

HOUSE BILL REPORT

SSB 6675

As Passed House - Amended:

March 2, 2000

Title: An act relating to the provision of telecommunications services by public utility districts and rural port districts.

Brief Description: Allowing public utility districts and rural port districts to provide telecommunications services.

Sponsors: Senate Committee on Energy, Technology & Telecommunications (originally sponsored by Senators Brown, Hochstatter, Hargrove, Costa and Sheahan; by request of Governor Locke).

Brief History:

Committee Activity:

Technology, Telecommunications & Energy: 2/23/00, 2/25/00 [DPA].

Floor Activity:

Passed House - Amended: 3/2/00, 70-28.

**Brief Summary of Substitute Bill
(As Amended by House Committee)**

- Public Utility Districts (PUDs) and rural port districts may provide wholesale telecommunication services within or outside the district's limits for all areas: except within cities over 70,000 population, by contract with another PUD, and for their internal telecommunication needs.
- PUDs and rural port districts are expressly prohibited from providing wholesale telecommunication services to end users.
- PUDs and rural port districts must establish a separate utility function for the provision of those services, and account for all revenues and expenditures separately from its internal operations.
- PUD's and rural port districts must dedicate any revenue received from wholesale telecommunication services to the utility function that includes the provision of wholesale telecommunication services for costs incurred to build and maintain such facilities until bonds or other financing are paid off.
- PUDs and rural port districts must charge themselves the full and true value of their internal telecommunication needs.
- The act limits no existing authority granted to port districts or PUDs.
- In order to provide wholesale telecommunication services, PUDs and rural port districts must: develop a written implementation plan, hold public hearings on the plan, adopt a resolution of the plan by the commission, and wait 90 days for any potential petition to force a vote of the people.

**HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS &
ENERGY**

Majority Report: Do pass as amended. Signed by 10 members: Representatives Crouse, Republican Co-Chair; Poulsen, Democratic Co-Chair; DeBolt, Republican Vice Chair; Ruderman, Democratic Vice Chair; Bush; Delvin; Kastama; McDonald; Morris and Wolfe.

Minority Report: Do not pass. Signed by 3 members: Representatives Cooper; Reardon and Thomas.

Staff: Scott MacColl (786-7106).

Background:

Public Utility Districts (PUDs) have the authority to construct, maintain, operate and develop all lands, plants and plant facilities, and systems for generating electric energy by water power, steam, or other methods. PUDs are also authorized to construct and operate the entire system for distributing water for domestic use and irrigation. PUDs also have authority to raise revenue by the levy of an annual tax, and to exercise the right of eminent domain.

Port districts are authorized to construct, maintain, and develop harbor improvements, rail or motor vehicle transfer and terminal facilities, water transfer and terminal facilities, and other commercial transportation and industrial improvements. Port districts also have the power to levy and collect charges, and to exercise the right of eminent domain.

The Washington Utilities and Transportation Commission (WUTC) is authorized to regulate in the public interest the rates, services, facilities, and practices of all persons engaging in transportation. The WUTC also regulates the rates, services, facilities, and practices of people in the business of supplying any utility service or commodity including electric companies, gas companies, irrigation companies, telecommunication companies, and water companies.

Summary of Amended Bill:

A PUD or rural port district that is in existence on the effective date of this act is authorized to provide wholesale telecommunication services within its district limits to all areas except within cities over 70,000 population. PUDs are also authorized to contract wholesale telecommunication services to other PUDs. The districts are required to ensure that rates, terms, and conditions for services are not unduly or unreasonably discriminatory or preferential.

In order to provide wholesale telecommunication services, PUD's and rural port districts must: develop a written implementation plan, hold public hearings on the plan, adopt a resolution of the plan by the commission, and wait 90 days for any potential petition to force a vote of the people.

Discriminatory or preferential is described to be when a PUD or rural port district does not offer similar rates, terms and conditions to all entities seeking substantially similar services. A person or entity receiving wholesale telecommunication services from a PUD or rural port district may petition the Washington Utilities and Transportation Commission (WUTC) if it believes the districts' rates, terms, and conditions are unduly or unreasonably discriminatory or preferential.

The WUTC may consider things like service quality, cost of service, technical feasibility of connection points on the districts' facilities, time of response to service requests, system capacity, and other matters related to telecommunication services. After the hearing, if the WUTC determines that a PUD or rural port district is providing unduly or unreasonably discriminatory or preferential services, the WUTC shall issue a final order finding noncompliance. The finding of noncompliance is enforceable in any court of competent jurisdiction.

PUD's and rural port districts must establish a separate utility function for the provision of those services, and account for all revenues and expenditures separately from its internal operations.

PUD's and rural port districts must dedicate any revenue received from wholesale telecommunication services to the utility function that includes the provision of wholesale telecommunication services for costs incurred to build and maintain such facilities until bonds or other financing are paid off. PUD's and rural port districts must charge themselves the full and true value of their internal telecommunication needs.

PUDs and rural port districts are specifically prohibited from exercising the powers of eminent domain to acquire telecommunication facilities.

The following definitions refer to this act:

"Telecommunications" means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. Information in this definition means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or by any other symbols.

"Telecommunications facilities" means all equipment and devices, real estate, easements, property, and routes owned, operated or controlled by any entity to facilitate the provision of telecommunications services.

"Wholesale telecommunications services" means the provisions of telecommunication services or facilities for resale by an entity authorized to provide telecommunication services to the general public.

"Rural Port District" means a port district located in a county with an average population density of fewer than one hundred persons per square mile.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: GTE supports the Public Utility Districts providing these services in rural and non-rural areas. There are win-win possibilities for private utilities and public utility districts, and GTE would like to encourage joint facilities. This is the best rural economic development bill for the state. PUD's must be comfortable with the language in order for the Washington State Grange to support the bill. A vote of the people may hinder that process.

PUD's are governed by open meetings and have elected commissioners that are focused on customer service, and therefore a vote of the people is unnecessary. Douglas PUD has been developing broadband since 1996 which is replacing a 35 year old system. The first outside the system cable was put in for Douglas PUD by GTE. Douglas is only serving those customers that request service, using the Attorney General's Opinion as authority.

The Northern Fruit Company from E. Wenatchee markets to 50 states and 40 countries. The PUD proposed system will help businesses and the community, and the company signed up one month ago for full broadband services, including two other facilities that they market for. They have to be able to tie in their facilities and hook in around the world. The growers in the community are sliding towards bankruptcy, and this bill would allow the fiber network to exist that would attract high tech businesses.

Testimony Against: GTE is concerned with PUD's being able to cross subsidize, and that PUD's must fully allocate costs that have to be paid back. There should also be a vote of the people because subscribers should have a chance to say yes or no. There should be a population threshold for communities greater than 15,000 people, and the committee should retain the dispute resolution portion. That function should stay within the WUTC, and not with the commissioners of the PUD. GTE has invested over \$90 million over the last 10 years in north-central Washington. While GTE doesn't have fiber to the home, neither do some areas of Seattle. The tariff services offered in Eastern Washington are the same rates as those offered on the east side of Lake Washington. Therefore, the rural areas are not necessarily underserved.

Douglas PUD feels that they have the authority to build out telecommunications and provide services to new businesses and homes. Due to competition from the PUD, businesses are now dumping GTE for the PUD. Last year, a business in Omak needed an out of area hook-up, so it proposed to build and operate a line from Brewster to Omak and hook on the PUD poles. The PUD said no, they wanted to compete in excess capacity themselves. Then the business wanted a separate pole attachment, but found out there were none. However, the company and the PUD are now working through a process, and a pole-attachment agreement is in the works.

PUD's feel that there are some key provisions missing from the bill. Interconnection, a bond covenant, low UTC oversight, and preservation of existing authority. PUD's also oppose a vote of the people as being unnecessary. Also, electric utilities already use internal telecommunications, and can use that backbone network to provide competition.

Testified: (Support with amendments) Rosemary Williamson, GTE; Camp Fuller, GTE; John Andrist, NCI Data.com, Inc.; Jim Haase, Washington State Grange; Lew McMurrin, Washington Public Utilities Districts Association; Bill Dobbins, Douglas County Public Utilities District; and Doug Pauly.