

ESSB 5295 - H COMM AMD

By Committee on Environment & Energy

ADOPTED AS AMENDED 04/07/2021

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) To provide clarity and certainty to
4 stakeholders on the details of performance-based regulation, the
5 utilities and transportation commission is directed to conduct a
6 proceeding to develop a policy statement addressing alternatives to
7 traditional cost of service rate making, including performance
8 measures or goals, targets, performance incentives, and penalty
9 mechanisms. As part of such a proceeding, the utilities and
10 transportation commission must consider factors including, but not
11 limited to, lowest reasonable cost planning, affordability, increases
12 in energy burden, cost of service, customer satisfaction and
13 engagement, service reliability, clean energy or renewable
14 procurement, conservation acquisition, demand side management
15 expansion, rate stability, timely execution of competitive
16 procurement practices, attainment of state energy and emissions
17 reduction policies, rapid integration of renewable energy resources,
18 and fair compensation of utility employees.

19 (2) In developing its policy statement, the utilities and
20 transportation commission must in its proceeding allow for
21 participation and consultation with regulated utilities, the attorney
22 general's office, and other interested stakeholders including, but
23 not limited to, residential, industrial, commercial, and low-income
24 customers and organizations, as well as environmental or community
25 organizations and stakeholders.

26 (3) By January 1, 2022, the utilities and transportation
27 commission shall notify the chairs and ranking members of the
28 appropriate committees of the legislature of the process to date, the
29 expected duration of, and work plan associated with this proceeding.

30 NEW SECTION. **Sec. 2.** A new section is added to chapter 80.28
31 RCW to read as follows:

1 (1) Beginning January 1, 2022, every general rate case filing of
2 a gas or electrical company must include a proposal for a multiyear
3 rate plan as provided in this chapter. The commission may, by order
4 after an adjudicative proceeding as provided by chapter 34.05 RCW,
5 approve, approve with conditions, or reject, a multiyear rate plan
6 proposal made by a gas or electrical company or an alternative
7 proposal made by one or more parties, or any combination thereof. The
8 commission's consideration of a proposal for a multiyear rate plan is
9 subject to the same standards applicable to other rate filings made
10 under this title, including the public interest and fair, just,
11 reasonable, and sufficient rates. In determining the public interest,
12 the commission may consider such factors including, but not limited
13 to, environmental health and greenhouse gas emissions reductions,
14 health and safety concerns, economic development, and equity, to the
15 extent such factors affect the rates, services, and practices of a
16 gas or electrical company regulated by the commission.

17 (2) The commission may approve, disapprove, or approve with
18 modifications any proposal to recover from ratepayers up to five
19 percent of the total revenue requirement approved by the commission
20 for each year of a multiyear rate plan for tariffs that reduce the
21 energy burden of low-income residential customers including, but not
22 limited to: (a) Bill assistance programs; or (b) one or more special
23 rates. For any multiyear rate plan approved under this section
24 resulting in a rate increase, the commission must approve an increase
25 in the amount of low-income bill assistance to take effect in each
26 year of the rate plan where there is a rate increase. At a minimum,
27 the amount of such low-income assistance increase must be equal to
28 double the percentage increase, if any, in the residential base rates
29 approved for each year of the rate plan. The commission may approve a
30 larger increase to low-income bill assistance based on an appropriate
31 record.

32 (3) (a) If it approves a multiyear rate plan, the commission shall
33 separately approve rates for each of the initial rate year, the
34 second rate year and, if applicable, the third rate year, and the
35 fourth rate year.

36 (b) The commission shall ascertain and determine the fair value
37 for rate-making purposes of the property of any gas or electrical
38 company that is or will be used and useful under RCW 80.04.250 for
39 service in this state by or during each rate year of the multiyear
40 rate plan. For the initial rate year, the commission shall, at a

1 minimum, ascertain and determine the fair value for rate-making
2 purposes of the property of any gas or electrical company that is
3 used and useful for service in this state as of the rate effective
4 date. The commission may order refunds to customers if property
5 expected to be used and useful by the rate effective date when the
6 commission approves a multiyear rate plan is in fact not used and
7 useful by such a date.

8 (c) The commission shall ascertain and determine the revenues and
9 operating expenses for rate-making purposes of any gas or electrical
10 company for each rate year of the multiyear rate plan.

11 (d) In ascertaining and determining the fair value of property of
12 a gas or electrical company pursuant to (b) of this subsection and
13 projecting the revenues and operating expenses of a gas or electrical
14 company pursuant to (c) of this subsection, the commission may use
15 any standard, formula, method, or theory of valuation reasonably
16 calculated to arrive at fair, just, reasonable, and sufficient rates.

17 (e) If the commission approves a multiyear rate plan with a
18 duration of three or four years, then the electrical company must
19 update its power costs as of the rate effective date of the third
20 rate year. The proceeding to update the electrical company's power
21 costs is subject to the same standards that apply to other rate
22 filings made under this title.

23 (4) Subject to subsection (5) of this section, the commission may
24 by order establish terms, conditions, and procedures for a multiyear
25 rate plan and ensure that rates remain fair, just, reasonable, and
26 sufficient during the course of the plan.

27 (5) Notwithstanding subsection (4) of this section, a gas or
28 electrical company is bound by the terms of the multiyear rate plan
29 approved by the commission for each of the initial rate year and the
30 second rate year. A gas or electrical company may file a new
31 multiyear rate plan in accordance with this section for the third
32 rate year and fourth rate year, if any, of a multiyear rate plan.

33 (6) If the annual commission basis report for a gas or electrical
34 company demonstrates that the reported rate of return on rate base of
35 the company for the 12-month period ending as of the end of the
36 period for which the annual commission basis report is filed is more
37 than .5 percent higher than the rate of return authorized by the
38 commission in the multiyear rate plan for such a company, the company
39 shall defer all revenues that are in excess of .5 percent higher than
40 the rate of return authorized by the commission for refunds to

1 customers or another determination by the commission in a subsequent
2 adjudicative proceeding. If a multistate electrical company with
3 fewer than 250,000 customers in Washington files a multiyear rate
4 plan that provides for no increases in base rates in consecutive
5 years beyond the initial rate year, the commission shall waive the
6 requirements of this subsection provided that such a waiver results
7 in just and reasonable rates.

8 (7) The commission must, in approving a multiyear rate plan,
9 determine a set of performance measures that will be used to assess a
10 gas or electrical company operating under a multiyear rate plan.
11 These performance measures may be based on proposals made by the gas
12 or electrical company in its initial application, by any other party
13 to the proceeding in its response to the company's filing, or in the
14 testimony and evidence admitted in the proceeding. In developing
15 performance measures, incentives, and penalty mechanisms, the
16 commission may consider factors including, but not limited to, lowest
17 reasonable cost planning, affordability, increases in energy burden,
18 cost of service, customer satisfaction and engagement, service
19 reliability, clean energy or renewable procurement, conservation
20 acquisition, demand side management expansion, rate stability, timely
21 execution of competitive procurement practices, attainment of state
22 energy and emissions reduction policies, rapid integration of
23 renewable energy resources, and fair compensation of utility
24 employees.

25 (8) Nothing in this section precludes any gas or electrical
26 company from making filings required or permitted by the commission.

27 (9) The commission shall align, to the extent practical, the
28 timing of approval of a multiyear rate plan of an electrical company
29 submitted pursuant to this section with the clean energy
30 implementation plan of the electrical company filed pursuant to
31 RCW 19.405.060.

32 (10) The provisions of this section may not be construed to limit
33 the existing rate-making authority of the commission.

34 **Sec. 3.** RCW 80.28.068 and 2009 c 32 s 1 are each amended to read
35 as follows:

36 (~~Upon~~) (1) Upon its own motion, or upon request by an
37 electrical or gas company, or other party to a general rate case
38 hearing, or other proceeding to set rates, the commission may approve
39 rates, charges, services, and/or physical facilities at a discount,

1 or through grants, for low-income senior customers and low-income
2 customers. Expenses and lost revenues as a result of these discounts
3 or grants shall be included in the company's cost of service and
4 recovered in rates to other customers. Each gas or electrical company
5 must propose a discount rate for low-income senior customers and low-
6 income customers. The commission shall approve or approve with
7 modifications each gas or electrical company's discount rate proposal
8 for low-income senior customers and low-income customers. The gas or
9 electrical company must use reasonable and good faith efforts to seek
10 approval for low-income program design, eligibility, operation,
11 outreach, and funding proposals from its low-income and equity
12 advisory groups in advance of filing such proposals with the
13 commission. In order to remove barriers and to expedite assistance,
14 low-income discounts or grants approved under this section must be
15 provided in coordination with community-based organizations in the
16 gas or electrical company's service territory including, but not
17 limited to, grantees of the department of commerce, community action
18 agencies, and community-based nonprofit organizations. Nothing in
19 this section may be construed as limiting the commission's authority
20 to approve or modify tariffs authorizing low-income discounts or
21 grants.

22 (2) Eligibility for a low-income discount rate or grant
23 established in this section may be established upon verification of a
24 low-income customer's receipt of any means-tested public benefit, or
25 verification of eligibility for the low-income home energy assistance
26 program, or its successor program, for which eligibility does not
27 exceed the low-income definition set by the commission pursuant to
28 RCW 19.405.020. The public benefits may include, but are not limited
29 to, assistance that provides cash, housing, food, or medical care
30 including, but not limited to, temporary assistance for needy
31 families, supplemental security income, emergency assistance to
32 elders, disabled, and children, supplemental nutrition assistance
33 program benefits, public housing, federally subsidized or state-
34 subsidized housing, the low-income home energy assistance program,
35 veterans' benefits, and similar benefits.

36 (3) Each gas or electrical company shall conduct substantial
37 outreach efforts to make the low-income discounts or grants available
38 to eligible customers and must provide annual reports to the
39 commission as to the gas or electrical company's outreach activities
40 and results. Such outreach: (a) Shall be made at least semiannually

1 to inform customers of available rebates, discounts, credits, and
2 other cost-saving mechanisms that can help them lower their monthly
3 bills for gas or electrical service; and (b) may be in the form of
4 any customary and usual methods of communication or distribution
5 including, without limitation, widely broadcast communications with
6 customers, direct mailing, telephone calls, electronic
7 communications, social media postings, in-person contacts, websites
8 of the gas or electrical company, press releases, and print and
9 electronic media, that are designed to increase access to and
10 participation in bill assistance programs.

11 (4) Outreach may include establishing an automated program of
12 matching customer accounts with lists of recipients of the means-
13 tested public benefit programs and, based on the results of the
14 matching program, to presumptively offer a low-income discount rate
15 or grant to eligible customers so identified. However, the gas or
16 electrical company must within 60 days of the presumptive enrollment
17 inform such a low-income customer of the presumptive enrollment and
18 all rights and obligations of a customer under the program, including
19 the right to withdraw from the program without penalty.

20 (5) A residential customer eligible for a low-income discount
21 rate must receive the service on demand.

22 (6) A residential customer may not be charged for initiating or
23 terminating low-income discount rates, grants, or any other form of
24 energy assistance.

25 (7) The definitions in this subsection apply throughout this
26 section unless the context clearly requires otherwise.

27 (a) "Energy burden" has the same meaning as defined in
28 RCW 19.405.020.

29 (b) "Low-income" has the same meaning as defined in RCW
30 19.405.020.

31 (c) "Physical facilities" includes, but may not be limited to, a
32 community solar project as defined in RCW 80.28.370.

33 NEW SECTION. Sec. 4. A new section is added to chapter 80.28
34 RCW to read as follows:

35 (1) A gas company or electrical company shall, upon request,
36 enter into one or more written agreements with organizations that
37 represent broad customer interests in regulatory proceedings
38 conducted by the commission, subject to commission approval in
39 accordance with subsection (2) of this section, including but not

1 limited to organizations representing low-income, commercial, and
2 industrial customers, vulnerable populations, or highly impacted
3 communities. The agreement must govern the manner in which financial
4 assistance may be provided to the organization. More than one gas
5 company, electrical company, or organization representing customer
6 interests may join in a single agreement. Any agreement entered into
7 under this section must be approved, approved with modifications, or
8 rejected by the commission. The commission must consider whether the
9 agreement is consistent with a reasonable allocation of financial
10 assistance provided to organizations pursuant to this section among
11 classes of customers of the gas or electrical company.

12 (2) Before administering an agreement entered into under
13 subsection (1) of this section, the commission shall, by rule or
14 order, determine:

15 (a) The amount of financial assistance, if any, that may be
16 provided to any organization;

17 (b) The manner in which the financial assistance is distributed;

18 (c) The manner in which the financial assistance is recovered in
19 the rates of the gas company or electrical company under subsection
20 (3) of this section; and

21 (d) Other matters necessary to administer the agreement.

22 (3) The commission shall allow a gas company or electrical
23 company that provides financial assistance under this section to
24 recover the amounts provided in rates. The commission shall allow a
25 gas company or electrical company to defer inclusion of those amounts
26 in rates if the gas company or electrical company so elects. An
27 agreement under this section may not provide for payment of any
28 amounts to the commission.

29 (4) Organizations representing vulnerable populations or highly
30 impacted communities must be prioritized for funding under this
31 section.

32 **Sec. 5.** RCW 80.28.074 and 1988 c 166 s 1 are each amended to
33 read as follows:

34 The legislature declares it is the policy of the state to:

35 (1) Preserve affordable (~~natural gas and electric~~) energy
36 services to the residents of the state;

37 (2) Maintain and advance the efficiency and availability of
38 (~~natural gas and electric~~) energy services to the residents of the
39 state of Washington;

- 1 (3) Ensure that customers pay only reasonable charges for
2 ((~~natural gas and electric service~~)) energy services;
3 (4) Permit flexible pricing of ((~~natural gas and electric~~))
4 energy services.

5 NEW SECTION. **Sec. 6.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected."

9 Correct the title.

EFFECT: Requires a gas or electrical company to defer all revenues that are in excess of .5 percent higher than the rate of return authorized by the utilities and transportation commission in a multiyear rate plan for refunds to customers or another determination by the commission in a subsequent adjudicative proceeding. Requires, rather than authorizes, a gas or electrical company to, upon request, enter into one or more financial assistance agreements with organizations that represent broad customer interests in regulatory proceedings conducted by the commission, including but not limited to organizations that represent low-income, commercial, and industrial customers, vulnerable populations, or highly impacted communities. Specifies that any such agreement must be approved, approved with modifications, or rejected by the commission. Removes the requirement that such approval by the commission be received before any financial assistance is provided under the agreement. Removes the provisions limiting financial assistance to an organization to funds contributed by the customer class or classes represented by the organization. Clarifies the role of the commission in approving or rejecting and administering an agreement between a customer interest organization and a gas or electrical company. Requires that, before administering an agreement entered into by a customer interest organization and a gas or electrical company, the commission must, by rule or order, determine: (a) The amount of financial assistance, if any, that may be provided to the organization; (b) the manner in which the financial assistance is distributed; (c) the manner in which the financial assistance is recovered in rates; and (d) other matters necessary to administer the agreement.

Requires each gas or electrical company to propose a discount rate for low-income senior customers and low-income customers. Requires the Utilities and Transportation Commission to approve or approve with modifications each gas or electrical company's discount rate proposal for low-income senior customers and low-income customers.

Amends a statement of statewide policy regarding the provision of energy services in the state by gas and electrical companies to refer to "energy services" broadly rather than to "natural gas and electric services" specifically.

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