

# SENATE BILL REPORT

## SB 6435

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As Reported By Senate Committee On:  
Energy, Technology & Telecommunications, February 3, 2000  
Ways & Means, February 8, 2000

**Title:** An act relating to clarifying the taxation of electrical energy sales.

**Brief Description:** Clarifying the taxation of electrical energy sales.

**Sponsors:** Senators Brown, Rossi, B. Sheldon, Hochstatter, Rasmussen, T. Sheldon, Roach, Goings, Zarelli, Sheahan and West.

**Brief History:**

**Committee Activity:** Energy, Technology & Telecommunications: 2/1/2000, 2/3/2000 [DP-WM].

Ways & Means: 2/7/2000, 2/8/2000 [DPS].

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### SENATE COMMITTEE ON ENERGY, TECHNOLOGY & TELECOMMUNICATIONS

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

Signed by Senators Brown, Chair; Goings, Vice Chair; Fraser, Hochstatter, Roach and Rossi.

**Staff:** Andrea McNamara (786-7483)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 6435 be substituted therefor, and the substitute bill do pass.

Signed by Senators Loveland, Chair; Bauer, Vice Chair; Brown, Vice Chair; Fraser, Kline, Kohl-Welles, Long, McDonald, Rasmussen, Roach, Rossi, B. Sheldon, Snyder, Spanel, Winsley, Wojahn and Zarelli.

**Staff:** David Schumacher (786-7474)

**Background:** The state public utility tax (PUT) is applied to the gross revenues of a light and power business for the privilege of operating within this state. A "light and power business" is defined in current law as the business of operating a plant or system for the generation, production, or distribution of electrical energy for hire or sale. Light and power businesses include both public and private utilities, but not power marketers.

There are two deductions available to light and power businesses paying the PUT: (a) revenues from sales of electricity to another light and power business for resale as such within the state, and (b) amounts derived from the production, sale, or transfer of electrical energy for resale or consumption outside the state.

Entities that are not subject to the PUT for energy resales are subject to the state business and occupation tax.

The Department of Revenue (DOR) recently completed a study of electricity taxation in Washington. As a result of the study, DOR has interpreted the statute governing deductions from PUT as not applying to wholesale electricity transactions between a utility and a non-utility in the state. This means the state will apply PUT to all such transactions.

These types of wholesale transactions, between a utility and a non-utility power marketer, began in mid to late 1997 as a result of federal deregulation of the wholesale electricity markets.

**Summary of Substitute Bill:** Public utility tax deductions are expanded to include amounts earned by a light and power business involved in the production, sale, or transfer of electrical energy for resale by any entity (whether or not they are also a light and power business) within or outside the state, or for consumption outside the state. This exemption is retroactive.

Business and occupation tax exemptions are expanded to include revenues subject to deduction from PUT and any amounts received from the sale of electrical energy for resale within or outside the state.

**Substitute Bill Compared to Original Bill:** Both the B&O and the public utility tax exemptions were retroactive.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For (Energy, Technology & Telecommunications):** The deductions were originally enacted when the only wholesale trading was between utilities to support the efficiency of their operations. The deductions were intended to avoid pyramiding a wholesale tax on top of the retail tax since the trading was not for profit. The original language of the deductions did not contemplate new marketers and brokers being involved in the transactions. Applying the tax to these types of transactions thwarts the goals of wholesale deregulation. The bill does not allow any retail transactions to escape taxation where they are currently being paid.

**Testimony Against (Energy, Technology & Telecommunications):** None.

**Testified (Energy, Technology & Telecommunications):** Bob Hanson, Avista Corp. (pro); Lew McMurrin, WA PUD Assn. (pro); Jim Harding, Seattle City Light (pro); Mike Tracy, PSE (pro).

**Testimony For (Ways & Means):** With the deregulation of the wholesale energy market, there is still a need for this exemption and it should apply to all types of businesses in the market.

**Testimony Against (Ways & Means):** None.

**Testified (Ways & Means):** Bob Hanson, AVISTA Corp. (pro).