
HOUSE BILL 2175

State of Washington

63rd Legislature

2014 Regular Session

By Representatives Morris, Morrell, and Stanford

Prefiled 01/08/14. Read first time 01/13/14. Referred to Committee on Technology & Economic Development.

1 AN ACT Relating to removing barriers to economic development in the
2 telecommunications industry; and amending RCW 80.36.375 and 54.04.045.

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

4 **Sec. 1.** RCW 80.36.375 and 1997 c 219 s 2 are each amended to read
5 as follows:

6 (1) If a personal wireless service provider applies to site several
7 microcells and/or minor facilities in a single geographical area:

8 (a) If one or more of the microcells and/or minor facilities are
9 not exempt from the requirements of RCW 43.21C.030(2)(c), local
10 governmental entities are encouraged: (i) To allow the applicant, at
11 the applicant's discretion, to file a single set of documents required
12 by chapter 43.21C RCW that will apply to all the microcells and/or
13 minor facilities to be sited; and (ii) to render decisions under
14 chapter 43.21C RCW regarding all the microcells and/or minor facilities
15 in a single administrative proceeding; and

16 (b) Local governmental entities are encouraged: (i) To allow the
17 applicant, at the applicant's discretion, to file a single set of
18 documents for land use permits that will apply to all the microcells

1 and/or minor facilities to be sited; and (ii) to render decisions
2 regarding land use permits for all the microcells and/or minor
3 facilities in a single administrative proceeding.

4 (2) For the purposes of this section:

5 (a) "Personal wireless services" means commercial mobile services,
6 unlicensed wireless services, and common carrier wireless exchange
7 access services, as defined by federal laws and regulations.

8 (b) "Microcell" means:

9 (i) A wireless communication facility consisting of an antenna that
10 is either: ((+i+)) (A) Four feet in height and with an area of not
11 more than five hundred eighty square inches; or ((+i+)) (B) if a
12 tubular antenna, no more than four inches in diameter and no more than
13 six feet in length; or

14 (ii) A cell whose working range covers less than two kilometers.

15 (c) "Minor facility" means a wireless communication facility
16 consisting of up to three antennas, each of which is either: (i) Four
17 feet in height and with an area of not more than five hundred eighty
18 square inches; or (ii) if a tubular antenna, no more than four inches
19 in diameter and no more than six feet in length; and the associated
20 equipment cabinet that is six feet or less in height and no more than
21 forty-eight square feet in floor area.

22 **Sec. 2.** RCW 54.04.045 and 2008 c 197 s 2 are each amended to read
23 as follows:

24 (1) ~~((As used in this section:))~~ The definitions in this subsection
25 apply throughout this section unless the context clearly requires
26 otherwise.

27 (a) "Attachment" means the affixation or installation of any wire,
28 cable, or other physical material capable of carrying electronic
29 impulses or light waves for the carrying of intelligence for
30 telecommunications or television, including, but not limited to cable,
31 and any related device, apparatus, or auxiliary equipment upon any pole
32 owned or controlled in whole or in part by one or more locally
33 regulated utilities where the installation has been made with the
34 necessary consent.

35 (b) "Licensee" means any person, firm, corporation, partnership,
36 company, association, joint stock association, or cooperatively

1 organized association, which is authorized to construct attachments
2 upon, along, under, or across public ways.

3 (c) "Locally regulated utility" means a public utility district not
4 subject to rate or service regulation by the utilities and
5 transportation commission.

6 (d) "Nondiscriminatory" means that pole owners may not arbitrarily
7 differentiate among or between similar classes of licensees approved
8 for attachments.

9 (2) All rates, terms, and conditions made, demanded, or received by
10 a locally regulated utility for attachments to its poles must be just,
11 reasonable, nondiscriminatory, and sufficient. A locally regulated
12 utility shall levy attachment space rental rates that are uniform for
13 the same class of service within the locally regulated utility service
14 area.

15 (3) A just and reasonable rate must be calculated as follows:

16 (a) One component of the rate shall consist of the additional costs
17 of procuring and maintaining pole attachments, but may not exceed the
18 actual capital and operating expenses of the locally regulated utility
19 attributable to that portion of the pole, duct, or conduit used for the
20 pole attachment, including a share of the required support and
21 clearance space, in proportion to the space used for the pole
22 attachment, as compared to all other uses made of the subject
23 facilities and uses that remain available to the owner or owners of the
24 subject facilities;

25 (b) The other component of the rate shall consist of the additional
26 costs of procuring and maintaining pole attachments, but may not exceed
27 the actual capital and operating expenses of the locally regulated
28 utility attributable to the share, expressed in feet, of the required
29 support and clearance space, divided equally among the locally
30 regulated utility and all attaching licensees, in addition to the space
31 used for the pole attachment, which sum is divided by the height of the
32 pole; and

33 (c) The just and reasonable rate shall be computed by adding
34 one-half of the rate component resulting from (a) of this subsection to
35 one-half of the rate component resulting from (b) of this subsection.

36 (4) For the purpose of establishing a rate under subsection (3)(a)
37 of this section, the locally regulated utility may establish a rate
38 according to the calculation set forth in subsection (3)(a) of this

1 section or it may establish a rate according to the cable formula set
2 forth by the federal communications commission by rule as it existed on
3 June 12, 2008, or such subsequent date as may be provided by the
4 federal communications commission by rule, consistent with the purposes
5 of this section.

6 (5) Except in extraordinary circumstances, a locally regulated
7 utility must respond to a licensee's application to enter into a new
8 pole attachment contract or renew an existing pole attachment contract
9 within forty-five days of receipt, stating either:

10 (a) The application is complete; or

11 (b) The application is incomplete, including a statement of what
12 information is needed to make the application complete.

13 (6) Within sixty days of an application being deemed complete, the
14 locally regulated utility shall notify the applicant as to whether the
15 application has been accepted for licensing or rejected. In
16 extraordinary circumstances, and with the approval of the applicant,
17 the locally regulated utility may extend the sixty-day timeline under
18 this subsection. If the application is rejected, the locally regulated
19 utility must provide reasons for the rejection. A request to attach
20 may only be denied on a nondiscriminatory basis (a) where there is
21 insufficient capacity; or (b) for reasons of safety, reliability, or
22 the inability to meet generally applicable engineering standards and
23 practices.

24 (7) Disputes arising under this section related to pole attachment
25 rates, terms, or conditions established by a locally regulated utility
26 must be resolved by arbitration. The arbitration must be conducted
27 pursuant to the procedures in chapter 7.04A RCW. The findings and
28 conclusion of the arbitrator or panel of arbitrators is binding upon
29 both parties. A party may petition the Thurston county superior court
30 to enforce the decision of the arbitrator or panel of arbitrators.

31 (8) Nothing in this section shall be construed or is intended to
32 confer upon the utilities and transportation commission any authority
33 to exercise jurisdiction over locally regulated utilities.

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