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**SENATE BILL 5668**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senators Lovelett, Liias, Das, Frockt, Lovick, Nguyen, Nobles, Pedersen, Saldaña, Stanford, and Wellman; by request of Office of the Governor

AN ACT Relating to modifying the regulation of gas companies to achieve reductions in greenhouse gas emissions; amending RCW 80.28.074, 80.28.385, 80.28.380, 80.28.110, and 80.28.190; adding new sections to chapter 80.28 RCW; adding a new section to chapter 81.88 RCW; and creating new sections.

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

NEW SECTION. **Sec.**  The legislature finds:

(1) The greenhouse gas emissions limits established by the legislature in 2020 require significant and rapid reductions in all uses of fossil fuels.

(2) The 2021 state energy strategy recommended that the state develop and implement a planned transition from fossil natural gas end uses to alternative energy forms that do not result in greenhouse gas emissions.

(3) The number of residential and commercial customers using fossil natural gas has increased each year in the most recent 10 years for which data is available. Growth in the number of residential and commercial customers using fossil natural gas has increased emissions from fossil natural gas in Washington by an estimated 870,000 metric tons CO2e per year.

(4) Under the climate commitment act, gas companies will receive a limited amount of allowances at no cost that decline proportionally with the cap established under RCW 70A.65.070. Continued growth in the number of customers using fossil natural gas will require purchase of increasingly constrained allowances in excess of the free amounts.

(5) Careful and comprehensive transition planning by gas companies, with oversight and review by the utilities and transportation commission, is necessary to avoid the substantial risk of stranded investments in natural gas distribution systems and harm to customers. If the cost of these stranded investments is imposed on remaining customers after other customers convert to electric equipment, the financial burden could result in rates that are neither fair to customers nor adequate for investors. The unfair burden would fall disproportionately on low-income customers, residential and commercial tenants, and others unable to avoid continued use of fossil natural gas.

(6) In furtherance of section 143(4), chapter 334, Laws of 2021, the utilities and transportation commission has initiated in its docket U-210553 an inquiry to examine feasible and practical pathways for investor-owned electric and natural gas utilities to contribute their share to greenhouse gas emissions reductions as described in RCW 70A.45.020. As part of its examination, the utilities and transportation commission must identify and consider the impacts of energy decarbonization on residential and commercial customers and the electric and natural gas utilities that serve them.

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

(1) Each gas company must develop and implement a clean heat transition plan for the purposes of: Meeting the state's greenhouse gas emissions limits with respect to fossil natural gas combustion; limiting the expansion of the natural gas system for residential and commercial space and water heating; advancing the use of high-efficiency electric equipment and production and distribution of clean fuels; and ensuring the safe and equitable transition of the natural gas system.

(2) Each gas company must ensure in its clean heat transition plan an equitable transition of the gas system by:

(a) Providing adequate energy assistance to low-income customers of the gas company under RCW 80.28.068;

(b) Ensuring that the transition results in benefits to low-income households, overburdened communities, and vulnerable populations, as those terms are defined in chapters 19.405 and 70A.65 RCW;

(c) Ensuring the equitable distribution of energy and nonenergy benefits of utility programs and infrastructure to overburdened communities and vulnerable populations, including the reduction of energy burdens and improvement of indoor and outdoor air quality.

(3) By January 1, 2024, and every four years thereafter, each gas company must develop and submit to the commission a clean heat transition plan to achieve the reductions in greenhouse gas emissions, consistent with its proportional obligation under RCW 70A.45.020, as must be established by order of the commission, resulting from combustion of natural gas sold or delivered by the company.

(4) Each gas company must base its clean heat transition plan on a comprehensive evaluation and comparison of multiple emissions reduction strategies to identify the combination of strategies that comply with the requirements of this section at lowest reasonable cost.

(5) Each clean heat transition plan must:

(a) Identify specific actions to achieve the gas company's share of the statewide obligation in RCW 70A.45.020, as determined by order of the commission, and must include an evaluation of the costs and benefits of alternative transition actions, including the costs and benefits that will accrue to vulnerable populations and overburdened communities. The cost-benefit analysis must incorporate the social cost of greenhouse gas emissions resulting from the use of natural gas as determined by the commission pursuant to RCW 80.28.395;

(b) Consider recommendations from the latest state energy strategy created under RCW 43.21F.090;

(c) Identify changes to depreciation schedules or rate design to be consistent with specific actions in the clean heat transition plan;

(d) Prioritize the remaining use of fossil natural gas by residential and commercial customers in consultation with electric utilities;

(e) Include an assessment of current conditions, including:

(i) The economic, public health, and environmental conditions within the gas company's service territory. These conditions are not restricted to the effects of utility actions, and the analysis must include relevant information from publicly available sources, including the cumulative impact analysis developed by the department of health under RCW 19.405.140; and

(ii) The energy and nonenergy benefits and burdens associated with the utility's infrastructure and programs, including benefits and burdens caused by utility actions outside the utility's service area;

(f) Assess the relative impact of alternative emissions reduction strategies on the amount of indoor air pollution and the health of customers; and

(g) Support an equitable transition for overburdened communities and low-income customers through no-cost grant programs for low-income residents and low-cost or specially targeted incentive programs for moderate income or fixed income seniors.

(6) Each gas company must, at a minimum, consider the following emissions reduction strategies in developing each clean heat transition plan:

(a) Measures to increase the efficiency of energy use in residential, industrial, and commercial buildings through building thermal load reduction strategies such as envelope efficiency improvements, hot water conservation, or process load reductions;

(b) Development of geothermal heat, industrial waste heat, and other thermal heat sources that may be obtained without substantial emissions of greenhouse gases;

(c) Development of district heating systems using waste heat from industrial processes or fuels that do not result in greenhouse gas emissions; and

(d) Reduction of the carbon content of delivered gas by incorporating renewable natural gas or renewable hydrogen as provided in RCW 80.28.385.

(7) Each gas company may consider the following emissions reduction strategies in developing each clean heat transition plan:

(a) Expansion of voluntary renewable natural gas programs as provided in RCW 80.28.390;

(b) Implementation during a transition period of dual fuel heating configurations in which use of fossil natural gas is limited to periods of peak energy demand;

(c) Conversion of existing customers to high-efficiency electric equipment;

(d) Geographically targeted programs to permanently decommission portions of a gas company's distribution systems;

(e) Use of offset credits to the extent permitted under RCW 70A.65.170; and

(f) Implementation of projects authorized under RCW 80.28.420 that are anticipated to reduce greenhouse gas emissions from pipelines through the reduction of nonhazardous leaks.

(8) Each gas company must consult with any electric utility serving customers in the gas company's service area during the development of its clean heat transition plan.

(9) Each clean heat transition plan submitted under subsection (3) of this section is subject to review, modification, and approval by the commission. The commission may order the modification of any plan that it finds not to be in compliance with the requirements of this section.

(10) This section does not apply to any gas company owned and operated by a city or town, pursuant to RCW 80.04.500.

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

(1) After December 31, 2022, a gas company may not extend service to a customer location at no charge, at a charge that is discounted to reflect anticipated future customers, or otherwise at a charge less than the full cost of the service extension.

(2) After December 31, 2024, a gas company may not extend service to a customer premise or location not already receiving gas service, unless the commission finds that the extension of service is consistent with the gas company's clean heat transition plan and does not result in a net increase in greenhouse gas emissions over the expected useful life of the line extension.

NEW SECTION. **Sec.**  A new section is added to chapter 81.88 RCW to read as follows:

The commission must consult with the department of labor and industries before establishing any standard under this chapter concerning the distribution of hydrogen by gas pipeline.

**Sec.**  RCW 80.28.074 and 2021 c 188 s 5 are each amended to read as follows:

The legislature declares it is the policy of the state to:

(1) Preserve affordable energy services to the residents of the state;

(2) Maintain and advance the efficiency and availability of energy services to the residents of the state of Washington;

(3) Ensure that customers pay only reasonable charges for energy services;

(4) Permit flexible pricing of energy services;

(5) Limit and reduce emissions of greenhouse gases from combustion of fossil fuels consistent with the state's greenhouse gas emissions limits and the targets established in the climate commitment act.

**Sec.**  RCW 80.28.385 and 2019 c 285 s 13 are each amended to read as follows:

(1) A ((~~natural~~)) gas company may propose a renewable ((~~natural~~)) gas program under which the company would ((~~supply renewable natural gas for a portion of the natural gas sold or delivered to its retail customers. The renewable natural gas program is subject to review and approval by the commission. The customer charge for a renewable natural gas program may not exceed five percent of the amount charged to retail customers for natural gas.~~

~~(2)~~)) acquire and include renewable natural gas, renewable hydrogen, or hydrogen produced by electrolysis for a portion of the gas sold or delivered to its retail customers.

(2) A gas company must demonstrate that the renewable gas program will result in a reduction in the greenhouse gas intensity per therm, including the life-cycle emissions of greenhouse gases, and will not adversely affect the safety or reliability of its service.

(3) The renewable gas program is subject to review and approval by the commission. The commission must establish safety standards for use of hydrogen before approving a renewable gas program that includes hydrogen.

(4) The customer charge for a renewable gas program may not exceed five percent of the amount charged to retail customers for natural gas unless the commission determines that a charge in excess of this amount is necessary under an approved clean heat transition plan.

(5) The environmental attributes of renewable ((~~natural~~)) gas provided under this section must be retired using procedures established by the commission and may not be used for any other purpose. The commission must approve procedures for banking and transfer of environmental attributes.

((~~(3) As used in this section, "renewable natural gas" includes renewable natural gas as defined in RCW 54.04.190. The commission may approve inclusion of other sources of gas if those sources are produced without consumption of fossil fuels.~~))

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Renewable hydrogen" has the same meaning as defined in RCW 54.04.190.

(b) "Renewable natural gas" has the same meaning as defined in RCW 54.04.190.

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

(1) A gas company may account for and defer for later consideration by the commission costs incurred in connection with major projects in a clean heat transition plan approved by the commission under section 2 of this act including, but not limited to, contracts to purchase renewable natural gas or renewable hydrogen. The deferral in this subsection begins on the date on which the resource begins commercial operation or the effective date of the renewable natural gas or renewable hydrogen purchase agreement and continues for a period not to exceed 36 months. However, if during such a period the gas company files a general rate case or other proceeding for the recovery of these costs, deferral ends on the effective date of the final decision by the commission in such a proceeding. Creation of such a deferral account does not by itself determine the actual costs of the resource or renewable natural gas or renewable hydrogen purchase agreement, whether recovery of any or all of these costs is appropriate, or other issues to be decided by the commission in a general rate case or other proceeding.

(2) The costs that a gas company may account for and defer for later consideration by the commission pursuant to subsection (1) of this section include all operating and maintenance costs, depreciation, taxes, and cost of capital associated with the applicable resource. These costs of capital include the gas company's authorized return on equity for any resource acquired or developed by the gas company.

**Sec.**  RCW 80.28.380 and 2019 c 285 s 11 are each amended to read as follows:

(1) Each gas company must identify and acquire all conservation measures that are available and cost-effective. Each company must establish an acquisition target every two years and must demonstrate that the target will result in the acquisition of all resources identified as available and cost-effective. The cost-effectiveness analysis required by this section must include the costs of greenhouse gas emissions established in RCW 80.28.395. The targets must be based on a conservation potential assessment prepared by an independent third party and approved by the commission. Conservation targets must be approved by order by the commission. The initial conservation target must take effect by 2022.

(2) After December 31, 2024, a gas company may not include in its conservation acquisition target or offer financial incentives to acquire any conservation measure that requires the installation of new gas-fired appliances, furnaces, water heaters, or other end-use equipment, unless the commission finds that the conservation measures are consistent with the gas company's clean heat transition plan and do not result in a net increase in greenhouse gas emissions over the expected useful life of the equipment being installed.

**Sec.**  RCW 80.28.110 and 2021 c 65 s 97 are each amended to read as follows:

Every ((~~gas company,~~)) electrical company, wastewater company, or water company, engaged in the sale and distribution of ((~~gas,~~)) electricity or water or the provision of wastewater company services, shall, upon reasonable notice, furnish to all persons and corporations who may apply therefor and be reasonably entitled thereto, suitable facilities for furnishing and furnish all available ((~~gas,~~)) electricity, wastewater company services, and water as demanded, except that a water company may not furnish water contrary to the provisions of water system plans approved under chapter 43.20 or 70A.100 RCW and wastewater companies may not provide services contrary to the approved general sewer plan.

**Sec.**  RCW 80.28.190 and 2003 c 53 s 383 are each amended to read as follows:

(1) No gas company shall, after January 1, 1956, operate in this state any gas plant for hire without first having obtained from the commission under the provisions of this chapter a certificate declaring that public convenience and necessity requires or will require such operation and setting forth the area or areas within which service is to be rendered; but a certificate shall be granted where it appears to the satisfaction of the commission that such gas company was actually operating in good faith, within the confines of the area for which such certificate shall be sought, on June 8, 1955. Any right, privilege, certificate held, owned or obtained by a gas company may be sold, assigned, leased, transferred or inherited as other property, only upon authorization by the commission. The commission shall have power, after hearing, when the applicant requests a certificate to render service in an area already served by a certificate holder under this chapter only when the existing gas company or companies serving such area will not provide the same to the satisfaction of the commission and in all other cases, with or without hearing, to issue the certificate as prayed for; or for good cause shown to refuse to issue same, or to issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted by the certificate such terms and conditions as, in its judgment, the public convenience and necessity may require.

(2) A gas company may not offer new service to any customer located outside of the area authorized in its approved certificate of public convenience and necessity as of July 1, 2022, unless the commission finds that the extension of service is consistent with the gas company's clean heat transition plan and does not result in a net increase in greenhouse gas emissions over the expected useful life of the gas plant to be installed in the expanded area.

(3) The commission may, at any time, by its order duly entered after a hearing had upon notice to the holder of any certificate hereunder, and an opportunity to such holder to be heard, at which it shall be proven that such holder willfully violates or refuses to observe any of its proper orders, rules or regulations, suspend, revoke, alter or amend any certificate issued under the provisions of this section, but the holder of such certificate shall have all the rights of rehearing, review and appeal as to such order of the commission as is provided herein.

((~~(3)~~)) (4) In all respects in which the commission has power and authority under this chapter applications and complaints may be made and filed with it, process issued, hearings held, opinions, orders and decisions made and filed, petitions for rehearing filed and acted upon, and petitions for writs of review to the superior court filed therewith, appeals or mandate filed with the supreme court or the court of appeals of this state considered and disposed of by such courts in the manner, under the conditions, and subject to the limitations and with the effect specified in the Washington utilities and transportation commission laws of this state.

((~~(4)~~)) (5) Every officer, agent, or employee of any corporation, and every other person who violates or fails to comply with, or who procures, aids or abets in the violation of any of the provisions of this section or who fails to obey, observe or comply with any order, decision, rule or regulation, directive, demand or requirements, or any provision of this section, is guilty of a gross misdemeanor.

((~~(5)~~)) (6) Neither this section, RCW 80.28.200, ((~~80.28.210,~~)) nor any provisions thereof shall apply or be construed to apply to commerce with foreign nations or commerce among the several states of this union except insofar as the same may be permitted under the provisions of the Constitution of the United States and acts of congress.

((~~(6)~~)) (7) The commission shall collect the following miscellaneous fees from gas companies: Application for a certificate of public convenience and necessity or to amend a certificate, twenty-five dollars; application to sell, lease, mortgage or transfer a certificate of public convenience and necessity or any interest therein, ten dollars.

NEW SECTION. **Sec.**  This act may be known and cited as the clean heat act.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**--- END ---**