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HOUSE BILL 2179

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State of Washington

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By Representative Morris

Read first time 02/22/2005. Referred to Committee on Technology,  
Energy & Communications.

1 AN ACT Relating to the resolution of disputes between electrical  
2 suppliers regarding electrical service to customers; amending RCW  
3 36.70A.280; and adding a new chapter to Title 80 RCW.

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

5 NEW SECTION. **Sec. 1.** The purpose of this chapter is to promote  
6 harmony among and between electric suppliers furnishing electricity  
7 within the state of Washington, discourage duplication of electric  
8 facilities, encourage efficiencies in the distribution and delivery of  
9 electricity, reduce or eliminate safety hazards associated with  
10 overlapping electric facilities and service lines, actively supervise  
11 certain conduct of electric suppliers as it relates to this chapter,  
12 stabilize the territories and customers served with electricity by such  
13 electric suppliers, and provide a means for resolving disputes relating  
14 to the provision of new electric service and customers switching from  
15 one electric supplier to another.

16 NEW SECTION. **Sec. 2.** The definitions in this section apply  
17 throughout this chapter unless the context clearly requires otherwise.

1 (1) "Investor-owned utility" means any privately owned public  
2 service company engaged in the business of distributing electricity to  
3 one or more retail electric customers in the state.

4 (2) "Consumer-owned utility" includes a municipal electric utility  
5 formed under Title 35 RCW, a public utility district formed under Title  
6 54 RCW, a cooperative formed under chapter 23.86 RCW, and a mutual  
7 corporation or association formed under chapter 24.06 RCW, engaged in  
8 the business of distributing electricity to one or more retail electric  
9 customers in the state.

10 (3) "Electric supplier" means any investor-owned utility or  
11 consumer-owned utility.

12 (4) "Electric service" means electricity furnished to an ultimate  
13 customer by an electric supplier.

14 (5) "Customer" means any person, firm, corporation, or other entity  
15 receiving or intending to receive electric service at a specific  
16 service entrance.

17 (6) "Service entrance" means the location on the customer's  
18 property where the customer's main disconnect switch, fuses, or other  
19 disconnect equipment exists, and which is intended to provide the means  
20 of cutoff of the supply.

21 (7) "New service entrance" means a service entrance not previously  
22 served with electricity. "New service entrance" does not include:

23 (a) A change, improvement, replacement, enlargement, or change in  
24 location of a service if utilized to serve any service or utilization  
25 equipment previously served with electricity from the former service  
26 entrance;

27 (b) A change in the customer receiving electric service at an  
28 existing service entrance; or

29 (c) A change, enlargement, or other modification of service or  
30 utilization equipment served from an existing service entrance.

31 (8) "Transmission line" means any electric line of an electric  
32 supplier carrying a voltage of sixty-nine KV or more.

33 (9) "Service line" means any single or multiphase electric line of  
34 an electric supplier used for carrying less than sixty-nine KV and used  
35 or capable of use to provide electric service for a customer.

36 (10) "Existing service line" means any electric service line in  
37 existence at the time of the event in question and constructed to  
38 supply a customer that could be lawfully served by that electric

1 supplier under this chapter. "Existing service line" does not include  
2 any service line constructed to obtain an advantage under this chapter,  
3 or to evade its purpose or terms.

4 (11) "Commission" means the Washington utilities and transportation  
5 commission.

6 (12) "Board" means a growth management hearings board established  
7 pursuant to RCW 36.70A.250.

8 NEW SECTION. **Sec. 3.** Disputes between electric suppliers  
9 regarding a potential change in electric suppliers for an existing  
10 service entrance or the provision of electric service to a new service  
11 entrance shall be resolved in accordance with the following procedures:

12 (1) In the event of a dispute involving an investor-owned utility,  
13 either electric supplier may petition the commission to commence an  
14 investigation. The commission shall have the power, after hearing, to  
15 resolve questions in dispute tendered to the commission for  
16 determination. Unless the commission orders otherwise based on  
17 consideration of the factors specified in section 4 of this act, in the  
18 event that a new service entrance is requested for premises and more  
19 than one electric supplier is available for service to the property,  
20 the electric supplier whose existing service line is nearest the new  
21 service entrance on the premises to be served shall, subject to the  
22 other applicable provisions of this section, be entitled to serve the  
23 premises. Disputes between electric suppliers regarding a potential  
24 change in electric suppliers for an existing service entrance shall be  
25 resolved by reference to the considerations set forth in section 4 of  
26 this act. If the commission determines that the disputed issue is  
27 governed by an agreement entered into pursuant to RCW 54.48.030, it  
28 shall issue an order accordingly, directing which of the electric  
29 suppliers shall provide electric service to the new service entrance.

30 (2) In the event of a dispute involving only consumer-owned  
31 utilities, either electric supplier may petition the board whose  
32 jurisdiction includes the service area in question to commence an  
33 investigation. The board shall have the power to conduct a de novo  
34 hearing, to establish rules regarding the conduct of such a hearing,  
35 and to resolve questions in dispute tendered to the board for  
36 determination. Unless the board orders otherwise based on  
37 consideration of the factors specified in section 4 of this act, in the

1 event that a new service entrance is requested for premises and more  
2 than one electric supplier is available for service to the property,  
3 the electric supplier whose existing service line is nearest the new  
4 service entrance on the premises to be served, subject to the other  
5 applicable provisions of this section, shall be entitled to serve the  
6 premises. Disputes between electric suppliers regarding a potential  
7 change in electric suppliers for an existing service entrance shall be  
8 resolved by reference to the considerations set forth in section 4 of  
9 this act.

10 NEW SECTION. **Sec. 4.** (1) In making determinations pursuant to  
11 section 3 of this act, the commission or board shall give consideration  
12 to:

13 (a) The intent of the legislative policy asserted under RCW  
14 54.48.020;

15 (b) Geographical boundaries of electric suppliers' existing service  
16 lines and the capacity of those lines;

17 (c) Potential safety hazards associated with electric suppliers'  
18 extension of electric service to the customer to be served;

19 (d) Potential visual or aesthetic impacts associated with electric  
20 suppliers' extension of electric service to the customer to be served;

21 (e) Extent to which electric suppliers' extension of electric  
22 service to the customer to be served will involve uneconomic  
23 duplication of facilities;

24 (f) Length of time in which electric suppliers have served in  
25 vicinity of premises to be served;

26 (g) Any agreements between the electric suppliers entered into and  
27 approved pursuant to RCW 54.48.030;

28 (h) Consistency with the orderly development of the region;

29 (i) Natural geographical boundaries;

30 (j) Compatibility with the interests of all customers; and

31 (k) Any other factors deemed relevant by the commission or board.

32 (2) In addition, in making determinations pursuant to section 3 of  
33 this act concerning disputes between consumer-owned utilities, a board  
34 shall give consideration to policies set out in applicable  
35 comprehensive plans, capital facility plans, and development  
36 regulations.

1        NEW SECTION.    **Sec. 5.** In making determinations pursuant to section  
2 3 of this act, the commission or board may use alternative dispute  
3 resolution, including arbitration, mediation, or the assignment of  
4 settlement judges to facilitate discussions among the parties.

5        NEW SECTION.    **Sec. 6.** Nothing in this chapter shall be construed  
6 to classify a consumer-owned utility as a public service company under  
7 this title or to include consumer-owned utilities under the authority  
8 of the commission, except to the extent specifically provided in this  
9 chapter.

10       **Sec. 7.** RCW 36.70A.280 and 2003 c 332 s 2 are each amended to read  
11 as follows:

12       (1) Except as provided in subsection (6) of this section, a growth  
13 management hearings board shall hear and determine only those petitions  
14 alleging either:

15       (a) That a state agency, county, or city planning under this  
16 chapter is not in compliance with the requirements of this chapter,  
17 chapter 90.58 RCW as it relates to the adoption of shoreline master  
18 programs or amendments thereto, or chapter 43.21C RCW as it relates to  
19 plans, development regulations, or amendments, adopted under RCW  
20 36.70A.040 or chapter 90.58 RCW; or

21       (b) That the twenty-year growth management planning population  
22 projections adopted by the office of financial management pursuant to  
23 RCW 43.62.035 should be adjusted.

24       (2) A petition may be filed only by: (a) The state, or a county or  
25 city that plans under this chapter; (b) a person who has participated  
26 orally or in writing before the county or city regarding the matter on  
27 which a review is being requested; (c) a person who is certified by the  
28 governor within sixty days of filing the request with the board; or (d)  
29 a person qualified pursuant to RCW 34.05.530.

30       (3) For purposes of this section "person" means any individual,  
31 partnership, corporation, association, state agency, governmental  
32 subdivision or unit thereof, or public or private organization or  
33 entity of any character.

34       (4) To establish participation standing under subsection (2)(b) of  
35 this section, a person must show that his or her participation before

1 the county or city was reasonably related to the person's issue as  
2 presented to the board.

3 (5) When considering a possible adjustment to a growth management  
4 planning population projection prepared by the office of financial  
5 management, a board shall consider the implications of any such  
6 adjustment to the population forecast for the entire state.

7 The rationale for any adjustment that is adopted by a board must be  
8 documented and filed with the office of financial management within ten  
9 working days after adoption.

10 If adjusted by a board, a county growth management planning  
11 population projection shall only be used for the planning purposes set  
12 forth in this chapter and shall be known as a "board adjusted  
13 population projection". None of these changes shall affect the  
14 official state and county population forecasts prepared by the office  
15 of financial management, which shall continue to be used for state  
16 budget and planning purposes.

17 (6) A growth management hearings board may conduct hearings  
18 pursuant to chapter 80.-- RCW (sections 1 through 6 of this act).

19 NEW SECTION. Sec. 8. Sections 1 through 6 of this act constitute  
20 a new chapter in Title 80 RCW.

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