SENATE BILL REPORT
ESB 5874

As Passed Senate, March 11, 2015

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

Brief Description: Requiring the department of commerce, in consultation with the appropriate committees of the legislature, to study the costs and benefits of retiring an eligible coal plant.

Sponsors: Senators Ericksen and Ranker.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 2/11/15, 2/19/15 [DPS].

Passed Senate: 3/11/15, 46-3.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Majority Report: That Substitute Senate Bill No. 5874 be substituted therefor, and the substitute bill do pass.

Signed by Senators Ericksen, Chair; McCoy, Ranking Minority Member; Braun, Brown, Cleveland, Habib, Honeyford and Ranker.

Staff: William Bridges (786-7416)

Background: Investor-Owned Utilities (IOUs). Three electric IOUs serve Washington customers: Avista, Puget Sound Energy (PSE), and PacificCorp. Of the three, only PSE has customers limited to Washington.

Washington Utilities and Transportation Commission (UTC). The UTC is a three-member commission that has broad authority to regulate the rates, services, and practices of a variety of businesses in the state, including electric IOUs. In a typical rate case, the petitioner must prove a requested action is in the public interest by preponderance of the evidence or a reasonable basis test.

As part of the ratemaking process for electric IOUs, the UTC considers whether, and to what extent, an IOU should recover the cost of a resource acquisition or the cost of an investment in a new generating facility. The UTC's decision is made on a case-by-case basis, taking into consideration such factors as the utility's need for the energy, public policies regarding

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resource preferences, and the cost of risks associated with the environmental effects of carbon dioxide.

Integrated Resource Plan (IRP). All electric IOUs and consumer-owned electric utilities in the state with more than 25,000 customers must develop IRPs. All other utilities in the state, including those that essentially receive all their power from the Bonneville Power Administration, must file either an IRP or a less-detailed resource plan.

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 state and federal policies regarding resource preference, among other factors.

According to IRPs filed in 2013, the IOUs serving customers in the state currently own or partially own 12 coal-fired generation facilities throughout several western states, including Montana, Utah, and Wyoming. One of those facilities, the four-unit Colstrip generating plant in Montana, is owned by six entities, three of whom are Avista, Puget Sound Energy (PSE), and PacificCorp.

Greenhouse Gas Emissions Performance Standard (EPS) for Electric Generation Plants. Electric utilities may not enter into a long-term financial commitment for baseload electric generation on or after July 1, 2008, unless the generating plant's emissions are the lower of:

- 1100 pounds of greenhouse gas (GHG) per megawatt hour (MWh); or
- the average available GHG output as updated by the Department of Commerce, which is currently set at 970 pounds per MWh.

Baseload electric generation means electric generation from a power plant that is designed and intended to provide electricity at an annualized plant capacity factor of at least 60 percent. Long-term financial commitment means (1) either a new ownership interest in baseload electric generation or an upgrade to a baseload electric generation facility; or (2) 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.

EPS and Coal Transition Power. In 2011 the Legislature established a schedule for applying the EPS to the Centralia coal-fired electric generation facility. In addition the EPS was amended to allow long-term contracts for Centralia's generated electricity, called coal transition power. Furthermore, a process was created to allow electric IOUs to petition the UTC for approval of a power purchase agreement for coal transition power.

Summary of Engrossed Bill: Requiring the Study of the Retirement of Eligible Coal Plants. The Energy Division of the Department of Commerce, in consultation with the appropriate committees of the Senate and House of Representatives, must study the costs and benefits of retiring an eligible coal plant, including any environmental benefits and any effects on electric rates and reliability. The study must also include an examination of the regulatory and financial mechanisms and means that would be required to facilitate such retirement. The Department of Commerce must coordinate the study with relevant government authorities in Washington and any state where an eligible generating unit is located. A report must be delivered to the Legislature by December 11, 2015.

Defining Eligible Coal Plant. The term means a coal-fired electric generating facility that (1) had two or less generating units as of January 1, 1980; (2) is owned by more than one electrical company as of the effective date of this section; and (3) provides, as a portion of the load served by the coal-fired electric generating facility, electricity paid for in rates by retail electric customers in the state of Washington.

Finding. The Legislature finds that more information and analysis is required in order to understand the full implications of retiring eligible coal plants.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This is a big piece of legislation that is a work in progress. The prime sponsor's goal is to move forward in a responsible manner that protects ratepayers. The co-sponsor has been working on the issue for last four years and believes a temporary increase in coal power must be outweighed by total reductions of coal power at the end of the transition process. The bill is the beginning of a long process where everything will be on the table, and its success will be judged by the avoidance of multiple health hazards associated with coal power. The Colstrip facility has four units: 1 and 2 were built in the 1970s and 3 and 4 were built in the 1980s. Puget Sound Energy (PSE) owns 50 percent of both units 1 and 2. Units 1 and 2 face regulatory challenges from current federal clean air requirements, which may affect their future economic viability. PSE has done an economic analysis on units 1 and 2 and believes ratepayers would benefit from a glide path to replace the units. The UTC's traditional regulatory framework will not work with the complex problem of transitioning PSE off units 1 and 2, although PSE wants the UTC's support in developing new regulatory tools. The EPS exclusion is needed to move forward, as well as the mechanism for low-cost, private funding from bonds. The bill needs to recognize the complex, multi-jurisdictional environment that PacifiCorp faces, and it also needs to protect service territories. The bill might affect PacifiCorp's Jim Bridger facility in Wyoming. Avista's analysis shows its share of Colstrip units 3 and 4 will be cost effective for the next 20 years. The closure of Colstrip will have major implications for Montana.

CON: While it is pleasing and exciting to hear about retiring coal plants, 30 years, which is the expected life of a coal plant, is too long. Clean replacement power must be stipulated in the bill. UTC must retain its power to protect ratepayers. The goals of the bill are supported but ratepayers should not be stuck with staggering clean-up costs. The timelines in the bill are too long and should be around 2020 when the Boardman coal plant in Oregon is scheduled to close or 2025 when Centralia is scheduled to close. Considering increasing fuel costs, coal-ash pollution problems, the pending closure of the J.E. Corette coal-fired power plant in Billings, and stricter federal air regulations, the 2017-18 timeframe is more realistic for the closure of Colstrip. In many instances, this bill overturns the statutory and regulatory framework of the state's electric industry that has developed over the last 80 to 100 years, all for the sake of possibly retiring, over the next 30 years, what may be one or more uneconomic coal plants. This bill should not opportunistically try to roll back the rights or authorities of PUDs.

OTHER: The goals are appreciated but the provisions protecting service territories impose undue restrictions on the choice of consumers and the provisions have no nexus to the rest of the bill. The creativity and ambition of the bill are appreciated but it is clearly a work in progress. Replacement power should be provided by independent power producers. It is difficult to see how Wall Street expectations of certainty will match up with traditional UTC prudency review. The bill should be narrowed by removing service territory provisions and multi-jurisdiction issues should be kept out of the bill. There should be no blank checks handed out to utilities. There should be cost caps on mitigation costs. Washington ratepayers support clean air but they also want fair, just, and reasonable rates, so the UTC needs to have the authority to balance these interests. The current low-interest rates provide an opportunity to finance the retirement of coal plants. The bill gives limited authority to do its usual oversight so it is very important to get the bill right.

Persons Testifying: PRO: Senator Ericksen, prime sponsor; Senator Ranker; Senator McCoy; Nancy Atwood, Ken Johnson, PSE; Scott Bolton, Kathleen Collins, PacifiCorp; John Rothlin, Avista.

CON: Doug Howell, Sierra Club, Senior Campaign Representative; Dave Warren, WA PUD Assn.; Kelly Hall, Renewable NW; Joni Bosh, NW Energy Coalition; Rebecca Johnson, Climate Solutions; Ronald Snell, Laurel Baum, Sierra Club; Bob Forgrave, citizen.

OTHER: Kent Lopez, WA Rural Electric Cooperative Assn., General Manager; Simon ffitch, Public Counsel WA Attorney General; Robert Kahn, NW & Intermountain Power Producers Coalition; Tim Boyd, Industrial Customers of NW Utilities; David Danner, Chair, UTC.