

SENATE BILL REPORT

SB 6102

As Reported By Senate Committee On:
Water, Energy & Telecommunications, February 28, 2007

Title: An act relating to authorizing locally regulated telecommunications services to the general public and public agencies by public utility districts.

Brief Description: Modifying provisions affecting the telecommunications services of public utility districts.

Sponsors: Senators Poulsen, Morton, Rockefeller and Pridemore.

Brief History:

Committee Activity: Water, Energy & Telecommunications: 2/21/07, 2/28/07 [DPS, DNP].

SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

Majority Report: That Substitute Senate Bill No. 6102 be substituted therefor, and the substitute bill do pass.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Honeyford, Ranking Minority Member; Fraser, Marr, Morton, Oemig, Pridemore and Regala.

Minority Report: Do not pass.

Signed by Senators Delvin and Holmquist.

Staff: William Bridges (786-7424)

Background: Public Utility Districts (PUDs) are municipal corporations authorized to provide electricity, water, and sewer service. In 2000, the Legislature authorized PUDs to acquire and operate telecommunications facilities for the following: (1) their own internal telecommunications needs; (2) wholesale telecommunications services within their district limits; and (3) wholesale telecommunications services to other PUDs by contract.

PUDs must ensure their rates, terms, and conditions on wholesale telecommunications services are not unduly or unreasonably discriminatory or preferential. In addition, PUDs must keep separate accountings of revenues and expenditures for their wholesale telecommunications activities when they establish a separate utility function to provide wholesale telecommunications services. Revenues from the wholesale activities must be used to pay off the costs incurred in building and maintaining the telecommunications facilities.

The Washington Utilities and Transportation Commission (WUTC) is authorized to review petitions concerning a PUD's wholesale telecommunications rates, terms, and conditions.

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.

Summary of Bill: Public utility districts are authorized to provide telecommunications to the general public and public agencies.

The current provision authorizing the WUTC to review petitions concerning a PUD's wholesale telecommunications rates, terms, and conditions is replaced by a process involving the appropriate PUD commission. Under the new process, persons may petition the appropriate PUD commission to review the rates, terms, and conditions of the PUD's telecommunications services if the commission has not issued a telecommunications service rate determination within the previous year. Rates, terms and conditions that are determined to be unduly or unreasonably discriminatory must be amended within 30 days after the determination.

Definitions: Various terms are defined. "Public agency" is broadly defined to include state agencies, municipal corporations, quasi municipal corporations, special purpose districts, local service districts, federal agencies, federally recognized Indian tribes, and political subdivisions of other states. "Telecommunications services" includes internet services.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Water, Energy & Telecommunications): A pilot project is authorized to allow eligible PUDs to offer retail telecommunications service. An eligible PUD is one that can meet the following criteria: (1) the PUD is in a geographically remote county with significant geographic impediments to broadband telecommunications deployment; (2) the PUD is located in a county with a population density of nine persons per square mile or less according to April 1, 2006, population estimates made by the Office of Financial Management; (3) the PUD is located in a county with a median household income of 34,000 dollars or less in 2004 according to estimates made by the Office of Financial Management in October 2006; (4) the PUD is located in a county with national security installations, such as border stations and nuclear explosion listening arrays; (5) the PUD is located in a county with tribal areas that are not served or are underserved by broadband telecommunications; and (6) the PUD is located in a county where the utility district is successfully operating a fiber optic backbone. A participating PUD must submit annual progress reports to the Legislature. The pilot project expires at the end of seven years from the effective date of the act, after which a PUD may not acquire new retail customers. However, it may continue retail service to existing customers in order to satisfy any legal or financial obligations.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: Initiative number one authorized public utility districts to address rural disparities in the deployment of electricity. The same issue has arisen again concerning high-speed telecommunications services. Advanced telecommunications service in rural areas is an economic development tool. It also allows hospitals and schools to be connected to the world. A boy's life was saved in Newport, Pend Oreille county, because the local hospital had a high speed line to experts in Spokane. Pend Oreille PUD is very responsive to its customers because the home numbers of the commissioners are published in

every newsletter. The PUDs did not seek this bill, but they are up to the challenge of deploying fiber to their customers. If cities can deploy broadband services to customers, why not PUDs? It is acknowledged that Grant County PUD moved too far, too fast, and too soon. PUD broadband deployment is a twenty-first century tool to address twenty-first century problems.

CON: The current wholesale model works. It is designed to prevent unfair competition resulting from cross-subsidies and predatory pricing. If the Legislature decides to grant PUDs retail authority, it should ensure that current competitors are compensated, require a threshold financial analysis, and WUTC oversight for pole attachment rates. PUDs like Grant County moved too fast in deploying broadband and rate payers suffered. PUDs duplicate services already provided by private suppliers. The private sector should be deregulated if PUDs are allowed to compete in the market. Only a small number of rural people lack access to broadband.

Persons Testifying: PRO: Ernest Bolz, Okanogan PUD; Dan Peterson, Pend Oreille PUD; Jean Ryckman, Franklin PUD; Dave Siburg, Kitsap PUD; Dave Warren, Washington PUD Association.

CON: Elaine Davis, Fair Competition Alliance; Ron Main, Broadband Communications Association; Terry Stapleton, Washington Independent Telephone Association.