
SUBSTITUTE HOUSE BILL 2533

State of Washington 60th Legislature 2008 Regular Session

By House Technology, Energy & Communications (originally sponsored by Representatives McCoy, Chase, and Quall)

READ FIRST TIME 01/29/08.

1 AN ACT Relating to attachments to utility poles of locally
2 regulated utilities; and amending RCW 54.04.045.

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

4 **Sec. 1.** RCW 54.04.045 and 1996 c 32 s 5 are each amended to read
5 as follows:

6 (1) As used in this section:

7 (a) "Attachment" means the affixation or installation of any wire,
8 cable, or other physical material capable of carrying electronic
9 impulses or light waves for the carrying of intelligence for
10 telecommunications, information services as defined in 47 U.S.C. Sec.
11 153(20), or television, including, but not limited to (~~eable, and~~),
12 any or all related devices, apparatuses, or auxiliary equipment,
13 whether within or without the licensee's allocated space, upon any pole
14 owned or controlled in whole or in part by one or more locally
15 regulated utilities where the installation has been made with the
16 necessary consent.

17 (b) "Licensee" means any person, firm, corporation, partnership,
18 company, association, joint stock association, or cooperatively

1 organized association, which is authorized to construct attachments
2 upon, along, under, or across public ways.

3 (c) "Locally regulated utility" means a public utility district not
4 subject to rate or service regulation by the utilities and
5 transportation commission.

6 ~~((+e))~~ (d) "Nondiscriminatory" means that pole owners may not
7 ~~((arbitrarily))~~ differentiate without good cause among or between
8 similar classes of ~~((persons))~~ licensees approved for attachments.

9 (2) All rates, terms, and conditions made, demanded, or received by
10 a locally regulated utility for ~~((attachments to))~~ allocated space on
11 its poles for the placement of licensees' attachments must be just,
12 fair, reasonable, nondiscriminatory, and sufficient. ~~((A locally~~
13 regulated utility shall levy attachment space rental rates that are
14 uniform for the same class of service within the locally regulated
15 utility service area.

16 ~~(3) Nothing in)~~ A just and reasonable rate shall assure the
17 locally regulated utility the recovery of not less than all the
18 additional costs of procuring and maintaining pole attachments nor more
19 than the actual capital and operating expenses, including just
20 compensation, of the locally regulated utility attributable to that
21 portion of the pole, duct, or conduit used for the pole attachment,
22 including a share of the required support and clearance space, in
23 proportion to the space used for the pole attachment, as compared to
24 all other uses made of the subject facilities and uses that remain
25 available to the owner or owners of the subject facilities. Decisions,
26 rules, and regulations adopted by the utilities and transportation
27 commission pursuant to chapter 80.54 RCW apply to the locally regulated
28 utility.

29 (3) Except in extraordinary circumstances, a locally regulated
30 utility must respond to a licensee's request to attach within forty-
31 five days. A request to attach may only be denied on a
32 nondiscriminatory basis (a) where there is insufficient capacity and
33 (b) for reasons of safety, reliability, and generally applicable
34 engineering purposes.

35 (4) Any dispute between the locally regulated utility and a
36 licensee, including, but not limited to, disputes over a specific
37 request to attach or over any rate, term, or condition sought by the
38 locally regulated utility or a licensee for attachments, must first be

1 presented to the governing board of the locally regulated utility for
2 resolution. If the dispute is not resolved by or before the governing
3 board of the locally regulated utility within forty-five days from the
4 date the dispute is presented to the governing board, either the
5 licensee or the locally regulated utility may initiate a complaint
6 proceeding before the utilities and transportation commission.

7 (5) Whenever the utilities and transportation commission shall
8 find, after hearing had upon complaint by a licensee or by a locally
9 regulated utility, that the rates, terms, or conditions demanded,
10 exacted, charged, or collected by any locally regulated utility in
11 connection with attachments are unjust, unreasonable, or that the rates
12 or charges are insufficient to yield a reasonable compensation for the
13 attachment, the commission shall determine the just, reasonable, or
14 sufficient rates, terms, and conditions thereafter to be observed and
15 in force and shall fix the rates, terms, and conditions by order. In
16 determining and fixing the rates, terms, and conditions, the commission
17 shall consider the interest of the customers of the attaching locally
18 regulated utility or licensee, as well as the interest of the customers
19 of the locally regulated utility upon which the attachment is made.

20 (6) Except as provided in subsections (2), (4), and (5) of this
21 section, this section shall not be otherwise construed or is not
22 intended to confer upon the utilities and transportation commission any
23 authority to exercise jurisdiction over locally regulated utilities.

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