

SSB 5295 - S AMD 359
By Senator Carlyle

ADOPTED 03/05/2021

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 further

1 determination by the commission in a subsequent adjudicative
2 proceeding. If a multistate electrical company with fewer than
3 250,000 customers in Washington files a multiyear rate plan that
4 provides for no increases in base rates in consecutive years beyond
5 the initial rate year, the commission shall waive the requirements of
6 this subsection provided that such a waiver results in just and
7 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. The gas or electrical company
5 must use reasonable and good faith efforts to seek approval for low-
6 income program design, eligibility, operation, outreach, and funding
7 proposals from its low-income and equity advisory groups in advance
8 of filing such proposals with the commission. In order to remove
9 barriers and to expedite assistance, low-income discounts or grants
10 approved under this section must be provided in coordination with
11 community-based organizations in the gas or electrical company's
12 service territory including, but not limited to, grantees of the
13 department of commerce, community action agencies, and community-
14 based nonprofit organizations. Nothing in this section may be
15 construed as limiting the commission's authority to approve or modify
16 tariffs authorizing low-income discounts or grants.

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

31 (3) Each gas or electrical company shall conduct substantial
32 outreach efforts to make the low-income discounts or grants available
33 to eligible customers and must provide annual reports to the
34 commission as to the gas or electrical company's outreach activities
35 and results. Such outreach: (a) Shall be made at least semiannually
36 to inform customers of available rebates, discounts, credits, and
37 other cost-saving mechanisms that can help them lower their monthly
38 bills for gas or electrical service; and (b) may be in the form of
39 any customary and usual methods of communication or distribution
40 including, without limitation, widely broadcast communications with

1 customers, direct mailing, telephone calls, electronic
2 communications, social media postings, in-person contacts, websites
3 of the gas or electrical company, press releases, and print and
4 electronic media, that are designed to increase access to and
5 participation in bill assistance programs.

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

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

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

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

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

24 (b) "Low-income" has the same meaning as defined in RCW
25 19.405.020.

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

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

30 (1) A gas company or electrical company may enter into one or
31 more written agreements with organizations that represent broad
32 customer interests in regulatory proceedings conducted by the
33 commission. The agreement must govern the manner in which financial
34 assistance may be provided to the organization. More than one gas
35 company, electrical company, or organization representing customer
36 interests may join in a single agreement. Any agreement entered into
37 under this section must be approved by the commission before any
38 financial assistance is provided under the agreement, provided that
39 the commission must consider whether the agreement is consistent with

1 a reasonable allocation of financial assistance provided to
2 organizations pursuant to this section among classes of customers of
3 the gas or electrical company. Nothing in this subsection may be
4 interpreted to prevent organizations representing vulnerable
5 populations or highly impacted communities from qualifying as
6 organizations that represent broad customer interests.

7 (2) Financial assistance made to an organization pursuant to this
8 section is limited to funds contributed by the customer class or
9 classes represented by such an organization. If an organization
10 receiving funds pursuant to this section represents more than one
11 class of customers of a gas or electrical company, then the funding
12 available to such an organization must be equitably apportioned
13 between or among the customer classes so represented.

14 (3) In administering an agreement entered into under
15 subsection (1) of this section, the commission by rule or order may
16 determine:

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

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

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

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

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

31 (5) Organizations representing vulnerable populations or highly
32 impacted communities must be prioritized for funding under this
33 section.

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

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1 On page 1, line 3 of the title, after "making;" strike the
2 remainder of the title and insert "amending RCW 80.28.068; adding new
3 sections to chapter 80.28 RCW; and creating a new section."

EFFECT: Deletes the intent and definition sections.

Adds new section requiring the Utilities and Transportation Commission (UTC) to notify the appropriate committees of the Legislature by January 1, 2022, of the process and duration of the work plan to conduct a proceeding to develop a policy statement addressing alternatives to traditional cost of service ratemaking.

Authorizes, rather than requires, the UTC to approve, approve with conditions, or reject a multiyear rate plan (MYRP) proposal, by order after an adjudicative proceeding, and requires the consideration of a MYRP to be subject to the same standards applicable to other rate filings, including the public interest.

Requires that for any approved MYRP resulting in a rate increase, the UTC must approve an increase in low-income bill assistance for each year there is a rate increase that is, at a minimum, equal to double the percentage increase for residential base rates.

Requires a utility to defer all revenues that are in excess of .5 percent higher than the rate of return authorized by the UTC for further determination in a subsequent adjudicative proceeding. Requires the UTC to waive this requirement if a multi-state electrical company with fewer than 250,000 Washington customers files a MYRP that provides for no increases in base rate in consecutive years beyond the initial rate year.

Requires, rather than allows, the UTC to set performance measures in approving a MYRP plan, and specifies factors to consider in developing performance measures, incentives, and penalty mechanisms.

Removes the provision that allowed a utility to defer, without interest, any new costs unknown at the time of the approval of a MYRP that are associated with compliance of any governmental policy or plan not in existence as of the rate effective date and implemented during a MYRP.

Requires a utility to use reasonable and good faith efforts to seek approval for low-income program design, eligibility, operation, outreach, and funding proposals from its low-income and equity advisory groups in advance of filing such proposals with the UTC.

Requires low-income discounts or grants to be provided in coordination with community-based organizations in the utility's service territory.

Removes the provision that allowed a utility to impose a charge to initiate or terminate a low-income discount rate.

Expands the types of organizations, to include those that represent broad customer interests, that a gas or electric utility may provide financial assistance to participate in regulatory proceedings conducted by the UTC. Nothing prevents organizations representing vulnerable populations or highly impacted communities

from qualifying as organizations that represent broad customer interests.

Requires the financial assistance made to an organization to be limited to funds contributed by that customer class. If an organization represents multiple customer classes, the funding must be equitably apportioned among the classes.

Organizations representing vulnerable populations or highly impacted communities must be prioritized for funding.

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