

NEW SECTION. Sec. 12. The state review board shall adopt rules necessary to carry out the purposes of this chapter. The rules shall include rehabilitation and maintenance standards for historic properties to be used as minimum requirements by local review boards to ensure that the historic property is safe and habitable, including but not limited to:

- (1) Elimination of visual blight due to past neglect of maintenance and repair to the exterior of the building, including replacement of broken or missing doors and windows, repair of deteriorated architectural features, and painting of exterior surfaces;
- (2) Correction of structural defects and hazards;
- (3) Protection from weather damage due to defective roofing, flashings, glazing, caulking, or lack of heat; and
- (4) Elimination of any condition on the premises which could cause or augment fire or explosion.

NEW SECTION. Sec. 13. Any decision by a local review board on an application for classification as historic property eligible for special valuation may be appealed to superior court under RCW 34.04.130 in addition to any other remedy at law. Any decision on the disqualification of historic property eligible for special valuation, or any other dispute, may be appealed to the county board of equalization.

NEW SECTION. Sec. 14. No application for special valuation under this chapter may be made after December 31, 1991.

NEW SECTION. Sec. 15. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 16. Sections 1 through 14 of this act shall constitute a new chapter in Title 84 RCW.

Passed the Senate April 22, 1985.

Passed the House April 18, 1985.

Approved by the Governor May 21, 1985.

Filed in Office of Secretary of State May 21, 1985.

CHAPTER 450

[Substitute Senate Bill No. 3305]

TELECOMMUNICATIONS REGULATION

AN ACT Relating to the jurisdiction of the utilities and transportation commission over economic rate regulation and entry control of telecommunications providers; amending RCW 80.04.010, 80.01.040, 80.04.110, 80.04.130, 80.04.500, 80.24.010, 80.36.010, 80.36.020, 80.36.030, 80.36.040, 80.36.050, 80.36.060, 80.36.070, 80.36.080, 80.36.090, 80.36.100, 80.36.110, 80.36.120, 80.36.130, 80.36.140, 80.36.150, 80.36.160, 80.36.170, 80.36.180, 80.36.190, 80.36.200, 80.36.220, 80.36.225, 80.36.230, 80.36.260, 80.36.270, and 80.54.010; and adding new sections to chapter 80.36 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature declares it is the policy of the state to:

- (1) Preserve affordable universal telecommunications service;
- (2) Maintain and advance the efficiency and availability of telecommunications service;
- (3) Ensure that customers pay only reasonable charges for telecommunications service;
- (4) Ensure that rates for noncompetitive telecommunications services do not subsidize the competitive ventures of regulated telecommunications companies;
- (5) Promote diversity in the supply of telecommunications services and products in telecommunications markets throughout the state; and
- (6) Permit flexible regulation of competitive telecommunications companies and services.

Sec. 2. Section 80.04.010, chapter 14, Laws of 1961 as last amended by section 10, chapter 191, Laws of 1979 ex. sess. and RCW 80.04.010 are each amended to read as follows:

As used in this title, unless specifically defined otherwise or unless the context indicates otherwise:

"Commission" means the utilities and transportation commission.

"Commissioner" means one of the members of such commission.

"Competitive telecommunications company" means a telecommunications company which has been classified as such by the commission pursuant to section 4 of this act.

"Competitive telecommunications service" means a service which has been classified as such by the commission pursuant to section 5 of this act.

"Corporation" includes a corporation, company, association or joint stock association.

"Person" includes an individual, a firm or ~~((copartnership))~~ partnership.

"Gas plant" includes all real estate, fixtures and personal property, owned, leased, controlled, used or to be used for or in connection with the transmission, distribution, sale or furnishing of natural gas, or the manufacture, transmission, distribution, sale or furnishing of other type gas, for light, heat or power.

"Gas company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receiver appointed by any court whatsoever, and every city or town, owning, controlling, operating or managing any gas plant within this state.

"Electric plant" includes all real estate, fixtures and personal property operated, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for

light, heat, or power for hire; and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power.

"Electrical company" includes any corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever (other than a railroad or street railroad company generating electricity solely for railroad or street railroad purposes or for the use of its tenants and not for sale to others), and every city or town owning, operating or managing any electric plant for hire within this state. "Electrical company" does not include a company or person employing a cogeneration facility solely for the generation of electricity for its own use or the use of its tenants or for sale to an electrical company, state or local public agency, municipal corporation, or quasi municipal corporation engaged in the sale or distribution of electrical energy, but not for sale to others, unless such company or person is otherwise an electrical company.

"LATA" means a local access transport area as defined by the commission in conformance with applicable federal law.

"Private telecommunications system" means a telecommunications system controlled by a person or entity for the sole and exclusive use of such person, entity, or affiliate thereof, including the provision of private shared telecommunications services by such person or entity. "Private telecommunications system" does not include a system offered for hire, sale, or resale to the general public.

"Private shared telecommunications services" includes the provision of telecommunications and information management services and equipment within a user group located in discrete private premises in building complexes, campuses, or high-rise buildings, by a commercial shared services provider or by a user association, through privately owned customer premises equipment and associated data processing and information management services and includes the provision of connections to the facilities of a local exchange and to interexchange telecommunications companies.

"(~~Telephone~~) Telecommunications company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, operating or managing any (~~telephone line or part of telephone line used in the conduct of the business of affording telephonic communication~~) facilities used to provide telecommunications for hire, sale, or resale to the general public within this state.

(~~"Telephone line" includes~~) "Facilities" means lines, conduits, ducts, poles, wires, cables, cross-arms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated, owned or controlled by any (~~telephone~~) telecommunications company to facilitate the (~~business of~~

affording telephonic communication)) provision of telecommunications service.

~~((“Telegraph company” includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating or managing any telegraph line or part of telegraph line used in the conduct of the business of affording for hire communication by telegraph within this state.~~

~~“Telegraph line” includes conduits, poles, wire, cables, cross-arms, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated or owned by any telegraph company to facilitate the business of affording communication by telegraph:))~~

“Telecommunications” is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. As used in this definition, “information” means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols.

“Water system” includes all real estate, easements, fixtures, personal property, dams, dikes, head gates, weirs, canals, reservoirs, flumes or other structures or appliances operated, owned, used or to be used for or in connection with or to facilitate the supply, storage, distribution, sale, furnishing, diversion, carriage, apportionment or measurement of water for power, irrigation, reclamation, manufacturing, municipal, domestic or other beneficial uses for hire.

“Water company” includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, controlling, operating, or managing any water system for hire within this state: PROVIDED, That it shall not include any water system serving less than sixty customers where the average annual gross revenue per customer does not exceed one hundred twenty dollars per year.

“Cogeneration facility” means any machinery, equipment, structure, process, or property, or any part thereof, installed or acquired for the primary purpose of the sequential generation of electrical or mechanical power and useful heat from the same primary energy source or fuel.

“Public service company” includes every gas company, electrical company, ~~((telephone))~~ telecommunications company, ~~((telegraph company))~~ and water company. Ownership or operation of a cogeneration facility does not, by itself, make a company or person a public service company.

The term “service” is used in this title in its broadest and most inclusive sense.

NEW SECTION. Sec. 3. Telecommunications companies may petition to be classified as competitive telecommunications companies under section 4 of this act or to have services classified as competitive telecommunications

services under section 5 of this act. The commission may initiate classification proceedings on its own motion. The commission may require all regulated telecommunications companies potentially affected by a classification proceeding to appear as parties for a determination of their classification.

NEW SECTION. Sec. 4. (1) The commission shall classify a telecommunications company providing service in a relevant market as a competitive telecommunications company if it finds, after notice and hearing, that the telecommunications company has demonstrated that the services it offers are subject to effective competition. Effective competition means that the company's customers have reasonably available alternatives and that the company does not have a significant captive customer base. In determining whether a company is competitive, factors the commission shall consider include but are not limited to:

- (a) The number and sizes of alternative providers of service;
- (b) The extent to which services are available from alternative providers in the relevant market;
- (c) The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions; and
- (d) Other indicators of market power which may include market share, growth in market share, ease of entry, and the affiliation of providers of services.

The commission shall conduct the initial classification and any subsequent review of the classification in accordance with such procedures as the commission may establish by rule.

(2) Competitive telecommunications companies shall be subject to minimal regulation. Minimal regulation means that competitive telecommunications companies may file, instead of tariffs, price lists which shall be effective after ten days' notice to the commission and customers. The commission shall prescribe the form of notice. The commission may also waive other regulatory requirements under this title for competitive telecommunications companies when it determines that competition will serve the same purposes as public interest regulation. The commission may waive different regulatory requirements for different companies if such different treatment is in the public interest. A competitive telecommunications company shall at a minimum:

- (a) Keep its accounts according to regulations as determined by the commission;
- (b) File financial reports with the commission as required by the commission and in a form and at times prescribed by the commission;
- (c) Keep on file at the commission such current price lists and service standards as the commission may require; and
- (d) Cooperate with commission investigations of customer complaints.

(3) When a telecommunications company has demonstrated that the equal access requirements ordered by the federal district court in the case of *U.S. v. AT&T*, 552 F.Supp. 131 (1982), or in supplemental orders, have been met, the commission shall review the classification of telecommunications companies providing inter-LATA interexchange services. At that time, the commission shall classify all such companies as competitive telecommunications companies unless it finds that effective competition, as defined in subsection (1) of this section, does not then exist.

(4) The commission may revoke any waivers it grants and may reclassify any competitive telecommunications company if such revocation or reclassification would protect the public interest.

NEW SECTION. Sec. 5. (1) The commission may classify a telecommunications service provided by a telecommunications company as a competitive telecommunications service if it finds, after notice and hearing, that the service is subject to effective competition. Effective competition means that customers of the service have reasonably available alternatives and that the service is not provided to a significant captive customer base. In determining whether a service is competitive, factors the commission shall consider include but are not limited to:

(a) The number and size of alternative providers of services;

(b) The extent to which services are available from alternative providers in the relevant market;

(c) The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions; and

(d) Other indicators of market power, which may include market share, growth in market share, ease of entry, and the affiliation of providers of services.

(2) When the commission finds that a telecommunications company has demonstrated that a telecommunications service is competitive, the commission may permit the service to be provided under a price list effective on ten days notice to the commission and customers. The commission shall prescribe the form of notice. The commission may adopt procedural rules necessary to implement this section.

(3) Prices or rates charged for competitive telecommunications services shall cover their cost. The commission shall determine proper cost standards to implement this section, provided that in making any assignment of costs or allocating any revenue requirement, the commission shall act to preserve affordable universal telecommunications service.

(4) The commission may investigate prices for competitive telecommunications services upon complaint. In any complaint proceeding initiated by the commission, the telecommunications company providing the service shall bear the burden of proving that the prices charged cover cost, and are fair, just, and reasonable.

(5) Telecommunications companies shall provide the commission with all data it deems necessary to implement this section.

(6) No losses incurred by a telecommunications company in the provision of competitive services may be recovered through rates for noncompetitive services. The commission may order refunds or credits to any class of subscribers to a noncompetitive telecommunications service which has paid excessive rates because of below cost pricing of competitive telecommunications services.

(7) The commission may reclassify any competitive telecommunications service if reclassification would protect the public interest.

NEW SECTION. Sec. 6. The commission may approve a tariff which includes banded rates for any telecommunications service if such tariff is in the public interest. "Banded rate" means a rate which has a minimum and a maximum rate. The minimum rate in the rate band shall cover the cost of the service. Rates may be changed within the rate band upon such notice as the commission may order.

NEW SECTION. Sec. 7. Each telecommunications company not operating under tariff in Washington on January 1, 1985, shall register with the commission before beginning operations in this state. The registration shall be on a form prescribed by the commission and shall contain such information as the commission may by rule require, but shall include as a minimum the name and address of the company; the name and address of its registered agent, if any; the name, address, and title of each officer or director; its most current balance sheet; its latest annual report, if any; and a description of the telecommunications services it offers or intends to offer.

The commission may require as a precondition to registration the procurement of a performance bond sufficient to cover any advances or deposits the telecommunications company may collect from its customers, or order that such advances or deposits be held in escrow or trust.

The commission may deny registration to any telecommunications company which:

- (1) Does not provide the information required by this section;
- (2) Fails to provide a performance bond, if required;
- (3) Does not possess adequate financial resources to provide the proposed service; or
- (4) Does not possess adequate technical competency to provide the proposed service.

The commission shall take action to approve or issue a notice of hearing concerning any application for registration within thirty days after receiving the application. The commission may approve an application with or without a hearing. The commission may deny an application after a hearing.

NEW SECTION. Sec. 8. For the purposes of RCW 19.86.170, actions or transactions of competitive telecommunications companies, or associated with competitive telecommunications services, shall not be deemed otherwise permitted, prohibited, or regulated by the commission.

NEW SECTION. Sec. 9. The commission shall not regulate the following:

- (1) One way broadcast or cable television transmission of television or radio signals;
- (2) Private telecommunications systems;
- (3) Telegraph services;
- (4) Any sale, lease, or use of customer premises equipment except such equipment as is regulated on the effective date of this act;
- (5) Private shared telecommunications services, unless the commission finds, upon notice and investigation, that customers of such services have no alternative access to local exchange telecommunications companies. If the commission makes such a finding, it may require the private shared telecommunications services provider to make alternative facilities or conduit space available on reasonable terms and conditions at reasonable prices.

Sec. 10. Section 80.01.040, chapter 14, Laws of 1961 and RCW 80-.01.040 are each amended to read as follows:

The utilities and transportation commission shall:

- (1) Exercise all the powers and perform all the duties prescribed therefor by this title and by Title 81 RCW, or by any other law.
- (2) Regulate in the public interest, as provided by the public service laws, the rates, services, facilities, and practices of all persons engaging in the transportation by whatever means of persons or property within this state for compensation, and related activities; including, but not limited to, air transportation companies, auto transportation companies, express companies, freight and freight line companies, motor freight companies, motor transportation agents, private car companies, railway companies, sleeping car companies, steamboat companies, street railway companies, toll bridge companies, storage warehousemen, and wharfingers and warehousemen.
- (3) Regulate in the public interest, as provided by the public service laws, the rates, services, facilities, and practices of all persons engaging within this state in the business of supplying any utility service or commodity to the public for compensation, and related activities; including, but not limited to, electrical companies, gas companies, irrigation companies, ((telegraph companies, telephone)) telecommunications companies, and water companies.
- (4) Make such rules and regulations as may be necessary to carry out its other powers and duties.

Sec. 11. Section 80.04.110, chapter 14, Laws of 1961 and RCW 80-.04.110 are each amended to read as follows:

Complaint may be made by the commission of its own motion or by any person or corporation, chamber of commerce, board of trade, or any commercial, mercantile, agricultural or manufacturing society, or any body politic or municipal corporation, or by the public counsel section of the office of the attorney general, or its successor, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any public service corporation in violation, or claimed to be in violation, of any provision of law or of any order or rule of the commission: **PROVIDED,** That no complaint shall be entertained by the commission except upon its own motion, as to the reasonableness of the schedule of the rates or charges of any gas company, electrical company, water company, or ~~((telephone))~~ telecommunications company, unless the same be signed by the mayor, council or commission of the city or town in which the company complained of is engaged in business, or not less than twenty-five consumers or purchasers of such gas, electricity, water or ~~((telephone))~~ telecommunications service: **PROVIDED, FURTHER,** That when two or more public service corporations, (meaning to exclude municipal and other public corporations) are engaged in competition in any locality or localities in the state, either may make complaint against the other or others that the rates, charges, rules, regulations or practices of such other or others with or in respect to which the complainant is in competition, are unreasonable, unremunerative, discriminatory, illegal, unfair or intending or tending to oppress the complainant, to stifle competition, or to create or encourage the creation of monopoly, and upon such complaint or upon complaint of the commission upon its own motion, the commission shall have power, after notice and hearing as in other cases, to, by its order, subject to appeal as in other cases, correct the abuse complained of by establishing such uniform rates, charges, rules, regulations or practices in lieu of those complained of, to be observed by all of such competing public service corporations in the locality or localities specified as shall be found reasonable, remunerative, nondiscriminatory, legal, and fair or tending to prevent oppression or monopoly or to encourage competition, and upon any such hearing it shall be proper for the commission to take into consideration the rates, charges, rules, regulations and practices of the public service corporation or corporations complained of in any other locality or localities in the state.

All matters upon which complaint may be founded may be joined in one hearing, and no motion shall be entertained against a complaint for misjoinder of complaints or grievances or misjoinder of parties; and in any review of the courts of orders of the commission the same rule shall apply and pertain with regard to the joinder of complaints and parties as herein provided: **PROVIDED,** All grievances to be inquired into shall be plainly set forth in the complaint. No complaint shall be dismissed because of the absence of direct damage to the complainant.

Upon the filing of a complaint, the commission shall cause a copy thereof to be served upon the person or corporation complained of, which shall be accompanied by a notice fixing the time when and place where a hearing will be had upon such complaint. The time fixed for such hearing shall not be less than ten days after the date of the service of such notice and complaint, excepting as herein provided. Rules of practice and procedure not otherwise provided for in this title may be prescribed by the commission.

Sec. 12. Section 80.04.130, chapter 14, Laws of 1961 as amended by section 2, chapter 3, Laws of 1984 and RCW 80.04.130 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, whenever any public service company shall file with the commission any schedule, classification, rule or regulation, the effect of which is to change any rate, charge, rental or toll theretofore charged, the commission shall have power, either upon its own motion or upon complaint, upon notice, to enter upon a hearing concerning such proposed change and the reasonableness and justness thereof, and pending such hearing and the decision thereon the commission may suspend the operation of such rate, charge, rental or toll for a period not exceeding ten months from the time the same would otherwise go into effect, and after a full hearing the commission may make such order in reference thereto as would be provided in a hearing initiated after the same had become effective.

(2) At any hearing involving any change in any schedule, classification, rule or regulation the effect of which is to increase any rate, charge, rental or toll theretofore charged, the burden of proof to show that such increase is just and reasonable shall be upon the public service company.

(3) The implementation of mandatory local measured telephone service is a major policy change in available ((telephone)) telecommunications service. The commission shall not approve, prior to June 1, 1985, any filings which are under suspension as of February 16, 1984, which are awaiting an order by the commission, or which are filed on or after February 16, 1984, if the filing involuntarily requires any telephone user to pay for all outgoing local telephone calls based on time and/or distance. As to any such filing, the requirements in subsection (1) of this section for the commission to act on that filing within ten months from the date the filing would otherwise go into effect are suspended under this subsection from February 16, 1984, until June 1, 1985. This subsection shall not apply to any service such as land, marine, or air mobile service, or any like service that has traditionally been offered on a measured-service basis.

Sec. 13. Section 80.04.500, chapter 14, Laws of 1961 as amended by section 1, chapter 210, Laws of 1969 ex. sess. and RCW 80.04.500 are each amended to read as follows:

Nothing in this title shall authorize the commission to make or enforce any order affecting rates, tolls, rentals, contracts or charges or service rendered, or the adequacy or sufficiency of the facilities, equipment, instrumentalities or buildings, or the reasonableness of rules or regulations made, furnished, used, supplied or in force affecting any ~~((telephone))~~ telecommunications line, gas plant, electrical plant or water system owned and operated by any city or town, or to make or enforce any order relating to the safety of any ~~((telephone))~~ telecommunications line, electrical plant or water system owned and operated by any city or town, but all other provisions enumerated herein shall apply to public utilities owned by any city or town.

Sec. 14. Section 80.24.010, chapter 14, Laws of 1961 and RCW 80.24.010 are each amended to read as follows:

Every public service company subject to regulation by the commission shall, on or before the first day of April of each year, file with the commission a statement on oath showing its gross operating revenue from intrastate operations for the preceding calendar year or portion thereof and pay to the commission a fee equal to one-tenth of one percent of the first fifty thousand dollars of gross operating revenue, plus two-tenths of one percent of any gross operating revenue in excess of fifty thousand dollars: PROVIDED, That the fee shall in no case be less than one dollar.

The percentage rates of gross operating revenue to be paid in any year may be decreased by the commission for any class of companies subject to the payment of such fees, by general order entered before March 1st of such year, and for such purpose such companies shall be classified as follows:

Electrical, gas, water, ~~((telephone, telegraph))~~ telecommunications, and irrigation companies shall constitute class one. Every other company subject to regulation by the commission, for which regulatory fees are not otherwise fixed by law shall pay fees as herein provided and shall constitute additional classes according to kinds of businesses engaged in.

Sec. 15. Section 80.36.010, chapter 14, Laws of 1961 and RCW 80.36.010 are each amended to read as follows:

The right of eminent domain is hereby extended to all ~~((telegraph and telephone corporations and))~~ telecommunications companies organized or doing business in this state.

Sec. 16. Section 80.36.020, chapter 14, Laws of 1961 and RCW 80.36.020 are each amended to read as follows:

Every corporation incorporated under the laws of this state or any state or territory of the United States for the purpose of constructing, operating or maintaining any ~~((telegraph or telephone))~~ telecommunications line in this state shall have the right to enter upon any land between the termini of its proposed telecommunications lines ~~((of telegraph or telephone))~~ for the purpose of examining, locating and surveying the telecommunications line ~~((of such telegraph or telephone))~~, doing no unnecessary damage thereby.

Sec. 17. Section 80.36.030, chapter 14, Laws of 1961 and RCW 80-36.030 are each amended to read as follows:

Such ~~((telegraph or telephone))~~ telecommunications company may appropriate so much land as may be actually necessary for its telecommunications line ~~((of telegraph or telephone))~~, with the right to enter upon lands immediately adjacent thereto, for the purpose of constructing, maintaining and operating its line and making all necessary repair. Such ~~((telegraph or telephone))~~ telecommunications company may also, for the purpose aforesaid, enter upon and appropriate such portion of the right-of-way of any railroad company as may be necessary for the construction, maintenance and operation of its ~~((telegraph or telephone))~~ telecommunications line: PROVIDED, That such appropriation shall not obstruct such railroad of the travel thereupon, nor interfere with the operation of such railroad.

Sec. 18. Section 80.36.040, chapter 14, Laws of 1961 and RCW 80-36.040 are each amended to read as follows:

Any ~~((telegraph or telephone corporation or))~~ telecommunications company, or the lessees thereof, doing business in this state, shall have the right to construct and maintain all necessary telecommunications lines ~~((of telegraph or telephone))~~ for public traffic along and upon any public road, street or highway, along or across the right-of-way of any railroad corporation, and may erect poles, posts, piers or abutments for supporting the insulators, wires and any other necessary fixture of their lines, in such manner and at such points as not to incommode the public use of the railroad or highway, or interrupt the navigation of the waters: PROVIDED, That when the right-of-way of such corporation has not been acquired by or through any grant or donation from the United States, or this state, or any county, city or town therein, then the right to construct and maintain such lines shall be secured only by the exercise of right of eminent domain, as provided by law: PROVIDED FURTHER, That where the right-of-way as herein contemplated is within the corporate limits of any incorporated city, the consent of the city council thereof shall be first obtained before such ~~((telegraph or telephone))~~ telecommunications lines can be erected thereon.

Sec. 19. Section 80.36.050, chapter 14, Laws of 1961 and RCW 80-36.050 are each amended to read as follows:

Every railroad operated in this state, and carrying freight and passengers for hire, or doing business in this state, is and shall be designated a "post road," and the corporation or company owning the same shall allow ~~((telegraph and telephone))~~ telecommunications companies to construct and maintain ~~((telegraph and telephone))~~ telecommunications lines on and along the right-of-way of such railroad.

In case of the refusal or neglect of any railroad company or corporation to comply with the provisions of this section, said company or corporation shall be liable for damages in the sum of not less than one thousand

dollars nor more than five thousand dollars for each offense, and one hundred dollars per day during the continuance thereof.

Sec. 20. Section 80.36.060, chapter 14, Laws of 1961 and RCW 80.36.060 are each amended to read as follows:

Any person who wilfully and maliciously does any injury to any (~~telegraph or telephone~~) telecommunications property mentioned in RCW 80.36.070, is liable to the (~~corporation or~~) company for five times the amount of actual damages sustained thereby, to be recovered in any court of competent jurisdiction.

Sec. 21. Section 80.36.070, chapter 14, Laws of 1961 and RCW 80.36.070 are each amended to read as follows:

Any person who injures or destroys, through want of proper care, any necessary or useful fixtures of any (~~telegraph or telephone corporation or~~) telecommunications company, is liable to the (~~corporation or~~) company for all damages sustained thereby. Any vessel which, by dragging its anchor or otherwise, breaks, injures or destroys the subaqueous cable of a (~~telegraph or telephone corporation or~~) telecommunications company, subjects its owners to the damages hereinbefore specified.

No (~~telegraph or telephone corporation or~~) telecommunications company can recover damages for the breaking or injury of any subaqueous (~~telegraph~~) telecommunications cable, unless such (~~corporation or~~) company has previously erected on either bank of the waters under which the cable is placed, a monument indicating the place where the cable lies, and publishes for one month, in some newspaper most likely to give notice to navigators, a notice giving a description and the purpose of the monuments, and the general course, landings and termini of the cable.

Sec. 22. Section 80.36.080, chapter 14, Laws of 1961 and RCW 80.36.080 are each amended to read as follows:

All rates, tolls, contracts and charges, rules and regulations of (~~telephone and telegraph~~) telecommunications companies, for messages, conversations, services rendered and equipment and facilities supplied, whether such message, conversation or service to be performed be over one company or line or over or by two or more companies or lines, shall be fair, just, reasonable and sufficient, and the service so to be rendered any person, firm or corporation by any (~~telephone or telegraph~~) telecommunications company shall be rendered and performed in a prompt, expeditious and efficient manner and the facilities, instrumentalities and equipment furnished by it shall be safe, kept in good condition and repair, and its appliances, instrumentalities and service shall be modern, adequate, sufficient and efficient.

Sec. 23. Section 80.36.090, chapter 14, Laws of 1961 and RCW 80.36.090 are each amended to read as follows:

Every (~~telephone and telegraph~~) telecommunications company operating in this state shall provide and maintain suitable and adequate buildings and facilities therein, or connected therewith, for the accommodation, comfort and convenience of its patrons and employees.

Every (~~telephone~~) telecommunications company shall, upon reasonable notice, furnish to all persons and corporations who may apply therefor and be reasonably entitled thereto suitable and proper facilities and connections for telephonic communication and furnish telephone service as demanded.

Sec. 24. Section 80.36.100, chapter 14, Laws of 1961 and RCW 80-36.100 are each amended to read as follows:

Every (~~telephone and telegraph~~) telecommunications company shall file with the commission and shall print and keep open to public inspection at such points as the commission may designate, schedules showing the rates, tolls, rentals, contracts and charges of such companies for messages, conversations and services rendered and equipment and facilities supplied for messages and services to be performed within the state between each point upon its line and all other points thereon, and between each point upon its line and all points upon every other similar line operated or controlled by it, and between each point on its line or upon any line leased, operated or controlled by it and all points upon the line of any other similar company, whenever a through service and joint rate shall have been established or ordered between any two such points. If no joint rate covering a through service has been established, the several companies in such through service shall file, print and keep open to public inspection as aforesaid the separately established rates, tolls, rentals, contracts and charges applicable for such through service. The schedules printed as aforesaid shall plainly state the places between which (~~telephone or telegraph~~) telecommunications service, or both, will be rendered, and shall also state separately all charges and all privileges or facilities granted or allowed, and any rules or regulations or forms of contract which may in anywise change, affect or determine any of the aggregate of the rates, tolls, rentals or charges for the service rendered. A schedule shall be plainly printed in large type, and a copy thereof shall be kept by every (~~telephone company and telegraph~~) telecommunications company readily accessible to and for convenient inspection by the public at such places as may be designated by the commission, which schedule shall state the rates charged from such station to every other station on such company's line, or on any line controlled and used by it within the state. All or any of such schedules kept as aforesaid shall be immediately produced by such (~~telephone company or telegraph~~) telecommunications company upon the demand of any person. A notice printed in bold type, and stating that such schedules are on file and open to inspection by any person, the places where the same are kept, and that the agent will assist such person to determine from such schedules any rate, toll,

rental, rule or regulation which is in force shall be kept posted by every ((~~telephone company and telegraph~~)) telecommunications company in a conspicuous place in every station or office of such company.

Sec. 25. Section 80.36.110, chapter 14, Laws of 1961 and RCW 80-36.110 are each amended to read as follows:

Unless the commission otherwise orders, no change shall be made in any rate, toll, rental, contract or charge, which shall have been filed and published by any ((~~telephone or telegraph~~)) telecommunications company in compliance with the requirements of RCW 80.36.100, except after thirty days' notice to the commission and publication for thirty days as required in the case of original schedules in RCW 80.36.100, which notice shall plainly state the changes proposed to be made in the schedule then in force, and the time when the changed rate, toll, contract or charge will go into effect, and all proposed changes shall be shown by printing, filing and publishing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. The commission for good cause shown may allow changes in rates, charges, tolls, rentals or contracts without requiring the thirty days' notice and publication herein provided for, by an order specifying the change so to be made and the time when it shall take effect, and the manner in which the same shall be filed and published. When any change is made in any rate, toll, contract, rental or charge, the effect of which is to increase any rate, toll, rental or charge then existing, attention shall be directed on the copy filed with the commission to such increase by some character immediately preceding or following the item in such schedule, which character shall be in such form as the commission may designate.

Sec. 26. Section 80.36.120, chapter 14, Laws of 1961 and RCW 80-36.120 are each amended to read as follows:

The names of the several companies which are parties to any joint rates, tolls, contracts or charges of ((~~telephone companies and telegraph~~)) telecommunications companies for messages, conversations and service to be rendered shall be specified therein, and each of the parties thereto, other than the one filing the same, shall file with the commission such evidence of concurrence therein or acceptance thereof as may be required or approved by the commission; and where such evidence of concurrence or acceptance is filed, it shall not be necessary for the companies filing the same to also file copies of the tariff in which they are named as parties.

Sec. 27. Section 80.36.130, chapter 14, Laws of 1961 and RCW 80-36.130 are each amended to read as follows:

No ((~~telephone or telegraph~~)) telecommunications company shall charge, demand, collect or receive different compensation for any service rendered or to be rendered than the charge applicable to such service as specified in its schedule on file and in effect at that time, nor shall any

~~((telephone company or telegraph))~~ telecommunications company refund or remit, directly or indirectly, any portion of the rate or charge so specified, nor extend to any person or corporation any form of contract or agreement or any rule or regulation or any privilege or facility except such as are specified in its schedule filed and in effect at the time, and regularly and uniformly extended to all persons and corporations under like circumstances for like or substantially similar service.

No ~~((telephone company or telegraph))~~ telecommunications company subject to the provisions of this title shall, directly or indirectly, give any free or reduced service or any free pass or frank for the transmission of messages by ~~((either telephone or telegraph))~~ telecommunications between points within this state, except to its officers, employees, agents, pensioners, surgeons, physicians, attorneys at law, and their families, and persons and corporations exclusively engaged in charitable and eleemosynary work, and ministers of religion, Young Men's Christian Associations, Young Women's Christian Associations; to indigent and destitute persons, and to officers and employees of other ~~((telephone companies, telegraph))~~ telecommunications companies, railroad companies, and street railroad companies.

Sec. 28. Section 80.36.140, chapter 14, Laws of 1961 and RCW 80-36.140 are each amended to read as follows:

Whenever the commission shall find, after a hearing had upon its own motion or upon complaint, that the rates, charges, tolls or rentals demanded, exacted, charged or collected by any ~~((telegraph company or telephone))~~ telecommunications company for the transmission of messages by ~~((telegraph or telephone))~~ telecommunications, or for the rental or use of any ~~((telegraph line, telephone line or any telegraph))~~ telecommunications line, instrument, wire, appliance, apparatus or device or any ~~((telephone))~~ telecommunications receiver, transmitter, instrument, wire, cable, apparatus, conduit, machine, appliance or device, or any ~~((telephone))~~ telecommunications extension or extension system, or that the rules, regulations or practices of any ~~((telegraph company or telephone))~~ telecommunications company affecting such rates, charges, tolls, rentals or service are unjust, unreasonable, unjustly discriminatory or unduly preferential, or in anywise in violation of law, or that such rates, charges, tolls or rentals are insufficient to yield reasonable compensation for the service rendered, the commission shall determine the just and reasonable rates, charges, tolls or rentals to be thereafter observed and in force, and fix the same by order as provided in this title.

Whenever the commission shall find, after such hearing that the rules, regulations or practices of any ~~((telegraph company or telephone))~~ telecommunications company are unjust or unreasonable, or that the equipment, facilities or service of any ~~((telegraph company or telephone))~~ telecommunications company is inadequate, inefficient, improper or insufficient, the commission shall determine the just, reasonable, proper, adequate

and efficient rules, regulations, practices, equipment, facilities and service to be thereafter installed, observed and used, and fix the same by order or rule as provided in this title.

Sec. 29. Section 80.36.150, chapter 14, Laws of 1961 and RCW 80.36.150 are each amended to read as follows:

Every (~~((telephone and telegraph))~~) telecommunications company shall file with the commission, as and when required by it, a copy of any contract, agreement or arrangement in writing with any other (~~((telephone company or telegraph))~~) telecommunications company, or with any other corporation, association or person relating in any way to the construction, maintenance or use of a (~~((telephone line or telegraph))~~) telecommunications line or service by, or rates and charges over and upon, any such (~~((telephone line or telegraph))~~) telecommunications line.

Sec. 30. Section 80.36.160, chapter 14, Laws of 1961 and RCW 80.36.160 are each amended to read as follows:

In order to provide toll telephone service where no such service is available, or to promote the most expeditious handling or most direct routing of toll messages and conversations, or to prevent arbitrary or unreasonable practices which may result in the failure to utilize the toll facilities of all (~~((telephone))~~) telecommunications companies equitably and effectively, the commission may, on its own motion, or upon complaint, notwithstanding any contract or arrangement between (~~((telephone))~~) telecommunications companies, investigate, ascertain and, after hearing, by order (1) require the construction and maintenance of suitable connections between telephone lines for the transfer of messages and conversations at a common point or points and, if the companies affected fail to agree on the proportion of the cost thereof to be borne by each such company, prescribe said proportion of cost to be borne by each; and/or (2) prescribe the routing of toll messages and conversations over such connections and the practices and regulations to be followed with respect to such routing; and/or (3) establish reasonable joint rates or charges by or over said lines and connections and just, reasonable and equitable divisions thereof as between the (~~((telephone))~~) telecommunications companies participating therein.

This section shall not be construed as conferring on the commission jurisdiction, supervision or control of the rates, service or facilities of any mutual, cooperative or farmer line company or association, except for the purpose of carrying out the provisions of this section.

Sec. 31. Section 80.36.170, chapter 14, Laws of 1961 and RCW 80.36.170 are each amended to read as follows:

No (~~((telegraph company or telephone))~~) telecommunications company shall make or give any undue or unreasonable preference or advantage to

any person, corporation or locality, or subject any particular person, corporation or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Sec. 32. Section 80.36.180, chapter 14, Laws of 1961 and RCW 80-.36.180 are each amended to read as follows:

No ~~((telegraph or telephone))~~ telecommunications company shall, directly or indirectly, or by any special rate, rebate, drawback or other device or method, charge, demand, collect or receive from any person or corporation a greater or less compensation for any service rendered or to be rendered with respect to communication by ~~((telegraph or telephone))~~ telecommunications or in connection therewith, except as authorized in this title or Title 81 RCW than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service with respect to communication by ~~((telegraph or telephone))~~ telecommunications under the same or substantially the same circumstances and conditions.

Sec. 33. Section 80.36.190, chapter 14, Laws of 1961 and RCW 80-.36.190 are each amended to read as follows:

No ~~((telephone or telegraph))~~ telecommunications company subject to the provisions of this title shall charge or receive any greater compensation in the aggregate for the transmission of any long distance conversation or message of like kind for a shorter than for a longer distance over the same line, in the same direction, within this state, the shorter being included within the longer distance, or charge any greater compensation for a through service than the aggregate of the intermediate rates subject to the provision of this title, but this shall not be construed as authorizing any such ~~((telephone company or telegraph))~~ telecommunications company to charge and receive as great a compensation for a shorter as for a longer distance. Upon application of any ~~((telephone company or telegraph))~~ telecommunications company the commission may, by order, authorize it to charge less for longer than for a shorter distance service for the transmission of conversation or messages in special cases after investigation, but the order must specify and prescribe the extent to which the ~~((telephone company or telegraph))~~ telecommunications company making such application is relieved from the operation of this section, and only to the extent so specified and prescribed shall any ~~((telephone company or telegraph))~~ telecommunications company be relieved from the requirements of this section.

Sec. 34. Section 80.36.200, chapter 14, Laws of 1961 and RCW 80-.36.200 are each amended to read as follows:

Every ~~((telephone company or telegraph))~~ telecommunications company operating in this state shall receive, transmit and deliver, without discrimination or delay, the messages of any other ~~((telephone or telegraph))~~ telecommunications company.

Sec. 35. Section 80.36.220, chapter 14, Laws of 1961 and RCW 80.36.220 are each amended to read as follows:

~~((Telegraph and telephone))~~ Telecommunications companies shall receive, exchange and transmit each other's messages without delay or discrimination, and all ~~((telephone))~~ telecommunications companies shall receive and transmit messages for any person.

In case of the refusal or neglect of any ~~((telegraph or telephone))~~ telecommunications company to comply with the provisions of this section, the penalty for the same shall be a fine of not more than five hundred nor less than one hundred dollars for each offense.

Sec. 36. Section 1, chapter 21, Laws of 1975 and RCW 80.36.225 are each amended to read as follows:

~~((No later than December 31, 1980;))~~ All ~~((telephone))~~ telecommunications companies and customer-owned, pay telephone providers doing business in this state and utilizing ~~((coin))~~ pay telephones shall provide a system whereby calls may be made to the operator without charge and without requiring the use of credit cards or other payment devices, or insertion of any coins into such pay telephone~~((: PROVIDED, That the commission may grant an extension of time on a showing of unjust and unreasonable hardship))~~.

Sec. 37. Section 80.36.230, chapter 14, Laws of 1961 and RCW 80.36.230 are each amended to read as follows:

The commission is hereby granted the power to prescribe exchange area boundaries and/or territorial boundaries for ~~((telephone))~~ telecommunications companies.

Sec. 38. Section 80.36.260, chapter 14, Laws of 1961 and RCW 80.36.260 are each amended to read as follows:

Whenever the commission shall find, after a hearing had on its own motion or upon complaint, that repairs or improvements to, or changes in, any ~~((telegraph line or telephone))~~ telecommunications line ought reasonably be made, or that any additions or extensions should reasonably be made thereto in order to promote the security or convenience of the public or employees, or in order to secure adequate service or facilities for ~~((telegraphic or telephonic))~~ telecommunications communications, the commission shall make and serve an order directing that such repairs, improvements, changes, additions or extensions be made in the manner to be specified therein.

Sec. 39. Section 80.36.270, chapter 14, Laws of 1961 and RCW 80.36.270 are each amended to read as follows:

Nothing in this title shall be construed to prevent any ~~((telegraph company or telephone))~~ telecommunications company from continuing to furnish the use of its line, equipment or service under any contract or contracts in force on June 7, 1911 or upon the taking effect of any schedule or

schedules of rates subsequently filed with the commission, as herein provided, at the rates fixed in such contract or contracts: PROVIDED, That the commission shall have power, in its discretion, to direct by order that such contract or contracts shall be terminated by the (~~telephone company or telegraph~~) telecommunications company party thereto, and thereupon such contract or contracts shall be terminated by such (~~telephone company or telegraph~~) telecommunications company as and when directed by such order.

Sec. 40. Section 1, chapter 33, Laws of 1979 and RCW 80.54.010 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Attachment" means any wire or cable for the transmission of intelligence by (~~telegraph, telephone,~~) telecommunications or television, including cable television, light waves, or other phenomena, or for the transmission of electricity for light, heat, or power, and any related device, apparatus, or auxiliary equipment, installed upon any pole or in any (~~telegraph, telephone~~) telecommunications, electrical, cable television, or communications right of way, duct, conduit, manhole or handhole, or other similar facilities owned or controlled, in whole or in part, by one or more utilities, where the installation has been made with the consent of the one or more utilities.

(2) "Licensee" means any person, firm, corporation, partnership, company, association, joint stock association, or cooperatively organized association, other than a utility, which is authorized to construct attachments upon, along, under, or across the public ways.

(3) "Utility" means any electrical company(~~, telephone company, or telegraph company,~~) or telecommunications company as defined in RCW 80.04.010, and does not include any entity cooperatively organized, or owned by federal, state, or local government, or a subdivision of state or local government.

NEW SECTION. Sec. 41. The commission shall provide the legislature with an annual report on the status of the Washington telecommunications industry. The report shall describe the competitiveness of all markets as defined by the commission; the availability of diverse and affordable telecommunications services to all people of Washington, particularly to customers in rural or sparsely populated areas; and the level of rates for local exchange and interexchange telecommunications service. The report also shall address the question of whether competition in certain markets has developed to such an extent that the commission recommends additional regulatory flexibility such as detariffing or total deregulation and the evidence therefor; and the need for further legislation to achieve the purposes of sections 1 through 9 of this act. The commission shall also monitor cost of service methodologies and shall recommend to the legislature whether

cost of service ratemaking shall become a standard for telecommunications services.

NEW SECTION. Sec. 42. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 43. Sections 1, 3 through 9, 41, and 44 of this act are added to chapter 80.36 RCW.

NEW SECTION. Sec. 44. The legislature shall conduct an intensive review of this act during the 1989–1991 biennium to determine whether the purposes of this act have been achieved and if further relaxation of regulatory requirements is in the public interest.

Passed the Senate April 23, 1985.

Passed the House April 17, 1985.

Approved by the Governor May 21, 1985.

Filed in Office of Secretary of State May 21, 1985.

CHAPTER 451

[Engrossed Second Substitute Senate Bill No. 3828]
PUGET SOUND WATER QUALITY AUTHORITY

AN ACT Relating to Puget Sound water quality; amending RCW 90.70.900; adding new sections to chapter 90.70 RCW; repealing RCW 90.70.010, 90.70.020, 90.70.030, 90.70.040, and 90.70.050; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that Puget Sound and related inland marine waterways of Washington state represent a unique and unparalleled resource. A rich and varied range of marine organisms, composing an interdependent, sensitive communal ecosystem reside in these sheltered waters. Residents of this region enjoy a way of life centered around the waters of Puget Sound, featuring accessible recreational opportunities, world-class port facilities and water transportation systems, harvest of marine food resources, shoreline-oriented life styles, water-dependent industries, tourism, irreplaceable aesthetics and other activities, all of which to some degree depend upon a clean and healthy marine resource.

The legislature further finds that the consequences of careless husbanding of this resource have been dramatically illustrated in inland waterways associated with older and more extensively developed areas of the nation. Recent reports concerning degradation of water quality within this region's urban embayments raise alarming possibilities of similar despoliation of Puget Sound and other state waterways. These examples emphasize that the costs of restoration of aquatic resources, where such restoration is possible, greatly exceed the costs of responsible preservation.