ESHB 1589 - S AMD **390**
By Senator Nguyen

NOT CONSIDERED 05/17/2023

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, require these companies to 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 that serve over 500,000 gas 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, including 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 all customers, but especially low-income customers, vulnerable populations, highly impacted communities, and overburdened 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 all customers benefit from the transition, that customers are protected, are not subject to sudden price shocks, and continue to receive needed energy services, with an equitable allocation of benefits and burdens. This transition will require careful and integrated planning by and between utilities, the commission, and 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, vulnerable populations, highly impacted communities, and 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, and reduction in gas rate base.

(7) It is the intent of the legislature that the requirements of this act apply only to a public service company that is both an electrical company and a gas company that serves more than 800,000 retail electric customers and 500,000 retail gas customers in the state of Washington as of June 30, 2023. It is the further intent of the legislature that the requirements of this act not serve as a template for utilities that provide only natural gas service or for small combination utilities.

Sec. 2. RCW 80.28.010 and 2011 c 214 s 11 are each amended to read as follows:

(1) All charges made, demanded, or received by any gas company, electrical company, wastewater company, or water company for gas, electricity or water, or for any service rendered or to be rendered in connection therewith, shall be just, fair, reasonable and sufficient. Reasonable charges necessary to cover the cost of administering the collection of voluntary donations for the purposes of supporting the development and implementation of evergreen community management plans and ordinances under RCW 80.28.300 must be deemed as prudent and necessary for the operation of a utility.

(2)(a) Every gas company, electrical company, wastewater company, and water company shall furnish and supply such service, instrumentalities and facilities as shall be safe, adequate and efficient, and in all respects just and reasonable.

(b) No gas company that serves more than 500,000 retail gas customers in the state of Washington on June 30, 2023, may furnish or supply gas service, instrumentalities, and facilities to any commercial or residential location that did not receive gas service or did not file applications for gas service as of June 30, 2023.

(c) The prohibition in (b) of this subsection does not apply to facilities engaged in one or more manufacturing processes described by North American industry classification system codes beginning with 31, 32, or 33.

(d) The prohibition in (b) of this subsection does not apply to the following facilities until January 1, 2040:

(i) Facilities with building occupancies classified as institutional I-2 (medical care facilities) or I-3 (correctional facilities) pursuant to the international building code, that are required by federal or state regulation to have redundant emergency backup power generation systems; and

(ii) Facilities owned or operated by the United States department of defense that utilize reciprocating internal combustion engine generators that support energy resilience, energy security, and energy efficiency initiatives.

(e) Until January 1, 2035, the prohibition in (b) of this subsection does not apply to residential locations that use natural gas solely to supply generators for the purpose of providing emergency power during an energy supply emergency declared by the governor or during a loss of electrical service. This limitation on use must be reflected in the tariff under which the gas company provides service.

(f)(i) Before November 1, 2023, a gas company that serves more than 500,000 retail gas customers in the state of Washington on June 30, 2023, must file a tariff to offer rebates, incentives, or other inducements to purchase energy efficient electric appliances and equipment to customers who are using a nonelectric fuel source.

(ii) By November 1, 2024, a gas company that serves more than 500,000 retail gas customers in the state of Washington on June 30, 2023, must initiate and maintain an effort to educate its ratepayers about the benefits of electrification and the availability of rebates, incentives, or other inducements to purchase energy efficient electric appliances and equipment including, but not limited to, the maintenance of an educational website and the inclusion of educational materials in monthly billing statements.

(g) Beginning January 1, 2024, no gas company that serves more than 500,000 retail gas customers in the state of Washington on June 30, 2023, may offer any form of rebate, incentive, or other inducement to purchase any natural gas appliance or equipment. Until

January 1, 2031, electric heat pumps that include natural gas backups are not included in this requirement.

(3) All rules and regulations issued by any gas company, electrical company, wastewater company, or water company, affecting or pertaining to the sale or distribution of its product or service, must be just and reasonable.

(4) Utility service for residential space heating shall not be terminated between November 15th through March 15th if the customer:

(a) Notifies the utility of the inability to pay the bill, including a security deposit. This notice should be provided within five business days of receiving a payment overdue notice unless there are extenuating circumstances. If the customer fails to notify the utility within five business days and service is terminated, the customer can, by paying reconnection charges, if any, and fulfilling the requirements of this section, receive the protections of this chapter;

(b) Provides self-certification of household income for the prior ((~~twelve~~)) 12 months to a grantee of the department of commerce, which administers federally funded energy assistance programs. The grantee shall determine that the household income does not exceed the maximum allowed for eligibility under the state's plan for low-income energy assistance under 42 U.S.C. 8624 and shall provide a dollar figure that is seven percent of household income. The grantee may verify information provided in the self-certification;

(c) Has applied for home heating assistance from applicable government and private sector organizations and certifies that any assistance received will be applied to the current bill and future utility bills;

(d) Has applied for low-income weatherization assistance to the utility or other appropriate agency if such assistance is available for the dwelling;

(e) Agrees to a payment plan and agrees to maintain the payment plan. The plan will be designed both to pay the past due bill by the following October 15th and to pay for continued utility service. If the past due bill is not paid by the following October 15th, the customer is not eligible for protections under this chapter until the past due bill is paid. The plan may not require monthly payments in excess of seven percent of the customer's monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter during November 15th through March 15th. A customer

may agree to pay a higher percentage during this period, but shall not be in default unless payment during this period is less than seven percent of monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the utility to reformulate the plan; and

(f) Agrees to pay the moneys owed even if he or she moves.

(5) The utility shall:

(a) Include in any notice that an account is delinquent and that service may be subject to termination, a description of the customer's duties in this section;

(b) Assist the customer in fulfilling the requirements under this section;

(c) Be authorized to transfer an account to a new residence when a customer who has established a plan under this section moves from one residence to another within the same utility service area;

(d) Be permitted to disconnect service if the customer fails to honor the payment program. Utilities may continue to disconnect service for those practices authorized by law other than for nonpayment as provided for in this subsection. Customers who qualify for payment plans under this section who default on their payment plans and are disconnected can be reconnected and maintain the protections afforded under this chapter by paying reconnection charges, if any, and by paying all amounts that would have been due and owing under the terms of the applicable payment plan, absent default, on the date on which service is reconnected; and

(e) Advise the customer in writing at the time it disconnects service that it will restore service if the customer contacts the utility and fulfills the other requirements of this section.

(6) A payment plan implemented under this section is consistent with RCW 80.28.080.

(7) Every gas company and electrical company shall offer residential customers the option of a budget billing or equal payment plan. The budget billing or equal payment plan shall be offered low-income customers eligible under the state's plan for low-income energy assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without limiting availability to certain months of the year, without regard to the length of time the customer has occupied the premises,

and without regard to whether the customer is the tenant or owner of the premises occupied.

(8) Every gas company, electrical company, wastewater company, and water company shall construct and maintain such facilities in connection with the manufacture and distribution of its product, or provision of its services, as will be efficient and safe to its employees and the public.

(9) An agreement between the customer and the utility, whether oral or written, does not waive the protections afforded under this chapter.

(10) In establishing rates or charges for water service, water companies as defined in RCW 80.04.010 may consider the achievement of water conservation goals and the discouragement of wasteful water use practices.

Sec. 3. RCW 80.28.110 and 2021 c 65 s 97 are each amended to read as follows:

((~~Every~~)) Except for the provision of service to commercial and residential locations by a gas company pursuant to RCW 80.28.010(2)(b) through (e), every gas company, electrical company, wastewater company, or water company, engaged in the sale and distribution of gas, electricity or water or the provision of wastewater company services, shall, upon reasonable notice, furnish to all persons and corporations who may apply therefor and be reasonably entitled thereto, suitable facilities for furnishing and furnish all available gas, electricity, wastewater company services, and water as demanded, except that a water company may not furnish water contrary to the provisions of water system plans approved under chapter 43.20 or 70A.100 RCW and wastewater companies may not provide services contrary to the approved general sewer plan.

NEW SECTION. **Sec. 4.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

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

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

(4) "Cost-effective" means that a project or resource is, or is forecast to:

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

(b) 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.

(5) "Costs of greenhouse gas emissions" means the costs of greenhouse gas emissions established in RCW 80.28.395 and 80.28.405.

(6) "Demand flexibility" means the capacity of demand-side loads to change their consumption patterns hourly or on another timescale.

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

(8)(a) "Electrification" means the installation of energy efficient electric end-use equipment.

(b) Electrification programs may include weatherization and conservation and efficiency measures.

(c) Through December 31, 2030, 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.

(9) "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.

(10) "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.

(11) "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.

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

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

(14) "Highly impacted community" has the same meaning as provided in RCW 19.405.020.

(15) "Integrated system plan" means a plan that the commission may approve, reject, or approve with conditions pursuant to section 6 of this act.

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

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

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

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

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

(21) "System cost" means actual direct costs or 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, but not limited to, flexibility, resilience, reliability, greenhouse gas emissions reductions, and air quality.

(22) "Vulnerable populations" has the same meaning as provided in RCW 19.405.020.

NEW SECTION. **Sec. 5.** (1) The legislature finds that combination utilities are subject to a range of reporting and planning requirements as part of the clean energy transition. The legislature further finds that current natural gas integrated resource plans under development might not yield optimal results for timely and cost-effective decarbonization. To reduce regulatory barriers, achieve equitable and transparent outcomes, and integrate planning

requirements, the commission may consolidate a combination utility's planning requirements for both gas and electric operations, including consolidation into a single integrated system plan that is approved by the commission.

(2) To achieve the goals of consolidating planning requirements, the commission may extend or modify the deadlines for combination utilities for the following:

(a) Integrated resource plans and clean energy action plans under chapter 19.280 RCW;

(b) Required plans for the energy independence act under chapter 19.285 RCW. The commission may waive the requirements for reporting for renewable portfolio standards under chapter 19.285 RCW;

(c) Clean energy implementation plans under chapter 19.405 RCW; and

(d) Conservation plans under RCW 80.28.380.

(3)(a) By January 1, 2024, the commission shall initiate a rule-making proceeding to implement consolidated planning requirements for gas and electric services for combination utilities including, but not limited to, plans required under: (i) Chapter 19.280 RCW; (ii) chapter 19.285 RCW; (iii) chapter 19.405 RCW; (iv) chapter 70A.65 RCW; (v) RCW 80.28.380; (vi) existing pipeline safety and replacement plans; and (vii) planning requirements ordered by the commission, such as electrification and decarbonization plans. The commission may consider exemptions from any rules necessary to facilitate integrated system planning for combination utilities. The commission shall complete the rule making within 12 months, except that it may extend the proceeding for 90 days for good cause shown.

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

(4) For all combination utility plans that are due to be filed before the integrated system plan pursuant to section 6 of this act, the commission, in its review and acknowledgment or approval of the plan, shall consider whether the plan proposes a cost-effective strategy for decarbonization, considering costs, reasonable alternatives, and long-term risks to customers. Once a combination utility's integrated system plan is approved by the commission, the

combination utility is subject to the emissions reduction targets of the approved integrated system plan.

NEW SECTION. **Sec. 6.** (1) Subject to approval by the commission pursuant to subsection (2) of this section, by June 1, 2026, and every four years thereafter, combination utilities shall file integrated system plans for both gas and electric operations, or upon the direction of the commission, a single integrated system plan demonstrating how the combination utilities' plans are consistent with the requirements of this act and any rules and guidance adopted by the commission, and which:

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

(b) Achieve emissions reductions for both gas and electric operations equal to at least their proportional share of emissions reductions required under RCW 70A.45.020;

(c) Include emissions reduction targets for both gas and electric operations for each emissions reduction period that account for the interactions between gas and electric systems;

(d) Achieve two percent of electric load annually with conservation and energy efficiency resources, unless the commission finds that a higher target is cost-effective. However, the commission may accept a lower level of achievement if it determines that the requirement in this subsection (1)(d) is neither technically nor commercially feasible during the applicable emissions reduction period;

(e) Achieve annual demand response and demand flexibility 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. However, the commission may accept a lower level of achievement if it determines that the requirement in this subsection (1)(e) is neither technically nor commercially feasible during the applicable emissions reduction period;

(f) Achieve all cost-effective electrification of end uses currently served by natural gas;

(g) Include electrification programs that:

(i) Include rebates and incentives to low-income customers and customers experiencing high energy burden for the deployment of high-efficiency electric-only heat pumps in homes and buildings currently heating with wood, oil, propane, electric resistance, or gas;

(ii) Provide demonstrated material benefits to low-income participants including, but not limited, to decreased energy burden, bill assistance, and backup heat sources or energy storage systems, if necessary to protect health and safety in areas with frequent outages;

(iii) Include appropriate low-income customer protections; and

(iv) Coordinate and, whenever possible, partner with community-based organizations in the gas or electrical company's service territory including, but not limited to, grantees of the department of commerce, community action agencies, and community-based nonprofit organizations, to remove barriers and effectively serve low-income customers;

(h) Assess the potential for geographically targeted electrification and the deactivation of the natural gas distribution system in the targeted area, including the removal of the associated gas plant from the rate base;

(i) Establish that the combination utility has:

(i) Consigned to auction for the benefit of ratepayers the minimum required number of allowances allocated to the combination utility for the applicable compliance period pursuant to RCW 70A.65.130, consistent with the climate commitment act, chapter 70A.65 RCW, and rules adopted pursuant to the climate commitment act; and

(ii) Prioritized, to the maximum extent permissible under the climate commitment act, chapter 70A.65 RCW, revenues derived from the auction of allowances allocated to the utility for the applicable compliance period pursuant to RCW 70A.65.130 first to programs that eliminate the cost burden for low-income ratepayers, such as bill assistance, nonvolumetric credits on ratepayer utility bills, or electrification programs, and second to electrification programs benefiting residential and small commercial customers; and

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

(2) The commission must approve, reject, or approve with conditions an integrated system plan, including those elements of an integrated resource plan required under chapter 19.280 RCW within 12 months of the filing of such an integrated system plan. The commission may extend the time by 90 days for a decision on an integrated system plan for good cause shown. Once an integrated system plan is approved, a combination utility must include the

approved integrated system plan, including the targets developed and approved in the plan, in a proposal for a multiyear rate plan, for a term that is consistent with the term of the approved integrated system plan.

(3) In determining whether to approve, reject, or approve the integrated system plan with conditions, the commission must evaluate whether the plan is in the public interest, and includes the following:

(a) The equitable distribution of energy benefits and reduction of burdens and prioritization of service to vulnerable populations, highly impacted communities, and overburdened communities;

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

(c) Health and safety concerns;

(d) Economic development;

(e) Equity;

(f) Energy security and resiliency;

(g) Whether the specific actions in the integrated system plan achieve a proportional share of reductions in greenhouse gas emissions for each emissions reduction period on the gas and electric systems;

(h) Whether the specific actions in the integrated system plan meet the energy efficiency and demand response targets in subsection (1)(d) and (e) of this section;

(i) Whether the emissions reductions are due to electrification as required by subsection (1)(f) of this section;

(j) Whether the integrated system plan and the specific actions in the plan are cost-effective, result in a reasonable cost to customers, and project the rate impacts of specific actions, programs, and investments on customers;

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

(l) 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; and

(m) Whether the integrated system plan has considered the potential rate impacts on customers who either do not receive natural

gas service from the combination utility or who do not receive natural gas at all.

NEW SECTION. **Sec. 7.** (1) The commission shall establish by rule a cost test for emissions reduction measures achieved by combination utilities to comply with state clean energy and climate policies.

(2) The cost test must be used for the purpose of determining the lowest reasonable cost of decarbonization and electrification measures in integrated system plans, at the portfolio level, by combination utilities under this chapter, and for any other purpose determined by the commission by rule.

NEW SECTION. **Sec. 8.** (1) The commission may approve, reject, or approve with conditions, an integrated system plan that exceeds the cost test identified in section 7 of this act and risk reduction premium requirements identified in subsection (2) of this section only if it finds that the plan is in the public interest.

(2) In evaluating the lowest reasonable cost of decarbonization measures included in an integrated system plan, combination utilities must apply a risk reduction premium that must account for the applicable allowance ceiling price approved by the department of ecology pursuant to the climate commitment act, chapter 70A.65 RCW. 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.

(3) The portfolio of electric energy or capacity necessary to meet the requirements of chapter 19.405 RCW acquired by a combination utility after the effective date of this section is subject to the following requirements:

(a) 50 percent of the total capacity and energy necessary to meet the requirements of chapter 19.405 RCW over a term of three years or longer and must be supplied through the execution of power purchase agreements for a term longer than three years with third parties pursuant to which the combination utility purchases energy, capacity, and environmental attributes from resources owned and operated by entities that are not affiliated with the combination utility and that commit to allow the combination utility rights to dispatch and control the solicited resource in the same manner as the combination utility's own generating resources;

(b) 50 percent of the total capacity and energy necessary to meet the requirements of chapter 19.405 RCW over a term of three years or longer must be supplied from resources owned by the combination utility or an affiliate of the combination utility;

(c) The combination utility may seek commission approval for an exemption or modification to the requirements of this subsection; and

(d) Nothing in this subsection alters the commission's authority to set rates that are fair, just, reasonable, and sufficient, and require the utility to provide safe, adequate, and efficient services, as required by RCW 80.28.010.

(4) Combination utilities shall work in good faith with other utilities, independent power producers, power marketers, end-use customers, and interested parties in the region to develop market structures and mechanisms that require the sale of wholesale electricity from generating resources in a manner that allows the greenhouse gas attributes of those resources to be accounted for when they are sold into organized markets.

NEW SECTION. **Sec. 9.** (1) Combination utilities must include the following in calculating the emissions baseline and projected cumulative emissions for an emissions reduction period, consistent with chapter 173-441 WAC as it existed as of the effective date of this section:

(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. 10.** (1) In any multiyear rate plan filed by a combination utility pursuant to RCW 80.28.425 and in accordance with this act, the combination utility must include an updated depreciation study that reduces the gas rate base consistent with an approved integrated system plan, and the commission may adopt depreciation schedules that accelerate cost recovery and reduce the rate base for any gas plant.

(2) In any multiyear rate plan proposed by a combination utility, the company may propose a merger of regulated gas and electric operations into a single 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. In approving a merger of a gas and electric rate base, the commission must avoid commercial and residential rate classes subsidizing industrial rate classes.

(3) For a combination utility that has merged gas and electricity rate bases, the combination utility must monetize benefits received from any applicable federal and state tax and other 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, unless directed by the commission.

(4) For the first multiyear rate plan proposed by a combination utility following commission approval or approval with conditions of the initial integrated system plan identified in section 6 of this act, the commission may for good cause shown extend the deadline for decision set forth under RCW 80.04.130 by up to 60 days.

Sec. 11. RCW 19.280.030 and 2021 c 300 s 3 are each amended to read as follows:

Each electric utility must develop a plan consistent with this section.

(1) Utilities with more than ((~~twenty-five thousand~~)) 25,000 customers that are not full requirements customers must develop or update an integrated resource plan by September 1, 2008. At a

minimum, progress reports reflecting changing conditions and the progress of the integrated resource plan must be produced every two years thereafter. An updated integrated resource plan must be developed at least every four years subsequent to the 2008 integrated resource plan. The integrated resource plan, at a minimum, must include:

(a) A range of forecasts, for at least the next ((~~ten~~)) 10 years or longer, of projected customer demand which takes into account econometric data and customer usage;

(b) An assessment of commercially available conservation and efficiency resources, as informed, as applicable, by the assessment for conservation potential under RCW 19.285.040 for the planning horizon consistent with (a) of this subsection. Such assessment may include, as appropriate, opportunities for development of combined heat and power as an energy and capacity resource, demand response and load management programs, and currently employed and new policies and programs needed to obtain the conservation and efficiency resources;

(c) An assessment of commercially available, utility scale renewable and nonrenewable generating technologies including a comparison of the benefits and risks of purchasing power or building new resources;

(d) A comparative evaluation of renewable and nonrenewable generating resources, including transmission and distribution delivery costs, and conservation and efficiency resources using "lowest reasonable cost" as a criterion;

(e) An assessment of methods, commercially available technologies, or facilities for integrating renewable resources, including but not limited to battery storage and pumped storage, and addressing overgeneration events, if applicable to the utility's resource portfolio;

(f) An assessment and ((~~ten-year~~)) 10-year forecast of the availability of regional generation and transmission capacity on which the utility may rely to provide and deliver electricity to its customers;

(g) A determination of resource adequacy metrics for the resource plan consistent with the forecasts;

(h) A forecast of distributed energy resources that may be installed by the utility's customers and an assessment of their effect on the utility's load and operations;

(i) An identification of an appropriate resource adequacy requirement and measurement metric consistent with prudent utility practice in implementing RCW 19.405.030 through 19.405.050;

(j) The integration of the demand forecasts, resource evaluations, and resource adequacy requirement into a long-range assessment describing the mix of supply side generating resources and conservation and efficiency resources that will meet current and projected needs, including mitigating overgeneration events and implementing RCW 19.405.030 through 19.405.050, at the lowest reasonable cost and risk to the utility and its customers, while maintaining and protecting the safety, reliable operation, and balancing of its electric system;

(k) An assessment, informed by the cumulative impact analysis conducted under RCW 19.405.140, of: Energy and nonenergy benefits and reductions of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits, costs, and risks; and energy security and risk;

(l) A ((~~ten-year~~)) 10-year clean energy action plan for implementing RCW 19.405.030 through 19.405.050 at the lowest reasonable cost, and at an acceptable resource adequacy standard, that identifies the specific actions to be taken by the utility consistent with the long-range integrated resource plan; and

(m) An analysis of how the plan accounts for:

(i) Modeled load forecast scenarios that consider the anticipated levels of zero emissions vehicle use in a utility's service area, including anticipated levels of zero emissions vehicle use in the utility's service area provided in RCW 47.01.520, if feasible;

(ii) Analysis, research, findings, recommendations, actions, and any other relevant information found in the electrification of transportation plans submitted under RCW 35.92.450, 54.16.430, and 80.28.365; and

(iii) Assumed use case forecasts and the associated energy impacts. Electric utilities may, but are not required to, use the forecasts generated by the mapping and forecasting tool created in RCW 47.01.520. This subsection (1)(m)(iii) applies only to plans due to be filed after September 1, 2023.

(2) For an investor-owned utility, the clean energy action plan must: (a) Identify and be informed by the utility's ((~~ten-year~~)) 10-year cost-effective conservation potential assessment as determined under RCW 19.285.040, if applicable; (b) establish a resource

adequacy requirement; (c) identify the potential cost-effective demand response and load management programs that may be acquired; (d) identify renewable resources, nonemitting electric generation, and distributed energy resources that may be acquired and evaluate how each identified resource may be expected to contribute to meeting the utility's resource adequacy requirement; (e) identify any need to develop new, or expand or upgrade existing, bulk transmission and distribution facilities; and (f) identify the nature and possible extent to which the utility may need to rely on alternative compliance options under RCW 19.405.040(1)(b), if appropriate.

(3)(a) An electric or combination utility shall consider the social cost of greenhouse gas emissions, as determined by the commission for investor-owned utilities pursuant to RCW 80.28.405 and the department for consumer-owned utilities, when developing integrated resource plans and clean energy action plans. An electric utility must incorporate the social cost of greenhouse gas emissions as a cost adder when:

(i) Evaluating and selecting conservation policies, programs, and targets;

(ii) Developing integrated resource plans and clean energy action plans; and

(iii) Evaluating and selecting intermediate term and long-term resource options.

(b) For the purposes of this subsection (3): (i) Gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters must be considered a nonemitting resource; and (ii) qualified biomass energy must be considered a nonemitting resource.

(4) To facilitate broad, equitable, and efficient implementation of chapter 288, Laws of 2019, a consumer-owned energy utility may enter into an agreement with a joint operating agency organized under chapter 43.52 RCW or other nonprofit organization to develop and implement a joint clean energy action plan in collaboration with other utilities.

(5) All other utilities may elect to develop a full integrated resource plan as set forth in subsection (1) of this section or, at a minimum, shall develop a resource plan that:

(a) Estimates loads for the next five and ((~~ten~~)) 10 years;

(b) Enumerates the resources that will be maintained and/or acquired to serve those loads;

(c) Explains why the resources in (b) of this subsection were chosen and, if the resources chosen are not: (i) Renewable resources; (ii) methods, commercially available technologies, or facilities for integrating renewable resources, including addressing any overgeneration event; or (iii) conservation and efficiency resources, why such a decision was made;

(d) By December 31, 2020, and in every resource plan thereafter, identifies how the utility plans over a ((~~ten-year~~)) 10-year period to implement RCW 19.405.040 and 19.405.050; and

(e) Accounts for:

(i) Modeled load forecast scenarios that consider the anticipated levels of zero emissions vehicle use in a utility's service area, including anticipated levels of zero emissions vehicle use in the utility's service area provided in RCW 47.01.520, if feasible;

(ii) Analysis, research, findings, recommendations, actions, and any other relevant information found in the electrification of transportation plans submitted under RCW 35.92.450, 54.16.430, and 80.28.365; and

(iii) Assumed use case forecasts and the associated energy impacts. Electric utilities may, but are not required to, use the forecasts generated by the mapping and forecasting tool created in RCW 47.01.520. This subsection (5)(e)(iii) applies only to plans due to be filed after September 1, 2023.

(6) Assessments for demand-side resources included in an integrated resource plan may include combined heat and power systems as one of the measures in a conservation supply curve. The value of recoverable waste heat resulting from combined heat and power must be reflected in analyses of cost-effectiveness under this subsection.

(7) An electric utility that is required to develop a resource plan under this section must complete its initial plan by September 1, 2008.

(8) Plans developed under this section must be updated on a regular basis, on intervals approved by the commission or the department, or at a minimum on intervals of two years.

(9)(a) Plans shall not be a basis to bring legal action against electric utilities, except for plans submitted by a combination utility as defined in section 4 of this act.

(b) The commission may approve, reject, or approve with conditions, any plans submitted by a combination utility as defined in section 4 of this act.

(10)(a) To maximize transparency, the commission, for investor-owned utilities, or the governing body, for consumer-owned utilities, may require an electric utility to make the utility's data input files available in a native format. Each electric utility shall publish its final plan either as part of an annual report or as a separate document available to the public. The report may be in an electronic form.

(b) Nothing in this subsection limits the protection of records containing commercial information under RCW 80.04.095.

(11) By December 31, 2021, the department and the commission must adopt rules establishing the requirements for incorporating the cumulative impact analysis developed under RCW 19.405.140 into the criteria for developing clean energy action plans under this section.

NEW SECTION. **Sec. 12.** (1) For any project in an integrated system 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. 13.** (1) When an integrated system plan of a combination utility proposes targeted electrification of all or a portion of a service area in which the combination utility provides gas service to such a service area and one or more consumer-owned utilities provide electric service to such a service area, the integrated system plan of the combination utility must include a process for outreach by the combination utility to all consumer-owned utilities providing electric service to such a service area. As part of that outreach, the combination utility shall provide gas delivery data of sufficient granularity for the consumer-owned electric company to assess the sufficiency of the capacity of the electric distribution system capacity to accommodate the additional load from electrification at the circuit level. This data must be provided at least one plan cycle prior to electrification actions by the combination utility to allow affected consumer-owned electric companies sufficient time to upgrade electrical distribution equipment and materials as needed to preserve system reliability.

(2) Consumer-owned utilities are encouraged to:

(a) Work with combination utilities providing gas service within their service areas to identify opportunities for electrification and mitigating grid impacts by the combination utility;

(b) 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 combination utilities providing gas service in service areas of consumer-owned utilities; and

(c) Include an electrification plan or transportation electrification program as part of collaboration with combination utilities.

NEW SECTION. **Sec. 14.** The commission may adopt rules to ensure the proper implementation and enforcement of this act.

Sec. 15. RCW 80.24.010 and 2022 c 159 s 1 are each amended to read as follows:

Every public service company subject to regulation by the commission shall, on or before the date specified by the commission

for filing annual reports under RCW 80.04.080, file with the commission a statement on oath showing its gross operating revenue from intrastate operations for the preceding calendar year or portion thereof and pay to the commission a fee equal to one-tenth of one percent of the first ((~~fifty thousand dollars~~)) $50,000 of gross operating revenue, plus four-tenths of one percent of any gross operating revenue in excess of ((~~fifty thousand dollars~~)) $50,000, except that a combination utility as defined in section 4 of this act shall pay a fee equal to one-tenth of one percent of the first $50,000 of gross operating revenue, plus five-tenths of one percent of any gross operating revenue in excess of $50,000: PROVIDED, That the commission may, by rule, set minimum fees that do not exceed the cost of collecting the fees. The commission may by rule waive any or all of the minimum fee established pursuant to this section.

The percentage rates of gross operating revenue to be paid in any year may be decreased by the commission for any class of companies subject to the payment of such fees, by general order entered before March 1st of such year, and for such purpose such companies shall be classified as follows:

Electrical, gas, water, telecommunications, and irrigation companies shall constitute class one. Every other company subject to regulation by the commission, for which regulatory fees are not otherwise fixed by law shall pay fees as herein provided and shall constitute additional classes according to kinds of businesses engaged in.

Any payment of the fee imposed by this section made after its due date shall include a late fee of two percent of the amount due. Delinquent fees shall accrue interest at the rate of one percent per month.

Sec. 16. RCW 19.405.060 and 2019 c 288 s 6 are each amended to read as follows:

(1)(a) By January 1, 2022, and every four years thereafter, or as may be modified pursuant to section 5 of this act, each investor-owned utility must develop and submit to the commission:

(i) A four-year clean energy implementation plan for the standards established under RCW 19.405.040(1) and 19.405.050(1) that proposes specific targets for energy efficiency, demand response, and renewable energy; and

(ii) Proposed interim targets for meeting the standard under RCW 19.405.040(1) during the years prior to 2030 and between 2030 and 2045.

(b) An investor-owned utility's clean energy implementation plan must:

(i) Be informed by the investor-owned utility's clean energy action plan developed under RCW 19.280.030;

(ii) Be consistent with subsection (3) of this section; and

(iii) Identify specific actions to be taken by the investor-owned utility over the next four years, consistent with the utility's long-range integrated resource plan and resource adequacy requirements, that demonstrate progress toward meeting the standards under RCW 19.405.040(1) and 19.405.050(1) and the interim targets proposed under (a)(i) of this subsection. The specific actions identified must be informed by the investor-owned utility's historic performance under median water conditions and resource capability and by the investor-owned utility's participation in centralized markets. In identifying specific actions in its clean energy implementation plan, the investor-owned utility may also take into consideration any significant and unplanned loss or addition of load it experiences.

(c) The commission, after a hearing, must by order approve, reject, or approve with conditions an investor-owned utility's clean energy implementation plan and interim targets. The commission may, in its order, recommend or require more stringent targets than those proposed by the investor-owned utility. The commission may periodically adjust or expedite timelines if it can be demonstrated that the targets or timelines can be achieved in a manner consistent with the following:

(i) Maintaining and protecting the safety, reliable operation, and balancing of the electric system;

(ii) Planning to meet the standards at the lowest reasonable cost, considering risk;

(iii) Ensuring that all customers are benefiting from the transition to clean energy: Through the equitable distribution of energy and nonenergy benefits and the reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency; and

(iv) Ensuring that no customer or class of customers is unreasonably harmed by any resulting increases in the cost of

utility-supplied electricity as may be necessary to comply with the standards.

(2)(a) By January 1, 2022, and every four years thereafter, each consumer-owned utility must develop and submit to the department a four-year clean energy implementation plan for the standards established under RCW 19.405.040(1) and 19.405.050(1) that:

(i) Proposes interim targets for meeting the standard under RCW 19.405.040(1) during the years prior to 2030 and between 2030 and 2045, as well as specific targets for energy efficiency, demand response, and renewable energy;

(ii) Is informed by the consumer-owned utility's clean energy action plan developed under RCW 19.280.030(1) or other ten-year plan developed under RCW 19.280.030(5);

(iii) Is consistent with subsection (4) of this section; and

(iv) Identifies specific actions to be taken by the consumer-owned utility over the next four years, consistent with the utility's long-range resource plan and resource adequacy requirements, that demonstrate progress towards meeting the standards under RCW 19.405.040(1) and 19.405.050(1) and the interim targets proposed under (a)(i) of this subsection. The specific actions identified must be informed by the consumer-owned utility's historic performance under median water conditions and resource capability and by the consumer-owned utility's participation in centralized markets. In identifying specific actions in its clean energy implementation plan, the consumer-owned utility may also take into consideration any significant and unplanned loss or addition of load it experiences.

(b) The governing body of the consumer-owned utility must, after a public meeting, adopt the consumer-owned utility's clean energy implementation plan. The clean energy implementation plan must be submitted to the department and made available to the public. The governing body may adopt more stringent targets than those proposed by the consumer-owned utility and periodically adjust or expedite timelines if it can be demonstrated that such targets or timelines can be achieved in a manner consistent with the following:

(i) Maintaining and protecting the safety, reliable operation, and balancing of the electric system;

(ii) Planning to meet the standards at the lowest reasonable cost, considering risk;

(iii) Ensuring that all customers are benefiting from the transition to clean energy: Through the equitable distribution of

energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency; and

(iv) Ensuring that no customer or class of customers is unreasonably harmed by any resulting increases in the cost of utility-supplied electricity as may be necessary to comply with the standards.

(3)(a) An investor-owned utility must be considered to be in compliance with the standards under RCW 19.405.040(1) and 19.405.050(1) if, over the four-year compliance period, the average annual incremental cost of meeting the standards or the interim targets established under subsection (1) of this section equals a two percent increase of the investor-owned utility's weather-adjusted sales revenue to customers for electric operations above the previous year, as reported by the investor-owned utility in its most recent commission basis report. All costs included in the determination of cost impact must be directly attributable to actions necessary to comply with the requirements of RCW 19.405.040 and 19.405.050.

(b) If an investor-owned utility relies on (a) of this subsection as a basis for compliance with the standard under RCW 19.405.040(1), then it must demonstrate that it has maximized investments in renewable resources and nonemitting electric generation prior to using alternative compliance options allowed under RCW 19.405.040(1)(b).

(4)(a) A consumer-owned utility must be considered to be in compliance with the standards under RCW 19.405.040(1) and 19.405.050(1) if, over the four-year compliance period, the average annual incremental cost of meeting the standards or the interim targets established under subsection (2) of this section meets or exceeds a two percent increase of the consumer-owned utility's retail revenue requirement above the previous year. All costs included in the determination of cost impact must be directly attributable to actions necessary to comply with the requirements of RCW 19.405.040 and 19.405.050.

(b) If a consumer-owned utility relies on (a) of this subsection as a basis for compliance with the standard under RCW 19.405.040(1), and it has not met ((~~eighty~~)) 80 percent of its annual retail electric load using electricity from renewable resources and nonemitting electric generation, then it must demonstrate that it has

maximized investments in renewable resources and nonemitting electric generation prior to using alternative compliance options allowed under RCW 19.405.040(1)(b).

(5) The commission, for investor-owned utilities, and the department, for consumer-owned utilities, must adopt rules establishing the methodology for calculating the incremental cost of compliance under this section, as compared to the cost of an alternative lowest reasonable cost portfolio of investments that are reasonably available.

NEW SECTION. **Sec. 17.** This chapter may be known and cited as the Washington decarbonization act for combination utilities.

NEW SECTION. **Sec. 18.** Sections 4 through 10, 12 through 14, and 17 of this act constitute a new chapter in Title 80 RCW.

NEW SECTION. **Sec. 19.** 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."

ESHB 1589 - S AMD **390**
By Senator Nguyen

NOT CONSIDERED 05/17/2023

On page 1, line 2 of the title, after "future;" strike the remainder of the title and insert "amending RCW 80.28.010, 80.28.110, 19.280.030, 80.24.010, and 19.405.060; adding a new chapter to Title 80 RCW; creating a new section; and declaring an emergency."

EFFECT: This effect statement addresses the effect of S-2950.4/23 as compared with the ENET committee striker (S-2284.4/23):

(1) Specifies that it is the intent of the legislature that the requirements of this act:

(a) Apply only to a public service company that is both an electrical company with more than 800,000 customers and a gas company with more than 500,000 customers in Washington as of June 30, 2023; and

(b) Do not serve as a template for utilities that provide only natural gas service.

(2) Clarifies that the exemption for natural gas generators for emergency purposes from the prohibition to extend gas service applies to residential locations rather than residential facilities.

(3) Directs that, by November 1, 2024, a gas company serving more than 500,000 retail gas customers in Washington on June 30, 2023, must initiate and maintain an effort to educate its ratepayers about the benefits of electrification and availability of rebates, incentives, or other inducements to purchase energy efficiency electric appliances and equipment.

(4) Specifies that electrification programs may include weatherization and conservation and efficiency measures.

(5) Clarifies that combination utilities must file integrated system plans (ISPs) for both gas and electric operations, or a single ISP upon the direction of the utilities and transportation commission (UTC) regardless of whether the UTC is considering the merger of the combination utility's gas and electric rate base.

(6) Clarifies that an ISP must achieve emissions reductions for both gas and electric operations equal to at least their proportional share of emissions reductions under current law.

(7) Clarifies what an ISP must include with respect to electrification programs, including to coordinate and whenever possible partner with community-based organizations in the gas or electrical company's service territory.

(8) Adds that an ISP must assess the deactivation of the natural gas distribution system when assessing the potential for geographically targeted electrification.

(9) Specifies that an ISP must establish that a combination utility has consigned to auction for the benefit of ratepayers the minimum required, rather than maximum permissible, number of allocated allowances.

(10) Adds that the UTC must consider as a public interest factor whether the ISP has considered potential rate impacts on customers who either do not receive natural gas service from the combination utility or who do not receive natural gas at all.

(11) Directs that a combination utility may seek UTC approval for an exemption or modification of the requirements that, of the total capacity and energy needed to meet the clean energy transformation act requirements, a combination utility must supply 50 percent through the execution of power purchase agreements and 50 percent through resources owned and operated.

(12) Directs that when a combination utility's ISP proposes targeted electrification in a service area where the combination utility provides gas service, it must also include a process for outreach to any consumer-owned utilities (COUs) providing electric service in that same service area. Requires the outreach to include specified gas delivery data and timelines in order for the COU to assess its ability to accommodate the additional load from electrification.

(13) Encourages COUs to work with combination utilities providing gas service within their service areas to identify opportunities for mitigating grid impacts, as well as electrification.

(14) Specifies that the requirement for an investor-owned utility to develop and submit to the UTC a clean energy implementation plan by January 1, 2022, and every four years thereafter, may be modified by the ISP process established under this act.

(15) Makes technical corrections.

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