

# SENATE BILL REPORT

## ESHB 1589

---

---

As of March 17, 2023

**Title:** An act relating to supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future.

**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).

**Brief History:** Passed House: 3/6/23, 52-44.

**Committee Activity:** Environment, Energy & Technology: 3/17/23.

### Brief Summary of Bill

- Prohibits gas companies serving more than 500,000 retail gas customers in Washington from extending gas service to any commercial or residential location that did not receive or file an application for gas service as of June 30, 2023.
- Provides that the prohibition on the extension of gas service does not apply to manufacturing facilities and that other types of facilities, including medical, correctional, and military, are exempt until January 1, 2040.
- Establishes a process for the Utilities and Transportation Commission (UTC) to consolidate a combination utility's planning requirements for both gas and electric operations into a single integrated system plan.
- Requires a combination utility to file an integrated system plan (ISP) by January 2026, and every four years thereafter, that achieves specified objectives.
- Directs the UTC to take into account public interest factors when

---

*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.*

approving an ISP and establish by rule a cost test for emissions reduction measures.

- Authorizes the UTC to adopt depreciation schedules and approve the merger of electric and gas rate bases of a combination utility if specific conditions are met.
- Establishes labor requirements for any project in an ISP with a cost of more than \$10 million.
- Authorizes the UTC to assess a fee on combination utilities of 0.5 percent of intrastate gross operating revenues.

---

## SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

**Staff:** Kimberly Cushing (786-7421)

**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 four natural gas companies. The UTC must ensure rates charged by these companies are fair, just, reasonable, and sufficient. In 2021, the Legislature directed every gas or electric utility filing a general rate case to include a proposal for a multiyear rate plan (MYRP) beginning January 1, 2022.

The UTC is funded almost entirely through fees assessed to regulated companies each May based on their annual intrastate gross revenues. Under current law, every electric, natural gas, telecommunications, wastewater, and water company regulated by the UTC must pay a fee equal to 0.4 percent of its intrastate gross operating revenues in excess of \$50,000. The UTC may, by rule, set minimum fees that do not exceed the cost of collecting the fees. The UTC may also waive any or all of the minimum fees.

Greenhouse Gas Emission Reduction Limits. In 2020, the Legislature updated statewide greenhouse gas (GHG) emissions reduction limits to 45 percent below 1990 levels by 2030, 70 percent below 1990 levels by 2040, and 95 percent below 1990 levels, as well as net zero emissions, by 2050.

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

Climate Commitment Act. In 2021, the Legislature passed the Climate Commitment Act (CCA) and directed the Department of Ecology (Ecology) to implement a cap and invest program (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 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 Program. One compliance instrument is equal to one metric ton of carbon dioxide equivalent.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Striking Amendment):** Prohibition on Gas Service Expansion. A gas company that serves more than 500,000 retail gas customers in Washington is prohibited from furnishing or supplying gas service, instrumentalities, and facilities to any commercial or residential location that did not receive gas service or file an application for gas service as of June 30, 2023.

The prohibition does not apply to facilities engaged in specified manufacturing processes, described by the North American Industry Classification System (NAICS) codes beginning with 31, 32, or 33.

Until January 1, 2040, the prohibition does not apply to:

- medical care facilities or correctional facilities required by federal or state law to have redundant emergency backup power generation systems; and
- facilities owned or operated by the U.S. Department of Defense that use reciprocating internal combustion engine generators that support energy resilience, energy security, and energy efficiency initiatives.

After June 30, 2023, a gas company is exempt from the statutory obligation to furnish gas to any person or corporation who applies for gas service.

Utilities and Transportation Commission Review of Planning Processes and Requirements for Combination Utilities. To reduce regulatory barriers, achieve equitable and transparent outcomes, and integrate planning requirements, the UTC may consolidate a combination utility's planning requirements for both gas and electric operations into a single integrated system plan (ISP) that is approved by the UTC.

To achieve the goals of consolidating planning requirements, the UTC may extend or modify the deadlines for combination utilities for the following plans: integrated resource

plans, clean energy action plans, Energy Independence Act (EIA) plans, clean energy implementation plans under CETA, and gas company conservation target plans. The UTC may waive the requirements for renewable portfolio standards under the EIA.

By January 1, 2024, the UTC must initiate a rule-making proceeding to implement consolidated planning requirements for gas and electric services for combination utilities, including but not limited to, plans required under the IRP process, EIA, CETA, CCA, gas conservation targets, existing pipeline safety and replacement, and planning requirements ordered by the UTC, such as electrification and decarbonization plans.

In the order adopting rules or issuing a policy statement approving the consolidation of planning requirements, the UTC must include a compliance checklist and any additional guidance to ensure the ISP meets the minimum requirements of all relevant statutes and rules. For all utility plans due before completing the process to consolidate planning requirements, the UTC:

- must consider whether the plan proposes a cost-effective strategy for decarbonization, considering costs, reasonable alternatives, and long-term risks to customers; and
- may consider issue interim guidance.

Once a combination utility's ISP is approved by the UTC, the utility is subject to the emission reduction targets of the approved ISP.

A combination utility must consider the social cost of GHG emissions, determined by the UTC, when developing IRPs and clean energy action plans. ISPs submitted to the UTC by a combination utility may be a basis to bring legal action against electric utilities.

Integrated System Plans. Subject to approval by the UTC, by January 1, 2026, and every four years thereafter, combination utilities must file ISPs for both gas and electric operations, or a single ISP upon the direction of the UTC considering the merger of a combination utility's gas and electric rate base, which:

- achieve its obligations under current law for IRPs, CETA, EIA, CCA, gas conservation, and existing pipeline safety and replacement plans;
- achieve gas utility and electric utility emissions reductions equal to their proportional share of emissions reductions under the statewide GHG emissions reduction limits;
- include emissions reduction targets for both gas and electric operations that account for interactive effects and reflect the use of best practices for GHG accounting in electricity markets;
- achieve 2 percent of electric load annually with conservation and energy efficiency resources, unless the UTC finds a higher target is cost effective;
- achieve annual demand response equal to or greater than 10 percent of winter and summer peak electric demand; unless the UTC finds a higher target is cost effective;
- achieve all cost-effective electrification of end uses currently served by natural gas;
- maximize use of revenues generated from consigning allowances under the CCA; and
- comply with any other obligations under law.

The UTC must approve, reject, or approve with conditions an ISP, including the required elements of an IRP, within 12 months of its filing. The UTC may extend the time for a decision on an ISP for good cause shown. Once an ISP is approved, the combination utility must include the approved ISP, including the targets developed and approved in the plan, in a proposal for a MYRP.

When determining whether to approve, reject, or approve a plan with conditions, the UTC must evaluate whether the plan is in the public interest consistent with the provisions of CETA and MYRPs. In doing so, the UTC must take into account the following factors for whether:

- specific actions in the ISP achieve reductions in GHG emissions for each emissions reduction period, the required energy efficiency and demand response targets, and the emissions reductions due to required electrification;
- the ISP demonstrates progress toward meeting the emissions reduction targets;
- investments in the ISP prioritize serving low-income customers, vulnerable populations, and overburdened communities;
- the ISP and specific actions in the plan are cost-effective, result in a reasonable cost to customers, and project the rate impacts of actions or investments on customers;
- the ISP maintains system reliability and reduces long-term costs and risks to customers; and
- the ISP will lead to new construction career opportunities and prioritizes a transition of natural gas and electricity workers to perform work on construction and maintenance of new and existing renewable energy infrastructure.

Cost Test. The UTC must establish by rule a cost test for emissions reduction measures taken by 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 ISPs, at the portfolio level, by combination utilities and for any other purpose determined by UTC rules.

Recovery of Costs for an Integrated System Plan. The UTC may approve, reject, or approve with conditions, an ISP that exceeds the cost test and risk reduction premium requirements only if it finds that the plan is in the public interest; costs to customers are fair, just, reasonable, and sufficient; the plan identifies the rate impacts on customers; the plan mitigates rate increases for low-income customers; and the benefits of the plan, including the costs of GHG emissions, exceed the costs.

When evaluating the lowest reasonable cost of decarbonization measures in a ISP, combination utilities must apply a risk reduction premium that accounts for the applicable allowance ceiling price pursuant to the CCA. The risk reduction premium is necessary to ensure that a combination utility is making appropriate long-term investments to mitigate against the allowance and fuel price risks to its customers.

The portfolio of electric energy or capacity necessary to meet the requirements of CETA acquired by a combination utility with a UTC approved ISP plan is subject to the following requirements:

- 50 percent of the total capacity and energy necessary to meet the requirements of CETA must be supplied through the execution of power purchase agreements (PPAs) for a term longer than three years with third parties, which allows the combination utility rights to dispatch, operate, and control the solicited resource in the same manner as its own generating resources; and
- 50 percent of the total capacity and energy necessary to meet the requirements of CETA must be supplied from resources owned and operated by the combination utility or an affiliate.

Upon UTC approval and prudence determination of a combination utility's PPA for a term longer than three years, the UTC must allow the combination utility to:

- recover the cost of purchases of energy, capacity, and environmental attributes from renewable resources under the PPA; and
- earn a return on such purchases in an amount determined by a specific equation.

Depreciation Schedules and Single Energy Rate Base. In any MYRP filed by a combination utility, the combination utility may include, and the UTC may adopt, depreciation schedules that accelerate cost recovery for any gas plant. The UTC may extend the suspension date for a MYRP proposed by a combination utility for good cause shown.

In any MYRP 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 from any applicable federal and state tax 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.

Project Labor Agreements. For any project in an ISP that is part of a competitive solicitation and costs more than \$10 million, the combination utility must certify to the UTC that any work on the project will be constructed by contractors with community workforce agreements or project labor agreements, the payment of area standard prevailing wages, and apprenticeship utilization requirements, provided the following apply:

- the combination utility and contractors have the absolute right to select any qualified and responsible bidder for the award of contracts on a specified project without referring to existing agreements, and a successful bidder is designated only when a bidder is willing, ready, and able to become a party to an agreement, signs a letter of assent, and complies with such an agreement; and
- it is a self-contained, stand-alone agreement, and the contractors are not obligated to



sign any other local, area, or national agreement.

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

Electric Utilities. Investor-owned and consumer-owned utilities are encouraged to:

- work with combination utilities providing gas service within their service areas to identify opportunities for electrification and the provision of energy peaking service by the combination utility;
- 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.

Calculating the Emissions Baseline. When calculating an emissions baseline and projected cumulative emissions of an emissions reduction period, a combination utility must include emissions from methane leaked from the transportation and delivery of gas from the distribution and service pipelines to the customer and from the delivery of gas to other gas companies, and GHG emissions from combustion of gas by natural gas customers not subject to federal GHG emissions reporting and excluding transport customers.

When calculating an emissions reduction target, a combination utility must show its emissions baseline and projected cumulative GHG emissions for each emissions reduction period and that the total emissions reduction are projected to make progress toward the identified emissions reduction targets identified in the applicable ISP.

Fees. A combination utility must pay a 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. The UTC may waive any or all of the minimum fee for combination utilities.

Definitions. Several terms are defined including a combination utility, which is a public service company that is both an electrical company and a gas company that serves more than 800,000 retail electric customers and 500,000 retail gas customers in Washington as of June 30, 2023.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony On Proposed Striking Amendment:** PRO: The bill is only intended for Puget Sound Energy customers. We must ensure rate payers are put first and that the UTC will continue to have oversight. The striker framework balances decarbonization efforts and meaningful reductions. We are confident the UTC can ensure there will be an effective process for a combination utility to meet state requirements for carbon reductions and that we ensure fair, just, reasonable, and equitable means of recovery. Under the bill, the UTC has the tools and to manage cost recovery, set the company's rate of equity, and ensure the company does not exceed an authorized rate of return. Bill corresponds well with the federal government's infrastructure investment act. The utility can manage the costs associated with this bill. We appreciate the bill commits labor provisions to law. The utility's electrification plan includes heating systems that can be installed by our members. This is an integrated approach for CETA and the CCA. Incentives are critical to manage a transition. We are supportive of a consolidation of planning processes and are just as concerned about cost as everyone.

CON: This ban would happen in 105 days. We have concerns with costs and the rest of the bill. We need a gas flame for cooking otherwise we cannot provide our product for customers. Our menu depends on gas. We use natural gas in stores as a backup and would like an exception for this. The bill has an unintended consequence that would prevent alternative fuel providers from utilizing the gas pipeline. We are asking for an exemption for any project that can decarbonize the pipeline. This is a continuation of voters rejecting the carbon tax in 2019. Section 2(b) has a significant impact. Warehouses are difficult to move from natural gas to electric heat and the costs are passed back to tenants. There are supply chain realities, for example transformers appear to be unavailable. In Section 5(4) there is ambiguity about who the bill applies to. Take a more cost-sensitive approach and convert to a peak heating resource. We oppose any attempt to limit natural gas. There is uncertainty regarding cost shifts and the bill does not go far enough to protect ratepayers from costs. The bill goes beyond the state energy code. Gas backup is often necessary when the power goes out. Competition leads to lower costs for customers. We are baffled that the Legislature is giving the company a monopoly over 50 percent of the market. Independent power producers compete against each other to get lowest cost to consumers. Get housing infrastructure in place before moving to carbon neutral. There are a lack of meaningful cost protections for customers. Pre-approval is to the detriment of customers. It costs more to electrify a new home. The project labor agreements are burdensome for minority and women-owned construction companies.

OTHER: We are concerned this bill increases shareholder profits. We have equity concerns and want to remove the 50 percent utility ownership mandate and put ownership in hands of the UTC. There is a cost to electrification. Add language to balance the interest of company with customers. Remove the rate of return language and prioritize auction revenues. Most new homes and buildings are being built all electric and looking for heat pumps. As customers leave gas, give the utility tools and plans for managing the transition. We are working on additional amendments. We support this bill with customer protections. The bill has a strong focus on building electrification. We are concerned about the intent language, it



has become anti-natural gas, and is more about fuel switching than decarbonization. The use of RNG is an effective way to decarbonize.

**Persons Testifying:** PRO: Representative Beth Doglio, Prime Sponsor; Anna Lising, Governor's Office; Dave Danner, Utilities & Transportation Commission; John Traynor, Washington State Labor Council, AFL-CIO; Sam Hem, Northwest Regional Council of Sheet Metal, Air, Rail, and Transportation Workers Local 66; Matthew Hepner, IBEW/CEWW; Isaac Kastama, Clean & Prosperous Washington; Ken Johnson, Puget Sound Energy.

CON: Ryan Kenny, Clean Energy; Oliver Bangera, Bangera Restaurant Group; Ryo Izawa, Samurai Noodle Inc; Samantha Louderback, Washington Hospitality Association; Katie Beeson, Washington Food Industry Association (WFIA); Tim Eyman, Concerned citizen; Jeff Pack, Me; Greg Hanon, NAIOP; Edwin Andrews; Carolyn Logue, NW Hearth, Patio & Barbecue Assn and WA Air Conditioning Contractors; Daimon Doyle, Doyle Construction; Andrea Hochleutner, Central WA Homebuilders Association; Scott Hazelgrove, Master Builders of King and Snohomish Counties; Josie Cummings, Building Industry Association of Washington; Spencer Gray, Northwest & Intermountain Power Producers Coalition; John Rothlin, Avista; Peter Godlewski, Association of Washington Business; Sommer Moser, Alliance of Western Energy Consumers; Michele Willms, Associated General Contractors (AGC); Jeff Gombosky, Renewable Northwest.

OTHER: Nicolas Garcia, WPUDA; Yochi Zakai, The Energy Project; John Seng, Spark Northwest; Linda Garcia, Washington State Community Action Partnership; Charlie Brown, NW Natural & Cascade Natural Gas; Lauren McCloy, NW Energy Coalition; Kelly Hall, Climate Solutions; Kiki Velez, Natural Resources Defense Council (NRDC).

**Persons Signed In To Testify But Not Testifying:** No one.