

SENATE BILL 5045

State of Washington

52nd Legislature

1991 Regular Session

By Senators Madsen, Barr and Conner.

Read first time January 17, 1991. Referred to Committee on Energy & Utilities.

1 AN ACT Relating to investigation of customer complaints regarding
2 drinking water quality; amending RCW 80.04.015; and reenacting and
3 amending RCW 80.04.110.

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

5 **Sec. 1.** RCW 80.04.015 and 1986 c 11 s 1 are each amended to read
6 as follows:

7 Whether or not any person or corporation is conducting business
8 subject to regulation under this title, or has performed or is
9 performing any act requiring registration or approval of the commission
10 without securing such registration or approval, or is engaged in any
11 activity subject to review or supervision under this title, shall be a
12 question of fact to be determined by the commission. Whenever the
13 commission believes that any person or corporation is engaged in any
14 activity without first complying with the requirements of this title,

1 it may institute a special proceeding requiring such person or
2 corporation to appear before the commission at a location convenient
3 for witnesses and the production of evidence and produce information,
4 books, records, accounts, and other memoranda, and give testimony under
5 oath as to the activities being conducted. The commission may consider
6 any and all facts that may indicate the true nature and extent of the
7 operations or acts and may subpoena such witnesses and documents as it
8 deems necessary. The commission may require that a person or
9 corporation produce evidence to a state or local government agency for
10 any testing necessary under this section, and that the person or
11 corporation bear the reasonable costs of such testing.

12 After investigation, the commission is authorized and directed to
13 issue the necessary order or orders declaring the activities to be
14 subject to, or not subject to, the provisions of this title. In the
15 event the activities are found to be subject to the provisions of this
16 title, the commission shall issue such orders as may be necessary to
17 require all parties involved in the activities to comply with this
18 title, and with respect to services found to be reasonably available
19 from alternative sources, to issue orders to cease and desist from
20 providing jurisdictional services pending full compliance.

21 In proceedings under this section, no person or corporation may be
22 excused from testifying or from producing any information, book,
23 document, paper, or account before the commission when ordered to do
24 so, on the ground that the testimony or evidence, information, book,
25 document, or account required may tend to incriminate him or her or
26 subject him or her to penalty or forfeiture specified in this title;
27 but no person or corporation may be prosecuted, punished, or subjected
28 to any penalty or forfeiture specified in this title for or on account
29 of any account, transaction, matter, or thing concerning which he or
30 she shall under oath have testified or produced documentary evidence in

1 proceedings under this section: PROVIDED, That no person so testifying
2 may be exempt from prosecution or punishment for any perjury committed
3 by him or her in such testimony: PROVIDED FURTHER, That the exemption
4 from prosecution in this section extends only to violations of this
5 title.

6 **Sec. 2.** RCW 80.04.110 and 1989 c 207 s 2 and 1989 c 101 s 17 are
7 each amended to read as follows:

8 (1) Complaint may be made by the commission of its own motion or by
9 any person or corporation, chamber of commerce, board of trade, or any
10 commercial, mercantile, agricultural or manufacturing society, or any
11 body politic or municipal corporation, or by the public counsel section
12 of the office of the attorney general, or its successor, by petition or
13 complaint in writing, setting forth any act or thing done or omitted to
14 be done by any public service corporation in violation, or claimed to
15 be in violation, of any provision of law or of any order or rule of the
16 commission: PROVIDED, That no complaint shall be entertained by the
17 commission except upon its own motion, as to the reasonableness of the
18 schedule of the rates or charges of any gas company, electrical
19 company, water company, or telecommunications company, unless the same
20 be signed by the mayor, council or commission of the city or town in
21 which the company complained of is engaged in business, or not less
22 than twenty-five consumers or purchasers of such gas, electricity,
23 water or telecommunications service: PROVIDED, FURTHER, That when two
24 or more public service corporations, (meaning to exclude municipal and
25 other public corporations) are engaged in competition in any locality
26 or localities in the state, either may make complaint against the other
27 or others that the rates, charges, rules, regulations or practices of
28 such other or others with or in respect to which the complainant is in
29 competition, are unreasonable, unremunerative, discriminatory, illegal,

1 unfair or intending or tending to oppress the complainant, to stifle
2 competition, or to create or encourage the creation of monopoly, and
3 upon such complaint or upon complaint of the commission upon its own
4 motion, the commission shall have power, after notice and hearing as in
5 other cases, to, by its order, subject to appeal as in other cases,
6 correct the abuse complained of by establishing such uniform rates,
7 charges, rules, regulations or practices in lieu of those complained
8 of, to be observed by all of such competing public service corporations
9 in the locality or localities specified as shall be found reasonable,
10 remunerative, nondiscriminatory, legal, and fair or tending to prevent
11 oppression or monopoly or to encourage competition, and upon any such
12 hearing it shall be proper for the commission to take into
13 consideration the rates, charges, rules, regulations and practices of
14 the public service corporation or corporations complained of in any
15 other locality or localities in the state.

16 (2) All matters upon which complaint may be founded may be joined
17 in one hearing, and no motion shall be entertained against a complaint
18 for misjoinder of complaints or grievances or misjoinder of parties;
19 and in any review of the courts of orders of the commission the same
20 rule shall apply and pertain with regard to the joinder of complaints
21 and parties as herein provided: PROVIDED, All grievances to be inquired
22 into shall be plainly set forth in the complaint. No complaint shall
23 be dismissed because of the absence of direct damage to the
24 complainant.

25 (3) Upon the filing of a complaint, the commission shall cause a
26 copy thereof to be served upon the person or corporation complained of,
27 which shall be accompanied by a notice fixing the time when and place
28 where a hearing will be had upon such complaint. The time fixed for
29 such hearing shall not be less than ten days after the date of the
30 service of such notice and complaint, excepting as herein provided.

1 The commission shall enter its final order with respect to a complaint
2 filed by any entity or person other than the commission within ten
3 months from the date of filing of the complaint, unless the date is
4 extended for cause. Rules of practice and procedure not otherwise
5 provided for in this title may be prescribed by the commission. Such
6 rules may include the requirement that a complainant use informal
7 processes before filing a formal complaint.

8 (4) The commission shall, as appropriate, exercise auditing and
9 accounting supervision or initiate a complaint upon receipt of an
10 administrative order from the department, or the city or county in
11 which the water system is located, finding that the water delivered by
12 a system does not meet state board of health standards adopted under
13 RCW 43.20.050(2)(a) or standards adopted under chapter 70.116 RCW.

14 (5) Any customer or purchaser of service from a water system or
15 company that is or may be subject to commission regulation or to the
16 provisions of subsection (4) of this section may file a complaint with
17 the commission if he or she has reason to believe that the water
18 delivered by the system to the customer does not meet state drinking
19 water standards under chapter 43.20 or 70.116 RCW. The commission
20 shall investigate such a complaint, and shall request that the state
21 department of health or local health department of the county in which
22 the system is located test the water for compliance with state drinking
23 water standards, and provide the results of such testing to the
24 commission. The water system or company shall bear the expense for the
25 testing. After the commission has received the complaint from the
26 customer and during the pendency of the commission investigation, the
27 water system or company shall not take any steps to terminate service
28 to the customer or to collect any amounts alleged to be owed to the
29 company by the customer. The commission may issue an order or take any
30 other action to ensure that no such steps are taken by the system or

1 company. If the commission determines that the water does not meet
2 state drinking water standards, it shall exercise its authority over
3 the system or company as provided in subsection (4) of this section or
4 as otherwise provided in this title, and may, where appropriate, order
5 a refund to the customer on a pro rata basis for the substandard water
6 delivered to the customer.