CERTIFICATION OF ENROLLMENT

**ENGROSSED SUBSTITUTE HOUSE BILL 2131**

68th Legislature

2024 Regular Session

|  |  |
| --- | --- |
| Passed by the House March 5, 2024  Yeas 96 Nays 0  **Speaker of the House of Representatives**  Passed by the Senate March 1, 2024  Yeas 49 Nays 0  **President of the Senate** | CERTIFICATE  I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2131** as passed by the House of Representatives and the Senate on the dates hereon set forth.  Chief Clerk |
| Approved |  |
| **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ENGROSSED SUBSTITUTE HOUSE BILL 2131**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

AS AMENDED BY THE SENATE

Passed Legislature - 2024 Regular Session

**State of Washington 68th Legislature 2024 Regular Session**

**By** House Environment & Energy (originally sponsored by Representatives Ramel, Slatter, Simmons, Reed, Riccelli, Doglio, and Hackney)

AN ACT Relating to promoting the establishment of thermal energy networks; amending RCW 80.04.010 and 80.28.110; adding new sections to chapter 80.28 RCW; adding a new section to chapter 43.31 RCW; adding a new section to chapter 44.28 RCW; and adding a new section to chapter 54.16 RCW.

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

**Sec.**  RCW 80.04.010 and 2021 c 65 s 93 are each amended to read as follows:

((~~As used in this title, unless specifically defined otherwise or unless the context indicates otherwise:~~)) The definitions in this section apply throughout this title unless the context clearly requires otherwise.

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

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

(3) "Battery charging facility" includes a "battery charging station" and a "rapid charging station" as defined in RCW 82.08.816.

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

(5) "Commission" means the utilities and transportation commission.

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

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

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

(9) "Corporation" includes a corporation, company, association or joint stock association.

(10) "Department" means the department of health.

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

(12)(a) "Electrical company" includes any corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever (other than a railroad or street railroad company generating electricity solely for railroad or street railroad purposes or for the use of its tenants and not for sale to others), and every city or town owning, operating or managing any electric plant for hire within this state. An electrical company may own, operate, or manage any thermal energy network within this state.

(b) "Electrical company" does not include a company or person employing a cogeneration facility solely for the generation of electricity for its own use or the use of its tenants or for sale to an electrical company, state or local public agency, municipal corporation, or quasi municipal corporation engaged in the sale or distribution of electrical energy, but not for sale to others, unless such company or person is otherwise an electrical company.

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

(14) "Gas company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receiver appointed by any court whatsoever, and every city or town, owning, controlling, operating or managing any gas plant within this state. A gas company may own, control, operate, or manage any thermal energy network within this state.

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

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

(17) "Local exchange company" means a telecommunications company providing local exchange telecommunications service.

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

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

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

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

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

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

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

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

(25) "Service" is used in this title in its broadest and most inclusive sense.

(26) "System of sewerage" means collection, treatment, and disposal facilities and services for sewerage, or storm or surface water runoff.

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

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

(29) "Thermal energy" means piped noncombustible fluids used for transferring heat into and out of buildings for the purpose of either: (a) Eliminating any resultant on-site greenhouse gas emissions of all types of heating and cooling processes including, but not limited to, comfort heating and cooling, domestic hot water, and refrigeration; (b) improving energy efficiency; or (c) both (a) and (b) of this subsection.

(30) "Thermal energy network" means all real estate, fixtures, and personal property operated, owned, used, or to be used for or in connection with or to facilitate a utility-scale distribution infrastructure project that supplies thermal energy. A thermal energy network may not rely on combustion to create thermal energy, except for emergency backup purposes.

(31)(a) "Wastewater company" means a corporation, company, association, joint stock association, partnership and person, their lessees, trustees, or receivers that owns or proposes to develop and own a system of sewerage that is designed for a peak flow of ((~~twenty-seven thousand to one hundred thousand~~)) 27,000 to 100,000 gallons per day if treatment is by a large on‑site sewerage system, or to serve one hundred or more customers.

(b) For purposes of commission jurisdiction, wastewater company does not include: (i) Municipal, county, or other publicly owned systems of sewerage; or (ii) wastewater company service to customers outside of an urban growth area as defined in RCW 36.70A.030.

((~~(30)~~)) (32)(a) "Water company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, controlling, operating, or managing any water system for hire within this state.

(b) For purposes of commission jurisdiction, "water company" does not include any water system serving less than ((~~one hundred~~)) 100 customers where the average annual gross revenue per customer does not exceed ((~~three hundred dollars~~)) $300 per year, which revenue figure may be increased annually by the commission by rule adopted pursuant to chapter 34.05 RCW to reflect the rate of inflation as determined by the implicit price deflator of the United States department of commerce. The measurement of customers or revenues must include all portions of water companies having common ownership or control, regardless of location or corporate designation.

(c) "Control" is defined by the commission by rule and does not include management by a satellite agency as defined in chapter 70A.100 RCW if the satellite agency is not an owner of the water company.

(d) "Water company" also includes, for auditing purposes only, nonmunicipal water systems which are referred to the commission pursuant to an administrative order from the department, or the city or county as provided in RCW 80.04.110.

(e) Water companies exempt from commission regulation are subject to the provisions of chapter 19.86 RCW. A water company cannot be removed from regulation except with the approval of the commission. Water companies subject to regulation may petition the commission for removal from regulation if the number of customers falls below ((~~one hundred~~)) 100 or the average annual revenue per customer falls below ((~~three hundred dollars~~)) $300. The commission is authorized to maintain continued regulation if it finds that the public interest so requires.

((~~(31)~~)) (33) "Water system" includes all real estate, easements, fixtures, personal property, dams, dikes, head gates, weirs, canals, reservoirs, flumes or other structures or appliances operated, owned, used or to be used for or in connection with or to facilitate the supply, storage, distribution, sale, furnishing, diversion, carriage, apportionment or measurement of water for power, irrigation, reclamation, manufacturing, municipal, domestic or other beneficial uses for hire.

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

(1) Any gas company and any electrical company may deploy a thermal energy network within their service territories, in accordance with section 3 of this act. If a gas company or electrical company intends to deploy a thermal energy network, the company must submit the project for review and validation of costs assessments to the commission, in the case of an investor-owned gas company or electrical company, or to the governing body of the utility, in the case of a consumer-owned gas company or electrical company.

(2) For an investor-owned gas company or investor-owned electrical company, if the commission validates the costs assessments selection of a thermal energy network, the company may propose to recover the costs of building and operating the project from ratepayers in a rate case filing before the commission. The commission's validation of the utility's costs assessment of a thermal energy network resource does not constitute a prudency finding by the commission or a finding that the resource is used and useful for rate-making purposes.

(3) Companies exempt from commission oversight under RCW 80.04.550 are not subject to regulation by the commission under this chapter.

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

A thermal energy network pilot project program is established.

(1) The department of commerce may award grants for the thermal energy network pilot project program in accordance with section 4 of this act.

(2)(a) A gas company has priority for developing thermal energy network pilot projects in the gas company's service territory, but the gas company must announce in writing to the commission its intention to deploy a pilot project in a specific location within 12 months of the effective date of this section and then must deploy a pilot project within 30 months of the effective date of this section to maintain this priority. The gas company may request an extension of these deadlines and the commission may approve the extension if the commission determines the gas company is making substantial progress towards deploying a thermal energy network.

(b) In a specific location where an existing thermal energy company has deployed or is developing a thermal energy network, the commission may opt to not provide priority to the gas company for that location.

(3) When reviewing a thermal energy network pilot project for approval, the commission must consider the following information related to the pilot project:

(a) The number and type of customers served, including the percent of low-income customers served;

(b) The use of the existing natural gas workforce and other labor considerations, such as efforts to transition the natural gas workforce to thermal energy work, training, recruiting, job creation and retention, payment of prevailing wages, and state-registered apprenticeship utilization;

(c) The ability to maintain infrastructure safety and reliability;

(d) The ability to meet 100 percent of the pilot project customers' demand for space heating;

(e) Whether the pilot project creates benefits to customers, communities, and society at large including, but not limited to, public health benefits such as improved air quality in areas with disproportionate environmental or public health burdens and disadvantaged communities as identified by the environmental health disparities map described in RCW 43.70.815, and increased affordability of thermal energy options;

(f) Coordination with any electric utility providing electrical service to areas served by the pilot project;

(g) Whether the pilot project furthers the climate justice mandates of chapter 70A.02 RCW and the emissions reduction mandates of chapter 70A.45 RCW;

(h) Whether the pilot project advances financial and technical approaches to equitable and affordable building electrification;

(i) Whether the pilot project will develop information useful for the commission's adoption of rules governing thermal energy networks;

(j) Enrollment in an electric utility demand response program;

(k) The potential to enable gas pipeline decommissioning and its potential to supplant the need for gas pipeline replacement and the need to spend on gas pipeline replacement programs; and

(l) Whether the thermal energy network is a distributed system that uses ambient temperature fluid and high-efficiency heat pump equipment in each building in the network.

(4) When reviewing a thermal energy network pilot project for approval, the commission may also consider the following information related to the pilot project:

(a) Greenhouse gas emissions reductions;

(b) The use of waste heat, ground-source heat, geothermal resources, or other nonfossil fuel and noncombustion sources, and the use of electric heat pumps;

(c) The ability to provide the pilot project customers' hot water demands;

(d) The ability to provide the pilot project customers' cooling demands; and

(e) The consideration of options to provide thermal energy storage.

(5) Thermal energy network pilot projects under review by the commission are subject to a public comment period of no less than 30 days.

(6) When submitting a thermal energy network pilot project to the commission for review, a gas or electrical company must include specific metrics that the company proposes to use to evaluate the pilot project. These metrics are intended to help inform the commission's rule making and rate making and specifically to help inform any future standardized metrics that the commission may adopt for thermal energy network pilot projects.

NEW SECTION. **Sec.**  A new section is added to chapter 43.31 RCW to read as follows:

(1) The department of commerce shall award grants for thermal energy network pilot projects.

(2) Subject to the availability of amounts appropriated for this specific purpose, the department of commerce must provide grant funding to any gas company developing a thermal energy network pilot project in accordance with this section.

(3) Grant funding from the appropriation authorized in this section for thermal energy network pilot projects is only available for gas companies as defined in RCW 80.04.010.

(4) A gas company may receive grant funding from the department of commerce to offset the costs necessary to build and operate the project. The grant amount for a pilot project may not exceed the difference between the gas company's lowest reasonable cost resources under its current business practices and the costs of building and operating the thermal energy network pilot project. The utilities and transportation commission must determine this cost difference and provide the dollar amount to the department of commerce for the purposes of making the grant.

(5) When determining whether to award a grant and the grant amount for a thermal energy network pilot project, the department of commerce must consider the information submitted by the gas company in compliance with section 3 (3) and (4) of this act and any finding or conclusions of the utilities and transportation commission regarding the pilot project. The department of commerce may also allocate available funds to prioritize projects based on their cost-effectiveness and geographic diversity.

(6) Each gas company receiving a grant from the department of commerce for a thermal energy network pilot project must coordinate with other grant awardees, the utilities and transportation commission, the department of commerce, and consultants with expertise on successful thermal energy networks to ensure that the pilot projects are diverse and designed to inform the utilities and transportation commission's decisions in the proceeding on the various ownership, market, and rate structures for thermal energy networks.

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

(1) Prior to deploying a thermal energy network pilot project, an investor-owned gas company must issue a request for proposals for a thermal energy network pilot project. When reviewing the proposals, the investor-owned gas company must compare the cost of deployment of a proposed thermal energy network pilot project to the lowest reasonable cost alternative resource for heating services under the gas company's current business practices. This cost comparison must be shared with the commission and considered in calculating grant award amounts as determined pursuant to section 4(4) of this act.

(2) An investor-owned gas company may petition the commission to use an alternative process from the process described in subsection (1) of this section to estimate the cost to deploy a thermal energy network pilot project. The commission must review such a petition and then accept, deny, or accept with modifications such an alternative process.

**Sec.**  RCW 80.28.110 and 2021 c 65 s 97 are each amended to read as follows:

Every gas company, electrical company, wastewater company, or water company, engaged in the sale and distribution of gas, electricity or water or the provision of wastewater company services, shall, upon reasonable notice, furnish to all persons and corporations who may apply therefor and be reasonably entitled thereto, suitable facilities for furnishing and furnish all available gas, electricity, wastewater company services, and water as demanded, except that ((~~a~~)): (1) A water company may not furnish water contrary to the provisions of water system plans approved under chapter 43.20 or 70A.100 RCW ((~~and~~)); (2) wastewater companies may not provide services contrary to the approved general sewer plan; and (3) exclusively upon petition of a gas company, and subject to the commission's approval, a gas company's obligation to serve gas to customers that have access to the gas company's thermal energy network may be met by providing thermal energy through a thermal energy network.

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

(1) In any multiyear rate plan proposed by a natural gas company or combination utility, the company may propose a merger into a single rate base of its regulated gas operations with its operation of a thermal energy network. The commission may approve the merger of gas and thermal energy rate bases if the commission finds that such a merger is in the public interest.

(2) For a natural gas company or combination utility that has merged gas and thermal energy rate bases, the natural gas company or combination utility must monetize benefits received from any applicable federal and state tax and other incentives for the benefit of customers. These benefits must be separately accounted for and amortized on a schedule designed to mitigate the rate impacts to customers after the rate bases are combined. These credits may not be used for any other purpose, unless directed by the commission.

NEW SECTION. **Sec.**  A new section is added to chapter 44.28 RCW to read as follows:

The joint committee shall conduct an evaluation of the implementation of the thermal energy network pilot project program as outlined in this act and report to the appropriate committees of the legislature on the results of the evaluation no later than three years after the effective date of this section. The report must include an evaluation of how all pilot projects, including those that have been deployed and those that are in the process of deployment, address the considerations outlined in sections 3 and 4 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 54.16 RCW to read as follows:

A public utility district formed under this title may own, operate, or manage any thermal energy network, as defined in RCW 80.04.010, within this state. If a public utility district intends to deploy a thermal energy network, the public utility district must submit the project for review and approval to its governing body.

**--- END ---**