

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2663

Chapter 47, Laws of 1998

55th Legislature
1998 Regular Session

FILING OF AFFILIATED TRANSACTIONS WITH THE UTILITIES AND
TRANSPORTATION COMMISSION

EFFECTIVE DATE: 6/11/98

Passed by the House February 10, 1998
Yeas 96 Nays 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

Passed by the Senate March 4, 1998
Yeas 42 Nays 0

BRAD OWEN
President of the Senate

Approved March 18, 1998

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2663** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

March 18, 1998 - 6:09 p.m.

**Secretary of State
State of Washington**

HOUSE BILL 2663

Passed Legislature - 1998 Regular Session

State of Washington 55th Legislature 1998 Regular Session

By Representative Crouse; by request of Utilities & Transportation Commission

Read first time 01/16/98. Referred to Committee on Energy & Utilities.

1 AN ACT Relating to filing of affiliated transactions with the
2 utilities and transportation commission; and amending RCW 80.16.020,
3 80.16.030, 80.16.050, 80.16.060, 80.16.070, 81.16.020, 81.16.030,
4 81.16.050, 81.16.060, and 81.16.070.

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

6 **Sec. 1.** RCW 80.16.020 and 1961 c 14 s 80.16.020 are each amended
7 to read as follows:

8 ~~((No))~~ Every public service company shall file with the commission
9 a verified copy, or a verified summary if unwritten, of a contract or
10 arrangement providing for the furnishing of management, supervisory
11 construction, engineering, accounting, legal, financial, or similar
12 services, ~~((and no))~~ or any contract or arrangement for the purchase,
13 sale, lease, or exchange of any property, right, or thing, or for the
14 furnishing of any service, property, right, or thing, other than those
15 ~~((above))~~ enumerated in this section, hereafter made or entered into
16 between a public service company and any affiliated interest as defined
17 in this chapter, including open account advances from or to ~~((such))~~
18 the affiliated interests~~((, shall be valid or effective unless and~~
19 until such contract or arrangement shall have received the approval of

1 the commission. It shall be the duty of every public service company
2 to file with the commission, a verified copy or a verified summary of
3 any such unwritten contract or arrangement, and also of all such
4 contracts and arrangements, whether written or unwritten, entered into
5 prior to March 18, 1933 and in force and effect at that time. The
6 commission shall approve such contract or arrangement hereafter made or
7 entered into only if it shall clearly appear and be established upon
8 investigation that it is reasonable and consistent with the public
9 interest; otherwise the contract or arrangement shall not be
10 approved)). The filing must be made prior to the effective date of the
11 contract or arrangement. Modifications or amendments to the contracts
12 or arrangements with affiliated interests must be filed with the
13 commission prior to the effective date of the modification or
14 amendment. Any time after receipt of the contract or arrangement, the
15 commission may institute an investigation and disapprove the contract,
16 arrangement, modification, or amendment thereto if the commission finds
17 the public service company has failed to prove that it is reasonable
18 and consistent with the public interest. The commission ((shall not be
19 required to approve)) may disapprove any such contract or arrangement
20 ((unless)) if satisfactory proof is not submitted to the commission of
21 the cost to the affiliated interest of rendering the services or of
22 furnishing the property or service described ((herein)) in this
23 section.

24 **Sec. 2.** RCW 80.16.030 and 1961 c 14 s 80.16.030 are each amended
25 to read as follows:

26 In any proceeding, whether upon the commission's own motion or upon
27 complaint, involving the rates or practices of any public service
28 company, the commission may exclude from the accounts of ((such)) the
29 public service company any payment or compensation to an affiliated
30 interest for any services rendered or property or service furnished, as
31 ((above)) described in this section, under existing contracts or
32 arrangements with ((such)) the affiliated interest unless ((such)) the
33 public service company ((shall)) establishes the reasonableness of
34 ((such)) the payment or compensation. In ((such)) the proceeding the
35 commission shall disallow ((such)) the payment or compensation, in
36 whole or in part, in the absence of satisfactory proof that it is
37 reasonable in amount. In such a proceeding, any payment or
38 compensation may be disapproved or disallowed by the commission, in

1 whole or in part, (~~unless~~) if satisfactory proof is not submitted to
2 the commission of the cost to the affiliated interest of rendering the
3 service or furnishing the property or service (~~above~~) described in
4 this section.

5 **Sec. 3.** RCW 80.16.050 and 1961 c 14 s 80.16.050 are each amended
6 to read as follows:

7 The commission shall have continuing supervisory control over the
8 terms and conditions of such contracts and arrangements as are herein
9 described so far as necessary to protect and promote the public
10 interest. The commission shall have the same jurisdiction over the
11 modifications or amendment of contracts or arrangements as are herein
12 described as it has over such original contracts or arrangements. The
13 fact that a contract or arrangement has been filed with, or the
14 commission (~~shall have~~) has approved entry into such contracts or
15 arrangements as described herein shall not preclude disallowance or
16 disapproval of payments made pursuant thereto, if upon actual
17 experience under such contract or arrangement, it appears that the
18 payments provided for or made were or are unreasonable. Every order of
19 the commission approving any such contract or arrangement shall be
20 expressly conditioned upon the reserved power of the commission to
21 revise and amend the terms and conditions thereof, if, when, and as
22 necessary to protect and promote the public interest.

23 **Sec. 4.** RCW 80.16.060 and 1961 c 14 s 80.16.060 are each amended
24 to read as follows:

25 Whenever the commission shall find upon investigation that any
26 public service company is giving effect to any such contract or
27 arrangement without such contract or arrangement having (~~received the~~
28 ~~commission's approval~~) been filed or approved, the commission may
29 issue a summary order prohibiting the public service company from
30 treating any payments made under the terms of such contract or
31 arrangement as operating expenses or as capital expenditures for rate
32 or valuation purposes, unless and until such contract or arrangement
33 has been filed with the commission or until payments (~~shall~~) have
34 received the approval of the commission.

35 **Sec. 5.** RCW 80.16.070 and 1961 c 14 s 80.16.070 are each amended
36 to read as follows:

1 Whenever the commission (~~shall~~) finds upon investigation that any
2 public service company is making payments to an affiliated interest,
3 although (~~such~~) the payments have been disallowed (~~and~~) or
4 disapproved by the commission in a proceeding involving the public
5 service company's rates or practices, the commission shall issue a
6 summary order directing the public service company (~~from treating~~
7 ~~such~~) to not treat the payments as operating expenses or capital
8 expenditures for rate or valuation purposes, unless and until (~~such~~)
9 the payments (~~shall~~) have received the approval of the commission.

10 **Sec. 6.** RCW 81.16.020 and 1961 c 14 s 81.16.020 are each amended
11 to read as follows:

12 (~~No~~) Every public service company shall file with the commission
13 a verified copy, or a verified summary if unwritten, of a contract or
14 arrangement providing for the furnishing of management, supervisory
15 construction, engineering, accounting, legal, financial, or similar
16 services, (~~and no~~) or any contract or arrangement for the purchase,
17 sale, lease, or exchange of any property, right, or thing, or for the
18 furnishing of any service, property, right, or thing, other than those
19 (~~above~~) enumerated in this section, hereafter made or entered into
20 between a public service company and any affiliated interest as defined
21 in this chapter, including open account advances from or to (~~such~~)
22 the affiliated interests(~~, except open account advances from or to a~~
23 common carrier subject to the provisions of part one of the interstate
24 commerce act, shall be valid or effective unless and until such
25 contract or arrangement shall have received the approval of the
26 commission. It shall be the duty of every public service company to
27 file with the commission, a verified copy or a verified summary of any
28 such unwritten contract or arrangement, and also of all such contracts
29 and arrangements, whether written or unwritten, entered into prior to
30 March 18, 1933 and in force and effect at that time. The commission
31 shall approve such contract or arrangement hereafter made or entered
32 into only if it shall clearly appear and be established upon
33 investigation that it is reasonable and consistent with the public
34 interest; otherwise the contract or arrangement shall not be
35 approved)). The filing must be made prior to the effective date of the
36 contract or arrangement. Modifications or amendments to the contracts
37 or arrangements with affiliated interests must be filed with the
38 commission prior to the effective date of the modification or

1 amendment. The commission may at any time after receipt of the
2 contract or arrangement institute an investigation and disapprove the
3 contract, arrangement, or amendment thereto if the commission finds the
4 public service company has failed to prove that it is reasonable and
5 consistent with the public interest. The commission ((shall not be
6 required to approve)) may disapprove any such contract or arrangement
7 ((unless)) if satisfactory proof is not submitted to the commission of
8 the cost to the affiliated interest of rendering the services or of
9 furnishing the property or service described ((herein)) in this
10 section.

11 **Sec. 7.** RCW 81.16.030 and 1961 c 14 s 81.16.030 are each amended
12 to read as follows:

13 In any proceeding, whether upon the commission's own motion or upon
14 complaint, involving the rates or practices of any public service
15 company, the commission may exclude from the accounts of ((such)) the
16 public service company any payment or compensation to an affiliated
17 interest for any services rendered or property or service furnished, as
18 ((above)) described in this section, under existing contracts or
19 arrangements with ((such)) the affiliated interest unless ((such)) the
20 public service company ((shall)) establishes the reasonableness of
21 ((such)) the payment or compensation. In ((such)) the proceeding the
22 commission shall disallow ((such)) the payment or compensation, in
23 whole or in part, in the absence of satisfactory proof that it is
24 reasonable in amount. In such a proceeding, any payment or
25 compensation may be disapproved or disallowed by the commission, in
26 whole or in part, ((unless)) if satisfactory proof is not submitted to
27 the commission of the cost to the affiliated interest of rendering the
28 service or furnishing the property or service ((above)) described in
29 this section.

30 **Sec. 8.** RCW 81.16.050 and 1961 c 14 s 81.16.050 are each amended
31 to read as follows:

32 The commission shall have continuing supervisory control over the
33 terms and conditions of such contracts and arrangements as are herein
34 described so far as necessary to protect and promote the public
35 interest. The commission shall have the same jurisdiction over the
36 modifications or amendment of contracts or arrangements as are herein
37 described as it has over such original contracts or arrangements. The

1 fact that a contract or arrangement has been filed with, or the
2 commission (~~shall have~~) has approved entry into such contracts or
3 arrangements, as described herein, shall not preclude disallowance or
4 disapproval of payments made pursuant thereto, if upon actual
5 experience under such contract or arrangement, it appears that the
6 payments provided for or made were or are unreasonable. Every order of
7 the commission approving any such contract or arrangement shall be
8 expressly conditioned upon the reserved power of the commission to
9 revise and amend the terms and conditions thereof, if, when and as
10 necessary to protect and promote the public interest.

11 **Sec. 9.** RCW 81.16.060 and 1961 c 14 s 81.16.060 are each amended
12 to read as follows:

13 Whenever the commission shall find upon investigation that any
14 public service company is giving effect to any such contract or
15 arrangement without such contract or arrangement having (~~received the~~
16 ~~commission's approval~~) been filed or approved, the commission may
17 issue a summary order prohibiting the public service company from
18 treating any payments made under the terms of such contract or
19 arrangement as operating expenses or as capital expenditures for rate
20 or valuation purposes, unless and until such contract or arrangement
21 has been filed with the commission or until payments (~~shall~~) have
22 received the approval of the commission.

23 **Sec. 10.** RCW 81.16.070 and 1961 c 14 s 81.16.070 are each amended
24 to read as follows:

25 Whenever the commission (~~shall~~) finds upon investigation that any
26 public service company is making payments to an affiliated interest,
27 although (~~such~~) the payments have been disallowed (~~and~~) or
28 disapproved by the commission in a proceeding involving the public
29 service company's rates or practices, the commission shall issue a
30 summary order directing the public service company (~~from treating~~
31 ~~such~~) to not treat the payments as operating expenses or capital
32 expenditures for rate or valuation purposes, unless and until (~~such~~)
33 the payments (~~shall~~) have received the approval of the commission.

Passed the House February 10, 1998.

Passed the Senate March 4, 1998.

Approved by the Governor March 18, 1998.

Filed in Office of Secretary of State March 18, 1998.