

ENROLLED ACT NO. 88, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2021 GENERAL SESSION

AN ACT relating to public utilities; creating a presumption against the retirement of electric generation facilities as specified; providing definitions related to the presumption; specifying how a public utility can rebut the presumption; limiting rate recovery for public utilities retiring electric generation facilities without rebutting the presumption as specified; requiring consideration of reliability before approving the retirement of an electric generation facility; requiring rulemaking; and providing for effective dates.

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

**Section 1.** W.S. 37-2-134 and 37-3-118 are created to read:

**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) and includes dispatchability;

(ii) "Retirement" or "retired" means the closure of or the complete and permanent cessation of operations at an electric generation facility. "Retirement" or "retired" shall not include any closure mandated by federal law or any closure resulting from federal environmental requirements to where it is no longer cost effective for the facility to continue operating;

(iii) "Electric generation facility" means a facility located in Wyoming that uses coal or natural gas

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to generate reliable and dispatchable electricity for provision to customers;

(iv) "Reliable" means as defined in W.S. 37-18-101(a)(iv).

(b) Before authorizing or approving the retirement of an electric generation facility as proposed in a rate case, integrated resource plan or other submission to the commission, the commission shall consider the effect on available reliable, dispatchable electricity to Wyoming customers and the impact that any shortage of available energy nationwide may have on Wyoming customers.

(c) There shall be a rebuttable presumption against the retirement of an electric generation facility. The commission shall not approve the retirement of an electric generation facility unless the presumption created by this subsection is rebutted by evidence deemed sufficient by the commission to establish that:

(i) Cost savings will result to customers as a result of the retirement of the electric generation facility;

(ii) The retirement will not result in an insufficient amount of reliable and dispatchable capacity to serve Wyoming customers; and

(iii) The retirement will not adversely impact the dispatchability or reliability of electric service to customers of the public utility.

(d) The rate recovery limitations of W.S. 37-3-118 shall apply to a public utility that completes a retirement

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of an electric generation facility without rebutting the presumption specified in this section.

(e) Nothing in this section shall be construed to relieve a public utility of the requirements to comply with W.S. 37-2-133 and 37-3-117 before the retirement of an electric generation facility.

**37-3-118. Limitation for recovery of costs for replacing electric generation facilities.**

(a) As used in this section, "retirement" or "retired" means as defined in W.S. 37-2-134(a)(ii).

(b) Notwithstanding any other provision of this chapter but in addition to W.S. 37-3-117, the rates charged by an electric public utility shall not include any recovery of or earnings on the capital costs associated with electric generation facilities built, in whole or in part, to replace the electricity generated from a retired coal or natural gas electric generation facility that was retired on or after July 1, 2021 and for which the presumption against retirement was not rebutted by the public utility as required by W.S. 37-2-134.

**Section 2.** The public service commission shall promulgate all rules necessary to implement the provisions of this act.

ORIGINAL HOUSE  
BILL NO. HB0166

ENGROSSED

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**Section 3.**

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

(b) Section 1 of this act is effective July 1, 2021.

(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