

SENATE BILL NO. 387

INTRODUCED BY B. MOLNAR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO COAL-FIRED GENERATING UNITS; PROVIDING FOR THE BASING OF RATES OF CERTAIN MAINTENANCE COSTS AND TRANSMISSION CAPACITY IN THE CASE OF ABANDONMENT AND UNDER SPECIFIC CIRCUMSTANCES; PROHIBITING CERTAIN RETIREMENT AND REMEDIATION COSTS FROM BEING PASSED ON TO RATEPAYERS; PROVIDING A DEFINITION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Maintenance costs -- commission oversight.** (1) (a) Except as

provided in subsections (1)(c) through (1)(e), if an owner ceases to utilize power generated by a coal-fired generating unit and ceases to fund maintenance and repair costs for the owner's share of a coal-fired generating unit, that owner remains liable on a pro rata basis established by the additional owner for future maintenance and repairs caused by the use of the coal-fired generating unit during the remaining owner's tenure.

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

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

(d) Costs incurred to provide maintenance and repair and for the procurement of transmission

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

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

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

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

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

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19 **NEW SECTION. Section 2. Stranded costs and remediations costs -- prohibition against**
20 **ratepayer increases.** (1) If a utility regulated in accordance with this chapter ceases to maintain ownership
21 interest in a coal-fired generating unit as defined in 75-8-103 prior to the established depreciation date, the
22 utility may not seek stranded cost reimbursement from the commission. Shareholders shall cover any stranded
23 costs.

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

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

1 unrecoverable.

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3 NEW SECTION. Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified
4 as an integral part of Title 69, chapter 8, and the provisions of Title 69, chapter 8, apply to [sections 1 and 2].

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

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

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