

## Memorandum

**To: Jeff Killip, Executive Director and Secretary, Washington Utilities and Transportation Commission**

**From: Tom Kraemer<sup>1</sup>/Third Act Washington and Don Marsh<sup>2</sup>/Washington Clean Energy Coalition**

**Date: December 17, 2024**

**Subject: Effect of I-2066 on Rulemaking for HB 1589 (Docket U-240281)**

### **I-2066 Does Not Repeal HB 1589 Planning Requirements for Long-Term Transition Off of Natural Gas**

Even if I-2066 is found constitutional and remains in effect, it does not remove the requirements in HB 1589 (RCW 80.86) for a large combination utility to write an integrated system plan (ISP) that includes reducing greenhouse gas emissions from gas operations by 95% by 2050. Because natural gas is a hydrocarbon fuel whose combustion products are almost entirely greenhouse gases, and is itself a potent greenhouse gas when it leaks, the reduction will require transitioning off natural gas over this time period.

#### **DELETIONS FROM HB 1589**

I-2066 only repeals a few select provisions of the *planning requirements* in HB 1589, the Large Combination Utility Decarbonization Act, consisting of strikeouts shown in Section 5 of the initiative. The initiative avoided challenging those long-term planning requirements in HB 1589 that require the gas utility to reduce emissions to net zero by 2050.<sup>3</sup>

The long-term planning requirements of HB 1589 that are not repealed by I-2066 require not only net zero emissions by 2050, they also require incremental emission reductions toward this goal: 45% reduction by 2030 and 70% by 2040 relative to 1990 levels. These incremental requirements are required by previous legislation that is referenced in HB 1589. HB 1589 says<sup>4</sup> that the utility's integrated system plan must "Include scenarios that achieve emissions reductions for both gas and electric operations equal to *at least their proportional share* of emissions reductions required under RCW 70A.45.020." And the specific interim reduction percentages mentioned above are stated in RCW 70A.45.020.

Furthermore, HB 1589 says<sup>5</sup> that "In determining whether to approve the integrated system plan...the commission must evaluate... (g) Whether the integrated system plan ... (i) would achieve a proportional share of reductions in greenhouse gas emissions for each emissions reduction

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<sup>3</sup> I-2066 Section 12 also repeals three sections of HB 1589 (Section 7, 8, and 10) that do not define planning requirements (defined in HB 1589 Section 4)

<sup>4</sup> At RCW 80.86.020 (4)(c).

<sup>5</sup> At RCW 80.86.020 (12)

period on the gas and electric systems,” allowing the commission to reject the plan if it does not meet those incremental emission reduction requirements.<sup>6</sup>

Utility planning to reduce greenhouse gas emissions from the gas utility, by 45% in 2030, 70% in 2040, and 95% (and net zero) in 2050, is still required after the deletions of I-2066 take effect. And the commission may reject any plan that does not meet this requirement.

Most of the HB 1589 deletions in I-2066 Section 5 are provisions that refer to a few specific methods for reducing gas use, including electrification and non-pipeline alternatives (see attached 3-page I-2066 Section 5 excerpt with just the HB 1589 edits). However, in most cases what is deleted are *requirements* for considering or using these specific methods. The deletion of requirements would not *prohibit* the utility from considering these or other gas alternatives if it chose to do so in order to meet the overall emissions reduction plans (or for other good reasons, like economics). And a requirement to include low-income electrification programs<sup>7</sup> is left intact by I-2066, not deleted.

**Conclusion: The rulemaking should require that the integrated system plan identify a program of specific actions that will reduce the consumption of natural gas over time to achieve a proportional share of reductions in greenhouse gas emissions by the gas utility of 45% in 2030, 70% in 2040, and 95% (and net zero) in 2050 relative to 1990 levels.**

#### **NEW PROVISIONS ADDED TO HB 1589**

In addition to deleting some requirements from HB 1589, I-2066 adds two new requirements. The new provisions prohibit the commission from approving plans that contain certain requirements affecting natural gas service.

The new provisions are contained in new HB 1589 sections (12) and (13) as copied below from the initiative with our comments following each.

(12) The commission shall not approve, or approve with conditions, an integrated system plan that requires or incentivizes a large combination utility to terminate natural gas service to customers.

The requirements for long-term planning for net zero emissions are left intact by I-2066, as discussed above. It therefore seems reasonable to infer that the initiative did not intend to prohibit incentivizing *long-term* reductions of greenhouse gas emissions. Since gas use inevitably produces greenhouse gas emissions, its use would need to reduce gradually to meet the emission requirements, and include eventual voluntary terminations by customers. Washington has recognized the requirement to transition off gas implicit in the intact greenhouse gas emissions requirements as part of the State Energy Strategy since 2021.<sup>8</sup> In order to optimize the economics

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<sup>6</sup> In fact those long-term planning requirements are repeated in the text of I-2066 itself, in the parts of HB 1589 reproduced under Section 5 of I-2066 that are *not* lined out and repealed by the initiative.

<sup>7</sup> At RCW 80.86.020 (4)(i)

<sup>8</sup> Washington State Department of Commerce, Washington 2021 State Energy Strategy, December 2020 (see Section D.3. Develop Plans for the Long-term Transition of the Natural Gas Distribution System), and the 2023 Biennial Energy Report, March 22, 2023.

of this gradual reduction for ratepayers, incentivizing consensual terminations and electrification in geographically selected areas may be necessary. Incentivizing customers to voluntarily reduce and eventually terminate gas use would not require or incentivize “a large combination utility to terminate natural gas service to customers.” The initiative wording does not prohibit incentivizing *customers* to terminate their natural gas service; it prohibits incentivizing the *utility* to terminate gas service.

Regardless of whether the plan *requires* a gradual transition off gas, the new provision does not prohibit *analysis of scenarios* in which gas service is terminated gradually as demand declines.

*(13) The commission shall not approve, or approve with conditions, an integrated system plan that authorizes a large combination utility to require a customer to involuntarily switch fuel use either by restricting access to natural gas service or by implementing planning requirements that would make access to natural gas service cost-prohibitive.*

New section (13) would prohibit approving a plan that authorizes the utility to either require involuntary fuel switching or make natural gas service cost-prohibitive. A plan incentivizing voluntary fuel switching would not violate this prohibition. To make “access to natural gas service cost-prohibitive,” in this context would mean adding costs to natural gas service, because if a customer would select gas at a given price, that cost could not by definition be *prohibitive* to the customer, regardless of whether other fuels were offered at lower prices. This provision does not use terms like “make unattractive” or “disincentivize.” It uses the term “prohibitive.” The customer is free to choose. This is true whether the price difference is caused by electrification incentives or by market economics for alternative fuels.

## **CONCLUSION**

**The Utilities and Transportation Commission may approve integrated system plans that help achieve required emissions reductions by incentivizing alternative fuels and electrification (among other methods), and by encouraging voluntary termination of gas service by customers at any time.**

## ATTACHMENT: Strikeouts and added language in Initiative 2066

Listed below are the Initiative 2066 changes to HB 1589 Section 3 (codified as RCW 80.86.020), which specifies requirements for an Integrated System Plan. (Underlined text is added by the initiative. Plain text is text unchanged by the initiative. “~” indicates intermediate unchanged text of HB 1589 omitted here for brevity.) Changes to RCW 80.86.020 are in **Sec. 5** of the initiative.<sup>9</sup>

### RCW 80.86.020

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(4) By January 1, 2027, and on a timeline set by the commission thereafter, large combination utilities shall file an integrated system plan demonstrating how the large combination utilities' plans are consistent with the requirements of this chapter and any rules and guidance adopted by the commission, and which:

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(4)(h) ~~((Achieve all cost-effective electrification of end uses currently served by natural gas identified through an assessment of alternatives to known and planned gas infrastructure projects, including nonpipeline alternatives, rebates and incentives, and geographically targeted electrification.~~

(4)(i) Include low-income electrification programs that must:

(i) Include rebates and incentives to low-income customers and customers experiencing high energy burden for the deployment of high-efficiency electric-only heat pumps in homes and buildings currently heating with wood, oil, propane, electric resistance, or gas;

(ii) Provide demonstrated material benefits to low-income participants including, but not limited to, decreased energy burden, the addition of air conditioning, and backup heat sources using natural gas or energy storage systems, if necessary to protect health and safety in areas with frequent outages, or improved indoor air quality;

(iii) Enroll customers in energy assistance programs or provide bill assistance;

(iv) ~~((Provide dedicated funding for electrification readiness;~~

~~(v)))~~ Include low-income customer protections to mitigate energy burden, if electrification measures will increase a low-income participant's energy burden; and

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<sup>9</sup> Note that **Sec. 12** of the initiative repeals RCW 80.86.060, regarding multiyear rate plans, depreciation and rate base, RCW 80.86.070, regarding incentives prohibited for gas-fired equipment and customer education on benefits of electrification, and RCW 80.86.080, regarding outreach and cooperation with consumer-owned electric utilities in areas proposed for electrification of gas load. These are also parts of HB 1589 (Sections 7, 8, and 10), but do not define requirements for the integrated system plan.

~~(4) (k) Assess the potential for geographically targeted electrification including, but not limited to, in overburdened communities, on gas plant that is fully depreciated or gas plant that is included in a proposal for geographically targeted electrification that requires accelerating depreciation pursuant to RCW 80.86.020 (1) (section 7(1), chapter 351, Laws of 2024) for the gas plant subject to such electrification proposal;~~

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~~(4) (m) Assess nonpipeline alternatives, including geographically targeted electrification and demand response, as an alternative to replacing aging gas infrastructure or expanded gas capacity. Assessments must involve, at a minimum:~~

- ~~(i) Identifying all known and planned gas infrastructure projects, including those without a fully defined scope or cost estimate, for at least the 10 years following the filing;~~
- ~~(ii) Estimating programmatic expenses of maintaining that portion of the gas system for at least the 10 years following the filing; and~~
- ~~(iii) Ranking all gas pipeline segments for their suitability for nonpipeline alternatives;~~

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~~(4) (y) Establish that the large combination utility has:~~

- ~~(i) Consigned to auction for the benefit of ratepayers the minimum required number of allowances allocated to the large combination utility for the applicable compliance period pursuant to RCW 70A.65.130, consistent with the climate commitment act, chapter 70A.65 RCW, and rules adopted pursuant to the climate commitment act; and~~
- ~~(ii) Prioritized, to the maximum extent permissible under the climate commitment act, chapter 70A.65 RCW, revenues derived from the auction of allowances allocated to the utility for the applicable compliance period pursuant to RCW 70A.65.130, first to programs that eliminate the cost burden for low-income ratepayers, such as bill assistance, or nonvolumetric credits on ratepayer utility bills, ((or electrification programs,)) and second to ((electrification)) programs benefiting residential and small commercial customers;~~

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~~(5) In evaluating the lowest reasonable cost of decarbonization measures included in an integrated system plan, large combination utilities must apply a risk reduction premium that must account for the applicable allowance ceiling price approved by the department of ecology pursuant to the climate commitment act, chapter 70A.65 RCW. For the purpose of this chapter, the risk reduction premium is necessary to ensure that a large combination utility is making appropriate long-term investments to mitigate against the allowance and fuel price risks to customers of the large combination utility.~~

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~~(10) (9) The commission shall establish by rule a cost test for emissions reduction measures achieved by large combination utilities to comply with state clean energy and climate policies. The~~

cost test must be used by large combination utilities under this chapter for the purpose of determining the lowest reasonable cost of decarbonization and low-income electrification measures in integrated system plans, at the portfolio level, and for any other purpose determined by the commission by rule.

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~~(12)~~ (11) In determining whether to approve the integrated system plan, reject the integrated system plan, or approve the integrated system plan with conditions, the commission must evaluate whether the plan is in the public interest, and includes the following:

- (a) The equitable distribution and prioritization of energy benefits and reduction of burdens to vulnerable populations, highly impacted communities, and overburdened communities;
- (b) Long-term and short-term public health, economic, and environmental benefits and the reduction of costs and risks;
- (c) Health and safety concerns;
- (d) Economic development;
- (e) Equity;
- (f) Energy security and resiliency;
- (g) Whether the integrated system plan:
  - (i) Would achieve a proportional share of reductions in greenhouse gas emissions for each emissions reduction period on the gas and electric systems;
  - (ii) Would achieve the energy efficiency and demand response targets in subsection (4)(e) and (g) of this section;
  - (iii) ~~((Would achieve cost-effective electrification of end uses as required by subsection (4)(h) of this section;~~
  - (iv))) Results in a reasonable cost to customers, and projects the rate impacts of specific actions, programs, and investments on customers;
  - (((v))) (iv) Would maintain system reliability and reduces long-term costs and risks to customers;
  - (((vi))) (v) Would lead to new construction career opportunities ((and prioritizes a transition of natural gas and electricity utility)) for workers to perform work on construction and maintenance of new and existing renewable energy infrastructure; and
  - (((vii))) (vi) Describes specific actions that the large combination utility plans to take to achieve the requirements of the integrated system plan.

(12) The commission shall not approve, or approve with conditions, an integrated system plan that requires or incentivizes a large combination utility to terminate natural gas service to customers.

(13) The commission shall not approve, or approve with conditions, an integrated system plan that authorizes a large combination utility to require a customer to involuntarily switch fuel use either by restricting access to natural gas service or by implementing planning requirements that would make access to natural gas service cost-prohibitive.