S-4336.3

SUBSTITUTE SENATE BILL 5982

State of Washington 69th Legislature 2026 Regular Session

By Senate Environment, Energy & Technology (originally sponsored by Senators Hunt, Shewmake, Liias, and Nobles)

READ FIRST TIME 02/02/26.

AN ACT Relating to updating provisions for consumer-owned utilities, including port districts, and affected market customers under the clean energy transformation act; amending RCW 19.405.020 and 19.405.100; and adding a new section to chapter 19.405 RCW.

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

Sec. 1. RCW 19.405.020 and 2025 c 221 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Allocation of electricity" means, for the purposes of setting electricity rates, the costs and benefits associated with the resources used to provide electricity to an electric utility's retail electricity consumers that are located in this state.

(2) "Alternative compliance payment" means the payment established in RCW 19.405.090(2).

(3) "Attorney general" means the Washington state office of the attorney general.

(4) "Auditor" means: (a) The Washington state auditor's office or its designee for utilities under its jurisdiction under this chapter that are consumer-owned utilities; or (b) an independent auditor

selected by a utility that is not under the jurisdiction of the state auditor and is not an investor-owned utility.

(5)(a) "Biomass energy" includes: (i) Organic by-products of pulping and the wood manufacturing process; (ii) animal manure; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) untreated wooden demolition or construction debris; (vi) food waste and food processing residuals; (vii) liquors derived from algae; (viii) dedicated energy crops; and (ix) yard waste.

(b) "Biomass energy" does not include: (i) Wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old growth forests; or (iii) municipal solid waste.

(6) "Carbon dioxide equivalent" has the same meaning as defined in RCW 70A.45.010.

(7)(a) "Coal-fired resource" means a facility that uses coal-fired generating units, or that uses units fired in whole or in part by coal as feedstock, to generate electricity.

(b)(i) "Coal-fired resource" does not include unspecified electricity that is included as part of a limited duration wholesale power purchase made by an electric utility for delivery to retail electric customers that are located in this state, where the purchase is:

(A)(I) For a contract duration not to exceed three months; or

(II) A purchase of system sales for a contract duration not to exceed six months, provided that the purchase is used to demonstrate compliance with the electric utility's seasonal resource adequacy requirements under a regional resource adequacy program; and

(B) Not used for the purpose of avoiding the restrictions on coal-fired resources under RCW 19.405.030.

(ii) "Coal-fired resource" does not include an electric generating facility that is subject to an obligation to meet the standards contained in RCW 80.80.040(3)(c).

(8) "Commission" means the Washington utilities and transportation commission.

(9) "Conservation and efficiency resources" means any reduction in electric power consumption that results from increases in the efficiency of energy use, production, transmission, or distribution.

(10)(a) "Consumer-owned utility" means a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03

RCW, a cooperative formed under chapter 23.86 RCW, ((~~or~~)) a mutual corporation or association formed under chapter 24.06 RCW, or a port district formed under Title 53 RCW, that is engaged in the business of distributing electricity to ((~~more than~~)) at least one retail electric customer in the state.

(b) "Consumer-owned utility" does not include a public utility district formed under Title 54 RCW with only one retail electric customer in the state provided the customer remains the same as of January 1, 2026, and the public utility district continues to receive 100 percent of its electricity needs from the Bonneville power administration.

(11) "Demand response" means changes in electric usage by demand-side resources from their normal consumption patterns in response to changes in the price of electricity, or to incentive payments designed to induce lower electricity use, at times of high wholesale market prices or when system reliability is jeopardized. "Demand response" may include measures to increase or decrease electricity production on the customer's side of the meter in response to incentive payments.

(12) "Department" means the department of commerce.

(13) "Distributed energy resource" means a nonemitting electric generation or renewable resource or program that reduces electric demand, manages the level or timing of electricity consumption, or provides storage, electric energy, capacity, or ancillary services to an electric utility and that is located on the distribution system, any subsystem of the distribution system, or behind the customer meter, including conservation and energy efficiency.

(14) "Electric utility" or "utility" means a consumer-owned utility or an investor-owned utility.

(15) "Energy assistance" means a program undertaken by a utility to reduce the household energy burden of its customers.

(a) Energy assistance includes, but is not limited to, weatherization, conservation and efficiency services, and monetary assistance, such as a grant program or discounts for lower income households, intended to lower a household's energy burden.

(b) Energy assistance may include direct customer ownership in distributed energy resources or other strategies if such strategies achieve a reduction in energy burden for the customer above other available conservation and demand-side measures.

(16) "Energy assistance need" means the amount of assistance necessary to achieve a level of household energy burden established by the department or commission.

(17) "Energy burden" means the share of annual household income used to pay annual home energy bills.

(18)(a) "Energy transformation project" means a project or program that: Provides energy-related goods or services, other than the generation of electricity; results in a reduction of fossil fuel consumption and in a reduction of the emission of greenhouse gases attributable to that consumption; and provides benefits to the customers of an electric utility.

(b) "Energy transformation project" may include but is not limited to:

(i) Home weatherization or other energy efficiency measures, including market transformation for energy efficiency products, in excess of: The target established under RCW 19.285.040(1), if applicable; other state obligations; or other obligations in effect on May 7, 2019;

(ii) Support for electrification of the transportation sector including, but not limited to:

(A) Equipment on an electric utility's transmission and distribution system to accommodate electric vehicle connections, as well as smart grid systems that enable electronic interaction between the electric utility and charging systems, and facilitate the utilization of vehicle batteries for system needs;

(B) Incentives for the sale or purchase of electric vehicles, both battery and fuel cell powered, as authorized under state or federal law;

(C) Incentives for the installation of charging equipment for electric vehicles;

(D) Incentives for the electrification of vehicle fleets utilizing a battery or fuel cell for electric supply;

(E) Incentives to install and operate equipment to produce or distribute renewable hydrogen; and

(F) Incentives for renewable hydrogen fueling stations;

(iii) Investment in distributed energy resources and grid modernization to facilitate distributed energy resources and improved grid resilience;

(iv) Investments in equipment for renewable natural gas processing, conditioning, and production, or equipment or

infrastructure used solely for the purpose of delivering renewable natural gas for consumption or distribution;

(v) Contributions to self-directed investments in the following measures to serve the sites of large industrial gas and electrical customers: (A) Conservation; (B) new renewable resources; (C) behind-the-meter technology that facilitates demand response cooperation to reduce peak loads; (D) infrastructure to support electrification of transportation needs, including battery and fuel cell electrification; or (E) renewable natural gas processing, conditioning, or production; and

(vi) Projects and programs that achieve energy efficiency and emission reductions in the agricultural sector, including bioenergy and renewable natural gas projects.

(19) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such a material.

(20) "Governing body" means: The council of a city or town; the commissioners of an irrigation district, municipal electric utility, or public utility district; or the board of directors of an electric cooperative or mutual association that has the authority to set and approve rates.

(21) "Greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other gas or gases designated by the department of ecology by rule under RCW 70A.45.010.

(22) "Highly impacted community" means a community designated by the department of health based on cumulative impact analyses in RCW 19.405.140 or a community located in census tracts that are fully or partially on "Indian country" as defined in 18 U.S.C. Sec. 1151.

(23) "Investor-owned utility" means a company owned by investors that meets the definition of "corporation" in RCW 80.04.010 and is engaged in distributing electricity to more than one retail electric customer in the state.

(24) "Low-income" means household incomes as defined by the department or commission, provided that the definition may not exceed the higher of eighty percent of area median household income or two hundred percent of the federal poverty level, adjusted for household size.

(25)(a) "Market customer" means a nonresidential ((~~customer of an electric utility~~)) consumer of electricity that: (i) Purchases electricity from an entity ((~~or entities other than the utility with~~

~~which it is directly interconnected~~)) that is not a utility subject to this chapter; or (ii) generates electricity ((~~to meet one hundred percent of its own needs~~)) for its own consumption or its lessee's consumption, or both.

(b) An "affected market customer" is ((~~a customer of a utility~~)) an electricity consumer who becomes a market customer after May 7, 2019.

(c) "Affected market customer" does not include a nonresidential customer of an electric utility that, prior to May 7, 2019, generated electricity to meet less than 100 percent of its own needs and continues to consume electricity with the same or greater percentage of nonemitting electric generation and electricity from renewable resources for the same end uses.

(26)(a) "Natural gas" means naturally occurring mixtures of hydrocarbon gases and vapors consisting principally of methane, whether in gaseous or liquid form, including methane clathrate.

(b) "Natural gas" does not include renewable natural gas or the portion of renewable natural gas when blended into other fuels.

(27)(a) "Nonemitting electric generation" means electricity from a generating facility or a resource that provides electric energy, capacity, or ancillary services to an electric utility and that does not emit greenhouse gases as a by-product of energy generation.

(b) "Nonemitting electric generation" does not include renewable resources.

(28)(a) "Nonpower attributes" means all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity, including but not limited to the facility's fuel type, geographic location, vintage, qualification as a renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases.

(b) "Nonpower attributes" does not include any aspects, claims, characteristics, and benefits associated with the on-site capture and destruction of methane or other greenhouse gases at a facility through a digester system, landfill gas collection system, or other mechanism, which may be separately marketable as greenhouse gas emission reduction credits, offsets, or similar tradable commodities. However, these separate avoided emissions may not result in or

otherwise have the effect of attributing greenhouse gas emissions to the electricity.

(29) "Qualified transmission line" means an overhead transmission line that is: (a) Designed to carry a voltage in excess of one hundred thousand volts; (b) owned in whole or in part by an investor-owned utility; and (c) primarily or exclusively used by such an investor-owned utility as of May 7, 2019, to transmit electricity generated by a coal-fired resource.

(30) "Renewable energy credit" means a tradable certificate of proof of one megawatt-hour of a renewable resource. The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity and the certificate is verified by a renewable energy credit tracking system selected by the department.

(31) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for the hydrogen and the source for the energy input into the production process.

(32) "Renewable natural gas" means a gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters.

(33) "Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) renewable natural gas; (f) renewable hydrogen; (g) wave, ocean, or tidal power; (h) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (i) biomass energy.

(34)(a) "Retail electric customer" means a person or entity that purchases electricity from any electric utility for ultimate consumption and not for resale.

(b) "Retail electric customer" does not include, in the case of any electric utility, any person or entity that purchases electricity exclusively from carbon-free and eligible renewable resources, as defined in RCW 19.285.030 as of January 1, 2019, pursuant to a special contract with an investor-owned utility approved by an order of the commission prior to May 7, 2019.

(35) "Retail electric load" means:

(a) With respect to an electric utility, the amount of megawatt-hours of electricity delivered in a given calendar year by an electric utility to its Washington retail electric customers. "Retail electric load" does not include:

((~~(a)~~)) (i) Megawatt-hours delivered from qualifying facilities under the federal public utility regulatory policies act of 1978, P.L. 95-617, in operation prior to May 7, 2019, provided that no entity other than the electric utility can make a claim on delivery of the megawatt-hours from those resources; or

((~~(b)~~)) (ii) Megawatt-hours delivered to an electric utility's system from a renewable resource through a voluntary renewable energy purchase by a retail electric customer of the utility in which the renewable energy credits associated with the megawatt-hours delivered are retired on behalf of the retail electric customer;

(b) With respect to an affected market customer, the amount of megawatt-hours of electricity purchased from an entity that is not a utility subject to this chapter or generated by the affected market customer for its own consumption.

(36) "Thermal renewable energy credit" means, with respect to a facility that generates electricity using biomass energy that also generates thermal energy for a secondary purpose, a renewable energy credit that is equivalent to three million four hundred twelve thousand British thermal units of energy used for such secondary purpose.

(37) "Unbundled renewable energy credit" means a renewable energy credit that is sold, delivered, or purchased separately from electricity. All thermal renewable energy credits are considered unbundled renewable energy credits.

(38) "Unspecified electricity" means an electricity source for which the fuel attribute is unknown or has been separated from the energy delivered to retail electric customers.

(39) "Vulnerable populations" means communities that experience a disproportionate cumulative risk from environmental burdens due to:

(a) Adverse socioeconomic factors, including unemployment, high housing and transportation costs relative to income, access to food and health care, and linguistic isolation; and

(b) Sensitivity factors, such as low birth weight and higher rates of hospitalization.

Sec. 2. RCW 19.405.100 and 2025 c 221 s 3 are each amended to read as follows:

(1) It is the intent of this chapter that the commission and department adopt rules to streamline the implementation of chapter 288, Laws of 2019 with chapter 19.285 RCW to simplify compliance and

avoid duplicative processes. It is the intent of the legislature that the commission and the department coordinate in developing rules related to process, timelines, and documentation that are necessary for the implementation of this chapter.

(2) The commission may adopt rules to ensure the proper implementation and enforcement of this chapter as it applies to investor-owned utilities.

(3) The department may adopt rules to ensure the proper implementation and enforcement of this chapter as it applies to consumer-owned utilities. Nothing in this subsection may be construed to restrict the rate-making authority of the governing body of a consumer-owned utility as otherwise provided by law.

(4)(a) The department must adopt rules establishing reporting requirements for electric utilities to demonstrate compliance with this chapter. The requirements must, to the extent practicable, be consistent with the disclosures required under chapter 19.29A RCW.

(b) ((~~Beginning~~)) The department must establish reporting requirements for port districts formed under Title 53 RCW. The department may waive the reporting requirements that do not pertain to the retail electric customers served by port districts.

(c) The commission must adopt rules establishing reporting requirements for affected market customers to demonstrate compliance with this chapter. The requirements must, to the extent practicable, be consistent with the disclosures required under chapter 19.29A RCW. The commission may waive reporting requirements for affected market customers that only procure power from nonemitting electric generation or renewable resources and for affected market customers that generate electricity using de minimis amounts of fossil fuels exclusively for purposes of emergency backup requirements.

(d)(i) Except as provided in (d)(ii) of this subsection, beginning with the interim performance report due July 1, 2026, consumer-owned electric utilities must include in each interim performance or compliance report the number of unspecified electricity contracts with terms greater than 31 days used to serve Washington retail customers. The report will include information regarding the duration and purpose of the unspecified contracts and the months contracted.

(ii) The requirement in (d)(i) of this subsection applies to a port district formed under Title 53 RCW beginning July 1, 2030.

(5) An investor-owned utility must also report all information required in subsection (4)(a) of this section to the commission.

(6) An electric utility must also make reports required in this section available to its retail electric customers.

(7) The department of ecology must adopt rules, in consultation with the commission and the department of commerce, to establish requirements for energy transformation project investments including, but not limited to, verification procedures, reporting standards, and other logistical issues as necessary.

(8) The department must adopt rules providing for the measuring and tracking of thermal renewable energy credits that may be used for compliance under RCW 19.405.040.

(9) Pursuant to the administrative procedure act, chapter 34.05 RCW, rules needed for the implementation of this chapter must be adopted by January 1, 2021, unless specified otherwise elsewhere in this chapter. These rules may be revised as needed to carry out the intent and purposes of this chapter.

NEW SECTION. **Sec. 3.** A new section is added to chapter 19.405 RCW to read as follows:

For affected market customers, the commission must, on its own motion or if requested, enforce compliance with the requirements of this chapter.

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