
HOUSE BILL 2002

State of Washington 64th Legislature 2015 Regular Session

By Representatives Morris, Magendanz, and Fitzgibbon

Read first time 02/06/15. Referred to Committee on Technology & Economic Development.

1 AN ACT Relating to regulatory and financial mechanisms and means
2 to promote the retirement of coal-fired electric generation
3 facilities; amending RCW 19.285.030, 54.48.030, and 80.80.060; adding
4 new sections to chapter 80.82 RCW; and recodifying RCW 80.82.010 and
5 80.82.020.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** RCW 80.82.010 and 80.82.020 are each
8 recodified as sections in chapter 80.82 RCW under the subchapter
9 heading "Closure of Coal-Fired Electric Generation Facilities."

10 NEW SECTION. **Sec. 2.** Sections 3 through 11 of this act are each
11 added to chapter 80.82 RCW and codified under the subchapter heading
12 of "Washington State Coal Generation Retirement Program."

13 NEW SECTION. **Sec. 3.** This act may be known and cited as the
14 Washington state coal generation retirement program act.

15 NEW SECTION. **Sec. 4.** (1) The legislature finds that:
16 (a) Washington state citizens benefit from the reduction of
17 greenhouse gas emissions and from reliable and environmentally sound
18 generation resources that are sufficient to provide economic

1 opportunities and employment in a manner consistent with the state's
2 energy priorities;

3 (b) Over a period of years, significant investments have been
4 made in coal-fired electric generation facilities by electrical
5 companies serving retail electric load within the state; and

6 (c) Promotion of the early retirement of coal-fired electric
7 generation facilities requires secure and predicable regulatory and
8 financial mechanisms that encourage such early retirement and a
9 secure and predicable customer base to support such investments.

10 (2) To assure Washington state citizens the benefits of reduced
11 greenhouse gas emissions associated with the transition away from
12 coal-fired electricity generation facilities, the legislature intends
13 by this act to establish the Washington state coal generation
14 retirement program whereby:

15 (a) Specific regulatory and financial mechanisms defined by the
16 legislature are available to electrical companies that commit to or
17 that are impacted by the retirement of coal-fired electric generation
18 facilities;

19 (b) Electrical companies or financing subsidiaries are authorized
20 by the legislature to facilitate the issuance of carbon reduction
21 bonds, secured by revenues from the customers of electrical companies
22 that commit to retire coal-fired electric generation facilities, for
23 purposes of financing carbon reduction costs incurred in connection
24 with the retirement of coal-fired electric generation facilities; and

25 (c) Specific regulatory means are authorized by the legislature
26 to maintain a customer base that is sufficient to support investment
27 in the retirement of coal-fired electric generation facilities.

28 NEW SECTION. **Sec. 5.** DEFINITIONS. The definitions in this
29 section apply throughout this chapter unless the context clearly
30 requires otherwise.

31 (1) "Binding notice" means a notice, filed with the commission by
32 an electrical company as set forth in section 7 of this act, to
33 irrevocably commit to the retirement of an eligible coal plant within
34 twenty years of the date of the commission's acceptance of a binding
35 notice.

36 (2) "Carbon reduction bonds" means bonds, debentures, notes,
37 certificates of participation, certificates of beneficial interest,
38 certificates of ownership, or other evidences of indebtedness that
39 are issued by an electrical company or a financing subsidiary to

1 recover, finance, or refinance carbon reduction costs and that are
2 secured by or payable from carbon reduction property.

3 (3) "Carbon reduction charge" means a charge paid by customers of
4 an electrical company or its successors to recover carbon reduction
5 costs.

6 (4) "Carbon reduction costs" means any cost or expense incurred,
7 or to be incurred, by an electrical company in connection with the
8 retirement of an eligible coal plant. Carbon reduction costs may be
9 incurred by an electrical company prior to, and may be incurred by an
10 electrical company from and after, the date of retirement of an
11 eligible coal plant. Carbon reduction costs may include costs and
12 expenses incurred or to be incurred in connection with following:

13 (a) The permanent decommissioning, reduction, termination,
14 severance, stranding, or closure of plant, assets, equipment,
15 facilities, property, rights-of-way, easements, operations, labor,
16 personnel, contracts, agreements, franchises, or any other interest
17 in an eligible coal plant, including any and all costs or expenses in
18 connection with: (i) The acquisition, extension, modification,
19 alteration, or surrender of any permits, licenses, approvals,
20 consents, orders, or authorizations required with respect to any such
21 actions or interests; and (ii) any damages, fees, charges or other
22 cost and expenses incurred in any legal, judicial, administrative, or
23 regulatory proceedings, or any settlements thereof, arising in
24 connection with any such actions or interests;

25 (b) The identification, assessment, handling, storage,
26 minimization, containment, cleanup, removal, remediation,
27 transportation, or disposal of any substance, material, circumstance,
28 or condition that presents a threat or potential threat to human
29 health or the environment, including any and all costs or expenses in
30 connection with: (i) Analyses, tests, studies, or investigations
31 conducted or required in connection with such matters; (ii) permits,
32 licenses, approvals, consents, orders, or authorizations required in
33 connection with such matters; and (iii) any damages, fees, charges,
34 or other cost and expenses incurred in any legal, judicial,
35 administrative, or regulatory actions or proceedings, or any
36 settlements thereof, arising in connection with any such matters;

37 (c) Capital costs, construction work in progress, and the
38 unrecovered value of property that is retired, including any
39 demolition or similar cost that exceeds the salvage value of the
40 property; and

1 (d) Financing costs.

2 (5) "Carbon reduction property" means all of the following:

3 (a) The right specified in a financing order to impose, collect,
4 or receive carbon reduction charges, or to obtain adjustments to
5 carbon reduction charges as provided in section 8 of this act, and
6 any interest in such right;

7 (b) All revenues and proceeds arising from the rights and
8 interests specified in section 8(2)(a) of this act.

9 (6) "Commission" means the Washington utilities and
10 transportation commission.

11 (7) "Electrical company" means a company owned by investors that
12 meets the definition of electrical company set forth in RCW
13 80.04.010.

14 (8) "Eligible coal plant" means a coal-fired electric generating
15 facility that: (a) Is owned, controlled, or operated, in whole or in
16 part, by an electrical company serving a retail electric load within
17 the state of Washington; and (b) provides, as a portion of the load
18 served by the coal-fired electric generating facility, electricity to
19 retail electric customers in the state of Washington. An eligible
20 coal plant includes, and may be limited to, for purposes of a binding
21 notice, one or more operating units of an eligible coal plant that
22 collectively comprise a larger facility.

23 (9) "Eligible coal plant acquisition costs" means all costs and
24 expenses incurred by an electrical company in connection with the
25 acquisition of an additional or increased interest in any one or more
26 eligible coal plants which, as of the effective date of this section,
27 provide electricity to retail electric customers in the state of
28 Washington. Eligible coal plant acquisition costs include all costs
29 and expenses incurred by an electrical company to secure, finance,
30 purchase, and acquire an additional or increased interest in any one
31 or more such eligible coal plants, together with any and all rights
32 and obligations related to the ownership, operation, and control of
33 such interest, and includes any and all transaction costs, closing
34 costs, legal fees, taxes, charges, expenses, and other amounts
35 incurred by an electrical company in connection with such
36 acquisitions.

37 (10) "Financing cost" means any of the following:

38 (a) Interest and redemption premiums that are payable on carbon
39 reduction bonds;

1 (b) A payment required under an ancillary agreement, including
2 any amount required to fund a reserve account, made in connection
3 with the issuance or servicing of carbon reduction bonds;

4 (c) The cost of retiring or refunding existing debt and equity
5 securities issued by or for the benefit of an electrical company to
6 finance such electrical company's investment in an eligible coal
7 plant to be retired, including the full payment, when due under the
8 terms thereof or upon redemption prior to maturity, of all the
9 principal of and interest on any redemption premium, if applicable;

10 (d) Any other reasonable cost related to issuing and servicing
11 carbon reduction bonds or the retiring or refunding of existing debt
12 and equity securities issued by or for the benefit of an electrical
13 company to finance such electrical company's investment in an
14 eligible coal plant to be retired, including servicing fees, trustee
15 fees, legal fees, administrative fees, placement fees, capitalized
16 interest, and rating agency fees;

17 (e) Any taxes and license fees imposed on the revenues generated
18 from the collection of carbon reduction charges.

19 (11) "Financing order" means an order, issued by the commission
20 pursuant to section 8 of this act, that allows for the issuance of
21 carbon reduction bonds, the collection of carbon reduction charges,
22 and the creation of carbon reduction property.

23 (12) "Financing subsidiary" means a wholly owned subsidiary of an
24 electrical company that has no direct or indirect interest in the
25 business of the electrical company and its other affiliates and was
26 formed for the limited purpose of:

27 (a) Issuing, facilitating, or administering carbon reduction
28 bonds;

29 (b) Facilitating or administering carbon reduction property;

30 (c) Entering into mortgages, notes, loans, or other contractual
31 obligations secured by carbon reduction property for the purpose of
32 financing carbon reduction costs; or

33 (c) Any other business as may be reasonably incidental to those
34 described in (a) and (c) of this subsection, including the ownership
35 and use of carbon reduction property in connection therewith.

36 (13) "Program" means the Washington state coal generation
37 retirement program established by this act.

38 (14) "Program investment" means, for any electrical company that
39 retires any one or more eligible coal plants under the program, an
40 amount, which such amount in the aggregate is the sum of all of the

1 following: (a) The amount of the electrical company's net plant
2 investment allowed and approved by the commission for purposes of
3 section 6(1) of this act; (b) the amount of the electrical company's
4 net plant investment allowed and approved by the commission for
5 purposes of section 6(2) of this act; and (c) the amount of the
6 carbon reduction costs to be incurred and paid by such electrical
7 company from proceeds of carbon reduction bonds authorized by a
8 financing order issued by the commission pursuant to section 8(1)(c)
9 of this act.

10 (15) "Program limit" means a dollar amount, determined for each
11 electrical company that retires any one or more eligible coal plants
12 under the program, and is the amount that is equal to nine and eight-
13 tenths percent of such electrical company's rate base as of the
14 effective date of this section. The program limit shall be subject to
15 adjustment by the commission in accordance with section 7(7) (b) and
16 (c) of this act.

17 (16) "Retirement" or "retire" means the complete and permanent
18 closure of an eligible coal plant as a coal-fired electric generating
19 facility. Closure shall be deemed to have occurred upon the date that
20 the eligible coal plant shall permanently cease operations as a coal-
21 fired electric generation facility.

22 NEW SECTION. **Sec. 6.** REGULATORY MECHANISMS. The following
23 regulatory mechanisms are available to an electrical company under
24 the program:

25 (1) Regulatory asset. For each eligible coal plant designated in
26 a binding notice for retirement by an electrical company, the
27 electrical company shall have the right to place all or a portion of
28 its net plant investment in an eligible coal plant into a regulatory
29 asset account. Any request by an electrical company to place all or a
30 portion of its net plant investment in a retired eligible coal plant
31 into a regulatory asset account shall be allowed and approved by the
32 commission. The net plant investment shall include the net book value
33 of the retired eligible coal plant as of the date of retirement, any
34 and all transmission or other costs related to the eligible coal
35 plant and traditionally included in an electrical company's rate
36 base, and any carbon reduction costs associated with the eligible
37 coal plant that are not otherwise recovered by a carbon reduction
38 charge. The electrical company shall be allowed to earn a reasonable
39 and sufficient rate of return on such investment, and in no event

1 shall the rate of return on such investment be less than the rate of
2 return authorized by the commission in the electrical company's most
3 recent rate proceeding. The amount recoverable in the regulatory
4 asset account may be amortized and recovered in rates over a period
5 not to exceed twenty years. All revenues required to recover the cost
6 of the electrical company's investment in such regulatory asset
7 account, and all revenues required to provide the electrical company
8 its allowed rate of return on such investment, shall be included in
9 the electrical company's rates. Charges among customer classes shall
10 be allocated over such time and among such customers consistent with
11 the allocation methodology for utility production plants accepted by
12 the commission in the electrical company's most recent rate
13 proceeding.

14 (2) Accelerated depreciation and amortization. For each eligible
15 coal plant designated in a binding notice for retirement by an
16 electrical company, the electrical company shall have the right to
17 accelerated depreciation and amortization of all or a portion of the
18 electrical company's net plant investment in such eligible coal
19 plant. Any accelerated depreciation and amortization of the
20 electrical company's net plant investment requested by the electrical
21 company shall be allowed and approved by the commission. The net
22 plant investment so allowed and approved may, if requested by the
23 electrical company, be fully depreciated by the retirement date. The
24 net plant investment in such coal plant shall include its net book
25 value as of the date of the binding notice, all subsequent capital
26 investments required to keep such plant in service prior to
27 retirement, all transmission or other costs traditionally included in
28 the electrical company's rate base, and any carbon reduction costs
29 that are not otherwise recovered by a carbon reduction charge. The
30 electrical company shall be allowed to earn a reasonable and
31 sufficient rate of return on such net plant investment, and in no
32 event shall the rate of return on such net plant investment be less
33 than the rate of return authorized by the commission in the
34 electrical company's most recent rate proceeding. All revenues
35 required to recover the cost of the electrical company's net plant
36 investment, and all revenues required to provide the electrical
37 company its allowed rate of return on such net plant investment,
38 shall be included in the electrical company's rates. Charges among
39 customer classes shall be allocated over such time and among such
40 customers consistent with the allocation methodology for utility

1 production plants accepted by the commission in the electrical
2 company's most recent rate proceeding.

3 (3) Any eligible coal plant acquisition costs incurred by an
4 electrical company shall be deemed by the commission to be costs and
5 expenses that were reasonably and prudently incurred by the
6 electrical company. An electrical company shall have the right to the
7 following regulatory treatment of eligible coal plant acquisition
8 costs, which shall be allowed and approved by the commission upon and
9 as requested by the electrical company:

10 (a) Upon the acquisition of an interest in an eligible coal
11 plant, all eligible coal plant acquisition costs may be included in
12 an electrical company's rate base. The electrical company shall be
13 allowed to earn a reasonable and sufficient rate of return on such
14 investment, and in no event shall the rate of return on such
15 investment be less than the rate of return authorized by the
16 commission in the electrical company's most recent rate proceeding.
17 All revenues required to recover the cost of the electrical company's
18 investment in such eligible coal plant, and all revenues required to
19 provide the electrical company its allowed rate of return on such
20 investment, shall be included in the electrical company's rates.

21 (b) If the electrical company shall file a binding notice with
22 respect to any eligible coal plant acquired during the program,
23 eligible coal plant acquisition costs may, at the electrical
24 company's option, thereafter in whole or in part be: (i) Depreciated
25 and amortized under section 6(2) of this act; or (ii) removed from
26 rate base and designated in a financing order issued by the
27 commission pursuant to section 8(1)(c) of this act as carbon
28 reduction costs to be recovered by carbon reduction charges.

29 (c) If the electrical company shall retire any eligible coal
30 plant acquired during the program, any unrecovered eligible coal
31 plant acquisition costs may, at the electrical company's option,
32 thereafter in whole or in part be: (i) Removed from rate base and
33 designated in a financing order issued by the commission pursuant to
34 section 8(1)(c) of this act as carbon reduction costs to be recovered
35 by carbon reduction charges; or (ii) transferred to a regulatory
36 asset account established by section 6(1) of this act.

37 (4) Creation of subsidiaries. Each electrical company may create
38 or acquire one or more subsidiaries without commission approval to
39 accomplish the acquisition or retirement of one or more eligible coal
40 plants. Chapter 80.16 RCW shall not apply to any contracts or other

1 arrangements between an electrical company and any subsidiary that
2 are made or undertaken in order to accomplish the acquisition or
3 retirement of an eligible coal plant.

4 (5) Timing of mechanisms. If requested by the electrical company,
5 an order by the commission establishing and implementing the
6 regulatory and financial mechanisms authorized and approved by this
7 act may provide for such mechanisms to be implemented in phases to
8 better correspond with the timing and implementation of the
9 electrical company's retirement plan. If so authorized, no further or
10 additional orders from the commission shall be required to establish
11 and implement such phased regulatory and financial mechanisms.

12 (6) Commission authority. The commission shall, upon petition,
13 issue such orders as may be necessary to implement any and all of the
14 regulatory and financial mechanisms hereby authorized and approved by
15 this act. The commission shall not, at any time, take any action to
16 directly or indirectly disallow, alter, modify, condition, offset, or
17 diminish the value of any of the regulatory or financial mechanisms
18 authorized and approved by this act.

19 NEW SECTION. **Sec. 7.** BINDING NOTICE. (1) Binding notice. An
20 electrical company may file a binding notice with the commission that
21 sets forth the financial and regulatory mechanisms the electrical
22 company requires to irrevocably commit the electrical company to the
23 retirement of one or more eligible coal plants. A binding notice may
24 include one or more eligible coal plants. A binding notice must state
25 with particularity the following information:

26 (a) As to any eligible coal plant to be retired, the name and
27 location of the plant, the identity of the owners and operators of
28 such plant, documentation that the plant to be retired is an eligible
29 plant for purposes of this chapter, a preliminary retirement plan, a
30 preliminary estimate of the cost to implement the retirement plan,
31 the electrical company's program limit (which may be projected over
32 the term of the retirement plan), and the date certain by which the
33 eligible coal plant shall permanently cease operations as a coal-
34 fired electric generation facility.

35 (b) The date, which shall not be more than ten years after the
36 date that an eligible plant is retired, on or before which the
37 electrical company must petition the commission for any regulatory
38 asset accounts to be established for the net plant investment of an

1 electrical company in a retired eligible plant as set forth in
2 section 6(1) of this act.

3 (c) A statement of whether the electrical company or financing
4 subsidiary anticipates issuing carbon reduction bonds under a
5 financing order to be issued by the commission in accordance with
6 section 8(1)(c) of this act.

7 (2) Commission authority. Within thirty days of the commission's
8 receipt of a binding notice, the commission shall determine if the
9 binding notice is complete and may request further or additional
10 information as the commission may reasonably request to accept or
11 reject the binding notice. Not less than one hundred twenty days from
12 the date of an electrical company's submittal of a binding notice,
13 the commission shall accept the binding notice unless the commission
14 finds, based upon clear and convincing evidence, that:

15 (a) The plant designated for retirement is not an eligible coal
16 plant for purposes of this chapter;

17 (b) The regulatory and financial mechanisms identified in the
18 binding notice are not authorized by this chapter or any other
19 applicable law;

20 (c) The electrical company is unable, through commercially
21 feasible means, to fulfill its obligation to retire an eligible plant
22 on or before the date set forth in the binding notice; or

23 (d) The electrical company's program investment will exceed the
24 electrical company's program limit.

25 (3) Rejection of binding notice. If the commission rejects a
26 binding notice as set forth in subsection (2) of this section, the
27 rejection shall be without prejudice to the electrical company's
28 right to refile the same, subject to any further direction as the
29 commission may provide with respect to any deficiencies in the
30 binding notice.

31 (4) Enforceable obligation. Upon the commission's acceptance of a
32 binding notice, the electrical company shall be:

33 (a) Legally bound and irrevocably committed to the retirement of
34 an eligible coal plant, as set forth in the terms and conditions set
35 forth in the binding notice, which terms and conditions shall be
36 enforceable obligations of the electrical company and its respective
37 successors and assigns; and

38 (b) Legally entitled to the regulatory and financial mechanisms
39 provided by this chapter, and the mechanisms shall be binding and
40 enforceable obligations of the state and each of its departments,

1 agencies, divisions, bureaus, commissions, boards, and political
2 subdivisions, and their respective successors and assigns.

3 (5) New emission control technology.

4 (a) An electrical company is relieved of its obligation to retire
5 an eligible coal plant if, subsequent to the date of the commission's
6 acceptance of a binding notice with respect to an eligible coal
7 plant: (i) The electrical company is required by state or federal law
8 to reduce emissions, such that the plant must install or provide any
9 new or additional emission control measures or technology at the
10 eligible coal plant; and (ii) the cost of implementing any one or
11 more of state or federal requirements, individually or in the
12 aggregate, is an amount that exceeds ten percent of the net book
13 value of the eligible coal plant. For purposes of this subsection
14 (5)(a), the net book value of an eligible coal plant shall be
15 determined as of the date of the binding notice.

16 (b) Notwithstanding the provisions of (a) of this subsection, an
17 electrical company may elect, by written notice to the commission, to
18 proceed with the retirement of an eligible coal plant.

19 (c) Any investment in new or additional emission control measures
20 or technology by an electrical company at an eligible coal plant is a
21 carbon reduction cost recoverable pursuant to section 6 or 8 of this
22 act.

23 (6) Reliability.

24 (a) An electrical company may defer its obligation to retire an
25 eligible coal plant if, subsequent to the date of the commission's
26 acceptance of a binding notice with respect to an eligible coal
27 plant, the eligible coal plant to be retired is needed for purposes
28 of reliability.

29 (b) An electrical company that is irrevocably committing to the
30 retirement of an eligible coal plant pursuant to subsection (4) of
31 this section may petition the commission for an order to defer its
32 retirement obligation. Any such petition shall identify: (i) The
33 change in circumstances occurring, from and after the date of the
34 commission's acceptance of the electrical company's binding notice,
35 that give rise to the need to maintain the eligible coal plant in
36 operation for purposes of reliability; and (ii) any resource
37 alternatives considered by the electrical company for purposes of
38 reliability, and why such alternatives are insufficient or
39 unsuitable. The electrical company shall bear the burden of proof in

1 establishing that the eligible coal plant to be retired is needed for
2 purposes of reliability.

3 (c) Based upon the petition and such other evidence as may be
4 presented to the commission, the commission may: (i) Grant the
5 petition and defer the retirement date of the eligible coal plant to
6 a date that is later than the date established by the binding notice;
7 or (ii) reject the petition and decline to defer the retirement
8 obligation of the electrical company.

9 (7) Regulatory and financial mechanisms program limits.

10 (a) The amount of an electrical company's program investment may
11 at any time equal, but shall not exceed, such electrical company's
12 then applicable program limit.

13 (b) An electrical company's program limit shall adjust to account
14 for inflation in accordance with an index and an adjustment mechanism
15 to be established by the commission. In no event, however, shall the
16 amount of an electrical company's program limit ever be less than the
17 amount that is equal to nine and eight-tenths percent of the
18 electrical company's rate base as of the effective date of this
19 section.

20 (c) An electrical company may, at any time, petition the
21 commission for an order to increase its program limit. Any such
22 petition shall: (i) Identify the change in circumstances occurring,
23 from and after the date of the commission's acceptance of the
24 electrical company's binding notice, that give rise to the need to
25 increase the electric company's program limit; and (ii) include an
26 update to the retirement plan that the electrical company proposes to
27 undertake in connection with the retirement of an eligible coal plant
28 that necessitates an increase in the electrical company's program
29 limit. Based upon the petition and such other evidence as may be
30 presented to the commission, the commission may grant, in whole or in
31 part, the electrical company's petition to increase its program limit
32 if the commission finds that such increase is in the public interest.

33 (d) If an electrical company shall incur carbon reduction costs
34 in excess of such electrical company's program limit, no presumption
35 shall be applied by the commission as to whether such excess carbon
36 reduction costs were appropriately and prudently incurred. In such
37 event, the electrical company may seek to recover any and all such
38 costs in rates consistent with the principles of ratemaking that are
39 traditionally applied in the determination of rates that are just,
40 fair, reasonable, and sufficient. Nothing in this subsection (7)(d)

1 shall: (i) Limit or impair the commission's general investigative
2 authority; or (ii) preclude the commission's consideration of any
3 evidence the commission deems relevant to the determination of rates
4 that are just, fair, reasonable, and sufficient.

5 NEW SECTION. **Sec. 8.** CARBON REDUCTION BONDS. (1) Carbon
6 reduction bonds.

7 (a) An electrical company or a financing subsidiary may issue
8 carbon reduction bonds as a financing mechanism authorized by this
9 act upon approval by the commission of a financing order in
10 accordance with this section. An application for a financing order
11 under this section shall include the following:

12 (i) A copy of the commission's order accepting the electrical
13 company's binding notice irrevocably committing the electrical
14 company to the retirement of an eligible coal plant;

15 (ii) A description of the retirement plan that the electrical
16 company proposes to undertake in connection with the retirement of an
17 eligible coal plant, which may include one or more phases of
18 retirement scheduled to be undertaken over a period of time;

19 (iii) A description of the current or anticipated legal
20 obligations that establish the retirement requirements applicable to
21 the retirement of an eligible coal plant;

22 (iv) An estimate of the carbon reduction costs associated with
23 the retirement described in the application, including an estimate of
24 the financing costs associated with each series of carbon reduction
25 bonds proposed to be issued;

26 (v) An estimate of the amount of the carbon reduction charges
27 necessary to recover the carbon reduction costs to be financed, which
28 estimate and calculation should take into account the estimated date
29 of issuance and estimated principal amount of each series of carbon
30 reduction bonds proposed to be issued;

31 (vi) An estimate of the date on which the carbon reduction bonds
32 are expected to be issued and the expected term over which the
33 financing costs associated with the issuance are expected to be
34 recovered and, if the bonds are expected to be issued in more than
35 one series, the estimated issuance date and expected term for each
36 bond issuance;

37 (vii) A proposed adjustment mechanism for making any adjustments
38 necessary to correct for any over-collection or under-collection of

1 carbon reduction charges or otherwise to ensure the timely and
2 complete payment and recovery of carbon reduction costs;

3 (viii) A description of the carbon reduction property that is
4 created and that may be used to pay or secure carbon reduction bonds;

5 (ix) A methodology for allocating carbon reduction charges among
6 customer classes that maintains consistency with the allocation
7 methodology for utility production plants accepted by the commission
8 in the electrical company's most recent rate proceeding; and

9 (x) A description of the trust instrument, including the proposed
10 terms and conditions thereof, to be used to establish a carbon
11 reduction trust pursuant to subsection (1)(h) of this section.

12 (b) The commission shall, within one hundred twenty days of its
13 receipt thereof, review an application for a financing order to
14 determine the sufficiency thereof with respect to the requirements
15 set forth in subsection (1)(a) of this section. The commission shall
16 approve the application unless the commission finds:

17 (i) The retirement plan that the electrical company proposes to
18 undertake in connection with the retirement of an eligible coal plant
19 is inconsistent with applicable law;

20 (ii) The estimated carbon reduction costs described in the
21 application are not supported by substantial evidence; or

22 (iii) The carbon reduction costs to be financed from proceeds of
23 carbon reduction bonds to be authorized by the financing order will
24 cause the electrical company's program investment to exceed the
25 electrical company's program limit.

26 (c) If an application is found by the commission to satisfy
27 (b)(i), (ii), and (iii) of this subsection, the commission shall
28 issue a financing order on the terms and conditions proposed in the
29 application, and the financing order shall state:

30 (i) The carbon reduction costs to be financed from proceeds of
31 carbon reduction bonds authorized by the financing order;

32 (ii) The carbon reduction charges necessary to recover carbon
33 reduction costs that shall be imposed on and collected from customers
34 within the electrical company's service area, for as long as the
35 carbon reduction bonds are outstanding;

36 (iii) The adjustment mechanism to be applied for making any
37 necessary adjustments to carbon reduction charges;

38 (iv) The carbon reduction property that is created and that may
39 be used to pay or secure carbon reduction bonds; and

1 (v) The methodology for allocating carbon reduction charges among
2 customer classes.

3 (d) In issuing a financing order, the commission may not alter
4 the terms and conditions of an application, nor may the commission
5 approve an application on terms or conditions other than the terms
6 and conditions set forth in the application.

7 (e) A financing order may authorize the issuance of more than one
8 series of carbon reduction bonds for the retirement of an eligible
9 coal plant. If so authorized, the electrical company will not
10 subsequently be required to secure a separate financing order for
11 each issuance of carbon reduction bonds or for each scheduled phase
12 of the retirement approved in the financing order.

13 (f) A financing order shall remain in effect until the carbon
14 reduction bonds issued pursuant to the financing order have been paid
15 in full and all carbon reduction costs relating to the carbon
16 reduction bonds have been paid in full. For so long as carbon
17 reduction bonds issued pursuant to a financing order are outstanding
18 and the related carbon reduction costs have not been paid in full,
19 the carbon reduction charges authorized to be imposed in the
20 financing order shall apply to:

21 (i) All customers of the electrical company located within its
22 service area, whether or not the customers may become entitled by law
23 to purchase electric generation, transmission, or distribution
24 services from a provider of such services other than the electrical
25 company; and

26 (ii) Any person or legal entity located within the utility
27 service area that may subsequently receive electric generation,
28 transmission, or distribution services from another provider of such
29 services operating in the same service area.

30 (g) If the commission issues a financing order authorizing the
31 issuance of carbon reduction bonds, the commission may not, in
32 exercising its powers and carrying out its duties regarding
33 regulation and ratemaking, consider: (i) Carbon reduction bonds
34 issued pursuant to the financing order to be the debt of the
35 electrical company; (ii) the carbon reduction charges paid under the
36 financing order to be revenue of the electrical company; or (iii) the
37 carbon reduction costs specified in the financing order to be the
38 costs of the electrical company, nor shall the commission determine
39 that any action taken by an electrical company that is consistent
40 with the financing order is unjust or unreasonable from a regulatory

1 or ratemaking perspective. The commission shall, as of any given time
2 of determination, exclude the effect of the issuance of carbon
3 reduction bonds or the write-down of discontinued operations of an
4 eligible coal plant in calculating the equity ratio of an electrical
5 company.

6 (h) Based upon semiannual reports filed by an electrical company
7 with the commission, the commission shall apply the adjustment
8 mechanism approved in the financing order to correct for any over-
9 collection or under-collection of the carbon reduction charges and to
10 provide for timely payment of scheduled principal of and interest on
11 the carbon reduction bonds and the payment and recovery of other
12 financing costs in accordance with the financing order. Application
13 of the adjustment mechanism shall occur at least annually or more
14 frequently as provided in the financing order.

15 (i) An electrical company or a financing subsidiary may issue
16 carbon reduction bonds pursuant to a financing order. The issuer
17 shall establish and maintain an irrevocable carbon reduction trust
18 with a bank or trust company as trustee. The proceeds of any carbon
19 reduction bonds issued shall be placed in such carbon reduction
20 trust. The carbon reduction trust shall indemnify an electrical
21 company for carbon reduction costs approved by a financing order and
22 for no other purpose. The trustee shall furnish yearly to the
23 commission a financial report in a form designated by the commission
24 with respect to the carbon reduction trust.

25 (j) The assets of a carbon reduction trust shall be invested and
26 reinvested subject to all the terms, conditions, limitations, and
27 restrictions imposed by the laws of the state upon executors and
28 trustees regarding the making and depositing of investments with
29 trust moneys pursuant to chapter 11.100 RCW. Subject to said terms,
30 conditions, limitations, and restrictions, the trustee of the carbon
31 reduction trust shall have full power to hold, purchase, sell,
32 assign, transfer, reinvest, and dispose of any of the securities and
33 investments in which any of the assets of said fund are invested,
34 including proceeds of investments.

35 (2) Carbon reduction property.

36 (a) In general.

37 (i) Carbon reduction property that is specified in a financing
38 order shall constitute a present property right notwithstanding that
39 the imposition and collection of carbon reduction charges depend on
40 the electrical company to which the order is issued performing its

1 servicing functions relating to the collection of carbon reduction
2 charges and on future energy consumption. Such property is considered
3 to exist whether or not the revenues or proceeds arising from the
4 property have accrued and whether or not the value of the property is
5 dependent on the receipt of service by customers of an electrical
6 company.

7 (ii) Carbon reduction property specified in a financing order
8 shall continue to exist until the carbon reduction bonds issued
9 pursuant to the order are paid in full and all financing costs of the
10 bonds have been recovered in full.

11 (iii) Carbon reduction property specified in a financing order
12 issued to an electrical company may be transferred, sold, conveyed,
13 or assigned to any person, including a financing subsidiary. Carbon
14 reduction property may be pledged to secure carbon reduction bonds
15 issued pursuant to the order. Each such transfer, sale, conveyance,
16 assignment, or pledge by an electrical company or financing
17 subsidiary is considered to be a transaction in the ordinary course
18 of business.

19 (iv) If an electrical company or financing subsidiary defaults on
20 any required payment of revenues arising from carbon reduction
21 property specified in a financing order, a court, upon application by
22 an interested party, and without limiting any other remedies
23 available to the applying party, shall order the sequestration and
24 payment of the revenues. Any such order shall remain in full force
25 and effect notwithstanding any bankruptcy, reorganization, or other
26 insolvency proceedings with respect to the electrical company or
27 financing subsidiary.

28 (v) The interest of an assignee or pledgee in carbon reduction
29 property specified in a financing order issued to an electrical
30 company, and in the revenue and collections arising from that
31 property, is not subject to setoff, counterclaim, surcharge, or
32 defense by the electrical company, a financing subsidiary, or any
33 other person or in connection with the bankruptcy of the electrical
34 company, a financing subsidiary, or any other entity.

35 (vi) Any successor to an electrical company or a financing
36 subsidiary, whether pursuant to any bankruptcy, reorganization, or
37 other insolvency proceeding or pursuant to any merger or acquisition,
38 sale, or transfer by operation of law, as a result of such electrical
39 company or financing subsidiary restructuring or otherwise, shall
40 perform and satisfy all obligations of, and have the same rights

1 under a financing order as, the electrical company or financing
2 subsidiary under the financing order in the same manner and to the
3 same extent as the electrical company or financing subsidiary,
4 including collecting and paying to the person entitled to receive
5 them revenues with respect to the carbon reduction property.

6 (b) Security interests. Except as otherwise provided in this
7 subsection (2)(b), the creation, perfection, and enforcement of
8 security interests in carbon reduction property to secure carbon
9 reduction bonds are governed by chapter 62A.9A RCW. Notwithstanding
10 chapter 62A.9A RCW, with regard to creating, perfecting, and
11 enforcing a valid security interest in carbon reduction property to
12 secure carbon reduction bonds, all of the following apply:

13 (i) The description of carbon reduction property in a security
14 agreement is sufficient if the description refers to this subsection
15 (2)(b) and the financing order creating the carbon reduction
16 property.

17 (ii) A security interest is created, valid, binding, and
18 perfected at the time a security agreement is made and attaches
19 without any physical delivery of collateral or other act, and the
20 lien of such security interest shall be valid, binding, and perfected
21 against all parties having claims of any kind in tort, contract, or
22 otherwise against the person granting the security interest,
23 regardless of whether such parties have notice of the lien. The
24 filing or recording of a financial statement or instrument in which
25 such a security interest is created is not required.

26 (iii) A security interest in carbon reduction property is a
27 continuously perfected security interest and has priority over any
28 other lien created by operation of law or otherwise, which
29 subsequently attaches to the carbon reduction property.

30 (iv) The priority of a security interest created under this
31 subsection (2)(b) is not affected by the commingling of proceeds
32 arising from carbon reduction property with other amounts.

33 (v) Any changes that the commission makes to a financing order
34 that creates the carbon reduction property does not affect the
35 validity, perfection, or priority of a security interest in the
36 carbon reduction property.

37 (c) Sales. The sale, assignment, and transfer of carbon reduction
38 property are governed by this subsection (2)(c). All of the following
39 apply to a sale, assignment, or transfer under this subsection
40 (2)(c):

1 (i) The sale, assignment, or transfer is an absolute transfer of,
2 and not a pledge of or secured transaction relating to, the seller's
3 right, title, and interest in, to, and under the carbon reduction
4 property, if the documents governing the transaction expressly state
5 that the transaction is a sale or other absolute transfer. After such
6 a transaction, the carbon reduction property is not subject to any
7 claims of the seller or the seller's creditors, other than creditors
8 holding a prior security interest in the carbon reduction property
9 perfected under (b) of this subsection.

10 (ii) The characterization of the sale, assignment, or transfer as
11 an absolute transfer under (a) of this subsection and the
12 corresponding characterization of the purchaser's property interest
13 are not affected by any of the following factors:

14 (A) Commingling of amounts arising with respect to the carbon
15 reduction property with other amounts;

16 (B) The retention by the seller of a partial or residual
17 interest, including an equity interest, in the carbon reduction
18 property, whether direct or indirect or whether subordinate or
19 otherwise;

20 (C) Any recourse that the purchaser may have against the seller;

21 (D) Any indemnifications, obligations, or repurchase rights made
22 or provided by the seller;

23 (E) The responsibility of the seller to collect carbon reduction
24 charges; and

25 (F) The treatment of the sale, assignment, or transfer for tax,
26 financial reporting, or other purposes.

27 (3) Carbon reduction bonds not public debt The state is not
28 liable on carbon reduction bonds and the bonds are not a debt of the
29 state. An issue of carbon reduction bonds does not, directly or
30 indirectly or contingently, obligate the state or a political
31 subdivision of the state to levy any tax or make any appropriation
32 for payment of the bonds.

33 (4) Carbon reduction bonds as legal investments. Any of the
34 following may legally invest any sinking funds, moneys, or other
35 funds belonging to them or under their control in carbon reduction
36 bonds:

37 (a) The state, municipal corporations, political subdivisions,
38 public bodies, and public officers except for members of the
39 commission;

1 (b) Banks and bankers, savings and loan associations, credit
2 unions, trust companies, savings banks and institutions, investment
3 companies, insurance companies, insurance associations, and other
4 persons carrying on a banking or insurance business; and

5 (c) Personal representatives, guardians, trustees, and other
6 fiduciaries.

7 (5) State pledge.

8 (a) In this subsection (5), "bondholder" means a person who holds
9 a carbon reduction bond.

10 (b) The state pledges to and agrees with bondholders that the
11 state will not do any of the following:

12 (i) Take or permit any action that impairs the value of carbon
13 reduction property; or

14 (ii) Except as allowed under this section, reduce, alter, or
15 impair carbon reduction charges that are imposed, collected, and
16 remitted for the benefit of the bondholders until any principal,
17 interest, premium, or other charge incurred, or contract to be
18 performed, in connection with carbon reduction bonds held by the
19 bondholders is paid or performed in full.

20 (c) Any person who issues carbon reduction bonds is allowed to
21 include the pledge specified in (b) of this subsection in the bonds
22 and relating documentation.

23 (6) Effect of invalidity on actions. Effective on the date that
24 carbon reduction bonds are first issued under this section, if any
25 provision of this section is held to be invalid or is invalidated,
26 superseded, replaced, repealed, or expires for any reason, that
27 occurrence shall not affect any action allowed under this section
28 that is taken by an electrical company, a financing subsidiary, an
29 assignee, a collection agent, or a party to a transaction, and any
30 such action shall remain in full force and effect.

31 NEW SECTION. **Sec. 9.** CONFLICTS OF LAW. (1) In the event of
32 conflict between section 8 of this act and any other law regarding
33 the attachment, assignment, or perfection, or the effect of
34 perfection, or priority of any security interest in carbon reduction
35 property, section 8 of this act to the extent of the conflict shall
36 govern and control.

37 (2) The provisions of this act and the implementation thereof are
38 expressly intended to be preemptive and controlling of any
39 inconsistent or conflicting rule, regulation, order, policy,

1 authorization, or approval now or hereafter issued, promulgated,
2 granted, or made by any departments, agencies, divisions, bureaus,
3 commissions, boards, or political subdivisions of the state.

4 NEW SECTION. **Sec. 10.** RECOVERY OF COSTS ASSOCIATED WITH
5 RETIREMENT OF AN ELIGIBLE COAL PLANT. (1) For the purposes of this
6 section:

7 (a) "Impacted electrical company" means an electrical company
8 that incurs mitigation costs as a result of the retirement of an
9 eligible coal plant.

10 (b) "Memorandum of agreement" means an agreement between an
11 impacted electrical company and a state other than the state of
12 Washington which includes obligations accepted by the impacted
13 electrical company to mitigate for the impacts of the retirement of
14 an eligible coal plant. The obligations of a memorandum of agreement
15 may include, but may not be limited to, payment of mitigation costs
16 and the development of replacement electrical generation facilities,
17 other than coal-fired generation facilities.

18 (c) "Mitigation costs" means payments made by an impacted
19 electrical company to another state either under a memorandum of
20 agreement, or as a requirement of law for: (i) Financial assistance
21 to a community affected by the retirement of an eligible coal plant;
22 (ii) financial assistance to retrain workers who will be displaced as
23 a result of the retirement of an eligible coal plant; (iii) any tax
24 or fee imposed upon an electrical company that had not been imposed
25 as of the effective date of this section; and (iv) any other cash or
26 in-kind payment made pursuant to a memorandum of agreement entered
27 into between an electrical company and another state regarding the
28 retirement of an eligible coal plant.

29 (d) "Tax" includes, but is not limited to, an increase in the
30 rate at which a tax is imposed above the rate that had been charged
31 on the effective date of this section.

32 (2) An impacted electrical company that incurs mitigation costs
33 shall be entitled to recover its mitigation costs from its customers.
34 All revenues required to recover mitigation costs shall be included
35 in the impacted electrical company's rates. Mitigation costs shall be
36 deemed by the commission to be costs and expenses that were
37 reasonably and prudently incurred by the impacted electrical company.
38 An impacted electrical company may file a petition with the
39 commission to recover mitigation costs at any time, and an impacted

1 electrical company may file more than one petition for the recovery
2 of mitigation costs.

3 (3) An impacted electrical company shall be entitled to petition
4 the commission to recover in rates any investments made and expenses
5 incurred to restore any loss of transfer capacity on, and to maintain
6 the efficient operation of, the transmission system used to deliver
7 electrical energy from an eligible coal plant to retail electric
8 customers in Washington, when the transfer capacity or efficient
9 operation of the transmission system are affected by the retirement
10 of portions of an eligible coal plant and other units of the eligible
11 coal plant remain in operation.

12 (4) Any costs that are recoverable by an impacted electrical
13 company pursuant to this section may, in lieu of such recovery, be
14 recovered by an electrical company as carbon reduction costs if and
15 to the extent such costs are incurred by an electrical company that
16 files a binding notice to retire an eligible coal plant.

17 NEW SECTION. **Sec. 11.** CONDEMNATION. Should any one or more of
18 the rights, benefits, and privileges accruing to an electrical
19 company under this act be limited, damaged, or impaired by reason of
20 any threatened or actual condemnation by the state, or any political
21 subdivision thereof, of any generation, transmission, or distribution
22 facilities owned or operated by such electrical company, then any
23 such limitation, damage, or impairment of such rights, benefits, and
24 privileges shall be deemed to be a severance damage attributable to
25 such threatened or actual condemnation, and the electrical company
26 shall be entitled to recover full, just, and fair compensation for
27 any and all such severance damages.

28 NEW SECTION. **Sec. 12.** SEVERABILITY. If any provision of this
29 act or its application to any person or circumstance is held invalid,
30 the remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

32 **Sec. 13.** RCW 19.285.030 and 2014 c 45 s 1 are each amended to
33 read as follows:

34 The definitions in this section apply throughout this chapter
35 unless the context clearly requires otherwise.

36 (1) "Attorney general" means the Washington state office of the
37 attorney general.

1 (2) "Auditor" means: (a) The Washington state auditor's office or
2 its designee for qualifying utilities under its jurisdiction that are
3 not investor-owned utilities; or (b) an independent auditor selected
4 by a qualifying utility that is not under the jurisdiction of the
5 state auditor and is not an investor-owned utility.

6 (3)(a) "Biomass energy" includes: (i) Organic by-products of
7 pulping and the wood manufacturing process; (ii) animal manure; (iii)
8 solid organic fuels from wood; (iv) forest or field residues; (v)
9 untreated wooden demolition or construction debris; (vi) food waste
10 and food processing residuals; (vii) liquors derived from algae;
11 (viii) dedicated energy crops; and (ix) yard waste.

12 (b) "Biomass energy" does not include: (i) Wood pieces that have
13 been treated with chemical preservatives such as creosote,
14 pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old
15 growth forests; or (iii) municipal solid waste.

16 (4) "Coal transition power" has the same meaning as defined in
17 RCW 80.80.010.

18 (5) "Commission" means the Washington state utilities and
19 transportation commission.

20 (6) "Conservation" means any reduction in electric power
21 consumption resulting from increases in the efficiency of energy use,
22 production, or distribution.

23 (7) "Cost-effective" has the same meaning as defined in RCW
24 80.52.030.

25 (8) "Council" means the Washington state apprenticeship and
26 training council within the department of labor and industries.

27 (9) "Customer" means a person or entity that purchases
28 electricity for ultimate consumption and not for resale.

29 (10) "Department" means the department of commerce or its
30 successor.

31 (11) "Distributed generation" means an eligible renewable
32 resource where the generation facility or any integrated cluster of
33 such facilities has a generating capacity of not more than five
34 megawatts.

35 (12) "Eligible renewable resource" means:

36 (a) Electricity from a generation facility powered by a renewable
37 resource other than freshwater that commences operation after March
38 31, 1999, where: (i) The facility is located in the Pacific
39 Northwest; or (ii) the electricity from the facility is delivered

1 into Washington state on a real-time basis without shaping, storage,
2 or integration services;

3 (b) Incremental electricity produced as a result of efficiency
4 improvements completed after March 31, 1999, to hydroelectric
5 generation projects owned by a qualifying utility and located in the
6 Pacific Northwest where the additional generation does not result in
7 new water diversions or impoundments;

8 (c) Hydroelectric generation from a project completed after March
9 31, 1999, where the generation facility is located in irrigation
10 pipes, irrigation canals, water pipes whose primary purpose is for
11 conveyance of water for municipal use, and wastewater pipes located
12 in Washington where the generation does not result in new water
13 diversions or impoundments;

14 (d) Qualified biomass energy; or

15 (e) For a qualifying utility that serves customers in other
16 states, electricity from a generation facility powered by a renewable
17 resource other than freshwater that commences operation after March
18 31, 1999, where: (i) The facility is located within a state in which
19 the qualifying utility serves retail electrical customers; and (ii)
20 the qualifying utility owns the facility in whole or in part or has a
21 long-term contract with the facility of at least twelve months or
22 more.

23 (13) "Investor-owned utility" has the same meaning as defined in
24 RCW 19.29A.010.

25 (14) "Load" means the amount of kilowatt-hours of electricity
26 delivered in the most recently completed year by a qualifying utility
27 to its Washington retail customers.

28 (15)(a) "Nonpower attributes" means all environmentally related
29 characteristics, exclusive of energy, capacity reliability, and other
30 electrical power service attributes, that are associated with the
31 generation of electricity from a renewable resource, including but
32 not limited to the facility's fuel type, geographic location,
33 vintage, qualification as an eligible renewable resource, and avoided
34 emissions of pollutants to the air, soil, or water, and avoided
35 emissions of carbon dioxide and other greenhouse gases.

36 (b) "Nonpower attributes" does not include any aspects, claims,
37 characteristics, and benefits associated with the on-site capture and
38 destruction of methane or other greenhouse gases at a facility
39 through a digester system, landfill gas collection system, or other
40 mechanism, which may be separately marketable as greenhouse gas

1 emission reduction credits, offsets, or similar tradable commodities.
2 However, these separate avoided emissions may not result in or
3 otherwise have the effect of attributing greenhouse gas emissions to
4 the electricity.

5 (16) "Pacific Northwest" has the same meaning as defined for the
6 Bonneville power administration in section 3 of the Pacific Northwest
7 electric power planning and conservation act (94 Stat. 2698; 16
8 U.S.C. Sec. 839a).

9 (17) "Public facility" has the same meaning as defined in RCW
10 39.35C.010.

11 (18) "Qualified biomass energy" means electricity produced from a
12 biomass energy facility that: (a) Commenced operation before March
13 31, 1999; (b) contributes to the qualifying utility's load; and (c)
14 is owned either by: (i) A qualifying utility; or (ii) an industrial
15 facility that is directly interconnected with electricity facilities
16 that are owned by a qualifying utility and capable of carrying
17 electricity at transmission voltage.

18 (19) "Qualifying utility" means an electric utility, as the term
19 "electric utility" is defined in RCW 19.29A.010, that serves more
20 than twenty-five thousand customers in the state of Washington, and
21 any electric utility that acquires, in violation of a service area
22 agreement or commission-determined service area as authorized by RCW
23 54.48.040, service territory or customers from an electric utility
24 that serves more than twenty-five thousand customers in the state of
25 Washington. The number of customers served may be based on data
26 reported by a utility in form 861, "annual electric utility report,"
27 filed with the energy information administration, United States
28 department of energy.

29 (20) "Renewable energy credit" means a tradable certificate of
30 proof of at least one megawatt-hour of an eligible renewable resource
31 where the generation facility is not powered by freshwater. The
32 certificate includes all of the nonpower attributes associated with
33 that one megawatt-hour of electricity, and the certificate is
34 verified by a renewable energy credit tracking system selected by the
35 department.

36 (21) "Renewable resource" means: (a) Water; (b) wind; (c) solar
37 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or
38 tidal power; (g) gas from sewage treatment facilities; (h) biodiesel
39 fuel as defined in RCW 82.29A.135 that is not derived from crops

1 raised on land cleared from old growth or first-growth forests where
2 the clearing occurred after December 7, 2006; or (i) biomass energy.

3 (22) "Rule" means rules adopted by an agency or other entity of
4 Washington state government to carry out the intent and purposes of
5 this chapter.

6 (23) "Year" means the twelve-month period commencing January 1st
7 and ending December 31st.

8 **Sec. 14.** RCW 54.48.030 and 1969 c 102 s 3 are each amended to
9 read as follows:

10 (1) In aid of the foregoing declaration of policy, any public
11 utility and any cooperative is hereby authorized to enter into
12 agreements with any one or more other public utility or one or more
13 other cooperative for the designation of the boundaries of adjoining
14 service areas which each such public utility or each such cooperative
15 shall observe, for the establishment of procedures for orderly
16 extension of service in adjoining areas not currently served by any
17 such public utility or any such cooperative and for the acquisition
18 or disposal by purchase or sale by any such public utility or any
19 such cooperative of duplicating utility facilities, which agreements
20 shall be for a reasonable period of time not in excess of twenty-five
21 years: PROVIDED, That the participation in such agreement of any
22 cooperative and any public utility which is an electrical company
23 under RCW 80.04.010(~~(, —excepting—cities— and —towns,)~~) shall be
24 approved by the Washington utilities and transportation commission.

25 (2) If any two or more public utilities or cooperatives with
26 adjoining service areas are unable to reach an agreement designating
27 service area boundaries pursuant to subsection (1) of this section,
28 then upon the petition of any such public utility or cooperative, the
29 commission shall issue an order determining the service area
30 boundaries of each public utility or cooperative in dispute within
31 one hundred eighty days, and the commission shall thereafter prepare
32 or cause to be prepared a map or maps to accurately and clearly
33 designate the service area boundaries of each such public utility or
34 cooperative. A public utility or a cooperative shall have the right,
35 to the exclusion of other public utilities or cooperatives, to
36 provide retail electric service within its designated service area.

37 (3) Except as may be otherwise provided by an agreement
38 designating the boundaries of adjoining service areas authorized by
39 subsection (1) of this section, no public utility or cooperative is

1 authorized to extend or shall extend service into an adjoining
2 service area if the adjoining service area is served by any other
3 public utility or cooperative.

4 **Sec. 15.** RCW 80.80.060 and 2011 c 180 s 104 are each amended to
5 read as follows:

6 (1) No electrical company may enter into a long-term financial
7 commitment unless the baseload electric generation supplied under
8 such a long-term financial commitment complies with the greenhouse
9 gas emissions performance standard established under RCW 80.80.040.

10 (2) In order to enforce the requirements of this chapter, the
11 commission shall review in a general rate case or as provided in
12 subsection (5) of this section any long-term financial commitment
13 entered into by an electrical company after June 30, 2008, to
14 determine whether the baseload electric generation to be supplied
15 under that long-term financial commitment complies with the
16 greenhouse gas emissions performance standard established under RCW
17 80.80.040.

18 (3) In determining whether a long-term financial commitment is
19 for baseload electric generation, the commission shall consider the
20 design of the power plant and its intended use, based upon the
21 electricity purchase contract, if any, permits necessary for the
22 operation of the power plant, and any other matter the commission
23 determines is relevant under the circumstances.

24 (4) Upon application by an electric utility, the commission may
25 provide a case-by-case exemption from the greenhouse gas emissions
26 performance standard to address: (a) Unanticipated electric system
27 reliability needs; (b) extraordinary cost impacts on utility
28 ratepayers; or (c) catastrophic events or threat of significant
29 financial harm that may arise from unforeseen circumstances.

30 (5) Upon application by an electrical company, the commission
31 shall determine whether the company's proposed decision to acquire
32 electric generation or enter into a power purchase agreement for
33 electricity complies with the greenhouse gas emissions performance
34 standard established under RCW 80.80.040. The commission shall not
35 decide in a proceeding under this subsection (5) issues involving the
36 actual costs to construct and operate the selected resource, cost
37 recovery, or other issues reserved by the commission for decision in
38 a general rate case or other proceeding for recovery of the resource
39 or contract costs.

1 (6) An electrical company may account for and defer for later
2 consideration by the commission costs incurred in connection with a
3 long-term financial commitment, including operating and maintenance
4 costs, depreciation, taxes, and cost of invested capital. The
5 deferral begins with the date on which the power plant begins
6 commercial operation or the effective date of the power purchase
7 agreement and continues for a period not to exceed twenty-four
8 months; provided that if during such period the company files a
9 general rate case or other proceeding for the recovery of such costs,
10 deferral ends on the effective date of the final decision by the
11 commission in such proceeding. Creation of such a deferral account
12 does not by itself determine the actual costs of the long-term
13 financial commitment, whether recovery of any or all of these costs
14 is appropriate, or other issues to be decided by the commission in a
15 general rate case or other proceeding for recovery of these costs.
16 For the purpose of this subsection (6) only, the term "long-term
17 financial commitment" also includes an electric company's ownership
18 or power purchase agreement with a term of five or more years
19 associated with an eligible renewable resource as defined in RCW
20 19.285.030.

21 (7) The commission shall consult with the department to apply the
22 procedures adopted by the department to verify the emissions of
23 greenhouse gases from baseload electric generation under RCW
24 80.80.040. The department shall report to the commission whether
25 baseload electric generation will comply with the greenhouse gas
26 emissions performance standard for the duration of the period the
27 baseload electric generation is supplied to the electrical company.

28 (8) The commission shall adopt rules for the enforcement of this
29 section with respect to electrical companies and adopt procedural
30 rules for approving costs incurred by an electrical company under
31 subsection (4) of this section.

32 (9) This section does not apply to: (a) A long-term financial
33 commitment for the purchase of coal transition power with termination
34 dates consistent with the applicable dates in RCW 80.80.040(3)(c); or
35 (b) a long-term financial commitment pursuant to which an electrical
36 company incurs eligible coal plant acquisition costs; provided,
37 however, that an electrical company that incurs eligible coal plant
38 acquisition costs shall, within ten years of the effective date of
39 this section, file a binding notice to retire one or more eligible

1 coal plants under the Washington state coal generation retirement
2 program within chapter 80.82 RCW.

3 (10) The commission shall adopt rules necessary to implement this
4 section by December 31, 2008.

--- END ---