
ENGROSSED SUBSTITUTE HOUSE BILL 2131

State of Washington

68th Legislature

2024 Regular Session

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

READ FIRST TIME 01/26/24.

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

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

7 **Sec. 1.** RCW 80.04.010 and 2021 c 65 s 93 are each amended to
8 read as follows:

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

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

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

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

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

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

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

14 (8) "Competitive telecommunications service" means a service
15 which has been classified as such by the commission pursuant to RCW
16 80.36.330.

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

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

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

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

37 (b) "Electrical company" does not include a company or person
38 employing a cogeneration facility solely for the generation of
39 electricity for its own use or the use of its tenants or for sale to
40 an electrical company, state or local public agency, municipal

1 corporation, or quasi municipal corporation engaged in the sale or
2 distribution of electrical energy, but not for sale to others, unless
3 such company or person is otherwise an electrical company.

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

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

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

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

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

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

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

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

38 (21) "Private switch automatic location identification service"
39 means a service that enables automatic location identification to be

1 provided to a public safety answering point for 911 calls originating
2 from station lines served by a private switch system.

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

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

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

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

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

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

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

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

37 (29) "Thermal energy" means piped noncombustible fluids used for
38 transferring heat into and out of buildings for the purpose of
39 either: (a) Eliminating any resultant on-site greenhouse gas
40 emissions of all types of heating and cooling processes including,

1 but not limited to, comfort heating and cooling, domestic hot water,
2 and refrigeration; (b) improving energy efficiency; or (c) both (a)
3 and (b) of this subsection.

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

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

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

21 ~~((30))~~ (32) (a) "Water company" includes every corporation,
22 company, association, joint stock association, partnership and
23 person, their lessees, trustees or receivers appointed by any court
24 whatsoever, and every city or town owning, controlling, operating, or
25 managing any water system for hire within this state.

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

36 (c) "Control" is defined by the commission by rule and does not
37 include management by a satellite agency as defined in chapter
38 70A.100 RCW if the satellite agency is not an owner of the water
39 company.

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

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

14 (~~(31)~~) (33) "Water system" includes all real estate, easements,
15 fixtures, personal property, dams, dikes, head gates, weirs, canals,
16 reservoirs, flumes or other structures or appliances operated, owned,
17 used or to be used for or in connection with or to facilitate the
18 supply, storage, distribution, sale, furnishing, diversion, carriage,
19 apportionment or measurement of water for power, irrigation,
20 reclamation, manufacturing, municipal, domestic or other beneficial
21 uses for hire.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 80.28
23 RCW to read as follows:

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

32 (2) For an investor-owned gas company or investor-owned
33 electrical company, if the commission validates the costs assessments
34 selection of a thermal energy network, the company may propose to
35 recover the costs of building and operating the project from
36 ratepayers in a rate case filing before the commission. The
37 commission's validation of the utility's costs assessment of a
38 thermal energy network resource does not constitute a prudency

1 finding by the commission or a finding that the resource is used and
2 useful for rate-making purposes.

3 (3) Companies exempt from commission oversight under RCW
4 80.04.550 are not subject to regulation by the commission under this
5 chapter.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 80.28
7 RCW to read as follows:

8 A thermal energy network pilot project program is established.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (a) Greenhouse gas emissions reductions;

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

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

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

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

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

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

8 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.31
9 RCW to read as follows:

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

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

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

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

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

36 (6) Each gas company receiving a grant from the department of
37 commerce for a thermal energy network pilot project must coordinate
38 with other grant awardees, the utilities and transportation
39 commission, the department of commerce, and consultants with

1 expertise on successful thermal energy networks to ensure that the
2 pilot projects are diverse and designed to inform the utilities and
3 transportation commission's decisions in the proceeding on the
4 various ownership, market, and rate structures for thermal energy
5 networks.

6 NEW SECTION. **Sec. 5.** A new section is added to chapter 80.28
7 RCW to read as follows:

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

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

23 **Sec. 6.** RCW 80.28.110 and 2021 c 65 s 97 are each amended to
24 read as follows:

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

1 network may be met by providing thermal energy through a thermal
2 energy network.

3 NEW SECTION. Sec. 7. A new section is added to chapter 80.28
4 RCW to read as follows:

5 (1) In any multiyear rate plan proposed by a natural gas company
6 or combination utility, the company may propose a merger into a
7 single rate base of its regulated gas operations with its operation
8 of a thermal energy network. The commission may approve the merger of
9 gas and thermal energy rate bases if the commission finds that such a
10 merger is in the public interest. In approving a merger of a gas and
11 thermal energy rate base, the commission must avoid commercial and
12 residential rate classes subsidizing industrial rate classes.

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

21 NEW SECTION. Sec. 8. A new section is added to chapter 44.28
22 RCW to read as follows:

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

31 NEW SECTION. Sec. 9. A new section is added to chapter 54.16
32 RCW to read as follows:

33 A public utility district formed under this title may own,
34 operate, or manage any thermal energy network, as defined in RCW
35 80.04.010, within this state. If a public utility district intends to

- 1 deploy a thermal energy network, the public utility district must
- 2 submit the project for review and approval to its governing body.

--- **END** ---