

## HOUSE BILL NO. HB0166

Utilities-presumption against early facility retirements.

Sponsored by: Representative(s) Harshman, Barlow, Burkhart,  
Nicholas and Simpson and Senator(s) Anderson  
and Wasserburger

A BILL

for

1 AN ACT relating to public utilities; creating a presumption  
2 against the early retirement of electric generation  
3 facilities as specified; providing definitions related to  
4 the presumption; specifying how a public utility can rebut  
5 the presumption; limiting rate recovery for public  
6 utilities closing electric generation facilities without  
7 rebutting the presumption as specified; requiring  
8 rulemaking; and providing for effective dates.

9

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

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

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1           **37-2-134. Electric generation facility closures;**  
2 **presumption; commission review.**

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4           (a) As used in this section:

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6                   (i) "Baseload electricity" means electricity  
7 produced by a public utility at an electric generation  
8 facility that is designed and intended to operate  
9 continuously to provide reliable and dispatchable  
10 electricity;

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

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18                   (iii) "Early retirement" means the closure of or  
19 the complete and permanent cessation of operations at an  
20 electric generation facility before the end of the  
21 facility's depreciable life. "Early retirement" shall not  
22 include any closure mandated by federal law or any closure  
23 resulting from federal environmental requirements to where

1 it is no longer cost effective for the facility to continue  
2 operating;

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4 (iv) "Electric generation facility" means a  
5 facility located in Wyoming that uses coal to generate  
6 electricity for provision to customers;

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8 (v) "Reliable" or "reliability" means generated  
9 electricity that is not subject to intermittent  
10 availability;

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12 (vi) "Resiliency" means the ability of a utility  
13 to withstand and recover from any low-frequency,  
14 high-impact event that results in the disruption of the  
15 availability of electric service to customers.

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17 (b) There shall be a presumption against the early  
18 retirement of an electric generation facility unless the  
19 public utility rebuts the presumption as provided by this  
20 subsection. The commission shall not approve any matter  
21 concerning the early retirement of an electric generation  
22 facility unless the public utility rebuts the presumption

1 in this subsection by providing evidence deemed  
2 satisfactory by the commission that:

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4 (i) Significant cost savings will result to  
5 customers as a result of the early retirement of the  
6 electric generation facility;

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8 (ii) The early retirement will not result in an  
9 insufficient amount of baseload electricity that is  
10 reliable and dispatchable;

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12 (iii) The early retirement will not adversely  
13 impact the dispatchability, reliability or resiliency of  
14 electric service to customers of the public utility. The  
15 commission shall promulgate rules to specify what qualifies  
16 as an adverse impact to dispatchability, reliability and  
17 resiliency of electric service.

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19 (c) The rate recovery limitations of W.S. 37-3-118  
20 shall apply to a public utility that completes an early  
21 retirement of an electric generation facility without  
22 rebutting the presumption specified in this section.

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

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6           **37-3-118. Limitation for recovery of costs for**  
7 **replacing electric generation facilities.**

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9           (a) As used in this section, "early retirement" or  
10 "early retired" means the closure of or the complete and  
11 permanent cessation of operations at a coal-fired electric  
12 generation facility before the end of the facility's useful  
13 life. "Early retirement" shall not include any closure  
14 mandated by federal law or any closure resulting from  
15 federal environmental requirements to where it is no longer  
16 cost effective for the facility to continue operating.

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18           (b) Notwithstanding any other provision of this  
19 chapter but in addition to W.S. 37-3-117, the rates charged  
20 by an electric public utility shall not include any  
21 recovery of or earnings on the capital costs associated  
22 with new electric generation facilities built, in whole or  
23 in part, to replace the electricity generated from an early

1 retired coal-fired electric generation facility that was  
2 retired on or after July 1, 2021 and for which the  
3 presumption against early retirement was not rebutted by  
4 the public utility as required by W.S. 37-2-134.

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

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10       **Section 3.**

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

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

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(END)