HOUSE BILL REPORT
HB 2002

As Reported by House Committee On:
Technology & Economic Development

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].

Brief Summary of Substitute Bill

- Creates the Washington State Coal Generation Retirement Program, including certain cost-recovery, regulatory, accounting, and financing provisions related to the early retirement of a coal plant or plants in Rosebud, Montana.
- Exempts long-term financial commitments to incur certain costs related to the acquisition of a coal plant from Greenhouse Gas Emissions Performance Standards.
- Authorizes an electrical company or its financing subsidiary to issue bonds for costs related to the retirement of coal plants, financed by a charge to be paid by the electrical company's customers.
- Requires the Utilities and Transportation Commission (Commission) to determine whether certain coal plant acquisition and retirement costs, including mitigation payments to another state, are recoverable by a utility through its rates.
- Requires the Commission to study the liabilities associated with coal plant impoundment ponds and the extent to which early retirement or decreased operation of the plants could mitigate these liabilities.

HOUSE COMMITTEE ON TECHNOLOGY & ECONOMIC DEVELOPMENT

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.

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. Utility regulators, including the Commission, uniformly apply the prudent investment rule, established by courts interpreting federal constitutional law. 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, under 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 a coal-fired power plant, if the generating facility's carbon dioxide emissions exceed the state Greenhouse Gas Emissions Performance Standard. "Long-term financial commitment" means:

- either a new ownership interest in baseload electric generation or an upgrade to a baseload electric generation facility; or
- a new or renewed contract for baseload electric generation with a term of five or more years for the provision of retail power or wholesale power to end-use customers in this state.

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.

Energy Independence Act "Qualifying Utilities."

Certain "qualifying utilities" must comply with conservation and renewable resource acquisition requirements of the Energy Independence Act. "Qualifying utility" means an electric utility that serves more than 25,000 customers in Washington.

Special Legislation.

Article I, section 12 and Article II, section 28 may prohibit the Legislature from enacting "special laws"—that is, laws operating on only one individual, private corporation, or municipal corporation. To avoid violating these restrictions, a law must operate on categories or classes rather than specific individuals or entities. A class may consist of one person or corporation, so long as the law applies equally to all members of that class and the law's exclusions are rationally related to the purpose of the statute.

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, however 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.

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 certain coal-fired electric generation facilities. The Program provides a number of regulatory and financial mechanisms that an electrical company may utilize in connection with retirement of certain coal-fired electric generating facilities, including:

- recovery of the net plant investment through accelerated depreciation and amortization, or as a regulatory asset;
- the use of financing mechanisms, such as bonds, upon the filing of a binding notice;

- the creation of financing subsidiaries; and
- recovery of mitigation payments made to another state in rates.

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. An "eligible coal plant" is 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. "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.

Carbon Reduction Charge.

The Utilities and Transportation Commission (Commission) may issue a financing order, authorizing an electrical company or its financing subsidiary to recover eligible coal plant acquisition costs by carbon reduction charges, to be paid by the electrical company's retail customers as of the effective date of the act.

An electrical company or its successors may also recover "carbon reduction costs" from customers 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.

Financing Order.

Carbon Reduction Bonds.
The financing order may authorize issuance of one or more carbon reduction bonds to the retirement of an eligible coal plant. However, an electrical company shall 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.

Carbon reduction bonds may be paid or secured by 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 it is created, regardless of whether revenues or proceeds arising from the property have accrued. The state pledges it will not take or permit any action that impairs the value of carbon reduction property.

The Commission will periodically adjust the carbon reduction charges to provide for timely payment of scheduled principal, of interest, and other financing costs. While the state or its subdivisions may invest in bonds, the state is not liable on bonds, and bonds are not a debt of the state. Additional provisions regulate the sale, transfer, priority, conveyance, assignment, and perfection of security interests in carbon reduction property.

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.

Application.
An application for a financing order must meet specified criteria, including 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 eligible 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.

<u>Program Limit</u>.

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 unless approved by the Commission ,shall not exceed 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:

- the amount of the net plant investment in a "regulatory asset account;"
- the amount of the net plant investment allowed as accelerated depreciation and amortization; and

- 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.

The binding notice must include, for any eligible coal plant to be retired:
- a preliminary retirement plan, a preliminary estimate of retirement costs, the Program Limit, and the date by which the eligible coal plant shall permanently cease operations;
- a statement of whether the electrical company or its financing subsidiary anticipates issuing carbon reduction bonds; and
- a statement regarding any obligations to conduct environment clean-up at the retired coal plant facilities, clean-up financing plans, and a request that the Commission assess ratepayer impacts of such obligations.

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 place all or a portion of its net plant investment into a regulatory asset account if the Commission determines that creation of the account represents the least-cost alternative for customers. The net plant investment shall include:
- 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.

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.

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 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 net book value 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. Replacement electrical generation facilities are not recoverable in an impacted electrical company's Washington rates unless the impacted electrical company can demonstrate that the replacement electrical generation facilities provide benefits to its Washington customers.

Exemption from Greenhouse Gas Emissions Performance Standard.

An electrical company may enter into a long-term financial commitment to supply baseload electric generation without complying with the Greenhouse Gas Emissions Performance Standard, if the following conditions are met:

- the financial commitment is one pursuant to which an electrical company incurs eligible coal plant acquisition costs; and
- 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 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.

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.