

# HOUSE BILL REPORT

## HB 2232

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### As Reported By House Committee On:

Energy & Utilities

**Title:** An act relating to studying and developing recommendations for the restructuring of the electric energy industry.

**Brief Description:** Restructuring the electric energy industry.

**Sponsors:** Representatives Crouse, Poulsen, DeBolt, Morris, B. Thomas, Cooper and Linville.

### Brief History:

#### Committee Activity:

Energy & Utilities: 3/5/97 [DPS].

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## HOUSE COMMITTEE ON ENERGY & UTILITIES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Crouse, Chairman; DeBolt, Vice Chairman; Mastin, Vice Chairman; Poulsen, Ranking Minority Member; Morris, Assistant Ranking Minority Member; Bush; Cooper; Honeyford; Kastama; Kessler; Mielke; Mulliken and B. Thomas.

**Staff:** Margaret Allen (786-7110).

**Background:** Pressure has been mounting both inside and outside of the region to open the electricity industry to market-based pricing and retail competition. Bills have been introduced in Congress to restructure the industry, and the sale of the Bonneville Power Administration (BPA) has once again been proposed. A few states, such as California, New Hampshire, and Pennsylvania, recently passed legislation restructuring their electricity industry; numerous other states are studying restructuring issues or experimenting with customer choice programs.

Neither federal nor state law prohibits utilities from allowing their customers to be served by other utilities or energy providers. Consequently, some Washington utilities already are allowing at least some customers to choose their providers of electricity.

Washington currently enjoys among the lowest power prices in the nation. The potential restructuring of the electricity industry has raised numerous questions, such as: (1) how to retain the benefits of low-cost power in Washington; (2) how to foster social goals (such as promoting conservation and the development of renewable resources) funded under the current energy system but that may not fare well under a market-based system; (3) how to treat past investments that would be uneconomic in a competitive market (commonly referred to as stranded costs–); and (4) to what extent a utility’s current obligation to plan for and serve all customers within its service territory should change in a competitive environment.

**Comprehensive Review.** In 1996, the governors of Washington, Oregon, Idaho, and Montana convened a comprehensive review of the Northwest’s energy system, with the goal of developing, through a public process, recommendations for changes in the region’s electric utility industry. Those changes were to be designed to protect the region’s natural resources, to equitably distribute the costs and benefits of a competitive energy market, and to ensure an adequate, efficient, economical, and reliable power system.

A 20-member steering committee consisting of representatives of a wide variety of stakeholders, of each governor, and of the BPA, conducted the review. In addition to the steering committee, four work groups met during the late spring and early summer. The work groups addressed issues concerning: (1) transmission; (2) federal power marketing; (3) competition and customer choice; and (4) conservation, renewables, and low-income weatherization (public purposes). More than 400 people, including members of the steering committee, participated in the work groups. Altogether, the work groups held over 100 meetings.

**Final Report.** The final report submitted by the review steering committee on December 12, 1996 (Final Report), contains numerous recommendations, including a recommendation that by July 1, 1999, all retail electric utilities (public and investor-owned) allow customers the option of choosing their electricity suppliers. The price of electricity and energy services would be unregulated in a competitive market, but the cost of transmission and distribution would remain regulated as those systems are monopolies. In addition, the Final Report includes a recommendation that 3 percent of the revenues from the sale of electricity services be dedicated to public purposes.

Many of the recommendations reflect agreements in concept, rather than consensus in the details of how restructuring of the electricity industry should occur. Some restructuring issues, such as those concerning transmission and federal power marketing, are largely under federal jurisdiction. Other issues, such as those concerning retail competition and funding for public purposes, are within the state’s purview.

**Summary of Substitute Bill:** The intent of the act is to begin the comprehensive restructuring of the retail sale of energy in Washington.

**Findings.** The Legislature finds: (1) the interests of Washington citizens will be served by having a choice of electric services and energy providers, if basic safeguards concerning consumer protection and access are met, and investments preserving system reliability and environmental protection are not undermined; (2) the transition to a competitive retail electricity market requires investments in conservation, renewable resources, and low-income service be competitively neutral, and minimum investment standards for these purposes are necessary and desirable; and (3) electricity is an essential service and should be reasonably accessible and affordable to all consumers, and the unique circumstances and value of small, rural electric systems should be taken into account as industry restructuring progresses.

**Task Force.** A task force on electric system restructuring is created. The purpose of the task force is to recommend measures that will: (1) recognize the multiple uses, benefits, and claims on the state's rivers; (2) preserve low-cost power for state consumers; (3) foster genuine competition with benefits fairly distributed across all customer classes; (4) fairly distribute stranded costs; (5) build system benefits into the competitive structure, such benefits including service reliability and safety, environmental quality, electricity conservation, encouragement of renewable resources, and affordable service; and (6) substantially implement Final Report recommendations.

The task force will have seven members: one from each legislative caucus of the Senate, appointed by the majority leader, one from each legislative caucus of the House of Representatives, appointed by the speaker, and three members appointed by the Governor. The Governor will appoint the chair, who must be a member of the task force and the majority party in either the Senate or the House of Representatives.

The Senate, House of Representatives, Office of the Governor, Washington Utilities and Transportation Commission (WUTC), Department of Community, Trade and Economic Development (DCTED), and Department of Revenue will provide staff to the task force.

**Meetings.** Task force meetings will be open to the public, and task force members must attempt to inform interest groups and the general public regarding the issue of restructuring and task force progress.

**Work Groups.** The task force may establish work groups of knowledgeable or affected persons to advise the task force on components of its work plan. The task force must seek information and opinions from diverse interests.

**Task Force Responsibilities.** The task force has the following responsibilities:

- (1) Recommend mechanisms and steps needed to ensure retail competition by energy service providers by July 1, 1999, or as soon after as practicable;
- (2) Recommend ways to ensure the safety and reliability of the electric power system;
- (3) Develop guidelines for determining and fairly distributing stranded costs;
- (4) Identify necessary changes to electricity distributors' obligation to serve retail customers;
- (5) Develop uniform billing standards, and consumer education and outreach programs, to assist in comparing available services;
- (6) Recommend ways to ensure electricity service is reasonably accessible and affordable to all customers, including identifying barriers to the aggregation of small customers and recommending means to overcome those barriers;
- (7) Recommend the most appropriate means to ensure adequate funding for public purposes in a manner consistent with the Final Report;
- (8) Identify mechanisms and steps needed to establish a uniform, statewide, system benefits charge to ensure the minimum standard of investment for public purposes is met;
- (9) Address special needs of rural electricity customers;
- (10) Take into account state, regional, and national roles of responsibility and cooperation; and
- (11) Take other steps, including drafting legislation, needed to accomplish the purposes and tasks of the act.

**DCTED Responsibilities.** The DCTED must complete two projects by September 1, 1997.

First, the DCTED must study ways to achieve a minimum statewide standard of investment in local conservation resources, renewable resources, renewable research and development, regional market transformation, and low-income weatherization. For the purpose of the study, the minimum standard is presumed to equal 3 percent of total electricity expenditures. The DCTED is to consult with electricity distributors, electricity service suppliers, industrial customers authorized by federal law to purchase directly from the BPA, and others, in developing its study. The DCTED must report the results of the study to the task force.

Second, the DCTED must make recommendations to the task force concerning means of ensuring electricity service is reasonably accessible and affordable to all customers, including low-income and rural customers. The DCTED must consult with utilities, low-income customer advocates, rural customer advocates, the Office of the Attorney General, the WUTC, and others, in developing the recommendations.

**Pilot Programs.** To obtain information about the likely effects of restructuring the electricity industry, the Legislature encourages pilot programs between retail

customers and electrical utilities, particularly programs to facilitate the development of aggregators that can provide competitively priced power for small consumers. The Legislature also encourages the WUTC and governing bodies of consumer-owned utilities to provide the task force with information gleaned from pilot programs.

**Task Force Report and Expiration.** The task force must report to the Governor and the Legislature by December 1, 1997. The act expires March 1, 1998.

**Substitute Bill Compared to Original Bill:** The original bill was not heard.

**Appropriation:** None.

**Fiscal Note:** Requested on substitute bill March 5, 1997.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The essential elements of energy restructuring must move forward simultaneously in a coherent whole. The substitute bill is both broad and specific enough to give the task force the authority and direction it needs to develop the necessary recommendations. The state's restructuring of the electricity industry must dovetail with restructuring activities elsewhere in the region and with decisions made by Congress. The issues are complex. Competition in the electricity industry should be implemented in a way to preserve benefits to Washington citizens, and should balance consumer and utility rights, obligations, and accountability. Restructuring of the electricity industry will greatly impact consumers, and it is unclear whether restructuring will be good for small businesses; the approach to restructuring should be slow, thoughtful, careful, and deliberate. The task force approach is particularly important for defining, quantifying, and allocating stranded costs. The task force should examine issues concerning consumer protection, the impact on small businesses, energy assistance programs, and the need for a provider of last resort.

**Testimony Against:** None.

**Testified:** (Pro) Marilyn Showalter, Office of the Governor; Nancy Hirsh, Northwest Conservation Act Coalition; Mark Greenberg and Paul Kaufman, Cogeneration Coalition; Rachael Myers, Washington Citizen Action; Teresa Osinski, Washington Utilities and Transportation Commission; Chuck Eberdt, Washington State Association of Community Action Agencies; Dave Arbaugh, Washington PUD Association; Al Aldrich, Snohomish PUD; Mike Tracy, Puget Sound Energy; and Carolyn Logue, Washington Federation of Independent Businesses.