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**SUBSTITUTE SENATE BILL 5440**

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**State of Washington**

**62nd Legislature**

**2011 Regular Session**

**By** Senate Environment, Water & Energy (originally sponsored by Senators Rockefeller, Nelson, Ranker, Honeyford, Chase, Delvin, Fraser, Morton, Kastama, Holmquist Newbry, and Kline; by request of Utilities & Transportation Commission)

READ FIRST TIME 02/09/11.

1 AN ACT Relating to electric vehicle battery charging facilities;  
2 amending RCW 80.04.010; and adding a new section to chapter 80.28 RCW.

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

4 **Sec. 1.** RCW 80.04.010 and 1995 c 243 s 2 are each amended to read  
5 as follows:

6 As used in this title, unless specifically defined otherwise or  
7 unless the context indicates otherwise:

8 "Automatic location identification" means a system by which  
9 information about a caller's location, including the seven-digit number  
10 or ten-digit number used to place a 911 call or a different seven-digit  
11 number or ten-digit number to which a return call can be made from the  
12 public switched network, is forwarded to a public safety answering  
13 point for display.

14 "Automatic number identification" means a system that allows for  
15 the automatic display of the seven-digit or ten-digit number used to  
16 place a 911 call.

17 "Battery charging facility" includes a "battery charging station"  
18 and a "rapid charging station" as defined in RCW 82.08.816.

19 "Commission" means the utilities and transportation commission.

1 "Commissioner" means one of the members of such commission.

2 "Competitive telecommunications company" means a telecommunications  
3 company which has been classified as such by the commission pursuant to  
4 RCW 80.36.320.

5 "Competitive telecommunications service" means a service which has  
6 been classified as such by the commission pursuant to RCW 80.36.330.

7 "Corporation" includes a corporation, company, association or joint  
8 stock association.

9 "Person" includes an individual, a firm or partnership.

10 "Gas plant" includes all real estate, fixtures and personal  
11 property, owned, leased, controlled, used or to be used for or in  
12 connection with the transmission, distribution, sale or furnishing of  
13 natural gas, or the manufacture, transmission, distribution, sale or  
14 furnishing of other type gas, for light, heat or power.

15 "Gas company" includes every corporation, company, association,  
16 joint stock association, partnership and person, their lessees,  
17 trustees or receiver appointed by any court whatsoever, and every city  
18 or town, owning, controlling, operating or managing any gas plant  
19 within this state.

20 "Electric plant" includes all real estate, fixtures and personal  
21 property operated, owned, used or to be used for or in connection with  
22 or to facilitate the generation, transmission, distribution, sale or  
23 furnishing of electricity for light, heat, or power for hire; and any  
24 conduits, ducts or other devices, materials, apparatus or property for  
25 containing, holding or carrying conductors used or to be used for the  
26 transmission of electricity for light, heat or power.

27 "Electrical company" includes any corporation, company,  
28 association, joint stock association, partnership and person, their  
29 lessees, trustees or receivers appointed by any court whatsoever (other  
30 than a railroad or street railroad company generating electricity  
31 solely for railroad or street railroad purposes or for the use of its  
32 tenants and not for sale to others), and every city or town owning,  
33 operating or managing any electric plant for hire within this state.

34 "Electrical company" does not include a company or person employing a  
35 cogeneration facility solely for the generation of electricity for its  
36 own use or the use of its tenants or for sale to an electrical company,  
37 state or local public agency, municipal corporation, or quasi municipal

1 corporation engaged in the sale or distribution of electrical energy,  
2 but not for sale to others, unless such company or person is otherwise  
3 an electrical company.

4 "LATA" means a local access transport area as defined by the  
5 commission in conformance with applicable federal law.

6 "Private telecommunications system" means a telecommunications  
7 system controlled by a person or entity for the sole and exclusive use  
8 of such person, entity, or affiliate thereof, including the provision  
9 of private shared telecommunications services by such person or entity.

10 "Private telecommunications system" does not include a system offered  
11 for hire, sale, or resale to the general public.

12 "Private shared telecommunications services" includes the provision  
13 of telecommunications and information management services and equipment  
14 within a user group located in discrete private premises in building  
15 complexes, campuses, or high-rise buildings, by a commercial shared  
16 services provider or by a user association, through privately owned  
17 customer premises equipment and associated data processing and  
18 information management services and includes the provision of  
19 connections to the facilities of a local exchange and to interexchange  
20 telecommunications companies.

21 "Private switch automatic location identification service" means a  
22 service that enables automatic location identification to be provided  
23 to a public safety answering point for 911 calls originating from  
24 station lines served by a private switch system.

25 "Radio communications service company" includes every corporation,  
26 company, association, joint stock association, partnership, and person,  
27 their lessees, trustees, or receivers appointed by any court, and every  
28 city or town making available facilities to provide radio  
29 communications service, radio paging, or cellular communications  
30 service for hire, sale, or resale.

31 "Telecommunications company" includes every corporation, company,  
32 association, joint stock association, partnership and person, their  
33 lessees, trustees or receivers appointed by any court whatsoever, and  
34 every city or town owning, operating or managing any facilities used to  
35 provide telecommunications for hire, sale, or resale to the general  
36 public within this state.

37 "Noncompetitive telecommunications service" means any service which  
38 has not been classified as competitive by the commission.

1 "Facilities" means lines, conduits, ducts, poles, wires, cables,  
2 cross-arms, receivers, transmitters, instruments, machines, appliances,  
3 instrumentalities and all devices, real estate, easements, apparatus,  
4 property and routes used, operated, owned or controlled by any  
5 telecommunications company to facilitate the provision of  
6 telecommunications service.

7 "Telecommunications" is the transmission of information by wire,  
8 radio, optical cable, electromagnetic, or other similar means. As used  
9 in this definition, "information" means knowledge or intelligence  
10 represented by any form of writing, signs, signals, pictures, sounds,  
11 or any other symbols.

12 "Water system" includes all real estate, easements, fixtures,  
13 personal property, dams, dikes, head gates, weirs, canals, reservoirs,  
14 flumes or other structures or appliances operated, owned, used or to be  
15 used for or in connection with or to facilitate the supply, storage,  
16 distribution, sale, furnishing, diversion, carriage, apportionment or  
17 measurement of water for power, irrigation, reclamation, manufacturing,  
18 municipal, domestic or other beneficial uses for hire.

19 "Water company" includes every corporation, company, association,  
20 joint stock association, partnership and person, their lessees,  
21 trustees or receivers appointed by any court whatsoever, and every city  
22 or town owning, controlling, operating, or managing any water system  
23 for hire within this state: PROVIDED, That for purposes of commission  
24 jurisdiction it shall not include any water system serving less than  
25 one hundred customers where the average annual gross revenue per  
26 customer does not exceed three hundred dollars per year, which revenue  
27 figure may be increased annually by the commission by rule adopted  
28 pursuant to chapter 34.05 RCW to reflect the rate of inflation as  
29 determined by the implicit price deflator of the United States  
30 department of commerce: AND PROVIDED FURTHER, That such measurement of  
31 customers or revenues shall include all portions of water companies  
32 having common ownership or control, regardless of location or corporate  
33 designation. "Control" as used herein shall be defined by the  
34 commission by rule and shall not include management by a satellite  
35 agency as defined in chapter 70.116 RCW if the satellite agency is not  
36 an owner of the water company. "Water company" also includes, for  
37 auditing purposes only, nonmunicipal water systems which are referred  
38 to the commission pursuant to an administrative order from the

1 department, or the city or county as provided in RCW 80.04.110.  
2 However, water companies exempt from commission regulation shall be  
3 subject to the provisions of chapter 19.86 RCW. A water company cannot  
4 be removed from regulation except with the approval of the commission.  
5 Water companies subject to regulation may petition the commission for  
6 removal from regulation if the number of customers falls below one  
7 hundred or the average annual revenue per customer falls below three  
8 hundred dollars. The commission is authorized to maintain continued  
9 regulation if it finds that the public interest so requires.

10 "Cogeneration facility" means any machinery, equipment, structure,  
11 process, or property, or any part thereof, installed or acquired for  
12 the primary purpose of the sequential generation of electrical or  
13 mechanical power and useful heat from the same primary energy source or  
14 fuel.

15 "Public service company" includes every gas company, electrical  
16 company, telecommunications company, and water company. Ownership or  
17 operation of a cogeneration facility does not, by itself, make a  
18 company or person a public service company.

19 "Local exchange company" means a telecommunications company  
20 providing local exchange telecommunications service.

21 "Department" means the department of health.

22 The term "service" is used in this title in its broadest and most  
23 inclusive sense.

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 80.28 RCW  
25 to read as follows:

26 The commission shall not regulate the rates, services, facilities,  
27 and practices of an entity that offers battery charging facilities to  
28 the public for hire; if: (1) That entity is not otherwise subject to  
29 commission jurisdiction as an electrical company; or (2) that entity is  
30 otherwise subject to commission jurisdiction as an electrical company,  
31 but its battery charging facilities and services are not subsidized by  
32 any regulated service. An electrical company may offer battery  
33 charging facilities as a regulated service, subject to commission  
34 approval.

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