

SENATE FILE NO. SF0159

New opportunities for Wyoming coal fired generation.

Sponsored by: Senator(s) Dockstader, Bebout and Driskill

A BILL

for

1 AN ACT relating to public utilities; limiting the recovery of  
2 costs for the retirement of coal fired generation facilities;  
3 providing a process for the sale of an otherwise retiring  
4 coal fired electric generation facility; exempting a person  
5 purchasing an otherwise retiring coal fired electric  
6 generation facility from regulation as a public utility; and  
7 providing for an effective date.

8

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

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11 **Section 1.** W.S. 37-2-133 and 37-3-116 are created to  
12 read:

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14 **37-2-133. Exemption for purchase of coal fired**  
15 **generation facilities that would otherwise have been retired.**

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1           (a) Except as otherwise provided in this section, the  
2 provisions of this chapter and chapters 1 and 3 of this title  
3 shall not apply to a person who is not a public utility and  
4 who contracts to purchase an otherwise retiring coal fired  
5 electric generation facility from a public utility under W.S.  
6 37-3-116. Except as otherwise provided in this section, the  
7 provisions of this chapter and chapters 1 and 3 of this title  
8 shall not apply to a person who is not a public utility and  
9 who contracts to purchase an otherwise retiring coal fired  
10 electric generation facility from a public utility under W.S.  
11 37-3-116 and who further contracts to sell electric  
12 generation services from that facility to a retail customer  
13 of a public utility, provided that the retail purchaser of  
14 the electric generation services remains a customer of a  
15 public utility for purposes of obtaining backup service. As  
16 used in this section, "backup service" means an electric  
17 service provided by a public utility that replaces  
18 electricity ordinarily generated by the person who purchased  
19 an otherwise retiring coal fired electric generation facility  
20 under W.S. 37-3-116. Backup service provided to a person who  
21 also purchases electric generation and associated  
22 transmission service from a person who purchased an otherwise  
23 retiring coal fired electric generation facility under W.S.

1 37-3-116 shall not include charges for transmission service  
2 to the extent the person who purchased an otherwise retiring  
3 coal fired electric generation facility under W.S. 37-3-116  
4 already pays the public utility for transmission service to  
5 deliver electricity to that customer.

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7 (b) The person who is selling electric generation and  
8 associated transmission services to a retail customer of a  
9 public utility through a contract entered into under this  
10 section shall not be subject to regulation as a public utility  
11 under this chapter and chapters 1 and 3 of this title except  
12 that:

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14 (i) The person who is selling electric generation  
15 and associated transmission services through a contract  
16 entered into under this section to a retail customer shall  
17 file a copy of any such contract with the public service  
18 commission in a manner consistent with W.S. 37-3-111; and

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20 (ii) The intrastate retail revenues received by  
21 any person who is selling electric generation and associated  
22 transmission services through a contract entered into under

1 this section shall be subject to the uniform assessment  
2 provisions of W.S. 37-2-106, 37-2-107, 37-2-108 and 37-2-109.

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4 **37-3-116. Limitation for recovery of costs associated**  
5 **with electric generation built to replace retiring coal fired**  
6 **generation facility.**

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8 (a) Notwithstanding any other provision of this  
9 chapter, the rates charged by an electric public utility shall  
10 not include any recovery of or earnings on the capital costs  
11 associated with new electric generation facilities built, in  
12 whole or in part, to replace the electricity generated from  
13 one (1) or more coal fired generating units or plants located  
14 in Wyoming and retired on or after January 1, 2022, unless  
15 the commission has determined that the public utility that  
16 owned the retired coal fired electric generation facility  
17 made a good faith effort to sell the facility to another  
18 person prior to its retirement and that the public utility  
19 received no reasonable offer to purchase the facility.

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21 (b) In determining whether the public utility made a  
22 good faith effort to sell the retired coal fired electric

1 generation facility under this section the commission shall  
2 consider:

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4 (i) Whether the public utility provided sufficient  
5 time prior to the facility's retirement for potential  
6 purchasers to evaluate purchasing the facility;

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8 (ii) Whether the public utility used reasonable  
9 efforts to make potential purchasers aware of the opportunity  
10 to purchase the facility; and

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12 (iii) Whether the public utility reasonably  
13 evaluated any offers received by the public utility for the  
14 purchase of the facility.

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16 (c) In determining whether an offer to purchase a coal  
17 fired electric generation facility under this section was  
18 reasonable the commission shall consider:

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20 (i) Whether accepting the offer to purchase the  
21 retired facility would have reduced costs to the public  
22 utility's customers as compared to retiring the facility;

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1           (ii) Whether accepting the offer to purchase the  
2 retired facility would have reduced risks to the public  
3 utility's customers as compared to retiring the facility  
4 including any diminished environmental remediation risks; and

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6           (iii) Whether accepting the offer to purchase the  
7 retired facility would have been in the public interest.

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9           (d) In determining whether an offer to purchase the  
10 retired electric generation facility was reasonable the  
11 commission shall not consider any impacts to the public  
12 utility associated with potential lost revenues from the sale  
13 of electric generation to customers who could have elected to  
14 purchase power from the person purchasing the electric  
15 generation facility under W.S. 37-2-133.

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17           (e) Upon application by a public utility, the  
18 commission may approve procedures for the solicitation and  
19 review of offers to purchase an otherwise retiring electric  
20 generation facility in advance of a proposed retirement. If  
21 the public utility follows the procedures approved by the  
22 commission to solicit and review offers to purchase an  
23 otherwise retiring electric generation facility under this

1 subsection, there shall be no limitation under this section  
2 for recovery of costs or earnings associated with electric  
3 generation built to replace a retired coal fired electric  
4 generation facility.

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6 (f) Any agreement between a public utility and another  
7 person for the sale of an otherwise retiring coal fired  
8 electric generation facility shall be approved by the  
9 commission. In reviewing the agreement the commission shall  
10 consider:

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12 (i) Whether the proposed purchaser has, or has  
13 contracted for, financial, technical and managerial abilities  
14 sufficient to reasonably operate and maintain the facility;

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16 (ii) Whether the proposed purchaser has, or has  
17 contracted for, financial, technical and managerial abilities  
18 sufficient to reasonably decommission and retire the facility  
19 if and to the extent the facility is decommissioned and  
20 retired;

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22 (iii) Whether the proposed purchaser has, or has  
23 contracted for, financial, technical and managerial abilities

1 sufficient to reasonably satisfy any environmental  
2 obligations associated with the operation, maintenance or  
3 potential retirement of the facility; and

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5 (iv) If the coal fired electric generation  
6 facility is comprised of one (1) or more generation units at  
7 a larger power plant where the public utility will continue  
8 to own and operate one (1) or more generation units, whether  
9 the proposed purchaser and the public utility have made  
10 reasonable contractual arrangements for the sharing of the  
11 costs associated with any joint or common facilities at the  
12 plant.

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14 **Section 2.** This act is effective July 1, 2019.

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(END)