
SUBSTITUTE SENATE BILL 5811

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Energy, Technology & Telecommunications
(originally sponsored by Senators Brown, Prentice and Kohl-Welles)

Read first time 03/03/99.

1 AN ACT Relating to the implementation of the federal
2 telecommunications act of 1996; amending RCW 80.36.610; adding new
3 sections to chapter 80.36 RCW; creating a new section; prescribing
4 penalties; and repealing RCW 80.36.600.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that pursuant to
7 section 1, chapter 337, Laws of 1998, the utilities and transportation
8 commission has prepared a plan to implement a program for preservation
9 and advancement of universal telecommunications service and has
10 submitted a report describing that plan to the legislature as required.

11 NEW SECTION. **Sec. 2.** (1) The commission shall implement a program
12 for the preservation and advancement of universal telecommunications
13 service that is consistent with the requirements of the federal
14 telecommunications act of 1996 (47 U.S.C. Sec. 254).

15 (2) The purposes of the program are to:

16 (a) Benefit all telecommunications ratepayers in the state by
17 ensuring that there exists a modern telecommunications network to which
18 all citizens and businesses have reasonable access;

1 (b) Provide specific, sufficient, competitively neutral, and
2 technologically neutral support for all telecommunications lines used
3 to provide basic telecommunications services for customers of
4 telecommunications companies in high-cost locations;

5 (c) Replace the existing system of universal service provisioning,
6 that relies on implicit subsidies for companies serving customers in
7 high-cost locations, with a program that relies on explicit
8 contributions to a fund, transfers from which will preserve and enhance
9 a ubiquitous telecommunications network by ensuring rates and services
10 in high-cost locations that are reasonably comparable to those in other
11 areas; and

12 (d) Facilitate the development of competition in both urban and
13 rural areas of the state.

14 NEW SECTION. **Sec. 3.** The definitions in this section apply
15 throughout sections 2 through 13 of this act unless the context clearly
16 requires otherwise.

17 (1) "Administrator" means the administrator of the universal
18 service fund designated under section 5(4) of this act.

19 (2) "Benchmark" means an amount per high-cost location, determined
20 by the commission by rule or order, above which universal service funds
21 will be available to support the provision of service in the high-cost
22 location.

23 (3) "End user telecommunications revenue" means the
24 telecommunications carrier's international, interstate, and intrastate
25 revenue derived from Washington end users for telecommunications and
26 telecommunications services.

27 (4) "Fund" means the universal service fund created by section 5 of
28 this act.

29 (5) "High-cost location" means a place where the cost of providing
30 telecommunications services is greater than a benchmark established by
31 the commission.

32 (6) "Program" means the universal telecommunications service
33 program created in sections 2 through 13 of this act.

34 (7) "Telecommunications" has the same meaning as that term is
35 defined in 47 U.S.C. Sec. 154(43).

36 (8) "Telecommunications carrier" has the same meaning as that term
37 is defined in 47 U.S.C. Sec. 154(44).

1 (9) "Telecommunications services" has the same meaning as that term
2 is defined in 47 U.S.C. Sec. 154(46).

3 NEW SECTION. **Sec. 4.** The commission shall implement the program
4 authorized by sections 2 through 13 of this act to support the
5 following basic telecommunications services:

- 6 (1) Single-party service;
- 7 (2) Voice grade access to the public switched network;
- 8 (3) Support for local usage;
- 9 (4) Dual tone multifrequency signaling (touch-tone);
- 10 (5) Access to emergency services (E-911);
- 11 (6) Access to operator services;
- 12 (7) Access to interexchange services;
- 13 (8) Access to directory assistance; and
- 14 (9) Toll blocking services and toll limitation services at such
15 time as toll limitation is technically feasible.

16 NEW SECTION. **Sec. 5.** (1) The universal service fund is created.
17 All receipts from contributions from telecommunications carriers as
18 provided in subsection (2) of this section, penalties imposed under
19 section 11 of this act, and other moneys authorized to be deposited in
20 the fund by law or by order of any court with proper jurisdiction must
21 be deposited into the fund. The fund shall be outside the state
22 treasury. An appropriation is not required for expenditures from the
23 fund.

24 (2) The commission shall establish by rule a specific, predictable,
25 and sufficient mechanism to provide support for the universal service
26 fund. Every telecommunications carrier shall contribute to the fund on
27 an equitable and nondiscriminatory basis. The commission shall
28 establish each carrier's contribution annually by order based on each
29 carrier's proportionate share of total end user telecommunications
30 revenue.

31 (3) A carrier's contribution to the fund shall not exceed three
32 percent of its gross end-user telecommunications revenue. If three
33 percent of total end-user telecommunications revenue of all carriers is
34 insufficient to fund the universal program at the commission determined
35 level of support, the commission shall adjust the benchmark, or
36 benchmarks, upward.

1 (4) The fund shall be administered by a fund administrator
2 designated by the commission through a competitive bid process and is
3 subject to the guidance and direction of the commission. The
4 commission shall establish and approve the budget for the administrator
5 and the administrative expenses shall be paid out of the fund when such
6 expenses have been approved by the commission. The administrator may
7 establish an account or accounts in one or more independent financial
8 institutions. Moneys in the state universal service fund shall be used
9 only to fund the universal service support determined by the commission
10 to be necessary to ensure that affordable basic telecommunications
11 service is available in high-cost locations in the state, and to pay
12 the costs of administration of the state universal service program.

13 NEW SECTION. **Sec. 6.** The commission shall designate
14 telecommunications carriers that are eligible to receive support for
15 their provision of service in high-cost locations and establish
16 criteria for making such designations. In making such designations,
17 the commission may require the carriers to serve all persons requesting
18 service within the geographic area for which designation is made.

19 NEW SECTION. **Sec. 7.** (1) The commission shall provide support for
20 eligible telecommunications carriers serving high-cost locations. In
21 determining the amount of support required by eligible carriers, the
22 commission shall take into consideration any moneys received by those
23 carriers from any federal universal service support program.

24 (2) The commission shall establish by rule: (a) The criteria and
25 method for making distributions from the fund to eligible
26 telecommunications carriers serving high-cost locations; and (b) the
27 method for establishing benchmarks.

28 (3) The commission shall periodically audit, or contract for an
29 audit of, telecommunications carriers that receive support under this
30 section to ensure that they are using that support only for the
31 purposes of the program.

32 NEW SECTION. **Sec. 8.** In establishing the program, the commission
33 shall adopt rules that include the following:

34 (1) Provisions for the operation of the universal service fund
35 created by section 5 of this act;

1 (2) Criteria for the selection of an independent third party
2 administrator of the fund; and

3 (3) Reporting requirements for telecommunications carriers.

4 NEW SECTION. **Sec. 9.** The commission shall coordinate
5 administration of the program with any federal universal service
6 program and may administer the federal fund in conjunction with the
7 state program if so authorized by federal law.

8 NEW SECTION. **Sec. 10.** (1) The administrator of the fund may
9 request, and each telecommunications carrier shall provide, information
10 the commission or the administrator deems necessary for the
11 implementation and operation of the program.

12 (2) Any person may submit information under RCW 80.04.095 and the
13 administrator shall treat such information according to the terms of
14 RCW 80.04.095.

15 NEW SECTION. **Sec. 11.** (1) In addition to any other penalties
16 prescribed by law, the commission may impose penalties for delays in
17 making the required reports or contributions under the program. The
18 penalties shall be calculated as a percentage of the carrier's required
19 contribution for the previous calendar year.

20 (2) Any penalties imposed by the commission under this section or
21 imposed for violation of rules adopted under sections 2 through 13 of
22 this act or RCW 80.36.610 shall be payable to the universal service
23 fund created by section 5 of this act.

24 (3) In addition to any penalties imposed under this section, the
25 administrator may withhold payments to any eligible telecommunications
26 carrier that fails to submit information required to be submitted under
27 sections 2 through 13 of this act.

28 NEW SECTION. **Sec. 12.** The commission may delegate to the
29 commission secretary or other staff the authority to resolve disputes,
30 approve expenses of the administrator, and make other administrative
31 decisions necessary to the administration and supervision of the
32 program consistent with the relevant statutes and commission rules.

33 NEW SECTION. **Sec. 13.** The commission shall develop measures to
34 evaluate, and shall evaluate, the program. In the evaluation, the

1 commission shall attempt to assess whether rates for high-cost
2 locations remain comparable to those in low-cost locations, how
3 implementation of the program has impacted the development of
4 competition in both high-cost and low-cost locations, whether the
5 overall rates for residential and small business customers are
6 affordable, and whether the fund is appropriately sized. The
7 commission shall report its findings annually to the committees of the
8 senate and house of representatives with jurisdiction over
9 telecommunications services by December 31st of each year.

10 **Sec. 14.** RCW 80.36.610 and 1998 c 337 s 2 are each amended to read
11 as follows:

12 ~~((1))~~ The commission is authorized to take actions, conduct
13 proceedings, and enter orders as permitted or contemplated for a state
14 commission under the federal telecommunications act of 1996, P.L. 104-
15 104 (110 Stat. 56)~~((, but the commission's authority to either
16 establish a new state program or to adopt new rules to preserve and
17 advance universal service under section 254(f) of the federal act is
18 limited to the actions expressly authorized by RCW 80.36.600))~~. The
19 commission may establish by rule fees to be paid by persons seeking
20 commission action under the federal act, and by parties to proceedings
21 under that act, to offset in whole or part the commission's expenses
22 that are not otherwise recovered through fees in implementing the
23 act~~((, but new fees or assessments charged telecommunications carriers
24 to either establish a state program or to adopt rules to preserve and
25 advance universal service under section 254(f) of the federal act do
26 not take effect until the legislature has approved a state universal
27 service program.~~

28 ~~(2) The legislature intends that under the future universal service
29 program established in this state:~~

30 ~~(a) Every telecommunications carrier that provides intrastate
31 telecommunications services shall contribute, on an equitable and
32 nondiscriminatory basis, to the preservation and advancement of
33 universal service in the state;~~

34 ~~(b) The contributions shall be competitively and technologically
35 neutral; and~~

36 ~~(c) The universal service program to be established in accordance
37 with RCW 80.36.600 shall not be inconsistent with the requirements of
38 47 U.S.C. Sec. 254))~~.

1 NEW SECTION. **Sec. 15.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 16.** Sections 2 through 13 of this act are each
6 added to chapter 80.36 RCW.

7 NEW SECTION. **Sec. 17.** RCW 80.36.600 (Universal service program--
8 Planning and preparation--Commission's duties--Approval of legislature
9 required--Definitions) and 1998 c 337 s 1 are each repealed.

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