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SENATE BILL 6248

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State of Washington

64th Legislature

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By Senators Ericksen and Ranker

Read first time 01/13/16. Referred to Committee on Energy,  
Environment & Telecommunications.

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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