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**HOUSE BILL 2225**

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**State of Washington 64th Legislature 2015 Regular Session**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The commission shall analyze traditional regulatory and tax treatment of decommissioning and retirement of coal-fired power plants and how cost-effective retirement of a coal-fired power plant may be affected, depending on the impact of different regulations and accounting treatments at the county, state, and federal levels. As part of this analysis, the commission shall:

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

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

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

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

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

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

(i) Carbon emissions;

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

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

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

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

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

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

(4) The commission must analyze the current economics of including eligible generating units in the electrical company's dispatch stack, accounting for both capital costs and operational issues and building on the analysis conducted by the electrical company in its most recent integrated resource plan by including additional analysis to fully account for current and anticipated environmental regulations identified in subsection (3) of this section, including imputed carbon costs.

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

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

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

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

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

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

(c) Assessment of any reliability impacts on the bulk electric system that an accelerated retirement of the units would have on both the balancing authorities and the western interconnection, including any analysis that western electricity coordinating council may provide; and

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

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

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

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

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

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

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

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

(2) The commission shall coordinate its study with relevant government authorities from any state or states in which an eligible generating unit is located, including but not limited to the state department of environmental quality and the state public service commission, and other neighboring states as necessary to jointly study the issues identified in section 2 of this act and to specifically focus on local economic impacts on the state and community as a result of accelerated retirement of the generating unit.

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

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

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

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

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

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

**--- END ---**