

SENATE BILL NO. 331

INTRODUCED BY T. RICHMOND, D. ANKNEY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ELECTRIC UTILITY COST RECOVERY FOR CERTAIN COAL-FIRED GENERATING UNITS AND TRANSMISSION; ESTABLISHING THE MONTANA ENERGY SECURITY ACT OF 2019; REQUIRING THE PUBLIC SERVICE COMMISSION TO INCLUDE CERTAIN RETURNS AND COSTS IN UTILITY RATES; ALLOWING FOR UTILITY COST RECOVERY FOR CERTAIN ACQUISITIONS; ALLOWING FOR AN INCREASED INTEREST, BASED ON A TRANSFER, IN CERTAIN COAL-FIRED GENERATING UNITS; PROVIDING EXCEPTIONS; ESTABLISHING CONDITIONS FOR A TRANSFER; REQUIRING INFORMATION TO BE FILED WITH THE DEPARTMENT OF ENVIRONMENTAL QUALITY; ESTABLISHING A FEE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the Colstrip generating complex consists of four different generating units, with six joint owners, each holding different ownership shares of the various units; and

WHEREAS, four of the joint owners are public utilities with significant service territories in the state of Oregon and Washington and no significant service territory in Montana; and

WHEREAS, one of the joint owners is a merchant generator with no service territory; and

WHEREAS, Colstrip Units 1 and 2 are currently scheduled to be closed by July 1, 2022, under a settlement agreement signed by its joint owners; and

WHEREAS, there is a difference of opinion between the states of Washington, Oregon, and Montana as to the desirability of maintaining the operations of the Colstrip units, and the closure of the Colstrip units disproportionately affects Montana; and

WHEREAS, baseload coal-fired electrical generating resources are important to Montana and Montana customers; and

WHEREAS, the continued operation of Colstrip Unit 4 and the interconnected 500-kilovolt transmission line are in the economic best interests of Montana; and

WHEREAS, the importance of continuing the operation of Colstrip Unit 4 and the interconnected 500-kilovolt transmission line requires a clear expression of certain electric utility ratemaking principles to be applied to the operation of that unit and the transmission line.

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

NEW SECTION. Section 1. Short title. [Sections 1 through 3] may be cited as the "Montana Energy Security Act of 2019".

NEW SECTION. Section 2. Investment -- cost recovery for certain coal-fired generating units and transmission resources -- DEFINITIONS. (1) Except as provided in [section 3(3)], if a coal-fired generating unit is retired before the expected life used for depreciation purposes, the electric utility's PRUDENTLY INCURRED undepreciated investment in the coal-fired generating unit, together with any required decommissioning and site remediation costs, must be included in rates by the public service commission as a long-term amortization, not to exceed 30 years. RETIREMENT BEFORE THE EXPECTED LIFE USED FOR DEPRECIATION PURPOSES MUST BE APPROVED BY THE PUBLIC SERVICE COMMISSION.

(2) For the purposes of [sections 1 through 3], "~~coal-fired generating unit~~" THE FOLLOWING DEFINITIONS APPLY:

(A) "COAL-FIRED GENERATING UNIT" means a unit of a coal-fired generating station located in Montana in which an electric utility that has restructured in accordance with Title 69, chapter 8, holds an ownership interest ~~on or before [the effective date of this act].~~

(B) "COSTS" MEANS CAPITAL INVESTMENTS FOR ENVIRONMENTAL, REGULATORY, AND SAFETY COMPLIANCE AND RELIABILITY.

NEW SECTION. Section 3. Acquisition cost-recovery for certain coal-fired generating units AND TRANSMISSION RESOURCES. (1) (a) Except as provided in subsections (1)(b) through (1)(d) AND SUBJECT TO THE CONDITIONS AND LIMITATIONS OF THIS SECTION, the commission shall allow the full recovery of costs incurred by an electric utility in acquiring and owning an increased ownership share of a coal-fired generating unit, not to exceed 150 megawatts ~~and subject to the conditions and limitations of this section,~~ AND THE INVESTMENT IN ANY INTERCONNECTED TRANSMISSION FACILITIES OF 500 KILOVOLTS OR MORE, NOT TO EXCEED BOOK VALUE.

(b) Costs incurred by an electric utility in accordance with subsection (1)(a) must be capped at a total of \$40 million over a consecutive 5-year period following the date of transfer. The date of transfer may not be later than December 31, 2021.

(c) ~~Operational, maintenance, repair, or improvement costs~~ COSTS that exceed the limitations or time

constraints of subsection (1)(b) are subject to commission review. The commission may review the prudence of those costs.

(d) ~~Operational, maintenance, repair, or improvement costs~~ COSTS do not include decommissioning and site remediation costs in accordance with [section 2(1)].

(2) An acquiring electric utility must be provided the increased ownership share of the coal-fired generating unit at a nominal transfer price of \$1, regardless of the book value of that ownership share to the transferring utility.

(3) (a) A transferring utility remains liable for its share of the ownership costs and liabilities that existed by virtue of its ownership on and before the date of transfer, including but not limited to any required decommissioning or site remediation costs imposed by federal, state, or local government.

(b) Prior to an acquisition, the acquiring electric utility shall file information with the department of environmental quality verifying the continued acceptance of liability by a transferring utility as established in subsection (3)(a).

(c) The information must be accompanied by a \$100 filing fee. The fee is not recoverable in an acquiring electric utility's rates.

NEW SECTION. **Section 4. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 69, chapter 3, and the provisions of Title 69, chapter 3, apply to [sections 1 through 3].

NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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