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**SENATE BILL 5465**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senators Shewmake, Boehnke, and Chapman

AN ACT Relating to authorizing electrical companies to securitize certain wildfire-related costs to lower costs to customers; amending RCW 80.28.005, 80.28.303, 80.28.306, 80.28.309, and 80.08.140; adding new sections to chapter 80.28 RCW; creating new sections; and declaring an emergency.

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

NEW SECTION. **Sec.**  The purpose of this act is to allow an electrical, gas, or water company, if authorized by an order issued by the utilities and transportation commission, to use securitization financing for certain types of costs related to emergency events and approved for recovery in rates. The legislature finds that:

(1) Securitized debt may lower the total rates in comparison with other methods of recovery and may benefit the citizens of this state who are electrical, gas, or water company customers;

(2) Rate recovery bonds are not a public debt or pledge of the full faith and credit of the state but require the state to provide clear and exclusive methods to create, transfer, and encumber the rate recovery assets and prohibit future impairment; and

(3) This act allowing electrical, gas, or water companies to use securitization financing for emergency-related costs does not limit, impair, or affect the utilities and transportation commission's plenary authority and jurisdiction over rates and services offered by electrical, gas, or water companies.

**Sec.**  RCW 80.28.005 and 1994 c 268 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Assignee" means a person, and any subsequent assignee, to which an electrical, gas, or water company assigns, sells, or transfers all or part of the electrical, gas, or water company's interest in or right to rate recovery assets, except as security.

(2) "Bond" includes bonds, notes, certificates of beneficial interests in a trust, or other evidences of indebtedness.

(3) "Bondable ((~~conservation investment~~)) rate recovery expenditures" means all costs and expenditures ((~~made~~)) incurred or to be incurred through the date of issuance of a financing order by an electrical, gas, or water ((~~companies~~)) company associated with ((~~respect to energy~~)):

(a) An event that is the subject of a federal or state declaration of disaster or emergency, such as severe weather, catastrophic wildfire, earthquake, pandemic, or other event that causes or threatens to cause widespread loss of life, injury to person or property, human suffering, or financial loss, including those costs and expenses owed by an electrical, gas, or water company to such company's customers or others as a result of the event, but not including fines or penalties imposed as a result of criminal or civil enforcement actions; or

(b) Energy or water conservation measures and services intended to improve the efficiency of electricity, gas, or water end use, including related carrying costs if:

((~~(a)~~)) (i) The conservation measures and services do not produce assets that would be bondable utility property under the general utility mortgage of the electrical, gas, or water company;

((~~(b)~~)) (ii) The commission has determined that the expenditures were incurred in conformance with the terms and conditions of a conservation service tariff in effect with the commission at the time the costs were incurred, and at the time of such determination the commission finds that the company has proven that the costs were prudent, that the terms and conditions of the financing are reasonable, and that financing under this chapter is more favorable to the customer than other reasonably available alternatives;

((~~(c)~~)) (iii) The commission has approved inclusion of the expenditures in rate base and has not ordered that they be currently expensed; and

((~~(d)~~)) (iv) The commission has not required that the measures demonstrate that energy or water savings have persisted at a certain level for a certain period before approving the cost of these investments as bondable ((~~conservation investment~~)) rate recovery expenditures.

((~~(2) "Conservation bonds" means bonds, notes, certificates of beneficial interests in trusts, or other evidences of indebtedness or ownership that:~~

~~(a) The commission determines at or before the time of issuance are issued to finance or refinance bondable conservation investment by an electrical, gas or water company; and~~

~~(b) Rely partly or wholly for repayment on conservation investment assets and revenues arising with respect thereto.~~

~~(3) "Conservation investment assets" means the statutory right of an electrical, gas, or water company:~~

~~(a) To have included in rate base all of its bondable conservation investment and related carrying costs; and~~

~~(b) To receive through rates revenues sufficient to recover the bondable conservation investment and the costs of equity and debt capital associated with it, including, without limitation, the payment of principal, premium, if any, and interest on conservation bonds.~~))

(4) "Bondholder" means a holder or owner of a rate recovery bond.

(5) "Finance subsidiary" means any corporation, limited liability company, company, association, joint stock association, ((~~or~~)) trust, or other entity that is beneficially owned, directly or indirectly, by an electrical, gas, or water company, or in the case of a trust issuing ((~~conservation~~)) rate recovery bonds consisting of beneficial interests, for which an electrical, gas, or water company or a subsidiary thereof is the grantor, or an unaffiliated entity formed for the purpose of financing or refinancing approved ((~~conservation investment~~)) bondable rate recovery expenditures, and that acquires ((~~conservation investment~~)) rate recovery assets directly or indirectly from such company in a transaction approved by the commission.

(6) "Financing costs" includes the following costs related to rate recovery bonds, whether incurred and paid upon issuance or over the life of rate recovery bonds:

(a) The costs of issuing, serving, managing, repaying, or refinancing rate recovery bonds, including any fees, expenses, or charges incurred and the costs of any activities performed in connection with the rate recovery bonds, including:

(i) Information technology programming;

(ii) Obtaining a financing order;

(iii) Serving, accounting, or auditing;

(iv) Services related to trustees;

(v) Legal services;

(vi) Consulting;

(vii) Services related to financial and structuring advisors;

(viii) Administration;

(ix) Placement and underwriting;

(x) Services related to independent directors and managers;

(xi) Services related to rating agencies;

(xii) Stock exchange listing and compliance;

(xiii) Securities registration and filing; and

(xiv) Services necessary to ensure a timely payment of rate recovery bonds or other amounts or charges payable in connection with rate recovery bonds;

(b) Principal, interest and acquisition, defeasance, and redemption premiums payable on rate recovery bonds;

(c) Payments required under an ancillary agreement and any amounts required to fund or replenish a reserve or account established under the terms of an indenture, ancillary agreement, or financing document related to rate recovery bonds;

(d) Applicable federal, state, and local taxes, franchise fees, license fees, gross receipts, or other taxes or charges, whether paid, payable, or accrued; and

(e) The commission's costs in performing the commission's duties related to rate recovery bonds that are recoverable by the commission under RCW 80.24.010.

(7) "Financing order" means an order issued by the commission that authorizes one or more of the following:

(a) The recovery of bondable rate recovery expenditures and financing costs;

(b) The creation of rate recovery assets;

(c) The issuance of rate recovery bonds;

(d) The imposition, collection, and periodic adjustment of rate recovery charges; or

(e) The sale, assignment, or transfer of rate recovery assets to an assignee.

(8) "Financing party" includes:

(a) Bondholders, trustees, agents, and secured parties related to rate recovery bonds;

(b) A person acting for the benefit of bondholders, trustees, agents, or secured parties; and

(c) A party to rate recovery bond documents or an ancillary agreement.

(9) "Rate recovery asset" means the right of an electrical, gas, or water company to recover from customers bondable rate recovery expenditures and related costs and expenses approved in a financing order, including the right to:

(a) Impose, charge, bill, collect, receive, hold, and apply rate recovery charges authorized under a financing order or obtain, to the extent authorized, periodic adjustments of rate recovery charges; and

(b) All claims, accounts, revenues, payments, collections, moneys, or proceeds arising from the rights and interest specified in a financing order, regardless of whether the claims, accounts, revenues, payments, collections, moneys, or proceeds arising from the rights and interest specified in the financing order are commingled with other claims, accounts, revenues, payments, collections, moneys, or proceeds.

(10) "Rate recovery bonds" means bonds, notes, certificates of beneficial interests in trusts, or other evidences of indebtedness or ownership that:

(a) The commission determines at or before the time of issuance are issued to finance or refinance bondable rate recovery expenditures by an electrical, gas, or water company; and

(b) Rely partly or wholly for repayment on rate recovery assets and revenues arising with respect thereto.

(11) "Rate recovery charge" means charges to electrical, gas, or water company customers authorized by the commission to recover bondable rate recovery expenditures and financing costs and to be used to pay, repay, or refinance rate recovery bonds.

(12) "Secured party" means a financing party that has been granted a security interest in rate recovery assets.

NEW SECTION. **Sec.**  A new section is added to chapter 80.28 RCW to read as follows:

(1) It is the policy of the state of Washington to encourage the financing of certain costs and expenses by electrical, gas, and water companies at the lowest, reasonable, and prudent cost to customers of such companies including, but not limited to, bondable rate recovery expenditures.

(2) To carry out the policy described in subsection (1) of this section, the state of Washington and all agencies, instrumentalities, political subdivisions, and local governments thereof:

(a) Acknowledge that owners of rate recovery assets, bondholders, and financing parties require certainty with respect to the owners, bondholders, and financing parties' rights to enter into financing transactions that offer the lowest, reasonable, and prudent cost; and

(b) Pledge and agree with electrical, gas, and water companies; assignees; bondholders; and financing parties not to reduce, alter, or impair, in a manner that is adverse to the electrical, gas, and water companies; assignees; bondholders; or financing parties:

(i) Rate recovery assets;

(ii) Rate recovery bonds or the security for rate recovery bonds; or

(iii) Rate recovery charges or the collection of rate recovery charges.

(3) The pledge and agreement described under subsection (2)(b) of this section includes the pledge and agreement not to reduce, alter, or impair rate recovery assets, rate recovery bonds or the security for rate recovery bonds, or rate recovery charges or the collection of rate recovery charges by taking any of the following actions:

(a) Altering the provisions of this section or RCW 80.28.005, 80.28.303, 80.28.306, or 80.28.309 to the extent that those provisions authorize the commission to issue financing orders that:

(i) Create rate recovery assets;

(ii) Establish rate recovery charges that may not be avoided by electrical, gas, or water company customers, as described under section 4(4) of this act; or

(iii) Provide rights and remedies to electrical, gas, and water companies; assignees; bondholders; and financing parties;

(b) Impairing the rights or remedies of electrical, gas, and water companies; assignees; bondholders; or financing parties that are created under this section and RCW 80.28.005, 80.28.303, 80.28.306, and 80.28.309 or by a financing order, including reducing the amount of or impairing the collection of rate recovery charges until all principal, interest, premium, if any, and other amounts due on the rate recovery bonds and financing costs have been paid in full and except as provided under section 4 of this act; or

(c) Taking any action listed under section 4(5)(b) of this act.

(4) An electrical, gas, or water company or financing subsidiary that issues rate recovery bonds may include the pledge and provisions of this section in the bonds and related documentation.

NEW SECTION. **Sec.**  A new section is added to chapter 80.28 RCW to read as follows:

(1)(a) An electrical, gas, or water company may apply to the commission for a financing order designating all or part of rate recovery expenditures as bondable rate recovery expenditures, for the purpose of financing or refinancing the designated expenditures under RCW 80.28.306(1). A company may request this designation by the commission in separate proceedings for this purpose or in connection with a general rate case.

(b) After notice and an opportunity for a hearing, the commission may approve an application if the commission finds that:

(i) The bondable rate recovery expenditures included in the application are reasonable and prudent;

(ii) Financing or refinancing the bondable rate recovery expenditures through the issuance of rate recovery bonds is likely to be more favorable to electrical, gas, or water company customers for the recovery of the bondable rate recovery expenditures than other methods of rate recovery; and

(iii) Bonds, notes, certificates of beneficial interests in a trust, and other evidences of indebtedness or ownership issued pursuant to the approval are reasonably likely to receive a determination of, at a minimum, investment grade by credit rating agencies.

(c) The commission shall issue an order within 180 days of an application approving or denying the application. If the commission approves the application, the commission shall issue a financing order.

(2)(a) A financing order issued under this section shall specify the highest amount of rate recovery expenditures that qualify as bondable rate recovery expenditures.

(b) In specifying the amount for bondable rate recovery expenditures associated with an event described in RCW 80.28.005(3)(a), net of appropriate adjustments as determined by the commission to be reasonable, the commission may include, but is not limited to including, the following rate recovery expenditures:

(i) Capital and operating costs incurred or to be incurred as a result of the event;

(ii) Lost revenue associated with the event;

(iii) Costs and expenses that may be recovered at a later time from third parties or insurers and returned to electrical, gas, or water company customers through a separate rate proceeding consistent with cost causation and rate design principles and statutory or regulatory requirements; and

(iv) Carrying costs or charges.

(3) A financing order issued under this section must include the following provisions:

(a) Confirmation of the existence of recoverable bondable rate recovery expenditures and authorization to recover bondable rate recovery expenditures and associated financing costs, including the maximum principal amount of bondable rate recovery expenditures and financing costs that may be recovered through securitization;

(b) Authorization for the creation of rate recovery assets and imposition of rate recovery charges that allow for the recovery of rate recovery expenditures, as determined by the commission, and associated financing costs;

(c) A requirement that the rate recovery charges authorized by the financing order are ongoing and may not be avoided by an electrical, gas, or water company customer, as described under subsection (4) of this section, until all principal, interest, premium, if any, and other amounts due on the rate recovery bonds and financing costs have been paid in full;

(d) A methodology for:

(i) Allocating rate recovery charges between the different classes of electrical, gas, or water company customers, which may include not allocating rate recovery charges to one or more classes of such company's customers, that is consistent with cost causation and rate design principles and statutory or regulatory requirements; and

(ii) Adjusting rate recovery charges as necessary to ensure timely payment on, and payment in full of, the rate recovery bonds and associated financing costs or in response to changes to applicable customers, service territories, or collection rates;

(e) Authorization for the electrical, gas, or water company to issue one or more series of rate recovery bonds with flexibility for such company to establish the terms and conditions of the rate recovery bonds, including repayment schedules, initial interest rates, and initial financing costs;

(f) Authorization to assign rate recovery assets to a financing subsidiary and grant security interests in the rate recovery assets to secured parties without limiting the rights of subsequent assignees;

(g) Authorization for the bond documentation and ancillary documents related to the rate recovery bonds, including servicing arrangements for the rate recovery charges, without requiring the authorization to be on the final forms of the documents;

(h) Authorization for the electrical, gas, or water company to earn a return, at the cost of capital authorized in such company's most recent general rate case prior to the date of the financing order, on any moneys advanced by such company to fund advances, reserves, or capital accounts established under the terms of any indenture, ancillary agreement, or financing documents related to the rate recovery bonds;

(i) A finding that the proposed issuance of rate recovery bonds and the imposition of rate recovery charges is expected to provide the lowest possible, reasonable, and prudent cost on a net present value basis to electrical, gas, or water company customers for recovery of the bondable rate recovery expenditures as compared to other methods of financing and recovery;

(j) A date, not earlier than one year from the date that the financing order becomes final, on which the authority to issue rate recovery bonds granted in the financing order expires;

(k) A requirement that the electrical, gas, or water company notify the commission if such company recovers costs and expenses from a third party or insurer; and

(l) Any other conditions that the commission finds appropriate and that are consistent with this section.

(4) Rate recovery charges authorized by a financing order shall be collected through the rates or charges paid by, and may not be avoided by, the electrical, gas, or water company customers located within such company's service territory, as the territory existed on the date of the financing order or, if the financing order provides, as such service territory may be expanded, even if:

(a) Such company's customer receives electricity, natural gas, or water; electricity, natural gas, or water services; or ancillary services from a successor or assignee of such company;

(b) Such company's customer elects to receive electricity, natural gas, or water; electricity, natural gas, or water services; or ancillary services from another electrical, gas, or water company or service provider in the service territory; or

(c) After the date of issuance of the financing order, such company's customer changes customer class.

(5)(a) Rate recovery assets, including rate recovery charges, and the rights of electrical, gas, and water companies; assignees; bondholders; and financing parties, established by a financing order issued under this section, are irrevocable and unchangeable, except as provided in the financing order, until all principal, interest, premium, if any, and other amounts due on the rate recovery bonds and financing costs are paid in full.

(b) Until all principal, interest, premium, if any, and other amounts due on the rate recovery bonds and financing costs are paid in full, the commission, except as provided in the financing order, the state of Washington, and all agencies, instrumentalities, political subdivisions, and local governments thereof may not:

(i) Revalue the bondable rate recovery expenditures or financing costs for rate-making purposes;

(ii) Determine that the rates or revenues authorized under the financing order are unjust or unreasonable;

(iii) Reduce, alter, or impair the rate recovery assets, rate recovery charges or the collection of the rate recovery charges, or rate recovery bonds or the security for the rate recovery bonds;

(iv) Rescind, suspend, amend, or impair the financing order; or

(v) When setting other rates or charges for the electrical, gas, or water company or taking other actions pursuant to the commission's authority, consider the rate recovery bonds as debt of such company, the rate recovery assets to be revenue for such company, or the bondable rate recovery expenditures to be costs of such company.

(6) The commission may not require an electrical, gas, or water company to:

(a) Apply to the commission for a financing order designating all or part of rate recovery expenditures as bondable rate recovery expenditures; or

(b) Finance or refinance rate recovery expenditures that the commission has designated bondable rate recovery expenditures.

**Sec.**  RCW 80.28.303 and 1994 c 268 s 2 are each amended to read as follows:

(1) An electrical, gas, or water company may file a conservation service tariff with the commission. The tariff shall provide:

(a) The terms and conditions upon which the company will offer the conservation measures and services specified in the tariff;

(b) The period of time during which the conservation measures and services will be offered; and

(c) The maximum amount of expenditures to be made during a specified time period by the company on conservation measures and services specified in the tariff.

(2) The commission has the same authority with respect to a proposed conservation service tariff as it has with regard to any other schedule or classification the effect of which is to change any rate or charge, including, without limitation, the power granted by RCW 80.04.130 to conduct a hearing concerning a proposed conservation service tariff and the reasonableness and justness thereof, and pending such hearing and the decision thereon the commission may suspend the operation of the tariff for a period not exceeding ten months from the time the tariff would otherwise go into effect.

(3) ((~~An electrical, gas, or water company may from time to time apply to the commission for a determination that specific expenditures may under its tariff constitute bondable conservation investment. A company may request this determination by the commission in separate proceedings for this purpose or in connection with a general rate case. The commission may designate the expenditures as bondable conservation investment as defined in RCW 80.28.005(1) if it finds that such designation is in the public interest.~~

~~(4) The commission shall include in rate base all bondable conservation investment. The commission shall approve rates for service by electrical, gas, and water companies at levels sufficient to recover all of the expenditures of the bondable conservation investment included in rate base and the costs of equity and debt capital associated therewith, including, without limitation, the payment of principal, premium, if any, and interest on conservation bonds.~~)) The rates so determined may be included in general rate schedules or may be expressed in one or more separate rate schedules. ((~~The commission shall not revalue bondable conservation investment for rate-making purposes, to determine that revenues required to recover bondable conservation investment and associated equity and debt capital costs are unjust, unreasonable, or in any way impair or reduce the value of conservation investment assets or that would impair the timing or the amount of revenues arising with respect to conservation investment assets that have been pledged to secure conservation bonds.~~

~~(5)~~)) (4) Nothing in this chapter precludes the commission from adopting or continuing other conservation policies and programs intended to provide incentives for and to encourage ((~~utility~~)) electrical, gas, or water company investment in improving the efficiency of energy or water end use. However, the policies or programs shall not impair ((~~conservation investment~~)) rate recovery assets. This chapter is not intended to be an exclusive or mandatory approach to conservation programs for electrical, gas, and water companies, and no such company is obligated to file conservation service tariffs under this chapter, to apply to the commission for a determination that conservation costs constitute bondable ((~~conservation investment~~)) rate recovery expenditures within the meaning of this chapter, or to issue ((~~conservation~~)) rate recovery bonds.

((~~(6)~~)) (5)(a) If a customer of an electrical, gas, or water company for whose benefit the company made expenditures for conservation measures or services ceases to be a customer of such company for one or more of the following reasons, the commission may require that the portion of such ((~~conservation~~)) expenditures that had been included in rate base but not theretofore recovered in the rates of such company be removed from the rate base of the company:

(i) The customer ceases to be a customer of the ((~~supplier of energy or water~~)) electrical, gas, or water company, and the customer repays to the company the portion of the ((~~conservation~~)) expenditures made for the benefit of such customer that has not theretofore been recovered in rates of ((~~the~~)) such company; or

(ii) ((~~The~~)) Such company sells its property used to serve such customer and the customer ceases to be a customer of the company as a result of such action.

(b) An electrical, gas, or water company may include in a contract for a conservation measure or service, and the commission may by rule or order require to be included in such contracts, a provision requiring that, if the customer ceases to be a customer of that ((~~supplier of energy or water~~)) such company, the customer shall repay to the company the portion of the conservation expenditures made for the benefit of such customer that has not theretofore been recovered in rates of the company.

**Sec.**  RCW 80.28.306 and 1994 c 268 s 3 are each amended to read as follows:

(1) Electrical, gas, and water companies, or finance subsidiaries, may ((~~issue conservation bonds~~)), upon approval by the commission, finance or refinance bondable rate recovery expenditures as described in RCW 80.28.303. Bonds, notes, certificates of beneficial interests in a trust, and other evidences of indebtedness or ownership issued for this purpose are rate recovery bonds for the purposes of this section.

(2) ((~~Electrical~~)) (a) An electrical, gas, ((~~and~~)) or water ((~~companies, or~~)) company, finance ((~~subsidiaries~~)) subsidiary, or assignee may ((~~pledge conservation investment~~)) grant a security interest in rate recovery assets as collateral for ((~~conservation~~)) rate recovery bonds ((~~by obtaining an order of the commission approving an issue of conservation bonds and providing for a security interest in conservation investment assets~~)). A security interest in ((~~conservation investment~~)) rate recovery assets is ((~~created and perfected only upon entry of an order by the commission approving a contract governing the granting of the security interest and the filing with the department of licensing of a UCC-1 financing statement, showing such pledgor as "debtor" and identifying such conservation investment assets and the bondable conservation investment associated therewith. The security interest is~~)) valid and enforceable against the debtor and ((~~all~~)) third parties, subject only to the rights of any third parties holding security interests in the ((~~conservation investment~~)) rate recovery assets attached and perfected in the manner described in this ((~~section,~~)) subsection.

(b) A security interest in rate recovery assets attaches if ((~~value has been~~)):

(i) The secured party, or a financing party that the secured party represents, has given ((~~by the purchasers of conservation bonds. An approved~~)) value; and

(ii) The debtor has signed a security agreement granting the secured party a security interest in ((~~conservation investment~~)) the rate recovery assets.

(c) A valid and enforceable security interest in rate recovery assets is perfected if: (i) The security interest has attached in the manner described in (b) of this subsection; and (ii) a financing statement has been filed in accordance with the requirements of chapter 62A.9A RCW that identifies the debtor as "debtor," the secured party as "secured party," and the rate recovery assets granted as security as the "collateral," and contains a description in the financing statement that refers to the commission's financing order creating the rate recovery assets. The financing statement is deemed sufficient under chapter 62A.9A RCW and all other relevant law for identifying the rate recovery assets granted as security.

(d) A perfected security interest in rate recovery assets is a continuously perfected security interest ((~~in all revenues and proceeds arising with respect to the associated bondable conservation investment~~)), whether or not ((~~such~~)) the related revenues have accrued((~~. Upon such approval, the priority of such security interest shall be as set forth in~~)) or the ((~~contract governing the conservation bonds. Conservation investment~~)) related rate recovery charges have been charged, billed, or collected. Rate recovery assets constitute a presently existing, fully vested property right for the purposes of contracts securing ((~~conservation~~)) the rate recovery bonds whether or not the related revenues have accrued or the related rate recovery charges have been charged, billed, or collected. Multiple security interests in the same rate recovery assets shall rank according to priority in time of perfection.

((~~(3) The~~)) (e) Subject to the terms of the security agreement covering the rate recovery assets, the relative priority of a security interest created or perfected under this section is not ((~~defeated or~~)) adversely affected by: (i) Any later modification of the financing order or rate recovery assets; or (ii) the commingling of ((~~revenues arising with respect to conservation investment~~)) proceeds of rate recovery assets with other ((~~funds of the debtor. The holders of conservation bonds shall have a perfected security interest in all cash and deposit accounts of the debtor in which revenues arising with respect to conservation investment assets pledged to such holders have been commingled with other funds, but such perfected security interest is limited to an amount not greater than the amount of such revenues received by the debtor within twelve months before (a) any default under the conservation bonds held by the holders or (b) the institution of insolvency proceedings by or against the debtor, less payments from such revenues to the holders during such twelve-month period. If an event of default occurs under an approved contract governing conservation bonds, the holders of conservation bonds or their authorized representatives, as secured parties, may foreclose or otherwise enforce the security interest in the conservation investment assets securing the conservation bonds, subject to the rights of any third parties holding prior security interests in the conservation investment assets perfected in the manner provided in this section.~~)) moneys.

(3)(a) A transfer of rate recovery assets to an assignee is perfected against all third parties if a notice of the transfer, by means of a financial statement:

(i) Is filed in accordance with the requirements of chapter 62A.9A RCW;

(ii) Specifies that the notice of transfer is filed to provide notice of the transfer of the rate recovery assets from the transferor to the assignee;

(iii) Identifies the transferor as "debtor," the assignee as "secured party," and the rate recovery asset as "collateral"; and

(iv) Contains a description that refers to the commission's financing order that created the rate recovery assets.

(b) A notice of transfer that is filed in accordance with the requirements under (a) of this subsection shall be deemed sufficient under chapter 62A.9A RCW and all other relevant laws for identifying the rate recovery assets and for providing notice that the rate recovery assets have been transferred to the assignee.

(c) A transfer is perfected against third parties on the date a notice of transfer is filed.

(d) A transfer of rate recovery assets to a financing subsidiary that is perfected under this subsection is free and clear of all claims, security interests, liens, and encumbrances of the transferring electrical, gas, or water company, except for any prior security interest perfected under subsection (2) of this section.

(e) The priority of a transfer that is perfected under this subsection is not adversely affected by:

(i) Any later modification of the financing order or rate recovery assets; or

(ii) The commingling of proceeds of rate recovery assets.

(4)(a) When proceeds of rate recovery assets are transferred to a segregated account for an assignee or secured party, any lien or security interest that may apply to those proceeds, other than a security interest perfected under subsection (2) of this section, is automatically terminated, without the need for further notice, act, or evidence.

(b) Proceeds from rate recovery assets shall be held in trust for an assignee or secured party until the proceeds have been transferred to the assignee or secured party.

(c) Any adjustment in rate recovery charges does not affect the validity, perfection, or priority of a security interest in or the transfer of rate recovery assets.

(5)(a) The rights and remedies of a secured party in enforcing a security interest in rate recovery assets do not include and are without recourse to any electrical, gas, or water company asset except for the rate recovery assets, even if the rate recovery assets are commingled with other assets.

(b) If an electrical, gas, or water company or finance subsidiary defaults on a required payment with respect to rate recovery bonds, a secured party or secured party's representatives may apply to the commission for relief. Upon application by ((~~the holders of [or] their~~)) a secured party or secured party's representatives, the commission shall order, without limiting ((~~their~~)) other remedies of the secured party or secured party's representatives, ((~~the commission shall order~~)) the sequestration and payment to the ((~~holders or their~~)) secured party or secured party's representatives of ((~~revenues arising with respect to~~)) the ((~~conservation investment~~)) proceeds of the rate recovery assets ((~~pledged to such holders~~)). ((~~Any such~~))

(c) The interest of an assignee or financing party in rate recovery assets is not subject to setoff, counterclaim, surcharge, or defense by the electrical, gas, or water company or any other person in connection with a bankruptcy, reorganization, or insolvency proceeding. However, any surplus in excess of amounts necessary to pay principal, premium, if any, interest, and other amounts due with respect to the rate recovery bonds and associated financing costs, including enforcement costs, with respect to the security agreement shall be remitted to the debtor electrical, gas, or water company; debtor finance subsidiary; or other debtor assignee.

(d) The commission's financing order and any order issued under (b) of this subsection shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to ((~~the~~)) an electrical, gas, or water company debtor, or transferor with respect to rate recovery assets. ((~~Any surplus in excess of amounts necessary to pay principal, premium, if any, interest, and expenses arising under the contract governing the conservation bonds shall be remitted to the debtor electrical, gas, or water company or the debtor finance subsidiary.~~

~~(4)~~)) (6) The granting, perfection, and enforcement of security interests in ((~~conservation investment~~)) rate recovery assets to secure ((~~conservation~~)) rate recovery bonds is ((~~governed by this chapter rather than by~~)) subject to chapter 62A.9A RCW, except that when a provision in chapter 62A.9A RCW comes in conflict with a provision in this section, the provision in this section shall control.

((~~(5)~~)) (7) A transfer of ((~~conservation investment~~)) rate recovery assets by an electrical, gas, or water company to a finance subsidiary or other assignee, which such parties have in the governing documentation expressly stated to be a sale or other absolute transfer, in a transaction approved in ((~~an~~)) a financing order ((~~issued by the commission and in connection with the issuance by such finance subsidiary of conservation bonds~~)), shall be treated as a true sale, and not as a pledge or other financing, of such ((~~conservation investment~~)) rate recovery assets. According the holders of ((~~conservation~~)) rate recovery bonds a preferred right to revenues of the electrical, gas, or water company, or the provision by such company of other credit enhancement with respect to ((~~conservation~~)) rate recovery bonds, does not impair or negate the characterization of any such transfer as a true sale.

((~~(6)~~)) (8) Any successor to an electrical, gas, or water company pursuant to any bankruptcy, reorganization, or other insolvency proceeding shall perform and satisfy all obligations of the company under an approved contract governing ((~~conservation~~)) rate recovery bonds, in the same manner and to the same extent as was required of such company before any such proceeding, including, without limitation, billing, collecting, and paying to the bondholders or their representatives revenues arising with respect to the ((~~conservation investment~~)) rate recovery assets pledged to secure the ((~~conservation~~)) rate recovery bonds.

(9) Except for enforcement permitted under the laws of another state, the laws of this state shall govern the creation, validity, enforceability, attachment, perfection, priority, and exercise of remedies with respect to the creation or transfer of a security interest in a rate recovery asset.

**Sec.**  RCW 80.28.309 and 1994 c 268 s 4 are each amended to read as follows:

(1) Costs incurred before ((~~June 9, 1994,~~)) the effective date of this section by electrical, gas, or water companies with respect to events described in RCW 80.28.005(3)(a) or energy or water conservation measures and services ((~~intended to improve the efficiency of energy or water end use~~)) described in RCW 80.28.005(3)(b) shall constitute bondable ((~~conservation investment~~)) rate recovery expenditures for purposes of RCW 80.28.005, 80.28.303, 80.28.306, and this section, if:

(a) The commission has previously issued a rate order authorizing the inclusion of such costs in rate base; and

(b) The commission authorizes the issuance of ((~~conservation~~)) rate recovery bonds secured by ((~~conservation investment~~)) rate recovery assets associated with such costs.

(2) If costs incurred before ((~~June 9, 1994,~~)) the effective date of this section by electrical, gas, or water companies with respect to events described in RCW 80.28.005(3)(a) or energy or water conservation measures ((~~intended to improve the efficiency of energy or water end use~~)) described in RCW 80.28.005(3)(b) have not previously been considered by the commission for inclusion in rate base, an electrical, gas, or water company may apply to the commission for approval of such costs. If the commission finds that the expenditures are ((~~a~~)) bondable ((~~conservation investment~~)) rate recovery expenditures, the commission shall by order designate such expenditures as bondable ((~~conservation investment~~)) rate recovery expenditures, which shall be subject to RCW 80.28.005, 80.28.303, 80.28.306, sections 3 and 4 of this act, and this section.

**Sec.**  RCW 80.08.140 and 1961 c 14 s 80.08.140 are each amended to read as follows:

No provision of this chapter, RCW 80.28.005, 80.28.303, 80.28.306, 80.28.309, or section 3 or 4 of this act, and no deed or act done or performed under or in connection therewith, shall be held or construed to obligate the state of Washington or any agency, instrumentality, political subdivision, or local government thereof to pay or guarantee, in any manner whatsoever, any stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, authorized, issued or executed under the provisions of this chapter, RCW 80.28.005, 80.28.303, 80.28.306, 80.28.309, or section 3 or 4 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 80.28 RCW to read as follows:

If any provision of sections 1, 3, 4, and 9 of this act or the amendments to RCW 80.08.140, 80.28.005, 80.28.303, 80.28.306, and 80.28.309 by sections 2, 5, 6, 7, and 8 of this act is determined to be invalid, or is invalidated, superseded, replaced, repealed, or expired, such determination or occurrence does not affect the validity of any action allowed under sections 1, 3, 4, and 9 of this act or the amendments to RCW 80.08.140, 80.28.005, 80.28.303, 80.28.306, and 80.28.309 by sections 2, 5, 6, 7, and 8 of this act and taken in good faith and pursuant to a financing order issued prior to such determination or occurrence.

NEW SECTION. **Sec.**  Except to the extent required by section 7 of this act, this act applies prospectively only and not retroactively. Nothing in this act shall impair or affect the validity of any conservation bonds issued under RCW 80.28.303, 80.28.306, and 80.28.309 as those sections existed prior to the effective date of this section. Conservation bonds issued under those sections prior to the effective date of this section shall continue to be governed by the provisions of such sections as they existed at the time such conservation bonds were issued.

NEW SECTION. **Sec.**  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.

**--- END ---**