
SUBSTITUTE SENATE BILL 5899

State of Washington 58th Legislature 2003 Regular Session

By Senate Committee on Technology & Communications (originally sponsored by Senators Finkbeiner, Reardon, Esser, Hewitt and Schmidt)

READ FIRST TIME 03/05/03.

1 AN ACT Relating to the provision of wholesale telecommunications
2 services by public utility districts; amending RCW 54.16.005 and
3 54.16.330; adding new sections to chapter 54.16 RCW; and creating a new
4 section.

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

6 NEW SECTION. **Sec. 1.** The purpose of this act is to adopt in
7 statute the conclusions of attorney general opinion, number 3 (2001).

8 **Sec. 2.** RCW 54.16.005 and 2000 c 81 s 2 are each amended to read
9 as follows:

10 The definitions in this section apply throughout this chapter
11 unless the context clearly requires otherwise.

12 (1) "Commission" means the Washington utilities and transportation
13 commission.

14 (2) "End user" means a retail customer, whether a person or public
15 or private entity, that purchases telecommunications services.

16 (3) "Telecommunications" has the same meaning as that contained in
17 RCW 80.04.010, and includes internet services.

1 ~~((3))~~ (4) "Telecommunications facilities" means lines, conduits,
2 ducts, poles, wires, cables, crossarms, receivers, transmitters,
3 instruments, machines, appliances, instrumentalities and all devices,
4 real estate, easements, apparatus, property, and routes used, operated,
5 owned, or controlled by any entity to facilitate the provision of
6 telecommunications services.

7 ~~((4))~~ (5) "Wholesale telecommunications services" means the
8 provision of telecommunications services or facilities for resale by an
9 entity authorized to provide telecommunications services to the general
10 public and internet service providers.

11 **Sec. 3.** RCW 54.16.330 and 2000 c 81 s 3 are each amended to read
12 as follows:

13 (1) A public utility district in existence on June 8, 2000, may
14 construct, purchase, acquire, develop, finance, lease, license, handle,
15 provide, add to, contract for, interconnect, alter, improve, repair,
16 operate, and maintain any telecommunications facilities within or
17 without the district's limits for the following purposes:

18 (a) For the district's internal telecommunications needs; and

19 (b) For the provision of wholesale telecommunications services
20 within the district and by contract with another public utility
21 district.

22 ~~((Nothing in this subsection shall be construed to authorize))~~
23 Public utility districts ~~((to))~~ shall not: (i) Provide
24 telecommunications services to end users; or (ii) market the services
25 provided by entities authorized to provide telecommunications services
26 to end users, except that information provided by a district describing
27 the capabilities of the district's network and a listing of private
28 providers may be marketed.

29 Public utility districts shall not provide wholesale
30 telecommunications services to public agencies, as defined in RCW
31 39.34.020, unless the agencies are authorized by statute to provide
32 telecommunications services to end users.

33 (2) A public utility district providing wholesale
34 telecommunications services shall ensure that rates, terms, and
35 conditions for such services are not unduly or unreasonably
36 discriminatory or preferential. Rates, terms, and conditions are
37 discriminatory or preferential when a public utility district offering

1 rates, terms, and conditions to an entity for wholesale
2 telecommunications services does not offer substantially similar rates,
3 terms, and conditions to all other entities seeking substantially
4 similar services.

5 (3) ~~((When))~~ A public utility district ~~((establishes a separate~~
6 ~~utility function for the provision of wholesale telecommunications~~
7 ~~services, it))~~ providing wholesale telecommunications services shall
8 separately account for any ~~((and all))~~ revenues ~~((and)),~~ expenditures
9 ~~((related to its)),~~ property, allocation of costs to its internal
10 communications needs, and amount of funds required from other utility
11 functions to support the provision of wholesale telecommunications
12 ~~((facilities and))~~ services ~~((separately from revenues and expenditures~~
13 ~~related to its internal telecommunications operations))~~. Any revenues
14 received from the provision of wholesale telecommunications services
15 must be dedicated to the utility function that includes the provision
16 of wholesale telecommunications services for costs incurred to build
17 and maintain the telecommunications facilities until such time as any
18 bonds or other financing instruments executed after June 8, 2000, and
19 used to finance the telecommunications facilities are discharged or
20 retired.

21 (4) When a public utility district ~~((establishes a separate utility~~
22 ~~function for the provision of))~~ provides wholesale telecommunications
23 services, all telecommunications services rendered ~~((by the separate~~
24 ~~function))~~ to the district for the district's internal
25 telecommunications needs shall be charged at its true and full value.
26 A public utility district may not charge its nontelecommunications
27 operations rates that are preferential or discriminatory compared to
28 those it charges entities purchasing wholesale telecommunications
29 services.

30 (5) A public utility district shall not exercise powers of eminent
31 domain to acquire telecommunications facilities or contractual rights
32 held by any other person or entity to telecommunications facilities.

33 (6) Except as otherwise specifically provided, a public utility
34 district may exercise any of the powers granted to it under this title
35 and other applicable laws in carrying out the powers authorized under
36 this section. Nothing in chapter 81, Laws of 2000 limits any existing
37 authority of a public utility district under this title.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 54.16 RCW
2 to read as follows:

3 A public utility district providing wholesale telecommunications
4 services shall provide, at a just and reasonable rate,
5 nondiscriminatory access for private providers of telecommunications
6 services to poles, conduits, or other permanent distribution facilities
7 owned by the public utility district unless the facilities have
8 insufficient capacity for such access and additional capacity cannot
9 reasonably be added to the facilities or such access would violate
10 standard industry safety and operational requirements. Except as
11 provided in a facilities use contract between a public utility district
12 and a private telecommunications service provider, a public utility
13 district shall not require the removal or prohibit the replacement of
14 telecommunications facilities owned by private telecommunications
15 service providers from its facilities.

16 NEW SECTION. **Sec. 5.** A new section is added to chapter 54.16 RCW
17 to read as follows:

18 When the state auditor makes a finding that a public utility
19 district providing wholesale telecommunications services has violated
20 RCW 54.16.330 or section 4 of this act, the district shall submit a
21 report to the appropriate committees of the legislature within thirty
22 days of the issue date of the finding. The report must include, at a
23 minimum: (1) A description of all activities relating to the
24 construction, acquisition, operation, marketing, and leasing of
25 telecommunications facilities and wholesale telecommunications
26 services; and (2) a description of the number of new locations
27 connected to the telecommunications facilities resulting from the
28 provision of wholesale telecommunications services to internet service
29 providers and entities authorized to provide telecommunications
30 services to the general public.

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