
**Technology, Telecommunications
& Energy Committee**

ESB 6598

Brief Description: Regulating the provision of wholesale telecommunications services by public utility districts.

Sponsors: Senators Esser, Schmidt, Mulliken, Rasmussen, Parlette and Stevens.

Brief Summary of Engrossed Bill

- Clarifies that a public utility district offering wholesale telecommunications services may form a separate utility system or function for telecommunications services.
- Requires public utility districts (PUDs) to separately account for any revenues and expenditures for wholesale telecommunications services according to standards established by the State Auditor and consistent with the powers and duties granted to PUDs whether or not they form a separate telecommunications utility system or function.

Hearing Date: 2/25/04

Staff: Pam Madson (786-7166).

Background:

The powers of public utility districts (PUDs) and port districts are governed by statutes. PUDs are expressly authorized, among other things, to provide electricity, water, and sewer service. They have additional incidental and implied powers that are necessary for accomplishing their primary purposes.

In 2000 PUDs and rural port districts, that were in existence in 2000, were authorized to acquire and operate telecommunications facilities for their own internal telecommunications needs and to provide wholesale telecommunications services within their district limits. PUDs are also allowed to provide wholesale services to other PUDs by contract. A further statutory declaration states that PUDs and rural port districts may not provide telecommunications services to end users. "End user" is not defined in statute but a 2001 Attorney General's Opinion concluded that "end user" means "retail customer," and that a PUD or rural port district may not use an interlocal agreement to sell or lease telecommunications facilities or services to other public agencies where the agency is the end user.

When districts establish a separate utility function to provide wholesale telecommunications services, they must keep separate accountings of revenues and expenditures for their wholesale telecommunications activities. Revenues from the wholesale activities must be used to pay off the costs incurred in building and maintaining the telecommunications facilities until such time as the instruments used to finance the telecommunications facilities are discharged or retired.

Districts are allowed to combine certain separate utility functions in a single utility and combine the funds or accounts of the separate utility functions into a single fund or account. Those separate utility functions or systems that may be combined include electrical energy, domestic water, irrigation, sanitary sewer and storm sewer systems.

Districts must charge themselves the true and full value of telecommunications services provided by their separate telecommunications functions. PUDs and rural port districts may not exercise powers of eminent domain to acquire telecommunications facilities or contractual rights to such facilities.

PUDs and rural port districts are required to ensure that their rates, terms, and conditions on wholesale services are not unduly or unreasonably discriminatory or preferential among its wholesale customers. The Washington Utilities and Transportation Commission (WUTC) may review a district's wholesale telecommunications rates, terms, and conditions if petitioned to do so by a wholesale customer.

The State Auditor's Office, as one of its duties, prescribes uniform budgeting, accounting, and reporting systems for local governments.

Summary of Bill:

A PUD providing wholesale telecommunications services is not required to establish a separate utility system or function. But a PUD providing wholesale telecommunication services must separately account for any revenues and expenditures for the services according to standards established by the State Auditor and consistent with the powers and duties granted to PUDs.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.