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ENGROSSED SUBSTITUTE SENATE BILL 6034

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State of Washington

65th Legislature

2018 Regular Session

By Senate Energy, Environment & Technology (originally sponsored by Senators Rolfes, Sheldon, Angel, Hunt, Chase, Kuderer, and Hasegawa)

READ FIRST TIME 02/02/18.

1 AN ACT Relating to authorizing limited retail telecommunications  
2 services for public utility districts that provide only sewer, water,  
3 and telecommunications on the effective date of this act; adding a  
4 new section to chapter 54.16 RCW; and adding a new section to chapter  
5 34.12 RCW.

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

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

9 (1) The definitions in this subsection apply throughout this  
10 section unless the context clearly requires otherwise.

11 (a) "Broadband" means networks of deployed telecommunications  
12 equipment and technologies necessary to provide high-speed internet  
13 access and other advanced telecommunications services.

14 (b) "Inadequate" means internet retail service that does not meet  
15 one hundred percent of the standards detailed in the service level  
16 agreement.

17 (c) "Partnership payment structure" means a group of or  
18 individual property owners who agree to pay a term payment structure  
19 for infrastructure improvements to their property.

1 (d) "Petition" means a formal written request for retail internet  
2 service by property owners on the public utility district broadband  
3 network.

4 (e) "Service level agreement" means a standard agreement, adopted  
5 during an open public meeting, between the retail internet service  
6 provider and the public utility that describes the required  
7 percentage of broadband download and upload speed and system  
8 availability, customer service, and transmission time.

9 (2) Any public utility district that, as of the effective date of  
10 this section, provides only water, sewer, and wholesale  
11 telecommunications services in a county with an area less than five  
12 hundred square miles and is located west of the Puget Sound may  
13 provide end-user internet services to end users on the public utility  
14 district's broadband network located within the public utility  
15 district boundaries only when all of the existing providers of end-  
16 user internet service on the public utility district's broadband  
17 network cease to provide end-user service or provide inadequate end-  
18 user service as determined in the manner prescribed by this section.

19 (3) Upon receiving a petition meeting the requirements of  
20 subsection (4) of this section, a public utility district board of  
21 commissioners may hold up to three meetings to:

22 (a) Verify the signature or signatures of the property owners on  
23 the petition and certify the petition;

24 (b) Determine and submit findings that the retail internet  
25 service available to the petitioners served by the public utility  
26 district's broadband network is either nonexistent or inadequate as  
27 defined in the service level agreement adopted by the commissioners  
28 for all existing internet service providers on the public utility  
29 district's broadband network; and

30 (c) By resolution, authorize the public utility district to  
31 provide retail internet service to end users on the public utility  
32 district's broadband network.

33 (4) A petition meets the requirements of subsection (3) of this  
34 section if it is delivered to a public utility district board of  
35 commissioners, declares that the signatories on the public utility  
36 district's broadband network have no or inadequate retail internet  
37 service providers, requests the public utility district to provide  
38 the retail internet service, and is signed by one of the following:

39 (a) A majority of a group, including homeowners' associations, of  
40 any geographical area within the public utility district, who have

1 developed a partnership payment structure to finance broadband  
2 deployment with the public utility district; or

3 (b) Any individual who has developed a partnership payment  
4 structure to finance broadband deployment with the public utility  
5 district.

6 (5) For the purposes of this section, the adequacy of retail  
7 internet service is determined by measuring retail internet service  
8 to end users on the public utility district's broadband network and  
9 comparing it with service standards in the public utility district  
10 service level agreement used for all public utility district network  
11 providers. Measurement of the existing retail internet service  
12 provider's service must be quantified by measuring the service with  
13 speed and capacity devices and software. Additionally, a retail  
14 internet service provider may submit its own assessment of its  
15 service level for consideration by the commission within thirty days  
16 of the first meeting conducted under subsection (3) of this section.

17 (6) The commissioners of a public utility district may by  
18 resolution authorize the public utility district to provide or  
19 contract for provision of internet services to end users on the  
20 public utility district's broadband network when it is determined  
21 that no service or inadequate service exists for the individual or  
22 petitioners identified in subsection (4) of this section.

23 (7)(a) Except as provided in subsection (8) of this section, in  
24 case of failure to reach an agreement on the adequacy of retail  
25 internet service, the commissioners must request an appointment of an  
26 administrative law judge under Title 34 RCW to hear the dispute.

27 (b) The commissioners must provide a written notice, together  
28 with a copy of the dispute, and may require the disputing parties to  
29 attend a hearing before the administrative law judge, at a time and  
30 place to be specified in the written notice.

31 (c) The place of any such hearing may be the office of the  
32 commissioners or another place designated by the commissioners. The  
33 disputed information must be presented at the hearing.

34 (d) Upon review and consideration of all of the evidence, the  
35 administrative law judge must determine if the retail internet  
36 service is inadequate or nonexistent as defined in this section. Upon  
37 making a determination, the administrative law judge must state  
38 findings of fact and must issue and file a determination with the  
39 commissioners.

1 (8) If a provider of end-user service is a company regulated by  
2 the utilities and transportation commission, the company may choose  
3 to have the commission resolve disputes concerning the service level  
4 agreement under the process established in RCW 54.16.340. For the  
5 purposes of this subsection, "company" includes subsidiaries or  
6 affiliates.

7 (9) Any public utility district providing cable television  
8 service under this section must secure a cable television franchise,  
9 pay franchise fees, and any applicable taxes to the local cable  
10 franchise authority as required by federal law.

11 (10) Except as provided in subsection (8) of this section,  
12 nothing in this section may be construed or is intended to confer  
13 upon the utilities and transportation commission any authority to  
14 exercise jurisdiction over locally regulated utilities.

15 (11) All rates for retail internet services offered by a public  
16 utility district under this section must be fair and  
17 nondiscriminatory, except the public utility district may set tiers  
18 of service charges based on service demands of the end user,  
19 including commercial and residential rates.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 34.12  
21 RCW to read as follows:

22 When requested by the public utility district commissioners, the  
23 chief administrative law judge shall assign an administrative law  
24 judge to conduct proceedings under section 1 of this act.

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