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## Technology & Economic Development Committee

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### HB 1233

**Brief Description:** Enabling electric utilities to prepare for the distributed energy future.

**Sponsors:** Representatives Morris, Tarleton and Hudgins.

#### Brief Summary of Bill

- Authorizes an electric utility to develop an annually updated, 10-year Distributed Energy Resources Plan (DER Plan).
- Authorizes the Utilities and Transportation Commission to employ an alternative form of regulation for an electrical company.
- Allows a consumer-owned utility to provide other energy services and recover the cost of providing such services from its ratepayers if certain conditions are met.
- Establishes registration requirements for direct retail to electric consumer companies.
- Requires an electric utility that develops a DER Plan and that achieves a certain cumulative generating capacity of net metering systems to compensate customer investments in the distribution system, including but not limited to a net metering system, using the methods established in its DER Plan.

**Hearing Date:** 1/23/18

**Staff:** Nikkole Hughes (786-7156).

#### **Background:**

##### The Utilities and Transportation Commission.

The Utilities and Transportation Commission (UTC) regulates the rates, services, and practices of privately owned utilities and transportation companies, including electrical companies and

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telecommunications companies. The UTC is required to ensure that rates charged by these companies are "fair, just, and reasonable."

### Electrical Companies.

"Electrical company" means any corporation, company, association, joint stock association, partnership, and person; their lessees, trustees, or receivers appointed by any court whatsoever (other than a railroad or street railroad company generating electricity solely for railroad or street railroad purposes or for the use of its tenants and not for sale to others); and every city or town owning, operating, or managing any electric plant for hire within the state.

"Electrical company" does not include a company or person employing a cogeneration facility solely for the generation of electricity for its own use, the use of its tenants, or for sale to an electrical company, state, local public agency, municipal corporation, or quasi municipal corporation engaged in the sale or distribution of electrical energy, but not for sale to others, unless such company or person is otherwise an electrical company.

"Electrical companies" are also known and referred to as "investor-owned utilities."

### Consumer-Owned Utilities.

"Consumer-owned utility" means a municipal electric utility, public utility district, irrigation district, cooperative, mutual corporation or association, port district, or water-sewer district that distributes electricity to one or more retail electric customers in the state. A consumer-owned utility is generally regulated by its own governing body.

### Electric Utility Resource Planning.

An investor-owned or consumer-owned electric utility with more than 25,000 customers in the state must develop an Integrated Resource Plan (IRP). All other utilities in the state must file either an IRP or a less detailed resource plan.

The minimum required components of an IRP include the following:

- a range of forecasts of projected customer demand for at least the next 10 years;
- a comparative evaluation of renewable and nonrenewable generating resources, including transmission and distribution delivery costs, and conservation and efficiency resources using "lowest reasonable cost" as a criterion; and
- the integration of the demand forecasts and resource evaluation into a long-range assessment describing the mix of supply-side generating resources and conservation and efficiency resources that will meet current and projected needs, including mitigating overgeneration events, at the lowest reasonable cost and risk to the utility and its ratepayers.

An electric utility must update its IRP at least every four years or its resource plan at least every two years.

### Traditional Regulation of Investor-Owned Utilities.

Under traditional regulation of investor-owned utilities by the UTC, rates are calculated from a utility's rate base and the rate of return allowed on its rate base. An investor-owned utility's rate base is the total non-depreciated value of its property and equipment used to provide utility services to ratepayers. "Rate of return" is the level of profit and the cost of debt an investor-owned utility is allowed to return on its rate base through rates charged to utility customers.

#### Alternative Forms of Regulation.

The UTC is authorized to employ an alternative form of regulation of telecommunications companies if that alternative is better suited to achieve the state's policy goals than traditional rate of return, rate base regulation. A telecommunications company subject to traditional rate of return, rate base regulation may petition the UTC to establish an alternative form of regulation. A company pursuing this form of regulation must submit an alternative regulation plan with its petition. The UTC may waive regulatory requirements for a telecommunications company subject to an alternative form of regulation as may be appropriate to facilitate the implementation of the alternative form of regulation.

#### Regulation of Third-Party Vendors.

In lieu of purchasing a distributed generation system, a customer can access the electricity produced by such a system hosted on the customer's property but owned by a third party. Third-party vendors of distributed generation systems own the equipment and enter contractual arrangements with customers, typically in the form of a lease or a power purchase agreement (PPA). "Distributed generation" refers to a variety of technologies that generate electricity at or near where it will be used, such as solar energy systems.

In July 2014, the UTC issued a policy and interpretive statement concluding that, depending on a case-by-case determination of the facts in any given case, third-party vendors of solar energy systems would likely be subject to the UTC's regulatory jurisdiction as "electrical companies." However, in order to provide greater certainty, the UTC also recommended that the Legislature clarify the UTC's jurisdiction to regulate third-party vendors of distributed generation systems.

#### Net Metering.

An electric utility must offer to make net metering available to customer-generators on a first-come, first-served basis until the cumulative generating capacity available to net metering systems equals 0.5 percent of the utility's 1996 peak demand. A "customer-generator" is a utility customer who generates at least a portion of their own electricity with distributed generation systems such as fuel cells, solar energy systems, or small wind turbines. "Net metering" means measuring the difference between the electricity supplied by an electric utility and the electricity generated by a customer-generator over the applicable billing period.

#### **Summary of Bill:**

##### Distributed Energy Resources Planning.

An electric utility is authorized to submit an annually updated, 10-year Distributed Energy Resources Plan (DER Plan) to the Utilities and Transportation Commission (UTC) if it is an

investor-owned utility, or to its governing body if it is a consumer-owned utility. The DER Plan may inform and be incorporated within the utility's Integrated Resource Plan or other resource plan.

A DER Plan must apply the traditional utility regulatory principles of efficiency and fairness to achieve fairness among customers, efficiency in the expenditure of dollars dedicated to providing reliable utility service, and revenue stability and predictability. A DER Plan must also establish a methodology by which to assign a locational value to DER that reflects the value of avoided transmission and distribution costs, including but not limited to:

- the value of avoided line losses and high voltage transmission operations and maintenance costs;
- the value of avoided or deferred capital expenditure and operations and maintenance costs to utility-owned baseload and ancillary power generation assets;
- the value of avoided or deferred capital expenditure on the distribution system;
- an avoided cost multiplier of 10 percent for the nonenergy economic benefits associated with increased local procurement of DER; and
- the value of avoided carbon emission costs associated with high voltage transmission and generation.

A DER Plan must also establish methods to compensate customer investments in the distribution system that represent the value of DER, calculated according to the methodology in the DER Plan.

The UTC must review and approve or reject a DER Plan submitted by an investor-owned utility. The UTC must establish rules outlining the requirements for preparation and submission of DER Plans, and may adopt additional rules as necessary.

The governing body of a consumer-owned utility that develops a DER Plan must encourage its consumers to participate in developing the plan, and may approve the plan after it has provided public notice and hearing.

Following approval of a DER Plan, an electric utility must issue a call for DER. The call for DER must outline a technology-neutral request for cost-effective resources that deliver a locational value to the distribution system.

"Distributed energy resources" includes, but is not limited to, distributed renewable generation resources, energy efficiency, energy storage, electric vehicles, electric vehicle charging infrastructure, and demand response technologies.

#### Alternative Forms of Regulation.

The UTC may authorize an alternative form of regulation for an investor-owned utility subject to traditional rate of return, rate base regulation. The UTC may determine the manner and extent of the alternative form of regulation, including but not limited to authorizing an alternative form of regulation for all utility services or for individual utility services. In determining the appropriateness of any proposed alternative form of regulation, the UTC must consider several factors, including the extent to which the alternative regulation is expected to:

- promote resiliency and reliability;

- improve service quality; and
- provide clear incentives to achieving least-cost energy service to customers, in terms of overall efficiency of operations and maintenance costs per megawatt-hour of energy produced.

### Consumer-Owned Utilities.

In addition to any existing authority to engage in the sale and distribution of electricity, a consumer-owned utility may provide other energy services and recover the cost of providing these services directly from its ratepayers. The governing body of a consumer-owned utility must consider several factors when approving the provision of additional energy services, including the extent to which the additional energy services will:

- promote resiliency and reliability;
- improve service quality; and
- provide clear incentives to achieving least-cost energy service to customers, in terms of overall efficiency of operations and maintenance costs per megawatt-hour of energy produced.

### Regulation of Direct Retail to Electric Consumer Companies.

A third-party vendor that provides competitive electrical services or an electrical company offering a direct retail to electric consumer program that is outside of its regulated service must register annually with the UTC as a direct retail to electric consumer company (DREC company). "Competitive electrical services" means the provision of electricity generated by a renewable energy system to a customer and may include other services associated with the use of the renewable energy system under a lease, power purchase agreement (PPA), loan, or other financial transaction. "Direct retail to electric consumer program" means a program developed by an electric utility to provide customers of the utility access to renewable energy systems through a consumer contract, such as a lease or PPA. "Renewable energy system" means a renewable energy system located in Washington and installed on a utility customer's premises, where the renewable energy system is:

- owned by a DREC company that has a consumer contract with a customer of an electric utility for competitive electrical services; or
- owned by an electric utility that has a consumer contract with a customer of that electric utility to provide competitive electrical services.

The UTC must publish, without disclosing proprietary information, a list of financing models offered by DREC companies. If a consumer-owned utility opts to provide or contracts with a third-party vendor to provide a direct-retail-to-electric-consumer program, the governing body of the consumer-owned utility must publish, without disclosing proprietary information, a list of financing models offered by the utility or third-party vendor.

Failure of a DREC company to properly register with the UTC constitutes an unfair or deceptive act in trade or commerce under the Consumer Protection Act. The UTC may consult with the Office of the Attorney General regarding enforcement of requirements for DREC companies.

### Net Metering.

An electric utility that has a cumulative generating capacity of net metering systems equal to 0.5 percent of the utility's 1996 peak demand and that develops a 10-year DER Plan must compensate customer investments in the distribution system, including but not limited to a net metering system, using the methods established under the DER Plan. An existing customer-generator must be compensated under current net metering law until the property on which the net metering system is located is sold or until the financial responsibility for the electric meter is transferred to a new customer.

An electric utility that does not develop a DER Plan must compensate a customer-generator according to current net metering law.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.