
HOUSE BILL 1268

State of Washington

62nd Legislature

2011 Regular Session

By Representatives Eddy, McCoy, Crouse, Lias, and Clibborn

Read first time 01/18/11. Referred to Committee on Technology, Energy & Communications.

1 AN ACT Relating to the utility and transportation commission's
2 review of certain investments made by electrical companies; amending
3 RCW 80.04.250; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that Washington is a
6 leader in addressing climate change by having established limits to
7 reduce greenhouse gas emissions and in ensuring the development of new
8 renewable energy resources by requiring large electrical utilities to
9 meet renewable energy resource targets through renewable portfolio
10 standards.

11 However, the legislature finds achieving the state's goals for
12 greenhouse gas emission reduction and implementation of renewable
13 energy resource standards is hindered by the fact that investments in
14 renewable energy resources by investor-owned electrical companies are
15 subject to retroactive prudence review of expenditures that may
16 disallow investments or expenditures.

17 The legislature established the clean energy leadership council in
18 2009 and directed the council to develop a plan by December 2010 for
19 growing Washington's clean energy sector and positioning Washington as

1 a national leader in clean energy development and policy. The council
2 determined that retroactive prudence review is an important influence
3 on the ease and speed of demonstrating leading edge clean energy
4 solutions by Washington companies.

5 The legislature finds that it is important that electrical
6 companies be able to make investments in renewable energy resources and
7 reduction in greenhouse gas emissions without fear of subsequent
8 disallowance of those investments from their future rate base.

9 The legislature intends to reduce the deterrent effect of a
10 retroactive prudence review on the ability of electrical companies to
11 make investments in renewable energy resources and to achieve the
12 renewable portfolio targets applicable to electrical companies.

13 The legislature intends that in making its prudence determination,
14 the utilities and transportation commission recognize that while there
15 are risks of unknowns created by the fact that the prudence
16 determination is being made at an early stage at which some information
17 that would be considered in a retroactive review may not be available,
18 there are also risks to the public from the continued reliance on
19 fossil fuels, and that it is in the public interest that the state
20 achieve its objectives for reduction in greenhouse gas emissions.

21 **Sec. 2.** RCW 80.04.250 and 1991 c 122 s 2 are each amended to read
22 as follows:

23 (1) The commission shall have power upon complaint or upon its own
24 motion to ascertain and determine the fair value for rate making
25 purposes of the property of any public service company used and useful
26 for service in this state and shall exercise such power whenever it
27 shall deem such valuation or determination necessary or proper under
28 any of the provisions of this title. In determining what property is
29 used and useful for providing electric, gas, or water service, the
30 commission may include the reasonable costs of construction work in
31 progress to the extent that the commission finds that inclusion is in
32 the public interest.

33 (2)(a) If an electrical company desires a determination regarding
34 the prudence of an investment in a plant or other property that will
35 supply electricity from sources other than fossil fuels, increase
36 efficiency, or reduce the fossil fuel used in producing electricity

1 before making that investment, the electrical company may file a
2 petition with the commission to obtain such a determination.

3 (b) When a petition is filed, the commission shall provide notice
4 to the public and potentially affected parties and expedite the hearing
5 of that petition. The hearing of such a petition is not considered a
6 general rate increase filing, and an administrative law judge of the
7 commission may enter an initial order including findings of fact and
8 conclusions of law, as provided in RCW 80.01.060(3). The commission
9 shall issue a final order, or if the matter is heard by an
10 administrative law judge, an initial order, within ninety days after
11 filing the petition.

12 (c) In considering the prudence of the investment, the commission
13 may establish a limit to the amount of the investment that will be
14 considered prudent. The commission shall balance against any risk of
15 unknowns of the investment the risk to the public of continued reliance
16 on fossil fuels and the state's objectives for reduction in greenhouse
17 gas emissions. If the investment is found to be prudent, recovery of
18 a return in rates on the amount of the investment determined to be
19 prudent will not occur until the next general rate increase filing by
20 the company after the plant or equipment is put into service.

21 (3) The commission shall have the power to make revaluations of the
22 property of any public service company from time to time.

23 (4) The commission shall, before any hearing is had, notify the
24 complainants and the public service company concerned of the time and
25 place of such hearing by giving at least thirty days' written notice
26 thereof, specifying that at the time and place designated a hearing
27 will be held for the purpose of ascertaining the value of the company's
28 property, used and useful as aforesaid, which notice shall be
29 sufficient to authorize the commission to inquire into and pass upon
30 the matters designated in this section.

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