HOUSE BILL REPORT
HB 2839

As Reported by House Committee On:
Technology & Economic Development

Title: An act relating to authorizing an alternative form of regulation of electrical and natural gas companies.

Brief Description: Authorizing an alternative form of regulation of electrical and natural gas companies.

Sponsors: Representatives Morris, Slatter, Doglio and Fitzgibbon.

Brief History:
Committee Activity:
Technology & Economic Development: 1/24/18, 2/1/18 [DPS].

Brief Summary of Substitute Bill

- Requires electrical companies, gas companies, and the Utilities and Transportation Commission (UTC) to use a greenhouse gas (GHG) planning adder when evaluating and selecting conservation policies, programs, and targets.
- Requires the UTC to use the GHG planning adder in evaluating integrated resource plans and intermediate-term and long-term resource options selected by electrical and gas companies.
- Authorizes the UTC to regulate an electrical or gas company under an alternative form of regulation.

HOUSE COMMITTEE ON TECHNOLOGY & ECONOMIC DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Morris, Chair; Kloba, Vice Chair; Tarleton, Vice Chair; DeBolt, Assistant Ranking Minority Member; Doglio, Fey, Hudgins, Santos, Slatter and Wylie.

Minority Report: Do not pass. Signed by 5 members: Representatives Smith, Ranking Minority Member; Manweller, McDonald, Nealey and Steele.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Without recommendation. Signed by 2 members: Representatives Harmsworth and Young.

Staff: Nikkole Hughes (786-7156).

Background:

Utilities and Transportation Commission.

The Utilities and Transportation Commission (UTC) regulates the rates, services, and practices of investor-owned utilities and transportation companies, including electrical companies, natural gas companies, and telecommunications companies. The UTC is required to ensure that rates charged by these companies are "fair, just, and reasonable."

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 Power-Sector Greenhouse Gas Emissions.

Under the state greenhouse gas (GHG) emissions performance standard, all baseload electric generation facilities in the state with which electric utilities enter into long-term financial commitments must meet a standard of 1,100 pounds of GHG emissions per megawatt-hour or the average available GHG emissions output as determined by the Department of Commerce. In order to enforce the GHG emissions performance standard, the UTC must review any long-term financial commitment entered into by an investor-owned utility after June 30, 2008, to determine whether the baseload electric generation to be supplied under that commitment complies with the standard.

Certain fossil-fueled thermal electric generation facilities must also mitigate their carbon dioxide emissions.

Summary of Substitute Bill:

Greenhouse Gas Planning Adder.

"Greenhouse gas planning adder" means a calculation of the economic impacts associated with an incremental increase in GHG emissions in a calendar year and must be an amount equal to the greater of:

- the minimum annual GHG planning adder for such a calendar year; or
- the applicable carbon or GHG tax rate, if any, as expressed in dollars per metric ton of carbon dioxide or GHG for such a calendar year.

The minimum GHG planning adders for calendar year 2018 is $40 per metric ton of GHG, which amount must be increased each January 1 by 1.25 percent, rounded to the nearest dollar.

Electrical companies, gas companies, and the UTC must use the GHG planning adder when evaluating and selecting conservation policies, programs, and targets. Electrical companies must use the GHG planning adder in developing and evaluating integrated resource plans (IRP). Gas companies must use the GHG planning adder in developing IRPs that describe a mix of natural gas, biogas, or synthetic gas and conservation designated to meet current and future needs at the lowest reasonable costs to the gas company and its customers.

Electrical and gas companies must use the GHG planning adder in evaluating and selecting intermediate-term and long-term resource options.

The UTC must use the GHG planning adder in evaluating IRPs and intermediate-term and long-term resource options selected by electrical and gas companies.

For the purposes of applying the GHG planning adder, qualified biomass energy and gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters must be considered nonemitting resources.

A multistate electrical company with retail electric customers and generation located outside Washington is exempt from the requirement to use the GHG planning adder until January 1, 2020.

Alternative Form of Regulation.

The UTC may regulate an electrical or gas company by authorizing an alternative form of regulation. The UTC may determine the manner and extent of any alternative form of regulation as may be appropriate in the public interest, including but not limited to authorizing an alternative form of regulation for all or individual utility services.

The UTC must consider the extent to which an alternative form of regulation is expected to achieve certain objectives, including:

- aligning utility regulatory incentives with the public interest;
- maintaining and enhancing the ability of the electrical or gas company to furnish safe, adequate, and efficient service to its customers;
- considering adverse environmental impacts;
- reasonably protecting customers, including low-income customers, from associated short and long-term risks; and
- allowing an electrical or gas company to support and participate in market transformation for enabling technologies without harming competition.

Upon petition by the electrical or gas company, or on motion by the UTC when evaluating the achievement of certain objectives, and after notice and hearing, the UTC may rescind or modify an alternative form of regulation in a manner requested by the electrical or gas company.

The UTC or any person may file a complaint alleging that an electrical or gas company under an alternative form of regulation has not complied with the terms and conditions set forth in the alternative form of regulation. The complainant bears the burden of proving the allegations in the complaint.

During a declared state of emergency, the Governor may waive or suspend the operation or enforcement of an alternative form of regulation and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population.

Substitute Bill Compared to Original Bill:

The substitute bill:
- requires electrical companies, gas companies, and the UTC to use a GHG planning adder when evaluating and selecting conservation policies, programs, and targets;
- requires electrical companies to use the GHG planning adder in developing and evaluating IRPs;
- requires gas companies to use the GHG planning adder in developing IRPs that describe a mix of natural gas, biogas, or synthetic gas and conservation designated to meet current and future needs at the lowest reasonable costs to the gas company and its customers;
- requires electrical companies and gas companies to use the GHG planning adder in evaluating and selecting intermediate-term and long-term resource options;
- requires the UTC to use the GHG planning adder in evaluating IRPs and intermediate-term and long-term resource options selected by electrical and gas companies;
- adds a provision requiring that qualified biomass energy be considered a nonemitting resource;
- exempts a multistate electrical company with retail customers and generation located outside Washington from the requirement to use the GHG planning adder until January 1, 2020;
- amends the factors that the UTC must consider when authorizing an alternative form of regulation for an electrical or gas company;

- requires that an electrical or gas company include customer and stakeholder input as well as a proposal for appropriate performance metrics in the development of a plan for an alternative form of regulation; and
- authorizes the UTC to rescind or modify an alternative form of regulation on its own motion when evaluating the achievement of certain performance metrics.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill allows regulated utilities to move away from volumetric kilowatt-hour sales as a business model. Regulators should not be bound to traditional ratemaking when the landscape is changing so rapidly. Utility customers' expectations are evolving. This bill would allow for more innovative utility proposals that meet customers' needs for service. Factoring carbon into investment decisions will allow utilities to make long-term decisions to meet utilities' carbon reduction goals.

(Opposed) None.

(Other) A carbon price is one of the most economically efficient ways to reduce carbon. This bill represents a significant and bold step, and a bipartisan legislative work group should be established to study this policy change. This bill grants the UTC significant new flexibility in utility ratemaking. A definition of "public interest" needs to be included in this bill.

Persons Testifying: (In support) Representative Morris, prime sponsor; Jon Piliaris, Puget Sound Energy; Elyette Weinstein, League of Women Voters of Washington; Dave Danner, Utilities and Transportation Commission; John Rothlin, Avista; and Craig Engelking, NW Energy Coalition.

(Other) Greg Rock, Carbon Washington; Tim Boyd, Industrial Customers of Northwest Utilities and Northwest Industrial Gas Users; James King, Independent Business Association; and Vlad Gutman-Britten, Climate Solutions.

Persons Signed In To Testify But Not Testifying: None.