

SENATE BILL REPORT

SSB 5165

As Amended by House, April 5, 2023

Title: An act relating to electric power system transmission planning.

Brief Description: Concerning electric power system transmission planning.

Sponsors: Senate Committee on Environment, Energy & Technology (originally sponsored by Senators Nguyen, Mullet, Boehnke, Frame, Hasegawa, Keiser, Nobles and Stanford; by request of Office of the Governor).

Brief History:

Committee Activity: Environment, Energy & Technology: 1/18/23, 2/07/23 [DPS-WM, DNP, w/oRec].

Ways & Means: 2/18/23, 2/24/23 [DPS (ENET), w/oRec].

Floor Activity: Passed Senate: 3/2/23, 36-13.

Passed House: 4/5/23, 70-28.

Brief Summary of First Substitute Bill

- Changes required transmission planning from a 10- to 20-year forecast under integrated resource plans.
- Requires transmission planners to consider conditional firm service for renewable energy projects.
- Requires a transmission project to seek certification from the Energy Facility Site Evaluation Council if it is over 500,000 volts alternating current or 300,000 volts direct current, located in more than one county, and located in more than one electric utility's service territory.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: That Substitute Senate Bill No. 5165 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

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

Signed by Senators Nguyen, Chair; Lovelett, Vice Chair; Lovick, Trudeau and Wellman.

Minority Report: Do not pass.

Signed by Senator Short.

Minority Report: That it be referred without recommendation.

Signed by Senators MacEwen, Ranking Member; Boehnke.

Staff: Kimberly Cushing (786-7421)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5165 as recommended by Committee on Environment, Energy & Technology be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Robinson, Vice Chair, Operating & Revenue; Mullet, Vice Chair, Capital; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Rivers, Assistant Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Billig, Boehnke, Conway, Dhingra, Hasegawa, Hunt, Keiser, Muzzall, Nguyen, Pedersen, Saldaña, Torres, Van De Wege and Wellman.

Minority Report: That it be referred without recommendation.

Signed by Senators Schoesler, Ranking Member, Capital; Braun and Wagoner.

Staff: Jed Herman (786-7346)

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

Integrated Resource Plans. All investor-owned and consumer-owned electric utilities in the state with more than 25,000 customers must develop integrated resource plans (IRPs). All other electric utilities in the state, including those that essentially receive all their power from the Bonneville Power Administration, must file either an IRP or a less-detailed resource plan (RP).

An IRP must include a number of components, such as the mix of generating resources and conservation and efficiency resources that will meet current and projected needs at the lowest reasonable cost to the utility and its ratepayers. IRPs and RPs must be updated every two years. Investor-owned utilities (IOUs) must submit their plans to the Utilities and Transportation Commission . Consumer-owned utilities (COUs) must file a copy of their

plans with the Department of Commerce.

Clean Energy Action Plan. IOUs and COUs with IRPs must also adopt a ten-year clean energy action plan for implementing CETA 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 its long-range IRP.

Energy Facility Site Evaluation Council. Created in 1970, the Energy Facility Site Evaluation Council (EFSEC) is the permitting and certifying authority for siting major energy facilities in Washington. An EFSEC site certification agreement (SCA) authorizes an applicant to construct and operate an energy facility in lieu of permits or documents required by any other state agency or subdivision. As part of the SCA process, EFSEC issues all state and federal air and water-discharge permits.

The Transmission Corridors Work Group. Under CETA, the Legislature directed the EFSEC to convene a Transmission Corridors Work Group (TCWG) to review the need for new or upgraded transmission to meet Washington's renewable energy goals; identify where transmission and distribution facilities may need to be enhanced or constructed; and identify environmental review options and recommend ways to expedite review of transmission projects without compromising required environmental and cultural protection.

The TCWG issued its final report in October 2022, and identified several key themes, including regional and interregional planning, staff resources in state agencies; enhanced resources for tribes; and pre-application planning and coordination.

National Environmental Policy Act. The National Environmental Policy Act (NEPA) was signed into law on January 1, 1970. NEPA requires federal agencies to assess the environmental effects of their proposed actions prior to making decisions.

Summary of First Substitute Bill: Electric Utility Integrated Resource Plans. An IRP must include an assessment and 20-year, rather than 10-year, forecast of the availability of and requirements for regional generation and transmission capacity to provide and deliver electricity to the utility's customers and to meet the requirements of CETA. The transmission assessment must take into account the state's emissions reduction limits, opportunities to make more effective use of existing transmission capacity, and the electrification of transportation and other end uses historically met using fossil fuels. The assessment must also identify the utility's expected needs to develop new, or expand or upgrade existing, bulk transmission facilities.

Electric utilities must give reasonable consideration to renewable resources that would use transmission services considered to be conditional firm under the tariff of the relevant transmission provider. Conditional firm service, for this purpose, means any form of long-term firm point-to-point transmission service where transmission customers are able to reserve service but the transmission provider may curtail the service under specific and

limited conditions prior to curtailment of other firm service.

Electric utilities are encouraged to satisfy the transmission planning requirements in their IRP through statewide or multiutility planning activities and through interstate transmission planning processes. To improve the planning and development of transmission capacity, they must seek support of federal, interstate, and voluntary industry organizations with a role in the bulk power transmission system.

Clean Energy Action Plans. COUs with more than 25,000 customers must also provide the same information the IOUs had been required to provide in a clean energy action plan, such as:

- identify and be informed by the utility's ten-year cost-effective conservation potential assessment;
- establish a resource adequacy requirement;
- identify the potential cost-effective demand response and load management programs, renewable resources, nonemitting electric generation, and distributed energy resources that may be acquired; and
- identify the nature and possible extent to which the utility may need to rely on alternative compliance options under CETA.

When identifying any need to develop new, or expand or upgrade existing, bulk transmission and distribution facilities the clean energy action plan must document existing and planned efforts by the utility to make more effective use of existing transmission capacity and secure additional transmission capacity consistent with its IRP.

Energy Facility Site Evaluation Council Certification. EFSEC certification is required for construction, reconstruction, or enlargement of new or existing electrical transmission facilities that are:

- of a nominal voltage of at least 500,000 volts alternating current or 300,000 volts direct current;
- located in more than one county; and
- located in the Washington service area of more than one retail electric utility.

The EFSEC director must coordinate state agency participation in environmental review under NEPA for electrical transmission projects proposed or sited by a federal agency.

The bill updates the reference to the National Energy Policy Act of 2005.

Appropriation: None.

Fiscal Note: Available.

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

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

Staff Summary of Public Testimony on Original Bill (Environment, Energy & Technology): *The committee recommended a different version of the bill than what was heard.* PRO: Meeting CETA targets requires significant electricity grid improvements, such as building new clean energy generation and new or upgraded electricity transmission lines to ensure energy gets from where it was produced to where Washingtonians need to use it. The bill requires transmission planners to consider conditional firm to ensure transmission lines are not underbuilt and can interconnect viable renewable energy projects. The additional IRP requirements will not be unduly burdensome and are consistent with transmission efforts at regional and national levels.

The Transmission Corridor Workgroup provided key findings for the bill, including the current 10-year planning horizon is too short and needs to be extended for 20 years; the standard utility model for acquiring new generation sources is based on past assumptions and changing requirements for conditional firm transmission is needed to better understand future transmission capacity needs; transmission projects that cross multiple jurisdictions have been subject to unnecessary duplication review and requiring these largest projects to apply to EFSCE will eliminate duplication without sacrificing environmental and cultural protection.

The bill would help utilities look beyond own needs for transmission and look at transmission requirements coming as a result of public policy changes and to at the transmission system as a whole in order to draw on diverse set of clean energy resources throughout the west in order to build a more reliable system. As we shift to electrify transportation, buildings, and industrial sectors, we will likely need to expand capacity of transmission structure to ensure it will be where we need it and utility customers won't overpay. We are supportive of joint planning and planning with other regional entities and it is essential to identify Bonneville Power Administration (BPA) as part of planning web. The bill should recognize role of demand-side resources will plan in tomorrow's grid. The scale and pace of energy infrastructure buildout in the region and Washington will be enormous and unprecedented, but possible. Co-locate transmission lines and re-conductor existing lines and strategically site new transmission corridors to connect low-conflict renewable energy areas. Bill provides important incremental steps.

OTHER: The bill inadequately addresses the main transmission challenges, which are siting and permitting. The bill needs more concrete elements to make it easier to build what is needed to meet CETA goals. This is primarily a planning bill, which is worthwhile, but also already happening. Extending planning from 10 to 20 years will make planning more speculative. The goal should be to make the process more predictable and timely. The bill places an additional requirement on utilities to give reasonable consideration to resources using transmission that is conditional firm. The standard of what is reasonable is unclear, and utilities should continue to adhere to best practices for protocols for selecting resources. The conditional firm requirement could slow down the process because it will add a costly

and timely state process. We are not sure what a statutory requirement to support other entities looks like. It is not helpful to require certain high voltage transmission projects to use EFSEC when other process are more predictable and timely. An EFSEC-type entity has not always been best for smaller lines. Add language to the intent section to make it clear that a transmission provider can continue to use local permitting process for lines small than 500 kilovolts. Most Washington utilities receive transmission service from the BPA and have no expertise in transmission planning and should be exempted from transmission planning under the IRP. This is a great start in elevating the importance of transmission.

Persons Testifying (Environment, Energy & Technology): PRO: Anna Lising, Governor's Office; Kathleen Drew, Energy Facilities Site Evaluation Council; Ann Rendahl, Utilities and Transportation Commission; Glenn Blackmon, Department of Commerce; Debra Smith, Seattle City Light; Logan Bahr, Tacoma Public Utilities; Cassie Bordelon, Puget Sound Energy; Angus Duncan, Natural Resources Defense Council (NRDC); Lauren McCloy, NW Energy Coalition; Scott Richards, The Nature Conservancy.

OTHER: Jay Balasbas, PacifiCorp; Peter Godlewski, Association of Washington Business; Nicolas Garcia, WPUDA; John Rothlin, Avista.

Persons Signed In To Testify But Not Testifying (Environment, Energy & Technology): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: We have a statutory requirement to get the state to 100 percent clean energy, and a need to get clean energy from the place it is generated to the place of use. This bill will create the planning to help achieve these requirements.

Persons Testifying (Ways & Means): PRO: Senator Joe Nguyen, Prime Sponsor; Anna Lising, Governor's Office.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.

EFFECT OF HOUSE AMENDMENT(S):

Transmission Assessment Under an Integrated Resource Plan. Adds that an electric utility's transmission assessment in its integrated resource plan (IRP) must identify expected needs to acquire new long-term firm rights.

- Specifies that utilities relying on a contract for transmission services may comply with the IRP transmission planning requirements by requesting that the counterparty to the contract include certain provisions of state law in the provider's process for assessing transmission need, and planning and acquiring transmission capacity.
- Allows utilities to satisfy the IRP transmission assessment and 20-year forecast requirements through a separate assessment process if that assessment meets the same requirements as those for the IRP.

Clarifies that an electric utility, when planning as well as selecting renewable resources, must give reasonable consideration to renewable resources that would use conditional firm transmission services that is consistent with prudent utility practice.

Clarifies that utilities are encouraged to participate and contribute to, rather than satisfy requirements through, statewide or multiutility planning activities. Clarifies that utilities must consult with, rather than seek the support of, other entities in transmission planning and development.

Nonproject Environmental Impact Statements. Directs EFSEC to prepare nonproject environmental impact statements (EISs) that assess and disclose the probable significant adverse environmental impacts and identify related mitigation measures for electrical transmission facilities 230 kilovolts or greater.

- Specifies requirements for the content and development of the scope of nonproject EISs, including that the scope of the review is limited geographic areas that are suitable for these transmission facilities.
- Requires EFSEC to offer early and meaningful consultation with any affected federally recognized Indian tribe on reviews of transmission nonproject EISs for the purpose of understanding potential impacts to tribal rights and resources.
- Requires final nonproject EIS documents for the transmission facilities to include maps that must illustrate probable, significant impacts and areas where impacts are avoided or capable of being minimized or mitigated, creating a tool to inform decision making.
- Specifies that the reasonable alternatives analysis is limited to the proposed action and a no action alternative for certain transmission projects.

Sets process and consideration requirements for a lead agency conducting a project-level environmental review for transmission facilities with 230 kilovolts or more, including that the lead agency consider the nonproject EIS for transmission facilities.

Specifies that transmission facility proposals following recommendations from a nonproject EIS review must be considered to have mitigated probable impacts unless the project-specific environmental review identifies impacts not addressed in the nonproject EIS.