

Chapter 80.36 RCW
TELECOMMUNICATIONS

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Telegraph and telephone companies: State Constitution Art. 12 § 19.

Telegraph communications, generally: Chapter 5.52 RCW.

Use of slugs to operate coin telephones: RCW 9.26A.120.

RCW 80.36.005 Definitions. The definitions in this section apply throughout RCW 80.36.410 through *80.36.475, unless the context clearly requires otherwise.

(1) "Community action agency" means local community action agencies or local community service agencies designated by the department of commerce under chapter 43.63A RCW.

(2) "Community agency" means local community agencies that administer community service voice mail programs.

(3) "Community service voice mail" means a computerized voice mail system that provides low-income recipients with: (a) An individually assigned telephone number; (b) the ability to record a personal greeting; and (c) a private security code to retrieve messages.

(4) "Department" means the department of social and health services.

(5) "Service year" means the period between July 1st and June 30th. [2009 c 565 § 53; 2003 c 134 § 1; 2002 c 104 § 1; 1993 c 249 § 1.]

Reviser's note: *(1) RCW 80.36.475 was repealed by 2009 c 518 § 10.

(2) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Effective date—2003 c 134: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2003." [2003 c 134 § 12.]

Effective date—1993 c 249: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 7, 1993]." [1993 c 249 § 4.]

RCW 80.36.010 Eminent domain. The right of eminent domain is hereby extended to all telecommunications companies organized or doing business in this state. [1985 c 450 § 15; 1961 c 14 § 80.36.010. Prior: 1890 p 292 § 1; RRS § 11338.]

RCW 80.36.020 Right of entry. 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 telecommunications line in this state shall have the right to enter upon any land between the termini of its proposed telecommunications lines for the purpose of examining, locating and surveying the telecommunications line, doing no unnecessary damage thereby. [1985 c 450 § 16; 1961 c 14 § 80.36.020. Prior: 1888 p 65 § 1; RRS § 11339.]

RCW 80.36.030 Extent of appropriation. Such telecommunications company may appropriate so much land as may be actually necessary for its telecommunications line, 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 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 telecommunications line: PROVIDED, That such appropriation shall not obstruct such railroad of the travel thereupon, nor interfere with the operation of such railroad. [1985 c 450 § 17; 1961 c 14 § 80.36.030. Prior: 1888 p 66 § 2; RRS § 11342.]

RCW 80.36.040 Use of road, street, and railroad right-of-way—When consent of city necessary. Any telecommunications company, or the lessees thereof, doing business in this state, shall have the right to construct and maintain all necessary telecommunications lines 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 telecommunications lines can be erected thereon. [1985 c 450 § 18; 1961 c 14 § 80.36.040. Prior: 1890 p 292 § 5; RRS § 11352.]

RCW 80.36.050 Use of railroad right-of-way—Penalty for refusal by railroad. 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 telecommunications companies to construct and maintain 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. [1985 c 450 § 19; 1961 c 14 § 80.36.050. Prior: (i) 1890 p 292 § 3; RRS § 11340. (ii) 1890 p 293 § 9; RRS § 11356.]

RCW 80.36.060 Liability for wilful injury to telecommunications property. Any person who wilfully and maliciously does any injury to any telecommunications property mentioned in RCW 80.36.070, is liable to the company for five times the amount of actual damages sustained thereby, to be recovered in any court of competent jurisdiction. [1985 c 450 § 20; 1961 c 14 § 80.36.060. Prior: 1890 p 293 § 7; RRS § 11354.]

RCW 80.36.070 Liability for negligent injury to property—Notice of underwater cable. Any person who injures or destroys, through want of proper care, any necessary or useful fixtures of any telecommunications company, is liable to the company for all damages sustained thereby. Any vessel which, by dragging its anchor or otherwise, breaks, injures or destroys the subaqueous cable of a telecommunications company, subjects its owners to the damages hereinbefore specified.

No telecommunications company can recover damages for the breaking or injury of any subaqueous telecommunications cable, unless such 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. [1985 c 450 § 21; 1961 c 14 § 80.36.070. Prior: (i) 1890 p 293 § 6; RRS § 11353. (ii) 1890 p 293 § 10; RRS § 11357.]

RCW 80.36.080 Rates, services, and facilities. All rates, tolls, contracts and charges, rules and regulations of 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 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. [1985 c 450 § 22; 1961 c 14 § 80.36.080. Prior: 1911 c 117 § 35, part; RRS § 10371, part.]

RCW 80.36.090 Service to be furnished on demand. Every 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 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. [1985 c 450 § 23; 1961 c 14 § 80.36.090. Prior: 1911 c 117 § 35, part; RRS § 10371, part.]

RCW 80.36.100 Tariff schedules to be filed and open to public—
Exceptions. (1) Every 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, 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.

(2) 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, and charges applicable for such through service.

(3) The schedules printed as aforesaid shall plainly state the places between which 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 which may in anywise change, affect or determine any of the aggregate of the rates, tolls, rentals or charges for the service rendered.

(4) A schedule shall be plainly printed in large type, and a copy thereof shall be kept by every 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.

(a) All or any of such schedules kept as aforesaid shall be immediately produced by such telecommunications company upon the demand of any person.

(b) 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 telecommunications company in a conspicuous place in every station or office of such company.

(5) This section does not apply to telecommunications companies classified as competitive under RCW 80.36.320 or to telecommunications services classified as competitive under RCW 80.36.330. [2006 c 347 § 1; 1989 c 101 § 9; 1985 c 450 § 24; 1961 c 14 § 80.36.100. Prior: 1911 c 117 § 36; RRS § 10372.]

RCW 80.36.110 Tariff changes—Statutory notice—Exception—Waiver of provisions during state of emergency. (1) Except as provided in subsection (2) of this section, unless the commission otherwise orders, no change shall be made in any rate, toll, rental, or charge, that was filed and published by any telecommunications company in compliance with the requirements of RCW 80.36.100, except after notice as required in this subsection.

(a) For changes to any rate, toll, rental, or charge filed and published in a tariff, the company shall provide thirty days' notice to the commission and publication for thirty days as required in the case of original schedules in RCW 80.36.100. The notice shall plainly state the changes proposed to be made in the schedule then in force, and the time when the changed rate, toll, 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. Proposed changes may be suspended by the commission within thirty days or before the stated effective date of the proposed change, whichever is later.

(b) The commission for good cause shown may allow changes in rates, charges, tolls, or rentals without requiring the notice and publication provided for in (a) of this subsection, by an order or rule specifying the change to be made and the time when it takes effect, and the manner in which the change will be filed and published.

(c) When any change is made in any rate, toll, 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 the increase by some character immediately preceding or following the item in the schedule, which character shall be in such a form as the commission may designate.

(2) (a) A telecommunications company may file a tariff that decreases any rate, charge, rental, or toll with ten days' notice to the commission and publication without receiving a special order from the commission when the filing does not contain an offsetting increase to another rate, charge, rental, or toll, and the filing company agrees not to file for an increase to any rate, charge, rental, or

toll to recover the revenue deficit that results from the decrease for a period of one year.

(b) A telecommunications company may file a promotional offering to be effective, without receiving a special order from the commission, upon filing with the commission and publication. For the purposes of this section, "promotional offering" means a tariff that, for a period of up to ninety days, waives or reduces charges or conditions of service for existing or new subscribers for the purpose of retaining or increasing the number of customers who subscribe to or use a service.

[(3)] During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the operation or enforcement of this section or any portion of this section or under any administrative rule, and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population. [2008 c 181 § 403; 2006 c 347 § 2; 2003 c 189 § 2; 1997 c 166 § 1. Prior: 1989 c 152 § 2; 1989 c 101 § 10; 1985 c 450 § 25; 1961 c 14 § 80.36.110; prior: 1911 c 117 § 37; RRS § 10373.]

Part headings not law—2008 c 181: See note following RCW 43.06.220.

RCW 80.36.120 Joint rates, contracts, etc. The names of the several companies which are parties to any joint rates, tolls, contracts or charges of 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. [1985 c 450 § 26; 1961 c 14 § 80.36.120. Prior: 1911 c 117 § 38; RRS § 10374.]

RCW 80.36.130 Published rates to be charged—Exceptions. (1) Except as provided in RCW 80.04.130 and 80.36.150, no 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 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.

(2) No 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 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 telecommunications companies, railroad companies, and street railroad companies.

(3) The commission may accept a tariff that gives free or reduced rate services for a temporary period of time in order to promote the use of the services. [1992 c 68 § 2; 1989 c 101 § 11; 1985 c 450 § 27; 1961 c 14 § 80.36.130. Prior: 1911 c 117 § 40; RRS § 10376. FORMER PART OF SECTION: 1929 c 96 § 1, part now codified in RCW 81.28.080.]

RCW 80.36.135 Alternative regulation of telecommunications companies—Waiver of provisions during state of emergency. (1) The legislature declares that:

(a) Changes in technology and the structure of the telecommunications industry may produce conditions under which traditional rate of return, rate base regulation of telecommunications companies may not in all cases provide the most efficient and effective means of achieving the public policy goals of this state as declared in RCW 80.36.300, this section, and RCW 80.36.145. The commission should be authorized to employ an alternative form of regulation if that alternative is better suited to achieving those policy goals.

(b) Because of the great diversity in the scope and type of services provided by telecommunications companies, alternative regulatory arrangements that meet the varying circumstances of different companies and their ratepayers may be desirable.

(2) Subject to the conditions set forth in this chapter and RCW 80.04.130, the commission may regulate telecommunications companies subject to traditional rate of return, rate base regulation by authorizing an alternative form of regulation. The commission may determine the manner and extent of any alternative forms of regulation as may in the public interest be appropriate. In addition to the public policy goals declared in RCW 80.36.300, the commission shall consider, in determining the appropriateness of any proposed alternative form of regulation, whether it will:

(a) Facilitate the broad deployment of technological improvements and advanced telecommunications services to underserved areas or underserved customer classes;

(b) Improve the efficiency of the regulatory process;

(c) Preserve or enhance the development of effective competition and protect against the exercise of market power during its development;

(d) Preserve or enhance service quality and protect against the degradation of the quality or availability of efficient telecommunications services;

(e) Provide for rates and charges that are fair, just, reasonable, sufficient, and not unduly discriminatory or preferential; and

(f) Not unduly or unreasonably prejudice or disadvantage any particular customer class.

(3) A telecommunications company or companies subject to traditional rate of return, rate base regulation may petition the commission to establish an alternative form of regulation. The company or companies shall submit with the petition a plan for an alternative

form of regulation. The plan shall contain a proposal for transition to the alternative form of regulation and the proposed duration of the plan. The plan must also contain a proposal for ensuring adequate carrier-to-carrier service quality, including service quality standards or performance measures for interconnection, and appropriate enforcement or remedial provisions in the event the company fails to meet service quality standards or performance measures. The commission also may initiate consideration of alternative forms of regulation for a company or companies on its own motion. The commission, after notice and hearing, shall issue an order accepting, modifying, or rejecting the plan within nine months after the petition or motion is filed, unless extended by the commission for good cause. The commission shall order implementation of the alternative plan of regulation unless it finds that, on balance, an alternative plan as proposed or modified fails to meet the considerations stated in subsection (2) of this section.

(4) Not later than sixty days from the entry of the commission's order, the company or companies affected by the order may file with the commission an election not to proceed with the alternative form of regulation as authorized by the commission.

(5) The commission may waive such regulatory requirements under Title 80 RCW for a telecommunications company subject to an alternative form of regulation as may be appropriate to facilitate the implementation of this section. However, the commission may not waive any grant of legal rights to any person contained in this chapter and chapter 80.04 RCW. The commission may waive different regulatory requirements for different companies or services if such different treatment is in the public interest.

(6) Upon petition by the company, and after notice and hearing, the commission may rescind or modify an alternative form of regulation in the manner requested by the company.

(7) The commission or any person may file a complaint under RCW 80.04.110 alleging that a telecommunications company under an alternative form of regulation has not complied with the terms and conditions set forth in the alternative form of regulation. The complainant shall bear the burden of proving the allegations in the complaint.

(8) During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the operation or enforcement of this section or any portion of this section or under any administrative rule, and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population. [2008 c 181 § 414; 2000 c 82 § 1; 1995 c 110 § 5; 1989 c 101 § 1.]

Part headings not law—2008 c 181: See note following RCW 43.06.220.

RCW 80.36.140 Rates and services fixed by commission, when.

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 telecommunications company for the transmission of messages by telecommunications, or for the rental or use of any telecommunications line, instrument, wire, appliance, apparatus or device or any telecommunications receiver,

transmitter, instrument, wire, cable, apparatus, conduit, machine, appliance or device, or any telecommunications extension or extension system, or that the rules, regulations or practices of any 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 telecommunications company are unjust or unreasonable, or that the equipment, facilities or service of any 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. [1985 c 450 § 28; 1961 c 14 § 80.36.140. Prior: 1911 c 117 § 55; RRS § 10391.]

RCW 80.36.145 Formal investigation and fact-finding—Alternative to full adjudicative proceeding—Waiver of provisions during state of emergency.

(1) The legislature declares that the availability of an alternative abbreviated formal procedure for use by the commission instead of a full adjudicative proceeding may in appropriate circumstances advance the public interest by reducing the time required by the commission for decision and the costs incurred by interested parties and ratepayers. Therefore, the commission is authorized to use formal investigation and fact-finding instead of an adjudicative proceeding under chapter 34.05 RCW when it determines that its use is in the public interest and that a full adjudicative hearing is not necessary to fully develop the facts relevant to the proceeding and the positions of the parties, including intervenors.

(2) The commission may use formal investigation and fact-finding instead of the hearing provided in the following circumstances:

(a) A complaint proceeding under RCW 80.04.110 with concurrence of the respondent when the commission is the complainant or with concurrence of the complainant and respondent when not the commission;

(b) A tariff suspension under RCW 80.04.130; or

(c) A competitive classification proceeding under RCW 80.36.320 and 80.36.330.

(3) In formal investigation and fact-finding the commission may limit the record to written submissions by the parties, including intervenors. The commission shall review the written submissions and, based thereon, shall enter appropriate findings of fact and conclusions of law and its order. When there is a reasonable expression of public interest in the issues under consideration, the commission shall hold at least one public hearing for the receipt of information from members of the public that are not formal intervenors in the proceeding and may elect to convert the proceeding to an adjudicative proceeding at any stage. The assignment of an agency employee or administrative law judge to preside at such public hearing shall not require the entry of an initial order.

(4) The commission shall adopt rules of practice and procedure including rules for discovery of information necessary for the use of formal investigation and fact-finding and for the filing of written submissions. The commission may provide by rule for a number of rounds of written comments: PROVIDED, That the party with the burden of proof shall always have the opportunity to file reply comments.

(5) During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the operation or enforcement of this section or any portion of this section or under any administrative rule, and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population. [2008 c 181 § 407; 1989 c 101 § 3.]

Part headings not law—2008 c 181: See note following RCW 43.06.220.

RCW 80.36.150 Contracts filed with commission. (1) Every 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 telecommunications company, or with any other corporation, association or person relating in any way to the construction, maintenance or use of a telecommunications line or service by, or rates and charges over and upon, any such telecommunications line. The commission shall adopt rules that provide for the filing by telecommunications companies on the public record of the essential terms and conditions of every contract for service. The commission shall not require that customer proprietary information contained in contracts be disclosed on the public record.

(2) The commission shall not treat contracts as tariffs or price lists. The commission may require noncompetitive service to be tariffed unless the company demonstrates that the use of a contract is in the public interest based upon a customer requirement or a competitive necessity for deviation from tariffed rates, terms and conditions, or that the contract is for a new service with limited demand.

(3) Contracts shall be for a stated time period and shall cover the costs for the service contracted for, as determined by commission rule or order. Contracts shall be enforceable by the contracting parties according to their terms, unless the contract has been rejected by the commission before its stated effective date as improper under the commission's rules and orders, or the requirements of this chapter. If the commission finds a contract to be below cost after it has gone into effect, based on commission rules or orders or the requirements of this chapter in effect at the time of the execution of the contract, it may make the appropriate adjustment to the contracting company's revenue requirement in a subsequent proceeding.

(4) Contracts executed and filed prior to July 23, 1989, are deemed lawful and enforceable by the contracting parties according to the contract terms. If the commission finds that any existing contract provides for rates that are below cost, based on commission rules or orders or the requirements of this chapter in effect at the time of the execution of the contract, it may make the appropriate adjustment to the contracting company's revenue requirement in a subsequent proceeding.

(5) If a contract covers competitive and noncompetitive services, the noncompetitive services shall be unbundled and priced separately from all other services and facilities in the contract. Such noncompetitive services shall be made available to all purchasers under the same or substantially the same circumstances at the same rate, terms, and conditions. [1989 c 101 § 8; 1985 c 450 § 29; 1961 c 14 § 80.36.150. Prior: 1911 c 117 § 39; RRS § 10375.]

RCW 80.36.160 Physical connections may be ordered, routing prescribed, and joint rates established. 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 telecommunications companies equitably and effectively, the commission may, on its own motion, or upon complaint, notwithstanding any contract or arrangement between 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 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. [1985 c 450 § 30; 1961 c 14 § 80.36.160. Prior: 1943 c 68 § 1; 1923 c 118 § 1; 1911 c 117 § 73; Rem. Supp. 1943 § 10409.]

RCW 80.36.170 Unreasonable preference prohibited. No 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. The commission shall have primary jurisdiction to determine whether any rate, regulation, or practice of a telecommunications company violates this section. This section shall not apply to contracts offered by a telecommunications company classified as competitive or to contracts for services classified as competitive under RCW 80.36.320 and 80.36.330. [1989 c 101 § 4; 1985 c 450 § 31; 1961 c 14 § 80.36.170. Prior: 1911 c 117 § 42; RRS § 10378.]

RCW 80.36.180 Rate discrimination prohibited. No telecommunications company shall, directly or indirectly, or by any special rate, rebate, drawback or other device or method, unduly or unreasonably 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 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 telecommunications under the same or substantially the same circumstances and conditions. The commission shall have primary jurisdiction to determine whether any rate, regulation, or practice of a telecommunications company violates this section. This section shall not apply to contracts offered by a telecommunications company classified as competitive or to contracts for services classified as competitive under RCW 80.36.320 or 80.36.330. [1989 c 101 § 5; 1985 c 450 § 32; 1961 c 14 § 80.36.180. Prior: 1911 c 117 § 41; RRS § 10377.]

RCW 80.36.183 Discounted message toll rates prohibited—

Availability of statewide, averaged toll rates. Notwithstanding any other provision of this chapter, no telecommunications company shall offer a discounted message toll service based on volume that prohibits aggregation of volumes across all territory with respect to which that company functions as an interexchange carrier. The commission shall continue to have the authority to require statewide, averaged toll rates to be made available by any telecommunications company subject to its jurisdiction. [1989 c 101 § 6.]

RCW 80.36.186 Pricing of or access to noncompetitive services—

Unreasonable preference or advantage prohibited. Notwithstanding any other provision of this chapter, no telecommunications company providing noncompetitive services shall, as to the pricing of or access to noncompetitive services, make or grant any undue or unreasonable preference or advantage to itself or to any other person providing telecommunications service, nor subject any telecommunications company to any undue or unreasonable prejudice or competitive disadvantage. The commission shall have primary jurisdiction to determine whether any rate, regulation, or practice of a telecommunications company violates this section. [1989 c 101 § 7.]

RCW 80.36.190 Long and short distance provision.

No 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 telecommunications company to charge and receive as great a compensation for a shorter as for a longer distance. Upon application of any 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 telecommunications company making

such application is relieved from the operation of this section, and only to the extent so specified and prescribed shall any telecommunications company be relieved from the requirements of this section. [1985 c 450 § 33; 1961 c 14 § 80.36.190. Prior: 1911 c 117 § 44; RRS § 10380.]

RCW 80.36.195 Telecommunications relay system—Long distance discount rates. Each telecommunications company providing intrastate interexchange voice transmission service shall offer discounts from otherwise applicable long distance rates for service used in conjunction with the statewide relay service authorized under RCW 43.20A.725. Such long distance discounts shall be determined in relation to the additional time required to translate calls through relay operators. In the case of intrastate long distance services provided pursuant to tariff, the commission shall require the incorporation of such discounts. [1992 c 144 § 5.]

Legislative findings—Severability—1992 c 144: See notes following RCW 43.20A.720.

RCW 80.36.200 Transmission of messages of other lines. Every telecommunications company operating in this state shall receive, transmit and deliver, without discrimination or delay, the messages of any other telecommunications company. [1985 c 450 § 34; 1961 c 14 § 80.36.200. Prior: 1911 c 117 § 45; RRS § 10381.]

RCW 80.36.210 Order of sending messages. It shall be the duty of any telegraph company, doing business in this state, to transmit all dispatches in the order in which they are received, under the penalty of one hundred dollars, to be recovered with costs of suit, by the person or persons whose dispatch is postponed out of its order: PROVIDED, That communications to and from public officers on official business, may have precedence over all other communications: AND, PROVIDED FURTHER, That intelligence of general and public interest may be transmitted for publication out of its order. [1961 c 14 § 80.36.210. Prior: Code 1881 § 2361; RRS § 11344; prior: 1866 p 77 § 20.]

RCW 80.36.220 Duty to transmit messages—Penalty for refusal or neglect. Telecommunications companies shall receive, exchange and transmit each other's messages without delay or discrimination, and all telecommunications companies shall receive and transmit messages for any person.

In case of the refusal or neglect of any 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. [1985 c 450 § 35; 1961 c 14 § 80.36.220. Prior: (i) 1890 p 292 § 2; RRS § 11343. (ii) 1890 p 293 § 8; RRS § 11355.]

RCW 80.36.225 Pay telephones—Calls to operator without charge or coin insertion to be provided. All telecommunications companies and customer-owned, pay telephone providers doing business in this state and utilizing 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. [1985 c 450 § 36; 1975 c 21 § 1.]

Emergency calls, yielding line: Chapter 70.85 RCW.

RCW 80.36.230 Exchange areas for telecommunications companies. The commission is hereby granted the power to prescribe exchange area boundaries and/or territorial boundaries for telecommunications companies. [1985 c 450 § 37; 1961 c 14 § 80.36.230. Prior: 1941 c 137 § 1; Rem. Supp. 1941 § 11358-1.]

RCW 80.36.240 Exchange areas for telephone companies—Procedure to establish. The commission in conducting hearings, promulgating rules, and otherwise proceeding to make effective the provisions of RCW 80.36.230 and 80.36.240, shall be governed by, and shall have the powers provided in this title, as amended; all provisions as to review of the commission's orders and appeals to the supreme court or the court of appeals contained in said title, as amended, shall be available to all companies and parties affected by the commission's orders issued under authority of RCW 80.36.230 and 80.36.240. [1971 c 81 § 142; 1961 c 14 § 80.36.240. Prior: 1941 c 137 § 2; Rem. Supp. 1941 § 11358-2.]

RCW 80.36.250 Commission may complain of interstate rates. The commission may investigate all interstate rates and charges, classifications, or rules or practices relating thereto, for or in relation to the transmission of messages or conversations. Where any acts in relation thereto take place within this state which, in the opinion of the commission, are excessive or discriminatory, or are levied or laid in violation of the federal communications act of June 19, 1934, and acts amendatory thereof or supplementary thereto, or are in conflict with the rulings, orders, or regulations of the Federal Communications Commission, the commission shall apply by petition to the Federal Communications Commission for relief, and may present to such federal commission all facts coming to its knowledge respecting violations of such act or the rulings, orders, or regulations of the federal commission. [1961 c 14 § 80.36.250. Prior: 1911 c 117 § 58; RRS § 10394.]

RCW 80.36.260 Betterments may be ordered. 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 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 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. [1985 c 450 § 38; 1961 c 14 § 80.36.260. Prior: 1911 c 117 § 71; RRS § 10407.]

RCW 80.36.270 Effect on existing contracts. Nothing in this title shall be construed to prevent any 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. [1989 c 101 § 12; 1985 c 450 § 39; 1961 c 14 § 80.36.270. Prior: 1911 c 117 § 43; RRS § 10379.]

RCW 80.36.300 Policy declaration. 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. [1985 c 450 § 1.]

RCW 80.36.310 Classification as competitive telecommunications companies, services—Initiation of proceedings—Notice and publication—Effective date—Date for final order. (1) Telecommunications companies may petition to be classified as competitive telecommunications companies under RCW 80.36.320 or to have services classified as competitive telecommunications services under RCW 80.36.330. 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.

(2) Any company petition or commission motion for competitive classification shall state an effective date not sooner than thirty days from the filing date. The company must provide notice and publication of the proposed competitive classification in the same manner as provided in RCW 80.36.110 for tariff changes. The proposed classification shall take effect on the stated effective date unless suspended by the commission and set for hearing under chapter 34.05 RCW or set for a formal investigation and fact-finding under RCW 80.36.145. The commission shall enter its final order with respect to any suspended classification within six months from the date of filing of a company's petition or the commission's motion. [1998 c 337 § 4; 1989 c 101 § 14; 1985 c 450 § 3.]

RCW 80.36.320 Classification as competitive telecommunications companies, services—Factors considered—Minimal regulation—Reclassification—Waiver of provisions during state of emergency. (1)

The commission shall classify a telecommunications company as a competitive telecommunications company if 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. The commission may waive any regulatory requirement 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; and
- (c) Cooperate with commission investigations of customer complaints.

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

(4) The commission may waive the requirements of RCW 80.36.170 and 80.36.180 in whole or in part for a competitive telecommunications company if it finds that competition will serve the same purpose and protect the public interest.

(5) During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the operation or enforcement of this section or any portion of this section or under any administrative rule, and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population. [2008 c 181 § 408; 2006 c 347 § 3; 2003 c 189 § 3; 1998 c 337 § 5; 1989 c 101 § 15; 1985 c 450 § 4.]

Part headings not law—2008 c 181: See note following RCW 43.06.220.

RCW 80.36.330 Classification as competitive telecommunications companies, services—Effective competition defined—Minimal regulation—Prices and rates—Reclassification—Waiver of provisions during state of emergency.

(1) The commission may classify a telecommunications service provided by a telecommunications company as a competitive telecommunications service if 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, including those not subject to commission jurisdiction;

(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) Competitive telecommunications services are subject to minimal regulation. The commission may waive any regulatory requirement under this title for companies offering a competitive telecommunications service 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 company offering a competitive telecommunications service shall at a minimum:

(a) Keep its accounts according to rules adopted by the commission;

(b) File financial reports for competitive telecommunications services with the commission as required by the commission and in a form and at times prescribed by the commission; and

(c) Cooperate with commission investigations of customer complaints.

(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.

(8) The commission may waive the requirements of RCW 80.36.170 and 80.36.180 in whole or in part for a service classified as competitive if it finds that competition will serve the same purpose and protect the public interest.

(9) During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the operation or enforcement of this section or any portion of this section or under any administrative rule, and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population. [2008 c 181 § 409; 2007 c 26 § 1; 2006 c 347 § 4; 2003 c 189 § 4; 1998 c 337 § 6; 1989 c 101 § 16; 1985 c 450 § 5.]

Part headings not law—2008 c 181: See note following RCW 43.06.220.

RCW 80.36.332 Noncompetitive telecommunications companies, services—Minimal regulation. (1) A noncompetitive telecommunications company may petition to have packages or bundles of telecommunications services it offers be subject to minimal regulation. The commission shall grant the petition where:

(a) Each noncompetitive service in the packages or bundle is readily and separately available to customers at fair, just, and reasonable prices;

(b) The price of the package or bundle is equal to or greater than the cost for tariffed services plus the cost of any competitive services as determined in accordance with RCW 80.36.330(3); and

(c) The availability and price of the stand-alone noncompetitive services are displayed in the company's tariff and on its website consistent with commission rules.

(2) For purposes of this section, "minimal regulation" shall have the same meaning as under RCW 80.36.330.

(3) The commission may waive any regulatory requirement under this title with respect to packages or bundles of telecommunications services if it finds those requirements are no longer necessary to protect public interest. [2007 c 26 § 2.]

RCW 80.36.333 Price lists in effect before June 7, 2006—Extension. (1) Until June 30, 2007, a telecommunications company may continue to maintain on file with the commission any price list that, pursuant to RCW 80.36.100, 80.36.320, and 80.36.330, was on file and in effect before June 7, 2006. The price list is subject to the statutes and rules in effect immediately before June 7, 2006.

(2) The commission may, upon petition by a company with a price list on file before June 7, 2006, extend the deadline in subsection (1) of this section until June 30, 2008. The commission may approve an extension only if the petitioning company demonstrates that it cannot reasonably implement a replacement for its price list by June 30, 2007, and that the extension of time will not result in harm to customers or competition. [2006 c 347 § 5.]

RCW 80.36.338 Withdrawal of price list—Customer information, opportunity to accept changes in rates, terms, or conditions—Cancellation period. Each company withdrawing a filed price list shall provide each customer receiving service under the price list with information about the rates, terms, and conditions under which the service will continue to be provided. If the rates, terms, and conditions do not change upon withdrawal of the price list, such rates, terms, and conditions shall be binding to the same extent as the price list. If any of the rates, terms, and conditions do change upon withdrawal of the price list, the company must provide each customer with a reasonable opportunity to decide whether to accept the changed rate, term, or condition. If a customer does not cancel service within thirty days after notice of the change is given, the customer will be deemed to have accepted all the rates, terms, and conditions offered by the company. [2006 c 347 § 6.]

RCW 80.36.340 Banded rates. 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. [1985 c 450 § 6.]

RCW 80.36.350 Registration of new companies—Waiver of provisions during state of emergency. 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.

A telecommunications company may also submit a petition for competitive classification under RCW 80.36.310 at the time it applies

for registration. The commission may act on the registration application and the competitive classification petition at the same time.

During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the operation or enforcement of this section or any portion of this section or under any administrative rule, and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population. [2008 c 181 § 410; 1990 c 10 § 1; 1985 c 450 § 7.]

Part headings not law—2008 c 181: See note following RCW 43.06.220.

RCW 80.36.360 Exempted actions or transactions. 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. [1985 c 450 § 8.]

RCW 80.36.370 Certain services not regulated. 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 July 28, 1985;
- (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;
- (6) Radio communications services provided by a regulated telecommunications company, except that when those services are the only voice grade, local exchange telecommunications service available to a customer of the company the commission may regulate the radio communication service of that company. [1990 c 118 § 1; 1985 c 450 § 9.]

RCW 80.36.375 Personal wireless services—Siting microcells, minor facilities, or a small cell network—Definitions. (1) If a personal wireless service provider applies to site several microcells, minor facilities, or a small cell network in a single geographical area:

- (a) If one or more of the microcells and/or minor facilities are not exempt from the requirements of RCW 43.21C.030(2)(c), local governmental entities are encouraged: (i) To allow the applicant, at the applicant's discretion, to file a single set of documents required by chapter 43.21C RCW that will apply to all the microcells and/or minor facilities to be sited; and (ii) to render decisions under

chapter 43.21C RCW regarding all the microcells and/or minor facilities in a single administrative proceeding;

(b) Local governmental entities are encouraged: (i) To allow the applicant, at the applicant's discretion, to file a single set of documents for land use permits that will apply to all the microcells and/or minor facilities to be sited; and (ii) to render decisions regarding land use permits for all the microcells and/or minor facilities in a single administrative proceeding; and

(c) For small cell networks involving multiple individual small cell facilities, local governmental entities may allow the applicant, if the applicant so chooses, to file a consolidated application and receive a single permit for the small cell network in a single jurisdiction instead of filing separate applications for each individual small cell facility.

(2) For the purposes of this section:

(a) "Personal wireless services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

(b) "Microcell" means a wireless communication facility consisting of an antenna that is either: (i) Four feet in height and with an area of not more than five hundred eighty square inches; or (ii) if a tubular antenna, no more than four inches in diameter and no more than six feet in length.

(c) "Minor facility" means a wireless communication facility consisting of up to three antennas, each of which is either: (i) Four feet in height and with an area of not more than five hundred eighty square inches; or (ii) if a tubular antenna, no more than four inches in diameter and no more than six feet in length; and the associated equipment cabinet that is six feet or less in height and no more than forty-eight square feet in floor area.

(d) "Small cell facility" means a personal wireless services facility that meets both of the following qualifications:

(i) Each antenna is located inside an antenna enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and

(ii) Primary equipment enclosures are no larger than seventeen cubic feet in volume. The following associated equipment may be located outside the primary equipment enclosure and if so located, are not included in the calculation of equipment volume: Electric meter, concealment, telecomm demarcation box, ground-based enclosures, battery backup power systems, grounding equipment, power transfer switch, and cut-off switch.

(e) "Small cell network" means a collection of interrelated small cell facilities designed to deliver personal wireless services. [2014 c 118 § 1; 1997 c 219 § 2; 1996 c 323 § 3.]

Findings—1996 c 323: See note following RCW 43.70.600.

RCW 80.36.390 Telephone solicitation—Penalty. (1) (a) As used in this section, "telephone solicitation" means the unsolicited initiation of a telephone call by a commercial or nonprofit company or organization to a person for the purpose of encouraging the person to purchase property, goods, or services, wrongfully obtaining anything

of value, or soliciting donations of money, property, goods, or services.

(b) "Telephone solicitation" does not include:

(i) Calls made in response to a request or inquiry by the called party. This includes calls regarding an item that has been purchased by the called party from the company or organization during a period not longer than 12 months prior to the telephone contact;

(ii) Calls made by a not-for-profit organization, as defined by 26 U.S.C. Sec. 501 of the federal internal revenue code, to its own list of bona fide or active members of the organization;

(iii) Calls made by a membership or labor organization to its own list of bona fide or active members of the organization;

(iv) Calls limited to polling or soliciting the expression of ideas, opinions, or votes; or

(v) Business-to-business contacts.

(c) "Telephone call" means any communication made through a telephone that uses a live person, artificial voice, or recorded message.

(2) (a) For purposes of this section, each individual real estate agent or insurance agent who maintains a separate list from other individual real estate or insurance agents shall be treated as a company or organization.

(b) For purposes of this section, an organization as defined in RCW 29A.04.086 or 29A.04.097 and organized pursuant to chapter 29A.80 RCW shall not be considered a commercial or nonprofit company or organization.

(3) A person making a telephone solicitation must identify him or herself and the company or organization on whose behalf the solicitation is being made and the purpose of the call within the first 30 seconds of the telephone call.

(4) As used in this section, "telephone solicitor" means a commercial or nonprofit company or organization engaged in telephone solicitation.

(5) If the telephone solicitor is requesting a donation or gift of money, the telephone solicitor must ask the called party whether they want to continue the call, end the call, or be removed from the solicitor's telephone lists.

(6) If, at any time during the telephone contact, the called party states or indicates they want to end the call, the telephone solicitor must end the call within 10 seconds.

(7) If, at any time during the telephone contact, the called party states or indicates that he or she does not want to be called again by the telephone solicitor or wants to have his or her name, individual telephone number, or other contact information removed from the telephone lists used by the telephone solicitor:

(a) The telephone solicitor shall inform the called party that his or her contact information will be removed from the telephone solicitor's telephone lists for at least one year;

(b) The telephone solicitor shall end the call within 10 seconds;

(c) The telephone solicitor shall not make any additional telephone solicitation of the called party at any telephone number that the called party has requested be removed from the solicitor's telephone lists for a period of at least one year; and

(d) The telephone solicitor shall not sell or give the called party's name, telephone number, and other contact information to another company or organization: PROVIDED, That the telephone solicitor may return the list, including the called party's name,

telephone number, and other contact information to the company or organization from which it received the list.

(8) A telephone solicitor shall not place calls to any person which will be received before 8:00 a.m. or after 8:00 p.m. at the call recipient's local time.

(9) No person may initiate, or cause to be initiated, a telephone solicitation to a telephone number registered on the do not call registry maintained by the federal government pursuant to telephone consumer protection act, 47 U.S.C. Sec. 227 and related regulations, as currently enacted or subsequently amended. This subsection applies to all telephone solicitation intended to be received by telephone customers within the state.

(10) It is unlawful for a person to initiate, or cause to be initiated, a telephone solicitation that violates 47 U.S.C. Sec. 227(e)(1), as currently written or as subsequently amended or interpreted by the federal government. This subsection applies to all telephone solicitation intended to be received by telephone customers within the state.

(11) A violation of subsection (3), (4), (5), (6), (7), (8), (9), or (10) of this section is punishable by a fine of up to \$1,000 for each violation.

(12) The attorney general may bring actions to enforce compliance with this section. The legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this section is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(13) A person aggrieved by repeated violations of this section may bring a civil action in superior court to enjoin future violations, to recover damages, or both. The court shall award damages of at least \$1,000 for each individual violation of this section. If the aggrieved person prevails in a civil action under this subsection, the court shall award the aggrieved person reasonable attorneys' fees and cost of the suit.

(14) The utilities and transportation commission shall by rule ensure that telecommunications companies inform their residential customers of the provisions of this section. The notification may be made by (a) annual notice in the billing statements sent to residential customers, or (b) conspicuous publication of the notice in the consumer information pages of local telephone directories. [2023 c 103 § 3; 2022 c 195 § 1; 2015 c 53 § 95; 1987 c 229 § 13; 1986 c 277 § 2.]

Findings—Intent—2023 c 103: See note following RCW 80.36.400.

Legislative finding—1986 c 277: "The legislature finds that certain kinds of telephone solicitation are increasing and that these solicitations interfere with the legitimate privacy rights of the citizens of the state. A study conducted by the utilities and transportation commission, as directed by the forty-ninth legislature, has found that the level of telephone solicitation in this state is significant to warrant regulatory action to protect the privacy rights of the citizens of the state. It is the intent of the legislature to

clarify and establish the rights of individuals to reject unwanted telephone solicitations." [1986 c 277 § 1.]

Charitable solicitations: Chapter 19.09 RCW.

Commercial telephone solicitation: Chapter 19.158 RCW.

**RCW 80.36.400 Automatic dialing and announcing device—
Commercial solicitation by.** (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) (i) "Assist in the transmission" means actions taken to provide substantial assistance or support, which enables any person to formulate, originate, initiate, or transmit a commercial solicitation when the person providing the assistance knows or consciously avoids knowing that the initiator of the commercial solicitation is engaged, or intends to engage, in any practice that violates chapter 19.86 RCW, the consumer protection act.

(ii) "Assist in the transmission" does not include any of the following:

(A) Activities of an entity relating to the design, manufacture, or distribution of any technology, product, or component that has a commercially significant use other than to violate or circumvent this section;

(B) Activities of a telecommunications provider or other entity that are limited to providing access to the internet for purposes excluding initiation of a telephone communication; or

(C) Activities of a terminating provider relating to the transmission of a telephone communication.

(b) "Automatic dialing and announcing device" is a system which automatically dials telephone numbers and transmits a recorded or artificial voice message once a connection is made. A recorded or artificial message is transmitted even if the recorded or artificial message goes directly to a recipient's voicemail.

(c) "Commercial solicitation" means the unsolicited initiation of a telephone communication made for the purpose of encouraging a person to purchase property, goods, or services, or wrongfully obtaining anything of value.

(d) "Terminating provider" means a telecommunications provider that provides voice services to an end user customer.

(2) No person may use an automatic dialing and announcing device for purposes of commercial solicitation. This section applies to all commercial solicitation intended to be received by telephone customers within the state.

(3) No person may assist in the transmission of a commercial solicitation described in subsection (2) of this section. In any action arising out of a violation of this subsection, it shall be an affirmative defense that a telecommunications provider both:

(a) Acted in compliance with 47 U.S.C. Sec. 227, 16 C.F.R. Part 310, and related regulations; and

(b) Implemented a reasonably effective plan to mitigate origination, initiation, or transmission of a commercial solicitation described in subsection (2) of this section.

(4) The legislature finds that the practices covered by this section are matters vitally affecting the public interest for the

purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this section is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW. In addition to all remedies available in chapter 19.86 RCW, a person who is injured under this section may bring a civil action in the superior court to enjoin further violations and shall recover actual damages or \$1,000 per violation of this section, whichever is greater.

(5) Nothing in this section shall be construed to prevent the Washington utilities and transportation commission from adopting additional rules regulating automatic dialing and announcing devices. [2023 c 103 § 2; 1986 c 281 § 2.]

Reviser's note: The definitions in subsection (1) of this section have been alphabetized pursuant to RCW 1.08.125(2)(k).

Findings—Intent—2023 c 103: "(1) The legislature finds that robocalls are increasingly used by entities to mislead and deceive Washington residents and induce them into providing personal information to wrongfully obtain something of value. It is the intent of the legislature to expand the scope of existing provisions in RCW 80.36.390, 80.36.400, and 19.158.020 regulating robocalls and telephone solicitations to prohibit abusive telephone communications that mislead or harm Washington residents.

(2) The legislature further finds that the most effective way to prevent illegal robocalling is to ensure that those calls never originate or enter the telephone network. Therefore, it is further the intent of the legislature to extend liability to those persons who provide substantial assistance or support in the origination and transmission of robocalls that violate RCW 80.36.400.

(3) It is also the intent of the legislature to:

(a) Include a provision in RCW 80.36.390 to prohibit the initiation of unwanted telephone calls to Washington telephone numbers on the do not call registry maintained by the federal government pursuant to the telemarketing sales rule, 16 C.F.R. Part 310, and related regulations; and

(b) Combat fraudulent or misleading caller identification." [2023 c 103 § 1.]

Legislative finding—1986 c 281: "The legislature finds that the use of automatic dialing and announcing devices for purposes of commercial solicitation: (1) Deprives consumers of the opportunity to immediately question a seller about the veracity of their claims; (2) subjects consumers to unwarranted invasions of their privacy; and (3) encourages inefficient and potentially harmful use of the telephone network. The legislature further finds that it is in the public interest to prohibit the use of automatic dialing and announcing devices for purposes of commercial solicitation." [1986 c 281 § 1.]

RCW 80.36.410 Washington telephone assistance program—Findings.

(1) The legislature finds that universal telephone service is an important policy goal of the state. The legislature further finds that: (a) Recent changes in the telecommunications industry, such as federal access charges, raise concerns about the ability of low-income persons to continue to afford access to local exchange telephone

service; and (b) many low-income persons making the transition to independence from receiving supportive services through community agencies do not qualify for economic assistance from the department.

(2) Therefore, the legislature finds that: (a) It is in the public interest to take steps to mitigate the effects of these changes on low-income persons; and (b) advances in telecommunications technologies, such as community service voice mail provide new and economically efficient ways to secure many of the benefits of universal service to low-income persons who are not customers of local exchange telephone service. [2003 c 134 § 2; 2002 c 104 § 2; 1987 c 229 § 3.]

Effective date—2003 c 134: See note following RCW 80.36.005.

RCW 80.36.420 Washington telephone assistance program—

Availability, components. The Washington telephone assistance program may be available to participants of programs set forth in RCW 80.36.470. Within funds specifically appropriated by the legislature for the Washington telephone assistance program, assistance may consist of the following components:

(1) A discount on service connection fees of fifty percent or more as set forth in RCW 80.36.460.

(2) A waiver of deposit requirements on local exchange service, as set forth in RCW 80.36.460.

(3) A discounted flat rate service for local exchange service, which is subject to the following conditions:

(a) The commission must establish a single telephone assistance rate for all local exchange companies operating in the state of Washington. The telephone assistance rate must include any federal end user charges and any other charges necessary to obtain local exchange service.

(b) The commission must, in establishing the telephone assistance rate, consider all charges for local exchange service, including federal end user charges, mileage charges, extended area service, and any other charges necessary to obtain local exchange service.

(c) The telephone assistance rate is only available to eligible customers subscribing to the lowest priced local exchange flat rate service, where the lowest priced local exchange flat rate service, including any federal end user charges and any other charges necessary to obtain local exchange service, is greater than the telephone assistance rate.

(d) The cost of providing the service must be paid, to the maximum extent possible, by a waiver of all or part of federal end user charges and, to the extent necessary, from the available appropriated funds.

(4) A discount on a community service voice mailbox that provides recipients with (a) an individually assigned telephone number; (b) the ability to record a personal greeting; and (c) a secure private security code to retrieve messages. [2013 2nd sp.s. c 8 § 115; 2003 c 134 § 3; 1990 c 170 § 2; 1987 c 229 § 4.]

Findings—Intent—Effective dates—2013 2nd sp.s. c 8: See notes following RCW 82.14B.040.

Effective date—2003 c 134: See note following RCW 80.36.005.

RCW 80.36.430 Washington telephone assistance program—Excise tax—Expenses of community service voice mail. Subject to the enactment into law of the 2013 amendments to RCW 82.14B.040 in section 103, chapter 8, Laws of 2013 2nd sp. sess., the 2013 amendments to RCW 82.14B.042 in section 104, chapter 8, Laws of 2013 2nd sp. sess., the 2013 amendments to RCW 82.14B.030 in section 105, chapter 8, Laws of 2013 2nd sp. sess., the 2013 amendments to RCW 82.14B.200 in section 106, chapter 8, Laws of 2013 2nd sp. sess., and the 2013 amendments to RCW 82.08.0289 in section 107, chapter 8, Laws of 2013 2nd sp. sess.:

(1) The Washington telephone assistance program is funded by the legislature by means of a biennial general fund appropriation to the department and by funds from any federal government or other programs for this purpose.

(2) Local exchange companies must bill the department for their expenses incurred in offering the telephone assistance program, including administrative and program expenses. The department must disburse the money to the local exchange companies. The department is exempted from having to conclude a contract with local exchange companies in order to effect this reimbursement. The department must recover its administrative costs. The department may specify by rule the range and extent of administrative and program expenses that will be reimbursed to local exchange companies.

(3) The department must enter into an agreement with the department of commerce for an amount not to exceed eight percent of the prior fiscal year's total revenue for the administrative and program expenses of providing community service voice mail services. The community service voice mail service may include toll-free lines in community action agencies through which recipients can access their community service voice mailboxes at no charge.

(4) The department shall enter into an agreement with the Washington information network 211 organization for operational support, subject to the availability of amounts appropriated for this purpose. [2013 2nd sp.s. c 8 § 108; 2011 1st sp.s. c 50 § 968; 2011 c 5 § 919; 2010 1st sp.s. c 37 § 951; 2009 c 564 § 960; 2004 c 254 § 2; 2003 c 134 § 4; 1990 c 170 § 3; 1987 c 229 § 5.]

Findings—Intent—Effective dates—2013 2nd sp.s. c 8: See notes following RCW 82.14B.040.

Effective dates—2011 1st sp.s. c 50: See note following RCW 15.76.115.

Effective date—2011 c 5: See note following RCW 43.79.487.

Effective date—2010 1st sp.s. c 37: See note following RCW 13.06.050.

Effective date—2009 c 564: See note following RCW 2.68.020.

Responsibility for collection of tax—Implementation—2004 c 254: See notes following RCW 43.20A.725.

Effective date—2004 c 254: See note following RCW 43.20A.725.

Effective date—2003 c 134: See note following RCW 80.36.005.

RCW 80.36.440 Washington telephone assistance program—Rules.

(1) The commission and the department may adopt any rules necessary to implement RCW 80.36.410 through 80.36.470.

(2) Rules necessary for the implementation of community service voice mail services shall be made by the commission and the department in consultation with the department of commerce. [2023 c 470 § 2127; 2003 c 134 § 5; 1990 c 170 § 4; 1987 c 229 § 6.]

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

Effective date—2003 c 134: See note following RCW 80.36.005.

RCW 80.36.450 Washington telephone assistance program—Limitation. Within funds specifically appropriated by the legislature for the Washington telephone assistance program, the Washington telephone assistance program must limit reimbursement to one residential switched access line per eligible household, or one discounted community service voice mailbox per eligible person. [2013 2nd sp.s. c 8 § 116; 2003 c 134 § 6; 1993 c 249 § 2; 1987 c 229 § 7.]

Findings—Intent—Effective dates—2013 2nd sp.s. c 8: See notes following RCW 82.14B.040.

Effective date—2003 c 134: See note following RCW 80.36.005.

Effective date—1993 c 249: See note following RCW 80.36.005.

RCW 80.36.460 Washington telephone assistance program—Deposit waivers, connection fee discounts. Local exchange companies must waive deposits on local exchange service for eligible subscribers and provide a fifty percent discount on the company's customary charge for commencing telecommunications service for eligible subscribers. The commission or other appropriate agency must make timely application for any available federal funds. The remaining portion of the connection fee to be paid by the subscriber must be expressly payable by installment fees spread over a period of months. A subscriber may, however, choose to pay the connection fee in a lump sum. Costs associated with the waiver and discount must be accounted for separately and recovered from the telephone assistance appropriation. [2013 2nd sp.s. c 8 § 117; 2003 c 134 § 7; 1990 c 170 § 5; 1987 c 229 § 8.]

Findings—Intent—Effective dates—2013 2nd sp.s. c 8: See notes following RCW 82.14B.040.

Effective date—2003 c 134: See note following RCW 80.36.005.

RCW 80.36.470 Washington telephone assistance program—Eligibility. (1) Adult recipients of department-administered programs for the financially needy which provide continuing financial or medical assistance, food stamps, or supportive services to persons in their own homes are eligible for participation in the telephone

assistance program. The department must notify the participants of their eligibility.

(2) Participants in community service voice mail programs are eligible for participation in services available under RCW 80.36.420 (1), (2), and (3) after completing use of community service voice mail services. Eligibility must be for a period including the remainder of the current service year and the following service year. Community agencies must notify the department of participants eligible under this subsection.

(3) Enrollment in the Washington telephone assistance program may not result in expenditures that exceed the total amount of funds made available by the legislature for the Washington telephone assistance program. When the department finds that there is a danger of an overexpenditure of appropriated funds, the department must close the Washington telephone assistance program enrollment until the department finds the danger no longer exists. [2013 2nd sp.s. c 8 § 118; 2003 c 134 § 8; 2002 c 104 § 3; 1990 c 170 § 6; 1987 c 229 § 9.]

Findings—Intent—Effective dates—2013 2nd sp.s. c 8: See notes following RCW 82.14B.040.

Effective date—2003 c 134: See note following RCW 80.36.005.

RCW 80.36.500 Information delivery services through exclusive number prefix or service access code. (1) As used in this section:

(a) "Information delivery services" means telephone recorded messages, interactive programs, or other information services that are provided for a charge to a caller through an exclusive telephone number prefix or service access code.

(b) "Information providers" means the persons or corporations that provide the information, prerecorded message, or interactive program for the information delivery service. The information provider generally receives a portion of the revenue from the calls.

(c) "Interactive program" means a program that allows an information delivery service caller, once connected to the information provider's announcement machine, to use the caller's telephone device to access more specific information.

(2) The utilities and transportation commission shall by rule require any local exchange company that offers information delivery services to a local telephone exchange to provide each residential telephone subscriber the opportunity to block access to all information delivery services offered through the local exchange company. The rule shall take effect by October 1, 1988.

(3) All costs of complying with this section shall be borne by the information providers.

(4) The local exchange company shall inform subscribers of the availability of the blocking service through a bill insert and by publication in a local telephone directory. [1991 c 191 § 8; 1988 c 123 § 2.]

Legislative finding, intent—1988 c 123: "(1) The legislature finds that throughout the state there is widespread use of information delivery services, which are also known as information-access telephone services and commonly provided on a designated telephone number prefix. These services operate on a charge-per-call basis,

providing revenue for both the information provider and the local exchange company. The marketing practices for these telephone services have at times been misleading to consumers and at other times specifically directed toward minors. The result has been placement of calls by individuals, particularly by children, who are uninformed about the charges that might apply. In addition, children may have secured access to obscene, indecent, and salacious material through these services. The legislature finds that these services can be blocked by certain local exchange companies at switching locations, and that devices exist which allow for blocking within a residence. Therefore, the legislature finds that residential telephone users in the state are entitled to the option of having their phones blocked from access to information delivery services.

(2) It is the intent of the legislature that the utilities and transportation commission and local exchange companies, to the extent feasible, distinguish between information delivery services that are misleading to consumers, directed at minors, or otherwise objectionable and adopt policies and rules that accomplish the purposes of RCW 80.36.500 with the least adverse effect on information delivery services that are not misleading to consumers, directed at minors, or otherwise objectionable." [1988 c 123 § 1.]

Investigation and report by commission: "By October 1, 1988, the commission shall investigate and report to the committees on energy and utilities in the house of representatives and the senate on methods to protect minors from obscene, indecent, and salacious materials available through the use of information delivery services. The investigation shall include a study of personal identification numbers, credit cards, scramblers, and beep-tone devices as methods of limiting access." [1988 c 123 § 3.]

Severability—1988 c 123: "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." [1988 c 123 § 4.]

Information delivery services: Chapter 19.162 RCW.

RCW 80.36.510 Legislative finding. The legislature finds that a growing number of companies provide, in a nonresidential setting, telecommunications services necessary to long distance service without disclosing the services provided or the rate, charge or fee. The legislature finds that provision of these services without disclosure to consumers is a deceptive trade practice. [1988 c 91 § 1.]

RCW 80.36.520 Disclosure of alternate operator services. The utilities and transportation commission shall by rule require, at a minimum, that any telecommunications company, operating as or contracting with an alternate operator services company, assure appropriate disclosure to consumers of the provision and the rate, charge or fee of services provided by an alternate operator services company.

For the purposes of this chapter, "alternate operator services company" means a person providing a connection to intrastate or

interstate long-distance services from places including, but not limited to, hotels, motels, hospitals, and customer-owned pay telephones. [1988 c 91 § 2.]

RCW 80.36.522 Alternate operator service companies—Registration—Penalties. All alternate operator service companies providing services within the state shall register with the commission as a telecommunications company before providing alternate operator services. The commission may deny an application for registration of an alternate operator services company if, after a hearing, it finds that the services and charges to be offered by the company are not for the public convenience and advantage. The commission may suspend the registration of an alternate operator services company if, after a hearing, it finds that the company does not meet the service or disclosure requirements of the commission. Any alternate operator services company that provides service without being properly registered with the commission shall be subject to a penalty of not less than five hundred dollars and not more than one thousand dollars for each and every offense. In case of a continuing offense, every day's continuance shall be a separate offense. The penalty shall be recovered in an action as provided in RCW 80.04.400. [1990 c 247 § 2.]

RCW 80.36.524 Alternate operator service companies—Rules. The commission may adopt rules that provide for minimum service levels for telecommunications companies providing alternate operator services. The rules may provide a means for suspending the registration of a company providing alternate operator services if the company fails to meet minimum service levels or if the company fails to provide appropriate disclosure to consumers of the protection afforded under this chapter. [1990 c 247 § 3.]

RCW 80.36.530 Violation of consumer protection act—Damages. In addition to the penalties provided in this title, a violation of RCW 80.36.510, 80.36.520, or 80.36.524 constitutes an unfair or deceptive act in trade or commerce in violation of chapter 19.86 RCW, the consumer protection act. Acts in violation of RCW 80.36.510, 80.36.520, or 80.36.524 are not reasonable in relation to the development and preservation of business, and constitute matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. It shall be presumed that damages to the consumer are equal to the cost of the service provided plus two hundred dollars. Additional damages must be proved. [1990 c 247 § 4; 1988 c 91 § 3.]

RCW 80.36.540 Telefacsimile messages—Unsolicited transmission—Penalties. (1) As used in this section, "telefacsimile message" means the transmittal of electronic signals over telephone lines for conversion into written text.

(2) No person, corporation, partnership, or association shall initiate the unsolicited transmission of telefacsimile messages promoting goods or services for purchase by the recipient.

(3) (a) Except as provided in (b) of this subsection, this section shall not apply to telefacsimile messages sent to a recipient with whom the initiator has had a prior contractual or business relationship.

(b) A person shall not initiate an unsolicited telefacsimile message under the provisions of (a) of this subsection if the person knew or reasonably should have known that the recipient is a governmental entity.

(4) Notwithstanding subsection (3) of this section, it is unlawful to initiate any telefacsimile message to a recipient who has previously sent a written or telefacsimile message to the initiator clearly indicating that the recipient does not want to receive telefacsimile messages from the initiator.

(5) The unsolicited transmission of telefacsimile messages promoting goods or services for purchase by the recipient is a matter affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. The transmission of unsolicited telefacsimile messages is not reasonable in relation to the development and preservation of business. A violation of this section is an unfair or deceptive act in trade or commerce for the purpose of applying the consumer protection act, chapter 19.86 RCW. Damages to the recipient of telefacsimile messages in violation of this section are five hundred dollars or actual damages, whichever is greater.

(6) Nothing in this section shall be construed to prevent the Washington utilities and transportation commission from adopting additional rules regulating transmissions of telefacsimile messages. [1990 c 221 § 1.]

RCW 80.36.555 Enhanced 911 service—Residential service required. By January 1, 1997, or one year after enhanced 911 service becomes available or a private switch automatic location identification service approved by the Washington utilities and transportation commission is available from the serving local exchange telecommunications company, whichever is later, any private shared telecommunications services provider that provides service to residential customers shall assure that the telecommunications system is connected to the public switched network such that calls to 911 result in automatic location identification for each residential unit in a format that is compatible with the existing or planned county enhanced 911 system. [1995 c 243 § 3.]

Findings—1995 c 243: "The legislature finds that citizens of the state increasingly rely on the dependability of enhanced 911, a system that allows the person answering an emergency call to immediately determine the location of the emergency without the need of the caller to speak. The legislature further finds that in some cases, calls made from telephones connected to private telephone systems may not be precisely located by the answerer, eliminating some of the benefit of enhanced 911, and that this condition could additionally imperil citizens calling from these locations in an emergency. The legislature also finds that until national standards have been developed to address this condition, information-forwarding requirements should be mandated for only those settings with the most risk, including schools, residences, and some business settings." [1995 c 243 § 1.]

Severability—1995 c 243: "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." [1995 c 243 § 12.]

RCW 80.36.560 Enhanced 911 service—Business service required. By January 1, 1997, or one year after enhanced 911 service becomes available or a private switch automatic location identification service approved by the Washington utilities and transportation commission is available from the serving local exchange telecommunications company, whichever is later, any commercial shared services provider of private shared telecommunications services for hire or resale to the general public to multiple unaffiliated business users from a single system shall assure that such a system is connected to the public switched network such that calls to 911 result in automatic location identification for each telephone in a format that is compatible with the existing or planned county enhanced 911 system. This section shall apply only to providers of service to businesses containing a physical area exceeding twenty-five thousand square feet, or businesses on more than one floor of a building, or businesses in multiple buildings. [1995 c 243 § 5.]

Findings—Severability—1995 c 243: See notes following RCW 80.36.555.

RCW 80.36.570 Law enforcement—Requests for call location information—Requirements. (1) A wireless telecommunications provider must provide information in its possession concerning the current or most recent location of a telecommunications device and call information of a user of the device when requested by a law enforcement agency. A law enforcement agency must meet the following requirements:

(a) The law enforcement officer making the request on behalf of the law enforcement agency must be on duty during the course of his or her official duties at the time of the request;

(b) The law enforcement agency must verify there is no relationship or conflict of interest between the law enforcement officer responding, investigating or making the request, and either the person requesting the call location information or the person for whom the call location information is being requested;

(c) A law enforcement agency may only request this information when, in the law enforcement officer's exercise of reasonable judgment, he or she believes that the individual is in an emergency situation that involves the risk of death or serious physical harm and requires disclosure without a delay of information relating to the emergency;

(d) Concurrent to making a request, the responding law enforcement agency must check the federal bureau of investigation's national crime information center and any other available databases to identify if either the person requesting the call location information or the person for whom the call location information is being requested has any history of domestic violence or any court order restricting contact by a respondent;

(e) Concurrent to making a request, the responding law enforcement agency must also check with the Washington state patrol to identify if either the person requesting the call location information or the person for whom the call location information is being requested is participating in the address confidentiality program established in chapter 40.24 RCW. The secretary of state must make name information available to the Washington state patrol from the address confidentiality program as required under RCW 40.24.070. The Washington state patrol must not further disseminate list information except on an individual basis to respond to a request under this section;

(f) If the responding law enforcement agency identifies or has reason to believe someone has a history of domestic violence or stalking, has a court order restricting contact, or if the Washington state patrol identifies someone as participating in the address confidentiality program, then the law enforcement agency must not provide call location information to the individual who requested the information, unless pursuant to the order of a court of competent jurisdiction. A law enforcement agency may not disclose information obtained under this section to any other party except first responders responding to the emergency situation; and

(g) A law enforcement agency may not request information under this section for any purpose other than responding to a call for emergency services or in an emergency situation that involves the risk of death or serious physical harm.

(2) A wireless telecommunications provider may establish protocols by which the carrier discloses call location information to law enforcement.

(3) No cause of action may be brought in any court against any wireless telecommunications provider, its officers, employees, agents, or other specified persons for providing call location information while acting in good faith and in accordance with the provisions of this section.

(4) All wireless telecommunications providers registered to do business in the state of Washington and all resellers of wireless telecommunications services shall submit their emergency contact information to the Washington state patrol in order to facilitate requests from a law enforcement agency for call location information in accordance with this section. Any change in contact information must be submitted immediately.

(5) The Washington state patrol must maintain a database containing emergency contact information for all wireless telecommunications providers registered to do business in the state of Washington and must make the information immediately available upon request to facilitate a request from law enforcement for call location information under this section.

(6) The Washington state patrol may adopt by rule criteria for fulfilling the requirements of this section. [2015 c 190 § 1.]

Short title—2015 c 190: "This act may be known and cited as the Kelsey Smith act." [2015 c 190 § 3.]

RCW 80.36.610 Universal service program—Authority of commission—Rules—Fees. (Effective until July 1, 2025.) The commission is authorized to take actions, conduct proceedings, and enter orders as

permitted or contemplated for a state commission under the telecommunications act of 1996. The commission may establish by rule fees to be paid by persons seeking commission action under the telecommunications act of 1996, and by parties to proceedings under that act, to offset in whole or part the commission's expenses that are not otherwise recovered through fees in implementing the act. [2013 2nd sp.s. c 8 § 209; 1998 c 337 § 2.]

Expiration date—2019 c 365; 2013 2nd sp.s. c 8 § 209: "Section 209 of this act expires July 1, 2025." [2019 c 365 § 20; 2013 2nd sp.s. c 8 § 303.]

Findings—Intent—Effective date—Utilities and transportation commission report—2013 2nd sp.s. c 8: See notes following RCW 80.36.650.

RCW 80.36.610 Universal service program—Authority of commission—Rules—Fees—Legislative intent. (Effective July 1, 2025.) (1) The commission is authorized to take actions, conduct proceedings, and enter orders as permitted or contemplated for a state commission under the federal telecommunications act of 1996, P.L. 104-104 (110 Stat. 56), but the commission's authority to either establish a new state program or to adopt new rules to preserve and advance universal service under section 254(f) of the federal act is limited to the actions expressly authorized by RCW 80.36.600. The commission may establish by rule fees to be paid by persons seeking commission action under the federal act, and by parties to proceedings under that act, to offset in whole or part the commission's expenses that are not otherwise recovered through fees in implementing the act, but new fees or assessments charged telecommunications carriers to either establish a state program or to adopt rules to preserve and advance universal service under section 254(f) of the federal act do not take effect until the legislature has approved a state universal service program.

(2) The legislature intends that under the future universal service program established in this state:

(a) Every telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the preservation and advancement of universal service in the state;

(b) The contributions shall be competitively and technologically neutral; and

(c) The universal service program to be established in accordance with RCW 80.36.600 shall not be inconsistent with the requirements of 47 U.S.C. Sec. 254. [1998 c 337 § 2.]

RCW 80.36.630 State universal communications services program—Definitions. (Expires July 1, 2025.) (1) The definitions in this section apply throughout this section and RCW 80.36.650 through 80.36.690 and 80.36.610 unless the context clearly requires otherwise.

(a) "Basic residential service" means those services set out in 47 C.F.R. Sec. 54.101(a) (2011), as it existed on May 13, 2019, and mandatory extended area service approved by the commission.

(b) "Basic telecommunications services" means the following services:

- (i) Single-party service;
- (ii) Voice grade access to the public switched network;
- (iii) Support for local usage;
- (iv) Dual tone multifrequency signaling (touch-tone);
- (v) Access to emergency services (911);
- (vi) Access to operator services;
- (vii) Access to interexchange services;
- (viii) Access to directory assistance; and
- (ix) Toll limitation services.

(c) "Broadband service" means any service providing advanced telecommunications capability, including internet access and access to high quality voice, data, graphics, or video.

(d) "Communications provider" means a provider of communications services that assigns a working telephone number to a final consumer for intrastate wireline or wireless communications services or interconnected voice over internet protocol service, and includes local exchange carriers.

(e) "Communications services" includes telecommunications services and information services and any combination thereof.

(f) "Incumbent local exchange carrier" has the same meaning as set forth in 47 U.S.C. Sec. 251(h).

(g) "Incumbent public network" means the network established by incumbent local exchange carriers for the delivery of communications services to customers that is used by communications providers for origination or termination of communications services by or to customers.

(h) "Interconnected voice over internet protocol service" means an interconnected voice over internet protocol service that: (i) Enables real-time, two-way voice communications; (ii) requires a broadband connection from the user's location; (iii) requires internet protocol-compatible customer premises equipment; and (iv) permits users generally to receive calls that originate on the public network and to terminate calls to the public network.

(i) "Program" means the state universal communications services program created in RCW 80.36.650.

(j) "Telecommunications" has the same meaning as defined in 47 U.S.C. Sec. 153(43).

(k) "Telecommunications act of 1996" means the telecommunications act of 1996 (P.L. 104-104, 110 Stat. 56).

(2) This section expires July 1, 2025. [2019 c 365 § 11; 2013 2nd sp.s. c 8 § 202.]

Effective date—2019 c 365 §§ 11-18 and 20: "Sections 11 through 18 and 20 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [May 13, 2019]." [2019 c 365 § 23.]

Findings—2019 c 365: See note following RCW 43.330.532.

Findings—Intent—Effective date—Utilities and transportation commission report—2013 2nd sp.s. c 8: See notes following RCW 80.36.650.

**RCW 80.36.650 State universal communications services program—
Established. (Expires July 1, 2025.)**

(1) A state universal communications services program is established. The program is established to protect public safety and welfare under the authority of the state to regulate telecommunications under Article XII, section 19 of the state Constitution. The purpose of the program is to support continued provision of basic telecommunications services under rates, terms, and conditions established by the commission and the provision, enhancement, and maintenance of broadband services, recognizing that, historically, the incumbent public network functions to provide all communications services including, but not limited to, voice and broadband services.

(2) Under the program, eligible communications providers may receive distributions from the universal communications services account created in RCW 80.36.690 in exchange for the affirmative agreement to provide continued telecommunications services under the rates, terms, and conditions established by the commission under this chapter, and broadband services, for the period covered by the distribution. The commission must implement and administer the program under terms and conditions established in RCW 80.36.630 through 80.36.690. Expenditures for the program may not exceed five million dollars per fiscal year; provided, however, that if less than five million dollars is expended in any fiscal year, the unexpended portion must be carried over to subsequent fiscal years and, unless fully expended, must be available for program expenditures in such subsequent fiscal years in addition to the five million dollars allotted for each of those subsequent fiscal years.

(3) A communications provider is eligible to receive distributions from the account if:

(a) (i) The communications provider is: (A) An incumbent local exchange carrier serving fewer than forty thousand access lines in the state; or (B) a radio communications service company providing wireless two-way voice communications service and broadband services to less than the equivalent of forty thousand access lines in the state. For purposes of determining the access line threshold in this subsection, the access lines or equivalents of all wireline affiliates must be counted as a single threshold, if the lines or equivalents are located in Washington;

(ii) The communications provider has adopted a plan to provide, enhance, or maintain broadband services in its service area; and

(iii) The communications provider meets any other requirements established by the commission pertaining to the provision of communications services, including basic telecommunications services; or

(b) The communications provider demonstrates to the commission that the communications provider is able to provide the same or comparable services at the same or similar service quality standards at a lower price; and: (i) Will provide communications services to all customers in the exchange or exchanges in which it will provide service; and (ii) submits to the commission's regulation of its service as if it were the incumbent local exchange company serving the exchange or exchanges for which it seeks distribution from the account.

(4) (a) Distributions to eligible communications providers are based on criteria established by the commission.

(b) If the program does not have sufficient funds to fully fund the distribution formula set out in (a) of this subsection, distributions must be reduced on a pro rata basis using the amounts calculated for that year's program support as the basis of the pro rata calculations.

(c) To receive a distribution under the program, an eligible communications provider must affirmatively consent to continue providing communications services to its customers under rates, terms, and conditions established by the commission pursuant to this chapter for the period covered by the distribution.

(5) The program is funded from amounts deposited by the legislature in the universal communications services account established in RCW 80.36.690. The commission must operate the program within amounts appropriated for this purpose and deposited in the account.

(6) The commission must periodically review the accounts and records of any communications provider that receives distributions under the program to ensure compliance with the program and monitor the providers' use of the funds.

(7) The commission must establish an advisory board, consisting of a reasonable balance of representatives from different types of stakeholders, including but not limited to communications providers and consumers, to advise the commission on any rules and policies governing the operation of the program.

(8) The program terminates on June 30, 2024, and no distributions may be made after that date.

(9) This section expires July 1, 2025. [2019 c 365 § 12; 2016 c 145 § 1; 2013 2nd sp.s. c 8 § 203.]

Effective date—2019 c 365 §§ 11-18 and 20: See note following RCW 80.36.630.

Findings—2019 c 365: See note following RCW 43.330.532.

Findings—Intent—2013 2nd sp.s. c 8: "(1) The legislature finds that:

(a) The benefit that all consumers and communications providers derive from connection to the legacy public telephone network is enhanced by a universal service program that enables as many consumers to be connected to the public network as possible; and

(b) Consumers in all areas of the state should continue to have access to communications services at reasonable rates.

(2) The state has long relied on incumbent local exchange carriers to provide a ubiquitous incumbent public network as carriers of last resort. Significant changes are occurring in the communications marketplace, including: (a) The migration from customer reliance on access lines for voice service to the use of broadband for a number of communications applications; and (b) changes in federal regulations governing: How communications providers compensate other providers for the use of the network; and eligibility for federal universal service funds. These changes are adversely affecting the ability of some communications providers to continue to offer communications services in rural areas of the state of Washington at rates that are comparable to those prevailing in urban areas. These changes, absent explicit federal and state universal service support for such communications providers, may lead, in the short term, to

unreasonable telephone service rate increases or cessation of service for some Washington consumers. Therefore, it is in the best interest of the state to ensure that incumbent local exchange carriers are able to continue to provide services as the carrier of last resort.

(3) As a result of the foregoing and to enable all consumers in Washington to access and benefit from a ubiquitous public network, the legislature intends to create a targeted and temporary universal service program that supports the legacy public telephone network of Washington's smaller incumbent communications providers and ensures access to the network during this transition to broadband services, is operated in a transparent manner pursuant to rules adopted by the utilities and transportation commission, and advances universal service in a manner not inconsistent with the requirements of 47 U.S.C. Sec. 254, the federal telecommunications act of 1996." [2013 2nd sp.s. c 8 § 201.]

Effective date—2013 2nd sp.s. c 8: "Sections 201 through 206, 208, 209, and 211 of this act take effect July 1, 2014." [2013 2nd sp.s. c 8 § 302.]

Utilities and transportation commission report—Rule making—2019 c 365—2013 2nd sp.s. c 8: "(1) By December 1, 2024, and in compliance with RCW 43.01.036, the Washington utilities and transportation commission may report to the appropriate committees of the legislature, on the following: (a) Whether funding levels for each small telecommunications company have been adequate to maintain reliable universal service; (b) the future impacts on small telecommunications companies from the elimination of funding under this act [chapter 8, Laws of 2013 2nd sp. sess.]; (c) the impacts on customer rates from the current level of funding and the future impacts when the funding terminates under this act [chapter 8, Laws of 2013 2nd sp. sess.]; and (d) the impacts on line and service delivery investments when the funding is terminated under this act [chapter 8, Laws of 2013 2nd sp. sess.]. The report may also include an analysis of the need for future program funding and recommendations on potential funding mechanisms to improve the availability of communications services, including broadband service, in unserved areas. Commission expenses related to conducting all analysis in preparation of this report must be expended from the universal communications services account.

(2) The Washington utilities and transportation commission must initiate a rule making to reform the state universal communications services program no later than ninety days following May 13, 2019. The rule making must address adding broadband as a supported service and, consistent with the size of the fund, establishing:

- (a) Broadband provider eligibility;
- (b) Service performance and buildout requirements for funding recipients;
- (c) Support amounts for maintaining systems that meet federal or state broadband speed guidelines; and
- (d) Methods to effectively and efficiently distribute program support to eligible providers." [2019 c 365 § 18; 2013 2nd sp.s. c 8 § 212.]

RCW 80.36.660 State universal communications services program—Rules. (Expires July 1, 2025.) (1) To implement the program, the commission must adopt rules for the following purposes:

(a) Operation of the program, including criteria for: Eligibility for distributions; use of the funds; identification of any reports or data that must be filed with the commission, including, but not limited to, how a communication provider used the distributed funds; and the communications provider's infrastructure;

(b) Operation of the universal communications services account established in RCW 80.36.690;

(c) Establishment of the criteria used to calculate distributions; and

(d) Readoption, amendment, or repeal of any existing rules adopted pursuant to RCW 80.36.610 as necessary to be consistent with RCW 80.36.630 through 80.36.690 and 80.36.610.

(2) This section expires July 1, 2025. [2019 c 365 § 13; 2013 2nd sp.s. c 8 § 204.]

Effective date—2019 c 365 §§ 11-18 and 20: See note following RCW 80.36.630.

Findings—2019 c 365: See note following RCW 43.330.532.

Findings—Intent—Effective date—Utilities and transportation commission report—2013 2nd sp.s. c 8: See notes following RCW 80.36.650.

RCW 80.36.670 State universal communications services program—Penalties. (Expires July 1, 2025.) (1) In addition to any other penalties prescribed by law, the commission may impose penalties for failure to make or delays in making or filing any reports required by the commission for administration of the program. In addition, the commission may recover amounts determined to have been improperly distributed under RCW 80.36.650. For the purposes of this section, the provisions of RCW 80.04.380 through 80.04.405, inclusive, apply to all companies that receive support from the universal communications services account created in RCW 80.36.690.

(2) Any action taken under this section must be taken only after providing the affected communications provider with notice and an opportunity for a hearing, unless otherwise provided by law.

(3) Any amounts recovered under this section must be deposited in the universal communications services account created in RCW 80.36.690.

(4) This section expires July 1, 2025. [2019 c 365 § 14; 2013 2nd sp.s. c 8 § 205.]

Effective date—2019 c 365 §§ 11-18 and 20: See note following RCW 80.36.630.

Findings—2019 c 365: See note following RCW 43.330.532.

Findings—Intent—Effective date—Utilities and transportation commission report—2013 2nd sp.s. c 8: See notes following RCW 80.36.650.

RCW 80.36.680 State universal communications services program—Administration. (Expires July 1, 2025.) (1) The commission may delegate to the commission secretary or other staff the authority to resolve disputes and make other administrative decisions necessary to the administration and supervision of the program consistent with the relevant statutes and commission rules.

(2) This section expires July 1, 2025. [2019 c 365 § 15; 2013 2nd sp.s. c 8 § 206.]

Effective date—2019 c 365 §§ 11-18 and 20: See note following RCW 80.36.630.

Findings—2019 c 365: See note following RCW 43.330.532.

Findings—Intent—Effective date—Utilities and transportation commission report—2013 2nd sp.s. c 8: See notes following RCW 80.36.650.

RCW 80.36.690 State universal communications services program—Account created. (Expires July 1, 2025.) (1) The universal communications services account is created in the custody of the state treasurer. Revenues to the account consist of moneys deposited in the account by the legislature and any penalties or other recoveries received pursuant to RCW 80.36.670. Expenditures from the account may be used only for the purposes of the universal communications services program established in RCW 80.36.650 and commission expenses related to implementation and administration of the provisions of RCW 80.36.630 through 80.36.690 and section 212, chapter 8, Laws of 2013 2nd sp. sess. Only the secretary of the commission or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) This section expires July 1, 2025. [2019 c 365 § 16; 2013 2nd sp.s. c 8 § 208.]

Effective date—2019 c 365 §§ 11-18 and 20: See note following RCW 80.36.630.

Findings—2019 c 365: See note following RCW 43.330.532.

Findings—Intent—Effective date—Utilities and transportation commission report—2013 2nd sp.s. c 8: See notes following RCW 80.36.650.

RCW 80.36.700 State universal communications services program—Program expiration. (Expires July 1, 2025.) (1) The universal communications services program established in RCW 80.36.630 through 80.36.690 terminates on June 30, 2024.

(2) This section expires July 1, 2025. [2019 c 365 § 17; 2013 2nd sp.s. c 8 § 211.]

Effective date—2019 c 365 §§ 11-18 and 20: See note following RCW 80.36.630.

Findings—2019 c 365: See note following RCW 43.330.532.

Findings—Intent—Effective date—Utilities and transportation commission report—2013 2nd sp.s. c 8: See notes following RCW 80.36.650.

RCW 80.36.710 Digital equity account. (1) The digital equity account is created in the state treasury. Moneys in the account may be spent only after appropriation.

(2) Any amounts appropriated by the legislature to the account, private contributions, or any other source directed to the account, must be deposited into the account. Funds from sources outside the state, from private contributions, federal or other sources may be directed to the specific purposes of the digital equity opportunity program or digital equity planning grant program.

(3) The legislature may appropriate moneys in the account only for the purposes of:

(a) RCW 43.330.412, the digital equity opportunity program; and

(b) RCW 43.330.5393, the digital equity planning grant program.
[2022 c 265 § 401.]

Effective date—2022 c 265 §§ 101, 102, 301-305, and 401: See note following RCW 43.330.530.

Short title—Findings—Intent—2022 c 265: See notes following RCW 43.330.539.

RCW 80.36.850 Extended area service defined. As used in RCW 80.36.855, "extended area service" means the ability to call from one exchange to another exchange without incurring a toll charge. [1989 c 282 § 2.]

Policy—Program limitations—Report to legislative committees—Program expiration—1989 c 282: See notes following RCW 80.36.855.

RCW 80.36.855 Extended area service program. Any business, resident, or community may petition for and shall receive extended area service within the service territory of the local exchange company that provides service to the petitioner under the following conditions:

(1) Any customer, business or residential, interested in obtaining extended area service in their community must collect and submit to the commission the signatures of a representative majority of affected customers in the community. A "representative majority" for purposes of this section consists of fifteen percent of the access lines in that community;

(2) After receipt of the signatures, the commission shall authorize a study to be conducted by the affected local exchange company in order to determine whether a community of interest exists for the implementation of extended area service. For purposes of this section a community of interest shall be found if the average number of calls per customer per month from the area petitioning for extended

area service to the area to which extended area service will be implemented is at least five;

(3) If a community of interest exists, the commission shall then calculate any increased rate that would be applied to the area which would have extended area service granted to it. This rate shall be based on the charges to a rate group having the same or similar calling capability as set forth in the tariffs of the local exchange telecommunications company involved;

(4) The affected telecommunications company shall be given the opportunity to propose an alternative plan that might be priced differently and that plan shall be included in the poll of subscribers as an alternative under subsection (5) of this section;

(5) After determining the amount of any additional rate, the commission shall notify the subscribers who will be affected by the increased rate and conduct a poll of those subscribers. If a simple majority votes its approval the commission shall order extended area service; and

(6) Any extended area service program adopted pursuant to this section shall be considered experimental and not binding on the commission in subsequent extended area service proceedings. If an extended area service program adopted pursuant to this section results in a revenue deficiency for a local exchange company, the commission shall allocate the resulting revenue requirement in a manner which produces fair, just and reasonable rates for all classes of customers. [1989 c 282 § 3.]

Policy—1989 c 282: "Universal telephone service for the people of the state of Washington is a policy goal of the legislature and has been enacted previously into Washington law. Access to universal and affordable telephone service enhances the economic and social well-being of Washington citizens." [1989 c 282 § 1.]

Program limitations—Report to legislative committees—1989 c 282: "The pilot program specified in sections 2 and 3 of this act applies only to extended area service petitions which meet the conditions under section 3 of this act, and have been filed with the commission by January 1, 1989. Any petitions for extended area service filed after January 1, 1989, shall be addressed under terms and conditions determined by the commission. By December 1, 1990, the commission shall submit to the energy and utilities committees of the house of representatives and the senate a report on extended area service. The report shall include:

(1) The status of any experimental, pilot program which provides extended area service developed under this section, and whether such an experimental, pilot program approach should continue to be made available;

(2) The status of all extended area service petitions pending at the commission;

(3) Commission action on the recommendations of the local extended calling advisory committee; and

(4) Commission recommendations for any other legislation addressing the issue of extended area service." [1989 c 282 § 4.]
Section 2 of this act is the enactment of RCW 80.36.850. Section 3 of this act is the enactment of RCW 80.36.855.

Program expiration—1989 c 282: "The extended area service program under sections 2 through 5 of this act shall expire on December 1, 1990, except for any extended area service obtained by any business residence or community and put in place under section 3 of this act." [1989 c 282 § 5.]