

SENATE BILL REPORT

SB 6171

As of January 23, 2026

Title: An act relating to addressing emerging large energy use facilities.

Brief Description: Addressing emerging large energy use facilities.

Sponsors: Senators Shewmake, Slatter, Alvarado, Bateman, Cleveland, Frame, Hunt, Lovelett, Nobles, Pedersen, Saldaña and Stanford.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/23/26.

Brief Summary of Bill

- Requires each electric utility with an emerging large energy use facility (ELEUF) in its service territory to make available a tariff or policy to be approved by the Utilities and Transportation Commission for investor-owned utilities or the governing body for consumer owned utilities.
- Requires an ELEUF that seeks electricity service or is already receiving service to agree to the terms of an electric utility's approved ELEUF tariff or policy by a certain date.
- Requires the owner each ELEUF in Washington to publish a sustainability report addressing energy and water usage and an annual resource forecasting report.
- Prohibits the Department of Ecology from distributing no-cost allowances under the Cap and Invest Program to electric utilities to mitigate the cost burden of the program on ELEUF customers.
- Directs ELEUFs to pay an annual fee per kilowatt hours to the Department of Revenue and specifies purposes for the fee proceeds.

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.

Staff: Kimberly Cushing (786-7421)

Background: 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. CETA also requires electric utilities to eliminate coal-fired resources from their allocation of electricity by December 31, 2025, and make all retail sales of electricity greenhouse gas (GHG) neutral by January 1, 2030.

Consumer-Owned Utilities. Electric utilities are either consumer-owned or investor-owned utilities. Consumer-owned utilities (COUs) consist of municipal electric utilities, public utility districts, irrigation districts, rural electric cooperatives, or mutual electric companies. COUs are engaged in the business of distributing electricity to more than one retail electric customer in Washington.

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.

The Legislature intends to allow electric utilities subject to CETA to be eligible for no-cost allowances to mitigate the cost burden of the Program on electricity customers. During the first compliance period, allowances allocated at no cost to electric utilities may be consigned to auction for the benefit of ratepayers, deposited for compliance, or a combination of both. For the second compliance period, Ecology must adopt rules governing the amount of allowances allocated at no cost to electric utilities that must be consigned to auction. The benefits of all allowances consigned to auction by electric utilities must be used for the benefit of ratepayers, with the first priority being the mitigation of any rate impacts to low-income customers.

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

Summary of Bill (Proposed Substitute): Emerging Large Energy Use Facility. An emerging large energy use facility (ELEUF) is a facility that has a maximum aggregate contract demand of 20 megawatts or more; is primarily engaged in providing data

processing, hosting, and related services; and is located on one or more contiguous or adjacent properties in physical contact or separated by a public right-of-way, and under common ownership or control.

Emerging Large Energy Use Facility Tariff or Policy. An ELEUF tariff or policy means the rates, terms, and conditions set by an electric utility for providing electricity service.

By October 1, 2026, each:

- investor-owned utility (IOU) with an ELEUF in its service territory must submit to the Utilities and Transportation Commission (UTC) an ELEUF tariff or policy and make it publicly available; and
- COU with an ELEUF in its service territory must submit an ELEUF tariff or policy to its governing board for review and approval.

Within ten months of the tariff or policy submission, the UTC, for IOUs, must review and approve, disapprove, or approve with modifications the tariff or policy, and the governing body of a COU must approve a tariff or policy that meets the specified standards. The governing body of a COU may approve an existing tariff or policy that meets these standards.

A COU may refuse to provide electric service to an ELEUF if the utility determines that providing service would adversely affect the reliability or affordability of electricity service to other ratepayers in the utility's service area, violate reliability standards established by the North American Electric Reliability Corporation or the Western Electricity Coordinating Council, or if the utility has another reason in accordance with state or federal law.

The UTC or governing body of a COU may approve an ELEUF tariff or policy only if they are designed to avoid immediate and long-term risks to electric customers, including shifts of costs from an ELEUF to other customers, stranded utility assets, and any other increased costs for customers resulting from serving a new ELEUF.

Electric utilities must include the following elements in their tariffs or policies, unless they can demonstrate in writing that an element does not further immediate and long-term risks to their electric customer:

- a minimum contract length of ten years, with contractual commitments that include:
 1. collateral requirements;
 2. charges designed to recover infrastructure costs incurred to serve the facility, regardless of the facility's actual usage;
 3. exit fees equal to at least five years of the facility's minimum bill requirement in the event of a permanent closure; and
 4. other provisions to hold the electric utility and other ratepayers harmless if the facility were to substantially change its operations;
- charges that, at a minimum, cover the full costs of serving the facility, including direct costs for utility interconnection to the grid, costs of providing electricity

- service, and compliance and allowance costs under the Climate Commitment Act;
- a requirement that the facility provide timely, complete, and verifiable information as necessary for the utility to assess system impacts, cost recovery, and how to condition service;
- provisions requiring the facility to curtail or reduce load during an energy emergency event, at the request of the electric utility or the Bonneville Power Administration under the interruptible power commitments in the emergency protocols attachment for the Columbia River System Water Management Plan;
- pricing structures that reflect cost causation and system conditions; and
- a demonstration that at least 2 percent of the facility's maximum aggregate contract demand amount (marginal load) is under a contract with the utility where:
 1. the marginal load participates in a demand response or interruptible load program of the interconnected utility, or
 2. the facility funds the costs of providing peak demand reductions at least equal to the facility's marginal load for a demand response program that serves other customers.

An electric utility without an ELEUF in its service territory is not required to develop a tariff or policy until the utility plans to serve a new ELEUF. An electric utility must have adopted an ELEUF tariff or policy prior to providing electricity service to an ELEUF.

Any contract between an electric utility and ELEUF must conform to requirements consistent with the approved tariff or policy. An ELEUF that begins operation on or after August 1, 2027, must agree to the terms of an electric utility's approved ELEUF tariff or policy before receiving electricity service.

An ELEUF that began operation prior to August 1, 2027, is subject to the terms of the tariff or policy by July 1, 2028, if it is not already operating under a previous contract. If it is already operating under a contract, then it may continue operating under that contract until the later of January 1, 2028, or the renegotiation or expiration of the contract. A utility may require renegotiation or updating of a contract sooner if the utility determines that it is not recovering the full costs of serving the ELEUF.

The UTC and COU governing boards must consider applying similar tariff or policy terms to similar future emerging large loads.

The powers and authority granted by the ELEUF tariff and policy requirements are in addition and supplemental to any powers or authority conferred by other law and may not be construed as limiting those already granted to a utility.

Emerging Large Energy Use Facility Sustainability Report. The owner of each ELEUF in Washington must publish a sustainability report demonstrating how the ELEUF will address and balance energy, water, and computing performance to maximize energy and water efficiency and overall sustainability of the facility's operations. The report must include:

- projected annual energy and water consumption for three years;
- the source of the energy and water; and
- evidence that the facility has adequate water supply through an existing or third-party water system or state-issued water right.

For proposed ELEUFs, the owner must publish a report prior to, or at the same time as, filing an application for any state or local permit. For an ELEUF in operation prior to the effective date of this act, a report is due January 1, 2027, and must be updated and published every three years. The owner must make these reports publicly available electronically and submit a copy to the Departments of Commerce and Ecology, and the local jurisdiction the facility is proposing to locate in or is located in.

Annually by March 31st, the owner of each ELEUF must report to Ecology and make publicly available electronically the following information for the previous year for each facility:

- annual water consumption, including daily water quantities, total and peak uses, and any discharged effluents, and may include a comparison water use to others' usage;
- regulated refrigerants and substitutes used to serve cooling technology, including information such as monthly and annual quantities, leaks, and any disposal outside the facility;
- annual energy consumption, including the source of the energy, annual and monthly energy use, including peak demands, and may include a comparison to other energy users; and
- annual emissions of criteria air pollutants and toxic air pollutants regulated under the Washington Clean Air Act or federal Clean Air Act.

Emerging Large Energy Use Facility Load Resource Forecasting. The UTC and the Department of Commerce (Commerce) must jointly develop reporting standards for ELEUFs to improve resource forecasting by December 31, 2026. This may include standards on data quality, documentation, commercial readiness criteria, and information about associated transmission needs.

Each ELEU facility that is interconnected with an electric utility must provide an annual report by July 1st, consistent with the reporting standards, beginning in 2027. For an ELEUF requesting interconnection with an electric utility, the facility must provide the annual report to the electric utility and disclose whether the facility is pursuing a substantially similar request for electric service in another balancing authority, the approval of which would result in the facility materially changing, delaying, or withdrawing the interconnection request.

Each electric utility must consolidate any ELEUF reports it receives and submit an aggregated report to the UTC, for IOUs, and Commerce, for COUs, by December 1st of each year.

The UTC and Commerce must collaborate to improve resource forecasting of ELEUF loads, which must include facilitating an electric utility work group to establish standardized commercial readiness criteria to enter interconnection queues.

Emerging Large Energy Use Facility Clean Energy Requirements. The owner of an ELEUF that begins operation after July 1, 2026, or an expanding ELEUF must annually certify to Commerce on January 1st for the prior year:

- beginning in 2031, that it used electricity from renewable resources or nonemitting electric generation, that began operating after January 1, 2026, to serve the load of the ELEUF in an amount that meets or exceeds 80 percent of its annual energy and capacity requirements; and
- beginning in 2036, that it used electricity from renewable resources or nonemitting electric generation to serve the load of the ELEUF in an amount that meets 100 percent of its annual energy and capacity requirements.

As part of demonstrating compliance, the ELEUF must acquire the electricity with the renewable energy credit (REC) in a single transaction through ownership of the generating facility or through a contract, and the facility must not use the associated electricity for any purpose other than supplying its new facility. Each ELEUF using a REC must document certain criteria, including the vintage and that the REC has been retired. These requirements are in addition to any requirements the ELEUF may have as an affected market customer under CETA.

An expanded ELEUF is an ELEUF with an increase of 20,000 square feet or more for housing working servers or an increase of 20 megawatts or more in annual electricity consumption after July 1, 2026.

Allocation of Allowances under the Climate Commitment Act. Starting the second compliance period, the Legislature does not intend to allow electric utilities to be eligible for allowance allocation for ELEUF customers. For no-cost allowances distributed starting in calendar year 2026 for emissions year 2027, Ecology may not provide allowance allocation to mitigate the cost burden of the Cap and Invest Program on ELEUF electricity customers. Ecology may adjust the definition of ELEUF for the purposes of rulemaking.

Starting for no-cost allowances provided for calendar year 2027, the benefits of allowances consigned to auction may not be used by electric utilities for the primary benefit of ELEUFs.

Beginning July 31, 2026, each electric utility must annually provide to Ecology a list of existing and forecasted ELEUF retail customers to enable allowance allocation. For each facility, the utility must indicate the forecast maximum deliver of power to the facility and annual retail load in megawatt hours for the following four years, customer name, and facility type.

Emerging Large Energy Use Facility Fee and Account. Beginning July 1, 2026, and annually thereafter, each ELEUF must pay a fee of \$0.005 per kilowatt hour to the Department of Revenue. The proceeds of the fee must be deposited in the newly created ELEUF account. Moneys in the ELEUF account can only be spent after appropriation, in the following manner:

- 60 percent for energy assistance, weatherization, low-income home electrification, and related readiness upgrade purposes, which may include existing programs in Commerce, but are intended to add to rather than supplant or reduce other state investments; and
- 40 percent to the Student Achievement Council to distribute to public institutions of higher education for career services, quantum computing education, and artificial intelligence education for educators.

Emerging Large Energy Use Facility Behind-the-Meter Energy Projects. For any behind-the-meter energy system project owned by an ELEUF, the facility receiving power from the system must ensure that any work associated with the project will be performed by a prime contractor and its subcontractors and includes community workforce or project labor agreements, pays prevailing wages, and apprenticeship utilization requirements. Community workforce agreements and project labor agreements are self-contained, stand-alone agreements and, as a result, neither the prime contractor nor the subcontractors are obligated to sign any other local, area, or national agreement.

Consumer-Owned Utilities. Under CETA, the definition of COU is amended to include port districts and to specify a COU must have at least one customer in Washington.

Appropriation: None.

Fiscal Note: Requested on January 16, 2026.

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 On Proposed Substitute: PRO: We know people are worried about the buildout of data centers and we acknowledge that we use data centers all of the time. We want energy affordability and enough power in times of emergencies. Transparency will help us have better conversations. Grids have incredible economies of scale but we need to figure out how to accommodate the rapid growth. We want to invest in both energy efficiency and the future with a modest fee. The bill represents a meaningful investment in expanding opportunities for technological education and for addressing the environmental challenges posed by the operation of this technology.

The growth of data centers will put tremendous strain on the electric power system, could increase the chance of blackouts or brownouts, and cause the dam operators to suspend fish

protection operations. We are concerned that existing contracts might not provide the correct price signal. It is critical that new large energy users pay their fair share to mitigate the rising costs for working families, seniors and people with disabilities living on fixed incomes. Rising costs also escalate the state's housing crisis. The bill provides an historic opportunity to expand access to energy affordability and home efficiency for those struggling the most. This bill is about fairness and provides guardrails. The Governor's data center work group surfaced the rapidly growing data center challenges and identified the need for legislative solutions. As an industry, data centers are expected to be the largest source of electricity load growth in the region and there is a lot of uncertainty and speculation around that growth leading to significant risks. If demand forecasts are overstated, utilities could overbuild their infrastructure and leave everyone else to pay the bill. Utilities and jurisdictions across the country are taking action. Rural American is under siege from big tech right now.

This is very sensible grounded legislation. Other states are debating moratoriums. This is not a removal of tax incentives. Data centers are not just another large load customer and they should be regulated uniquely. Their extraordinary energy demand, tendency to cluster geographically, speculative development profile, and need for major transmission and distribution upgrades makes them a fundamentally higher risk for Washington's ratepayers and environment. We would like to see reporting on energy use to stay on track with clean energy goals and have accurate resource forecasting. At an absolute minimum, we need to require quarterly reports on water usage because we are nothing without water. This bill should more directly address the use of nondisclosure agreements that limit public oversight of electricity and water usage. By adding more transparency the public is treated as a full partner in our technological progress. The transparency in this bill is going to give you the data you need to make decisions in the coming years.

CON: This bill imposes significant disparate requirements on data centers that will impact the viability of the Washington market. The data center industry is fully committed to paying full costs and protecting customers from stranded assets. The bill singles out data centers and doesn't plan for the long term. It should apply to all large loads of a certain threshold. The bill would undermine the COU obligation to serve, which underpins our entire electricity system. Data centers can't turn off, yet backup generation is highly permitted and this bill does not address the environmental compliance side. The reporting requirements are disparate and harmful. Data centers use less water than golf courses and manufacturing. Data centers are already contributing significantly to energy efficiency programs and the fee would be duplicative. We worry the CCA language in the bill will require utilities to buy allowances to cover load growth. No-cost allowances should benefit all customers not just low-income customers. Utilities already have tariffs for large industrial loads. This approach is too prescriptive. Utilities have the knowledge for how to contract with these users. From a rural economic development perspective, data centers have helped diversify the economy. The bill sends a signal of uncertainty to more investment in Washington, and rural communities have fewer economic development tools. A one-size-fits-all approach undermines local decision making. Data centers are proven

economic infrastructure and have transformed our community. Passing this bill will make Washington less competitive and deny other communities the opportunity that Quincy has had. The bill doesn't promote power generation, it just restricts demand. Data centers provide good jobs.

OTHER: We support the underlying goals of the bill and have taken proactive steps to prevent cost shifting and operate under the principles in the bill. We are concerned about mandated prescriptive requirements and would like to preserve local governance to allow public utilities to tailor services to protect customers. The bill ensures no-cost allowances go to families and not data centers. Data reporting will enable Ecology to make better decisions. Demand response provisions may unintentionally increase diesel generators. We ask that existing customers that have been major employers and economic anchors be held harmless. Aligning the deadlines with utility rate setting cycles would allow utilities time to adjust. The bill goes above and beyond CETA, but should be subject to the same requirements as CETA. We appreciate allowing data centers to cover their own CCA costs, but it is a significant change. Give the UTC the authority to regulate IOUs. Add reporting requirements that assess cumulative impacts to vulnerable and overburdened communities. Ports have no intention of operating outside of CETA policy goals but we do have questions and concerns about the planning and reporting requirements.

Persons Testifying: PRO: Senator Sharon Shewmake, Prime Sponsor; Christopher Rosenquist, Associated Students of Western Washington University; Mckenna Beck, NRDC (Natural Resources Defense Council); Council Jeremy Takala, Confederated Tribes and Bands of the Yakama Nation; Justin Allegro, The Nature Conservancy; Jeff DeLuca, Washington State Community Action Partnership; Linda Garcia, Washington State Community Action Partnership; Zach Baker, NW Energy Coalition; Caitlin Krenn, Washington Conservation Action; Leah Missik, Climate Solutions; Ben Avery, Sierra Club; Logan Bahr, Tacoma Power/Tacoma Public Utilities; Neal Anderson; Stewart Henderson.

CON: Dan Diorio, Data Center Coalition; Jim Kuntz, Chelan Douglas Regional Port Authority; Patrick Haley, City of Quincy; Nicolas Garcia, WPUDA; Patrick Boss, Port of Quincy; Brandon Houskeeper, Alliance of Western Energy Consumers; Michael Transue, Tacoma Pierce County Chamber; Peter Godlewski, Association of Washington Business.

OTHER: Emily Johnston; Josie Cummings, Avista Corp.; Andy Wendell, Grant PUD; Guillermo Rogel, Front and Centered; Austin Scharff, Washington State Department of Commerce; Joel Creswell, Washington Department of Ecology; Carly Michiels, Washington Public Ports Association; Matt Miller; Ryan Collins, Snohomish PUD.

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