

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5260

52nd Legislature
1991 Regular Session

Passed by the Senate April 22, 1991
Yeas 46 Nays 0

President of the Senate

Passed by the House April 18, 1991
Yeas 97 Nays 0

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Gordon Golob, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5260** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5260

AS AMENDED BY THE HOUSE

Passed Legislature - 1991 Regular Session

State of Washington 52nd Legislature 1991 Regular Session

By Senate Committee on Energy & Utilities (originally sponsored by Senators Thorsness, Madsen and Barr; by request of Utilities & Transportation Commission).

Read first time February 13, 1991.

1 AN ACT Relating to the regulatory authority of the utilities and
2 transportation commission over certain nonmunicipal systems; amending
3 RCW 80.04.010; and reenacting and amending RCW 80.04.110.

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

5 **Sec. 1.** RCW 80.04.010 and 1989 c 101 s 2 are each amended to read
6 as follows:

7 As used in this title, unless specifically defined otherwise or
8 unless the context indicates otherwise:

9 "Commission" means the utilities and transportation commission.

10 "Commissioner" means one of the members of such commission.

11 "Competitive telecommunications company" means a telecommunications
12 company which has been classified as such by the commission pursuant to
13 RCW 80.36.320.

14 "Competitive telecommunications service" means a service which has
15 been classified as such by the commission pursuant to RCW 80.36.330.

1 "Corporation" includes a corporation, company, association or joint
2 stock association.

3 "Person" includes an individual, a firm or partnership.

4 "Gas plant" includes all real estate, fixtures and personal
5 property, owned, leased, controlled, used or to be used for or in
6 connection with the transmission, distribution, sale or furnishing of
7 natural gas, or the manufacture, transmission, distribution, sale or
8 furnishing of other type gas, for light, heat or power.

9 "Gas company" includes every corporation, company, association,
10 joint stock association, partnership and person, their lessees,
11 trustees or receiver appointed by any court whatsoever, and every city
12 or town, owning, controlling, operating or managing any gas plant
13 within this state.

14 "Electric plant" includes all real estate, fixtures and personal
15 property operated, owned, used or to be used for or in connection with
16 or to facilitate the generation, transmission, distribution, sale or
17 furnishing of electricity for light, heat, or power for hire; and any
18 conduits, ducts or other devices, materials, apparatus or property for
19 containing, holding or carrying conductors used or to be used for the
20 transmission of electricity for light, heat or power.

21 "Electrical company" includes any corporation, company,
22 association, joint stock association, partnership and person, their
23 lessees, trustees or receivers appointed by any court whatsoever (other
24 than a railroad or street railroad company generating electricity
25 solely for railroad or street railroad purposes or for the use of its
26 tenants and not for sale to others), and every city or town owning,
27 operating or managing any electric plant for hire within this state.

28 "Electrical company" does not include a company or person employing a
29 cogeneration facility solely for the generation of electricity for its
30 own use or the use of its tenants or for sale to an electrical company,

1 state or local public agency, municipal corporation, or quasi municipal
2 corporation engaged in the sale or distribution of electrical energy,
3 but not for sale to others, unless such company or person is otherwise
4 an electrical company.

5 "LATA" means a local access transport area as defined by the
6 commission in conformance with applicable federal law.

7 "Private telecommunications system" means a telecommunications
8 system controlled by a person or entity for the sole and exclusive use
9 of such person, entity, or affiliate thereof, including the provision
10 of private shared telecommunications services by such person or entity.

11 "Private telecommunications system" does not include a system offered
12 for hire, sale, or resale to the general public.

13 "Private shared telecommunications services" includes the provision
14 of telecommunications and information management services and equipment
15 within a user group located in discrete private premises in building
16 complexes, campuses, or high-rise buildings, by a commercial shared
17 services provider or by a user association, through privately owned
18 customer premises equipment and associated data processing and
19 information management services and includes the provision of
20 connections to the facilities of a local exchange and to interexchange
21 telecommunications companies.

22 "Radio communications service company" includes every corporation,
23 company, association, joint stock association, partnership, and person,
24 their lessees, trustees, or receivers appointed by any court, and every
25 city or town making available facilities to provide radio
26 communications service, radio paging, or cellular communications
27 service for hire, sale, or resale.

28 "Telecommunications company" includes every corporation, company,
29 association, joint stock association, partnership and person, their
30 lessees, trustees or receivers appointed by any court whatsoever, and

1 every city or town owning, operating or managing any facilities used to
2 provide telecommunications for hire, sale, or resale to the general
3 public within this state.

4 "Noncompetitive telecommunications service" means any service which
5 has not been classified as competitive by the commission.

6 "Facilities" means lines, conduits, ducts, poles, wires, cables,
7 cross-arms, receivers, transmitters, instruments, machines, appliances,
8 instrumentalities and all devices, real estate, easements, apparatus,
9 property and routes used, operated, owned or controlled by any
10 telecommunications company to facilitate the provision of
11 telecommunications service.

12 "Telecommunications" is the transmission of information by wire,
13 radio, optical cable, electromagnetic, or other similar means. As used
14 in this definition, "information" means knowledge or intelligence
15 represented by any form of writing, signs, signals, pictures, sounds,
16 or any other symbols.

17 "Water system" includes all real estate, easements, fixtures,
18 personal property, dams, dikes, head gates, weirs, canals, reservoirs,
19 flumes or other structures or appliances operated, owned, used or to be
20 used for or in connection with or to facilitate the supply, storage,
21 distribution, sale, furnishing, diversion, carriage, apportionment or
22 measurement of water for power, irrigation, reclamation, manufacturing,
23 municipal, domestic or other beneficial uses for hire.

24 "Water company" includes every corporation, company, association,
25 joint stock association, partnership and person, their lessees,
26 trustees or receivers appointed by any court whatsoever, and every city
27 or town owning, controlling, operating, or managing any water system
28 for hire within this state: PROVIDED, That for purposes of commission
29 jurisdiction it shall not include any water system serving less than
30 one hundred customers where the average annual gross revenue per

1 customer does not exceed three hundred dollars per year, which revenue
2 figure may be increased annually by the commission by rule adopted
3 pursuant to chapter 34.05 RCW to reflect the rate of inflation as
4 determined by the implicit price deflator of the United States
5 department of commerce: AND PROVIDED FURTHER, That such measurement of
6 customers or revenues shall include all portions of water companies
7 having common ownership or control, regardless of location or corporate
8 designation. "Control" as used herein shall be defined by the
9 commission by rule and shall not include management by a satellite
10 agency as defined in chapter 70.116 RCW if the satellite agency is not
11 an owner of the water company. "Water company" also includes, for
12 auditing purposes only, nonmunicipal water systems which are referred
13 to the commission pursuant to an administrative order from the
14 department, or the city or county as provided in RCW 80.04.110.
15 However, water companies exempt from commission regulation shall be
16 subject to the provisions of chapter 19.86 RCW. A water company cannot
17 be removed from regulation except with the approval of the commission.
18 Water companies subject to regulation may petition the commission for
19 removal from regulation if the number of customers falls below one
20 hundred or the average annual revenue per customer falls below three
21 hundred dollars. The commission is authorized to maintain continued
22 regulation if it finds that the public interest so requires.

23 "Cogeneration facility" means any machinery, equipment, structure,
24 process, or property, or any part thereof, installed or acquired for
25 the primary purpose of the sequential generation of electrical or
26 mechanical power and useful heat from the same primary energy source or
27 fuel.

28 "Public service company" includes every gas company, electrical
29 company, telecommunications company, and water company. Ownership or

1 operation of a cogeneration facility does not, by itself, make a
2 company or person a public service company.

3 "Local exchange company" means a telecommunications company
4 providing local exchange telecommunications service.

5 "Department" means the department of (~~social~~ and) health
6 (~~services~~).

7 The term "service" is used in this title in its broadest and most
8 inclusive sense.

9 **Sec. 2.** RCW 80.04.110 and 1989 c 207 s 2 and 1989 c 101 s 17 are
10 each reenacted and amended to read as follows:

11 Complaint may be made by the commission of its own motion or by any
12 person or corporation, chamber of commerce, board of trade, or any
13 commercial, mercantile, agricultural or manufacturing society, or any
14 body politic or municipal corporation, or by the public counsel section
15 of the office of the attorney general, or its successor, by petition or
16 complaint in writing, setting forth any act or thing done or omitted to
17 be done by any public service corporation in violation, or claimed to
18 be in violation, of any provision of law or of any order or rule of the
19 commission: PROVIDED, That no complaint shall be entertained by the
20 commission except upon its own motion, as to the reasonableness of the
21 schedule of the rates or charges of any gas company, electrical
22 company, water company, or telecommunications company, unless the same
23 be signed by the mayor, council or commission of the city or town in
24 which the company complained of is engaged in business, or not less
25 than twenty-five consumers or purchasers of such gas, electricity,
26 water or telecommunications service, or at least twenty-five percent of
27 the consumers or purchasers of the company's service: PROVIDED,
28 FURTHER, That when two or more public service corporations, (meaning to
29 exclude municipal and other public corporations) are engaged in

1 competition in any locality or localities in the state, either may make
2 complaint against the other or others that the rates, charges, rules,
3 regulations or practices of such other or others with or in respect to
4 which the complainant is in competition, are unreasonable,
5 unremunerative, discriminatory, illegal, unfair or intending or tending
6 to oppress the complainant, to stifle competition, or to create or
7 encourage the creation of monopoly, and upon such complaint or upon
8 complaint of the commission upon its own motion, the commission shall
9 have power, after notice and hearing as in other cases, to, by its
10 order, subject to appeal as in other cases, correct the abuse
11 complained of by establishing such uniform rates, charges, rules,
12 regulations or practices in lieu of those complained of, to be observed
13 by all of such competing public service corporations in the locality or
14 localities specified as shall be found reasonable, remunerative,
15 nondiscriminatory, legal, and fair or tending to prevent oppression or
16 monopoly or to encourage competition, and upon any such hearing it
17 shall be proper for the commission to take into consideration the
18 rates, charges, rules, regulations and practices of the public service
19 corporation or corporations complained of in any other locality or
20 localities in the state.

21 All matters upon which complaint may be founded may be joined in
22 one hearing, and no motion shall be entertained against a complaint for
23 misjoinder of complaints or grievances or misjoinder of parties; and in
24 any review of the courts of orders of the commission the same rule
25 shall apply and pertain with regard to the joinder of complaints and
26 parties as herein provided: PROVIDED, All grievances to be inquired
27 into shall be plainly set forth in the complaint. No complaint shall
28 be dismissed because of the absence of direct damage to the
29 complainant.

1 Upon the filing of a complaint, the commission shall cause a copy
2 thereof to be served upon the person or corporation complained of,
3 which shall be accompanied by a notice fixing the time when and place
4 where a hearing will be had upon such complaint. The time fixed for
5 such hearing shall not be less than ten days after the date of the
6 service of such notice and complaint, excepting as herein provided.
7 The commission shall enter its final order with respect to a complaint
8 filed by any entity or person other than the commission within ten
9 months from the date of filing of the complaint, unless the date is
10 extended for cause. Rules of practice and procedure not otherwise
11 provided for in this title may be prescribed by the commission. Such
12 rules may include the requirement that a complainant use informal
13 processes before filing a formal complaint.

14 The commission shall, as appropriate, (~~exercise auditing and~~
15 ~~accounting supervision or initiate a complaint~~) audit a nonmunicipal
16 water system upon receipt of an administrative order from the
17 department, or the city or county in which the water system is located,
18 finding that the water delivered by a system does not meet state board
19 of health standards adopted under RCW 43.20.050(2)(a) or standards
20 adopted under chapter 70.116 RCW and the results of the audit shall be
21 provided to the requesting department, city, or county. However, the
22 number of nonmunicipal water systems referred to the commission in any
23 one calendar year shall not exceed twenty percent of the water
24 companies subject to commission regulation as defined in RCW 80.04.010.

25 Every nonmunicipal water system referred to the commission for
26 audit under this section shall pay to the commission an audit fee in an
27 amount, based on the system's twelve-month audited period, equal to the
28 fee required to be paid by regulated companies under RCW 80.24.010.