

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 6631

Chapter 33, Laws of 1996

54th Legislature
1996 Regular Session

THERMAL ENERGY COMPANIES--EXEMPTION FROM UTILITIES
AND TRANSPORTATION COMMISSION AUTHORITY

EFFECTIVE DATE: 6/6/96

Passed by the Senate February 7, 1996
YEAS 49 NAYS 0

JOEL PRITCHARD

President of the Senate

Passed by the House February 27, 1996
YEAS 96 NAYS 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved March 7, 1996

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 6631** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

Secretary

FILED

March 7, 1996 - 10:23 a.m.

MIKE LOWRY

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 6631

Passed Legislature - 1996 Regular Session

State of Washington 54th Legislature 1996 Regular Session

By Senators Sutherland, West, Finkbeiner, Loveland, Heavey, Rasmussen,
Hochstatter, Strannigan and Morton

Read first time 01/22/96. Referred to Committee on Energy,
Telecommunications & Utilities.

1 AN ACT Relating to exempting thermal energy companies from
2 utilities and transportation commission authority; amending RCW
3 39.35C.080; adding a new section to chapter 80.04 RCW; creating a new
4 section; and repealing RCW 80.62.010, 80.62.020, 80.62.030, 80.62.040,
5 80.62.050, 80.62.060, 80.62.070, 80.62.080, 80.62.900, and 80.62.910.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds:

8 (a) The Washington utilities and transportation commission has the
9 authority to regulate district heating suppliers on the basis of
10 financial solvency, system design integrity, and reasonableness of
11 contract rates and rate formulas under chapter 80.62 RCW;

12 (b) Consumers have competitive alternatives to thermal energy
13 companies for space heating and cooling and ancillary services;

14 (c) Consumers have recourse against thermal energy companies for
15 unfair business practices under the consumer protection act; and

16 (d) Technology and marketing opportunities have advanced since the
17 enactment of chapter 80.62 RCW to make the provision of cooling
18 services, as well as heating services, an economical option for
19 consumers.

1 (2) The legislature declares that the public health, safety, and
2 welfare does not require the regulation of thermal energy companies by
3 the Washington utilities and transportation commission.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 80.04 RCW
5 to read as follows:

6 (1) Nothing in this title shall authorize the commission to make or
7 enforce any order affecting rates, tolls, rentals, contracts or charges
8 for service rendered, or the adequacy or sufficiency of the facilities,
9 equipment, instrumentalities, or buildings, or the reasonableness of
10 rules or regulations made, furnished, used, supplied, or in force
11 affecting any district thermal energy system owned and operated by any
12 thermal energy company.

13 (2) For the purposes of this section:

14 (a) "Thermal energy company" means any private person, company,
15 association, partnership, joint venture, or corporation engaged in or
16 proposing to engage in developing, producing, transmitting,
17 distributing, delivering, furnishing, or selling to or for the public
18 thermal energy services for any beneficial use other than electricity
19 generation;

20 (b) "District thermal energy system" means any system that provides
21 thermal energy for space heating, space cooling, or process uses from
22 a central plant, and that distributes the thermal energy to two or more
23 buildings through a network of pipes;

24 (c) "Thermal energy" means heat or cold in the form of steam,
25 heated or chilled water, or any other heated or chilled fluid or
26 gaseous medium; and

27 (d) "Thermal energy services" means the provision of thermal energy
28 from a district thermal energy system and includes such ancillary
29 services as energy audits, metering, billing, maintenance, and repairs
30 related to thermal energy.

31 NEW SECTION. **Sec. 3.** The following acts or parts of acts are each
32 repealed:

33 (1) RCW 80.62.010 and 1987 c 522 s 1 & 1983 c 94 s 1;

34 (2) RCW 80.62.020 and 1987 c 522 s 2 & 1983 c 94 s 2;

35 (3) RCW 80.62.030 and 1983 c 94 s 3;

36 (4) RCW 80.62.040 and 1983 c 94 s 4;

37 (5) RCW 80.62.050 and 1983 c 94 s 5;

- 1 (6) RCW 80.62.060 and 1983 c 94 s 6;
- 2 (7) RCW 80.62.070 and 1983 c 94 s 7;
- 3 (8) RCW 80.62.080 and 1983 c 94 s 8;
- 4 (9) RCW 80.62.900 and 1983 c 94 s 9; and
- 5 (10) RCW 80.62.910 and 1983 c 94 s 10.

6 **Sec. 4.** RCW 39.35C.080 and 1991 c 201 s 9 are each amended to read
7 as follows:

8 It is the intention of chapter 201, Laws of 1991 that the state and
9 its agencies are compensated fairly for the energy provided to
10 utilities from cogeneration at state facilities. Such compensation may
11 include revenues from sales of electricity or thermal energy to
12 utilities, lease of state properties, and value of thermal energy
13 provided to the facility. It is also the intent of chapter 201, Laws
14 of 1991 that the state and its agencies be accorded the opportunity to
15 compete on a fair and reasonable basis to fulfill a utility's new
16 resource acquisition needs when selling the energy produced from
17 cogeneration projects at state facilities through energy purchase
18 agreements.

19 (1)(a) The energy office and state agencies may participate in any
20 utility request for resource proposal process, as either established
21 under the rules and regulations of the utilities and transportation
22 commission, or by the governing board of a public utility district,
23 municipal utility, cooperative, or mutual.

24 (b) If a local utility does not have a request for resource
25 proposal pending, the energy office or a state agency may negotiate an
26 equitable and mutually beneficial energy purchase agreement with that
27 utility.

28 (2) To ensure an equitable allocation of benefits to the state and
29 its agencies, the following conditions shall apply to energy purchase
30 agreements negotiated between utilities and state agencies:

31 (a) An energy purchase agreement shall be approved by both the
32 energy office and the affected state agency.

33 (b) The energy office and the state agency shall work together
34 throughout the planning and negotiation process for energy purchase
35 agreements, unless the energy office determines that its participation
36 will not further the purposes of this section.

37 (c) Before approving an energy purchase agreement, the energy
38 office shall review the proposed agreement for its technical and

1 economic feasibility, the degree of certainty of benefits, the degree
2 of financial risk assumed by the state and/or the state agency, the
3 benefits offered to the state and/or state agency, and other such
4 factors as the energy office deems prudent. The energy office shall
5 approve an energy purchase agreement unless it finds that such an
6 agreement would not result in an equitable allocation of costs and
7 benefits, in which case the transaction shall be disapproved.

8 (3)(a) The state or state agency shall comply with and shall be
9 bound by applicable avoided cost schedules, electric power wheeling
10 charges, interconnection requirements, utility tariffs, and regulatory
11 provisions to the same extent it would be required to comply and would
12 be bound if it were a private citizen. The state shall neither seek
13 regulatory advantage, nor change regulations, regulatory policy,
14 process, or decisions to its advantage as a seller of cogenerated
15 energy. Nothing contained in chapter 201, Laws of 1991 shall be
16 construed to mandate or require public or private utilities to wheel
17 electric energy resources within or beyond their service territories.
18 Nothing in chapter 201, Laws of 1991 authorizes any state agency or
19 school district to make any sale of energy or waste heat ((as defined
20 by RCW 80.62.020(9))) beyond the explicit provisions of chapter 201,
21 Laws of 1991. Nothing contained in chapter 201, Laws of 1991 requires
22 a utility to purchase energy from the state or a state agency or enter
23 into any agreement in connection with a cogeneration facility.

24 (b) The state shall neither construct, nor be party to an agreement
25 for developing a cogeneration project at a state facility for the
26 purpose of supplying its own electrical needs, unless it can show that
27 such an arrangement would be in the economic interest of the state
28 taking into account the cost of (i) interconnection requirements, as
29 specified by the local electric utility, (ii) standby charges, as may
30 be required by the local electric utility, and (iii) the current price
31 of electricity offered by the local electric utility. If the local
32 electric utility can demonstrate that the cogeneration project may
33 place an undue burden on the electric utility, the energy office or the
34 state agency shall attempt to negotiate a mutually beneficial agreement
35 that would minimize the burden upon the ratepayers of the local
36 electric utility.

37 (4) Any party to an energy purchase agreement may, within thirty
38 days of any decision made pursuant to subsection (2)(c) of this section
39 to disapprove the agreement made pursuant to this section, request an

1 independent reviewer who is mutually agreeable to all parties to review
2 the decision. The parties shall within thirty days of selection submit
3 to the independent reviewer documentation supporting their positions.
4 The independent reviewer shall render advice regarding the validity of
5 the disapproval within an additional thirty days.

6 (5) For the purposes of this section, "waste heat" means the
7 thermal energy that otherwise would be released to the environment from
8 an industrial process, electric generation, or other process.

Passed the Senate February 7, 1996.

Passed the House February 27, 1996.

Approved by the Governor March 7, 1996.

Filed in Office of Secretary of State March 7, 1996.