
HOUSE BILL 2886

State of Washington 54th Legislature 1996 Regular Session

By Representatives Crouse and Patterson

Read first time 01/24/96. Referred to Committee on Energy & Utilities.

1 AN ACT Relating to attachments to electric and telecommunications
2 distribution facilities; amending RCW 80.54.010 and 80.54.070; adding
3 a new section to chapter 80.54 RCW; and adding a new chapter to Title
4 54 RCW.

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

6 NEW SECTION. **Sec. 1.** Unless the context clearly requires
7 otherwise, the definitions in this section apply throughout this
8 chapter.

9 (1) Except as otherwise provided in this subsection (1),
10 "attachment" means any wire or cable for the carrying of intelligence
11 by telecommunications or television, including cable television, light
12 waves, or other phenomena, or for the distribution of electricity for
13 light, heat, or power, and any related device, apparatus, or auxiliary
14 equipment, installed upon any pole or in any telecommunications,
15 electrical, cable television, or communications right of way, duct,
16 conduit, manhole or handhole, or other similar facilities owned or
17 controlled, in whole or in part, by one or more utilities not regulated
18 by the utilities and transportation commission, if the installation has
19 been made with the consent of one or more of the utilities.

1 "Attachment" does not mean any wire or cable for the distribution
2 of electricity for light, heat, or power, or any related device,
3 apparatus, or auxiliary equipment, installed upon any pole or in any
4 electrical right of way, duct, conduit, manhole or handhole, or other
5 similar facilities owned or controlled, in whole or in part, by one or
6 more electric utility, as utility is defined in this section or in
7 chapter 80.54 RCW, which shall be governed by ordinary laws of
8 contracting rather than this chapter.

9 (2) "Utility" means any electrical company or telecommunications
10 company cooperatively organized, or owned by federal, state, or local
11 government, or a subdivision of state or local government, that is not
12 regulated by the utilities and transportation commission.

13 NEW SECTION. **Sec. 2.** (1) All rates, terms, and conditions made,
14 demanded, or received by a utility for attachments to its facilities
15 must be just, fair, reasonable, and sufficient.

16 (2) A just and reasonable rate must assure the utility the
17 recovery of not less than all the additional costs of procuring and
18 maintaining attachments, nor more than the actual capital and operating
19 expenses, including just compensation, of the utility attributable to
20 that portion of the pole, duct, or conduit used for the attachment,
21 including a share of the required support and clearance space, in
22 proportion to the space used for the attachment, as compared to all
23 other uses made of the subject facilities, and uses that remain
24 available to the owner or owners of the subject facilities.

25 (3) A utility shall levy attachment rates that are uniform for the
26 same class of service provider within the utility service area.

27 NEW SECTION. **Sec. 3.** Except as otherwise provided in this
28 section, a utility shall provide entities seeking to attach to the
29 utility's facilities with access to those facilities. A utility shall
30 provide such access on a nondiscriminatory basis.

31 A utility may deny access to its facilities if, in the
32 determination of the utility, there is insufficient capacity or there
33 are structural or other safety reasons for the denial. The utility's
34 determination must be reasonable, and a denial for structural or safety
35 reasons must be based on standard engineering practices and applicable
36 safety codes and standards. The utility denying access shall document

1 the basis of the determination in writing, and make the documentation
2 available for inspection by the entity denied access.

3 **Sec. 4.** RCW 80.54.010 and 1985 c 450 s 40 are each amended to read
4 as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

7 (1) Except as otherwise provided in this subsection (1),
8 "attachment" means any wire or cable for the (~~((transmission))~~) carrying
9 of intelligence by telecommunications or television, including cable
10 television, light waves, or other phenomena, or for the
11 (~~((transmission))~~) distribution of electricity for light, heat, or power,
12 and any related device, apparatus, or auxiliary equipment, installed
13 upon any pole or in any telecommunications, electrical, cable
14 television, or communications right of way, duct, conduit, manhole or
15 handhole, or other similar facilities owned or controlled, in whole or
16 in part, by one or more utilities, where the installation has been made
17 with the consent of the one or more utilities.

18 "Attachment" does not mean any wire or cable for the distribution
19 of electricity for light, heat, or power, or any related device,
20 apparatus, or auxiliary equipment, installed upon any pole or in any
21 electrical right of way, duct, conduit, manhole or handhole, or other
22 similar facilities owned or controlled, in whole or in part, by one or
23 more electric utility, as utility is defined in this section or in
24 section 1 of this act, which shall be governed by ordinary laws of
25 contracting rather than this chapter.

26 (2) "Licensee" means any person, firm, corporation, partnership,
27 company, association, joint stock association, or cooperatively
28 organized association, other than a utility, which is authorized to
29 construct attachments upon, along, under, or across the public ways.

30 (3) "Utility" means any electrical company or telecommunications
31 company as defined in RCW 80.04.010, and does not include any entity
32 cooperatively organized, or owned by federal, state, or local
33 government, or a subdivision of state or local government.

34 NEW SECTION. **Sec. 5.** A new section is added to chapter 80.54 RCW
35 to read as follows:

36 Except as otherwise provided in this section, a utility shall
37 provide entities seeking to attach to the utility's facilities with

1 access to those facilities. A utility shall provide such access on a
2 nondiscriminatory basis.

3 A utility may deny access to its facilities if, in the
4 determination of the utility, there is insufficient capacity or there
5 are structural or other safety reasons for the denial. The utility's
6 determination must be reasonable, and a denial for structural or safety
7 reasons must be based on standard engineering practices and applicable
8 safety codes and standards. The utility denying access shall document
9 the basis of the determination in writing and make the documentation
10 available for inspection by the entity denied access.

11 **Sec. 6.** RCW 80.54.070 and 1979 c 33 s 7 are each amended to read
12 as follows:

13 Notwithstanding any other provision of law, a utility (~~as defined~~
14 ~~in RCW 80.54.010(3) and any utility not regulated by the utilities and~~
15 ~~transportation commission~~) shall levy attachment rates (~~which~~) that
16 are uniform for all licensees within the same class within the utility
17 service area.

18 NEW SECTION. **Sec. 7.** Sections 1 through 3 of this act shall
19 constitute a new chapter in Title 54 RCW.

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