SENATE BILL REPORT
SB 5295

As of January 27, 2021

Title: An act relating to transforming the regulation of gas and electrical companies toward multiyear rate plans and performance-based rate making.

Brief Description: Transforming the regulation of gas and electrical companies toward multiyear rate plans and performance-based rate making.

Sponsors: Senators Carlyle and Short.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/27/21.

Brief Summary of Bill

- Requires a gas or electrical company (utilities) to pursue multiyear rate plans (MYRP) that set rates and align cost recovery for several years at a time.
- Allows the Utilities and Transportation Commission to set performance measures to assess a utility under the MYRP.
- Allows utilities to expand bill assistance programs and invest in programs that achieve energy conservation and improve the energy efficiency of single-family and multifamily rental housing.
- Allows utilities to provide financial assistance to organizations who represent highly impacted communities and vulnerable populations in regulatory proceedings.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

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

Background: Utilities and Transportation Commission. The Utilities and Transportation Commission (UTC) is a three-member commission with broad authority to regulate the rates, services, and practices of a variety of businesses in the state, including electric investor-owned utilities. The UTC must ensure rates charged by these companies are fair, just, and reasonable.

Under current state statute, the UTC has the power to ascertain and determine the fair value of a public service company's property that is used and useful for service in Washington by or during the rate effective period for rate-making purposes.

Clean Energy Transformation Act. In 2019, the Legislature passed the Clean Energy Transformation Act (CETA), which requires Washington's electric utilities to meet 100 percent of their retail electric load using non-emitting and renewable resources by January 1, 2045. Additionally, CETA requires electric utilities to eliminate coal-fired resources from their allocation of electricity by December 31, 2025, and make all retail sales of electricity greenhouse gas (GHG) neutral by January 1, 2030.

Additionally, under CETA electric utilities must mitigate energy burden and consider the adequacy of energy assistance programs for low-income households. Energy burden means the share of annual household income used to pay annual home energy bills.

Summary of Bill: Multiyear Rate Plans. A gas or electric utility must file a multiyear rate plan (MYRP) and the UTC must approve the proposal, with or without conditions, or reject it. The UTC must approve a proposal for a MYRP if it finds that the plan:
- establishes just and reasonable rates for the utility;
- is lawful;
- is supported by an appropriate record; and
- is consistent with the public interest in light of information available to the UTC at the time of the decision.

A gas or electric utility may propose, and the UTC may approve, any proposal to recover from ratepayers up to 5 percent of the total UTC approved revenue requirement for the initial rate year for tariffs that expand customer affordability. The tariffs may include bill assistance programs for low-income residential customers or one or more special rates for low-income residential customers to reduce the energy burden. Subject to current law, the UTC has the authority to hold a hearing concerning a utility's proposal.

Unless the UTC finds that the MYRP is not just and reasonable or not in the public interest, the UTC must accept a gas or electric utility's proposal or alternative proposal for a MYRP filing that seeks to recover the utility's annual revenue requirement in each future rate year on the basis of a budget approved by the utility; a forecast; a clean energy implementation plan approved under CETA; a price index; a fixed escalation rate; or another formula.

While considering a MYRP, the UTC must minimize regulatory lag—the period of time between when a utility incurs the costs and when they are subsequently recovered in rates—in each future rate year to the fullest extent possible while maintaining rates that are fair, just, reasonable, and sufficient. The UTC must approve rates separately for the initial rate year, the second rate year, and, if applicable, the third and fourth rate years. Consistent with current law, the UTC must ascertain and determine the fair value for rate-making purposes of the property of a utility that has filed a MYRP that is or will be used and useful for service in Washington by or during each rate year for the MYRP. For the initial rate year, the UTC must, at a minimum, make this determination by the rate effective date.

The UTC may, by order, establish terms, conditions, and procedures for MYRP and ensure rates remain just and reasonable during the course of the plan, including terms and procedures for rate adjustment during the term of the plan. The gas or electric utility is bound by the terms of the UTC approved MYRP for as long as the actual rate of return of the utility remains within 0.5 percent of the rate of return authorized in the MYRP.

If adjusted quarterly financial reports demonstrate the actual rate of return for the utility operating under a MYRP remains within 0.5 percent, the utility may not change rates affected by the MYRP by filing revised tariffs in the subsequent calendar quarter of the MYRP.

However, if adjusted quarterly financial reports demonstrate that the actual rate of return of a utility is more than 0.5 percent less than than rate of return authorized in the MYRP for a utility, the utility may file any of the following in the subsequent calendar quarter of the MYRP:
- proposed modifications to the existing MYRP for approval or rejecting by the UTC;
- a request for deferral of costs of the utility for later determination by the UTC;
- a general rate case; or
- a new MYRP.

A quarterly financial report must depict gas or electric operations of a utility under normal temperature and power supply conditions during the reporting period and follow UTC approved methods for reporting financial results of operations.

The UTC may determine a set of reasonable and applicable performance measures that can be used to assess a gas or electric utility operating under a MYRP. A utility may propose performance measures in its initial application.

A utility may 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. Recovery of these costs must be addressed in the next applicable rate case or MYRP.

The UTC must align, to the extent practical, the timing of approval of a MYRP of an electric utility with the clean energy implementation plan filed under CETA.

Nothing in this bill precludes any gas or electric utility from making filing required or permitted by the UTC nor may be construed to limit the existing rate-making authority of the UTC.

Rates for Low-Income Customers. An electric utility may provide discounts to reduce the energy burden of low-income or vulnerable populations and to ensure that the benefits of the transition to clean energy are equitably distributed as required under CETA. Eligibility for the discount rates may be established upon verification of a low-income customer's receipt of any means tested public benefit, or verification of eligibility for the low-income home energy assistance program, for which eligibility does not exceed 200 percent of the federal poverty level based on a household's gross income. Public benefits that may determine eligibility are enumerated.

Each gas or electric utility must conduct substantial outreach efforts to make the low-income discount available to eligible customers and annually report to the UTC on outreach activities and results. Outreach may include establishing an automated program of matching customer accounts with lists of recipients of the means tested public benefit programs and presumptively offer a discount rate to eligible customers. However, the gas or electric utility must within 60 days of the presumptive enrollment inform the low-income customer of the enrollment and all customer rights and obligations under the program, including the right to withdraw without penalty.

A residential customer eligible for a low-income discount rate must receive the service on demand. Each utility must periodically notify all customers of the availability and method of obtaining these discount rates.

The UTC must adopt rules requiring companies to semi-annually produce information to their customers to inform them of available rebates, discounts, credits, and other cost-saving mechanisms that can help the customers lower their monthly bills for gas or electric service. The information can be distributed by mail, electronically, or other customary and usual methods.

A residential customer may not be charged for initiating or terminating low-income discount rates when the initiation or termination request is made after a regular meter reading and the customer has the results of the reading. However, a utility may impose a reasonable charge set by the UTC in rule for initiating or terminating discount rates when a customer does not make an initiation or termination request on the receipt of the results and prior to the receipt of the next regularly scheduled meter reading, unless the customer's initiation or termination is involuntary.

Energy Conservation and Efficiency Programs for Rental Housing. UTC must allow a gas or electric utility to invest in programs that achieve energy conservation and improve the efficiency of energy end use of single-family and multifamily rental housing in lieu of requiring a contribution from the premises owner to finance measures that would be cost-effective.

The UTC must allow a utility to earn a return on cost-effective investments made for rental housing (investment) over a duration of time that reduces the customer's energy burden and minimizes the investment's impact on the customer's bill, while providing a return on equity that incentivizes the utility to invest. A gas or electric utility must prioritize investments to reduce the energy burden of low-income customers, vulnerable populations, and customers in highly impacted communities.

An investment must be secured through the meter and recovered through the regular bill paid by the tenant, including a successor tenant or premises owner. The investment of a gas or electric utility must be recovered as any other energy charge until the authorized return on investment has been fully recovered. The investment made must be designated as an energy savings charge as a line item on the customer's bill.

A gas or electric utility must provide the premises owner with sufficient information to provide to the tenant who is responsible for paying the bill. The premises owner must notify a tenant of the their authorization for the utility to install conservation measures at the premises inhabited by the tenant at least 30 days prior to installation. A financial arrangement must be provided to the tenant.

By December 31st, two full calendar years after the first installation of conservation measures, the gas or electric utility must complete a measure performance report for conservation measures completed and in service during the previous two years. The report must be submitted to the UTC and the Washington State University Energy Program and contain the following aggregated information:

- an estimate of the annual energy savings;
- an estimate of the energy cost savings realized;
- an updated assessment of the payback period for the full cost of the installed conservation measures; and
- supporting data verifying energy savings estimates.

<u>Agreement for Financial Assistance to Certain Organizations.</u> A gas or electric utility may enter into one or more written agreements with organizations that represent interests of customers belonging to a highly impacted community or vulnerable populations to assist with the costs of participating in UTC regulatory proceedings. More than one gas utility, electric utility, or organization representing customer interests may join in a single agreement.

The agreement must be approved by the UTC before financial assistance is provided. The UTC, by rule or order, may determine:

- the amount of financial assistance to be provided to an organization;
- the manner in which the financial assistance is distributed;

- the manner in which the financial assistance is recovered in the rates of the gas or electric utility; and
- other matters necessary to administer the agreement.

The UTC must allow a gas or electric utility that provides financial assistance to recover the amount in rate. The UTC must allow a utility to defer including the amount of financial assistance rates. An agreement may not provide for payment to the UTC.

Appropriation: None.

Fiscal Note: Requested on January 20, 2021.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: We are in a period of profound transformation for our energy systems. Utilities and the UTC should have the ability to look holistically at long-term planning. Washington is a national leader in clean energy and the enactment of CETA will accelerate the adoption of new renewable energy and demand-side resources. The state regulatory environment must be structured to facilitate smooth implementation and ensure compliance is achieved efficiently and cost-effectively. The bill will provide predictable rates, spread rate increases over multiple years, and grant utilities more predictable revenues. The legislation connects the legal requirement to provide clean energy to customers with the ability to finance investments. Traditional regulation creates barriers. The bill helps vulnerable customers by authorizing to offer discounts to reduce energy burden and by offering split incentives in the rental market. The legislation is important for gas companies to be able to comply with new changes in the energy environment. It is a more forward looking, collaborative approach. It might provide more options for more renewable natural gas and lower carbon emissions. The legislation is timely and works in tandem with CETA, as well as a cap and invest program and low carbon fuels standard.

CON: The Legislature has already provided the tools needed for MYRPs. The utilities have yet to take advantage of the tools available. We would prefer to identify what is not working with these tools instead of making a holistic change that affects the final outcome of rate cases. The bill exposes customers to automatic annual rate creates for up to four years based on speculative forecasts. The provisions are tilted toward utility interests and shifts financial risk to customers. The proposal is tone deaf to economic challenges of COVID-19. The best approach is to give the UTC direction to develop MYRPs. The bill reduces regulator and public oversight.

OTHER: Utilities have been filing general rate cases (GRCs) on an annual cycle. They are highly complex filings that have to be completed within 11 months by statute. In 2020, all five utilities had pending rate cases. This revolving load of rate cases is heavy and unsustainable in addition to implementing CETA and other work. This bill makes work load more predictable and provides more certainty for customer rates and allows the UTC to pursue performance-based regulation. The UTC has traditionally relied on looking at historical costs and adjusting them. Under a MYRP, the UTC will still set baselines based on historical costs, but rely more on forecasts and trending analyses, which it will be able to evaluate accurately. Many details need to be addressed and significant aspects are missing in the bill. MYRPs only work with aggressive metrics, otherwise energy rates will be higher than they need to be. Benefits for rental housing should be addressed in another bill. Utility rate processes need to respond to changing dynamics.

Persons Testifying: PRO: Senator Reuven Carlyle, Prime Sponsor; Ken Johnson, Puget Sound Energy; Kevin Christie, Avista; Charlie Brown, NW Natural.

CON: Brandon Houskeeper, Alliance of Western Energy Consumers; Shawn Collins, Opportunity Council; Katrina Peterson, Puget Sound Sage.

OTHER: Dave Danner, Utilities and Transportation Commission; Joni Bosh, NW Energy Coalition; Kathleen Collins, PacifiCorp.

Persons Signed In To Testify But Not Testifying: No one.