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**HOUSE BILL 1098**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representative Morris

AN ACT Relating to aligning electric utility regulation and business models with emerging customer values not realized in volumetric monetization; and adding a new chapter to Title 80 RCW.

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

NEW SECTION. **Sec.**  The legislature finds and declares that:

(1) Rapidly changing market conditions are occurring in our electric utility sector and 2012 may well be the peak year for per capita energy consumption. When combined with Washington state citizens' desire for energy independence and self-electricity generation, utilities are finding less revenue in the current volumetric rate recovery system they utilize to pay for infrastructure costs.

(2) Washington state needs healthy utilities that provide services other than just electricity generation to support our state's economic development goals.

(3) Lessons learned from the 2001 west coast energy crisis show that traditional regulatory mechanisms may not move fast enough to keep pace with rapidly changing market conditions. Having tools in place before a crisis happens is a keystone to economic stability.

(4) Because of the great diversity in the scope and type of services and financing provided by the state's electric utilities, alternative regulatory arrangements that meet the varying circumstances of different companies and their ratepayers may be desirable. Such alternative arrangements may include but are not limited to a results-based regulatory model that shifts the focus of regulation from the reasonableness of historically incurred costs to the pursuit of long-term customer value.

(5) Washington's electric utility industry should be encouraged to develop market-based, sustainable products and services that drive an increasingly affordable, efficient, clean, reliable, and consumer-oriented industry.

(6) Energy efficiency and other distributed resources that create energy independence for the consumer and the state and promote local economic development rather than exporting Washington state wealth should be a primary tool in the planning and operation of an interconnected modernized power grid.

(7) Markets and tariffs should be open to transformation that empowers customers to reduce and optimize their energy usage and electric bills and to stimulate innovation and new products that will further enhance customer opportunities.

(8) Investor-owned utilities and consumer-owned utilities should be encouraged to align their business models with the aforementioned goals.

NEW SECTION. **Sec.**  (1) Subject to the conditions set forth in this chapter, the commission may regulate an electrical company subject to traditional rate of return, rate base regulation by authorizing an alternative form of regulation. The commission may authorize an alternative form of regulation for an electrical company under the following circumstances:

(a) The cumulative generating capacity of net metering systems interconnected to the electrical company is equal to or exceeds five percent of the electrical company's 1996 peak demand; and

(b) The commission determines that the alternative form of regulation is better suited than traditional rate of return, rate base regulation to helping electrical companies and customers achieve the policy goals stated in this chapter.

(2)(a) The commission may determine the manner and extent of any alternative forms of regulation as may in the public interest be appropriate. In addition to any considerations raised by the utility, in determining the appropriateness of any proposed alternative form of regulation, the commission must at a minimum consider the extent to which such alternative regulation is expected to:

(i) Promote resiliency and reliability;

(ii) Improve service quality, including both the quality of customer service and of power itself, such as providing more precise voltage control;

(iii) Achieve reduced per capita consumption of energy in the state;

(iv) Encourage economic development within the state, as measured by creation of local jobs;

(v) Help attain statewide carbon reduction goals and compliance with federal air quality standards; and

(vi) Provide clear incentives to achieving least-cost energy service to customers, in terms of overall efficiency of operations and maintenance costs per megawatt-hour of energy produced.

(b) The commission may establish, by rule or order, requirements governing the filing of a petition to approve an alternative regulation plan, as provided in subsection (3) of this section.

(3)(a) An electrical company that has a cumulative generating capacity of net metering systems that is equal to or exceeds five percent of the electrical company's 1996 peak demand may petition the commission to establish an alternative form of regulation.

(b) Before petitioning for an alternative form of regulation, the company must conduct a consultation with customers of all rate classes in order to determine the customers' preferred performance metrics and benchmarks.

(c) The company must submit with the petition for an alternative form of regulation a plan. This plan must include at a minimum the following:

(i) The performance metrics and benchmarks identified through the customer consultation required under this section;

(ii) A proposal for ensuring adequate service quality;

(iii) Data and other inputs relevant to external benchmarking of costs;

(iv) Identification of incentives for achieving performance targets as well as appropriate enforcement or remedial provisions in the event the company fails to meet performance measures;

(v) Proposed mechanisms, such as reopeners, pass-through, trigger, or true-up mechanisms, to help provide a reasonable level of protection from risk, uncertainty, or unforeseeable costs and events; and

(vi) A proposal for transition to the alternative form of regulation.

(d) A plan submitted under this section must leave current rates for each customer class unchanged for the first three years of the transition to the alternative form of regulation. Proposed changes in rates must be phased in over a period of not less than the following three years.

(4) The commission, after notice and hearing, shall issue an order accepting, modifying, or rejecting the plan within nine months after the petition or motion is filed, unless extended by the commission for good cause. The commission shall order implementation of the alternative plan of regulation unless it finds that, on balance, an alternative plan as proposed or modified fails to meet the considerations stated in subsection (3) of this section.

(5) Not later than sixty days from the entry of the commission's order, the company or companies affected by the order may file with the commission an election not to proceed with the alternative form of regulation as authorized by the commission.

(6) The commission may waive such regulatory requirements under this title for an electrical company subject to an alternative form of regulation as may be appropriate to facilitate the implementation of this section. However, the commission may not waive any grant of legal rights to any person contained in this chapter and chapter 80.04 RCW. The commission may waive different regulatory requirements for different companies or services if such different treatment is in the public interest.

(7) Upon petition by the company, and after notice and hearing, the commission may rescind or modify an alternative form of regulation in the manner requested by the company.

(8) The commission or any person may file a complaint under RCW 80.04.110 alleging that an electrical company under an alternative form of regulation has not complied with the terms and conditions set forth in the alternative form of regulation. The complainant shall bear the burden of proving the allegations in the complaint.

NEW SECTION. **Sec.**  (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Consumer-owned utility" includes a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

(b) "Governing board" means the board of directors or legislative authority of a consumer-owned utility.

(2) In addition to any existing authority to engage in the sale and distribution of electricity, a consumer-owned utility may provide other energy services and recover the cost of providing such services directly from its ratepayers under the following circumstances:

(a) The cumulative generating capacity of net metering systems interconnected to the consumer-owned utility is equal to or exceeds five percent of the utility's 1996 peak demand; and

(b) Provision of such energy services by the consumer-owned utility is consistent with helping the utility and its customers achieve the public policy goals declared in this chapter.

(3) The governing board of a consumer-owned utility may approve providing energy services beyond the sale and distribution of electricity if the energy services will:

(a) Promote resiliency and reliability of the electric grid;

(b) Improve service quality to the utility's customers, including both the quality of customer service and of power itself, such as providing more precise voltage control;

(c) Achieve reduced per capita consumption of energy in the state;

(d) Encourage economic development within the state, as measured by the creation of local jobs;

(e) Help attain statewide carbon reduction goals and compliance with federal air quality standards; and

(f) Provide clear incentives to achieving least-cost energy service to customers, in terms of overall efficiency of operations and maintenance costs per megawatt-hour of energy produced.

(4) Any energy services approved by the governing board pursuant to the authority of this section shall also be approved by a majority of the voters of the consumer-owned utility voting upon the question at a duly noticed annual or special meeting held for that purpose.

(5) Nothing in this section shall be construed to decrease existing authority of any consumer-owned utility to provide energy services.

NEW SECTION. **Sec.**  Sections 1 through 3 of this act constitute a new chapter in Title 80 RCW.

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