

SENATE BILL REPORT

SB 5938

As of February 24, 1999

Title: An act relating to establishing a moratorium on bypassing the facilities of local electric utilities.

Brief Description: Creating a moratorium on the bypassing of local electric utilities.

Sponsors: Senators Fraser, Hochstatter, B. Sheldon and Patterson.

Brief History:

Committee Activity: Energy, Technology & Telecommunications: 2/25/99.

SENATE COMMITTEE ON ENERGY, TECHNOLOGY & TELECOMMUNICATIONS

Staff: Andrea McNamara (786-7483)

Background: Washington State is unique in that it does not have certified, exclusive distribution service territories for electric utilities, as do most other states. Under current law, no territorial constraint is placed on any entity authorized to provide retail electric service from providing such service to any person in the state. Similarly, no territorial protection is granted to any entity acting as a utility from any other entity authorized to provide electricity service.

Current law allows utilities to bind each other to a division of adjoining territory through voluntary contractual service area agreements, but such agreements are not required.

While service territories do not technically exist by law, they have traditionally existed in practice based on the territorial extent of each utility's distribution facilities. These practical territories are vulnerable, however, in the face of physical duplication of existing facilities or the outright purchase or condemnation of facilities by a competing utility.

Concerns have been raised about the potential economic impact to utilities and ratepayers from the "bypassing" of one utility by another utility or a customer. These concerns have grown as a result of increased interest by some customers to change electric utility providers and by some electric utilities to serve new customers located in or near other utilities' traditional service areas.

Summary of Bill: Legislative findings are added to reflect the Legislature's desire to avoid inappropriate cost shifting between and among customers of electric utilities, to preserve future legislative options for responding to bypass situations, and to promote continued investment in necessary reliability and system improvements.

Bypassing is defined as the transmitting or distributing of electricity to a customer by someone other than the customer's traditional local electric utility.

A moratorium is established on bypassing the facilities of local electric utilities, including all investor-owned and consumer-owned utilities. The moratorium prohibits any utility or other person from providing or attempting to provide facilities or services for bypassing a local electric utility's facilities.

An exemption from the moratorium is available under specified circumstances, which involve the payment of a cost-shifting reimbursement fee to the local electric utility being bypassed. An exemption constitutes a contract between the person paying the cost-shifting reimbursement fee and the utility being bypassed until such time as the fee is fully paid.

The items to be recovered in a cost-shifting reimbursement fee are specified, including the fair value of the bypassed facilities; charges for conservation, public purposes, and certain costs related to above-market generation contracts; the amount of avoided state and local taxes; and other costs as determined by the Washington Utilities and Transportation Commission (WUTC) for investor-owned utilities or the governing body of a consumer-owned utility.

The methods of establishing the amount of a cost-shifting reimbursement fee are specified for utilities under the jurisdiction of WUTC and for other consumer-owned electric utilities. Collection and distribution of the fees are outlined.

The WUTC, or any electric utility adversely affected by a violation of the moratorium, may seek an injunction in superior court to prevent or stop a bypass that violates the moratorium.

The moratorium expires on June 30, 2004.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.