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HOUSE BILL 1589

State of Washington 68th Legislature 2023 Regular Session

By Representatives Doglio, Fitzgibbon, Berry, Alvarado, Bateman, Ramel, Peterson, Lekanoff, Hackney, Macri, and Kloba

Read first time 01/25/23. Referred to Committee on Environment & Energy.

- AN ACT Relating to supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future; amending RCW 80.28.010; adding a new chapter to Title 80 RCW; and declaring an emergency.
- 5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- 6 **Sec. 1.** RCW 80.28.010 and 2011 c 214 s 11 are each amended to read as follows:
 - (1) All charges made, demanded, or received by any gas company, electrical company, wastewater company, or water company for gas, electricity or water, or for any service rendered or to be rendered in connection therewith, shall be just, fair, reasonable and sufficient. Reasonable charges necessary to cover the cost of administering the collection of voluntary donations for the purposes of supporting the development and implementation of evergreen community management plans and ordinances under RCW 80.28.300 must be deemed as prudent and necessary for the operation of a utility.
- (2) (a) Every gas company, electrical company, wastewater company, and water company shall furnish and supply such service, instrumentalities and facilities as shall be safe, adequate and efficient, and in all respects just and reasonable.

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(b) No large gas company that serves more than 500,000 retail natural gas customers in the state of Washington on June 30, 2023, may furnish or supply gas service, instrumentalities, and facilities to any commercial or residential location that did not receive gas service or have filed applications for gas service as of June 30, 2023.

- (3) All rules and regulations issued by any gas company, electrical company, wastewater company, or water company, affecting or pertaining to the sale or distribution of its product or service, must be just and reasonable.
- (4) Utility service for residential space heating shall not be terminated between November $15\underline{th}$ through March $15\underline{th}$ if the customer:
- (a) Notifies the utility of the inability to pay the bill, including a security deposit. This notice should be provided within five business days of receiving a payment overdue notice unless there are extenuating circumstances. If the customer fails to notify the utility within five business days and service is terminated, the customer can, by paying reconnection charges, if any, and fulfilling the requirements of this section, receive the protections of this chapter;
- (b) Provides self-certification of household income for the prior twelve months to a grantee of the department of commerce, which administers federally funded energy assistance programs. The grantee shall determine that the household income does not exceed the maximum allowed for eligibility under the state's plan for low-income energy assistance under 42 U.S.C. 8624 and shall provide a dollar figure that is seven percent of household income. The grantee may verify information provided in the self-certification;
- (c) Has applied for home heating assistance from applicable government and private sector organizations and certifies that any assistance received will be applied to the current bill and future utility bills;
- (d) Has applied for low-income weatherization assistance to the utility or other appropriate agency if such assistance is available for the dwelling;
- (e) Agrees to a payment plan and agrees to maintain the payment plan. The plan will be designed both to pay the past due bill by the following October 15th and to pay for continued utility service. If the past due bill is not paid by the following October 15th, the customer is not eligible for protections under this chapter until the

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past due bill is paid. The plan may not require monthly payments in excess of seven percent of the customer's monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter during November 15th through March 15th. A customer may agree to pay a higher percentage during this period, but shall not be in default unless payment during this period is less than seven percent of monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter. assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the utility to reformulate the plan; and

- (f) Agrees to pay the moneys owed even if he or she moves.
- (5) The utility shall:

- (a) Include in any notice that an account is delinquent and that service may be subject to termination, a description of the customer's duties in this section;
- (b) Assist the customer in fulfilling the requirements under this section;
- (c) Be authorized to transfer an account to a new residence when a customer who has established a plan under this section moves from one residence to another within the same utility service area;
- (d) Be permitted to disconnect service if the customer fails to honor the payment program. Utilities may continue to disconnect service for those practices authorized by law other than for nonpayment as provided for in this subsection. Customers who qualify for payment plans under this section who default on their payment plans and are disconnected can be reconnected and maintain the protections afforded under this chapter by paying reconnection charges, if any, and by paying all amounts that would have been due and owing under the terms of the applicable payment plan, absent default, on the date on which service is reconnected; and
- (e) Advise the customer in writing at the time it disconnects service that it will restore service if the customer contacts the utility and fulfills the other requirements of this section.
- (6) A payment plan implemented under this section is consistent with RCW 80.28.080.
 - (7) Every gas company and electrical company shall offer residential customers the option of a budget billing or equal payment plan. The budget billing or equal payment plan shall be offered low-income customers eligible under the state's plan for low-income

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energy assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without limiting availability to certain months of the year, without regard to the length of time the customer has occupied the premises, and without regard to whether the customer is the tenant or owner of the premises occupied.

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- (8) Every gas company, electrical company, wastewater company, and water company shall construct and maintain such facilities in connection with the manufacture and distribution of its product, or provision of its services, as will be efficient and safe to its employees and the public.
- 11 (9) An agreement between the customer and the utility, whether 12 oral or written, does not waive the protections afforded under this 13 chapter.
- 14 (10) In establishing rates or charges for water service, water 15 companies as defined in RCW 80.04.010 may consider the achievement of 16 water conservation goals and the discouragement of wasteful water use 17 practices.
- NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.
 - (1) "Alternative energy resource" means biogas, renewable natural gas, renewable syngas, renewable hydrogen, carbon dioxide removal, carbon-free district energy, any electrification programs approved as part of an electrification plan pursuant to section 4 of this act, and any carbon-neutral fuel as defined in statute.
- 26 (2) "Carbon dioxide equivalent" has the same meaning as defined 27 in RCW 70A.65.010.
- 28 (3) "Carbon dioxide removal" has the same meaning as defined in 29 RCW 70A.65.010.
- 30 (4) "Combination utility" means a public service company that is 31 both an electrical company and a large gas company.
- 32 (5) "Commission" means the utilities and transportation 33 commission.
- 34 (6) "Cost target" means: (a) With respect to a gas decarbonization plan for a large gas company, the cost target identified in section 6(1) of this act; and (b) with respect to an electrification plan for a combination utility, the cost target identified in section 6(2) of this act.

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(7) "Costs of greenhouse gas emissions" means the costs of greenhouse gas emissions established in RCW 80.28.395.

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- (8) "Deep energy retrofit" means the installation of any measure or combination of measures, including air sealing and addressing thermal bridges and envelopes, that under normal weather and operating conditions can reasonably be expected to reduce a building's calculated design load to 10 or fewer British thermal units per hour per square foot of conditioned floor area.
- (9) "Carbon-free district energy" means a network of hot water pipes and cold water pipes used to provide thermal energy to multiple 11 buildings that does not result in the emissions of greenhouse gases.
- 12 (10) "Electrical company" has the same meaning as defined in RCW 80.04.010. 13
 - (11) "Electrification" means the installation by a combination utility of electric end-use equipment provided that installation: (a) Will result in a net reduction in statewide greenhouse gas emissions over the life of the equipment as compared to the most efficient commercially available natural gas or alternative energy resource alternative; and (b) is installed and operated in a manner that does not negatively impact the load factor of the electrical company that serves the customer, and reduces the sales of natural gas by the large gas company. Electrification programs of a combination utility may include, but are not limited to, programs that facilitate deep energy retrofits or the installation of electric air-source heat pumps with gas backups in existing buildings. However, electric airsource heat pumps with gas backups may not be part of any plan filed after 2030.
 - (12) "Emissions baseline" means the actual cumulative greenhouse gas emissions of a large gas company, calculated pursuant to chapter 173-441 WAC, for the five-year period beginning January 1, 2018, and ending December 31, 2022.
- (13) "Emissions reduction period" means one of four periods of 32 five calendar years each, with the four periods beginning on 33 January 1st of calendar years 2030, 2035, 2040, and 2050, 34 35 respectively.
- 36 (14)"Gas company" has the same meaning as defined in RCW 80.04.010. 37
- 38 (15) "Greenhouse gas" has the same meaning as defined 39 RCW 70A.45.010.

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- 1 (16) "Highly impacted community" has the same meaning as defined 2 in RCW 19.405.020.
- 3 (17) "Large gas company" means a gas company that serves more 4 than 500,000 retail natural gas customers in the state of Washington 5 on June 30, 2023.
- 6 (18) "Renewable hydrogen" has the same meaning as defined in RCW 19.405.020.
- 8 (19) "Low-income" has the same meaning as defined in 9 RCW 19.405.020.
- 10 (20) "Multiyear rate plan" means a multiyear rate plan of a gas 11 company filed with the commission pursuant to RCW 80.28.425.
- 12 (21) "Natural gas" has the same meaning as defined in 13 RCW 19.405.020.
- 14 (22) "Renewable natural gas" has the same meaning as defined in 15 RCW 19.405.020.
- 16 (23) "Renewable resource" has the same meaning as defined in RCW 19.405.020.
 - (24) "Renewable syngas" means any fuel derived by processing:
- 19 (a) Manure of agricultural livestock, including litter, wood 20 shavings, straw, rice hulls, bedding material, and other materials 21 incidentally collected with the manure;
- 22 (b) Any nonhazardous, cellulosic, or other organic agricultural 23 or food industry byproduct or waste material that is derived from:
 - (i) Biomass;

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- 25 (ii) Harvesting residues;
- 26 (iii) Wastes or byproducts from fermentation processes, ethanol 27 production, biodiesel production, slaughter of agricultural 28 livestock, food production, food processing, or food service; or
 - (iv) Other organic wastes, byproducts, or sources;
- 30 (c) Solid wood waste materials, including waste pallets, crates, 31 dunnage, manufacturing and construction wood wastes, and landscape or 32 right-of-way tree trimmings;
- 33 (d) Landfill waste, sewage waste treatment materials, or other 34 organic materials; or
- 35 (e) Carbon dioxide removal processes.
- NEW SECTION. Sec. 3. (1) A large gas company shall file a gas decarbonization plan as part of any multiyear rate plan filed on or after January 1, 2026, and every four years thereafter, that would

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aim to achieve the gas company's proportional share of emissions reductions required under RCW 70A.45.020.

- (2) A gas decarbonization plan filed pursuant to this section must:
- (a) Include proposed programs to advance gas decarbonization measures for customers;
- (b) Include programs targeted to low-income customers, vulnerable populations, and highly impacted communities;
- (c) Include outreach plans for engagement with low-income customers, vulnerable populations, and highly impacted communities to develop programs to support those customers in every phase of the programs in the large gas company's gas decarbonization plan, including through incentives offered to multifamily buildings occupied in full or in part by low-income households;
- (d) Prioritize investments that benefit low-income customers, vulnerable populations, and highly impacted communities from the investments made to implement the gas decarbonization plan;
- (e) Set forth portfolios that the large gas company will use to reduce greenhouse gas emissions to meet the emissions reduction target identified in the applicable gas decarbonization plan. The large gas company shall present:
- (i) A portfolio of resources that uses alternative energy resources to the maximum practicable extent, that meets the requirements of the applicable cost target, that may include leak reductions approved by the commission, and that may or may not meet one or more of the emissions reduction targets identified in the applicable gas decarbonization plan but that demonstrates reductions in greenhouse gas emissions;
 - (ii) Other portfolios at the large gas company's discretion; and
 - (iii) Other portfolios as directed by the commission;
- (f) Quantify projected cumulative greenhouse gas emissions reductions for each emissions reduction period resulting from each portfolio presented in the gas decarbonization plan;
- (g) Propose program budgets resulting from each portfolio presented in the gas decarbonization plan;
- 36 (h) Quantify the cost of implementing each portfolio presented in 37 the gas decarbonization plan;
- (i) Project annual greenhouse gas emissions reductions that would result if each portfolio presented in the gas decarbonization plan were extended through 2050;

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(j) Describe the effects of the actions and investments of each portfolio presented in the gas decarbonization plan on the safety, reliability, and resilience of the large gas company's gas service;

- (k) Identify potential changes to depreciation schedules or other actions to align the large gas company's cost recovery with statewide policy goals, including reducing greenhouse gas emissions, minimizing costs, and minimizing risks to the large gas company and its customers;
- 9 (1) Explain the large gas company's analysis of the costs and 10 benefits of an array of alternatives, including the costs of 11 greenhouse gas emissions in the cost-benefit calculations;
- 12 (m) Describe the monitoring and verification methodology to be 13 used in reporting; and
 - (n) Include any other information required by the commission.
 - NEW SECTION. Sec. 4. On or after January 1, 2026, a combination utility shall file with the commission an electrification plan as part of a gas decarbonization plan filed pursuant to section 3 of this act for commission approval. Electrification plans may be combined with other demand-side management strategic issues or transportation electrification plans, as applicable, but an electrification plan must include, at a minimum:
 - (1) Proposed programs to advance electrification for customers;
 - (2) Programs targeted to low-income customers, vulnerable populations, and highly impacted communities;
 - (3) Outreach plans for engagement with low-income customers, vulnerable populations, and highly impacted communities to develop programs to support those customers in every phase of the combination utility's electrification programs, including through incentives offered to multifamily buildings occupied in full or in part by low-income households;
 - (4) Budgets; targeted numbers of installations; projected fuel savings; projected cost-effectiveness calculations, including the costs of greenhouse gas emissions; projected reductions in greenhouse gas emissions; and other information deemed relevant by the commission for the plan as a whole and for each program included in the plan;
- 37 (5) Documentation and data to show that the combination utility's 38 electrification plan is consistent with maintaining the reliability 39 of the electric grid; and

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(6) Incentives to facilitate electrification, which may include programs targeted toward new and existing building markets. Products eligible for incentives must be certified under an energy star program established by section 324A of the energy policy and conservation act, 42 U.S.C. Sec. 6294a, as amended, or a successor program if that certification is available, in product categories for which such certification exists.

- NEW SECTION. Sec. 5. (1) Large gas companies and combination utilities must include the following in calculating their emissions baseline and projected cumulative emissions for an emissions reduction period, consistent with chapter 173-441 WAC:
- 12 (a) Methane leaked from the transportation and delivery of gas 13 from the gas distribution and service pipelines from the city gate to 14 customer end use;
 - (b) Greenhouse gas emissions resulting from the combustion of gas by customers not otherwise subject to federal greenhouse gas emissions reporting and excluding all transport customers; and
 - (c) Emissions of methane resulting from leakage from delivery of gas to other gas companies.
 - (2) In calculating an emissions reduction target, a large gas company or combination utility must show its emissions baseline and projected cumulative greenhouse gas emissions for the applicable emissions reduction period separately and must show that the total emissions reductions are projected to make progress toward the achievement of the emissions reduction targets identified in the applicable gas decarbonization plan. The final calculation must be presented on a carbon dioxide equivalent basis.
 - (3) All emissions are metric tons of carbon dioxide equivalent as reported to the federal environmental protection agency pursuant to 40 C.F.R. 98, either subpart W (methane) or subpart NN (carbon dioxide), or successor reporting requirements.
 - NEW SECTION. Sec. 6. (1) The commission shall establish a cost target for a gas decarbonization plan that is 2.5 percent of the gas revenue requirement approved by the commission for the large gas company for each year of the multiyear rate plan. For the purposes of this subsection, the commission shall calculate the gas revenue requirement for any combination utility net of the program budget for

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any electrification plan filed by the combination utility as part of its gas decarbonization plan.

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- (2) If a combination utility includes an electrification plan as part of a gas decarbonization plan, the commission shall establish a cost target for the electrification plan that is 2.5 percent of the electric revenue requirement approved by the commission for the combination for each year of the multiyear rate plan. For the purposes of this subsection, the commission shall calculate the electric revenue requirement for any combination utility net of the program budget for the gas decarbonization plan filed by the combination utility.
- NEW SECTION. Sec. 7. (1) The commission shall approve a gas decarbonization or electrification plan if the commission finds it to be in the public interest. The commission may modify a proposed gas decarbonization or electrification plan if the modifications are necessary to ensure that the plan is in the public interest.
 - (2) In evaluating whether a proposed gas decarbonization or electrification plan is in the public interest, the commission shall take into account the following factors:
 - (a) Whether the gas decarbonization or electrification plan achieves reductions in greenhouse gas emissions for each emissions reduction period;
 - (b) Whether the gas decarbonization or electrification plan demonstrates progress toward meeting the emissions reduction targets identified in the applicable gas decarbonization plan through maximizing the use of alternative energy resources;
 - (c) Whether investments in the gas decarbonization or electrification plan prioritize serving low-income customers, vulnerable populations, and highly impacted communities;
- 30 (d) Whether the gas decarbonization or electrification plan 31 results in a reasonable cost to customers; and
- 32 (e) Whether the gas decarbonization or electrification plan 33 maintains system reliability.
 - (3) (a) The commission must require a large gas company to achieve the maximum level of greenhouse gas emissions reductions practicable using alternative energy resources at or below the applicable cost target.
- 38 (b) The commission may approve, or amend and approve, a gas 39 decarbonization plan with costs greater than the cost target

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identified in section 6 (1) of this act or an electrification plan with costs greater than the cost target identified in section 6 (2) of this act only if it finds that the plan is in the public interest, costs to customers are reasonable, the plan includes mitigation of rate increases for low-income customers, and the benefits of the plan, including the costs of greenhouse gas emissions, exceed the costs.

- (4) Notwithstanding any other provision of law, any procurement by a combination utility with an electrification plan approved by the commission under this section is subject to the following requirements:
- (a) 40 percent of the total capacity and energy necessary to meet the requirements of chapter 19.405 RCW must be supplied through the execution of power purchase agreements with third parties pursuant to which the combination utility purchases energy, capacity, and environmental attributes from resources owned and operated by entities that are not affiliated with the combination utility and that commit to allow the combination utility rights to dispatch, operate, and control the solicited resource in the same manner as the combination utility's own generating resources;
- (b) 60 percent of the total capacity and energy necessary to meet the requirements of chapter 19.405 RCW must be supplied from resources owned and operated by the combination utility or an affiliate of the combination utility.
- (5) Upon commission approval of a power purchase agreement for acquisition of resources by a combination utility with an electrification plan approved by the commission under this section, the combination utility is allowed to: (a) Recover the cost of purchases of energy, capacity, and environmental attributes from renewable resources under the power purchase agreement; and (b) earn a return on such purchases in an amount that is the product of the following equation: (i) A rate of return that is no less than the authorized cost of debt and no greater than the authorized rate of return of the combination company, multiplied by (ii) the operating expense incurred by the combination utility under the power purchase agreement.
- NEW SECTION. Sec. 8. (1) In any multiyear rate plan filed by a combination utility pursuant to RCW 80.28.425, the commission must adopt depreciation schedules for any gas plant in service as of the

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effective date of the depreciation schedules of the multiyear rate plan such that the incremental depreciation for each year of such a multiyear rate plan resulting from the depreciation is equal to one percent of the gas revenue requirement for the preceding year.

- (2) If the ratio of the rate base for gas operations of a combination company to the combined rate bases for gas and electric operations of the combination company is less than or equal to 0.2, then the combination utility may propose, and the commission shall adopt, in the next multiyear rate plan of a combination utility filed after the achievement of such a ratio, a merger of the rate bases supporting gas and electric operations of the combination utility into a single energy rate base and the adoption of rates for electric and gas service that support the recovery of such a merged energy rate base.
- NEW SECTION. Sec. 9. For any project in a gas decarbonization or electrification plan that is part of a competitive solicitation and with a cost of more than \$1,000,000, the large gas company must certify to the commission that any work associated with such a project will be constructed by a prime contractor and its subcontractors in a way that includes community workforce agreements or project labor agreements and the payment of area standard prevailing wages and apprenticeship utilization requirements, provided the following apply:
 - (1) The large gas company and the prime contractor and all of its subcontractors regardless of tier have the absolute right to select any qualified and responsible bidder for the award of contracts on a specified project without reference to the existence or nonexistence of any agreements between such a bidder and any party to such a project labor agreement, and only when such a bidder is willing, ready, and able to become a party to, signs a letter of assent, and complies with such an agreement or agreements, should it be designated the successful bidder; and
 - (2) It is understood that this is a self-contained, stand-alone agreement, and that by virtue of having become bound to such an agreement or agreements, neither the prime contractor nor the subcontractors are obligated to sign any other local, area, or national agreement.

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NEW SECTION. Sec. 10. Electrical companies, municipal electric utilities, public utility districts, irrigation districts, cooperatives, and mutual corporations providing retail electric service are encouraged to:

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- (1) Work with large gas companies providing gas service within their service areas to identify opportunities for electrification and the provision of energy peaking service by the large gas company;
- (2) Account for the costs of greenhouse gas emissions, set total energy savings and greenhouse gas emissions reduction goals, and develop and implement electrification programs in collaboration with large gas companies providing gas service in service areas; and
- 12 (3) Include an electrification plan or transportation 13 electrification program as part of a clean energy plan.
- NEW SECTION. Sec. 11. This chapter may be known and cited as the Washington decarbonization act for large gas companies and combination utilities.
- NEW SECTION. Sec. 12. Sections 2 through 11 of this act constitute a new chapter in Title 80 RCW.
- NEW SECTION. Sec. 13. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.
- NEW SECTION. Sec. 14. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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