

SENATE BILL REPORT

ESSB 6622

As Passed Senate, February 17, 1998

Title: An act relating to the implementation of the federal telecommunications act of 1996, P.L. 104-104 (110 Stat. 56).

Brief Description: Implementing the federal telecommunications act of 1996.

Sponsors: Senate Committee on Energy & Utilities (originally sponsored by Senator Finkbeiner; by request of Utilities & Transportation Commission).

Brief History:

Committee Activity: Energy & Utilities: 1/27/98, 2/5/98 [DPS].
Passed Senate, 2/17/98, 49-0.

SENATE COMMITTEE ON ENERGY & UTILITIES

Majority Report: That Substitute Senate Bill No. 6622 be substituted therefor, and the substitute bill do pass.

Signed by Senators Finkbeiner, Chair; Hochstatter, Vice Chair; Brown, Jacobsen, Rossi, T. Sheldon and Strannigan.

Staff: Karen Kirkpatrick (786-7403)

Background: The Federal Telecommunications Act of 1996 (the Act) was passed by Congress to encourage competition in the local telephone market. The Act supports the goal of universal service, and recognizes the need for changes in the methods used to achieve it. The Act calls for states to support universal service programs in a competitively and technologically neutral manner.

The goal of universal service is to provide all citizens with access to the public telephone network at affordable prices. The Legislature enacted a policy to preserve affordable universal telecommunications service in 1985, but universal telecommunications service has been the policy of Washington State for more than 60 years.

Universal Service depends on subsidies to maintain affordability. Average pricing has been used to support service to high-cost customer locations. Monopoly providers have been permitted to charge above-cost prices in urban areas in order to provide sufficient revenue to permit charging only an average, or affordable, price to remote rural customer locations. Monopoly providers have also been permitted to charge other companies above-cost prices for routing telephone traffic over their lines. These charges, known as access charges, provide substantial revenue to small telephone companies that service many high-cost customers. This revenue makes it possible to keep the basic monthly rate at an affordable level.

It has been suggested that these methods are an impediment to new companies trying to enter the local telecommunications market and that the means to achieving fair competition is to replace the system of hidden subsidies with one of explicit, predictable supports through the use of a universal service fund managed by the Washington Utilities and Transportation Commission (WUTC).

Under current statutory and decisional law, WUTC does not have authority to assess telephone companies for contributions to a universal service fund to subsidized companies serving high-cost customer locations. The commission is requesting this legislation to give it the necessary authority to create and administer a universal service program.

Summary of Bill: The commission is directed to establish a program for the advancement of universal telecommunication services that shall not take effect until the Legislature acts.

The commission is directed to establish the level of support that all participants are to provide, make assessments on carriers to provide that support, designate those eligible to receive funds for the benefit of their customers, and make all necessary rules for administration of the program.

The commission is authorized to delegate the authority to resolve disputes or make other decisions necessary to administer the program, including the authority to contract with independent administrators, establish accounts in independent financial institutions, authorize expenses of program administration, and require carriers to contribute the costs necessary to administer the fund.

The commission is directed to audit, or contract to audit carriers that receive support under the program, coordinate administration of the program with federal authorities, and report to the Legislature on the details and recommendations of the program by January 1, 1999.

The commission is authorized to take actions as permitted or contemplated under the Federal Telecommunications Act of 1996, and establish fees to offset in whole or part the commission's expenses in implementing the act. The commission's rule-making authority with respect to the universal service program expires on December 1, 1999 unless reauthorized by the Legislature.

All transfers of money necessary for the program are directed to be outside the state treasury and not subject to appropriation.

The review process for a non-controversial competitive classification petition is shortened. A petition may include an effective date, not less than 30 days from filing, on which the classification takes effect unless suspended by the commission or set for a hearing. The commission must issue a final order within six months.

Definitions are provided and other clarifying and technical changes are made.

Appropriation: None.

Fiscal Note: Requested on January 23, 1998.

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

Testimony For: This legislation promotes competitive and technological neutrality. It creates a competitively neutral and explicit fund. Urban and business customers have options currently but rural and residential customers do not. This legislation gives companies a chance to make a business at providing rural service. Monopolies are not favored; therefore, support mechanisms must be restructured to create a level playing field. This legislation is needed to preserve low rates, promote competition, and comply with federal requirements. The federal government has left the state with 75 percent responsibility for universal service, but without this legislation, the UTC does not have authority to act. Timing is critical.

Testimony Against: This legislation is too broad. The details ought to be determined before the commission is given authority to implement the program.

Testified: Nancy Judy, Bruce Shaull, Sprint (pro); Tom Walker, Scott McClellan, US West (pro); Terry Vann, Bob Smith, Rick Finnigan, WITA (pro); Rosemary Williamson, Richard Potter, GTE (pro); Mike Woodin, AT&T (pro); Simon Fitch, Assistant AG (pro); Tim Peters, Electric Lightwave (pro); Commissioners Levinson, Hemstad and Gillis, UTC (pro); Steve Gano, AT&T Wireless (pro); Gail Garey, MCI (pro); Mark Greenberg, Art Butler, Tracer (con); Teresa Osinski, WUTC (pro); Laura Altschul, Western Wireless (pro).

House Amendment(s): The amended bill directs WUTC to plan and prepare for, rather than establish, a new universal service program that will minimize implicit sources of support and maximize explicit sources of support. The amended bill restricts the commission from adopting new universal service rules until the Legislature has approved the new program.

The amended bill directs WUTC to estimate the cost of supporting universal service for all lines in high cost areas and the cost of supporting only one line for each residential or business customer located in a high cost area.

The requirements that the total amount of assessments not exceed the total amount of explicit and implicit funding provided in 1997 and that receipt of universal service be conditioned upon the reduction of intrastate rates containing implicit subsidies are deleted.

The amended bill requires the commission to establish standards for testing or reviewing compliance of both those paying and receiving support. The amended bill stipulates that the commission may only charge fees if expenses are not already covered by fees and no new fees or assessments for universal service may be charged until the Legislature has approved the new program.

The sunset provision terminating the commission's rule-making authority for universal service on December 31, 1999 is deleted.

The amended bill requires each telecommunications carrier to provide information the commission may reasonably require to fulfill the commission's responsibilities.

The amended bill adds that, if the commission suspends a petition or motion to reclassify a company or service as competitive, the commission must set the petition or motion for either a hearing or a formal investigation and fact-finding.

