
SUBSTITUTE HOUSE BILL 2423

State of Washington 65th Legislature 2018 Regular Session

By House Technology & Economic Development (originally sponsored by Representatives DeBolt, Tarleton, Orcutt, Blake, Doglio, Fey, Springer, Pollet, Maycumber, Nealey, Schmick, Wilcox, Dye, Smith, and Vick)

READ FIRST TIME 01/31/18.

1 AN ACT Relating to the state universal communications services
2 program; amending RCW 80.36.630, 80.36.650, 80.36.660, 80.36.670,
3 80.36.680, and 80.36.690; and repealing RCW 80.36.700.

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

5 **Sec. 1.** RCW 80.36.630 and 2013 2nd sp.s. c 8 s 202 are each
6 amended to read as follows:

7 ~~((1))~~ The definitions in this section apply throughout this
8 section and RCW 80.36.650 through 80.36.690 and 80.36.610 unless the
9 context clearly requires otherwise.

10 ~~((a))~~ (1) "Basic residential service" means those services set
11 out in 47 C.F.R. Sec. 54.101(a) (2011) and mandatory extended area
12 service approved by the commission.

13 ~~((b))~~ (2) "Basic telecommunications services" means the
14 following services:

15 ~~((i))~~ (a) Single-party service;

16 ~~((ii))~~ (b) Voice grade access to the public switched network;

17 ~~((iii))~~ (c) Support for local usage;

18 ~~((iv))~~ (d) Dual tone multifrequency signaling (touch-tone);

19 ~~((v))~~ (e) Access to emergency services (911);

20 ~~((vi))~~ (f) Access to operator services;

21 ~~((vii))~~ (g) Access to interexchange services;

1 ~~((viii))~~ (h) Access to directory assistance; and
2 ~~((ix))~~ (i) Toll limitation services.
3 ~~((e))~~ (3) "Communications provider" means a provider of
4 communications services that assigns a working telephone number to a
5 final consumer for intrastate wireline or wireless communications
6 services or interconnected voice over internet protocol service, and
7 includes local exchange carriers.
8 ~~((d))~~ (4) "Communications services" includes telecommunications
9 services and information services and any combination thereof.
10 ~~((e))~~ (5) "Incumbent local exchange carrier" has the same
11 meaning as set forth in 47 U.S.C. Sec. 251(h).
12 ~~((f))~~ (6) "Incumbent public network" means the network
13 established by incumbent local exchange carriers for the delivery of
14 communications services to customers that is used by communications
15 providers for origination or termination of communications services
16 by or to customers.
17 ~~((g))~~ (7) "Interconnected voice over internet protocol service"
18 means an interconnected voice over internet protocol service that:
19 (a) ~~((i))~~ Enables real-time, two-way voice communications; (b)
20 ~~((ii))~~ requires a broadband connection from the user's location;
21 (c) ~~((iii))~~ requires internet protocol-compatible customer
22 premises equipment; and (d) ~~((iv))~~ permits users generally to
23 receive calls that originate on the public network and to terminate
24 calls to the public network.
25 ~~((h))~~ (8) "Program" means the state universal communications
26 services program created in RCW 80.36.650.
27 ~~((i))~~ (9) "Telecommunications" has the same meaning as defined
28 in 47 U.S.C. Sec. 153(43).
29 ~~((j))~~ (10) "Telecommunications act of 1996" means the
30 telecommunications act of 1996 (P.L. 104-104, 110 Stat. 56).
31 ~~((k))~~ (11) "Working telephone number" means a north American
32 numbering plan telephone number, or successor dialing protocol, that
33 is developed for use in placing calls to or from the public network,
34 that enables a consumer to make or receive calls.
35 ~~((2) This section expires July 1, 2020.)~~

36 **Sec. 2.** RCW 80.36.650 and 2016 c 145 s 1 are each amended to
37 read as follows:

38 (1) A state universal communications services program is
39 established. The program is established to protect public safety and

1 welfare under the authority of the state to regulate
2 telecommunications under Article XII, section 19 of the state
3 Constitution. The purpose of the program is to support continued
4 provision of basic telecommunications services under rates, terms,
5 and conditions established by the commission (~~during the time over~~
6 ~~which incumbent communications providers in the state are adapting to~~
7 ~~changes in federal universal service fund and intercarrier~~
8 ~~compensation support~~) and the provision, enhancement, and
9 maintenance of broadband services, recognizing that the incumbent
10 public network functions to provide all communications services
11 including, but not limited to, voice and broadband services.

12 (2) Under the program, eligible communications providers may
13 receive distributions from the universal communications services
14 account created in RCW 80.36.690 in exchange for the affirmative
15 agreement to provide continued telecommunications services under the
16 rates, terms, and conditions established by the commission under this
17 chapter and broadband services for the period covered by the
18 distribution. The commission must implement and administer the
19 program under terms and conditions established in RCW 80.36.630
20 through 80.36.690. Expenditures for the program may not exceed five
21 million dollars per fiscal year; provided, however, that if less than
22 five million dollars is expended in any fiscal year, the unexpended
23 portion must be carried over to subsequent fiscal years and, unless
24 fully expended, must be available for program expenditures in such
25 subsequent fiscal years in addition to the five million dollars
26 allotted for each of those subsequent fiscal years.

27 (3) A communications provider is eligible to receive
28 distributions from the account if:

29 (a) The communications provider is: (i) An incumbent local
30 exchange carrier serving fewer than forty thousand access lines in
31 the state; or (ii) a radio communications service company providing
32 wireless two-way voice communications service and broadband services
33 to less than the equivalent of forty thousand access lines in the
34 state. For purposes of determining the access line threshold in this
35 subsection, the access lines or equivalents of all wireline
36 affiliates must be counted as a single threshold, if the lines or
37 equivalents are located in Washington;

38 (b) The (~~customers of the communications provider are at risk of~~
39 ~~rate instability or service interruptions or cessations absent a~~
40 ~~distribution to the provider that will allow the provider to maintain~~

1 ~~rates reasonably close to the benchmark))~~ communications provider has
2 adopted a plan to provide, enhance, or maintain broadband service in
3 its service area; and

4 (c) The communications provider meets any other requirements
5 established by the commission pertaining to the provision of
6 communications services, including basic telecommunications services.

7 (4)(a) ~~Distributions to eligible communications providers are~~
8 ~~based on ((a benchmark established by the commission. The benchmark~~
9 ~~is the rate the commission determines to be a reasonable amount~~
10 ~~customers should pay for basic residential service provided over the~~
11 ~~incumbent public network. However, if an incumbent local exchange~~
12 ~~carrier is charging rates above the benchmark for the basic~~
13 ~~residential service, that provider may not seek distributions from~~
14 ~~the fund for the purpose of reducing those rates to the benchmark))~~
15 criterion established by the commission.

16 (b) If the program does not have sufficient funds to fully fund
17 the distribution formula set out in (a) of this subsection,
18 distributions must be reduced on a pro rata basis using the amounts
19 calculated for that year's program support as the basis of the pro
20 rata calculations.

21 (c) To receive a distribution under the program, an eligible
22 communications provider must affirmatively consent to continue
23 providing communications services to its customers under rates,
24 terms, and conditions established by the commission pursuant to this
25 chapter for the period covered by the distribution.

26 (5) The program is funded from amounts deposited by the
27 legislature in the universal communications services account
28 established in RCW 80.36.690. The commission must operate the program
29 within amounts appropriated for this purpose and deposited in the
30 account.

31 (6) The commission must periodically review the accounts and
32 records of any communications provider that receives distributions
33 under the program to ensure compliance with the program and monitor
34 the providers' use of the funds.

35 ~~((7) The commission must establish an advisory board, consisting~~
36 ~~of a reasonable balance of representatives from different types of~~
37 ~~communications providers and consumers, to advise the commission on~~
38 ~~any rules and policies governing the operation of the program.~~

39 ~~(8) The program terminates on June 30, 2019, and no distributions~~
40 ~~may be made after that date.~~

1 ~~((9) This section expires July 1, 2020.))~~

2 **Sec. 3.** RCW 80.36.660 and 2013 2nd sp.s. c 8 s 204 are each
3 amended to read as follows:

4 ~~((1))~~ To implement the program, the commission must adopt rules
5 for the following purposes:

6 ~~((a))~~ (1) Operation of the program, including criteria for:
7 Eligibility for distributions; use of the funds; identification of
8 any reports or data that must be filed with the commission,
9 including, but not limited to, how a communication provider used the
10 distributed funds; and the communications provider's infrastructure;

11 ~~((b))~~ (2) Operation of the universal communications services
12 account established in RCW 80.36.690; and

13 ~~((c))~~ (3) Establishment of the ~~((benchmark))~~ formula used to
14 calculate distributions~~((; and~~

15 ~~(d) Readoption, amendment, or repeal of any existing rules~~
16 ~~adopted pursuant to RCW 80.36.610 and 80.36.620 as necessary to be~~
17 ~~consistent with RCW 80.36.630 through 80.36.690 and 80.36.610.~~

18 ~~((2) This section expires July 1, 2020.))~~

19 **Sec. 4.** RCW 80.36.670 and 2013 2nd sp.s. c 8 s 205 are each
20 amended to read as follows:

21 (1) In addition to any other penalties prescribed by law, the
22 commission may impose penalties for failure to make or delays in
23 making or filing any reports required by the commission for
24 administration of the program. In addition, the commission may
25 recover amounts determined to have been improperly distributed under
26 RCW 80.36.650. For the purposes of this section, the provisions of
27 RCW 80.04.380 through 80.04.405, inclusive, apply to all companies
28 that receive support from the universal communications services
29 account created in RCW 80.36.690.

30 (2) Any action taken under this section must be taken only after
31 providing the affected communications provider with notice and an
32 opportunity for a hearing, unless otherwise provided by law.

33 (3) Any amounts recovered under this section must be deposited in
34 the universal communications services account created in RCW
35 80.36.690.

36 ~~((4) This section expires July 1, 2020.))~~

1 **Sec. 5.** RCW 80.36.680 and 2013 2nd sp.s. c 8 s 206 are each
2 amended to read as follows:

3 ~~((1))~~ The commission may delegate to the commission secretary
4 or other staff the authority to resolve disputes and make other
5 administrative decisions necessary to the administration and
6 supervision of the program consistent with the relevant statutes and
7 commission rules.

8 ~~((2) This section expires July 1, 2020.)~~

9 **Sec. 6.** RCW 80.36.690 and 2013 2nd sp.s. c 8 s 208 are each
10 amended to read as follows:

11 ~~((1))~~ The universal communications services account is created
12 in the custody of the state treasurer. Revenues to the account
13 consist of moneys deposited in the account by the legislature and any
14 penalties or other recoveries received pursuant to RCW 80.36.670.
15 Expenditures from the account may be used only for the purposes of
16 the universal communications services program established in RCW
17 80.36.650. Only the secretary of the commission or the secretary's
18 designee may authorize expenditures from the account. The account is
19 subject to allotment procedures under chapter 43.88 RCW, but an
20 appropriation is not required for expenditures.

21 ~~((2) This section expires July 1, 2020.)~~

22 NEW SECTION. **Sec. 7.** RCW 80.36.700 (State universal
23 communications services program—Program expiration) and 2013 2nd
24 sp.s. c 8 s 211 are each repealed.

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