
SENATE BILL 5991

State of Washington

69th Legislature

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By Senators Boehnke and Dozier

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1 AN ACT Relating to the use of carbon capture and utilization,
2 mineralization, or sequestration technologies under the Washington
3 clean energy transformation act; amending RCW 19.405.020, 19.405.040,
4 19.405.050, 19.405.060, 19.405.080, 19.405.090, 19.405.160, and
5 19.405.170; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

8 (a) Washington has established ambitious policies to decarbonize
9 all sectors of the state's economy by 2050, including:

10 (i) Economy-wide greenhouse gas emissions limits that reach 95
11 percent below 1990 levels and net-zero emissions by 2050, under
12 chapter 70A.45 RCW; and

13 (ii) A requirement that 100 percent of all sales of electricity
14 to Washington retail electric customers be met by nonemitting
15 electric generation and electricity from renewable resources by
16 January 1, 2045, under chapter 19.405 RCW;

17 (b) According to the 2025 northwest regional forecast of power
18 loads and resources, the northwest is dangerously close to
19 experiencing significant energy supply disruption as resource
20 additions in the region continue to lag behind unprecedented electric

1 demand growth, which could lead to blackouts during peak demand
2 events;

3 (c) In the summary report submitted to the legislature by the
4 department of commerce and utilities and transportation commission
5 following the 2025 long-term resource adequacy meeting, the agencies
6 acknowledge a need to consider potential changes to the state's mix
7 of generating resources with a greater focus on the capacity and fuel
8 requirements of the power system during critical periods, such as
9 days of extreme cold combined with low hydroelectric and wind
10 generation;

11 (d) Natural gas used to generate electricity will play an
12 increasingly critical role in the reliable operation of the region's
13 power system between now and 2050, particularly during periods of
14 extreme cold combined with low hydroelectric and wind generation;

15 (e) Carbon capture and utilization, or storage technologies such
16 as mineralization or sequestration, including technologies for
17 mineralization and geological sequestration, are commercially viable
18 solutions for mitigating the greenhouse gas emissions associated with
19 electricity generation from natural gas systems;

20 (f) According to the 2021 Washington state energy strategy,
21 initial investigations by the United States geological survey show
22 meaningful potential for geological carbon storage in Washington,
23 while research by the Pacific Northwest national laboratory has shown
24 previously unrealized potential for carbon storage in the flood
25 basalts common to the state's landscape; and

26 (g) In the 2024 biennial update to the 2021 Washington state
27 energy strategy, the department of commerce identified clarifying the
28 eligibility of projects using carbon capture and storage under the
29 Washington clean energy transformation act as a priority strategy for
30 meeting the state's clean energy and decarbonization goals.

31 (2) Therefore, it is the intent of the legislature to authorize
32 electric utilities to use electricity from natural gas systems
33 operated with carbon capture and utilization, mineralization, or
34 sequestration technology in meeting the 2030 and 2045 requirements of
35 the Washington clean energy transformation act.

36 **Sec. 2.** RCW 19.405.020 and 2025 c 221 s 1 are each amended to
37 read as follows:

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

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

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

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

9 (4) "Auditor" means: (a) The Washington state auditor's office or
10 its designee for utilities under its jurisdiction under this chapter
11 that are consumer-owned utilities; or (b) an independent auditor
12 selected by a utility that is not under the jurisdiction of the state
13 auditor and is not an investor-owned utility.

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

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

24 (6) "Carbon capture and utilization, mineralization, or
25 sequestration technology" means technology that has the principal
26 purpose of capturing and then any combination of reusing, storing,
27 mineralizing, sequestering, or using carbon dioxide emissions to
28 prevent carbon dioxide from entering the atmosphere, whether
29 constructed integral or adjacent to a natural gas system.

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

32 ((+7)) (8)(a) "Coal-fired resource" means a facility that uses
33 coal-fired generating units, or that uses units fired in whole or in
34 part by coal as feedstock, to generate electricity.

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

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

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

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

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

10 ~~((8))~~ (9) "Commission" means the Washington utilities and
11 transportation commission.

12 ~~((9))~~ (10) "Conservation and efficiency resources" means any
13 reduction in electric power consumption that results from increases
14 in the efficiency of energy use, production, transmission, or
15 distribution.

16 ~~((10))~~ (11) "Consumer-owned utility" means a municipal electric
17 utility formed under Title 35 RCW, a public utility district formed
18 under Title 54 RCW, an irrigation district formed under chapter 87.03
19 RCW, a cooperative formed under chapter 23.86 RCW, or a mutual
20 corporation or association formed under chapter 24.06 RCW, that is
21 engaged in the business of distributing electricity to more than one
22 retail electric customer in the state.

23 ~~((11))~~ (12) "Demand response" means changes in electric usage
24 by demand-side resources from their normal consumption patterns in
25 response to changes in the price of electricity, or to incentive
26 payments designed to induce lower electricity use, at times of high
27 wholesale market prices or when system reliability is jeopardized.
28 "Demand response" may include measures to increase or decrease
29 electricity production on the customer's side of the meter in
30 response to incentive payments.

31 ~~((12))~~ (13) "Department" means the department of commerce.

32 ~~((13))~~ (14) "Distributed energy resource" means a nonemitting
33 electric generation ~~((or)),~~ renewable resource, electricity from
34 natural gas systems operated with carbon capture and utilization,
35 mineralization, or sequestration technology, or program that reduces
36 electric demand, manages the level or timing of electricity
37 consumption, or provides storage, electric energy, capacity, or
38 ancillary services to an electric utility and that is located on the
39 distribution system, any subsystem of the distribution system, or

1 behind the customer meter, including conservation and energy
2 efficiency.

3 ~~((14))~~ (15) "Electric utility" or "utility" means a consumer-
4 owned utility or an investor-owned utility.

5 ~~((15))~~ (16) "Energy assistance" means a program undertaken by a
6 utility to reduce the household energy burden of its customers.

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

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

15 ~~((16))~~ (17) "Energy assistance need" means the amount of
16 assistance necessary to achieve a level of household energy burden
17 established by the department or commission.

18 ~~((17))~~ (18) "Energy burden" means the share of annual household
19 income used to pay annual home energy bills.

20 ~~((18))~~ (19)(a) "Energy transformation project" means a project
21 or program that: Provides energy-related goods or services, other
22 than the generation of electricity; results in a reduction of fossil
23 fuel consumption and in a reduction of the emission of greenhouse
24 gases attributable to that consumption; and provides benefits to the
25 customers of an electric utility.

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

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

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

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

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

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

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

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

10 (F) Incentives for renewable hydrogen fueling stations;

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

14 (iv) Investments in equipment for renewable natural gas
15 processing, conditioning, and production, or equipment or
16 infrastructure used solely for the purpose of delivering renewable
17 natural gas for consumption or distribution;

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

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

29 (~~(19)~~) (20) "Fossil fuel" means natural gas, petroleum, coal,
30 or any form of solid, liquid, or gaseous fuel derived from such a
31 material.

32 (~~(20)~~) (21) "Governing body" means: The council of a city or
33 town; the commissioners of an irrigation district, municipal electric
34 utility, or public utility district; or the board of directors of an
35 electric cooperative or mutual association that has the authority to
36 set and approve rates.

37 (~~(21)~~) (22) "Greenhouse gas" includes carbon dioxide, methane,
38 nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur
39 hexafluoride, and any other gas or gases designated by the department
40 of ecology by rule under RCW 70A.45.010.

1 ~~((22))~~ (23) "Highly impacted community" means a community
2 designated by the department of health based on cumulative impact
3 analyses in RCW 19.405.140 or a community located in census tracts
4 that are fully or partially on "Indian country" as defined in 18
5 U.S.C. Sec. 1151.

6 ~~((23))~~ (24) "Investor-owned utility" means a company owned by
7 investors that meets the definition of "corporation" in RCW 80.04.010
8 and is engaged in distributing electricity to more than one retail
9 electric customer in the state.

10 ~~((24))~~ (25) "Low-income" means household incomes as defined by
11 the department or commission, provided that the definition may not
12 exceed the higher of ~~((eighty))~~ 80 percent of area median household
13 income or ~~((two hundred))~~ 200 percent of the federal poverty level,
14 adjusted for household size.

15 ~~((25))~~ (26)(a) "Market customer" means a nonresidential
16 customer of an electric utility that: (i) Purchases electricity from
17 an entity or entities other than the utility with which it is
18 directly interconnected; or (ii) generates electricity to meet ~~((one
19 hundred))~~ 100 percent of its own needs.

20 (b) An "affected market customer" is a customer of a utility who
21 becomes a market customer after May 7, 2019.

22 ~~((26))~~ (27)(a) "Natural gas" means naturally occurring mixtures
23 of hydrocarbon gases and vapors consisting principally of methane,
24 whether in gaseous or liquid form, including methane clathrate.

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

27 ~~((27))~~ (c) "Natural gas" does not include a natural gas system
28 operated with carbon capture and utilization, mineralization, or
29 sequestration technology in a manner consistent with RCW
30 19.405.050(7).

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

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

37 ~~((28))~~ (29)(a) "Nonpower attributes" means all environmentally
38 related characteristics, exclusive of energy, capacity reliability,
39 and other electrical power service attributes, that are associated
40 with the generation of electricity, including but not limited to the

1 facility's fuel type, geographic location, vintage, qualification as
2 a renewable resource, and avoided emissions of pollutants to the air,
3 soil, or water, and avoided emissions of carbon dioxide and other
4 greenhouse gases.

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

14 ~~((29))~~ (30) "Qualified transmission line" means an overhead
15 transmission line that is: (a) Designed to carry a voltage in excess
16 of ~~((one hundred thousand))~~ 100,000 volts; (b) owned in whole or in
17 part by an investor-owned utility; and (c) primarily or exclusively
18 used by such an investor-owned utility as of May 7, 2019, to transmit
19 electricity generated by a coal-fired resource.

20 ~~((30))~~ (31) "Renewable energy credit" means a tradable
21 certificate of proof of one megawatt-hour of a renewable resource.
22 The certificate includes all of the nonpower attributes associated
23 with that one megawatt-hour of electricity and the certificate is
24 verified by a renewable energy credit tracking system selected by the
25 department.

26 ~~((31))~~ (32) "Renewable hydrogen" means hydrogen produced using
27 renewable resources both as the source for the hydrogen and the
28 source for the energy input into the production process.

29 ~~((32))~~ (33) "Renewable natural gas" means a gas consisting
30 largely of methane and other hydrocarbons derived from the
31 decomposition of organic material in landfills, wastewater treatment
32 facilities, and anaerobic digesters.

33 ~~((33))~~ (34) "Renewable resource" means: (a) Water; (b) wind;
34 (c) solar energy; (d) geothermal energy; (e) renewable natural gas;
35 (f) renewable hydrogen; (g) wave, ocean, or tidal power; (h)
36 biodiesel fuel that is not derived from crops raised on land cleared
37 from old growth or first growth forests; or (i) biomass energy.

38 ~~((34))~~ (35) (a) "Retail electric customer" means a person or
39 entity that purchases electricity from any electric utility for
40 ultimate consumption and not for resale.

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

7 (~~(35)~~) (36) "Retail electric load" means the amount of
8 megawatt-hours of electricity delivered in a given calendar year by
9 an electric utility to its Washington retail electric customers.
10 "Retail electric load" does not include:

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

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

21 (~~(36)~~) (37) "Thermal renewable energy credit" means, with
22 respect to a facility that generates electricity using biomass energy
23 that also generates thermal energy for a secondary purpose, a
24 renewable energy credit that is equivalent to three million four
25 hundred twelve thousand British thermal units of energy used for such
26 secondary purpose.

27 (~~(37)~~) (38) "Unbundled renewable energy credit" means a
28 renewable energy credit that is sold, delivered, or purchased
29 separately from electricity. All thermal renewable energy credits are
30 considered unbundled renewable energy credits.

31 (~~(38)~~) (39) "Unspecified electricity" means an electricity
32 source for which the fuel attribute is unknown or has been separated
33 from the energy delivered to retail electric customers.

34 (~~(39)~~) (40) "Vulnerable populations" means communities that
35 experience a disproportionate cumulative risk from environmental
36 burdens due to:

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

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

3 **Sec. 3.** RCW 19.405.040 and 2019 c 288 s 4 are each amended to
4 read as follows:

5 (1) It is the policy of the state that all retail sales of
6 electricity to Washington retail electric customers be greenhouse gas
7 neutral by January 1, 2030.

8 (a) For the four-year compliance period beginning January 1,
9 2030, and for each multiyear compliance period thereafter through
10 December 31, 2044, an electric utility must demonstrate its
11 compliance with this standard using a combination of nonemitting
12 electric generation ~~((and))~~, electricity from renewable resources,
13 and electricity from natural gas systems operated with carbon capture
14 and utilization, mineralization, or sequestration technology in a
15 manner consistent with RCW 19.405.050(7), or alternative compliance
16 options, as provided in this section. To achieve compliance with this
17 standard, an electric utility must: (i) Pursue all cost-effective,
18 reliable, and feasible conservation and efficiency resources to
19 reduce or manage retail electric load, using the methodology
20 established in RCW 19.285.040, if applicable; and (ii) use
21 electricity from renewable resources ~~((and))~~, nonemitting electric
22 generation, and natural gas systems operated with carbon capture and
23 utilization, mineralization, or sequestration technology in a manner
24 consistent with RCW 19.405.050(7) in an amount equal to ~~((one~~
25 ~~hundred))~~ 100 percent of the utility's retail electric loads over
26 each multiyear compliance period. An electric utility must achieve
27 compliance with this standard for the following compliance periods:
28 January 1, 2030, through December 31, 2033; January 1, 2034, through
29 December 31, 2037; January 1, 2038, through December 31, 2041; and
30 January 1, 2042, through December 31, 2044.

31 (b) Through December 31, 2044, an electric utility may satisfy up
32 to ~~((twenty))~~ 20 percent of its compliance obligation under (a) of
33 this subsection with an alternative compliance option consistent with
34 this section. An alternative compliance option may include any
35 combination of the following:

36 (i) Making an alternative compliance payment under RCW
37 19.405.090(2);

38 (ii) Using unbundled renewable energy credits, provided that
39 there is no double counting of any nonpower attributes associated

1 with renewable energy credits within Washington or programs in other
2 jurisdictions, as follows:

3 (A) Unbundled renewable energy credits produced from eligible
4 renewable resources, as defined under RCW 19.285.030, which may be
5 used by the electric utility for compliance with RCW 19.285.040 and
6 this section as provided under RCW 19.285.040(2)(e); and

7 (B) Unbundled renewable energy credits, other than those included
8 in (b)(ii)(A) of this subsection, that represent electricity
9 generated within the compliance period;

10 (iii) Investing in energy transformation projects, including
11 additional conservation and efficiency resources beyond what is
12 otherwise required under this section, provided the projects meet the
13 requirements of subsection (2) of this section and are not credited
14 as resources used to meet the standard under (a) of this subsection;
15 or

16 (iv) Using electricity from an energy recovery facility using
17 municipal solid waste as the principal fuel source, where the
18 facility was constructed prior to 1992, and the facility is operated
19 in compliance with federal laws and regulations and meets state air
20 quality standards. An electric utility may only use electricity from
21 such an energy recovery facility if the department and the department
22 of ecology determine that electricity generation at the facility
23 provides a net reduction in greenhouse gas emissions compared to any
24 other available waste management best practice. The determination
25 must be based on a life-cycle analysis comparing the energy recovery
26 facility to other technologies available in the jurisdiction in which
27 the facility is located for the waste management best practices of
28 waste reduction, recycling, composting, and minimizing the use of a
29 landfill.

30 (c) Electricity from renewable resources used to meet the
31 standard under (a) of this subsection must be verified by the
32 retirement of renewable energy credits. Renewable energy credits must
33 be tracked and retired in the tracking system selected by the
34 department.

35 (d) Hydroelectric generation used by an electric utility in
36 meeting the standard under (a) of this subsection may not include new
37 diversions, new impoundments, new bypass reaches, or expansion of
38 existing reservoirs constructed after May 7, 2019, unless the
39 diversions, bypass reaches, or reservoir expansions are necessary for
40 the operation of a pumped storage facility that: (i) Does not

1 conflict with existing state or federal fish recovery plans; and (ii)
2 complies with all local, state, and federal laws and regulations.

3 (e) Nothing in (d) of this subsection precludes an electric
4 utility that owns and operates hydroelectric generating facilities,
5 or the owner of a hydroelectric generating facility whose energy
6 output is marketed by the Bonneville power administration, from
7 making efficiency or other improvements to its hydroelectric
8 generating facilities existing as of May 7, 2019, or from installing
9 hydroelectric generation in pipes, culverts, irrigation canals, and
10 other man-made waterways, as long as those changes do not create
11 conflicts with existing state or federal fish recovery plans and
12 comply with all local, state, and federal laws and regulations.

13 (f) Nonemitting electric generation used to meet the standard
14 under (a) of this subsection must be generated during the compliance
15 period and must be verified by documentation that the electric
16 utility owns the nonpower attributes of the electricity generated by
17 the nonemitting electric generation resource.

18 (g) Nothing in this section prohibits an electric utility from
19 purchasing or exchanging power from the Bonneville power
20 administration.

21 (2) Investments in energy transformation projects used to satisfy
22 an alternative compliance option provided under subsection (1)(b) of
23 this section must use criteria developed by the department of
24 ecology, in consultation with the department and the commission. For
25 the purpose of crediting an energy transformation project toward the
26 standard in subsection (1)(a) of this section, the department of
27 ecology must establish a conversion factor of emissions reductions
28 resulting from energy transformation projects to megawatt-hours of
29 electricity from nonemitting electric generation that is consistent
30 with the emission factors for unspecified electricity, or for energy
31 transformation projects in the transportation sector, consistent with
32 default emissions or conversion factors established by other
33 jurisdictions for clean alternative fuels. Emissions reductions from
34 energy transformation projects must be:

35 (a) Real, specific, identifiable, and quantifiable;

36 (b) Permanent: The department of ecology must look to other
37 jurisdictions in setting this standard and make a reasonable
38 determination on length of time;

39 (c) Enforceable by the state of Washington;

40 (d) Verifiable;

1 (e) Not required by another statute, rule, or other legal
2 requirement; and

3 (f) Not reasonably assumed to occur absent investment, or if an
4 investment has already been made, not reasonably assumed to occur
5 absent additional funding in the near future.

6 (3) Energy transformation projects must be associated with the
7 consumption of energy in Washington and must not create a new use of
8 fossil fuels that results in a net increase of fossil fuel usage.

9 (4) The compliance eligibility of energy transformation projects
10 may be scaled or prorated by an approved protocol in order to
11 distinguish effects related to reductions in electricity usage from
12 reductions in fossil fuel usage.

13 (5) Any compliance obligation fulfilled through an investment in
14 an energy transformation project is eligible for use only: (a) By the
15 electric utility that makes the investment; (b) if the investment is
16 made by the Bonneville power administration, by electric utilities
17 that are preference customers of the Bonneville power administration;
18 or (c) if the investment is made by a joint operating agency
19 organized under chapter 43.52 RCW, by a member of the joint operating
20 agency. An electric utility making an investment in partnership with
21 another electric utility or entity may claim credit proportional to
22 its share invested in the total project cost.

23 (6)(a) In meeting the standard under subsection (1) of this
24 section, an electric utility must, consistent with the requirements
25 of RCW 19.285.040, if applicable, pursue all cost-effective,
26 reliable, and feasible conservation and efficiency resources, and
27 demand response. In making new investments, an electric utility must,
28 to the maximum extent feasible:

29 (i) Achieve targets at the lowest reasonable cost, considering
30 risk;

31 (ii) Consider acquisition of existing renewable resources; and

32 (iii) In the acquisition of new resources constructed after May
33 7, 2019, rely on renewable resources and energy storage, insofar as
34 doing so is consistent with (a)(i) of this subsection.

35 (b) Electric utilities subject to RCW 19.285.040 must demonstrate
36 pursuit of all conservation and efficiency resources through
37 compliance with the requirements in RCW 19.285.040.

38 (7) An electric utility that fails to meet the requirements of
39 this section must pay the administrative penalty established under
40 RCW 19.405.090(1), except as otherwise provided in this chapter.

1 (8) In complying with this section, an electric utility must,
2 consistent with the requirements of RCW 19.280.030 and 19.405.140,
3 ensure that all customers are benefiting from the transition to clean
4 energy: Through the equitable distribution of energy and nonenergy
5 benefits and reduction of burdens to vulnerable populations and
6 highly impacted communities; long-term and short-term public health
7 and environmental benefits and reduction of costs and risks; and
8 energy security and resiliency.

9 (9) Carbon capture and utilization, mineralization, or
10 sequestration technology that is operated with a natural gas system
11 in a manner consistent with RCW 19.405.050(7) and used by an electric
12 utility to satisfy the requirements of this section must comply with
13 all local, state, and federal laws and regulations.

14 (10) Affected market customers must comply with the standard
15 established under subsection (1) of this section.

16 ~~((10))~~ (11) A market customer that purchases electricity
17 exclusively from carbon-free resources and eligible renewable
18 resources, as defined in RCW 19.285.030 as of January 1, 2019,
19 pursuant to a special contract with an investor-owned utility
20 approved, prior to May 7, 2019, by order of the commission is subject
21 to the requirements of such an order and not to the standard
22 established in this section. For purposes of interpreting any such
23 special contract, chapter 19.285 RCW, as in effect on January 1,
24 2019, is not, either directly or indirectly, amended or supplemented.

25 ~~((11))~~ (12) To reduce costs for utility customers or avoid
26 exceeding the cost impact limit in RCW 19.405.060(3)(a), a multistate
27 electric utility with fewer than two hundred fifty thousand customers
28 in Washington may apply the total amount of megawatt-hours of coal-
29 fired resources eliminated from the utility's allocation of
30 electricity before December 31, 2025, as an equivalent amount of
31 megawatt-hours of nonemitting electric generation or electricity from
32 renewable resources required to comply with subsection (1)(a) of this
33 section. The utility must demonstrate that for every megawatt-hour of
34 early action compliance credit there is a real, permanent reduction
35 in greenhouse gas emissions in the western interconnection directly
36 associated with that credit. A multistate electric utility must
37 request to use early action compliance credit in its clean energy
38 implementation plan that is submitted under RCW 19.405.060. The
39 multistate electric utility must specify in its clean energy
40 implementation plan the compliance years to which the early action

1 compliance credit will apply, but in no event may the multistate
2 electric utility use the early action compliance credits beyond 2035.
3 The commission must establish conditions for use of early action
4 compliance credits, including a determination of whether action
5 constitutes early action, before the multistate electric utility's
6 use of early action compliance credits in a clean energy
7 implementation plan.

8 **Sec. 4.** RCW 19.405.050 and 2019 c 288 s 5 are each amended to
9 read as follows:

10 (1) It is the policy of the state that nonemitting electric
11 generation ~~((and)),~~ electricity from renewable resources, and
12 electricity from natural gas systems operated with carbon capture and
13 utilization, mineralization, or sequestration technology in a manner
14 consistent with subsection (7) of this section supply ~~((one hundred))~~
15 100 percent of all sales of electricity to Washington retail electric
16 customers by January 1, 2045. By January 1, 2045, and each year
17 thereafter, each electric utility must demonstrate its compliance
18 with this standard using a combination of nonemitting electric
19 generation ~~((and)),~~ electricity from renewable resources, and
20 electricity from natural gas systems operated with carbon capture and
21 utilization, mineralization, or sequestration technology in a manner
22 consistent with subsection (7) of this section.

23 (2) Each electric utility must incorporate subsection (1) of this
24 section into all relevant planning and resource acquisition practices
25 including, but not limited to: Resource planning under chapter 19.280
26 RCW; the construction or acquisition of property, including electric
27 generating facilities; and the provision of electricity service to
28 retail electric customers.

29 (3) In planning to meet projected demand consistent with the
30 requirements of subsection (2) of this section and RCW 19.285.040, if
31 applicable, an electric utility must pursue all cost-effective,
32 reliable, and feasible conservation and efficiency resources, and
33 demand response. In making new investments, an electric utility must,
34 to the maximum extent feasible:

35 (a) Achieve targets at the lowest reasonable cost, considering
36 risk;

37 (b) Consider acquisition of existing renewable resources; and

1 (c) In the acquisition of new resources constructed after May 7,
2 2019, rely on renewable resources and energy storage, insofar as
3 doing so is consistent with (a) of this subsection.

4 (4) The commission, department, energy facility site evaluation
5 council, department of ecology, and all other state agencies must
6 incorporate this section into all relevant planning and utilize all
7 programs authorized by statute to achieve subsection (1) of this
8 section.

9 (5) (a) Hydroelectric generation used by an electric utility to
10 satisfy the requirements of this section may not include new
11 diversions, new impoundments, new bypass reaches, or expansion of
12 existing reservoirs constructed after May 7, 2019, unless the
13 diversions, bypass reaches, or reservoir expansions are necessary for
14 the operation of a pumped storage facility that: (i) Does not
15 conflict with existing state or federal fish recovery plans; and (ii)
16 complies with all local, state, and federal laws and regulations.

17 (b) Nothing in (a) of this subsection precludes an electric
18 utility that owns and operates hydroelectric generating facilities,
19 or the owner of a hydroelectric generating facility whose energy
20 output is marketed by the Bonneville power administration, from
21 making efficiency or other improvements to its hydroelectric
22 generating facilities existing as of May 7, 2019, or from installing
23 hydroelectric generation in pipes, culverts, irrigation canals, and
24 other man-made waterways as long as those changes do not create
25 conflicts with existing state or federal fish recovery plans and
26 comply with all local, state, and federal laws and regulations.

27 (6) Nothing in this section prohibits an electric utility from
28 purchasing or exchanging power from the Bonneville power
29 administration.

30 (7) (a) Carbon capture and utilization, mineralization, or
31 sequestration technology that is operated with a natural gas system
32 and used by an electric utility to satisfy the requirements of this
33 section must:

34 (i) Comply with all local, state, and federal laws and
35 regulations; and

36 (ii) Have a capture design capacity of not less than 75 percent
37 of the baseline carbon dioxide production of each natural gas system
38 for which such technology is installed.

39 (b) For the purposes of this subsection, "baseline carbon dioxide
40 production" means:

1 (i) In the case of an applicable natural gas system that was
2 originally placed in service more than one year prior to the date on
3 which construction of the carbon capture and utilization,
4 mineralization, or sequestration technology begins, the average
5 annual carbon dioxide production, by mass, from such system during:

6 (A) In the case of an applicable natural gas system that was
7 originally placed in service up to three years prior to the date on
8 which construction of the carbon capture utilization, mineralization,
9 or sequestration technology begins, the period beginning on the date
10 such system was placed in service and ending the date on which
11 construction of such technology began; and

12 (B) In the case of an applicable natural gas system that was
13 originally placed in service more than three years prior to the date
14 on which construction of the carbon capture and utilization,
15 mineralization, or sequestration technology begins, the three years
16 with the highest annual carbon dioxide production during the 12-year
17 period preceding the date on which construction of such technology
18 began;

19 (ii) In the case of an applicable natural gas system that: (A) As
20 of the date on which construction of the carbon capture and
21 utilization, mineralization, or sequestration technology begins, is
22 not yet placed in service; or (B) was placed in service during the
23 one-year period prior to the date on which construction of the carbon
24 capture and utilization, mineralization, or sequestration technology
25 begins, the designed annual carbon dioxide production, by mass, as
26 determined based on an assumed capacity factor of 60 percent.

27 (8) Affected market customers must comply with the obligations of
28 this section.

29 ~~((+8))~~ (9) Any market customer that purchases electricity
30 exclusively from carbon-free resources and eligible renewable
31 resources, as defined in RCW 19.285.030 as of January 1, 2019,
32 pursuant to a special contract with an investor-owned utility
33 approved, prior to May 7, 2019, by order of the commission is subject
34 to the requirements of such an order and not to the standards
35 established in this section. For the purposes of interpreting such a
36 special contract, chapter 19.285 RCW, as in effect on January 1,
37 2019, is not, either directly or indirectly, amended or supplemented.

38 **Sec. 5.** RCW 19.405.060 and 2024 c 351 s 14 are each amended to
39 read as follows:

1 (1) (a) By January 1, 2022, and every four years thereafter, each
2 investor-owned utility must develop and submit to the commission:

3 (i) A four-year clean energy implementation plan for the
4 standards established under RCW 19.405.040(1) and 19.405.050(1) that
5 proposes specific targets for energy efficiency, demand response, and
6 renewable energy; and

7 (ii) Proposed interim targets for meeting the standard under RCW
8 19.405.040(1) during the years prior to 2030 and between 2030 and
9 2045.

10 (b) An investor-owned utility's clean energy implementation plan
11 must:

12 (i) Be informed by the investor-owned utility's clean energy
13 action plan developed under RCW 19.280.030;

14 (ii) Be consistent with subsection (3) of this section; and

15 (iii) Identify specific actions to be taken by the investor-owned
16 utility over the next four years, consistent with the utility's long-
17 range integrated resource plan and resource adequacy requirements,
18 that demonstrate progress toward meeting the standards under RCW
19 19.405.040(1) and 19.405.050(1) and the interim targets proposed
20 under (a) (i) of this subsection. The specific actions identified must
21 be informed by the investor-owned utility's historic performance
22 under median water conditions and resource capability and by the
23 investor-owned utility's participation in centralized markets. In
24 identifying specific actions in its clean energy implementation plan,
25 the investor-owned utility may also take into consideration any
26 significant and unplanned loss or addition of load it experiences.

27 (c) The commission, after a hearing, must by order approve,
28 reject, or approve with conditions an investor-owned utility's clean
29 energy implementation plan and interim targets. The commission may,
30 in its order, recommend or require more stringent targets than those
31 proposed by the investor-owned utility. The commission may
32 periodically adjust or expedite timelines if it can be demonstrated
33 that the targets or timelines can be achieved in a manner consistent
34 with the following:

35 (i) Maintaining and protecting the safety, reliable operation,
36 and balancing of the electric system;

37 (ii) Planning to meet the standards at the lowest reasonable
38 cost, considering risk;

39 (iii) Ensuring that all customers are benefiting from the
40 transition to clean energy: Through the equitable distribution of

1 energy and nonenergy benefits and the reduction of burdens to
2 vulnerable populations and highly impacted communities; long-term and
3 short-term public health and environmental benefits and reduction of
4 costs and risks; and energy security and resiliency; and

5 (iv) Ensuring that no customer or class of customers is
6 unreasonably harmed by any resulting increases in the cost of
7 utility-supplied electricity as may be necessary to comply with the
8 standards.

9 (2) (a) By January 1, 2022, and every four years thereafter, each
10 consumer-owned utility must develop and submit to the department a
11 four-year clean energy implementation plan for the standards
12 established under RCW 19.405.040(1) and 19.405.050(1) that:

13 (i) Proposes interim targets for meeting the standard under RCW
14 19.405.040(1) during the years prior to 2030 and between 2030 and
15 2045, as well as specific targets for energy efficiency, demand
16 response, and renewable energy;

17 (ii) Is informed by the consumer-owned utility's clean energy
18 action plan developed under RCW 19.280.030(1) or other ten-year plan
19 developed under RCW 19.280.030(5);

20 (iii) Is consistent with subsection (4) of this section; and

21 (iv) Identifies specific actions to be taken by the consumer-
22 owned utility over the next four years, consistent with the utility's
23 long-range resource plan and resource adequacy requirements, that
24 demonstrate progress towards meeting the standards under RCW
25 19.405.040(1) and 19.405.050(1) and the interim targets proposed
26 under (a) (i) of this subsection. The specific actions identified must
27 be informed by the consumer-owned utility's historic performance
28 under median water conditions and resource capability and by the
29 consumer-owned utility's participation in centralized markets. In
30 identifying specific actions in its clean energy implementation plan,
31 the consumer-owned utility may also take into consideration any
32 significant and unplanned loss or addition of load it experiences.

33 (b) The governing body of the consumer-owned utility must, after
34 a public meeting, adopt the consumer-owned utility's clean energy
35 implementation plan. The clean energy implementation plan must be
36 submitted to the department and made available to the public. The
37 governing body may adopt more stringent targets than those proposed
38 by the consumer-owned utility and periodically adjust or expedite
39 timelines if it can be demonstrated that such targets or timelines
40 can be achieved in a manner consistent with the following:

1 (i) Maintaining and protecting the safety, reliable operation,
2 and balancing of the electric system;

3 (ii) Planning to meet the standards at the lowest reasonable
4 cost, considering risk;

5 (iii) Ensuring that all customers are benefiting from the
6 transition to clean energy: Through the equitable distribution of
7 energy and nonenergy benefits and reduction of burdens to vulnerable
8 populations and highly impacted communities; long-term and short-term
9 public health and environmental benefits and reduction of costs and
10 risks; and energy security and resiliency; and

11 (iv) Ensuring that no customer or class of customers is
12 unreasonably harmed by any resulting increases in the cost of
13 utility-supplied electricity as may be necessary to comply with the
14 standards.

15 (3)(a) An investor-owned utility must be considered to be in
16 compliance with the standards under RCW 19.405.040(1) and
17 19.405.050(1) if, over the four-year compliance period, the average
18 annual incremental cost of meeting the standards or the interim
19 targets established under subsection (1) of this section equals a two
20 percent increase of the investor-owned utility's weather-adjusted
21 sales revenue to customers for electric operations above the previous
22 year, as reported by the investor-owned utility in its most recent
23 commission basis report. All costs included in the determination of
24 cost impact must be directly attributable to actions necessary to
25 comply with the requirements of RCW 19.405.040 and 19.405.050.

26 (b) If an investor-owned utility relies on (a) of this subsection
27 as a basis for compliance with the standard under RCW 19.405.040(1),
28 then it must demonstrate that it has maximized investments in
29 renewable resources, electricity from a natural gas system operated
30 with carbon capture and utilization, mineralization, or sequestration
31 technology in a manner consistent with RCW 19.405.050(7), and
32 nonemitting electric generation prior to using alternative compliance
33 options allowed under RCW 19.405.040(1)(b).

34 (4)(a) A consumer-owned utility must be considered to be in
35 compliance with the standards under RCW 19.405.040(1) and
36 19.405.050(1) if, over the four-year compliance period, the average
37 annual incremental cost of meeting the standards or the interim
38 targets established under subsection (2) of this section meets or
39 exceeds a two percent increase of the consumer-owned utility's retail
40 revenue requirement above the previous year. All costs included in

1 the determination of cost impact must be directly attributable to
2 actions necessary to comply with the requirements of RCW 19.405.040
3 and 19.405.050.

4 (b) If a consumer-owned utility relies on (a) of this subsection
5 as a basis for compliance with the standard under RCW 19.405.040(1),
6 and it has not met (~~eighty~~) 80 percent of its annual retail
7 electric load using electricity from renewable resources, electricity
8 from a natural gas system operated with carbon capture and
9 utilization, mineralization, or sequestration technology in a manner
10 consistent with RCW 19.405.050(7), and nonemitting electric
11 generation, then it must demonstrate that it has maximized
12 investments in renewable resources, carbon capture and utilization,
13 mineralization, or sequestration technology consistent with RCW
14 19.405.050(7), and nonemitting electric generation prior to using
15 alternative compliance options allowed under RCW 19.405.040(1)(b).

16 (5) The commission, for investor-owned utilities, and the
17 department, for consumer-owned utilities, must adopt rules
18 establishing the methodology for calculating the incremental cost of
19 compliance under this section, as compared to the cost of an
20 alternative lowest reasonable cost portfolio of investments that are
21 reasonably available.

22 (6) The commission may require a large combination utility as
23 defined in RCW 80.86.010 to incorporate the requirements of this
24 section into an integrated system plan established under RCW
25 80.86.020.

26 **Sec. 6.** RCW 19.405.080 and 2019 c 288 s 8 are each amended to
27 read as follows:

28 By January 1, 2024, and at least every four years thereafter and
29 in compliance with RCW 43.01.036, the department must submit a report
30 to the legislature. The report must include the following:

31 (1) A review of the standards described in RCW 19.405.030 through
32 19.405.050 focused on technologies, forecasts, and existing
33 transmission, and an evaluation of safety, environmental and public
34 safety protection, affordability, and system reliability.

35 (2)(a) An evaluation, produced in consultation with the
36 commission, electric utilities, transmission operators in Washington,
37 the reliability coordinator for electric utilities, any regional
38 planning organization serving electric utilities, public interest and
39 environmental organizations, and the regional entity for the western

1 interconnection identifying the potential benefits, impacts, and
2 risks on system reliability associated with achieving the standards
3 described in RCW 19.405.040 and 19.405.050. The evaluation must
4 assess whether electric utilities have sufficient electric generation
5 resources to meet forecasted retail electric load in addition to
6 adequate transmission capability to implement RCW 19.405.030 through
7 19.405.050 without: (i) Violating mandatory and enforceable
8 reliability standards of the North American electric reliability
9 corporation; (ii) violating prudent utility practice for assuring
10 resource adequacy; or (iii) compromising the power quality or
11 integrity of the electricity system. Subject to funding appropriated
12 for this purpose, the department must consult with a national
13 laboratory with expertise in grid reliability, security, and
14 resilience.

15 (b) The evaluation should assess the anticipated financial costs
16 and benefits of investments necessary to correct those deficiencies
17 at the lowest reasonable costs as identified by electric utilities,
18 transmission operators in Washington, the regional entity for the
19 western interconnection, or any regional planning organization
20 serving electric utilities. The assessment of these investments in
21 the report is not deemed to be approval of such investments for rate
22 recovery by any authorizing entity.

23 (3) An evaluation identifying the nature of any anticipated
24 financial costs and benefits to electric utilities, including
25 customer rate impacts and benefits including, but not limited to:

26 (a) Greenhouse gas emissions of electric utilities;

27 (b) The allocation of risk between customers and electric
28 utilities;

29 (c) The allocation of financial costs among electric utilities in
30 the state and whether retail electric customers are equitably bearing
31 the financial costs of implementing RCW 19.405.030 through
32 19.405.050;

33 (d) The timing of cost recovery for electricity generated by
34 nonemitting electric generation, carbon capture and utilization,
35 mineralization, or sequestration technology consistent with RCW
36 19.405.050(7), or renewable resources;

37 (e) The resource procurement process of electric utilities; and

38 (f) The barriers to, and benefits of, implementing RCW 19.405.040
39 and 19.405.050.

1 (4) An evaluation of new or emerging technologies that could be
2 considered to be a renewable resource.

3 (5) An assessment of the impacts of RCW 19.405.030 through
4 19.405.050 on middle-income families, small businesses, and
5 manufacturers in Washington.

6 **Sec. 7.** RCW 19.405.090 and 2021 c 65 s 20 are each amended to
7 read as follows:

8 (1)(a) An electric utility or an affected market customer that
9 fails to meet the standards established under RCW 19.405.030(1) and
10 19.405.040(1) must pay an administrative penalty to the state of
11 Washington in the amount of (~~one hundred dollars~~) \$100, times the
12 following multipliers, for each megawatt-hour of electric generation
13 used to meet load that is not electricity from a renewable resource,
14 natural gas system operated with carbon capture and utilization,
15 mineralization, or sequestration technology in a manner consistent
16 with RCW 19.405.050(7), or nonemitting electric generation:

17 (i) 1.5 for coal-fired resources;

18 (ii) 0.84 for gas-fired peaking power plants that are not
19 operated with carbon capture and utilization, mineralization, or
20 sequestration technology in a manner consistent with RCW
21 19.405.050(7); and

22 (iii) 0.60 for gas-fired combined-cycle power plants that are not
23 operated with carbon capture and utilization, mineralization, or
24 sequestration technology in a manner consistent with RCW
25 19.405.050(7).

26 (b) Beginning in 2027, this penalty must be adjusted on a
27 biennial basis according to the rate of change of the inflation
28 indicator, gross domestic product implicit price deflator, as
29 published by the bureau of economic analysis of the United States
30 department of commerce or its successor. Beginning in 2040, the
31 commission may by rule increase this penalty for investor-owned
32 utilities if the commission determines that doing so will accelerate
33 utilities' compliance with the standards established under this
34 chapter and that doing so is in the public interest.

35 (2) Consistent with the requirements of RCW 19.405.040(1)(b), a
36 utility may opt to make a payment in the amount of the administrative
37 penalty as an alternative compliance payment, without incurring a
38 penalty for noncompliance.

1 (3) (a) Upon its own motion or at the request of an investor-owned
2 utility, and after a hearing, the commission may issue an order
3 relieving the utility of its administrative penalty obligation under
4 subsection (1) of this section if it finds that:

5 (i) After taking all reasonable measures, the investor-owned
6 utility's compliance with this chapter is likely to result in
7 conflicts with or compromises to its obligation to comply with the
8 mandatory and enforceable reliability standards of the North American
9 electric reliability corporation, violate prudent utility practice
10 for assuring resource adequacy, or compromise the power quality or
11 integrity of its system; or

12 (ii) The investor-owned utility is unable to comply with the
13 standards established in RCW 19.405.030(1) or 19.405.040(1) due to
14 reasons beyond the reasonable control of the investor-owned utility,
15 as set forth in subsection (6) of this section.

16 (b) If the commission issues an order pursuant to (a) of this
17 subsection that relieves an investor-owned utility of its
18 administrative penalty obligation under subsection (1) of this
19 section, the commission may issue an order:

20 (i) Temporarily exempting the investor-owned utility from the
21 requirements of RCW 19.405.040(1) for an amount of time sufficient to
22 allow the investor-owned utility to achieve full compliance with the
23 standard;

24 (ii) Directing the investor-owned utility to file a progress
25 report to the commission on achieving full compliance with the
26 standard within six months after issuing the order, or within an
27 amount of time determined to be reasonable by the commission; and

28 (iii) Directing the investor-owned utility to take specific
29 actions to achieve full compliance with the requirements of this
30 chapter.

31 (c) An investor-owned utility may request an extension of a
32 temporary exemption granted under this section. An investor-owned
33 utility that requests an extension must request an update to the
34 order issued by the commission under (b) of this subsection.

35 (4) Subsection (3) of this section does not permanently relieve
36 an investor-owned utility of its obligation to comply with the
37 requirements of this chapter.

38 (5) (a) The governing body of a consumer-owned utility may
39 authorize a temporary exemption from the standard established under
40 RCW 19.405.040(1), for an amount of time sufficient to allow the

1 consumer-owned utility to achieve full compliance with the standard,
2 if the governing body finds that:

3 (i) The consumer-owned utility's compliance with the standard is
4 likely to: Result in conflicts with or compromises to its obligation
5 to comply with the mandatory and enforceable reliability standards of
6 the North American electric reliability corporation; violate prudent
7 utility practice for assuring resource adequacy; or compromise the
8 power quality or integrity of its system; or

9 (ii) The consumer-owned utility is unable to comply with the
10 standard due to reasons beyond the reasonable control of the utility,
11 as set forth in subsection (6) of this section; and

12 (iii) The consumer-owned utility has provided to the department a
13 plan demonstrating how it plans to achieve full compliance with the
14 standard, consistent with the findings of the report submitted to the
15 legislature under RCW 19.405.080.

16 (b) Upon request by the governing body of a consumer-owned
17 utility, a consumer-owned utility must be relieved of its
18 administrative penalty obligation under subsection (1) of this
19 section if the auditor issues a finding that:

20 (i) The governing body of the consumer-owned utility has properly
21 issued a temporary exemption under (a) of this subsection for a
22 period of time not to exceed six months; and

23 (ii) The governing body of the consumer-owned utility has
24 submitted to the department a plan to take specific actions to
25 achieve full compliance with the standard, consistent with the
26 findings of the report submitted to the legislature under RCW
27 19.405.080.

28 (c) Upon issuance of a finding by the auditor, the consumer-owned
29 utility must submit a progress report to the department on achieving
30 full compliance with the standard within the term authorized in the
31 temporary exemption.

32 (d) A consumer-owned utility may request an extension of a
33 temporary exemption granted under this subsection, subject to the
34 same requirements as provided in (a) through (c) of this subsection.

35 (e) The attorney general may bring a civil action in the name of
36 the state for any appropriate civil remedy including, but not limited
37 to, injunctive relief, penalties, costs, and attorneys' fees, to
38 enforce compliance with this chapter:

1 (i) Upon the failure of the governing body of a consumer-owned
2 utility to comply with the conditions of a temporary exemption found
3 by the auditor to be properly adopted or extended; or

4 (ii) Upon failure of the governing body of a consumer-owned
5 utility to comply with a finding by the auditor that a temporary
6 exemption is not properly granted.

7 (f) This subsection does not permanently relieve a consumer-owned
8 utility of its obligation to comply with the requirements of this
9 chapter.

10 (6) To the extent an event or circumstance cannot be reasonably
11 foreseen and ameliorated, such events or circumstances beyond the
12 reasonable control of an electric utility may include but are not
13 limited to:

14 (a) Weather-related damage;

15 (b) Natural disasters;

16 (c) Mechanical or resource failure;

17 (d) Failure of a third party to meet contractual obligations to
18 the electric utility;

19 (e) Actions of governmental authorities that adversely affect the
20 generation, transmission, or distribution of nonemitting electric
21 generation or renewable resources owned or under contract to an
22 electric utility, including condemnation actions by municipal
23 electric utilities, public utility districts, or irrigation districts
24 that adversely affect an investor-owned utility's ability to meet the
25 standard established in RCW 19.405.030(1) and 19.405.040(1);

26 (f) Inability to acquire sufficient transmission to transmit
27 electricity from nonemitting electric generation or renewable
28 resources to load; and

29 (g) Substantial limitations, restrictions, or prohibitions on
30 nonemitting electric generation, carbon capture and utilization,
31 mineralization, or sequestration technology consistent with RCW
32 19.405.050(7), or renewable resources.

33 (7) An electric utility must notify its retail electric customers
34 in published form within three months of paying the administrative
35 penalty established under subsection (1) of this section. An electric
36 utility is not required to notify its retail electric customers when
37 making a payment in the amount of the administrative penalty as an
38 alternative compliance payment consistent with the requirements of
39 RCW 19.405.040(1)(b).

1 (8) Moneys collected under this section must be deposited into
2 the low-income weatherization and structural rehabilitation
3 assistance account created in RCW 70A.35.030.

4 (9) For an investor-owned utility, the commission must determine
5 compliance with the requirements of this chapter.

6 (10) For consumer-owned utilities, the auditor is responsible for
7 auditing compliance with this chapter and rules adopted under this
8 chapter that apply to those utilities and the attorney general is
9 responsible for enforcing that compliance.

10 (11) If the report submitted under RCW 19.405.080 demonstrates
11 adverse system reliability impacts from the implementation of RCW
12 19.405.040 and 19.405.050, the governor, consistent with the
13 emergency powers under RCW 43.21G.040, may suspend or delay
14 implementation of this chapter, or exempt an electric utility from
15 paying the administrative penalty under this section, until system
16 reliability impacts can be addressed. Adverse system reliability
17 impacts may include, but are not limited to, the inability of
18 electric utilities or transmission operators to meet reliability
19 standards mandated by federal or state law and required by prudent
20 utility practices.

21 (12) Notwithstanding RCW 54.16.020, the fair market value
22 compensation for an asset that is condemned by a municipal electric
23 utility, public utility district, or irrigation district and that is
24 either demonstrated in an electric utility's clean energy action plan
25 or clean energy implementation plan to be used or acquired after May
26 7, 2019, to meet the requirements of RCW 19.405.040 and 19.405.050,
27 or an asset that generates electricity from renewable resources,
28 carbon capture and utilization, mineralization, or sequestration
29 technology consistent with RCW 19.405.050(7), or nonemitting electric
30 generation, must include but not be limited to a replacement value
31 approach. Additionally, the electric utility may seek, and the court
32 may award, damages attributable to the severance, separation,
33 replacement, or relocation of utility assets. The trier of fact may
34 also consider other damages, as well as offsetting benefits, that it
35 finds just and equitable.

36 (13) An entity that establishes or extends service to the
37 premises of a customer who is being served by an electric utility or
38 was served by an electric utility prior to May 7, 2019, must serve
39 those premises in a manner that complies with the requirements of
40 chapter 288, Laws of 2019 and with chapter 19.285 RCW, if applicable.

1 An electric utility or other entity that fails to comply with the
2 requirements of this subsection must pay the administrative penalty
3 under subsection (1) of this section for each megawatt-hour of
4 electric generation used to serve load that does not meet the terms
5 of this subsection.

6 **Sec. 8.** RCW 19.405.160 and 2022 c 92 s 1 are each amended to
7 read as follows:

8 (1) An investor-owned utility may petition the commission for a
9 declaratory order pursuant to RCW 34.05.240 to determine whether a
10 proposed energy transformation project, nonemitting electric
11 generation project, project to apply carbon capture and utilization,
12 mineralization, or sequestration technology in a manner consistent
13 with RCW 19.405.050(7), or renewable resource project meets the
14 requirements of RCW 19.405.040 (1) through (3) and 19.405.050 (1) and
15 (5).

16 (2) The petition for a declaratory order must be in writing and
17 must include information that accurately describes the proposed
18 project.

19 (3) A project that the commission has determined under this
20 section to comply with the requirements of RCW 19.405.040 (1) through
21 (3) or 19.405.050 (1) and (5) may be identified in an investor-owned
22 utility's clean energy action plan under RCW 19.280.030(2) and the
23 utility's clean energy implementation plan under RCW 19.405.060(1).

24 (4) If an investor-owned utility seeks approval of a resource or
25 project in a clean energy implementation plan under RCW 19.405.060,
26 or in a proceeding to set rates, that the commission has previously
27 determined under this section complies with the requirements of RCW
28 19.405.040 (1) through (3) or 19.405.050 (1) and (5) and the resource
29 or project deviates substantively from the one described in the
30 commission's determination in a manner that affects the resource's or
31 project's potential compliance with RCW 19.405.040 (1) through (3) or
32 19.405.050 (1) and (5), the commission may reevaluate the resource or
33 project to determine if it complies.

34 **Sec. 9.** RCW 19.405.170 and 2022 c 92 s 2 are each amended to
35 read as follows:

36 (1) The commission may require an applicant to pay an application
37 fee for a declaratory order requested under RCW 19.405.160. The
38 amount of the fee must be set by the commission to solely cover the

1 cost of reviewing the project and preparing a declaratory order,
2 including a legal analysis.

3 (2) Nothing in RCW 19.405.160 preempts the authority of the
4 commission from making a determination, independent of the processes
5 under RCW 19.405.160, on whether a proposed energy transformation
6 project, nonemitting electric generation project, project to apply
7 carbon capture and utilization, mineralization, or sequestration
8 technology in a manner consistent with RCW 19.405.050(7), or
9 renewable resource project, under RCW 19.405.040 and 19.405.050,
10 meets the planning and portfolio requirements of an investor-owned
11 utility's clean energy implementation plan under this chapter.

12 (3) A declaratory order issued under RCW 19.405.160 does not by
13 itself determine the prudence associated with an energy
14 transformation project, nonemitting electric generation project,
15 project to apply carbon capture and utilization, mineralization, or
16 sequestration technology in a manner consistent with RCW
17 19.405.050(7), or renewable resource project.

18 (4) Nothing in RCW 19.405.160 may be construed to require an
19 investor-owned utility to seek an order declaring whether the
20 proposed resource or project complies with the requirements of RCW
21 19.405.040 (1) through (3) or 19.405.050 (1) and (5).

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