

SENATE FILE NO. SF0064

Carbon capture and sequestration.

Sponsored by: Senator(s) Scott and Representative(s)
Clausen, Neiman, Olsen and Zwonitzer

A BILL

for

1 AN ACT relating to public utilities; specifying
2 requirements for public utilities for the consideration and
3 installation of carbon capture, utilization and storage
4 technology at coal-fired electric generation facilities;
5 specifying procedures and exceptions to the carbon capture
6 requirements; amending requirements related to low-carbon
7 electricity production standards; requiring reports;
8 specifying additional duties for the public service
9 commission; specifying a sunset date for carbon capture
10 requirements; making conforming amendments; requiring
11 rulemaking; and providing for an effective date.

12

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

14

15 **Section 1.** W.S. 37-3-119 is created to read:

1

2 **37-3-119. Retiring electric generation facilities;**
3 **carbon capture requirements.**

4

5 (a) As used in this section:

6

7 (i) "Carbon capture, utilization and storage
8 technology" means as defined by W.S. 37-18-101(a)(i);

9

10 (ii) "Coal-fired electric generation facility"
11 means a facility or unit that utilizes coal for the
12 production of electricity and that has a rated capacity
13 equal to or greater than two hundred (200) megawatts;

14

15 (iii) "Retirement" or "retired" means as defined
16 by W.S. 37-2-134(a)(ii).

17

18 (b) Each public utility shall consider including
19 carbon capture, utilization and storage technology in their
20 generation resource mix.

21

22 (c) Any public utility that has notified the public
23 service commission in an integrated resource plan or other

1 submission before April 1, 2022 that the public utility
2 intends to retire any coal-fired electric generation
3 facility or unit thereof shall be subject to the following:

4

5 (i) The public utility may elect to continue to
6 operate the facility or unit by installing carbon capture,
7 utilization and storage technology provided that the costs
8 of installation are allowed to be uniformly included in the
9 rates of all customers of the public utility or if the net
10 costs, if any, will not be included in the rates of any of
11 the public utility's customers;

12

13 (ii) The public utility may elect to have a
14 third party install, or cause to be installed, and operate
15 carbon capture, utilization and storage technology at the
16 facility or unit, provided that:

17

18 (A) The third party shall be responsible
19 for the direct costs of installation; and

20

21 (B) The planned retirement may be delayed
22 upon agreement by the third party and the public utility.

23 If approval for delaying the retirement is required by

1 statute or rule, any requested delay shall be approved
2 unless the delay would be harmful to Wyoming electric
3 ratepayers and the delay would not be in the public
4 interest.

5
6 (iii) A public utility that does not elect to
7 proceed under paragraphs (i) or (ii) of this subsection
8 shall comply with the requirements to make efforts to sell
9 the facility or unit in accordance with W.S. 37-3-117 and
10 37-2-133 and shall offer to sell the facility or unit to
11 one (1) or more persons who intend to install and operate
12 carbon capture, utilization and storage technology within a
13 reasonable time. In addition to any requirements required
14 of a public utility in W.S. 37-2-133, the public utility
15 shall, subject to commission directives if the parties do
16 not agree, purchase electricity generated at the facility
17 or unit from the purchaser of the facility or unit in
18 approximately the same volume that was utilized by the
19 public utility at the facility or unit in the immediately
20 preceding three (3) years before the sale and at a rate
21 subject to law and commission approval. The commission may
22 approve a rate change for electricity purchased under this
23 paragraph to ensure that the rate is just and equitable and

1 that the rate does not unreasonably burden customers. The
2 marginal costs of any installed carbon capture, utilization
3 and storage technology shall be borne by the purchaser of
4 the facility or unit.

5

6 (d) For a public utility retiring multiple units, the
7 commission may waive the requirements for subsection (c) of
8 this section for any remaining units if construction has
9 commenced on carbon capture, utilization and storage
10 technology for operation for at least one (1) unit and the
11 commission has adequate evidence that the construction will
12 be completed and the technology will be operated at one (1)
13 or more units. If, before commencement of construction as
14 provided in paragraph (i) of this subsection, the public
15 utility has received a credible proposal to install and
16 operate carbon capture, utilization and storage technology
17 on at least one (1) additional unit, the commission shall
18 not waive the requirements of subsection (c) of this
19 section for that additional unit.

20

21 (e) For facilities and units for which a public
22 utility has not notified the commission before April 1,
23 2022 that it plans to retire, each public utility shall, on

1 or before December 31, 2022 and again on or before December
2 31, 2024, report to the commission on:

3

4 (i) The public utility's views on the prospects
5 of installing and operating carbon capture, utilization and
6 storage technology on each facility and unit specified in
7 this subsection;

8

9 (ii) Whether soliciting proposals for the
10 installation of carbon capture, utilization and storage
11 technology on each facility or unit would be beneficial;

12

13 (iii) Whether the public utility has received
14 any credible proposals for installing carbon capture,
15 utilization and storage technology.

16

17 (f) Not later than July 1, 2022, the commission shall
18 publish and thereafter regularly update on its website a
19 list of all coal-fired electric generation facilities or
20 units for which a public utility has notified the
21 commission of the facility's or unit's planned retirement.
22 The list shall include contact information for appropriate
23 staff at the commission and for each public utility with a

1 facility or unit for which notice of retirement has been
2 given. Any person interested in installing and operating
3 carbon capture, utilization and storage technology at any
4 facility or unit included in the list required by this
5 subsection may notify and apply to the commission and the
6 applicable public utility and may submit any information or
7 proposal the person has developed for the facility or unit.
8 Upon receiving a notification of interest and application
9 from a person under this subsection, the commission shall,
10 upon request of any party, hold a hearing within a
11 reasonable time on whether to require the proposed
12 installation and operation of carbon capture, utilization
13 and storage technology at the facility or unit. After the
14 hearing and opportunity for public comment, the commission
15 shall make a decision on the application and shall consider
16 the public interest, any effect on customers, the person's
17 ability to install and operate carbon capture, utilization
18 and storage technology, the parties involved in the
19 application, the effect on the economy in Wyoming,
20 potential tax revenue to be generated from the proposed
21 installation, including severance and ad valorem taxes from
22 minerals likely to be produced through use of captured

1 carbon dioxide, and any other factor deemed relevant by the
2 commission.

3

4 (g) Except as provided in W.S. 37-18-102(f), nothing
5 in this section shall be construed to exempt any public
6 utility from the requirements of W.S. 37-18-101 and
7 37-18-102.

8

9 (h) This section shall not apply to any coal-fired
10 electric generation facility or unit for which the public
11 utility has notified the commission of the facility's or
12 unit's retirement on and after June 30, 2027, provided that
13 the public utility has complied with all applicable laws
14 and rules governing notice of planned facility and unit
15 retirements.

16

17 **Section 2.** W.S. 37-1-101(a)(vi)(N), 37-2-133(a),
18 37-3-117(a) by creating a new paragraph (ii) and by
19 amending and renumbering (ii) as (iii) and
20 37-18-102(a)(intro) and by creating a new subsection (f)
21 are amended to read:

22

23 **37-1-101. Definitions.**

1

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

4

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

8

9 (N) The provisions of W.S. 37-3-119,
10 37-18-101 and 37-18-102 shall not apply to any public
11 utility owned or operated by a municipality or any
12 cooperative electrical generation and transmission
13 association operating in interstate commerce whose rates
14 are not regulated by the Wyoming public service commission.

15

16 **37-2-133. Exemption for purchase of coal-fired**
17 **generation facilities that would otherwise have been**
18 **retired; public utility purchase requirements; conditions**
19 **for exemption.**

20

21 (a) Except as otherwise provided in this section and
22 in W.S. 37-3-119(c)(iii), the provisions of this chapter
23 and chapters 1 and 3 of this title shall not apply to a

1 person who operates a coal fired electric generation
2 facility purchased under an agreement approved by the
3 commission under W.S. 37-3-117.

4

5 **37-3-117. Limitation for recovery of costs associated**
6 **with electric generation built to replace retiring coal-**
7 **fired generation facility.**

8

9 (a) Notwithstanding any other provision of this
10 chapter:

11

12 (ii) In addition to the requirements of
13 paragraph (i) of this subsection, any electric public
14 utility seeking to retire a coal-fired electric generation
15 facility shall make a good faith effort to sell the
16 facility to a person who would install and operate carbon
17 capture, utilization and storage technology at the
18 facility;

19

20 ~~(ii)~~(iii) The rates charged by an electric
21 public utility, other than a cooperative electric utility,
22 shall not include any recovery of or earnings on the
23 capital costs associated with new electric generation

1 facilities built, in whole or in part, to replace the
2 electricity generated from one (1) or more coal fired
3 electric generating facilities located in Wyoming and
4 retired on or after January 1, 2022, unless the commission
5 has determined that the public utility that owned the
6 retired coal fired electric generation facility made a good
7 faith effort to sell the facility to another person prior
8 to its retirement in accordance with paragraphs (i) and
9 (ii) of this subsection and that the public utility did not
10 refuse a reasonable offer to purchase the facility or the
11 commission determines that, if a reasonable offer was
12 received, the sale was not completed for a reason beyond
13 the reasonable control of the public utility.

14

15 **37-18-102. Energy generation portfolio standards;**
16 **reporting requirements; rate recovery and limitations.**

17

18 (a) Consistent with the objective of ensuring Wyoming
19 electric utilities maintain access to reliable and cost
20 effective electric generation resources and subject to
21 subsection (f) of this section, the public service
22 commission shall establish by rule energy portfolio
23 standards that will maximize the use of dispatchable and

1 reliable low-carbon electricity. In establishing standards,
2 the commission:

3

4 (f) Any public utility that elects to install and
5 operate carbon capture, utilization and storage technology
6 at an otherwise retiring coal-fired electric generation
7 facility in accordance with W.S. 37-3-119(c)(i) or (ii)
8 shall be deemed to have complied with any standards
9 established under this section.

10

11 **Section 3.** The public service commission shall
12 promulgate all rules necessary to implement this act.

13

14 **Section 4.** This act is effective immediately upon
15 completion of all acts necessary for a bill to become law
16 as provided by Article 4, Section 8 of the Wyoming
17 Constitution.

18

19 (END)