

FINAL BILL REPORT

ESHB 1589

C 351 L 24
Synopsis as Enacted

Brief Description: Supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future.

Sponsors: House Committee on Environment & Energy (originally sponsored by Representatives Doglio, Fitzgibbon, Berry, Alvarado, Bateman, Ramel, Peterson, Lekanoff, Hackney, Macri and Kloba).

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

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 investor-owned natural gas and electrical companies. The UTC must ensure rates charged by these companies are fair, just, reasonable, and sufficient.

Greenhouse Gas Emission Reduction Limits.

In 2020 legislation was enacted to update statewide greenhouse gas (GHG) emissions limits to 45 percent below 1990 levels by 2030, 70 percent below 1990 levels by 2040, and 95 percent below 1990 levels by 2050.

Clean Energy Transformation Act.

The Clean Energy Transformation Act (CETA), enacted in 2019, 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, the CETA requires electric utilities to eliminate coal-fired resources from their allocation of electricity by December 31, 2025, and to make all retail sales of electricity GHG neutral by January 1, 2030.

Integrated Resource Plans.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

All investor-owned and consumer-owned electric utilities in the state with more than 25,000 customers must develop integrated resource plans. An integrated resource plan must include a number of components, such as the mix of generating resources and conservation and efficiency resources that will meet current and projected needs at the lowest reasonable cost to the utility and its ratepayers. Integrated resource plans must be updated every two years. Investor-owned utilities must submit their plans to the UTC.

Multiyear Rate Plan.

Every general rate case filing of a gas or electric utility before the UTC must include a proposal for a multiyear rate plan. The UTC may approve, approve with conditions, or reject, a multiyear rate plan 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 multiyear rate plan proposal is subject to the same standards as other related filings, including that it be in the public interest and that the rates be fair, just, reasonable, and sufficient.

Clean Energy Action Plan.

An investor-owned utility must adopt a 10-year clean energy action plan for implementing the CETA at the lowest reasonable cost and at an acceptable resource adequacy standard that identifies the specific actions to be taken by the investor-owned utility consistent with its long-range integrated resource plan.

Certificates of Public Convenience and Necessity.

A natural gas utility may not operate a gas plant for hire in the state without having first obtained from the UTC 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.

"Gas plant" includes all real estate, fixtures, and personal property, owned, leased, controlled, used or to be used for or in connection with the transmission, distribution, sale or furnishing of natural gas, or the manufacture, transmission, distribution, sale or furnishing of other types of gas, for light, heat, or power.

Climate Commitment Act.

The Climate Commitment Act (CCA), enacted in 2021, directs the Department of Ecology (Ecology) to implement a cap-and-invest program to reduce GHG emissions consistent with the statewide statutory emissions limits.

Starting January 1, 2023, covered entities must either reduce their emissions or obtain allowances to cover any remaining emissions. The total number of allowances will decrease over time to meet statutory limits. Allowances can be obtained through quarterly auctions, or bought and sold on a secondary market. Some utilities and industries will be issued no-cost allowances. The cap and-invest-program must track, verify, and enforce compliance through the use of compliance instruments. A compliance instrument is an allowance or offset credit issued by Ecology or a trading program that has linked with

Washington's cap and-invest-program. One compliance instrument is equal to one metric ton of carbon dioxide equivalent.

Utility regulatory fees.

A combination utility must pay to the UTC a regulatory fee equal to 0.1 percent of the first \$50,000 of gross operating revenue, plus 0.4 percent of any gross operating revenue in excess of \$50,000.

Summary:

Integrated System Plan.

By July 1, 2025, the UTC must complete a rule-making proceeding to implement consolidated planning requirements for gas and electric services for large combination utilities. A large combination utility is a company that serves more than 800,000 retail electric customers and 500,000 retail gas customers in Washington as of June 30, 2024.

The consolidated planning process must incorporate the elements of individual plans and targets prepared pursuant to multiple statutory obligations, including:

- the Energy Independence Act;
- the Clean Energy Transformation Act;
- gas company conservation targets;
- electric utility resource plans and clean energy action plans;
- transportation electrification plans;
- multi-year rate plans; and
- pipeline safety and replacement plans.

By January 1, 2027, large combination utilities must file an integrated system plan. The UTC must set a timeline for future integrated system plans, and they must be updated on a regular basis. Large combination utilities that file integrated system plans are no longer required to file the individual plans that are required to be addressed in an integrated system plan. The statutorily required contents of any plan consolidated into an integrated system plan must be met by the integrated system plan.

The integrated system plan must, among other specified objectives:

- achieve the obligations of all plans filed under the integrated system plan;
- include scenarios that achieve gas utility and electric utility emissions reductions equal to their proportional share of emissions reductions under the statewide GHG emissions reduction limits;
- achieve two percent of electric load annually with conservation and energy efficiency resources, unless the UTC finds a higher target is cost effective, and unless the UTC determines that a lower target is acceptable because the requirement is neither technically nor commercially feasible;
- include low-income electrification programs;
- include a 10-year clean energy action plan for implementing CETA at the lowest

- reasonable cost and at an acceptable resource adequacy standard; and
- establish that, consistent with the CCA, a large combination utility has consigned to auction for the benefit of ratepayers the maximum permissible number of allowances and prioritize, first, revenues derived from the auction of allowances to programs that eliminate the cost burden for low-income ratepayers and, second, electrification programs benefitting residential and small commercial customers.

When evaluating the lowest reasonable cost of decarbonization measures in an integrated system plan, large combination utilities must apply a risk reduction premium that accounts for the applicable allowance ceiling price pursuant to the CCA.

A large combination utility must consider the social cost of GHG emissions, determined by the UTC, when developing integrated resource plans and clean energy action plans. A large combination utility must incorporate the social cost of GHG emissions as a cost adder when evaluating and selecting conservation policies, programs, and targets; developing integrated system plans and clean energy action plans; and evaluating and selecting intermediate-term and long-term resource options.

The UTC must establish, by rule, a cost test for emissions reduction measures achieved by large combination utilities to comply with state clean energy and climate policies. The cost test must be used for determining the lowest reasonable cost of decarbonization and electrification measures in integrated system plans at the portfolio level, and for any other purpose determined by UTC rules.

Integrated System Plans—Approval.

The UTC must approve, reject, or approve with conditions, an integrated system plan within 12 months of its filing. For good cause shown, the UTC may extend the time by 90 days for a decision on an integrated system plan filed on or before January 1, 2027. When determining whether to approve, reject, or approve a plan with conditions, the UTC must evaluate whether the plan is in the public interest. In doing so, the UTC must take into account the following factors, among others:

- the equitable distribution and prioritization of energy benefits and reduction of burdens to vulnerable populations, highlight-impacted communities, and overburdened communities;
- long-term and short-term public health, economic, and environmental benefits and the reduction of costs and risks;
- energy security and resiliency;
- whether the integrated system plan would achieve a proportional share of reductions in GHG emissions for each emissions reduction period on the gas and electric systems; and
- whether the integrated system plan would result in a reasonable cost to customers.

Accounting for Green House Gas Attributes.

Large combination utilities must work in good faith with other specified stakeholders to

develop market structures and mechanisms that account for the GHG attributes of wholesale electricity generation when such electricity is sold into organized markets.

Certificate of Necessity.

A large combination utility may submit an application to the UTC seeking a certificate of necessity in order to:

- construct a new renewable or nonemitting electric generation or transmission facility;
- make a significant investment in an existing renewable or nonemitting electric generation or transmission facility; or
- enter into a power purchase agreement for the purchase of renewable or nonemitting electric energy or capacity for a period of five years or longer.

In order to qualify for a certificate of necessity, the construction project, investment, or purchase must:

- cost \$100 million or more;
- require the utility to begin incurring significant portions of these costs more than five years before the facility is estimated to be in service; and
- allocate all or a portion of the costs to retail customers in this state.

Applications for a certificate of necessity must be submitted in conjunction with a large combination utility's integrated system plan, but a large combination utility may submit an application outside of the integrated system plan process for a time-sensitive project.

A large combination utility submitting an application for a certificate of necessity may request one or more of the following:

- a certificate of necessity that the power to be supplied or transmitted as a result of the proposed construction, investment or purchase is needed;
- a certificate of necessity that the size, fuel type, and other design characteristics of the existing or proposed electrical generation or transmission facility or the terms of the power purchase agreement represent the most appropriate and reasonable means of meeting that power need;
- a certificate of necessity that the estimated purchase or capital costs of and the financing plan for the existing or proposed electric generation or transmission facility, including costs of siting and licensing a new facility or the costs of power from the facility, are reasonable; or
- a request to (1) recognize, accrue, and defer the allowance for funds used during construction, and (2) recover financing interest costs in base rates on construction work in progress for capital improvements approved prior to the assets being considered used and useful.

The UTC may approve, reject, or approve with conditions an application if it is in the public interest and the construction, investment, or purchase complies with the UTC's administrative rules governing electric resource procurement. In a certificate of necessity, the UTC may specify the estimated costs for construction or investment in a facility, the

estimated price for a purchase of an existing facility or power pursuant to a power purchase agreement.

If the UTC denies any relief requested by a large combination utility the utility may withdraw its application for a certificate of necessity or proceed with the proposed construction, purchase, investment, or power purchase agreement under its ordinary course of business without a certificate of necessity and the assurance granted under a certificate of necessity.

The large combination utility must file reports to the UTC regarding the status of any project granted a certificate of necessity, including updates about costs and schedule at intervals determined by the UTC.

If the assumptions underlying an approved certificate of necessity materially change, a large combination utility must request, or the UTC or potential intervenor on its own motion may initiate, a proceeding to review whether it is reasonable to complete an unfinished project with a certificate of necessity. In the order approving the certificate of necessity, the UTC must list the assumptions underlying an approved certificate of necessity.

If the UTC finds that the completion of the project is no longer reasonable, it may modify or cancel approval of the certificate of necessity. The UTC may also allow recovery of reasonable costs already incurred or contracted for and limit future cost recovery to those that could not be reasonably avoided. The existing authority of the UTC to ascertain and determine the fair value for rate-making purposes of the property of any large combination utility is not amended, modified, or repealed.

A supplier of electric generation that seeks to provide electric generation energy or capacity resources to a large combination utility may submit a written proposal in lieu of a certificate of necessity as an alternative to the construction, investment, or purchase proposed under a certificate of necessity.

The entity submitting an alternative proposal to a certificate of necessity has standing to intervene and request reasonable discovery in the contested case proceeding. The UTC may consider the cost of the alternative proposal and specified qualifications of the submitting entity. However, this provision does not authorize the UTC to order or otherwise require a large combination utility to adopt any alternative proposal submitted.

Depreciation Schedules and Consolidated Energy Rate Base.

In any multiyear rate plan filed by a large combination utility, the combination utility must include an updated depreciation study that reduces the gas rate base consistent with an approved integrated system plan, and the UTC may adopt depreciation schedules that accelerate cost recovery and reduce rate base for any gas plant. In any multiyear rate plan, the UTC must approve a depreciation schedule that depreciates all gas plants in service as of July 1, 2024, no later than January 1, 2050. When considering future multiyear rate

plans, the UTC may adjust depreciation schedules for gas plants to address affordability, as long as all gas plants in service as of July 1, 2024, are fully depreciated by 2050.

In any multiyear rate plan proposed by a combination utility, the utility may propose a merger of the regulated gas and electric operation into a single rate base. The UTC may approve the merger of electric and gas rate bases, if it finds the proposal will result in a net benefit to customers of the combination utility.

For a combination utility that has merged gas and electricity rate bases, the utility must monetize benefits received from any applicable federal and state tax and other incentives for the benefit of customers. These benefits must be separately accounted for and amortized on a schedule designed only to mitigate the rate impacts to customers after the rate bases are combined.

Rebates, Incentives, and Education.

Beginning January 1, 2025, no large combination utility may offer any form of rebate, incentive, or other inducement to residential gas customers to purchase any natural gas appliance or equipment. Until January 1, 2031, this requirement does not apply to:

- electric heat pumps that include natural gas backups; or
- commercial and industrial customers.

Additionally, beginning January 1, 2031, a large combination utility may not include electric heat pumps with gas backups as part of its electrification programs.

By November 1, 2025, a large combination utility must initiate and maintain an effort to educate its ratepayers about the benefits of electrification and the availability of rebates, incentives, or other inducements to purchase energy efficient electric appliances and equipment.

Geographically Targeted Electrification.

Geographically targeted electrification is defined as the transition of a portion of a large combination utility's gas customers with an intent to electrify heating loads of these customers and, in conjunction, to reduce capital and operational costs of gas operations.

When an integrated system plan proposes geographically targeted electrification of all or a portion of a large combination utility's service area and one or more consumer-owned utilities provide electric service to the same service area, the integrated system plan must include a process for outreach to all of these consumer-owned utilities.

Consumer-owned utilities are encouraged to:

- work with large combination utilities providing gas service within their service areas to identify opportunities for electrification;
- account for the costs of GHG emissions, set total energy savings and GHG emissions reduction goals, and develop and implement electrification programs in collaboration

- with combination utilities providing service; and
- include an electrification plan or transportation electrification program as part of collaboration with combination utilities.

Project Labor Agreements.

For any project in an integrated system plan that is part of a competitive solicitation and costs more than \$10 million, the large combination utility must certify to the UTC that any work on the project will include community workforce agreements or project labor agreements, the payment of area standard prevailing wages, and apprenticeship utilization requirements.

The project labor agreement provisions do not supersede current electrician licensing laws or the Washington Industrial Safety and Health Act.

Rulemaking.

The UTC may adopt rules to ensure the proper implementation and enforcement of the act.

Utility Regulatory Fees.

A combination utility must pay to the UTC a regulatory fee equal to 0.1 percent of the first \$50,000 of gross operating revenue, plus 0.5 percent of any gross operating revenue in excess of \$50,000.

Title.

The act may be known and cited as the Washington Decarbonization Act for Large Combination Utilities.

Severability Clause.

The act contains a severability clause, which provides that if any provision of the 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.

Emergency Clause.

The act contains an emergency clause and takes effect immediately.

Votes on Final Passage:

House	52	44	
House	52	45	
Senate	27	22	(Senate amended)
House	50	45	(House concurred)

Effective: March 28, 2024