

SENATE FILE NO. SF0142

Carbon capture and sequestration.

Sponsored by: Senator(s) Scott, Barlow, Boner, Dockstader and Landen and Representative(s) Allemand, Allred, Banks, Berger, Chadwick, Haroldson, Harshman, Heiner, Olsen, Strock, Walters and Zwonitzer, Dn

A BILL

for

1 AN ACT relating to public utilities; providing requirements  
2 for the capture and use of carbon dioxide from coal-fired  
3 electric generation facilities; requiring public utilities  
4 to offer coal-fired electric generation facilities for sale  
5 for purposes of carbon capture for enhanced oil and gas  
6 recovery; specifying requirements for the sale of  
7 byproducts from carbon dioxide streams; specifying  
8 purposes; seeking to identify already incurred liabilities  
9 for decommissioning and cleanup of coal-fired electric  
10 generation facilities as specified; specifying intent for  
11 the reduction of waste of carbon dioxide; providing  
12 penalties for violations; providing definitions; making  
13 conforming amendments; requiring rulemaking; requiring

1 studies; requiring reports; specifying applicability; and  
2 providing for an effective date.

3

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

5

6 **Section 1.** 37-18-201 through 37-18-208 are created to  
7 read:

8

9

ARTICLE 2

10

UTILITY REQUIREMENTS AND CARBON CAPTURE

11

PROCEDURES FOR PUBLIC UTILITIES

12

13 **37-18-201. Definitions.**

14

15 (a) As used in this article:

16

17 (i) "Carbon capture, utilization and  
18 sequestration technology" means technology that has the  
19 principal purpose of capturing, reusing, storing,  
20 sequestering or using carbon dioxide emissions to prevent  
21 carbon dioxide from entering the atmosphere whether  
22 constructed integral or adjacent to a coal-fired generation  
23 unit;

1

2 (ii) "Carbon capture customer" means any person  
3 who purchases or seeks to purchase a carbon dioxide stream  
4 from a coal-fired electric generation unit, including any  
5 person who is using or plans to use the carbon dioxide  
6 stream for enhanced oil or gas recovery or sequestration;

7

8 (iii) "Carbon capture party" means:

9

10 (A) A public utility that generates carbon  
11 dioxide through the production of electricity;

12

13 (B) A carbon capture customer;

14

15 (C) Any person who owns, alters or creates  
16 a carbon dioxide stream between a generator of carbon  
17 dioxide and customers of the person;

18

19 (D) The Wyoming oil and gas conservation  
20 commission.

21

22 (iv) "Carbon dioxide stream" means a flow or  
23 unit of carbon dioxide and any other related gases,

1 materials or contaminants within carbon dioxide that is  
2 going to a carbon capture unit or from a carbon capture  
3 unit to a carbon capture customer. "Carbon dioxide stream"  
4 does not include any flow of gases that is intended for  
5 release into the atmosphere;

6

7 (v) "Coal-fired electric generation facility" or  
8 "facility" means any electric generation facility that uses  
9 coal to generate electricity and shall include any unit or  
10 portion of a facility;

11

12 (vi) "Coal-fired electric generation unit" means  
13 a unit of not less than three hundred (300) megawatts that  
14 uses coal to generate electricity;

15

16 (vii) "Commission" means the public service  
17 commission;

18

19 (viii) "Marginal cost" means the additional cost  
20 of creating a byproduct that is not incurred in the  
21 creation of a principal product. For purposes of this  
22 article, if the creation of a byproduct alters the cost of  
23 producing the principal product, any increase in the

1 resulting cost shall be considered a marginal cost and any  
2 decrease in the resulting cost shall reduce the marginal  
3 cost. "Marginal cost" shall not include any allocation of  
4 any costs or investments incurred for the production of the  
5 principal product. "Marginal cost" shall include the  
6 recovery of investments in producing the principal product  
7 that are required to produce the byproduct but that are not  
8 required to continue to produce the primary product;

9

10 (ix) "Net salvage value" means the value of any  
11 land sold, plus the value of the components of the unit,  
12 less any decommissioning costs and decommissioning and  
13 reclamation costs that the purchaser may be liable for. The  
14 commission may adjust the net salvage value to include any  
15 amounts necessary to comply with state and federal  
16 constitutional requirements associated with takings;

17

18 (x) "Output reduction" means a reduction of  
19 output of a coal-fired electric generation facility into a  
20 range of percentages of the nameplate capacity of the  
21 facility as determined by the commission in accordance with  
22 this article.

23

1           **37-18-202. Implementation by the public service**  
2 **commission and state agencies; carbon capture in public**  
3 **interest.**

4

5           (a) This article is enacted to seek and promote  
6 carbon capture, utilization and sequestration technology  
7 associated with the continued and prolonged operation of  
8 coal-fired electric generation facilities. To the extent  
9 practical and not otherwise inconsistent with law, the  
10 commission shall seek to:

11

12           (i) Reduce the amount of carbon dioxide that is  
13 released into the atmosphere because of electric power  
14 generation and satisfy demands from electricity customers  
15 and from other states while accomplishing this reduction;

16

17           (ii) Reduce the waste of a valuable natural  
18 resource by reducing the amount of carbon dioxide that is  
19 released into the atmosphere;

20

21           (iii) Make carbon dioxide streams available to  
22 customers in the oil and gas industry who wish to use  
23 carbon dioxide streams to produce additional oil or gas by

1 using enhanced oil recovery techniques as a result of  
2 recovering and utilizing those valuable natural resources;

3

4 (iv) Allow potential customers of the carbon  
5 dioxide stream to earn federal or other subsidies  
6 associated with carbon sequestration;

7

8 (v) Enhance the revenue of the state of Wyoming  
9 and its political subdivisions through existing taxes,  
10 leases and royalties;

11

12 (vi) Ensure that decommissioning and reclamation  
13 costs caused by past activities are adequately funded and  
14 are not passed on to current and future customers;

15

16 (vii) Improve the reliability of the electric  
17 grid serving Wyoming and other western states;

18

19 (viii) Prevent carbon capture from causing  
20 material rate increases for electric customers;

21

1           (ix) Provide interested parties an opportunity  
2 to earn a profit and incentivize their participation in  
3 carbon capture, utilization and sequestration efforts;

4

5           (x) Retain and improve employment opportunities  
6 for Wyoming residents.

7

8           (b) The commission shall consider carbon capture,  
9 utilization and sequestration and the use of any resulting  
10 carbon dioxide stream for enhanced oil and gas recovery as  
11 a factor in its public interest determination.

12

13           (c) Nothing in this article shall be construed to  
14 supersede or alter the provisions of W.S. 35-11-313 through  
15 35-11-320.

16

17           **37-18-203. Carbon dioxide stream regulation;**  
18 **considerations.**

19

20           (a) Except as otherwise provided in this subsection,  
21 no public utility subject to this article shall  
22 intentionally alter a carbon dioxide stream within its  
23 generating facility or unit or alter a generating facility



1 with the effect of making the use of carbon dioxide  
2 captured impractical or materially more expensive. The  
3 prohibition specified in this subsection may be waived by  
4 agreement between the public utility and carbon capture  
5 customers for seventy-five percent (75%) of the available  
6 carbon dioxide. Any party aggrieved by the actions of the  
7 public utility under this subsection may apply to the  
8 commission for an order directing the utility to comply  
9 with this subsection. The commission may issue an order to  
10 correct any violation of this subsection after considering  
11 W.S. 37-18-202, the relative expense of correcting the  
12 problem at the power plant level or the customer level, and  
13 any relevant federal regulations.

14

15 (b) The prohibition in subsection (a) of this section  
16 shall not apply to the conversion of a coal-fired electric  
17 generation unit to natural gas if the commission determines  
18 that it is in the public interest to convert the unit  
19 rather than maintaining its availability for carbon  
20 capture.

21

22 (c) Before January 1, 2024, each electric public  
23 utility that owns, leases or controls a coal-fired electric

1 generation facility or unit in Wyoming shall provide a  
2 report and plan to the commission detailing how the public  
3 utility intends to operate and maintain its coal-fired  
4 electric generation facilities or units in Wyoming so that  
5 the facility or unit may be potentially augmented with  
6 carbon capture, utilization and sequestration technology in  
7 the future and the steps the public utility will take to  
8 avoid unreasonably causing carbon capture, utilization and  
9 sequestration technologies to be more expensive to  
10 implement in the future. The commission shall review each  
11 report submitted under this subsection and, if the  
12 commission determines the report and plan to be deficient  
13 or unreasonable, may order the public utility to take any  
14 actions as may be in the public interest and consistent  
15 with the objective of preserving the ability of Wyoming  
16 coal-fired electric generation units or facilities to be  
17 augmented in the future with carbon capture, utilization  
18 and sequestration technologies.

19

20 **37-18-204. Reclamation and decommissioning costs;**  
21 **identification of costs already recovered in rates;**  
22 **protection of current and new customers from costs incurred**  
23 **servicing previous customers.**

1

2 (a) This section shall apply to each coal-fired  
3 electric generation unit, regardless of size, slated for  
4 retirement or closure before 2034 that is identified in a  
5 public utility's integrated resource plan submitted to the  
6 commission before July 1, 2022. This section shall apply to  
7 the expected costs of decommissioning all units of the  
8 facility and reclaiming the site at the facility, including  
9 but not limited to any fly ash, hazardous waste or other  
10 solid or liquid waste disposal sites for which the present  
11 or any future owner of the facility site may be liable for  
12 damages and cleanup costs.

13

14 (b) For facilities subject to subsection (a) of this  
15 section, the commission shall undertake an analysis of the  
16 extent to which rates charged by the public utility before  
17 the effective date of this article included an allowance  
18 for decommissioning and reclamation costs. The commission  
19 shall consider rates charged in Wyoming and all other  
20 states where power generated by the facility was sold. For  
21 power sold outside of Wyoming, the commission may impute a  
22 share of the rate for decommissioning and reclamation  
23 similar to that charged in Wyoming if the rate-setting

1 practices of the relevant state or an applicable  
2 multi-state protocol justify this treatment. The commission  
3 may, to the extent useful, hire outside consultants and  
4 assess their costs to the utility involved. If the  
5 commission is unable to reasonably separate the amounts  
6 charged to customers receiving power from the facility or a  
7 unit thereof from those charged for all Wyoming facilities  
8 or units of the public utility, the total for all units and  
9 facilities owned by the public utility in Wyoming shall be  
10 identified. The commission shall prepare a report based on  
11 the analysis performed in accordance with this subsection.  
12 When a draft report is available, the commission shall hold  
13 a hearing. Not later than October 1, 2023, the commission  
14 shall report to the joint corporations, elections and  
15 political subdivisions interim committee on the progress of  
16 the analysis required by this section and if any  
17 legislative action is needed to adequately complete this  
18 analysis.

19

20 (c) The commission may, if practical given the needs  
21 of the new owner to operate the facility or unit and if  
22 necessary given the legal rights and desires of the public  
23 utility, segregate the lands with waste and fly ash

1 disposal from the facilities required to be sold under this  
2 article and require that those disposal facilities remain  
3 with the public utility.

4

5 (d) Determining which party is responsible for  
6 decommissioning and reclamation shall be governed by the  
7 contract between the public utility selling the facility or  
8 unit and the purchaser, provided that no contract shall be  
9 represented as relieving any party to a contract of any  
10 liability that the party may have under federal law if a  
11 party fails to perform under the contract between the  
12 purchaser and the public utility that is entered into  
13 pursuant to this section;

14

15 (e) Parties entering into a contract under this  
16 section shall be independent. For purposes of this  
17 subsection, parties are independent if they have not more  
18 than twenty-five percent (25%) common ownership.

19

20 **37-18-205. Output reductions and retirements;**  
21 **regulation; prohibitions on output reductions.**

22

1           (a) No public utility owning or operating a  
2 coal-fired electric generation unit shall close or retire a  
3 unit without first giving the commission notice not less  
4 than four (4) years before the intended closure, retirement  
5 or output reduction of the public utility's intention to  
6 close, retire or complete an output reduction at a  
7 coal-fired electric generation unit. For purposes of this  
8 subsection, including the unit to be retired, closed or  
9 subject to an output reduction in an integrated resource  
10 plan submitted to the commission before July 1, 2022 shall  
11 be construed to satisfy the notice requirement of this  
12 subsection unless the public utility, not later than July  
13 1, 2023, gives the commission notice that it does not wish  
14 to have the statement in the integrated resource plan  
15 construed as satisfying the notice requirement of this  
16 subsection, in which case the four (4) year period  
17 preceding a closure, retirement or output reduction shall  
18 commence upon the public utility providing notice as  
19 required by this subsection.

20

21           (b) No public utility owning or operating a  
22 coal-fired electric generation unit shall close, retire or  
23 complete an output reduction at the unit without first

1 making a good faith effort to sell the unit for not less  
2 than one (1) year, commencing not later than July 1, of the  
3 fourth year before the year of the planned closure or  
4 retirement or July 1, 2023, whichever is later, to persons  
5 willing to purchase and continue operating the facility  
6 with carbon capture, utilization and sequestration  
7 technology. Any public utility required to offer a facility  
8 for sale under this subsection shall report any purchase  
9 offer received to the commission within ten (10) days,  
10 subject to the following:

11

12 (i) Public utilities required to offer a  
13 coal-fired electric generation unit for sale under this  
14 section shall not be subject to the requirements of W.S.  
15 37-3-117 unless expressly provided in this article;

16

17 (ii) In determining whether a public utility has  
18 made a good-faith effort to sell a facility, the commission  
19 shall rely on the factors specified in W.S. 37-3-117(b).

20

21 (c) A lease of not less than twenty (20) years of a  
22 coal-fired electric generation unit for purposes of  
23 installing and operating carbon capture technology

1 complying with this section shall be construed as a sale  
2 for purposes of subsection (b) of this section.

3

4 (d) A public utility selling a coal-fired electric  
5 generation unit under this article shall, before offering  
6 the unit for sale, provide to the commission adequate  
7 notice of the sale and how an interested party may contact  
8 the public utility for further information. The commission  
9 shall publish the information provided under this  
10 subsection not later than the day on which the public  
11 utility offers the facility for sale.

12

13 (e) In addition to making a good faith effort to sell  
14 a coal-fired electric generation unit as required under  
15 this article, a public utility required to offer a facility  
16 for sale shall provide to a potential purchaser upon  
17 request:

18

19 (i) Access to the maintenance records for the  
20 unit or facility for sale and access to employees who  
21 understand the physical condition of the facility or unit  
22 for sale and likely future maintenance needs;

23



1           (ii) A description of the reclamation and  
2 decommissioning needs and obligations that may affect the  
3 sale and access to employees who understand these needs and  
4 obligations;

5

6           (iii) A description of the current procedure for  
7 the disposal of fly ash and chemicals and other substances  
8 used by or generated by the unit offered for sale and  
9 access to employees who understand these procedures;

10

11           (iv) Information regarding whether the contracts  
12 for coal and its transportation to the unit are  
13 transferable to any purchaser and, if so, the content of  
14 those contracts;

15

16           (v) The arrangements for the transmission of  
17 electricity to customers and what changes, if any, would be  
18 contemplated as a result of a sale of the facility;

19

20           (vi) Any other information that a prudent buyer  
21 approaching an arms-length transaction should know,  
22 including information relevant to the operation of the  
23 coal-fired electric generation unit.

1

2 (f) Public utilities subject to this section shall  
3 comply with the provisions of W.S. 37-2-133 and 37-2-134.

4

5 (g) The commission may define by rule what qualifies  
6 as an output reduction at a coal-fired electric generation  
7 facility in accordance with the following:

8

9 (i) This subsection shall apply only to  
10 facilities with a nameplate capacity of not less than three  
11 hundred (300) megawatts;

12

13 (ii) Unless the commission has otherwise  
14 specified in accordance with this paragraph, an output  
15 reduction occurs if a facility operates at ten percent  
16 (10%) or less of the nameplate capacity on an annual basis.  
17 The commission may adjust the percentage specified in this  
18 paragraph by not more than twenty-five (25) percentage  
19 points above or below the percentage specified in this  
20 paragraph in order to achieve the purposes specified in  
21 W.S. 37-18-202;

22

1           (iii) Upon petition by any interested carbon  
2 capture party, or upon the commission's own motion, and  
3 after notice and a hearing, the commission may modify any  
4 percentage established in paragraph (ii) of this subsection  
5 for any one (1) coal-fired electric generation unit. The  
6 percentage established under this subsection shall not  
7 exceed the percentage needed to reasonably support carbon  
8 capture on the specific unit.

9

10          (h) In reviewing purchase offers, reviews of a  
11 rejection of a purchase and a public utility's efforts to  
12 offer a coal-fired electric generation unit for sale under  
13 subsection (a) of this section, the commission shall:

14

15           (i) Consider the purposes and goals specified in  
16 W.S. 37-18-202;

17

18           (ii) Consider the factors specified in W.S.  
19 37-3-117(c);

20

21           (iii) Consider the compensation requirements of  
22 the United States constitution and the Wyoming constitution  
23 in the taking of private property for public purposes;

1

2 (iv) Consider any practical factors facilitating  
3 or impeding implementation of actions necessary to allow  
4 for the purchase of a coal-fired electric generation unit  
5 to allow continued operation with carbon capture,  
6 utilization and sequestration technology;

7

8 (v) Give priority for purchasing the unit to  
9 carbon capture customers and potential carbon capture  
10 customers who will use not less than fifty-one percent  
11 (51%) of a resulting carbon dioxide stream for enhanced oil  
12 or gas recovery or production;

13

14 (vi) Subject to paragraph (v) of this  
15 subsection, give priority to those persons or entities with  
16 actual previous experience with carbon dioxide  
17 sequestration, either for enhanced oil or gas recovery or  
18 deep sequestration;

19

20 (vii) Extend, for good cause shown, the time in  
21 which the sale of the unit must be offered, provided that  
22 the extension or combination of extensions under this

1 paragraph shall continue until the unit is retired or  
2 closed.

3

4 (j) In reviewing purchase offers and a public  
5 utility's efforts to offer a coal-fired electric generation  
6 unit for sale under subsection (a) of this section, the  
7 commission may:

8

9 (i) Determine the minimum bid that the facility  
10 shall be sold for, provided that nothing shall prevent a  
11 public utility from accepting a good-faith purchase offer  
12 for a higher or lower amount. The minimum bid shall be not  
13 less than the net salvage value of the facility or unit;

14

15 (ii) Permit, for good cause shown, an output  
16 reduction for a specified time during the period in which  
17 the facility is offered for sale in accordance with  
18 subsection (a) of this section;

19

20 (iii) Order the rejection of any purchase offer  
21 for a unit that is not made in good faith or made by a  
22 person who does not have a reasonable prospect of

1 successfully operating the facility with installed carbon  
2 capture, utilization and sequestration technology;

3

4 (iv) Establish a deadline not to exceed three  
5 (3) years after the purchaser takes possession of the  
6 purchased unit for the installation of carbon capture  
7 technology at the purchased facility and utilization and  
8 sequestration of the captured carbon.

9

10 (k) The commission shall not approve a purchase  
11 agreement that does not comply with the requirements of  
12 W.S. 37-3-117(e).

13

14 (m) If the public utility does not make a good faith  
15 effort to sell the facility as required by this section,  
16 the commission shall proceed to order the limitation of  
17 recovering costs under W.S. 37-3-117.

18

19 **37-18-206. Sale of carbon dioxide stream byproducts;**  
20 **requirements.**

21

22 (a) A public utility deciding to retain a coal-fired  
23 electric generation unit in lieu of closure or retirement

1 or a public utility entering into an agreement to buy a  
2 coal-fired electric generation facility from another person  
3 in accordance with W.S. 37-18-205 shall attempt to  
4 negotiate the terms of the sale of the carbon dioxide  
5 stream with carbon capture customers.

6

7 (b) If an agreement is unable to be reached in  
8 accordance with subsection (a) of this section in a  
9 reasonable time, the commission shall, upon petition by any  
10 carbon capture party, determine if the public utility  
11 complied with subsection (a) of this section.

12

13 (c) Any public utility selling a coal-fired electric  
14 generation unit under W.S. 37-18-205 or a carbon dioxide  
15 stream under this section to a carbon capture customer may  
16 request the commission determine whether the public  
17 utility's actions satisfy the utility's obligation to  
18 produce dispatchable and reliable low-carbon electricity  
19 under W.S. 37-18-102.

20

21 **37-18-207. Violations; penalties.**

22

23 (a) Except as otherwise provided in this section:

1

2           (i) Any carbon capture customer who agrees to  
3 purchase a carbon dioxide stream, or a portion thereof, and  
4 fails to purchase that stream or purchases the stream or  
5 byproduct and subsequently vents the stream shall pay a  
6 civil penalty to the state of one dollar (\$1.00) for every  
7 one (1) ton of carbon dioxide that is not purchased or that  
8 is purchased and subsequently vented, except as provided in  
9 paragraph (ii) of this subsection;

10

11           (ii) Any carbon capture customer who agrees to  
12 purchase a carbon dioxide stream and pledges in the  
13 agreement or to the commission to use the stream for  
14 purposes of enhanced oil or gas recovery shall pay a civil  
15 penalty to the state of two dollars (\$2.00) for every one  
16 (1) ton of carbon dioxide that is not purchased or that is  
17 purchased and subsequently vented. No penalty shall be  
18 imposed under this paragraph for a violation if the average  
19 daily spot price for West Texas Intermediate (WTI) is less  
20 than fifty dollars (\$50.00) per barrel for a period of not  
21 less than thirty (30) consecutive days.

22



1           (b) The penalties established in this section shall  
2 not apply to a purchase agreement for a coal-fired electric  
3 generation unit, carbon dioxide stream until three (3)  
4 years after carbon capture, utilization and sequestration  
5 technology begins operation at the coal-fired electric  
6 generation unit.

7

8           (c) The commission shall enforce the requirements of  
9 this section.

10

11           (d) Any penalties remitted to the state under this  
12 section shall be transferred to the county treasury of the  
13 applicable county to the credit of the public school fund  
14 of the county.

15

16           (e) Any penalty under this section shall be in  
17 addition to any penalties or payments required under  
18 contract or a purchase agreement.

19

20           (f) The commission may, for good cause shown, waive  
21 any penalty imposed under this section. For purposes of  
22 this section, "good cause" includes but is not limited to:

23

1           (i) Venting of carbon dioxide for safety  
2 purposes, provided that the venting is reported to the  
3 commission within ten (10) days;

4  
5           (ii) Releases of carbon dioxide that are caused  
6 by a natural disaster, provided that the releases are  
7 reported to the commission within ten (10) days;

8  
9           (iii) A failure to timely complete necessary  
10 construction of carbon capture, utilization and  
11 sequestration technology, provided that the failure is not  
12 negligent, reckless, knowing or intentional.

13  
14           **37-18-208. Power sale agreements; reliability**  
15 **requirements.**

16  
17           (a) If a public utility subject to this article sells  
18 a coal-fired electric generation facility to a carbon  
19 capture customer who agrees to install and operate carbon  
20 capture, utilization and sequestration technology at the  
21 facility, the commission shall, after notice and an  
22 opportunity for a hearing, require a power purchase  
23 agreement between the public utility and the purchaser if

1 the commission finds that the agreement is necessary to  
2 achieve or maintain a reliable power network or to provide  
3 for the continuing commercial operation of the facility or  
4 the carbon capture, utilization and sequestration  
5 technology at the facility. Any power purchase agreement  
6 required by this section shall be in accordance with W.S.  
7 37-2-133, the purposes and goals provided in W.S. 37-18-202  
8 and shall ensure that the public utility's customers are  
9 not materially injured by the purchase agreement or  
10 agreement for the installation and operation of carbon  
11 capture, utilization and sequestration technology at the  
12 facility. The commission's actions under this section shall  
13 be subject to the following:

14

15 (i) The commission shall not, after December 31  
16 of the year in which the facility is slated for retirement  
17 as provided in an integrated resource plan submitted to the  
18 commission before July 1, 2022, require any sale of  
19 electricity that infringes on the operation of the carbon  
20 capture process without the express consent of the public  
21 utility and the carbon capture operator;

22

1           (ii) Electricity generated at a facility may be  
2 used or sold for use or resale:

3

4           (A) Within the site of the facility;

5

6           (B) By the operator of the carbon capture  
7 technology for use relevant to the capture and  
8 sequestration of carbon;

9

10           (C) To the public utility for its use or  
11 resale. Any sale under this subparagraph shall be in  
12 addition to any requirements imposed by the commission  
13 under this subsection;

14

15           (D) To any public utility for use or sale  
16 within its certificated territory in Wyoming. Electricity  
17 sold under this subparagraph may be resold by contract not  
18 subject to commission price regulation to any retail  
19 customer that is eligible to purchase electricity under  
20 W.S. 37-2-133(f). If the public utility owns or partially  
21 owns the facility selling electricity under this  
22 subparagraph, the commission may regulate the sale of  
23 electricity under this subparagraph to ensure that other

1 customers of the public utility within the certificated  
2 territory are not harmed by the sale;

3

4 (E) To any municipal or joint powers  
5 utility or to any electric cooperative as defined by W.S.  
6 37-16-101(a)(iv), provided that any electricity purchased  
7 under this subparagraph may be resold by contract to any  
8 retail customer that is eligible to purchase electricity  
9 under W.S. 37-2-133(f);

10

11 (F) To any customer for the carbon dioxide  
12 captured from the facility or unit or to any other  
13 commercial or industrial electric customer, provided that  
14 the service is taken not more than forty (40) miles from  
15 the facility or unit generating the electricity for sale  
16 under this subparagraph and provided that the customer is  
17 not in the certificated territory of any public utility  
18 exempt under W.S. 37-1-101(a)(vi)(H);

19

20 (G) To any owner of not less than ten  
21 percent (10%) of the facility, the carbon capture facility  
22 or the unit on which the carbon capture technology is  
23 installed, provided that electricity service provided under

1 this subparagraph is taken not more than forty (40) miles  
2 from the facility selling the electricity;

3

4 (H) To any retail customer that is eligible  
5 to purchase electricity under W.S. 37-2-133(f) that is  
6 located in the certificated territory of the previous owner  
7 of the facility.

8

9 (iii) In implementing this subsection, the  
10 commission shall defer to or, if required to, implement any  
11 relevant federal law or regulations governing the  
12 transmission of electricity;

13

14 (iv) For sales of electricity under paragraph  
15 (ii) of this subsection to a customer that is not a public  
16 utility or an owner using the owner's transmission  
17 facilities, the commission may regulate the sale only to  
18 the extent necessary to ensure that the incumbent public  
19 utility in its certificated service territory recovers  
20 delivery costs and standby costs of any standby needs of  
21 the customer. The utility selling electricity under this  
22 section and the purchaser of electricity may waive the  
23 requirements of this section except paragraph (iii) of this

1 subsection in a contract for the sale or use of electricity  
2 under this section. The commission shall not waive any of  
3 the requirements of this subsection before receiving a  
4 contract from the parties that seek to waive those  
5 requirements.

6

7 **Section 2.** W.S. 37-1-101(a)(vi)(N), 37-2-134(b) and  
8 (e) and 37-3-117(a)(i) are amended to read:

9

10 **37-1-101. Definitions.**

11

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

14

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

18

19 (N) The provisions of W.S. 37-18-101 and  
20 37-18-102 and 37-18-201 through 37-18-209 shall not apply  
21 to any public utility owned or operated by a municipality  
22 or any cooperative electrical generation and transmission

1 association operating in interstate commerce whose rates  
2 are not regulated by the Wyoming public service commission.

3

4 **37-2-134. Electric generation facility closures;**  
5 **presumption; commission review.**

6

7 (b) Before authorizing or approving the retirement of  
8 an electric generation facility as proposed in a rate case,  
9 integrated resource plan or other submission to the  
10 commission, the commission shall consider the effect on  
11 available reliable, dispatchable electricity to Wyoming  
12 customers, the feasibility of the installation of carbon  
13 capture, utilization and sequestration technology at the  
14 facility in accordance with W.S. 37-18-201 through  
15 37-18-208 and the impact that any shortage of available  
16 energy nationwide may have on Wyoming customers.

17

18 (e) Nothing in this section shall be construed to  
19 relieve a public utility of the requirements to comply with  
20 W.S. 37-2-133, ~~and~~ 37-3-117 and 37-18-201 through 37-18-208  
21 before the retirement of an electric generation facility.

22



1           37-3-117. Limitation for recovery of costs associated  
2 with electric generation built to replace retiring  
3 coal-fired generation facility; exemption.

4

5           (a) Notwithstanding any other provision of this  
6 chapter:

7

8           (i) Any electric public utility seeking to  
9 retire a coal fired electric generation facility shall  
10 first make a good faith effort to sell the facility for  
11 continued use as a coal fired electric generation facility,  
12 including continued use as a coal-fired electric generation  
13 facility that uses carbon capture, utilization and  
14 sequestration technology;

15

16           **Section 3.**

17

18           (a) The public service commission, in consultation  
19 with the department of environmental quality, shall  
20 complete a study for each coal-fired electric generation  
21 facility that is or potentially may be subject to this act  
22 to determine the reclamation and decommissioning  
23 obligations for closing or retiring the coal-fired electric

1 generation facility or each unit thereof. The study shall  
2 identify the needs for reclamation and how those needs can  
3 best be met without materially impeding the sale of the  
4 facility or unit.

5

6 (b) The public service commission shall assess the  
7 costs of the study to each public utility subject to the  
8 study under this section on a pro rata basis.

9

10 (c) The public service commission and the department  
11 of environmental quality shall report to the joint  
12 minerals, business and economic development interim  
13 committee and to the joint corporations, elections and  
14 political subdivisions interim committee:

15

16 (i) Not later than October 1, 2023 with a report  
17 and status update on the study required under this section.  
18 The report and status update shall include recommendations  
19 for an appropriation and a timeline for completion of the  
20 final report for the study.

21

22 **Section 4.**

23

1           (a) The office of consumer advocate shall study  
2 whether a rate reduction should be granted to Wyoming  
3 electricity customers to compensate for any failure by a  
4 public utility to capture available revenue from the sale  
5 of carbon dioxide created by the electricity generation  
6 from coal-fired electric generation facilities. For  
7 purposes of this study, the release of carbon dioxide whose  
8 capture would be economically feasible shall be considered  
9 the waste of a valuable natural resource. The study shall  
10 not assume a rate reduction commencing before July 1, 2026.

11

12           (b) The office of consumer advocate shall report to  
13 the joint corporations, elections and political  
14 subdivisions interim committee and to the joint minerals,  
15 business and economic development interim committee:

16

17                 (i) Not later than October 1, 2023 with a  
18 preliminary report and status update on the study required  
19 under this section;

20

21                 (ii) Not later than July 1, 2024 with a final  
22 report on the results of the study required under this  
23 section.

1

2 (c) The reports required under subsection (b) of this  
3 section shall be made available to the public upon receipt.

4

5 **Section 5.** Nothing in this act shall be construed to  
6 impair any contract entered into before the effective date  
7 of this act.

8

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

11

12 **Section 7.** This act is effective immediately upon  
13 completion of all acts necessary for a bill to become law  
14 as provided by Article 4, Section 8 of the Wyoming  
15 Constitution.

16

17

(END)