

SENATE BILL REPORT

ESHB 2131

As of February 23, 2024

Title: An act relating to promoting the establishment of thermal energy networks.

Brief Description: Promoting the establishment of thermal energy networks.

Sponsors: House Committee on Environment & Energy (originally sponsored by Representatives Ramel, Slatter, Simmons, Reed, Riccelli, Doglio and Hackney).

Brief History: Passed House: 2/9/24, 97-0.

Committee Activity: Environment, Energy & Technology: 2/20/24 [DP-WM, DNP, w/oRec].

Ways & Means: 2/23/24.

Brief Summary of Bill

- Authorizes gas and most electrical companies to own or operate thermal energy networks (networks), subject to oversight from the Utilities and Transportation Commission (UTC) for investor-owned companies, or a governing body for others.
- Establishes a network pilot project program for gas companies to be administered by the Department of Commerce according to specified criteria.
- Amends a gas company's obligation to serve to include providing thermal energy through a network, upon petition of a gas company and subject to UTC approval.
- Authorizes a gas company or combination utility to combine gas operations and networks into a single rate base with approval from the UTC.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

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.

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Nguyen, Chair; Lovelett, Vice Chair; MacEwen, Ranking Member; Lovick, Trudeau and Wellman.

Minority Report: Do not pass.

Signed by Senator Boehnke.

Minority Report: That it be referred without recommendation.

Signed by Senator Short.

Staff: Kimberly Cushing (786-7421)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Michael Bezanson (786-7449)

Background: Thermal Energy. Thermal energy is heat or cold in the form of steam, heated or chilled water, or any other heated or chilled liquid or gas. A thermal energy system provides thermal energy for space heating, space cooling, or process uses from a central plant or combined heat and power facility, and that distributes the thermal energy to two or more buildings through a network of pipes.

Utilities and Transportation Commission. The Utilities and Transportation Commission (UTC) regulates the rates, services, and practices of privately-owned utilities and transportation companies. Among the companies regulated by the UTC are investor-owned electrical and natural gas companies. The UTC must ensure rates charged by these companies are fair, just, reasonable, and sufficient. The UTC also oversees gas pipeline safety in the state.

Electrical and Gas Companies. Under current law, an electrical company includes every corporation, company, association, partnership, city, and town—owning, operating, or managing any electrical plant in Washington. A gas company includes every corporation, company, association, partnership, city, and town—owning, controlling, operating, or managing any gas plant in Washington.

Thermal Energy Company. A thermal energy company develops, produces, transmits, distributes, delivers, furnishes, or sells to the public thermal energy services for any beneficial use other than electricity generation. In Washington, these companies are exempted from the UTC's oversight.

Summary of Bill: Thermal Energy Networks. Thermal energy networks are all real estate, fixtures, and property involved in a utility-scale project to supply thermal energy, which is piped noncombustible fluids that transfer heat into and out of buildings for the purpose of eliminating any on-site greenhouse gas emissions from heating and cooling, improving

energy efficiency, or both. A thermal energy network may not rely on combustion to create thermal energy, except for emergency backup purposes.

Authorization for Thermal Energy Networks. Any gas company and any electrical company may deploy a thermal energy network (network) within their service territories.

An investor-owned gas or electrical company must submit the project for review and validation of costs assessments to the UTC. If the UTC validates the cost assessments selection of a network, the company may propose to recover the costs of building and operating the project from ratepayers in a rate case. The UTC's validation of the utility's costs assessments does not constitute a prudency finding or a finding that the resource is used and useful for rate-making purposes.

A Public Utility District may own, operate, or manage a network in Washington, provided it submits the project for review and approval to its governing body.

Thermal energy companies already exempt from UTC oversight are not subject to UTC regulation of networks.

Thermal Energy Network Pilot Project Program. A network pilot project program is established for gas companies. The UTC must provide project approval and the Department of Commerce (Commerce) must award grants for pilot projects, subject to the availability of amounts appropriated.

Priority is given to a gas company for developing network pilot projects in its service territory. The gas company must provide in writing its intention to deploy a pilot project in a specific location within 12 months of the effective date of this bill and then deploy a pilot project within 30 months to maintain its priority. The gas company may request, and the UTC may approve, an extension of this deadline if the UTC determines the gas company is making substantial progress toward deploying its network. The UTC must provide a public comment period that is no less than 30 days for network pilot projects under review.

When submitting a network pilot project to the UTC to review, a gas or electrical company must include specific metrics to evaluate the pilot project. These metrics are intended to inform the UTC's rulemaking and ratemaking and inform future standardized metrics that the UTC might adopt.

If an existing thermal energy company has deployed or is developing a network in a specific location, the UTC may choose not to provide priority to the gas company for that location.

Commerce may award grant funding to offset the gas company's costs necessary to build and operate the pilot project. The grant amount may not exceed the difference between the company's lowest reasonable cost resources under current business practices and the costs of building and operating the network pilot project. The UTC must determine this cost

difference and provide the amount to Commerce for making the grant. Gas companies receiving a grant from Commerce must coordinate with other grant awardees, the UTC, Commerce, and consultants with network expertise to ensure that the pilot projects are diverse and inform the UTC's decisions in the network proceeding on the various ownership, market, and rate structures.

When approving a network pilot project and awarding grants, respectively, the UTC and Commerce must consider the following criteria:

- the number and type of customers served by the project, including the percent of low-income customers;
- the use of existing gas workforce and other labor considerations;
- the ability to maintain infrastructure safety and reliability;
- the ability to meet 100 percent of the customers' demand for space heating with the project;
- whether the project benefits customers, communities, and society at large, including public health benefits in disadvantaged communities and increased affordability of thermal energy options;
- whether the project furthers state climate justice and emissions reduction requirements; advances methods for making building electrification equitable and affordable; and develops useful information for the UTC's network rules;
- coordination with electric utilities and enrollment in an electric utility demand response program;
- the potential to both enable gas pipe decommissioning and supplant the need for replacing gas pipes; and
- whether the network is a distributed system that uses ambient temperature fluid and high-efficiency heat pump equipment in each building in the network.

The UTC and Commerce may also consider the following criteria when approving a network pilot project or providing grant funding:

- greenhouse gas emissions reductions;
- the use of waste heat, ground-source heat, geothermal resources, other nonfossil fuel and noncombustion sources, and electric heat pumps;
- the ability to provide the project customers' hot water and cooling demands; and
- the consideration of options to provide nonemitting thermal energy storage.

Commerce must also consider any UTC finding or conclusions regarding the network pilot project and allocated available funds to prioritize projects based on their cost-effectiveness and geographic diversity.

Request for Proposals for Network Pilot Projects. Prior to deploying a network pilot project, an investor-owned gas company must issue a request for proposals (RFP) for the project. When reviewing the proposals, the company must compare the cost of deployment of a proposed network pilot project to the lowest reasonable cost alternative resource for heating services under the gas company's current business practices. The cost comparison must be

shared with the UTC and considered by Commerce in calculating grant awards.

A gas company may petition the UTC to use an alternative process to estimate the cost to deploy and network pilot project, and the UTC must review the petition and accept, deny, or accept with modifications.

Obligation to Serve. A gas company's statutory obligation to furnish gas to any customer who applies for gas service that has access to the gas company's thermal energy network may be met by providing thermal energy through a nonemitting thermal energy network, exclusively upon petition of a gas company and subject to the UTC's approval.

Gas and Thermal Energy Rate Base Merger. In a multiyear rate plan proposed by a gas company or combination utility, the company may propose a merger into a single rate base of its regulated gas operations with its operation of a nonemitting thermal energy network. The UTC may approve the rate base merger, if it finds that it is in the public interest. The UTC must avoid commercial and residential rate classes subsidizing industrial rate classes. A company that has merged rate bases must monetize benefits from any federal and state tax or other incentives for the benefit of customers. These benefits must be separately accounted for and amortized on a schedule designed to mitigate the rate impacts to customers.

Evaluation of Pilot Projects. The Joint Legislative Audit and Review Committee must evaluate the implementation of the network pilot project program and report to the Legislature no later than three years after the effective date of the act.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Environment, Energy & Technology): No public hearing was held.

Persons Testifying (Environment, Energy & Technology): N/A

Persons Signed In To Testify But Not Testifying (Environment, Energy & Technology): N/A

Staff Summary of Public Testimony (Ways & Means): PRO: This bill would expand the charter for utilities in the state to sell thermal energy. Thermal energy networks (TEN) rely on tried and true technology and emit zero pollution, are highly efficient, and can offer

a reprieve to expanding the electrical grid as our state decarbonizes heating and expands the use of air conditioning. TEN leverages utilities' access to investment capital and operations expertise and keep pipeline workers employed for generations. This bill offers state gas utilities a viable path for decarbonizing gas heating and provides a path to benefit families with clean, accessible, and affordable heating and cooling solutions.

TENs are an underutilized resource for cost effectively decarbonizing heating and cooling. This bill builds upon the state's existing expertise in engineering, design and skilled trades. Recent amendments have improved upon the bill to allow some emergency combustion for backup.

OTHER: This bill is a good idea, but there are concerns with the ratepayer language in Section 7. That language restricts UTC's ability to socialize costs from residential and commercial individuals to industrial rate payers. The UTC already has a robust rate making process. The language implies that you can subsidize industrial rate payers for the benefit of residential and commercial payers. We are just asking for a level playing field. This same language is in HB 1589 that was just pulled to the floor which also should be amended.

Persons Testifying (Ways & Means): PRO: Laura Feinstein, Sightline Institute; Bonnie Frye Hemphill, UMC, Inc..

OTHER: Brandon Houskeeper, Alliance of Western Energy Consumers.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.