
SENATE BILL 5055

State of Washington

61st Legislature

2009 Regular Session

By Senators Brown, Fraser, Ranker, and Kline

Read first time 01/12/09. Referred to Committee on Environment, Water & Energy.

1 AN ACT Relating to protecting the interests of customers of public
2 service companies in proceedings before the Washington utilities and
3 transportation commission; and amending RCW 80.04.130, 80.12.010,
4 80.12.020, 80.12.040, and 80.28.060.

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

6 **Sec. 1.** RCW 80.04.130 and 2008 c 181 s 401 are each amended to
7 read as follows:

8 (1) Except as provided in subsection (2) of this section, whenever
9 any public service company shall file with the commission any schedule,
10 classification, rule, or regulation, the effect of which is to change
11 any rate, charge, rental, or toll theretofore charged, the commission
12 shall have power, either upon its own motion or upon complaint, upon
13 notice, to enter upon a hearing concerning such proposed change and the
14 reasonableness and justness thereof. Pending such hearing and the
15 decision thereon, the commission may suspend the operation of such
16 rate, charge, rental, or toll for a period not exceeding ten months
17 from the time the same would otherwise go into effect. After a full
18 hearing, the commission may make such order in reference thereto as
19 would be provided in a hearing initiated after the same had become

1 effective. After suspension of a proposed change by the commission,
2 any gas company, electrical company, or water company seeking to
3 increase the level of its revenue request above the amount specified in
4 its initial suspended tariff filing may only do so by filing a new
5 revised tariff for the increased amount. The company shall provide
6 individual notice to its customers of the increased request. Filing of
7 the new revised tariff extends the suspension period for ten months
8 from the date of the new tariff filing.

9 (2)(a) The commission shall not suspend a tariff that makes a
10 decrease in a rate, charge, rental, or toll filed by a
11 telecommunications company pending investigation of the fairness,
12 justness, and reasonableness of the decrease when the filing does not
13 contain any offsetting increase to another rate, charge, rental, or
14 toll and the filing company agrees to not file for an increase to any
15 rate, charge, rental, or toll to recover the revenue deficit that
16 results from the decrease for a period of one year.

17 (i) The filing company shall file with any decrease sufficient
18 information as the commission by rule may require to demonstrate the
19 decreased rate, charge, rental, or toll is above the long run
20 incremental cost of the service. A tariff decrease that results in a
21 rate that is below long run incremental cost, or is contrary to
22 commission rule or order, or the requirements of this chapter, shall be
23 rejected for filing and returned to the company.

24 (ii) The commission may prescribe a different rate to be effective
25 on the prospective date stated in its final order after its
26 investigation, if it concludes based on the record that the originally
27 filed and effective rate is unjust, unfair, or unreasonable.

28 (b) The commission shall not suspend a promotional tariff. For the
29 purposes of this section, "promotional tariff" means a tariff that, for
30 a period of up to ninety days, waives or reduces charges or conditions
31 of service for existing or new subscribers for the purpose of retaining
32 or increasing the number of customers who subscribe to or use a
33 service.

34 (3) The commission may suspend the initial tariff filing of any
35 water company removed from and later subject to commission jurisdiction
36 because of the number of customers or the average annual gross revenue
37 per customer provisions of RCW 80.04.010. The commission may allow
38 temporary rates during the suspension period. These rates shall not

1 exceed the rates charged when the company was last regulated. Upon a
2 showing of good cause by the company, the commission may establish a
3 different level of temporary rates.

4 (4) At any hearing involving any change in any schedule,
5 classification, rule, or regulation the effect of which is to increase
6 any rate, charge, rental, or toll theretofore charged, the burden of
7 proof to show that such increase is just and reasonable shall be upon
8 the public service company.

9 (5) The implementation of mandatory local measured
10 telecommunications service is a major policy change in available
11 telecommunications service. The commission shall not accept for filing
12 a price list, nor shall it accept for filing or approve, prior to June
13 1, 2004, a tariff filed by a telecommunications company which imposes
14 mandatory local measured service on any customer or class of customers,
15 except that, upon finding that it is in the public interest, the
16 commission may accept for filing a price list or it may accept for
17 filing and approve a tariff that imposes mandatory measured service for
18 a telecommunications company's extended area service or foreign
19 exchange service. This subsection does not apply to land, air, or
20 marine mobile service, or to pay telephone service, or to any service
21 which has been traditionally offered on a measured service basis.

22 (6) The implementation of Washington telephone assistance program
23 service is a major policy change in available telecommunications
24 service. The implementation of Washington telephone assistance program
25 service will aid in achieving the stated goal of universal telephone
26 service.

27 (7) If a utility claims a sales or use tax exemption on the
28 pollution control equipment for an electrical generation facility and
29 abandons the generation facility before the pollution control equipment
30 is fully depreciated, any tariff filing for a rate increase to recover
31 abandonment costs for the pollution control equipment shall be
32 considered unjust and unreasonable for the purposes of this section.

33 (8) During a state of emergency declared under RCW 43.06.010(12),
34 the governor may waive or suspend the operation or enforcement of this
35 section or any portion of this section or under any administrative
36 rule, and issue any orders to facilitate the operation of state or
37 local government or to promote and secure the safety and protection of
38 the civilian population.

1 **Sec. 2.** RCW 80.12.010 and 1961 c 14 s 80.12.010 are each amended
2 to read as follows:

3 ~~((The term))~~ The definitions in this section apply throughout this
4 chapter unless the context clearly requires otherwise.

5 (1) "Person" means an individual, partnership, joint venture,
6 corporation, association, firm, public service company, or any other
7 entity, however organized.

8 (2) "Public service company(~~(7)~~)" ((as used in this chapter,
9 shall)) means every company now or hereafter engaged in business in
10 this state as a public utility and subject to regulation as to rates
11 and service by the utilities and transportation commission under the
12 provisions of this title.

13 **Sec. 3.** RCW 80.12.020 and 1981 c 117 s 1 are each amended to read
14 as follows:

15 (1) No public service company shall sell, lease, assign or
16 otherwise dispose of the whole or any part of its franchises,
17 properties or facilities whatsoever, which are necessary or useful in
18 the performance of its duties to the public, and no public service
19 company shall, by any means whatsoever, directly or indirectly, merge
20 or consolidate any of its franchises, properties or facilities with any
21 other public service company, without having secured from the
22 commission an order authorizing it (~~(se))~~ to do(~~(:—PROVIDED, That))~~
23 so. The commission shall not approve any transaction under this
24 section that would result in a person, directly or indirectly,
25 acquiring substantial influence over the policies and actions of a
26 public service company without a finding that the transaction would
27 provide a net benefit to the customers of the public service company.

28 (2) This section shall not apply to any sale, lease, assignment or
29 other disposal of such franchises, properties or facilities to a
30 special purpose district as defined in RCW 36.96.010, city, county, or
31 town.

32 **Sec. 4.** RCW 80.12.040 and 1961 c 14 s 80.12.040 are each amended
33 to read as follows:

34 No public service company shall, directly or indirectly, purchase,
35 acquire, or become the owner of any of the franchises, properties,
36 facilities, capital stocks or bonds of any other public service company

1 unless authorized so to do by the commission. The commission shall not
2 approve any transaction under this section that would result in a
3 person, directly or indirectly, acquiring substantial influence over
4 the policies and actions of a public service company without a finding
5 that the transaction would provide a net benefit to the customers of
6 the public service company. Nothing contained in this chapter shall
7 prevent the holding of stocks or other securities heretofore lawfully
8 acquired or prohibit, upon the surrender or exchange of said stocks or
9 other securities pursuant to a reorganization plan, the purchase,
10 acquisition, taking or holding by the owner of a proportionate amount
11 of the stocks or other securities of any new corporation organized to
12 take over at foreclosure or other sale, the property of the corporation
13 the stocks or securities of which have been thus surrendered or
14 exchanged. Any contract by any public service company for the
15 purchase, acquisition, assignment or transfer to it of any of the
16 stocks or other securities of any other public service company,
17 directly or indirectly, without the approval of the commission shall be
18 void and of no effect.

19 **Sec. 5.** RCW 80.28.060 and 2008 c 181 s 402 are each amended to
20 read as follows:

21 (1) No gas company, electrical company, or water company may
22 propose an increase in any rate, charge, rental, or toll earlier than
23 twenty-four months after the date of its most recent filing to increase
24 any such rate, charge, rental, or toll. This provision does not
25 prohibit a company from filing a request for emergency rate relief at
26 any time.

27 (2) Unless the commission otherwise orders, no change shall be made
28 in any rate or charge or in any form of contract or agreement or in any
29 rule or regulation relating to any rate, charge or service, or in any
30 general privilege or facility which shall have been filed and published
31 by a gas company, electrical company or water company in compliance
32 with the requirements of RCW 80.28.050 except after thirty days' notice
33 to the commission and publication for thirty days, which notice shall
34 plainly state the changes proposed to be made in the schedule then in
35 force and the time when the change will go into effect and all proposed
36 changes shall be shown by printing, filing and publishing new
37 schedules, or shall be plainly indicated upon the schedules in force at

1 the time and kept open to public inspection. Proposed changes may be
2 suspended by the commission within thirty days or before the stated
3 effective date of the proposed change, whichever is later. The
4 commission, for good cause shown, may allow changes without requiring
5 the thirty days' notice by duly filing, in such manner as it may
6 direct, an order specifying the changes so to be made and the time when
7 it shall take effect. All such changes shall be immediately indicated
8 upon its schedules by the company affected. When any change is made in
9 any rate or charge, form of contract or agreement, or any rule or
10 regulation relating to any rate or charge or service, or in any general
11 privilege or facility, the effect of which is to increase any rate or
12 charge, then in existence, attention shall be directed on the copy
13 filed with the commission to such increase by some character
14 immediately preceding or following the item in such schedule, such
15 character to be in form as designated by the commission.

16 (3) During a state of emergency declared under RCW 43.06.010(12),
17 the governor may waive or suspend the operation or enforcement of this
18 section or any portion of this section or under any administrative
19 rule, and issue any orders to facilitate the operation of state or
20 local government or to promote and secure the safety and protection of
21 the civilian population.

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