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SENATE BILL 6394

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State of Washington

54th Legislature

1996 Regular Session

By Senators Loveland, West, Goings, Sutherland, Finkbeiner, Rasmussen, Hochstatter, Moyer and Morton

Read first time 01/15/96. Referred to Committee on Energy, Telecommunications & Utilities.

1 AN ACT Relating to regulating cooling services as thermal heating  
2 services; amending RCW 80.62.010, 80.62.020, 80.62.030, 80.62.040,  
3 80.62.050, 80.62.060, 80.62.070, and 80.62.080; creating a new section;  
4 and repealing RCW 80.62.900.

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

6 **Sec. 1.** RCW 80.62.010 and 1987 c 522 s 1 are each amended to read  
7 as follows:

8 The legislature finds that traditional utility regulation may pose  
9 unnecessary barriers to ~~((using Washington's heat sources for))~~ the  
10 provision of district ~~((heating purposes))~~ thermal energy services.  
11 The legislature further finds that regulation may be necessary to  
12 protect the interests of the public in securing adequate ~~((heating))~~  
13 thermal energy services ~~((from these heat sources))~~ at reasonable cost.  
14 Therefore, it is the intent of the legislature and the purpose of this  
15 chapter to provide a streamlined permitting system which will encourage  
16 development and efficient utilization and distribution of ~~((heat))~~  
17 thermal energy services while continuing to provide reasonable customer  
18 protections.

1       **Sec. 2.** RCW 80.62.020 and 1987 c 522 s 2 are each amended to read  
2 as follows:

3       Unless the context clearly requires otherwise, the definitions in  
4 this section apply throughout this chapter.

5       (1) "Biomass energy system" means a system that provides for the  
6 production or collection of organic materials such as wood and  
7 agricultural residues and municipal solid waste that are primarily  
8 organic materials and the conversion or use of such material for the  
9 production of heat or substitute fuels through several processes  
10 including, but not limited to, burning, pyrolysis, or anaerobic  
11 digestion.

12       (2) "Geothermal heat" means the natural thermal energy of the  
13 earth.

14       (3) (~~("Heat" means thermal energy.)~~) "Cooling service" means the  
15 development, production, transmission, distribution, delivery,  
16 furnishment, or sale of a chilled medium, which includes but is not  
17 limited to chilled air or water.

18       (4) (~~("Heat source")~~) "Heating service" means the development,  
19 production, transmission, distribution, delivery, furnishment, or sale  
20 of a heated medium deriving from a heat source that includes but is not  
21 limited to: (a) Any integral part of a heat production or heat  
22 rejection system of an industrial facility, cogeneration facility, or  
23 electric power generation facility(~~(  )~~); (b) a geothermal well or  
24 spring(~~(  )~~); (c) a biomass energy system(~~(  )~~); (d) a solar collection  
25 facility(~~(   and )~~); (e) a hydrothermal resource or heat extraction  
26 process; (f) natural gas; and (g) electric boiler.

27       (5) (~~("Heat")~~) "Thermal energy supplier" means any private person,  
28 company, association, or corporation engaged or proposing to engage in  
29 developing, producing, transmitting, distributing, delivering,  
30 furnishing, or selling to or for the public (~~(heat from a heat source)~~)  
31 thermal energy services for any beneficial use other than electricity  
32 generation.

33       (6) "Commission" means the utilities and transportation commission.

34       (7) "Cogeneration facility" means any machinery, equipment,  
35 structure, process, or property, or any part thereof, installed or  
36 acquired for the primary purpose of cogeneration by a person or  
37 corporation.

38       (8) "Cogeneration" means the sequential generation of two or more  
39 forms of energy from a common fuel or energy source.

1 (9) "Waste heat" means the thermal energy which otherwise would be  
2 released to the environment from an industrial process, electric  
3 generation, or other process.

4 (10) "Hydrothermal resource" means the thermal energy available in  
5 wastewater, sewage effluent, wells, or other water sources, natural or  
6 man-made.

7 (11) "Thermal energy services" means the provision of heating  
8 services, cooling services, or both.

9 **Sec. 3.** RCW 80.62.030 and 1983 c 94 s 3 are each amended to read  
10 as follows:

11 Notwithstanding any other provision of law, ~~((heat))~~ thermal energy  
12 suppliers are not subject to the general jurisdiction of the  
13 commission, but are only subject to the limited jurisdiction conferred  
14 to the commission by this chapter. Nothing in this chapter prohibits  
15 existing regulated public utilities from providing ~~((heat from a heat~~  
16 ~~source, as defined in RCW 80.62.020))~~ thermal energy services, and  
17 thereby being eligible to seek an operating permit as a ~~((heat))~~  
18 thermal energy supplier as provided by this chapter.

19 **Sec. 4.** RCW 80.62.040 and 1983 c 94 s 4 are each amended to read  
20 as follows:

21 The commission shall, within one hundred eighty days of ~~((July 24,~~  
22 ~~1983,))~~ June 1, 1996, adopt ~~((regulations))~~ rules governing application  
23 contents, customer ~~((heating))~~ thermal energy service contracts, review  
24 procedures, and fees necessary in implementing this chapter. The  
25 commission shall set the fees so that total fees collected will  
26 approximately equal the reasonable cost of supervising and regulating  
27 ~~((heat))~~ thermal energy suppliers.

28 **Sec. 5.** RCW 80.62.050 and 1983 c 94 s 5 are each amended to read  
29 as follows:

30 Upon application by a ~~((heat))~~ thermal energy supplier, the  
31 commission shall notify all providers of ~~((heating))~~ thermal energy  
32 services within the designated service territory of pending  
33 application, and shall issue a nonexclusive operating permit to provide  
34 ~~((heating))~~ thermal energy services within a designated service  
35 territory, as proposed by the applicant, if the commission reasonably  
36 determines:

1 (1) The applicant is qualified and financially responsible to  
2 provide the services for which the permit is sought;

3 (2) The applicant's proposed system design is adequate for that  
4 purpose; and

5 (3) The contract to be offered to the applicant's customers  
6 substantially complies with the requirements set forth in RCW  
7 80.62.060.

8 **Sec. 6.** RCW 80.62.060 and 1983 c 94 s 6 are each amended to read  
9 as follows:

10 (1) Each ((heat)) thermal energy supplier shall enter into a  
11 contract with each customer proposed to be served pursuant to an  
12 operating permit.

13 (2) The terms of the contract, or any renewal, modification,  
14 termination, or expiration thereof, to be offered to each customer or  
15 class of customers, or representatives thereof, shall be subject to the  
16 approval of the commission and shall specify, but not be limited to:

17 (a) The period of time during which the ((heating)) thermal energy  
18 service will be provided;

19 (b) The rates or the formula for determining rates to be charged  
20 during the contract term; and

21 (c) The adequacy of the service provided during the contract term.

22 **Sec. 7.** RCW 80.62.070 and 1983 c 94 s 7 are each amended to read  
23 as follows:

24 In accordance with the purpose of this chapter as set forth in RCW  
25 80.62.010, commission approval of the rates or rate formula specified  
26 in the customer ((heating)) thermal energy service contract shall not  
27 be based upon the ((heat)) thermal energy supplier's cost of providing  
28 services or its rate of return on investment, but shall be based upon  
29 the reasonableness of the proposed rates in relation to the rates  
30 charged to customers for comparable ((heating)) thermal energy services  
31 such as electric, oil, and natural gas ((heating)) thermal energy  
32 otherwise available in the proposed service territory. Any proposed  
33 rate less than eighty percent of the lowest rate of the foregoing  
34 services shall be deemed reasonable as a matter of law and shall be  
35 approved.

1       **Sec. 8.** RCW 80.62.080 and 1983 c 94 s 8 are each amended to read  
2 as follows:

3       The commission shall have continuing jurisdiction to regulate  
4 ((heat)) thermal energy suppliers as provided in this chapter to ensure  
5 compliance with the terms of any operating permit issued in accordance  
6 with this chapter.

7       NEW SECTION. **Sec. 9.** RCW 80.62.900 and 1983 c 94 s 9 are each  
8 repealed.

9       NEW SECTION. **Sec. 10.** This act is not intended to affect  
10 contracts entered into before the effective date of this act, nor is it  
11 intended to affect fees paid with regard to supervising the contracts.

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