SENATE BILL REPORT
ESSB 6248

As Passed Senate, February 17, 2016

Title: An act relating to risk mitigation plans to promote the transition of eligible coal units.

Brief Description: Concerning risk mitigation plans to promote the transition of eligible coal units.

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

Brief History:
Committee Activity: Energy, Environment & Telecommunications: 1/20/16, 1/21/16, 2/04/16 [DPS-WM, DNP, w/oRec].
Passed Senate: 2/17/16, 42-7.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Majority Report: That Substitute Senate Bill No. 6248 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.
Signed by Senators Ericksen, Chair; Braun, Cleveland, Habib and Ranker.

Minority Report: Do not pass.
Signed by Senators Sheldon, Vice Chair; Brown and Honeyford.

Minority Report: That it be referred without recommendation.
Signed by Senator McCoy, Ranking Minority Member.

Staff: Kimberly Cushing (786-7421)

Background: 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 investor-owned utilities (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.

Coal-Fired Generation Facilities. According to Integrated Resource Plans (IRPs) filed in 2013, the IOUs 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, the four-unit Colstrip generating plant in Montana, is owned by six entities, three of which are Avista, Puget Sound Energy, 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 Substitute Bill: Defining eligible coal plant and unit. 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. An eligible coal unit is any generating unit of an eligible coal plant.

Authorizing the use of regulatory liabilities in a retirement account.After conducting an adjudicative proceeding, the UTC 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.

Regulatory liabilities in a retirement account must (1) not be used for any purpose other than to fund and recover prudently incurred decommissioning and remediation costs for eligible coal units; (2) not be reduced, altered, impaired, or limited from the date of UTC approval including regulatory liabilities until all costs are recovered or paid in full; and (3) provide that remaining funds in the retirement account be returned to customers.

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 the

UTC may not authorize the electrical company to use regulatory liabilities in the retirement account for decommissioning and rededication costs. Except, that the electric company may use the regulatory liabilities if it demonstrates to the UTC that a decision to close these coal units prior to December 31, 2022, is: (1) 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: 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: Puget Sound energy (PSE) seeks two things: (1) a limited waiver from the GHG Emissions standard; and (2) a framework for UTC to develop a plan. PSE owns 677 MW of the four units at the Colstrip plant. PSE wants a plan to work jointly with its co-owner to close units 1 and 2, and purchase an interest in unit 3. Closing units 1 and 2 will help to meet environmental regulations. The bill seeks UTC's approval to apply regulatory assets - tax credits - against existing liabilities - decommissioning and remediation costs - instead of returning the tax credits to customers over a period of time. This avoids rate fluctuation and allows customers who have benefited from low-cost energy to help pay for remediation, which is generational equity. PSE intends to look at renewable resources to close the gap. No layoffs at this time. Economic models estimate economic impact to Montana's industrial customers would increase wholesale market prices by 0.5 percent. PSE has listened to numerous stakeholders, and is working on an amendment to the bill. PSE is asking the Legislature to plan for the future.

In 2013, the UTC asked PSE to assess the cost of units 1 and 2 in an IRP. PSE ran many models. Some showed the units were cost effective and some did not, depending on assumptions. Since 2013, there has been low load growth, historically low gas prices, and more uncertainty surrounding environmental regulations. If units are not viable, PSE has to find cost-effective future power. The bill provides a roadmap for PSE to negotiate and implement a plan. PSE will have to prove that its costs are prudent. The UTC commences a fair and thorough adjudicative process with testimony under oath of all interested parties, including Montana. This is not a closure bill, but a process bill. If the UTC finds PSE's plan results in increased costs or undue risks, it can't approve it. The overall framework is sound.

CON: The bill directly affects our Montana constituents. The revenue generated by taxes from coal funds schools, libraries, parks, and regional water systems. Montana and Washington are neighbors. Colstrip was built in response to the energy crisis in the 1970s. Federal partners helped build the power line out to Washington, and Montana can't shut power off to Washington. Washington has benefited from low-cost reliable electricity. It has allowed farmers and ranchers in both states to increase agricultural production. The bill has no date for closing and decommissioning units 1 and 2. There is no plan on how to sequester carbon. Montana needs a plan with a timeframe and an opportunity to minimize impacts. If Colstrip is shut down, it would require baseload generation immediately available to remediate. Washington would be down 80 MW, but Montana would lose 525 MW of cheap electricity. Big industries will have to compete with residential customers and energy prices will go up.

The bill would not shift PSE's load off coal but would transfer to Unit 3. It is surprising Washington would consider such legislation. Natural gas has replaced coal as fuel. It is more effective and a cleaner option. Purchasing power from the Grays Harbor Energy Center is more effective than more coal. Any and all replacement power should be required to be competitively procured. The bill isn't needed because it is just a matter of time before units 1 and 2 will be closed. All existing customer classes should be protected. The bill should expressly say plan approval does not equate to cost approval. Costs must be prudently incurred in decommissioning and remediation, and should exclude costs that were the obligation of previous owners. The bill should not increase risks or shift new risks to customers. Costs imposed by Montana as taxes and fees should not be borne by PSE customers.

OTHER: This bill is an opportunity to put forth an orderly process and ensures that approach is fair for customers and the environment. Economics put coal-fired electric generation at risk. Current or future ratepayers should not pay more than they would have but for this bill. Acquisition of additional shares for replacement should only happen if paid for by consumers, or otherwise shareholders. Current negotiations should be conducted in good faith. The bill does not address replacement power. Washington has excess zero-carbon resources in the state. PUDs should be able to compete on an equal basis. PUDs have excess hydro and wind power. Renewable resources should be encouraged.

Persons Testifying on Original Bill: PRO: Nancy Atwood, Ken Johnson, Roger Garrett, Puget Sound Energy; Dave Danner, WA Utilities & Transportation Commission.

CON: Kris Zadlo, Mark Soutter, Invenergy; Jim Keane, Duane Ankney, Rick Ripley, Cliff Larsen, Montana Legislature; Mike Web for Simon Fitch, Office of the Attorney General, Public Counsel Unit; Robert Kahn, NW & Intermountain Power Producers Coalition (NIPPC); Tim Boyd, Industrial Customers of NW Utilities.

OTHER: Dave Warren, WA PUD Association; Nancy Hirsh, NW Energy Coalition; Shaun Seaman, Chelan County PUD.

Persons Signed In To Testify But Not Testifying on Original Bill: No One.