
SUBSTITUTE HOUSE BILL 1656

State of Washington

69th Legislature

2025 Regular Session

By House Environment & Energy (originally sponsored by Representatives Abbarno, Doglio, Steele, Fey, Dye, Mena, Barnard, Klicker, Ley, Stuebe, Ybarra, Volz, Springer, Scott, Parshley, and Graham)

READ FIRST TIME 02/17/25.

1 AN ACT Relating to authorizing electrical companies to securitize
2 certain wildfire-related costs to lower costs to customers; amending
3 RCW 80.28.005, 80.28.303, 80.28.306, 80.28.309, and 80.08.140; adding
4 new sections to chapter 80.28 RCW; creating new sections; and
5 declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The purpose of this act is to allow an
8 electrical, gas, or water company, if authorized by an order issued
9 by the utilities and transportation commission, to use securitization
10 financing for certain types of costs related to emergency events and
11 approved for recovery in rates. The legislature finds that:

12 (1) Securitized debt may lower the total rates in comparison with
13 other methods of recovery and may benefit the citizens of this state
14 who are electrical, gas, or water company customers;

15 (2) Rate recovery bonds are not a public debt or pledge of the
16 full faith and credit of the state but require the state to provide
17 clear and exclusive methods to create, transfer, and encumber the
18 rate recovery assets and prohibit future impairment; and

19 (3) This act allowing electrical, gas, or water companies to use
20 securitization financing for emergency-related costs does not limit,
21 impair, or affect the utilities and transportation commission's

1 plenary authority and jurisdiction over rates and services offered by
2 electrical, gas, or water companies.

3 **Sec. 2.** RCW 80.28.005 and 1994 c 268 s 1 are each amended to
4 read as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

7 (1) "Assignee" means a person, and any subsequent assignee, to
8 which an electrical, gas, or water company assigns, sells, or
9 transfers all or part of the electrical, gas, or water company's
10 interest in or right to rate recovery assets, except as security.

11 (2) "Bond" includes bonds, notes, certificates of beneficial
12 interests in a trust, or other evidences of indebtedness.

13 (3) "Bondable ((conservation—investment)) rate recovery
14 expenditures" means all costs and expenditures ((made)) incurred or
15 to be incurred through the date of issuance of a financing order by
16 an electrical, gas, or water ((companies)) company associated with
17 ((respect to energy)):

18 (a) An event that is the subject of a federal or state
19 declaration of disaster or emergency, such as severe weather,
20 catastrophic wildfire, earthquake, pandemic, or other event that
21 causes or threatens to cause widespread loss of life, injury to
22 person or property, human suffering, or financial loss, including
23 those costs and expenses owed by an electrical, gas, or water company
24 to such company's customers or others as a result of the event, but
25 not including fines or penalties imposed as a result of criminal or
26 civil enforcement actions; or

27 (b) Energy or water conservation measures and services intended
28 to improve the efficiency of electricity, gas, or water end use,
29 including related carrying costs if:

30 ((-a)) (i) The conservation measures and services do not produce
31 assets that would be bondable utility property under the general
32 utility mortgage of the electrical, gas, or water company;

33 ((-b)) (ii) The commission has determined that the expenditures
34 were incurred in conformance with the terms and conditions of a
35 conservation service tariff in effect with the commission at the time
36 the costs were incurred, and at the time of such determination the
37 commission finds that the company has proven that the costs were
38 prudent, that the terms and conditions of the financing are

1 reasonable, and that financing under this chapter is more favorable
2 to the customer than other reasonably available alternatives;

3 ~~((e))~~ (iii) The commission has approved inclusion of the
4 expenditures in rate base and has not ordered that they be currently
5 expensed; and

6 ~~((d))~~ (iv) The commission has not required that the measures
7 demonstrate that energy or water savings have persisted at a certain
8 level for a certain period before approving the cost of these
9 investments as bondable (~~(conservation investment)~~) rate recovery
10 expenditures.

11 ~~((2) "Conservation bonds" means bonds, notes, certificates of~~
12 ~~beneficial interests in trusts, or other evidences of indebtedness or~~
13 ~~ownership that:~~

14 ~~(a) The commission determines at or before the time of issuance~~
15 ~~are issued to finance or refinance bondable conservation investment~~
16 ~~by an electrical, gas or water company; and~~

17 ~~(b) Rely partly or wholly for repayment on conservation~~
18 ~~investment assets and revenues arising with respect thereto.~~

19 ~~(3) "Conservation investment assets" means the statutory right of~~
20 ~~an electrical, gas, or water company:~~

21 ~~(a) To have included in rate base all of its bondable~~
22 ~~conservation investment and related carrying costs; and~~

23 ~~(b) To receive through rates revenues sufficient to recover the~~
24 ~~bondable conservation investment and the costs of equity and debt~~
25 ~~capital associated with it, including, without limitation, the~~
26 ~~payment of principal, premium, if any, and interest on conservation~~
27 ~~bonds.)~~

28 (4) "Bondholder" means a holder or owner of a rate recovery bond.

29 (5) "Finance subsidiary" means any corporation, limited liability
30 company, company, association, joint stock association, ~~((or))~~ trust,
31 or other entity that is beneficially owned, directly or indirectly,
32 by an electrical, gas, or water company, or in the case of a trust
33 issuing (~~(conservation)~~) rate recovery bonds consisting of beneficial
34 interests, for which an electrical, gas, or water company or a
35 subsidiary thereof is the grantor, or an unaffiliated entity formed
36 for the purpose of financing or refinancing approved (~~(conservation~~
37 ~~investment)~~) bondable rate recovery expenditures, and that acquires
38 (~~(conservation investment)~~) rate recovery assets directly or
39 indirectly from such company in a transaction approved by the
40 commission.

1 (6) "Financing costs" includes the following costs related to
2 rate recovery bonds, whether incurred and paid upon issuance or over
3 the life of rate recovery bonds:

4 (a) The costs of issuing, serving, managing, repaying, or
5 refinancing rate recovery bonds, including any fees, expenses, or
6 charges incurred and the costs of any activities performed in
7 connection with the rate recovery bonds, including:

8 (i) Information technology programming;

9 (ii) Obtaining a financing order;

10 (iii) Serving, accounting, or auditing;

11 (iv) Services related to trustees;

12 (v) Legal services;

13 (vi) Consulting;

14 (vii) Services related to financial and structuring advisors;

15 (viii) Administration;

16 (ix) Placement and underwriting;

17 (x) Services related to independent directors and managers;

18 (xi) Services related to rating agencies;

19 (xii) Stock exchange listing and compliance;

20 (xiii) Securities registration and filing; and

21 (xiv) Services necessary to ensure a timely payment of rate
22 recovery bonds or other amounts or charges payable in connection with
23 rate recovery bonds;

24 (b) Principal, interest and acquisition, defeasance, and
25 redemption premiums payable on rate recovery bonds;

26 (c) Payments required under an ancillary agreement and any
27 amounts required to fund or replenish a reserve or account
28 established under the terms of an indenture, ancillary agreement, or
29 financing document related to rate recovery bonds;

30 (d) Applicable federal, state, and local taxes, franchise fees,
31 license fees, gross receipts, or other taxes or charges, whether
32 paid, payable, or accrued; and

33 (e) The commission's costs in performing the commission's duties
34 related to rate recovery bonds that are recoverable by the commission
35 under RCW 80.24.010.

36 (7) "Financing order" means an order issued by the commission
37 that authorizes one or more of the following:

38 (a) The recovery of bondable rate recovery expenditures and
39 financing costs;

40 (b) The creation of rate recovery assets;

1 (c) The issuance of rate recovery bonds;
2 (d) The imposition, collection, and periodic adjustment of rate
3 recovery charges; or
4 (e) The sale, assignment, or transfer of rate recovery assets to
5 an assignee.
6 (8) "Financing party" includes:
7 (a) Bondholders, trustees, agents, and secured parties related to
8 rate recovery bonds;
9 (b) A person acting for the benefit of bondholders, trustees,
10 agents, or secured parties; and
11 (c) A party to rate recovery bond documents or an ancillary
12 agreement.
13 (9) "Rate recovery asset" means the right of an electrical, gas,
14 or water company to recover from customers bondable rate recovery
15 expenditures and related costs and expenses approved in a financing
16 order, including the right to:
17 (a) Impose, charge, bill, collect, receive, hold, and apply rate
18 recovery charges authorized under a financing order or obtain, to the
19 extent authorized, periodic adjustments of rate recovery charges; and
20 (b) All claims, accounts, revenues, payments, collections,
21 moneys, or proceeds arising from the rights and interest specified in
22 a financing order, regardless of whether the claims, accounts,
23 revenues, payments, collections, moneys, or proceeds arising from the
24 rights and interest specified in the financing order are commingled
25 with other claims, accounts, revenues, payments, collections, moneys,
26 or proceeds.
27 (10) "Rate recovery bonds" means bonds, notes, certificates of
28 beneficial interests in trusts, or other evidences of indebtedness or
29 ownership that:
30 (a) The commission determines at or before the time of issuance
31 are issued to finance or refinance bondable rate recovery
32 expenditures by an electrical, gas, or water company; and
33 (b) Rely partly or wholly for repayment on rate recovery assets
34 and revenues arising with respect thereto.
35 (11) "Rate recovery charge" means charges to electrical, gas, or
36 water company customers authorized by the commission to recover
37 bondable rate recovery expenditures and financing costs and to be
38 used to pay, repay, or refinance rate recovery bonds.
39 (12) "Secured party" means a financing party that has been
40 granted a security interest in rate recovery assets.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 80.28
2 RCW to read as follows:

3 (1) It is the policy of the state of Washington to encourage the
4 financing of certain costs and expenses by electrical, gas, and water
5 companies at the lowest, reasonable, and prudent cost to customers of
6 such companies including, but not limited to, bondable rate recovery
7 expenditures.

8 (2) To carry out the policy described in subsection (1) of this
9 section, the state of Washington and all agencies, instrumentalities,
10 political subdivisions, and local governments thereof:

11 (a) Acknowledge that owners of rate recovery assets, bondholders,
12 and financing parties require certainty with respect to the owners,
13 bondholders, and financing parties' rights to enter into financing
14 transactions that offer the lowest, reasonable, and prudent cost; and

15 (b) Pledge and agree with electrical, gas, and water companies;
16 assignees; bondholders; and financing parties not to reduce, alter,
17 or impair, in a manner that is adverse to the electrical, gas, and
18 water companies; assignees; bondholders; or financing parties:

19 (i) Rate recovery assets;

20 (ii) Rate recovery bonds or the security for rate recovery bonds;

21 or

22 (iii) Rate recovery charges or the collection of rate recovery
23 charges.

24 (3) The pledge and agreement described under subsection (2)(b) of
25 this section includes the pledge and agreement not to reduce, alter,
26 or impair rate recovery assets, rate recovery bonds or the security
27 for rate recovery bonds, or rate recovery charges or the collection
28 of rate recovery charges by taking any of the following actions:

29 (a) Altering the provisions of this section or RCW 80.28.005,
30 80.28.303, 80.28.306, or 80.28.309 to the extent that those
31 provisions authorize the commission to issue financing orders that:

32 (i) Create rate recovery assets;

33 (ii) Establish rate recovery charges that may not be avoided by
34 electrical, gas, or water company customers, as described under
35 section 4(4) of this act; or

36 (iii) Provide rights and remedies to electrical, gas, and water
37 companies; assignees; bondholders; and financing parties;

38 (b) Impairing the rights or remedies of electrical, gas, and
39 water companies; assignees; bondholders; or financing parties that
40 are created under this section and RCW 80.28.005, 80.28.303,

1 80.28.306, and 80.28.309 or by a financing order, including reducing
2 the amount of or impairing the collection of rate recovery charges
3 until all principal, interest, premium, if any, and other amounts due
4 on the rate recovery bonds and financing costs have been paid in full
5 and except as provided under section 4 of this act; or

6 (c) Taking any action listed under section 4(5)(b) of this act.

7 (4) An electrical, gas, or water company or financing subsidiary
8 that issues rate recovery bonds may include the pledge and provisions
9 of this section in the bonds and related documentation.

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 80.28
11 RCW to read as follows:

12 (1)(a) An electrical, gas, or water company may petition the
13 commission for a financing order designating all or part of rate
14 recovery expenditures as bondable rate recovery expenditures, for the
15 purpose of financing or refinancing the designated expenditures under
16 RCW 80.28.306(1). A company may request this designation by the
17 commission in separate proceedings for this purpose.

18 (b) A petition filed under (a) of this subsection must include a
19 narrative description of purpose for which the electrical, gas, or
20 water company seeks approval of a financing order. The narrative
21 description must:

22 (i) Explain the event that is the subject of a federal or state
23 declaration of disaster or emergency, such as severe weather,
24 catastrophic wildfire, earthquake, pandemic, or other event that
25 causes or threatens to cause widespread loss or life, injury to
26 person or property, human suffering, or financial loss, including
27 those costs and expenses owed by an electrical, gas, or water company
28 to such company's customers or others as a result of the event, and
29 that gave rise to the costs and expenses that the company seeks to
30 recover through a financing order; and

31 (ii) In the case such costs and expenses accrued to the
32 electrical, gas, or water company through a legal settlement, provide
33 the total:

34 (A) Legal fees and costs paid by the company;

35 (B) Estimated legal fees and costs the company would have
36 incurred had it elected not to settle the matter;

37 (C) Amount of initial claims that had been sought against the
38 company; and

39 (D) Amount of the settlement.

1 (c) After notice and an opportunity for a hearing, the commission
2 may approve an application if the commission finds that:

3 (i) The bondable rate recovery expenditures included in the
4 application are reasonable and prudent;

5 (ii) Financing or refinancing the bondable rate recovery
6 expenditures through the issuance of rate recovery bonds is likely to
7 be more favorable to electrical, gas, or water company customers for
8 the recovery of the bondable rate recovery expenditures than other
9 methods of rate recovery; and

10 (iii) Bonds, notes, certificates of beneficial interests in a
11 trust, and other evidences of indebtedness or ownership issued
12 pursuant to the approval are reasonably likely to receive a
13 determination of, at a minimum, investment grade by credit rating
14 agencies.

15 (d) The commission shall issue an order within 180 days of an
16 application approving or denying the application. If the commission
17 approves the application, the commission shall issue a financing
18 order.

19 (2)(a) A financing order issued under this section shall specify
20 the highest amount of rate recovery expenditures that qualify as
21 bondable rate recovery expenditures.

22 (b) In specifying the amount for bondable rate recovery
23 expenditures associated with an event described in RCW
24 80.28.005(3)(a), net of appropriate adjustments as determined by the
25 commission to be reasonable, the commission may include, but is not
26 limited to including, the following rate recovery expenditures:

27 (i) Capital and operating costs incurred or to be incurred as a
28 result of the event;

29 (ii) Costs and expenses that may be recovered at a later time
30 from third parties or insurers and returned to electrical, gas, or
31 water company customers through a separate rate proceeding consistent
32 with cost causation and rate design principles and statutory or
33 regulatory requirements; and

34 (iii) Carrying costs or charges.

35 (3) A financing order issued under this section must include the
36 following provisions:

37 (a) Confirmation of the existence of recoverable bondable rate
38 recovery expenditures and authorization to recover bondable rate
39 recovery expenditures and associated financing costs, including the

1 maximum principal amount of bondable rate recovery expenditures and
2 financing costs that may be recovered through securitization;

3 (b) Authorization for the creation of rate recovery assets and
4 imposition of rate recovery charges that allow for the recovery of
5 rate recovery expenditures and associated financing costs as
6 determined by the commission;

7 (c) A requirement that the rate recovery charges authorized by
8 the financing order are ongoing and may not be avoided by an
9 electrical, gas, or water company customer, as described under
10 subsection (4) of this section, until all principal, interest,
11 premium, if any, and other amounts due on the rate recovery bonds and
12 financing costs have been paid in full;

13 (d) A methodology for:

14 (i) Allocating rate recovery charges between the different
15 classes of electrical, gas, or water company customers, which may
16 include not allocating rate recovery charges to one or more classes
17 of such company's customers, that is consistent with cost causation
18 and rate design principles and statutory or regulatory requirements;
19 and

20 (ii) Adjusting rate recovery charges as necessary to ensure
21 timely payment on, and payment in full of, the rate recovery bonds
22 and associated financing costs or in response to changes to
23 applicable customers, service territories, or collection rates;

24 (e) Authorization for the electrical, gas, or water company to
25 issue one or more series of rate recovery bonds with flexibility for
26 such company to establish the terms and conditions of the rate
27 recovery bonds, including repayment schedules, initial interest
28 rates, and initial financing costs;

29 (f) Authorization to assign rate recovery assets to a financing
30 subsidiary and grant security interests in the rate recovery assets
31 to secured parties without limiting the rights of subsequent
32 assignees;

33 (g) Authorization for the bond documentation and ancillary
34 documents related to the rate recovery bonds, including servicing
35 arrangements for the rate recovery charges, without requiring the
36 authorization to be on the final forms of the documents;

37 (h) Authorization for the electrical, gas, or water company to
38 earn a return, at the cost of capital authorized in such company's
39 most recent general rate case prior to the date of the financing
40 order, on any moneys advanced by such company to fund advances,

1 reserves, or capital accounts established under the terms of any
2 indenture, ancillary agreement, or financing documents related to the
3 rate recovery bonds;

4 (i) A finding that the proposed issuance of rate recovery bonds
5 and the imposition of rate recovery charges is expected to provide
6 the lowest possible, reasonable, and prudent cost on a net present
7 value basis to electrical, gas, or water company customers for
8 recovery of the bondable rate recovery expenditures as compared to
9 other methods of financing and recovery;

10 (j) A date, not earlier than one year from the date that the
11 financing order becomes final, on which the authority to issue rate
12 recovery bonds granted in the financing order expires;

13 (k) A requirement that the electrical, gas, or water company
14 notify the commission if such company recovers costs and expenses
15 from a third party or insurer; and

16 (l) Any other conditions that the commission finds appropriate
17 and that are consistent with this section.

18 (4) Rate recovery charges authorized by a financing order shall
19 be collected through charges or incorporated into rates paid by, and
20 may not be avoided by, the electrical, gas, or water company
21 customers located within such company's service territory, if
22 applicable, as the territory existed on the date of the financing
23 order or, if the financing order provides, as such service territory,
24 if applicable, may be expanded, even if:

25 (a) Such company's customer receives electricity, natural gas, or
26 water; electricity, natural gas, or water services; or ancillary
27 services from a successor or assignee of such company;

28 (b) Such company's customer elects to receive electricity,
29 natural gas, or water; electricity, natural gas, or water services;
30 or ancillary services from another electrical, gas, or water company
31 or service provider in the service territory; or

32 (c) After the date of issuance of the financing order, such
33 company's customer changes customer class.

34 (5)(a) Rate recovery assets, including rate recovery charges, and
35 the rights of electrical, gas, and water companies; assignees;
36 bondholders; and financing parties, established by a financing order
37 issued under this section, are irrevocable and unchangeable, except
38 as provided in the financing order, until all principal, interest,
39 premium, if any, and other amounts due on the rate recovery bonds and
40 financing costs are paid in full.

1 (b) Until all principal, interest, premium, if any, and other
2 amounts due on the rate recovery bonds and financing costs are paid
3 in full, the commission, except as provided in the financing order,
4 the state of Washington, and all agencies, instrumentalities,
5 political subdivisions, and local governments thereof may not:

6 (i) Revalue the bondable rate recovery expenditures or financing
7 costs for rate-making purposes;

8 (ii) Determine that the rates or revenues authorized under the
9 financing order are unjust or unreasonable;

10 (iii) Reduce, alter, or impair the rate recovery assets, rate
11 recovery charges or the collection of the rate recovery charges, or
12 rate recovery bonds or the security for the rate recovery bonds;

13 (iv) Rescind, suspend, amend, or impair the financing order; or

14 (v) When setting other rates or charges for the electrical, gas,
15 or water company or taking other actions pursuant to the commission's
16 authority, consider the rate recovery bonds as debt of such company,
17 the rate recovery assets to be revenue for such company, or the
18 bondable rate recovery expenditures to be costs of such company.

19 (6) The commission may not require an electrical, gas, or water
20 company to:

21 (a) Apply to the commission for a financing order designating all
22 or part of rate recovery expenditures as bondable rate recovery
23 expenditures; or

24 (b) Finance or refinance rate recovery expenditures that the
25 commission has designated bondable rate recovery expenditures.

26 **Sec. 5.** RCW 80.28.303 and 1994 c 268 s 2 are each amended to
27 read as follows:

28 (1) An electrical, gas, or water company may file a conservation
29 service tariff with the commission. The tariff shall provide:

30 (a) The terms and conditions upon which the company will offer
31 the conservation measures and services specified in the tariff;

32 (b) The period of time during which the conservation measures and
33 services will be offered; and

34 (c) The maximum amount of expenditures to be made during a
35 specified time period by the company on conservation measures and
36 services specified in the tariff.

37 (2) The commission has the same authority with respect to a
38 proposed conservation service tariff as it has with regard to any
39 other schedule or classification the effect of which is to change any

1 rate or charge, including, without limitation, the power granted by
2 RCW 80.04.130 to conduct a hearing concerning a proposed conservation
3 service tariff and the reasonableness and justness thereof, and
4 pending such hearing and the decision thereon the commission may
5 suspend the operation of the tariff for a period not exceeding ten
6 months from the time the tariff would otherwise go into effect.

7 ~~(3) ((An electrical, gas, or water company may from time to time
8 apply to the commission for a determination that specific
9 expenditures may under its tariff constitute bondable conservation
10 investment. A company may request this determination by the
11 commission in separate proceedings for this purpose or in connection
12 with a general rate case. The commission may designate the
13 expenditures as bondable conservation investment as defined in RCW
14 80.28.005(1) if it finds that such designation is in the public
15 interest.~~

16 ~~(4) The commission shall include in rate base all bondable
17 conservation investment. The commission shall approve rates for
18 service by electrical, gas, and water companies at levels sufficient
19 to recover all of the expenditures of the bondable conservation
20 investment included in rate base and the costs of equity and debt
21 capital associated therewith, including, without limitation, the
22 payment of principal, premium, if any, and interest on conservation
23 bonds.))~~ The rates so determined may be included in general rate
24 schedules or may be expressed in one or more separate rate schedules.
25 ~~((The commission shall not revalue bondable conservation investment
26 for rate-making purposes, to determine that revenues required to
27 recover bondable conservation investment and associated equity and
28 debt capital costs are unjust, unreasonable, or in any way impair or
29 reduce the value of conservation investment assets or that would
30 impair the timing or the amount of revenues arising with respect to
31 conservation investment assets that have been pledged to secure
32 conservation bonds.~~

33 ~~(5))~~ (4) Nothing in this chapter precludes the commission from
34 adopting or continuing other conservation policies and programs
35 intended to provide incentives for and to encourage ~~((utility))~~
36 electrical, gas, or water company investment in improving the
37 efficiency of energy or water end use. However, the policies or
38 programs shall not impair ~~((conservation investment))~~ rate recovery
39 assets. This chapter is not intended to be an exclusive or mandatory
40 approach to conservation programs for electrical, gas, and water

1 companies, and no such company is obligated to file conservation
2 service tariffs under this chapter, to apply to the commission for a
3 determination that conservation costs constitute bondable
4 (~~(conservation investment)~~) rate recovery expenditures within the
5 meaning of this chapter, or to issue (~~(conservation)~~) rate recovery
6 bonds.

7 (~~(+6)~~) (5) (a) If a customer of an electrical, gas, or water
8 company for whose benefit the company made expenditures for
9 conservation measures or services ceases to be a customer of such
10 company for one or more of the following reasons, the commission may
11 require that the portion of such (~~(conservation)~~) expenditures that
12 had been included in rate base but not theretofore recovered in the
13 rates of such company be removed from the rate base of the company:

14 (i) The customer ceases to be a customer of the (~~(supplier of~~
15 ~~energy or water)~~) electrical, gas, or water company, and the customer
16 repays to the company the portion of the (~~(conservation)~~)
17 expenditures made for the benefit of such customer that has not
18 theretofore been recovered in rates of (~~(the)~~) such company; or

19 (ii) (~~(The)~~) Such company sells its property used to serve such
20 customer and the customer ceases to be a customer of the company as a
21 result of such action.

22 (b) An electrical, gas, or water company may include in a
23 contract for a conservation measure or service, and the commission
24 may by rule or order require to be included in such contracts, a
25 provision requiring that, if the customer ceases to be a customer of
26 that (~~(supplier of energy or water)~~) such company, the customer shall
27 repay to the company the portion of the conservation expenditures
28 made for the benefit of such customer that has not theretofore been
29 recovered in rates of the company.

30 **Sec. 6.** RCW 80.28.306 and 1994 c 268 s 3 are each amended to
31 read as follows:

32 (1) Electrical, gas, and water companies, or finance
33 subsidiaries, may (~~(issue conservation bonds)~~), upon approval by the
34 commission, finance or refinance bondable rate recovery expenditures
35 as described in RCW 80.28.303. Bonds, notes, certificates of
36 beneficial interests in a trust, and other evidences of indebtedness
37 or ownership issued for this purpose are rate recovery bonds for the
38 purposes of this section.

1 (2) ~~((Electrical))~~ (a) An electrical, gas, ~~((and))~~ or water
2 ~~((companies, or))~~ company, finance ~~((subsidiaries))~~ subsidiary, or
3 assignee may ~~((pledge conservation investment))~~ grant a security
4 interest in rate recovery assets as collateral for ~~((conservation))~~
5 rate recovery bonds ~~((by obtaining an order of the commission~~
6 approving an issue of conservation bonds and providing for a security
7 interest in conservation investment assets)). A security interest in
8 ~~((conservation investment))~~ rate recovery assets is ~~((created and~~
9 perfected only upon entry of an order by the commission approving a
10 contract governing the granting of the security interest and the
11 filing with the department of licensing of a UCC-1 financing
12 statement, showing such pledgor as "debtor" and identifying such
13 conservation investment assets and the bondable conservation
14 investment associated therewith. The security interest is)) valid and
15 enforceable against the debtor and ~~((all))~~ third parties, subject
16 only to the rights of any third parties holding security interests in
17 the ~~((conservation investment))~~ rate recovery assets attached and
18 perfected in the manner described in this ~~((section,))~~ subsection.

19 (b) A security interest in rate recovery assets attaches if
20 ~~((value has been))~~:

21 (i) The secured party, or a financing party that the secured
22 party represents, has given ~~((by the purchasers of conservation~~
23 bonds. An approved)) value; and

24 (ii) The debtor has signed a security agreement granting the
25 secured party a security interest in ~~((conservation investment))~~ the
26 rate recovery assets.

27 (c) A valid and enforceable security interest in rate recovery
28 assets is perfected if: (i) The security interest has attached in the
29 manner described in (b) of this subsection; and (ii) a financing
30 statement has been filed in accordance with the requirements of
31 chapter 62A.9A RCW that identifies the debtor as "debtor," the
32 secured party as "secured party," and the rate recovery assets
33 granted as security as the "collateral," and contains a description
34 in the financing statement that refers to the commission's financing
35 order creating the rate recovery assets. The financing statement is
36 deemed sufficient under chapter 62A.9A RCW and all other relevant law
37 for identifying the rate recovery assets granted as security.

38 (d) A perfected security interest in rate recovery assets is a
39 continuously perfected security interest ~~((in all revenues and~~
40 proceeds arising with respect to the associated bondable conservation

1 investment)), whether or not ((such)) the related revenues have
2 accrued(~~(. Upon such approval, the priority of such security interest~~
3 ~~shall be as set forth in))~~ or the ~~((contract governing the~~
4 ~~conservation bonds. Conservation investment))~~ related rate recovery
5 charges have been charged, billed, or collected. Rate recovery assets
6 constitute a presently existing, fully vested property right for the
7 purposes of contracts securing ~~((conservation))~~ the rate recovery
8 bonds whether or not the related revenues have accrued or the related
9 rate recovery charges have been charged, billed, or collected.
10 Multiple security interests in the same rate recovery assets shall
11 rank according to priority in time of perfection.

12 ~~((3) The))~~ (e) Subject to the terms of the security agreement
13 covering the rate recovery assets, the relative priority of a
14 security interest created or perfected under this section is not
15 ~~((defeated or))~~ adversely affected by: (i) Any later modification of
16 the financing order or rate recovery assets; or (ii) the commingling
17 of ((revenues arising with respect to conservation investment))
18 proceeds of rate recovery assets with other ((funds of the debtor.
19 ~~The holders of conservation bonds shall have a perfected security~~
20 ~~interest in all cash and deposit accounts of the debtor in which~~
21 ~~revenues arising with respect to conservation investment assets~~
22 ~~pledged to such holders have been commingled with other funds, but~~
23 ~~such perfected security interest is limited to an amount not greater~~
24 ~~than the amount of such revenues received by the debtor within twelve~~
25 ~~months before (a) any default under the conservation bonds held by~~
26 ~~the holders or (b) the institution of insolvency proceedings by or~~
27 ~~against the debtor, less payments from such revenues to the holders~~
28 ~~during such twelve-month period. If an event of default occurs under~~
29 ~~an approved contract governing conservation bonds, the holders of~~
30 ~~conservation bonds or their authorized representatives, as secured~~
31 ~~parties, may foreclose or otherwise enforce the security interest in~~
32 ~~the conservation investment assets securing the conservation bonds,~~
33 ~~subject to the rights of any third parties holding prior security~~
34 ~~interests in the conservation investment assets perfected in the~~
35 ~~manner provided in this section.))~~ moneys.

36 (3) (a) A transfer of rate recovery assets to an assignee is
37 perfected against all third parties if a notice of the transfer, by
38 means of a financial statement:

39 (i) Is filed in accordance with the requirements of chapter
40 62A.9A RCW;

1 (ii) Specifies that the notice of transfer is filed to provide
2 notice of the transfer of the rate recovery assets from the
3 transferor to the assignee;

4 (iii) Identifies the transferor as "debtor," the assignee as
5 "secured party," and the rate recovery asset as "collateral"; and

6 (iv) Contains a description that refers to the commission's
7 financing order that created the rate recovery assets.

8 (b) A notice of transfer that is filed in accordance with the
9 requirements under (a) of this subsection shall be deemed sufficient
10 under chapter 62A.9A RCW and all other relevant laws for identifying
11 the rate recovery assets and for providing notice that the rate
12 recovery assets have been transferred to the assignee.

13 (c) A transfer is perfected against third parties on the date a
14 notice of transfer is filed.

15 (d) A transfer of rate recovery assets to a financing subsidiary
16 that is perfected under this subsection is free and clear of all
17 claims, security interests, liens, and encumbrances of the
18 transferring electrical, gas, or water company, except for any prior
19 security interest perfected under subsection (2) of this section.

20 (e) The priority of a transfer that is perfected under this
21 subsection is not adversely affected by:

22 (i) Any later modification of the financing order or rate
23 recovery assets; or

24 (ii) The commingling of proceeds of rate recovery assets.

25 (4) (a) When proceeds of rate recovery assets are transferred to a
26 segregated account for an assignee or secured party, any lien or
27 security interest that may apply to those proceeds, other than a
28 security interest perfected under subsection (2) of this section, is
29 automatically terminated, without the need for further notice, act,
30 or evidence.

31 (b) Proceeds from rate recovery assets shall be held in trust for
32 an assignee or secured party until the proceeds have been transferred
33 to the assignee or secured party.

34 (c) Any adjustment in rate recovery charges does not affect the
35 validity, perfection, or priority of a security interest in or the
36 transfer of rate recovery assets.

37 (5) (a) The rights and remedies of a secured party in enforcing a
38 security interest in rate recovery assets do not include and are
39 without recourse to any electrical, gas, or water company asset

1 except for the rate recovery assets, even if the rate recovery assets
2 are commingled with other assets.

3 (b) If an electrical, gas, or water company or finance subsidiary
4 defaults on a required payment with respect to rate recovery bonds, a
5 secured party or secured party's representatives may apply to the
6 commission for relief. Upon application by (~~the holders of [or]~~
7 their)) a secured party or secured party's representatives, the
8 commission shall order, without limiting (~~their~~) other remedies of
9 the secured party or secured party's representatives, (~~the~~
10 commission shall order)) the sequestration and payment to the
11 (~~holders or their~~) secured party or secured party's representatives
12 of (~~revenues arising with respect to~~) the (~~conservation~~
13 investment)) proceeds of the rate recovery assets (~~pledged to such~~
14 holders)). (~~Any such~~)

15 (c) The interest of an assignee or financing party in rate
16 recovery assets is not subject to setoff, counterclaim, surcharge, or
17 defense by the electrical, gas, or water company or any other person
18 in connection with a bankruptcy, reorganization, or insolvency
19 proceeding. However, any surplus in excess of amounts necessary to
20 pay principal, premium, if any, interest, and other amounts due with
21 respect to the rate recovery bonds and associated financing costs,
22 including enforcement costs, with respect to the security agreement
23 shall be remitted to the debtor electrical, gas, or water company for
24 the return of such surplus as customer refunds. A company may request
25 authorization for the return of surplus funds by the commission in
26 separate proceedings for this purpose. The commission shall issue an
27 order approving or denying the petition for return of surplus funds
28 within 90 days.

29 (d) The commission's financing order and any order issued under
30 (b) of this subsection shall remain in full force and effect
31 notwithstanding any bankruptcy, reorganization, or other insolvency
32 proceedings with respect to (~~the~~) an electrical, gas, or water
33 company debtor, or transferor with respect to rate recovery assets.
34 (~~Any surplus in excess of amounts necessary to pay principal,~~
35 premium, if any, interest, and expenses arising under the contract
36 governing the conservation bonds shall be remitted to the debtor
37 electrical, gas, or water company or the debtor finance subsidiary.

38 ~~(4))~~ (6) The granting, perfection, and enforcement of security
39 interests in (~~conservation investment~~) rate recovery assets to
40 secure (~~conservation~~) rate recovery bonds is (~~governed by this~~

chapter rather than by)) subject to chapter 62A.9A RCW, except that when a provision in chapter 62A.9A RCW comes in conflict with a provision in this section, the provision in this section shall control.

~~((5))~~ (7) A transfer of ~~((conservation investment))~~ rate recovery assets by an electrical, gas, or water company to a finance subsidiary or other assignee, which such parties have in the governing documentation expressly stated to be a sale or other absolute transfer, in a transaction approved in ~~((an))~~ a financing order ~~((issued by the commission and in connection with the issuance by such finance subsidiary of conservation bonds))~~, shall be treated as a true sale, and not as a pledge or other financing, of such ~~((conservation investment))~~ rate recovery assets. According the holders of ~~((conservation))~~ rate recovery bonds a preferred right to revenues of the electrical, gas, or water company, or the provision by such company of other credit enhancement with respect to ~~((conservation))~~ rate recovery bonds, does not impair or negate the characterization of any such transfer as a true sale.

~~((6))~~ (8) Any successor to an electrical, gas, or water company pursuant to any bankruptcy, reorganization, or other insolvency proceeding shall perform and satisfy all obligations of the company under an approved contract governing ~~((conservation))~~ rate recovery bonds, in the same manner and to the same extent as was required of such company before any such proceeding, including, without limitation, billing, collecting, and paying to the bondholders or their representatives revenues arising with respect to the ~~((conservation investment))~~ rate recovery assets pledged to secure the ~~((conservation))~~ rate recovery bonds.

(9) Except for enforcement permitted under the laws of another state, the laws of this state shall govern the creation, validity, enforceability, attachment, perfection, priority, and exercise of remedies with respect to the creation or transfer of a security interest in a rate recovery asset.

Sec. 7. RCW 80.28.309 and 1994 c 268 s 4 are each amended to read as follows:

(1) Costs incurred before ~~((June 9, 1994,))~~ the effective date of this section by electrical, gas, or water companies with respect to events described in RCW 80.28.005(3)(a) or energy or water conservation measures and services ~~((intended to improve the~~

1 ~~efficiency of energy or water end use))~~ described in RCW
2 80.28.005(3)(b) shall constitute bondable (~~(conservation investment)~~)
3 rate recovery expenditures for purposes of RCW 80.28.005, 80.28.303,
4 80.28.306, and this section, if:

5 (a) The commission has previously issued a rate order authorizing
6 the inclusion of such costs in rate base; and

7 (b) The commission authorizes the issuance of (~~(conservation)~~)
8 rate recovery bonds secured by (~~(conservation investment)~~) rate
9 recovery assets associated with such costs.

10 (2) If costs incurred before (~~(June 9, 1994,)~~) the effective date
11 of this section by electrical, gas, or water companies with respect
12 to events described in RCW 80.28.005(3)(a) or energy or water
13 conservation measures (~~(intended to improve the efficiency of energy~~
14 ~~or water end use))~~ described in RCW 80.28.005(3)(b) have not
15 previously been considered by the commission for inclusion in rate
16 base, an electrical, gas, or water company may apply to the
17 commission for approval of such costs. If the commission finds that
18 the expenditures are ((a)) bondable (~~(conservation investment)~~) rate
19 recovery expenditures, the commission shall by order designate such
20 expenditures as bondable (~~(conservation investment)~~) rate recovery
21 expenditures, which shall be subject to RCW 80.28.005, 80.28.303,
22 80.28.306, sections 3 and 4 of this act, and this section.

23 **Sec. 8.** RCW 80.08.140 and 1961 c 14 s 80.08.140 are each amended
24 to read as follows:

25 No provision of this chapter, RCW 80.28.005, 80.28.303,
26 80.28.306, 80.28.309, or section 3 or 4 of this act, and no deed or
27 act done or performed under or in connection therewith, shall be held
28 or construed to obligate the state of Washington or any agency,
29 instrumentality, political subdivision, or local government thereof
30 to pay or guarantee, in any manner whatsoever, any stock or stock
31 certificate or other evidence of interest or ownership, or bond, note
32 or other evidence of indebtedness, authorized, issued or executed
33 under the provisions of this chapter, RCW 80.28.005, 80.28.303,
34 80.28.306, 80.28.309, or section 3 or 4 of this act.

35 NEW SECTION. **Sec. 9.** A new section is added to chapter 80.28
36 RCW to read as follows:

37 If any provision of this section and sections 1, 3, and 4 of this
38 act or the amendments to RCW 80.08.140, 80.28.005, 80.28.303,

1 80.28.306, and 80.28.309 by sections 2, 5, 6, 7, and 8 of this act is
2 determined to be invalid, or is invalidated, superseded, replaced,
3 repealed, or expired, such determination or occurrence does not
4 affect the validity of any action allowed under this section and
5 sections 1, 3, and 4 of this act or the amendments to RCW 80.08.140,
6 80.28.005, 80.28.303, 80.28.306, and 80.28.309 by sections 2, 5, 6,
7 7, and 8 of this act and taken in good faith and pursuant to a
8 financing order issued prior to such determination or occurrence.

9 NEW SECTION. **Sec. 10.** Except to the extent required by section
10 7 of this act, this act applies prospectively only and not
11 retroactively. Nothing in this act shall impair or affect the
12 validity of any conservation bonds issued under RCW 80.28.303,
13 80.28.306, and 80.28.309 as those sections existed prior to the
14 effective date of this section. Conservation bonds issued under those
15 sections prior to the effective date of this section shall continue
16 to be governed by the provisions of such sections as they existed at
17 the time such conservation bonds were issued.

18 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
19 preservation of the public peace, health, or safety, or support of
20 the state government and its existing public institutions, and takes
21 effect immediately.

--- END ---