# SENATE BILL REPORT
# SB 5562

As Reported by Senate Committee On:
Environment, Energy & Technology, February 14, 2023

**Title:** An act relating to supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future.

**Brief Description:** Supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future.

**Sponsors:** Senators Nguyen, Lovelett, Hunt, Keiser, Liias, Saldaña, Wellman and Wilson, C..

**Brief History:**
**Committee Activity:** Environment, Energy & Technology: 2/01/23, 2/14/23 [DPS-WM, DNP].

**Brief Summary of First Substitute Bill**

- Prohibits gas companies serving more than 500,000 retail natural gas customers in Washington from extending gas service after June 30, 2023.
- Requires a large gas company to file a gas decarbonization plan as part of a multi-year rate plan on or after January 1, 2026, and every four years thereafter, with the aim to achieve the company's proportional share of greenhouse gas emission reductions required under state law.
- Requires a large gas company to file an electrification plan as part of a gas decarbonization plan on or after January 1, 2026.
- Directs the Utilities and Transportation Commission to establish cost targets for gas decarbonization and electrification plans, approve plans that are in the public interest, and adopt depreciation schedules, and a single energy rate base in certain instances.
- Encourages electric utilities to work with large gas companies providing gas service within their service areas to identify opportunities for electrification and providing energy peaking service.

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

## SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

**Majority Report:** That Substitute Senate Bill No. 5562 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

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

**Minority Report:** Do not pass.

Signed by Senators MacEwen, Ranking Member; Boehnke and Short.

**Staff:** Kimberly Cushing (786-7421)

**Background:** Utilities and Transportation Commission. The Utilities and Transportation Commission (UTC) is a three-member commission with broad authority to regulate the rates, services, and practices of a variety of businesses in the state, including four natural gas companies. The UTC must ensure rates charged by these companies are fair, just, reasonable, and sufficient. In 2021, the Legislature directed every gas or electric utility filing a general rate case to include a proposal for a multiyear rate plan (MYRP) beginning January 1, 2022.

Greenhouse Gas Emission Reduction Limits. In 2020, the Legislature updated statewide greenhouse gas (GHG) emissions reduction limits to 45 percent below 1990 levels by 2030, 70 percent below 1990 levels by 2040, and 95 percent below 1990 levels, as well as net zero emissions, by 2050.

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

**Summary of Bill (First Substitute):** Prohibition on Gas Service Expansion. A large gas company is prohibited from furnishing or supplying gas service, instrumentalities, and facilities to any commercial or residential location that did not receive gas service or file an application for gas service as of June 30, 2023. A large gas company is defined as a gas company that serves more than 500,000 retail natural gas customers in Washington on June 30, 2023.

Gas Decarbonization Plan. A large gas company must file a gas decarbonization plan as part of any MYRP filed on or after January 1, 2026, and every four years thereafter. The plan must aim to achieve the gas company's proportional share of the statewide statutory GHG emissions reductions. A gas decarbonization plan must:

- include proposed programs to advance customer gas decarbonization measures;

- include outreach plans, targeted programs, and prioritized investments for low-income customers, vulnerable populations, and highly impacted communities;
- set forth the following portfolios that the large gas company will use to reduce GHG emissions to meet its identified emissions reduction target:
    1. a portfolio of resources that uses alternative energy resources to the maximum practicable extent, that meets the applicable cost target, may include leak reductions, and may or may not meet one or more of the emission reduction targets but demonstrates reduction sin GHG emissions;
    2. portfolios at the company's discretion; and
    3. portfolios direct by the UTC;
- quantify projected cumulative GHG emissions reduction for each specified five-year reduction period for each portfolio and the cost of implementing each portfolio;
- propose program budgets resulting from each portfolio;
- project annual GHG emissions reductions if each portfolio were extended through 2050;
- describe what effect the actions and investments of each portfolio has on the safety reliability, and resilience of the company's gas service;
- identify potential changes to depreciation schedules or other actions to align the company's cost recovery with statewide policy goals, including reducing GHG emissions, minimizing costs, and minimizing risks to the company and customers;
- analyze the costs and benefits of an array of alternatives;
- describe the reporting monitoring and verification methodology; and
- include any information required by the UTC.

A gas decarbonization plan filed by a large gas company is binding on any entity that subsequently acquires an ownership interest in all or part of the company's gas storage, transmission, or distribution network.

Electrification Plan. A large gas company must file with the UTC an electrification plan as part of a gas decarbonization plan on or after January 1, 2026.

Electrification plans may be combined with demand-side management strategic issues or transportation electrification plans, but must include at a minimum:

- proposed programs to advance electrification for customers;
- outreach plans and targeted programs for low-income customers, vulnerable populations, and highly impacted communities;
- budgets, targeted numbers of installations, projected fuel savings, cost-effectiveness, and reduction in GHG emissions; and other relevant information for the electrification plan as required by the UTC;
- documentation and data showing the electrification plan maintains the reliability of the electric grid; and
- incentives to facilitate electrification and that require eligible products to be energy-star certified.

Cost Targets. The UTC must establish a cost target for a gas decarbonization plan that is 2.5 percent of a large gas company's gas revenue requirement for each year of the MYRP. The UTC must calculate the gas revenue requirement net of the program budget for any electrification plan filed as part of the gas decarbonization plan. The UTC must establish a cost target for the electrification plan that is 2.5 percent of the combination utility's electric revenue requirement for each year of the MYRP. The UTC must calculate the electric revenue requirement net of the program budget for the gas decarbonization plan filed by the combination utility.

The Utilities and Transportation Commission Gas Decarbonization or Electrification Plan Approval. The UTC must approve a gas decarbonization or electrification plan if it finds the plan to be in the public interest. The UTC may modify a proposed plan if the modifications are necessary to ensure the plan is in the public interest. To evaluate whether a proposed plan is in the public interest, the UTC must take into account the following factors for whether the gas decarbonization or electrification plan:

- achieves reductions in GHG emissions for each five-year emission reduction period;
- demonstrates progress toward meeting the emission reduction targets identified in the gas decarbonization plan through maximizing the use of alternative energy resources;
- prioritizes serving low-income customers, vulnerable populations, and highly impacted communities;
- results in a reasonable cost to customers; and
- maintains system reliability.

The UTC may require a large gas company to achieve the maximum level of GHG emissions reductions practicable using alternative energy resources at or below the applicable cost target. The UTC may approve, or amend and approve, a gas decarbonization or electrification plan with costs greater than the cost target only if the UTC finds that the plan is in the public interest, costs to customers are reasonable, the plan mitigates rate increases for low-income customers, and the benefits of the plan exceed the costs.

Any procurement by a combination utility with an electrification plan approved by the UTC is subject to the following requirements:

- 40 percent of the total capacity and energy necessary to meet the requirements of CETA must be supplied through the execution of power purchase agreements with third parties, which allows the combination utility rights to dispatch, operate, and control the solicited resource in the same manner as its own generating resources; and
- 60 percent of the total capacity and energy necessary to meet the requirements of CETA must be supplied from resources owned and operated by the combination utility or an affiliate.

Upon UTC approval of a power purchase agreement for acquisition of resources by a combination utility with an approved electrification plan, the utility is allowed to:

- recover the cost of purchases of energy, capacity, and environmental attributes from

renewable resources under the power purchase agreement; and
- earn a return on such purchases in an amount determined by a specific equation.

A combination utility with an electrification plan approved by the UTC must:
- meet at least 2 percent of electric load annually with conservation and energy efficiency resources, unless the UTC finds that a higher target is cost effective; and
- achieve annual demand response equal to or greater than 10 percent of winter and summer peak electric demand, unless the UTC finds that a higher target is cost effective.

If the combination utility does not comply with the conservation, energy efficiency, and demand response requirements, the UTC may impose a penalty, to be dedicated to customer bill assistance programs for the utility.

Depreciation Schedules and Single Energy Rate Base. In any MYRP filed by a combination utility, the UTC must adopt depreciation schedules for any gas plant in service. The incremental depreciation for each year of a MYRP is equal to 1 percent of the gas revenue requirement for the preceding year.

If a combination utility's ratio of its rate base for the gas operations to its combined rate bases for gas and electric operations is less than or equal to 0.2, then in the next MYRP the combination utility may propose, and the UTC must adopt, a merger of the rate bases supporting gas and electric operations into a single energy rate base. The combination utility may also adopt rates for electric and gas service that support the recovery of such a merged energy rate base.

Project Labor Agreements. For any project in a gas decarbonization or electrification plan that is part of a competitive solicitation and costs more than $10 million, the large gas company must certify to the UTC that any work on the project will be constructed by contractors with community workforce agreements or project labor agreements, the payment of area standard prevailing wages, and apprenticeship utilization requirements, provided the following apply:
- the large gas company and contractors have the a the absolute right to select any qualified and responsible bidder for the award of contracts on a specified project without referring to existing agreements, and a successful bidder is designated only when a bidder is willing, ready, and able to become a party to an agreement, signs a letter of assent, and complies with such an agreement; and
- it is a self-contained, stand-alone agreement, and the contractors are not obligated to sign any other local, area, or national agreement.

Electric Utilities. Investor-owned and consumer-owned utilities are encouraged to:
- 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;

- account for the costs of GHG emissions, set total energy savings and GHG emissions reduction goals, and develop and implement electrification programs in collaboration with large gas companies providing service; and
- include an electrification plan or transportation electrification program as part of collaboration with large gas companies.

Emissions Reduction Target. When calculating an emissions baseline and projected cumulative emissions of an emissions reduction period, a large gas company must include emissions from: methane leaked from the transportation and delivery of gas from the distribution and service pipelines to the customer and from the delivery of gas to other gas companies, and GHG emissions from combustion of gas by natural gas customers not subject to federal GHG emissions reporting and excluding transport customers.

When calculating an emissions reduction target, a large gas company must show its emissions baseline and projected cumulative GHG emissions for each emissions reduction period and that the total emissions reduction are projected to make progress toward the identified emissions reduction targets.

Definitions. Several terms are defined including a combination utility, which is 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 Washington as of June 30, 2023.

**EFFECT OF CHANGES MADE BY ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE (First Substitute):**

- Amends definitions, including striking the definition of deep energy retrofit and modifying:
    1. "combination utility" to clarify it 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;
    2. "electrification" to clarify a electric air-source heat pumps with gas backups in electrification programs may not be part of any electrification plan; and
    3. "emissions reduction period" to clarify there are five periods of five calendar years.
- Provides that a gas decarbonization plan filed by a large gas company is binding on any entity that subsequently acquires an ownership interest in all or part of the company's gas storage, transmission, or distribution network.
- Requires a large gas company, rather than a combination utility, file a electrification plan as part of a gas decarbonization plan, and include certain information in calculating their emissions baselines and projected cumulative emissions.
- Provides that the UTC may, rather than must, require a large gas company to achieve the maximum level of greenhouse gas emissions reductions practicable using alternative energy resources at or below the applicable cost target.

- Provides that a combination utility with a UTC approved electrification plan is required to:
    1. meet at least 2 percent of electric load annually with conservation and energy efficiency resources, unless the UTC finds that a higher target is cost-effective; and
    2. achieve annual demand response equal to or greater than 10 percent of winter and summer peak electric demand, unless the UTC finds that a higher target is cost-effective; and
    3. directs that if the combination utility does not comply with these requirements, the UTC may impose a penalty, to be dedicated to customer bill assistance programs for the combination utility.
- Provides that the labor provisions in the act apply to projects with a cost more than $10 million, rather than $1 million.
- Electric utilities are encouraged to include an electrification plan or transportation electrification program as part of collaboration with large gas companies, rather than as part of a clean energy plan.
- Amends the title of the new chapter to be the Washington Decarbonization Act for Large Gas Companies.
- Adds and intent section & makes technical corrections.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: This bill is necessary to compliment landmark Washington policies. Puget Sound Energy (PSE) has a very steep hill to climb in complying with legislation enacted, and the bill provides the right set of tools to comply. Three key elements include (1) filing a decarbonization plan, (2) providing opportunity to combine gas and electric rate base, when gas declines and electricity grows, to become an energy services company, and (3) ownership provisions allowing for a balanced portfolio. Buildings can have the potential to be part of the climate solution. We need to help with the transition. Given magnitude of the climate crisis and recent studies showing the significance of methane leaks from natural gas (NG) infrastructure and the human health impacts of indoor air pollution from indoor gas burning, phasing out NG infrastructure must be included in Washington's strategy to decarbonize the economy. Criteria to determine environmental justice communities should be in line with federal initiatives. The Washington environmental health disparities map is a great tool to use. This is an important step to reduce gas expansion, but protections for low-income customers need to be more complete. The definition of electrification is too narrow or requires gas back up. Hybrid

heating systems can be installed by multiple crafts. The bill allows for innovation and low-carbon replacements for the existing gas supply. We appreciate the project labor agreement and safety language in the bill.

CON: The bill could shift costs and risks on to utility customers and would roll back protections to adopt the most cost-effective resources. The requirement to own 60 percent creates a significant risk that utilities would pass over more economic resources from independent power producers in order to select utility-owned resources to maximize profits for shareholders. Competition for producing power leads to lower prices, more innovation, and diversification of risk. The bill makes it less attractive for other sectors to electrify. Utilities receive a major windfall under the Inflation Reduction Act. While the intention is to apply the bill only to PSE, several elements could apply to the only other dual fuel utility in Washington. Policies to electrify the existing built environment will have significant cost impacts on consumers. The bill precludes a more cost-sensitive approach to use gas infrastructure as a peak heating resource for electric systems. The bill has no meaningful cost protection measures; cost targets are not the same as a cost cap. We are very concerned about utility procurement and that a return on power purchase agreements is a windfall to shareholders.

OTHER: The bill provides certainty to Washingtonians that our state's largest utility will meet its Climate Commitment Act obligations. The bill should include mandatory emissions target reductions. Decarbonizing a natural gas utility is a challenging endeavor. We endorse the concept but want to make sure the bill will allow us to manage costs, ensure meaningful carbon reductions, and ensure we have the regulatory tools to enforce the provisions in the bill. This bill could be a national model for transitioning natural gas utilities to clean energy. Gas-only companies are in different situation than a combination gas utility. The ban on the use of hybrid heat pumps is a concern because they make sense for peaking. Electrification drives higher costs. The gas industry is viable and with the use of hydrogen and renewable natural gas it could lower the cost for everyone. Burning gas has a climate and public health impact. It is critical for hospitals to have access to gas service if redundant power sources are not available. It is important to consider what a reasonable transition for gas companies might look like. Our primary concern is that the bill prioritizes cost recovery without providing necessary assurances to customers in exchange for increased certainty for the utility, for instance it does not manage load growth with efficiency and demand response; provide firm commitments to control cost; or leverage federal funding. Washington leads in hydro and should not be looking to natural gas.

**Persons Testifying:** PRO: Senator Joe Nguyen, Prime Sponsor; Councilmember Lisa Parshley, Olympia City Council; Kelly Jiang; Mendy Droke, Seattle City Light; Ken Johnson, Puget Sound Energy; Matthew Hepner, IBEW/ceww.

CON: John Rothlin, Avista; Kate Brouns, Renewable Northwest; Spencer Gray, Northwest & Intermountain Power Producers Coalition; Sommer Moser, Alliance of Western Energy Consumers.

OTHER: JOHN Worthington; Anna Lising, Governor's Office; Dave Danner, Utilities & Transportation Commission; Charlie Brown, NW Natural and Cascade Natural Gas; Lauren McCloy, NW Energy Coalition; Kelly Hall, Climate Solutions; Zosia Stanley, Washington State Hospital Association.

**Persons Signed In To Testify But Not Testifying:**

OTHER: John Worthington, AAMC.