AN ACT Relating to transforming the regulation of gas and
electrical companies toward multiyear rate plans and performance-
based rate making; amending RCW 80.28.068; adding new sections to
chapter 80.28 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. (1) To provide clarity and certainty to
stakeholders on the details of performance-based regulation, the
utilities and transportation commission 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 such a proceeding, the utilities and
transportation commission must consider factors including, but not
limited to, lowest reasonable cost planning, affordability, increases
in energy burden, cost of service, customer satisfaction and
engagement, service reliability, clean energy or renewable
procurement, conservation acquisition, demand side management
expansion, rate stability, timely execution of competitive
procurement practices, attainment of state energy and emissions
reduction policies, rapid integration of renewable energy resources,
and fair compensation of utility employees.

p. 1

ESSB 5295
In developing its policy statement, the utilities and transportation commission must in its proceeding allow for participation and consultation with regulated utilities, the attorney general's office, and other interested stakeholders including, but not limited to, residential, industrial, commercial, and low-income customers and organizations, as well as environmental or community organizations and stakeholders.

By January 1, 2022, the utilities and transportation commission shall notify the chairs and ranking members of the appropriate committees of the legislature of the process to date, the expected duration of, and work plan associated with this proceeding.

NEW SECTION. Sec. 2. A new section is added to chapter 80.28 RCW to read as follows:

(1) Beginning January 1, 2022, every general rate case filing of a gas or electrical company must include a proposal for a multiyear rate plan as provided in this chapter. The commission may, by order after an adjudicative proceeding as provided by chapter 34.05 RCW, approve, approve with conditions, or reject, a multiyear rate plan proposal made by a gas or electrical company or an alternative proposal made by one or more parties, or any combination thereof. The commission's consideration of a proposal for a multiyear rate plan is subject to the same standards applicable to other rate filings made under this title, including the public interest and fair, just, reasonable, and sufficient rates. In determining the public interest, the commission may consider such factors including, but not limited to, environmental health and greenhouse gas emissions reductions, health and safety concerns, economic development, and equity, to the extent such factors affect the rates, services, and practices of a gas or electrical company regulated by the commission.

(2) The commission may approve, disapprove, or approve with modifications any proposal to recover from ratepayers up to five percent of the total revenue requirement approved by the commission for each year of a multiyear rate plan for tariffs that reduce the energy burden of low-income residential customers including, but not limited to: (a) Bill assistance programs; or (b) one or more special rates. For any multiyear rate plan approved under this section resulting in a rate increase, the commission must approve an increase in the amount of low-income bill assistance to take effect in each year of the rate plan where there is a rate increase. At a minimum,
the amount of such low-income assistance increase must be equal to
double the percentage increase, if any, in the residential base rates
approved for each year of the rate plan. The commission may approve a
larger increase to low-income bill assistance based on an appropriate
record.

(3)(a) If it approves a multiyear rate plan, the commission shall
separately approve rates for each of the initial rate year, the
second rate year and, if applicable, the third rate year, and the
fourth rate year.

(b) The commission shall ascertain and determine the fair value
for rate-making purposes of the property of any gas or electrical
company that is or will be used and useful under RCW 80.04.250 for
service in this state by or during each rate year of the multiyear
rate plan. For the initial rate year, the commission shall, at a
minimum, ascertain and determine the fair value for rate-making
purposes of the property of any gas or electrical company that is
used and useful for service in this state as of the rate effective
date. The commission may order refunds to customers if property
expected to be used and useful by the rate effective date when the
commission approves a multiyear rate plan is in fact not used and
useful by such a date.

(c) The commission shall ascertain and determine the revenues and
operating expenses for rate-making purposes of any gas or electrical
company for each rate year of the multiyear rate plan.

(d) In ascertaining and determining the fair value of property of
a gas or electrical company pursuant to (b) of this subsection and
projecting the revenues and operating expenses of a gas or electrical
company pursuant to (c) of this subsection, the commission may use
any standard, formula, method, or theory of valuation reasonably
calculated to arrive at fair, just, reasonable, and sufficient rates.

(e) If the commission approves a multiyear rate plan with a
duration of three or four years, then the electrical company must
update its power costs as of the rate effective date of the third
rate year. The proceeding to update the electrical company's power
costs is subject to the same standards that apply to other rate
filings made under this title.

(4) Subject to subsection (5) of this section, the commission may
by order establish terms, conditions, and procedures for a multiyear
rate plan and ensure that rates remain fair, just, reasonable, and
sufficient during the course of the plan.
(5) Notwithstanding subsection (4) of this section, a gas or electrical company is bound by the terms of the multiyear rate plan approved by the commission for each of the initial rate year and the second rate year. A gas or electrical company may file a new multiyear rate plan in accordance with this section for the third rate year and fourth rate year, if any, of a multiyear rate plan.

(6) If the annual commission basis report for a gas or electrical company demonstrates that the reported rate of return on rate base of the company for the 12-month period ending as of the end of the period for which the annual commission basis report is filed is more than .5 percent higher than the rate of return authorized by the commission in the multiyear rate plan for such a company, the company shall defer all revenues that are in excess of .5 percent higher than the rate of return authorized by the commission for further determination by the commission in a subsequent adjudicative proceeding. If a multistate electrical company with fewer than 250,000 customers in Washington files a multiyear rate plan that provides for no increases in base rates in consecutive years beyond the initial rate year, the commission shall waive the requirements of this subsection provided that such a waiver results in just and reasonable rates.

(7) The commission must, in approving a multiyear rate plan, determine a set of performance measures that will be used to assess a gas or electrical company operating under a multiyear rate plan. These performance measures may be based on proposals made by the gas or electrical company in its initial application, by any other party to the proceeding in its response to the company's filing, or in the testimony and evidence admitted in the proceeding. In developing performance measures, incentives, and penalty mechanisms, the commission may consider factors including, but not limited to, lowest reasonable cost planning, affordability, increases in energy burden, cost of service, customer satisfaction and engagement, service reliability, clean energy or renewable procurement, conservation acquisition, demand side management expansion, rate stability, timely execution of competitive procurement practices, attainment of state energy and emissions reduction policies, rapid integration of renewable energy resources, and fair compensation of utility employees.

(8) Nothing in this section precludes any gas or electrical company from making filings required or permitted by the commission.
(9) The commission shall align, to the extent practical, the timing of approval of a multiyear rate plan of an electrical company submitted pursuant to this section with the clean energy implementation plan of the electrical company filed pursuant to RCW 19.405.060.

(10) The provisions of this section may not be construed to limit the existing rate-making authority of the commission.

Sec. 3. RCW 80.28.068 and 2009 c 32 s 1 are each amended to read as follows:

(1) Upon its own motion, or upon request by an electrical or gas company, or other party to a general rate case hearing, or other proceeding to set rates, the commission may approve rates, charges, services, and/or physical facilities at a discount, or through grants, for low-income senior customers and low-income customers. Expenses and lost revenues as a result of these discounts or grants shall be included in the company's cost of service and recovered in rates to other customers. The gas or electrical company 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 in advance of filing such proposals with the commission. In order to remove barriers and to expedite assistance, low-income discounts or grants approved under this section must be provided in coordination with community-based organizations in the gas or electrical company's service territory including, but not limited to, grantees of the department of commerce, community action agencies, and community-based nonprofit organizations. Nothing in this section may be construed as limiting the commission's authority to approve or modify tariffs authorizing low-income discounts or grants.

(2) Eligibility for a low-income discount rate or grant established in this section 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, or its successor program, for which eligibility does not exceed the low-income definition set by the commission pursuant to RCW 19.405.020. The public benefits may include, but are not limited to, assistance that provides cash, housing, food, or medical care including, but not limited to, temporary assistance for needy families, supplemental security income, emergency assistance to
elders, disabled, and children, supplemental nutrition assistance
program benefits, public housing, federally subsidized or state-
subsidized housing, the low-income home energy assistance program,
veterans' benefits, and similar benefits.

(3) Each gas or electrical company shall conduct substantial
outreach efforts to make the low-income discounts or grants available
to eligible customers and must provide annual reports to the
commission as to the gas or electrical company's outreach activities
and results. Such outreach: (a) Shall 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
bills for gas or electrical service; and (b) may be in the form of
any customary and usual methods of communication or distribution
including, without limitation, widely broadcast communications with
customers, direct mailing, telephone calls, electronic
communications, social media postings, in-person contacts, websites
of the gas or electrical company, press releases, and print and
electronic media, that are designed to increase access to and
participation in bill assistance programs.

(4) Outreach may include establishing an automated program of
matching customer accounts with lists of recipients of the means-
tested public benefit programs and, based on the results of the
matching program, to presumptively offer a low-income discount rate
or grant to eligible customers so identified. However, the gas or
electrical company must within 60 days of the presumptive enrollment
inform such a low-income customer of the presumptive enrollment and
all rights and obligations of a customer under the program, including
the right to withdraw from the program without penalty.

(5) A residential customer eligible for a low-income discount
rate must receive the service on demand.

(6) A residential customer may not be charged for initiating or
terminating low-income discount rates, grants, or any other form of
energy assistance.

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

(a) "Energy burden" has the same meaning as defined in
RCW 19.405.020.

(b) "Low-income" has the same meaning as defined in RCW
19.405.020.
(c) "Physical facilities" includes, but may not be limited to, a community solar project as defined in RCW 80.28.370.

NEW SECTION. Sec. 4. A new section is added to chapter 80.28 RCW to read as follows:

(1) A gas company or electrical company may enter into one or more written agreements with organizations that represent broad customer interests in regulatory proceedings conducted by the commission. The agreement must govern the manner in which financial assistance may be provided to the organization. More than one gas company, electrical company, or organization representing customer interests may join in a single agreement. Any agreement entered into under this section must be approved by the commission before any financial assistance is provided under the agreement, provided that the commission must consider whether the agreement is consistent with a reasonable allocation of financial assistance provided to organizations pursuant to this section among classes of customers of the gas or electrical company. Nothing in this subsection may be interpreted to prevent organizations representing vulnerable populations or highly impacted communities from qualifying as organizations that represent broad customer interests.

(2) Financial assistance made to an organization pursuant to this section is limited to funds contributed by the customer class or classes represented by such an organization. If an organization receiving funds pursuant to this section represents more than one class of customers of a gas or electrical company, then the funding available to such an organization must be equitably apportioned between or among the customer classes so represented.

(3) In administering an agreement entered into under subsection (1) of this section, the commission by rule or order may determine:

(a) The amount of financial assistance, if any, that may be provided to any organization;

(b) The manner in which the financial assistance is distributed;

(c) The manner in which the financial assistance is recovered in the rates of the gas company or electrical company under subsection (4) of this section; and

(d) Other matters necessary to administer the agreement.

(4) The commission shall allow a gas company or electrical company that provides financial assistance under this section to
recover the amounts provided in rates. The commission shall allow a
gas company or electrical company to defer inclusion of those amounts
in rates if the gas company or electrical company so elects. An
agreement under this section may not provide for payment of any
amounts to the commission.

(5) Organizations representing vulnerable populations or highly
impacted communities must be prioritized for funding under this
section.

NEW SECTION. Sec. 5. 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 ---