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**SUBSTITUTE HOUSE BILL 1656**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** House Environment & Energy (originally sponsored by Representatives Abbarno, Doglio, Steele, Fey, Dye, Mena, Barnard, Klicker, Ley, Stuebe, Ybarra, Volz, Springer, Scott, Parshley, and Graham)

1 AN ACT Relating to authorizing electrical companies to securitize  
2 certain wildfire-related costs to lower costs to customers; amending  
3 RCW 80.28.005, 80.28.303, 80.28.306, 80.28.309, and 80.08.140; adding  
4 new sections to chapter 80.28 RCW; creating new sections; and  
5 declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The purpose of this act is to allow an  
8 electrical, gas, or water company, if authorized by an order issued  
9 by the utilities and transportation commission, to use securitization  
10 financing for certain types of costs related to emergency events and  
11 approved for recovery in rates. The legislature finds that:

12 (1) Securitized debt may lower the total rates in comparison with  
13 other methods of recovery and may benefit the citizens of this state  
14 who are electrical, gas, or water company customers;

15 (2) Rate recovery bonds are not a public debt or pledge of the  
16 full faith and credit of the state but require the state to provide  
17 clear and exclusive methods to create, transfer, and encumber the  
18 rate recovery assets and prohibit future impairment; and

19 (3) This act allowing electrical, gas, or water companies to use  
20 securitization financing for emergency-related costs does not limit,  
21 impair, or affect the utilities and transportation commission's

1 plenary authority and jurisdiction over rates and services offered by  
2 electrical, gas, or water companies.

3 **Sec. 2.** RCW 80.28.005 and 1994 c 268 s 1 are each amended to  
4 read as follows:

5 Unless the context clearly requires otherwise, the definitions in  
6 this section apply throughout this chapter.

7 (1) "Assignee" means a person, and any subsequent assignee, to  
8 which an electrical, gas, or water company assigns, sells, or  
9 transfers all or part of the electrical, gas, or water company's  
10 interest in or right to rate recovery assets, except as security.

11 (2) "Bond" includes bonds, notes, certificates of beneficial  
12 interests in a trust, or other evidences of indebtedness.

13 (3) "Bondable ((conservation—investment)) rate recovery  
14 expenditures" means all costs and expenditures ((made)) incurred or  
15 to be incurred through the date of issuance of a financing order by  
16 an electrical, gas, or water ((companies)) company associated with  
17 ((respect to energy)):

18 (a) An event that is the subject of a federal or state  
19 declaration of disaster or emergency, such as severe weather,  
20 catastrophic wildfire, earthquake, pandemic, or other event that  
21 causes or threatens to cause widespread loss of life, injury to  
22 person or property, human suffering, or financial loss, including  
23 those costs and expenses owed by an electrical, gas, or water company  
24 to such company's customers or others as a result of the event, but  
25 not including fines or penalties imposed as a result of criminal or  
26 civil enforcement actions; or

27 (b) Energy or water conservation measures and services intended  
28 to improve the efficiency of electricity, gas, or water end use,  
29 including related carrying costs if:

30 ((~~a~~)) (i) The conservation measures and services do not produce  
31 assets that would be bondable utility property under the general  
32 utility mortgage of the electrical, gas, or water company;

33 ((~~b~~)) (ii) The commission has determined that the expenditures  
34 were incurred in conformance with the terms and conditions of a  
35 conservation service tariff in effect with the commission at the time  
36 the costs were incurred, and at the time of such determination the  
37 commission finds that the company has proven that the costs were  
38 prudent, that the terms and conditions of the financing are

1 reasonable, and that financing under this chapter is more favorable  
2 to the customer than other reasonably available alternatives;

3 ~~((e))~~ (iii) The commission has approved inclusion of the  
4 expenditures in rate base and has not ordered that they be currently  
5 expensed; and

6 ~~((d))~~ (iv) The commission has not required that the measures  
7 demonstrate that energy or water savings have persisted at a certain  
8 level for a certain period before approving the cost of these  
9 investments as bondable (~~(conservation investment)~~) rate recovery  
10 expenditures.

11 ~~((2) "Conservation bonds" means bonds, notes, certificates of~~  
12 ~~beneficial interests in trusts, or other evidences of indebtedness or~~  
13 ~~ownership that:~~

14 ~~(a) The commission determines at or before the time of issuance~~  
15 ~~are issued to finance or refinance bondable conservation investment~~  
16 ~~by an electrical, gas or water company; and~~

17 ~~(b) Rely partly or wholly for repayment on conservation~~  
18 ~~investment assets and revenues arising with respect thereto.~~

19 ~~(3) "Conservation investment assets" means the statutory right of~~  
20 ~~an electrical, gas, or water company:~~

21 ~~(a) To have included in rate base all of its bondable~~  
22 ~~conservation investment and related carrying costs; and~~

23 ~~(b) To receive through rates revenues sufficient to recover the~~  
24 ~~bondable conservation investment and the costs of equity and debt~~  
25 ~~capital associated with it, including, without limitation, the~~  
26 ~~payment of principal, premium, if any, and interest on conservation~~  
27 ~~bonds.)~~

28 (4) "Bondholder" means a holder or owner of a rate recovery bond.

29 (5) "Finance subsidiary" means any corporation, limited liability  
30 company, company, association, joint stock association, ((e)) trust,  
31 or other entity that is beneficially owned, directly or indirectly,  
32 by an electrical, gas, or water company, or in the case of a trust  
33 issuing (~~(conservation)~~) rate recovery bonds consisting of beneficial  
34 interests, for which an electrical, gas, or water company or a  
35 subsidiary thereof is the grantor, or an unaffiliated entity formed  
36 for the purpose of financing or refinancing approved (~~(conservation~~  
37 ~~investment)~~) bondable rate recovery expenditures, and that acquires  
38 (~~(conservation investment)~~) rate recovery assets directly or  
39 indirectly from such company in a transaction approved by the  
40 commission.

1 (6) "Financing costs" includes the following costs related to  
2 rate recovery bonds, whether incurred and paid upon issuance or over  
3 the life of rate recovery bonds:

4 (a) The costs of issuing, serving, managing, repaying, or  
5 refinancing rate recovery bonds, including any fees, expenses, or  
6 charges incurred and the costs of any activities performed in  
7 connection with the rate recovery bonds, including:

8 (i) Information technology programming;

9 (ii) Obtaining a financing order;

10 (iii) Serving, accounting, or auditing;

11 (iv) Services related to trustees;

12 (v) Legal services;

13 (vi) Consulting;

14 (vii) Services related to financial and structuring advisors;

15 (viii) Administration;

16 (ix) Placement and underwriting;

17 (x) Services related to independent directors and managers;

18 (xi) Services related to rating agencies;

19 (xii) Stock exchange listing and compliance;

20 (xiii) Securities registration and filing; and

21 (xiv) Services necessary to ensure a timely payment of rate  
22 recovery bonds or other amounts or charges payable in connection with  
23 rate recovery bonds;

24 (b) Principal, interest and acquisition, defeasance, and  
25 redemption premiums payable on rate recovery bonds;

26 (c) Payments required under an ancillary agreement and any  
27 amounts required to fund or replenish a reserve or account  
28 established under the terms of an indenture, ancillary agreement, or  
29 financing document related to rate recovery bonds;

30 (d) Applicable federal, state, and local taxes, franchise fees,  
31 license fees, gross receipts, or other taxes or charges, whether  
32 paid, payable, or accrued; and

33 (e) The commission's costs in performing the commission's duties  
34 related to rate recovery bonds that are recoverable by the commission  
35 under RCW 80.24.010.

36 (7) "Financing order" means an order issued by the commission  
37 that authorizes one or more of the following:

38 (a) The recovery of bondable rate recovery expenditures and  
39 financing costs;

40 (b) The creation of rate recovery assets;

1       (c) The issuance of rate recovery bonds;  
2       (d) The imposition, collection, and periodic adjustment of rate  
3 recovery charges; or  
4       (e) The sale, assignment, or transfer of rate recovery assets to  
5 an assignee.  
6       (8) "Financing party" includes:  
7       (a) Bondholders, trustees, agents, and secured parties related to  
8 rate recovery bonds;  
9       (b) A person acting for the benefit of bondholders, trustees,  
10 agents, or secured parties; and  
11       (c) A party to rate recovery bond documents or an ancillary  
12 agreement.  
13       (9) "Rate recovery asset" means the right of an electrical, gas,  
14 or water company to recover from customers bondable rate recovery  
15 expenditures and related costs and expenses approved in a financing  
16 order, including the right to:  
17       (a) Impose, charge, bill, collect, receive, hold, and apply rate  
18 recovery charges authorized under a financing order or obtain, to the  
19 extent authorized, periodic adjustments of rate recovery charges; and  
20       (b) All claims, accounts, revenues, payments, collections,  
21 moneys, or proceeds arising from the rights and interest specified in  
22 a financing order, regardless of whether the claims, accounts,  
23 revenues, payments, collections, moneys, or proceeds arising from the  
24 rights and interest specified in the financing order are commingled  
25 with other claims, accounts, revenues, payments, collections, moneys,  
26 or proceeds.  
27       (10) "Rate recovery bonds" means bonds, notes, certificates of  
28 beneficial interests in trusts, or other evidences of indebtedness or  
29 ownership that:  
30       (a) The commission determines at or before the time of issuance  
31 are issued to finance or refinance bondable rate recovery  
32 expenditures by an electrical, gas, or water company; and  
33       (b) Rely partly or wholly for repayment on rate recovery assets  
34 and revenues arising with respect thereto.  
35       (11) "Rate recovery charge" means charges to electrical, gas, or  
36 water company customers authorized by the commission to recover  
37 bondable rate recovery expenditures and financing costs and to be  
38 used to pay, repay, or refinance rate recovery bonds.  
39       (12) "Secured party" means a financing party that has been  
40 granted a security interest in rate recovery assets.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 80.28  
2    RCW to read as follows:

3        (1) It is the policy of the state of Washington to encourage the  
4    financing of certain costs and expenses by electrical, gas, and water  
5    companies at the lowest, reasonable, and prudent cost to customers of  
6    such companies including, but not limited to, bondable rate recovery  
7    expenditures.

8        (2) To carry out the policy described in subsection (1) of this  
9    section, the state of Washington and all agencies, instrumentalities,  
10   political subdivisions, and local governments thereof:

11        (a) Acknowledge that owners of rate recovery assets, bondholders,  
12   and financing parties require certainty with respect to the owners,  
13   bondholders, and financing parties' rights to enter into financing  
14   transactions that offer the lowest, reasonable, and prudent cost; and

15        (b) Pledge and agree with electrical, gas, and water companies;  
16   assignees; bondholders; and financing parties not to reduce, alter,  
17   or impair, in a manner that is adverse to the electrical, gas, and  
18   water companies; assignees; bondholders; or financing parties:

19        (i) Rate recovery assets;

20        (ii) Rate recovery bonds or the security for rate recovery bonds;

21    or

22        (iii) Rate recovery charges or the collection of rate recovery  
23   charges.

24        (3) The pledge and agreement described under subsection (2)(b) of  
25   this section includes the pledge and agreement not to reduce, alter,  
26   or impair rate recovery assets, rate recovery bonds or the security  
27   for rate recovery bonds, or rate recovery charges or the collection  
28   of rate recovery charges by taking any of the following actions:

29        (a) Altering the provisions of this section or RCW 80.28.005,  
30   80.28.303, 80.28.306, or 80.28.309 to the extent that those  
31   provisions authorize the commission to issue financing orders that:

32        (i) Create rate recovery assets;

33        (ii) Establish rate recovery charges that may not be avoided by  
34   electrical, gas, or water company customers, as described under  
35   section 4(4) of this act; or

36        (iii) Provide rights and remedies to electrical, gas, and water  
37   companies; assignees; bondholders; and financing parties;

38        (b) Impairing the rights or remedies of electrical, gas, and  
39   water companies; assignees; bondholders; or financing parties that  
40   are created under this section and RCW 80.28.005, 80.28.303,

1 80.28.306, and 80.28.309 or by a financing order, including reducing  
2 the amount of or impairing the collection of rate recovery charges  
3 until all principal, interest, premium, if any, and other amounts due  
4 on the rate recovery bonds and financing costs have been paid in full  
5 and except as provided under section 4 of this act; or

6 (c) Taking any action listed under section 4(5)(b) of this act.

7 (4) An electrical, gas, or water company or financing subsidiary  
8 that issues rate recovery bonds may include the pledge and provisions  
9 of this section in the bonds and related documentation.

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 80.28  
11 RCW to read as follows:

12 (1)(a) An electrical, gas, or water company may petition the  
13 commission for a financing order designating all or part of rate  
14 recovery expenditures as bondable rate recovery expenditures, for the  
15 purpose of financing or refinancing the designated expenditures under  
16 RCW 80.28.306(1). A company may request this designation by the  
17 commission in separate proceedings for this purpose.

18 (b) A petition filed under (a) of this subsection must include a  
19 narrative description of purpose for which the electrical, gas, or  
20 water company seeks approval of a financing order. The narrative  
21 description must:

22 (i) Explain the event that is the subject of a federal or state  
23 declaration of disaster or emergency, such as severe weather,  
24 catastrophic wildfire, earthquake, pandemic, or other event that  
25 causes or threatens to cause widespread loss or life, injury to  
26 person or property, human suffering, or financial loss, including  
27 those costs and expenses owed by an electrical, gas, or water company  
28 to such company's customers or others as a result of the event, and  
29 that gave rise to the costs and expenses that the company seeks to  
30 recover through a financing order; and

31 (ii) In the case such costs and expenses accrued to the  
32 electrical, gas, or water company through a legal settlement, provide  
33 the total:

34 (A) Legal fees and costs paid by the company;

35 (B) Estimated legal fees and costs the company would have  
36 incurred had it elected not to settle the matter;

37 (C) Amount of initial claims that had been sought against the  
38 company; and

39 (D) Amount of the settlement.

1 (c) After notice and an opportunity for a hearing, the commission  
2 may approve an application if the commission finds that:

3 (i) The bondable rate recovery expenditures included in the  
4 application are reasonable and prudent;

5 (ii) Financing or refinancing the bondable rate recovery  
6 expenditures through the issuance of rate recovery bonds is likely to  
7 be more favorable to electrical, gas, or water company customers for  
8 the recovery of the bondable rate recovery expenditures than other  
9 methods of rate recovery; and

10 (iii) Bonds, notes, certificates of beneficial interests in a  
11 trust, and other evidences of indebtedness or ownership issued  
12 pursuant to the approval are reasonably likely to receive a  
13 determination of, at a minimum, investment grade by credit rating  
14 agencies.

15 (d) The commission shall issue an order within 180 days of an  
16 application approving or denying the application. If the commission  
17 approves the application, the commission shall issue a financing  
18 order.

19 (2) (a) A financing order issued under this section shall specify  
20 the highest amount of rate recovery expenditures that qualify as  
21 bondable rate recovery expenditures.

22 (b) In specifying the amount for bondable rate recovery  
23 expenditures associated with an event described in RCW  
24 80.28.005(3)(a), net of appropriate adjustments as determined by the  
25 commission to be reasonable, the commission may include, but is not  
26 limited to including, the following rate recovery expenditures:

27 (i) Capital and operating costs incurred or to be incurred as a  
28 result of the event;

29 (ii) Costs and expenses that may be recovered at a later time  
30 from third parties or insurers and returned to electrical, gas, or  
31 water company customers through a separate rate proceeding consistent  
32 with cost causation and rate design principles and statutory or  
33 regulatory requirements; and

34 (iii) Carrying costs or charges.

35 (3) A financing order issued under this section must include the  
36 following provisions:

37 (a) Confirmation of the existence of recoverable bondable rate  
38 recovery expenditures and authorization to recover bondable rate  
39 recovery expenditures and associated financing costs, including the



1 maximum principal amount of bondable rate recovery expenditures and  
2 financing costs that may be recovered through securitization;

3 (b) Authorization for the creation of rate recovery assets and  
4 imposition of rate recovery charges that allow for the recovery of  
5 rate recovery expenditures and associated financing costs as  
6 determined by the commission;

7 (c) A requirement that the rate recovery charges authorized by  
8 the financing order are ongoing and may not be avoided by an  
9 electrical, gas, or water company customer, as described under  
10 subsection (4) of this section, until all principal, interest,  
11 premium, if any, and other amounts due on the rate recovery bonds and  
12 financing costs have been paid in full;

13 (d) A methodology for:

14 (i) Allocating rate recovery charges between the different  
15 classes of electrical, gas, or water company customers, which may  
16 include not allocating rate recovery charges to one or more classes  
17 of such company's customers, that is consistent with cost causation  
18 and rate design principles and statutory or regulatory requirements;  
19 and

20 (ii) Adjusting rate recovery charges as necessary to ensure  
21 timely payment on, and payment in full of, the rate recovery bonds  
22 and associated financing costs or in response to changes to  
23 applicable customers, service territories, or collection rates;

24 (e) Authorization for the electrical, gas, or water company to  
25 issue one or more series of rate recovery bonds with flexibility for  
26 such company to establish the terms and conditions of the rate  
27 recovery bonds, including repayment schedules, initial interest  
28 rates, and initial financing costs;

29 (f) Authorization to assign rate recovery assets to a financing  
30 subsidiary and grant security interests in the rate recovery assets  
31 to secured parties without limiting the rights of subsequent  
32 assignees;

33 (g) Authorization for the bond documentation and ancillary  
34 documents related to the rate recovery bonds, including servicing  
35 arrangements for the rate recovery charges, without requiring the  
36 authorization to be on the final forms of the documents;

37 (h) Authorization for the electrical, gas, or water company to  
38 earn a return, at the cost of capital authorized in such company's  
39 most recent general rate case prior to the date of the financing  
40 order, on any moneys advanced by such company to fund advances,

1 reserves, or capital accounts established under the terms of any  
2 indenture, ancillary agreement, or financing documents related to the  
3 rate recovery bonds;

4 (i) A finding that the proposed issuance of rate recovery bonds  
5 and the imposition of rate recovery charges is expected to provide  
6 the lowest possible, reasonable, and prudent cost on a net present  
7 value basis to electrical, gas, or water company customers for  
8 recovery of the bondable rate recovery expenditures as compared to  
9 other methods of financing and recovery;

10 (j) A date, not earlier than one year from the date that the  
11 financing order becomes final, on which the authority to issue rate  
12 recovery bonds granted in the financing order expires;

13 (k) A requirement that the electrical, gas, or water company  
14 notify the commission if such company recovers costs and expenses  
15 from a third party or insurer; and

16 (l) Any other conditions that the commission finds appropriate  
17 and that are consistent with this section.

18 (4) Rate recovery charges authorized by a financing order shall  
19 be collected through charges or incorporated into rates paid by, and  
20 may not be avoided by, the electrical, gas, or water company  
21 customers located within such company's service territory, if  
22 applicable, as the territory existed on the date of the financing  
23 order or, if the financing order provides, as such service territory,  
24 if applicable, may be expanded, even if:

25 (a) Such company's customer receives electricity, natural gas, or  
26 water; electricity, natural gas, or water services; or ancillary  
27 services from a successor or assignee of such company;

28 (b) Such company's customer elects to receive electricity,  
29 natural gas, or water; electricity, natural gas, or water services;  
30 or ancillary services from another electrical, gas, or water company  
31 or service provider in the service territory; or

32 (c) After the date of issuance of the financing order, such  
33 company's customer changes customer class.

34 (5)(a) Rate recovery assets, including rate recovery charges, and  
35 the rights of electrical, gas, and water companies; assignees;  
36 bondholders; and financing parties, established by a financing order  
37 issued under this section, are irrevocable and unchangeable, except  
38 as provided in the financing order, until all principal, interest,  
39 premium, if any, and other amounts due on the rate recovery bonds and  
40 financing costs are paid in full.

1 (b) Until all principal, interest, premium, if any, and other  
2 amounts due on the rate recovery bonds and financing costs are paid  
3 in full, the commission, except as provided in the financing order,  
4 the state of Washington, and all agencies, instrumentalities,  
5 political subdivisions, and local governments thereof may not:

6 (i) Revalue the bondable rate recovery expenditures or financing  
7 costs for rate-making purposes;

8 (ii) Determine that the rates or revenues authorized under the  
9 financing order are unjust or unreasonable;

10 (iii) Reduce, alter, or impair the rate recovery assets, rate  
11 recovery charges or the collection of the rate recovery charges, or  
12 rate recovery bonds or the security for the rate recovery bonds;

13 (iv) Rescind, suspend, amend, or impair the financing order; or

14 (v) When setting other rates or charges for the electrical, gas,  
15 or water company or taking other actions pursuant to the commission's  
16 authority, consider the rate recovery bonds as debt of such company,  
17 the rate recovery assets to be revenue for such company, or the  
18 bondable rate recovery expenditures to be costs of such company.

19 (6) The commission may not require an electrical, gas, or water  
20 company to:

21 (a) Apply to the commission for a financing order designating all  
22 or part of rate recovery expenditures as bondable rate recovery  
23 expenditures; or

24 (b) Finance or refinance rate recovery expenditures that the  
25 commission has designated bondable rate recovery expenditures.

26 **Sec. 5.** RCW 80.28.303 and 1994 c 268 s 2 are each amended to  
27 read as follows:

28 (1) An electrical, gas, or water company may file a conservation  
29 service tariff with the commission. The tariff shall provide:

30 (a) The terms and conditions upon which the company will offer  
31 the conservation measures and services specified in the tariff;

32 (b) The period of time during which the conservation measures and  
33 services will be offered; and

34 (c) The maximum amount of expenditures to be made during a  
35 specified time period by the company on conservation measures and  
36 services specified in the tariff.

37 (2) The commission has the same authority with respect to a  
38 proposed conservation service tariff as it has with regard to any  
39 other schedule or classification the effect of which is to change any

1 rate or charge, including, without limitation, the power granted by  
2 RCW 80.04.130 to conduct a hearing concerning a proposed conservation  
3 service tariff and the reasonableness and justness thereof, and  
4 pending such hearing and the decision thereon the commission may  
5 suspend the operation of the tariff for a period not exceeding ten  
6 months from the time the tariff would otherwise go into effect.

7 ~~(3) ((An electrical, gas, or water company may from time to time  
8 apply to the commission for a determination that specific  
9 expenditures may under its tariff constitute bondable conservation  
10 investment. A company may request this determination by the  
11 commission in separate proceedings for this purpose or in connection  
12 with a general rate case. The commission may designate the  
13 expenditures as bondable conservation investment as defined in RCW  
14 80.28.005(1) if it finds that such designation is in the public  
15 interest.~~

16 ~~(4) The commission shall include in rate base all bondable  
17 conservation investment. The commission shall approve rates for  
18 service by electrical, gas, and water companies at levels sufficient  
19 to recover all of the expenditures of the bondable conservation  
20 investment included in rate base and the costs of equity and debt  
21 capital associated therewith, including, without limitation, the  
22 payment of principal, premium, if any, and interest on conservation  
23 bonds.))~~ The rates so determined may be included in general rate  
24 schedules or may be expressed in one or more separate rate schedules.  
25 ~~((The commission shall not revalue bondable conservation investment  
26 for rate-making purposes, to determine that revenues required to  
27 recover bondable conservation investment and associated equity and  
28 debt capital costs are unjust, unreasonable, or in any way impair or  
29 reduce the value of conservation investment assets or that would  
30 impair the timing or the amount of revenues arising with respect to  
31 conservation investment assets that have been pledged to secure  
32 conservation bonds.~~

33 ~~(5))~~ (4) Nothing in this chapter precludes the commission from  
34 adopting or continuing other conservation policies and programs  
35 intended to provide incentives for and to encourage ~~((utility))~~  
36 electrical, gas, or water company investment in improving the  
37 efficiency of energy or water end use. However, the policies or  
38 programs shall not impair ~~((conservation investment))~~ rate recovery  
39 assets. This chapter is not intended to be an exclusive or mandatory  
40 approach to conservation programs for electrical, gas, and water

1 companies, and no such company is obligated to file conservation  
2 service tariffs under this chapter, to apply to the commission for a  
3 determination that conservation costs constitute bondable  
4 (~~(conservation investment)~~) rate recovery expenditures within the  
5 meaning of this chapter, or to issue (~~(conservation)~~) rate recovery  
6 bonds.

7 (~~(+6)~~) (5) (a) If a customer of an electrical, gas, or water  
8 company for whose benefit the company made expenditures for  
9 conservation measures or services ceases to be a customer of such  
10 company for one or more of the following reasons, the commission may  
11 require that the portion of such (~~(conservation)~~) expenditures that  
12 had been included in rate base but not theretofore recovered in the  
13 rates of such company be removed from the rate base of the company:

14 (i) The customer ceases to be a customer of the (~~(supplier of~~  
15 ~~energy or water)~~) electrical, gas, or water company, and the customer  
16 repays to the company the portion of the (~~(conservation)~~)  
17 expenditures made for the benefit of such customer that has not  
18 theretofore been recovered in rates of (~~(the)~~) such company; or

19 (ii) (~~(The)~~) Such company sells its property used to serve such  
20 customer and the customer ceases to be a customer of the company as a  
21 result of such action.

22 (b) An electrical, gas, or water company may include in a  
23 contract for a conservation measure or service, and the commission  
24 may by rule or order require to be included in such contracts, a  
25 provision requiring that, if the customer ceases to be a customer of  
26 that (~~(supplier of energy or water)~~) such company, the customer shall  
27 repay to the company the portion of the conservation expenditures  
28 made for the benefit of such customer that has not theretofore been  
29 recovered in rates of the company.

30 **Sec. 6.** RCW 80.28.306 and 1994 c 268 s 3 are each amended to  
31 read as follows:

32 (1) Electrical, gas, and water companies, or finance  
33 subsidiaries, may (~~(issue conservation bonds)~~), upon approval by the  
34 commission, finance or refinance bondable rate recovery expenditures  
35 as described in RCW 80.28.303. Bonds, notes, certificates of  
36 beneficial interests in a trust, and other evidences of indebtedness  
37 or ownership issued for this purpose are rate recovery bonds for the  
38 purposes of this section.

1           (2) ~~((Electrical))~~ (a) An electrical, gas, ~~((and))~~ or water  
2 ~~((companies, or))~~ company, finance ~~((subsidiaries))~~ subsidiary, or  
3 assignee may ~~((pledge conservation investment))~~ grant a security  
4 interest in rate recovery assets as collateral for ~~((conservation))~~  
5 rate recovery bonds ~~((by obtaining an order of the commission~~  
6 approving an issue of conservation bonds and providing for a security  
7 interest in conservation investment assets)). A security interest in  
8 ~~((conservation investment))~~ rate recovery assets is ~~((created and~~  
9 perfected only upon entry of an order by the commission approving a  
10 contract governing the granting of the security interest and the  
11 filing with the department of licensing of a UCC-1 financing  
12 statement, showing such pledgor as "debtor" and identifying such  
13 conservation investment assets and the bondable conservation  
14 investment associated therewith. The security interest is)) valid and  
15 enforceable against the debtor and ~~((all))~~ third parties, subject  
16 only to the rights of any third parties holding security interests in  
17 the ~~((conservation investment))~~ rate recovery assets attached and  
18 perfected in the manner described in this ~~((section,))~~ subsection.

19           (b) A security interest in rate recovery assets attaches if  
20 ~~((value has been))~~:

21           (i) The secured party, or a financing party that the secured  
22 party represents, has given ~~((by the purchasers of conservation~~  
23 bonds. An approved)) value; and

24           (ii) The debtor has signed a security agreement granting the  
25 secured party a security interest in ~~((conservation investment))~~ the  
26 rate recovery assets.

27           (c) A valid and enforceable security interest in rate recovery  
28 assets is perfected if: (i) The security interest has attached in the  
29 manner described in (b) of this subsection; and (ii) a financing  
30 statement has been filed in accordance with the requirements of  
31 chapter 62A.9A RCW that identifies the debtor as "debtor," the  
32 secured party as "secured party," and the rate recovery assets  
33 granted as security as the "collateral," and contains a description  
34 in the financing statement that refers to the commission's financing  
35 order creating the rate recovery assets. The financing statement is  
36 deemed sufficient under chapter 62A.9A RCW and all other relevant law  
37 for identifying the rate recovery assets granted as security.

38           (d) A perfected security interest in rate recovery assets is a  
39 continuously perfected security interest ~~((in all revenues and~~  
40 proceeds arising with respect to the associated bondable conservation

1 investment)), whether or not ((such)) the related revenues have  
2 accrued(~~(. Upon such approval, the priority of such security interest~~  
3 ~~shall be as set forth in))~~ or the ~~((contract governing the~~  
4 ~~conservation bonds. Conservation investment))~~ related rate recovery  
5 charges have been charged, billed, or collected. Rate recovery assets  
6 constitute a presently existing, fully vested property right for the  
7 purposes of contracts securing ~~((conservation))~~ the rate recovery  
8 bonds whether or not the related revenues have accrued or the related  
9 rate recovery charges have been charged, billed, or collected.  
10 Multiple security interests in the same rate recovery assets shall  
11 rank according to priority in time of perfection.

12 ~~((3) The))~~ (e) Subject to the terms of the security agreement  
13 covering the rate recovery assets, the relative priority of a  
14 security interest created or perfected under this section is not  
15 ~~((defeated or))~~ adversely affected by: (i) Any later modification of  
16 the financing order or rate recovery assets; or (ii) the commingling  
17 of ((revenues arising with respect to conservation investment))  
18 proceeds of rate recovery assets with other ((funds of the debtor.  
19 ~~The holders of conservation bonds shall have a perfected security~~  
20 ~~interest in all cash and deposit accounts of the debtor in which~~  
21 ~~revenues arising with respect to conservation investment assets~~  
22 ~~pledged to such holders have been commingled with other funds, but~~  
23 ~~such perfected security interest is limited to an amount not greater~~  
24 ~~than the amount of such revenues received by the debtor within twelve~~  
25 ~~months before (a) any default under the conservation bonds held by~~  
26 ~~the holders or (b) the institution of insolvency proceedings by or~~  
27 ~~against the debtor, less payments from such revenues to the holders~~  
28 ~~during such twelve-month period. If an event of default occurs under~~  
29 ~~an approved contract governing conservation bonds, the holders of~~  
30 ~~conservation bonds or their authorized representatives, as secured~~  
31 ~~parties, may foreclose or otherwise enforce the security interest in~~  
32 ~~the conservation investment assets securing the conservation bonds,~~  
33 ~~subject to the rights of any third parties holding prior security~~  
34 ~~interests in the conservation investment assets perfected in the~~  
35 ~~manner provided in this section.))~~ moneys.

36 (3) (a) A transfer of rate recovery assets to an assignee is  
37 perfected against all third parties if a notice of the transfer, by  
38 means of a financial statement:

39 (i) Is filed in accordance with the requirements of chapter  
40 62A.9A RCW;

1 (ii) Specifies that the notice of transfer is filed to provide  
2 notice of the transfer of the rate recovery assets from the  
3 transferor to the assignee;

4 (iii) Identifies the transferor as "debtor," the assignee as  
5 "secured party," and the rate recovery asset as "collateral"; and

6 (iv) Contains a description that refers to the commission's  
7 financing order that created the rate recovery assets.

8 (b) A notice of transfer that is filed in accordance with the  
9 requirements under (a) of this subsection shall be deemed sufficient  
10 under chapter 62A.9A RCW and all other relevant laws for identifying  
11 the rate recovery assets and for providing notice that the rate  
12 recovery assets have been transferred to the assignee.

13 (c) A transfer is perfected against third parties on the date a  
14 notice of transfer is filed.

15 (d) A transfer of rate recovery assets to a financing subsidiary  
16 that is perfected under this subsection is free and clear of all  
17 claims, security interests, liens, and encumbrances of the  
18 transferring electrical, gas, or water company, except for any prior  
19 security interest perfected under subsection (2) of this section.

20 (e) The priority of a transfer that is perfected under this  
21 subsection is not adversely affected by:

22 (i) Any later modification of the financing order or rate  
23 recovery assets; or

24 (ii) The commingling of proceeds of rate recovery assets.

25 (4) (a) When proceeds of rate recovery assets are transferred to a  
26 segregated account for an assignee or secured party, any lien or  
27 security interest that may apply to those proceeds, other than a  
28 security interest perfected under subsection (2) of this section, is  
29 automatically terminated, without the need for further notice, act,  
30 or evidence.

31 (b) Proceeds from rate recovery assets shall be held in trust for  
32 an assignee or secured party until the proceeds have been transferred  
33 to the assignee or secured party.

34 (c) Any adjustment in rate recovery charges does not affect the  
35 validity, perfection, or priority of a security interest in or the  
36 transfer of rate recovery assets.

37 (5) (a) The rights and remedies of a secured party in enforcing a  
38 security interest in rate recovery assets do not include and are  
39 without recourse to any electrical, gas, or water company asset



1 except for the rate recovery assets, even if the rate recovery assets  
2 are commingled with other assets.

3 (b) If an electrical, gas, or water company or finance subsidiary  
4 defaults on a required payment with respect to rate recovery bonds, a  
5 secured party or secured party's representatives may apply to the  
6 commission for relief. Upon application by ~~((the holders of [or]~~  
7 ~~their))~~ a secured party or secured party's representatives, the  
8 commission shall order, without limiting ((the~~ir~~) other remedies of  
9 the secured party or secured party's representatives, ((the  
10 ~~commission shall order))~~ the sequestration and payment to the  
11 ~~((holders or their))~~ secured party or secured party's representatives  
12 of ((revenues arising with respect to)) the ((conservation  
13 investment)) proceeds of the rate recovery assets ((pledged to such  
14 holders)). ((Any such))

15 (c) The interest of an assignee or financing party in rate  
16 recovery assets is not subject to setoff, counterclaim, surcharge, or  
17 defense by the electrical, gas, or water company or any other person  
18 in connection with a bankruptcy, reorganization, or insolvency  
19 proceeding. However, any surplus in excess of amounts necessary to  
20 pay principal, premium, if any, interest, and other amounts due with  
21 respect to the rate recovery bonds and associated financing costs,  
22 including enforcement costs, with respect to the security agreement  
23 shall be remitted to the debtor electrical, gas, or water company for  
24 the return of such surplus as customer refunds. A company may request  
25 authorization for the return of surplus funds by the commission in  
26 separate proceedings for this purpose. The commission shall issue an  
27 order approving or denying the petition for return of surplus funds  
28 within 90 days.

29 (d) The commission's financing order and any order issued under  
30 (b) of this subsection shall remain in full force and effect  
31 notwithstanding any bankruptcy, reorganization, or other insolvency  
32 proceedings with respect to ((the)) an electrical, gas, or water  
33 company debtor, or transferor with respect to rate recovery assets.  
34 ~~((Any surplus in excess of amounts necessary to pay principal,~~  
35 ~~premium, if any, interest, and expenses arising under the contract~~  
36 ~~governing the conservation bonds shall be remitted to the debtor~~  
37 ~~electrical, gas, or water company or the debtor finance subsidiary.~~

38 ~~(4))~~ (6) The granting, perfection, and enforcement of security  
39 interests in ((conservation investment)) rate recovery assets to  
40 secure ((conservation)) rate recovery bonds is ((governed by this

1 ~~chapter rather than by))~~ subject to chapter 62A.9A RCW, except that  
2 when a provision in chapter 62A.9A RCW comes in conflict with a  
3 provision in this section, the provision in this section shall  
4 control.

5 ~~((+5))~~ (7) A transfer of ~~((conservation—investment))~~ rate  
6 recovery assets by an electrical, gas, or water company to a finance  
7 subsidiary or other assignee, which such parties have in the  
8 governing documentation expressly stated to be a sale or other  
9 absolute transfer, in a transaction approved in ~~((an))~~ a financing  
10 order ~~((issued by the commission and in connection with the issuance~~  
11 ~~by such finance subsidiary of conservation bonds))~~, shall be treated  
12 as a true sale, and not as a pledge or other financing, of such  
13 ~~((conservation—investment))~~ rate recovery assets. According the  
14 holders of ~~((conservation))~~ rate recovery bonds a preferred right to  
15 revenues of the electrical, gas, or water company, or the provision  
16 by such company of other credit enhancement with respect to  
17 ~~((conservation))~~ rate recovery bonds, does not impair or negate the  
18 characterization of any such transfer as a true sale.

19 ~~((+6))~~ (8) Any successor to an electrical, gas, or water company  
20 pursuant to any bankruptcy, reorganization, or other insolvency  
21 proceeding shall perform and satisfy all obligations of the company  
22 under an approved contract governing ~~((conservation))~~ rate recovery  
23 bonds, in the same manner and to the same extent as was required of  
24 such company before any such proceeding, including, without  
25 limitation, billing, collecting, and paying to the bondholders or  
26 their representatives revenues arising with respect to the  
27 ~~((conservation—investment))~~ rate recovery assets pledged to secure  
28 the ~~((conservation))~~ rate recovery bonds.

29 (9) Except for enforcement permitted under the laws of another  
30 state, the laws of this state shall govern the creation, validity,  
31 enforceability, attachment, perfection, priority, and exercise of  
32 remedies with respect to the creation or transfer of a security  
33 interest in a rate recovery asset.

34 **Sec. 7.** RCW 80.28.309 and 1994 c 268 s 4 are each amended to  
35 read as follows:

36 (1) Costs incurred before ~~((June 9, 1994,))~~ the effective date of  
37 this section by electrical, gas, or water companies with respect to  
38 events described in RCW 80.28.005(3)(a) or energy or water  
39 conservation measures and services ~~((intended to improve the~~

1 ~~efficiency of energy or water end use))~~ described in RCW  
2 80.28.005(3)(b) shall constitute bondable (~~(conservation investment)~~)  
3 rate recovery expenditures for purposes of RCW 80.28.005, 80.28.303,  
4 80.28.306, and this section, if:

5 (a) The commission has previously issued a rate order authorizing  
6 the inclusion of such costs in rate base; and

7 (b) The commission authorizes the issuance of (~~(conservation)~~)  
8 rate recovery bonds secured by (~~(conservation investment)~~) rate  
9 recovery assets associated with such costs.

10 (2) If costs incurred before (~~(June 9, 1994,)~~) the effective date  
11 of this section by electrical, gas, or water companies with respect  
12 to events described in RCW 80.28.005(3)(a) or energy or water  
13 conservation measures (~~(intended to improve the efficiency of energy~~  
14 ~~or water end use))~~ described in RCW 80.28.005(3)(b) have not  
15 previously been considered by the commission for inclusion in rate  
16 base, an electrical, gas, or water company may apply to the  
17 commission for approval of such costs. If the commission finds that  
18 the expenditures are ((a)) bondable (~~(conservation investment)~~) rate  
19 recovery expenditures, the commission shall by order designate such  
20 expenditures as bondable (~~(conservation investment)~~) rate recovery  
21 expenditures, which shall be subject to RCW 80.28.005, 80.28.303,  
22 80.28.306, sections 3 and 4 of this act, and this section.

23 **Sec. 8.** RCW 80.08.140 and 1961 c 14 s 80.08.140 are each amended  
24 to read as follows:

25 No provision of this chapter, RCW 80.28.005, 80.28.303,  
26 80.28.306, 80.28.309, or section 3 or 4 of this act, and no deed or  
27 act done or performed under or in connection therewith, shall be held  
28 or construed to obligate the state of Washington or any agency,  
29 instrumentality, political subdivision, or local government thereof  
30 to pay or guarantee, in any manner whatsoever, any stock or stock  
31 certificate or other evidence of interest or ownership, or bond, note  
32 or other evidence of indebtedness, authorized, issued or executed  
33 under the provisions of this chapter, RCW 80.28.005, 80.28.303,  
34 80.28.306, 80.28.309, or section 3 or 4 of this act.

35 NEW SECTION. **Sec. 9.** A new section is added to chapter 80.28  
36 RCW to read as follows:

37 If any provision of this section and sections 1, 3, and 4 of this  
38 act or the amendments to RCW 80.08.140, 80.28.005, 80.28.303,

1 80.28.306, and 80.28.309 by sections 2, 5, 6, 7, and 8 of this act is  
2 determined to be invalid, or is invalidated, superseded, replaced,  
3 repealed, or expired, such determination or occurrence does not  
4 affect the validity of any action allowed under this section and  
5 sections 1, 3, and 4 of this act or the amendments to RCW 80.08.140,  
6 80.28.005, 80.28.303, 80.28.306, and 80.28.309 by sections 2, 5, 6,  
7 7, and 8 of this act and taken in good faith and pursuant to a  
8 financing order issued prior to such determination or occurrence.

9 NEW SECTION. **Sec. 10.** Except to the extent required by section  
10 7 of this act, this act applies prospectively only and not  
11 retroactively. Nothing in this act shall impair or affect the  
12 validity of any conservation bonds issued under RCW 80.28.303,  
13 80.28.306, and 80.28.309 as those sections existed prior to the  
14 effective date of this section. Conservation bonds issued under those  
15 sections prior to the effective date of this section shall continue  
16 to be governed by the provisions of such sections as they existed at  
17 the time such conservation bonds were issued.

18 NEW SECTION. **Sec. 11.** This act is necessary for the immediate  
19 preservation of the public peace, health, or safety, or support of  
20 the state government and its existing public institutions, and takes  
21 effect immediately.

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