

---

**SUBSTITUTE SENATE BILL 6675 - CC**

---

**State of Washington**

**56th Legislature**

**2000 Regular Session**

**By** Senate Committee on Energy, Technology & Telecommunications  
(originally sponsored by Senators Brown, Hochstatter, Hargrove, Costa  
and Sheahan; by request of Governor Locke)

Read first time 02/04/2000.

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 public  
28 or an enhanced service provider.

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 internal telecommunications operations. Any revenues  
11 received from the provision of wholesale telecommunications services  
12 must be dedicated to reimbursing the district for costs incurred to  
13 build and maintain the excess telecommunications facilities until such  
14 time as any bonds or other financing instruments used to finance the  
15 excess telecommunications facilities are discharged or retired, after  
16 which such revenues must continue to support the ongoing maintenance of  
17 the excess telecommunications facilities.

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

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

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

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

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

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

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

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

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

28 (1) The definitions in this subsection apply throughout this  
29 section and section 5 of this act unless the context clearly requires  
30 otherwise.

31 (a) "Commission" means the Washington utilities and transportation  
32 commission.

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

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

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

7 (e) "Wholesale telecommunications services" means the provision of  
8 telecommunications services or facilities for resale by an entity  
9 authorized to provide telecommunications services to the general public  
10 or an enhanced service provider.

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

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

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

37 (5) A rural port district shall not exercise powers of eminent  
38 domain granted under this title to acquire telecommunications

1 facilities owned by any other person or entity or contractual rights  
2 held by any other person or entity to telecommunications facilities.

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

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

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

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

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

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

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

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

--- END ---