

# SENATE BILL REPORT

## E2SHB 2533

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As Reported By Senate Committee On:  
Water, Energy & Telecommunications, February 29, 2008

**Title:** An act relating to attachments to utility poles of locally regulated utilities.

**Brief Description:** Concerning attachments to utility poles of locally regulated utilities.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives McCoy, Chase and Quall).

**Brief History:** Passed House: 2/18/08, 94-1.

**Committee Activity:** Water, Energy & Telecommunications: 2/27/08, 2/29/08 [DPA, DNP, w/oRec].

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### SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

**Majority Report:** Do pass as amended.

Signed by Senators Rockefeller, Chair; Murray, Vice Chair; Honeyford, Ranking Minority Member; Fraser, Hatfield, Holmquist, Morton and Pridemore.

**Minority Report:** Do not pass.

Signed by Senator Oemig.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Regala.

**Staff:** Scott Boettcher (786-7416)

**Background:** Telecommunications service providers must often use poles, ducts, conduits, or rights-of-way of competitors, other utility service providers, or governmental entities to serve new or expanded customer bases. The Federal Communications Commission (FCC) regulates the rates, terms, and conditions for pole attachments by cable television and telecommunications service providers or investor-owned utilities (IOUs), unless a state has adopted its own regulatory program. In this state, the Utilities and Transportation Commission (UTC) has been granted authority to regulate attachments to poles owned by IOUs.

The UTC is specifically prohibited from regulating the activities of public utility districts (PUDs), municipal utilities, rural electric cooperatives, or consumer-owned utilities (COUs). Attachments to poles owned by COUs are regulated by the utility's governing board. COUs rates, terms, and conditions for pole attachments must be just, reasonable, nondiscriminatory, and sufficient.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

When a dispute arises regarding the rates, terms, or conditions of attachment to poles owned by a telecommunications company or an IOU, the aggrieved party may appeal to the UTC for resolution of the dispute. If dissatisfied, a party to the dispute may appeal a decision of the UTC to the courts. A COU aggrieved party must appeal to the utility's governing board or the courts.

**Summary of Bill (Recommended Substitutes):** It the policy of the state of Washington to encourage joint use of utility poles, to promote competition of telecommunications and information services, and to recognize the value of infrastructure owned by locally regulated utilities.

Locally regulated utilities must establish pole attachment rates that are just and reasonable and use a consistent cost-based formula. Just and reasonable rates must be calculated using a two-part formula. The two-part formula incorporates existing rate-setting methodologies of the Federal Communication Commission (FCC), the Washington Utilities and Transportation Commission, and the American Public Power Association. The bill allows for use of future rate-setting methodologies as set by rule by the FCC.

If a licensee makes application to attach to a locally regulated utility's pole, the locally regulated utility must respond within 45 days of receipt of the request. A locally regulated utility must notify a licensee as to whether the application has been accepted or rejected within 60 days of the application being deemed complete, unless a longer timeframe for review has been established and agreed to by the parties. A locally regulated utility may only deny a request to attach to a pole where there is insufficient capacity, or reasons of safety, reliability, or engineering concern.

**EFFECT OF CHANGES MADE BY WATER, ENERGY & TELECOMMUNICATIONS COMMITTEE (Recommended Amendments):** Clarifies that pole attachment rates are to be cost-based. Clarifies the method and technical components for calculating pole attachment rates. Allows for locally regulated utilities to extend the timeframe for review of complete applications based upon extraordinary circumstances and the approval of the applicant.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on Engrossed Second Substitute Bill:** PRO: Some fine-tuning was still needed to make what passed out of the House technically workable. An agreement in concept and language has been reached and will be forwarded to staff. With these changes, the bill will meet the intent of the negotiators who've worked hard since the bill passed out of the House.

**Persons Testifying:** PRO: Vicki Austin, Washington Public Utility Districts Association; Ron Main, Broadband Cable Association; Terry Stapleton, Washington Independent Telephone Association; Larry Bekkedahl, Clark Public Utilities.