirement will not adversely impact
 20 the dispatchability or reliability of electric service to
 21 customers of the public utility. The commission shall promulgate

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1 rules to specify what qualifies as an adverse impact to
2 dispatchability and reliability of electric service.

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4 (c) The rate recovery limitations of W.S. 37-3-118 shall
5 apply to a public utility that completes a retirement of an
6 electric generation facility without rebutting the presumption
7 specified in this section.

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9 (d) Nothing in this section shall be construed to relieve a
10 public utility of the requirements to comply with W.S. 37-2-133
11 and 37-3-117 before the early retirement of an electric generation
12 facility.

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14 **37-3-118. Limitation for recovery of costs for replacing**
15 **electric generation facilities.**

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17 (a) As used in this section, "retirement" or "retired" means
18 the closure of or the complete and permanent cessation of
19 operations at a coal or natural gas electric generation facility
20 before the end of the facility's useful life. "Retirement" shall
21 not include any closure mandated by federal law or any closure

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1 resulting from federal environmental requirements to where it is
2 no longer cost effective for the facility to continue operating.
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4 (b) Notwithstanding any other provision of this chapter but
5 in addition to W.S. 37-3-117, the rates charged by an electric
6 public utility shall not include any recovery of or earnings on
7 the capital costs associated with new noncoal or nonnatural gas
8 electric generation facilities built, in whole or in part, to
9 replace the electricity generated from a retired coal or natural
10 gas electric generation facility that was retired on or after July
11 1, 2021 and for which the presumption against early retirement was
12 not rebutted by the public utility as required by W.S. 37-2-134.
13

14 **Section 2.** The public service commission shall promulgate
15 all rules necessary to implement the provisions of this act.
16

17 **Section 3.**
18

19 (a) Except as provided in subsection (b) of this section,
20 this act is effective immediately upon completion of all acts
21 necessary for a bill to become law as provided by Article 4,
22 Section 8 of the Wyoming Constitution.

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2 (b) Section 1 of this act is effective July 1, 2021.

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(END)