
SUBSTITUTE HOUSE BILL 2880

State of Washington

56th Legislature

2000 Regular Session

By House Committee on Technology, Telecommunications & Energy (originally sponsored by Representatives Cooper, Poulsen, Crouse, McDonald, DeBolt, Wolfe, Kastama, Bush, G. Chandler, Mielke, Schindler, Cox, Ruderman, Miloscia, Rockefeller, Eickmeyer, Doumit, Ogden, Mulliken, Linville, Hatfield, Constantine, Gombosky, Lovick, Stensen, Edwards, O'Brien, Keiser, Conway, D. Sommers, McIntire, Haigh, Santos, Wood and Kagi; by request of Governor Locke)

Read first time 02/04/2000. Referred to Committee on .

1 AN ACT Relating to the provision of telecommunications services by
2 public utility districts and rural port districts; adding new sections
3 to chapter 54.16 RCW; adding new sections to chapter 53.08 RCW; adding
4 a new section to chapter 80.01 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature makes the following
7 findings:

8 (1) Access to advanced telecommunications facilities and services
9 is essential to the economic and educational well-being of all persons
10 and entities in both rural and urban areas.

11 (2) Many persons and entities, particularly in rural areas, do not
12 have adequate access to advanced telecommunications facilities and
13 services.

14 (3) Public utility districts and rural port districts are well-
15 positioned to construct and operate advanced telecommunications
16 facilities in a cost-effective manner, particularly in rural areas,
17 because of existing rights-of-way, infrastructure ownership, experience
18 delivering utility services, and economies of scale achieved by fully
19 utilizing utility telecommunications systems.

1 (4) Provision of wholesale telecommunications services by public
2 utility districts and rural port districts will stimulate competition
3 among telecommunications providers, to the benefit of all
4 telecommunications consumers and users.

5 (5) Economic development and educational opportunities,
6 particularly in rural areas, will be increased by public utility
7 districts and rural port districts providing cost-effective wholesale
8 telecommunications services, thus reducing the economic and educational
9 disparity between rural and urban areas.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 54.16 RCW
11 to read as follows:

12 (1) The definitions in this subsection apply throughout this
13 section and section 3 of this act unless the context clearly requires
14 otherwise.

15 (a) "Commission" means the Washington utilities and transportation
16 commission.

17 (b) "Telecommunications" has the same meaning as that contained in
18 RCW 80.04.010.

19 (c) "Telecommunications facilities" means lines, conduits, ducts,
20 poles, wires, cables, crossarms, receivers, transmitters, instruments,
21 machines, appliances, instrumentalities and all devices, real estate,
22 easements, apparatus, property, and routes used, operated, owned, or
23 controlled by any entity to facilitate the provision of
24 telecommunications services.

25 (d) "Wholesale telecommunications services" means the provision of
26 telecommunications services or facilities for resale by an entity
27 authorized to provide telecommunications services to the general
28 public.

29 (2) A public utility district in existence on the effective date of
30 this act may construct, purchase, acquire, develop, finance, lease,
31 license, handle, provide, add to, alter, improve, repair, operate, and
32 maintain any telecommunications facilities for its internal
33 telecommunications needs and for the provision of wholesale
34 telecommunications services within the district's limits, or by
35 contract to other public utility districts.

36 (3) A public utility district providing wholesale
37 telecommunications services shall ensure that rates, terms, and
38 conditions for such services are not unduly or unreasonably

1 discriminatory or preferential. Rates, terms, and conditions are
2 discriminatory or preferential when a public utility district offering
3 rates, terms, and conditions to an entity for wholesale
4 telecommunications services does not offer substantially similar rates,
5 terms, and conditions to all other entities seeking substantially
6 similar services.

7 (4) A public utility district shall account for any and all
8 revenues and expenditures related to its wholesale telecommunications
9 facilities and services separately from revenues and expenditures
10 related to its electrical or water operations. Any revenues received
11 from the provisions of wholesale telecommunications services must be
12 dedicated to reimbursing the district for costs incurred to build and
13 maintain the wholesale advanced telecommunications facilities until
14 such time as any bonds or other financing instruments used to finance
15 the wholesale advanced telecommunications facilities are discharged or
16 retired, after which such revenues must continue to support the on-
17 going maintenance of wholesale advanced telecommunications facilities.

18 (5) Nothing in this act shall be construed to authorize public
19 utility districts to sell or otherwise provide telecommunications
20 services to end users.

21 (6) A public utility district shall not exercise powers of eminent
22 domain granted under this title to acquire telecommunications
23 facilities owned by any other person or entity or contractual rights
24 held by any other person or entity to telecommunications facilities.

25 (7) Except as otherwise specifically provided, a public utility
26 district may exercise any of the powers granted to it under this title
27 and other applicable law in carrying out the powers authorized under
28 this section.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 54.16 RCW
30 to read as follows:

31 (1) A person or entity that has requested wholesale
32 telecommunications services from a public utility district providing
33 wholesale telecommunications services under this chapter may petition
34 the commission under the procedures set forth in RCW 80.04.110 (1)
35 through (3) if it believes the district's rates, terms, and conditions
36 are unduly or unreasonably discriminatory or preferential. The person
37 or entity shall provide the public utility district notice of its
38 intent to petition the commission and an opportunity to review within

1 thirty days the rates, terms, and conditions as applied to it prior to
2 submitting its petition. In determining whether a district is
3 providing discriminatory or preferential rates, terms, and conditions,
4 the commission may consider such matters as service quality, cost of
5 service, technical feasibility of connection points on the district's
6 facilities, time of response to service requests, system capacity, and
7 other matters reasonably related to the provision of wholesale
8 telecommunications services. If the commission, after notice and
9 hearing, determines that a public utility district's rates, terms, and
10 conditions are unduly or unreasonably discriminatory or preferential,
11 it shall issue a final order finding noncompliance with this section
12 and setting forth the specific areas of apparent noncompliance. An
13 order imposed under this section shall be enforceable in any court of
14 competent jurisdiction.

15 (2) The commission may order a public utility district to pay a
16 share of the costs incurred by the commission in connection with
17 adjudicating or enforcing the provisions of this section.

18 (3) The commission procedures exercised under this section shall be
19 in accordance with the administrative procedure act, chapter 34.05 RCW,
20 and a public utility district may obtain judicial review of the
21 commission's actions under chapter 34.05 RCW. The commission and
22 prevailing party may also seek injunctive relief to compel compliance
23 with an order.

24 (4) Nothing in this section shall be construed to affect the
25 commission's authority and jurisdiction with respect to actions,
26 proceedings, or orders permitted or contemplated for a state commission
27 under the federal telecommunications act of 1996, P.L. 104-104 (110
28 Stat. 56).

29 NEW SECTION. **Sec. 4.** A new section is added to chapter 53.08 RCW
30 to read as follows:

31 (1) The definitions in this subsection apply throughout this
32 section and section 5 of this act unless the context clearly requires
33 otherwise.

34 (a) "Commission" means the Washington utilities and transportation
35 commission.

36 (b) "Rural port district" means a port district formed under
37 chapter 53.04 RCW and located in a county with an average population
38 density of fewer than one hundred persons per square mile.

1 (c) "Telecommunications" has the same meaning as that contained in
2 RCW 80.04.010.

3 (d) "Telecommunications facilities" means lines, conduits, ducts,
4 poles, wires, cables, crossarms, receivers, transmitters, instruments,
5 machines, appliances, instrumentalities and all devices, real estate,
6 easements, apparatus, property, and routes used, operated, owned, or
7 controlled by any entity to facilitate the provision of
8 telecommunications services.

9 (e) "Wholesale telecommunications services" means the provision of
10 telecommunications services or facilities for resale by an entity
11 authorized to provide telecommunications services to the general
12 public.

13 (2) A rural port district in existence on the effective date of
14 this act may construct, purchase, acquire, develop, finance, lease,
15 license, handle, provide, add to, alter, improve, repair, operate, and
16 maintain any telecommunications facilities for its own use and for the
17 provision of wholesale telecommunications services within the
18 district's limits.

19 (3) A rural port district providing wholesale telecommunications
20 services under this section shall ensure that rates, terms, and
21 conditions for such services are not unduly or unreasonably
22 discriminatory or preferential. Rates, terms, and conditions are
23 discriminatory or preferential when a rural port district offering such
24 rates, terms, and conditions to an entity for wholesale
25 telecommunications services does not offer substantially similar rates,
26 terms, and conditions to all other entities seeking substantially
27 similar services.

28 (4) A rural port district shall account for any and all revenues
29 and expenditures related to its wholesale advanced telecommunications
30 facilities and services separately from revenues and expenditures
31 related to its internal telecommunications operations. Any revenues
32 received from the provisions of wholesale advanced telecommunications
33 services must be dedicated to reimbursing the district for costs
34 incurred to build and maintain the wholesale advanced
35 telecommunications facilities until such time as any bonds or other
36 financing instruments used to finance the wholesale advanced
37 telecommunications facilities are discharged or retired, after which
38 such revenues must continue to support the on-going maintenance of
39 wholesale advanced telecommunications facilities.

1 (5) Nothing in this act shall be construed to authorize rural port
2 districts to sell or otherwise provide telecommunications services to
3 end users.

4 (6) A rural port district shall not exercise powers of eminent
5 domain granted under this title to acquire telecommunications
6 facilities owned by any other person or entity or contractual rights
7 held by any other person or entity to telecommunications facilities.

8 (7) Except as otherwise provided, a rural port district may
9 exercise any of the powers granted to it under this title and other
10 applicable law in carrying out the powers authorized under this
11 section.

12 NEW SECTION. **Sec. 5.** A new section is added to chapter 53.08 RCW
13 to read as follows:

14 (1) A person or entity that has requested wholesale
15 telecommunications services from a rural port district may petition the
16 commission under the procedures set forth in RCW 80.04.110 (1) through
17 (3) if it believes the district's rates, terms, and conditions are
18 unduly or unreasonably discriminatory or preferential. The person or
19 entity shall provide the rural port district notice of its intent to
20 petition the commission and an opportunity to review within thirty days
21 the rates, terms, and conditions as applied to it prior to submitting
22 its petition. In determining whether a district is providing
23 discriminatory or preferential rates, terms, and conditions, the
24 commission may consider such matters as service quality, technical
25 feasibility of connection points on the district's telecommunications
26 facilities, time of response to service requests, system capacity, and
27 other matters reasonably related to the provision of wholesale
28 telecommunications services. If the commission, after notice and
29 hearing, determines that a rural port district's rates, terms, and
30 conditions are unduly or unreasonably discriminatory or preferential,
31 it shall issue a final order finding noncompliance with this section
32 and setting forth the specific areas of apparent noncompliance. An
33 order imposed under this section shall be enforceable in any court of
34 competent jurisdiction.

35 (2) The commission may order a rural port district to pay a share
36 of the costs incurred by the commission in adjudicating or enforcing
37 this section.

1 (3) The commission procedures exercised under this section shall be
2 in accordance with the administrative procedure act, chapter 34.05 RCW,
3 and a district may obtain judicial review of the commission's actions
4 under chapter 34.05 RCW. The commission and prevailing party may also
5 seek injunctive relief to compel compliance with an order.

6 (4) Nothing in this section shall be construed to affect the
7 commission's authority and jurisdiction with respect to actions,
8 proceedings, or orders permitted or contemplated for a state commission
9 under the federal telecommunications act of 1996, P.L. 104-104 (110
10 Stat. 56).

11 NEW SECTION. **Sec. 6.** A new section is added to chapter 80.01 RCW
12 to read as follows:

13 The commission is authorized to perform the duties required by
14 sections 3 and 5 of this act.

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