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HOUSE BILL 2922

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State of Washington

66th Legislature

2020 Regular Session

By Representatives DeBolt and Springer

1 AN ACT Relating to pole attachments on public utility district  
2 facilities; 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 2008 c 197 s 2 are each amended to  
5 read as follows:

6 (1) As used in this section:

7 (a) "Attachment" means the affixation or installation of any  
8 wire, cable, or other physical material capable of carrying  
9 electronic impulses or light waves for the carrying of intelligence  
10 for telecommunications or television, including, but not limited to  
11 cable, and any related device, apparatus, or auxiliary equipment upon  
12 any pole owned or controlled in whole or in part by one or more  
13 locally regulated utilities where the installation has been made with  
14 the necessary consent.

15 (b) "Licensee" means any person, firm, corporation, partnership,  
16 company, association, joint stock association, or cooperatively  
17 organized association, which is authorized to construct attachments  
18 upon, along, under, or across public ways.

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

1 (d) "Nondiscriminatory" means that pole owners may not  
2 arbitrarily differentiate among or between similar classes of  
3 licensees approved for attachments.

4 (2) All rates, terms, and conditions made, demanded, or received  
5 by a locally regulated utility for attachments to its poles must be  
6 just, reasonable, nondiscriminatory, and sufficient. A locally  
7 regulated utility shall levy attachment space rental rates that are  
8 uniform for the same class of service within the locally regulated  
9 utility service area.

10 (3) ~~((A just and reasonable rate must be calculated as follows:~~

11 ~~(a) One component of the rate shall consist of the additional  
12 costs of procuring and maintaining pole attachments, but may not  
13 exceed the actual capital and operating expenses of the locally  
14 regulated utility attributable to that portion of the pole, duct, or  
15 conduit used for the pole attachment, including a share of the  
16 required support and clearance space, in proportion to the space used  
17 for the pole attachment, as compared to all other uses made of the  
18 subject facilities and uses that remain available to the owner or  
19 owners of the subject facilities;~~

20 ~~(b) The other component of the rate shall consist of the  
21 additional costs of procuring and maintaining pole attachments, but  
22 may not exceed the actual capital and operating expenses of the  
23 locally regulated utility attributable to the share, expressed in  
24 feet, of the required support and clearance space, divided equally  
25 among the locally regulated utility and all attaching licensees, in  
26 addition to the space used for the pole attachment, which sum is  
27 divided by the height of the pole; and~~

28 ~~(c) The just and reasonable rate shall be computed by adding  
29 one-half of the rate component resulting from (a) of this subsection  
30 to one-half of the rate component resulting from (b) of this  
31 subsection.~~

32 ~~(4) For the purpose of establishing a rate under subsection  
33 (3)(a) of this section, the)) The locally regulated utility ((may  
34 establish a rate according to the calculation set forth in subsection  
35 (3)(a) of this section or it may)) shall establish a rate according  
36 to the cable formula set forth by the federal communications  
37 commission by rule as it existed on June 12, 2008, or such subsequent  
38 date as may be provided by the federal communications commission by  
39 rule, ((consistent with the purposes of this section)) provided that  
40 the rate may not exceed the average rate charged for attachments by~~

1 investor-owned public utilities regulated by the utilities and  
2 transportation commission.

3 ~~((5))~~ (4) Except in extraordinary circumstances, a locally  
4 regulated utility must respond to a licensee's application to enter  
5 into a new pole attachment contract or renew an existing pole  
6 attachment contract within forty-five days of receipt, stating  
7 either:

8 (a) The application is complete; or

9 (b) The application is incomplete, including a statement of what  
10 information is needed to make the application complete.

11 ~~((6))~~ (5) Within sixty days of an application being deemed  
12 complete, the locally regulated utility shall notify the applicant as  
13 to whether the application has been accepted for licensing or  
14 rejected. In extraordinary circumstances, and with the approval of  
15 the applicant, the locally regulated utility may extend the sixty-day  
16 timeline under this subsection. If the application is rejected, the  
17 locally regulated utility must provide reasons for the rejection. A  
18 request to attach may only be denied on a nondiscriminatory basis (a)  
19 where there is insufficient capacity; or (b) for reasons of safety,  
20 reliability, or the inability to meet generally applicable  
21 engineering standards and practices.

22 ~~((7))~~ (6) Nothing in this section shall be construed or is  
23 intended to confer upon the utilities and transportation commission  
24 any authority to exercise jurisdiction over locally regulated  
25 utilities.

26 (7) A locally regulated utility shall not require more space for  
27 a safety barrier than that required by the National Electrical Safety  
28 Code.

29 (8) A locally regulated utility shall not deny an application in  
30 favor of reserving space for its own use, other than for the  
31 transmission of electric power.

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