

Chapter 80.04 RCW
REGULATIONS—GENERAL

Sections

- 80.04.010 Definitions.
- 80.04.015 Conduct of business subject to regulation—Determination by commission.
- 80.04.020 Procedure before commission and courts.
- 80.04.030 Number of witnesses may be limited.
- 80.04.040 Witness fees and mileage.
- 80.04.050 Protection against self-incrimination.
- 80.04.060 Depositions—Service of process.
- 80.04.070 Inspection of books, papers, and documents.
- 80.04.075 Manner of serving papers.
- 80.04.080 Annual reports.
- 80.04.090 Forms of records to be prescribed.
- 80.04.095 Protection of records containing commercial information.
- 80.04.100 Production of out-of-state books and records.
- 80.04.110 Complaints—Hearings—Water systems not meeting board of health standards—Drinking water standards—Nonmunicipal water systems audits.
- 80.04.120 Hearing—Order—Record.
- 80.04.130 Suspension of tariff change—Mandatory measured telecommunications service—Washington telephone assistance program service—Effect of abandonment of electrical generation facility on which tax exemption for pollution control equipment is claimed—Waiver of provisions during state of emergency.
- 80.04.140 Order requiring joint action.
- 80.04.150 Remunerative rates cannot be changed without approval.
- 80.04.160 Rules and regulations.
- 80.04.170 Review of orders.
- 80.04.180 Supersedeas—Water companies seeking supersedeas.
- 80.04.190 Appellate review.
- 80.04.200 Rehearing before commission.
- 80.04.210 Commission may change orders.
- 80.04.220 Reparations.
- 80.04.230 Overcharges—Refund.
- 80.04.240 Action in court on reparations and overcharges.
- 80.04.250 Valuation of public service property—Authority of commission.
- 80.04.260 Summary proceedings.
- 80.04.270 Merchandise accounts to be kept separate.
- 80.04.280 Purchase and sale of stock by employees.
- 80.04.290 Sales of stock to employees and customers.
- 80.04.300 Budgets to be filed by companies—Supplementary budgets.
- 80.04.310 Commission's control over expenditures.
- 80.04.320 Budget rules.
- 80.04.330 Effect of unauthorized expenditure—Emergencies.
- 80.04.350 Depreciation and retirement accounts.
- 80.04.360 Earnings in excess of reasonable rate—Consideration in fixing rates.
- 80.04.380 Penalties—Violations by public service companies.
- 80.04.385 Penalties—Violations by officers, agents, and employees of public service companies.

80.04.387 Penalties—Violations by other corporations.
 80.04.390 Penalties—Violations by persons.
 80.04.400 Actions to recover penalties—Disposition of fines, penalties, and forfeitures.
 80.04.405 Additional penalties—Violations by public service companies and officers, agents, and employees thereof.
 80.04.410 Orders and rules conclusive.
 80.04.420 Intervention by commission where order or rule is involved.
 80.04.430 Findings of commission prima facie correct.
 80.04.440 Companies liable for damages.
 80.04.450 Certified copies of orders, rules, etc.—Evidentiary effect.
 80.04.460 Investigation of accidents.
 80.04.470 Commission to enforce public service laws—Employees as peace officers.
 80.04.480 Rights of action not released—Penalties cumulative.
 80.04.500 Application to municipal utilities.
 80.04.510 Duties of attorney general.
 80.04.520 Approval of lease of utility facilities.
 80.04.530 Local exchange company that serves less than two percent of state's access lines—Regulatory exemptions—Reporting requirements.
 80.04.550 Thermal energy—Restrictions on authority of commission.
 80.04.560 Finding.
 80.04.570 Power purchase agreement for acquisition of coal transition power.
 80.04.580 Regulatory fee on wastewater companies regulated by the commission—Rule-making authority.

RCW 80.04.010 Definitions. 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)(a) "Thermal energy company" means any private person, company, association, partnership, joint venture, or corporation engaged in or proposing to engage in thermal energy services, and may additionally engage in developing and producing thermal energy.

(b) A thermal energy company does not include any gas company, electrical company, or public utility district that owns, controls, operates, or manages a thermal energy network.

(c) A thermal energy company does not include a homeowners' association providing service to units solely within its own buildings.

(d) A thermal energy company does not include a company that develops, produces, or provides thermal energy independently from the company involved in the thermal energy distribution system.

(31) "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.

(32) "Thermal energy services" means transmitting, distributing, delivering, furnishing, or selling to or for the public thermal energy from a thermal energy system for any beneficial use other than electricity generation and includes such ancillary services as energy audits, metering, billing, maintenance, and repairs related to thermal energy.

(33) "Thermal energy system" means any system that provides thermal energy for space heating, space cooling, or process uses from a central plant, distributed plant, or combined heat and power facility, and that distributes the thermal energy to two or more buildings through a network of pipes. A thermal energy system includes, but is not limited to, a thermal energy network.

(34)(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 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.

(35)(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 100 customers where the average annual gross revenue per customer does not exceed \$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 100 or the average annual revenue per customer falls below \$300. The commission is authorized to maintain continued regulation if it finds that the public interest so requires.

(36) "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. [2025 c 263 s 1; 2024 c 348 s 1; 2021 c 65 s 93. Prior: 2011 c 214 s 2; 2011 c 28 s 1; 1995 c 243 s 2; 1991 c 100 s 1; 1989 c 101 s 2; 1987 c 229 s 1; prior: 1985 c 450 s 2; 1985 c 167 s 1; 1985 c 161 s 1; 1979 ex.s. c 191 s 10; 1977 ex.s. c 47 s 1; 1963 c 59 s 1; 1961 c 14 s 80.04.010; prior: 1955 c 316 s 2; prior: 1929 c 223 s 1, part; 1923 c 116 s 1, part; 1911 c 117 s 8, part; RRS s 10344, part.]

***Reviser's note:** RCW 82.08.816 expired July 1, 2025.

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

Findings—Purpose—2011 c 214: "The legislature recognizes the critical importance of infrastructure to the development of industrial, commercial, and residential properties and finds that infill development is often limited by the lack of infrastructure. The legislature further finds that in many areas, public funding to extend infrastructure is not available. It is the purpose of this act to allow private utilities to provide infrastructure needed for economic development in a manner that minimizes development sprawl." [2011 c 214 s 1.]

Limitation of chapter—2011 c 214: "Nothing in this act supersedes federal, state, or local government requirements to obtain a wastewater discharge permit or a large on-site sewerage system operating permit or other permits or licenses required by law in the state of Washington." [2011 c 214 s 30.]

Effective date—2011 c 214: "Except for section 29 of this act, this act takes effect July 1, 2012." [2011 c 214 s 32.]

Findings—Severability—1995 c 243: See notes following RCW 80.36.555.

RCW 80.04.015 Conduct of business subject to regulation—Determination by commission. Whether or not any person or corporation is conducting business subject to regulation under this title, or has performed or is performing any act requiring registration or approval

of the commission without securing such registration or approval, shall be a question of fact to be determined by the commission. Whenever the commission believes that any person or corporation is engaged in any activity without first complying with the requirements of this title, it may institute a special proceeding requiring such person or corporation to appear before the commission at a location convenient for witnesses and the production of evidence and produce information, books, records, accounts, and other memoranda, and give testimony under oath as to the activities being conducted. The commission may consider any and all facts that may indicate the true nature and extent of the operations or acts and may subpoena such witnesses and documents as it deems necessary.

After investigation, the commission is authorized and directed to issue the necessary order or orders declaring the activities to be subject to, or not subject to, the provisions of this title. In the event the activities are found to be subject to the provisions of this title, the commission shall issue such orders as may be necessary to require all parties involved in the activities to comply with this title, and with respect to services found to be reasonably available from alternative sources, to issue orders to cease and desist from providing jurisdictional services pending full compliance.

In proceedings under this section, no person or corporation may be excused from testifying or from producing any information, book, document, paper, or account before the commission when ordered to do so, on the ground that the testimony or evidence, information, book, document, or account required may tend to incriminate him or her or subject him or her to penalty or forfeiture specified in this title; but no person or corporation may be prosecuted, punished, or subjected to any penalty or forfeiture specified in this title for or on account of any account, transaction, matter, or thing concerning which he or she shall under oath have testified or produced documentary evidence in proceedings under this section: PROVIDED, That no person so testifying may be exempt from prosecution or punishment for any perjury committed by him or her in such testimony: PROVIDED FURTHER, That the exemption from prosecution in this section extends only to violations of this title.

Until July 1, 1994, in any proceeding instituted under this section to determine whether a person or corporation owning, controlling, operating, or managing a water system is subject to commission regulation, and where the person or corporation has failed or refused to provide sufficient information or documentation to enable the commission to make such a determination, the burden shall be on such person or corporation to prove that the person's or corporation's operations or acts are not subject to commission regulation. [1991 c 101 s 1; 1986 c 11 s 1.]

RCW 80.04.020 Procedure before commission and courts. Each commissioner shall have power to administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony in any inquiry, investigation, hearing, or proceeding in any part of the state.

The superior court of the county in which any such inquiry, investigation, hearing, or proceeding may be had, shall have power to compel the attendance of witnesses and the production of papers, books, accounts, documents, and testimony as required by such

subpoena. The commission or the commissioner before which the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by the subpoena, shall report to the superior court in and for the county in which the proceeding is pending by petition, setting forth that due notice has been given of the time and place of attendance of said witnesses, or the production of said papers, and that the witness has been summoned in the manner prescribed in this chapter, and that the fees and mileage of the witness have been paid or tendered to the witness for his or her attendance and testimony, and that the witness has failed and refused to attend or produce the papers required by the subpoena, before the commission, in the cause or proceedings named in the notice and subpoena, or has refused to answer questions propounded to him or her in the course of such proceeding, and ask an order of said court, compelling the witness to attend and testify before the commission. The court, upon the petition of the commission, shall enter an order directing the witness to appear before said court at a time and place to be fixed by the court in such order, and then and there show cause why he or she has not responded to said subpoena. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the commission, the court shall thereupon enter an order that said witness appear before the commission at said time and place as fixed in said order, and testify or produce the required papers, and upon failing to obey said order, said witness shall be dealt with as for contempt of court. [2013 c 23 s 270; 1961 c 14 s 80.04.020. Prior: 1911 c 117 s 75, part; RRS s 10413, part.]

RCW 80.04.030 Number of witnesses may be limited. In all proceedings before the commission the commission shall have the right, in their discretion, to limit the number of witnesses testifying upon any subject or proceeding to be inquired of before the commission. [1961 c 14 s 80.04.030. Prior: 1911 c 117 s 75, part; RRS s 10413, part.]

RCW 80.04.040 Witness fees and mileage. Each witness who shall appear under subpoena shall receive for his or her attendance four dollars per day and ten cents per mile traveled by the nearest practicable route in going to and returning from the place of hearing. No witness shall be entitled to fees or mileage from the state when summoned at the instance of the public service companies affected. [2013 c 23 s 271; 1961 c 14 s 80.04.040. Prior: 1955 c 79 s 1; 1911 c 117 s 76, part; RRS 10414, part.]

RCW 80.04.050 Protection against self-incrimination. The claim by any witness that any testimony sought to be elicited may tend to incriminate him or her shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding, excepting in a prosecution for perjury. The commissioner shall have power to compel the attendance of witnesses at any place within the state. [2013 c 23 s 272; 1961 c 14 s 80.04.050. Prior: 1911 c 117 s 76, part; RRS 10414, part.]

Powers of each commissioner to compel attendance of witnesses: RCW 80.04.020.

RCW 80.04.060 Depositions—Service of process. The commission shall have the right to take the testimony of any witness by deposition, and for that purpose the attendance of witnesses and the production of books, documents, papers and accounts may be enforced in the same manner as in the case of hearings before the commission, or any member thereof. Process issued under the provisions of this chapter shall be served as in civil cases. [1961 c 14 s 80.04.060. Prior: 1911 c 117 s 76, part; RRS s 10414, part.]

RCW 80.04.070 Inspection of books, papers, and documents. The commission and each commissioner, or any person employed by the commission, shall have the right, at any and all times, to inspect the accounts, books, papers, and documents of any public service company, and the commission, or any commissioner, may examine under oath any officer, agent, or employee of such public service company in relation thereto, and with reference to the affairs of such company: PROVIDED, That any person other than a commissioner who shall make any such demand shall produce his or her authority from the commission to make such inspection. [2013 c 23 s 273; 1961 c 14 s 80.04.070. Prior: 1911 c 117 s 77; RRS s 10415.]

RCW 80.04.075 Manner of serving papers. All notices, applications, complaints, findings of fact, opinions and orders required by this title to be served may be served by mail and service thereof shall be deemed complete when a true copy of such paper or document is deposited in the post office properly addressed and stamped. [1961 c 14 s 80.04.075. Prior: 1933 c 165 s 7; RRS s 10458-1. Formerly RCW 80.04.370.]

RCW 80.04.080 Annual reports. (1) Every public service company shall annually furnish to the commission a report in such form as the commission may require, and shall specifically answer all questions posed to it by the commission. The commission may prescribe a uniform system of accounts, and the manner in which such accounts shall be kept. Such detailed report shall contain all the required statistics for the period of twelve months ending on the last day of any particular month prescribed by the commission for any public service company. Such reports shall be made out under oath and filed with the commission at its office in Olympia on such date as the commission specifies by rule, unless additional time is granted by the commission.

(2) Any public service company that fails to file an annual report in the form and within the time required by the commission, including payment of any regulatory fee due, is subject to the following:

(a) Monetary penalties of:

(i) Two hundred fifty dollars for reports filed one to thirty days past the due date;

(ii) Five hundred dollars for reports filed thirty-one to sixty days past the due date;

(iii) One thousand dollars for reports filed sixty-one to ninety days past the due date; or

(b) Upon notice by the commission, cancellation or revocation of its operating authority and additional penalties pursuant to RCW 80.04.380 and 80.04.405.

(3) The commission may waive penalties when a public service company is able to sufficiently demonstrate that its failure to file an annual report in the form and within the time required was due to circumstances beyond its control. Requests for any such waiver must be received within fifteen days of the date a penalty is assessed.

(4) The commission shall have authority to require any public service company to file monthly reports of earnings and expenses, and to file periodical or special, or both periodical and special, reports concerning any matter about which the commission is authorized or required by this or any other law, to inquire into or keep itself informed about, or which it is required to enforce, such periodical or special reports to be under oath whenever the commission so requires. [2018 c 104 s 1; 1989 c 107 s 1; 1961 c 14 s 80.04.080. Prior: 1911 c 117 s 78, part; RRS s 10416, part.]

RCW 80.04.090 Forms of records to be prescribed. The commission may, in its discretion, prescribe the forms of any and all accounts, records and memoranda to be kept by public service companies, including the accounts, records and memoranda of the movement of traffic, sales of its product, the receipts and expenditures of money. The commission shall at all times have access to all accounts, records and memoranda kept by public service companies, and may employ special agents or examiners, who shall have power to administer oaths and authority, under the order of the commission, to examine witnesses and to inspect and examine any and all accounts, records and memoranda kept by such companies. The commission may, in its discretion, prescribe the forms of any and all reports, accounts, records and memoranda to be furnished and kept by any public service company whose line or lines extend beyond the limits of this state, which are operated partly within and partly without the state, so that the same shall show any information required by the commission concerning the traffic movement, receipts and expenditures appertaining to those parts of the line within the state. [1961 c 14 s 80.04.090. Prior: 1911 c 117 s 78, part; RRS s 10416, part.]

RCW 80.04.095 Protection of records containing commercial information. Records, subject to chapter 42.56 RCW, filed with the commission or the attorney general from any person which contain valuable commercial information, including trade secrets or confidential marketing, cost, or financial information, or customer-specific usage and network configuration and design information, shall not be subject to inspection or copying under chapter 42.56 RCW: (1) Until notice to the person or persons directly affected has been given; and (2) if, within ten days of the notice, the person has obtained a superior court order protecting the records as confidential. The court shall determine that the records are confidential and not subject to inspection and copying if disclosure would result in private loss, including an unfair competitive

disadvantage. When providing information to the commission or the attorney general, a person shall designate which records or portions of records contain valuable commercial information. Nothing in this section shall prevent the use of protective orders by the commission governing disclosure of proprietary or confidential information in contested proceedings. [2005 c 274 s 358; 1987 c 107 s 1.]

RCW 80.04.100 Production of out-of-state books and records. The commission may by order with or without hearing require the production within this state, at such time and place as it may designate, of any books, accounts, papers or records kept by any public service company in any office or place without this state, or at the option of the company verified copies thereof, so that an examination thereof may be made by the commission or under its direction. [1961 c 14 s 80.04.100. Prior: 1933 c 165 s 2; 1911 c 117 s 79; RRS s 10421.]

RCW 80.04.110 Complaints—Hearings—Water systems not meeting board of health standards—Drinking water standards—Nonmunicipal water systems audits. (1)(a) Complaint may be made by the commission of its own motion or by any person or corporation, chamber of commerce, board of trade, or any commercial, mercantile, agricultural or manufacturing society, or any body politic or municipal corporation, or by the public counsel section of the office of the attorney general, or its successor, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any public service corporation in violation, or claimed to be in violation, of any provision of this title, Title 81 RCW, or of any order or rule of the commission.

(b) No complaint may be entertained by the commission except upon its own motion, as to the reasonableness of the schedule of the rates or charges of any gas company, electrical company, water company, wastewater company, or telecommunications company, unless the same be signed by the mayor, council or commission of the city or town in which the company complained of is engaged in business, or not less than twenty-five consumers or purchasers of such gas, electricity, water, wastewater company services, or telecommunications service, or at least twenty-five percent of the consumers or purchasers of the company's service.

(c) When two or more public service corporations, (meaning to exclude municipal and other public corporations) are engaged in competition in any locality or localities in the state, either may make complaint against the other or others that the rates, charges, rules, regulations or practices of such other or others with or in respect to which the complainant is in competition, are unreasonable, unremunerative, discriminatory, illegal, unfair or intending or tending to oppress the complainant, to stifle competition, or to create or encourage the creation of monopoly, and upon such complaint or upon complaint of the commission upon its own motion, the commission has power, after notice and hearing as in other cases, to, by its order, subject to appeal as in other cases, correct the abuse complained of by establishing such uniform rates, charges, rules, regulations or practices in lieu of those complained of, to be observed by all of such competing public service corporations in the locality or localities specified as is found reasonable, remunerative, nondiscriminatory, legal, and fair or tending to prevent oppression or

monopoly or to encourage competition, and upon any such hearing it is proper for the commission to take into consideration the rates, charges, rules, regulations and practices of the public service corporation or corporations complained of in any other locality or localities in the state.

(2) All matters upon which complaint may be founded may be joined in one hearing, and no motion may be entertained against a complaint for misjoinder of complaints or grievances or misjoinder of parties; and in any review of the courts of orders of the commission the same rule shall apply and pertain with regard to the joinder of complaints and parties as herein provided. However, all grievances to be inquired into must be plainly set forth in the complaint. No complaint may be dismissed because of the absence of direct damage to the complainant.

(3) Upon the filing of a complaint, the commission shall cause a copy thereof to be served upon the person or corporation complained of, which must be accompanied by a notice fixing the time when and place where a hearing will be had upon such complaint. The time fixed for such hearing may not be less than ten days after the date of the service of such notice and complaint, excepting as herein provided. The commission shall enter its final order with respect to a complaint filed by any entity or person other than the commission within ten months from the date of filing of the complaint, unless the date is extended for cause. Rules of practice and procedure not otherwise provided for in this title may be prescribed by the commission. Such rules may include the requirement that a complainant use informal processes before filing a formal complaint.

(4) (a) The commission may, as appropriate, audit a nonmunicipal water system upon receipt of an administrative order from the department, or the city or county in which the water system is located, finding that the water delivered by a system does not meet state board of health standards adopted under RCW 43.20.050(2) (a) or standards adopted under chapters 70A.100 and 70A.125 RCW, and the results of the audit must be provided to the requesting department, city, or county. However, the number of nonmunicipal water systems referred to the commission in any one calendar year shall not exceed twenty percent of the water companies subject to commission regulation as defined in RCW 80.04.010.

(b) Every nonmunicipal water system referred to the commission for audit under this section shall pay to the commission an audit fee in an amount, based on the system's twelve-month audited period, equal to the fee required to be paid by regulated companies under RCW 80.24.010.

(5) Any customer or purchaser of service from a water system or company that is subject to commission regulation may file a complaint with the commission if he or she has reason to believe that the water delivered by the system to the customer does not meet state drinking water standards under chapter 43.20 or 70A.100 RCW. The commission shall investigate such a complaint, and shall request that the state department of health or local health department of the county in which the system is located test the water for compliance with state drinking water standards, and provide the results of such testing to the commission. The commission may decide not to investigate the complaint if it determines that the complaint has been filed in bad faith, or for the purpose of harassment of the water system or company, or for other reasons has no substantial merit. The water system or company shall bear the expense for the testing. After the commission has received the complaint from the customer and during the

pendency of the commission investigation, the water system or company may not take any steps to terminate service to the customer or to collect any amounts alleged to be owed to the company by the customer. The commission may issue an order or take any other action to ensure that no such steps are taken by the system or company. The customer may, at the customer's option and expense, obtain a water quality test by a licensed or otherwise qualified water testing laboratory, of the water delivered to the customer by the water system or company, and provide the results of such a test to the commission. If the commission determines that the water does not meet state drinking water standards, it shall exercise its authority over the system or company as provided in this title, and may, where appropriate, order a refund to the customer on a pro rata basis for the substandard water delivered to the customer, and shall order reimbursement to the customer for the cost incurred by the customer, if any, in obtaining a water quality test. [2021 c 65 s 94; 2011 c 214 s 7; 1995 c 376 s 12. Prior: 1991 c 134 s 1; 1991 c 100 s 2; prior: 1989 c 207 s 2; 1989 c 101 s 17; 1985 c 450 s 11; 1961 c 14 s 80.04.110; prior: 1913 c 145 s 1; 1911 c 117 s 80; RRS s 10422.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

Findings—Purpose—Limitation of chapter—Effective date—2011 c 214: See notes following RCW 80.04.010.

Findings—1995 c 376: See note following RCW 70A.100.060.

Drinking water standards: Chapters 43.21A, 70A.125, and 80.28 RCW.

RCW 80.04.120 Hearing—Order—Record. At the time fixed for the hearing mentioned in RCW 80.04.110, the complainant and the person or corporation complained of shall be entitled to be heard and introduce such evidence as he or she or it may desire. The commission shall issue process to enforce the attendance of all necessary witnesses. At the conclusion of such hearing, the commission shall make and render findings concerning the subject matter and facts inquired into and enter its order based thereon. A copy of such order, certified under the seal of the commission, shall be served upon the person or corporation complained of, or his or her or its attorney, which order shall, of its own force, take effect and become operative twenty days after the service thereof, except as otherwise provided. Where an order cannot, in the judgment of the commission, be complied with within twenty days, the commission may prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in its order. A full and complete record of all proceedings had before the commission, or any member thereof, on any formal hearing had, and all testimony shall be taken down by a stenographer appointed by the commission, and the parties shall be entitled to be heard in person or by attorney. In case of an action to review any order of the commission, a transcript of such testimony, together with all exhibits introduced, and of the record and proceedings in the cause, shall constitute the record of the

commission. [2013 c 23 s 274; 1961 c 14 s 80.04.120. Prior: 1911 c 117 s 81; RRS s 10423.]

RCW 80.04.130 Suspension of tariff change—Mandatory measured telecommunications service—Washington telephone assistance program service—Effect of abandonment of electrical generation facility on which tax exemption for pollution control equipment is claimed—Waiver of provisions during state of emergency. (1) Except as provided in subsection (2) of this section, whenever any public service company shall file with the commission any schedule, classification, rule, or regulation, the effect of which is to change any rate, charge, rental, or toll theretofore charged, the commission shall have power, either upon its own motion or upon complaint, upon notice, to enter upon a hearing concerning such proposed change and the reasonableness and justness thereof. Pending such hearing and the decision thereon, the commission may suspend the operation of such rate, charge, rental, or toll for a period not exceeding ten months from the time the same would otherwise go into effect. After a full hearing, the commission may make such order in reference thereto as would be provided in a hearing initiated after the same had become effective.

(2)(a) The commission shall not suspend a tariff that makes a decrease in a rate, charge, rental, or toll filed by a telecommunications company pending investigation of the fairness, justness, and reasonableness of the decrease when the filing does not contain any offsetting increase to another rate, charge, rental, or toll and the filing company agrees to not file for an increase to any rate, charge, rental, or toll to recover the revenue deficit that results from the decrease for a period of one year.

(i) The filing company shall file with any decrease sufficient information as the commission by rule may require to demonstrate the decreased rate, charge, rental, or toll is above the long run incremental cost of the service. A tariff decrease that results in a rate that is below long run incremental cost, or is contrary to commission rule or order, or the requirements of this chapter, shall be rejected for filing and returned to the company.

(ii) The commission may prescribe a different rate to be effective on the prospective date stated in its final order after its investigation, if it concludes based on the record that the originally filed and effective rate is unjust, unfair, or unreasonable.

(b) The commission shall not suspend a promotional tariff. For the purposes of this section, "promotional tariff" means a tariff that, for a period of up to ninety days, waives or reduces charges or conditions of service for existing or new subscribers for the purpose of retaining or increasing the number of customers who subscribe to or use a service.

(3) The commission may suspend the initial tariff filing of any water company removed from and later subject to commission jurisdiction because of the number of customers or the average annual gross revenue per customer provisions of RCW 80.04.010. The commission may allow temporary rates during the suspension period. These rates shall not exceed the rates charged when the company was last regulated. Upon a showing of good cause by the company, the commission may establish a different level of temporary rates.

(4) At any hearing involving any change in any schedule, classification, rule, or regulation the effect of which is to increase

any rate, charge, rental, or toll theretofore charged, the burden of proof to show that such increase is just and reasonable shall be upon the public service company.

(5) The implementation of mandatory local measured telecommunications service is a major policy change in available telecommunications service. The commission shall not accept for filing a price list, nor shall it accept for filing or approve, prior to June 1, 2004, a tariff filed by a telecommunications company which imposes mandatory local measured service on any customer or class of customers, except that, upon finding that it is in the public interest, the commission may accept for filing a price list or it may accept for filing and approve a tariff that imposes mandatory measured service for a telecommunications company's extended area service or foreign exchange service. This subsection does not apply to land, air, or marine mobile service, or to pay telephone service, or to any service which has been traditionally offered on a measured service basis.

(6) The implementation of Washington telephone assistance program service is a major policy change in available telecommunications service. The implementation of Washington telephone assistance program service will aid in achieving the stated goal of universal telephone service.

(7) If a utility claims a sales or use tax exemption on the pollution control equipment for an electrical generation facility and abandons the generation facility before the pollution control equipment is fully depreciated, any tariff filing for a rate increase to recover abandonment costs for the pollution control equipment shall be considered unjust and unreasonable for the purposes of this section.

(8) During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the operation or enforcement of this section or any portion of this section or under any administrative rule, and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population. [2008 c 181 s 401; 2003 c 189 s 1; 2001 c 267 s 1; 1998 c 110 s 1; 1997 c 368 s 14; 1993 c 311 s 1; 1992 c 68 s 1; 1990 c 170 s 1; 1989 c 101 s 13. Prior: 1987 c 333 s 1; 1987 c 229 s 2; prior: 1985 c 450 s 12; 1985 c 206 s 1; 1985 c 161 s 2; 1984 c 3 s 2; 1961 c 14 s 80.04.130; prior: 1941 c 162 s 1; 1937 c 169 s 2; 1933 c 165 s 3; 1915 c 133 s 1; 1911 c 117 s 82; Rem. Supp. 1941 s 10424.]

Part headings not law—2008 c 181: See note following RCW 43.06.220.

Effective date—2001 c 267: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 11, 2001]." [2001 c 267 s 2.]

Findings—Intent—Rules adoption—Severability—Effective date—1997 c 368: See notes following RCW 82.08.810.

Effective date—1993 c 311: "This act is necessary for the immediate preservation of the public peace, health, or safety, or

support of the state government and its existing public institutions, and shall take effect immediately [May 12, 1993]." [1993 c 311 s 2.]

Effective date—1987 c 333: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 1, 1987." [1987 c 333 s 2.]

RCW 80.04.140 Order requiring joint action. Whenever any order of the commission shall require joint action by two or more public service companies, such order shall specify that the same shall be made at their joint cost, and the companies affected shall have thirty days, or such further time, as the commission may prescribe, within which to agree upon the part or division of cost which each shall bear, and costs of operation and maintenance in the future, or the proportion of charges or revenue each shall receive from such joint service and the rules to govern future operations. If at the expiration of such time such companies shall fail to file with the commission a statement that an agreement has been made for the division or apportionment of such cost, the division of costs of operation and maintenance to be incurred in the future and the proportion of charges or revenue each shall receive from such joint service and the rules to govern future operations, the commission shall have authority, after further hearing, to enter a supplemental order fixing the proportion of such cost or expense to be borne by each company, and the manner in which the same shall be paid and secured. [1961 c 14 s 80.04.140. Prior: 1911 c 117 s 83; RRS s 10425.]

RCW 80.04.150 Remunerative rates cannot be changed without approval. Whenever the commission shall find, after hearing had upon its own motion or upon complaint as herein provided, that any rate, toll, rental or charge which has been the subject of complaint and inquiry is sufficiently remunerative to the public service company affected thereby, it may order that such rate, toll, rental or charge shall not be changed, altered, abrogated or discontinued, nor shall there be any change in the classification which will change or alter such rate, toll, rental or charge without first obtaining the consent of the commission authorizing such change to be made. [1961 c 14 s 80.04.150. Prior: 1911 c 117 s 84; RRS s 10426.]

RCW 80.04.160 Rules and regulations. The commission is hereby authorized and empowered to adopt, promulgate and issue rules and regulations covering the transmission and delivery of messages and conversations, and the furnishing and supply of gas, electricity, wastewater company services, and water, and any and all services concerning the same, or connected therewith; and generally such rules as pertain to the comfort and convenience of the public concerning the subjects treated of in this title. Such rules and regulations must be promulgated and issued by the commission on its own motion, and must be served on the public service company affected thereby as other orders of the commission are served. Any public service company affected thereby, and deeming such rules and regulations, or any of

them, improper, unjust, unreasonable, or contrary to law, may within twenty days from the date of service of such order upon it file objections thereto with the commission, specifying the particular grounds of such objections. The commission shall, upon receipt of such objections, fix a time and place for hearing the same, and after a full hearing may make such changes or modifications thereto, if any, as the evidence may justify. The commission has, and it is hereby given, power to adopt rules to govern its proceedings, and to regulate the mode and manner of all investigations and hearings. However, no person desiring to be present at such hearing may be denied permission. Actions may be instituted to review rules and regulations promulgated under this section as in the case of orders of the commission. [2011 c 214 s 8; 1961 c 14 s 80.04.160. Prior: 1911 c 117 s 85; RRS s 10427.]

Findings—Purpose—Limitation of chapter—Effective date—2011 c 214: See notes following RCW 80.04.010.

RCW 80.04.170 Review of orders. Any complainant or any public service company affected by any findings or order of the commission, and deeming such findings or order to be contrary to law, may, within thirty days after the service of the findings or order upon him or her or it, apply to the superior court of Thurston county for a writ of review, for the purpose of having the reasonableness and lawfulness of such findings or order inquired into and determined. Such writ shall be made returnable not later than thirty days from and after the date of the issuance thereof, unless upon notice to all parties affected further time be allowed by the court, and shall direct the commission to certify its record in the case to the court. Such cause shall be heard by the court without the intervention of a jury on the evidence and exhibits introduced before the commission and certified to by it. Upon such hearing, the superior court shall enter judgment either affirming or setting aside or remanding for further action the findings or order of the commission under review. The reasonable cost of preparing the transcript of testimony taken before the commission shall be assessable as part of the statutory court costs, and the amount thereof, if collected by the commission, shall be deposited in the public service revolving fund. In case such findings or order be set aside, or reversed and remanded, the court shall make specific findings based upon evidence in the record indicating clearly all respects in which the commission's findings or order are erroneous. [2013 c 23 s 275; 1961 c 14 s 80.04.170. Prior: 1937 c 169 s 3; 1911 c 117 s 86; RRS s 10428.]

RCW 80.04.180 Supersedeas—Water companies seeking supersedeas.

(1) The pendency of any writ of review shall not of itself stay or suspend the operation of the order of the commission, but the superior court in its discretion may restrain or suspend, in whole or in part, the operation of the commission's order pending the final hearing and determination of the suit.

(2) No order so restraining or suspending an order of the commission relating to rates, charges, tolls or rentals, or rules or regulations, practices, classifications or contracts affecting the same, shall be made by the superior court otherwise than upon three

days' notice and after hearing. If a supersedeas is granted the order granting the same shall contain a specific finding, based upon evidence submitted to the court making the order, and identified by reference thereto, that great or irreparable damage would otherwise result to the petitioner, and specifying the nature of the damage. A water company seeking a supersedeas must demonstrate to the court that it is in compliance with the state board of health standards adopted pursuant to RCW 43.20.050 and chapter 70A.100 RCW relating to the purity, volume, and pressure of water.

(3) In case the order of the commission under review is superseded by the court, it shall require a bond, with good and sufficient surety, conditioned that such company petitioning for such review shall answer for all damages caused by the delay in the enforcement of the order of the commission, and all compensation for whatever sums for transmission or service any person or corporation shall be compelled to pay pending the review proceedings in excess of the sum such person or corporations would have been compelled to pay if the order of the commission had not been suspended.

(4) The court may, in addition to or in lieu of the bond herein provided for, require such other or further security for the payment of such excess charges or damages as it may deem proper. [2021 c 65 s 95; 1989 c 207 s 3; 1961 c 14 s 80.04.180. Prior: 1933 c 165 s 6; prior: 1931 c 119 s 2; 1911 c 117 s 87; RRS s 10429.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

RCW 80.04.190 Appellate review. The commission, any public service company or any complainant may, after the entry of judgment in the superior court in any action of review, seek appellate review as in other cases. [1988 c 202 s 60; 1971 ex.s. c 107 s 4; 1961 c 14 s 80.04.190. Prior: 1911 c 117 s 88; RRS s 10430.]

Rules of court: Cf. RAP 2.2.

Severability—1988 c 202: See note following RCW 2.24.050.

RCW 80.04.200 Rehearing before commission. Any public service company affected by any order of the commission, and deeming itself aggrieved, may, after the expiration of two years from the date of such order taking effect, petition the commission for a rehearing upon the matters involved in such order, setting forth in such petition the grounds and reasons for such rehearing, which grounds and reasons may comprise and consist of changed conditions since the issuance of such order, or by showing a result injuriously affecting the petitioner which was not considered or anticipated at the former hearing, or that the effect of such order has been such as was not contemplated by the commission or the petitioner, or for any good and sufficient cause which for any reason was not considered and determined in such former hearing. Upon the filing of such petition, such proceedings shall be had thereon as are provided for hearings upon complaint, and such orders may be reviewed as are other orders of the commission: PROVIDED, That no order superseding the order of the commission denying such rehearing shall be granted by the court pending the

review. In case any order of the commission shall not be reviewed, but shall be complied with by the public service company, such petition for rehearing may be filed within six months from and after the date of the taking effect of such order, and the proceedings thereon shall be as in this section provided. The commission, may, in its discretion, permit the filing of a petition for rehearing at any time. No order of the commission upon a rehearing shall affect any right of action or penalty accruing under the original order unless so ordered by the commission. [1961 c 14 s 80.04.200. Prior: 1911 c 117 s 89; RRS s 10431.]

RCW 80.04.210 Commission may change orders. The commission may at any time, upon notice to the public service company affected, and after opportunity to be heard as provided in the case of complaints rescind, alter or amend any order or rule made, issued or promulgated by it, and any order or rule rescinding, altering or amending any prior order or rule shall, when served upon the public service company affected, have the same effect as herein provided for original orders and rules. [1961 c 14 s 80.04.210. Prior: 1911 c 117 s 90; RRS s 10432.]

RCW 80.04.220 Reparations. When complaint has been made to the commission concerning the reasonableness of any rate, toll, rental or charge for any service performed by any public service company, and the same has been investigated by the commission, and the commission has determined that the public service company has charged an excessive or exorbitant amount for such service, and the commission has determined that any party complainant is entitled to an award of damages, the commission shall order that the public service company pay to the complainant the excess amount found to have been charged, whether such excess amount was charged and collected before or after the filing of said complaint, with interest from the date of the collection of said excess amount. [1961 c 14 s 80.04.220. Prior: 1943 c 258 s 1; 1937 c 29 s 1; Rem. Supp. 1943 s 10433.]

RCW 80.04.230 Overcharges—Refund. When complaint has been made to the commission that any public service company has charged an amount for any service rendered in excess of the lawful rate in force at the time such charge was made, and the same has been investigated and the commission has determined that the overcharge allegation is true, the commission may order that the public service company pay to the complainant the amount of the overcharge so found, whether such overcharge was made before or after the filing of said complaint, with interest from the date of collection of such overcharge. [1961 c 14 s 80.04.230. Prior: 1937 c 29 s 2; RRS s 10433-1.]

RCW 80.04.240 Action in court on reparations and overcharges. If the public service company does not comply with the order of the commission for the payment of the overcharge within the time limited in such order, suit may be instituted in any superior court where service may be had upon the said company to recover the amount of the overcharge with interest. It shall be the duty of the commission to

certify its record in the case, including all exhibits, to the court. Such record shall be filed with the clerk of said court within thirty days after such suit shall have been started and said suit shall be heard on the evidence and exhibits introduced before the commission and certified to by it. If the complainant shall prevail in such action, the superior court shall enter judgment for the amount of the overcharge with interest and shall allow complainant a reasonable attorney's fee, and the cost of preparing and certifying said record for the benefit of and to be paid to the commission by complainant, and deposited by the commission in the public service revolving fund, said sums to be fixed and collected as a part of the costs of the suit. If the order of the commission shall be found to be contrary to law or erroneous by reason of the rejection of testimony properly offered, the court shall remand the cause to the commission with instructions to receive the testimony so proffered and rejected and enter a new order based upon the evidence theretofore taken and such as it is directed to receive. The court may in its discretion remand any cause which is reversed by it to the commission for further action. Appeals to the supreme court shall lie as in other civil cases. All complaints concerning overcharges resulting from collecting unreasonable rates and charges or from collecting amounts in excess of lawful rates shall be filed with the commission within six months in cases involving the collection of unreasonable rates and two years in cases involving the collection of more than lawful rates from the time the cause of action accrues, and the suit to recover the overcharge shall be filed in the superior court within one year from the date of the order of the commission.

The procedure provided in this section is exclusive, and neither the supreme court nor any superior court shall have jurisdiction save in the manner hereinbefore provided. [1961 c 14 s 80.04.240. Prior: 1943 c 258 s 2; 1937 c 29 s 3; Rem. Supp. 1943 s 10433-2.]

RCW 80.04.250 Valuation of public service property—Authority of commission. (1) The provisions of this section are necessary to ensure that the commission has sufficient flexible authority to determine the value of utility property for rate making purposes and to implement the requirements and full intent of chapter 288, Laws of 2019.

(2) The commission has power upon complaint or upon its own motion to ascertain and determine the fair value for rate making purposes of the property of any public service company used and useful for service in this state by or during the rate effective period and shall exercise such power whenever it deems such valuation or determination necessary or proper under any of the provisions of this title. The valuation may include consideration of any property of the public service company acquired or constructed by or during the rate effective period, including the reasonable costs of construction work in progress, to the extent that the commission finds that such an inclusion is in the public interest and will yield fair, just, reasonable, and sufficient rates.

(3) The commission may provide changes to rates under this section for up to forty-eight months after the rate effective date using any standard, formula, method, or theory of valuation reasonably calculated to arrive at fair, just, reasonable, and sufficient rates. The commission must establish an appropriate process to identify,

review, and approve public service company property that becomes used and useful for service in this state after the rate effective date.

(4) The commission has the power to make revaluations of the property of any public service company from time to time.

(5) The commission shall, before any hearing is had, notify the complainants and the public service company concerned of the time and place of such hearing by giving at least thirty days' written notice thereof, specifying that at the time and place designated a hearing will be held for the purpose of ascertaining the value of the company's property, used and useful as aforesaid, which notice must be sufficient to authorize the commission to inquire into and pass upon the matters designated in this section.

(6) Nothing in this section limits the commission's authority to consider and implement performance and incentive-based regulation, multiyear rate plans, and other flexible regulatory mechanisms. [2019 c 288 s 20; 2011 c 214 s 9; 1991 c 122 s 2; 1961 c 14 s 80.04.250. Prior: 1933 c 165 s 4; 1913 c 182 s 1; 1911 c 117 s 92; RRS s 10441.]

Findings—Intent—Effective date—2019 c 288: See RCW 19.405.010 and 19.405.901.

Findings—Purpose—Limitation of chapter—Effective date—2011 c 214: See notes following RCW 80.04.010.

Findings—1991 c 122: "The legislature finds that the state is facing an energy shortage as growth occurs and that inadequate supplies of energy will cause harmful impacts on the entire range of state citizens. The legislature further finds that energy efficiency improvement is the single most effective near term measure to lessen the risk of energy shortage. In the area of electricity, the legislature additionally finds that the Northwest power planning council has made several recommendations, including an update of the commercial building energy code and granting flexible ratemaking alternatives for utility commissions to encourage prudent acquisition of new electric resources." [1991 c 122 s 1.]

Severability—1991 c 122: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 122 s 4.]

RCW 80.04.260 Summary proceedings. Whenever the commission shall be of opinion that any public service company is failing or omitting, or about to fail or omit, to do anything required of it by law, or by order, direction or requirement of the commission, or is doing anything, or about to do anything, or permitting anything, or about to permit anything to be done contrary to or in violation of law or of any order, direction or requirement of the commission authorized by this title, it shall direct the attorney general to commence an action or proceeding in the superior court of the state of Washington for Thurston county, or in the superior court of any county in which such company may do business, in the name of the state of Washington on the relation of the commission, for the purpose of having such violations or threatened violations stopped and prevented, either by mandamus or injunction. The attorney general shall thereupon begin

such action or proceeding by petition to such superior court, alleging the violation complained of, and praying for the appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify a time, not exceeding twenty days after the service of the copy of the petition, within which the public service company complained of must answer the petition. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct, without other or formal pleadings, and without respect to any technical requirement. Such persons or corporations as the court may deem necessary or proper to be joined as parties, in order to make its judgment, order or writ effective, may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that the writ of mandamus or injunction, or both, issue as prayed for in the petition, or in such other modified form as the court may determine will afford appropriate relief. Appellate review of the final judgment may be sought in the same manner and with the same effect as review of judgments of the superior court in actions to review orders of the commission. All provisions of this chapter relating to the time of review, the manner of perfecting the same, the filing of briefs, hearings and supersedeas, shall apply to appeals to the supreme court or the court of appeals under the provisions of this section. [1988 c 202 s 61; 1971 c 81 s 140; 1961 c 14 s 80.04.260. Prior: 1911 c 117 s 93; RRS s 10442.]

Severability—1988 c 202: See note following RCW 2.24.050.

RCW 80.04.270 Merchandise accounts to be kept separate. Any public service company engaging in the sale of merchandise or appliances or equipment shall keep separate accounts, as prescribed by the commission, of its capital employed in such business and of its revenues therefrom and operating expenses thereof. The capital employed in such business shall not constitute a part of the fair value of said company's property for rate making purposes, nor shall the revenues from or operating expenses of such business constitute a part of the operating revenues and expenses of said company as a public service company. For purposes of this section, the providing of competitive telephone service, as defined in RCW 82.04.065, shall not constitute the sale of merchandise, appliances, or equipment, unless the commission determines that it would be in the public interest to hold otherwise. [1983 2nd ex.s. c 3 s 40; 1981 c 144 s 5; 1961 c 14 s 80.04.270. Prior: 1933 c 165 s 8; RRS s 10458-2.]

Construction—Severability—Effective dates—1983 2nd ex.s. c 3: See notes following RCW 82.04.255.

Intent—Severability—Effective date—1981 c 144: See notes following RCW 82.16.010.

RCW 80.04.280 Purchase and sale of stock by employees. No public service company shall permit any employee to sell, offer for sale, or solicit the purchase of any security of any other person or corporation during such hours as such employee is engaged to perform

any duty of such public service company; nor shall any public service company by any means or device require any employee to purchase or contract to purchase any of its securities or those of any other person or corporation; nor shall any public service company require any employee to permit the deduction from his or her wages or salary of any sum as a payment or to be applied as a payment of any purchase or contract to purchase any security of such public service company or of any other person or corporation. [2013 c 23 s 276; 1961 c 14 s 80.04.280. Prior: 1933 c 165 s 9; RRS s 10458-3.]

RCW 80.04.290 Sales of stock to employees and customers. A corporate public service company, either heretofore or hereafter organized under the laws of this state, may sell to its employees and customers any increase of its capital stock, or part thereof, without first offering it to existing stockholders: PROVIDED, That such sale is approved by the holders of a majority of the capital stock, at a regular or special meeting held after notice given as to the time, place, and object thereof as provided by law and the bylaws of the company. Such sales shall be at prices and in amounts for each purchaser and upon terms and conditions as set forth in the resolution passed at the stockholders' meeting, or in a resolution passed at a subsequent meeting of the board of trustees if the resolution passed at the stockholders' meeting shall authorize the board to determine prices, amounts, terms, and conditions, except that in either event, a minimum price for the stock must be fixed in the resolution passed at the stockholders' meeting. [1961 c 14 s 80.04.290. Prior: 1955 c 79 s 2; 1923 c 110 s 1; RRS s 10344-1.]

RCW 80.04.300 Budgets to be filed by companies—Supplementary budgets. The commission may regulate, restrict, and control the budgets of expenditures of public service companies. Each company shall prepare a budget showing the amount of money which, in its judgment, will be needed during the ensuing year for maintenance, operation, and construction, classified by accounts as prescribed by the commission, and shall within ten days of the date it is approved by the company file it with the commission for its investigation and approval or rejection. When a budget has been filed the commission shall examine into and investigate it to determine whether the expenditures therein proposed are fair and reasonable and not contrary to public interest.

Adjustments or additions to budget expenditures may be made from time to time during the year by filing a supplementary budget with the commission for its investigation and approval or rejection. [1961 c 14 s 80.04.300. Prior: 1959 c 248 s 11; prior: 1933 c 165 s 10, part; RRS s 10458-4, part.]

RCW 80.04.310 Commission's control over expenditures. The commission may, both as to original and supplementary budgets, prior to the making or contracting for the expenditure of any item therein, and after notice to the company and a hearing thereon, reject any item of the budget. The commission may require any company to furnish further information, data, or detail as to any proposed item of expenditure.

Failure of the commission to object to any item of expenditure within ninety days of the filing of any original budget or within thirty days of the filing of any supplementary budget shall constitute authority to the company to proceed with the making of or contracting for such expenditure, but such authority may be terminated any time by objection made thereto by the commission prior to the making of or contracting for such expenditure.

Examination, investigation, and determination of the budget by the commission shall not bar or estop it from later determining whether any of the expenditures made thereunder are fair, reasonable, and commensurate with the service, material, supplies, or equipment received. [1987 c 38 s 1; 1961 c 14 s 80.04.310. Prior: 1959 c 248 s 12; prior: 1933 c 165 s 10, part; RRS s 10458-4, part.]

RCW 80.04.320 Budget rules. The commission may prescribe the necessary rules to place RCW 80.04.300 through 80.04.330 in operation. It may, by rule, establish criteria to exempt companies in whole or in part from the operation thereof. The commission may upon request of any company withhold from publication during such time as the commission may deem advisable any portion of any original or supplementary budget relating to proposed capital expenditures. [1989 c 107 s 3; 1961 c 14 s 80.04.320. Prior: 1959 c 248 s 13; prior: 1933 c 165 s 10, part; RRS s 10458-4, part.]

RCW 80.04.330 Effect of unauthorized expenditure—Emergencies. Any public service company may make or contract for any rejected item of expenditure, but in such case the same shall not be allowed as an operating expense, or as to items of construction, as a part of the fair value of the company's property used and useful in serving the public: PROVIDED, That such items of construction may at any time thereafter be so allowed in whole or in part upon proof that they are used and useful. Any company may upon the happening of any emergency caused by fire, flood, explosion, storm, earthquake, riot, or insurrection, or for the immediate preservation or restoration to condition of usefulness of any of its property, the usefulness of which has been destroyed by accident, make the necessary expenditure therefor free from the operation of RCW 80.04.300 through 80.04.330.

Any finding and order entered by the commission shall be in effect until vacated and set aside in proper proceedings for review thereof. [1961 c 14 s 80.04.330. Prior: 1959 c 248 s 14; prior: 1933 c 165 s 10, part; RRS s 10458-4, part.]

RCW 80.04.350 Depreciation and retirement accounts. The commission shall have power after hearing to require any or all public service companies to carry proper and adequate depreciation or retirement accounts in accordance with such rules, regulations and forms of accounts as the commission may prescribe. The commission may from time to time ascertain and by order fix the proper and adequate rates of depreciation or retirement of the several classes of property of each public service company. Each public service company shall conform its depreciation or retirement accounts to the rates so prescribed. In fixing the rate of the annual depreciation or

retirement charge, the commission may consider the rate and amount theretofore charged by the company for depreciation or retirement.

The commission shall have and exercise like power and authority over all other reserve accounts of public service companies. [1961 c 14 s 80.04.350. Prior: 1937 c 169 s 4; 1933 c 165 s 13; RRS s 10458-7.]

RCW 80.04.360 Earnings in excess of reasonable rate—

Consideration in fixing rates. If any public service company earns in the period of five consecutive years immediately preceding the commission order fixing rates for such company a net utility operating income in excess of a reasonable rate of return upon the fair value of its property used and useful in the public service, the commission shall take official notice of such fact and of whether any such excess earnings shall have been invested in such company's plant or otherwise used for purposes beneficial to the consumers of such company and may consider such facts in fixing rates for such company. [1961 c 14 s 80.04.360. Prior: 1959 c 285 s 2; 1933 c 165 s 14; RRS s 10458-8.]

RCW 80.04.380 Penalties—Violations by public service companies.

Every public service company, and all officers, agents and employees of any public service company, shall obey, observe and comply with every order, rule, direction or requirement made by the commission under authority of this title, so long as the same shall be and remain in force. Any public service company which shall violate or fail to comply with any provision of this title, or which fails, omits or neglects to obey, observe or comply with any order, rule, or any direction, demand or requirement of the commission, shall be subject to a penalty of not to exceed the sum of one thousand dollars for each and every offense. Every violation of any such order, direction or requirement of this title shall be a separate and distinct offense, and in case of a continuing violation every day's continuance thereof shall be and be deemed to be a separate and distinct offense. [1961 c 14 s 80.04.380. Prior: 1911 c 117 s 94; RRS s 10443. Formerly RCW 80.04.380, part. FORMER PART OF SECTION: 1911 c 117 s 96 now in RCW 80.04.387.]

RCW 80.04.385 Penalties—Violations by officers, agents, and employees of public service companies. Every officer, agent or employee of any public service company, who shall violate or fail to comply with, or who procures, aids or abets any violation by any public service company of any provision of this title, or who shall fail to obey, observe or comply with any order of the commission, or any provision of any order of the commission, or who procures, aids or abets any such public service company in its failure to obey, observe and comply with any such order or provision, shall be guilty of a gross misdemeanor. [1961 c 14 s 80.04.385. Prior: 1911 c 117 s 95; RRS s 10444. Formerly RCW 80.04.390, part.]

RCW 80.04.387 Penalties—Violations by other corporations.

Every corporation, other than a public service company, which shall violate any provision of this title, or which shall fail to obey,

observe or comply with any order of the commission under authority of this title, so long as the same shall be and remain in force, shall be subject to a penalty of not to exceed the sum of one thousand dollars for each and every offense. Every such violation shall be a separate and distinct offense, and the penalty shall be recovered in an action as provided in RCW 80.04.400. [1961 c 14 s 80.04.387. Prior: 1911 c 117 s 96; RRS s 10445. Formerly RCW 80.04.380, part.]

RCW 80.04.390 Penalties—Violations by persons. Every person who, either individually, or acting as an officer or agent of a corporation other than a public service company, shall violate any provision of this title, or fail to observe, obey or comply with any order made by the commission under this title, so long as the same shall be or remain in force, or who shall procure, aid or abet any such corporation in its violation of this title, or in its failure to obey, observe or comply with any such order, shall be guilty of a gross misdemeanor. [1961 c 14 s 80.04.390. Prior: 1911 c 117 s 97; RRS s 10446. FORMER PART OF SECTION: 1911 c 117 s 95 now in RCW 80.04.385.]

RCW 80.04.400 Actions to recover penalties—Disposition of fines, penalties, and forfeitures. Actions to recover penalties under this title shall be brought in the name of the state of Washington in the superior court of Thurston county, or in the superior court of any county in or through which such public service company may do business. In all such actions the procedure and rules of evidence shall be the same as in ordinary civil actions, except as otherwise herein provided. All fines and penalties recovered by the state under this title shall be paid into the treasury of the state and credited to the state general fund or such other fund as provided by law: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. [1987 c 202 s 238; 1969 ex.s. c 199 s 35; 1961 c 14 s 80.04.400. Prior: 1911 c 117 s 98; RRS s 10447.]

Intent—1987 c 202: See note following RCW 2.04.190.

RCW 80.04.405 Additional penalties—Violations by public service companies and officers, agents, and employees thereof. In addition to all other penalties provided by law every public service company subject to the provisions of this title and every officer, agent or employee of any such public service company who violates or who procures, aids or abets in the violation of any provision of this title or any order, rule, regulation or decision of the commission shall incur a penalty of one hundred dollars for every such violation. Each and every such violation shall be a separate and distinct offense and in case of a continuing violation every day's continuance shall be and be deemed to be a separate and distinct violation. Every act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the penalty herein provided for.

The penalty herein provided for shall become due and payable when the person incurring the same receives a notice in writing from the commission describing such violation with reasonable particularity and advising such person that the penalty is due. The commission may, upon written application therefor, received within fifteen days, remit or mitigate any penalty provided for in this section or discontinue any prosecution to recover the same upon such terms as it in its discretion shall deem proper and shall have authority to ascertain the facts upon all such applications in such manner and under such regulations as it may deem proper. If the amount of such penalty is not paid to the commission within fifteen days after receipt of notice imposing the same or application for remission or mitigation has not been made within fifteen days after violator has received notice of the disposition of such application the attorney general shall bring an action in the name of the state of Washington in the superior court of Thurston county or of some other county in which such violator may do business, to recover such penalty. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise herein provided. All penalties recovered under this title shall be paid into the state treasury and credited to the public service revolving fund. [1963 c 59 s 2.]

RCW 80.04.410 Orders and rules conclusive. In all actions between private parties and public service companies involving any rule or order of the commission, and in all actions for the recovery of penalties provided for in this title, or for the enforcement of the orders or rules issued and promulgated by the commission, the said orders and rules shall be conclusive unless set aside or annulled in a review as in this title provided. [1961 c 14 s 80.04.410. Prior: 1911 c 117 s 99; RRS s 10448.]

RCW 80.04.420 Intervention by commission where order or rule is involved. In all court actions involving any rule or order of the commission, where the commission has not been made a party, the commission shall be served with a copy of all pleadings, and shall be entitled to intervene. Where the fact that the action involves a rule or order of the commission does not appear until the time of trial, the court shall immediately direct the clerk to notify the commission of the pendency of such action, and shall permit the commission to intervene in such action.

The failure to comply with the provisions of this section shall render void and of no effect any judgment in such action, where the effect of such judgment is to modify or nullify any rule or order of the commission. [1961 c 14 s 80.04.420. Prior: 1943 c 67 s 1; Rem. Supp. 1943 s 10448-1.]

RCW 80.04.430 Findings of commission prima facie correct. Whenever the commission has issued or promulgated any order or rule, in any writ of review brought by a public service company to determine the reasonableness of such order or rule, the findings of fact made by the commission shall be prima facie correct, and the burden shall be upon said public service company to establish the order or rule to be unreasonable or unlawful. [1961 c 14 s 80.04.430. Prior: 1911 c 117 s 100; RRS s 10449.]

RCW 80.04.440 Companies liable for damages. In case any public service company shall do, cause to be done or permit to be done any act, matter or thing prohibited, forbidden or declared to be unlawful, or shall omit to do any act, matter or thing required to be done, either by any law of this state, by this title or by any order or rule of the commission, such public service company shall be liable to the persons or corporations affected thereby for all loss, damage or injury caused thereby or resulting therefrom, and in case of recovery if the court shall find that such act or omission was wilful, it may, in its discretion, fix a reasonable counsel or attorney's fee, which shall be taxed and collected as part of the costs in the case. An action to recover for such loss, damage or injury may be brought in any court of competent jurisdiction by any person or corporation. [1961 c 14 s 80.04.440. Prior: 1911 c 117 s 102; RRS s 10451.]

RCW 80.04.450 Certified copies of orders, rules, etc.—
Evidentiary effect. Upon application of any person the commission shall furnish certified copies of any classification, rate, rule, regulation or order established by such commission, and the printed copies published by authority of the commission, or any certified copy of any such classification, rate, rule, regulation or order, with seal affixed, shall be admissible in evidence in any action or proceeding, and shall be sufficient to establish the fact that the charge, rate, rule, order or classification therein contained is the official act of the commission. When copies of any classification, rate, rule, regulation or order not contained in the printed reports, or copies of papers, accounts or records of public service companies filed with the commission shall be demanded from the commission for proper use, the commission shall charge a reasonable compensation therefor. [1961 c 14 s 80.04.450. Prior: 1911 c 117 s 103; RRS s 10452.]

RCW 80.04.460 Investigation of accidents. Every public service company shall give immediate notice to the commission of every accident resulting in death or injury to any person occurring in its plant or system, in such manner as the commission may prescribe. Such notice shall not be admitted as evidence or used for any purpose against the company giving it in any action for damages growing out of any matter mentioned in the notice.

The commission may investigate any accident resulting in death or injury to any person occurring in connection with the plant or system of any public service company. Notice of the investigation shall be given in all cases for a sufficient length of time to enable the company affected to participate in the hearing and may be given orally or in writing, in such manner as the commission may prescribe.

Such witnesses may be examined as the commission deems necessary and proper to thoroughly ascertain the cause of the accident and fix the responsibility therefor. The examination and investigation may be conducted by an inspector or deputy inspector, and he or she may administer oaths, issue subpoenas, and compel the attendance of witnesses, and when the examination is conducted by an inspector or deputy inspector, he or she shall make a full and complete report thereof to the commission. [2013 c 23 s 277; 1961 c 14 s 80.04.460. Prior: 1953 c 104 s 2; prior: 1911 c 117 s 63, part; RRS s 10399, part.]

RCW 80.04.470 Commission to enforce public service laws—Employees as peace officers. It shall be the duty of the commission to enforce the provisions of this title and all other acts of this state affecting public service companies, the enforcement of which is not specifically vested in some other officer or tribunal. Any employee of the commission may, without a warrant, arrest any person found violating in his or her presence any provision of this title, or any rule or regulation adopted by the commission: PROVIDED, That each such employee shall be first specifically designated in writing by the commission or a member thereof as having been found to be a fit and proper person to exercise such authority. Upon being so designated, such person shall be a peace officer and a police officer for the purposes herein mentioned. [2013 c 23 s 278; 1961 c 173 s 1; 1961 c 14 s 80.04.470. Prior: 1911 c 117 s 101; RRS s 10450.]

RCW 80.04.480 Rights of action not released—Penalties cumulative. This title shall not have the effect to release or waive any right of action by the state or any person for any right, penalty or forfeiture which may have arisen or may hereafter arise under any law of this state; and all penalties accruing under this title shall be cumulative of each other, and a suit for the recovery of one penalty shall not be a bar to the recovery of any other. [1961 c 14 s 80.04.480. Prior: 1911 c 117 s 104; RRS s 10453. Formerly RCW 80.04.480 and 80.04.490.]

RCW 80.04.500 Application to municipal utilities. Nothing in this title authorizes the commission to make or enforce any order affecting rates, tolls, rentals, contracts or charges or service rendered, or the adequacy or sufficiency of the facilities, equipment, instrumentalities or buildings, or the reasonableness of rules or regulations made, furnished, used, supplied or in force affecting any telecommunications line, gas plant, electrical plant, system of sewerage, or water system owned and operated by any city or town, or to make or enforce any order relating to the safety of any telecommunications line, electrical plant, system of sewerage, or water system owned and operated by any city or town, but all other provisions enumerated herein apply to public utilities owned by any city or town. [2011 c 214 s 10; 1985 c 450 s 13; 1969 ex.s. c 210 s 1; 1961 c 14 s 80.04.500. Prior: 1911 c 117 s 105; RRS s 10454.]

Findings—Purpose—Limitation of chapter—Effective date—2011 c 214: See notes following RCW 80.04.010.

RCW 80.04.510 Duties of attorney general. It shall be the duty of the attorney general to represent and appear for the people of the state of Washington and the commission in all actions and proceedings involving any question under this title, or under or in reference to any act or order of the commission; and it shall be the duty of the attorney general generally to see that all laws affecting any of the persons or corporations herein enumerated are complied with, and that all laws, the enforcement of which devolves upon the commission, are enforced, and to that end he or she is authorized to institute,

prosecute, and defend all necessary actions and proceedings. [2013 c 23 s 279; 1961 c 14 s 80.04.510. Prior: 1911 c 117 s 5; RRS s 10341.]

RCW 80.04.520 Approval of lease of utility facilities. In addition to any other powers and duties under this chapter, the commission shall have the authority to authorize and approve the terms of any lease of utility facilities by a public service company, as lessee, if the public service company makes proper application to the commission certifying that such authorization or approval is necessary or appropriate to exempt any owner of the facilities from being a public utility company under the federal Public Utility Holding Company Act of 1935. [1979 ex.s. c 125 s 1.]

RCW 80.04.530 Local exchange company that serves less than two percent of state's access lines—Regulatory exemptions—Reporting requirements. (1)(a) Except as provided in (b) of this subsection, the following do not apply to a local exchange company that serves less than two percent of the access lines in the state of Washington: RCW 80.04.080, 80.04.300 through 80.04.330, and, except for RCW 80.08.140, chapters 80.08, 80.12, and 80.16 RCW.

(b) Nothing in this subsection (1) shall affect the commission's authority over the rates, service, accounts, valuations, estimates, or determinations of costs, as well as the authority to determine whether any expenditure is fair, reasonable, and commensurate with the service, material, supplies, or equipment received.

(c) For purposes of this subsection, the number of access lines served by a local exchange company includes the number of access lines served in this state by any affiliate of that local exchange company.

(2) Any local exchange company for which an exemption is provided under this section shall not be required to file reports or data with the commission, except each such company shall file with the commission an annual report that consists of its annual balance sheet and results of operations, both presented on a Washington state jurisdictional basis. This requirement may be satisfied by the filing of information or reports and underlying studies filed with exchange carrier entities or regulatory agencies if the jurisdictionally separated results of operations for Washington state can be obtained from the information or reports. This subsection shall not be applied to exempt a local exchange company from an obligation to respond to data requests in an adjudicative proceeding in which it is a party.

(3) The commission may, in response to customer complaints or on its own motion and after notice and hearing, establish additional reporting requirements for a specific local exchange company. [1995 c 110 s 1.]

RCW 80.04.550 Thermal energy—Restrictions on authority of commission. (1) It is the intent of the legislature to exempt from commission regulation thermal energy companies in operation or under development before July 1, 2025, and combined heat and power facilities that are not otherwise regulated under this title. Nothing in this section shall prevent the commission from issuing or enforcing any order affecting combined heat and power facilities owned or

operated by an electrical company that are subsidized by a regulated service.

(2) Nothing in this title shall authorize the commission to make or enforce any order affecting rates, tolls, rentals, contracts or charges for service rendered, or the adequacy or sufficiency of the facilities, equipment, instrumentalities, or buildings, or the reasonableness of rules or regulations made, furnished, used, supplied, or in force affecting any:

(a) Thermal energy company operating a thermal energy system that has less than five independent customers and less than 250 residential end users, unless the thermal energy company chooses to opt-in to commission regulation by providing the commission with a request to opt-in to regulation in writing.

(i) For the purposes of this section, "independent customer" means a unique direct customer receiving thermal energy for one or more buildings through one or more metered services.

(ii) For the purposes of this section, "residential end user" means a household in a dwelling unit that is not a direct customer of a thermal energy company but is located within a residential multifamily building or residential portion of a mixed-use building served by a thermal energy company.

(iii) If a thermal energy company's exempted thermal energy system grows to have five or more independent customers and 250 or more residential end users, the thermal energy company must submit the thermal energy system to the commission in a general rate case filing no later than 12 months after surpassing the exemption threshold so the commission can set the rates and charges of the thermal energy company;

(b) Thermal energy company owning and operating any thermal energy system in operation before July 1, 2025, unless the thermal energy company chooses to opt-in to commission regulation by providing the commission with a request to opt-in to regulation in writing;

(c) A combined heat and power facility engaged in thermal energy services, unless such a facility chooses to opt-in to commission regulation by providing the commission with a request to opt-in to regulation in writing.

(3) A thermal energy company that chooses to opt-in to commission regulation must remain under commission regulation and cannot subsequently opt-out of commission regulation.

(4) A thermal energy company that owns a thermal energy system that is under development but has not commenced operation as of July 1, 2025, is not subject to commission regulation if the thermal energy company notifies the commission in writing of the company's plans to operate the thermal energy system.

(5) The legislature finds that gas companies maintain their priority for developing thermal energy network pilot projects as provided in RCW 80.28.460. [2025 c 263 s 2; 2015 3rd sp.s. c 19 s 12; 1996 c 33 s 2.]

Finding—Intent—2015 3rd sp.s. c 19: See note following RCW 39.35.010.

Findings—1996 c 33: "(1) The legislature finds:

(a) The Washington utilities and transportation commission has the authority to regulate district heating suppliers on the basis of

financial solvency, system design integrity, and reasonableness of contract rates and rate formulas under *chapter 80.62 RCW;

(b) Consumers have competitive alternatives to thermal energy companies for space heating and cooling and ancillary services;

(c) Consumers have recourse against thermal energy companies for unfair business practices under the consumer protection act; and

(d) Technology and marketing opportunities have advanced since the enactment of *chapter 80.62 RCW to make the provision of cooling services, as well as heating services, an economical option for consumers.

(2) The legislature declares that the public health, safety, and welfare does not require the regulation of thermal energy companies by the Washington utilities and transportation commission." [1996 c 33 s 1.]

***Reviser's note:** Chapter 80.62 RCW was repealed by 1996 c 33 s 3.

RCW 80.04.560 Finding. The legislature finds that an electrical company's acquisition of coal transition power helps to achieve the state's greenhouse gas emission reduction goals by effecting an orderly transition to cleaner fuels and supports the state's public policy. [2011 c 180 s 303.]

Findings—Purpose—2011 c 180: See note following RCW 80.80.010.

RCW 80.04.570 Power purchase agreement for acquisition of coal transition power. (*Expires December 31, 2025.*) (1) On the petition of an electrical company, the commission shall approve or disapprove a power purchase agreement for acquisition of coal transition power, as defined in RCW 80.80.010, and the recovery of related acquisition costs. No agreement for an electrical company's acquisition of coal transition power takes effect until it is approved by the commission.

(2) Any power purchase agreement for the acquisition of coal transition power pursuant to this section must provide for modification of the power purchase agreement to the satisfaction of the parties thereto in the event that a new or revised emission or performance standard or other new or revised operational or financial requirement or limitation directly or indirectly addressing greenhouse gas emissions is imposed by state or federal law, rules, or regulatory requirements. Such a modification to a power purchase agreement agreed to by the parties must be reviewed and considered for approval by the commission, considering the circumstances existing at the time of such a review, under procedures and standards set forth in this section. In the event the parties cannot agree to modification of the power purchase agreement, either party to the agreement has the right to terminate the agreement if it is adversely affected by this new standard, requirement, or limitation.

(3) When a petition is filed, the commission shall provide notice to the public and potentially affected parties and set the petition for hearing as an adjudicative proceeding under chapter 34.05 RCW. Any party may request that the commission expedite the hearing of that petition. The hearing of such a petition is not considered a general rate case. The electrical company must file supporting testimony and exhibits together with the power purchase agreement for coal transition power. Information provided by the facility owner to the

purchasing electrical company for evaluating the costs and benefits associated with acquisition of coal transition power must be made available to other parties to the petition under a protective order entered by the commission. An administrative law judge of the commission may enter an initial order including findings of fact and conclusions of law, as provided in RCW 80.01.060(3). The commission shall issue a final order that approves or disapproves the power purchase agreement for acquisition of coal transition power within one hundred eighty days after an electrical company files the petition.

(4) The commission must approve a power purchase agreement for acquisition of coal transition power pursuant to this section only if the commission determines that, considering the circumstances existing at the time of such a review: The terms of such an agreement provide adequate protection to ratepayers and the electrical company during the term of such an agreement or in the event of early termination; the resource is needed by the electrical company to serve its ratepayers and the resource meets the need in a cost-effective manner as determined under the lowest reasonable cost resource standards under chapter 19.280 RCW, including the cost of the power purchase agreement plus the equity component as determined in this section. As part of these determinations, the commission shall consider, among other factors, the long-term economic risks and benefits to the electrical company and its ratepayers of such a long-term purchase.

(5) If the commission has not issued a final order within one hundred eighty days from the date the petition is filed, or if the commission disapproves the petition, the power purchase agreement for acquisition of coal transition power is null and void. In the event the commission approves the agreement upon conditions other than those set forth in the petition, the electrical company has the right to reject the agreement.

(6) (a) Upon commission approval of an electrical company's power purchase agreement for acquisition of coal transition power in accordance with this section, the electrical company is allowed to earn the equity component of its authorized rate of return in the same manner as if it had purchased or built an equivalent plant and to recover the cost of the coal transition power under the power purchase agreement. Any power purchase agreement for acquisition of coal transition power that earns a return on equity may not be included in an imputed debt calculation for setting customer rates.

(b) For purposes of determining the equity value, the cost of an equivalent plant is the least cost purchased or self-built electric generation plant with equivalent capacity. In determining the least cost plant, the commission may rely on the electrical company's most recent filed integrated resource plan. The cost of an equivalent plant, in dollars per kilowatt, must be determined in the original process of commission approval for each power purchase agreement for coal transition power.

(c) The equivalent plant cost determined in the approval process must be amortized over the life of the power purchase agreement for acquisition of coal transition power to determine the recovery of the equity value.

(d) The recovery of the equity component must be determined and approved in the review process set forth in this section. The approved equity value must be in addition to the approved cost of the power purchase agreement.

(7) Authorizing recovery of costs under a power purchase agreement for acquisition of coal transition power does not prohibit

the commission from authorizing recovery of an electrical company's acquisition of capacity resources for the purpose of integrating intermittent power or following load.

(8) Neither chapter 180, Laws of 2011 nor the commission's approval of a power purchase agreement for acquisition of coal transition power that includes the ability to earn the equity component of an electrical company's authorized rate of return establishes any precedent for an electrical company to receive an equity return on any other power purchase agreement or other power contract.

(9) For purposes of this section, "power purchase agreement" means a long-term financial commitment as defined in *RCW 80.80.010(15) (b).

(10) This section expires December 31, 2025. [2011 c 180 s 304.]

***Reviser's note:** RCW 80.80.010 was alphabetized pursuant to RCW 1.08.015(2) (k), changing subsection (15) to subsection (16).

Findings—Purpose—2011 c 180: See note following RCW 80.80.010.

RCW 80.04.580 Regulatory fee on wastewater companies regulated by the commission—Rule-making authority. (1) Every wastewater company subject to regulation by the commission must, on or before the date specified by the commission for filing annual reports under RCW 80.04.080, pay to the commission a regulatory fee.

(2) The commission must assess such regulatory fees in amounts sufficient for the commission to recover the commission's actual and reasonable costs of supervising and regulating wastewater companies.

(3) Any payment of a fee assessed under this section made after the due date must include a late fee of two percent of the amount due.

(4) Delinquent fees accrue interest at the rate of one percent per month.

(5) The provisions of RCW 80.24.030, 80.24.040, and 80.24.050 apply to regulatory fees for wastewater companies.

(6) The commission is authorized and empowered to adopt and issue rules and regulations to implement this section, including establishing the methodologies and procedures for developing, assessing, and collecting fees under this section. [2012 c 111 s 1; 2011 c 214 s 4.]

Effective date—2012 c 111: "This act takes effect July 1, 2012." [2012 c 111 s 2.]

Findings—Purpose—Limitation of chapter—Effective date—2011 c 214: See notes following RCW 80.04.010.