
SUBSTITUTE SENATE BILL 6006

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Energy & Utilities (originally sponsored by Senators Finkbeiner and Rossi)

Read first time 03/05/97.

1 AN ACT Relating to the electric utility industry; amending RCW
2 80.12.020, 80.12.040, 80.24.010, 80.28.020, 80.28.050, and 80.28.075;
3 reenacting and amending RCW 42.17.310; adding a new chapter to Title 80
4 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. (1) The legislature
7 finds that:

8 (a) The cost of electricity is an important monthly expenditure for
9 many households and is of increasing significance to businesses and
10 industries, which compete in a sophisticated interstate and
11 international marketplace. Restructuring the electrical utility
12 industry in the manner described in this chapter will provide for more
13 consumer choice and will provide an orderly transition from regulation
14 to a more efficient and competitive environment.

15 (b) Many of the changes now underway in the electrical utility
16 industry have occurred as a result of federal legislation and
17 regulatory decisions that require utilities to open up their
18 transmission lines to other users on a nondiscriminatory basis.

1 (c) It is in the interests of all Washington consumers to have a
2 state-wide framework that is compatible with federal developments. The
3 goal of this new structure is to provide competitive, low-cost, and
4 reliable electric service to all of the state's residents and
5 businesses.

6 (2) The legislature intends to:

7 (a) Permit new entities, including power marketers and others, to
8 sell electricity directly to retail electric customers;

9 (b) Impose on electric utilities an obligation, similar to a common
10 carrier, to provide nondiscriminatory and nonpreferential service in
11 operating electric distribution facilities;

12 (c) Preserve the obligations of electric utilities to operate safe
13 and reliable distribution facilities;

14 (d) Retain local control over publicly owned utilities and
15 cooperatives that distribute electricity to retail customers;

16 (e) Establish procedures and deadlines for utilities;

17 (f) Ensure that the benefits of a competitive market are enjoyed by
18 all customer classes;

19 (g) Provide electric utilities with a reasonable opportunity to
20 recover a portion of their uneconomic utility investments during a
21 five-year period;

22 (h) Ensure that all retail electric customers of electric utilities
23 pay their fair share of uneconomic utility investments;

24 (i) Deregulate the pricing of electric generation for electrical
25 companies after July 1, 1999, to allow sellers and buyers to negotiate
26 transactions;

27 (j) Maintain regulation of rates for local distribution facilities
28 and control area services, and prohibit a utility from shifting
29 unrelated costs onto the rates of its distribution facilities and
30 control area services;

31 (k) Permit customers to aggregate or pool their purchases;

32 (l) Adopt consumer information provisions to ensure that all
33 customers receive itemized bills with unbundled rates;

34 (m) Provide retail electric customers with sufficient information
35 to enable them to compare and select among products and services in the
36 electricity market;

37 (n) Ensure that electric utilities receive fair and sufficient
38 compensation for fulfilling their obligations; and

1 (o) Preserve Washington's low-cost electricity resources for the
2 benefit of Washington's consumers. All customers should have access to
3 basic and affordable electricity service regardless of whether they
4 choose to participate in a competitive market. No customer should be
5 made worse off with respect to rates or service in place on the
6 effective date of this act if they choose not to participate in the
7 competitive market.

8 NEW SECTION. **Sec. 2.** SHORT TITLE. This chapter shall be known
9 and may be cited as the electric customer choice act.

10 NEW SECTION. **Sec. 3.** DEFINITIONS. The definitions in this
11 section apply throughout this chapter unless the context clearly
12 indicates otherwise.

13 (1) "Aggregator" means an entity that combines retail electric
14 customers into a group for the purpose of purchasing electricity and
15 related services.

16 (2) "Commission" means the utilities and transportation commission.

17 (3) "Consumer-owned utility" means a municipal electric utility
18 formed under Title 35 RCW, a public utility district formed under Title
19 54 RCW, a cooperative formed under chapter 23.86 RCW, or a mutual
20 corporation or association formed under chapter 24.06 RCW.

21 (4) "Conservation" means a reduction in the consumption of
22 electricity as a result of increases or improvements in the efficiency
23 of energy use, production, or distribution. Conservation includes, but
24 is not limited to, demand-side management programs that encourage
25 changes in the consumption patterns of residential, commercial, and
26 industrial customers.

27 (5) "Control area services" means scheduling, reactive power,
28 spinning reserves, voltage control and regulation, and other related
29 services necessary to sustain reliable delivery of electricity.

30 (6) "Direct access" means the right of all retail electric
31 customers and electricity service suppliers to interconnect with or
32 use, or both, distribution facilities on a nondiscriminatory basis to
33 transport electricity from any source by or on behalf of any retail
34 electric customer. "Direct access" is also known as "retail wheeling."

35 (7) "Direct service industry" means a company identified in section
36 5(d)(4)(A) of the Pacific Northwest electric power planning and
37 conservation act (P.L. 96-501), as enacted on December 5, 1980.

1 (8) "Distribution facilities" means the equipment and
2 infrastructure used to deliver electricity to retail electric
3 customers, except a transmission facility.

4 (9) "Electrical company" means a company owned by investors that
5 meets the definition of RCW 80.04.010.

6 (10) "Electric cooperative" means a cooperative or association
7 organized under chapter 23.86 or 24.06 RCW.

8 (11) "Electric utility" means any electrical company, public
9 utility district, electric cooperative or mutual association, municipal
10 electric utility, irrigation district, port district, or any other
11 entity that is authorized and engaged in the business of distributing
12 electricity to retail electric customers in the state.

13 (12) "Electricity" means electric energy, measured in kilowatt
14 hours, or electric capacity, measured in kilowatts.

15 (13) "Electricity service supplier" means any person or entity that
16 sells electricity to more than one retail electric customer, including
17 but not limited to electric utilities, aggregators, marketers, brokers,
18 independent power producers, or other municipal or state authorities.

19 (14) "Generating asset" means the plant and equipment used to
20 generate electricity.

21 (15) "Governing body" means the board of directors; the council of
22 a city or town; or the commissioners of an electric cooperative,
23 municipal electric utility, or public utility district, respectively,
24 that has the authority to set and approve rates.

25 (16) "Interconnection" means the physical connection of the
26 distribution facilities of the electric utility to the facilities of
27 the retail electric customer to allow the safe and reliable transfer of
28 electricity from the distribution system to the facilities of the
29 retail electric customer.

30 (17) "Irrigation district" means a municipal corporation engaged in
31 the business of distributing electrical energy pursuant to chapter
32 87.03 RCW.

33 (18) "Joint operating agency" means an agency organized pursuant to
34 chapter 43.52 RCW.

35 (19) "Load" means the amount of electricity delivered or required
36 by a retail electric customer at a specific point of delivery.

37 (20) "Mid-Columbia resources" means the following hydroelectric
38 generating projects licensed by the federal energy regulatory

1 commission: Priest Rapids, including Wanapum and Priest Rapids
2 developments, Rock Island, Rocky Reach, and Wells.

3 (21) "Mitigation" means to reduce stranded investment through
4 contract negotiations, buyouts, buydowns, and other cost control or
5 cost containment measures.

6 (22) "Municipal electric utility" means a city or town that owns
7 and operates an electric utility authorized by chapter 35.92 RCW.

8 (23) "Public utility district" means a district authorized by
9 chapter 54.04 RCW that sells electricity to retail electric customers.

10 (24) "Replacement power services" means electricity and control
11 area services provided in an emergency or temporary basis to replace
12 the loss of electricity load or control area services provided by an
13 electricity services supplier, or to cover that portion of a retail
14 electricity customer's load that exceeds electricity load provided by
15 an electricity service supplier.

16 (25) "Retail electric customer" means any person or entity,
17 including but not limited to a residential, commercial, and industrial
18 consumer, that purchases electricity for ultimate consumption and not
19 for resale.

20 (26) "Small utility" means any electrical cooperative, municipal
21 electric utility, or public utility district with twenty-five thousand
22 or fewer meters in service or that has seven or fewer customers per
23 mile of distribution line.

24 (27) "Standard offer rate" means the rate at which an electrical
25 company is required to provide default bundled service under section 11
26 of this act.

27 (28) "State" means the state of Washington.

28 (29) "Stranded investment" means all legitimate, prudently
29 incurred, and verifiable expenditures by electrical companies in
30 generation assets that would have been recoverable but for the
31 implementation of retail competition by this chapter, and that cannot
32 be mitigated by the electric utility making the expenditures.

33 (30) "Transition charge" means a charge or fee that recovers
34 uneconomic utility investment in accordance with the provisions of this
35 chapter and that is levied only during the transition period on the
36 bill of a retail electric customer who is interconnected with an
37 electric utility.

38 (31) "Transition period" means the period beginning July 1, 1999,
39 and ending no later than June 30, 2004, except that: (a) For

1 uneconomic utility investment attributable to any contract with the
2 Bonneville Power Administration, the transition period ends on the
3 earlier of June 30, 2009, or five years after the date on which the
4 liabilities of the electric utility under the contract, if any, are
5 finally established; and (b) for uneconomic utility investment financed
6 by municipal debt instruments having a maturity of fifteen years or
7 more, the transition period ends no later than June 30, 2009.

8 (32) "Transmission facility" means plant and equipment used to
9 transmit electricity in interstate commerce, and (a) for electrical
10 companies, plant and equipment whose rates, terms, and conditions are
11 subject to the exclusive jurisdiction of the federal energy regulatory
12 commission; and (b) for consumer-owned utilities, plant and equipment
13 whose costs are recorded in accounts of the federal energy regulatory
14 commission uniform system of accounts.

15 (33) "Undue market power" means the unfair or improper exercise of
16 influence to increase or decrease the availability and price of a
17 service or product in a manner that materially impairs the operation of
18 competitive markets.

19 (34) "Uneconomic licensing costs" means that portion of the costs
20 of any mid-Columbia resource which, due to compliance with the
21 endangered species act and federal energy regulatory commission
22 licensing process, is no longer economic due to the implementation of
23 this chapter.

24 (35) "Uneconomic utility investment" means generating assets,
25 conservation investments, and contractual obligations that were entered
26 into in good faith by an electric utility before the effective date of
27 this section, and that were prudent at the time the obligations were
28 assumed, but that are no longer economic as a result of implementation
29 of this chapter. In addition, "uneconomic utility investment" includes
30 costs incurred to comply with the provisions of this chapter, but does
31 not include costs or expenses disallowed by the commission in a
32 prudence review or other proceeding, but only to the extent of such a
33 disallowance, nor does it include fines or penalties authorized by this
34 chapter or by another statute.

35 (36) "Utility obligation costs" are any costs incurred by an
36 electric utility under or in connection with any investments made or
37 contracts executed by the electric utility in or in connection with
38 fulfilling its service obligation to a retail electric customer
39 pursuant to sections 6 and 8 of this act.

1 NEW SECTION. **Sec. 4.** RIGHTS OF CUSTOMERS. (1)(a) Every retail
2 electric customer has the right no later than July 1, 1999, to: (i)
3 Choose the electricity service supplier to serve its load; and (ii)
4 choose the quality and nature of electricity service, including but not
5 limited to different product and pricing options, from the electricity
6 service suppliers.

7 (b) If a retail electric customer has either a connected load in
8 excess of two megawatts, or aggregates its load with that of other
9 retail electric customers so that the sum of such loads exceeds two
10 megawatts, the retail customer may choose more than one electric
11 service suppliers to serve all or a portion of its load.

12 (2) If the schedules for implementing the requirements of this
13 chapter, including but not limited to the deadlines for commission
14 rulemaking, are delayed for any reason, the July 1, 1999, deadline is
15 not postponed and shall remain in effect.

16 (3) No later than July 1, 1999, every retail electric customer has
17 the right to interconnect with or use, or both, the distribution
18 facilities of any electric utility on a nondiscriminatory basis to
19 transport electricity from any electricity service supplier to the
20 customer at rates that comply with section 9 of this act.

21 NEW SECTION. **Sec. 5.** RIGHTS AND OBLIGATIONS OF ELECTRICITY
22 SERVICE SUPPLIERS. (1) By July 1, 1999, every electricity service
23 supplier has the right to interconnect with or use, or both, the
24 distribution facilities of an electric utility on a nondiscriminatory
25 basis to transport electricity from any source to any retail electric
26 customer at rates that comply with section 9 of this act.

27 (2) Every electricity service supplier has the obligation to comply
28 with interconnection, scheduling, and metering requirements established
29 by an electric utility for use of its distribution facilities pursuant
30 to its obligations under section 22 of this act and to meet the
31 registration and billing information requirements under sections 21 and
32 24 of this act.

33 (3) An electricity service supplier that owns no generating assets
34 or distribution facilities in the state shall not be considered an
35 electrical company or a public service company under Title 80 RCW, and
36 the commission shall assert no jurisdiction over its actions and
37 transactions, except for the registration provisions in sections 21 and

1 24 of this act and to investigate market power abuses pursuant to
2 section 26 of this act.

3 NEW SECTION. **Sec. 6.** DEFAULT SUPPLIER. (1) If a retail electric
4 customer has not chosen a new electricity service supplier no later
5 than July 1, 1999, the existing electric utility shall continue as that
6 customer's supplier and shall maintain its obligation to serve that
7 customer, pursuant to section 8 of this act.

8 (2) If an electric utility incurs utility obligation costs in order
9 to fulfill its obligation to serve a retail electric customer pursuant
10 to this chapter, and the retail electric customer subsequently elects
11 to receive some or all of its electricity from one or more other
12 suppliers subsequent to the expiration of the transition period, the
13 electric utility may assess such retail electric customer a charge for
14 utility obligation costs that could not be mitigated by the electric
15 utility through the exercise of reasonable efforts.

16 (3) Nothing in this chapter diminishes or reduces the existing
17 electric utilities' statutory obligation to low-income residential
18 customers, including but not limited to the restrictions on termination
19 of service contained in RCW 80.28.010, 35.21.300 and 54.16.285.

20 NEW SECTION. **Sec. 7.** NEW CUSTOMERS. A new customer of any
21 electric utility has the same right as an existing customer to
22 interconnect with or use, or both, the utility's distribution
23 facilities so long as physical capability is not jeopardized. The
24 utility shall only charge rates for such service that do not unduly
25 discriminate against or grant preferential treatment to the new
26 customer in the use of its facilities.

27 NEW SECTION. **Sec. 8.** STATUTORY OBLIGATION TO SERVE. (1) After
28 July 1, 1999, or when an electric utility adopts direct access tariffs,
29 whichever is sooner, an electric utility's statutory obligation to
30 serve retail electric customers is modified as follows:

31 (a) For a retail electric customer that chooses to continue
32 purchasing all components of its electric service from the electric
33 utility, the utility remains obligated to provide all components of
34 electric service to the customer.

35 (b) For a retail electric customer that chooses to purchase
36 electricity from other suppliers, the electric utility has an

1 obligation to provide direct access and control area services, pursuant
2 to this chapter.

3 (c) For a retail electric customer that chooses to purchase a
4 portion of its service, including electricity or unbundled products,
5 from the electric utility and a portion from other suppliers, the
6 electric utility is obligated to: (i) Continue providing the level of
7 service that the customer chooses to purchase from electric utility;
8 and (ii) provide direct access and control area services for the
9 portion that is provided by other suppliers.

10 (2) If a retail electric customer who purchases direct access
11 service decides, at a later date, to purchase electricity from the
12 electric utility, the utility shall provide such service only upon
13 reasonable notice and at its full cost. It is not required to provide
14 such service at its standard offer rate.

15 (3) Each retail electric customer is required to provide the
16 electric utility that provides it with distribution services with prior
17 written notice of any change in the customer's type of service or the
18 electric service supplier serving the retail electrical customer's
19 load. The utility shall set the notice period, and the notice period
20 must be the minimum necessary, consistent with the utility's
21 operational capabilities.

22 NEW SECTION. **Sec. 9.** REGULATION OF RATES FOR DISTRIBUTION
23 FACILITIES AND CONTROL AREA SERVICES. (1) Every electric utility shall
24 offer unbundled rates, terms, and conditions for the use of its
25 distribution facilities and for control area services and replacement
26 power services. Every retail electric customer that is interconnected
27 is obligated to purchase control area services from the electric
28 utility to which it is interconnected.

29 (2) The commission shall set rates for the use of electrical
30 company distribution facilities and control area services and
31 replacement power services that are just, fair, reasonable, and
32 sufficient. The commission shall ensure that the utility's costs,
33 including but not limited to overhead directly attributable to
34 distribution facilities and control area services, are allocated fairly
35 among the various classes of customers according to their contribution
36 to these costs. Nothing in this subsection prevents the commission
37 from approving incentive or performance-based ratemaking to reduce such
38 costs.

1 (3) The governing body of a public utility district, municipal
2 electric utility, or electric cooperative shall set rates for the use
3 of distribution facilities and control area services and replacement
4 power services that are based on cost of service principles and are
5 nonpreferential and nondiscriminatory. Such rates may include the
6 costs of bond insurance, payment agreements, and other financial
7 instruments used to secure payment of municipal debt instruments issued
8 for generation, transmission, and distribution facilities. The
9 governing body shall ensure that the utility's costs, including but not
10 limited to overhead directly attributable to distribution facilities
11 and control area services, are allocated fairly among the various
12 classes of customers according to their contribution to these costs.
13 Nothing in this subsection prevents the governing body from approving
14 incentive or performance-based ratemaking to reduce such costs.

15 (4) Every retail electric customer of any electrical company has
16 the option to purchase and install its own metering and interconnection
17 facilities that meet standards and specifications required by the
18 commission. The commission shall adopt rules to set standards and
19 specifications for metering and interconnection equipment.

20 NEW SECTION. **Sec. 10.** LIMITATION ON COMMISSION AUTHORITY. After
21 July 1, 1999, the commission shall not set the rates, terms, or
22 conditions for the sale of electricity from generating assets owned by
23 electrical companies. If, however, an electrical company offers direct
24 access prior to that date, the commission may accelerate the
25 deregulation of generating assets to match the date the company offers
26 direct access. Nothing in this section reduces or limits the
27 commission's authority to review electrical company rates for
28 distribution facilities and control area services, or to set the
29 standard offer rate in section 11 of this act.

30 NEW SECTION. **Sec. 11.** STANDARD OFFER RATE FOR FULL REQUIREMENTS
31 SERVICE. (1) The legislature intends for every electrical company to
32 offer a standard offer rate for retail customers who choose to continue
33 to purchase fully bundled electricity service from the company.

34 (2) After July 1, 1999, or after the date direct access is offered,
35 the electrical company shall offer a rate for fully bundled electricity
36 service for each class of utility customer. The rate shall be capped
37 at the cost of providing service from utility owned, or controlled,

1 resources on the effective date of this act and adjusted appropriately
2 for inflation and productivity improvements.

3 (3) The commission shall review and set standard offer rates that
4 are fair, just, reasonable, and sufficient.

5 NEW SECTION. **Sec. 12.** RIGHT TO INTERCONNECT. In addition to
6 rights under existing statute, every retail electric customer has the
7 right to self-generate or to purchase or otherwise use electricity
8 directly from generators located at their load and to interconnect with
9 transmission and distribution facilities.

10 NEW SECTION. **Sec. 13.** RECIPROCITY. (1) Each electric utility is
11 authorized, subject to the terms and conditions of this chapter, to
12 provide retail electric service, including but not limited to
13 electricity and control area services, to any retail electric customer,
14 without regard to the location of the retail electric customer and
15 without regard to electric utility service areas.

16 (2) The decision by an electric utility to provide retail electric
17 service outside the area it served on the effective date of this
18 section is discretionary and, in the case of consumer-owned utilities,
19 must be approved by the governing body of the consumer-owned utility.

20 (3) An electric utility located outside of Washington state may not
21 serve a retail customer in Washington state after July 1, 1999, unless
22 the electric utility provides to electric utilities located in
23 Washington state reciprocal access to the retail customers that it
24 serves.

25 NEW SECTION. **Sec. 14.** OBLIGATION TO MITIGATE. Every electric
26 utility has an obligation to mitigate uneconomic utility investments
27 through contract negotiations, buy outs, buy downs, and other cost
28 control or cost containment measures.

29 NEW SECTION. **Sec. 15.** IMPLEMENTATION PLANS. (1) By July 1, 1998,
30 each electrical company shall prepare and submit to the commission an
31 implementation plan with the following elements: (a) The proposed
32 tariffs, terms, and conditions for standard offer service, direct
33 access, control area services, and replacement power services; (b) the
34 identification of uneconomic utility investments, if any; (c) the steps
35 the electrical company has taken to mitigate the impacts of any

1 uneconomic utility investments; (d) the proposed calculation of
2 transition charges, if any; and (e) the separation of generation,
3 transmission, and distribution assets and operations to assess the
4 costs of utility functions and to allow for fair pricing of unbundled
5 services.

6 (2) By July 1, 1998, each public utility district, municipal
7 electric utility, and electric cooperative shall submit an
8 implementation plan to its governing body that contains the elements of
9 subsection (1)(a) through (e) of this section.

10 (3) By June 1, 1999, the commission shall accept or modify the
11 implementation plan to ensure that the nondiscriminatory and
12 nonpreferential terms of direct access are implemented. The commission
13 shall hold one or more public hearings before taking final action on
14 the implementation plan.

15 (4) By June 1, 1999, the governing body of a public utility
16 district, municipal electric utility, or electric cooperative shall
17 approve an implementation plan, including the tariffs, to ensure that
18 the nondiscriminatory and nonpreferential terms of direct access are
19 implemented. The governing body shall hold one or more public hearings
20 before taking final action on the implementation plan.

21 NEW SECTION. **Sec. 16.** METHODOLOGY FOR ASSESSING UNECONOMIC
22 UTILITY INVESTMENTS. (1) By January 1, 1998, the governing body of a
23 public utility district, municipal electric utility, or electric
24 cooperative shall determine whether or not it has any uneconomic
25 utility investments. If it finds that it has such investments, the
26 governing body shall hold one or more public, evidentiary hearings in
27 which it shall adopt a methodology to: (a) Establish the net market
28 value of the electric utility's entire portfolio of generating assets,
29 conservation investments, and contractual obligations, when considered
30 as a group; and (b) allocate uneconomic utility investments fairly and
31 accurately among various customer classes without shifting costs from
32 one class to another.

33 (2) The tariffs, terms, and conditions for direct access and
34 control area services and the transition charges, if any, adopted
35 pursuant to sections 15 and 17 of this act may be reviewed and revised
36 annually by the commission or the governing body, as appropriate.

37 (3) The governing body of a public utility district, municipal
38 electric utility, or electric cooperative shall allow the utility to

1 recover in a transition charge the costs of its portfolio of uneconomic
2 utility investments, if any, that cannot be mitigated, as determined to
3 the governing body.

4 NEW SECTION. **Sec. 17.** COMPARABILITY. After July 1, 1999, or when
5 an electric utility offers direct access, whichever is sooner, the
6 utility shall, subject to customer confidentiality requirements: (1)
7 Make available to electricity service suppliers comparable access to
8 information about its distribution facilities, metering, aggregate
9 loads, and scheduling, as it would to its own divisions or affiliates;
10 and (2) refrain from granting to its generating or transmission
11 operations any access to or information about its distribution
12 facilities that is not made available to electricity service suppliers
13 and retail electric customers.

14 NEW SECTION. **Sec. 18.** TRANSITION COSTS. By January 1, 1998, the
15 commission shall study the extent of electric company stranded
16 investment and develop a proposal to address these investments, to
17 become effective no earlier than July 1, 1998. The study must
18 recommend a mechanism that allows electric companies a reasonable
19 opportunity to recover stranded investments that were prudently
20 incurred as part of the electric company's obligation to serve,
21 including incentives to mitigate any stranded investment. The study
22 must be submitted to the energy and utilities committees of the house
23 of representatives and the senate.

24 NEW SECTION. **Sec. 19.** The legislature finds that programs exist
25 to address the needs of low-income persons in paying for essential
26 energy services, and that these programs are at risk in a more
27 competitive energy market. Therefore, the legislature directs the
28 commission, with the assistance of the department of community, trade,
29 and economic development, to study the appropriate ways to develop a
30 universal electricity service fund. The study must be completed by
31 January 1, 1999, and include recommended methods of collection and
32 distribution of funds. The study must be submitted to the energy and
33 utilities committees of the house of representatives and the senate.

34 NEW SECTION. **Sec. 20.** By January 1, 1998, the office of the
35 attorney general shall study and recommend procedures and guidelines

1 intended to assure consumer protection in a more competitive
2 electricity market. The study must include, but is not limited to,
3 standards for consumer comparisons, consumer complaint procedures, and
4 recommended requirements for marketing and consumer agreements to be
5 offered and executed only in written form. The study must be submitted
6 to the energy and utilities committees of the house of representatives
7 and the senate.

8 NEW SECTION. **Sec. 21.** REGISTRATION PROCEDURES FOR CERTAIN
9 ELECTRICITY SERVICE SUPPLIERS. (1) Every electricity service supplier
10 that is not an electric utility or joint operating agency conducting
11 business in the state as of January 1, 1999, and that intends to sell
12 electricity after July 1, 1999, to retail electricity customers shall
13 register with the commission prior to delivering electricity to
14 customers in the state.

15 (2) The registration must be on a form prescribed by the commission
16 and must contain such information as the commission may by rule
17 require, but must include as a minimum: (a) The name and address of
18 the company; (b) the name and address of its registered agent; (c) its
19 most current balance sheet; (d) its latest annual report, if any; and
20 (e) a description of the services it intends to offer. Prior to
21 January 1, 1999, the commission shall create a standard application
22 form for applicants to comply with this section.

23 (3) Within thirty days of receiving an application, the commission
24 shall decide whether or not the applicant meets the qualifications in
25 this section.

26 (4) The commission may deny registration to any electricity service
27 supplier that: (a) Does not provide information required by this
28 section or by commission rules; (b) fails to provide a performance
29 bond, if required; (c) does not possess adequate financial resources to
30 provide the proposed service; (d) does not possess adequate technical
31 competency to perform its contractual agreements and obligations; (e)
32 does not have adequate ability to respond to customer questions and
33 complaints; or (f) does not otherwise meet the requirements of this
34 section.

35 (5) The commission may approve an application with or without a
36 hearing but shall deny an application only after a hearing.

37 (6) The commission may require as a precondition to registration
38 the procurement of a performance bond sufficient to cover any advances

1 or deposits the electricity service supplier may collect from its
2 retail electric customers, or it may order that such advances or
3 deposits be held in escrow or trust. By July 1, 1998, the commission
4 shall adopt final rules pursuant to RCW 80.04.160 to implement this
5 subsection.

6 (7) The commission has the authority to receive and investigate
7 complaints from retail electric customers regarding the quality and
8 reliability of service provided by registered electricity service
9 suppliers.

10 (8) Every electricity service supplier subject to the registration
11 provisions in this section shall obey, observe, and comply with any
12 order of the commission. The commission has the authority to impose
13 civil penalties pursuant to RCW 80.04.387 for violations of this
14 section.

15 (9) The commission after a hearing may issue an order suspending a
16 registration of an electricity service supplier if it finds that such
17 an order: (a) Is in the public interest; and (b) is based on
18 complaints from retail electric customers that show a pattern of
19 violations of the consumer protection act, chapter 19.86, or if the
20 electricity service supplier's business practices jeopardize the
21 reliability of electricity service to retail electric customers.

22 (10) Nothing in this section prohibits the attorney general or an
23 injured private party from exercising its right to obtain relief under
24 sections 27 and 28 of this act.

25 NEW SECTION. **Sec. 22.** RELIABILITY. (1) Every electric utility is
26 obligated to maintain the integrity of its distribution facilities and
27 provide safe, reliable service to all retail electric customers.
28 Nothing in this chapter reduces or diminishes the statutory or
29 contractual obligations of electric utilities to maintain the
30 reliability of their distribution facilities and other infrastructure
31 or equipment used to deliver electricity, and the right of the electric
32 utilities to receive fair, just, reasonable, and sufficient
33 compensation for use of these facilities and fulfillment of this
34 obligation.

35 (2) To ensure the safe and reliable operation of distribution
36 facilities, the governing body of every public utility district,
37 municipal electric utility, and electric cooperative is authorized to
38 establish tariffs, regulations, and policies to govern the conditions

1 under which electricity service suppliers and retail electric customers
2 may install meters and interconnect with the electric utility's
3 distribution facilities.

4 (3) To ensure the safe and reliable operation of distribution
5 facilities owned or operated by electrical companies, the commission is
6 authorized to approve tariffs, regulations, and policies to govern the
7 conditions under which electricity service suppliers and retail
8 electric customers may install meters and interconnect with the
9 electrical company's distribution facilities.

10 (4) The matters addressed by tariffs, regulations, and policies
11 adopted under this section may include, but are not limited to, the
12 following: (a) Equipment specifications for meters and interconnection
13 facilities; (b) design, installation, and operating standards for
14 meters and interconnection facilities; (c) methods for determining
15 where interconnections and meters can be located; (d) the ongoing
16 obligation of electricity service suppliers or retail electric
17 customers to add protective equipment to equipment; (e) the obligation
18 of electricity service suppliers and retail electric customers to grant
19 the electric utility access to the meters and interconnection
20 facilities to read the meters and conduct necessary tests; (f) the
21 obligation of the electricity service suppliers or retail electric
22 customer to pay costs incurred by the electric utility that are
23 directly attributable to the requested interconnection; and (g) the
24 liability of the electricity service supplier or retail electric
25 customer for loss or damage to the electric utility's distribution
26 facilities attributable to an action by the electrical service supplier
27 or retail electric customer.

28 (5) No electrical service supplier or retail electric customer
29 shall construct, own, or operate transmission or distribution
30 facilities that are parallel with or duplicative of transmission or
31 distribution facilities owned, operated, or planned by an electric
32 utility.

33 (6) Whenever requested by an electricity service provider or a
34 retail electric customer, the electric utility shall promptly upgrade,
35 expand, or construct new distribution or transmission facilities needed
36 to provide retail electric service or direct access to a retail
37 electric customer located within the area served by the electric
38 utility's distribution facilities.

1 (7) The commission, with the assistance of the department of
2 community, trade, and economic development, shall periodically report
3 on electric system reliability throughout the state. System
4 reliability can be measured by evaluating the operations and
5 maintenance budget level, the system average duration interruption, the
6 system average frequency interruption, and reportable accident and
7 incident rates under the federal occupational safety and health act and
8 the Washington industrial safety and health act.

9 NEW SECTION. **Sec. 23.** CONSUMER RIGHTS. (1) Each retail electric
10 customer who is solicited by an electricity service supplier must, at
11 the time of the offering, be provided with written notice explaining:
12 (a) The price, terms, and conditions of the transaction; (b) the
13 applicability and amount of any other charges imposed or authorized by
14 law; (c) the customer's right to cancel the contract, pursuant to
15 subsection (2) of this section; and (d) the terms and conditions of the
16 applicable wheeling contract, as required by law. The commission may
17 require disclosure of additional information by rule.

18 (2) In addition to other remedies available by law, a retail
19 electric customer may cancel a contract with an electricity service
20 supplier until midnight of the third business day after the day on
21 which the customer signs an agreement or offer to purchase. The
22 commission may specify by rule what constitutes a valid notice of
23 cancellation.

24 (3) No electricity service supplier shall make any change or
25 authorize any other electricity service supplier to make a change in
26 electricity service supplier for any retail electric customer without
27 first obtaining the express written consent of such customer.

28 NEW SECTION. **Sec. 24.** BILLING PROCEDURES. (1) Every bill to a
29 retail electric customer from an electricity service supplier must
30 contain, among other things: (a) A complete and accurate list of the
31 rates and amount due for each unbundled service or product that the
32 customer is purchasing; (b) the rates and amount of state and local
33 taxes, if any, imposed on the customer; (c) standard pricing terms to
34 permit meaningful comparison between suppliers; (d) identification of
35 generation resource kind, mix, and other characteristics; and (e) other
36 price information necessary to facilitate the ability of customers to
37 make choices between suppliers, as determined by the commission

1 pursuant to rules adopted under RCW 80.04.160 for all service using the
2 distribution facilities of electrical companies, and by the appropriate
3 governing body for all service using distribution facilities of all
4 other electric utilities.

5 (2) All retail electric customers have the right to receive a
6 separate bill from an electricity service supplier that provides
7 products and services. With the permission of the retail electric
8 customer and the electricity service supplier, an electric utility, at
9 its option, may consolidate the bill for all electric services in a
10 single statement. The utility, however, shall not be required to
11 forward payment to an electricity service supplier for services it
12 provided to a retail electric customer before the utility has received
13 payment for those services from the customer.

14 (3) By July 1, 1998, the commission shall adopt uniform rules
15 pursuant to RCW 80.04.160 to protect the confidentiality of individual
16 customer-usage records of electrical companies that offer direct access
17 and of electricity service suppliers that receive a registration
18 pursuant to section 21 of this act.

19 NEW SECTION. **Sec. 25.** RESTRUCTURING REQUIREMENTS FOR SMALL
20 UTILITIES. (1) No later than October 1, 2001, every retail electric
21 customer of a small utility has the right to: (a) Choose one or more
22 electricity service suppliers to serve all or a portion of its load;
23 and (b) choose the quality and nature of electricity service, including
24 but not limited to different product and pricing options from one or
25 more electricity service suppliers.

26 (2) A small utility may, at the discretion of its governing body,
27 call for a vote of its customers in 1999 for the purpose of deciding if
28 the distribution company will or will not open its service area to
29 competition. Such vote, if held at a cooperative, must be in
30 accordance with its articles of incorporation and bylaws; if a public
31 utility district, in accordance with procedures outlined in chapter
32 54.40 RCW; or, if a municipal electric company, in accordance with
33 procedures outlined in chapter 35.21 RCW. If customers vote in favor
34 of opening the service area to competition, the utility shall meet the
35 requirements of subsection (1)(a) and (b) of this section within one
36 hundred eighty days of the date of the vote. If customers vote against
37 opening the service area to competition, the distribution company shall
38 hold a second vote in 2001. If customers vote in favor of opening the

1 service area to competition, the distribution company shall meet the
2 requirements of subsection (1)(a) and (b) of this section within one
3 hundred eighty days of the date of the vote. If customers vote a
4 second time against opening the service area to competition, the
5 distribution company is not obligated to hold another vote unless ten
6 percent of its customers petition in favor of such a vote, in which
7 case the utility shall be obligated to conduct a vote within three
8 hundred sixty-five days. If the customers vote in favor of opening the
9 service area to competition, the utility shall meet the requirements of
10 subsection (1)(a) and (b) of this section within one hundred eighty
11 days of the date of the vote.

12 (3) A small utility that does not open its service area to
13 competition may not sell electricity to a retail electric customer of
14 any other electric utility.

15 (4) Nothing in this section restricts the ability of a small
16 utility to open its system to competition sooner than October 1, 2001.

17 (5) Any person or entity injured by an electrical distribution
18 company's failure to comply with this section has the right to file
19 suit in superior court for an order requiring compliance with this
20 section.

21 NEW SECTION. **Sec. 26.** COMMISSION AUTHORITY TO INVESTIGATE MARKET
22 POWER ABUSE. Upon receiving a complaint from a retail electric
23 customer, the commission has the authority to investigate whether any
24 electrical company or an electrical service supplier, except for a
25 public utility district, municipal electric utility, or electric
26 cooperative, has exercised undue market power with respect to the sale
27 of electricity, or has in any other way violated the requirements of
28 this chapter. The commission shall make a finding based on its
29 investigation, prescribe remedies, or, if warranted, refer the case to
30 the attorney general's office for further investigation or action under
31 the consumer protection act, chapter 19.86 RCW.

32 NEW SECTION. **Sec. 27.** APPLICABILITY OF THE CONSUMER PROTECTION
33 ACT. (1) The acts and practices covered by this chapter vitally affect
34 the public interest, the electricity bills of consumers, and the
35 competitive position of businesses and industries. The legislature
36 finds that certain acts and practices are unreasonable in relation to
37 the development of competitive markets for electricity and are

1 injurious to the public interest. The legislature therefore intends
2 for certain provisions of the consumer protection act, chapter 19.86
3 RCW, to apply to certain actions and transactions of electric utilities
4 and electricity service suppliers.

5 (2) Every electricity service supplier that is subject to section
6 21 of this act that markets, promotes, or sells electricity to retail
7 electric customers shall comply with RCW 19.86.020 prohibiting unfair
8 methods of competition and unfair or deceptive acts.

9 (3) For the purposes of establishing an exemption under RCW
10 19.86.170, any actions or transactions after July 1, 1999, relating to
11 the sale of electricity from generating assets shall not be deemed
12 otherwise permitted, prohibited, or regulated by the commission.

13 NEW SECTION. **Sec. 28.** PRIVATE RIGHT OF ACTION. Any person or
14 entity injured by an electricity service provider's failure to comply
15 with this chapter has the right to file suit in superior court for an
16 order requiring compliance with this chapter.

17 NEW SECTION. **Sec. 29.** VOLUNTARY AGREEMENTS. Nothing in this
18 chapter restricts the ability of electric utilities to fulfill their
19 obligations under voluntary agreements that designate boundaries for
20 service areas as authorized by chapter 54.48 RCW. The signing of such
21 agreements does not restrict or limit the obligation of the electric
22 utility to offer direct access service and control area services and
23 otherwise comply with this chapter. Service area agreements that
24 conflict with the purposes and provisions of this chapter and that
25 restrict the ability of an electric utility to sell electricity in
26 another utility's service territory are no longer in the public
27 interest. To the extent that existing agreements restrict or limit the
28 ability of an electric utility to sell in another's territory, and one
29 or more parties to the agreement is an electrical company, the
30 commission shall initiate proceedings as soon as practicable to limit
31 the effect of such agreements to boundary lines for distribution
32 facilities.

33 NEW SECTION. **Sec. 30.** IMPOSITION OF CONSERVATION AND RENEWABLE
34 ENERGY CHARGE. Beginning on July 1, 1999, every retail electricity
35 customer and direct service industry shall pay a nonbypassable, three
36 percent charge on its total electricity bill. The three percent charge

1 constitutes the maximum total amount that may be levied for such
2 purposes in rates or charges on retail electricity customers. If an
3 electric utility chooses to expend more than three percent of its
4 previous calendar year revenues on system benefits, these costs shall
5 be allocated to the generation portion of its services and shall be
6 plainly stated for customers on any utility billing statements.

7 NEW SECTION. **Sec. 31.** LEGISLATIVE TASK FORCE TO EXAMINE
8 COLLECTION PROCEDURES. By December 1, 1997, the senate and house of
9 representatives energy and utilities committees shall study and
10 recommend ways to collect the nonbypassable charge from all retail
11 electric customers in the state. The study shall examine, among other
12 things: (1) Simplified and equitable collection procedures; (2) ways
13 to protect individual customer records and other confidential
14 information related to the imposition of the charge; (3) alternative
15 criteria, other than revenue, that electric cooperatives with low
16 customer density may use in collecting the conservation and renewable
17 energy charge; and (4) the methods of calculation and the duration of
18 the credits authorized by section 34 of this act for customers with
19 large loads.

20 NEW SECTION. **Sec. 32.** EXPENDITURE OF FUNDS. (1) One hundred
21 percent of the total funds collected in section 30 of this act shall be
22 retained and used by the electric utility for conservation or renewable
23 energy programs, except that: (a) The utility may disperse up to
24 eighteen percent of such funds to organizations that have a contractual
25 agreement with the department of community, trade, and economic
26 development to provide low-income weatherization programs for eligible
27 retail electricity customers; (b) the utility may invest no more than
28 eighteen percent of the funds in a nonprofit, energy efficiency
29 alliance that funds regional market transformation activities for
30 conservation; and (c) no more than fifteen percent of such funds may be
31 used for research, development, and demonstration projects, including
32 but not limited to, funds dedicated to the Washington technology
33 center, created pursuant to RCW 28B.20.285, and the Spokane
34 intercollegiate research and technology institute, created pursuant to
35 RCW 28B.10.060. Investments in renewable energy programs may include:
36 (i) The direct investment in renewable energy power plants, including
37 but not limited to plants undertaken by a joint operating agency; or

1 (ii) the reduction of production costs from renewable energy power
2 plants offered to retail electric customers through direct access with
3 other electricity service suppliers.

4 (2) Any consumer-owned utility may aggregate its expenditures with
5 other utilities by participating in a joint operating agency or other
6 group. In such circumstances, the standards for compliance in this
7 chapter apply to the joint operating agency or group and not to the
8 individual participating utility.

9 (3) A direct service industry shall: (a) Expend the funds
10 collected by the charge in compliance with this section, as if it were
11 an electric utility; or (b) contract with one or more utilities to
12 expend funds according to the provisions in this section.

13 NEW SECTION. **Sec. 33.** REPORTING REQUIREMENTS. (1) The
14 legislature intends to create a reporting requirement for electric
15 utilities and other parties to document expenditures of funds raised by
16 the conservation and renewable energy charge. The reports are intended
17 to be summary documents only and are not meant to impose onerous
18 requirements on those entities required to prepare them.

19 (2) Every electrical company shall prepare and submit an annual
20 report to the commission summarizing its activities and expenditures
21 relating to its conservation and renewable energy programs. The
22 commission shall develop rules for uniform reporting requirements.

23 (3) The governing board of every consumer-owned utility shall
24 prepare and submit an annual report to the secretary of state
25 summarizing its activities and expenditures relating to the
26 conservation and renewable energy programs. The secretary of state
27 shall develop rules for uniform reporting requirements.

28 (4) The energy-efficiency alliance that receives electric utility
29 funds shall submit an annual report to the state auditor summarizing
30 its activities and expenditures relating to conservation and energy-
31 efficiency programs.

32 (5) Each retail electric customer that expends funds and receives
33 a credit under section 34 of this act shall prepare and submit an
34 annual report to the department of revenue summarizing its activities
35 and expenditures relating to conservation and energy-efficiency
36 programs.

1 (6) The department of community, trade, and economic development
2 shall submit a biennial report to the legislature summarizing its low-
3 income weatherization activities and expenditures.

4 NEW SECTION. **Sec. 34.** CREDITS FOR CUSTOMERS WITH LARGE LOADS.

5 (1) A retail electric customer with an annual load of more than eight
6 million seven hundred sixty thousand kilowatt hours is eligible to take
7 a credit against the nonpassable charge authorized in section 32(1) of
8 this act for conservation investments made at a facility it owns or
9 operates in the state. However, no credit shall be allowed for
10 expenditures for low-income weatherization authorized by section
11 32(1)(a) of this act and for the nonprofit energy efficiency alliance
12 authorized by section 32(1)(b) of this act.

13 (2) A retail electric customer with an annual load of more than
14 eight million seven hundred sixty thousand kilowatt hours is eligible
15 to take a credit against the nonpassable charge authorized in section
16 32(2) of this act for investments made in renewable energy power
17 plants.

18 NEW SECTION. **Sec. 35.** EVALUATION BY LEGISLATURE. On or before
19 July 1, 2002, the legislature shall conduct an evaluation of: (1) The
20 level of funding and the cost-effectiveness of the measures and
21 activities taken to date; and (2) the ongoing need for the conservation
22 and renewable energy charge. The evaluation must also identify and
23 discuss alternative funding mechanisms for these programs.

24 NEW SECTION. **Sec. 36.** TERMINATION OF CHARGE. The conservation
25 and renewable energy charge, authorized by section 30 of this act,
26 terminates no later than July 1, 2009.

27 NEW SECTION. **Sec. 37.** OPTIONAL TARIFFS. The commission shall
28 authorize new optional rate schedules and tariffs, including new
29 service offerings, that accurately reflect the loads, locations,
30 conditions of service, cost of service, and market opportunities of
31 customer classes and subclasses of an electrical company.

32 NEW SECTION. **Sec. 38.** For a period of ten years commencing six
33 months after the completion of the federal energy regulatory commission
34 licensing process for each mid-Columbia resource, the electric service

1 providers that own or are contractually entitled to receive electrical
2 output from a mid-Columbia resource may collect as a part of its
3 distribution service charge any uneconomic licensing cost attributable
4 to such mid-Columbia resource.

5 NEW SECTION. **Sec. 39.** Nothing in this chapter shall require a
6 governing body to set rates for the use of distribution facilities and
7 control area services that, in the judgment of such governing body,
8 would impair the ability of the public utility district, municipal
9 electric utility, or electric cooperative to perform fully its
10 covenants with holders from time to time of its bonds, notes, or other
11 evidences of indebtedness

12 **Sec. 40.** RCW 42.17.310 and 1996 c 305 s 2, 1996 c 253 s 302, 1996
13 c 191 s 88, and 1996 c 80 s 1 are each reenacted and amended to read as
14 follows:

15 AGENCY RECORDS. (1) The following are exempt from public
16 inspection and copying:

17 (a) Personal information in any files maintained for students in
18 public schools, patients or clients of public institutions or public
19 health agencies, or welfare recipients.

20 (b) Personal information in files maintained for employees,
21 appointees, or elected officials of any public agency to the extent
22 that disclosure would violate their right to privacy.

23 (c) Information required of any taxpayer in connection with the
24 assessment or collection of any tax if the disclosure of the
25 information to other persons would (i) be prohibited to such persons by
26 RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result
27 in unfair competitive disadvantage to the taxpayer.

28 (d) Specific intelligence information and specific investigative
29 records compiled by investigative, law enforcement, and penology
30 agencies, and state agencies vested with the responsibility to
31 discipline members of any profession, the nondisclosure of which is
32 essential to effective law enforcement or for the protection of any
33 person's right to privacy.

34 (e) Information revealing the identity of persons who are witnesses
35 to or victims of crime or who file complaints with investigative, law
36 enforcement, or penology agencies, other than the public disclosure
37 commission, if disclosure would endanger any person's life, physical

1 safety, or property. If at the time a complaint is filed the
2 complainant, victim or witness indicates a desire for disclosure or
3 nondisclosure, such desire shall govern. However, all complaints filed
4 with the public disclosure commission about any elected official or
5 candidate for public office must be made in writing and signed by the
6 complainant under oath.

7 (f) Test questions, scoring keys, and other examination data used
8 to administer a license, employment, or academic examination.

9 (g) Except as provided by chapter 8.26 RCW, the contents of real
10 estate appraisals, made for or by any agency relative to the
11 acquisition or sale of property, until the project or prospective sale
12 is abandoned or until such time as all of the property has been
13 acquired or the property to which the sale appraisal relates is sold,
14 but in no event shall disclosure be denied for more than three years
15 after the appraisal.

16 (h) Valuable formulae, designs, drawings, and research data
17 obtained by any agency within five years of the request for disclosure
18 when disclosure would produce private gain and public loss.

19 (i) Preliminary drafts, notes, recommendations, and intra-agency
20 memorandums in which opinions are expressed or policies formulated or
21 recommended except that a specific record shall not be exempt when
22 publicly cited by an agency in connection with any agency action.

23 (j) Records which are relevant to a controversy to which an agency
24 is a party but which records would not be available to another party
25 under the rules of pretrial discovery for causes pending in the
26 superior courts.

27 (k) Records, maps, or other information identifying the location of
28 archaeological sites in order to avoid the looting or depredation of
29 such sites.

30 (l) Any library record, the primary purpose of which is to maintain
31 control of library materials, or to gain access to information, which
32 discloses or could be used to disclose the identity of a library user.

33 (m) Financial information supplied by or on behalf of a person,
34 firm, or corporation for the purpose of qualifying to submit a bid or
35 proposal for (i) a ferry system construction or repair contract as
36 required by RCW 47.60.680 through 47.60.750 or (ii) highway
37 construction or improvement as required by RCW 47.28.070.

38 (n) Railroad company contracts filed prior to July 28, 1991, with
39 the utilities and transportation commission under *RCW 81.34.070,

1 except that the summaries of the contracts are open to public
2 inspection and copying as otherwise provided by this chapter.

3 (o) Financial and commercial information and records supplied by
4 private persons pertaining to export services provided pursuant to
5 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
6 export projects pursuant to RCW 43.23.035.

7 (p) Financial disclosures filed by private vocational schools under
8 chapters 28B.85 and 28C.10 RCW.

9 (q) Records filed with the utilities and transportation commission
10 or attorney general under RCW 80.04.095 that a court has determined are
11 confidential under RCW 80.04.095.

12 (r) Financial and commercial information and records supplied by
13 businesses or individuals during application for loans or program
14 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
15 or during application for economic development loans or program
16 services provided by any local agency.

17 (s) Membership lists or lists of members or owners of interests of
18 units in timeshare projects, subdivisions, camping resorts,
19 condominiums, land developments, or common-interest communities
20 affiliated with such projects, regulated by the department of
21 licensing, in the files or possession of the department.

22 (t) All applications for public employment, including the names of
23 applicants, resumes, and other related materials submitted with respect
24 to an applicant.

25 (u) The residential addresses and residential telephone numbers of
26 employees or volunteers of a public agency which are held by the agency
27 in personnel records, employment or volunteer rosters, or mailing lists
28 of employees or volunteers.

29 (v) The residential addresses and residential telephone numbers of
30 the customers of a public utility contained in the records or lists
31 held by the public utility of which they are customers.

32 (w)(i) The federal social security number of individuals governed
33 under chapter 18.130 RCW maintained in the files of the department of
34 health, except this exemption does not apply to requests made directly
35 to the department from federal, state, and local agencies of
36 government, and national and state licensing, credentialing,
37 investigatory, disciplinary, and examination organizations; (ii) the
38 current residential address and current residential telephone number of
39 a health care provider governed under chapter 18.130 RCW maintained in

1 the files of the department, if the provider requests that this
2 information be withheld from public inspection and copying, and
3 provides to the department an accurate alternate or business address
4 and business telephone number. On or after January 1, 1995, the
5 current residential address and residential telephone number of a
6 health care provider governed under RCW 18.130.140 maintained in the
7 files of the department shall automatically be withheld from public
8 inspection and copying unless the provider specifically requests the
9 information be released, and except as provided for under RCW
10 42.17.260(9).

11 (x) Information obtained by the board of pharmacy as provided in
12 RCW 69.45.090.

13 (y) Information obtained by the board of pharmacy or the department
14 of health and its representatives as provided in RCW 69.41.044,
15 69.41.280, and 18.64.420.

16 (z) Financial information, business plans, examination reports, and
17 any information produced or obtained in evaluating or examining a
18 business and industrial development corporation organized or seeking
19 certification under chapter 31.24 RCW.

20 (aa) Financial and commercial information supplied to the state
21 investment board by any person when the information relates to the
22 investment of public trust or retirement funds and when disclosure
23 would result in loss to such funds or in private loss to the providers
24 of this information.

25 (bb) Financial and valuable trade information under RCW 51.36.120.

26 (cc) Client records maintained by an agency that is a domestic
27 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
28 crisis center as defined in RCW 70.125.030.

29 (dd) Information that identifies a person who, while an agency
30 employee: (i) Seeks advice, under an informal process established by
31 the employing agency, in order to ascertain his or her rights in
32 connection with a possible unfair practice under chapter 49.60 RCW
33 against the person; and (ii) requests his or her identity or any
34 identifying information not be disclosed.

35 (ee) Investigative records compiled by an employing agency
36 conducting a current investigation of a possible unfair practice under
37 chapter 49.60 RCW or of a possible violation of other federal, state,
38 or local laws prohibiting discrimination in employment.

1 (ff) Business related information protected from public inspection
2 and copying under RCW 15.86.110.

3 (gg) Financial, commercial, operations, and technical and research
4 information and data submitted to or obtained by the clean Washington
5 center in applications for, or delivery of, program services under
6 chapter 70.95H RCW.

7 (hh) Information and documents created specifically for, and
8 collected and maintained by a quality improvement committee pursuant to
9 RCW 43.70.510, regardless of which agency is in possession of the
10 information and documents.

11 (ii) Personal information in files maintained in a data base
12 created under RCW 43.07.360.

13 (jj) Customer-usage records of an agency that distributes
14 electricity to retail electric consumers.

15 (kk) Financial or commercial information furnished to or developed
16 by an agency as part of a proposal, bid, or negotiation for electricity
17 or related services.

18 (2) Except for information described in subsection (1)(c)(i) of
19 this section and confidential income data exempted from public
20 inspection pursuant to RCW 84.40.020, the exemptions of this section
21 are inapplicable to the extent that information, the disclosure of
22 which would violate personal privacy or vital governmental interests,
23 can be deleted from the specific records sought. No exemption may be
24 construed to permit the nondisclosure of statistical information not
25 descriptive of any readily identifiable person or persons.

26 (3) Inspection or copying of any specific records exempt under the
27 provisions of this section may be permitted if the superior court in
28 the county in which the record is maintained finds, after a hearing
29 with notice thereof to every person in interest and the agency, that
30 the exemption of such records is clearly unnecessary to protect any
31 individual's right of privacy or any vital governmental function.

32 (4) Agency responses refusing, in whole or in part, inspection of
33 any public record shall include a statement of the specific exemption
34 authorizing the withholding of the record (or part) and a brief
35 explanation of how the exemption applies to the record withheld.

36 **Sec. 41.** RCW 80.12.020 and 1981 c 117 s 1 are each amended to read
37 as follows:

1 REMOVAL OF RESTRICTIONS ON CERTAIN PROPERTY TRANSFERS. No public
2 service company shall sell, lease, assign or otherwise dispose of the
3 whole or any part of its franchises, properties or facilities
4 whatsoever, which are necessary or useful in the performance of its
5 duties to the public, and no public service company shall, by any means
6 whatsoever, directly or indirectly, merge or consolidate any of its
7 franchises, properties or facilities with any other public service
8 company, without having secured from the commission an order
9 authorizing it so to do: PROVIDED, That this section shall not apply
10 to any sale, lease, assignment or other disposal of such franchises,
11 properties or facilities to a special purpose district as defined in
12 RCW 36.96.010, city, county, or town.

13 After July 1, 1999, this section does not apply to the generating
14 assets of any electrical company.

15 **Sec. 42.** RCW 80.12.040 and 1961 c 14 s 80.12.040 are each amended
16 to read as follows:

17 REMOVAL OF RESTRICTIONS ON CERTAIN PROPERTY ACQUISITIONS. No
18 public service company shall, directly or indirectly, purchase,
19 acquire, or become the owner of any of the franchises, properties,
20 facilities, capital stocks or bonds of any other public service company
21 unless authorized so to do by the commission. Nothing contained in
22 this chapter shall prevent the holding of stocks or other securities
23 heretofore lawfully acquired or prohibit, upon the surrender or
24 exchange of said stocks or other securities pursuant to a
25 reorganization plan, the purchase, acquisition, taking or holding by
26 the owner of a proportionate amount of the stocks or other securities
27 of any new corporation organized to take over at foreclosure or other
28 sale, the property of the corporation the stocks or securities of which
29 have been thus surrendered or exchanged. Any contract by any public
30 service company for the purchase, acquisition, assignment or transfer
31 to it of any of the stocks or other securities of any other public
32 service company, directly or indirectly, without the approval of the
33 commission shall be void and of no effect.

34 After July 1, 1999, this section does not apply to the generating
35 assets of any electrical company.

36 **Sec. 43.** RCW 80.24.010 and 1994 c 83 s 1 are each amended to read
37 as follows:

1 REGULATORY FEES. Every public service company subject to
2 regulation by the commission shall, on or before the date specified by
3 the commission for filing annual reports under RCW 80.04.080, file with
4 the commission a statement on oath showing its gross operating revenue
5 from intrastate operations for the preceding calendar year or portion
6 thereof and pay to the commission a fee equal to one-tenth of one
7 percent of the first fifty thousand dollars of gross operating revenue,
8 plus two-tenths of one percent of any gross operating revenue in excess
9 of fifty thousand dollars: PROVIDED, That the fee shall in no case be
10 less than one dollar.

11 The percentage rates of gross operating revenue to be paid in any
12 year may be decreased by the commission for any class of companies
13 subject to the payment of such fees, by general order entered before
14 March 1st of such year, and for such purpose such companies shall be
15 classified as follows:

16 Electrical, gas, water, telecommunications, and irrigation
17 companies shall constitute class one. Every other company subject to
18 regulation or registration by the commission, for which regulatory fees
19 are not otherwise fixed by law shall pay fees as herein provided and
20 shall constitute additional classes according to kinds of businesses
21 engaged in.

22 Any payment of the fee imposed by this section made after its due
23 date shall include a late fee of two percent of the amount due.
24 Delinquent fees shall accrue interest at the rate of one percent per
25 month.

26 After July 1, 1999, the regulatory fees of electrical companies
27 shall not be based on revenue from generating assets, but shall include
28 revenue derived from standard offer rates adopted pursuant to section
29 11 of this act.

30 **Sec. 44.** RCW 80.28.020 and 1961 c 14 s 80.28.020 are each amended
31 to read as follows:

32 COMMISSION HEARINGS. Whenever the commission shall find, after a
33 hearing had upon its own motion, or upon complaint, that the rates or
34 charges demanded, exacted, charged or collected by any gas company,
35 electrical company or water company, for gas, electricity or water, or
36 in connection therewith, or that the rules, regulations, practices or
37 contracts affecting such rates or charges are unjust, unreasonable,
38 unjustly discriminatory or unduly preferential, or in any wise in

1 violation of the provisions of the law, or that such rates or charges
2 are insufficient to yield a reasonable compensation for the service
3 rendered, the commission shall determine the just, reasonable, or
4 sufficient rates, charges, regulations, practices or contracts to be
5 thereafter observed and in force, and shall fix the same by order.

6 After July 1, 1999, this section does not apply to the rates and
7 charges for electricity sold by electrical companies to retail electric
8 customers, except for standard offer rates adopted pursuant to section
9 11 of this act.

10 **Sec. 45.** RCW 80.28.050 and 1961 c 14 s 80.28.050 are each amended
11 to read as follows:

12 COMMISSION TARIFFS. Every gas company, electrical company and
13 water company shall file with the commission and shall print and keep
14 open to public inspection schedules in such form as the commission may
15 prescribe, showing all rates and charges made, established or enforced,
16 or to be charged or enforced, all forms of contract or agreement, all
17 rules and regulations relating to rates, charges or service, used or to
18 be used, and all general privileges and facilities granted or allowed
19 by such gas company, electrical company or water company.

20 After July 1, 1999, this section does not apply to the rates and
21 charges for electricity sold by electrical companies to retail electric
22 customers, except for standard offer rates adopted pursuant to section
23 11 of this act.

24 **Sec. 46.** RCW 80.28.075 and 1988 c 166 s 2 are each amended to read
25 as follows:

26 Upon request by a natural gas company or an electrical company, the
27 commission may approve a tariff that includes banded rates for any
28 (~~nonresidential~~) natural gas or electric service that is subject to
29 effective competition from energy suppliers not regulated by the
30 utilities and transportation commission. "Banded rate" means a rate
31 that has a minimum and maximum rate. Rates may be changed within the
32 rate band upon such notice as the commission may order.

33 NEW SECTION. **Sec. 47.** Captions used in this act are not part of
34 the law.

1 NEW SECTION. **Sec. 48.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 49.** Sections 1 through 39 of this act
6 constitute a new chapter in Title 80 RCW.

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