
HOUSE BILL 2880

State of Washington

56th Legislature

2000 Regular Session

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 01/21/2000. Referred to Committee on Technology, Telecommunications & Energy.

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 not exercise powers of eminent
8 domain granted under this title to acquire telecommunications
9 facilities owned by any other person or entity or contractual rights
10 held by any other person or entity to telecommunications facilities.

11 (5) Except as otherwise specifically provided, a public utility
12 district may exercise any of the powers granted to it under this title
13 and other applicable law in carrying out the powers authorized under
14 this section.

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

17 (1) A person or entity that has requested wholesale
18 telecommunications services from a public utility district providing
19 wholesale telecommunications services under this chapter may petition
20 the commission under the procedures set forth in RCW 80.04.130 (1)
21 through (3) if it believes the district's rates, terms, and conditions
22 are unduly or unreasonably discriminatory or preferential. The person
23 or entity shall provide the public utility district notice of its
24 intent to petition the commission and an opportunity to review within
25 thirty days the rates, terms, and conditions as applied to it prior to
26 submitting its petition. In determining whether a district is
27 providing discriminatory or preferential rates, terms, and conditions,
28 the commission may consider such matters as service quality, cost of
29 service, technical feasibility of connection points on the district's
30 facilities, time of response to service requests, system capacity, and
31 other matters reasonably related to the provision of wholesale
32 telecommunications services. If the commission, after notice and
33 hearing, determines that a public utility district's rates, terms, and
34 conditions are unduly or unreasonably discriminatory or preferential,
35 it shall issue a final order finding noncompliance with this section
36 and setting forth the specific areas of apparent noncompliance. An
37 order imposed under this section shall be enforceable in any court of
38 competent jurisdiction.

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

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

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

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

17 (1) The definitions in this subsection apply throughout this
18 section and section 5 of this act unless the context clearly requires
19 otherwise.

20 (a) "Commission" means the Washington utilities and transportation
21 commission.

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

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

27 (d) "Telecommunications facilities" means lines, conduits, ducts,
28 poles, wires, cables, crossarms, receivers, transmitters, instruments,
29 machines, appliances, instrumentalities and all devices, real estate,
30 easements, apparatus, property, and routes used, operated, owned, or
31 controlled by any entity to facilitate the provision of
32 telecommunications services.

33 (e) "Wholesale telecommunications services" means the provision of
34 telecommunications services or facilities for resale by an entity
35 authorized to provide telecommunications services to the general
36 public.

37 (2) A rural port district in existence on the effective date of
38 this act may construct, purchase, acquire, develop, finance, lease,

1 license, handle, provide, add to, alter, improve, repair, operate, and
2 maintain any telecommunications facilities for its own use and for the
3 provision of wholesale telecommunications services within the
4 district's limits.

5 (3) A rural port district providing wholesale telecommunications
6 services under this section shall ensure that rates, terms, and
7 conditions for such services are not unduly or unreasonably
8 discriminatory or preferential. Rates, terms, and conditions are
9 discriminatory or preferential when a rural port district offering such
10 rates, terms, and conditions to an entity for wholesale
11 telecommunications services does not offer substantially similar rates,
12 terms, and conditions to all other entities seeking substantially
13 similar services.

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

18 (5) Except as otherwise provided, a rural port district may
19 exercise any of the powers granted to it under this title and other
20 applicable law in carrying out the powers authorized under this
21 section.

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

24 (1) A person or entity that has requested wholesale
25 telecommunications services from a rural port district may petition the
26 commission under the procedures set forth in RCW 80.04.130 (1) through
27 (3) if it believes the district's rates, terms, and conditions are
28 unduly or unreasonably discriminatory or preferential. The person or
29 entity shall provide the public utility district notice of its intent
30 to petition the commission and an opportunity to review within thirty
31 days the rates, terms, and conditions as applied to it prior to
32 submitting its petition. In determining whether a district is
33 providing discriminatory or preferential rates, terms, and conditions,
34 the commission may consider such matters as service quality, technical
35 feasibility of connection points on the district's telecommunications
36 facilities, time of response to service requests, system capacity, and
37 other matters reasonably related to the provision of wholesale
38 telecommunications services. If the commission, after notice and

1 hearing, determines that a rural port district's rates, terms, and
2 conditions are unduly or unreasonably discriminatory or preferential,
3 it shall issue a final order finding noncompliance with this section
4 and setting forth the specific areas of apparent noncompliance. An
5 order imposed under this section shall be enforceable in any court of
6 competent jurisdiction.

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

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

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

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

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

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