
SENATE BILL 6102

State of Washington 60th Legislature 2007 Regular Session

By Senators Poulsen, Morton, Rockefeller and Pridemore

Read first time 02/21/2007. Referred to Committee on Water, Energy & Telecommunications.

1 AN ACT Relating to authorizing locally regulated telecommunications
2 services to the general public and public agencies by public utility
3 districts; and amending RCW 54.16.330, 54.16.340, and 54.16.005.

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

5 **Sec. 1.** RCW 54.16.330 and 2004 c 158 s 1 are each amended to read
6 as follows:

7 (1) A public utility district is authorized to provide
8 telecommunications services.

9 (2) A public utility district (~~((in existence on June 8, 2000,))~~) may
10 construct, purchase, acquire, develop, finance, lease, license, handle,
11 provide, add to, contract for, interconnect, alter, improve, repair,
12 operate, and maintain any telecommunications facilities within or
13 without the district's limits (~~((for the following purposes:~~

14 ~~(a) For the district's internal telecommunications needs; and~~

15 ~~(b) For the provision of wholesale telecommunications services~~
16 ~~within the district and by contract with another public utility~~
17 ~~district.~~

18 ~~Nothing in this subsection shall be construed to authorize public~~

1 utility districts to provide telecommunications services to end
2 users)).

3 ((+2)) (3) A public utility district providing ((wholesale))
4 telecommunications services shall ensure that rates, terms, and
5 conditions for such services are not unduly or unreasonably
6 discriminatory or preferential. Rates, terms, and conditions are
7 discriminatory or preferential when a public utility district offering
8 rates, terms, and conditions to an entity for ((wholesale))
9 telecommunications services does not offer substantially similar rates,
10 terms, and conditions to all other entities seeking substantially
11 similar services.

12 ((+3)) (4) A public utility district providing ((wholesale))
13 telecommunications services shall not be required to but may establish
14 a separate utility system or function for such purpose. In either
15 case, a public utility district providing ((wholesale))
16 telecommunications services shall separately account for any revenues
17 and expenditures for those services according to standards established
18 by the state auditor pursuant to its authority in chapter 43.09 RCW and
19 consistent with the provisions of this title. Any revenues received
20 from the provision of ((wholesale)) telecommunications services must be
21 dedicated to costs incurred to build and maintain any
22 telecommunications facilities constructed, installed, or acquired to
23 provide such services, including payments on debt issued to finance
24 such services, until such time as any bonds or other financing
25 instruments executed after June 8, 2000, and used to finance such
26 telecommunications facilities or services are discharged or retired.

27 ((+4)) (5) When a public utility district provides ((wholesale))
28 telecommunications services, all telecommunications services rendered
29 to the district for the district's internal telecommunications needs
30 shall be allocated or charged at its true and full ((value)) cost. A
31 public utility district may not charge its nontelecommunications
32 operations rates that are preferential or discriminatory compared to
33 those it charges entities purchasing ((wholesale)) substantially
34 similar telecommunications services.

35 ((+5)) (6) A public utility district shall not exercise powers of
36 eminent domain to acquire telecommunications facilities or contractual
37 rights held by any other person or entity to telecommunications
38 facilities.

1 ~~((6))~~ (7) Except as otherwise specifically provided, a public
2 utility district may exercise any of the powers granted to it under
3 this title and other applicable laws in carrying out the powers
4 authorized under this section.

5 (8) Nothing in chapter 81, Laws of 2000 limits any existing
6 authority of a public utility district under this title.

7 **Sec. 2.** RCW 54.16.340 and 2000 c 81 s 5 are each amended to read
8 as follows:

9 (1) A person or entity that has requested ~~((wholesale))~~
10 telecommunications services from a public utility district providing
11 ~~((wholesale telecommunications))~~ such services under this chapter may
12 petition the commission ~~((under the procedures set forth in RCW
13 80.04.110 (1) through (3)))~~ if it believes the district's rates, terms,
14 and conditions are unduly or unreasonably discriminatory or
15 preferential and the commission has not issued a telecommunications
16 services rate determination within the last year. ~~((The person or
17 entity shall provide the public utility district notice of its intent
18 to petition the commission and an opportunity to review within thirty
19 days the rates, terms, and conditions as applied to it prior to
20 submitting its petition.))~~ In determining whether a district is
21 providing discriminatory or preferential rates, terms, and conditions,
22 the commission may consider such matters as service quality, cost of
23 service, technical feasibility of connection points on the district's
24 facilities, time of response to service requests, system capacity, and
25 other matters reasonably related to the provision of wholesale
26 telecommunications services. If the commission, after notice and
27 hearing, determines that ~~((a))~~ the public utility district's rates,
28 terms, and conditions are unduly or unreasonably discriminatory or
29 preferential, it shall ~~((issue a final order finding noncompliance with
30 this section and setting forth the specific areas of apparent
31 noncompliance. An order imposed under this section shall be
32 enforceable in any court of competent jurisdiction))~~ amend the rates,
33 terms, and conditions accordingly and implement the same within thirty
34 days.

35 (2) ~~((The commission may order a public utility district to pay a
36 share of the costs incurred by the commission in connection with
37 adjudicating or enforcing the provisions of this section))~~ Nothing in

1 this section shall be construed or is intended to confer upon the
2 Washington utilities and transportation commission any authority to
3 exercise jurisdiction over locally regulated utilities.

4 ~~((3) Without limiting other remedies at law or equity, the~~
5 ~~commission and prevailing party may also seek injunctive relief to~~
6 ~~compel compliance with an order.~~

7 ~~(4) Nothing in this section shall be construed to affect the~~
8 ~~commission's authority and jurisdiction with respect to actions,~~
9 ~~proceedings, or orders permitted or contemplated for a state commission~~
10 ~~under the federal telecommunications act of 1996, P.L. 104-104 (110~~
11 ~~Stat. 56).))~~

12 **Sec. 3.** RCW 54.16.005 and 2000 c 81 s 2 are each amended to read
13 as follows:

14 The definitions in this section apply throughout this chapter
15 unless the context clearly requires otherwise.

16 (1) "Commission" means the ~~((Washington utilities and~~
17 ~~transportation))~~ commission established in RCW 54.12.010, of the
18 locally regulated utility.

19 (2) "Telecommunications" has the same meaning as that contained in
20 RCW 80.04.010.

21 (3) "Telecommunications facilities" means lines, conduits, ducts,
22 poles, wires, cables, crossarms, receivers, transmitters, instruments,
23 machines, appliances, instrumentalities and all devices, real estate,
24 easements, apparatus, property, and routes used, operated, owned, or
25 controlled by any entity to facilitate the provision of
26 telecommunications services.

27 (4) "Telecommunications services" means the provision, to the
28 general public and public agencies as defined in RCW 39.34.020, of
29 telecommunications and telecommunications facilities, and internet
30 services and information transmitted utilizing telecommunications
31 facilities. "Telecommunications services" also includes wholesale
32 telecommunications services. "Information" is defined in RCW
33 80.04.010.

34 (5) "Wholesale telecommunications services" means the provision of
35 telecommunications services or facilities for resale by an entity
36 authorized to provide telecommunications services to the general public
37 and internet service providers.

1 (6) "Locally regulated utility" means a public utility district not
2 subject to rate or service regulation by the Washington utilities and
3 transportation commission.

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