

ENROLLED ACT NO. 79, HOUSE OF REPRESENTATIVES

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

AN ACT relating to public utilities; requiring the public service commission to establish electricity generation portfolio standards for public utilities; limiting the recovery of costs for the retirement of coal fired electric generation facilities; authorizing the public service commission to grant reasonable rate recovery for public utilities as specified; authorizing a surcharge; requiring reports; making conforming amendments; and providing for an effective date.

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

**Section 1.** W.S. 37-18-101 and 37-18-102 are created to read:

CHAPTER 18

RELIABLE AND DISPATCHABLE LOW-CARBON ENERGY STANDARDS

**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;

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(iii) "Low-carbon" means electricity that is generated while using carbon capture, utilization and storage technology that produces carbon emissions not greater than six hundred fifty (650) pounds of carbon dioxide per megawatt hour of generated electricity averaged over one (1) calendar year;

(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 to generate a specified percentage of electricity generated to be dispatchable and reliable low-carbon electricity;

(ii) Shall establish a date not later than July 1, 2030 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 standards and requirements for dispatchable and reliable low-carbon electricity that public utilities must generate before the

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electricity generation standard established in paragraphs (i) and (ii) of this subsection;

(iv) Shall require each public utility to demonstrate in each integrated resource plan submitted to the commission the steps the public utility is taking to achieve the electricity generation standard established in paragraphs (i) through (iii) of this subsection;

(v) Shall for each public utility:

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

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

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

(b) In addition to W.S. 37-3-117(a), the rates charged by an electric public utility shall not include any recovery of or earnings on the capital costs associated with new electric generation facilities built, in whole or in part, to replace the electricity generated from one (1) or more coal fired electric generation facilities located in Wyoming and retired on or after January 1, 2024, unless

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the commission determines that the public utility that owned the retired coal fired electric generation facility:

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

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

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

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

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

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(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 notwithstanding any other provision of this section 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.

(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.

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(e) Beginning in 2023, and occurring every second year thereafter, the commission shall report to the legislature regarding whether implementation of the electricity portfolio standards is meeting the legislative declaration and findings and recommend whether it should be continued, modified or repealed. To the extent the electricity portfolio standards is modified or discontinued, nothing shall impair the ability of a public utility that has incurred costs to comply with the electricity portfolio standard to recover its prudently incurred costs as authorized by the commission.

**Section 2.** W.S. 37-1-101(a)(intro) and (vi) by creating a new subparagraph (N) is amended to read:

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

(a) As used in chapters 1, 2, 3, 12, ~~and 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.

ORIGINAL HOUSE  
BILL NO. HB0200

ENGROSSED

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**Section 3.** This act is effective July 1, 2020.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk