

HOUSE BILL REPORT

HB 2663

As Passed Legislature

Title: An act relating to filing of affiliated transactions with the utilities and transportation commission.

Brief Description: Requiring companies that seek to contract with an affiliated interest to file with the utilities and transportation commission.

Sponsors: Representative Crouse; by request of Utilities & Transportation Commission.

Brief History:

Committee Activity:

Energy & Utilities: 1/30/98, 2/3/98 [DP].

Floor Activity:

Passed House: 2/10/98, 96-0.

Passed Legislature.

HOUSE COMMITTEE ON ENERGY & UTILITIES

Majority Report: Do pass. Signed by 13 members: Representatives Crouse, Chairman; DeBolt, Vice Chairman; Mastin, Vice Chairman; Poulsen, Ranking Minority Member; Morris, Assistant Ranking Minority Member; Bush; Cooper; Delvin; Honeyford; Kastama; Kessler; Mielke and B. Thomas.

Staff: Margaret Allen (786-7110).

Background: A public service company is a corporation engaged in business as a public utility, and subject to regulation of its rates and services by the Washington Utilities and Transportation Commission (WUTC). Examples of public service companies are electric and natural gas companies, local telephone companies, water companies, solid waste collection companies, and common carriers such as excursion boats and airporters.

Examples of an "affiliated interest" include the parent company, a subsidiary, a division, an officer or director of the company, a shareholder with at least 5 percent of the voting shares of the company, and an officer or director of a corporate shareholder with at least 5 percent of the voting shares of the public service company.

By law, a public service company must obtain prior approval from the WUTC before a contract or other arrangement between the company and an affiliated interest takes effect. Contracts and arrangements covered by the requirement include those for the sale, lease, exchange, or furnishing of any service, property, right, or thing, including open account advances to or from an affiliated interest. Every order of the WUTC approving a contract or arrangement must be conditioned on the WUTC's continuing supervisory control over the contract or arrangement and subsequent modifications, and on the WUTC's power to amend its approval.

To obtain the approval, the company files a verified copy of the contract or arrangement, or a verified summary of an unwritten contract or arrangement, with the WUTC. The WUTC may approve the contract or arrangement only if it clearly appears, and an investigation establishes, that the contract or arrangement is in the public interest. The WUTC is not required to give its approval without satisfactory proof of what it will cost the affiliated interest to provide the property or services described in the filing.

If a company fails to obtain the prior approval of the WUTC, or if the company makes payments to an affiliated interest although the WUTC has disallowed those payments, the WUTC may prohibit the company from treating the payments made under the contract or arrangement as operating expenses or capital expenditures for rate or valuation purposes.

In a rate case or other proceeding, the WUTC may disallow all or part of the compensation or other payments made by a public service company to an affiliated interest under a contract or arrangement, unless the company establishes the reasonableness of the payments. Again, the WUTC may require satisfactory proof of the cost to the affiliated interest of performing its obligations under the contract or arrangement.

Summary of Bill: The requirement of prior WUTC approval of affiliated interest transactions is eliminated; the contract, arrangement, or modification will take effect unless disapproved by the WUTC.

Any time prior to the effective date of a contract or arrangement with an affiliated interest, a public service company must file a verified copy of the written (or verified summary of an unwritten) contract or arrangement with the WUTC. The same requirement applies to modifications of contracts or arrangements.

Any time after receiving the filing, including after the effective date, the WUTC may investigate and disapprove the contract, arrangement, or modification, if the company fails to prove it is in the public interest. The WUTC also may disapprove the filing in the absence of satisfactory proof of the cost to the affiliated interest to provide the property or services described in the contract or arrangement.

If a company fails to make the required filing with the WUTC (unless the WUTC has approved the transaction through another proceeding thus obviating the purpose of a filing), or if the company makes payments to an affiliated interest although the WUTC has disallowed those payments, the WUTC may prohibit the company from treating the payments made under the contract or arrangement as operating expenses or capital expenditures for rate or valuation purposes.

As under current law, in a rate case or other proceeding, the WUTC may disallow all or part of the compensation or other payments made by a public service company to an affiliated interest under a contract or arrangement, unless the company establishes the reasonableness of the payments. And, the WUTC may require satisfactory proof of the cost to the affiliated interest in performing its obligations under the contract or arrangement.

Clarifying and technical changes are made to existing statutes.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Prior approval of contracts or arrangements between affiliated interests is unnecessary to protect consumers; reviewing such contracts or arrangements during rates cases provides adequate protection. Currently the WUTC has to review filings twice, once at the time of filing and again during a rate case. This legislation will streamline the regulatory process and help regulated companies to become more efficient, particularly since using administrative support from an affiliated interest currently requires prior WUTC approval. There currently are long delays in WUTC review of filings; this bill will make the statutes conform to current practice.

Testimony Against: None.

Testified: Rosemary Williamson, GTE Northwest Inc. (pro); Teresa Osinski, Washington Utilities and Transportation Commission (pro); and Collins Sprague, Washington Water Power (pro).