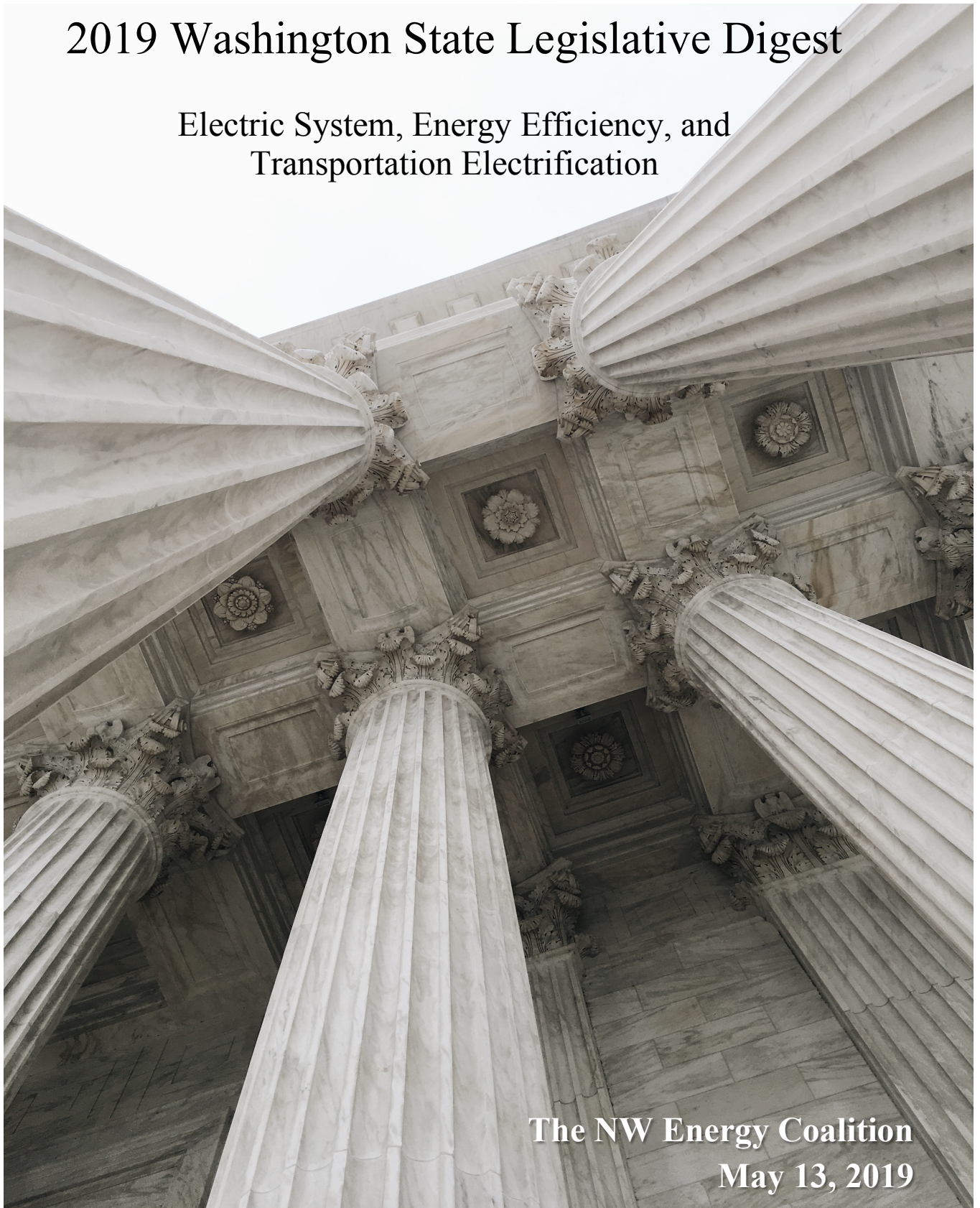


2019 Washington State Legislative Digest

Electric System, Energy Efficiency, and Transportation Electrification



The NW Energy Coalition
May 13, 2019



NW Energy Coalition
for a clean and affordable energy future

2019 Washington State Legislative Digest

2019 was a landmark year for enacting energy and climate legislation in Washington. Beginning with SB 5116, The Washington Clean Energy Transformation Act, which will remove carbon-emitting resources from Washington's electric system by the year 2045, the legislature passed eight major bills that collectively touch every sector of the state's energy economy. Together, these new laws will reduce carbon emissions and pollution, create jobs, enhance the health and quality of life for Washingtonians, and help ensure that the state's transition to a clean energy economy is done in an orderly and equitable fashion.

The NW Energy Coalition policy team has summarized the major provisions of each of the eight bills.

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ELECTRIC SYSTEM & UTILITIES

2SSB 5116: The Washington Clean Energy Transformation Act

The intent of the legislation is to transition to 100% clean electricity in Washington state by building on our legacy hydropower, continuing robust energy efficiency gains, modernizing the grid system, promoting renewables, creating jobs and ensuring the equitable sharing of clean energy benefits.

Key provisions of the bill:

Eliminating Coal

- 1) Each utility must eliminate coal-fired resources from its allocation of electricity by the end of 2025. Coal-fired resource depreciation schedules shall be reconfigured to meet the 2025 date; this can include qualified transmission lines that will no longer be used once coal resources are not being used. (Section 3(2))
- 2) Coal retired prior to 2025 by a multi-state electric utility with less than 250,000 customers (Pacific Power) may apply the total amount of coal megawatt hours (MWhs) eliminated as an equivalent number of MWhs of non-emitting generation needed to comply with the clean energy standard targets before 2035. The utility must demonstrate for every MWh of early action compliance credit there is a real permanent reduction in GHG emission in the Western Interconnection directly associated with that credit. (Section 4 (11))
- 3) RCW 80.84.010, which authorizes creation of a retirement account to hold funds to cover decommissioning and remediation costs for coal units, is amended to be allowable for any coal- fired electric generator that, in whole or part, serves customers in Washington. (Section 16)
- 4) Failure to eliminate coal after 2025 will result in an administrative penalty of \$150/MWh for non-complying power. (Section 9(1)(a)(i))

2030 Clean Energy Standard (Section 4, unless otherwise noted)

By January 1, 2030, all electric utilities' retail sales of electricity must be greenhouse gas neutral. All utilities must:

- 1) Pursue all cost-effective, reliable and feasible conservation, efficiency and demand response (DR), consistent with current law if applicable, to reduce or manage the retail electric load, and
- 2) Use electricity from a combination of renewable and non-emitting resources equal to at least 80% of each utility's retail electric load over sequential, four-year compliance periods starting January 1, 2030. All renewable energy resources used for compliance must be documented by renewable energy credits (RECs) and must be retired in the tracking system, while non-emitting resources must be generated during each compliance period and verified by documentation that shows any related non-energy attributes are owned by the claiming utility. Existing hydropower and new pumped storage may be used to meet the standard.
- 3) Match the remaining 20% of retail load with alternative compliance options, via:
 - a) the acquisition and retirement of unbundled renewable energy credits (includes thermal RECs from biomass),
 - b) alternative compliance payments,

- c) investments in energy transformation projects (ETPs) which must be associated with consumption of energy in Washington, result in a net reduction in GHG emissions, and must not
 - d) electricity from an energy recovery municipal waste facility constructed prior to 1992, provided that a finding of net reduction of GHG's is made for the facility by both Commerce and Ecology.
- 4) Utilities subject to current Renewable Portfolio Standard (RPS) law must continue to comply with that law. (Section 11) The Washington Utilities and Transportation Commission (UTC) and Commerce must adopt rules to streamline implementation of 5116 with RCW 19.285. (Section 10)
- 5) All utilities must ensure that all customers benefit from the transition to renewable energy (RE) and non-emitting (NE) resources.
- 6) New market customers must meet the clean energy standard.
- 7) If new investments are necessary, an electric utility must "to the maximum extent feasible":
- a. Achieve targets at the lowest reasonable cost, considering risk,
 - b. Consider acquisition of existing renewable resources and
 - c. If acquiring new resources constructed after the effective date of this section, rely on renewable resources and energy storage, as long as they are lowest reasonable cost, considering risk.

2045 as an Energy Standard (Section 5)

- 1) From January 1, 2045, going forward, the requirements for cost effective, reliable and feasible conservation, efficiency and demand response continue to apply.
- 2) A utility must use only non-emitting resources and renewable resources to meet 100% of retail load, with existing hydro and new pumped storage allowed, as above, and must acquire new resources in the same order as specified in Section 4, but alternative compliance options, including incinerator generated electricity, no longer apply.
- 3) This standard must be incorporated into all relevant planning and resource acquisitions by the utilities and state agencies.
- 4) This section also applies to new market customers.

Penalties (Section 9)

- 1) A utility or market customer that fails to meet the standards for 2030-2044 or fails to eliminate coal must pay an administrative penalty of \$100/MWh for non-complying power.
- 2) That penalty is increased by 50% for any coal-fired resources relied upon after January 1, 2025, and proportionally reduced to .84 for peaking power plants or to .6 for combined cycle power plants that a utility might still rely on to serve load.
- 3) Starting in 2027, the penalty must be adjusted upwards biennially, based on inflation and gross domestic product implicit price deflator, as published by the bureau of economic analysis of the United States Department of Commerce or its successor.
- 4) Utilities must inform their customers of an administrative penalty.

5) Penalties can be excused by the UTC for Investor Owned Utilities (IOUs) or the auditor for Consumer Owned Utilities (COUs) in situations where North American Electric Reliability Corporation (NERC) standards are compromised, resource adequacy is violated, when power quality or system integrity is compromised, or where non-compliance is beyond the control of the utility.

6) Moneys collected through penalties are deposited into the state low-income weatherization and structural rehabilitation assistance account.

Energy Efficiency

1) Expands the requirement to all utilities, not just 937 qualified utilities, to pursue all cost-effective, reliable, and feasible conservation and efficiency resources to reduce or manage retail electric load. (Section 4(1)(a)(i))

2) Allows additional conservation and efficiency resources beyond what is otherwise required in the law as energy transformation projects. (Section 4(1)(b)(iii))

3) By January 1, 2022, and every four years thereafter, each utility must develop a four-year clean energy implementation plan (CEIP) that includes proposed specific targets for energy efficiency, demand response, and renewable energy. (Sections 6(1)(a)(i) and 6(2)(a)(i))

Hydropower

1) Explicitly recognizes hydropower variability by instituting four-year compliance periods. (Section 1(7) and Section 6(1)(a) and Section 6(2)(a))

2) Allows existing hydroelectric generation to meet the new energy standards, as long as that generation does not create new diversions, impoundments, or expansions of existing reservoirs after the date of the act. (Section 4(1)(d) and Section 5(5)(a))

3) Allows energy from new pumped storage that might create new impoundments, diversions or reservoir expansions to meet the new standards, as long as the new pumped storage complies with all existing state or federal fish recovery plans or other laws and regulations. (Section 4(1)(d) and Section 5(5)(a))

4) Does not preclude the installation of efficiency measures or other improvements to existing hydroelectric generators or installing generation equipment in pipes, culverts, irrigation canals and other man-made waterways, as long as those improvements comply with all existing state or federal fish recovery plans or other laws and regulations. (Section 4(1)(e) and Section 5(5)(b))

5) Adds incremental federal hydro as eligible for ongoing 937 requirements. (Section 28(12)(g) and (h))

6) Eligible renewable energy credits used for purposes of RPS compliance and generated by hydropower upgrades may only be used in the year in which the credit was created and must be acquired and retired by the utility. (Section 29(2)(e)(ii) through (iv))

Off Ramps

1) Cost cap: If over a four-year compliance period, the average annual incremental cost of meeting the standards or the interim targets equals a 2% increase in the weather-adjusted sales revenue (as reported by the IOUs via the basis reports or by the COUs last year required revenue), the utility will be considered in compliance with 5116. (Section 6(3)(A) and 6 (4)(a))

2) The UTC or a public utility board may issue an order temporarily excusing a utility from the administrative penalty and compliance if complying with the law would compromise reliability standards or is prevented by events beyond the reasonable control of the utility (such as weather, natural disasters, mechanical or resource failure, contractual problems, adverse government actions, insufficient transmission or local prohibitions). (Section 9(3)(A) and 9(5)(a))

3) A utility that is not in compliance due to the above reasons has to provide a plan on how it will achieve full compliance, consistent with the finding of the agency report submitted to the legislature in section 8, provide progress reports and may request extensions.

a) The UTC enforces the IOU plans; COUs can be subject to civil action by the attorney general if a COU fails to comply with the conditions of a temporary exemption. (Section 9(e)(i) and (ii))

4) If the legislative generation sufficiency report required in section 8 demonstrates “adverse system reliability impacts from implementation of Sections 4 and 5”, the Governor, consistent with existing emergency power, may suspend or delay implementation of the act or exempt utilities from paying the administrative penalty, until the reliability problem is resolved. (Section 9(11))

937 Related

1) Those utilities subject to current RPS law must continue to comply with that law. (Section 11)

2) The UTC and Commerce must adopt rules to streamline implementation of 5116 with RCW 19.285 (Section 10)

3) Starting in 2020 incremental federal hydro will qualify as an eligible renewable resource under 937. (Section 28(12)(g))

a) A REC from incremental federal hydro may only be used in the year it is generated, is retired by the purchasing utility and used only once. (Section 29(2)(e)(ii)(A))

4) If a qualifying utility serves 100% of average annual electric load with renewables and/or resources, they are not required to purchase additional eligible renewables beyond that 100%. (Section 29(2)(m))

Planning

1) By January 1, 2022 and every four years thereafter, a utility must develop a four-year clean energy implementation plan (CEIP) that includes interim targets for meeting the standards and specific targets for energy efficiency, demand response and renewable resources. The CEIP must be informed by the utility’s clean energy action plan (CEAP) (see section 14(1)(l)), identify specific actions to be taken that are consistent with the IRP and resource adequacy, and demonstrate progress toward the standards. (Section 6(1)(b))

2) Clean energy implementation plans and interim targets are approved by the Commission for IOU’s and adopted by governing board for the COU’s. The commission or the board can require more stringent targets, adjust the targets, or expedite the targets if that doesn’t delay achievement of the goals, maintains safety and reliability, meets the standards at the lowest reasonable cost and risk and ensures the all customers benefit. (Section 6(1)(c) and 6(2)(b))

3) Updates IRP existing requirements (Section 14(1)(b) through (h)):

a) Adds pumped storage, battery storage and other options to the assessment of how to integrate renewable resources.

- b) Adds an assessment and ten-year forecast of availability of regional generation and transmission capacity.
 - c) Requires utilities to determine resource adequacy metrics for the resource plan consistent with the forecasts.
 - d) Adds a forecast of distributed energy resources that may be installed by customers along with an assessment of their effect on load and operations.
 - e) Utilities must identify the appropriate resource adequacy requirement and measurement metric consistent with prudent utility practice in implementing sections 3 through 5.
 - f) Integrates demand forecasts, resource evaluations and the resource adequacy requirements into a long-range supply and conservation mix at the lowest reasonable cost.
 - g) Using the cumulative impact analysis required by section 24, utilities must assess energy/non-energy impacts to vulnerable populations and impacted communities.
- 4) Requires a 10-year clean energy action plan (CEAP) that identifies specific actions that will be taken, consistent with the IRP, to achieve targets/standards. (Section 14(1)(l))
- a) CEAPs must be informed by the 10-year Conservation Potential Assessment (CPA), establish a resource adequacy requirement, identify potential cost-effective DR and load management programs, identify RE, NE and DER that may be acquired and how each will contribute to meeting resource adequacy, identify needs for new or expanded bulk transmission and distribution facilities and identify how and to what extent the utility might need to rely on alternative compliance options.
- 5) All utilities shall consider the social cost of greenhouse gas (GHG) emissions (SCC) when developing IRPs and CEAPs and must incorporate the SCC as a cost adder when evaluating and selecting conservation policies, programs and targets; developing IPRs and CEAPs; and evaluating and selecting intermediate-term and long-term resource options. (Section 14(3)(a))
- 6) Defines methane and other hydrocarbons derived from landfills, wastewater treatment facilities, anaerobic digesters, and qualified biomass as non-emitting for purposes of applying the SCC. (Section 14(3)(b))
- 7) COUs can join together with a joint operating agency to develop and implement a joint CEAP. (Section 14(4))
- 8) The UTC or the governing body may require a utility to make the planning data input files available in native format. (Section 14(10)(a) and (b))

Low-income Assistance (Section 12)

- 1) All utilities must make programs and funding available for energy assistance to low-income households by July 31, 2021, prioritizing households with higher energy burdens.
- 2) Commerce will collect and aggregate data on energy burden and assistance needs that will be used by the utilities.
- 3) Each utility must disclose information to the department about their assistance programs, participants, and expenditures, from the utility's most recent completed budget.
- 4) Every two years, each utility must submit to Commerce an assessment of its programs to reduce energy burdens of low-income households, the effectiveness of those programs, outreach

to low income households, success of enrollment programs, a summary of cumulative funding and a plan on how to meet 60% of energy burden needs by 2030 and 90% by 2050.

Social Cost of Carbon (SCC) (Section 15)

SCC is defined as the cost per metric ton of CO₂ equivalent emissions, “using the 2.5% discount rate, listed in table 2, technical support document; Technical update of the social cost of carbon for regulatory impact analysis under Executive Order No. 12866, published by the Interagency Working Group on the Social Cost of Greenhouse Gases, United States government, August 2016” (the version before Trump administration weakening changes) and must be adjusted for inflation.

https://www.epa.gov/sites/production/files/2016-12/documents/sc_co2_tsd_august_2016.pdf

UTC Authority (Section 20)

- 1) The UTC is authorized to determine the used and useful value of utility property acquired or constructed by or during the rate effective period.
- 2) The UTC may change rates for up to 48 months after the rate effective date to include utility property that becomes used and useful for service after the rate effective date.
- 3) The UTC’s authority to consider and implement performance and incentive-based regulation, multi-year rate plans and other flexible regulatory mechanisms is explicitly restated.

Deferrals and Return on Equity for Non-capital Assets (Section 21)

- 1) Utilities are authorized to defer operating and maintenance costs, depreciation, taxes, cost of capital or a power purchase agreement (PPA) incurred in connection with major projects in the CEAP or RFP, starting from the date the resource begins commercial operation or the effective date of a PPA, for up to 36 months.
- 2) For a PPA, the rate of return can fall in a range from the authorized cost of debt to the authorized rate of return, multiplied by the operating expense under the power purchase agreement.

Condemnation/Utility Service (Section 9 (12) and (13))

- 1) Fair market compensation value for assets condemned by a municipal electric utility, PUD or irrigation district must, at minimum, be based on a replacement value approach for capital assets that are part of an original utility’s clean energy action plan or implementation plan that are used or acquired after the law goes into effect, or RE or NE assets. Further, a utility may request the court to award damages for severance, separation, replacement or relocation of assets.
- 2) Entities extending service to customers that were served by a utility that is required to comply with the existing 937 regulations, must comply with both this act and 937 requirements when serving those premises, or pay a penalty.

Tax Remittances for Renewables and Solar

- 1) The renewable machinery, equipment or labor and services sales tax remittances (Section 18) and the renewable machinery, equipment or labor and services use tax remittances (Section 19) exemptions that were scheduled to expire on January 1, 2020, are extended to December 31, 2029, on a new tiered approach. Remittances must be requested after the tax is paid. Exemptions are claimed via an exemption certificate provided by the seller on a form prescribed by the department.

2) A purchaser of machinery, equipment, labor or services (the project developer) for projects larger than 500 kw installed on or after January 1, 2020 and completed by December 31, 2029, is eligible, beginning January 1, 2020 through December 31, 2019, for:

- a) a 50% tax remittance if the project is certified by the Department of Labor and industries to have demonstrated that it procures from and contracts with women, minority and veteran-owned businesses; contracts with entities that have a history of complying with Federal and state wage and hour laws and regulations; utilizes apprenticeships; and hires local workers, or can show that it made good faith efforts to do so.
- b) a 75% tax remittance if all the above is met, the purchaser provides a number of pieces of paperwork - a contractor's certificate of registration, a current state unified business identifier number, a copy of the proof of industrial insurance coverage for employees, a copy of the employment security number, a state excise tax registration number and documentation of a history of complying with federal and state wage and hour laws and regulations and, finally, workers are compensated at prevailing wage rates certified by the department of labor and industries.
- c) 100% of the tax remittance if the project is developed under a community workforce agreement or project labor agreement certified by the department of labor and industries.

3) If the purchase for a solar energy system that is more than 100 KW but less than 500 KW and installed on or after January 1, 2020 through December 31, 2019, the developer/purchaser is eligible for the following tax remittances from January 1, 2020 through December 31, 2029:

- a) 50% of the tax exemption, if the Department of Labor and Industries certifies the developer made a good faith effort to or actually procures from and contracts with women, minority or veteran-owned businesses, procures from and contracts with entities that have a history of complying with Federal and state wage and hour laws and regulations; utilizes apprenticeships; and hires local workers, or can show that it made good faith efforts to do so.
- b) submits a number of pieces of paperwork: a contractor's certificate of registration, a current state unified business identifier number, a copy of the proof of industrial insurance coverage for employees, a copy of the employment security number and a state excise tax registration number and documentation of a history of complying with federal and state wage and hour laws and regulations.

4) If the purchase is for machinery, equipment or labor and services used in a solar installation that is less than 100KW, it is eligible for 100% sales tax exemption, beginning July 1, 2019 through December 31, 2029, if:

- a) the developer installs the material no earlier than July 1, 2019;
- b) has obtained a certificate of registration and a current state unified business identifier number;
- c) possesses proof of industrial insurance coverage, and has an employment security number and a state excise tax registration number;
- d) has not been found in violation of federal or state wage and hour laws and regulations by an administrative agency or a court of competent jurisdiction in the past 24 months.

Rulemaking

1) The UTC will adopt rules regarding the implementation and enforcement of 5116 and align those rules with RCW 19.285 as it applies to IOUs, Commerce will do the same for COUs by January 1, 2021. (Section 10(1))

- 2) Commerce will adopt rules regarding reporting requirements consistent with the fuel mix reports (RCW 19.29A) by January 1, 2021. (Section 10(4))
- 3) The Department of Ecology (Ecology) must, in consultation with the UTC and Commerce, adopt rules regarding energy transformation project investments, verification, etc., by January 1, 2021. (Section 10(7))
- 4) Ecology will determine the emissions rate for unspecified electricity by rule for purposes of this act or a default emissions rate of 0.437 metric tons of CO₂ per MWh applies. (Section 7(2))
- 5) Commerce must adopt rules regarding thermal renewable energy credits by January 1, 2021. (Section 10(8))
- 6) By June 30, 2022, Commerce and UTC must adopt rules that define requirements, specifications, verification and reporting requirements for retail electric load met with market purchases and other centralized markets. (Section 13)
- 7) By December 31, 2021, UTC and Commerce must adopt rules for incorporating the cumulative impact analysis under section 24 into the criteria for developing CEAPs. (Section 14(11))
- 8) The Department of Labor and Industries must adopt emergency rules by December 1, 2019 that set requirements for good faith efforts, documentation requirements and certification processes. No date defined in statute for permanent rules. (Section 18(2)(a)(i) and (ii), (b))

Reports/Advisory Groups

- 1) Commerce must, by January 1, 2024 and every four years thereafter, report to the legislature on the statutory standards; evolving technologies and forecasts; transmission issues; affordability/changing costs and system reliability, as well as an evaluation of the regional entity for the Western Interconnection. (Section 8)
- 2) Each utility must report its GHG content calculation to the UTC or Commerce, based on the fuel sources reported in the fuel mix disclosure every year. (Section 7)
- 3) Starting July 31, 2020, Commerce will collect, and update every two years, aggregate data that estimates the energy burden, energy assistance need and current low-income programs, by utility. (Section 12(3))
- 4) Commerce will also submit a report to the legislature every two years presenting aggregated data on low-income programs, their success and suggest program priorities, no report deadline specified. At minimum, the data should estimate the number and demographic characteristics of households served and value of assistance, housing characteristics, efficiency potential, amounts of money passed to third parties and other information by utility. (Section 12(6)(a))
- 5) Each utility must submit to Commerce required information on low income programs from the utility's most recent completed budget period and in a form, timeline, and manner as prescribed by the department. (Section 12(3))
- 6) Each utility must submit to Commerce an assessment of its programs to reduce energy burdens of low-income households, the effectiveness of those programs, outreach to low-income

households, success of enrollment programs, and a plan on how to meet 60% of energy assistance by 2030 and 90% by 2050 every two years. (Section 12(4)(b))

7) Commerce and UTC must convene a stakeholder workgroup that will look at integration of this bill and electricity markets outside the state, compatibility with cap and trade programs and other issues, leading to rules being adopted by June 30, 2022. (Section 13)

8) By December 31, 2020 and in every IRP thereafter, each utility must identify how it will implement the plan to meet act requirements over the next ten years. (Section 14(5)(d))

9) The state energy strategy must be reviewed by December 31, 2020 and at least every eight years thereafter. This is to align the state strategy with 937, this act, and the emission reduction targets under RCW 70.235.040. Calls for establishment of the energy strategy advisory committee with broad representation requirements. (Section 22)

10) By January 1, 2020, Commerce must convene an energy and climate policy advisory committee to recommend to the legislature how to coordinate existing resources or establish new ones for examining the costs and benefits of energy related policies, programs, functions, activities and incentives on an ongoing basis. Commerce must submit a report to the legislature by December 31, 2020. This section expires January 1, 2021. (Section 23)

11) The Department of Health must develop a cumulative impact analysis to designate communities highly impacted by fossil fuel pollution and climate change by December 31, 2020. (Section 24)

12) Requires the energy facility site evaluation council to convene a transmission corridor work group to review the need for upgraded and new transmission and distribution lines and identify where those facilities could be built and what environmental reviews may be required. The work group must report to the legislature by December 31, 2022, and expires the next day. (Section 25)

Implementation

NWEC intends to be fully involved in the rule making and all other actions that will be necessary to fully realize the changes to planning and implementation outlined in 5116.

ESHB 1428 Concerning the disclosure of attributes of electricity products.

ESHB 1428 updates the existing fuel mix disclosures statute to account accurately for renewable resources and their renewable energy credits, and make reporting consistent statewide. This is a long-sought strengthening of the fuel mix disclosure reports that makes them uniform across the state, clarifies how renewable resources and RECs are reported (which was not an issue when the legislation originally passed in 1998), increases transparency for customers and shortens the reporting time.

Key provisions of the bill:

- Each electricity retail supplier must report annually to the Department of Commerce the amount of electricity delivered to retail customers, by fuel type, by MWhs via a source and disposition report.
 - The utility must own and retire the Renewable Energy Credit for any “declared renewable resource” (as long as the RECs are not part of a voluntary renewable energy program, are not part of some non-electric compliance program or for other reasons established by the department);
 - must report as a “declared resource” any fuel that has a specified source and
 - must report any fuel as an “unspecified resource” when the fuel attributes are not known or specified.
- The Department will determine fuel mix percentages for use by the retail suppliers to present in a uniform “electricity product content label” that each must provide to retail customers.
 - for each electric product offered, the utility must identify the fuel characteristics as a percentage of the total electricity sold during the previous calendar year generated by category: coal, hydroelectric, natural gas, nuclear, petroleum, solar, wind or unspecified sources.
 - Any other source that meets or exceeds two percent of the total product sold must also be reported. A retail supplier may voluntarily identify any generation sources that amount to less than two percent of the total of retail electricity sold.
 - Utilities that purchase power from the Bonneville Power Authority may incorporate the BPA’s system mix in its disclosures.
 - A retail supplier may add information about retired RECs or compliance with 19.285 (I-937) if they choose to do so.
- The Department must develop and publish an estimate of the fuel characteristics of any unspecified generation sources available to Washington retail suppliers.
- The department will create the uniform reporting format, develop the estimate of fuel characteristics of unspecified generation resources and align this law with the changes to the fuel mix report contained in 5116.

Implementation

There may be rulemaking necessary for the implementation of these specific changes, in which the Coalition will participate.

E2SSB 5223: Concerning net metering

E2SSB 5223 amends existing law to increase the net metering (NEM) that each utility must offer on a first come, first served basis from .5% of 1996 peak load to 4.0% of 1996 peak load, and requires every utility to offer net metering until that threshold is reached or until June 30th, 2029, whichever occurs first. After more than six years of attempts to update the net metering law, 5223 succeeded in increasing the net metering threshold from .5% of 1996 peak load to 4.0%, and requiring each utility to offer net metering until either the threshold is attained or until June 30, 2029.

Key provisions of the bill:

- In addition to increasing the NEM threshold, 5223 changes existing law by:
 - Limiting the number of meters that can share (“aggregate”) the net energy from a distributed solar installation from an unlimited number of meters to just two meters – a “designated” and an “aggregated” meter. The second meter must be on or adjacent to the property of the first meter, be owned by the same person and be in the same rate class.
 - Not prohibiting a utility from allowing existing aggregations, or aggregated systems requested by July 1, 2019, to function under existing law.
 - Allowing a single NEM meter for multi-family residences, with the distribution of benefits determined by the owner of the system and not the utility.
 - Moving the annual true up date for unused NEM credits from April 30th to March 31st, with the unused credits granted to the utility.
 - Requires utilities to continue current NEM for systems installed before the threshold is attained, as long as the interconnection agreements remain valid.
 - Allowing a consumer owned utility (COU) to develop a rate or tariff for new interconnections installed after the NEM target is met that differs substantially from the current NEM system. For example, the new tariff could change how NEM is compensated, disallow aggregation, charge rates for solar customers that differ from other customers, charge new fees for interconnections, change the true up date and determine when existing customer generators are no longer eligible for NEM payments. The COU must notify the WSU Energy Program sixty days in advance of the public meeting where the rate proposal will be heard.
 - An IOU may request a tariff for DG solar customers that differs from existing statute from the UTC that will go into effect after the NEM target is achieved. The proposal must describe when customer generators become ineligible for NEM credits. The Commission may approve, disapprove or modify a proposal within one year. If it denies a proposal, the Commission may determine an alternate cumulative generating target pursuant to existing NEM calculations.
 - No rate or interconnection requirements may prohibit or restrict a customer generators ability to generate or store electricity for its own consumption
 - Going forward, each utility must inform the WSU Energy Program of progress towards meeting the cumulative threshold twice a year.
 - WSU Energy Program must maintain a website that presents each utility’s progress on meeting the threshold, notices of rate or tariff changes and a list of utilities that have adopted new rates or tariffs.
 - All utilities must report the total KWhs consumed in the most recent twelve-month period to customers. Utilities serving more than twenty thousand customers may also include rates over the most recent twelve months.
 - The State Building Code Council must, in consultation with Commerce and local governments, study and adopt changes to the code to encourage greater use of renewable energy systems for single owners or community solar projects. (RCW 82.16.110)

Implementation

NWEC will be carefully following the implementation of the bill and any new proposed rates that might unfairly penalize solar customers.

EHB 1126: Enabling electric utilities to prepare for the distributed energy future.

EHB 1126 establishes state policy that any distributed energy resources (DER) planning process engaged in by an electric utility must accomplish eight goals, requires DERs be incorporated into IRPs, encourages acquisition of cost-effective DERs and pilot programs for less understood DERs and, finally, requires the Legislature to conduct an initial review of the state's DER policy by January 1, 2023, and a full review by January 1, 2026, and every four years thereafter.

Key provisions of the bill:

- More specifically, the bill specifies that utility DER planning must:
 - Identify any data gaps that limit planning and additional data that would better quantify the locational and temporal value of resources on the distribution system;
 - Forecast the expansion of DER on the distribution system, identify potential programs and tariffs to fairly compensate customers for their DERs, and propose monitoring, control and metering upgrades that provide net benefits for customers from DERs.
 - Create a ten-year plan, with stakeholder input, for distribution system investments based on an analysis of a wide variety of non-wire T&D investments. The planning is necessary to avoid expensive capital expenditures because of unanticipated DER expansion and thereby keep costs down for all customers. Utilities must also address lessons learned from the planning cycle and specify planning improvements for the next cycle.
 - Include the DERs identified in the utility's Integrated Resource Plan as inputs to the process.
 - Address how the utility is adapting cybersecurity and data privacy practices, given the expected changes to the distribution system.
- A utility may procure cost-effective DERs as identified in the DER plan through a process that is price-based and technology neutral, using competitive procurements for specific needs. The Commission or a governing body may approve pilot projects for DERs, if the projected cost of the DER exceeds the projected system net benefit, to better understand the DER.
- By January 1, 2023, the legislature shall conduct a review of the DER policy; by January 1, 2026 and every four years after the legislature shall review the policy and its implementation, which may lead to amendment or expansion of the DER goals.

Implementation

The bill takes the first steps towards better incorporating DERs into utility energy and distribution planning. DERs and non-wire alternatives can have large positive impacts on customer costs and need to be fully implemented.

The requirements of the bill will need to be incorporated into a utility's next IRP. Since DER planning is optional, not mandatory, this will affect those utilities that are currently conducting T&D planning or will soon. The Coalition intends to be involved in the development of the stakeholder process and will participate in those planning processes and reviews to ensure the planning goals are fully met.

BUILDINGS & APPLIANCE EFFICIENCY

HB 1257: Clean Buildings for Washington Act

HB 1257 comprehensively addresses building energy use in Washington. Buildings produce 27% of Washington's greenhouse gas emissions – our second largest source of emissions.

Key provisions of the bill:

Large Commercial Building Energy Performance Standard and Incentives

- Directs the Washington State Department of Commerce to develop, by November 2020, energy performance standards for large commercial buildings over 50,000 square feet. Standards must be met by buildings greater than 200,00 sq. ft. by June 1, 2026; by those greater than 90,000 sq. ft. by June 1, 2027; and by those greater than 50,000 sq. ft. by June 1, 2028 (Section 3).
 - In developing the energy performance standards (EPS or standards), the department “shall seek to maximize reductions of greenhouse gas emissions from the building sector.”
 - The standard must include energy use intensity (EUI) targets by building type and methods of “conditional compliance”.
 - The Department shall use the ANSI/AHRAE/IES 100-2018 as the initial model for standard development, but can bring in other materials and background in developing the standard and must identify what that information is when setting the standard.
 - The standard must be updated by July 1, 2029 and every five year thereafter.
 - The targets developed for the standard:
 - Must be no greater than the average EUI for the covered commercial building occupancy type, with adjustments for unique energy using features.
 - Must consider regional and local energy use data, including benchmarking information.
 - Must be developed for two or more climate zones and be representative of energy use in a normal weather year.
 - May be lower for more recently built buildings, based on the state energy code in place when the buildings were constructed.
 - The Department must adopt a conditional compliance method that ensures that covered commercial buildings that do not meet the above targets are taking action to achieve reduction in energy use.
 - This method must include investment criteria that require a building owner adopt an implementation plan to meet the target or implement a bundle of energy efficiency measures that provides maximum energy savings without resulting in a savings-to-investment ratio of less than 1.0. The implementation plan must be based on an energy audit and a life cycle cost analysis covering the period during which the measures will provide savings. The implementation plan may exclude measures that do not pay for themselves over the useful life of the measure. The implementation plan may include phased implementation of measures.
 - For buildings that are designated historic by some local, state, or national authority, no individual energy efficiency measure are required that would compromise the historical integrity or part of the building.
 - The Department must create a database of covered buildings and building owners, based on county assessor data and other sources of information. By July 1, 2021, the department must notify owners of covered buildings of the standard and compliance requirements.

- The Department must provide a customer support program to building owners that includes outreach and information material, training, and phone and email support.
 - Building owners must report on compliance with the standard by the deadline and then every five years.
 - Exemptions include agricultural buildings, manufacturing buildings, non-occupied or low occupied buildings, or buildings experiencing financial hardship, such as being in property tax arrears or having no or little occupancy.
 - The Department may impose an administrative penalty for noncompliance, not to exceed \$5,000 plus up to \$1 per year per gross square foot of floor area, which can be adjusted for inflation. Penalties collected under this section are directed toward low-income weatherization and structural rehabilitation assistance.
- Directs the Department of Commerce to develop an early adoption incentive program for building owners to meet the energy performance standards. (Section 4-8). Incentives are \$0.85 per gross square foot of floor area, excluding parking, unconditioned, and semiconditioned space. The cap on total incentives is \$75 million.
 - Incentives are available to building owners covered under Section 3 or multifamily residential buildings (greater than 50,000 sq. ft.) and whose baseline EUI exceeds its applicable EUI target by at least 15 EUI units, and at least one electric utility, gas company, or thermal energy company providing service to the building is participating in the incentive program.
 - Incentives are available for early adoption up until 1 year before the standard is required for the building.
 - Each qualifying utility (those serving more than 25,000 electric customers) must administer incentive payments. Other utilities may voluntarily participate. A utility provides the eligible incentive to the building owner and correspondingly reduces its public utility tax obligation. When a building is served by more than one utility, incentive payments must be proportional to the EUI reduction of the different fuels.
- Updates the benchmarking data requirements for utilities. (Section 10)

Gas Utility Standards

- By 2022, natural gas utilities must identify and acquire all conservation that is available and cost-effective, with that calculation of cost-effectiveness including a social cost of carbon at the 2.5% discount rate. (Section 11 and 15)
- A natural gas utility may propose a renewable natural gas program to supply renewable natural gas to its customers, subject to review and approval by the Utilities and Transportation Commission (UTC). The customer charge for renewable natural gas may not exceed 5% of the amount charged to retail customers for natural gas. (Section 13)
- Each gas utility must offer a voluntary renewable natural gas service tariff, subject to the availability of renewable natural gas. (Section 14)
- The UTC must monitor the greenhouse gas emissions from natural gas and renewable natural gas delivered by gas utilities. The UTC must report to the governor by January 1, 2020 and every three years after, an assessment of whether gas utilities are on track to meet their proportionate share of the state's greenhouse gas emissions goals.

Building Code Updates

- Currently, the energy code for the state is updated every three years and is directed by past legislation to reduce energy use in new buildings by 70% in 2031 compared to 2006 buildings. This legislation changes how new measures or requirements are assessed in code changes from needing to be “cost-effective” to being “developed to yield the lowest cost to the building owner and occupant while meeting the energy reduction goals...” (Section 17)
- Directs the State Building Code Council to develop rules, by July 1, 2021, that require electric vehicle charging capability at all new buildings that provide on-site parking.
 - When parking is provided, the greater of one parking space or 10 percent of spaces, must be provided with wiring or raceway sized to accommodate 208/240 V 40-amp or equivalent (“Level 2”) EV charging.
 - Electrical rooms serving buildings with on-site parking must be sized to service a minimum of 20% of the spaces with Level 2 charging in the future.
 - Buildings classified as assembly, education, or mercantile only need to meet these requirements for employee parking spaces.

Implementation

The rulemaking associated with this bill will be extensive and will begin in summer of 2019 with the Department of Commerce. In particular, the provisions related to the large commercial building energy performance standard leave much of the details of the standard itself to the rulemaking process. The Coalition will be involved extensively and will engage with Coalition partners to provide technical data, support, and advocacy for strong energy performance standards. Some key questions associated with this rulemaking will be:

- What building classifications are appropriate?
- What is an appropriate EUI target for different building types?
- What does it mean to be “conditionally compliant”?
- Will there be any further guidance on how incentives are distributed?
- How will the technical assistance and incentives interact with existing utility efficiency incentive programs?

The gas standards rulemaking will take place at the Utilities and Transportation Commission, likely to kick off in late 2019 or 2020. The Coalition will be engaged in this rulemaking to ensure that the rules are strong to acquire all cost-effective conservation and responsible procurement of renewable natural gas.

The building code updates will take place in the State Building Code Council, and the Coalition will monitor these processes to ensure that they are implemented as the law intended.

2SHB 1444: Appliance Standards

2SHB 1444 sets energy and water efficiency standards for common consumer products, saving consumers money on utility bills. The bill also requires that electric hot water heaters sold in the state be grid-ready to enable future utility demand response programs, which is important as we move to a cleaner electric system.

Key provisions of the bill:

- Creates energy and water use standards for 16 products and updates one existing standard.
 - The new products are: air compressors; commercial fryers; commercial dishwashers; commercial steam cookers; computers and computer monitors; faucets; high color-rendering index fluorescent lamps; portable air conditioners; residential ventilating fans; showerheads; lawn spray sprinkler bodies; uninterruptible power supplies; urinals and water closets; water coolers.
 - The updated standard is for portable electric spas (“hot tubs”).
 - Different implementation dates are set for each product between 2021 and 2023.
 - The standards are either based on those adopted by California, or based on ENERGY STAR or Water Sense standards.
- Provides for a state backstop on a federal general service lamp rule, which the current federal administration may rescind.
- Requires new electric storage water heaters manufactured after January 1, 2021 may not be installed, or sold in the state unless it has a modular demand response communications port compliant with the CTA-2045 communication standard. This requirement is based on the success of a BPA Smart Water Heater Pilot.
- Allows the Department of Commerce to update standard and test method by rule.

Implementation

There will be a rulemaking associated with this bill, which the Coalition will monitor.

The CTA-2045 standard for electric storage water heaters will allow for more cost-effective demand response programming in the future. The Coalition will continue educating our utility partners on this technology to encourage more adoption and programming to serve future capacity needs.

TRANSPORTATION ELECTRIFICATION

The 2019 Washington Legislative session showcased proactive transportation policy designed to reduce greenhouse gas emissions in the transportation sector, increase adoption and accessibility to zero-emission vehicles, and accelerate beneficial transportation electrification (TE). In order to decarbonize the transportation sector, holistic action (e.g., complementary policy and programs from utilities, public agencies, auto manufacturers, organizations focused on outreach and education, electric vehicle charging companies) is needed to transition away from fossil fuels. One of the biggest obstacles to adopting strong policy designed to effectively reduce greenhouse emissions in the transportation sector is that it is directly tied to reducing diesel and gasoline consumption and to some, this means a significant reduction in state transportation revenue. In order to pass effective policy that promotes TE rather than prohibits, viable strategies must be identified and communicated to legislators to clearly convey that TE is not a threat but instead a benefit to the state's transportation budget.

SHB 1512: Concerning the electrification of transportation.

COU Authorizations and IOU Clarity around Transportation Electrification

Key provisions of the bill

- Grants authority to COUs to offer programs and services as well as make cost-effective investments in transportation electrification.
- Provides clarity to IOUs regarding their transportation electrification plans and investments. Includes specifications around transportation electrification planning periods and cost guidelines or restrictions.

Implementation

- Next steps:
 - COUs will develop transportation electrification plans.
 - IOUs will continue the implementation process on their accepted plans and will file new plans with the UTC under these new guidelines.

E2SHB 2042: Advancing green transportation adoption.

Key provisions of the bill

- Creates and extends a sales tax incentive for qualifying zero-emission vehicles. Qualification criteria are based on a sales price maximum and include new, leased, and used vehicles. The incentive is designed to target mid-market options and utilizes a funding model where passenger vehicle use fees pay for zero-emission passenger vehicles incentives.
- Extends a tax exemption for the purchase of batteries, commercial vehicles, and zero emission buses as well as for the charge made for labor and services needed to install or maintain batteries and zero emission buses.
- Establishes a car sharing pilot program designed to benefit low to moderate-income members of the workforce not readily served by transit.

- Directs Commerce to study and identify opportunities to reduce barriers to zero-emission vehicles adoption by low-income residents. The study should include opportunities for vehicle and infrastructure financing assistance.
- Establishes a green transportation capital grant program subject to the 2023-2025 biennium budget to support the electrification of Washington's transportation system.
- Establishes a tax exemption for the sale of new battery-powered electric maritime propulsion systems.
- Increases the annual vehicle registration fee imposed on BEV to \$225. Alternative fuel vehicles and hybrids that do not have to pay the \$225 fee must pay an annual vehicle registration fee of \$75. All fees are in addition to other vehicle taxes and fees.

Implementation

- Next steps:
 - Work with key legislators in the interim to revisit effective BEV, PHEV, and Hybrid Vehicle fees.

2019-2021 Biennium Transportation Budget

Key provisions of the bill

- \$3,005,000 to the Transportation Commission solely for the purpose of continued Road Usage Charge analysis.
- The Road Usage Charge is a new revenue model to pay for roads based on a per-mile charge. This will be put into place as Washington transitions to a zero-emission transportation system.
- At NWECC's request, the following language was included in the budget:
 - The final report on the road usage charge pilot project is due to the transportation committees of the legislature by January 1, 2020, and *should include recommendations for necessary next steps to consider impacts to communities of color, low-income households, vulnerable populations, and displaced communities.*
 - This is of interest to NWECC's transportation electrification work because without a viable solution to replacing potential lost revenue from this transition, beneficial TE policy will be difficult to pass and zero-emission vehicles will continue to face punitive fees. This impacts the entire transportation ecosystem.

Implementation

- Next steps:
 - Participate in the RUC Steering Committee Meetings. As of now, there are only two meetings before the report is due January 1, 2020.