

# HOUSE BILL REPORT

## HB 2002

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**As Reported by House Committee On:**  
Technology & Economic Development  
General Government & Information Technology

**Title:** An act relating to regulatory and financial mechanisms and means to promote the retirement of coal-fired electric generation facilities.

**Brief Description:** Concerning regulatory and financial mechanisms and means to promote the retirement of coal-fired electric generation facilities.

**Sponsors:** Representatives Morris, Magendanz and Fitzgibbon.

**Brief History:**

**Committee Activity:**

Technology & Economic Development: 2/12/15, 2/19/15 [DPS];  
General Government & Information Technology: 2/23/15, 2/25/15 [DP2S(w/o sub TED)].

**Brief Summary of Second Substitute Bill**

- Requires the Utilities and Transportation Commission (Commission) to issue a financing order authorizing creation of carbon reduction property, collection of carbon reduction charges, and issuance of carbon reduction bonds, upon successful application by an electrical company that has filed a binding notice committing to the retirement of an eligible coal plant.
- Authorizes an electrical company to create a financing subsidiary for certain limited purposes, including issuing carbon reduction bonds, financing carbon reduction costs, and ownership and use of carbon reduction property.
- Exempts long-term financial commitments to incur certain costs related to the acquisition of a coal plant from Greenhouse Gas Emissions Performance Standards.
- Requires the Commission, prior to issuing a financing order or otherwise authorizing certain expenditures, to study the environmental impacts of continued operation of an eligible coal plant and to make a determination of whether and to what extent certain liabilities can be mitigated or avoided by early retirement or decreased operation of the plant.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

- Requires replacement power for a retired coal plant to be provided by certain sources that achieve carbon reductions.

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## HOUSE COMMITTEE ON TECHNOLOGY & ECONOMIC DEVELOPMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Morris, Chair; Tarleton, Vice Chair; Smith, Ranking Minority Member; DeBolt, Assistant Ranking Minority Member; Harmsworth, Magendanz, Ryu, Santos and Young.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Fey, Hudgins, Nealey and Wylie.

**Staff:** Jasmine Vasavada (786-7301).

### **Background:**

#### Washington Utilities and Transportation Commission.

The Washington Utilities and Transportation Commission (Commission) is a three-member commission that has broad authority to regulate the rates, services, and practices of investor-owned utilities (IOUs) in Washington, including electrical companies. As part of the ratemaking process, the Commission considers whether, and to what extent, an electrical company should recover the cost of a resource acquisition or the cost of an investment in a new generating facility. The decision is made on a case-by-case basis, taking into consideration whether the resource has been identified as a least-cost resource in the IOU's Integrated Resource Plan (IRP).

#### Integrated Resource Planning.

Investor-owned and consumer-owned electric utilities in the state with more than 25,000 customers must develop an IRP. An IRP must describe the mix of generating resources and conservation and efficiency resources that will meet current and projected needs at the lowest reasonable cost to the utility and its ratepayers. When determining the lowest reasonable cost for resources identified in its IRP, a utility must consider, among other factors, state and federal policies regarding resource preference and the cost of risks associated with environmental effects including emissions of carbon dioxide. According to IRPs filed in 2013, the three electrical companies serving customers in the state currently own or partially own 12 coal-fired generation facilities throughout several western states.

#### Traditional Rate Base, Rate-of-Return Regulation.

An electrical company has an obligation to serve all customers by making investments enabling it to provide electrical power. In return, the electrical company is assured an opportunity to earn a rate of return on those investments "prudently incurred." The value of property on which an electrical company is permitted to earn a specified rate of return is called the "rate base." The allowed rate of return varies, depending on the relative risk of the company. To receive its allowed rate of return and recover the costs of an investment, a utility must demonstrate that the course of action leading to the utility incurring the expense

or making the investment was prudent, reasonable, and necessary. Applying this rule, the Commission may require an evaluation of the economics of continued operation of the facility, in light of information reasonably available at the time of the decision.

Traditional rate base, rate-of-return utility regulation divides the initial shareholder investment (original cost of an asset) between net book value (NBV) and accumulated depreciation. The NBV is the value of an asset as recorded in the accounts of its owner. It is equal to the original cost of the asset minus accumulated depreciation and amortization. The NBV represents the investment made by shareholders that has not already been recovered in rates. Accumulated depreciation equals the sum of all prior years' depreciation expense already recovered through rates. Rate base, rate-of-return regulation does not guarantee future income on assets that are no longer used to provide service.

#### Affiliated Interests.

In a rate case or other proceeding, the Commission may disallow all or part of the compensation or other payments made by an electrical company to an affiliated interest, such as a financing subsidiary, through a contract or arrangement, unless the electrical company establishes the reasonableness of the payments. The Commission may investigate and disapprove a contract or arrangement with an affiliated interest, if the electrical company fails to prove the contract is in the public interest. The Commission may require satisfactory proof of the cost to the affiliated interest in performing its obligations under the contract or arrangement.

#### Greenhouse Gas Emissions Performance Standard for Electric Generation Plants.

Electric utilities are prohibited by state law from entering into a long-term financial commitment with a baseload generating facility, such as acquisition of a new ownership interest in a coal-fired power plant, if the generating facility's carbon dioxide emissions exceed the state Greenhouse Gas Emissions Performance Standard.

#### Utility Service Territories.

Most electric providers may serve any customer in the state, regardless of their historic service territory. Providers are allowed by state law to enter into voluntary contractual service territories and obligations. Approval by the Commission is required for participation in such agreement by an investor-owned utility.

#### Condemnation Authority.

Various political subdivisions and private corporations in the state have been delegated the power of eminent domain, including municipalities, public utility districts, and electric power companies.

#### Binding Future Legislatures.

The Legislature has plenary power to enact laws, except as limited by the state and federal constitutions. Each elected legislature is fully vested with this plenary power, and no legislature can enact a statute that prevents a future legislature from exercising its law-making power. Under the contracts clauses of the state and federal constitutions, the state is limited in its ability to impair contracts. Impairment of contracts between private parties may be permissible where the impairing legislation is reasonable and necessary to serve a

legitimate public purpose. Legislation that impairs a contract between the state and another party is subject to more stringent impairment standards under the contracts clauses.

Prohibition on Lending of Credit/Gifts of Public Funds.

Article VIII, sections 5 and 7, along with Article XII, section 9, prohibit the state and local governments from: (1) making gifts or loans of public funds to private individuals or corporations; (2) investing in private corporations (subject to specified exceptions); or (3) otherwise lending public credit, such as loan guarantees, to private individuals or corporations.

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**Summary of Substitute Bill:**

Washington State Coal Generation Retirement Program.

The Washington State Coal Generation Program (Program) is created for the purpose of giving investor-owned utilities (IOUs) secure and predictable regulatory and financial mechanisms that encourage early retirement, in a prudent and cost-effective manner, of an eligible coal plant. An "eligible coal plant" is a coal-fired electric generating facility located in Rosebud County, Montana, which provides a portion of its load to retail customers in the state and is owned, in whole or in part, by an electrical company providing service in Washington. "Retirement" means the complete and permanent closure of an eligible coal plant, which occurs when a coal-fired electric generation facility permanently ceases to operate by burning coal.

Recovery of Eligible Coal Plant Acquisition Costs.

An IOU that provides retail electric service (electrical company) may include in its rate base all cost-effective and prudently incurred eligible coal plant acquisition costs. "Eligible coal plant acquisition costs" means all costs and expenses prudently incurred in connection with the acquisition of an additional or increased interest in any one or more eligible coal plants, which, as of the effective date of the act, provide electricity to retail electric customers in Washington.

Financing Order.

Upon successful application by an electrical company, the Utilities and Transportation Commission (Commission) must issue a financing order, authorizing the creation of carbon reduction property, collection of carbon reduction charges, and issuance of carbon reduction bonds.

*Carbon Reduction Property.*

"Carbon reduction property" means the right specified in a financing order to collect carbon reduction charges and all revenues and proceeds arising from this right. Carbon reduction property specified in a financing order is "a present property right" that exists at the time the financing order is issued, regardless of whether carbon reduction charges are ever assessed and collected from ratepayers. The state "pledges" it will not take or permit any action that impairs the value of carbon reduction property. Additional provisions regulate the sale, transfer, priority, conveyance, assignment, and perfection of security interests in carbon

reduction property, and provide that the act's provisions are intended to govern and control over any other law regarding such security interests.

*Carbon Reduction Charges.*

A financing order may authorize an electrical company or its financing subsidiary to recover from the electrical company's retail customers as of the effective date of the act certain carbon reduction costs through a "carbon reduction charge." "Carbon reduction costs" include any cost or expense cost-effectively and prudently incurred, or to be incurred, by an electrical company directly related to the retirement of an eligible coal plant. These include, for example, costs and expenses related to permanent decommissioning, unamortized investment of plant, remediation of environmental and human health threats, capital costs, financing costs, mitigation costs, and the unrecovered value of property that is retired, including any demolition or similar cost that exceeds the salvage value of the property. "Carbon reduction charge" means a prudent and cost-effective charge paid by customers of an electrical company or its successors to recover carbon reduction costs.

*Carbon Reduction Bonds.*

The financing order may authorize issuance of one or more carbon reduction bonds. "Carbon reduction bonds" includes bonds and other evidences of indebtedness that are issued by an electrical company or a financing subsidiary to recover, finance, or refinance carbon reduction costs and that are secured by or payable from carbon reduction property. An electrical company may not issue carbon reduction bonds if doing so would result in any of the major credit rating agencies imputing the bonds as a debt on the utility's balance sheet. The Commission will periodically, and at least annually, adjust the carbon reduction charges to provide for timely payment of scheduled principal of, and interest on, the carbon reduction bonds.

*Application for a Financing Order.*

An application for a financing order must meet specified criteria, and must include a copy of the Commission's order accepting an electrical company's binding notice committing to retire an eligible coal plant, a description of the retirement plan, and associated costs and a methodology for allocating carbon reduction charges among customer classes. The Commission may not alter the terms and conditions of an application, and must approve the application for financing order within 120 days of its receipt, unless it finds that:

- the retirement plan is inconsistent with applicable law;
- the estimated carbon reduction costs are not supported by substantial evidence;
- the financed carbon reduction costs will lead to exceeding the program limit;
- the bond issuance is not the least-cost method for customers to finance the retirement of an eligible coal plant; or
- the application as filed is not in the public interest.

*Cap on Annual Rate Increase.*

The average annual rate increase for an electrical company's ratepayers due to the regulatory mechanisms specified in a financing order may not result in an average annual rate increase for an eligible electrical company's Washington customers of more than 3 percent of the eligible electrical company's revenue requirement.

Creation of Financing Subsidiaries.

An electrical company may create or acquire one or more financing subsidiaries for one of the following purposes:

- issuing, facilitating, or administering carbon reduction bonds;
- facilitating or administering carbon reduction property;
- entering into contractual obligations secured by carbon reduction property for the purpose of financing carbon reduction costs; or
- any other incidental purpose, including the ownership and use of carbon reduction property.

#### Program Limit.

For any electrical company that retires any one or more eligible coal plants under the Program, the amount of the electrical company's program investment may equal but shall not exceed, unless approved by the Commission, 9.8 percent of its rate base as of the effective date of the Program. The Commission may increase the program limit if it determines such increase is in the public interest. An electrical company who incurs costs in excess of the program limit bears the burden of proof to demonstrate that excess carbon reduction costs were appropriately and prudently incurred and not reasonably foreseeable. The program limit is the total allowable "program investment," which is the sum of: (1) the amount of the net plant investment in a "regulatory asset account;" (2) the amount of the net plant investment allowed as accelerated depreciation and amortization; and (3) the amount of the carbon reduction costs to be incurred and paid from proceeds of carbon reduction bonds authorized by a financing order.

#### Binding Notice.

An electrical company must file a binding notice with the Commission, setting forth the financial and regulatory mechanisms it requires to irrevocably commit to the retirement of one or more eligible coal plants. These may include creation of a regulatory asset account, the right to accelerated depreciation and amortization, and the use of financing mechanisms, such as bonds.

#### *Documentation Requirements.*

The binding notice must include, for any eligible coal plant to be retired:

- a preliminary retirement plan, a preliminary estimate of retirement costs, and the program limit;
- the date certain by which the eligible coal plant shall permanently cease operations and the date on or before which the company must petition for any regulatory asset accounts;
- a statement of whether the electrical company or its financing subsidiary anticipates issuing carbon reduction bonds; and
- a statement regarding any environmental clean-up obligations and a request that the Commission assess ratepayer impacts of such obligations.

#### *Acceptance or Rejection of the Binding Notice.*

The Commission must accept the binding notice, unless it determines, applying a preponderance of the evidence standard, that the retirement plan is not cost-effective or prudent, will exceed the program limit, is not in the public interest, or otherwise fails to meet statutorily designated criteria.

#### *Creation of a Regulatory Asset Account.*

An electrical company may petition, for each eligible coal plant designated in a binding notice, for authority to place all or a portion of its net plant investment into a regulatory asset account. The Commission must conduct a prudence review and may authorize the regulatory asset account if it determines that creation of the account represents the least-cost alternative for customers. The amount recoverable in the regulatory asset account may be amortized and recovered in rates over a period not to exceed 20 years, at a reasonable rate of return.

The net plant investment includes:

- the net book value (NBV) of the retired eligible coal plant as of the date of retirement;
- any and all transmission or other costs related to the eligible coal plant and traditionally included in an electrical company's rate base; and
- any carbon reduction costs associated with the eligible coal plant that are not otherwise recovered by a carbon reduction charge.

#### *Accelerated Depreciation and Amortization.*

If the Commission determines it is in the public interest and a least-cost alternative for customers, an electrical company shall have the right to accelerated depreciation and amortization of all or a portion of the company's net plant investment in an eligible coal plant that has been designated in a binding notice. The net plant investment shall be:

- the NBV of the plant, as of the date of the binding notice;
- all transmission or other costs traditionally included in the electrical company's rate base; and
- any carbon costs that are not otherwise recovered by a carbon reduction charge.

#### *Relief from Obligation to Retire a Plant.*

An electrical company is relieved of its obligation to retire an eligible coal plant that has been subject to a binding notice if: (1) after a binding notice has been accepted, the utility must install new or additional emission control measures as required by state or federal law; and (2) the cost of the measures exceed 10 percent of the NBV of the electrical utility's interest in the plant. "Net book value" for this purpose is determined as of the date of the requirement to install additional emission control measures. The electrical company may proceed to retire an eligible coal plant, despite such emission control requirements, but the decision to proceed shall be subject to a prudence review at the time that the electrical company seeks cost recovery. In addition, a plant retirement may be deferred for purposes of reliability, if approved by the Commission.

#### Mitigation Costs.

An electrical company may recover from its ratepayers mitigation costs prudently incurred. "Mitigation costs" means payments made by an impacted electrical company to another state for financial assistance to a community affected by the retirement of an eligible coal plant, including worker retraining costs, and any other cash or in-kind payment made pursuant to a memorandum of agreement entered into between an electrical company and another state regarding the retirement of an eligible coal plant.

#### Exemption from Greenhouse Gas Emissions Performance Standard.

An electrical company may enter into a long-term financial commitment that incurs eligible coal plant acquisition costs, without complying with the Greenhouse Gas Emissions

Performance Standard, if the company, within 10 years of the act's effective date, files a binding notice to retire one or more eligible plants.

#### Impoundment Pond Assessment.

The Commission must assess and report to the Legislature by December 1, 2015, the liabilities, risks, and costs to ratepayers associated with impoundment ponds at the eligible coal plants. The assessment must identify risks to human health and the environment, estimate capital expenditures that may be required to address structural deficiencies in impoundment ponds, and the extent to which any liabilities identified can be mitigated or avoided by early retirement or decreased operation of the plant.

#### **Substitute Bill Compared to Original Bill:**

The substitute bill makes the following changes:

- removes the provision stating that the Washington State Coal Generation Retirement Program (Program) is expressly intended to preempt any inconsistent regulation or order issued by any political subdivision of the state;
- restricts applicability of the Program to a coal-fired electric generating facility located in Rosebud County, Montana, that provides a portion of its load to retail customers in the state and is owned, in whole or in part, by an electrical company providing service in Washington;
- limits the average annual rate increase for an eligible electrical company's Washington customers due to the Program's regulatory mechanisms to no more than three percent of the eligible electrical company's revenue requirement;
- removes provisions establishing enforceable, exclusive service area boundaries for utilities and entitling electrical companies to recover full compensation for severance damages;
- removes the exemption from Utilities and Transportation Commission (Commission) oversight for financing subsidiaries created or acquired by an electrical company for purposes of retiring a coal plant, and requires the Commission to approve creation or acquisition of such subsidiaries;
- removes the prohibition that restricts the Commission from taking any action to directly or indirectly diminish the value of any of the authorized regulatory or financial mechanism;
- allows recovery of the eligible coal plant acquisition costs, carbon reduction costs, and mitigation costs only if the Commission determines that such recovery is prudent;
- requires the Commission, before December 1, 2015, to study the liabilities associated with impoundment ponds at the coal plant, and to study other environmental obligations at the plant when an electrical company files a binding notice;
- establishes greater Commission oversight of the decision to retire an eligible coal plant, place all or a portion of net plant investment in a regulatory asset account, receive accelerated depreciation and amortization of all or a portion of the net plant investment, or accept a binding notice;
- removes from the definition of "net plant investment" any capital investments made, after the date of the binding notice, to keep a plant in service;
- removes from the definition of "mitigation costs" recoverable in rates any tax or fee imposed upon an electrical company that has not been imposed as of the effective date of the act;



- removes the provision allowing the program limit to be adjusted for inflation, and puts the burden of proof on the electrical company to demonstrate that carbon reduction costs incurred in excess of the program limit were appropriately and prudently incurred;
- removes the requirement that the rate of return for the net plant investment and eligible coal plant acquisition costs be no less than the rate of return authorized by the Commission in the electrical company's most recent rate proceeding; and
- changes the binding notice, financing order, and bond issuance requirements:
  - changes the requirement that the Commission must accept a binding notice unless it makes certain findings upon clear and convincing evidence, requiring instead such findings to be made upon a preponderance of the evidence;
  - removes the provision establishing that regulatory and financing mechanisms in a binding notice are binding and enforceable on each of the state's departments, agencies, divisions, bureaus, commissions, boards, and political subdivisions;
  - allows the Commission to withhold approval of an application if it finds that issuance of carbon reduction bonds is not the least-cost method for financing the retirement of the plant, or the application as filed is not in the public interest;
  - restricts an electrical company from issuing carbon reduction bonds if doing so would result in a major credit rating agency's imputation of the bonds as debt on the utility's balance sheet;
  - requires the Commission and customer interest representatives to oversee the creation, structuring, and marketing of carbon reduction bonds;
  - requires refund to customers any assets remaining in the carbon reduction trust, upon satisfaction of the carbon reduction bond terms; and
  - prohibits an owner, subsidiary, or other affiliate of an electrical company from investing in carbon reduction bonds.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 20, 2015.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill is a venue to have a discussion about closure of coal plants and how the state and electric utilities will address coal resources in the future. Electric utilities seek to provide safe, dependable service to customers. Investor-owned utilities (IOUs) in Washington have an ownership share in one or more coal plants in Colstrip, Montana. Five different utilities that serve six different states have ownership interests in one or more of the Colstrip plants, and each has equal representation at the table when ownership decisions are made, so no single utility can take unilateral action to retire a plant.

Existing federal regulations, including regional haze regulations, mean that coal plants will need to reduce pollutants and install expensive technology to achieve significant emissions

reductions. It will challenge the utilities to demonstrate whether it is prudent to make hundreds of millions of dollars of additional investments in those plants. The Washington Utilities and Transportation Commission (Commission) will be scrutinizing large capital investments, particularly older units 1 and 2 at Colstrip, and has invited utilities to come in to talk with the Commission before making such decisions.

The ownership structure of Colstrip is likely to change. Colstrip is owned in part by a merchant generator that sells its shares on the open market and is consolidating its focus. The company has sold a portion of its generation assets in Montana already and publicly reported that it wants to sell Colstrip. One IOU has done an economic analysis showing that by acquiring the merchant generator's interest, it could result in significant savings to Washington customers.

The bill does not address what kind of resources will provide replacement power. Utilities are comfortable with existing rules governing how new resources are acquired, through integrated resource planning and requests for proposals.

The bill should be amended to change the existing cost allocation and regulatory model to a model that allows a utility that operates in several states to allocate a percentage of all the utility's resources, in any state, to Washington ratepayers. If Washington uses a cost allocation model different than other states, it creates an unsustainable situation for a multijurisdictional utility.

The creation of service territory boundaries should not be problematic, because other industries regulated by the Commission have these boundaries.

The two newer units at Colstrip will be cost-effective for 20 years. Closure dates cannot be included in the bill, in light of economic, legal, and political complexity.

The mitigation cost provisions are important. The economic impact of such closure on Montana's economy and tax revenues can have harsh ramifications on livelihoods of people there. Montana will assert its interests and may impose taxes on transmission, power generation, and property. An IOU that operates in Washington holds the largest single water right in Montana.

(With concerns) Service area boundary restrictions are a concern to cooperatives and other consumer-owned utilities, further restricting where such utilities can provide the most reliable and cost-effective service. The service territory boundary provisions restrict consumers' choice, and lack a sufficient nexus to the bill's carbon reduction goals to justify inclusion.

The conflicts of law provision is of serious concern, establishing that the bill's requirements are preemptive and controlling, anywhere that such requirements may incidentally overlap with law governing public utility districts (PUDs), for example.

The condemnation authority of PUDs and other political subdivisions is seriously compromised in this bill, which would require a PUD to compensate IOUs even for any threatened condemnation. Poaching is already illegal.

Utility customers rely on Commission oversight because they lack the option to leave the utility that serves them and find service elsewhere.

(Opposed) The bill empowers the electric utilities to initiate a process to decommission a coal plant, but does not require them to do so. The lack of a timeline for such decommissioning is problematic, and under the bill, retirement could take place as late as 2045. This is inconsistent with actions being taken in Oregon and already taken in Washington, in the case of planned closure of Transalta. A bill that allows a plant that has already served its useful life to operate for 30 years longer does not assist the state in achieving its carbon reduction goals. Hurricanes are becoming more frequent and more extreme, and snow pack is disappearing. Global warming needs to be addressed now, not 20 years from now.

The lack of clean energy replacement power in the bill, through wind, solar, and energy efficiency, is of concern. There needs to be a limit on fossil fuel replacement to ensure the state is not faced with the same situation in the future. If liquefied natural gas is imported to replace coal, it will be another problem. The poor will suffer more for heating costs. The state must figure out how to transition to cleaner sources of energy. Some citizens are happy to pay more for cleaner resources. People in eastern Washington are just starting to get excited about solar and the state needs to drive that excitement and extend clean energy rebates. Utilities should take the lead, by encouraging investment in point-of-use buildings, and low-rise solar on rooftops in eastern Washington. Inner-city solar power and forward-design rooftop solar power is the right kind of long-term bond in which the state should invest.

Without this bill, there are near-term costs that will drive the closure. Colstrip's sulfur emissions alone far exceed other emitters in Montana, and a federal Clean Air Act nonattainment designation is pending that will require additional sulfur controls for the plant to continue to operate. Compliance with regional haze standards and New Source Review will drive additional costs. Coal ash waste and residues at the plants contribute to a massive toxic superfund site in the making. The bill includes off-ramps to retire a plant, if an air quality requirement kicks in that requires additional emissions controls, which would eliminate the commitment to retire a plant, and drive hundreds of millions of dollars of additional investments, to be borne by Washington ratepayers.

This is a bailout bill that gives utilities the means of writing off expenses and taking tax cuts at the expense of ratepayers. Utilities have known about this for a long time without doing anything. Low-income customers will pay more for closure of a plant they didn't agree to. Owners should pay for the closure, not only customers.

Washington is in the driver's seat so it should not pass legislation that gives up that advantage. The merchant generator will charge more to sell its ownership interest, if Washington utilities are given a blank check with no Commission oversight. Under the bill, whatever price is charged must be automatically accepted with a 10-percent kicker, providing a golden parachute. The merchant generator already tried to sell the plant and did not succeed.

People in Montana are people too, so it is important to include a just transition for the workers and retraining for renewable energy.

(Other) This bill can be improved by narrowing the definition of an eligible coal plant, striking sections related to service territory boundaries, and resisting any amendment addressing multijurisdictional cost allocation. Further action must be assessed based on whether the action is prudent and cost-effective. As written now, this a blank check for owners not their ratepayers. The Commission should be involved in every step of the process. Any transition off of coal must recognize the regulatory background of federal clean air and environmental rules.

The goal is to reduce carbon emissions and retire plants that may not be economical to run in the long run. The bill could provide a framework for identifying and implementing low-cost financing and enabling the state to avail itself of a low-interest rate environment that may not last long. The state should move carefully and deliberately. The Commission has a very limited role and is foreclosed from performing its usual oversight. Because the Commission checks out early, it is imperative that the bill gets it right before the mechanisms are triggered. It is important to ensure the bill helps ratepayers avoid higher rates, rather than subjecting them to higher rates. The bill does not adequately address what happens if a binding notice is submitted, but the company later opts not to retire the plant.

**Persons Testifying:** (In support) Representative Morris, prime sponsor; Nancy Atwood and Ken Johnson, Puget Sound Energy; Scott Bolton and Kathleen Collins, PacifiCorp; John Rothlin, Avista; and Nancy Kraft.

(With concerns) Kent Lopez, Washington Rural Electric Cooperative Association.

(Opposed) Frank Turner, Doug Howell and Patricia Home, Jean Oglesbee, and Rachel Stevens, Sierra Club; Donald Coughlin; Austin White; Kelly Hall, Renewable Northwest; Joni Bosh, Northwest Energy Coalition; and Dave Warren, Washington Public Utility District Association.

(Other) Tim Boyd, Industrial Customers of Northwest Utilities; and Dave Danner, Washington Utilities and Transportation Commission.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON GENERAL GOVERNMENT & INFORMATION TECHNOLOGY

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Technology & Economic Development. Signed by 4 members: Representatives Hudgins, Chair; Senn, Vice Chair; Morris and Takko.

**Minority Report:** Do not pass. Signed by 3 members: Representatives MacEwen, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; McCabe.

**Staff:** David Pringle (786-7310).

**Summary of Recommendation of Committee On General Government & Information Technology Compared to Recommendation of Committee On Technology & Economic Development:**

The second substitute bill makes the following changes, as compared to the substitute bill:

- changes the definition of "eligible coal plant," striking the restriction that such a coal plant must be located in Rosebud County, Montana, and instead defining as eligible a coal plant that: (1) is owned, controlled, or operated in part by an electrical company serving a retail electric load within Washington; and (2) provides, as of the act's effective date, as a portion of its load, service to retail electric customers in Washington;
- replaces the requirement to conduct a study of coal plant impoundment pond liability with a requirement that the Utilities and Transportation Commission (Commission) investigate more generally, for each eligible coal plant, the liabilities, risks, and costs to ratepayers associated with environmental impacts. Impacts that must be assessed include carbon emissions, air pollutants, visibility impairment, and groundwater contamination. The investigation must consider estimated capital expenditures and operation and maintenance costs expected to be incurred as a result of current or anticipated state and federal law. The Commission must determine costs and liabilities that can be avoided by early retirement or decreased operation of a plant, and must identify circumstances in which continued operation of an eligible coal plant would no longer be reasonable, as determined by balancing the environmental impacts against any benefits to rate payers of continued operation of the plant. The Commission may not issue a financing order or otherwise authorize recovery of capital expenditures, operating costs, or eligible coal plant acquisition costs until the Commission has completed the environmental impact investigation and determined that the total environmental impact is minimized by such expenditures or regulatory treatment;
- requires replacement power for a retired coal plant to be provided by a source that achieves the "greatest carbon reduction," defined to include demand-side management, conservation, storage, generation from renewable resources, and certain generation from a fossil-fueled power plant at which carbon capture and sequestration technology has been installed; and
- authorizes, rather than requires, an electrical company to file a binding notice to retire an eligible coal plant.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 20, 2015.

**Effective Date of Second Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) House Bill 2002 left the Technology and Economic Development (TED) Committee with many concerns. Negotiation between the owners of Colstrip coal electricity plants originated this legislation. The amendment in the TED Committee probably defined the plant too specifically. But we need a process to close these plants. These plants are subject to federal regulation, and at some point rate payer money needs to eventually stop being put towards this. There is no date certain in the bill to close the plants, it is just a process. Some groups were not at the negotiating table, and their concerns need to be addressed. For Puget Sound Energy (PSE), supplying customers with safe, dependable power is our mission. The PSE owns about 50 percent of the older plants 1 and 2 in Colstrip, and a smaller portion of plants 3 and 4. Closing Colstrip at a point that makes sense for our customers is the path forward. We have put in a great deal of work to try and evaluate all the interests that are involved in Colstrip.

(With concerns) The bill needs much more work. This is a Superfund site in the making. Closure under the bill could be 30 years away or more down the road. The bill provides many off-ramps to closure – so it might never happen. There are coal ash cleanup liabilities in the many millions of dollars that will be borne by rate payers under this bill. This bill prolongs the life of the plant and sticks the rate payers with cleanup costs. There must be a decision about what will replace the power generated by these plants. Maybe a requirement that the emissions be reduced by half should be considered—or require that clean energy like wind and solar be tried first? PacifiCorp is a co-owner of Colstrip plants 3 and 4. This bill is intended as a path forward for these coal plants, to be closed and to meet regulations. Rather than reduce the risks, the substitute bill creates new risks for our customers. PacifiCorp cannot support the closure of plants 3 and 4. There are other coal plants that supply Washington with electricity and they are not included in this bill. The original policy goal of the bill seems to be lost in the substitute bill. The bill that came from the TED Committee is much better than the original bill. Public utility district customers pay more than \$1 million a year for electric service compared to water customers. The bill in its current form is still being digested by our members, so please don't act quickly on this. The Utilities and Transportation Commission still has concerns about this, and views it as a work in progress. The fiscal impacts are still under review, but we do support the closure of the plants over time with mechanisms to protect rate payers.

(Opposed) Avista has about 300,000 electrical customers, and is a 15 percent owner of plants 3 and 4 at Colstrip. Our most recent study said that Colstrip is going to be a valuable and reliable source of electricity for at least 20 years. Trying to govern a Montana plant by Washington laws is questionable. This also seems to raise interstate commerce issues. The other states and jurisdiction will demand a say. This is the largest industrial facility in Montana. Avista has several valuable assets in Montana, and Washington needs to have an inclusive regional conversation about Colstrip.

**Persons Testifying:** (In support) Representative Morris, prime sponsor; and Nancy Atwood, Puget Sound Energy.

(With concerns) Doug Howell, Sierra Club; Kathleen Collins, PacifiCorp; Dave Warren, Washington Public Utility District Association; and Chris Rose, Utilities and Transportation Commission.

(Opposed) John Rothlin, Avista.

**Persons Signed In To Testify But Not Testifying:** None.