

## HOUSE BILL NO. HB0155

Electric generation-reliability and liability.

Sponsored by: Representative(s) Gray, Bear, Jennings and  
Zwonitzer and Senator(s) Biteman and Perkins

A BILL

for

1 AN ACT relating to public utilities; requiring  
2 consideration of reliability factors before approving the  
3 closure of an electric generation facility; imposing  
4 liability on public utilities for failing to provide  
5 reliable service as a result of a transition to other  
6 sources of energy; limiting recovery of costs for liability  
7 as specified; amending definitions; specifying  
8 applicability; making conforming amendments; requiring  
9 rulemaking; and providing for effective dates.

10

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

12

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

15

1           **37-2-134. Matters to be considered in electric**  
2 **generation facility closures.**

3  
4           (a) As used in this section:

5  
6           (i) "Dispatchable" means a source of electricity  
7 that is available for use on demand and that can be  
8 dispatched upon request of a power grid operator or that  
9 can have its power output adjusted, according to market  
10 needs;

11  
12           (ii) "Electric generation facility" means a  
13 facility located in Wyoming that uses coal or natural gas  
14 to generate electricity for provision to customers;

15  
16           (iii) "Reliable" or "reliability" means  
17 generated electricity that is not subject to intermittent  
18 availability.

19  
20           (b) Before authorizing or approving the closure of an  
21 electric generation facility as proposed in a rate case,  
22 integrated resource plan or other submission to the  
23 commission, the commission shall consider the effect on

1 available reliable, dispatchable electricity to Wyoming  
2 customers and on a nationwide basis.

3

4 **37-3-118. Liability for damages due to unreliable**  
5 **service; exceptions; limitation for recovery of costs.**

6

7 (a) As used in this section:

8

9 (i) "Baseload electricity" means electricity  
10 produced by a public utility at a generating facility that  
11 is designed and intended to operate continuously to provide  
12 reliable and dispatchable electricity;

13

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

19

20 (iii) "Power outage" means a failure in or an  
21 interruption of the supply of electricity causing a  
22 temporary cessation in the supply of power;

23

1           (iv) "Reliable" means generated electricity that  
2 is not subject to intermittent availability.

3

4           (b) A public utility that provides electricity shall  
5 be liable to all affected persons for all loss, damage and  
6 injury occurring during a power outage that results from:

7

8           (i) An insufficient amount or availability of  
9 baseload electricity that is reliable and dispatchable; and

10

11           (ii) The public utility's transition to  
12 non-dispatchable sources of electricity or to sources of  
13 electricity that provide only limited dispatchability.

14

15           (c) An action to recover any loss, damage or injury  
16 under subsection (b) of this section may be brought in any  
17 district court in this state by any person.

18

19           (d) Notwithstanding subsection (b) of this section,  
20 no electric public utility shall be liable for a power  
21 outage that results from an event as specified in W.S.  
22 1-1-140.

23

1           (e) The commission shall not approve any tariff or  
2 rate case that includes any limitation of an electric  
3 public utility's liability for any loss, injury or damage  
4 resulting from a power outage that results from an  
5 insufficient amount or availability of baseload electricity  
6 that is not reliable and dispatchable.

7

8           (f) Notwithstanding any other provision of this  
9 chapter, the rates charged by an electric public utility  
10 shall not include any:

11

12           (i) Recovery of any damages paid out or  
13 litigation costs incurred because of damages occurring as a  
14 result of an electric public utility's liability specified  
15 in subsection (b) of this section;

16

17           (ii) Recovery of or earnings on any funds set  
18 aside to pay future damages or litigation costs or funds  
19 that are used to purchase insurance for covering damages  
20 occurring as a result of an electric public utility's  
21 liability specified in subsection (b) of this section.

22

1           (g) The provisions of this section shall not apply to  
2 any public utility that is owned or operated by a  
3 municipality that provides electricity to consumers.

4

5           **Section 2.** W.S. 37-1-101(a)(vi) by creating a new  
6 subparagraph (O) and 37-2-122(a) are amended to read:

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8           **37-1-101. Definitions.**

9

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

12

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

16

17                           (O) The provisions of W.S. 37-3-118 shall  
18 not apply to any public utility that is owned or operated  
19 by a municipality that provides electricity to consumers.

20

21           **37-2-122. Matters considered in fixing rates; order**  
22 **changing services or facilities; qualifying facilities**  
23 **contracts.**

1

2 (a) In determining what are just and reasonable rates  
3 the commission may take into consideration availability or  
4 reliability of service, depreciation of plant,  
5 technological obsolescence of equipment, expense of  
6 operation, physical and other values of the plant, system,  
7 business and properties of the public utility whose rates  
8 are under consideration. In determining just and reasonable  
9 rates for electricity the commission shall consider common  
10 sets of facts developed pursuant to W.S. 37-2-114(b)(i) and  
11 regional benefits provided by the utility and shall comply  
12 with the provisions of W.S. 37-2-134 and 37-3-118.

13

14 **Section 3.** Nothing in this act shall be construed to  
15 impair or amend any tariff of an electric public utility  
16 that exists or is in effect on or before the effective date  
17 of this section.

18

19 **Section 4.** The public service commission shall  
20 promulgate all rules necessary to implement the provisions  
21 of this act.

22

1           **Section 5.**

2

3           (a) Except as provided by subsection (b) of this  
4 section, this act is effective July 1, 2021.

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6           (b) Sections 4 and 5 of this act are effective  
7 immediately upon completion of all acts necessary for a  
8 bill to become law as provided by Article 4, Section 8 of  
9 the Wyoming Constitution.

10

11

(END)