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**ENGROSSED SUBSTITUTE SENATE BILL 6034**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senate Energy, Environment & Technology (originally sponsored by Senators Rolfes, Sheldon, Angel, Hunt, Chase, Kuderer, and Hasegawa)

AN ACT Relating to authorizing limited retail telecommunications services for public utility districts that provide only sewer, water, and telecommunications on the effective date of this act; adding a new section to chapter 54.16 RCW; and adding a new section to chapter 34.12 RCW.

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

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

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Broadband" means networks of deployed telecommunications equipment and technologies necessary to provide high-speed internet access and other advanced telecommunications services.

(b) "Inadequate" means internet retail service that does not meet one hundred percent of the standards detailed in the service level agreement.

(c) "Partnership payment structure" means a group of or individual property owners who agree to pay a term payment structure for infrastructure improvements to their property.

(d) "Petition" means a formal written request for retail internet service by property owners on the public utility district broadband network.

(e) "Service level agreement" means a standard agreement, adopted during an open public meeting, between the retail internet service provider and the public utility that describes the required percentage of broadband download and upload speed and system availability, customer service, and transmission time.

(2) Any public utility district that, as of the effective date of this section, provides only water, sewer, and wholesale telecommunications services in a county with an area less than five hundred square miles and is located west of the Puget Sound may provide end-user internet services to end users on the public utility district's broadband network located within the public utility district boundaries only when all of the existing providers of end-user internet service on the public utility district's broadband network cease to provide end-user service or provide inadequate end-user service as determined in the manner prescribed by this section.

(3) Upon receiving a petition meeting the requirements of subsection (4) of this section, a public utility district board of commissioners may hold up to three meetings to:

(a) Verify the signature or signatures of the property owners on the petition and certify the petition;

(b) Determine and submit findings that the retail internet service available to the petitioners served by the public utility district's broadband network is either nonexistent or inadequate as defined in the service level agreement adopted by the commissioners for all existing internet service providers on the public utility district's broadband network; and

(c) By resolution, authorize the public utility district to provide retail internet service to end users on the public utility district's broadband network.

(4) A petition meets the requirements of subsection (3) of this section if it is delivered to a public utility district board of commissioners, declares that the signatories on the public utility district's broadband network have no or inadequate retail internet service providers, requests the public utility district to provide the retail internet service, and is signed by one of the following:

(a) A majority of a group, including homeowners' associations, of any geographical area within the public utility district, who have developed a partnership payment structure to finance broadband deployment with the public utility district; or

(b) Any individual who has developed a partnership payment structure to finance broadband deployment with the public utility district.

(5) For the purposes of this section, the adequacy of retail internet service is determined by measuring retail internet service to end users on the public utility district's broadband network and comparing it with service standards in the public utility district service level agreement used for all public utility district network providers. Measurement of the existing retail internet service provider's service must be quantified by measuring the service with speed and capacity devices and software. Additionally, a retail internet service provider may submit its own assessment of its service level for consideration by the commission within thirty days of the first meeting conducted under subsection (3) of this section.

(6) The commissioners of a public utility district may by resolution authorize the public utility district to provide or contract for provision of internet services to end users on the public utility district's broadband network when it is determined that no service or inadequate service exists for the individual or petitioners identified in subsection (4) of this section.

(7)(a) Except as provided in subsection (8) of this section, in case of failure to reach an agreement on the adequacy of retail internet service, the commissioners must request an appointment of an administrative law judge under Title 34 RCW to hear the dispute.

(b) The commissioners must provide a written notice, together with a copy of the dispute, and may require the disputing parties to attend a hearing before the administrative law judge, at a time and place to be specified in the written notice.

(c) The place of any such hearing may be the office of the commissioners or another place designated by the commissioners. The disputed information must be presented at the hearing.

(d) Upon review and consideration of all of the evidence, the administrative law judge must determine if the retail internet service is inadequate or nonexistent as defined in this section. Upon making a determination, the administrative law judge must state findings of fact and must issue and file a determination with the commissioners.

(8) If a provider of end-user service is a company regulated by the utilities and transportation commission, the company may choose to have the commission resolve disputes concerning the service level agreement under the process established in RCW 54.16.340. For the purposes of this subsection, "company" includes subsidiaries or affiliates.

(9) Any public utility district providing cable television service under this section must secure a cable television franchise, pay franchise fees, and any applicable taxes to the local cable franchise authority as required by federal law.

(10) Except as provided in subsection (8) of this section, nothing in this section may be construed or is intended to confer upon the utilities and transportation commission any authority to exercise jurisdiction over locally regulated utilities.

(11) All rates for retail internet services offered by a public utility district under this section must be fair and nondiscriminatory, except the public utility district may set tiers of service charges based on service demands of the end user, including commercial and residential rates.

NEW SECTION. **Sec.**  A new section is added to chapter 34.12 RCW to read as follows:

When requested by the public utility district commissioners, the chief administrative law judge shall assign an administrative law judge to conduct proceedings under section 1 of this act.

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