
SENATE BILL 6598

State of Washington

58th Legislature

2004 Regular Session

By Senators Esser, Schmidt, Mulliken, Rasmussen, Parlette and Stevens

Read first time 01/26/2004. Referred to Committee on Technology & Communications.

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; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** In October 2003, the senate technology and
6 communications committee inspected the telecommunications programs of
7 the Grant county and Chelan county public utility districts. The
8 inspection included tours of district facilities and meetings with more
9 than one dozen private service providers, many of whom raised serious
10 issues about the operation of the Grant county public utility
11 district's wholesale telecommunications network. The committee
12 inspection also included a public hearing on the provision of
13 telecommunications services by public utility districts.

14 In preparation for the inspection, the senate technology and
15 communications committee reviewed attorney general opinion number 3
16 (April 23, 2001). The committee noted the attorney general's
17 conclusion that the term "end user" in RCW 54.16.005 is equivalent to
18 "retail customer." The committee also noted the attorney general's

1 conclusion that the interlocal cooperation act does not authorize
2 public utility districts to provide telecommunications services or
3 facilities to other public agencies as end users.

4 The legislature concludes that attorney general opinion number 3
5 (April 23, 2001) agrees with the legislature's original intent in
6 chapter 81, Laws of 2000. Therefore, based on information gathered
7 during the October 2003 inspection, as well as attorney general opinion
8 number 3 (April 23, 2001), the legislature makes the following
9 statement of intent: (1) Public utility districts must be strictly
10 limited to providing wholesale telecommunications services; and (2) the
11 deployment of a public utility district's telecommunications facilities
12 must be limited to the district's telecommunications distribution
13 network up to and including the transition equipment at a customer's
14 premises.

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

17 The definitions in this section apply throughout this chapter
18 unless the context clearly requires otherwise.

19 (1) "Commission" means the Washington utilities and transportation
20 commission.

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

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

25 (~~(3)~~) (4) "Telecommunications facilities" means lines, conduits,
26 ducts, poles, wires, cables, crossarms, receivers, transmitters,
27 instruments, machines, appliances, instrumentalities and all devices,
28 real estate, easements, apparatus, property, and routes used, operated,
29 owned, or controlled by any entity to facilitate the provision of
30 telecommunications services.

31 (~~(4)~~) (5) "Wholesale telecommunications services" means the
32 provision of telecommunications services or facilities for resale by an
33 entity authorized to provide telecommunications services to the general
34 public and internet service providers.

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

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

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

7 (b) For the provision of wholesale telecommunications services
8 within the district and by contract with another public utility
9 district.

10 ~~((Nothing in this subsection shall be construed to authorize))~~
11 Public utility districts ((to)) shall not provide telecommunications
12 services to end users.

13 (2) A public utility district providing wholesale
14 telecommunications services shall ensure that rates, terms, and
15 conditions for such services are not unduly or unreasonably
16 discriminatory or preferential. Rates, terms, and conditions are
17 discriminatory or preferential when a public utility district offering
18 rates, terms, and conditions to an entity for wholesale
19 telecommunications services does not offer substantially similar rates,
20 terms, and conditions to all other entities seeking substantially
21 similar services.

22 (3) ~~((When))~~ A public utility district ((establishes a separate
23 utility function for the provision of wholesale telecommunications
24 services, it)) providing wholesale telecommunications services shall
25 separately account for any ~~((and all))~~ revenues and expenditures
26 ~~((related to its wholesale telecommunications facilities and services~~
27 ~~separately from revenues and expenditures related to its internal~~
28 ~~telecommunications operations))~~ using local government accounting
29 standards established by the state auditor pursuant to chapter 43.09
30 RCW. Any revenues received from the provision of wholesale
31 telecommunications services must be dedicated to the utility function
32 that includes the provision of wholesale telecommunications services
33 for costs incurred to build and maintain the telecommunications
34 facilities until such time as any bonds or other financing instruments
35 executed after June 8, 2000, and used to finance the telecommunications
36 facilities are discharged or retired.

37 (4) When a public utility district establishes a separate utility
38 function for the provision of wholesale telecommunications services,

1 all telecommunications services rendered by the separate function to
2 the district for the district's internal telecommunications needs shall
3 be charged at its true and full value. A public utility district may
4 not charge its nontelecommunications operations rates that are
5 preferential or discriminatory compared to those it charges entities
6 purchasing wholesale telecommunications services.

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

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

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