Z-0237.1

SENATE BILL 5165

State of Washington 68th Legislature 2023 Regular Session

By Senators Nguyen, Mullet, Boehnke, Frame, Hasegawa, Keiser, Nobles, and Stanford; by request of Office of the Governor

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AN ACT Relating to electric power system transmission planning; amending RCW 19.280.030, 80.50.060, and 80.50.045; adding a new section to chapter 19.280 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** (1) The legislature finds that the electric power system serving Washington will require additional high voltage transmission capacity to achieve the state's objectives and legal requirements. Washington must reduce its greenhouse gas emissions under state law, and the 2021 state energy strategy finds that this will require a significant increase in the use of renewable or nonemitting electricity in place of fossil fuels now used in the transportation, industry, and building sectors.

(2) The legislature anticipated the crucial role of additional transmission capacity in 2019 in the enactment of the clean energy transformation act and directed the energy facilities site evaluation council to convene a transmission corridors work group. The transmission corridors work group issued its final report on October 31, 2022, in which it confirmed the central role of transmission and recommended actions to achieve the expansion of transmission capacity to address this need.

(3) Expanded transmission capacity and the more effective use of existing transmission capacity will provide benefits to electricity consumers in the state by enhancing the reliability of the electric power system and increasing access to more affordable sources of electricity within the state and across the western United States and Canada.

(4) Existing constraints on transmission capacity within the state already present challenges in ensuring adequate and affordable supplies of clean electricity. Of particular concern is the capability of the transmission system to deliver clean electricity into and within the central Puget Sound area.

(5) There are multiple issues that contribute to the challenge of making timely and cost-effective expansions of the high voltage transmission system. Among those challenges is the need for a more proactive transmission planning process using a longer planning period than current law requires. Transmission planning must reflect not just the requirements to connect individual generating resources to the grid but also the need to transfer electricity across the state and the west. Transmission planning must incorporate state policies and laws in planning objectives.

(6) Certain transmission projects are of significant state interest due to their impact on the access of multiple utilities and communities to gain access to clean, affordable electricity supplies and obtain electricity that is necessary to comply with state laws.

Sec. 2. 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~~)) 20-year forecast of the availability of and requirements for regional generation and transmission capacity ((~~on which the utility may rely~~)) to provide and deliver electricity to ((~~its customers~~))the utility's customers and to meet the requirements of the clean energy transformation act. The transmission assessment must take into account the state's emissions reduction limits; opportunities to make more effective use of existing transmission capacity through energy efficiency, demand response, grid modernization, and other programs; and the electrification of transportation and other end uses historically met using fossil fuels. The transmission assessment must identify the utility's expected needs to develop new, or expand or upgrade existing, bulk transmission facilities consistent with the requirements of this section;

(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~~)) 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~~)) The clean energy action plan must:

(a) Identify and be informed by the utility's ((~~ten~~)) 10-year cost-effective conservation potential assessment as determined under RCW 19.285.040, if applicable;

(b) ((~~establish~~)) Establish a resource adequacy requirement;

(c) ((~~identify~~)) Identify the potential cost-effective demand response and load management programs that may be acquired;

(d) ((~~identify~~)) 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~~)) Identify any need to develop new, or expand or upgrade existing, bulk transmission and distribution facilities and document existing and planned efforts by the utility to secure additional transmission capacity consistent with the requirements of subsection (1)(f) of this section; and

(f) ((~~identify~~)) 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 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~~)) 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) Plans shall not be a basis to bring legal action against electric utilities.

(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. 3.** A new section is added to chapter 19.280 RCW to read as follows:

(1) Electric utilities must, in the selection and acquisition of renewable resources, give reasonable consideration to, and may not unreasonably exclude from consideration, resources that would use transmission services considered to be conditional firm under the tariff of the relevant transmission provider. For the purposes of this section, conditional firm service means any form of long-term firm point-to-point transmission service in which transmission customers are able to reserve service subject to specific and limited conditions under which the transmission provider may curtail the transmission customer's reservation of service prior to curtailment of other firm service.

(2) Electric utilities are encouraged to satisfy the transmission planning requirements of RCW 19.280.030 through statewide or

multiutility planning activities and through interstate transmission planning processes.

(3) Electric utilities must seek the support of federal, interstate, and voluntary industry organizations with a role in the bulk power transmission system, including but not limited to the Bonneville power administration, the Pacific Northwest electric power and conservation planning council, NorthernGrid, the Western Power Pool, and public interest organizations in improving the planning and development of transmission capacity consistent with this act.

Sec. 4. RCW 80.50.060 and 2022 c 183 s 6 are each amended to read as follows:

(1)(a) The provisions of this chapter apply to the construction of energy facilities which includes the new construction of energy facilities and the reconstruction or enlargement of existing energy facilities where the net increase in physical capacity or dimensions resulting from such reconstruction or enlargement meets or exceeds those capacities or dimensions set forth in RCW 80.50.020 (14) and (29). No construction or reconstruction of such energy facilities may be undertaken, except as otherwise provided in this chapter, without first obtaining certification in the manner provided in this chapter.

(b) If applicants proposing the following types of facilities choose to receive certification under this chapter, the provisions of this chapter apply to the construction, reconstruction, or enlargement of these new or existing facilities:

(i) Facilities that produce refined biofuel, but which are not capable of producing 25,000 barrels or more per day;

(ii) Alternative energy resource facilities;

(iii) Electrical transmission facilities: (A) Of a nominal voltage of at least 115,000 volts; and (B) located in more than one jurisdiction that has promulgated land use plans or zoning ordinances;

(iv) Clean energy product manufacturing facilities; and

(v) Storage facilities.

(c) All of the council's powers with regard to energy facilities apply to all of the facilities in (b) of this subsection and these facilities are subject to all provisions of this chapter that apply to an energy facility.

(2)(a) The provisions of this chapter must apply to ((~~the~~)):

(i) The construction, reconstruction, or enlargement of new or existing electrical transmission facilities: (A) Of a nominal voltage of at least 500,000 volts; (B) located in more than one county; and (C) located in the Washington service area of more than one retail electric utility; and

(ii) The construction, reconstruction, or modification of electrical transmission facilities when the facilities are located in a national interest electric transmission corridor as specified in RCW 80.50.045.

(b) For the purposes of this subsection, "modification" means a significant change to an electrical transmission facility and does not include the following: (i) Minor improvements such as the replacement of existing transmission line facilities or supporting structures with equivalent facilities or structures; (ii) the relocation of existing electrical transmission line facilities; (iii) the conversion of existing overhead lines to underground; or (iv) the placing of new or additional conductors, supporting structures, insulators, or their accessories on or replacement of supporting structures already built.

(3) The provisions of this chapter shall not apply to normal maintenance and repairs which do not increase the capacity or dimensions beyond those set forth in RCW 80.50.020 (14) and (29).

(4) Applications for certification of energy facilities made prior to July 15, 1977, shall continue to be governed by the applicable provisions of law in effect on the day immediately preceding July 15, 1977, with the exceptions of RCW 80.50.071 which shall apply to such prior applications and to site certifications prospectively from July 15, 1977.

(5) Applications for certification shall be upon forms prescribed by the council and shall be supported by such information and technical studies as the council may require.

(6) Upon receipt of an application for certification under this chapter, the chair of the council shall notify:

(a) The appropriate county legislative authority or authorities where the proposed facility is located;

(b) The appropriate city legislative authority or authorities where the proposed facility is located;

(c) The department of archaeology and historic preservation; and

(d) The appropriate federally recognized tribal governments that may be affected by the proposed facility.

(7) The council must work with local governments where a project is proposed to be sited in order to provide for meaningful participation and input during siting review and compliance monitoring.

(8) The council must consult with all federally recognized tribes that possess resources, rights, or interests reserved or protected by federal treaty, statute, or executive order in the area where an energy facility is proposed to be located to provide early and meaningful participation and input during siting review and compliance monitoring. The chair and designated staff must offer to conduct government-to-government consultation to address issues of concern raised by such a tribe. The goal of the consultation process is to identify tribal resources or rights potentially affected by the proposed energy facility and to seek ways to avoid, minimize, or mitigate any adverse effects on tribal resources or rights. The chair must provide regular updates on the consultation to the council throughout the application review process. The report from the council to the governor required in RCW 80.50.100 must include a summary of the government-to-government consultation process that complies with RCW 42.56.300, including the issues and proposed resolutions.

(9) The department of archaeology and historic preservation shall coordinate with the affected federally recognized tribes and the applicant in order to assess potential effects to tribal cultural resources, archaeological sites, and sacred sites.

Sec. 5. RCW 80.50.045 and 2006 c 196 s 3 are each amended to read as follows:

(1) The council shall consult with other state agencies, utilities, local municipal governments, public interest groups, tribes, and other interested persons to convey their views to the secretary and the federal energy regulatory commission regarding appropriate limits on federal regulatory authority in the siting of electrical transmission corridors in the state of Washington.

(2) The council is designated as the state authority for purposes of siting transmission facilities under ((~~the national energy policy act of 2005~~)) Title 16 U.S.C. Sec. 824p and for purposes of other such rules or regulations adopted by the secretary. The council's authority regarding transmission facilities under this subsection is limited to those transmission facilities that are the subject of

((~~section 1221 of the national energy policy act~~)) Title 16 U.S.C. Sec. 824p and this chapter.

(3) For the construction and modification of transmission facilities that are the subject of ((~~section 1221 of the national energy policy act~~)) Title 16 U.S.C. Sec. 824p, the council may: (a) Approve the siting of the facilities; and (b) consider the interstate benefits expected to be achieved by the proposed construction or modification of the facilities in the state.

(4) When developing recommendations as to the disposition of an application for the construction or modification of transmission facilities under this chapter, the fuel source of the electricity carried by the transmission facilities shall not be considered.

(5) For electrical transmission projects proposed or sited by a federal agency, the director must coordinate state agency participation in environmental review under the national environmental policy act.

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