

Amendment - 1st Reading-white - Requested by: Brad Molnar - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Trevor Graff, 406-444-4975

SB0387.001.002

1 SENATE BILL NO. 387
2 INTRODUCED BY B. MOLNAR
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO COAL-FIRED GENERATING
5 UNITS; PROVIDING FOR THE BASING OF RATES OF CERTAIN MAINTENANCE COSTS AND
6 TRANSMISSION CAPACITY IN THE CASE OF ABANDONMENT AND UNDER SPECIFIC
7 CIRCUMSTANCES; PROHIBITING CERTAIN RETIREMENT AND REMEDIATION COSTS FROM BEING
8 PASSED ON TO RATEPAYERS; PROVIDING A DEFINITION; AND PROVIDING AN IMMEDIATE
9 EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12

13 NEW SECTION. Section 1. Maintenance costs -- commission oversight. (1) (a) Except as
14 provided in subsections (1)(c) through (1)(e), if an owner ceases to utilize power generated by a coal-fired
15 generating unit and ceases to fund maintenance and repair costs for the owner's share of a coal-fired
16 generating unit, that owner remains liable on a pro rata basis established by the additional owner for future
17 maintenance and repairs caused by the use of the coal-fired generating unit during the remaining owner's
18 tenure.

19 (b) Subject to subsections (2) and (3), costs must be determined through a negotiation with the
20 remaining owner and deposited in an account held by the coal-fired generating unit's operator.

21 (c) Subject to subsection (1)(e), if an owner ceases to maintain ownership interest in a coal-fired
22 generating unit and abandons ownership interest or ceases to maintain ownership interest and ceases to
23 operate the coal-fired generating unit while another owner has a continued need to utilize power generated by
24 the coal-fired generating unit, a utility regulated by the public service commission in accordance with Title 69,
25 chapter 3, may fund maintenance and repair costs for a single maintenance cycle in accordance with
26 subsection (1)(d) to continue operation of the coal-fired generating unit. The abandoning owner shall reimburse
27 the remaining owner for any unrecovered costs.

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1 (d) Costs incurred to provide maintenance and repair and for the procurement of transmission
2 capacity and services for a single maintenance cycle in the event of an owner ceasing to maintain ownership
3 interest in accordance with subsection (1)(c) and transmission capacity as required in subsection (1)(e) may be
4 included in the regulated utility's rate base in accordance with a public service commission order providing for
5 the inclusion.

6 (e) A transfer of maintenance and repair costs in accordance with subsection (1)(d) must also
7 include an agreement to maintain sufficient operational transmission capacity to serve the new acquisition of
8 coal-fired generation. The value of the capacity must be determined based on transmission agreements as
9 originally signed by the owners.

10 (2) Except as provided in subsections (1)(c) through (1)(e), electricity ratepayers are not liable for
11 maintenance and repair costs incurred as a result of owners who do not serve Montana ratepayers ceasing to
12 utilize power generated by the coal-fired generating units.

13 (3) The public service commission may not allow a facility acquired in accordance with this section
14 to be rate based at a value higher than that of newly constructed natural gas generation located within a utility's
15 Montana service territory.

16 (4) If an owner's agreement that is established, renewed, or altered after [the effective date of this
17 act] conflicts with the requirements of this section, the owner shall revise the agreement in order to fulfill the
18 requirements of subsections (1) and (2).

19

20 **NEW SECTION. Section 2. Stranded costs and remediations costs -- prohibition against**

21 **ratepayer increases.** (1) If a utility regulated in accordance with ~~this chapter Title 69, chapter 8,~~ ceases to
22 maintain ownership interest in a coal-fired generating unit ~~as defined in 75-8-103~~ prior to the established
23 depreciation date, the utility may not seek stranded cost reimbursement from the commission. Shareholders
24 shall cover any stranded costs.

25 (2) Remediation costs incurred by an out-of-state owner or utility regulated in accordance with ~~this~~
26 ~~chapter Title 69, chapter 8,~~ determined in accordance with ~~Title 75, chapter 8, part 1 this part,~~ and established
27 by other applicable legal obligations ~~as defined in 75-8-103~~ may not be recovered in costs passed on to

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1 Montana ratepayers.

2 (3) For the purposes of this section, "stranded costs" means an investment in a coal-fired
3 generating unit that is defined as the incurred historic financial obligations of the utility that become
4 unrecoverable.

5
6 **NEW SECTION. Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified
7 as an integral part of Title [6975](#), chapter 8, [part 1](#) and the provisions of Title [6975](#), chapter 8, [part 1](#) apply to
8 [sections 1 and 2].

9
10 **NEW SECTION. Section 4. Severability.** If a part of [this act] is invalid, all valid parts that are
11 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
12 the part remains in effect in all valid applications that are severable from the invalid applications.

13
14 **NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.

15 - END -