ESHB 1589 - H AMD **782**
By Representative Dye

OUT OF ORDER 01/22/2024

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that the state's gas and electrical companies face transformational change brought on by new technology, emerging opportunities for customers, and state clean energy laws. Chapter 19.405 RCW, the Washington clean energy transformation act, and chapter 70A.65 RCW, the Washington climate commitment act, mean these companies must find innovative and creative solutions to equitably serve their customers, provide clean energy, reduce emissions, and keep rates fair, just, reasonable, and sufficient.

(2) Gas companies with over 500,000 customers that are also electrical companies, or combination utilities, play an important role in providing affordable and reliable heating and other energy services, and in leading the implementation of state climate policies. As the state transitions to cleaner sources of energy, combination utilities are an important partner in helping their customers make smart energy choices, and actively supporting the replacement of fossil fuel-based space and water heating equipment and other fossil fuel-based equipment with high-efficiency nonemitting equipment. Programs to accelerate the adoption of efficient, nonemitting appliances have the potential to allow combination utilities to optimize the use of energy infrastructure, improve the management of energy loads, better manage the integration of variable renewable energy resources, reduce greenhouse gas emissions from the buildings sector, mitigate the environmental impacts of utility operations and power purchases, and improve health outcomes for occupants. Legislative clarity is important for utilities to offer programs and services, including incentives, in the decarbonization of homes and buildings for their customers.

(3) In order to meet the statewide greenhouse gas limits in the energy sectors of the economy, more resources must be directed toward

achieving decarbonization of residential and commercial heating loads and other loads that are served with fossil fuels, while continuing to protect customers, especially low-income customers and vulnerable communities. The legislature finds that regulatory innovation may be needed to remove barriers that combination utilities may face to meet the state's public policy objectives and expectations. The enactment of chapter 188, Laws of 2021 (Engrossed Substitute Senate Bill No. 5295) began that regulatory transition from traditional cost-of-service regulation, with investor-owned gas and electrical companies using forward-looking multiyear rate plans and taking steps toward performance-based regulation. These steps are intended to provide certainty and stability to both customers and to investor-owned gas and electrical companies, aligning public policy objectives with investments, safety, and reliability.

(4) The legislature finds that as Washington transitions to 100 percent clean electricity and as the state implements the Washington climate commitment act, switching from fossil fuel-based heating equipment and other fossil fuel-based appliances to high-efficiency nonemitting equipment will reduce climate impacts and fuel price risks for customers in the long term. This new paradigm requires a thoughtful transition to decarbonize the energy system to ensure that customers are protected, are not subject to sudden price shocks, and continue to receive needed energy services. This transition will require careful and integrated planning across utilities and with customers as well as new regulatory tools.

(5) It is the intent of the legislature to require combination utilities to decarbonize their systems by: (a) Prioritizing efficient and cost-effective measures to transition customers off of the direct use of fossil fuels at the lowest reasonable cost to customers; (b) investing in the energy supply, storage, delivery, and demand-side resources that will be needed to serve any increase in electrical demand affordably and reliably; (c) maintaining safety and reliability as the gas system undergoes transformational changes; (d) integrating zero-carbon and carbon-neutral fuels to serve high heat and industrial loads where electrification may not be technically feasible; (e) managing peak demand of the electric system; and (f) ensuring an equitable distribution of benefits to, and reduction of burdens for, overburdened communities that have historically been underserved by utility energy efficiency programs, and may be

disproportionately impacted by rising fuel and equipment costs or experience high energy burden.

(6) It is the intent of the legislature to support this transition by adopting requirements for combination utilities to conduct integrated system planning to develop specific actions supporting gas system decarbonization and electrification.

NEW SECTION. **Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Alternative energy resource" means biogas, renewable natural gas, renewable syngas, renewable hydrogen, carbon dioxide removal, carbon-free district energy, any electrification programs approved as part of an electrification plan pursuant to section 3 of this act, and any carbon-neutral fuel as defined in statute.

(2) "Carbon dioxide equivalent" has the same meaning as defined in RCW 70A.65.010.

(3) "Carbon-free district energy" means a network of hot water pipes and cold water pipes used to provide thermal energy to multiple buildings that does not result in the emissions of greenhouse gases.

(4) "Combination utility" means a public service company that is both an electrical company and a large gas company that serves more than 800,000 retail electric customers and 500,000 retail natural gas customers in the state of Washington as of June 30, 2023.

(5) "Commission" means the utilities and transportation commission.

(6) "Cost-effective" means that a project or resource is forecast:

(a) To be reliable and available within the time it is needed; and

(b) To reduce greenhouse gas emissions and meet or reduce the energy demand or supply an equivalent level of energy service to the intended customers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative project or resource, or any combination thereof, including the cost of compliance with chapter 70A.65 RCW, based on the forward allowance ceiling price of allowances approved by the department of ecology under RCW 70A.65.160.

(7) "Costs of greenhouse gas emissions" means the costs of greenhouse gas emissions established in RCW 80.28.395.

(8) "Electrical company" has the same meaning as provided in RCW 80.04.010.

(9)(a) "Electrification" means the installation of electric end-use equipment.

(b) Electrification programs may include, but are not limited to, programs that facilitate the installation of electric air-source heat pumps with gas backups in existing buildings. However, electric air-source heat pumps with gas backups may not be part of any plan filed after 2030.

(10) "Emissions baseline" means the actual cumulative greenhouse gas emissions of a combination utility, calculated pursuant to chapter 70A.65 RCW, for the five-year period beginning January 1, 2015, and ending December 31, 2019.

(11) "Emissions reduction period" means one of five periods of five calendar years each, with the five periods beginning on January 1st of calendar years 2030, 2035, 2040, 2045, and 2050, respectively.

(12) "Emissions reduction target" means a targeted reduction of projected cumulative greenhouse gas emissions of a combination utility approved by the commission for an emissions reduction period that is at least as stringent as the limits established in RCW 70A.45.020.

(13) "Gas company" has the same meaning as provided in RCW 80.04.010.

(14) "Greenhouse gas" has the same meaning as provided in RCW 70A.45.010.

(15) "Low-income" has the same meaning as provided in RCW 19.405.020.

(16) "Multiyear rate plan" means a multiyear rate plan of a gas company filed with the commission pursuant to RCW 80.28.425.

(17) "Natural gas" has the same meaning as provided in RCW 19.405.020.

(18) "Overburdened community" has the same meaning as provided in RCW 70A.65.010.

(19) "Renewable hydrogen" has the same meaning as provided in RCW 19.405.020.

(20) "Renewable natural gas" has the same meaning as provided in RCW 19.405.020.

(21) "Renewable resource" has the same meaning as provided in RCW 19.405.020.

(22) "System cost" means an estimate of all direct costs of a project or resource over its effective life including, if applicable: The costs of transmission and distribution to the customers; waste disposal costs; permitting, siting, mitigation, and end-of-cycle decommissioning and remediation costs; fuel costs, including projected increases; resource integration and balancing costs; and such quantifiable environmental costs and benefits and other energy and nonenergy benefits as are directly attributable to the project or resource, including flexibility, resilience, reliability, greenhouse gas emissions reductions, and air quality.

NEW SECTION. **Sec. 3.** (1) The legislature finds that utilities are subject to a range of reporting and planning requirements as part of the clean energy transition. To reduce regulatory barriers, achieve equitable and transparent outcomes, and integrate planning requirements, the commission may consolidate planning requirements into a single integrated system plan that is approved by the commission.

(a) By July 1, 2025, the commission shall initiate a process to consolidate planning requirements and to waive any commission rules necessary to facilitate an integrated system plan.

(b) The commission shall issue a notice and request for comment and shall hold a public comment hearing.

(c) In its order approving the consolidation of planning requirements, the commission shall include a compliance checklist and shall provide any additional guidance that is necessary to ensure that the integrated system plan meets the minimum requirements of all relevant statutes and rules.

(2) Subject to approval by the commission pursuant to subsection (1) of this section, by January 1, 2026, and every four years thereafter, a combination utility shall file an integrated system plan demonstrating how the combination utility plans to:

(a) Achieve its obligations under chapters 19.280, 19.405, 19.285, and 70A.65 RCW, RCW 80.28.380, and existing pipeline safety and replacement plans;

(b) Achieve gas utility and electric utility emissions reductions equal to their proportional share of emissions reductions required under RCW 70A.45.020;

(c) Maximize investments of revenues generated from consigning allowances pursuant to chapter 70A.65 RCW in programs that

incentivize a transition to electric heat pumps and other electric appliances, conservation and efficiency services, and other programs that aid in the transition from the direct use of fossil fuels; and

(d) Comply with any other obligations under applicable rules, regulations, or laws.

(3) In addition, an integrated system plan filed pursuant to this section must:

(a) Include an emissions reduction target;

(b) Present and evaluate a range of resource portfolios and proposed programs to advance clean energy and gas decarbonization measures for customers that align with achieving the gas utility's proportional share of emissions reductions required under RCW 70A.45.020. At a minimum, the range of resource portfolios presented and evaluated by a combination utility must include:

(i) A portfolio of resources that uses cost-effective alternative energy resources to the maximum practicable extent, which may include leak reductions approved by the commission, and that meets the identified emissions reduction targets;

(ii) Other portfolios requested by stakeholders;

(iii) Other portfolios at the combination utility's discretion; and

(iv) Other portfolios as directed by the commission;

(c) Include programs targeted to low-income customers, vulnerable populations, and overburdened communities;

(d) Include outreach plans for engagement with all customers, but prioritizing low-income customers, vulnerable populations, and overburdened communities to develop programs to support those customers in every phase of the programs in the combination utility's integrated system plan, including through incentives offered to multifamily buildings occupied in full or in part by low-income households;

(e) Prioritize investments that benefit, and reduce burdens to, low-income customers, vulnerable populations, and overburdened communities;

(f) Prioritize investments in energy efficiency, demand response, and energy conservation measures, which must achieve at least:

(i) Two percent of electric load annually with conservation and energy efficiency resources, unless the commission finds that a higher target is cost-effective; and

(ii) Annual demand response equal to or greater than 10 percent of winter and summer peak electric demand, unless the commission finds that a higher target is cost-effective;

(g) Set forth specific actions that the combination utility will take to reduce greenhouse gas emissions to meet the emissions reduction target;

(h) Quantify projected cumulative greenhouse gas emissions reductions for each emissions reduction period resulting from each portfolio presented in the integrated system plan;

(i) Propose program budgets resulting from each portfolio presented in the integrated system plan;

(j) Quantify the cost of implementing each portfolio presented in the integrated system plan;

(k) Project annual greenhouse gas emissions reductions that would result if each portfolio presented in the integrated system plan were extended through 2050;

(l) Describe the effects of the specific actions and investments of each portfolio presented in the integrated system plan on the safety, reliability, and resilience of the combination utility's energy service;

(m) Identify potential changes to depreciation schedules or other actions to align the combination utility's cost recovery with state laws, including reducing greenhouse gas emissions, minimizing costs, and minimizing risks to the combination utility and its customers;

(n) Explain the combination utility's analysis of the costs and benefits of an array of alternatives, including the costs of greenhouse gas emissions in the cost-benefit calculations;

(o) Describe the monitoring and verification methodology to be used in reporting; and

(p) Include any other information required by the commission.

(4) The commission must approve, reject, or approve with conditions the integrated system plan within 12 months of receiving the final plan. Once approved, a combination utility may include an integrated system plan in a proposal for a multiyear rate plan.

(a) In determining whether to approve the plan, the commission must evaluate whether the plan is in the public interest. This evaluation includes, but is not limited to, a consideration of:

(i) The equitable distribution of energy benefits and reduction of burdens to vulnerable populations and highly impacted communities;

(ii) Long-term and short-term public health, economic, and environmental benefits and the reduction of costs and risks; and

(iii) Energy security and resiliency.

(b) In evaluating whether a proposed integrated system plan is in the public interest, the commission shall take into account the following factors:

(i) Whether the specific actions in the integrated system plan achieve reductions in greenhouse gas emissions for each emissions reduction period;

(ii) Whether the integrated system plan demonstrates progress toward meeting the emissions reduction targets;

(iii) Whether investments in the integrated system plan prioritize serving low-income customers, vulnerable populations, and overburdened communities;

(iv) Whether the integrated system plan and the proposed actions in the plan are cost-effective and how the integrated system plan is likely to result in a reasonable cost to customers, where cost-effectiveness is defined in subsection (5) of this section;

(v) Whether the integrated system plan maintains system reliability and reduces long-term costs and risks to customers; and

(vi) Whether the integrated system plan will lead to new construction career opportunities and prioritizes a transition of natural gas and electricity utility workers to perform work on construction and maintenance of new and existing renewable energy infrastructure.

(5) The commission shall establish by rule a cost-effectiveness test for emissions reduction measures taken by combination utilities to comply with state clean energy and climate policies.

(a) The cost-effectiveness test must be used for the purpose of determining cost-effectiveness of decarbonization measures taken, at the portfolio level, by a combination utility under this chapter, and for any other purpose determined by the commission by rule.

(b) In evaluating the cost-effectiveness of gas decarbonization measures within the integrated system plan, a combination utility shall apply a risk reduction premium that shall account for: (i) The most recent allowance ceiling price approved by the department of ecology pursuant to the climate commitment act, chapter 70A.65 RCW; or (ii) a forward price index for allowance prices approved by the department of ecology. For the purpose of this chapter, the risk reduction premium is necessary to ensure that a combination utility

is making appropriate long-term investments to mitigate against the allowance and fuel price risks to customers of the combination utility.

(c) The commission may approve, or amend and approve, an integrated system plan that exceeds the cost-effectiveness test and risk reduction premium requirements identified in this subsection only if it finds that the plan is in the public interest, costs to customers are reasonable, the plan includes mitigation of rate increases for low-income customers, and the benefits of the plan, including the costs of greenhouse gas emissions, exceed the costs.

NEW SECTION. **Sec. 4.** (1) A combination utility must include the following in calculating its emissions baseline and projected cumulative emissions for an emissions reduction period, consistent with chapter 173-441 WAC:

(a) Methane leaked from the transportation and delivery of gas from the gas distribution and service pipelines from the city gate to customer end use;

(b) Greenhouse gas emissions resulting from the combustion of gas by customers not otherwise subject to federal greenhouse gas emissions reporting and excluding all transport customers; and

(c) Emissions of methane resulting from leakage from delivery of gas to other gas companies.

(2) In calculating an emissions reduction target, a combination utility must show its emissions baseline and projected cumulative greenhouse gas emissions for the applicable emissions reduction period separately and must show that the total emissions reductions are projected to make progress toward the achievement of the emissions reduction targets identified in the applicable integrated system plan. The final calculation must be presented on a carbon dioxide equivalent basis.

(3) All emissions are metric tons of carbon dioxide equivalent as reported to the federal environmental protection agency pursuant to 40 C.F.R. 98, either subpart W (methane) or subpart NN (carbon dioxide), or successor reporting requirements.

NEW SECTION. **Sec. 5.** (1) In any multiyear rate plan filed by a combination utility pursuant to RCW 80.28.425, the commission must adopt depreciation schedules for any gas plant in service as of the effective date of the depreciation schedules of the multiyear rate

plan such that the incremental depreciation for each year of such a multiyear rate plan resulting from the depreciation is equal to one percent of the gas revenue requirement for the preceding year.

(2) After the approval of an integrated system plan, the combination utility may propose a merger of the rate bases supporting gas and electric operations of the combination utility into a single energy rate base and the adoption of rates for electric and gas service that support the recovery of such a merged energy rate base. The commission may approve the merger of electric and gas rate bases if the commission finds that the proposal will result in a net benefit to customers of the combination utility.

(3) For a combination utility that has merged gas and electricity rate bases, the combination utility must monetize benefits from any applicable federal and state tax incentives for the benefit of customers. These benefits must be separately accounted for and amortized on a schedule designed to mitigate the rate impacts to customers after the rate bases are combined. These credits may not be used for any other purpose.

NEW SECTION. **Sec. 6.** (1) For any project in a decarbonization or targeted electrification plan of a combination utility that is part of a competitive solicitation and with a cost of more than $10,000,000, the combination utility must certify to the commission that any work associated with such a project will be constructed by a prime contractor and its subcontractors in a way that includes community workforce agreements or project labor agreements and the payment of area standard prevailing wages and apprenticeship utilization requirements, provided the following apply:

(a) The combination utility and the prime contractor and all of its subcontractors, regardless of tier, have the absolute right to select any qualified and responsible bidder for the award of contracts on a specified project without reference to the existence or nonexistence of any agreements between such a bidder and any party to such a project labor agreement, and only when such a bidder is willing, ready, and able to become a party to, signs a letter of assent, and complies with such an agreement or agreements, should it be designated the successful bidder; and

(b) It is understood that this is a self-contained, stand-alone agreement, and that by virtue of having become bound to such an agreement or agreements, neither the prime contractor nor the

subcontractors are obligated to sign any other local, area, or national agreement.

(2) Nothing in this section supersedes RCW 19.28.091 or 19.28.261 or chapter 49.17 RCW, without regard to project cost.

NEW SECTION. **Sec. 7.** Electrical companies, municipal electric utilities, public utility districts, irrigation districts, cooperatives, and mutual corporations providing retail electric service are encouraged to:

(1) Work with large gas companies providing gas service within their service areas to identify opportunities for electrification and the provision of energy peaking service by the large gas company;

(2) Account for the costs of greenhouse gas emissions, set total energy savings and greenhouse gas emissions reduction goals, and develop and implement electrification programs in collaboration with large gas companies providing gas service in service areas; and

(3) Include an electrification plan or transportation electrification program as part of collaboration with large gas companies.

NEW SECTION. **Sec. 8.** This chapter may be known and cited as the Washington decarbonization act for large combination utilities.

NEW SECTION. **Sec. 9.** Sections 2 through 8 of this act constitute a new chapter in Title 80 RCW.

NEW SECTION. **Sec. 10.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 11.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

EFFECT: The floor striker makes the following changes relative to the engrossed version of the bill:

(1) Removes the prohibition on the extension of natural gas service by a large gas company after June 30, 2023;

(2) Removes the modification to a large gas company's obligation to provide natural gas service; and

(3) Removes provision related to the identification of cost recovery mechanisms for a combination utility to meet its integrated system plan, including that the majority of energy necessary to comply with the clean energy transformation act be supplied from resources owned and operated by the combination utility or an affiliate of the combination utility.

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