

# HOUSE BILL REPORT

## SSB 5055

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### As Passed House:

March 30, 2009

**Title:** An act relating to protecting the interests of customers of public service companies in proceedings before the Washington utilities and transportation commission.

**Brief Description:** Protecting the interests of customers of public service companies in proceedings before the Washington utilities and transportation commission.

**Sponsors:** Senate Committee on Environment, Water & Energy (originally sponsored by Senators Brown, Fraser, Ranker and Kline).

### Brief History:

#### Committee Activity:

Technology, Energy & Communications: 3/4/09, 3/19/09 [DP].

#### Floor Activity

Passed House: 3/30/09, 97-0.

### Brief Summary of Substitute Bill

- Creates a "net benefit" standard that the Washington Utilities and Transportation Commission must apply when considering the sale, merger, or transfer of a regulated utility.

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## HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

**Majority Report:** Do pass. Signed by 14 members: Representatives McCoy, Chair; Eddy, Vice Chair; Crouse, Ranking Minority Member; Carlyle, Condotta, Finn, Hasegawa, Herrera, Hudgins, Jacks, McCune, Morris, Takko and Van De Wege.

**Staff:** Kara Durbin (786-7133)

### Background:

The Washington Utilities and Transportation Commission (WUTC) is a three-member commission that has broad authority to regulate in the public interest the rates, services, and practices of privately-owned utilities and transportation companies. The WUTC regulates

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these utilities under a "rate of return" system, in which a regulated utility is generally allowed to charge rates to cover its costs, plus reasonable compensation for the services rendered.

A regulated utility may not sell or transfer any of its franchises, properties, or facilities without receiving authorization from the WUTC. Authorization from the WUTC is also required before a regulated utility may purchase or acquire any of the franchises, properties, facilities, capital stocks, or bonds of another regulated utility.

The standard by which the WUTC reviews an application for the sale, transfer, or acquisition of a regulated utility is established in statute and in the WUTC rules. The WUTC must deny the sale, transfer, or acquisition of a regulated utility if it is "not consistent with the public interest." In analyzing these transactions, the WUTC applies a "no harm" standard, which means the transaction will be approved if the transaction does not harm customers or the public.

There is no deadline in statute or rule for denying or approving the sale or purchase of a regulated utility.

**Summary of Bill:**

The WUTC must not approve the sale, merger, or transfer of any regulated gas or electric utility that would result in a person, directly or indirectly, receiving a controlling interest in the utility without a finding that the transaction would provide a net benefit to the customers of the utility.

The WUTC must approve or deny the sale or purchase of a regulated utility within 11 months of the date of filing. This 11-month deadline may be extended by the WUTC by up to four months for cause.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) It is important that mergers, acquisitions, and consolidation cases be carefully reviewed. The current "no harm" standard is not as rigorous as a "net benefit" standard. The net benefit standard will better protect consumers.

The acquiring party often makes concessions to stakeholders to minimize the risk that the transaction will be denied or that extra conditions will be placed on the deal. The no harm standard would still apply in cases where a regulated utility in this state were to purchase a utility outside the state. It is important to protect customers without creating a disincentive for investments to occur in the state. This bill strikes an important balance. The net benefit standard is used in Oregon and seems to be a workable standard.

The WUTC in almost all cases reviews the benefits that flow to customers as a result of these mergers. In essence, this type of benefits standard is already being applied when you look at many of the concessions being made. However, having this standard on the books can be beneficial.

(Opposed) None.

**Persons Testifying:** Carrie Dolwick, Northwest Energy Coalition; Collins Sprague, Avista Corporation; Ken Johnson, Puget Sound Energy; Kathleen Collins, PacifiCorp; Dane Danner, Washington Utilities and Transportation Commission; and Tim Boyd, Industrial Customers of Northwest Utilities.

**Persons Signed In To Testify But Not Testifying:** None.