

SENATE BILL REPORT

SB 6719

As of February 2, 1998

Title: An act relating to retail electrical customers.

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

Sponsors: Senators Finkbeiner, Johnson, Rossi, McDonald, Hochstatter and Oke.

Brief History:

Committee Activity: Energy & Utilities: 2/2/98.

SENATE COMMITTEE ON ENERGY & UTILITIES

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 purchase their electricity from anyone other than their local utility.

Under some potential scenarios for 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 the retail electricity industry.

Since the deregulation of the wholesale electricity markets by Congress in 1992, questions have been raised about the respective regulatory jurisdictions of the Federal Energy

Regulatory Commission (FERC) and state commissions over distribution facilities. FERC has taken the position that it has regulatory jurisdiction over distribution facilities but has invited states to reach agreement on a case-by-case basis.

Current state law requires public utility districts (PUDs) to wait ten days prior to executing contracts for the sale of wholesale energy to other public or private utilities. PUDs are also subject to the Open Public Meetings Act and must discuss their business in public except under limited circumstances. PUDs currently have the ability to partner with other public and private utilities for the construction of generating resources. PUDs are restricted in the financing and management of their assets. They may only pledge their revenues « not their assets « as security when borrowing funds, and they must seek and obtain voter approval before leasing or selling their assets.

Summary of Bill: Legislative findings are included, stating that electricity is a basic need of all consumers, the current system offers a high degree of reliability and service quality at some of the lowest rates in the nation, and that these benefits could be at risk if restructuring occurs. The intent of the Legislature is identified as preserving current system benefits, ensuring that all retail customers have the same level of rights and protections, requiring adequate disclosures of customer rights and providing for increased consumer protections.

Retail electric customers have the right to receive specified disclosures from their electricity distribution utilities. Required disclosures include the following: (1) credit and deposit requirements; (2) rates and charges; (3) metering and measurement policies; (4) bill payment policies; (5) payment arrangement options; (6) notice requirements for disconnection by either the customer or utility; (7) confidentiality of customer records; (8) customer inquiry and complaint procedures; (9) an annual report describing the utility's customers by class, its average rates by customer class, the fuel mix used by the utility, the amount and source of investments in conservation, renewable resources, and low-income services, and the amount of federal, state, and local taxes paid by the utility and its customers; and (10) notice of the components included in customers' electricity rates and information about who is responsible for setting or approving the rates.

Required disclosures must be provided at the time service is established, prior to changes being made to any of the policies, and once per year thereafter.

The Washington Utilities and Transportation Commission (WUTC) must adopt consumer protection rules for investor-owned utilities by September 1, 1998, and investor-owned utilities must adopt consumer protection policies in conformity with those rules by October 1, 1998.

Consumer-owned utilities must adopt consumer protection policies by October 1, 1998, after holding public meetings. Copies of the policies and summaries of the public involvement must be filed with the Department of Community, Trade, and Economic Development (CTED), which must report to the Legislature on both by December 1, 1998.

The WUTC and CTED are directed jointly to study a number of issues, including: (1) the current and potential future impacts of on wholesale and retail electricity prices as a result of the federal energy policy act deregulating the wholesale electricity 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 report 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: (1) required oral and written disclosures; (2) establishment of customer service facilities; (3) prohibitions against unauthorized switching; (4) restrictions on telemarketing after 5 p.m.; and (5) 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 federal Energy Regulatory Commission 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.

Public agencies are authorized to discuss in private executive sessions arrangements for the sale, purchase, or exchange of electric energy when these discussions would be likely to adversely impact the agency's ability to conduct business in a competitive economic climate.

Public utility districts are authorized to enter contracts for the sale of electric energy or water to public or private utilities without the introduction of a resolution and ten-day waiting period.

Public utility districts may grant mortgages on their generation facilities when borrowing funds. Districts may manage their assets without voter approval, including the sale, lease, and encumbrance of assets, except that the sale or permanent disposal of all or substantially all of a district's property is prohibited without the prior approval of a simple majority of the district's voters voting in an election held for such purpose.

In addition to being able to partner with other governmental entities, consumer-owned utilities, and investor-owned utilities, public utility districts are authorized to create, be members of, or participate with nonprofit corporations, limited liability companies, and partnerships for the purpose of carrying out any of their obligations or powers. Members and employees of a district's commission may serve as directors and officers of such entities.

Appropriation: None.

Fiscal Note: Requested on January 29, 1998.

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