
SENATE BILL 5811

State of Washington

56th Legislature

1999 Regular Session

By Senators Brown, Prentice and Kohl-Welles

Read first time 02/10/1999. Referred to Committee on Energy,
Technology & Telecommunications.

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 limitation services.

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

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

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

36 (4) The fund shall be administered by a fund administrator
37 designated by the commission through a competitive bid process and is

1 subject to the guidance and direction of the commission. The
2 commission shall establish and approve the budget for the administrator
3 and the administrative expenses shall be paid out of the fund when such
4 expenses have been approved by the commission. The administrator may
5 establish an account or accounts in one or more independent financial
6 institutions.

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

13 NEW SECTION. **Sec. 7.** (1) The commission shall provide support for
14 eligible telecommunications carriers serving high-cost locations.

15 (2) The commission shall establish by rule: (a) The criteria and
16 method for making distributions from the fund to eligible
17 telecommunications carriers serving high-cost locations; and (b) the
18 method for establishing a benchmark that shall serve as a proxy for the
19 amount deemed by the commission to be a reasonable amount consumers in
20 high-cost locations should pay for basic telecommunications services.

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

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

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

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

31 (3) Reporting requirements for telecommunications carriers.

32 NEW SECTION. **Sec. 9.** The commission shall coordinate
33 administration of the program with any federal universal service
34 program and may administer the federal fund in conjunction with the
35 state program if so authorized by federal law.

1 NEW SECTION. **Sec. 10.** (1) The administrator of the fund may
2 request, and each telecommunications carrier shall provide, information
3 the commission or the administrator deems necessary for the
4 implementation and operation of the program, including, but not limited
5 to, information on costs to the company to provide service.

6 (2) Any person may submit information under RCW 80.04.095 and the
7 administrator shall treat such information according to the terms of
8 RCW 80.04.095.

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

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

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

22 NEW SECTION. **Sec. 12.** The commission may delegate to the
23 commission secretary or other staff the authority to resolve disputes,
24 approve expenses of the administrator, and make other administrative
25 decisions necessary to the administration and supervision of the
26 program consistent with the relevant statutes and commission rules.

27 NEW SECTION. **Sec. 13.** The commission shall develop measures to
28 evaluate, and shall evaluate, the program. In the evaluation, the
29 commission shall attempt to assess whether rates for high-cost
30 locations remain comparable to those in low-cost locations, how
31 implementation of the program has impacted the development of
32 competition in both high-cost and low-cost locations, whether the
33 overall rates for residential and small business customers are
34 affordable, and whether the fund is appropriately sized. The
35 commission shall report its findings annually to the committees of the

1 senate and house of representatives with jurisdiction over
2 telecommunications services by December 31st of each year.

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

5 ~~((1))~~ The commission is authorized to take actions, conduct
6 proceedings, and enter orders as permitted or contemplated for a state
7 commission under the federal telecommunications act of 1996, P.L. 104-
8 104 (110 Stat. 56)~~((, but the commission's authority to either~~
9 ~~establish a new state program or to adopt new rules to preserve and~~
10 ~~advance universal service under section 254(f) of the federal act is~~
11 ~~limited to the actions expressly authorized by RCW 80.36.600)).~~ The
12 commission may establish by rule fees to be paid by persons seeking
13 commission action under the federal act, and by parties to proceedings
14 under that act, to offset in whole or part the commission's expenses
15 that are not otherwise recovered through fees in implementing the
16 act~~((, but new fees or assessments charged telecommunications carriers~~
17 ~~to either establish a state program or to adopt rules to preserve and~~
18 ~~advance universal service under section 254(f) of the federal act do~~
19 ~~not take effect until the legislature has approved a state universal~~
20 ~~service program.~~

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

23 ~~(a) Every telecommunications carrier that provides intrastate~~
24 ~~telecommunications services shall contribute, on an equitable and~~
25 ~~nondiscriminatory basis, to the preservation and advancement of~~
26 ~~universal service in the state;~~

27 ~~(b) The contributions shall be competitively and technologically~~
28 ~~neutral; and~~

29 ~~(c) The universal service program to be established in accordance~~
30 ~~with RCW 80.36.600 shall not be inconsistent with the requirements of~~
31 ~~47 U.S.C. Sec. 254)).~~

32 NEW SECTION. **Sec. 15.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the
34 remainder of the act or the application of the provision to other
35 persons or circumstances is not affected.

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

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

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