

SENATE BILL NO. 331

INTRODUCED BY T. RICHMOND, D. ANKNEY

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

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

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

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

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

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

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

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

27 WHEREAS, the importance of continuing the operation of Colstrip Unit 4 and the interconnected  
28 500-kilovolt transmission line requires a clear expression of certain electric utility ratemaking principles to be  
29 applied to the operation of that unit and the transmission line.

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

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

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6 NEW SECTION. Section 2. Investment -- cost recovery for certain coal-fired generating units and  
7 transmission resources -- DEFINITIONS. (1) (A) Except as provided in ~~{section 3(3)}~~ [SECTION 3(3) AND (4)] AND  
8 SUBSECTION (1)(C) OF THIS SECTION, if a coal-fired generating unit is retired before the expected life used for  
9 depreciation purposes, the electric utility's PRUDENTLY INCURRED undepreciated investment in the coal-fired  
10 generating unit, together with any PRUDENTLY INCURRED AND required decommissioning and site remediation costs  
11 FOR AN INCREASED OWNERSHIP SHARE OF A COAL-FIRED GENERATING UNIT ACQUIRED ON OR AFTER [THE EFFECTIVE DATE  
12 OF THIS ACT], NOT TO EXCEED 150 MEGAWATTS, must MAY be included in rates by the public service commission as  
13 a long-term amortization, not to exceed 30 years. ~~RETIREMENT BEFORE THE EXPECTED LIFE USED FOR DEPRECIATION~~  
14 ~~PURPOSES MUST BE APPROVED BY THE PUBLIC SERVICE COMMISSION.~~

15 (B) RETIREMENT OF A COAL-FIRED GENERATING UNIT BEFORE THE EXPECTED LIFE USED FOR DEPRECIATION  
16 PURPOSES MUST BE APPROVED BY THE PUBLIC SERVICE COMMISSION.

17 (C) COST RECOVERY FOR AN UNDEPRECIATED INVESTMENT AND REQUIRED DECOMMISSIONING AND SITE  
18 REMEDICATION COSTS ATTRIBUTABLE TO AN ELECTRIC UTILITY'S SHARE IN A COAL-FIRED GENERATING UNIT ACQUIRED  
19 BEFORE [THE EFFECTIVE DATE OF THIS ACT] ARE SUBJECT TO PUBLIC SERVICE COMMISSION REVIEW AND APPROVAL.

20 (D) ON OR BEFORE JANUARY 1, 2020, THE COMMISSION SHALL DETERMINE THE CURRENT ANNUAL MARKET VALUE  
21 OF AN ELECTRIC UTILITY'S SHARE IN A COAL-FIRED GENERATING UNIT AND THE ESTIMATED AND ASSUMED COSTS INCLUDED  
22 IN THE ORIGINAL VALUATION OF THE COAL-FIRED GENERATING UNIT ACCRUED ANNUALLY.

23 (E) BASED ON THE DETERMINATION MADE IN SUBSECTION (1)(D), THE COMMISSION SHALL REVISE THE CURRENT  
24 AMORTIZATION PAYMENT SCHEDULE FOR A COAL-FIRED GENERATING UNIT AND REVISE RATES IN ACCORDANCE WITH THE  
25 DETERMINATION.

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

28 (A) "COAL-FIRED FOR THE PURPOSES OF [SECTIONS 1 THROUGH 3], "COAL-FIRED GENERATING UNIT" means  
29 a unit of a coal-fired generating station located in Montana in which an electric utility that has restructured in  
30 accordance with Title 69, chapter 8, holds an ownership interest ~~on or before [the effective date of this act].~~

1 (B) "COSTS" FOR THE PURPOSES OF [SECTION 3], "COSTS" MEANS CAPITAL INVESTMENTS FOR ENVIRONMENTAL,  
 2 REGULATORY, AND SAFETY COMPLIANCE AND RELIABILITY.

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

11 ~~(b) Costs incurred by an electric utility in accordance with subsection (1)(a) must be capped at a total~~  
 12 ~~of \$40 \$75 million over a consecutive 5-year 10-YEAR period following the date of transfer. The date of transfer~~  
 13 ~~may not be later than December 31, 2021.~~

14 ~~—— (c) Operational, maintenance, repair, or improvement costs COSTS that exceed the limitations or time~~  
 15 ~~constraints of subsection (1)(b) are subject to commission review. The commission may review the prudence of~~  
 16 ~~those costs.~~

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

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

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

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

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

30 (4) COST RECOVERY ESTABLISHED IN [SECTIONS 1 AND 2] [SECTIONS 2 AND 3] IS PROVIDED FOR IF AN ELECTRIC

1 UTILITY ACQUIRES AN INCREASED OWNERSHIP SHARE OF A COAL-FIRED GENERATING UNIT ON OR BEFORE DECEMBER 31,  
2 2021.

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

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

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