

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5165

Chapter 229, Laws of 2023

68th Legislature
2023 Regular Session

ELECTRIC POWER SYSTEM TRANSMISSION PLANNING—VARIOUS PROVISIONS

EFFECTIVE DATE: July 23, 2023

Passed by the Senate April 14, 2023
Yeas 36 Nays 10

DENNY HECK

President of the Senate

Passed by the House April 5, 2023
Yeas 70 Nays 28

LAURIE JINKINS

**Speaker of the House of
Representatives**

Approved May 3, 2023 10:19 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5165** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

May 4, 2023

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5165

AS AMENDED BY THE HOUSE

Passed Legislature - 2023 Regular Session

State of Washington 68th Legislature 2023 Regular Session

By Senate Environment, Energy & Technology (originally sponsored by Senators Nguyen, Mullet, Boehnke, Frame, Hasegawa, Keiser, Nobles, and Stanford; by request of Office of the Governor)

READ FIRST TIME 02/09/23.

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; adding new sections to chapter 43.21C
4 RCW; and creating a new section.

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

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

14 (2) The legislature anticipated the crucial role of additional
15 transmission capacity in 2019 in the enactment of the clean energy
16 transformation act and directed the energy facilities site evaluation
17 council to convene a transmission corridors work group. The
18 transmission corridors work group issued its final report on October
19 31, 2022, in which it confirmed the central role of transmission and
20 recommended actions to achieve the expansion of transmission capacity
21 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 (7) The legislature intends and affirms that the option to use
26 local government permitting processes remains available for
27 transmission projects not subject to mandatory jurisdiction under RCW
28 80.50.060(2).

29 (8) Transmission projects typically take at least a decade to
30 develop and permit. This timing presents particular challenges for
31 achieving the state's greenhouse gas emissions reduction mandates,
32 which include ambitious benchmarks as early as 2030. There is a need
33 to accelerate the timeline for transmission development while still
34 protecting other Washington values.

35 (9) Some electric utilities rely entirely or primarily on a
36 contracted network transmission provider for required transmission
37 services. These electric utilities may contribute to the objectives
38 of this act by requesting that each provider of network transmission
39 service to the utilities include the provisions of chapter 288, Laws

1 of 2019 and chapter 70A.45 RCW as public policy mandates in the
2 transmission service provider's transmission planning process.

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

5 Each electric utility must develop a plan consistent with this
6 section.

7 (1) Utilities with more than (~~twenty-five thousand~~) 25,000
8 customers that are not full requirements customers must develop or
9 update an integrated resource plan by September 1, 2008. At a
10 minimum, progress reports reflecting changing conditions and the
11 progress of the integrated resource plan must be produced every two
12 years thereafter. An updated integrated resource plan must be
13 developed at least every four years subsequent to the 2008 integrated
14 resource plan. The integrated resource plan, at a minimum, must
15 include:

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

19 (b) An assessment of commercially available conservation and
20 efficiency resources, as informed, as applicable, by the assessment
21 for conservation potential under RCW 19.285.040 for the planning
22 horizon consistent with (a) of this subsection. Such assessment may
23 include, as appropriate, opportunities for development of combined
24 heat and power as an energy and capacity resource, demand response
25 and load management programs, and currently employed and new policies
26 and programs needed to obtain the conservation and efficiency
27 resources;

28 (c) An assessment of commercially available, utility scale
29 renewable and nonrenewable generating technologies including a
30 comparison of the benefits and risks of purchasing power or building
31 new resources;

32 (d) A comparative evaluation of renewable and nonrenewable
33 generating resources, including transmission and distribution
34 delivery costs, and conservation and efficiency resources using
35 "lowest reasonable cost" as a criterion;

36 (e) An assessment of methods, commercially available
37 technologies, or facilities for integrating renewable resources,
38 including but not limited to battery storage and pumped storage, and

1 addressing overgeneration events, if applicable to the utility's
2 resource portfolio;

3 (f) An assessment and ~~((ten))~~ 20-year forecast of the
4 availability of and requirements for regional generation and
5 transmission capacity ((on which the utility may rely)) to provide
6 and deliver electricity to ((its customers))the utility's customers
7 and to meet the requirements of chapter 288, Laws of 2019 and the
8 state's greenhouse gas emissions reduction limits in RCW 70A.45.020.
9 The transmission assessment must identify the utility's expected
10 needs to acquire new long-term firm rights, develop new, or expand or
11 upgrade existing, bulk transmission facilities consistent with the
12 requirements of this section and reliability standards;

13 (i) If an electric utility operates transmission assets rated at
14 115,000 volts or greater, the transmission assessment must take into
15 account opportunities to make more effective use of existing
16 transmission capacity through improved transmission system operating
17 practices, energy efficiency, demand response, grid modernization,
18 nonwires solutions, and other programs if applicable;

19 (ii) An electric utility that relies entirely or primarily on a
20 contract for transmission service to provide necessary transmission
21 services may comply with the transmission requirements of this
22 subsection by requesting that the counterparty to the transmission
23 service contract include the provisions of chapter 288, Laws of 2019
24 and chapter 70A.45 RCW as public policy mandates in the transmission
25 service provider's process for assessing transmission need, and
26 planning and acquiring necessary transmission capacity;

27 (iii) An electric utility may comply with the requirements of
28 this subsection (1)(f) by relying on and incorporating the results of
29 a separate transmission assessment process, conducted individually or
30 jointly with other utilities and transmission system users, if that
31 assessment process meets the requirements of this subsection;

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

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

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

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

10 (k) An assessment, informed by the cumulative impact analysis
11 conducted under RCW 19.405.140, of: Energy and nonenergy benefits and
12 the avoidance and reductions of burdens to vulnerable populations and
13 highly impacted communities; long-term and short-term public health
14 and environmental benefits, costs, and risks; and energy security and
15 risk;

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

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

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

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

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

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

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

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

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

3 (d) ((identify)) Identify renewable resources, nonemitting
4 electric generation, and distributed energy resources that may be
5 acquired and evaluate how each identified resource may be expected to
6 contribute to meeting the utility's resource adequacy requirement;

7 (e) ((identify)) Identify any need to develop new, or expand or
8 upgrade existing, bulk transmission and distribution facilities and
9 document existing and planned efforts by the utility to make more
10 effective use of existing transmission capacity and secure additional
11 transmission capacity consistent with the requirements of subsection
12 (1)(f) of this section; and

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

16 (3)(a) An electric utility shall consider the social cost of
17 greenhouse gas emissions, as determined by the commission for
18 investor-owned utilities pursuant to RCW 80.28.405 and the department
19 for consumer-owned utilities, when developing integrated resource
20 plans and clean energy action plans. An electric utility must
21 incorporate the social cost of greenhouse gas emissions as a cost
22 adder when:

23 (i) Evaluating and selecting conservation policies, programs, and
24 targets;

25 (ii) Developing integrated resource plans and clean energy action
26 plans; and

27 (iii) Evaluating and selecting intermediate term and long-term
28 resource options.

29 (b) For the purposes of this subsection (3): (i) Gas consisting
30 largely of methane and other hydrocarbons derived from the
31 decomposition of organic material in landfills, wastewater treatment
32 facilities, and anaerobic digesters must be considered a nonemitting
33 resource; and (ii) qualified biomass energy must be considered a
34 nonemitting resource.

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

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

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

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

7 (c) Explains why the resources in (b) of this subsection were
8 chosen and, if the resources chosen are not: (i) Renewable resources;
9 (ii) methods, commercially available technologies, or facilities for
10 integrating renewable resources, including addressing any
11 overgeneration event; or (iii) conservation and efficiency resources,
12 why such a decision was made;

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

16 (e) Accounts for:

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

21 (ii) Analysis, research, findings, recommendations, actions, and
22 any other relevant information found in the electrification of
23 transportation plans submitted under RCW 35.92.450, 54.16.430, and
24 80.28.365; and

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

30 (6) Assessments for demand-side resources included in an
31 integrated resource plan may include combined heat and power systems
32 as one of the measures in a conservation supply curve. The value of
33 recoverable waste heat resulting from combined heat and power must be
34 reflected in analyses of cost-effectiveness under this subsection.

35 (7) An electric utility that is required to develop a resource
36 plan under this section must complete its initial plan by September
37 1, 2008.

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

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

3 (10)(a) To maximize transparency, the commission, for investor-
4 owned utilities, or the governing body, for consumer-owned utilities,
5 may require an electric utility to make the utility's data input
6 files available in a native format. Each electric utility shall
7 publish its final plan either as part of an annual report or as a
8 separate document available to the public. The report may be in an
9 electronic form.

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

12 ~~((11) By December 31, 2021, the department and the commission
13 must adopt rules establishing the requirements for incorporating the
14 cumulative impact analysis developed under RCW 19.405.140 into the
15 criteria for developing clean energy action plans under this
16 section.))~~

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

19 (1) Electric utilities must in their planning and selection of
20 renewable resources give reasonable consideration, consistent with
21 prudent utility practice, to renewable resources that would use
22 transmission services considered to be conditional firm under the
23 tariff of the relevant transmission provider. For the purposes of
24 this section, conditional firm service means any form of long-term
25 firm point-to-point transmission service in which transmission
26 customers are able to reserve service subject to specific and limited
27 conditions under which the transmission provider may curtail the
28 transmission customer's reservation of service prior to curtailment
29 of other firm service.

30 (2) Electric utilities are encouraged to participate and
31 contribute to statewide or multiutility planning activities and
32 through interstate transmission planning processes.

33 (3) Electric utilities must consult with federal, interstate, and
34 voluntary industry organizations with a role in the bulk power
35 transmission system, including but not limited to the Bonneville
36 power administration, the Pacific Northwest electric power and
37 conservation planning council, NorthernGrid, the Western Power Pool,
38 and public interest organizations in improving the planning and
39 development of transmission capacity consistent with this act.

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

3 (1)(a) The provisions of this chapter apply to the construction
4 of energy facilities which includes the new construction of energy
5 facilities and the reconstruction or enlargement of existing energy
6 facilities where the net increase in physical capacity or dimensions
7 resulting from such reconstruction or enlargement meets or exceeds
8 those capacities or dimensions set forth in RCW 80.50.020 (14) and
9 (29). No construction or reconstruction of such energy facilities may
10 be undertaken, except as otherwise provided in this chapter, without
11 first obtaining certification in the manner provided in this chapter.

12 (b) If applicants proposing the following types of facilities
13 choose to receive certification under this chapter, the provisions of
14 this chapter apply to the construction, reconstruction, or
15 enlargement of these new or existing facilities:

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

18 (ii) Alternative energy resource facilities;

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

23 (iv) Clean energy product manufacturing facilities; and

24 (v) Storage facilities.

25 (c) All of the council's powers with regard to energy facilities
26 apply to all of the facilities in (b) of this subsection and these
27 facilities are subject to all provisions of this chapter that apply
28 to an energy facility.

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

30 (i) The construction, reconstruction, or enlargement of new or
31 existing electrical transmission facilities: (A) Of a nominal voltage
32 of at least 500,000 volts alternating current or at least 300,000
33 volts direct current; (B) located in more than one county; and (C)
34 located in the Washington service area of more than one retail
35 electric utility; and

36 (ii) The construction, reconstruction, or modification of
37 electrical transmission facilities when the facilities are located in
38 a national interest electric transmission corridor as specified in
39 RCW 80.50.045.

1 (b) For the purposes of this subsection, "modification" means a
2 significant change to an electrical transmission facility and does
3 not include the following: (i) Minor improvements such as the
4 replacement of existing transmission line facilities or supporting
5 structures with equivalent facilities or structures; (ii) the
6 relocation of existing electrical transmission line facilities; (iii)
7 the conversion of existing overhead lines to underground; or (iv) the
8 placing of new or additional conductors, supporting structures,
9 insulators, or their accessories on or replacement of supporting
10 structures already built.

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

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

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

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

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

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

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

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

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

36 (8) The council must consult with all federally recognized tribes
37 that possess resources, rights, or interests reserved or protected by
38 federal treaty, statute, or executive order in the area where an
39 energy facility is proposed to be located to provide early and
40 meaningful participation and input during siting review and

1 compliance monitoring. The chair and designated staff must offer to
2 conduct government-to-government consultation to address issues of
3 concern raised by such a tribe. The goal of the consultation process
4 is to identify tribal resources or rights potentially affected by the
5 proposed energy facility and to seek ways to avoid, minimize, or
6 mitigate any adverse effects on tribal resources or rights. The chair
7 must provide regular updates on the consultation to the council
8 throughout the application review process. The report from the
9 council to the governor required in RCW 80.50.100 must include a
10 summary of the government-to-government consultation process that
11 complies with RCW 42.56.300, including the issues and proposed
12 resolutions.

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

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

19 (1) The council shall consult with other state agencies,
20 utilities, local municipal governments, public interest groups,
21 tribes, and other interested persons to convey their views to the
22 secretary and the federal energy regulatory commission regarding
23 appropriate limits on federal regulatory authority in the siting of
24 electrical transmission corridors in the state of Washington.

25 (2) The council is designated as the state authority for purposes
26 of siting transmission facilities under (~~the national energy policy~~
27 ~~act of 2005~~) Title 16 U.S.C. Sec. 824p and for purposes of other
28 such rules or regulations adopted by the secretary. The council's
29 authority regarding transmission facilities under this subsection is
30 limited to those transmission facilities that are the subject of
31 (~~section 1221 of the national energy policy act~~) Title 16 U.S.C.
32 Sec. 824p and this chapter.

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

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

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

9 NEW SECTION. Sec. 6. A new section is added to chapter 43.21C
10 RCW to read as follows:

11 NONPROJECT ENVIRONMENTAL REVIEWS. (1) The energy facility site
12 evaluation council shall prepare nonproject environmental impact
13 statements, pursuant to RCW 43.21C.030, that assess and disclose the
14 probable significant adverse environmental impacts, and that identify
15 related mitigation measures for electrical transmission facilities
16 with a nominal voltage of 230kV or greater.

17 (2) The scope of a nonproject environmental review is limited to
18 the probable, significant adverse environmental impacts in geographic
19 areas that are suitable for the electrical transmission facilities
20 with a nominal voltage of 230kV or greater. The energy facility site
21 evaluation council may consider standard attributes for likely
22 development, proximity to existing transmission or complementary
23 facilities, and planned corridors for transmission capacity
24 construction, reconstruction, or enlargement. The nonproject review
25 is not required to evaluate geographic areas that lack the
26 characteristics necessary for electrical transmission facilities with
27 a nominal voltage of 230kV or greater.

28 (3) (a) The scope of nonproject environmental impact statements
29 must consider, as appropriate, analysis of the following probable
30 significant adverse environmental impacts, including direct,
31 indirect, and cumulative impacts to:

32 (i) Historic and cultural resources;

33 (ii) Species designated for protection under RCW 77.12.020 or the
34 federal endangered species act;

35 (iii) Landscape scale habitat connectivity and wildlife migration
36 corridors;

37 (iv) Environmental justice and overburdened communities as
38 defined in RCW 70A.02.010;

1 (v) Cultural resources and elements of the environment relevant
2 to tribal rights, interests, and resources including tribal cultural
3 resources, and fish, wildlife, and their habitat;

4 (vi) Land uses, including agricultural and ranching uses; and

5 (vii) Military installations and operations.

6 (b) The nonproject environmental impact statements must identify
7 measures to avoid, minimize, and mitigate probable significant
8 adverse environmental impacts identified during the review. These
9 include measures to mitigate probable significant adverse
10 environmental impacts to elements of the environment as defined in
11 WAC 197-11-444 as it existed as of January 1, 2023, tribal rights,
12 interests, and resources, including tribal cultural resources, as
13 identified in RCW 70A.65.305, and overburdened communities as defined
14 in RCW 70A.02.010. The energy facility site evaluation council shall
15 consult with other agencies with expertise in identification and
16 mitigation of probable, significant adverse environmental impacts
17 including, but not limited to, the department of fish and wildlife.
18 The energy facility site evaluation council shall further specify
19 when probable, significant adverse environmental impacts cannot be
20 mitigated.

21 (4) In defining the scope of nonproject review of electrical
22 transmission facilities with a nominal voltage of 230kV or greater,
23 the energy facility site evaluation council shall request input from
24 agencies, federally recognized Indian tribes, industry, stakeholders,
25 local governments, and the public to identify the geographic areas
26 suitable for electrical transmission facilities with a nominal
27 voltage of 230kV or greater, based on the climatic and geophysical
28 attributes conducive to or required for project development. The
29 energy facility site evaluation council will provide opportunities
30 for the engagement of tribes, overburdened communities, and
31 stakeholders that self-identify an interest in participating in the
32 process.

33 (5) The energy facility site evaluation council must offer early
34 and meaningful consultation with any affected federally recognized
35 Indian tribe on the nonproject review under this section for the
36 purpose of understanding potential impacts to tribal rights and
37 resources, including tribal cultural resources, archaeological sites,
38 sacred sites, fisheries, or other rights and interests in tribal
39 lands and lands within which an Indian tribe or tribes possess rights
40 reserved or protected by federal treaty, statute, or executive order.

1 The consultation is independent of, and in addition to, any public
2 participation process required by state law, or by a state agency.
3 The goal of the consultation process is to support the nonproject
4 review by early identification of tribal rights, interests, or
5 resources, including tribal cultural resources, potentially affected
6 by the project type and identifying solutions, when possible, to
7 avoid, minimize, or mitigate any adverse effects on tribal rights,
8 interests, or resources, including tribal cultural resources, based
9 on environmental or permit review.

10 (6) Final nonproject environmental review documents for the
11 electrical transmission facilities with a nominal voltage of 230kV or
12 greater, where applicable, must include maps identifying probable,
13 significant adverse environmental impacts for the resources
14 evaluated. Maps must be prepared with the intention to illustrate
15 probable, significant impacts and areas where impacts are avoided or
16 capable of being minimized or mitigated, creating a tool that may be
17 used by project proponents, tribes, and government to inform decision
18 making. Maps may not include confidential information, such as
19 locations of sacred cultural sites or locations of populations of
20 certain protected species.

21 (7) For transmission line projects utilizing an existing
22 transmission right-of-way or that are located along a transportation
23 corridor or transmission projects utilizing an existing transmission
24 right-of-way, the reasonable alternatives analysis required under
25 this section is limited to the proposed action and a no action
26 alternative.

27 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.21C
28 RCW to read as follows:

29 LEAD AGENCY USE OF NONPROJECT ENVIRONMENTAL IMPACT STATEMENT. (1)
30 A lead agency conducting a project-level environmental review under
31 this chapter of an electrical transmission facility with a nominal
32 voltage of 230kV or greater must consider a nonproject environmental
33 impact statement completed pursuant to section 6 of this act in order
34 to identify and mitigate project-level probable significant adverse
35 environmental impacts.

36 (2)(a) Project-level environmental review conducted pursuant to
37 this chapter of an electrical transmission facility with a nominal
38 voltage of 230kV or greater must begin with the review of the
39 applicable nonproject environmental impact statement completed

1 pursuant to section 6 of this act. The review must address any
2 probable significant adverse environmental impacts associated with
3 the proposal that were not analyzed in the nonproject environmental
4 impact statements pursuant to section 6 of this act. The review must
5 identify any mitigation measures specific to the project for probable
6 significant adverse environmental impacts.

7 (b) Lead agencies reviewing site-specific project proposals for
8 electrical transmission facilities with a nominal voltage of 230kV or
9 greater shall use the nonproject review described in section 6 of
10 this act through one of the following methods and in accordance with
11 WAC 197-11-600, as it existed as of January 1, 2023:

12 (i) Use of the nonproject review unchanged, in accordance with
13 RCW 43.21C.034, if the project does not cause probable significant
14 adverse environmental impact not identified in the nonproject review;

15 (ii) Preparation of an addendum;

16 (iii) Incorporation by reference; or

17 (iv) Preparation of a supplemental environmental impact
18 statement.

19 (3) Proposals for electrical transmission facilities with a
20 nominal voltage of 230kV or greater following the recommendations
21 developed in the nonproject environmental review completed pursuant
22 to section 6 of this act are considered to have mitigated the
23 probable significant adverse project-specific environmental impacts
24 under this chapter for which recommendations were specifically
25 developed unless the project-specific environmental review identifies
26 project-level probable significant adverse environmental impacts not
27 addressed in the nonproject environmental review.

Passed by the Senate April 14, 2023.

Passed by the House April 5, 2023.

Approved by the Governor May 3, 2023.

Filed in Office of Secretary of State May 4, 2023.

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