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SENATE BILL 6138

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State of Washington

68th Legislature

2024 Regular Session

By Senator Shewmake

1 AN ACT Relating to promoting the establishment of thermal energy  
2 networks; amending RCW 80.04.010 and 80.28.110; adding new sections  
3 to chapter 80.28 RCW; adding a new section to chapter 43.31 RCW;  
4 adding a new section to chapter 44.28 RCW; adding a new section to  
5 chapter 54.16 RCW; and adding a new section to chapter 35.21 RCW.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (30) "Thermal energy network" means all real estate, fixtures,  
5 and personal property operated, owned, used, or to be used for or in  
6 connection with or to facilitate a utility-scale distribution  
7 infrastructure project that supplies thermal energy.

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

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

19 ~~((30))~~ (32) (a) "Water company" includes every corporation,  
20 company, association, joint stock association, partnership and  
21 person, their lessees, trustees or receivers appointed by any court  
22 whatsoever, and every city or town owning, controlling, operating, or  
23 managing any water system for hire within this state.

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

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

38 (d) "Water company" also includes, for auditing purposes only,  
39 nonmunicipal water systems which are referred to the commission

1 pursuant to an administrative order from the department, or the city  
2 or county as provided in RCW 80.04.110.

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

12 (~~(31)~~) (33) "Water system" includes all real estate, easements,  
13 fixtures, personal property, dams, dikes, head gates, weirs, canals,  
14 reservoirs, flumes or other structures or appliances operated, owned,  
15 used or to be used for or in connection with or to facilitate the  
16 supply, storage, distribution, sale, furnishing, diversion, carriage,  
17 apportionment or measurement of water for power, irrigation,  
18 reclamation, manufacturing, municipal, domestic or other beneficial  
19 uses for hire.

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

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

30 (2) For an investor-owned gas company or investor-owned  
31 electrical company, if a nonemitting thermal energy network is  
32 approved by the commission, the company may propose to recover the  
33 costs of building and operating the project from ratepayers in a rate  
34 case filing before the commission.

35 (3) Companies exempt from commission oversight under RCW  
36 80.04.550 are not subject to regulation by the commission under this  
37 chapter.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 80.28

2 RCW to read as follows:

3 A nonemitting thermal energy network pilot project program is  
4 established.

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

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

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

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

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

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

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

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

37 (e) Whether the pilot project creates benefits to customers,  
38 communities, and society at large including, but not limited to,  
39 public health benefits such as improved air quality in areas with  
40 disproportionate environmental or public health burdens and

1 disadvantaged communities as identified by the environmental health  
2 disparities map described in RCW 43.70.815, and increased  
3 affordability of thermal energy options;

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

6 (g) Inclusion of specific customer protection plans;

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

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

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

14 (k) Enrollment in an electric utility demand response program;  
15 and

16 (l) The potential to enable gas pipeline decommissioning and its  
17 potential to supplant the need for gas pipeline replacement and the  
18 need to spend on gas pipeline replacement programs.

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

22 (a) Greenhouse gas emissions reductions;

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

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

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

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

32 (5) Nonemitting thermal energy pilot projects under review by the  
33 commission are subject to a public comment period of no less than 30  
34 days.

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

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

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

5 (3) Grant funding from the appropriation authorized in this  
6 section for nonemitting thermal energy network pilot projects is only  
7 available for gas companies.

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

17 (5) When reviewing a nonemitting thermal energy network pilot  
18 project for a grant award, the department of commerce must consider  
19 the following information related to the pilot project:

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

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

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

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

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

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

40 (g) Inclusion of specific customer protection plans;

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

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

6 (j) Whether the pilot project will develop information useful for  
7 the utility and transportation commission's adoption of rules  
8 governing thermal energy networks;

9 (k) Enrollment in an electric utility demand response program;  
10 and

11 (l) Potential to enable gas pipeline decommissioning and its  
12 potential to supplant the need for gas pipeline replacement and the  
13 need to spend on gas pipeline replacement programs.

14 (6) When reviewing a nonemitting thermal energy network pilot  
15 project for a grant award, the department of commerce may also  
16 consider the following information related to the pilot project:

17 (a) Greenhouse gas emissions reductions;

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

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

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

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

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

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

38 Each investor-owned gas company must include a solicitation for  
39 nonemitting thermal energy network pilot projects in requests for

1 proposals for energy resources. If the investor-owned gas company  
2 determines that it can deploy a pilot project at the lowest  
3 reasonable cost instead of deploying a pilot project through a heat  
4 purchase agreement or energy services agreement, the company may  
5 pursue a nonemitting thermal energy network pilot project in  
6 accordance with sections 2 and 3 of this act.

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

9 Every gas company, electrical company, wastewater company, or  
10 water company, engaged in the sale and distribution of gas,  
11 electricity or water or the provision of wastewater company services,  
12 shall, upon reasonable notice, furnish to all persons and  
13 corporations who may apply therefor and be reasonably entitled  
14 thereto, suitable facilities for furnishing and furnish all available  
15 gas, electricity, wastewater company services, and water as demanded,  
16 except that ~~((a))~~: (1) A water company may not furnish water contrary  
17 to the provisions of water system plans approved under chapter 43.20  
18 or 70A.100 RCW ~~((and))~~; (2) wastewater companies may not provide  
19 services contrary to the approved general sewer plan; and (3) a gas  
20 company's obligation to serve may be met by providing thermal energy  
21 through a nonemitting thermal energy network.

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

24 (1) In any multiyear rate plan proposed by a natural gas company  
25 or combination utility, the company may propose a merger into a  
26 single rate base of its regulated gas operations with its operation  
27 of a nonemitting thermal energy network. The commission may approve  
28 the merger of gas and thermal energy rate bases if the commission  
29 finds that such a merger is in the public interest. In approving a  
30 merger of a gas and thermal energy rate base, the commission must  
31 avoid commercial and residential rate classes subsidizing industrial  
32 rate classes.

33 (2) For a natural gas company or combination utility that has  
34 merged gas and thermal energy rate bases, the natural gas company or  
35 combination utility must monetize benefits received from any  
36 applicable federal and state tax and other incentives for the benefit  
37 of customers. These benefits must be separately accounted for and  
38 amortized on a schedule designed to mitigate the rate impacts to

1 customers after the rate bases are combined. These credits may not be  
2 used for any other purpose, unless directed by the commission.

3 NEW SECTION. **Sec. 8.** A new section is added to chapter 44.28  
4 RCW to read as follows:

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

14 NEW SECTION. **Sec. 9.** A new section is added to chapter 54.16  
15 RCW to read as follows:

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

22 NEW SECTION. **Sec. 10.** A new section is added to chapter 35.21  
23 RCW to read as follows:

24 A municipal electric utility formed under this title may own,  
25 operate, or manage any nonemitting thermal energy network, as defined  
26 in RCW 80.04.010, within this state. If a municipal electric utility  
27 intends to deploy a nonemitting thermal energy network, the utility  
28 must submit the project for review and approval to its governing  
29 body.

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