
SENATE BILL 5899

State of Washington

58th Legislature

2003 Regular Session

By Senators Finkbeiner, Reardon, Esser, Hewitt and Schmidt

Read first time 02/19/2003. Referred to Committee on Technology & Communications.

1 AN ACT Relating to the provision of wholesale telecommunications
2 services by public utility districts; amending RCW 54.16.330; and
3 adding a new section to chapter 54.16 RCW.

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

5 **Sec. 1.** RCW 54.16.330 and 2000 c 81 s 3 are each amended to read
6 as follows:

7 (1) A public utility district in existence on June 8, 2000, may
8 construct, purchase, acquire, develop, finance, lease, license, handle,
9 provide, add to, contract for, interconnect, alter, improve, repair,
10 operate, and maintain any telecommunications facilities within or
11 without the district's limits for the following purposes:

12 (a) For the district's internal telecommunications needs; and

13 (b) For the provision of wholesale telecommunications services
14 within the district and by contract with another public utility
15 district.

16 Nothing in this subsection shall be construed to authorize public
17 utility districts to: (i) Provide telecommunications services to end
18 users, whether such end users are public or private entities; (ii)
19 market the services provided by entities authorized to provide

1 telecommunications and internet services to end users; and (iii)
2 purchase programming or other content for resale to entities authorized
3 to provide telecommunications and internet services to end users.

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

13 (3) When a public utility district provides wholesale
14 telecommunications services, it shall create a separate utility
15 function for the provision of such services and shall separately
16 account for the revenues, expenses, property, allocation of costs to
17 its internal telecommunications needs, and the amount of funds required
18 from other utility functions to support the provision of wholesale
19 telecommunications services.

20 (4) A public utility district providing wholesale
21 telecommunications services shall provide, at a just and reasonable
22 rate, nondiscriminatory access for private providers of
23 telecommunications services to poles, conduits, dark fiber optic cable,
24 or other permanent distribution facilities owned by the public utility
25 district unless the facilities have insufficient capacity for such
26 access and additional capacity cannot reasonably be added to the
27 facilities. Except as provided in a facilities use contract between a
28 public utility district and a private telecommunications service
29 provider, a public utility district shall not require the removal or
30 prohibit the replacement of telecommunications facilities owned by
31 private telecommunications service providers from its facilities.

32 (5) When a public utility district establishes a separate utility
33 function for the provision of wholesale telecommunications services, it
34 shall account for any and all revenues and expenditures related to its
35 wholesale telecommunications facilities and services separately from
36 revenues and expenditures related to its internal telecommunications
37 operations. Any revenues received from the provision of wholesale
38 telecommunications services must be dedicated to the utility function

1 that includes the provision of wholesale telecommunications services
2 for costs incurred to build and maintain the telecommunications
3 facilities until such time as any bonds or other financing instruments
4 executed after June 8, 2000, and used to finance the telecommunications
5 facilities are discharged or retired.

6 ~~((4))~~ (6) When a public utility district establishes a separate
7 utility function for the provision of wholesale telecommunications
8 services, all telecommunications services rendered by the separate
9 function to the district for the district's internal telecommunications
10 needs shall be charged at its true and full value. A public utility
11 district may not charge its nontelecommunications operations rates that
12 are preferential or discriminatory compared to those it charges
13 entities purchasing wholesale telecommunications services.

14 ~~((5))~~ (7) A public utility district shall not exercise powers of
15 eminent domain to acquire telecommunications facilities or contractual
16 rights held by any other person or entity to telecommunications
17 facilities.

18 ~~((6))~~ (8) Except as otherwise specifically provided, a public
19 utility district may exercise any of the powers granted to it under
20 this title and other applicable laws in carrying out the powers
21 authorized under this section. Nothing in chapter 81, Laws of 2000
22 limits any existing authority of a public utility district under this
23 title.

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

26 A public utility district providing wholesale telecommunications
27 services shall submit a report to the appropriate committees of the
28 legislature by December 1st of the first year of each biennium. The
29 report must include, at a minimum: (1) A description of all activities
30 relating to the construction, acquisition, operation, marketing, and
31 leasing of telecommunications facilities and wholesale
32 telecommunications services; and (2) a description of the number of new
33 locations connected to the telecommunications facilities resulting from
34 the provision of wholesale telecommunications services to internet
35 service providers and entities authorized to provide telecommunications

1 services to the general public.

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