

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Low carbon energy standards-repeal.

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

A BILL

for

1 AN ACT relating to public utilities; repealing low-carbon
2 energy standard requirements; repealing conflicting
3 provisions; making conforming amendments; requiring
4 rulemaking; and providing for an effective date.

5

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

7

8 **Section 1.** W.S. 37-1-101(a)(intro) and 37-2-134(a)(i)

9 and (iv) are amended to read:

10

11 **37-1-101. Definitions.**

12

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

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

(a) As used in this section:

(i) "Dispatchable" means ~~as defined in W.S.~~
~~37-18-101(a)(ii)~~ a source of electricity that is available
for use on demand and that can be dispatched upon request
of a power grid operator or that can have its power output
adjusted, according to market needs and includes
dispatchability;

(iv) "Reliable" means ~~as defined in W.S.~~
~~37-18-101(a)(iv)~~ generated electricity that is not subject
to intermittent availability.

Section 2. W.S. 37-1-101(a)(vi)(N), 37-18-101 and
37-18-102 are repealed.

STAFF COMMENT

For reference, the repealed statutes are below. W.S. 37-1-101(a)(vi)(N) concerns the applicability of the low-carbon energy standards repealed in this draft. W.S. 37-18-101 and 37-18-102 are the standards.

37-1-101. Definitions.

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

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

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

37-18-101. Definitions.

~~(a) As used in this article:~~

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

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

~~(iii) "Low carbon" means electricity that is generated while using carbon capture, utilization and storage technology that captures not less than eighteen~~

~~thousand seven hundred fifty (18,750) metric tons of carbon dioxide during one (1) calendar year and that has a capture design capacity of not less than seventy five percent (75%) of the baseline carbon dioxide production of the generation unit as specified in 26 U.S.C. § 45Q(e)(2);~~

~~(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 reliable low-carbon electricity. In establishing standards, the commission:~~

~~(i) Shall require a public utility serving more than ten thousand (10,000) Wyoming electric customers to generate a specified percentage of electricity that is dispatchable and reliable low-carbon electricity from an existing coal-fired generation unit or an equivalent new coal-fueled generation unit;~~

~~(ii) Shall establish a date not later than July 1, 2033 for requiring a percentage of electricity generated by a public utility to be dispatchable and reliable low-carbon electricity taking into consideration any potentially expiring federal tax credits;~~

~~(iii) Shall establish intermediate 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 file with the commission an annual report outlining the steps in the past calendar year the public utility has taken to determine the market for carbon dioxide from the electricity generation and to achieve the electricity generation standard established in paragraphs~~

1 ~~(i) through (iii) of this subsection. In the annual report~~
2 ~~required under this paragraph, each public utility shall,~~
3 ~~for purposes of determining the market for carbon dioxide~~
4 ~~from electricity generation, report the potential customers~~
5 ~~the public utility has contacted and any information or~~
6 ~~estimates the customers are willing to make public on the~~
7 ~~quantities of carbon dioxide they may need;~~

8
9 ~~(v) Shall for each public utility:~~

10
11 ~~(A) Not later than December 15, 2024,~~
12 ~~establish baseline standards for electric reliability to~~
13 ~~ensure adequate reliable dispatchable power in Wyoming. The~~
14 ~~standards established under this subparagraph may include~~
15 ~~limits on outages and shall ensure that new or expanded~~
16 ~~intermittent generation resources do not unreasonably~~
17 ~~diminish power quality or increase momentary outages across~~
18 ~~a utility's service territory or in any particular~~
19 ~~location;~~

20
21 ~~(B) Require the utility to monitor and~~
22 ~~report electric reliability and power quality outcomes in~~
23 ~~integrated resource plan submissions or as otherwise~~
24 ~~directed by the commission; and~~

25
26 ~~(C) Require the utility to take any steps~~
27 ~~the commission deems reasonably necessary to maintain~~
28 ~~reasonable levels of electric reliability and power~~
29 ~~quality;~~

30
31 ~~(D) In considering generation facilities~~
32 ~~for inclusion in a utility's investment on which the~~
33 ~~utility is entitled to earn a rate of return, the~~
34 ~~commission may disallow the inclusion of some or all of the~~
35 ~~investment associated with nondispatchable resources if~~
36 ~~those resources do not operate as projected and require the~~
37 ~~utility to rely on more expensive sources of generation or~~
38 ~~materially contribute to a failure to comply with~~
39 ~~reliability standards.~~

40
41 ~~(vi) A public utility that fails to maintain the~~
42 ~~standards established under this subsection may be subject~~
43 ~~to a civil penalty not to exceed one hundred thousand~~
44 ~~dollars (\$100,000.00) for each day that the violation~~
45 ~~persists. However, the maximum civil penalty shall not~~

1 ~~exceed one million dollars (\$1,000,000.00) for any related~~
2 ~~series of violations.~~

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. 37-3-~~
15 ~~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~~
24 ~~consider the following when establishing reasonable rates~~
25 ~~for a public utility working toward and achieving the~~
26 ~~electricity generation standards established under~~
27 ~~subsection (a) of this section:~~

28
29 ~~(i) A public utility that generates dispatchable~~
30 ~~and reliable low-carbon electricity may apply to the~~
31 ~~commission for rate recovery of the cost of any carbon~~
32 ~~capture, utilization and storage technology used to achieve~~
33 ~~the electricity generation standards established under~~
34 ~~subsection (a) of this section, including a higher return~~
35 ~~on equity, provided that the carbon capture, utilization~~
36 ~~and storage technology is integral or adjacent to a coal~~
37 ~~fired generation facility in Wyoming;~~

38
39 ~~(ii) A public utility may apply to the~~
40 ~~commission for authorization to allow a portion of any~~
41 ~~revenues from the sale of carbon dioxide captured, stored~~
42 ~~or utilized as a result of generating dispatchable and~~
43 ~~reliable low carbon electricity to be returned to the~~
44 ~~shareholders of the public utility;~~

45

~~(iii) To the extent a public utility can demonstrate that it will incur incremental costs to comply with the reliable and dispatchable low-carbon energy standard, the commission shall authorize the public utility to implement a rate recovery mechanism that collects a surcharge from customers not to exceed two percent (2%) of each customer's total electric bill to provide for the recovery of the prudently incurred incremental costs to comply with the reliable and dispatchable low-carbon energy standard. A rate recovery mechanism may be authorized and established prior to the public utility incurring incremental costs to comply with the reliable and dispatchable low-carbon energy standard and the public utility may retain funds collected through a mechanism in a regulatory account approved by the commission to offset future costs. To the extent the rate recovery mechanism is insufficient to compensate the public utility for its prudently incurred incremental costs to comply with the reliable and dispatchable low-carbon energy standard, the commission shall take such actions as necessary to ensure the public utility is able to recover its prudently incurred incremental costs and customers are not charged for those incremental costs other than through the rate recovery mechanism specified in this subsection. No rate recovery shall be allowed by the commission under this paragraph after the public utility has been authorized by the commission to collect these costs through the utility's base rates or another recovery mechanism approved by the commission.~~

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

~~(e) Beginning in 2023, and occurring every second year thereafter, the commission shall report to the joint minerals, business and economic development interim committee and the joint corporations, elections and political subdivisions interim committee regarding implementation of the electricity portfolio standards and~~

1 ~~recommend whether it should be continued, modified or~~
2 ~~repealed. To the extent the electricity portfolio standards~~
3 ~~are modified or discontinued, nothing shall impair the~~
4 ~~ability of a public utility that has incurred costs to~~
5 ~~comply with the electricity portfolio standards to recover~~
6 ~~its prudently incurred costs as authorized by the~~
7 ~~commission.~~

8
9 ~~(f) Nothing in this chapter shall prevent a public~~
10 ~~utility from entering into individualized energy contracts~~
11 ~~or arrangements with large commercial or industrial~~
12 ~~customers to procure energy or capacity to meet customers'~~
13 ~~needs or from utilizing customer-specific energy portfolios~~
14 ~~pursuant to tariffs approved by the commission.~~

15
16 *****
17 *****
18

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

21
22 **Section 4.** This act is effective immediately upon
23 completion of all acts necessary for a bill to become law
24 as provided by Article 4, Section 8 of the Wyoming
25 Constitution.

26
27 (END)