Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Environment & Energy Committee

HB 1656

Brief Description: Authorizing electrical companies to securitize certain wildfire-related costs to lower costs to customers.

Sponsors: Representatives Abbarno, Doglio, Steele, Fey, Dye, Mena, Barnard, Klicker, Ley, Stuebe, Ybarra, Volz, Springer, Scott, Parshley and Graham.

Brief Summary of Bill

- Allows electrical, gas, and water companies to apply to the Utilities and Transportation Commission (UTC) for a financing order authorizing the utility to issue bonds to recover certain costs related to emergency events and disasters.
- Authorizes the UTC to issue a financing order, if certain specific conditions are met, to allow recovery bondable rate recovery expenditures, issue bonds, and impose separate rate recovery charges on customers.
- Pledges the state to not impair any financing orders or rate recovery charges until all payments on the bonds and financing costs are fully paid.

Hearing Date: 2/10/25

Staff: Matt Sterling (786-7289).

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,

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including electric investor-owned utilities. The UTC must ensure rates charged by these companies are fair, just, and reasonable.

Electric Utility Wildfire Mitigation Plans.
In 2023 the Legislature directed The Department of Natural Resources, in consultation with the Energy Resilience and Emergency Management Office, to contract with a consultant to recommend an electric utility wildfire mitigation plan format and identify a list of elements to be included in the plans by April 1, 2024. Each electric utility was required to review, revise, and adopt its plan by October 31, 2024, and every three years thereafter. Each electric investor-owned utility must submit its plan to the UTC for review, and the UTC will confirm whether or not the plan contains the recommended elements. The UTC is not liable for a utility's implementation of its plan. Each electric investor-owned utility may pursue recovery of costs and investments associated with a plan through a rate case proceeding.

Conservation Bonds.
Current law authorizes water conservation measures and services that are intended to improve the efficiency of electricity, gas, or water end use to be bondable conservation investments. With approval by the UTC, investor-owned utilities may issue conservation bonds. Electric investor-owned utilities may pledge conservation investment assets as collateral for conservation bonds. Conservation investments may be bondable if the UTC determines that the expenditures were incurred in conformance with a conservation service tariff, and that the expenditures were prudent and that financing through these bonds is more favorable to the customer than other alternatives.

The UTC reviews and approves conservation tariffs, and has the same authority over a proposed conservation tariff as it has over any other schedule which might change rates or charges. A utility applies to the UTC for a determination as to whether any specific costs incurred constitute an approved conservation investment. Approved bondable conservation investments are included in the utility's rate base. The UTC may require that the unamortized portion of bonded conservation investments provided to a customer be removed from the rate base of the company if that customer ceases to purchase utility services from the company. The UTC may require that contracts for conservation measures or services between a company and its customers include provisions which require the customer to repay any unrecovered portion of a conservation expenditure made for the benefit of the customer, if the customer ceases to purchase utility services from the company.

Summary of Bill:

State Pledge Not to Impair.
It is the policy of the state to encourage the financing of certain costs and expenses by electrical, gas, and water companies at the lowest, reasonable, and prudent cost to utility customers. The state pledges and agrees not to impair the provisions that authorize the UTC to:
- issue financing orders that create rate recovery assets;
- establish rate recovery charges that customers cannot avoid; and

- provide rights and remedies to utilities, bondholders, and financing parties until all payments on the bonds and financing costs are fully paid.

Bondable Rate Recovery Expenditures and Rate Recovery Assets.
A utility may finance or refinance bondable rate recovery expenditures (bondable expenditures) with the approval of the UTC. Bondable expenditures are all of a utility's costs and expenditures that have been incurred, or will be incurred by a certain date, associated with an event that is the subject of a federal or state declaration of disaster or emergency such as:
- severe weather;
- catastrophic wildfire;
- earthquake;
- pandemic; or
- other event that causes or threatens to cause widespread loss of life, injury to person or property, human suffering, or financial loss—including the costs and expenses owed by a utility to its customers or others as a result of the event.

Bondable expenditures do not include civil or criminal fines or penalties.

The utility may grant a security interest in rate recovery assets as collateral for rate recovery bonds. A rate recovery asset is the utility's right to recover from customers the bondable expenditures, related costs, and expenses approved in a financing order including the right to:
- impose charges authorized under a financing order or obtain periodic adjustments of charges; and
- all claims, payments, moneys specified in a financing order, regardless of whether these amounts are comingled.

Procedures are established for perfecting a security interest, transferring assets, and enforcing security interests. Security interests are subject to the Uniform Commercial Code, except when there is a conflict with these provisions. Any successor utility must satisfy all obligations of the utility under an approved contract governing the bonds.

Financing Order.
A utility may apply to the UTC for a financing order designating all or part of rate recovery expenditures as bondable expenditures to finance or refinance bonds. The utility may request the designation to happen in a separate proceeding or at a general rate case. After notice and an opportunity for a hearing, the UTC may approve an application if the UTC finds that:
- the bondable expenditures are reasonable and prudent;
- financing or refinancing the bondable rate recovery expenditures through the issuance of rate recovery bonds is likely to be more favorable to customers for the recovery of the bondable rate recovery expenditures than other methods of rate recovery; and
- bonds, or other types of indebtedness approved by the UTC, are reasonably likely to receive at a minimum a determination of investment grade by credit rating agencies.

In issuing a financing order, the UTC may authorize the:

- recovery of bondable expenditures and financing costs;
- creation of assets;
- issuance of bonds;
- imposition or adjustment of charges; or
- sale or transfer of assets.

Timeline for Approval and Requirements.
The UTC must issue an order approving or denying the application within 180 days. If the UTC approves the application, it must issue a financing order. A financing order must specify the highest amount that qualifies as bondable expenditures. For bondable expenditures associated with a disaster or emergency, the UTC may include capital and operating costs, lost revenue, costs and expenses to be recovered later from third parties or insurers and returned to customers in a rate proceeding, and carrying costs or charges.

Specific provisions must be included in a financing order including:
- confirmation of the existence of recoverable bondable expenditures, and authorization to recover them and associated financing costs;
- authorization to create the assets and impose charges;
- a requirement that the charges be ongoing and not avoided until all principal is paid;
- a methodology for allocating charges between different classes of customers, and adjusting charges as necessary;
- authorization for issuing a series of bonds, assigning assets to a financing subsidiary and granting security interests in the assets, and bond documentation;
- authorization to earn a return on moneys advanced by the utility to fund advance, reserves, or capital accounts established under the terms of the agreement;
- a finding that the bonds and charges are expected to provide the lowest possible, reasonable, and prudent cost on a net present value basis to customers as compared to other methods of financing and recovery;
- an expiration date for the financing order;
- a requirement to notify the UTC if the utility recovers costs and expenses from a third party or insurer; and
- any other conditions the UTC finds appropriate.

Restrictions.
Charges may not be avoided by utility customers located within a utility's service territory as it existed on the date of the financing order, even if:
- a customer receives services from a successor company;
- the customer elects to receive electricity, natural gas, or water from another company in the service territory; or
- the customer changes customer class.

Until all bond and financing costs are paid in full, the UTC may not:
- revalue the bondable expenditures or financing costs for rate-making purposes;
- determine that rates or revenues in the financing order are unjust or unreasonable;

- impair assets, charges, or bonds; or
- rescind the financing order, or consider the bonds as utility debt, assets as utility revenue, or bondable expenditures as utility costs.

The UTC is prohibited from requiring a utility to apply for a financing order to designate expenditures as bondable expenditures.

<u>Miscellaneous Provisions</u>.
Costs and Bonds Prior to the Effective Date.
For costs incurred by utilities before the effective date of the bill for disasters, emergency, or conservation measures and services specific criteria determine whether they constitute bondable expenditures. The provisions in the bill apply prospectively and not retroactively. Nothing impairs or affects the validity of any conservation bonds issued under current law. Conservation bonds issued prior to the effective date of the bill are governed by the provisions as they existed at the time such conservation bonds were issued.

State Not Obligated.
The state, or any agency or instrumentality, is not obligated to pay or guarantee any bond issued.

Definitions.
Conservation bonds become a subset of the rate recovery bonds, and conservation investments are redefined as either recovery assets or bondable rate recovery expenditures.

Appropriation: None.

Fiscal Note: Available.

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