
HOUSE BILL 1098

State of Washington

64th Legislature

2015 Regular Session

By Representative Morris

Prefiled 01/09/15.

1 AN ACT Relating to aligning electric utility regulation and
2 business models with emerging customer values not realized in
3 volumetric monetization; and adding a new chapter to Title 80 RCW.

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

5 NEW SECTION. **Sec. 1.** The legislature finds and declares that:

6 (1) Rapidly changing market conditions are occurring in our
7 electric utility sector and 2012 may well be the peak year for per
8 capita energy consumption. When combined with Washington state
9 citizens' desire for energy independence and self-electricity
10 generation, utilities are finding less revenue in the current
11 volumetric rate recovery system they utilize to pay for
12 infrastructure costs.

13 (2) Washington state needs healthy utilities that provide
14 services other than just electricity generation to support our
15 state's economic development goals.

16 (3) Lessons learned from the 2001 west coast energy crisis show
17 that traditional regulatory mechanisms may not move fast enough to
18 keep pace with rapidly changing market conditions. Having tools in
19 place before a crisis happens is a keystone to economic stability.

20 (4) Because of the great diversity in the scope and type of
21 services and financing provided by the state's electric utilities,

1 alternative regulatory arrangements that meet the varying
2 circumstances of different companies and their ratepayers may be
3 desirable. Such alternative arrangements may include but are not
4 limited to a results-based regulatory model that shifts the focus of
5 regulation from the reasonableness of historically incurred costs to
6 the pursuit of long-term customer value.

7 (5) Washington's electric utility industry should be encouraged
8 to develop market-based, sustainable products and services that drive
9 an increasingly affordable, efficient, clean, reliable, and consumer-
10 oriented industry.

11 (6) Energy efficiency and other distributed resources that create
12 energy independence for the consumer and the state and promote local
13 economic development rather than exporting Washington state wealth
14 should be a primary tool in the planning and operation of an
15 interconnected modernized power grid.

16 (7) Markets and tariffs should be open to transformation that
17 empowers customers to reduce and optimize their energy usage and
18 electric bills and to stimulate innovation and new products that will
19 further enhance customer opportunities.

20 (8) Investor-owned utilities and consumer-owned utilities should
21 be encouraged to align their business models with the aforementioned
22 goals.

23 NEW SECTION. **Sec. 2.** (1) Subject to the conditions set forth in
24 this chapter, the commission may regulate an electrical company
25 subject to traditional rate of return, rate base regulation by
26 authorizing an alternative form of regulation. The commission may
27 authorize an alternative form of regulation for an electrical company
28 under the following circumstances:

29 (a) The cumulative generating capacity of net metering systems
30 interconnected to the electrical company is equal to or exceeds five
31 percent of the electrical company's 1996 peak demand; and

32 (b) The commission determines that the alternative form of
33 regulation is better suited than traditional rate of return, rate
34 base regulation to helping electrical companies and customers achieve
35 the policy goals stated in this chapter.

36 (2)(a) The commission may determine the manner and extent of any
37 alternative forms of regulation as may in the public interest be
38 appropriate. In addition to any considerations raised by the utility,
39 in determining the appropriateness of any proposed alternative form

1 of regulation, the commission must at a minimum consider the extent
2 to which such alternative regulation is expected to:

3 (i) Promote resiliency and reliability;

4 (ii) Improve service quality, including both the quality of
5 customer service and of power itself, such as providing more precise
6 voltage control;

7 (iii) Achieve reduced per capita consumption of energy in the
8 state;

9 (iv) Encourage economic development within the state, as measured
10 by creation of local jobs;

11 (v) Help attain statewide carbon reduction goals and compliance
12 with federal air quality standards; and

13 (vi) Provide clear incentives to achieving least-cost energy
14 service to customers, in terms of overall efficiency of operations
15 and maintenance costs per megawatt-hour of energy produced.

16 (b) The commission may establish, by rule or order, requirements
17 governing the filing of a petition to approve an alternative
18 regulation plan, as provided in subsection (3) of this section.

19 (3)(a) An electrical company that has a cumulative generating
20 capacity of net metering systems that is equal to or exceeds five
21 percent of the electrical company's 1996 peak demand may petition the
22 commission to establish an alternative form of regulation.

23 (b) Before petitioning for an alternative form of regulation, the
24 company must conduct a consultation with customers of all rate
25 classes in order to determine the customers' preferred performance
26 metrics and benchmarks.

27 (c) The company must submit with the petition for an alternative
28 form of regulation a plan. This plan must include at a minimum the
29 following:

30 (i) The performance metrics and benchmarks identified through the
31 customer consultation required under this section;

32 (ii) A proposal for ensuring adequate service quality;

33 (iii) Data and other inputs relevant to external benchmarking of
34 costs;

35 (iv) Identification of incentives for achieving performance
36 targets as well as appropriate enforcement or remedial provisions in
37 the event the company fails to meet performance measures;

38 (v) Proposed mechanisms, such as reopeners, pass-through,
39 trigger, or true-up mechanisms, to help provide a reasonable level of

1 protection from risk, uncertainty, or unforeseeable costs and
2 events; and

3 (vi) A proposal for transition to the alternative form of
4 regulation.

5 (d) A plan submitted under this section must leave current rates
6 for each customer class unchanged for the first three years of the
7 transition to the alternative form of regulation. Proposed changes in
8 rates must be phased in over a period of not less than the following
9 three years.

10 (4) The commission, after notice and hearing, shall issue an
11 order accepting, modifying, or rejecting the plan within nine months
12 after the petition or motion is filed, unless extended by the
13 commission for good cause. The commission shall order implementation
14 of the alternative plan of regulation unless it finds that, on
15 balance, an alternative plan as proposed or modified fails to meet
16 the considerations stated in subsection (3) of this section.

17 (5) Not later than sixty days from the entry of the commission's
18 order, the company or companies affected by the order may file with
19 the commission an election not to proceed with the alternative form
20 of regulation as authorized by the commission.

21 (6) The commission may waive such regulatory requirements under
22 this title for an electrical company subject to an alternative form
23 of regulation as may be appropriate to facilitate the implementation
24 of this section. However, the commission may not waive any grant of
25 legal rights to any person contained in this chapter and chapter
26 80.04 RCW. The commission may waive different regulatory requirements
27 for different companies or services if such different treatment is in
28 the public interest.

29 (7) Upon petition by the company, and after notice and hearing,
30 the commission may rescind or modify an alternative form of
31 regulation in the manner requested by the company.

32 (8) The commission or any person may file a complaint under RCW
33 80.04.110 alleging that an electrical company under an alternative
34 form of regulation has not complied with the terms and conditions set
35 forth in the alternative form of regulation. The complainant shall
36 bear the burden of proving the allegations in the complaint.

37 NEW SECTION. **Sec. 3.** (1) The definitions in this subsection
38 apply throughout this section unless the context clearly requires
39 otherwise.

1 (a) "Consumer-owned utility" includes a municipal electric
2 utility formed under Title 35 RCW, a public utility district formed
3 under Title 54 RCW, an irrigation district formed under chapter 87.03
4 RCW, a cooperative formed under chapter 23.86 RCW, a mutual
5 corporation or association formed under chapter 24.06 RCW, a port
6 district formed under Title 53 RCW, or a water-sewer district formed
7 under Title 57 RCW, that is engaged in the business of distributing
8 electricity to one or more retail electric customers in the state.

9 (b) "Governing board" means the board of directors or legislative
10 authority of a consumer-owned utility.

11 (2) In addition to any existing authority to engage in the sale
12 and distribution of electricity, a consumer-owned utility may provide
13 other energy services and recover the cost of providing such services
14 directly from its ratepayers under the following circumstances:

15 (a) The cumulative generating capacity of net metering systems
16 interconnected to the consumer-owned utility is equal to or exceeds
17 five percent of the utility's 1996 peak demand; and

18 (b) Provision of such energy services by the consumer-owned
19 utility is consistent with helping the utility and its customers
20 achieve the public policy goals declared in this chapter.

21 (3) The governing board of a consumer-owned utility may approve
22 providing energy services beyond the sale and distribution of
23 electricity if the energy services will:

24 (a) Promote resiliency and reliability of the electric grid;

25 (b) Improve service quality to the utility's customers, including
26 both the quality of customer service and of power itself, such as
27 providing more precise voltage control;

28 (c) Achieve reduced per capita consumption of energy in the
29 state;

30 (d) Encourage economic development within the state, as measured
31 by the creation of local jobs;

32 (e) Help attain statewide carbon reduction goals and compliance
33 with federal air quality standards; and

34 (f) Provide clear incentives to achieving least-cost energy
35 service to customers, in terms of overall efficiency of operations
36 and maintenance costs per megawatt-hour of energy produced.

37 (4) Any energy services approved by the governing board pursuant
38 to the authority of this section shall also be approved by a majority
39 of the voters of the consumer-owned utility voting upon the question
40 at a duly noticed annual or special meeting held for that purpose.

1 (5) Nothing in this section shall be construed to decrease
2 existing authority of any consumer-owned utility to provide energy
3 services.

4 NEW SECTION. **Sec. 4.** Sections 1 through 3 of this act
5 constitute a new chapter in Title 80 RCW.

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