
HOUSE BILL 2225

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By Representatives Smith, Schmick, Johnson, Young, Magendanz, Hayes, Haler, Fagan, Short, Griffey, and Pike

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1 AN ACT Relating to a comprehensive study of the costs and
2 benefits of accelerated retirement of certain coal-fired generation
3 units; and adding new sections to chapter 80.82 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout sections 1 through 4 of this act unless the context
7 clearly requires otherwise.

8 (1) "Binding notice" means a notice, filed with the commission by
9 an electrical company, to irrevocably commit to the retirement of an
10 eligible coal plant.

11 (2) "Commission" means the Washington utilities and
12 transportation commission.

13 (3) "Electrical company" means a company owned by investors that
14 meets the definition of electrical company set forth in RCW
15 80.04.010.

16 (4) "Eligible coal plant" means a coal-fired electric generation
17 facility that: (a) Is owned, controlled, or operated, in whole or in
18 part, by an electrical company serving a retail electric load within
19 the state of Washington; and (b) provides, as of the effective date
20 of this section, as a portion of the load served by the coal-fired

1 electric generation facility, electricity to retail electric
2 customers in the state of Washington.

3 (5) "Eligible generating unit" means one or more of an eligible
4 coal plant's generating units, where such generating unit or units
5 were constructed before 1980 and have nameplate capacity that is less
6 than five-hundred megawatts.

7 (6) "FERC" means the federal energy regulatory commission.

8 (7) "Financing order" means an order, issued by the commission
9 pursuant to statutory authority, that allows for the issuance of
10 securitized bonds, placement of net plant investment into a
11 regulatory asset account, or accelerated depreciation and
12 amortization.

13 (8) "Retirement" or "retire" means the complete and permanent
14 closure of an eligible generating unit as a coal-fired electric
15 generation facility. Closure is deemed to have occurred upon the date
16 that the eligible generating unit permanently ceases operations as a
17 coal-fired electric generation facility.

18 (9) "Securitized bonds" means bonds, debentures, notes,
19 certificates of participation, certificates of beneficial interest,
20 certificates of ownership, or other evidences of indebtedness that
21 are issued by an electrical company or a financing subsidiary to
22 recover, finance, or refinance costs that are related to an eligible
23 coal plant and that are secured by or payable in any part by
24 imposing, collecting, or receiving charges paid by customers of an
25 electrical company.

26 NEW SECTION. **Sec. 2.** (1) The commission may not issue a
27 financing order or otherwise authorize an electrical company or its
28 financing subsidiary to issue securitized bonds or to recover from
29 ratepayers capital expenditures, operating costs, or other costs
30 related to the acquisition of an increased interest in or accelerated
31 retirement of an eligible coal plant until the commission has
32 completed and submitted to the legislature a comprehensive assessment
33 of the costs and benefits of retirement of all eligible generating
34 units of the eligible coal plant, as provided in this section and
35 section 3 of this act.

36 (2) The commission shall analyze traditional regulatory and tax
37 treatment of decommissioning and retirement of coal-fired power
38 plants and how cost-effective retirement of a coal-fired power plant
39 may be affected, depending on the impact of different regulations and

1 accounting treatments at the county, state, and federal levels. As
2 part of this analysis, the commission shall:

3 (a) Clarify the information from the most recent depreciation
4 schedule submitted by the utility and approved by the commission in
5 the utility's most recent general rate case;

6 (b) Resolve any differences in accounting, as compared to
7 generally accepted accounting principles, required or authorized by
8 the commission, including but not limited to differences in
9 calculation of net book value, net salvage, and any reserve account
10 or sinking fund pertaining to the eligible generating unit, based on
11 the information in the FERC Form 1 accounts and the audited financial
12 statement;

13 (c) Assess any other unresolved issue related to depreciation or
14 accounting issues relating to these units; and

15 (d) Assess the depreciation and accounting issues relating to the
16 joint ownership of transmission lines by the owners of the eligible
17 generating unit and the accelerated retirement of these assets,
18 including an assessment of any agreements involving the Bonneville
19 power authority.

20 (3) The commission, in consultation with state environmental
21 regulators in Washington and Montana, shall assess the impact of
22 current and anticipated federal environmental laws, rules, and
23 regulations on the economics of continuing to operate the generating
24 unit. The environmental impact assessment required under this
25 subsection is not intended to be conducted as a formal process under
26 the state environmental policy act, chapter 43.21C RCW, the national
27 environmental policy act, or other applicable law, including
28 environmental laws adopted by Montana, but rather as an independent
29 process by which the commission may obtain expert evaluation and
30 judgment of the total environmental risks and costs associated with
31 continued operations of these units. This assessment must include:

32 (a) A description of the liabilities, risks, and costs to
33 ratepayers and the environment associated with environmental impacts
34 of continued operation of the eligible coal plant, including but not
35 limited to the following:

36 (i) Carbon emissions;

37 (ii) Air emissions of pollutants considered harmful to human
38 health, as measured and regulated under current or anticipated
39 federal or state law;

1 (iii) Visibility impairment, as measured and regulated under
2 current or anticipated federal or state law; and

3 (iv) Contaminated groundwater and other pollution associated with
4 hazardous and other waste and structural deficiencies at impoundment
5 ponds;

6 (b) The costs and benefits of estimated capital expenditures and
7 operation and maintenance expenditures required, over the near,
8 medium, and long-term, in order to continue to operate the facility
9 in compliance with current and reasonably anticipated state and
10 federal laws, rules, and regulations, including but not limited to
11 carbon pollution standards, ambient air quality standards,
12 groundwater standards, coal combustion residuals regulation, effluent
13 liquid guidelines, preconstruction permitting requirements, and
14 short-term and long-term rehabilitation and remediation to address
15 closure of existing wet impoundments and conversion to dry handling
16 facilities and releases or threatened releases of coal ash or other
17 noxious or hazardous substances located at or around the eligible
18 coal plant;

19 (c) A determination of whether and the extent to which additional
20 expenditures, costs, investments, or alternative regulatory
21 treatment, if authorized by the legislature or commission, is
22 reasonably likely to minimize the environmental impacts of continued
23 operation of an eligible coal plant, and the extent to which any of
24 the liabilities, risks, and costs to ratepayers and the environment
25 can be mitigated or avoided by accelerated retirement or decreased
26 operation of an eligible coal plant; and

27 (d) Identification, based on current and reasonably anticipated
28 state and federal law, rule, or regulation, of the circumstance or
29 circumstances in which continued expenditure, investment, or
30 operation of an eligible coal plant would no longer be reasonable.
31 This must be determined by balancing the commission's assessment of
32 the environmental impacts of continued operation of the eligible coal
33 plant against any benefits to ratepayers of continued operation and
34 investment in the eligible coal plant.

35 (4) The commission must analyze the current economics of
36 including eligible generating units in the electrical company's
37 dispatch stack, accounting for both capital costs and operational
38 issues and building on the analysis conducted by the electrical
39 company in its most recent integrated resource plan by including
40 additional analysis to fully account for current and anticipated

1 environmental regulations identified in subsection (3) of this
2 section, including imputed carbon costs.

3 (5) The commission shall identify whether the eligible generating
4 unit has been used entirely for baseload purposes or also for ramping
5 or otherwise firming variable generation in the interconnection, and
6 whether the eligible generating unit can cost-effectively respond to
7 variable demand.

8 (6) The commission shall analyze the legal implications of any
9 legislation that attempts to prohibit or discriminate against any
10 specific electricity resource from another state carried on
11 interstate transmission facilities based on a review of relevant case
12 law, including federal court precedents and FERC cost allocation
13 orders.

14 (7) The commission shall analyze the costs and benefits of
15 issuance of securitized bonds to help finance the costs of
16 decommissioning and accelerated retirement of an eligible generating
17 unit, and the impact on ratepayers over the term of such debt
18 securities. This analysis must include an assessment of the process
19 and outcomes for previous securitized bonding efforts, including but
20 not limited to conservation bond securitization that the commission
21 has previously approved for Washington electrical companies and
22 securitization efforts that have been carried out in other state
23 jurisdictions related to the decommissioning or retirement of major
24 baseload generating facilities. The analysis must identify other
25 potential regulatory tools and processes that can help procure any
26 projected benefits of the securitization, such as lower debt
27 financing costs.

28 (8) The commission shall analyze the current capacity and
29 ownership structure of the current transmission lines from eligible
30 generating units to the load centers in Washington and Oregon,
31 including but not limited to the following:

32 (a) An analysis of the current available transfer capacity of
33 these lines, and how they are being utilized today;

34 (b) Coordination with the Bonneville power authority to study the
35 impact, if any, on the authority's lines in the area, and any
36 interconnection agreements between the generating unit's owners and
37 the Bonneville power authority;

38 (c) Assessment of any reliability impacts on the bulk electric
39 system that an accelerated retirement of the units would have on both
40 the balancing authorities and the western interconnection, including

1 any analysis that western electricity coordinating council may
2 provide; and

3 (d) Reference to any ongoing or recent work on the transmission-
4 related issues by entities such as the Northern tier transmission
5 group, Columbia grid, and the Bonneville power authority.

6 (9) The commission shall examine its existing regulatory
7 mechanisms and tools, and offer any recommendations regarding its
8 preference for how such mechanisms and tools should be applied to
9 address accelerated retirement and decommissioning of eligible
10 generating units, as an alternative to the securitized bond mechanism
11 proposed in House Bill No. 2002 of the 2015 legislative session, as
12 introduced. This must include addressing how the traditional concepts
13 of least-cost planning and prudence determinations should be applied
14 or altered in order to help ratepayers achieve the best possible
15 environmental and economic outcome. This examination must include an
16 analysis of other concepts, such as those embodied in chapter 80.80
17 RCW, including but not limited to:

18 (a) Automatic deferred accounting treatment for an in-state
19 resource that meets the emissions performance standard;

20 (b) Establishment of a preapproval process that does not apply
21 the normal prudence standard;

22 (c) Application of a "least environmental risk" standard in place
23 of the "least-cost" standard; and

24 (d) Deviating from current practice of allowing recovery of costs
25 only after they have been incurred by incorporating a forward-looking
26 judgment on future environmental regulations.

27 NEW SECTION. **Sec. 3.** In conducting the study required under
28 section 2 of this act, the commission shall coordinate with other
29 agencies, entities, and proceedings, as follows:

30 (1) The commission shall consult with the department of ecology
31 and other state agencies, as necessary, and shall establish a
32 collaborative process that facilitates participation of interested
33 legislators, legislative staff, public counsel, interested
34 ratepayers, and representatives from the governor's office.

35 (2) The commission shall coordinate its study with relevant
36 government authorities from any state or states in which an eligible
37 generating unit is located, including but not limited to the state
38 department of environmental quality and the state public service
39 commission, and other neighboring states as necessary to jointly

1 study the issues identified in section 2 of this act and to
2 specifically focus on local economic impacts on the state and
3 community as a result of accelerated retirement of the generating
4 unit.

5 (3) The commission shall ensure that the study incorporates and
6 benefits from other relevant studies and analyses that are already
7 proceeding, such as the existing integrated resource planning
8 processes for each of the state's investor-owned utilities, various
9 studies on the regional impact and implementation of section 111(d)
10 of the clean air act, 42 U.S.C. Sec. 7411, as of the effective date
11 of this section, the Northwest power and conservation council's
12 seventh regional power and conservation plan, and studies related to
13 regional transmission planning.

14 (4) The commission, through a request for proposal process, may
15 hire an independent third-party consultant with expertise in thermal
16 plant retirement and decommissioning to analyze and verify the
17 analyses, assumptions, and range of cost estimates.

18 (5) The commission shall report the results of the study, with
19 recommendations, to the legislature by January 15, 2016.

20 (6) Golden Rule Requirement. The commission's coordination and
21 consultation with agencies and policymakers of affected states must
22 fully reflect a commitment to honor and value the input from the
23 other affected states in the same way that we would want Washington
24 state to be treated if another state were deliberating the imminent
25 adoption of a policy that would have a similar economic, social, and
26 environmental impact in our state. The commission must accord full,
27 fair, and equal treatment to representations of fact and analysis
28 provided from government agencies in affected states. The
29 commission's report on this study must reflect the input that was
30 received and describe how that input was evaluated and addressed.

31 NEW SECTION. **Sec. 4.** The commission shall consult with each of
32 the state's electrical companies, both as part of the ongoing
33 integrated resource planning process under chapter 19.280 RCW and any
34 ongoing requests for proposal, and as part of the collaborative study
35 and process established in sections 2 and 3 of this act, to assess
36 the relative costs, benefits, and risks of replacement power
37 alternatives, such as renewable energy, natural gas combined cycle
38 units, or others.

1 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act are each
2 added to chapter 80.82 RCW and codified under the subchapter heading
3 "Washington State Coal Generation Retirement Study."

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