
HOUSE BILL 1752

State of Washington

62nd Legislature

2011 Regular Session

By Representatives Lias, McCoy, and Frockt

Read first time 02/01/11. Referred to Committee on Technology, Energy & Communications.

1 AN ACT Relating to the burden of proof in certain proceedings
2 before the utilities and transportation commission; and amending RCW
3 80.04.110.

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

5 **Sec. 1.** RCW 80.04.110 and 1995 c 376 s 12 are each amended to read
6 as follows:

7 (1) Complaint may be made by the commission of its own motion or by
8 any person or corporation, chamber of commerce, board of trade, or any
9 commercial, mercantile, agricultural or manufacturing society, or any
10 body politic or municipal corporation, or by the public counsel section
11 of the office of the attorney general, or its successor, by petition or
12 complaint in writing, setting forth any act or thing done or omitted to
13 be done by any public service corporation in violation, or claimed to
14 be in violation, of any provision of law or of any order or rule of the
15 commission: PROVIDED, That no complaint shall be entertained by the
16 commission except upon its own motion, as to the reasonableness of the
17 schedule of the rates or charges of any gas company, electrical
18 company, water company, or telecommunications company, unless the same
19 be signed by the mayor, council or commission of the city or town in

1 which the company complained of is engaged in business, or not less
2 than twenty-five consumers or purchasers of such gas, electricity,
3 water or telecommunications service, or at least twenty-five percent of
4 the consumers or purchasers of the company's service: PROVIDED,
5 FURTHER, That when two or more public service corporations, (meaning to
6 exclude municipal and other public corporations) are engaged in
7 competition in any locality or localities in the state, either may make
8 complaint against the other or others that the rates, charges, rules,
9 regulations or practices of such other or others with or in respect to
10 which the complainant is in competition, are unreasonable,
11 unremunerative, discriminatory, illegal, unfair or intending or tending
12 to oppress the complainant, to stifle competition, or to create or
13 encourage the creation of monopoly, and upon such complaint or upon
14 complaint of the commission upon its own motion, the commission shall
15 have power, after notice and hearing as in other cases, to, by its
16 order, subject to appeal as in other cases, correct the abuse
17 complained of by establishing such uniform rates, charges, rules,
18 regulations or practices in lieu of those complained of, to be observed
19 by all of such competing public service corporations in the locality or
20 localities specified as shall be found reasonable, remunerative,
21 nondiscriminatory, legal, and fair or tending to prevent oppression or
22 monopoly or to encourage competition, and upon any such hearing it
23 shall be proper for the commission to take into consideration the
24 rates, charges, rules, regulations and practices of the public service
25 corporation or corporations complained of in any other locality or
26 localities in the state.

27 (2) In any proceeding upon the motion of the commission, involving
28 any existing rate of any public utility, or in any proceedings upon
29 complaint involving rates of a public utility, the burden of proof to
30 show that the rate involved is just and reasonable is upon the public
31 utility.

32 (3) All matters upon which complaint may be founded may be joined
33 in one hearing, and no motion shall be entertained against a complaint
34 for misjoinder of complaints or grievances or misjoinder of parties;
35 and in any review of the courts of orders of the commission the same
36 rule shall apply and pertain with regard to the joinder of complaints
37 and parties as herein provided: PROVIDED, All grievances to be

1 inquired into shall be plainly set forth in the complaint. No
2 complaint shall be dismissed because of the absence of direct damage to
3 the complainant.

4 ~~((+3+))~~ (4) Upon the filing of a complaint, the commission shall
5 cause a copy thereof to be served upon the person or corporation
6 complained of, which shall be accompanied by a notice fixing the time
7 when and place where a hearing will be had upon such complaint. The
8 time fixed for such hearing shall not be less than ten days after the
9 date of the service of such notice and complaint, excepting as herein
10 provided. The commission shall enter its final order with respect to
11 a complaint filed by any entity or person other than the commission
12 within ten months from the date of filing of the complaint, unless the
13 date is extended for cause. Rules of practice and procedure not
14 otherwise provided for in this title may be prescribed by the
15 commission. Such rules may include the requirement that a complainant
16 use informal processes before filing a formal complaint.

17 ~~((+4+))~~ (5)(a) The commission shall, as appropriate, audit a
18 nonmunicipal water system upon receipt of an administrative order from
19 the department, or the city or county in which the water system is
20 located, finding that the water delivered by a system does not meet
21 state board of health standards adopted under RCW 43.20.050(2)(a) or
22 standards adopted under chapters 70.116 and 70.119A RCW, and the
23 results of the audit shall be provided to the requesting department,
24 city, or county. However, the number of nonmunicipal water systems
25 referred to the commission in any one calendar year shall not exceed
26 twenty percent of the water companies subject to commission regulation
27 as defined in RCW 80.04.010.

28 (b) Every nonmunicipal water system referred to the commission for
29 audit under this section shall pay to the commission an audit fee in an
30 amount, based on the system's twelve-month audited period, equal to the
31 fee required to be paid by regulated companies under RCW 80.24.010.

32 ~~((+5+))~~ (6) Any customer or purchaser of service from a water
33 system or company that is subject to commission regulation may file a
34 complaint with the commission if he or she has reason to believe that
35 the water delivered by the system to the customer does not meet state
36 drinking water standards under chapter 43.20 or 70.116 RCW. The
37 commission shall investigate such a complaint, and shall request that
38 the state department of health or local health department of the county

1 in which the system is located test the water for compliance with state
2 drinking water standards, and provide the results of such testing to
3 the commission. The commission may decide not to investigate the
4 complaint if it determines that the complaint has been filed in bad
5 faith, or for the purpose of harassment of the water system or company,
6 or for other reasons has no substantial merit. The water system or
7 company shall bear the expense for the testing. After the commission
8 has received the complaint from the customer and during the pendency of
9 the commission investigation, the water system or company shall not
10 take any steps to terminate service to the customer or to collect any
11 amounts alleged to be owed to the company by the customer. The
12 commission may issue an order or take any other action to ensure that
13 no such steps are taken by the system or company. The customer may, at
14 the customer's option and expense, obtain a water quality test by a
15 licensed or otherwise qualified water testing laboratory, of the water
16 delivered to the customer by the water system or company, and provide
17 the results of such a test to the commission. If the commission
18 determines that the water does not meet state drinking water standards,
19 it shall exercise its authority over the system or company as provided
20 in this title, and may, where appropriate, order a refund to the
21 customer on a pro rata basis for the substandard water delivered to the
22 customer, and shall order reimbursement to the customer for the cost
23 incurred by the customer, if any, in obtaining a water quality test.

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