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**SENATE BILL 5668**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senators Lovelett, Lias, Das, Frockt, Lovick, Nguyen, Nobles, Pedersen, Saldaña, Stanford, and Wellman; by request of Office of the Governor

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1 AN ACT Relating to modifying the regulation of gas companies to  
2 achieve reductions in greenhouse gas emissions; amending RCW  
3 80.28.074, 80.28.385, 80.28.380, 80.28.110, and 80.28.190; adding new  
4 sections to chapter 80.28 RCW; adding a new section to chapter 81.88  
5 RCW; and creating new sections.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds:

8 (1) The greenhouse gas emissions limits established by the  
9 legislature in 2020 require significant and rapid reductions in all  
10 uses of fossil fuels.

11 (2) The 2021 state energy strategy recommended that the state  
12 develop and implement a planned transition from fossil natural gas  
13 end uses to alternative energy forms that do not result in greenhouse  
14 gas emissions.

15 (3) The number of residential and commercial customers using  
16 fossil natural gas has increased each year in the most recent 10  
17 years for which data is available. Growth in the number of  
18 residential and commercial customers using fossil natural gas has  
19 increased emissions from fossil natural gas in Washington by an  
20 estimated 870,000 metric tons CO<sub>2</sub>e per year.

1 (4) Under the climate commitment act, gas companies will receive  
2 a limited amount of allowances at no cost that decline proportionally  
3 with the cap established under RCW 70A.65.070. Continued growth in  
4 the number of customers using fossil natural gas will require  
5 purchase of increasingly constrained allowances in excess of the free  
6 amounts.

7 (5) Careful and comprehensive transition planning by gas  
8 companies, with oversight and review by the utilities and  
9 transportation commission, is necessary to avoid the substantial risk  
10 of stranded investments in natural gas distribution systems and harm  
11 to customers. If the cost of these stranded investments is imposed on  
12 remaining customers after other customers convert to electric  
13 equipment, the financial burden could result in rates that are  
14 neither fair to customers nor adequate for investors. The unfair  
15 burden would fall disproportionately on low-income customers,  
16 residential and commercial tenants, and others unable to avoid  
17 continued use of fossil natural gas.

18 (6) In furtherance of section 143(4), chapter 334, Laws of 2021,  
19 the utilities and transportation commission has initiated in its  
20 docket U-210553 an inquiry to examine feasible and practical pathways  
21 for investor-owned electric and natural gas utilities to contribute  
22 their share to greenhouse gas emissions reductions as described in  
23 RCW 70A.45.020. As part of its examination, the utilities and  
24 transportation commission must identify and consider the impacts of  
25 energy decarbonization on residential and commercial customers and  
26 the electric and natural gas utilities that serve them.

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

29 (1) Each gas company must develop and implement a clean heat  
30 transition plan for the purposes of: Meeting the state's greenhouse  
31 gas emissions limits with respect to fossil natural gas combustion;  
32 limiting the expansion of the natural gas system for residential and  
33 commercial space and water heating; advancing the use of high-  
34 efficiency electric equipment and production and distribution of  
35 clean fuels; and ensuring the safe and equitable transition of the  
36 natural gas system.

37 (2) Each gas company must ensure in its clean heat transition  
38 plan an equitable transition of the gas system by:

1 (a) Providing adequate energy assistance to low-income customers  
2 of the gas company under RCW 80.28.068;

3 (b) Ensuring that the transition results in benefits to low-  
4 income households, overburdened communities, and vulnerable  
5 populations, as those terms are defined in chapters 19.405 and 70A.65  
6 RCW;

7 (c) Ensuring the equitable distribution of energy and nonenergy  
8 benefits of utility programs and infrastructure to overburdened  
9 communities and vulnerable populations, including the reduction of  
10 energy burdens and improvement of indoor and outdoor air quality.

11 (3) By January 1, 2024, and every four years thereafter, each gas  
12 company must develop and submit to the commission a clean heat  
13 transition plan to achieve the reductions in greenhouse gas  
14 emissions, consistent with its proportional obligation under RCW  
15 70A.45.020, as must be established by order of the commission,  
16 resulting from combustion of natural gas sold or delivered by the  
17 company.

18 (4) Each gas company must base its clean heat transition plan on  
19 a comprehensive evaluation and comparison of multiple emissions  
20 reduction strategies to identify the combination of strategies that  
21 comply with the requirements of this section at lowest reasonable  
22 cost.

23 (5) Each clean heat transition plan must:

24 (a) Identify specific actions to achieve the gas company's share  
25 of the statewide obligation in RCW 70A.45.020, as determined by order  
26 of the commission, and must include an evaluation of the costs and  
27 benefits of alternative transition actions, including the costs and  
28 benefits that will accrue to vulnerable populations and overburdened  
29 communities. The cost-benefit analysis must incorporate the social  
30 cost of greenhouse gas emissions resulting from the use of natural  
31 gas as determined by the commission pursuant to RCW 80.28.395;

32 (b) Consider recommendations from the latest state energy  
33 strategy created under RCW 43.21F.090;

34 (c) Identify changes to depreciation schedules or rate design to  
35 be consistent with specific actions in the clean heat transition  
36 plan;

37 (d) Prioritize the remaining use of fossil natural gas by  
38 residential and commercial customers in consultation with electric  
39 utilities;

40 (e) Include an assessment of current conditions, including:

1 (i) The economic, public health, and environmental conditions  
2 within the gas company's service territory. These conditions are not  
3 restricted to the effects of utility actions, and the analysis must  
4 include relevant information from publicly available sources,  
5 including the cumulative impact analysis developed by the department  
6 of health under RCW 19.405.140; and

7 (ii) The energy and nonenergy benefits and burdens associated  
8 with the utility's infrastructure and programs, including benefits  
9 and burdens caused by utility actions outside the utility's service  
10 area;

11 (f) Assess the relative impact of alternative emissions reduction  
12 strategies on the amount of indoor air pollution and the health of  
13 customers; and

14 (g) Support an equitable transition for overburdened communities  
15 and low-income customers through no-cost grant programs for low-  
16 income residents and low-cost or specially targeted incentive  
17 programs for moderate income or fixed income seniors.

18 (6) Each gas company must, at a minimum, consider the following  
19 emissions reduction strategies in developing each clean heat  
20 transition plan:

21 (a) Measures to increase the efficiency of energy use in  
22 residential, industrial, and commercial buildings through building  
23 thermal load reduction strategies such as envelope efficiency  
24 improvements, hot water conservation, or process load reductions;

25 (b) Development of geothermal heat, industrial waste heat, and  
26 other thermal heat sources that may be obtained without substantial  
27 emissions of greenhouse gases;

28 (c) Development of district heating systems using waste heat from  
29 industrial processes or fuels that do not result in greenhouse gas  
30 emissions; and

31 (d) Reduction of the carbon content of delivered gas by  
32 incorporating renewable natural gas or renewable hydrogen as provided  
33 in RCW 80.28.385.

34 (7) Each gas company may consider the following emissions  
35 reduction strategies in developing each clean heat transition plan:

36 (a) Expansion of voluntary renewable natural gas programs as  
37 provided in RCW 80.28.390;

38 (b) Implementation during a transition period of dual fuel  
39 heating configurations in which use of fossil natural gas is limited  
40 to periods of peak energy demand;

1 (c) Conversion of existing customers to high-efficiency electric  
2 equipment;

3 (d) Geographically targeted programs to permanently decommission  
4 portions of a gas company's distribution systems;

5 (e) Use of offset credits to the extent permitted under RCW  
6 70A.65.170; and

7 (f) Implementation of projects authorized under RCW 80.28.420  
8 that are anticipated to reduce greenhouse gas emissions from  
9 pipelines through the reduction of nonhazardous leaks.

10 (8) Each gas company must consult with any electric utility  
11 serving customers in the gas company's service area during the  
12 development of its clean heat transition plan.

13 (9) Each clean heat transition plan submitted under subsection  
14 (3) of this section is subject to review, modification, and approval  
15 by the commission. The commission may order the modification of any  
16 plan that it finds not to be in compliance with the requirements of  
17 this section.

18 (10) This section does not apply to any gas company owned and  
19 operated by a city or town, pursuant to RCW 80.04.500.

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 80.28  
21 RCW to read as follows:

22 (1) After December 31, 2022, a gas company may not extend service  
23 to a customer location at no charge, at a charge that is discounted  
24 to reflect anticipated future customers, or otherwise at a charge  
25 less than the full cost of the service extension.

26 (2) After December 31, 2024, a gas company may not extend service  
27 to a customer premise or location not already receiving gas service,  
28 unless the commission finds that the extension of service is  
29 consistent with the gas company's clean heat transition plan and does  
30 not result in a net increase in greenhouse gas emissions over the  
31 expected useful life of the line extension.

32 NEW SECTION. **Sec. 4.** A new section is added to chapter 81.88  
33 RCW to read as follows:

34 The commission must consult with the department of labor and  
35 industries before establishing any standard under this chapter  
36 concerning the distribution of hydrogen by gas pipeline.

1       **Sec. 5.** RCW 80.28.074 and 2021 c 188 s 5 are each amended to  
2 read as follows:

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

4       (1) Preserve affordable energy services to the residents of the  
5 state;

6       (2) Maintain and advance the efficiency and availability of  
7 energy services to the residents of the state of Washington;

8       (3) Ensure that customers pay only reasonable charges for energy  
9 services;

10       (4) Permit flexible pricing of energy services;

11       (5) Limit and reduce emissions of greenhouse gases from  
12 combustion of fossil fuels consistent with the state's greenhouse gas  
13 emissions limits and the targets established in the climate  
14 commitment act.

15       **Sec. 6.** RCW 80.28.385 and 2019 c 285 s 13 are each amended to  
16 read as follows:

17       (1) A ~~((natural))~~ gas company may propose a renewable ~~((natural))~~  
18 gas program under which the company would ~~((supply renewable natural~~  
19 ~~gas for a portion of the natural gas sold or delivered to its retail~~  
20 ~~customers. The renewable natural gas program is subject to review and~~  
21 ~~approval by the commission. The customer charge for a renewable~~  
22 ~~natural gas program may not exceed five percent of the amount charged~~  
23 ~~to retail customers for natural gas.~~

24       ~~(2))~~ acquire and include renewable natural gas, renewable  
25 hydrogen, or hydrogen produced by electrolysis for a portion of the  
26 gas sold or delivered to its retail customers.

27       (2) A gas company must demonstrate that the renewable gas program  
28 will result in a reduction in the greenhouse gas intensity per therm,  
29 including the life-cycle emissions of greenhouse gases, and will not  
30 adversely affect the safety or reliability of its service.

31       (3) The renewable gas program is subject to review and approval  
32 by the commission. The commission must establish safety standards for  
33 use of hydrogen before approving a renewable gas program that  
34 includes hydrogen.

35       (4) The customer charge for a renewable gas program may not  
36 exceed five percent of the amount charged to retail customers for  
37 natural gas unless the commission determines that a charge in excess  
38 of this amount is necessary under an approved clean heat transition  
39 plan.

1       (5) The environmental attributes of renewable (~~natural~~) gas  
2 provided under this section must be retired using procedures  
3 established by the commission and may not be used for any other  
4 purpose. The commission must approve procedures for banking and  
5 transfer of environmental attributes.

6       ~~((3) As used in this section, "renewable natural gas" includes  
7 renewable natural gas as defined in RCW 54.04.190. The commission may  
8 approve inclusion of other sources of gas if those sources are  
9 produced without consumption of fossil fuels.))~~

10       (6) The definitions in this subsection apply throughout this  
11 section unless the context clearly requires otherwise.

12       (a) "Renewable hydrogen" has the same meaning as defined in RCW  
13 54.04.190.

14       (b) "Renewable natural gas" has the same meaning as defined in  
15 RCW 54.04.190.

16       NEW SECTION.   **Sec. 7.** A new section is added to chapter 80.28  
17 RCW to read as follows:

18       (1) A gas company may account for and defer for later  
19 consideration by the commission costs incurred in connection with  
20 major projects in a clean heat transition plan approved by the  
21 commission under section 2 of this act including, but not limited to,  
22 contracts to purchase renewable natural gas or renewable hydrogen.  
23 The deferral in this subsection begins on the date on which the  
24 resource begins commercial operation or the effective date of the  
25 renewable natural gas or renewable hydrogen purchase agreement and  
26 continues for a period not to exceed 36 months. However, if during  
27 such a period the gas company files a general rate case or other  
28 proceeding for the recovery of these costs, deferral ends on the  
29 effective date of the final decision by the commission in such a  
30 proceeding. Creation of such a deferral account does not by itself  
31 determine the actual costs of the resource or renewable natural gas  
32 or renewable hydrogen purchase agreement, whether recovery of any or  
33 all of these costs is appropriate, or other issues to be decided by  
34 the commission in a general rate case or other proceeding.

35       (2) The costs that a gas company may account for and defer for  
36 later consideration by the commission pursuant to subsection (1) of  
37 this section include all operating and maintenance costs,  
38 depreciation, taxes, and cost of capital associated with the  
39 applicable resource. These costs of capital include the gas company's

1 authorized return on equity for any resource acquired or developed by  
2 the gas company.

3 **Sec. 8.** RCW 80.28.380 and 2019 c 285 s 11 are each amended to  
4 read as follows:

5 (1) Each gas company must identify and acquire all conservation  
6 measures that are available and cost-effective. Each company must  
7 establish an acquisition target every two years and must demonstrate  
8 that the target will result in the acquisition of all resources  
9 identified as available and cost-effective. The cost-effectiveness  
10 analysis required by this section must include the costs of  
11 greenhouse gas emissions established in RCW 80.28.395. The targets  
12 must be based on a conservation potential assessment prepared by an  
13 independent third party and approved by the commission. Conservation  
14 targets must be approved by order by the commission. The initial  
15 conservation target must take effect by 2022.

16 (2) After December 31, 2024, a gas company may not include in its  
17 conservation acquisition target or offer financial incentives to  
18 acquire any conservation measure that requires the installation of  
19 new gas-fired appliances, furnaces, water heaters, or other end-use  
20 equipment, unless the commission finds that the conservation measures  
21 are consistent with the gas company's clean heat transition plan and  
22 do not result in a net increase in greenhouse gas emissions over the  
23 expected useful life of the equipment being installed.

24 **Sec. 9.** RCW 80.28.110 and 2021 c 65 s 97 are each amended to  
25 read as follows:

26 Every (~~gas company,~~) electrical company, wastewater company, or  
27 water company, engaged in the sale and distribution of (~~gas,~~)  
28 electricity or water or the provision of wastewater company services,  
29 shall, upon reasonable notice, furnish to all persons and  
30 corporations who may apply therefor and be reasonably entitled  
31 thereto, suitable facilities for furnishing and furnish all available  
32 (~~gas,~~) electricity, wastewater company services, and water as  
33 demanded, except that a water company may not furnish water contrary  
34 to the provisions of water system plans approved under chapter 43.20  
35 or 70A.100 RCW and wastewater companies may not provide services  
36 contrary to the approved general sewer plan.



1       **Sec. 10.** RCW 80.28.190 and 2003 c 53 s 383 are each amended to  
2 read as follows:

3       (1) No gas company shall, after January 1, 1956, operate in this  
4 state any gas plant for hire without first having obtained from the  
5 commission under the provisions of this chapter a certificate  
6 declaring that public convenience and necessity requires or will  
7 require such operation and setting forth the area or areas within  
8 which service is to be rendered; but a certificate shall be granted  
9 where it appears to the satisfaction of the commission that such gas  
10 company was actually operating in good faith, within the confines of  
11 the area for which such certificate shall be sought, on June 8, 1955.  
12 Any right, privilege, certificate held, owned or obtained by a gas  
13 company may be sold, assigned, leased, transferred or inherited as  
14 other property, only upon authorization by the commission. The  
15 commission shall have power, after hearing, when the applicant  
16 requests a certificate to render service in an area already served by  
17 a certificate holder under this chapter only when the existing gas  
18 company or companies serving such area will not provide the same to  
19 the satisfaction of the commission and in all other cases, with or  
20 without hearing, to issue the certificate as prayed for; or for good  
21 cause shown to refuse to issue same, or to issue it for the partial  
22 exercise only of the privilege sought, and may attach to the exercise  
23 of the rights granted by the certificate such terms and conditions  
24 as, in its judgment, the public convenience and necessity may  
25 require.

26       (2) A gas company may not offer new service to any customer  
27 located outside of the area authorized in its approved certificate of  
28 public convenience and necessity as of July 1, 2022, unless the  
29 commission finds that the extension of service is consistent with the  
30 gas company's clean heat transition plan and does not result in a net  
31 increase in greenhouse gas emissions over the expected useful life of  
32 the gas plant to be installed in the expanded area.

33       (3) The commission may, at any time, by its order duly entered  
34 after a hearing had upon notice to the holder of any certificate  
35 hereunder, and an opportunity to such holder to be heard, at which it  
36 shall be proven that such holder willfully violates or refuses to  
37 observe any of its proper orders, rules or regulations, suspend,  
38 revoke, alter or amend any certificate issued under the provisions of  
39 this section, but the holder of such certificate shall have all the

1 rights of rehearing, review and appeal as to such order of the  
2 commission as is provided herein.

3 ~~((3))~~ (4) In all respects in which the commission has power and  
4 authority under this chapter applications and complaints may be made  
5 and filed with it, process issued, hearings held, opinions, orders  
6 and decisions made and filed, petitions for rehearing filed and acted  
7 upon, and petitions for writs of review to the superior court filed  
8 therewith, appeals or mandate filed with the supreme court or the  
9 court of appeals of this state considered and disposed of by such  
10 courts in the manner, under the conditions, and subject to the  
11 limitations and with the effect specified in the Washington utilities  
12 and transportation commission laws of this state.

13 ~~((4))~~ (5) Every officer, agent, or employee of any corporation,  
14 and every other person who violates or fails to comply with, or who  
15 procures, aids or abets in the violation of any of the provisions of  
16 this section or who fails to obey, observe or comply with any order,  
17 decision, rule or regulation, directive, demand or requirements, or  
18 any provision of this section, is guilty of a gross misdemeanor.

19 ~~((5))~~ (6) Neither this section, RCW 80.28.200, ~~((80.28.210,))~~  
20 nor any provisions thereof shall apply or be construed to apply to  
21 commerce with foreign nations or commerce among the several states of  
22 this union except insofar as the same may be permitted under the  
23 provisions of the Constitution of the United States and acts of  
24 congress.

25 ~~((6))~~ (7) The commission shall collect the following  
26 miscellaneous fees from gas companies: Application for a certificate  
27 of public convenience and necessity or to amend a certificate,  
28 twenty-five dollars; application to sell, lease, mortgage or transfer  
29 a certificate of public convenience and necessity or any interest  
30 therein, ten dollars.

31 NEW SECTION. **Sec. 11.** This act may be known and cited as the  
32 clean heat act.

33 NEW SECTION. **Sec. 12.** If any provision of this act or its  
34 application to any person or circumstance is held invalid, the  
35 remainder of the act or the application of the provision to other  
36 persons or circumstances is not affected.

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