
HOUSE BILL 2525

State of Washington 64th Legislature 2016 Regular Session

By Representatives Morris, Magendanz, and Fitzgibbon

Read first time 01/14/16. Referred to Committee on Technology & Economic Development.

1 AN ACT Relating to risk mitigation plans to promote the
2 transition of eligible coal units; amending RCW 80.80.060; adding a
3 new chapter to Title 80 RCW; and creating a new section.

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 this chapter unless the context clearly requires
7 otherwise.

8 (1) "Acquisition costs" means the amount paid by an electrical
9 company to acquire an increased interest in an eligible coal unit.

10 (2) "Capacity" means the manufacturer's rated capacity of a
11 facility to generate electricity as expressed in megawatts, including
12 fractions of a megawatt.

13 (3) "Decommissioning" means the reduction, termination,
14 severance, stranding, or closure of assets, equipment, facilities,
15 property, rights-of-way, easements, operations, labor, personnel,
16 contracts, agreements, franchises, or any other interest of an
17 electrical company in one or more eligible coal units.

18 (4) "Decommissioning and remediation costs" means any cost or
19 expense incurred, or to be incurred, by an electrical company in
20 connection with the decommissioning and remediation of one or more
21 eligible coal units, including costs or expenses in connection with:

1 (a) The acquisition, extension, modification, monitoring, alteration,
2 or surrender of any permits, licenses, approvals, consents, orders,
3 or authorizations required with respect to any such actions or
4 interests; (b) any damages, fees, charges, or other expenses incurred
5 in any legal, judicial, administrative, or regulatory proceedings, or
6 any settlements thereof, arising in connection with any such actions
7 or interests, not including any damages, penalties, fees, charges,
8 settlement payments, or other expenses resulting from malfeasance or
9 other unlawful conduct; and (c) capital costs, construction work in
10 progress, and the unamortized cost of the property that is
11 decommissioned, including any demolition or similar cost that exceeds
12 the salvage value of the property. Decommissioning and remediation
13 costs may be incurred by an electrical company prior to, and may be
14 incurred by an electrical company from and after, the date of
15 decommissioning of one or more eligible coal units.

16 (5) "Decommissioning and remediation plan" means a plan of an
17 electrical company for the decommissioning and remediation of one or
18 more eligible coal units.

19 (6) "Eligible coal plant" means a coal-fired electric generation
20 facility that: (a) Had two or fewer generating units as of January 1,
21 1980, and three or more generating units as of January 1, 2016; (b)
22 is owned by more than one electrical company as of January 1, 2016;
23 and (c) provides, as a portion of the load served by the coal-fired
24 electric generation facility, electricity paid for in rates by
25 ratepayers in the state of Washington.

26 (7) "Eligible coal unit" means any generating unit of an eligible
27 coal plant.

28 (8) "Eligible coal unit risk mitigation plan" means a plan of an
29 electrical company for: (a) The decommissioning of more than three
30 hundred megawatts of capacity of interest in one or more eligible
31 coal units; and (b) the acquisition of less than two hundred fifty
32 megawatts of capacity of additional interest in an eligible coal
33 unit, which acquisition must occur simultaneous with or subsequent to
34 the decommissioning pursuant to (a) of this subsection.

35 (9) "Remediation" means the identification, assessment, handling,
36 storage, minimization, containment, cleanup, removal, transportation,
37 or disposal of any substance, material, circumstance, or condition
38 that presents a threat or potential threat to human health or the
39 environment.

1 NEW SECTION. **Sec. 2.** (1) On or before December 31, 2017, an
2 electrical company may file a petition with the commission for
3 approval of an eligible coal unit risk mitigation plan. In support of
4 such a petition, the electrical company must file supporting
5 testimony and exhibits that include, at a minimum, the following: (a)
6 A proposed decommissioning and remediation plan for the
7 decommissioning of not less than three hundred megawatts of capacity
8 of one or more eligible coal units; and (b) the proposed agreement
9 for the acquisition of an increased interest of not more than two
10 hundred fifty megawatts of capacity of an eligible coal unit, which
11 acquisition must occur simultaneous with or subsequent to the
12 decommissioning pursuant to (a) of this subsection.

13 (2) Any decommissioning and remediation plan must include the
14 following:

15 (a) A planned date of decommissioning of one or more eligible
16 coal units by the electrical company;

17 (b) An estimate of the decommissioning and remediation costs
18 associated with the decommissioning and remediation of one or more
19 eligible coal units, expressed in dollars current in the year the
20 plan is prepared, and based, in part, on an engineering report issued
21 by a reputable third party no less than one year before the date the
22 plan is submitted to the commission;

23 (c) The accounting treatment for tracking and specifying
24 decommissioning and remediation costs for one or more eligible coal
25 units, which may include the use of a reserve account, the funds of
26 which (i) must include an irrevocable pledge of amounts of any
27 regulatory liability to such an account, (ii) must be used only to
28 fund and recover decommissioning and remediation costs for one or
29 more eligible coal units, (iii) must not be used for any purpose
30 other than the funding and recovery of decommissioning and
31 remediation costs for one or more eligible coal units, and (iv) must
32 not be reduced, altered, impaired, or limited from the date of
33 commission approval of the inclusion of such funds in the reserve
34 account until all decommissioning and remediation costs for all
35 eligible coal units are recovered or paid in full;

36 (d) A statement of the accumulated reserve of the electrical
37 company for the decommissioning and remediation of one or more
38 eligible coal units as of the date of submission of the plan;

39 (e) A description of the stages by which decommissioning and
40 remediation are intended to be accomplished; and

1 (f) Any other relevant information that the commission requests
2 or requires to be disclosed.

3 (3) Upon receipt of a petition for approval of an eligible coal
4 unit risk mitigation plan, the commission shall provide notice to the
5 public and potentially affected parties and set the petition for
6 hearing as an adjudicative proceeding under chapters 34.05 and 80.04
7 RCW. Any party may request that the commission expedite the hearing
8 of the petition. An administrative law judge of the commission may
9 enter an initial order including findings of fact and conclusions of
10 law, as provided in RCW 80.01.060(3). The commission shall issue a
11 final order that approves, approves subject to conditions, or
12 disapproves the petition within one hundred eighty days after receipt
13 of the petition.

14 (4) The commission must approve an eligible coal unit risk
15 mitigation plan pursuant to this section if and only if the
16 commission determines that the terms of such a plan are reasonable
17 and provide adequate protection to ratepayers and the electrical
18 company, considering (a) the need of the electrical company for
19 baseload generation to serve ratepayers, (b) the reasonableness of
20 the acquisition costs, and (c) the overall costs and benefits of the
21 decommissioning and remediation plan. If the commission finds that an
22 eligible coal unit risk mitigation plan does not meet the criteria
23 under this subsection (4), then the commission shall reject the
24 petition or make its approval contingent upon satisfaction of certain
25 conditions. If the commission conditions approval of the petition, it
26 shall direct the electrical company to accept the modification within
27 a time specified by the commission or withdraw the petition with
28 leave to refile.

29 **Sec. 3.** RCW 80.80.060 and 2011 c 180 s 104 are each amended to
30 read as follows:

31 (1) No electrical company may enter into a long-term financial
32 commitment unless the baseload electric generation supplied under
33 such a long-term financial commitment complies with the greenhouse
34 gas emissions performance standard established under RCW 80.80.040.

35 (2) In order to enforce the requirements of this chapter, the
36 commission shall review in a general rate case or as provided in
37 subsection (5) of this section any long-term financial commitment
38 entered into by an electrical company after June 30, 2008, to
39 determine whether the baseload electric generation to be supplied

1 under that long-term financial commitment complies with the
2 greenhouse gas emissions performance standard established under RCW
3 80.80.040.

4 (3) In determining whether a long-term financial commitment is
5 for baseload electric generation, the commission shall consider the
6 design of the power plant and its intended use, based upon the
7 electricity purchase contract, if any, permits necessary for the
8 operation of the power plant, and any other matter the commission
9 determines is relevant under the circumstances.

10 (4) Upon application by an electric utility, the commission may
11 provide a case-by-case exemption from the greenhouse gas emissions
12 performance standard to address: (a) Unanticipated electric system
13 reliability needs; (b) extraordinary cost impacts on utility
14 ratepayers; or (c) catastrophic events or threat of significant
15 financial harm that may arise from unforeseen circumstances.

16 (5) Upon application by an electrical company, the commission
17 shall determine whether the company's proposed decision to acquire
18 electric generation or enter into a power purchase agreement for
19 electricity complies with the greenhouse gas emissions performance
20 standard established under RCW 80.80.040. The commission shall not
21 decide in a proceeding under this subsection (5) issues involving the
22 actual costs to construct and operate the selected resource, cost
23 recovery, or other issues reserved by the commission for decision in
24 a general rate case or other proceeding for recovery of the resource
25 or contract costs.

26 (6) An electrical company may account for and defer for later
27 consideration by the commission costs incurred in connection with a
28 long-term financial commitment, including operating and maintenance
29 costs, depreciation, taxes, and cost of invested capital. The
30 deferral begins with the date on which the power plant begins
31 commercial operation or the effective date of the power purchase
32 agreement and continues for a period not to exceed twenty-four
33 months; provided that if during such period the company files a
34 general rate case or other proceeding for the recovery of such costs,
35 deferral ends on the effective date of the final decision by the
36 commission in such proceeding. Creation of such a deferral account
37 does not by itself determine the actual costs of the long-term
38 financial commitment, whether recovery of any or all of these costs
39 is appropriate, or other issues to be decided by the commission in a
40 general rate case or other proceeding for recovery of these costs.

1 For the purpose of this subsection (6) only, the term "long-term
2 financial commitment" also includes an electric company's ownership
3 or power purchase agreement with a term of five or more years
4 associated with an eligible renewable resource as defined in RCW
5 19.285.030.

6 (7) The commission shall consult with the department to apply the
7 procedures adopted by the department to verify the emissions of
8 greenhouse gases from baseload electric generation under RCW
9 80.80.040. The department shall report to the commission whether
10 baseload electric generation will comply with the greenhouse gas
11 emissions performance standard for the duration of the period the
12 baseload electric generation is supplied to the electrical company.

13 (8) The commission shall adopt rules for the enforcement of this
14 section with respect to electrical companies and adopt procedural
15 rules for approving costs incurred by an electrical company under
16 subsection (4) of this section.

17 (9) This section does not apply to: (a) A long-term financial
18 commitment for the purchase of coal transition power with termination
19 dates consistent with the applicable dates in RCW 80.80.040(3)(c); or
20 (b) a long-term financial commitment for the acquisition of an
21 additional interest in an eligible coal unit pursuant to an eligible
22 coal unit risk mitigation plan. For the purposes of this subsection
23 (9), the terms "eligible coal unit" and "eligible coal unit risk
24 mitigation plan" have the same meaning as defined in section 1 of
25 this act.

26 (10) The commission shall adopt rules necessary to implement this
27 section by December 31, 2008.

28 NEW SECTION. Sec. 4. This act may be known and cited as the
29 Washington state eligible coal unit risk mitigation act.

30 NEW SECTION. Sec. 5. Sections 1 and 2 of this act constitute a
31 new chapter in Title 80 RCW.

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