

SENATE BILL REPORT

ESSB 6560

As Passed Senate, February 16, 1998

Title: An act relating to retail electrical customers.

Brief Description: Protecting the rights of consumers of electric power.

Sponsors: Senate Committee on Energy & Utilities (originally sponsored by Senators Brown, Jacobsen, T. Sheldon, Kohl, Hargrove, Fairley, B. Sheldon, Prentice, Wojahn, Loveland, Thibaudeau, McAuliffe, Heavey, Spanel, Snyder, Rasmussen, Haugen, Patterson and Franklin).

Brief History:

Committee Activity: Energy & Utilities: 2/2/98, 2/5/98 [DPS].
Passed Senate, 2/16/98, 47-0.

SENATE COMMITTEE ON ENERGY & UTILITIES

Majority Report: That Substitute Senate Bill No. 6560 be substituted therefor, and the substitute bill do pass.

Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Staff: Andrea McNamara (786-7483)

Background: Currently, consumer protection requirements and remedies for retail electric customers differ depending on whether the utility providing service is a consumer-owned utility or an investor-owned utility.

Investor-owned utilities must comply with statutory consumer protection requirements and additional consumer protection policies established in rule by the Washington Utilities and Transportation Commission (WUTC). Current law and regulations address a number of consumer protection issues, including permissible methods for establishing customer credit histories, deposit requirements, payment plan options and disconnection policies, and metering practices.

Consumer-owned utilities are not subject to statutory consumer protection requirements, but instead may establish policies through their governing boards or commissions.

The WUTC has jurisdiction to receive and resolve customer complaints only about investor-owned utilities.

Power marketers do not currently market electricity in Washington directly to residential or commercial retail electric customers because such customers do not have the ability to chose to receive their electricity from anyone other than their local utility.

Under some potential scenarios for deregulating or restructuring the retail electric industry, local utilities and power marketers would be able to market and sell their electricity directly to any retail customers located anywhere in the state. Concerns have been raised about the need for consumers to understand their rights regarding electricity supply and service and to be protected from potentially unfair and deceptive practices if the state restructures or deregulates the retail electricity industry.

Additional concerns have been raised about the potential impacts of deregulation or restructuring on cost-shifting by utilities between and among different customer classes, on the reliability of the state's electricity distribution systems, and on the quality of service provided to retail customers.

Summary of Bill: Retail electric customers have the right to receive specified disclosures from their electricity distribution utilities. Required disclosures include consumer protection policies and procedures and the utility's annual report containing specified information.

Notice that required disclosures are available must be provided at the time service is established and once a year thereafter in customers' bills.

Utilities must include a statement on all customer bills identifying the various components of electricity service that customers are charged for as part of the bill, including electricity, distribution, metering, overhead, utility investments in conservation and non-hydro renewables, and federal, state, and local taxes.

Timelines are specified by which investor-owned and consumer-owned utilities must adopt the required policies. Small utilities are given flexibility to meet the intent of the bill without having to adopt new policies and procedures unless they elect to act as suppliers.

The Washington Utilities and Transportation Commission (WUTC) and Department of Community, Trade, and Economic Development (CTED) are directed jointly to study: (1) impacts on electricity prices resulting from federal deregulation of the wholesale markets; (2) the impacts on price, reliability, service quality, utility industry employment, and investments in conservation, renewable resources, and low-income energy programs if the Legislature does not act to authorize retail choice; and (3) the impacts on the same issues if the Legislature were to adopt a portfolio model of retail choice. The WUTC and CTED are directed to consult with the chairs and ranking minority members of the Senate and House Energy and Utilities Committees and other stakeholders during preparation of the study and report. The report, with recommendations for addressing cost shifting, system reliability, and service quality issues, is due to the Legislature by November 15, 1998.

A number of consumer protections are added that apply to electricity suppliers if they market and sell directly to retail electric customers, including customer service facilities, prohibitions against unauthorized switching of suppliers, telemarketing restrictions, and truth-in-advertising requirements.

Electricity distribution utilities and electricity suppliers must protect the confidentiality of customer records and may only disclose such information under specified circumstances.

The Consumer Protection Act is applied to any violations of these requirements by electricity suppliers.

The WUTC is directed to exercise its best efforts to reach agreement with the FERC regarding their respective jurisdictions over the transmission and distribution of electricity in Washington State and to report its results to the Legislature by December 1, 1998.

Appropriation: None.

Fiscal Note: Requested on January 23, 1998.

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

Testimony For (original bill): The protections are necessary to begin the education process for consumers who may be faced with additional choices in the future. The study is a good idea, but should include additional questions such as the extent to which virtual restructuring is causing significant cuts in public purposes investments. The annual reporting requirement would provide customers with important information about their utilities. This bill advances the debate on a restructuring/deregulation in a very constructive way.

Testimony Against (original bill): The notice and disclosure requirements are unnecessarily onerous and costly for utilities, without sufficient corresponding benefits for consumers. Most utilities have these policies already, and provide them to customers upon request. The study should be expanded and done in consultation with affected stakeholders. Definitions need to be clarified to clear up when electricity distribution utilities are considered electricity suppliers and subject to the additional requirements and under the Consumer Protection Act.

Testified: Lew McMurrin, Jean Ryckman, Washington PUD Association (pro); Dave Arbaugh, Chelan PUD; Al Aldrich, Snohomish PUD; Terry Hunt, Washington State Grange (pro); Teresa Osinski, WUTC (pro); Rob Manifold, Attorney General's office (pro); Chandra Shah, NWECA (pro); Rudy Andras, Kings Command Foods; Enid Layes, ICNU; Sherry Appleton, Washington Citizen Action (pro); Jim Harding, Seattle City Light (pro); Mike Tracy, Puget Sound Energy (con); K.C. Golden, DCTED.

House Amendment(s): The House amendment deletes several provisions, including: (1) all references to electricity suppliers and provisions anticipating the possibility of retail competition, such as oral solicitations, disclosure requirements, customer service facilities, telemarketing, anti-slamming, express or implied claims, confidentiality of proprietary information, and the applicability of the Consumer Protection Act; (2) requirements that electric utilities adopt consumer protection policies and procedures necessary to implement the disclosure requirements; (3) the requirement that utilities' annual reports include an explanation of their fuel mix and air emissions; and (4) the requirement that WUTC try to reach agreement with FERC over jurisdictional boundaries between transmission and distribution.

The study and report provisions are consolidated, reorganized, and modified so they do not require assumptions about potential future restructuring of the retail electricity environment. The scope of the study is narrowed, and utilities are required to cooperate with WUTC and CTED in the preparation of the study and report. The due date is moved to December 31, 1998.

The House amendment also clarifies that the information required to be disclosed must be provided at no charge to retail electric customers who ask for it; allows utilities to notify customers of the availability of information by use of mailings other than bills, as long as the notice is provided at least quarterly; and requires a summary of the amount of electricity consumed, and the average electricity rates, for only those customer classes containing at least three customers.

The exemption for small utilities is clarified and expanded slightly. Clarification is also added that the bill does not confer jurisdiction over consumer-owned utilities on any state agency.

The House amendment grants new authority to consumer-owned utilities to charge reduced rates to all low income citizens served by the utility.

An emergency clause is added.