

CERTIFICATION OF ENROLLMENT  
**SUBSTITUTE SENATE BILL 5260**

Chapter 100, Laws of 1991

52nd Legislature  
1991 Regular Session

NONMUNICIPAL WATER SYSTEMS--REGULATION BY  
UTILITIES AND TRANSPORTATION COMMISSION

EFFECTIVE DATE: 7/28/91

Passed by the Senate April 22, 1991  
Yeas 46 Nays 0

JOEL PRITCHARD  
**President of the Senate**

Passed by the House April 18, 1991  
Yeas 97 Nays 0

JOE KING  
**Speaker of the  
House of Representatives**

Approved May 9, 1991

BOOTH GARDNER  
**Governor of the State of Washington**

CERTIFICATE

I, Gordon Golob, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5260** as passed by the Senate and the House of Representatives on the dates hereon set forth.

GORDON A. GOLOB  
**Secretary**

FILED

May 9, 1991 - 11:39 a.m.

**Secretary of State  
State of Washington**



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**SUBSTITUTE SENATE BILL 5260**

AS AMENDED BY THE HOUSE

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Passed Legislature - 1991 Regular Session

**State of Washington                      52nd Legislature                      1991 Regular Session**

**By** Senate Committee on Energy & Utilities (originally sponsored by Senators Thorsness, Madsen and Barr; by request of Utilities & Transportation Commission).

Read first time February 13, 1991.

1            AN ACT Relating to the regulatory authority of the utilities and  
2 transportation commission over certain nonmunicipal systems; amending  
3 RCW 80.04.010; and reenacting and amending RCW 80.04.110.

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

5            **Sec. 1.** RCW 80.04.010 and 1989 c 101 s 2 are each amended to read  
6 as follows:

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

9            "Commission" means the utilities and transportation commission.

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

11           "Competitive telecommunications company" means a telecommunications  
12 company which has been classified as such by the commission pursuant to  
13 RCW 80.36.320.

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

1 "Corporation" includes a corporation, company, association or joint  
2 stock association.

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

4 "Gas plant" includes all real estate, fixtures and personal  
5 property, owned, leased, controlled, used or to be used for or in  
6 connection with the transmission, distribution, sale or furnishing of  
7 natural gas, or the manufacture, transmission, distribution, sale or  
8 furnishing of other type gas, for light, heat or power.

9 "Gas company" includes every corporation, company, association,  
10 joint stock association, partnership and person, their lessees,  
11 trustees or receiver appointed by any court whatsoever, and every city  
12 or town, owning, controlling, operating or managing any gas plant  
13 within this state.

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

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

28 "Electrical company" does not include a company or person employing a  
29 cogeneration facility solely for the generation of electricity for its  
30 own use or the use of its tenants or for sale to an electrical company,

1 state or local public agency, municipal corporation, or quasi municipal  
2 corporation engaged in the sale or distribution of electrical energy,  
3 but not for sale to others, unless such company or person is otherwise  
4 an electrical company.

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

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

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

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

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

28 "Telecommunications company" includes every corporation, company,  
29 association, joint stock association, partnership and person, their  
30 lessees, trustees or receivers appointed by any court whatsoever, and

1 every city or town owning, operating or managing any facilities used to  
2 provide telecommunications for hire, sale, or resale to the general  
3 public within this state.

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

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

12 "Telecommunications" is the transmission of information by wire,  
13 radio, optical cable, electromagnetic, or other similar means. As used  
14 in this definition, "information" means knowledge or intelligence  
15 represented by any form of writing, signs, signals, pictures, sounds,  
16 or any other symbols.

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

24 "Water company" includes every corporation, company, association,  
25 joint stock association, partnership and person, their lessees,  
26 trustees or receivers appointed by any court whatsoever, and every city  
27 or town owning, controlling, operating, or managing any water system  
28 for hire within this state: PROVIDED, That for purposes of commission  
29 jurisdiction it shall not include any water system serving less than  
30 one hundred customers where the average annual gross revenue per

1 customer does not exceed three hundred dollars per year, which revenue  
2 figure may be increased annually by the commission by rule adopted  
3 pursuant to chapter 34.05 RCW to reflect the rate of inflation as  
4 determined by the implicit price deflator of the United States  
5 department of commerce: AND PROVIDED FURTHER, That such measurement of  
6 customers or revenues shall include all portions of water companies  
7 having common ownership or control, regardless of location or corporate  
8 designation. "Control" as used herein shall be defined by the  
9 commission by rule and shall not include management by a satellite  
10 agency as defined in chapter 70.116 RCW if the satellite agency is not  
11 an owner of the water company. "Water company" also includes, for  
12 auditing purposes only, nonmunicipal water systems which are referred  
13 to the commission pursuant to an administrative order from the  
14 department, or the city or county as provided in RCW 80.04.110.  
15 However, water companies exempt from commission regulation shall be  
16 subject to the provisions of chapter 19.86 RCW. A water company cannot  
17 be removed from regulation except with the approval of the commission.  
18 Water companies subject to regulation may petition the commission for  
19 removal from regulation if the number of customers falls below one  
20 hundred or the average annual revenue per customer falls below three  
21 hundred dollars. The commission is authorized to maintain continued  
22 regulation if it finds that the public interest so requires.

23 "Cogeneration facility" means any machinery, equipment, structure,  
24 process, or property, or any part thereof, installed or acquired for  
25 the primary purpose of the sequential generation of electrical or  
26 mechanical power and useful heat from the same primary energy source or  
27 fuel.

28 "Public service company" includes every gas company, electrical  
29 company, telecommunications company, and water company. Ownership or

1 operation of a cogeneration facility does not, by itself, make a  
2 company or person a public service company.

3 "Local exchange company" means a telecommunications company  
4 providing local exchange telecommunications service.

5 "Department" means the department of ~~((social—and))~~ health  
6 ~~((services))~~.

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

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

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



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

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

1       Upon the filing of a complaint, the commission shall cause a copy  
2 thereof to be served upon the person or corporation complained of,  
3 which shall be accompanied by a notice fixing the time when and place  
4 where a hearing will be had upon such complaint. The time fixed for  
5 such hearing shall not be less than ten days after the date of the  
6 service of such notice and complaint, excepting as herein provided.  
7 The commission shall enter its final order with respect to a complaint  
8 filed by any entity or person other than the commission within ten  
9 months from the date of filing of the complaint, unless the date is  
10 extended for cause. Rules of practice and procedure not otherwise  
11 provided for in this title may be prescribed by the commission. Such  
12 rules may include the requirement that a complainant use informal  
13 processes before filing a formal complaint.

14       The commission shall, as appropriate, (~~exercise auditing and~~  
15 ~~accounting supervision or initiate a complaint~~) audit a nonmunicipal  
16 water system upon receipt of an administrative order from the  
17 department, or the city or county in which the water system is located,  
18 finding that the water delivered by a system does not meet state board  
19 of health standards adopted under RCW 43.20.050(2)(a) or standards  
20 adopted under chapter 70.116 RCW and the results of the audit shall be  
21 provided to the requesting department, city, or county. However, the  
22 number of nonmunicipal water systems referred to the commission in any  
23 one calendar year shall not exceed twenty percent of the water  
24 companies subject to commission regulation as defined in RCW 80.04.010.

25       Every nonmunicipal water system referred to the commission for  
26 audit under this section shall pay to the commission an audit fee in an  
27 amount, based on the system's twelve-month audited period, equal to the  
28 fee required to be paid by regulated companies under RCW 80.24.010.

Passed the Senate April 22, 1991.  
Passed the House April 18, 1991.  
Approved by the Governor May 9, 1991.  
Filed in Office of Secretary of State May 9, 1991.