

Chapter 80.32 RCW
ELECTRIC FRANCHISES AND RIGHTS-OF-WAY

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**RCW 80.32.010 Cities and counties may grant franchises—
Procedure—Liability to restore road for travel.** The legislative authority of the city or town having control of any public street or road, or, where the street or road is not within the limits of any incorporated city or town, then the county legislative authority of the county wherein the road or street is situated, may grant authority for the construction, maintenance and operation of transmission lines for transmitting electric power, together with poles, wires and other appurtenances, upon, over, along and across any such public street or road, and in granting this authority the legislative authority of the city or town, or the county legislative authority, as the case may be, may prescribe the terms and conditions on which the transmission line and its appurtenances, shall be constructed, maintained and operated upon, over, along and across the road or street, and the grade or elevation at which the same shall be constructed, maintained and operated: PROVIDED, That on application being made to the county legislative authority for such authority, the county legislative authority shall fix a time and place for hearing the same, and shall cause the county auditor to give public notice thereof at the expense of the applicant, by posting written or printed notices in three public places in the county seat of the county, and in at least one conspicuous place on the road or street or part thereof, for which application is made, at least fifteen days before the day fixed for such hearing, and by publishing a like notice once a week for two consecutive weeks in the official county newspaper, the last publication to be at least five days before the day fixed for the hearing, which notice shall state the name or names of the applicant or applicants, a description of the roads or streets or parts thereof for which the application is made, and the time and place fixed for the hearing. The hearing may be adjourned from time to time by order of the county legislative authority. If after such hearing the county legislative authority shall deem it to be for the public interest to grant the authority in whole or in part, it may make and enter the proper order granting the authority applied for or such part thereof as it deems to be for the public interest, and shall require the transmission line and its appurtenances to be placed in such location on or along the road or street as it finds will cause the least interference with other uses of the road or street. In case any such

transmission line is or shall be located in part on private right-of-way, the owner thereof shall have the right to construct and operate the same across any county road or county street which intersects the private right-of-way, if the crossing is so constructed and maintained as to do no unnecessary damage: PROVIDED, That any person or corporation constructing the crossing or operating the transmission line on or along the county road or county street shall be liable to the county for all necessary expense incurred in restoring the county road or county street to a suitable condition for travel. [1985 c 469 § 62; 1961 c 14 § 80.32.010. Prior: 1903 c 173 § 1; RRS § 5430. Formerly RCW 80.32.010, 80.32.020, and 80.32.030.]

RCW 80.32.040 Grant of franchise subject to referendum. All grants of franchises or rights for the conduct or distribution of electric energy, electric power, or electric light within any city or town of the state of Washington by the city council or other legislative body or legislative authority thereof, whether granted by ordinance, resolution, or other form of grant, contract, permission or license, shall be subject to popular referendum under the general laws of this state heretofore or hereafter enacted, or as may be provided by the charter provisions, heretofore or hereafter adopted, of any such city or town: PROVIDED, That no petition for referendum may be filed after six months from the date of ordinance, resolution, or other form of grant, contract, permission, or license granting such franchise. [1961 c 14 § 80.32.040. Prior: (i) 1941 c 114 § 1; Rem. Supp. 1941 § 5430-1. (ii) 1941 c 114 § 2; Rem. Supp. 1941 § 5430-2.]

RCW 80.32.050 Sale or lease of plant and franchises. Any corporation incorporated or that may hereafter be incorporated under the laws of this state or any state or territory of the United States, for the purpose of manufacturing, transmitting or selling electric power, may lease or purchase and operate (except in cases where such lease or purchase is prohibited by the Constitution of this state) the whole or any part of the plant for manufacturing or distributing electric power or energy of any other corporation, heretofore or hereafter constructed, together with the franchises, powers, immunities and all other property or appurtenances appertaining thereto: PROVIDED, That such lease or purchase has been or shall be consented to by stockholders of record holding at least two-thirds in amount of the capital stock or the lessor or grantor corporation; and all such leases and purchases made or entered into prior to the effective date of chapter 173, Laws of 1903, by consent of stockholders as aforesaid are for all intents and purposes hereby ratified and confirmed, saving, however, any vested rights of private parties. [1961 c 14 § 80.32.050. Prior: 1903 c 173 § 3; RRS § 5431.]

RCW 80.32.060 Eminent domain. Every corporation, incorporated or that may hereafter be incorporated under the laws of this state, or of any other state or territory of the United States, and doing business in this state, for the purpose of manufacturing or transmitting electric power, shall have the right to appropriate real estate and other property for right-of-way or for any corporate purpose, in the same manner and under the same procedure as now is or may hereafter be provided by law in the case of ordinary railroad

corporations authorized by the laws of this state to exercise the right of eminent domain: PROVIDED, That such right of eminent domain shall not be exercised with respect to any public road or street until the location of the transmission line thereon has been authorized in accordance with RCW 80.32.010. [1961 c 14 § 80.32.060. Prior: 1903 c 173 § 2; No RRS.]

Eminent domain by corporations generally: Chapter 8.20 RCW.

RCW 80.32.070 Right of entry. Every such corporation shall have the right to enter upon any land between the termini of the proposed lines for the purpose of examining, locating and surveying such lines, doing no unnecessary damage thereby. [1961 c 14 § 80.32.070. Prior: 1899 c 94 § 2; RRS § 11085.]

RCW 80.32.080 Duties of electrical companies exercising power of eminent domain. Any corporation authorized to do business in this state, which, under the present laws of the state, is authorized to condemn property for the purpose of generating and transmitting electrical power for the operation of railroads or railways, or for municipal lighting, and which by its charter or articles of incorporation, assumes the additional right to sell electric power and electric light to private consumers outside the limits of a municipality and to sell electric power to private consumers within the limits of a municipality, which shall provide in its articles that in respect of the purposes mentioned in this section it will assume and undertake to the state and to the inhabitants thereof the duties and obligations of a public service corporation, shall be deemed to be in respect of such purposes a public service corporation, and shall be held to all the duties, obligations and control, which by law are or may be imposed upon public service corporations. Any such corporation shall have the right to sell electric light outside the limits of a municipality and electric power both inside and outside such limits to private consumers from the electricity generated and transmitted by it for public purposes and not needed by it therefor: PROVIDED, That such corporation shall furnish such excess power at equal rates, quantity and conditions considered, to all consumers alike, and shall supply it to the first applicants therefor until the amount available shall be exhausted: PROVIDED FURTHER, That no such corporation shall be obliged to furnish such excess power to any one consumer to an amount exceeding twenty-five percent of the total amount of such excess power generated or transmitted by it. In exercising the power of eminent domain for public purposes it shall not be an objection thereto that a portion of the electric current generated will be applied to private purposes, provided the principal uses intended are public: PROVIDED, That all public service or quasi public service corporations shall at no time sell, deliver and dispose of electrical power in bulk to manufacturing concerns at the expense of its public service functions, and any person, firm or corporation that is a patron of such corporation as to such public function, shall have the right to apply to any court of competent jurisdiction to correct any violation of the provisions of RCW 80.32.080 through 80.32.100. [1961 c 14 § 80.32.080. Prior: 1907 c 159 § 1; RRS § 5432.]

RCW 80.32.090 Limitation on use of electricity. Whenever any corporation has acquired any property by decree of appropriation based on proceedings in court under the provisions of RCW 80.32.080 through 80.32.100, no portion of the electricity generated or transmitted by it by means of the property appropriated under the provisions of RCW 80.32.080 through 80.32.100 shall be used or applied by such corporation for or to a business or trade not under the present laws deemed public or quasi public conducted by itself. [1961 c 14 § 80.32.090. Prior: 1907 c 159 § 2; RRS § 5433.]

RCW 80.32.100 Remedy for violations. In the event of the violation of any of the requirements of RCW 80.32.080 and 80.32.090 by any corporation availing itself of its provisions, an appropriate suit may be maintained in the name of the state upon the relation of the attorney general, or, if he or she shall refuse or neglect to act, upon the relation of any individual aggrieved by the violation, or violations, complained of, to compel such corporation to comply with the requirements of RCW 80.32.080 and 80.32.090. A violation of RCW 80.32.080 and 80.32.090 shall cause the forfeiture of the corporate franchise if the corporation refuses or neglects to comply with the orders with respect thereto made in the suit herein provided for. [2013 c 23 § 281; 1961 c 14 § 80.32.100. Prior: 1907 c 159 § 3; RRS § 5434.]