

FINAL BILL REPORT

ESSB 5295

C 188 L 21
Synopsis as Enacted

Brief Description: Transforming the regulation of gas and electrical companies toward multiyear rate plans and performance-based rate making.

Sponsors: Senate Committee on Environment, Energy & Technology (originally sponsored by Senators Carlyle and Short).

Senate Committee on Environment, Energy & Technology
House Committee on Environment & Energy

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 electric investor-owned utilities. The UTC must ensure rates charged by these companies are fair, just, and reasonable.

Under current state statute, the UTC has the power to ascertain and determine the fair value of a public service company's property that is used and useful for service in Washington by or during the rate effective period for rate-making purposes.

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 greenhouse gas (GHG) neutral by January 1, 2030.

Under CETA electric utilities must mitigate energy burden and consider the adequacy of energy assistance programs for low-income households. Energy burden means the share of annual household income used to pay annual home energy bills.

Summary: Policy Statement for Alternatives to Traditional Rate Making. To provide

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clarity and certainty to stakeholders on the details of performance-based regulation, the UTC is directed to conduct a proceeding to develop a policy statement addressing alternatives to traditional cost of service rate making, including performance measures or goals, targets, performance incentives, and penalty mechanisms. As part of the proceeding, the UTC must consider specified factors and allow for participation and consultation with regulated utilities, the attorney general's office, and other interested stakeholders. The UTC must notify the appropriate committees of the Legislature by January 1, 2022, of the process and duration of the work plan to conduct this proceeding.

Multiyear Rate Plans. Beginning January 1, 2022, every general rate case filing of a gas or electric utility must include a proposal for a multiyear rate plan (MYRP). The UTC may by order after an adjudicative proceeding, approve, approve with conditions, or reject, a MYRP proposal made by a utility, an alternative proposal made by one or more parties, or any combination of these. The UTC's consideration of a MYRP proposal is subject to the same standards as other related filings, including the public interest and fair, just, reasonable, and sufficient rates.

The UTC may approve, disapprove, or approve with modifications any proposal to recover from ratepayers up to 5 percent of the total UTC revenue requirement for each year of a MYRP for tariffs that reduce the energy burden of low-income residential customers. The tariffs may include bill assistance programs or one or more special rates. For any approved MYRP resulting in a rate increase, the UTC must approve an increase in low-income bill assistance for each year there is a rate increase that is, at a minimum, equal to double the percentage increase for residential base rates. The UTC may approve a larger increase to low-income bill assistance based on an appropriate record.

If it approves a MYRP, the UTC must approve rates separately for the initial rate year, the second rate year, and, if applicable, the third and fourth rate years. Consistent with current law, the UTC must ascertain and determine the fair value for rate-making purposes of the property of a utility that has filed a MYRP that is or will be used and useful for service in Washington by or during each rate year for the MYRP. For the initial rate year, the UTC must, at a minimum, make this determination by the rate effective date. The UTC may order refunds to customers if property expected to be used and useful when the plan is approved is not used and useful by the rate effective date.

The UTC must ascertain and determine the revenues and operating expenses for rate-making purposes of any gas or electric utility for each rate year of the MYRP. The UTC may use any standard, formula, method, or theory of valuation reasonably calculated to arrive at fair, just, reasonable, and sufficient rates, when ascertaining and determining the fair value of property and projecting revenues and operating expenses for a utility under a MYRP. If the UTC approves a MYRP with a duration of three or four years, then an electric utility must update its power costs as of the rate effective date of the third rate year.

The gas or electric utility is bound by the terms of the UTC approved MYRP for the initial

rate year and the second rate year. The utility may file a new MYRP for the third or fourth rate years, if any, of a MYRP. Subject to the terms of the MYRP, the UTC may by order establish terms, conditions, and procedures for a MYRP and ensure rates remain fair, just, reasonable, and sufficient during the course of the plan, including terms and procedures for rate adjustment during the term of the plan.

If the annual commission basis report demonstrates the reported rate of return for a utility is more than 0.5 percent higher than the rate of return authorized by the UTC in the MYRP, the utility must defer all revenues in excess of 0.5 percent higher than the rate of return for refunds to customers or another determination in a subsequent adjudicative proceeding. The UTC must waive this requirement if a multi-state electrical company with fewer than 250,000 Washington customers files a MYRP that provides for no increases in base rates in consecutive years beyond the initial rate year, provided the waiver results in just and reasonable rates.

The UTC must determine a set of performance measures that will be used to assess a gas or electric utility operating under a MYRP. The performance measures may be based on proposals made by the utility or any other party to the proceeding in the response to the company's filing, or in the testimony and evidence admitted in the proceeding. The UTC may consider specific factors in developing performance measures, incentives, and penalty mechanisms.

The UTC must align, to the extent practical, the timing of approval of a MYRP of an electric utility with the clean energy implementation plan filed under CETA.

Nothing precludes any gas or electric utility from making a filing required or permitted by the UTC, nor may be construed to limit the existing rate-making authority of the UTC.

Rates for Low-Income Customers. Upon its own motion, or the request by a utility or other party to a general rate case or hearing, or other proceeding to set rates, the UTC may approve rates, charges, services, or physical facilities at a discount or through grants for low-income seniors and low-income customers. Expenses and lost revenues as a result of these discounts, grants, or other low-income assistance programs must be included in the company's cost of service and recovered in rates to other customers. Each gas or electric company must propose a low-income assistance program comprised of a discount rate for low-income senior customers and low-income customers as well as grants and other low-income assistance programs. The UTC must approve, disapprove, or approve with modifications each gas or electrical company's low-income assistance discount rate and grant program. The utility must use reasonable and good faith efforts to seek approval for low-income program design, eligibility, operation, outreach, and funding proposals from its low-income and equity advisory groups before filing with the UTC. Low-income discounts or grants must be provided in coordination with community-based organizations in the utility's service territory.

Eligibility for a low-income discount rate or grant may be established upon verification of a low-income customer's receipt of any means tested public benefit, or verification of eligibility for the low-income home energy assistance program, for which eligibility does not exceed the income definition set by the UTC under CETA. Public benefits that may determine eligibility are enumerated.

Each gas or electric utility must conduct substantial outreach efforts to make the low-income discounts or grants available to eligible customers and annually report to the UTC on outreach activities and results. Outreach must be made at least semiannually to inform customers of available rebates, discounts, credits, and other cost-saving mechanisms that can help them lower their monthly gas or electricity bills, and may be in the form of any customary and usual methods of communication or distribution.

Outreach may include establishing an automated program of matching customer accounts with lists of recipients of the means tested public benefit programs and presumptively offer a discount rate or grant to eligible customers. The gas or electric utility must within 60 days of the presumptive enrollment inform the low-income customer of the enrollment and all customer rights and obligations under the program, including the right to withdraw without penalty.

A residential customer eligible for a low-income discount rate must receive the service on demand. A residential customer may not be charged for initiating or terminating low-income discount rates, grants, or any other form of energy assistance.

Agreement for Financial Assistance to Certain Organizations. A gas or electric utility must, upon request, enter into one or more written agreements with organizations that represent broad customer interests in UTC regulatory proceedings, subject to approval. The agreement must govern how financial assistance may be provided to the organization. These organizations may include low-income, commercial, and industrial customers, vulnerable populations, or highly impacted communities. More than one gas utility, electric utility, or organization representing customer interests may join in a single agreement.

The agreement must be approved, approved with modifications, or rejected by the UTC. The UTC must consider whether the agreement is consistent with a reasonable allocation of financial assistance provided to organizations among classes of customers of the utility. Before administering an agreement, the UTC, by rule or order, must determine:

- the amount of financial assistance to be provided to an organization;
- the manner in which the financial assistance is distributed;
- the manner in which the financial assistance is recovered in the rates of the gas or electric utility; and
- other matters necessary to administer the agreement.

The UTC must allow a gas or electric utility that provides financial assistance to recover the amount in rates. The UTC must allow a utility to defer including the amount of financial

assistance rates. An agreement may not provide for payment to the UTC.

Organizations representing vulnerable populations or highly impacted communities must be prioritized for funding.

Statewide Policy on the Provision of Energy Services. It is the policy of the state to:

- preserve affordable energy services to the residents of the state;
- maintain and advance the efficiency and availability of energy services to the residents of the state;
- ensure that customers pay only reasonable charges for energy services; and
- permit flexible pricing of energy services.

Votes on Final Passage:

Senate	44	4	
House	94	3	(House amended)
Senate	42	6	(Senate concurred)

Effective: July 25, 2021