
SENATE BILL 6465

State of Washington

56th Legislature

2000 Regular Session

By Senator McCaslin

Read first time 01/17/2000. Referred to Committee on Energy, Technology & Telecommunications.

1 AN ACT Relating to regulation of electric cooperatives by the
2 utilities and transportation commission; amending RCW 23.86.035 and
3 80.04.010; adding a new section to chapter 23.86 RCW; adding a new
4 section to chapter 80.28 RCW; repealing RCW 23.86.400; and providing an
5 effective date.

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

7 **Sec. 1.** RCW 23.86.035 and 1989 c 307 s 6 are each amended to read
8 as follows:

9 Except as limited by section 2 of this act, each association
10 subject to this chapter shall have the following powers:

11 (1) To have perpetual succession by its corporate name unless a
12 limited period of duration is stated in the articles of incorporation.

13 (2) To sue and be sued, complain, and defend in its corporate name.

14 (3) To have and use a corporate seal.

15 (4) To purchase, take, receive, lease, or otherwise acquire, own,
16 hold, improve, use, and deal in and with real or personal property or
17 any interest therein, wherever situated.

18 (5) To sell, convey, mortgage, pledge, lease, exchange, transfer,
19 or otherwise dispose of all or any part of its property and assets.

1 (6) To purchase, take, receive, subscribe for, or otherwise
2 acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or
3 otherwise dispose of, use, and deal in and with shares or other
4 interest in, or obligations of, other domestic or foreign corporations,
5 associations, partnerships or individuals, or direct or indirect
6 obligations of the United States or any other government, state,
7 territory, governmental district or municipality, or any
8 instrumentality thereof.

9 (7) To make contracts and incur liabilities, borrow money at rates
10 of interest the association may determine, issue notes, bonds,
11 certificates of indebtedness, and other obligations, receive funds from
12 members and pay interest thereon, issue capital stock and certificates
13 representing equity interests in assets, allocate earnings and losses
14 at the times and in the manner the articles of incorporation or bylaws
15 or other contract specify, create book credits, capital funds, and
16 reserves, and secure obligations by mortgage or pledge of any of its
17 property, franchises, and income.

18 (8) To lend money for corporate purposes, invest and reinvest
19 funds, and take and hold real and personal property as security for the
20 payment of funds loaned or invested.

21 (9) To conduct business, carry on operations, have offices, and
22 exercise the powers granted by this chapter, within or without this
23 state.

24 (10) To elect or appoint officers and agents of the corporation,
25 define their duties, and fix their compensation.

26 (11) To make and alter bylaws, not inconsistent with its articles
27 of incorporation or with the laws of this state, for the administration
28 and regulation of the affairs of the association.

29 (12) To make donations for the public welfare or for charitable,
30 scientific, or educational purposes, and in time of war to make
31 donations in aid of war activities.

32 (13) To pay pensions and establish pension plans, pension trusts,
33 profit-sharing plans, stock bonus plans, stock option plans, and other
34 incentive plans for any or all of its directors, officers, and
35 employees.

36 (14) To be a partner, member, associate, or manager of any
37 partnership, joint venture, trust, or other enterprise.

38 (15) To cease corporate activities and surrender its corporate
39 franchise.

1 (16) To have and exercise all powers necessary or convenient to
2 effect its purposes.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 23.86 RCW
4 to read as follows:

5 An electric service cooperative organized under this chapter is
6 subject to regulation of its rates and service by the utilities and
7 transportation commission and may not exercise any powers listed under
8 RCW 23.86.035 except as authorized under Title 80 RCW.

9 **Sec. 3.** RCW 80.04.010 and 1995 c 243 s 2 are each amended to read
10 as follows:

11 As used in this title, unless specifically defined otherwise or
12 unless the context indicates otherwise:

13 (1) "Automatic location identification" means a system by which
14 information about a caller's location, including the seven-digit number
15 or ten-digit number used to place a 911 call or a different seven-digit
16 number or ten-digit number to which a return call can be made from the
17 public switched network, is forwarded to a public safety answering
18 point for display.

19 (2) "Automatic number identification" means a system that allows
20 for the automatic display of the seven-digit or ten-digit number used
21 to place a 911 call.

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

27 (4) "Commission" means the utilities and transportation commission.

28 (5) "Commissioner" means one of the members of such commission.

29 (6) "Competitive telecommunications company" means a
30 telecommunications company which has been classified as such by the
31 commission pursuant to RCW 80.36.320.

32 (7) "Competitive telecommunications service" means a service which
33 has been classified as such by the commission pursuant to RCW
34 80.36.330.

35 (8) "Corporation" includes a corporation, company, association or
36 joint stock association.

37 (~~"Person" includes an individual, a firm or partnership.~~)

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

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

11 (9) "Department" means the department of health.

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

20 (11) "Electrical company" includes any corporation, company,
21 association, electric service cooperative association organized under
22 chapter 23.86 RCW, joint stock association, partnership and person,
23 their lessees, trustees or receivers appointed by any court whatsoever
24 (other than a railroad or street railroad company generating
25 electricity solely for railroad or street railroad purposes or for the
26 use of its tenants and not for sale to others), and every city or town
27 owning, operating or managing any electric plant for hire within this
28 state. "Electrical company" does not include a company or person
29 employing a cogeneration facility solely for the generation of
30 electricity for its own use or the use of its tenants or for sale to an
31 electrical company, state or local public agency, municipal
32 corporation, or quasi municipal corporation engaged in the sale or
33 distribution of electrical energy, but not for sale to others, unless
34 such company or person is otherwise an electrical company.

35 (12) "Facilities" means lines, conduits, ducts, poles, wires,
36 cables, cross-arms, receivers, transmitters, instruments, machines,
37 appliances, instrumentalities and all devices, real estate, easements,
38 apparatus, property, and routes used, operated, owned, or controlled by

1 any telecommunications company to facilitate the provision of
2 telecommunications service.

3 (13) "Gas company" includes every corporation, company,
4 association, joint stock association, partnership, and person, their
5 lessees, trustees or receiver appointed by any court whatsoever, and
6 every city or town, owning, controlling, operating, or managing any gas
7 plant within this state.

8 (14) "Gas plant" includes all real estate, fixtures and personal
9 property, owned, leased, controlled, used, or to be used for or in
10 connection with the transmission, distribution, sale, or furnishing of
11 natural gas, or the manufacture, transmission, distribution, sale or
12 furnishing of other type gas, for light, heat, or power.

13 (15) "LATA" means a local access transport area as defined by the
14 commission in conformance with applicable federal law.

15 ~~(("Private telecommunications system" means a telecommunications~~
16 ~~system controlled by a person or entity for the sole and exclusive use~~
17 ~~of such person, entity, or affiliate thereof, including the provision~~
18 ~~of private shared telecommunications services by such person or entity.~~
19 ~~"Private telecommunications system" does not include a system offered~~
20 ~~for hire, sale, or resale to the general public.))~~

21 (16) "Local exchange company" means a telecommunications company
22 providing local exchange telecommunications service.

23 (17) "Noncompetitive telecommunications service" means any service
24 which has not been classified as competitive by the commission.

25 (18) "Person" includes an individual, a firm, or partnership.

26 (19) "Private shared telecommunications services" includes the
27 provision of telecommunications and information management services and
28 equipment within a user group located in discrete private premises in
29 building complexes, campuses, or high-rise buildings, by a commercial
30 shared services provider or by a user association, through privately
31 owned customer premises equipment and associated data processing and
32 information management services and includes the provision of
33 connections to the facilities of a local exchange and to interexchange
34 telecommunications companies.

35 (20) "Private switch automatic location identification service"
36 means a service that enables automatic location identification to be
37 provided to a public safety answering point for 911 calls originating
38 from station lines served by a private switch system.

1 (21) "Private telecommunications system" means a telecommunications
2 system controlled by a person or entity for the sole and exclusive use
3 of such person, entity, or affiliate thereof, including the provision
4 of private shared telecommunications services by such person or entity.
5 "Private telecommunications system" does not include a system offered
6 for hire, sale, or resale to the general public.

7 (22) "Public service company" includes every gas company,
8 electrical company, telecommunications company, and water company.
9 Ownership or operation of a cogeneration facility does not, by itself,
10 make a company or person a public service company.

11 (23) "Radio communications service company" includes every
12 corporation, company, association, joint stock association,
13 partnership, and person, their lessees, trustees, or receivers
14 appointed by any court, and every city or town making available
15 facilities to provide radio communications service, radio paging, or
16 cellular communications service for hire, sale, or resale.

17 (24) The term "service" is used in this title in its broadest and
18 most inclusive sense.

19 (25) "Telecommunications" is the transmission of information by
20 wire, radio, optical cable, electromagnetic, or other similar means.
21 As used in this definition, "information" means knowledge or
22 intelligence represented by any form of writing, signs, signals,
23 pictures, sounds, or any other symbols.

24 (26) "Telecommunications company" includes every corporation,
25 company, association, joint stock association, partnership and person,
26 their lessees, trustees or receivers appointed by any court whatsoever,
27 and every city or town owning, operating or managing any facilities
28 used to provide telecommunications for hire, sale, or resale to the
29 general public within this state.

30 ~~(("Noncompetitive telecommunications service" means any service~~
31 ~~which has not been classified as competitive by the commission.~~

32 ~~"Facilities" means lines, conduits, ducts, poles, wires, cables,~~
33 ~~cross-arms, receivers, transmitters, instruments, machines, appliances,~~
34 ~~instrumentalities and all devices, real estate, easements, apparatus,~~
35 ~~property and routes used, operated, owned or controlled by any~~
36 ~~telecommunications company to facilitate the provision of~~
37 ~~telecommunications service.~~

38 ~~"Telecommunications" is the transmission of information by wire,~~
39 ~~radio, optical cable, electromagnetic, or other similar means. As used~~

1 ~~in this definition, "information" means knowledge or intelligence~~
2 ~~represented by any form of writing, signs, signals, pictures, sounds,~~
3 ~~or any other symbols.~~

4 ~~"Water system" includes all real estate, easements, fixtures,~~
5 ~~personal property, dams, dikes, head gates, weirs, canals, reservoirs,~~
6 ~~flumes or other structures or appliances operated, owned, used or to be~~
7 ~~used for or in connection with or to facilitate the supply, storage,~~
8 ~~distribution, sale, furnishing, diversion, carriage, apportionment or~~
9 ~~measurement of water for power, irrigation, reclamation, manufacturing,~~
10 ~~municipal, domestic or other beneficial uses for hire.))~~

11 (27) "Water company" includes every corporation, company,
12 association, joint stock association, partnership and person, their
13 lessees, trustees or receivers appointed by any court whatsoever, and
14 every city or town owning, controlling, operating, or managing any
15 water system for hire within this state: PROVIDED, That for purposes
16 of commission jurisdiction it shall not include any water system
17 serving less than one hundred customers where the average annual gross
18 revenue per customer does not exceed three hundred dollars per year,
19 which revenue figure may be increased annually by the commission by
20 rule adopted pursuant to chapter 34.05 RCW to reflect the rate of
21 inflation as determined by the implicit price deflator of the United
22 States department of commerce: AND PROVIDED FURTHER, That such
23 measurement of customers or revenues shall include all portions of
24 water companies having common ownership or control, regardless of
25 location or corporate designation. "Control" as used herein shall be
26 defined by the commission by rule and shall not include management by
27 a satellite agency as defined in chapter 70.116 RCW if the satellite
28 agency is not an owner of the water company. "Water company" also
29 includes, for auditing purposes only, nonmunicipal water systems which
30 are referred to the commission pursuant to an administrative order from
31 the department, or the city or county as provided in RCW 80.04.110.
32 However, water companies exempt from commission regulation shall be
33 subject to the provisions of chapter 19.86 RCW. A water company cannot
34 be removed from regulation except with the approval of the commission.
35 Water companies subject to regulation may petition the commission for
36 removal from regulation if the number of customers falls below one
37 hundred or the average annual revenue per customer falls below three
38 hundred dollars. The commission is authorized to maintain continued
39 regulation if it finds that the public interest so requires.

1 (~~"Cogeneration facility" means any machinery, equipment,~~
2 ~~structure, process, or property, or any part thereof, installed or~~
3 ~~acquired for the primary purpose of the sequential generation of~~
4 ~~electrical or mechanical power and useful heat from the same primary~~
5 ~~energy source or fuel.~~

6 ~~"Public service company" includes every gas company, electrical~~
7 ~~company, telecommunications company, and water company. Ownership or~~
8 ~~operation of a cogeneration facility does not, by itself, make a~~
9 ~~company or person a public service company.~~

10 ~~"Local exchange company" means a telecommunications company~~
11 ~~providing local exchange telecommunications service.~~

12 ~~"Department" means the department of health.~~

13 ~~The term "service" is used in this title in its broadest and most~~
14 ~~inclusive sense.)~~

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

22 NEW SECTION. Sec. 4. A new section is added to chapter 80.28 RCW
23 to read as follows:

24 An electric service cooperative organized under chapter 23.86 RCW
25 is subject to the jurisdiction of the commission with respect to its
26 rates and services and shall comply with the requirements of this title
27 to the same extent as other electrical companies regulated under this
28 title.

29 NEW SECTION. Sec. 5. RCW 23.86.400 (Locally regulated utilities--
30 Attachments to poles) and 1996 c 32 s 1 are each repealed.

31 NEW SECTION. Sec. 6. This act takes effect September 1, 2000.

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