



BRIEFLY

Gov. Gary Locke has asked the legislature to pass a measure allowing public utility districts and rural ports to offer wholesale telecommunication services. With amendments, companion Senate and House bills passed out of committee on Feb. 4.

The amendments aim to allay concerns expressed by telecommunication companies, most notably GTE. It's open to question at this point whether the amendments would go far enough in preventing public utility and port districts from using their tax advantages and exemptions to in some ways compete with private companies.

State legislators should be wary of any proposal that threatens private enterprise with expansion of the unfair competition already plaguing electric utilities.

PUD Telecom Bills Pass First Hurdle

No one denies that some rural Washington residents and businesses lack advanced telecommunication services, such as high-speed Internet access. The debate lies in how to get those services to them.

That debate has focused on a measure that is part of Gov. Gary Locke's telecommunication package, now before the legislature. Companion bills HB 2880 and SB 6675 would allow public utility districts and rural port districts to provide wholesale telecommunication services.

During House and Senate committee hearings on the measure, telecommunications-company representatives voiced concerns about public utility and port districts getting into the telecom business and possibly competing with the private sector. On Feb. 4, the deadline for bills to emerge from their committees of origin, House and Senate technology and telecommunications committees voted out the bills with amendments apparently aimed at addressing telecom-company fears.

GTE, for one, later said the amendments fail to go far enough to allay those fears.

A lobbyist for Sprint told legislators his company supports the governor's bill, but with safeguards against cross-subsidies between electric and telecom operations. No one testified on behalf of U S West Communications.

In a 1997 report, "Taxing Power: Electric Utility Taxes in a Competitive Environment," the Research Council expressed concern that the many tax and regulatory advantages granted to public-sector electric utilities have created an unlevel playing field, disadvantaging private-sector competitors to such an extent that the viability of competition itself is threatened. The Council has similar worries regarding the public provision of telecommunications services.

The stated idea behind Gov. Locke's pair of bills is that when public utility districts (PUDs) and rural ports install more than enough fiber-optic cable for their own current use, they could lease the extra capacity to private telecom companies that then would compete to provide advanced telecom services to rural residents.

The identified problem this is designed to solve is that the telecom companies might indefinitely hold off in laying their own fiber, until they figure such investment would yield an adequate return. Without PUD fiber, it's reasoned, there's no telling when stranded rural residents and businesses will gain access to advanced telecom services.

GTE, however, doubts that there is any lasting problem. Advanced telecom services employing high-bandwidth technology (which moves data fast) do not have to use fiber-optic cable, the company notes. Technologies such as



integrated services digital networks, T-1 lines and the newer digital subscriber lines can use existing copper phone wire. And GTE says it is making those technologies available in its rural areas.

In committee hearings, before the amendments were adopted, David Danner, one of governor's executive policy advisors, characterized the bills as "a pro-competitive step." Recognizing that competition among private-sector companies leads to "innovation, lower prices and better services," he said, the bills aim to limit PUDs and rural port districts to offering only wholesale telecom facilities and services, and so would not discourage private investment.

Despite Danner's testimony about the bills' intent, telecom company lobbyists and some legislators worried that HB 2880 and SB 6675 (unamended) had some gray areas that could allow PUDs to compete with the private sector. Puget Sound Energy lobbyist Mike Tracy labeled the bill "a Trojan horse" that could let PUDs enter "direct competition with private entities" in marketing retail telecom services.

For instance, in referring to PUDs, the bills said nothing about confining their telecom services only to rural areas. Republican Rep. Brian Thomas asked Danner why the governor wants to allow a PUD to compete with private companies in downtown Everett. GTE lobbyist Rosemary Williamson said the bill should "scope" PUD telecom facilities to rural areas. Mill Creek and Everett, she said, don't need any more fiber-optic "backbone" lines.

In reply to Thomas, Danner said the bill's focus is on rural areas, but conceded it's "not scoped" that way.

The bills also referred not only to telecommunication *facilities* — lines, poles, wires, transmitters and so on — but also to wholesale telecommunications *services*, defined as "the provision of telecommunications services or facilities for resale by an entity authorized to provide telecommunication services to the general public." They would authorize PUDs and rural ports to provide wholesale telecom services within their district limits. Telecom company lobbyists want the PUDs restricted to offering facilities only. Adding the word "services" made them nervous.

One reason it made them nervous may well be because the PUDs have voiced strong support for a more liberal bill, HB 6105, which would allow them to build telecom facilities beyond their own needs and, upon a vote of residents in their service areas, to provide telecom services to end-users. Under this bill, a PUD could, for instance, operate as an Internet service provider.

The Washington Public Districts Association had been pointing out that rural economies, already hit hard by setbacks in natural resource-based industries, "lack high-speed telecommunication facilities and services that are vital for modern business, education, health care and other aspects of life today," and that "rural communities have turned to PUDs for an economical way to develop the telecommunications infrastructure necessary for strengthening rural economies."

The PUD association has argued that their members are "publicly owned, locally governed utilities that are providing needed services that the private sector has failed to deliver" — hitherto in electricity and water, now in advanced telecom services. But since HB 6105 apparently had no chance of making it through the legislature, the PUDs have thrown their weight behind HB 2880.

The parties on both sides of the debate see their case strengthened by the actual instance of Douglas County PUD having in 1997 installed fiber-optic cable connecting the two branches of Mid-State Bank, in Waterville. The bank's president told legislators that when he had asked GTE to supply a fiber-optic line, he was told to make use of existing phone lines. He then approached Douglas County PUD about a fiber-optic line; the PUD installed one, and now charges the bank a monthly fee to provide data-transmission service.

The PUD association claims "private companies have not met rural Washington's need for high-speed telecommunications in the past," and "that's why PUDs are interested in helping to meet the need."

Douglas County and other PUDs providing retail telecom services is the very thing private telecom companies fear the governor's measure could open the door to. In December, GTE said it filed a suit in Douglas County Superior Court "concerning current and planned telecommunications facilities owned and operated by Douglas County Public Utility District." GTE contends that state law currently bars PUDs from building "extra facilities for the purpose of leasing them out."

GTE noted that Douglas County PUD last year announced it was installing 102.5 miles of fiber-optic cable to serve as a backbone for its planned telecommunications service. GTE said the PUD then informed the company that "it is building a multi-megabit high-speed network with a 48-fiber cable backbone – far more capacity than that needed for internal purpose – to be placed along routes passing major businesses, municipal and school locations."

GTE and other private companies object to possible competition from PUDs because PUDs would have the operational cost advantages of tax-exempt debt financing, possible cross-subsidies from their electrical and water operations, and tax exemptions that private companies do not enjoy.

In a Dec. 6 news release about GTE's suit, Eileen O'Neill Odum, GTE's Northwest regional president said, "We support competition that is fair and in which all participants play by the same rules. We are concerned by government entities, such as public utility districts, entering the telecommunications business with an unfair advantage because of cost subsidies, tax exemptions and other issues."

GTE says Mid-State Bank could have used existing copper wire to get the big data pipe it wanted, and feels the bank turned to the PUD simply to obtain a lower service price.

Following initial hearings on the bills, the House and Senate committees amended them. The House bill attached an additional amendment, stating "nothing in this act shall be construed to authorize public utility districts to sell or otherwise provide telecommunications services to end users."

GTE says that amendment is good, as far as it goes. The problem, according to the company, is that this and the amendment common to both bills will not effectively prevent PUDs, and ports, from using income from other operations to support telecom services. Nor will they prevent the possibility of telecom companies leasing subsidized PUD fiber and then competing with GTE in areas where the company has phone lines of its own.



GTE officials stress that the company is not taking a position in opposition to the bills. Rather, they want to work through the legislative process to reach agreement on the right amendments.

The Research Council and others have pointed out that public-utility subsidies and exemptions are substantial. Business has led the way in technological development. Lawmakers should be wary of any proposal that threatens private enterprise with expansion of the unfair competition already plaguing electric utilities.

In attempting to solve what is surely a temporary problem in extending telecommunications to rural communities, the legislature risks creating a long-term problem affecting all Washingtonians. Unfair competition between government and business damages both, and exacts a high cost from taxpayers.

