
ENGROSSED SUBSTITUTE SENATE BILL 5811

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Energy, Technology & Telecommunications
(originally sponsored by Senators Brown, Prentice and Kohl-Welles)

Read first time 03/03/99.

1 AN ACT Relating to the implementation of the federal
2 telecommunications act of 1996; amending RCW 80.36.610; adding new
3 sections to chapter 80.36 RCW; creating a new section; prescribing
4 penalties; and repealing RCW 80.36.600.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that pursuant to
7 section 1, chapter 337, Laws of 1998, the utilities and transportation
8 commission has prepared a plan to implement a program for preservation
9 and advancement of universal telecommunications service and has
10 submitted a report describing that plan to the legislature as required.

11 NEW SECTION. **Sec. 2.** Universal telephone service, which is the
12 wide availability of basic telephone service at reasonably affordable
13 rates, has long been the policy of the state of Washington and is
14 essential to the economic well-being of the state. In order to comply
15 with the 1996 federal telecommunications act, the state must modify its
16 universal service program so as to meet the twin goals, under the
17 federal act, of competition and reasonable rates for basic phone
18 service. In making the transition to a more competitive

1 telecommunications market, the legislature intends to minimize the
2 shifting of costs among classes of customers, so that no class of
3 customers bears a disproportionately adverse change in its share of
4 universal service costs.

5 NEW SECTION. **Sec. 3.** (1) The commission shall implement a program
6 for the preservation and advancement of universal telecommunications
7 service that is consistent with the requirements of the federal
8 telecommunications act of 1996 (47 U.S.C. Sec. 254).

9 (2) The purposes of the program are to:

10 (a) Benefit all telecommunications ratepayers in the state by
11 ensuring that there exists a modern telecommunications network to which
12 all citizens and businesses have reasonable access;

13 (b) Provide specific, sufficient, competitively neutral, and
14 technologically neutral support for all telecommunications lines used
15 to provide basic telecommunications services for customers of
16 telecommunications companies in high-cost locations;

17 (c) Replace the existing system of universal service provisioning,
18 that relies on implicit subsidies for companies serving customers in
19 high-cost locations, with a program that relies on explicit
20 contributions to a fund, transfers from which will preserve and enhance
21 a ubiquitous telecommunications network by ensuring rates and services
22 in high-cost locations that are reasonably comparable to those in other
23 areas; and

24 (d) Facilitate the development of competition in both urban and
25 rural areas of the state.

26 NEW SECTION. **Sec. 4.** The definitions in this section apply
27 throughout sections 2 through 14 of this act unless the context clearly
28 requires otherwise.

29 (1) "Administrator" means the administrator of the universal
30 service fund designated under section 6(5) of this act.

31 (2) "Benchmark" means an amount per high-cost location, determined
32 by the commission by rule or order, above which universal service funds
33 will be available to support the provision of service in the high-cost
34 location.

35 (3) "End user telecommunications revenue" means the
36 telecommunications carrier's international, interstate, and intrastate

1 revenue derived from Washington end users for telecommunications and
2 telecommunications services.

3 (4) "Fund" means the universal service fund created by section 6 of
4 this act.

5 (5) "High-cost location" means a place where the cost of providing
6 telecommunications services is greater than a benchmark established by
7 the commission.

8 (6) "Program" means the universal telecommunications service
9 program created in sections 2 through 14 of this act.

10 (7) "Telecommunications" has the same meaning as that term is
11 defined in 47 U.S.C. Sec. 154(43).

12 (8) "Telecommunications carrier" has the same meaning as that term
13 is defined in 47 U.S.C. Sec. 154(44).

14 (9) "Telecommunications services" has the same meaning as that term
15 is defined in 47 U.S.C. Sec. 154(46).

16 NEW SECTION. **Sec. 5.** The commission shall implement the program
17 authorized by sections 2 through 14 of this act to support the
18 following basic telecommunications services:

- 19 (1) Single-party service;
- 20 (2) Voice grade access to the public switched network;
- 21 (3) Support for local usage;
- 22 (4) Dual tone multifrequency signaling (touch-tone);
- 23 (5) Access to emergency services (E-911);
- 24 (6) Access to operator services;
- 25 (7) Access to interexchange services;
- 26 (8) Access to directory assistance; and
- 27 (9) Toll blocking services and toll limitation services at such
28 time as toll limitation is technically feasible.

29 NEW SECTION. **Sec. 6.** (1) The universal service fund is created.
30 All receipts from contributions from telecommunications carriers as
31 provided in subsection (2) of this section, penalties imposed under
32 section 11 of this act, and other moneys authorized to be deposited in
33 the fund by law or by order of any court with proper jurisdiction must
34 be deposited into the fund. The fund shall be outside the state
35 treasury. An appropriation is not required for expenditures from the
36 fund.

1 (2) The commission shall establish by rule a specific, predictable,
2 and sufficient mechanism to provide support for the universal service
3 fund. Not earlier than July 1, 2000, every telecommunications carrier
4 shall contribute to the fund on an equitable and nondiscriminatory
5 basis. The commission shall establish each carrier's contribution
6 annually by order based on each carrier's proportionate share of total
7 end user telecommunications revenue.

8 (3) A carrier's contribution to the fund shall not exceed three
9 percent of its gross end-user telecommunications revenue. If three
10 percent of total end-user telecommunications revenue of all carriers is
11 insufficient to fund the universal program at the commission determined
12 level of support, the commission shall adjust the benchmark, or
13 benchmarks, upward.

14 (4) Any carrier that discloses on its customers' bills the effect
15 of its contribution to the fund shall also disclose the effect, whether
16 direct or indirect, on customers' bills of reductions in rates by
17 eligible telecommunications carriers to offset the additional universal
18 service support.

19 (5) The fund shall be administered by a fund administrator
20 designated by the commission through a competitive bid process and is
21 subject to the guidance and direction of the commission. The
22 commission shall establish and approve the budget for the administrator
23 and the administrative expenses shall be paid out of the fund when such
24 expenses have been approved by the commission. The administrator may
25 establish an account or accounts in one or more independent financial
26 institutions. Moneys in the state universal service fund shall be used
27 only to fund the universal service support determined by the commission
28 to be necessary to ensure that affordable basic telecommunications
29 service is available in high-cost locations in the state, and to pay
30 the costs of administration of the state universal service program.

31 NEW SECTION. **Sec. 7.** The commission shall designate
32 telecommunications carriers that are eligible to receive support for
33 their provision of service in high-cost locations and establish
34 criteria for making such designations. In making such designations,
35 the commission may require the carriers to serve all persons requesting
36 service within the geographic area for which designation is made.

1 NEW SECTION. **Sec. 8.** (1) Not earlier than July 1, 2000, the
2 commission shall provide support for eligible telecommunications
3 carriers serving high-cost locations. In determining the amount of
4 support required by eligible carriers, the commission shall take into
5 consideration any moneys received by those carriers from any federal
6 universal service support program.

7 (2) The commission shall establish by rule: (a) The criteria and
8 method for making distributions from the fund to eligible
9 telecommunications carriers serving high-cost locations; and (b) the
10 method for establishing benchmarks.

11 (3) The commission shall periodically audit, or contract for an
12 audit of, telecommunications carriers that receive support under this
13 section to ensure that they are using that support only for the
14 purposes of the program.

15 NEW SECTION. **Sec. 9.** In establishing the program, the commission
16 shall adopt rules that include the following:

17 (1) Provisions for the operation of the universal service fund
18 created by section 6 of this act;

19 (2) Criteria for the selection of an independent third party
20 administrator of the fund; and

21 (3) Reporting requirements for telecommunications carriers.

22 NEW SECTION. **Sec. 10.** The commission shall coordinate
23 administration of the program with any federal universal service
24 program and may administer the federal fund in conjunction with the
25 state program if so authorized by federal law.

26 NEW SECTION. **Sec. 11.** (1) The administrator of the fund may
27 request, and each telecommunications carrier shall provide, information
28 the commission or the administrator deems necessary for the
29 implementation and operation of the program.

30 (2) Any person may submit information under RCW 80.04.095 and the
31 administrator shall treat such information according to the terms of
32 RCW 80.04.095.

33 NEW SECTION. **Sec. 12.** (1) In addition to any other penalties
34 prescribed by law, the commission may impose penalties for delays in
35 making the required reports or contributions under the program. The

1 penalties shall be calculated as a percentage of the carrier's required
2 contribution for the previous calendar year.

3 (2) Any penalties imposed by the commission under this section or
4 imposed for violation of rules adopted under sections 2 through 14 of
5 this act or RCW 80.36.610 shall be payable to the universal service
6 fund created by section 6 of this act.

7 (3) In addition to any penalties imposed under this section, the
8 administrator may withhold payments to any eligible telecommunications
9 carrier that fails to submit information required to be submitted under
10 sections 2 through 14 of this act.

11 NEW SECTION. **Sec. 13.** The commission may delegate to the
12 commission secretary or other staff the authority to resolve disputes,
13 approve expenses of the administrator, and make other administrative
14 decisions necessary to the administration and supervision of the
15 program consistent with the relevant statutes and commission rules.

16 NEW SECTION. **Sec. 14.** The commission shall develop measures to
17 evaluate, and shall evaluate, the program. In the evaluation, the
18 commission shall attempt to assess whether rates for high-cost
19 locations remain comparable to those in low-cost locations, how
20 implementation of the program has impacted the development of
21 competition in both high-cost and low-cost locations, whether the
22 overall rates for residential and small business customers are
23 affordable, and whether the fund is appropriately sized. The
24 commission shall report its findings annually to the committees of the
25 senate and house of representatives with jurisdiction over
26 telecommunications services by December 31st of each year.

27 **Sec. 15.** RCW 80.36.610 and 1998 c 337 s 2 are each amended to read
28 as follows:

29 ((+1)) The commission is authorized to take actions, conduct
30 proceedings, and enter orders as permitted or contemplated for a state
31 commission under the federal telecommunications act of 1996, P.L. 104-
32 104 (110 Stat. 56)((, but the commission's authority to either
33 establish a new state program or to adopt new rules to preserve and
34 advance universal service under section 254(f) of the federal act is
35 limited to the actions expressly authorized by RCW 80.36.600)). The
36 commission may establish by rule fees to be paid by persons seeking

1 commission action under the federal act, and by parties to proceedings
2 under that act, to offset in whole or part the commission's expenses
3 that are not otherwise recovered through fees in implementing the
4 act(~~(, but new fees or assessments charged telecommunications carriers~~
5 ~~to either establish a state program or to adopt rules to preserve and~~
6 ~~advance universal service under section 254(f) of the federal act do~~
7 ~~not take effect until the legislature has approved a state universal~~
8 ~~service program.~~

9 (2) ~~The legislature intends that under the future universal service~~
10 ~~program established in this state:~~

11 (a) ~~Every telecommunications carrier that provides intrastate~~
12 ~~telecommunications services shall contribute, on an equitable and~~
13 ~~nondiscriminatory basis, to the preservation and advancement of~~
14 ~~universal service in the state;~~

15 (b) ~~The contributions shall be competitively and technologically~~
16 ~~neutral; and~~

17 (c) ~~The universal service program to be established in accordance~~
18 ~~with RCW 80.36.600 shall not be inconsistent with the requirements of~~
19 ~~47 U.S.C. Sec. 254)).~~

20 NEW SECTION. **Sec. 16.** If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected.

24 NEW SECTION. **Sec. 17.** Sections 2 through 14 of this act are each
25 added to chapter 80.36 RCW.

26 NEW SECTION. **Sec. 18.** RCW 80.36.600 (Universal service program--
27 Planning and preparation--Commission's duties--Approval of legislature
28 required--Definitions) and 1998 c 337 s 1 are each repealed.

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