

2019 Montana Legislature

[Additional Bill Links](#) [PDF \(with line numbers\)](#)

SENATE BILL NO. 331

INTRODUCED BY T. RICHMOND, D. ANKNEY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ELECTRIC UTILITY COST RECOVERY FOR CERTAIN COAL-FIRED GENERATING UNITS AND TRANSMISSION; ESTABLISHING THE MONTANA ENERGY SECURITY ACT OF 2019; ~~REQUIRING~~ ALLOWING THE PUBLIC SERVICE COMMISSION TO INCLUDE CERTAIN RETURNS AND COSTS IN UTILITY RATES; ALLOWING FOR UTILITY COST RECOVERY FOR CERTAIN ACQUISITIONS; ALLOWING FOR AN INCREASED INTEREST, BASED ON A TRANSFER, IN CERTAIN COAL-FIRED GENERATING UNITS; PROVIDING EXCEPTIONS; ESTABLISHING CONDITIONS FOR A TRANSFER; REQUIRING INFORMATION TO BE FILED WITH THE DEPARTMENT OF ENVIRONMENTAL QUALITY; ESTABLISHING A FEE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the Colstrip generating complex consists of four different generating units, with six joint owners, each holding different ownership shares of the various units; and

WHEREAS, four of the joint owners are public utilities with significant service territories in the state of Oregon and Washington and no significant service territory in Montana; and

WHEREAS, one of the joint owners is a merchant generator with no service territory; and

WHEREAS, Colstrip Units 1 and 2 are currently scheduled to be closed by July 1, 2022, under a settlement agreement signed by its joint owners; and

WHEREAS, there is a difference of opinion between the states of Washington, Oregon, and Montana as to the desirability of maintaining the operations of the Colstrip units, and the closure of the Colstrip units disproportionately affects Montana; and

WHEREAS, baseload coal-fired electrical generating resources are important to Montana and Montana customers; and

WHEREAS, the continued operation of Colstrip Unit 4 and the interconnected 500-kilovolt transmission line are in the economic best interests of Montana; and

WHEREAS, the importance of continuing the operation of Colstrip Unit 4 and the interconnected 500-kilovolt transmission line requires a clear expression of certain electric utility ratemaking principles to be applied to the operation of that unit and the transmission line.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 3] may be cited as the "Montana Energy Security Act of 2019".

NEW SECTION. **Section 2. Investment -- cost recovery for certain coal-fired generating units and transmission resources -- DEFINITIONS.** (1) (A) Except as provided in ~~section 3(3)~~ [SECTION 3(3) AND (4)] AND SUBSECTION (1)(C) OF THIS SECTION,

~~if a coal-fired generating unit is retired before the expected life used for depreciation purposes, the electric utility's PRUDENTLY INCURRED undepreciated investment in the coal-fired generating unit, together with any PRUDENTLY INCURRED AND required decommissioning and site remediation costs FOR AN INCREASED OWNERSHIP SHARE OF A COAL-FIRED GENERATING UNIT ACQUIRED ON OR AFTER [THE EFFECTIVE DATE OF THIS ACT], NOT TO EXCEED 150 MEGAWATTS, must MAY be included in rates by the public service commission as a long-term amortization, not to exceed 30 years. RETIREMENT BEFORE THE EXPECTED LIFE USED FOR DEPRECIATION PURPOSES MUST BE APPROVED BY THE PUBLIC SERVICE COMMISSION.~~

~~(B) RETIREMENT OF A COAL-FIRED GENERATING UNIT BEFORE THE EXPECTED LIFE USED FOR DEPRECIATION PURPOSES MUST BE APPROVED BY THE PUBLIC SERVICE COMMISSION.~~

~~(C) COST RECOVERY FOR AN UNDEPRECIATED INVESTMENT AND REQUIRED DECOMMISSIONING AND SITE REMEDIATION COSTS ATTRIBUTABLE TO AN ELECTRIC UTILITY'S SHARE IN A COAL-FIRED GENERATING UNIT ACQUIRED BEFORE [THE EFFECTIVE DATE OF THIS ACT] ARE SUBJECT TO PUBLIC SERVICE COMMISSION REVIEW AND APPROVAL.~~

~~(D) ON OR BEFORE JANUARY 1, 2020, THE COMMISSION SHALL DETERMINE THE CURRENT ANNUAL MARKET VALUE OF AN ELECTRIC UTILITY'S SHARE IN A COAL-FIRED GENERATING UNIT AND THE ESTIMATED AND ASSUMED COSTS INCLUDED IN THE ORIGINAL VALUATION OF THE COAL-FIRED GENERATING UNIT ACCRUED ANNUALLY.~~

~~(E) BASED ON THE DETERMINATION MADE IN SUBSECTION (1)(D), THE COMMISSION SHALL REVISE THE CURRENT AMORTIZATION PAYMENT SCHEDULE FOR A COAL-FIRED GENERATING UNIT AND REVISE RATES IN ACCORDANCE WITH THE DETERMINATION.~~

~~(2) For the purposes of [sections 1 through 3], "coal-fired generating unit" THE FOLLOWING DEFINITIONS APPLY:~~

~~(A) "COAL-FIRED FOR THE PURPOSES OF [SECTIONS 1 THROUGH 3]. "COAL-FIRED GENERATING UNIT" means a unit of a coal-fired generating station located in Montana in which an electric utility that has restructured in accordance with Title 69, chapter 8, holds an ownership interest on or before [the effective date of this act].~~

~~(B) "COSTS" FOR THE PURPOSES OF [SECTION 3]. "COSTS" MEANS CAPITAL INVESTMENTS FOR ENVIRONMENTAL, REGULATORY, AND SAFETY COMPLIANCE AND RELIABILITY.~~

NEW SECTION. Section 3. Acquisition cost-recovery for certain coal-fired generating units AND TRANSMISSION RESOURCES. (1) ~~(a) Except as provided in subsections (1)(b) through (1)(d) AND SUBJECT SUBJECT TO THE CONDITIONS AND LIMITATIONS OF THIS SECTION,~~ the commission shall MAY allow the full recovery of costs incurred by an electric utility in acquiring and owning an increased ownership share of a coal-fired generating unit, not to exceed 150 megawatts ~~and subject to the conditions and limitations of this section,~~ AND THE PRUDENT INVESTMENT IN ANY INTERCONNECTED TRANSMISSION FACILITIES OF 500 KILOVOLTS OR MORE, NOT TO EXCEED BOOK VALUE.

~~(b) Costs incurred by an electric utility in accordance with subsection (1)(a) must be capped at a total of \$40 \$75 million over a consecutive 5-year 10-YEAR period following the date of transfer. The date of transfer may not be later than December 31, 2021.~~

~~(c) Operational, maintenance, repair, or improvement costs COSTS that exceed the limitations or time constraints of subsection (1)(b) are subject to commission review. The commission may review the prudence of those costs.~~

~~(d) Operational, maintenance, repair, or improvement costs COSTS do not include decommissioning and site remediation costs in accordance with [section 2(1)].~~

(2) An acquiring electric utility must be provided the increased ownership share of the coal-fired generating unit at a nominal transfer price of \$1, regardless of the book value of that ownership share to the transferring utility.

(3) (a) A transferring utility remains liable for its share of the ownership costs and liabilities that existed by virtue of its ownership on and before the date of transfer, including but not limited to any required decommissioning or site remediation costs imposed by federal, state, or local government.

(b) Prior to an acquisition, the acquiring electric utility shall file information with the department of environmental quality verifying the continued acceptance of liability by a transferring utility as established in subsection (3)(a).

(c) The information must be accompanied by a \$100 filing fee. The fee is not recoverable in an acquiring electric utility's rates.

(4) COST RECOVERY ESTABLISHED IN ~~SECTIONS 1 AND 2~~ [SECTIONS 2 AND 3] IS PROVIDED FOR IF AN ELECTRIC UTILITY ACQUIRES AN INCREASED OWNERSHIP SHARE OF A COAL-FIRED GENERATING UNIT ON OR BEFORE DECEMBER 31, 2021.

NEW SECTION. **Section 4. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 69, chapter 3, and the provisions of Title 69, chapter 3, apply to [sections 1 through 3].

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

- END -

Latest Version of SB 331 (SB0331.04)

Processed for the Web on April 13, 2019 (10:47am)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.

See the [status of this bill](#) for the bill's primary sponsor.

[Status of this Bill](#) | [2019 Legislature](#) | [Leg. Branch Home](#)

[All versions of this bill \(PDF format\)](#)

[Authorized print version of this bill w/line numbers \(PDF format\)](#)

[[NEW SEARCH](#)]

Prepared by Montana Legislative Services

(406) 444-3064