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**SENATE BILL 5165**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Nguyen and Mullet; by request of Office of the Governor

Prefiled 01/05/23.

1 AN ACT Relating to electric power system transmission planning;  
2 amending RCW 19.280.030, 80.50.060, and 80.50.045; adding a new  
3 section to chapter 19.280 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that the  
6 electric power system serving Washington will require additional high  
7 voltage transmission capacity to achieve the state's objectives and  
8 legal requirements. Washington must reduce its greenhouse gas  
9 emissions under state law, and the 2021 state energy strategy finds  
10 that this will require a significant increase in the use of renewable  
11 or nonemitting electricity in place of fossil fuels now used in the  
12 transportation, industry, and building sectors.

13 (2) The legislature anticipated the crucial role of additional  
14 transmission capacity in 2019 in the enactment of the clean energy  
15 transformation act and directed the energy facilities site evaluation  
16 council to convene a transmission corridors work group. The  
17 transmission corridors work group issued its final report on October  
18 31, 2022, in which it confirmed the central role of transmission and  
19 recommended actions to achieve the expansion of transmission capacity  
20 to address this need.

1 (3) Expanded transmission capacity and the more effective use of  
2 existing transmission capacity will provide benefits to electricity  
3 consumers in the state by enhancing the reliability of the electric  
4 power system and increasing access to more affordable sources of  
5 electricity within the state and across the western United States and  
6 Canada.

7 (4) Existing constraints on transmission capacity within the  
8 state already present challenges in ensuring adequate and affordable  
9 supplies of clean electricity. Of particular concern is the  
10 capability of the transmission system to deliver clean electricity  
11 into and within the central Puget Sound area.

12 (5) There are multiple issues that contribute to the challenge of  
13 making timely and cost-effective expansions of the high voltage  
14 transmission system. Among those challenges is the need for a more  
15 proactive transmission planning process using a longer planning  
16 period than current law requires. Transmission planning must reflect  
17 not just the requirements to connect individual generating resources  
18 to the grid but also the need to transfer electricity across the  
19 state and the west. Transmission planning must incorporate state  
20 policies and laws in planning objectives.

21 (6) Certain transmission projects are of significant state  
22 interest due to their impact on the access of multiple utilities and  
23 communities to gain access to clean, affordable electricity supplies  
24 and obtain electricity that is necessary to comply with state laws.

25 **Sec. 2.** RCW 19.280.030 and 2021 c 300 s 3 are each amended to  
26 read as follows:

27 Each electric utility must develop a plan consistent with this  
28 section.

29 (1) Utilities with more than (~~twenty-five thousand~~) 25,000  
30 customers that are not full requirements customers must develop or  
31 update an integrated resource plan by September 1, 2008. At a  
32 minimum, progress reports reflecting changing conditions and the  
33 progress of the integrated resource plan must be produced every two  
34 years thereafter. An updated integrated resource plan must be  
35 developed at least every four years subsequent to the 2008 integrated  
36 resource plan. The integrated resource plan, at a minimum, must  
37 include:

1 (a) A range of forecasts, for at least the next (~~ten~~) 10 years  
2 or longer, of projected customer demand which takes into account  
3 econometric data and customer usage;

4 (b) An assessment of commercially available conservation and  
5 efficiency resources, as informed, as applicable, by the assessment  
6 for conservation potential under RCW 19.285.040 for the planning  
7 horizon consistent with (a) of this subsection. Such assessment may  
8 include, as appropriate, opportunities for development of combined  
9 heat and power as an energy and capacity resource, demand response  
10 and load management programs, and currently employed and new policies  
11 and programs needed to obtain the conservation and efficiency  
12 resources;

13 (c) An assessment of commercially available, utility scale  
14 renewable and nonrenewable generating technologies including a  
15 comparison of the benefits and risks of purchasing power or building  
16 new resources;

17 (d) A comparative evaluation of renewable and nonrenewable  
18 generating resources, including transmission and distribution  
19 delivery costs, and conservation and efficiency resources using  
20 "lowest reasonable cost" as a criterion;

21 (e) An assessment of methods, commercially available  
22 technologies, or facilities for integrating renewable resources,  
23 including but not limited to battery storage and pumped storage, and  
24 addressing overgeneration events, if applicable to the utility's  
25 resource portfolio;

26 (f) An assessment and (~~ten~~) 20-year forecast of the  
27 availability of and requirements for regional generation and  
28 transmission capacity (~~(on which the utility may rely)~~) to provide  
29 and deliver electricity to (~~(its customers)~~)the utility's customers  
30 and to meet the requirements of the clean energy transformation act.  
31 The transmission assessment must take into account the state's  
32 emissions reduction limits; opportunities to make more effective use  
33 of existing transmission capacity through energy efficiency, demand  
34 response, grid modernization, and other programs; and the  
35 electrification of transportation and other end uses historically met  
36 using fossil fuels. The transmission assessment must identify the  
37 utility's expected needs to develop new, or expand or upgrade  
38 existing, bulk transmission facilities consistent with the  
39 requirements of this section;

1 (g) A determination of resource adequacy metrics for the resource  
2 plan consistent with the forecasts;

3 (h) A forecast of distributed energy resources that may be  
4 installed by the utility's customers and an assessment of their  
5 effect on the utility's load and operations;

6 (i) An identification of an appropriate resource adequacy  
7 requirement and measurement metric consistent with prudent utility  
8 practice in implementing RCW 19.405.030 through 19.405.050;

9 (j) The integration of the demand forecasts, resource  
10 evaluations, and resource adequacy requirement into a long-range  
11 assessment describing the mix of supply side generating resources and  
12 conservation and efficiency resources that will meet current and  
13 projected needs, including mitigating overgeneration events and  
14 implementing RCW 19.405.030 through 19.405.050, at the lowest  
15 reasonable cost and risk to the utility and its customers, while  
16 maintaining and protecting the safety, reliable operation, and  
17 balancing of its electric system;

18 (k) An assessment, informed by the cumulative impact analysis  
19 conducted under RCW 19.405.140, of: Energy and nonenergy benefits and  
20 reductions of burdens to vulnerable populations and highly impacted  
21 communities; long-term and short-term public health and environmental  
22 benefits, costs, and risks; and energy security and risk;

23 (l) A ~~((ten))~~ 10-year clean energy action plan for implementing  
24 RCW 19.405.030 through 19.405.050 at the lowest reasonable cost, and  
25 at an acceptable resource adequacy standard, that identifies the  
26 specific actions to be taken by the utility consistent with the  
27 long-range integrated resource plan; and

28 (m) An analysis of how the plan accounts for:

29 (i) Modeled load forecast scenarios that consider the anticipated  
30 levels of zero emissions vehicle use in a utility's service area,  
31 including anticipated levels of zero emissions vehicle use in the  
32 utility's service area provided in RCW 47.01.520, if feasible;

33 (ii) Analysis, research, findings, recommendations, actions, and  
34 any other relevant information found in the electrification of  
35 transportation plans submitted under RCW 35.92.450, 54.16.430, and  
36 80.28.365; and

37 (iii) Assumed use case forecasts and the associated energy  
38 impacts. Electric utilities may, but are not required to, use the  
39 forecasts generated by the mapping and forecasting tool created in

1 RCW 47.01.520. This subsection (1)(m)(iii) applies only to plans due  
2 to be filed after September 1, 2023.

3 (2) (~~For an investor-owned utility, the~~) The clean energy  
4 action plan must:

5 (a) Identify and be informed by the utility's (~~ten~~) 10-year  
6 cost-effective conservation potential assessment as determined under  
7 RCW 19.285.040, if applicable;

8 (b) (~~establish~~) Establish a resource adequacy requirement;

9 (c) (~~identify~~) Identify the potential cost-effective demand  
10 response and load management programs that may be acquired;

11 (d) (~~identify~~) Identify renewable resources, nonemitting  
12 electric generation, and distributed energy resources that may be  
13 acquired and evaluate how each identified resource may be expected to  
14 contribute to meeting the utility's resource adequacy requirement;

15 (e) (~~identify~~) Identify any need to develop new, or expand or  
16 upgrade existing, bulk transmission and distribution facilities and  
17 document existing and planned efforts by the utility to secure  
18 additional transmission capacity consistent with the requirements of  
19 subsection (1)(f) of this section; and

20 (f) (~~identify~~) Identify the nature and possible extent to which  
21 the utility may need to rely on alternative compliance options under  
22 RCW 19.405.040(1)(b), if appropriate.

23 (3)(a) An electric utility shall consider the social cost of  
24 greenhouse gas emissions, as determined by the commission for  
25 investor-owned utilities pursuant to RCW 80.28.405 and the department  
26 for consumer-owned utilities, when developing integrated resource  
27 plans and clean energy action plans. An electric utility must  
28 incorporate the social cost of greenhouse gas emissions as a cost  
29 adder when:

30 (i) Evaluating and selecting conservation policies, programs, and  
31 targets;

32 (ii) Developing integrated resource plans and clean energy action  
33 plans; and

34 (iii) Evaluating and selecting intermediate term and long-term  
35 resource options.

36 (b) For the purposes of this subsection (3): (i) Gas consisting  
37 largely of methane and other hydrocarbons derived from the  
38 decomposition of organic material in landfills, wastewater treatment  
39 facilities, and anaerobic digesters must be considered a nonemitting

1 resource; and (ii) qualified biomass energy must be considered a  
2 nonemitting resource.

3 (4) To facilitate broad, equitable, and efficient implementation  
4 of chapter 288, Laws of 2019, a consumer-owned energy utility may  
5 enter into an agreement with a joint operating agency organized under  
6 chapter 43.52 RCW or other nonprofit organization to develop and  
7 implement a joint clean energy action plan in collaboration with  
8 other utilities.

9 (5) All other utilities may elect to develop a full integrated  
10 resource plan as set forth in subsection (1) of this section or, at a  
11 minimum, shall develop a resource plan that:

12 (a) Estimates loads for the next five and (~~ten~~) 10 years;

13 (b) Enumerates the resources that will be maintained and/or  
14 acquired to serve those loads;

15 (c) Explains why the resources in (b) of this subsection were  
16 chosen and, if the resources chosen are not: (i) Renewable resources;  
17 (ii) methods, commercially available technologies, or facilities for  
18 integrating renewable resources, including addressing any  
19 overgeneration event; or (iii) conservation and efficiency resources,  
20 why such a decision was made;

21 (d) By December 31, 2020, and in every resource plan thereafter,  
22 identifies how the utility plans over a (~~ten~~) 10-year period to  
23 implement RCW 19.405.040 and 19.405.050; and

24 (e) Accounts for:

25 (i) Modeled load forecast scenarios that consider the anticipated  
26 levels of zero emissions vehicle use in a utility's service area,  
27 including anticipated levels of zero emissions vehicle use in the  
28 utility's service area provided in RCW 47.01.520, if feasible;

29 (ii) Analysis, research, findings, recommendations, actions, and  
30 any other relevant information found in the electrification of  
31 transportation plans submitted under RCW 35.92.450, 54.16.430, and  
32 80.28.365; and

33 (iii) Assumed use case forecasts and the associated energy  
34 impacts. Electric utilities may, but are not required to, use the  
35 forecasts generated by the mapping and forecasting tool created in  
36 RCW 47.01.520. This subsection (5)(e)(iii) applies only to plans due  
37 to be filed after September 1, 2023.

38 (6) Assessments for demand-side resources included in an  
39 integrated resource plan may include combined heat and power systems  
40 as one of the measures in a conservation supply curve. The value of

1 recoverable waste heat resulting from combined heat and power must be  
2 reflected in analyses of cost-effectiveness under this subsection.

3 (7) An electric utility that is required to develop a resource  
4 plan under this section must complete its initial plan by September  
5 1, 2008.

6 (8) Plans developed under this section must be updated on a  
7 regular basis, on intervals approved by the commission or the  
8 department, or at a minimum on intervals of two years.

9 (9) Plans shall not be a basis to bring legal action against  
10 electric utilities.

11 (10)(a) To maximize transparency, the commission, for investor-  
12 owned utilities, or the governing body, for consumer-owned utilities,  
13 may require an electric utility to make the utility's data input  
14 files available in a native format. Each electric utility shall  
15 publish its final plan either as part of an annual report or as a  
16 separate document available to the public. The report may be in an  
17 electronic form.

18 (b) Nothing in this subsection limits the protection of records  
19 containing commercial information under RCW 80.04.095.

20 ~~((11) By December 31, 2021, the department and the commission  
21 must adopt rules establishing the requirements for incorporating the  
22 cumulative impact analysis developed under RCW 19.405.140 into the  
23 criteria for developing clean energy action plans under this  
24 section.))~~

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 19.280  
26 RCW to read as follows:

27 (1) Electric utilities must, in the selection and acquisition of  
28 renewable resources, give reasonable consideration to, and may not  
29 unreasonably exclude from consideration, resources that would use  
30 transmission services considered to be conditional firm under the  
31 tariff of the relevant transmission provider. For the purposes of  
32 this section, conditional firm service means any form of long-term  
33 firm point-to-point transmission service in which transmission  
34 customers are able to reserve service subject to specific and limited  
35 conditions under which the transmission provider may curtail the  
36 transmission customer's reservation of service prior to curtailment  
37 of other firm service.

38 (2) Electric utilities are encouraged to satisfy the transmission  
39 planning requirements of RCW 19.280.030 through statewide or

1 multiutility planning activities and through interstate transmission  
2 planning processes.

3 (3) Electric utilities must seek the support of federal,  
4 interstate, and voluntary industry organizations with a role in the  
5 bulk power transmission system, including but not limited to the  
6 Bonneville power administration, the Pacific Northwest electric power  
7 and conservation planning council, NorthernGrid, the Western Power  
8 Pool, and public interest organizations in improving the planning and  
9 development of transmission capacity consistent with this act.

10 **Sec. 4.** RCW 80.50.060 and 2022 c 183 s 6 are each amended to  
11 read as follows:

12 (1)(a) The provisions of this chapter apply to the construction  
13 of energy facilities which includes the new construction of energy  
14 facilities and the reconstruction or enlargement of existing energy  
15 facilities where the net increase in physical capacity or dimensions  
16 resulting from such reconstruction or enlargement meets or exceeds  
17 those capacities or dimensions set forth in RCW 80.50.020 (14) and  
18 (29). No construction or reconstruction of such energy facilities may  
19 be undertaken, except as otherwise provided in this chapter, without  
20 first obtaining certification in the manner provided in this chapter.

21 (b) If applicants proposing the following types of facilities  
22 choose to receive certification under this chapter, the provisions of  
23 this chapter apply to the construction, reconstruction, or  
24 enlargement of these new or existing facilities:

25 (i) Facilities that produce refined biofuel, but which are not  
26 capable of producing 25,000 barrels or more per day;

27 (ii) Alternative energy resource facilities;

28 (iii) Electrical transmission facilities: (A) Of a nominal  
29 voltage of at least 115,000 volts; and (B) located in more than one  
30 jurisdiction that has promulgated land use plans or zoning  
31 ordinances;

32 (iv) Clean energy product manufacturing facilities; and

33 (v) Storage facilities.

34 (c) All of the council's powers with regard to energy facilities  
35 apply to all of the facilities in (b) of this subsection and these  
36 facilities are subject to all provisions of this chapter that apply  
37 to an energy facility.

38 (2)(a) The provisions of this chapter must apply to ~~((the))~~ :



1       (i) The construction, reconstruction, or enlargement of new or  
2 existing electrical transmission facilities: (A) Of a nominal voltage  
3 of at least 500,000 volts; (B) located in more than one county; and  
4 (C) located in the Washington service area of more than one retail  
5 electric utility; and

6       (ii) The construction, reconstruction, or modification of  
7 electrical transmission facilities when the facilities are located in  
8 a national interest electric transmission corridor as specified in  
9 RCW 80.50.045.

10       (b) For the purposes of this subsection, "modification" means a  
11 significant change to an electrical transmission facility and does  
12 not include the following: (i) Minor improvements such as the  
13 replacement of existing transmission line facilities or supporting  
14 structures with equivalent facilities or structures; (ii) the  
15 relocation of existing electrical transmission line facilities; (iii)  
16 the conversion of existing overhead lines to underground; or (iv) the  
17 placing of new or additional conductors, supporting structures,  
18 insulators, or their accessories on or replacement of supporting  
19 structures already built.

20       (3) The provisions of this chapter shall not apply to normal  
21 maintenance and repairs which do not increase the capacity or  
22 dimensions beyond those set forth in RCW 80.50.020 (14) and (29).

23       (4) Applications for certification of energy facilities made  
24 prior to July 15, 1977, shall continue to be governed by the  
25 applicable provisions of law in effect on the day immediately  
26 preceding July 15, 1977, with the exceptions of RCW 80.50.071 which  
27 shall apply to such prior applications and to site certifications  
28 prospectively from July 15, 1977.

29       (5) Applications for certification shall be upon forms prescribed  
30 by the council and shall be supported by such information and  
31 technical studies as the council may require.

32       (6) Upon receipt of an application for certification under this  
33 chapter, the chair of the council shall notify:

34       (a) The appropriate county legislative authority or authorities  
35 where the proposed facility is located;

36       (b) The appropriate city legislative authority or authorities  
37 where the proposed facility is located;

38       (c) The department of archaeology and historic preservation; and

39       (d) The appropriate federally recognized tribal governments that  
40 may be affected by the proposed facility.

1 (7) The council must work with local governments where a project  
2 is proposed to be sited in order to provide for meaningful  
3 participation and input during siting review and compliance  
4 monitoring.

5 (8) The council must consult with all federally recognized tribes  
6 that possess resources, rights, or interests reserved or protected by  
7 federal treaty, statute, or executive order in the area where an  
8 energy facility is proposed to be located to provide early and  
9 meaningful participation and input during siting review and  
10 compliance monitoring. The chair and designated staff must offer to  
11 conduct government-to-government consultation to address issues of  
12 concern raised by such a tribe. The goal of the consultation process  
13 is to identify tribal resources or rights potentially affected by the  
14 proposed energy facility and to seek ways to avoid, minimize, or  
15 mitigate any adverse effects on tribal resources or rights. The chair  
16 must provide regular updates on the consultation to the council  
17 throughout the application review process. The report from the  
18 council to the governor required in RCW 80.50.100 must include a  
19 summary of the government-to-government consultation process that  
20 complies with RCW 42.56.300, including the issues and proposed  
21 resolutions.

22 (9) The department of archaeology and historic preservation shall  
23 coordinate with the affected federally recognized tribes and the  
24 applicant in order to assess potential effects to tribal cultural  
25 resources, archaeological sites, and sacred sites.

26 **Sec. 5.** RCW 80.50.045 and 2006 c 196 s 3 are each amended to  
27 read as follows:

28 (1) The council shall consult with other state agencies,  
29 utilities, local municipal governments, public interest groups,  
30 tribes, and other interested persons to convey their views to the  
31 secretary and the federal energy regulatory commission regarding  
32 appropriate limits on federal regulatory authority in the siting of  
33 electrical transmission corridors in the state of Washington.

34 (2) The council is designated as the state authority for purposes  
35 of siting transmission facilities under ~~((the national energy policy  
36 act of 2005))~~ Title 16 U.S.C. Sec. 824p and for purposes of other  
37 such rules or regulations adopted by the secretary. The council's  
38 authority regarding transmission facilities under this subsection is  
39 limited to those transmission facilities that are the subject of

1 ((~~section 1221 of the national energy policy act~~)) Title 16 U.S.C.  
2 Sec. 824p and this chapter.

3 (3) For the construction and modification of transmission  
4 facilities that are the subject of ((~~section 1221 of the national~~  
5 ~~energy policy act~~)) Title 16 U.S.C. Sec. 824p, the council may: (a)  
6 Approve the siting of the facilities; and (b) consider the interstate  
7 benefits expected to be achieved by the proposed construction or  
8 modification of the facilities in the state.

9 (4) When developing recommendations as to the disposition of an  
10 application for the construction or modification of transmission  
11 facilities under this chapter, the fuel source of the electricity  
12 carried by the transmission facilities shall not be considered.

13 (5) For electrical transmission projects proposed or sited by a  
14 federal agency, the director must coordinate state agency  
15 participation in environmental review under the national  
16 environmental policy act.

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