

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

SENATE FILE NO.

Low-carbon reliable energy standards-amendments.

Sponsored by: Joint Minerals, Business & Economic  
Development Interim Committee

A BILL

for

1 AN ACT relating to public utilities; amending requirements  
2 and deadlines for low-carbon energy generation standards;  
3 amending reporting requirements for meeting the low-carbon  
4 energy standards; requiring submission of a final energy  
5 portfolio plan; amending rate recovery mechanisms  
6 associated with low-carbon energy standards; requiring  
7 rulemaking; and providing for effective dates.

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

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1           **Section 1.** W.S. 37-18-101(a)(iii) and 37-18-102(a)(i),  
2 (ii) through (iv), (c)(iii), (d), (e) and by creating a new  
3 subsection (f) are amended to read:

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**STAFF COMMENT**

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9 **For ease, the entirety of W.S. 37-18-101 and 37-18-102 are**  
10 **included in this version of the bill draft. Provisions that**  
11 **are not amended will not be included in any final version**  
12 **of the bill draft.**

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17           **37-18-101. Definitions.**

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19           (a) As used in this article:

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21           (i) "Carbon capture, utilization and storage  
22 technology" means technology that has the principal purpose  
23 of capturing, reusing, storing, sequestering or using  
24 carbon dioxide emissions to prevent carbon dioxide from  
25 entering the atmosphere whether constructed integral or  
26 adjacent to a coal fired generation facility;

27

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

6  
7 (iii) "Low-carbon" means electricity that is  
8 generated while using carbon capture, utilization and  
9 storage technology that ~~produces carbon emissions not~~  
10 ~~greater than six hundred fifty (650) pounds~~ reduces not  
11 less than seventy-five percent (75%) of carbon dioxide  
12 emissions per megawatt hour of generated electricity  
13 averaged over one (1) calendar year:

14  
15 (A) From an existing coal-fired generation  
16 facility; or

17  
18 (B) As allowed and defined by section 45Q of  
19 the Internal Revenue Code, as amended, and any applicable  
20 regulations of the federal environmental protection agency.

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24 STAFF COMMENT

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The Committee may wish to consider:

- How the 75% reduction contemplated in paragraph (iii) above is measured; for example:
  - Whether a baseline for CO2 emissions must be established, and if so, how.
  - Whether the reduction is a reduction in CO2 emissions from the previous year, or some specified point in time, etc.
- What is meant by reducing CO2 emissions "as allowed" by 26 U.S.C. § 45Q, as amended, and how the Public Service Commission is to determine whether a utility's actions to pursue the 26 U.S.C. § 45Q credit complies with the low-carbon generation requirements of this article.

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

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

(a) Consistent with the objective of ensuring Wyoming electric utilities maintain access to reliable and cost effective electric generation resources, the public service commission shall establish by rule energy portfolio standards that will maximize the use of dispatchable and

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

3  
4 (i) Shall require a public utility serving more  
5 than ten thousand (10,000) Wyoming electric customers to  
6 generate a specified percentage of electricity ~~generated to~~  
7 ~~be that is~~ dispatchable and reliable low-carbon electricity  
8 from an existing coal-fired generation facility or an  
9 equivalent new coal-fired generation facility;

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13 STAFF COMMENT

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15 For paragraph (i) above, the Committee may wish to consider  
16 what is (or is not) an "equivalent new coal-fired  
17 generation facility." The Committee may also wish to  
18 consider whether a reference to an equivalent new facility  
19 should be included in the definition of "low-carbon" in  
20 this article.

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25 (ii) Shall establish a date not later than July  
26 1, ~~2030~~2038 for requiring a percentage of electricity  
27 generated by a public utility to be dispatchable and  
28 reliable low-carbon electricity taking into consideration  
29 any potentially expiring federal tax credits;

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STAFF COMMENT

The amendment to W.S. 37-18-102(a)(iii) below is one that the Public Service Commission proposed as a technical correction during its presentation at the July meeting.

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

(iv) Beginning July 1, 2024, shall require each public utility ~~to demonstrate in each integrated resource plan submitted~~ to file with the commission an annual report outlining the steps in the past calendar year the public utility ~~is taking~~ has taken to achieve the electricity generation standard established in paragraphs (i) through (iii) of this subsection;

(v) Shall for each public utility:

1                   (A) Establish baseline standards for  
2 electric reliability to ensure that new or expanded  
3 intermittent generation resources do not unreasonably  
4 diminish power quality or increase momentary outages across  
5 a utility's service territory or in any particular  
6 location;

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8                   (B) Require the utility to monitor and  
9 report electric reliability and power quality outcomes in  
10 integrated resource plan submissions or as otherwise  
11 directed by the commission; and

12

13                   (C) Require the utility to take any steps  
14 the commission deems reasonably necessary to maintain  
15 reasonable levels of electric reliability and power  
16 quality.

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18           (b) In addition to W.S. 37-3-117(a), the rates  
19 charged by an electric public utility shall not include any  
20 recovery of or earnings on the capital costs associated  
21 with new electric generation facilities built, in whole or  
22 in part, to replace the electricity generated from one (1)  
23 or more coal fired electric generation facilities located

1 in Wyoming and retired on or after January 1, 2024, unless  
2 the commission determines that the public utility that  
3 owned the retired coal fired electric generation facility:

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5 (i) Has satisfied the requirements of W.S. 37-3-  
6 117(a); and

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8 (ii) Is achieving or has taken steps to the  
9 commission's satisfaction to achieve the electricity  
10 generation standards established under subsection (a) of  
11 this section.

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13 (c) Subject to W.S. 37-3-117(a) and the limitation in  
14 subsection (b) of this section, the commission shall  
15 consider the following when establishing reasonable rates  
16 for a public utility working toward and achieving the  
17 electricity generation standards established under  
18 subsection (a) of this section:

19

20 (i) A public utility that generates dispatchable  
21 and reliable low-carbon electricity may apply to the  
22 commission for rate recovery of the cost of any carbon  
23 capture, utilization and storage technology used to achieve



1 the electricity generation standards established under  
2 subsection (a) of this section, including a higher return  
3 on equity, provided that the carbon capture, utilization  
4 and storage technology is integral or adjacent to a coal  
5 fired generation facility in Wyoming;

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7 (ii) A public utility may apply to the  
8 commission for authorization to allow a portion of any  
9 revenues from the sale of carbon dioxide captured, stored  
10 or utilized as a result of generating dispatchable and  
11 reliable low-carbon electricity to be returned to the  
12 shareholders of the public utility;

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14 (iii) To the extent a public utility can  
15 demonstrate that it will incur incremental costs to comply  
16 with the reliable and dispatchable low-carbon energy  
17 standard, the commission shall authorize the public utility  
18 to implement a rate recovery mechanism that collects a  
19 surcharge from customers not to exceed two percent (2%) of  
20 each customer's total electric bill to provide for the  
21 recovery of the prudently incurred incremental costs to  
22 comply with the reliable and dispatchable low-carbon energy  
23 standard, including costs related to securing non-utility

1 funding, the exploration of carbon reduction technologies,  
2 the implementation of carbon reduction pilot projects, due  
3 diligence studies and reports, feasibility studies, front-  
4 end engineering design studies, geological studies and tax  
5 and financing studies. A rate recovery mechanism may be  
6 authorized and established prior to the public utility  
7 incurring incremental costs to comply with the reliable and  
8 dispatchable low-carbon energy standard and the public  
9 utility may retain funds collected through a mechanism in a  
10 regulatory account approved by the commission to offset  
11 future costs. To the extent the rate recovery mechanism is  
12 insufficient to compensate the public utility for its  
13 prudently incurred incremental costs to comply with the  
14 reliable and dispatchable low-carbon energy standard, the  
15 commission shall take such actions as necessary  
16 notwithstanding any other provision of this section to  
17 ensure the public utility is able to recover its prudently  
18 incurred incremental costs and customers are not charged  
19 for those incremental costs other than through the rate  
20 recovery mechanism specified in this subsection.

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22 (d) The commission shall promulgate rules to require  
23 public utilities to file reports to ensure that public

1 utilities are satisfactorily progressing toward achieving  
2 the dispatchable and reliable low-carbon electricity  
3 generation standard that the commission establishes as  
4 required in subsection (a) of this section and achieving  
5 reasonable electric reliability and power quality outcomes  
6 as required by subsection (a) of this section.

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10 STAFF COMMENT

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12 In subsection (d) above, the Committee may wish to consider  
13 whether limiting rules to reporting requirements is  
14 sufficient for the Public Service Commission to ensure that  
15 public utilities are progressing toward or complying with  
16 the low-carbon energy standards specified in this article.

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21 (e) Beginning in 2023, and occurring every second  
22 year thereafter, the commission shall report to the  
23 legislature—joint minerals, business and economic  
24 development interim committee and the joint corporations,  
25 elections and political subdivisions interim committee  
26 regarding implementation of the electricity portfolio  
27 standards and recommend whether it should be continued,  
28 modified or repealed. To the extent the electricity  
29 portfolio standards are modified or discontinued, nothing

1 shall impair the ability of a public utility that has  
2 incurred costs to comply with the electricity portfolio  
3 standards to recover its prudently incurred costs as  
4 authorized by the commission.

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6       **Section 2.** The public service commission shall  
7 promulgate all rules necessary to implement this act.

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9       **Section 3.**

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

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16       (b) Section 1 of this act is effective July 1, 2024.

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(END)