
HOUSE BILL 1499

State of Washington

61st Legislature

2009 Regular Session

By Representatives Eddy, Hudgins, Springer, Anderson, Herrera, Haler, Hasegawa, McCune, and Crouse

Read first time 01/22/09. Referred to Committee on Technology, Energy & Communications.

1 AN ACT Relating to notice of relocation of utility facilities;
2 amending RCW 35.99.060; and adding a new section to chapter 80.04 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 80.04 RCW
5 to read as follows:

6 (1) Public agencies may require utility facility operators to
7 relocate authorized facilities within the right-of-way when reasonably
8 necessary for construction, alteration, repair, or improvement of the
9 right-of-way, for purposes of public welfare, health, or safety. If a
10 public agency is planning a project that may require a utility facility
11 operator to relocate its utility facilities in or along the right-of-
12 way, the public agency shall conduct a preliminary design meeting
13 during the planning and design phase. Written notice must be provided
14 to each affected utility facility operator at least thirty days prior
15 to the preliminary design meeting. The notice must provide information
16 concerning: (a) The purpose of the project; (b) the proposed project
17 design; and (c) proposed dates of any required utility facility
18 relocations.

1 (2) Public agencies shall coordinate relocation of existing utility
2 facilities with the affected utility facility operators and must use
3 best efforts to minimize or eliminate utility facility relocations and
4 costs in the project design. If the public agency determines that a
5 utility facility relocation or the cost of utility facility relocation
6 cannot be avoided, the public agency shall coordinate the relocation of
7 existing utility facilities with the affected utility facility
8 operators in the preliminary design meeting to limit the impact of the
9 construction on existing utility facilities and thereby minimize costs
10 associated with existing utility facility relocations.

11 (3) In calculating the proposed date by which utility facility
12 relocation must be completed, the public agency shall consult with
13 affected utility facility operators and consider the extent of utility
14 facilities to be relocated, the services requirements, and the
15 construction sequence for the utility facilities relocation, within the
16 public agency's overall project construction sequence and constraints,
17 to safely complete the utility facilities relocation.

18 (4) Utility facility operators shall complete the relocation by the
19 date specified, unless the public agency, or a reviewing court,
20 establishes a later date for completion, after a showing by the utility
21 facility operator that the utility facility relocation cannot be
22 completed by the date specified using best efforts and meeting safety
23 and service requirements.

24 (5) The definitions in this subsection apply throughout this
25 section unless the context clearly requires otherwise.

26 (a) "Public agency" means the state, county, city, or any political
27 subdivision of the state, that maintains ownership or control of the
28 right-of-way.

29 (b) "Utility facility" means any privately, publicly, or
30 cooperatively owned equipment, facilities, or system for producing,
31 transmitting, or distributing communications, cable television, power,
32 electricity, gas, water, steam, or waste.

33 **Sec. 2.** RCW 35.99.060 and 2000 c 83 s 6 are each amended to read
34 as follows:

35 (1) Cities and towns may require service providers to relocate
36 authorized facilities within the right-of-way when reasonably necessary

1 for construction, alteration, repair, or improvement of the
2 right-of-way for purposes of public welfare, health, or safety.

3 ~~(2) ((Cities shall notify service providers as soon as practicable
4 of the need for relocation and shall specify the date by which
5 relocation shall be completed. In calculating the date that relocation
6 must be completed, cities shall consult with affected service providers
7 and consider the extent of facilities to be relocated, the services
8 requirements, and the construction sequence for the relocation, within
9 the city's overall project construction sequence and constraints, to
10 safely complete the relocation. Service providers shall complete the
11 relocation by the date specified, unless the city, or a reviewing
12 court, establishes a later date for completion, after a showing by the
13 service provider that the relocation cannot be completed by the date
14 specified using best efforts and meeting safety and service
15 requirements.))~~ Cities that may need to relocate authorized facilities
16 within the right-of-way shall notify service providers in accordance
17 with section 1 of this act.

18 (3) Service providers may not seek reimbursement for their
19 relocation expenses from the city or town requesting relocation under
20 subsection (1) of this section except:

21 (a) Where the service provider had paid for the relocation cost of
22 the same facilities at the request of the city or town within the past
23 five years, the service provider's share of the cost of relocation will
24 be paid by the city or town requesting relocation;

25 (b) Where aerial to underground relocation of authorized facilities
26 is required by the city or town under subsection (1) of this section,
27 for service providers with an ownership share of the aerial supporting
28 structures, the additional incremental cost of underground compared to
29 aerial relocation, or as provided for in the approved tariff if less,
30 will be paid by the city or town requiring relocation; and

31 (c) Where the city or town requests relocation under subsection (1)
32 of this section solely for aesthetic purposes, unless otherwise agreed
33 to by the parties.

34 (4) Where a project in subsection (1) of this section is primarily
35 for private benefit, the private party or parties shall reimburse the
36 cost of relocation in the same proportion to their contribution to the
37 costs of the project. Service providers will not be precluded from
38 recovering their costs associated with relocation required under

1 subsection (1) of this section, provided that the recovery is
2 consistent with subsection (3) of this section and other applicable
3 laws.

4 (5) A city or town may require the relocation of facilities at the
5 service provider's expense in the event of an unforeseen emergency that
6 creates an immediate threat to the public safety, health, or welfare.

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