
Technology & Economic Development Committee

ESSB 6248

Brief Description: Regarding a pathway for a transition of eligible coal units.

Sponsors: Senate Committee on Energy, Environment & Telecommunications (originally sponsored by Senators Ericksen and Ranker).

Brief Summary of Engrossed Substitute Bill

- Establishes limitations on the use of regulatory liabilities placed into a retirement account to cover prudently incurred decommissioning and remediation costs of an eligible coal plant.

Hearing Date: 2/23/16

Staff: Jasmine Vasavada (786-7301).

Background:

Utilities and Transportation Commission.

The Washington Utilities and Transportation Commission (Commission) is a three-member board that regulates the rates, services, and practices of privately-owned utilities. The Commission sets rates that are fair, just, reasonable, and sufficient. In approving and setting rates, the Commission examines costs incurred by the utility and determines if these costs were prudently incurred, considering cost-effectiveness, reliability, and availability of alternatives. The prudence standard generally considers what the utility knew or could have known at the time of the decision. Costs determined to be imprudent are costs ultimately paid by the utility's shareholders, not ratepayers. Investment decisions made between ratemaking proceedings generally are not examined for their prudence as an investment until a ratemaking proceeding occurs.

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.

Depreciation and Retirement Accounts.

The Commission may require public service companies, including electrical companies, to carry proper and adequate depreciation or retirement accounts for all property, and may fix depreciation and retirement rates by order.

Electrical Company.

An electrical company is an investor-owned utility whose rates and services are regulated by the Commission. Washington has three electrical companies: Puget Sound Energy, Avista, and PacifiCorp.

Coal-Fired Generation Facilities.

According to Integrated Resource Plans filed by electric utilities in 2013, the electrical companies serving customers in the state currently own or partially own 12 coal-fired electric generation facilities throughout several western states, including Montana, Utah, and Wyoming. One of those facilities is the four-unit Colstrip generating plant in Montana, which has two units that are jointly owned by six entities, including each of Washington's three electrical companies.

Regulatory Liabilities.

Regulatory liabilities are liabilities recorded on a utility's financial statements resulting from a requirement by the regulator that certain amounts are to be paid by the utility in the future. An example is revenue collected by the utility that has been ordered to be refunded to customers. Regulatory liabilities are the reverse of regulatory assets.

Decommissioning Cost.

Decommissioning cost, as a regulatory accounting term, refers to the cost of removing a utility asset from service.

Remediation of Coal-Fired Generation Facilities.

Environmental laws likely to require remediation at the site of a coal-fired generating facility include water quality laws and the Resource Conservation and Recovery Act (RCRA), which regulates coal combustion residuals (CCR) as a non-hazardous waste. The United States Environmental Protection Agency (EPA) adopted the CCR Rule in December 2014 to address solid wastes that result from burning coal in a power plant, including fly ash, bottom ash, boiler slag, and flue gas desulfurization materials. The CCR Rule establishes standards for CCR landfills and surface impoundments, and requires operators of CCR units to install a system of monitoring wells to detect groundwater contamination. The CCR Rule is self-implementing, meaning that is enforced by citizen suits, not by regulatory oversight by the EPA.

Summary of Bill:

Placing Regulatory Liabilities in a Retirement Account.

The commission may authorize an electrical company to place regulatory liabilities into a retirement account to cover decommissioning and remediation costs of eligible coal units that commenced operation before January 1, 1980. Such authorization may only be made after conducting an adjudicative proceeding in accordance with the Administrative Procedures Act.

An "eligible coal unit" is any generating unit of an eligible coal plant. An "eligible coal plant" means a coal-fired electric generation facility that: (1) had two or less generating units as of

January 1, 1980, and four generating units as of January 1, 2016; (2) has multiple owners; and (3) serves retail customers in Washington with a portion of its load.

Restriction on Use of Regulatory Liabilities Placed in a Retirement Account.

Regulatory liabilities in a retirement account must not be used for any purpose other than to fund and recover prudently incurred decommissioning and remediation costs for eligible coal units. Regulatory liabilities in the account must not be reduced, altered, impaired, or limited from the date of the Commission's approval of inclusion until all decommissioning and remediation costs are recovered or paid in full. Any remaining funds in the retirement account, after the electrical company recovers all prudently incurred decommissioning and remediation costs, must be returned to customers.

The Commission may not authorize the electrical company to use regulatory liabilities in the retirement account for decommissioning and remediation costs under certain circumstances. If, prior to December 31, 2022, an electrical company proposes a closure date or retires from service an eligible coal unit that commenced operations before January 1, 1980, then regulatory liabilities in the account may only be used if the electrical company demonstrates to the Commission that a decision to close the eligible coal unit prior to December 31, 2022:

1. is prudent, as determined by evidence showing the continued operation of an eligible coal unit is economically or technologically unfeasible, requires a capital investment that is outside the scope of a prudent improvement or investment, or the eligible coal unit has reached the end of its useful life; or
2. is attributable to the actions of a co-owner or operator of the eligible coal unit.

Appropriation: None.

Fiscal Note: Requested on February 18, 2016.

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